

12/20/2002

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

RIGHT NUMBER: 29-389

NAME AND ADDRESS: MAURICE A TOLER
231 E GLOVER RD
ARIMO ID 83214HELEN TOLER
231 E GLOVER RD
ARIMO ID 83214

SOURCE: GARDEN CREEK

TRIBUTARY: MARSH CREEK

QUANTITY: 0.750 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 2.34 CFS. COMBINED RIGHT NOS.: 29-376, 29-377,
29-389, AND 29-390.

PRIORITY DATE: 05/01/1896

POINT OF DIVERSION:

T10S R36E S7 SWNWNE Within BANNOCK County

T10S R36E S11 SWSNW Within BANNOCK County

PURPOSE AND
PERIOD OF USE:PURPOSE OF USE
IRRIGATIONPERIOD OF USE
04/01 10/31QUANTITY
0.750 CFS

PLACE OF USE:

IRRIGATION Within BANNOCK County

T10S R36E S02	SWNE	7.3	T10S R36E S02	SENE	1.4
T10S R36E S02	NESW	23.0	T10S R36E S02	SWSW	5.4
T10S R36E S02	SESW	19.0	T10S R36E S02	NWSE	3.8
T10S R36E S11	NENW	4.4	T10S R36E S11	NWNW	15.0
T10S R36E S11	SWNW	26.0	T10S R36E S11	SENE	1.9
T10S R36E S11	NWSW	10.0			

117.2 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 117.2 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-376, 29-377, 29-389,
AND 29-390.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 37.5 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

EXPLANATORY MATERIAL: Decreed

12/20/2002

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

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

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

USE OF THIS RIGHT IS COMBINED WITH WATER FROM GARDEN CREEK
IRRIGATION CO.

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE: 29-376, 29-377, 29-389, AND 29-390.

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: A29-00389

Date Received: 4/18/1990

Receipt No: E013276

Received By: KW

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MAURICE A. TOLER
Address: 231 EAST GLOVER ROAD
ARIMO, ID

208-254-3361

83214

OR

Name: HELEN TOLER
Address: 231 EAST GLOVER ROAD
ARIMO, ID

208-254-3361

83214

2. Date of Priority: MAY 01, 1896

3. Source: GARDEN CREEK

Trib. to: MARSH CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
10S	36E	7	NW	NE			BANNOCK

5. Description of diverting works:
HEADGATE MIDDLE DITCH FOR FLOOD IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.750		

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

A.F.A.

8. Total consumptive use is 293.3 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

A29-00389

Page

1

Date: 04/18/90

MICROFILMED

NOV 13 1992

A2900389



10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
10S	36E	2	SW		NE		IRR	8.1
			NE		SW		IRR	11.1
			SW		SW		IRR	5.7
			SE		SW		IRR	24.5
			NW		SE		IRR	4.5
Section Acres								53.9
		11	NE		NW		IRR	7.4
			NW		NW		IRR	17.0
			SW		NW		IRR	25.0
			SE		NW		IRR	3.0
			NW		SW		IRR	11.0
Section Acres								63.4
Total Acres								117.3

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:
29-00376/00377/00390/04079/04080

14. Remarks:
P/U SAME AS 29-00376/00377/00390 & P/U OF 29-04079/04080 IS THE
SAME AS A PORTION OF THIS LAND LIST.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

GARDEN CREEK IRRIG. CO.
Decree Plaintiff

vs THOMAS E. WOLVERTON, ET. AL.
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 _____ 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): Maurice A. Poles Date: 4/18/90

Date: _____

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 18 day

of April 19 90

Colleen Wray
Notary Public

Seal

Residing at Idaho Falls

My Commission Expires 5/29/1991

T
10
S

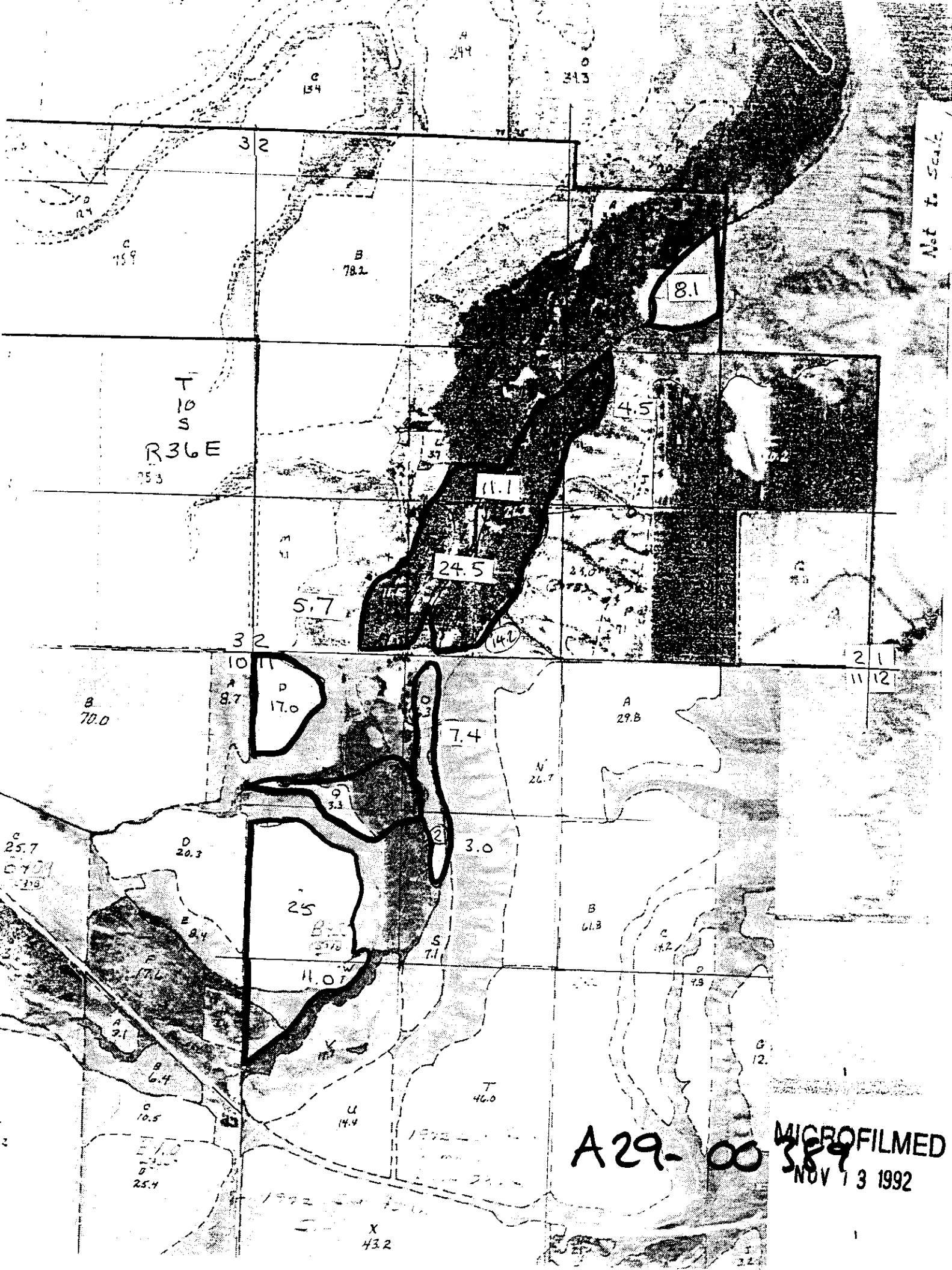
R35E R36E

POINT OF DIVERSION

A29-00389

UNCLASSIFIED

NOV 1992



Not to Scale

A29-00389 MICROFILMED
NOV 13 1992

02/18/2003

Allen

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: 29-389

MAURICE A TOLER
231 E GLOVER RD
ARIMO ID 83214
Telephone Number: (208)254-3361

HELEN TOLER
231 E GLOVER RD
ARIMO ID 83214
Telephone Number: (208)254-3361

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:

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

DATE: 4-4-03

SIGNATURE:

Maurice A Toler, Helen Toler

Please print your name:

MAURICE A TOLER

HELEN TOLER

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

RECEIVED
APR 10 2003
Department of Water Resources
Eastern Region

Maurice Toler

12/17/02

WATER RIGHT CLAIM

SOURCE

Cfs

PRIORITY

STAGE

① 29-376	GARDEN CK	0.75	5/01/1887	DEGREE
② 29-377	GARDEN CK	1.00	5/01/1904	DEGREE
③ 29-389	GARDEN CK	0.75	5/01/1896	DEGREE
④ 29-390	GARDEN CK	1.00	5/01/1904	DEGREE
⑤ 29-4079	SPRINGS	1.00	4/01/1921	STATUTORY
⑥ 29-4080	GARDEN CK	1.50	7/08/1895	STATUTORY

E_0 6.9 cfs

POU: THERE ARE BASICALLY TWO SYSTEMS: AN UPPER AND A LOWER. MOST OF THE UPPER POU IS IN CRP. A GOOD CHOICE SINCE GARDEN CK WATER IS BASICALLY UNAVAILABLE, THE LOWER IS SERVED BY GARDEN CK (NOT CANAL) AND SPRINGS THAT ARE COLLECTED BY DITCHES AND CONVEYED TO VARIOUS POU'S ON DOWNSTREAM. $A_{LAC} = 117\%$. AT 0.02 cfs/lac A MAX. OF 2.36 CAN BE USED ($542 \cdot 202 \text{ IC}$), AND GIVEN PRIORITIES AN ADEQUATE Q IS OVERCLAIMED, AS ABOVE. $117\% \times 0.02 \text{ cfs/lac} = 2.34 \text{ cfs}$. #2 AND #4, 1904 PRIORITIES ARE VERY RARE IN DELIVERY AND IF AVAILABLE... LASTS ABOUT 30 MINUTES. CLAIMS #1 AND #3 ARE GOOD RIGHTS (GIVEN GARDEN CK FRAUD HAS AN 1877 DATE). THEREFORE, GIVEN #1, #2, #3 & #4 THERE IS MORE Q THAN CAN BE USED ON $117\% \text{ AC}$. PLUS, MR. TOLER HAS GARDEN CK INR SHARES UNDER THE 1877 PRIORITY.

RECOMMEND AS #1, #2, #3, #4 & #5 WITH APPROPRIATE LIMITS.
CLAIM #6 IS DISALLOWED.

22-141 50 SHEETS
22-142 100 SHEETS
22-144 200 SHEETS



Contacts Data Entry Form

29-389

Deceased

Owner Type	Full Name	Address	City	State	Zip	Phone
------------	-----------	---------	------	-------	-----	-------

Current Owner M. TOLBE

Name connector: and _____, or _____, and/or _____

Current Owner _____

Current Owner _____

Representing Attorney: _____ Phone Number: _____

Accompanied By: _____ Phone Number: _____

Relationship to Claimant: _____

Date of Field Exam: _____ Time: _____

Directions to Property (if different from above) and/or update owner information:

GARDEN Pt Faring 13 Wolverton, 15 SEPT 1906

MET w/ MR. TOLBE @ 1200 AS APPTD. VISITED ALL
POD'S AND POU. DISCUSSED SYSTEM AND CHANGES
THAT HAVE BEEN CAUSED DUE TO WOLUS AND OTHER
CLIMATIC CONCERNS

FB INDICATED: POD, POU, OVERLAP

Reviewer: _____

Date: _____

Priority Date Data Entry Form

Claim Number: _____

Water Right Priority Date: 1 May 1896 Water Right Basis: DecreeClaimed Priority Date: " Claimed Basis: "Recommended Priority Date: " Recommended Basis: "☐ Use Claimed Priority Date and Basis as Recommended Priority Date and Basis

Document the evidence submitted/reviewed for the priority date claimed, include your analysis of the evidence:

Matchos Decree

Reviewer: _____

Date: _____

Point of Diversion and Source Data Entry Form

Claim Number: _____

Water Right Point of Diversion: T____, R____, Sec.____,____,____,____,____ County: _____

Source: _____ Tributary: _____

Claimed Point of Diversion: T 10S, R 36E, Sec. 7,____,____,____,____,____ County: BannSource: GARDEN CK Tributary: MARSH CK

Recommended Point of Diversion: T____, R____, Sec.____,____,____,____,____ County: _____

Source: _____ Tributary: _____

____ Use Claimed POD and Source as Recommended POD and Source

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source
10S	36E	7		SWNWNE	Bann	GARDEN CK
GPS Coordinates: _____						
10S	36E	11		SWSENE	Bann	"
GPS Coordinates: _____						
GPS Coordinates: _____						
GPS Coordinates: _____						
GPS Coordinates: _____						
GPS Coordinates: _____						
GPS Coordinates: _____						
GPS Coordinates: _____						

TRIB:
MARSH CK
CP3

Other rights from this POD? _____

Document how the POD and Source were verified and/or Pump and Motor data:

POD NOT SPECIFIED BY DECEMBEROther rts from POD'sOverlap w/ GARDEN CK DrainFE INDICATED -

Rememb

Transfers Changing POD _____

Reviewer: _____

Date: _____

Place Of Use Data Entry Form

Claim Number: _____

_____ Use Claimed POU as Recommended POU

Claimed Place of Use

Twp	Rge	Sec	QQ	Q	County	Lot Num	Acres	Purpose of Use
10S	36E	2			Sam		539	Range
		11			"		634	"

Total Acres _____

Recommended Place of Use

Twp	Rge	Sec	QQ	Q	County	Lot Num	Acres	Purpose of Use

Total Acres 118² See 685

Document how the POU was verified:

POU DOES NOT FIT DECROOD POLI: (1) Overlaps w/ other Rts?
 (2) Enlarg... claim needed? No Claims 117³ & 685 118² w/ overlap
 OF OTHER DECROOD Rts INCLUDING BU 29-4079 (same)

SAME DECROOD POLI AS 29-390 w/ some changes => CDS
 SEE.

FB INDICATOR

Transfers Changing POU _____

Reviewer: _____

Date: _____

Period of Use and Quantity Data Entry Form

Claim Number: _____

☐ Use Claimed Period of Use and Quantity as Recommended Period of Use and Quantity

Water Right Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
<i>Permit</i>	<i>Not</i>	<i>Spec.</i>	<i>0.75</i>	

Overall Diversion Rate _____ Overall Diversion Volume _____

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
<i>Permit</i>	<i>4/1</i>	<i>11/1</i>	<i>0.75</i>	

Overall Diversion Rate _____ Overall Diversion Volume _____

Recommended Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
<i>Permit</i>	<i>4/1</i>	<i>10/31</i>	<i>0.75</i>	

Overall Diversion Rate _____ Overall Diversion Volume _____

Document how the Period of Use and/or Diversion Rate were verified:

SDR NOT SPECIFIED BY DECREE - USE DWR STD 4/1 TO 10/31.
Q DECREE AS CLAIMED -

Reviewer: _____

Date: _____

through said two canal systems does not exceed the said four cubic feet second of time, said right to date from the month of June, 1877, and is prior in time and superior in right to the rights of all of the defendants in this action, and to the rights of all and every of the persons signing said stipulations, or any of them, the same being the first right to the use of the waters of said stream to the amount of four cubic feet per second of time.

And the remaining waters of said stream are decreed as follows, to-wit:

- 29 0363 To Thomas E. Wolverton, three-fourths second foot of water to date from the
29 0364 1st day of May, 1886 and one second foot of water to date from the 1st day of May
1904, said water to be used upon the S.W. 1/4 of the S.E. 1/4 of Sec. 4, and the
N. Half of the S.E. 1/4 of Sec. 9 in Township 10, South of Range 36 E.B.M.
- 29 0365 To John Morley, three-fourths second foot of water to date from the 1st day
29 0366 of May, 1886, and one second foot of water to date from the 1st day of May, 1904,
to be used on the E. half of the N.E. 1/4, Sec. 8, the S.E. 1/4 of the S.E. 1/4
of Sec. 5, and the S.W. 1/4 of the N.W. 1/4 of Sec. 9, in Township 10 South of
Range 36 E. B. M.:-
- 29 0367 To Thomas C. Smith, three-fourths second foot of water to date from the 1st day
29 0368 of May, 1890 and one second foot of water to date from the 1st day of May, 1904, to be
used on the N.W. 1/4 of Sec. 10, Township 10 South of Range 36 E.B.M.:-
- 29 0369 To William J. Billard, three-fourths second foot of water to date from the 1st
29 0370 day of May, 1893, and one second foot of water to date from the 1st day of May, 1904,
to be used on the S.E. 1/4 of Sec. 3, Township 10 South of Range 36 E.B.M.:-
- 29 0371 To Albert Evans, three-eighths second foot of water to date from the 1st day of
29 0372 May, 1893, and three-eighths second foot of water to date from the 1st day of May,
29 0373 1898; also one second foot of water to date from the 1st day of May, 1904, to be
used on the East half of the N.W. 1/4 of Sec. 8, Township 10 South of Range 36 E.B.M.
- 29 0374 To L. S. Whitney three-eighths second foot of water to date from the 1st day of
May, 1893, and three-eighths second foot of water to date from the 1st day of May, 1904,
29 0375 to be used on the West half of the N.W. 1/4 of Sec. 8, Township 10, South of Range
36 E.B.M.
- 29 0376 To J. S. Wheeler, three-fourths second foot of water to date from the 1st day
29 0377 of May, 1887 and one second foot of water to date from the 1st day of May, 1904, to
be used on the East half of the S. W. 1/4, and the N.W. 1/4 of the S.E. 1/4 and S.W.
of the N.E. 1/4 in Sec. 2, Township 10, South of Range 36 E. B. M.:- Also the S.W.
1/4 of the N.W. 1/4 and the West half of the S. W. 1/4 of Sec. 2, Township 10
South of Range 36 E.B.M.:-
- 29 0378 To David Armstrong, three-fourths second foot of water to date from the 1st day
29 0379 of May, 1895, and one second foot of water to date from the 1st day of May, 1904,
to be used on the S.W. 1/4 of Sec. 10; also three-sixteenths second foot of water to
29 0380 date from the 1st day of May, 1895, and one-fourth of second foot of water to date
29-0600 from the 1st day of May, 1904, to be used on the S. W. 1/4 of the S.E. 1/4 of Sec. 9,
all in Township 10, South of Range 36 E.B.M.:-
- 29 0381 To Andrew N. Thacker, three-fourths second foot of water to date from the 1st
29 0382 day of May, 1895 and one second foot of water to date from the 1st day of May, 1904,
29 0383 to be used upon the S. W. 1/4 of Sec. 9; also three-fourths second foot of water to
29 0384 date from the 1st day of May 1895, and one second foot of water to date from the
1st day of May, 1904, to be used on the West half of the N.W. 1/4 and the N.W. 1/4
of the S.W. 1/4 of Sec. 8, Township 10, South, of Range 36 E. B. M.
- 29 0385 To Thomas Exeter, three-fourths second foot of water to date from the 1st day
29 0386 of May, 1895, and one second foot of water to date from the 1st day of May, 1904,
to be used on the South half of the S. E. 1/4 Sec. 8, and the North half of the N.E.
1/4 Sec. 17, Township 10 South of Range 36 E. B. M.
- 29 0387 To William Jenkins, Jr., three-fourths second foot of water to date from the
29 0388 1st day of May, 1895, and one second foot of water to date from the 1st day of
May, 1904, to be used on the East half of the N. E. 1/4 and the East half of the
S. E. 1/4 Sec. 10, Township 10, South of Range 36 E. B. M.:-
- 29 0389 To P. M. Larson, three-fourths second foot of water to date from the 1st day of
29 0390 May, 1896, and one second foot of water to date from the 1st day of May, 1904, and to
be used on the East half of the N. E. 1/4 and the East half of the S. W. 1/4 Sec. 11
Township 10, South of Range 36 E. B. M.
- 29 0391 To Annie Crowshaw, three-fourths second foot of water to date from the 1st day
29 0392 of May, 1898, and one second foot of water to date from the 1st day of May, 1904, to
be used on the N.W. 1/4 of Sec. 15, Township 10 South of Range 36 E. B. M.:-
- 29 0393 To Mads Christensen, three-fourths second foot of water to date from the 1st day
29 0394 of May, 1892 and one second foot of water to date from the 1st day of May, 1904, to
be used on the S. W. 1/4 of the S. E. 1/4 and the East half of the S. E. 1/4 of
Section 6 and the S. W. 1/4 of the S. W. 1/4 of Sec. 5, Township 10 South, of Range
36 E.B.M.
- 29 0395 To Ben Lockyer, Three-fourths second foot of water to date from the 1st day
29 0396 of May, 1901, and one second foot of water to date from the 1st day of May 1904, to be
used on the North half of the N. E. 1/4 of Sec. 15 Township 10 South of Range 36 E.B.M.

E²NW } Sec 11 10/36
E²SW }

SCANNED

MAY 31 2001

Log for claim A29-00389

Spatial Dynamics LTD

6/23/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
10s36e	2	SWNE	8	7.5	
10s36e	2	NESW	11	19	Indiscernible
10s36e	2	SWSW	5	5.2	
10s36e	2	SESW	24	24	
10s36e	2	NWSE	4	4.1	
10s36e	11	NENW	7	6.1	
10s36e	11	NWNW	17	15	
10s36e	11	SWNW	25	27	
10s36e	11	SENW	3	2.4	
10s36e	11	NWSW	11	11	
Totals:			115	121.3	

DIVERSION

293.30 AFA

Stage: DECREED

BANNOCK County

MS

117.3

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):	29-11706	29-11705	29-00723	29-00721

AC9-00410

A29-00362 A29-00376 A29-00377 A29-00390 A29-0/0709 A29-0/080 A29-0707

Ru4

- Use of water under this water right will be regulated by the watermaster of State Water District No. 1.

SAME AS A PORTION OF THIS LAND LIST.

Objection Filed Date:

Field Inspection Flag:
Presumption Flag:
D

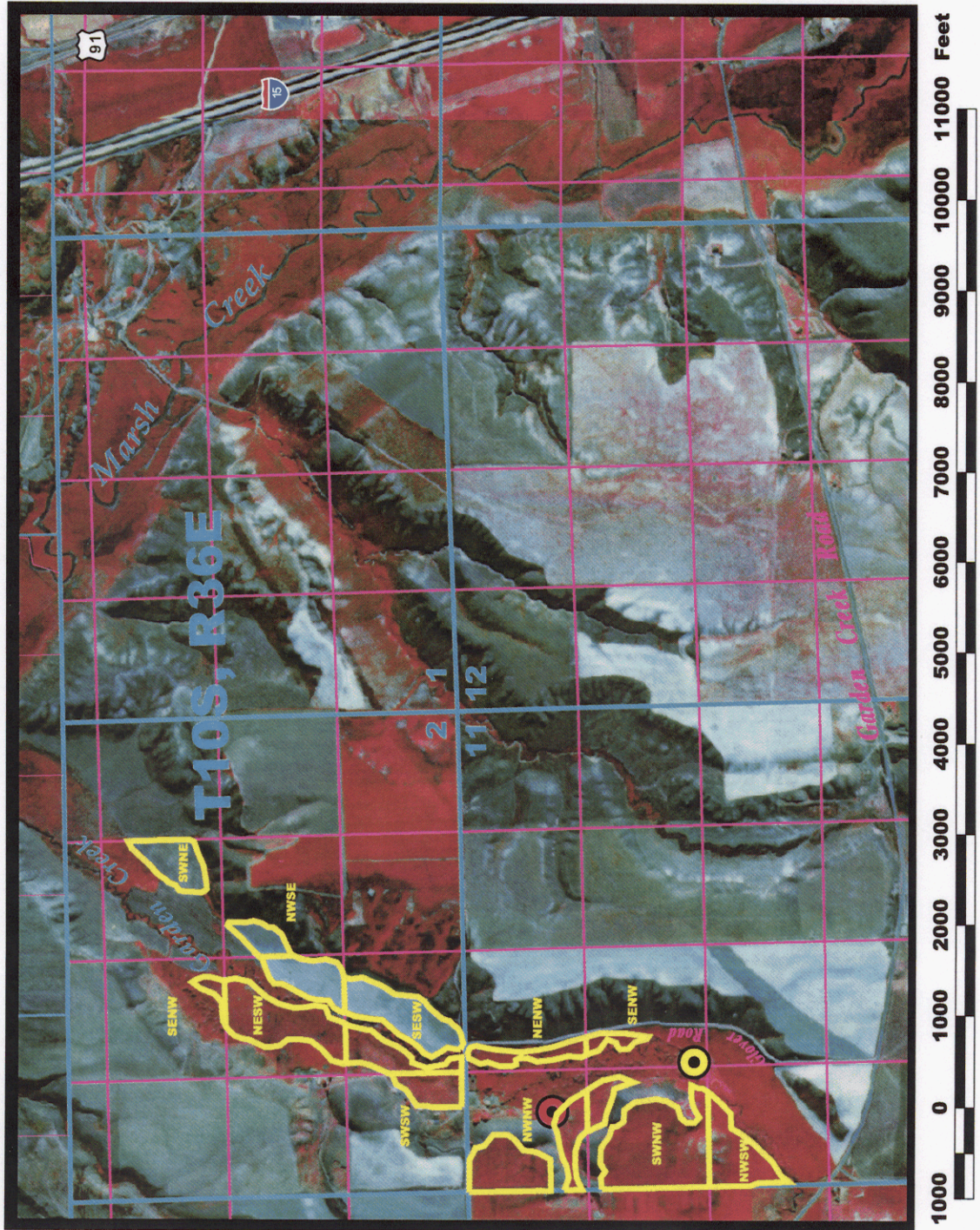
04/13/00 CVANDERM

State of Idaho

Department of Water Resources

Eastern Region

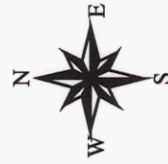
SCANNED
MAY 24 2004



Water Right(s):
29-00376, 29-00377,
29-00389, 29-00390

Place of Use: (parts of) T10S, R36E
Sec. 2 S2SW, NESW, SENW, W2NE,
Sec. 11 NW, NWSW

Point(s) of Diversion: T10S, R36E
Sec. 7 SWNWNE (not shown)
Sec. 11 SWSNW



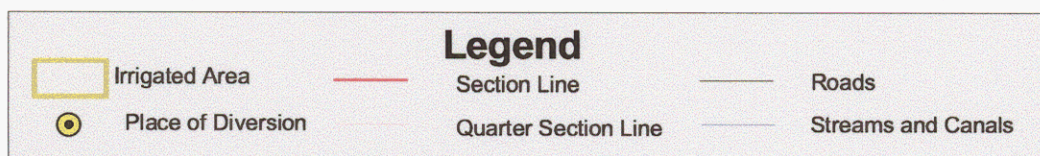
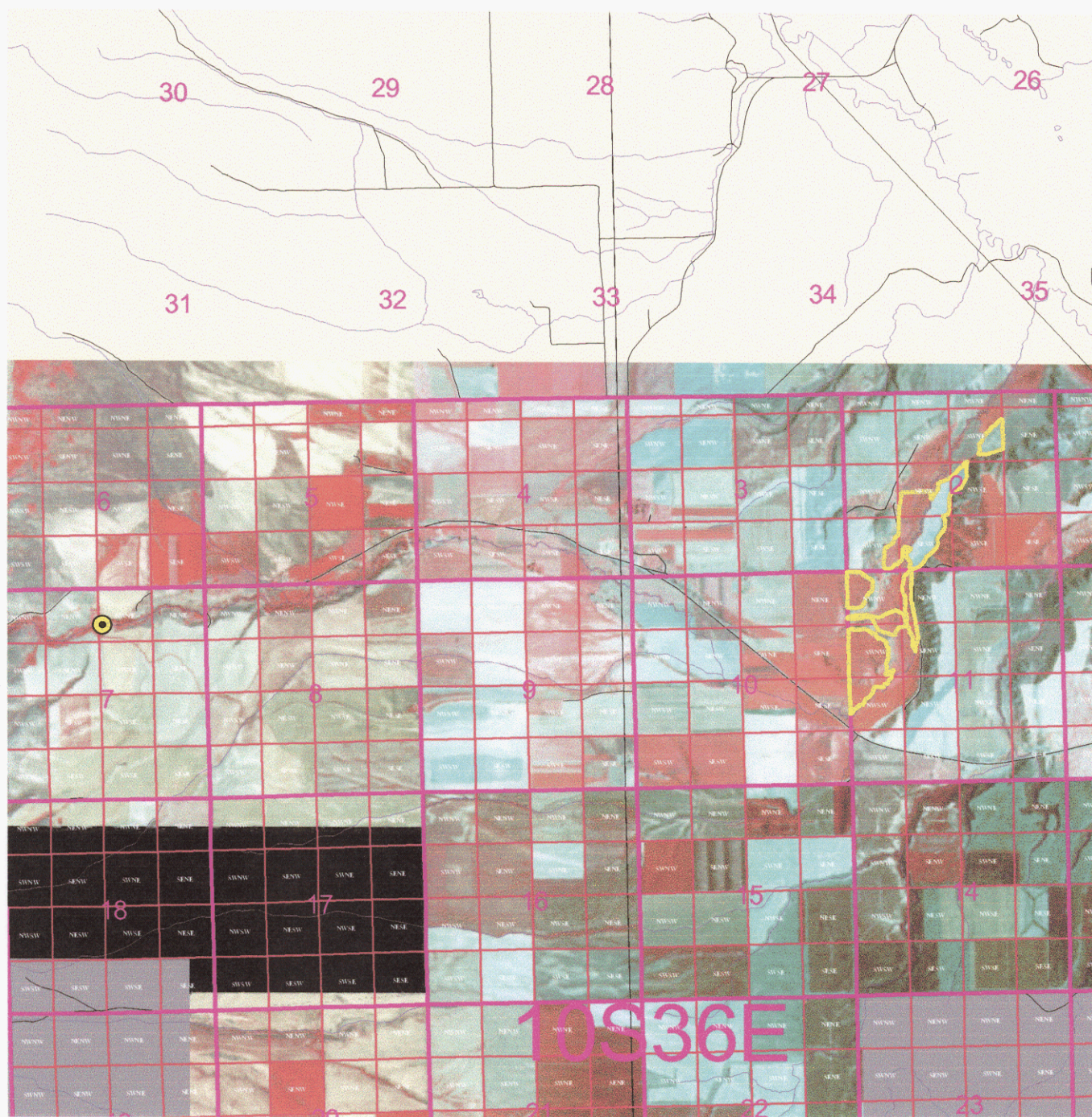
LEGEND

-  Point of Diversion
-  SESE
-  Place of Use
-  Section
-  Quarter-Quarter

Water Right Claim Number A29-00389

06/23/2000

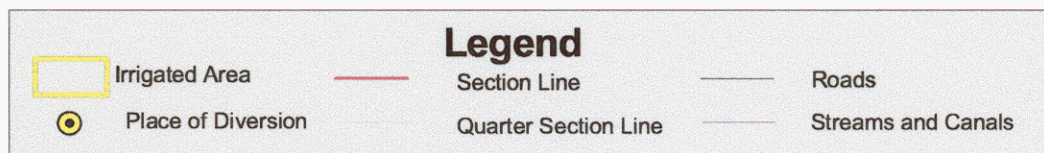
Township , 10S36E



2000 0 2000 4000 Feet



Township , 10S36E



600 0 600 1200 Feet

