

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
APR 21 2004	
By _____	Clerk Deputy Clerk

**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 NO: 29-11773

Case No. 39576

**STIPULATED TO RESOLVE
OBJECTION**

This form is used to report the stipulated elements of one water right acquired under state law. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; and they have been served with sufficient process, according to the law; and that they have appeared, prosecuted and defended their positions with regard to this water right dispute.

The claimants, BLM and IDWR agree and stipulate that the elements of this water right should be described per the attached and that this stipulation will resolve the objection by the BLM. The claimants, BLM and IDWR acknowledge that the objection filed by Marsh Valley Development, Inc., is still outstanding. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT:

Earl Smith Lee 4/21/04
Earl Smith
Dempsey Irrigating Co.
Date

CLAIMANT:

Gene Fagnant Topaz Irrig. 4-21-04
Gene Fagnant
Topaz Irrigation Co.
Date

OBJECTOR:

Larry G. Brown 4/21/04
Larry Brown, USDOJ
Attorney for BLM
Date

IDWR CONCURRENCE:

Ernie Carlson 2/18/04
Ernie Carlson
Adjudication Supervisor, Eastern Region
Date

Candice M. McHugh 2/2-04
Candice M. McHugh (As to Form)
Attorney for IDWR
Date

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

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls, Idaho

APR 21 2004

By _____

Clerk

Deputy Clerk

RIGHT NUMBER: 29-11773
NAME AND ADDRESS: DEMPSEY IRRIGATING CO
C/O EARL SMITH
PO BOX 235
LAVA HOT SPRINGS ID 83246

TOPAZ IRRIGATION CO
C/O GENE FAGNANT
PO BOX 293
LAVA HOT SPRINGS ID 83246

SOURCE: PORTNEUF RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 32.000 CFS

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 39.5 CFS. COMBINED RIGHT NOS.: 29-36, 29-37
AND 29-11773.

PRIORITY DATE: 08/07/1932

POINT OF
DIVERSION: TORSN R38E S28 SWNE5W Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
09/16 10/31

QUANTITY
32.000 CFS

PLACE OF USE:

1429.8 ACRES TOTAL

Fwp *Lave* *Emc* *BY*
The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 1429.8 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 29-36, 29-37, 29-180 AND 29-11773 *Sm*

Place of use is within the area served by the Dempsey Irrigating Company.
THE USE OF WATER UNDER THIS RIGHT DOES NOT INCLUDE A USE
ON FEDERAL PUBLIC LAND.

02/11/2004

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

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.

Fwp

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

TOPAZ IRRIGATION CO. OWNS 51% OF DEMPSEY-TOPAZ CANAL SYSTEM. FISH CREEK IRRIGATING CO. IS ALSO CARRIED IN THIS SAME CANAL SYSTEM FROM FISH CK POINT OF DIVERSION TO WESTERN SEC. 28 T9S R38E WHERE IT IS SPLIT OFF THE CANAL SYSTEM AND BECOMES ITS OWN ENTITY.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

(Signature)

GL

LOS

enc

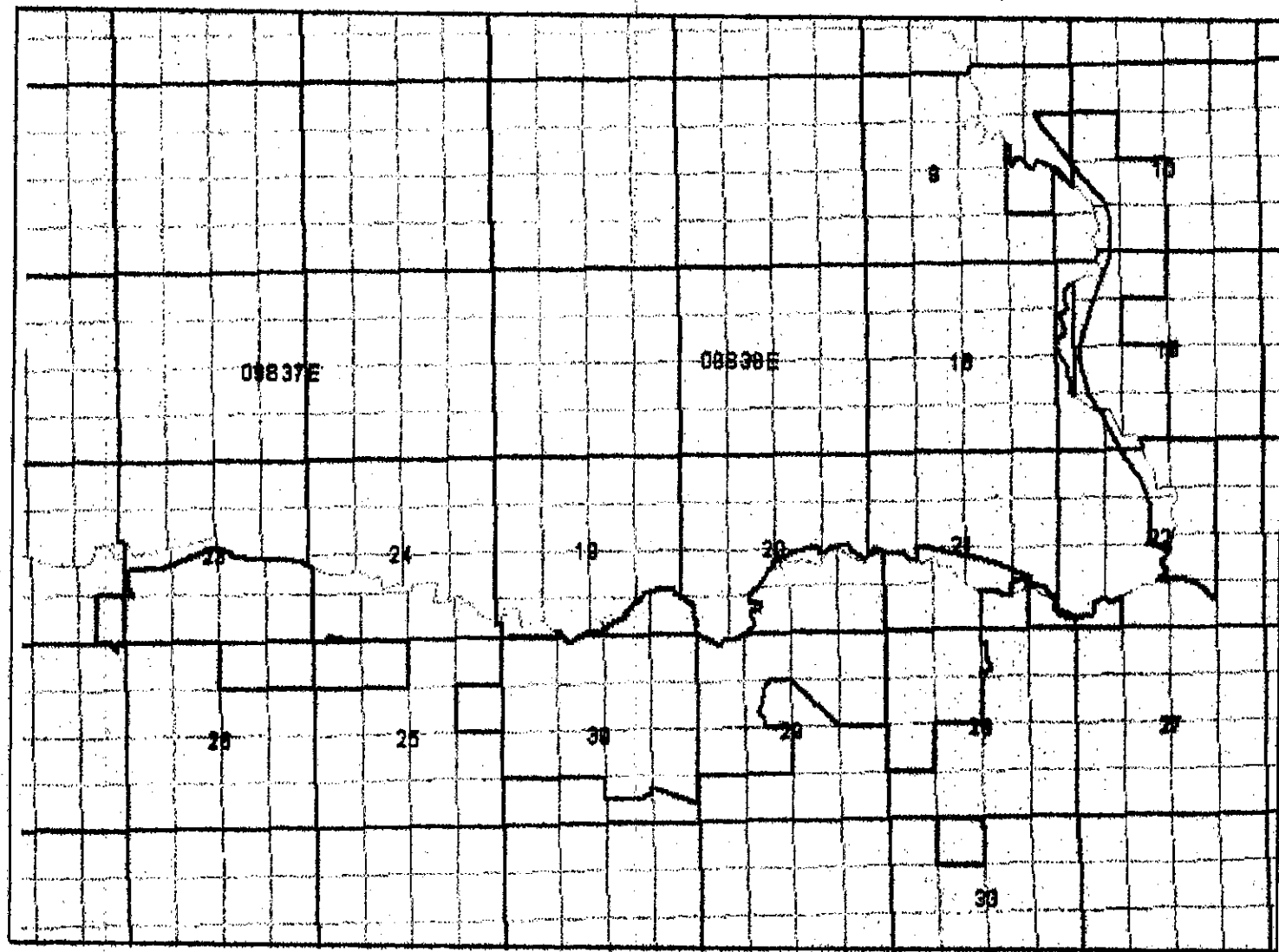
Enc



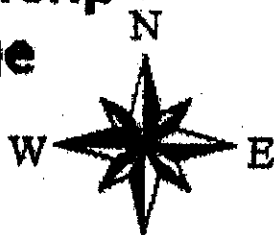
State of Idaho

Department of Water Resources

Claim No.: 29-36, 29-37
29-11773



- ☐ Dempsey topaz.shp
- ☐ Township/Range
- ☐ Sections
- ☐ QQ



GIS Place of Use Illustration
1987/1988 NAPP photograph
Prepared by: E Carlsen
Date: February 2004

CERTIFICATE OF MAILING

I certify that on Apr. 21, 2004 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
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

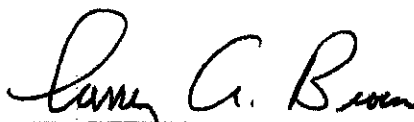
Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0098

IDWR Document Repository
P.O. Box 83720
Boise, ID 83720-0098

Larry Brown
US DOJ
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Earl Smith
Dempsey Irrigating Co.
P.O. Box 235
Lava Hot Springs, ID 83246

Gene Fagnant
Topaz Irrigation Co.
P.O. Box 293
Lava Hot Springs, ID 83246



Signature of person or attorney mailing the form