

02/18/2003

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

RIGHT NUMBER: 29 47A
NAME AND ADDRESS: LAVA IRRIGATION CO INC
PO BOX 183
LAVA HOT SPRINGS ID 83246
SOURCE: PORTNEUF RIVER TRIBUTARY: SNAKE RIVER
QUANTITY: 2.260 CFS
USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 22.76 CFS. COMBINED RIGHT NOS.: 29-47A,
29-48, 29-4467, 29-10816.
PRIORITY DATE: 07/01/1889
POINT OF DIVERSION:
T09S R38E S9 NWNESE Lot 6 Within BANNOCK County Source: PORTNEUF RIVER
PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	4/15 9/15	2.260 CFS

PLACE OF USE:

Large Place of Use

614.8 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 614.8 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-47A, 29-48, 29-4467,
29-10816.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 113 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF
WATER DISTRICT 29.

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: Decreed

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

WATER IS DELIVERED THROUGH LAVA IRRIGATION CANAL.

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE: 29-47A, 29-48, 29-4467, 29-10816.

02/12/2003

IDAHO DEPARTMENT OF WATER RESOURCES
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PO BOX 183
LAVA HOT SPRINGS ID 83246

SOURCE: PORTNEUF RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 2.260 CFS

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29-48, 29-4467, 29 10816.

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T09S R38E S9 N4NESE Lot 6 Within BANNOCK County Source: PORTNEUF RIVER

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	4/15 9/15	2.260 CFS

PLACE OF USE: IRRIGATION Within BANNOCK County

T09S R37E S24 Lot 1 NESE	14.0	T09S R37E S24 Lot 5 SESE	0.8
T09S R38E S15 Lot 4 NWNW	6.2	T09S R38E S15 Lot 5 SWSW	28.0
T09S R38E S15 Lot 6 SESW	0.1	T09S R38E S16	NENE 7.7
T09S R38E S16	SENE 10.0	T09S R38E S16	SWSW 35.0
T09S R38E S16	SESW 16.0	T09S R38E S16	NESE 12.0
T09S R38E S16	SESE 0.7	T09S R38E S17	SESW 6.7
T09S R38E S17	SWSE 33.0	T09S R38E S17	SESE 34.0
T09S R38E S19	NWSW 1.6	T09S R38E S19 Lot 3 SWSW	0.8
T09S R38E S19 Lot 5 SWSW	5.6	T09S R38E S19 Lot 6 SESW	12.0
T09S R38E S19 Lot 4 NESE	0.8	T09S R38E S19	NWSE 3.0
T09S R38E S19 Lot 7 SWSE	12.0	T09S R38E S20	NENE 36.0
T09S R38E S20	NWNE 37.0	T09S R38E S20	SWNE 26.0
T09S R38E S20 Lot 5 SESE	0.1	T09S R38E S20	NENW 30.0
T09S R38E S20	SWNW 10.0	T09S R38E S20	SENE 36.0
T09S R38E S20 Lot 7 NESW	24.0	T09S R38E S20	NWSW 7.2
T09S R38E S21	NWNE 2.9	T09S R38E S21	SWNE 28.0
T09S R38E S21	NENW 36.0	T09S R38E S21	NWNW 37.0
T09S R38E S21 Lot 5 SWNW	38.0	T09S R38E S21	SENE 26.0
T09S R38E S21 Lot 7 NWSE	0.6		

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IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-47A, 29-48, 29-4467,
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02/12/2003

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DIVERSION DESCRIBED ABOVE: 29-47A, 29-48, 29-4467, 29-10816.

JUN 08 2001

486

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: A29-00047A
Date Received: 3/28/1990
Receipt No: 5013111
Received By: JDW

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: LAVA IRRIGATION CO. LTD. 208-776-5628
Address: P.O. BOX 182
LAVA HOT SPRINGS, ID 83246

2. Date of Priority: JUL 01, 1889

3. Source: PORTNEUF RIVER Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
09S	38E	9	NE	SE		6	BANNOCK

5. Description of diverting works:
CONCRETE HEADWORKS WITH WOODEN GATES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/15	09/15	2.260		

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

8. Total consumptive use is 2052.5 Acre Feet Per Annum.

9. Non-irrigation uses:
S/500 CATTLE.

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09S	37E	24	NE	SE	1	IRR	17.0
Section Acres							17.0

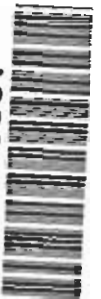
A29-00047A

Page 1

Date: 03/29/90

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A2900047A



10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09S	38E	15	NW	NW	4	IRR	15.0
			SW	SW	5	IRR	33.0
			SE	SW	6	IRR	4.0
						Section Acres	52.0
		16			1	IRR	1.0
			NE	NE		IRR	11.0
			SE	NE		IRR	17.0
			SW	SW		IRR	39.0
			SE	SW		IRR	39.0
			NE	SE		IRR	13.0
						Section Acres	120.0
		17	SE	SW		IRR	11.0
			SW	SE		IRR	37.0
			SE	SE		IRR	39.0
						Section Acres	87.0
		19	NW	SW		IRR	2.0
			SW	SW	5	IRR	10.0
			SE	SW	6	IRR	11.0
			NE	SE	4	IRR	6.0
			NW	SE		IRR	4.0
			SW	SE	7	IRR	2.0
						Section Acres	35.0
		20	NE	NE		IRR	36.0
			NW	NE		IRR	38.0
			SW	NE		IRR	29.0
			SE	NE	5	IRR	29.0
			NE	NW		IRR	28.0
			SW	NW		IRR	9.0
			SE	NW		IRR	36.0
			NE	SW	7	IRR	24.0
			NW	SW		IRR	17.0
			SW	SW	8	IRR	20.0
			SE	SW	9	IRR	14.0
						Section Acres	280.0
		21	NW	NE		IRR	37.0

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10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09S	38E	21	SW	NE		IRR	36.0
			SE	NE		IRR	4.0
			NE	NW		IRR	38.0
			NW	NW		IRR	37.0
			SW	NW	5	IRR	32.0
			SE	NW		IRR	29.0
			NE	SW	6	IRR	2.0
			NE	SE	8	IRR	2.0
			NW	SE	7	IRR	13.0
						Section Acres	230.0
						Total Acres	821.0

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:
A29-04467, A29-00048, A29-10816

14. Remarks:
THIS WATER RIGHT WAS NOT ENTERED IN THE WATER RIGHT DATABASE.
SEE ATTACHED COPY OF PAGE FROM UNION GRAIN & ELEVATOR CO. VS.
MC CAMMON DITCH CO. DECREE. ALSO ATTACHED IS COPY OF TRANSFER
#620.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date: 8/06/1932

<u>UNION GRAIN & ELEVATOR CO.</u>		<u>MC CAMMON DITCH CO.</u>
Decree Plaintiff	vs	Decree 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 ~~not~~ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am Secretary of _____

Lava Irrigation Co. Ltd. that I have signed the foregoing
Organization document in the space below as Secretary of _____

Lava Irrigation Co. Ltd. and that the statements contained in the
Organization foregoing document are true and correct.

Patricia Aves
Signature of Authorized Agent

Secretary - Lava Irrigation Co.
Title and Organization

April 12, 1990
Date

State of Idaho)
County of BOISEVILLE) SS.

Subscribed and sworn (or affirmed) before me this 12 day
of April 19 90

[Signature]
Notary Public

Seal

Residing at TAMU LAUS

My Commission Expires 9-12-94

Water right number - 29-00047A

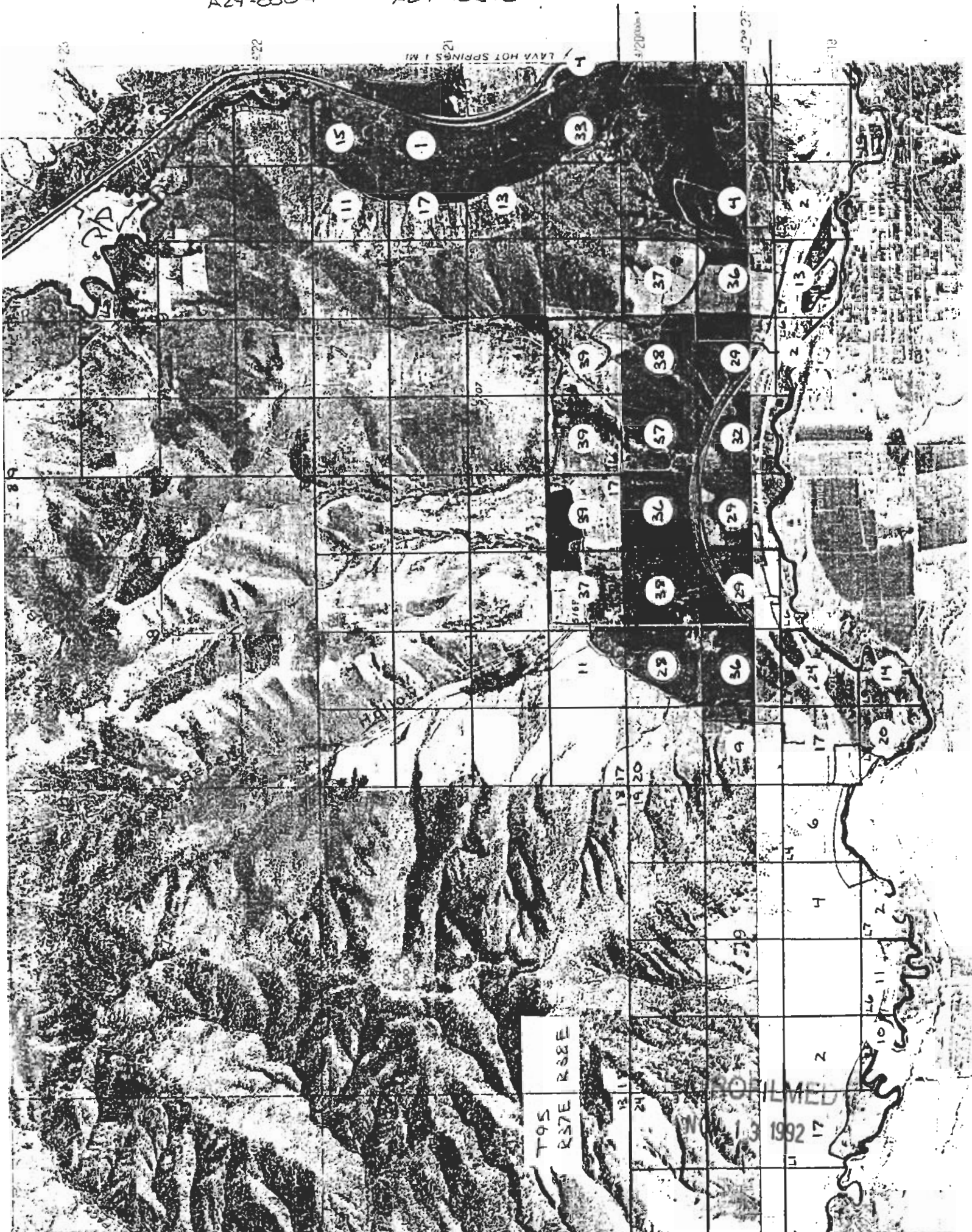
Prefix Translation: WATER RIGHT

+ - - - - - Water Rights Dates and Flags Area - - - - - +

NO RECORD WAS FOUND FOR 2900047A

A29-00047A
A29-00047

A29-04467
A29-10816



29-00047A DECROD

I. THERE IS NO B, C, D, ... PORTION(S) FILED. WHY THIS IS CLAIMED AS "A" IS UNKNOWN.

A. 29-00047A CLAIMS; 2.26 cfs, July 01, 1889, PORTWORTH RIVER - BASICALLY CLAIMS THE RT. AS DECROD EXCEPT CLAIMED AS PPV w/ OTHER SRBA CLAIMS.

B. TX[#] 620 CHANGES POD FROM 75⁰ AC (AS DECROD) TO 883⁰⁴ AC, SAME 7/1/1889 PRIORITY, SAME 2.26 cfs - NEW OWNER OR LAVA TRAIL CO. CANAL. TX[#] 620 ALSO CHANGES POD TO LICC (OLD HEADINGS). DOES NOT CITE SEASON OF USE. DECROD AS April 15 to Sept. 15 (AS CLAIMED).

Cf 5 ⇒ CLAIMS 821⁰ AC

II. CLAIMS 821 AC. GDS SHOWS 614⁸ - SO RECOMM.

river and the U.S.L.R.R. Company's right of way in Lot 4, Section 4, Township 9 South, Range East.

33. HALLINAN, Thomas 1.2 c.f.s.
29-0044 1889 May 1

Said water to be diverted through the Duffee Ditch, having its intake near the Northwest corner, Lot 1, Section 9, Township 9 South, Range 38 East, for the irrigation of land in Lots 2 and 3, Section 9 same Township and Range.

34. REED, F. A. .4 c.f.s.
29-0045 1889 July 1
POD: E BANK Portneuf Riv. @
Lot 3 Sec. 4 9SR38E
POU: Lot 6 Sec. 4 9SR38E

Said water to be diverted through a ditch having its intake on the East bank of the Portneuf River, in Lot 3, Section 4, Township 9 South, Range 38 East, for the irrigation of land in Lot 6, Section 4, Township 9 South, Range 38 East. Crosses River?

35. BYINGTON, Jas.H. .40 c.f.s.
29-0046 1902 July 14

Said water to be diverted through a ditch having its intake on the West side of the Portneuf River, which point bears North thirty degrees and thirty minutes East, 2110 feet, from the Southwest corner of Section 28, Township 8 South, Range 38 East, for the irrigation of 20 acres in the West half of the West half of Section 4, Township 9 South, Range 38 East.

36. REESE, Noah 2.26 c.f.s.
29-0047 1889 July 1 (113 inches)
Tr. 620

Said water to be diverted through the Reese ditch. The point of diversion of the said Reese ditch bears South 83 degrees East, 1225 feet, from the Northeast corner of Section 16, Township 9 South, Range 38 East for the irrigation of 10 acres, of land in Lot 1; 10.2 acres in the Southwest quarter of the Northwest quarter, 30 acres in the North half of the Southwest quarter, 4.5 acres in Lot 2, all in Section 15, Township 9 South, Range 38 East; 20.3 acres in Lot 1 Section 16, Township 9 South, Range 38 East.

SCANNED

JUN 08 2001

Log for claim A29-00047A

Spatial Dynamics AMH

8/1/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
09s38e	0		1	0	No quarter-quarter description
09s37e	24	NESE	17	18	
09s38e	15	NWNW	15	23	
09s38e	15	SWSW	33	45	
09s38e	15	SESW	4	13	Indiscernible
09s38e	16	NENE	11	13	
09s38e	16	SENE	17	22	
09s38e	16	SWSW	39	40	
09s38e	16	SESW	39	40	
09s38e	16	NESE	13	16	
09s38e	17	SESW	11	16	
09s38e	17	SWSE	37	36	
09s38e	17	SESE	39	38	
09s38e	19	NWSW	2	2.4	
09s38e	19	SWSW	10	13	
09s38e	19	SESW	11	18	
09s38e	19	NESE	6	9.1	
09s38e	19	NWSE	4	4.6	
09s38e	19	SWSE	2	18	Indiscernible
09s38e	20	NENE	36	38	
09s38e	20	NWNE	38	38	
09s38e	20	SWNE	29	37	
09s38e	20	SENE	29	45	Indiscernible
09s38e	20	NENW	28	31	
09s38e	20	SWNW	9	11	
09s38e	20	SENW	36	36	
09s38e	20	NESW	24	18	
09s38e	20	NWSW	17	15	
09s38e	20	SWSW	20	27	
09s38e	20	SESW	14	18	
09s38e	21	NWNE	37	40	
09s38e	21	SWNE	36	37	
09s38e	21	SENE	4	7.1	
09s38e	21	NENW	38	40	
09s38e	21	NWNW	37	37	
09s38e	21	SWNW	32	43	
09s38e	21	SENW	29	37	
09s38e	21	NESW	2	8.6	Indiscernible
09s38e	21	NESE	2	19	
09s38e	21	NWSE	13	34	Indiscernible
Totals:			821	1001.8	

APPENDAGE TO THE FILING OF WATER RIGHT OF

LAVA IRRIGATION COMPANY

Portneuf River district #29 Lava Hot Springs, Idaho 83246

Our present decreed water rights are jeopardized by:

1. Illegal loss free transportation of storage water in the river channel. We ask the adjudication correct this situation by requiring the users of the storage water to stand the loss or require all the water users in the river district to share in the loss on a percentage basis according to the cubic feet of water they have decreed to them.
2. Many years after the established use rights and decreed rights many wells have been allowed in the upper basin area, draining the aquifer. We ask an in depth study be made to determine the affect these wells have on the river flow before a decision is made.

Historically the amount of our water has been cut down during the irrigation season because there is not enough water to fill all the rights. Of necessity we have used the water at any time during the non irrigation season in any amount needed, first come first served down the river.

We have filed a claim of use #29-4467 claiming the right to use the water in this manner until November 15 each year. This application was not protested when advertised. We request this use right be recognized and established as a legitimate water right as of 1904 the same as our decreed right.

Shane Irick

Shane Irick - President

Patricia Avery

Patricia Avery - Sec.



Lava Irrigation Co.
Seal

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NOV 13 1992

State of Idaho)

County of Bannock)

On this 10th day of April 19 90, before me personally
appeared J. B. Smith to me known to be the
person(s) described in and who executed the foregoing instrument,
and acknowledged to me that he executed the same as his
free act and deed.

3-11-93
Term Expires

David H. Peterson
Notary Public
Love Hill Springs
Residing At

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Farm



Journal photo by Bob Jensen

Irrigation pipe has been put to use in parts of this area, as warm temperatures dry soil during the day. However, freezing temperature at night result in ice forming. Water will placed in many area canal systems this week as farmers begin watering their crops.

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NOV 13 1990

Lava Hot

April 9, 19.

Idaho State Water
Resources Board:

I am writing this as a member of The Lava Irrigation Co., or the Sunny Side Ditch as it is commonly known; and also as a member of the Kidd family. We are the only family to still own our original homesteads. All the rest have changed ownership times without number. I am the oldest living person to have known constantly about the irrigation situation in this community.

I went to college with Elmo Higginson, in Pocatello in 1929 and 1930. He was your hydrologist and I believe his son is your hydrologist now.

Our project is small, only slightly more than a thousand acres in the beginning. Highway 30 has

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Taken away some of our land.
There was plenty of water, for
everyone in the beginning. They
turned what water they needed
into our canal and turned it
back into the river when they were
through using it. They always tried
to keep some water in the canal
through the winters for livestock.
Sheep men would buy hay from the
farmers and feed the sheep in the
fields and have canal water
for the sheep to drink.

They built the reservoir at
Chesterfield, they tried turning the
stored water down the Portneuf
River, which would not carry the
extra water. They paid damages
for several years to farmers
downstream for flooding the fields.
They then built the long outlet canal
to bypass the farms. In the beginning
the canal would not carry the

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water, but the canal eroded until we have the bad situation we have today.

The McCammon Mill sued to get its water, and they won the lawsuit, and a decree was handed down about the various water rights. Since then, the McCammon Mill sold its water right, I believe to either the McCammon Canal Co., or to some of its members.

Ever since, our project has had less and less water, so we have tried to get water into our canal before the irrigation season began, and also after the irrigation season had ended, to soak up our fields for the next season. I personally have watered fields when several inches of snow were on the ground. We have done this all through my life time. Nobody has ever tried to stop us, and I feel that

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we have established a right to do this.

Now, companies have planned to build hydropower plants in the river, and they intend to demand the entire river flow when the irrigation season ends until the spring when the season begins again. The way things are shaping up, we will have scarcely any water at all. They should not be allowed to do this to us. The plants are not needed at all, and the Federal Government should never have approved their building.

Sincerely

P.O. Box 137 William Kidd
Lava Hot Springs
Idaho, 83246

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NOV 13 1992

STATE OF IDAHO, COUNTY OF BANNOCK

On this 9th day of April, 1988, before me, a notary public in
and for said State, personally appeared

WILLIAM KIDD

Known to me to be the person, whose name ~~is~~ subscribed to the within
instrument, and acknowledged to me that ~~he~~ ^{HE} executed the same.

Robert D. Bergendoff
NOTARY PUBLIC

Residing at LAWA HOT SPRINGS, Idaho

Commission Expires LIFETIME

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NOV 13 1992

TO WHOM IT MAY CONCERN:

I, Fred G. Walker, would like to say, I was born and raised on the Walker Ranch located near Lava Hot Springs, Idaho, and lived there until February 1953. I was also the Ditch Checker for one summer while living there. There was plenty of water for all of the ranches in the area before the Chesterfield Dam was constructed, no one in the area had any water problem until after the construction of that Dam. Then the situation seemed to change a very great deal. The Sunnyside Ditch Company had plenty of water for all users at the beginning as well as at the ending of the season. They all irrigated and used the water all season until it froze up in the winter. We had all the water for all the ranchers in the area all season long. Everyone had all the water needed to irrigate their land from early in the spring until it all froze up with the winter. My folks before me had plenty and I had plenty for the same acres and the same farm from early spring until it froze up with the winter.

Signed Fred G. Walker
Fred G. Walker

Subscribed and sworn to before me this 4th day of April 1990, at
Cokeville, Lincoln County, State of Wyoming.

My Commission expires: Dec. 1, 1993

Marcel D. Reed
Notary Public

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NOV 13 1992

To whom it may concern:

My parents moved into Lava Hot Springs the year of 1919. Purchased a farm on Dimpsey Creek. I was 9 yrs old then. The Lava Irrigation Company was a established canal then operating with a full water right established in 1904. I purchased a farm under the Lava Irrigation system in 1940.

We have had water in that canal every year that I have owned ranch 1940 to 1990. Water is in early April until Nov. Water regulated according to Water Decees.

Sincerely
Calvin A. Rowell
Calvin A. Rowell

Witness: B. J. Owens 4-10-90

On 4-10-90, before me, Gilbert R. Birdsing II,
a notary public of the State of Idaho, appeared Calvin A. Rowell

NOTARY RESIDING AT Pocatello

BANNOCK COUNTY

Gilbert R. Birdsing II

My commission expires

10-4-94

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NOV 13 1992

April 10 - 1990

In regards to using water
before and after the normal
irrigation season begins and ends.

I moved here in 1948, Feb 28
we always use canal water from
the Portney River until it either
either snows or freezes up. Our
decreed water right is usually cut
off in early summer, if we didn't
use water as late as possible, we
wouldn't keep our pasture + hayfield
from drying out. Also that water is
our main source of livestock water,
as our spring water is insufficient
for our household use + livestock
both

I'm, — J. B. Irick, a member
of the Lava Irrigation Company.

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Greenleaf Idaho
4-3-90

to whom it may concern

In Regards to conditions of
the Sunnyside Canal near
Lava Hot Springs Idaho

In the years of 1947-48-49 and 50
I lived on the farm now owned
and operated by Walter and Vera
Avery and family.

I was a Board member and for 2 year
Chairman of the Board
in the spring we turned the
water in as soon as the canal
was ready.

After in the summer we would
have to take turns out was
able to digate through
rotten and as I remember
we would have about three
hundred inches then would
have water for live stock
until it froze up in
the canal.

Letter Water MICROFILMED

NOV 13 1992

James O'Brien
Notary - Orange Co. Op Fed. C.U.
Ex. 10-14-94

PO Box 416
Greenleaf Idaho
83626-0416

April 3, 1990

TO WHOM IT MAY CONCERN:

This is a statement concerning the Water Rights and the water that was available at the time we farmed at Sunnyside, near Lava Hot Springs, Idaho.

The land we farmed from the Spring of 1947 through 1950, is presently owned and farmed by Golden and Vera Avery and their family.

The water in the Sunnyside Canal, was available in the spring, whenever the share holders decided it was needed or as soon as the Canal could be cleaned and made ready.

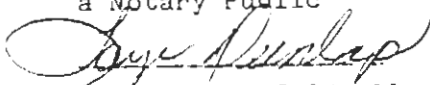
As the growing seasons became hotter, there was less water available to this Canal Company, and sometimes, we were cut down to three streams of about 50 inches of water each at the headgates.

In the Fall, after the heavy demand for water was over, the water was kept in the canal as long as anyone wanted it, or until it was frozen.

The summer of 1950, I was hired by the Canal Company as Ditch Rider. I started as soon as I got out of school, about May 20th, and had the job until I quit, September 25th, to take another job. At that time, my Dad took the job for the rest of the season.

The information in this letter is as close as I can remember.

Signed & Subscribed
before me this day 4-3-90
a Notary Public


residing in Caldwell



Lester E. Waters
2202 Big Sky St.
Caldwell, Idaho 83605

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NOV 13 1992



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

September 16, 1988

Lyndon Green
105 E 16th Street
McCammon, ID 83250

Re: Water District 29, Portneuf River

Dear Mr. Green:

In your telephone call of September 14, 1988, you stated that the irrigation season in Water District 29 under the Portneuf River decree ends on September 15. You asked me what action, if any, should be taken by the watermaster after that date.

The historical practice on the Portneuf is for the watermaster to stop delivering water rights under the decree on September 15. After that date it has been the practice of the waterusers to divert water as needed irrespective of the priorities under the decree.

It is the normal duty of a watermaster to delivery water rights on a stream in accordance with the terms of the applicable decrees. Consistent with court decree, it has been the long-standing practice on the Portneuf for the formal irrigation season to end on September 15 and for the watermaster to discontinue delivering irrigation water rights after that date. I do not find it appropriate to order the watermaster to alter that longstanding practice this year.

Waterusers who have historically diverted water and put it to beneficial use after September 15 each year may have established legal rights to continue that practice. The extent of any such rights will be determined in the pending Snake River basin water rights adjudication.

I hope this letter has adequately answered your question.

Sincerely,


R. KEITH HIGGINSON
Director

cc: Eastern Region
Tom Bloxham

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REMARKS: Union Grain and Elevator vs McCammon Litch Co. decree recognized an irrigation season April 15, to Sept. 15, the actual irrigation practice of Lava Irrigation historically has been to use the water any time needed during the non irrigation season, first come first serve down the river.
The purpose of this claim is to establish this historical practice as a legitimate water right as used, dated back to the beginning of our decreed water rights.

Refer to appendage and affidavits.

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STATE OF IDAHO
DEPARTMENT OF RECLAMATION
CERTIFICATE OF WATER RIGHT
TRANSFERRED RIGHT NO. 620

THIS IS TO CERTIFY That Lava Irrigation Company, Ltd., of Lava Hot Springs, County of Bannock, State of Idaho, has a right to the use of the waters described as 2.26 cubic feet per second, dated July 1, 1889 of the waters of PORTNEUF RIVER, decreed to Noah Reese, by Judge O. R. Baum, of the United States District Court, District of Idaho, Eastern Division, in the case of

UNION GRAIN AND ELEVATOR COMPANY

vs.

MCCALMON HATCH COMPANY, ET AL,
Dated, December 4, 1922.

being appurtenant to the 10 acres in Lot 1; 10.2 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$; 30 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$; 4.5 acres in Lot 2, all in Section 15, Township 9 South, Range 38 East, B. M.; 20.3 acres in Lot 1, Section 16, Township 9 South, Range 38 East, B. M., situate, lying and being in Bannock County, Idaho. -752

THAT SAID DECREE HAS BEEN ENTERED IN THE RECORDS OF THE Department of Reclamation of the State of Idaho, in Book 4 of Decrees at Page 292.

THAT NOW UPON the application of Lava Irrigation Company, Ltd., of Lava Hot Springs, Idaho, for a transfer of 2.26 cubic feet per second of water right made before the Commissioner of Reclamation of the State of Idaho, from the above described lands and the said application having been granted, the right to the use of 2.26 cubic feet per second of the waters of PORTNEUF RIVER upon the above described lands is hereby abandoned and the lands to be irrigated hereafter under the above mentioned right of 2.26 cubic feet per second, hereby confirmed by this Certificate for the production and irrigation of diversified crops, are hereby described as follows:

45.1 acres in Lot 5, Section 20; 12 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 20; 36.72 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$; 40.16 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$; Section 20; and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 17; 86.68 acres in Lot 7 and the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 20; 45.8 acres in Lots 8 and 9, Section 20; 50.75 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, and the NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 20; 39.85 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, and Lot 6, Section 20; 71.2 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 21; 50.48 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 17; 12 acres in Lots 4 and 5, and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 19; 31.8 acres in Lots 6 and 7, Section 19; 104.8 acres in Lots 4 and 5, Section 15; and the NE $\frac{1}{4}$ SE $\frac{1}{4}$, and the E $\frac{1}{4}$ NE $\frac{1}{4}$, Section 16; 50 acres in Lots 7 and 8, Section 21; 17.2 acres in Lot 6, Section 21; 42.7 acres in Lot 5, Section 21; 3.9 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 21; 52.8 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 21; 53.6 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 16; 35.3 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 21; all in Township 9 South, Range 38 E.B.M. -88304

DO NOT FILM

THAT THE WATER has heretofore been conveyed to the place of use through Reese Ditch, having its point of diversion in 1225' South, 83° East of NW corner of Section 16, Township 9 South, Range 38 East, B. M. and will hereafter be diverted through the Lava Irrigation Company Canal, diverting in 2130' North 3° East of the SW corner of Section 10, Township 9 South, Range 38 East, B. M.

THAT THE SAID WATER right is to be limited at any given time to an amount actually needed and used for beneficial purposes and shall not exceed the following amount:

2.26 cubic feet per second
Dated July 1, 1889.

THAT THE RIGHT to the water aforesaid, hereby confirmed, is restricted to the lands and place of use last above described as provided by the laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Department of Reclamation of the State of Idaho to be affixed at Boise, Idaho, this 18th day of April, 1941.

E. V. REERO
Commissioner of Reclamation

R. E. Powell
By: R. E. POWELL
Supervisor of Water Distribution

DO NOT

LM

32. WARNER, Cordelia 1.50 c.f.s.
29-0043 1890 April 1

pany's right of way.

Said water to be diverted through a ditch having its intake about 20 rods South of the North line of Section 4, and from the East bank of the Portneuf River in Section 4, Township 9 South, Range 38 East, for the irrigation of lands lying between the River and the O.S.L.R.R. Company's right of way in Lot 4, Section 4, Township 9 South, Range 38 East.

33. HALLINAN, Thomas 1.2 c.f.s.
29-0044 1889 May 1

Said water to be diverted through the Durfee Ditch, having its intake near the Northwest corner, Lot 1, Section 9, Township 9 South, Range 38 East, for the irrigation of land in Lots 2 and 3, Section 9 same Township and Range.

34. REED, F. A. .4 c.f.s.
29-0045 1889 July 1

Said water to be diverted through a ditch having its intake on the East bank of the Portneuf River, in Lot 3, Section 4, Township 9 South, Range 38 East, for the irrigation of land in Lot 6, Section 4, Township 9 South, Range 38 East.

35. BYINGTON, Jas.H. .40 c.f.s.
29-0046 1902 July 14

Said water to be diverted through a ditch having its intake on the West side of the Portneuf River, which point bears North thirty degrees and thirty minutes East, 2110 feet, from the Southwest corner of Section 28, Township 8 South, Range 38 East, for the irrigation of 20 acres in the West half of the West half of Section 4, Township 9 South, Range 38 East.

36. REESE, Noah 2.26 c.f.s.
29-0047 1889 July 1 (113 inches)
Tv. 620

Said water to be diverted through the Reese ditch. The point of diversion of the said Reese ditch bears South 83 degrees East, 1225 feet, from the Northeast corner of Section 16, Township 9 South, Range 38 East for the irrigation of 10 acres, of land in Lot 1; 10.2 acres in the Southwest quarter of the Northwest quarter, 30 acres in the North half of the Southwest quarter, 4.5 acres in Lot 2, all in Section 15, Township 9 South, Range 38 East; 20.3 acres in Lot 1 Section 16, Township 9 South, Range 38 East.

37. LAVA IRRIGATION 20.5 c.f.s.
29-0048 COMPANY
1904 February 11

Said water to be diverted through the Lava Irrigation Company's canal, which diverts water from the Portneuf River in Lot 3, Section 10, Township 9 South, Range 38 East; from the Southwest corner of Section 10, the point of diversion bears North 3 degrees East, 2130 feet, for the irrigation of land under the Company's canal, described as follows: 45.1 acres in Lot 5, Section 20; 12 acres in the Southwest quarter of the Northwest quarter Section 20; 36.92 acres in the Northeast quarter of the Northeast quarter, 40.16 acres in the Nor

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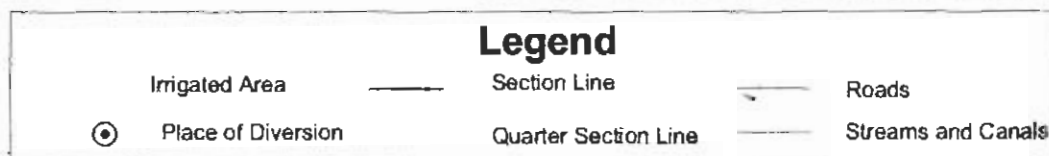
NOV 13 1961

29781

Water Right Claim Number A29-00047A

08/01/2000

Townships , 9S38E, 9S37E



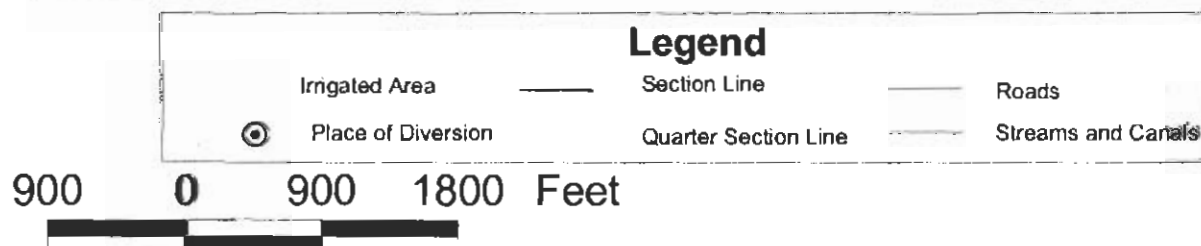
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Water Right Claim Number A29-00047A

08/01/2000

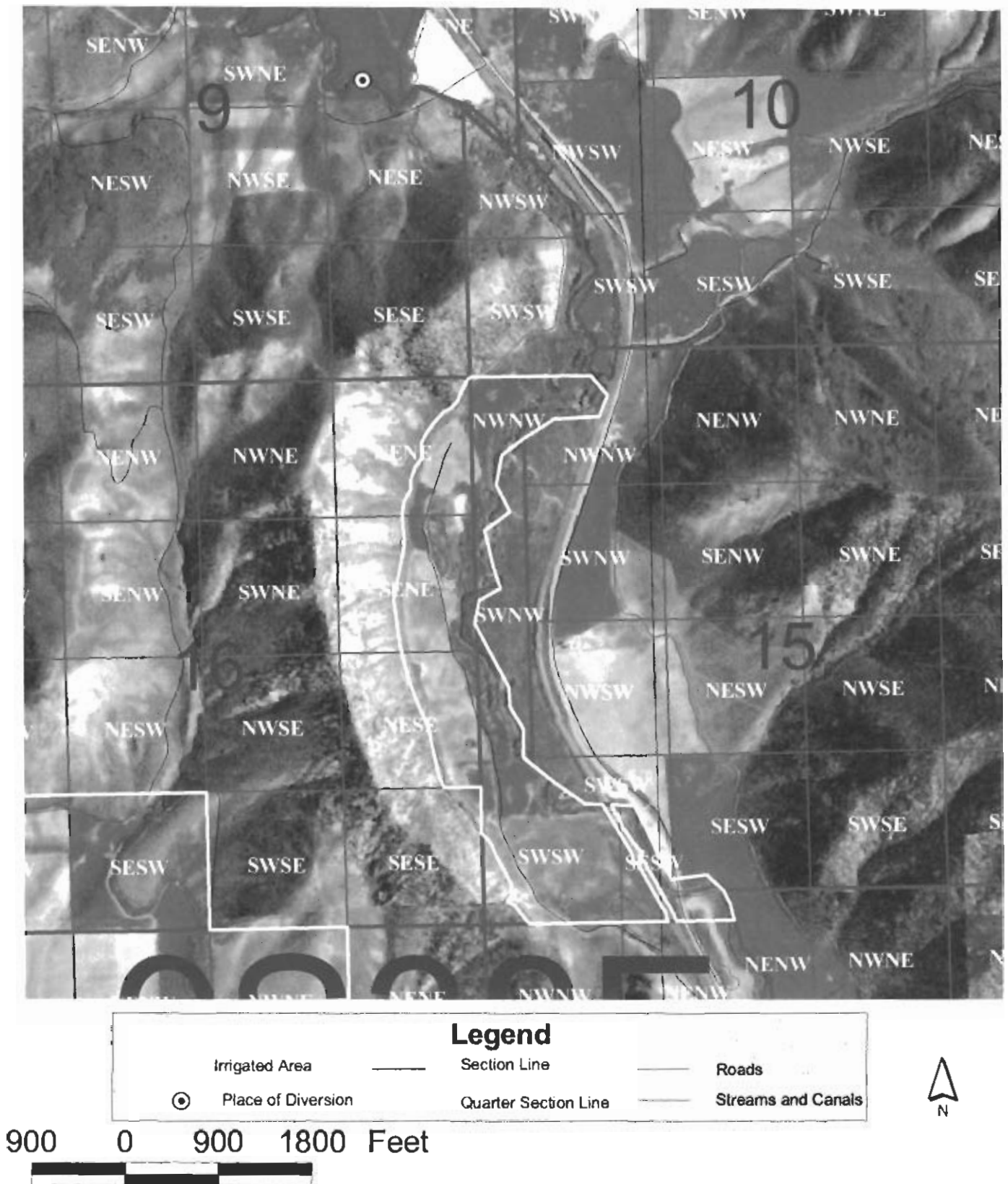
Townships , 9S38E, 9S37E



Water Right Claim Number A29-00047A

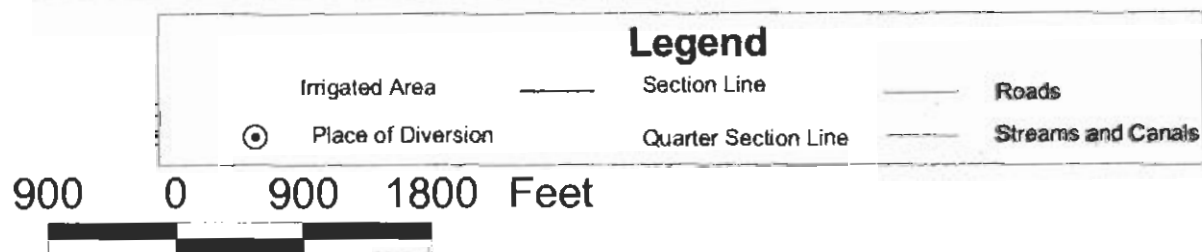
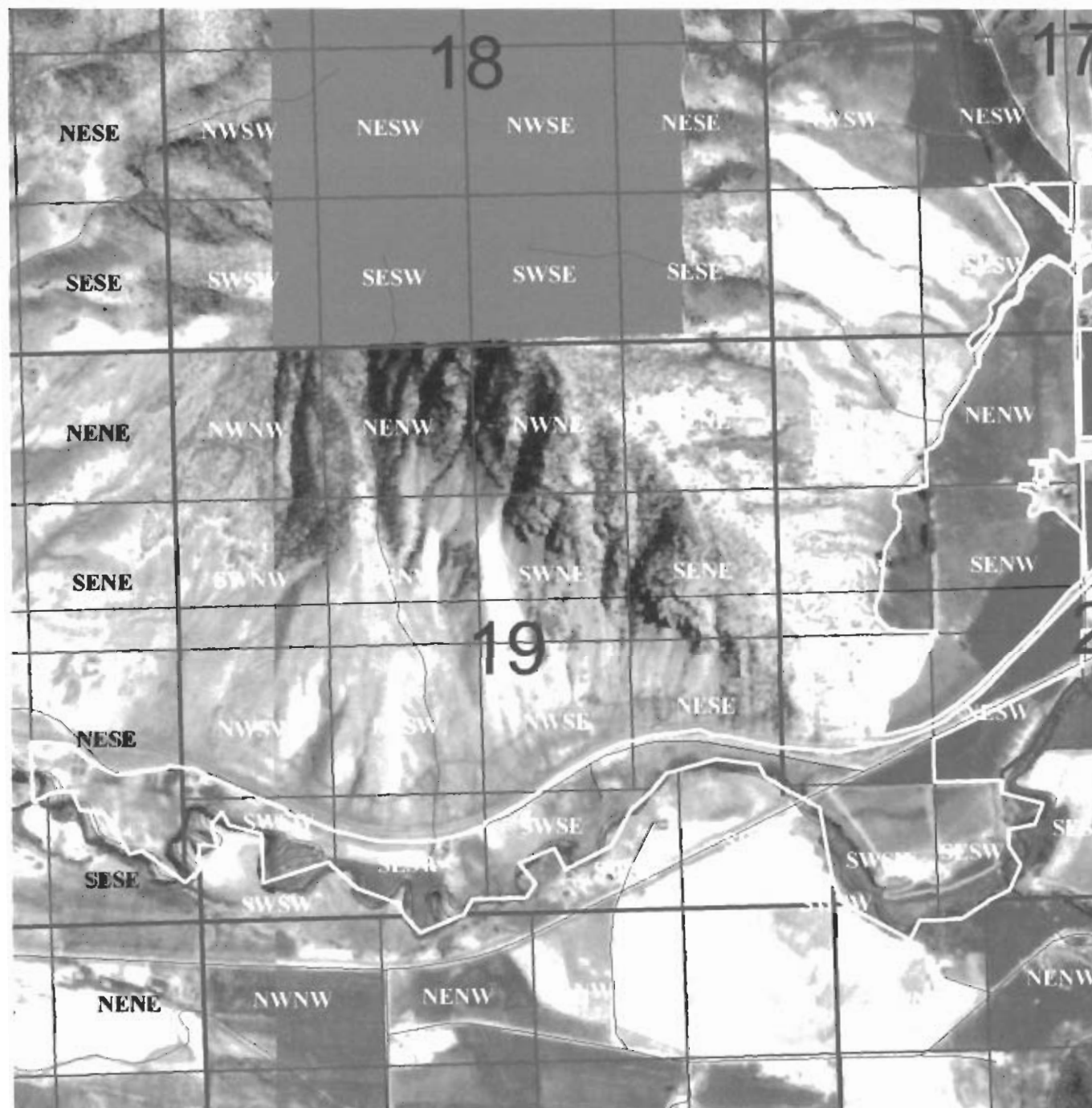
08/01/2000

Townships , 9S38E, 9S37E



08/01/2000

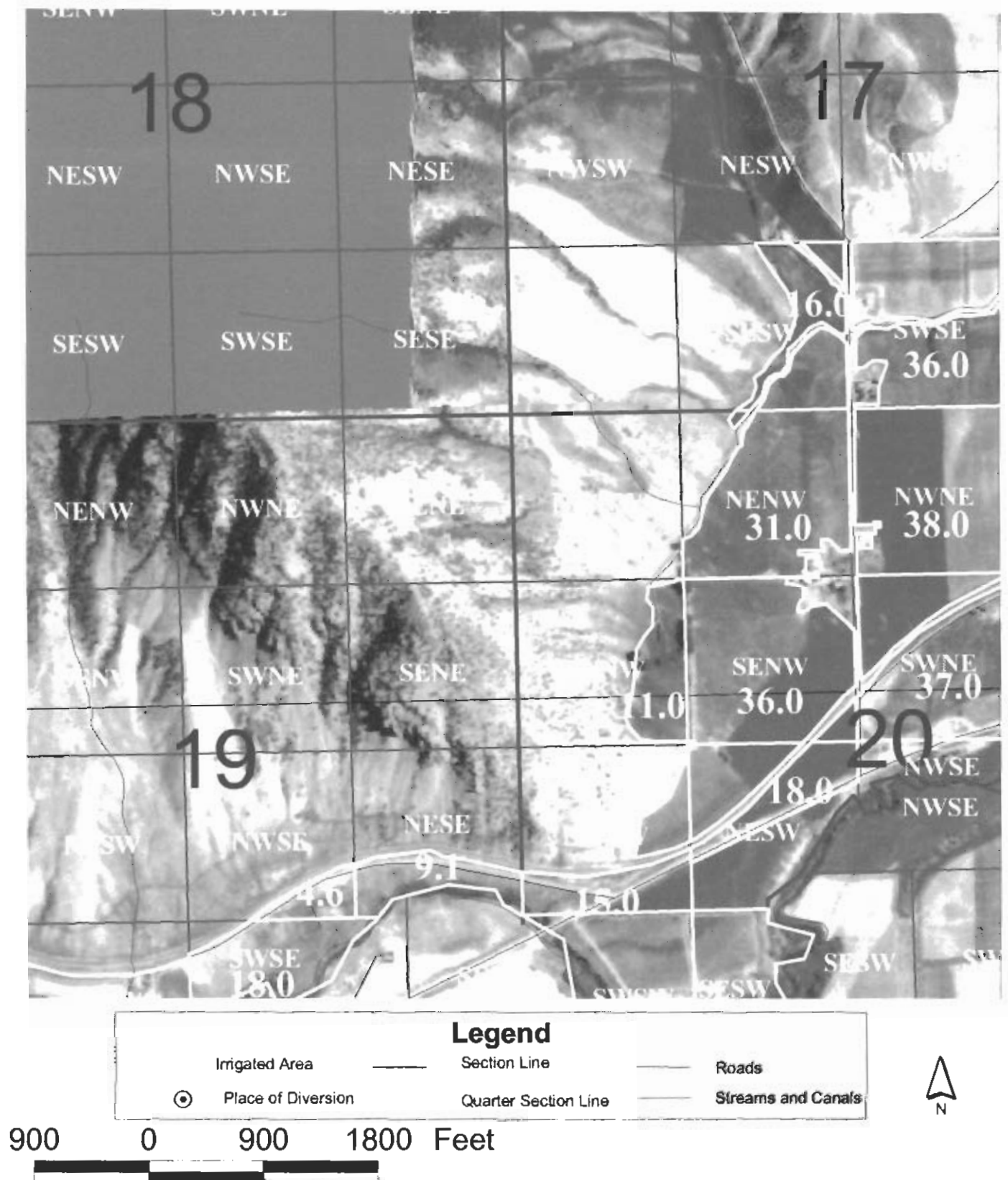
Townships , 9S38E, 9S37E

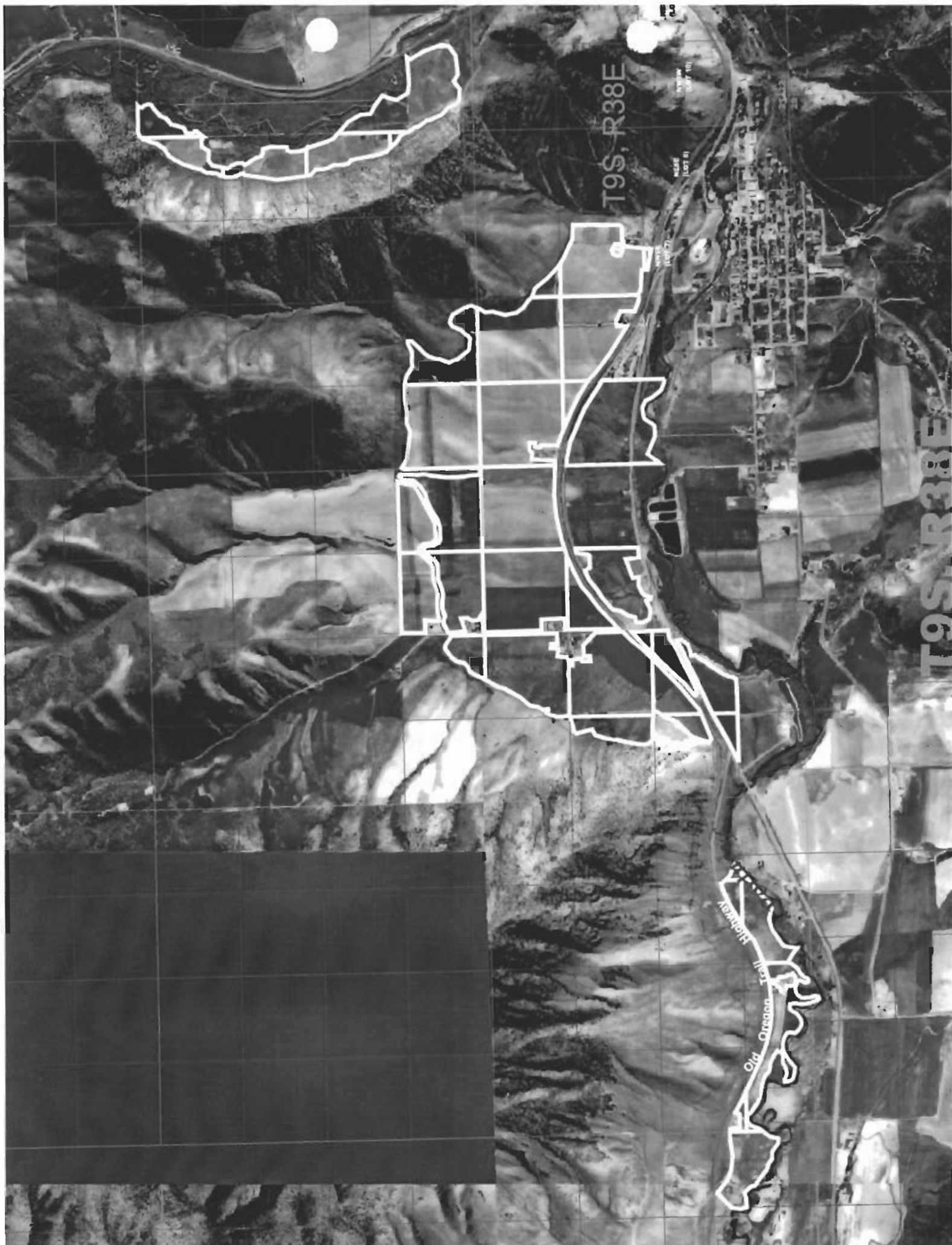


Water Right Claim Number A29-00047A

08/01/2000

Townships , 9S38E, 9S37E





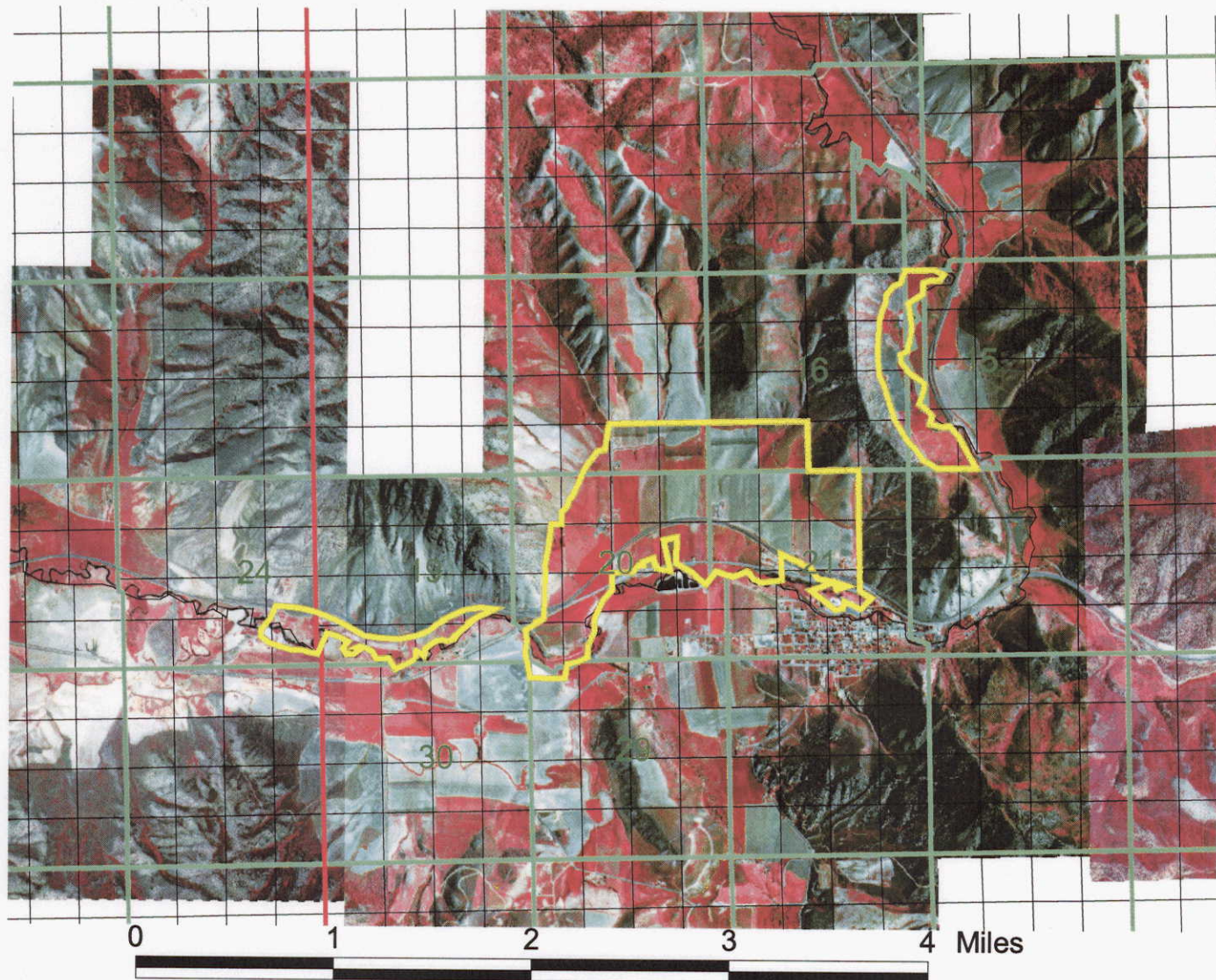


Department of Water Resources

Claim No.: 29-47A, 29-4467
29-48, 29-10816

Twp 9S, Rge 37E

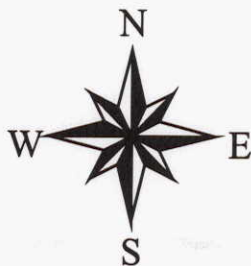
Twp 09S, Rge 38E



Irrigated Acres = 614.8

Place of Use Boundary

- Largepou-lava.shp
- Townships
- Sections
- QQ



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