

The SHOSHONE-BANNOCK TRIBES



FORT HALL RESERVATION

PHONE (208) 478-3822

478-3829

FAX No. (208) 237-9736

April 27, 2004

TRIBAL ATTORNEY'S OFFICE

P. O. BOX 306

FORT HALL, IDAHO 83203

RECEIVED

APR 29 2004

Department of Water Resources

SNAKE RIVER BASIN ADJUDICATION
Clerk of the District Court
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

RE: Late Claims – Water Right No. 29-239, 29-02322

Dear Clerk:

In September 2003, the Shoshone-Bannock Tribes' Water Resources Department was notified that water right no. 29-239 was unclaimed in sub basin 29. This water right was originally decreed to Fort Hall Reservation Allotment no. 72 in the case of *United States v. Hibner*, dated April 8, 1929 with a priority date of February 16, 1869. In the "Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin" Allotment no. 72 is mentioned, however, water right no. 29-239 is inadvertently left out of the listed rights.

Additionally, the Tribes filed for a transfer on water right no. 29-02322. The transfer application was returned and Idaho Department of Water Resources representatives indicated that a late claim would be required on this water right. Therefore, find herewith a water application for water right no. 29-02322.

If you have any questions regarding this request please feel free to contact Else Teton, Tribal Water Engineer, at (208) 238-9375.

Sincerely,


Jeanette Wolfley
Special Counsel

Cc: Duane Mecham, USDI Office of the Solicitor
Peter Monson, USDI Department of Justice

CERTIFICATE OF MAILING

I certify that on April 27th, 2004, I mailed the original and copies of this NOTICE OF APPEARANCE to the following persons:

1. 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

United States Department of Justice
Environment & Nat'l Resources Division
550 W. Fort Street, MSC 033
Boise, ID 83724

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



Jeanette Wolfley
Special Counsel for the Shoshone-Bannock Tribes

RECEIVED

APR 29 2004

Form 243
12/89

Department of Water Resources

Claim No. 29-239

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, *Idaho Code*, any person claiming a water right established by diversion and application of water to beneficial use must file a claim with the Department of Water Resources. **The filing of this claim does not confirm the water right claimed.** Water rights represented by a valid permit, license, decree, or previous claim are exempt from this requirement, as are uses of water for domestic purposes as defined in Section 42-111, *Idaho Code*. A filing fee must be submitted with this claim. See the instruction sheet to determine the appropriate fee.

Notice is hereby given that Shoshone-Bannock Tribes
(Name of Claimant)
P.O. Box 306 Fort Hall, ID 83203 Telephone No: (208) 238-9375
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of surface or ground water. The extent and nature of said claim is as follows:

1. Date of Priority: (When the water was first applied to beneficial use) June 6, 1868
A claim is not acceptable for the use of surface water with a priority later than May 20, 1971. A claim is not acceptable for the use of ground water with a priority date later than March 25, 1963, unless the water is used for domestic purposes as defined in Section 42-111, Idaho Code.

2. Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Toponce Creek tributary to Portneuf

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 or af)	(Irrigation, Domestic, Stock, Etc.)	(Both dates inclusive) (MM/DD) (MM/DD)
Quantity	<u>1.679 CFS</u>	Use <u>Stock Water</u>	Period of Use From <u>4/15</u> to <u>9/15</u>
Quantity		Use	Period of Use From to
Quantity		Use	Period of Use From to
Quantity		Use	Period of Use From to

4. 1.679 CFS TOTAL QUANTITY USED.
(cfs or af)

5. A) Location of point of diversion is NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of NW SE $\frac{1}{4}$, Govt. Lot _____
Sec. 36 Township 6 Range 38 E B.M., Caribou County; additional points
of diversion, if any: _____

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch etc.). Give sizes and capacities. Be specific. Describe any changes in the system and give the date of the change.
Headgate of Toponce Canal

6. A) Describe the place of use within each 40-acre tract in the appropriate box using the symbols listed below. If the use is for irrigation, describe the location by listing the number of irrigated acres within each 40-acre tract.
D - domestic, S - stockwater, M - municipal, C - Commercial, I - Industrial, X - other

Twp	Rge	Sec	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6	38	36			X				X										

TOTAL ACRES 80

- B) If water is used for purposes other than irrigation, fully describe the use. Be specific. Stock Watering purposes

NOTE: Include here the type and number of stock watered: Cattle - 25-30

7. Remarks: This water right was left out of the 1990 Fort Hall Water Rights Agreement and subsequent decree. However, allotment 72 is included but not the authorized water right number.
8. Map - Attach an 8½"x11" map clearly identifying the point of diversion and the place of use by 40-acre subdivisions, section, township and range of the public land survey system. (A photocopy of a USGS 7½ minute topographic quadrangle map is preferred.) Attach an aerial photograph of the place of use if available.

State of Idaho)
 County of Bingham) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the forgoing 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.

Granite Wolfley
 Claimant's Signature (and title if claim is for an organization)

Sworn to before me this 27th day of April, 2004

GAIL N. MARTIN
 NOTARY PUBLIC
 STATE OF IDAHO

[Signature]
 Notary Public

Bingham County, Idaho

Residing at: _____

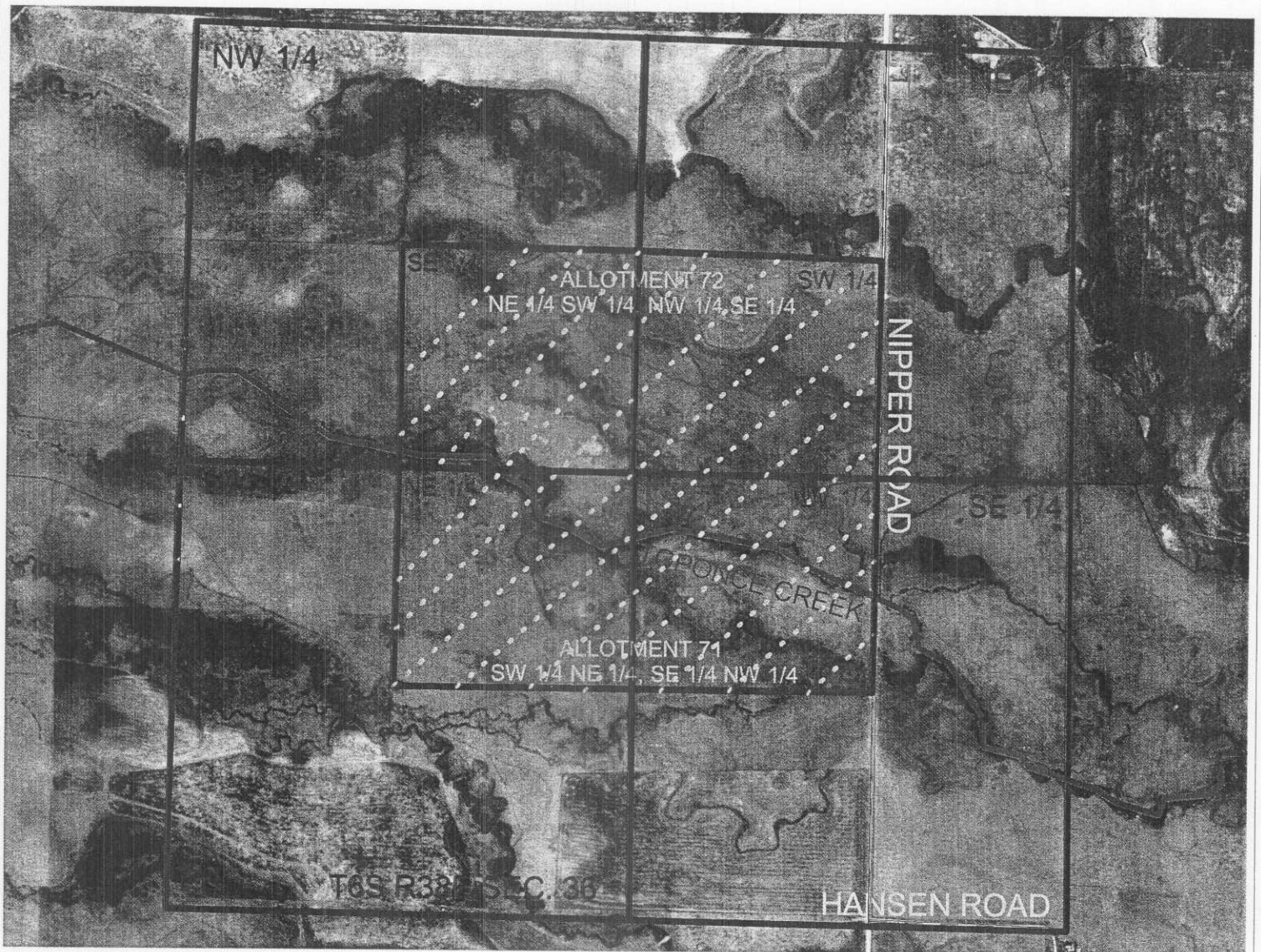
My commission expires: 3/22/2005

FOR DEPARTMENT USE ONLY

Received by _____ Date _____
 Prelim. check by _____ Date _____
 Fee _____ Receipt # _____
 Receipt prepared by _____ Date _____

Published in _____
 Publication dates _____
 Publication checked by _____ Date _____
 Exceptions filed by _____

WATER RIGHT (29-0239) T6S R38E SEC. 36 ALLOTMENTS 71 AND 72



RECEIVED
APR 29 2004
Department of Water Resources

Claim No. 29-02322

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, *Idaho Code*, any person claiming a water right established by diversion and application of water to beneficial use must file a claim with the Department of Water Resources. **The filing of this claim does not confirm the water right claimed.** Water rights represented by a valid permit, license, decree, or previous claim are exempt from this requirement, as are uses of water for domestic purposes as defined in Section 42-111, *Idaho Code*. A filing fee must be submitted with this claim. See the instruction sheet to determine the appropriate fee.

Notice is hereby given that Shoshone-Bannock Tribes
(Name of Claimant)
P.O. Box 306 Fort Hall, ID 83203 Telephone No: (208) 238-9375
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of surface or ground water. The extent and nature of said claim is as follows:

1. Date of Priority: (When the water was first applied to beneficial use) 09/22/1952
A claim is not acceptable for the use of surface water with a priority later than May 20, 1971. A claim is not acceptable for the use of ground water with a priority date later than March 25, 1963, unless the water is used for domestic purposes as defined in Section 42-111, Idaho Code.

2. Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Groundwater tributary to _____

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 or af)	(Irrigation, Domestic, Stock, Etc.)	(Both dates inclusive) (MM/DD) (MM/DD)
Quantity <u>2 CFS</u>	Use <u>Irrigation</u>	Period of Use From <u>3/15</u> to <u>11/15</u>
Quantity _____	Use _____	Period of Use From _____ to _____
Quantity _____	Use _____	Period of Use From _____ to _____
Quantity _____	Use _____	Period of Use From _____ to _____

4. 2 CFS TOTAL QUANTITY USED.
(cfs or af)

5. A) Location of point of diversion is NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Govt. Lot _____
Sec. 11 Township 6 S Range 33 E B.M., Power County; additional points
of diversion, if any: _____

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch etc.). Give sizes and capacities. Be specific. Describe any changes in the system and give the date of the change.

6. A) Describe the place of use within each 40-acre tract in the appropriate box using the symbols listed below. If the use is for irrigation, describe the location by listing the number of irrigated acres within each 40-acre tract.
D - domestic, S - stockwater, M - municipal, C - Commercial, I - Industrial, X - other

Twp	Rge	Sec	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6	33	11	X																155

TOTAL ACRES 155

- B) If water is used for purposes other than irrigation, fully describe the use. Be specific. Irrigation

NOTE: Include here the type and number of stock watered: _____

7. Remarks: This water right was acquired from the City of American Falls in 1981.

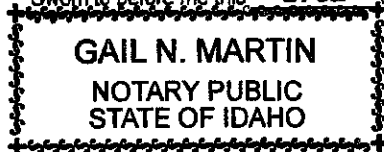
8. **Map** – Attach an 8½"x11" map clearly identifying the point of diversion and the place of use by 40-acre subdivisions, section, township and range of the public land survey system. (A photocopy of a USGS 7½ minute topographic quadrangle map is preferred.) Attach an aerial photograph of the place of use if available.

State of Idaho)
County of Bingham) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the forgoing 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.

Granita Wolfley
Claimant's Signature (and title if claim is for an organization)

Sworn to before me this 27th day of April, 2004.



[Signature]
Notary Public

Residing at: Bingham County, Idaho

My commission expires: 3/22/2005

FOR DEPARTMENT USE ONLY

Received by _____ Date _____
Prelim. check by _____ Date _____
Fee _____ Receipt # _____
Receipt prepared by _____ Date _____

Published in _____
Publication dates _____
Publication checked by _____ Date _____
Exceptions filed by _____

Jeanette Wofley, ISB No. 3948
Attorney at Law
202 N. Arthur
Pocatello, ID 83202
Telephone: (208) 232-1922
Facsimile: (208) 232-7472

RECEIVED
APR 29 2004
Department of Water Resources

Special Counsel for the Shoshone-Bannock Tribes

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

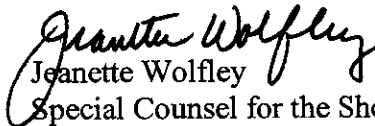
)
) NOTICE OF APPEARANCE
) SUBCASE NO. 29-00239
)
)

Case No. 39576
_____)

NOTICE IS HEREBY GIVEN that Jeanette Wolfley hereby enters an appearance for and on behalf of the SHOSHONE-BANNOCK TRIBES in the above-entitled matter. Any and all pleadings and documents may be mailed to her at the above address.

DATED THIS 27th day of April 2004.

Respectfully submitted,


Jeanette Wolfley
Special Counsel for the Shoshone-Bannock Tribes

WARRANTY DEED

For Value Received CITY OF AMERICAN FALLS, IDAHO, a municipal corporation
of the State of Idaho

the grantor does hereby grant, bargain, sell and convey unto THE SHOESHONE-BANNOCK TRIBES

whose current address is PORT HALL, IDAHO 83203

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

SECTION 11, TOWNSHIP 6 South, Range 33 E.B.M., Power County, NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$, EXCEPTING THEREFROM THE FOLLOWING: A parcel of land being a portion of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11, Township 6 South, Range 33, East Boise Meridian, described as follows, to-wit:

Beginning at the Southwest corner of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11, Township 6 South, Range 33 E.B.M.; Thence North 0°24'08" East, along the West line of said NE $\frac{1}{4}$ NW $\frac{1}{4}$ a distance of 1369.22 Feet to the Northwest corner thereof; Thence North 89°32'38" East along the North line of said NE $\frac{1}{4}$ NW $\frac{1}{4}$ a distance of 456.10 feet; Thence South 0°28'57" East 247.09 feet; Thence South 31°34'55" East 595.82 feet; Thence South 40°31'37" West 815.92 Feet to a point in the South line of said NE $\frac{1}{4}$ NW $\frac{1}{4}$; Thence North 89°32'18" West along said South line 250.04 feet to the place of beginning.

ALSO EXCEPTING THEREFROM: A parcel of land being a portion of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11, Township 6 South, Range 33 East, Boise Meridian, described as follows, to-wit:

Beginning at the Southeast corner of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11, Township 6 South, Range 33 E.B.M.; Thence North 89°32'18" West along the South line of said NE $\frac{1}{4}$ NW $\frac{1}{4}$ a distance of 867.35 feet; Thence North 40°31'37" East 917.90 feet; Thence South 79°42'08" East 280.05 feet to a point in the East line of said NE $\frac{1}{4}$ NW $\frac{1}{4}$; Thence South 0°27'17" West along said East line 654.53 Feet to the Place of Beginning . . .

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

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

Dated: April 28, 1981

HOWARD SELCHO - Mayor

CAROL GILSON - Secretary

STATE OF IDAHO, COUNTY OF POWER

On this 28th day of April, 1981, before me, a notary public in and for said State, personally appeared HOWARD SELCHO and CAROL GILSON, known to me to be the Mayor and Clerk of the City of American Falls, and the persons who signed on behalf of said city, and known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Notary Public
Residing at American Falls, Idaho
Comm. Expires life

INDEXED

Instrument No. 123551

State of Idaho }
County of Power } SS

I hereby certify that this instrument was filed for record at the request of

Filed at 3:30
o'clock P.M. this 28th
day of April 1981 and
recorded in instrument
No. 123551 in Drawer
#6

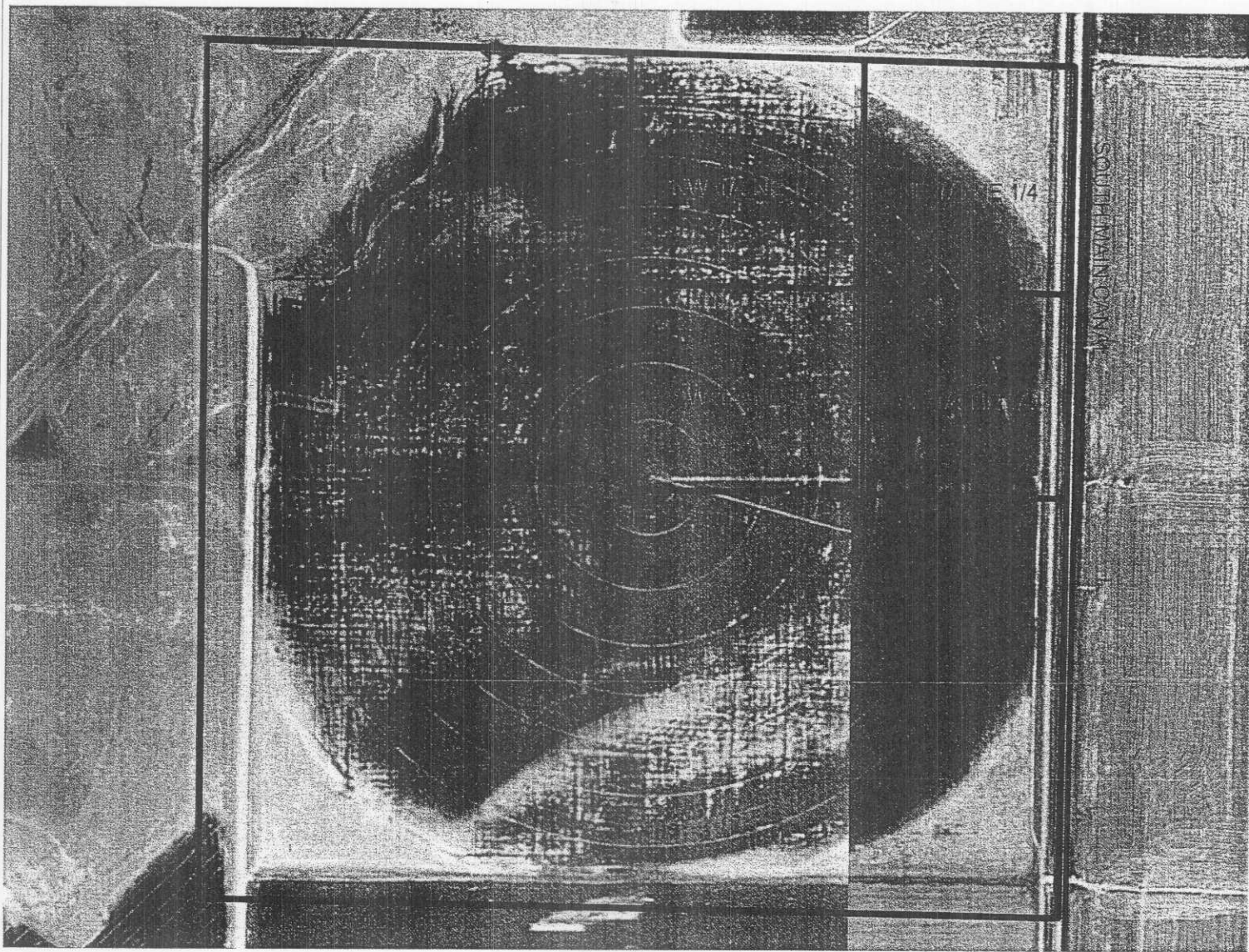
Notary Public
By Ellen [Signature]
Deputy

Shoshone-Bannock Tribes \$2.00 fee
P.O. Box 306, Fort Hall 83203

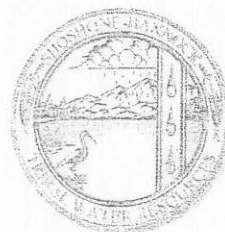
WATER RIGHT (29-02322)

T6S R33E SEC. 11

FEELANDS



FT HALL IRRIGATION
AREA OF CONCERN



1000

0

1000 Feet

Jeanette Wofley, ISB No. 3948
Attorney at Law
202 N. Arthur
Pocatello, ID 83202
Telephone: (208) 232-1922
Facsimile: (208) 232-7472

Special Counsel for the Shoshone-Bannock Tribes

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

Case No. 39576

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)
)
)
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)

NOTICE OF APPEARANCE
SUBCASE NO. 29-02322

NOTICE IS HEREBY GIVEN that Jeanette Wolfley hereby enters an appearance for and on behalf of the SHOSHONE-BANNOCK TRIBES in the above-entitled matter. Any and all pleadings and documents may be mailed to her at the above address.

DATED THIS 29th day of March 2004.

Respectfully submitted,


Jeanette Wolfley
Special Counsel for the Shoshone-Bannock Tribes

CERTIFICATE OF MAILING

I certify that on March 29, 2004, I mailed the original and copies of this NOTICE OF APPEARANCE to the following persons:

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Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

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

United States Department of Justice
Environment & Nat'l Resources Division
550 W. Fort Street, MSC 033
Boise, ID 83724

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



Jeanette Wolfley
Special Counsel for the Shoshone-Bannock Tribes