04/14/2004

IDAHO DEPARTMENT OF WATER RESOURCES

PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 23-4011

NAME AND ADDRESS: LLOYD A JACOBSON
PO BOX 68
SWAN VALLEY ID 83449

MARGARET J JACOBSON
PO BOX 68
SWAN VALLEY ID 83449

SOURCE: SPRINGS TRIBUTARY: RAINEY CREEK

QUANTITY: 1.740 CFS

PRIORITY DATE: 12/11/1910

POINT OF DIVERSION:

T02N R43E S36 SWNESE Within BONNEVILLE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	1.740 CFS

PLACE OF USE: IRRIGATION Within BONNEVILLE County

T02N R43E S36	NESE	35.0	T02N R43E S36	NWSE	11.0
T02N R43E S36	SWSE	12.0	T02N R43E S36	SESE	29.0

87 ACRES TOTAL

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

IDAHO DEPARTMENT OF WATER RESOURCES

PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 23-4011

NAME AND ADDRESS: LLOYD A JACOBSON
PO BOX 68
SWAN VALLEY ID 83449

MARGARET J JACOBSON
PO BOX 68
SWAN VALLEY ID 83449

SOURCE: SPRINGS TRIBUTARY: RAINEY CREEK

QUANTITY: 1.400 CFS

PRIORITY DATE: 12/11/1910

POINT OF DIVERSION:

T02N R43E S36 SWNESE Within BONNEVILLE County Source: SPRINGS

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	1.400 CFS

PLACE OF USE: IRRIGATION Within BONNEVILLE County

T02N R43E S36	NESE	35.0	T02N R43E S36	NWSE	11.0
T02N R43E S36	SWSE	12.0	T02N R43E S36	SESE	29.0

87 ACRES TOTAL

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

Removed to 0.02/Ac

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: A23-04011
Date Received: 6/12/1989
Receipt No: E069033
Received By: HWJ

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: LLOYD A. JACOBSON 208-483-2044
   Address: P.O. BOX 68
   SWAN VALLEY, ID 83449

   OR

   Name: MARGARET J. JACOBSON 208-483-2044
   Address: P.O. BOX 68
   SWAN VALLEY, ID 83449

A2304011

2. Date of Priority: JUN 22, 1895

3. Source: SPRINGS Trib. to: RAINEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
02N	43E	36	NE SE		BONNEVILLE

5. Description of diverting works:
   PUMP AT SPRING POND TO SPRINKLERS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	1.400		

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

8. Total consumptive use is 250.0 Acre Feet Per Annum.

9. Non-irrigation uses:
   NONE

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NOV 1 0 1992

10. Place of Use:

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
02N	43E	36	NE	SE		IRR	40.0
			NW	SE		IRR	20.0
			SW	SE		IRR	10.0
			SE	SE		IRR	30.0
					Section Acres		100.0
					Total Acres		100.0

11. Place of use in counties: BONNEVILLE

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

13. Other Water Rights Used:
NONE

14. Remarks:

15. Basis of Claim: STATUTORY CLAIM

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NOV 10 1992

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): Floyd A. Jacobson Date: 6-12-89

_____ Date: _____

State of Idaho)
) SS.
County of Bonneville)

Subscribed and sworn (or affirmed) before me this 12th day of June 19 89

Betty J. Thompson
Notary Public

Seal

Residing at _____

My Commission Expires _____

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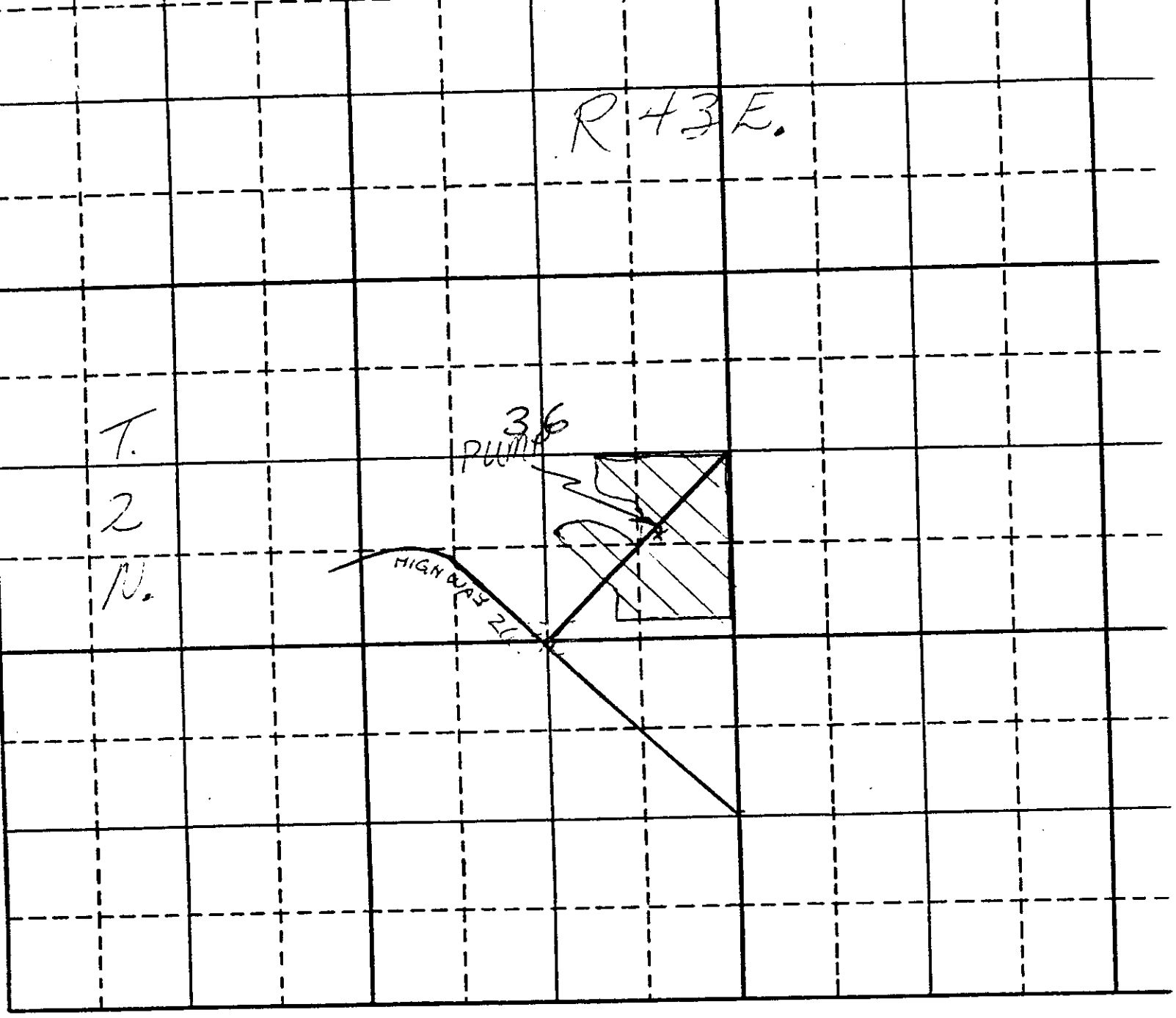
NOV 10 1992



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 4 section, township and range of the public land survey system.

State of Idaho)
) ss.
County of Bonneville)

A23-04011

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subsc claim to a water right, together with all attached information, and that the matters and facts therein ar the affiants knowledge.

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NOV 10 1992

Margaret [illegible]
(Claimant)

Sworn to before me this 14th day of July

04/15/2003

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:

Water right number: 23-4011

LLOYD A JACOBSON
PO BOX 68
SWAN VALLEY ID 83449
Telephone Number: (208)483-2044

MARGARET J JACOBSON
PO BOX 68
SWAN VALLEY ID 83449
Telephone Number: (208)483-2044

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

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: April 13, 2004 **SIGNATURE:** Margaret J Jacobson

Please print your name: Margaret "J" Jacobson

IDWR Regional Office,

4/14/04 Done - system will allow 0.02/ac

FIELD AMENDMENT FORM

23-04011

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): Margaret J. Jacobson Date: April 13, 2004

_____ Date: _____

For Organizations:

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

_____, that I have signed the foregoing
Organization

document in the space below as _____ of
Title

_____ and that the statements contained in the
Organization

foregoing document are true and correct.

_____
Signature of Authorized Agent

_____
Title and Organization

_____
Date

State of Idaho)
) SS.
County of Bonneville)

Subscribed and sworn (or affirmed) before me this 13th day of April 20 04

Allen B Rubberry
Notary Public

Seal

Residing at Idaho Falls ID

My Commission Expires 9/23/09

A. B. RUBERRY NOTARY PUBLIC STATE OF IDAHO

NOTES:

1. Amend Qcfs to increase diversion Rate for acres to 0.02cfs.

87Ac @ 0.02 = 1.74cfs

IDWR Field Exam Form

04/03/2002

Contacts Data Entry Form

23-4011

Owner Type	Full Name	Address	City	State	Zip	Phone

Current Owner Lloyd Jacobson

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:

STATUTORY CLAIM PER § 42-243 IC
LONG HISTORY OF USE AND CONTROL OF WATER.
SEE LETTERS.

RIGBURG IRRIGATION VS TETON IRRIG, 16 DEC 1910, CLEARLY DISCUSSES DECREE OF SEVERAL RAINEY CK RIGHTS. THE DECREE DESCRIBES "..., FROM THE WATERS OF THE SNAKE RIVER AND ITS TRIBUTARIES, ..."

CLEARLY THE CLAIMED SPRINGS ARE TRIBUTARY TO RAINEY CK WHILE RAINEY CK IS TRIBUTARY TO SNAKE RIVER. THEREFORE, THE SPRINGS ARE CONSIDERED TRIBUTARY TO SNAKE RIVER AND THUS CANNOT HOLD A PRIORITY DATE OF 1895 AS A STATUTORY CLAIM.

RECOMMEND 11 DEC 1910 PRIORITY DATE.

FB INDICATED: POU AC, POD (PUMP DATA), SYSTEM.

Reviewer: ____ Date: ____

IDWR Field Exam Form 04/03/2002

Priority Date Data Entry Form

Claim Number: _____

Water Right Priority Date: _____ Water Right Basis: _____

Claimed Priority Date: 6/22/1895 Claimed Basis: STAT.

Recommended Priority Date: 11 Dec 1910 Recommended Basis BU

_____ 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:

OLD ABSTRACT EXCERPT FROM BONNEVILLE ABSTRACT CO. INDICATES JUNE 22, 1895: THAT 80 ACRES WAS PURCHASED AS E²SE⁴ SEC. 36 T2N, R43E.

SECOND ABSTRACT EXCERPT (SAMO CO.) DATES TO 1903. AND, DESCRIBES "...½ OF E²SE⁴ SEC. 36, T2N, R43E, ..., TOGETHER WITH AN UNDIVIDED ½ OF ALL WATER RIGHTS." ← DOES NOT DEFINE SUCH RTS.

THIRD ABSTRACT EXCERPT (SAMO CO.) DATES TO 1922. DESCRIBES S²NE⁴, SE⁴ SEC. 36 T2N, R. 43E ... "AND PARTICULARLY ANY AND ALL WATER RIGHTS DECREED FOR USE ..." AGAIN, DOES NOT DEFINE OR DESCRIBE RTS — DECREED OR OTHERWISE. NO DECREED RIGHTS KNOWN FOR THIS PROPERTY.

FURTHER, MR. JACOBSON'S (HAND-WRITTEN) LETTER, 9-7-92, STATES "I HAVE USED THE WATER TO IRRIGATE 80 ACRES OF LAND SINCE 1927." HOWEVER, MR. JACOBSON CLAIMS 100± ACRES IRRIGATED. CLAIM FILED 6/12/1989.

SEE REMARKS ON FRONT PAGE DISCUSSING RECOMMENDED PRIORITY DATE OF 11 DEC 1910.

Reviewer: _____ Date: _____

IDWR Field Exam Form

04/03/2002

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 2N, R 43E, Sec. 36, ____, NE, SE. County: BONNEVILLE

Source: SPRINGS Tributary: RANNEY 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	OOQ of QQ of Q	County	Source

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

Other rights from this POD? _____

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

APPARENTLY, MR. JACOBSON, POD IS A PUMP IN THE SWNESE, ALONG THE SO EDGE OF Hwy 31

PUMP DATA:
GE, 20HP
SSN: SVJ526272
4FT ≈ 5'
40psi

Transfers Changing POD _____

Reviewer: _____ Date: _____

THEORETICAL PUMP FLOW CALCULATIONS

From Pond

Formula:

$$Q_{cfs} = [(Hp)(8.814)(Eff)] \div [Lift + (psi \times 2.308)]$$

Hp = Horseposer = 20
Eff = Efficiency = 80 (Usually 70%)
Lift: (Static Level + Assumed Drawdown)
Static Water Level = 0 ft.
Assumed Drawdown = + _____ ft.
Lift = 5

OR

Measured Dynamic Water Level = _____ ft.

psi = Opperating Pressure = 40 psi

Q_{cfs} = [20 (Hp) × 8.814 × 80% (eff)] ÷ [5' (Lift) + (40 (psi) × 2.308)

Q_{cfs} = [1410²] ÷ [120⁵]

Claims 1.40

Q_{cfs} = 1.45 cfs

IDWR Field Exam Form 04/03/2002

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

Total Acres _____

Recommended Place of Use

Twp	Rge	Sec	QQ	Q	County	Lot Num	Acres	Purpose of Use
2N	43E	36	SESE		BONN		29	IRRIG
			SWSE				12	
			NWSE				11	
			NESE				35	

Total Acres 87

Document how the POU was verified:

FIELD INDICATED FOR POU ACRES; DOCUMENTATION DISCUSSES 80 ACRES IRRIGATED - BUT CLAIMS 100 ACRES

Transfers Changing POU _____

Reviewer: _____ Date: _____

IDWR Field Exam Form 04/03/2002

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

Overall Diversion Rate _____ Overall Diversion Volume _____

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
Irrig	4/1	11/1	1.4	—

Overall Diversion Rate _____ Overall Diversion Volume _____

Recommended Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
IRRIG	4/15	10/31	1.4	—

THEORETICAL CALC OR PUMP MEASURE

Overall Diversion Rate _____ Overall Diversion Volume _____

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

SOIL RECOMMENDED TO DEPT STD FOR AREA AS; 4/15 TO 10/31.

Q @ 1.4 cfs ON 80 AC OR 100 AC IS LESS THAN 0.02 cfs/AC. ; OK @ 1.4 ; IF IT MEASURES - SEE THEORETICAL

Reviewer: _____ Date: _____

D. JAcobsen
312 Danbury Cir
Va ille, Ca. 95687

CERTIFIED

P 430 267 242

MAIL

MICROFILMED
APR 11 1994

Mr. R. Keith Higginson
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

RECEIVED
OCT 2 6 1992
Department of Water Resources

October 22, 1992

Mr. R. Keith Higginson
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

MICROFILMED
APR 1 1 1994

Dear Mr. Higginson:

I am writing to you in regards to a letter received by my father from your office dated September 14, 1992. I, like my father, was born and raised on the ranch my parents still call home. The spring that is tributary to Rainy Creek has been used to provide irrigation and water for home use by the ranch since it was originally homesteaded.

When a water right came into question, 1977, my parents applied for adjudication. According to the watermaster all forms were properly completed and recorded, yet it has ~~been~~ not been acted upon by the courts. I find it completely novel, to borrow your phrase, that the courts of Idaho can not act on such a critical matter in a timely manner. Afterall, without water, as you well know, crops wither and animals die. No one seems to know the exact status of their adjudication, yet while they wait they have the lowest priority on water which originates on their property.

It is easy for me to share their frustrations.

While they have waited for the courts to act on their filing, they have purchased rental/storage water each year since they were made aware of the programs need. They have paid for this as required on time. In fact the check was returned this year along with the letter advising them there was no storage water available and not to divert water from the spring. My father is a law abiding citizen, and in fact did not divert water until storage water was obtained by Mr. Flint JAcobson who currently leases his ranch. In the meantime his pump had been locked despite his non-use. This action has percipitated my fathers current anger with your system. My parents in fact were told that they could not even water their lawns and plants with water from the Spring. Is this not carrying the affair a bit to far? Additional storage water was made available, however Flint was no longer irrigating the property therefore no need

I have tried to Keep my frustations out of this letter and merely state the facts. I would like a couple of questions answered.

1. When will the courts act upon my parents filing for adjudication. The results of the courts inaction leave my parents right on the bottom with no hopes of improvement.

2. What process must I go through so that the Watermaster and his deputies do not have to provide extraordinary services. If there are forms required please enclose them in your reply.

3. How can we permanently correct what I perceive to be an injustice within the system?

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APR 11 1994

4. Why are farmers allowed to irrigate already harvested fields while other farmers who require water to finish out their crops not receive water? Is this truly managing water for its best use during drought conditions?

In closing I want to thank you for taking the time to read and respond to this letter. I truly feel that somewhere within the system there lies a means of correcting this problem long term

Sincerely
D. Lloyd J. Jamison

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APR 11 1994

State of Id 10
DEPARTMENT OF WA
1301 North Orchard Street, Statehou
Phone: (208) 327-7900 FAX: (208)

See GW app
23-07161 also.
priority 12/15/92

:US
ISON

September 14, 1992

Mr. Lloyd Jacobson
P.O. Box 68
Swan Valley, ID 83449

Dear Mr. Jacobson:

In response to a second request from Representative Richard Stalling's office, the Governor has asked that the Department of Water Resources contact you concerning your right to divert water from a spring that is tributary to Rainy Creek. We have reviewed the matter, and it appears that legally, the issue is not particularly complicated.

Our records show that you have filed claim No. A23-04011 in the Snake River Basin Adjudication (SRBA) which asserts a priority date of June 6, 1895 for 1.40 cfs from a spring tributary to Rainy Creek. Since this right has never been confirmed by the court, Idaho Code § 42-607 requires the watermaster to shut off your right ahead of all rights that have been established by permit, license or decree.

I found it puzzling, in view of the fact that you do not have a water right that the watermaster could recognize, why this issue has not arisen in the past. In answering this question, the watermaster indicated he has attempted to help you each year by reserving a small amount of rental water for you. At the end of the year, he billed you for what you had used. He was able to do this because prior to 1992, there was always adequate storage available through the rental pool.

However, this represented extraordinary service by the watermaster since most users are required to apply for a specific amount of rental water and pay for it in advance of receiving it. Apparently, the watermaster has gone out of his way to accommodate you for many years. Because water supplies were critically low this year, there was no rental water available and the watermaster had no choice but to shut your diversion off as required by law.

Apparently he and his deputies again went out of their way to find water for you by making arrangements with some Palisades waterusers for you to receive their unused Palisades storage. This storage provided the water you received this summer. When this stored water had been delivered, the watermaster had no choice but to again close your

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APR 11 1994

diversion. I understand that additional Palisades storage was located that could have been made available to you, but you rejected it claiming you had the best right on the river and threatened violence if anyone attempted to again regulate your use of water.

I believe it is important for you to understand that even if the court would have decreed the right you are claiming, all 1895 priority rights had to be cut off this year on the first of June. Your argument that you are "making water" for the river by pumping and therefore should not be subject to regulation is indeed novel. While technically your proposal is suspect, even if it were true, the watermaster is still bound to follow the law, and the law in Idaho is "the first in time is first in right." This means that you will receive water only when there is water to first fill all rights that have been decreed by the court.

Since you currently have no right that can be recognized by the watermaster, I would suggest that you make your application to secure water from the rental pool for 1993 as soon as possible since it is allocated on a first-come basis. I further recommend that in the future you do not interfere with the watermaster in performing his duties. Such interference will subject you to both civil and criminal penalties.

Sincerely,

R. KEITH HIGGINSON
Director

RKH:dc

cc: Andy Brunelle, Governor's Office
Representative Richard Stallings

MICROFILMED
APR 1 1 1994

CONSTITUENT AFFAIRS TRACKING MEMO
OFFICE OF THE GOVERNOR
Cecil D. Andrus

Number: 5320
Name:Stallings, Richard
Org:US Congress
Address:1221 Longworth Building
Address:
Zip:20515 City:Washington

Date:09/04/92
Class:SW
Type:Letter
Phone:( ) SSN:
Phone:( ) Case:
State: County:

Assigned To	Current Referral
Andy Brunelle Date:09/04/92 Org.:Governor's Office Phone:(208)334-2100 Due:10/04/92	Keith Higginson Date:09/04/92 Org.:Water Resources Phone:(208)327-7910 Due:09/18/92

Subject

Lloyd Jacobson's Water Rights

Notes

09/04/92 4:15 PM Tracking memo:Report to Governor on Your Letter Head.
PLEASE FOLLOW UP WITH MR JACOBSON WHILE I'M ON VACATION.
09/04/92 Referred to Water Resources, Keith Higginson

****

ACTION:
Please look into the attached matter and send a report directly to the Governor on your department's letterhead, bearing in mind that the Governor may send it on to the constituent with his own letter and return this form and all documentation to the Governor's office.

MICROFILMED
APR 11 1994

RICHARD H. STALLINGS
2D DISTRICT, IDAHO

1221 LONGWORTH BUILDING
WASHINGTON, DC 20515-1202
(202) 225-5531

COMMITTEE ON
AGRICULTURE

COMMITTEE ON
SCIENCE, SPACE,
AND TECHNOLOGY

SELECT COMMITTEE
ON AGING

Congress of the United States

House of Representatives

Washington, DC 20515-1202

Andy
Please follow up
on this ASAP.
SEP 02 1992 Marc
SW
OFFICE OF GOVERNOR
cc: Marc

September 2, 1992

The Honorable Cecil Andrus
Governor
State Capitol
2nd Floor, West Wing
Boise, Idaho 83720

Dear Cece:

As soon as he was told about the response from your office (copy enclosed), Mr. Lloyd Jacobson asked that I contact you again. He pointed out that your response apparently ignored his contention that he thought he had gone through the legal procedure for establishing his June 22, 1895 water right. He says he has discussed this diversion with several water officials and has been told that he need not be concerned about his right to continue using the water.

Mr. Jacobson also contends that no one has ever measured the actual quantity of water he uses and asserts that if anyone would take the time to objectively look at his diversion, that person would be able to see that his irrigation diversion does not diminish the stream that leaves his place. He seems to sincerely believe that his irrigating with the flow from the springs in question actually causes an increased flow that compensates for what may be consumptively used in his irrigation. He wishes that someone would come to his ranch, as he says other irrigation officials have in the past, and look at the stream flows and do some water measurements. He firmly believes that his argument is reasonable enough that he deserves to have it settled by applying accurate measurements to the discharge stream from his ranch and comparing the flow during his irrigation diversion with the natural flow when he is not pumping from the springs.

May I ask that the appropriate state officials respond to the above arguments.

Thank you for your continued assistance in this matter.

Sincerely,

Richard

RICHARD H. STALLINGS
Member of Congress

RHS:cpr
Enclosure

MICROFILMED
APR 11 1994

Please Respond to:

☐ 304 N. 8TH STREET
ROOM 444
BOISE, ID 83702
(208) 334-1953

☐ 250 S. 4TH AVENUE
ROOM 220
POCATELLO, ID 83201
(208) 236-6734

☑ 482 Constitution Way
ROOM 111
IDAHO FALLS, ID 83402
(208) 523-6701

☐ 834 FALLS AVENUE
ROOM 1180
TWIN FALLS, ID 83301
(208) 734-6329

Lloyd A Jacobson
Box 68
Swan Valley, Idaho
83449.

Office of the Governor
State Capitol
Boise 83720-1000
att. Andy Brunelle

OFFICE OF THE GOVERNOR
STATE CAPITOL
BOISE 83720-1000

CECIL D. ANDRUS
GOVERNOR

(208) 334-2100

August 24, 1992

The Honorable Richard Stallings
482 Constitution Way, Room 111
Idaho Falls, ID 83402

Dear Representative Stallings:

The Department of Water Resources has reviewed your August 5, 1992 letter in connection with use of water by Lloyd A. Jacobson near Swan Valley, Idaho.

Department water right records show that Mr. Jacobson has filed a Claim to Water Right with the department claiming the use of 1.4 cubic feet per second of water from Unnamed Springs tributary to Rainey Creek for the irrigation of 100 acres of land in Bonneville County, Idaho. The priority of use claimed is June 22, 1895.

Unadjudicated water rights are unconfirmed rights and, under Idaho water law, are the first uses to be shut off during times of shortage without respect to the priority claimed.

On May 15, 1992, the watermaster of Water District 1, who administers water rights in the upper Snake River system, advised Mr. Jacobson that he would need to curtail his use of water since there was not enough water to supply prior-established water rights. The watermaster locked the diversion structure during the first week of June until Mr. Jacobson subsequently acquired 40 acre-feet of storage water which allowed continued diversion until the storage water was used up. Additional storage is available for use by Jacobson but thus far he has refused to acquire it.

The watermaster of Water District 1 likely will again padlock the diversion facility to prevent unauthorized use of water unless Mr. Jacobson acquires additional storage water. Since Mr. Jacobson has threatened harm to anyone interfering with his diversion of water, future administration of water from this diversion will be done by Water District 1 with the assistance of the Bonneville County Sheriff.

With Idaho experiencing its sixth straight year of drought,

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APR 11 1994

the result is that many water rights which have never been shut off before are being curtailed. The curtailment of junior water rights during times of shortage is consistent with the law in Idaho that the "first in time is the first in right."

If you have additional questions, please feel free to contact Ron Carlson at the department's eastern region office. Mr. Carlson's telephone number is 525-7172 and the address is 150 Shoup, Suite 1, Idaho Falls, ID 83402.

Sincerely,

Andy Brunelle

Andy Brunelle
Special Assistant
Natural Resources

AB:f
cc: Ron Carlson, IDWR
Eastern Region

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APR 1 1 1994

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

MEMORANDUM

DATE: August 18, 1992

TO: Honorable Cecil D. Andrus

FROM: R. Keith Higginson

SUBJECT: Lloyd A. Jacobson Water Right

Attached is a suggested response to Representative Richard Stallings regarding Mr. Lloyd A. Jacobson's water rights.

If you require further information on this matter, please do not hesitate to contact me.

MICROFILMED
APR 11 1994

RECEIVED
OCT 30 1992
Department of Water Resources

A03-04011

CERTIFIED MAIL

August 4, 1992

13034460
Mr. Lloyd Jacobson:
Box 68
Swan Valley, Idaho 83449

Dear Mr. Jacobson

In previous discussions with you I have attempted to explain that our records show no water rights for your pump located in the SE4 SE4 SEC 36, T2S R43E, B.M. Because of the efforts of Dennis Bitton, you have had storage available which has allowed your pump to be used after you were first notified on May 15, 1992 that your pump would have to be shut off for the remainder of this year. Our records indicate the the storage assigned to your pump has been diverted and consequently we must again notify you that your pump must be shut off.

Dennis Bitton advised me that he had found some additional storage that could be made available to you. However, he also indicated that you told your renter he did not need additional storage and should continue to pump in defiance of any order to shut off. I certainly hope that this representation is not correct.

The watermaster has no discretion in shutting off diversions that do not have valid water rights. His job is to regulate all uses of water within the water district in order of priority and to properly distribute available storage supplies. The Idaho Statutes provide remedies that can be applied against any person who defies the watermaster's regulation. The Bonneville County sheriff and a deputy watermaster will be up and post and lock your diversion works in the near future. However, your continuing to divert water until that time represents a violation of state law and the criminal statutes indicated on the enclosed notice.

We appreciate your cooperation.

Very truly yours,

Ronald D. Carlson
Watermaster

MICROFILMED
APR 11 1994

No. [redacted]4011

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Section 42-225a, Idaho Code

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. **The filing of this claim does not confirm the water right but will serve for information purposes only.** It may, however, become the basis for future adjudication of the water right by the Court.

Notice is hereby given that Lloyd A. Agustus, And/or Margaret I. Jacobson (name of claimant) of Box 68 Swan Valley, Idaho (mailing address), claims a right to the diversion and beneficial use of the public water of the State of Idaho

The extent and nature of said claim is as follows:

(1) Describe source of water: (name of stream, lake, spring, etc., or ground water) unnamed springs., tributary to, Rainey Creek.

(2) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Amount 1.4 c/s. Use Irrigation Period of Use: From April 1 To Nov. 1
Amount _____ Use _____ Period of Use: From _____ To _____
Amount _____ Use _____ Period of Use: From _____ To _____
(cfs, gpm or a/f) (dom., irri., stock, etc.) (both dates inclusive)

(3) Total quantity of water claimed: 1.4 cubic feet per second, or _____ acre feet per annum, and/or _____ gallons per minute.

(4) Priority claimed: (the date water was first applied to beneficial use) June 22, 1895

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 to this rule is that a claim may be filed on domestic use from a ground-water source.

(5) A) Point of diversion: (give location of point where water is diverted from its source)
NE ¼ SE ¼, Sec. 36 Twp. 2N Rge. 43E B. M. County of Bonneville
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. 25 HP Electric pump, portable main line & 42 sections of sprinkler pipe w/ one nozzal/ section. Original Diversion and Irrigation was Through ponds & Sub-Irrigation

(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.

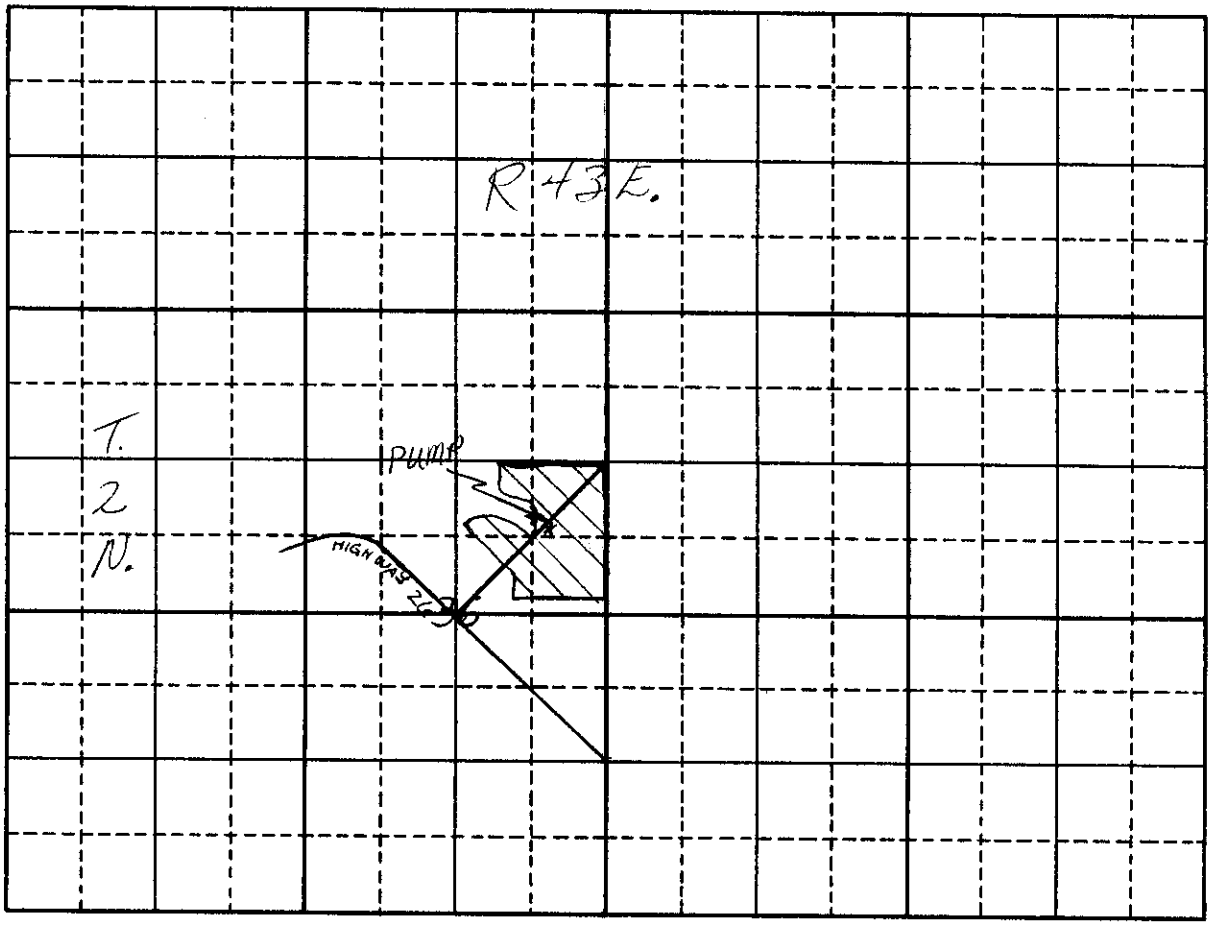
T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
2N	43E	36													40	20	10	30	100

Total No. of acres 100

B) If the water is used for other than irrigation, fully describe that use, being as specific as possible: _____

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

(8) Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
) ss.
County of Bonneville)

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

Margaret Jacobson
(Claimant)

Sworn to before me this 14th day of July, 19 77.

Notary Public

Residing at Idaho Falls, Idaho

My commission expires 6/15/81

For Department Use Only

Received by CW	Date 7-14-77	Exception filed by:	Forwarded to claimant by:	Date	
Prelim. check by LHJ	Date 7-14-77				
$10.00 fee received by CW	Date 7-14-77				
Approved for publication by [illegible] 8-03-77 #8263					
Published in Post Register					
Dates July 21 & 28 1977					

POOR ORIGINAL

4-7-92

Dear mr. Brunelle

Representative Stallings recently sent me a copy of your letter dated August 24, 1992 regarding an on going debate concerning the use of water which originates on my property. I thought you might be interested in reading my side of the story.

The water in question has been used by the owners of this property since it was initially homesteaded ninety nine years ago. All owners have questioned their rights to use this water and been told by all authorities in control of waters in District 1 that it was theirs to use as they wanted. In fact the deed to the property specifically says that it is not part of any water district. Based on this, I have used the water to irrigate 80 acres of land since 1927. In 1977, it was brought to my attention that I needed to file a claim and have my water rights adjudicated. I did this, have multiple letters from water district officials who say all my paper work is in order, filed and yet I still wait for the adjudication process. Can you tell me about the status of the adjudication process within District 1 today?

Since 1988, I have been paying extra for water, even though I did not feel it was necessary, to try and maintain some working relationship with water district employees.

MICROFILMED
APR 11 1994

POOR ORIGINAL

however, this year due to the ~~,~~ longed drought of which I am sure you are aware, I was told there was no storage water available for purchase. I received notice of this on may 10, 1992 as you stated. I must stress that I had diverted no water up to that time and had no plans to divert water in the near term.

After receiving the letter I made an appointment with mr. Carlson to see if storage water could be obtained. my wife and I were treated very rudely in this meeting, told we could not water ~~[illegible]~~ our lawn with this water, and even told we could not dig a post hole to repairs fences if water appeared in the hole. a bit ridiculous I do believe.

Even though I did not divert or attempt to divert water, sometime in early June my pump was locked. I did not know this until storage water was obtained, and I went out to help my lessee start the pump. Mr Carlson's office nor the local water master had the common decency to inform me of this action. I must emphasize that this action was not necessary as I had not diverted or attempted to divert water until the storage water was obtained.

This action is not necessary now either as all means of irrigation have been stored for the winter as of September 3, 1992

Since 99% of the water which flows off from my property originates on my property,

not share the opinion that I should be allowed to divert water for the purpose of irrigating 80 acres of land. I use but a small fraction of the water that I generate for the rest of the water users. In fact their is a marked increase in the flow of water when the springs are made to work and replace the water that is removed for irrigation.

I believe I have taken enough of your time. I encourage you as a representative to visit my property, hear and see my evidence, and to just not rely on the words of one who leads a bureaucratic nightmare.

Thank you.

Floyd Jacobson
Box 68
Swan Valley, Idaho 83449

POOR ORIGINAL

MICROFILMED
APR 11 1994

A23-04011

CAPTION

A23-04011

IDAHO

ESTO PERPETUA

THE GEM OF THE MOUNTAINS

Abstract of Title

PREPARED BY

THE BONNEVILLE ABSTRACT CO. LTD.

Idaho Falls, Idaho.

The following described Real Estate

The South Half of the Northeast Quarter ($S\frac{1}{2}NE\frac{1}{4}$) and the Southeast Quarter ($SE\frac{1}{4}$) of Section Thirty-six (36) in Township Two (2) North, of Range Forty-three (43) East of the Boise Meridian, Bonneville County, Idaho, excepting therefrom 20 acres described as follows: Commencing at the Southwest corner of the said Southeast Quarter ($SE\frac{1}{4}$) and running thence North 80 rods, thence East 40 rods, thence South 80 rods, thence West 40 rods to the place of beginnin

LOAN NO. 5702

/- ABSTRACT

THE POLICY

THE FEDERAL LAND BANK OF SPOKANE

DEC 2 1939

Loan No. D-3722

Application No. 3

Received

Filed MAR 8 1935

THE FEDERAL LAND BANK OF SPOKANE

MICROFILMED

NOV 0 1

ABSTRACT NO. A64303

APPLICANT Gustav Jacobson

STATE Idaho

PIONEER, INC. TACOMA

A23-04011

CAPTION

IDAHO

ESTO PERPETUA

THE GEM OF THE MOUNTAINS

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oooooooooooooooooo

MICROFILMED
NOV 07 1990

APPLICATION NO. A-3945
APPLICANT Gustus Jackson
N.F.L.A. Comm. STATE Idaho

PIONEER BINDERY & PTG. CO. TACOMA

FLB 1
M.T. 7-31-34

POOR ORIGINAL

AZ3-04011

The United States of America,

Grantor.

TO

Alfred J. Bernard,

Grantee.

Character of Instrument Patent.
Date June 22, 1895
Recorded Jan. 9, 1903 at 9:00 A.M.
Book "R" of Deeds at Page 303
Records of Bingham County, Idaho
Transcribed to Book "F" Page 227
Records of Bonneville County, Idaho.
Consideration xx

No- *Acknowledgement.*

Date
Before
In and for County, State of
Residence
Is Official Seal Affixed?
Is Acknowledgement regular?
Does Acknowledgement show separate examination of wife?

Issued and sealed by the U.S.G.L.O.

Granting words. Give and grant.
Covenants. To have and to hold.
Does wife join throughout instrument? xx
Are there any irregularities or defects? xx
Are there any conditions, limitations or recitals? xx

E½E½ Section 36 Township 2 North, Range 43 East of the Boise Meridian, containing 80 acres, according to Government Survey thereof.

MICROFILMED
NOV 07 1990

FLB 6

POOR ORIGINAL

Continuation of Abstract of Title

The Bonneville Abstract Company, Ltd., Idaho Falls, Idaho

A23-04011

Alfred Joseph Bernard,
single,

Grantor.

TO

Walter E. Cleveland,

Grantee.

Character of Instrument Warranty Deed.
Date Jan. 8, 1903
Recorded Jan. 9, 1903 at 9:10 A.M.
Book "Z" of Deeds Page 36
Records of Bingham County, Idaho
Transcribed to Book "Y" Page 404
Records of Bonneville County, Idaho.
Consideration $1.00

Acknowledgement.

Date Jan. 8, 1903
Before William H. Holden, Notary Public
In and for Bingham County, State of Idaho.
Residence xx
Is Official Seal Affixed? yes
Is Acknowledgement regular? yes
Does Acknowledgement show separate examination of wife? xx

Granting words. Grant, bargain, sell, convey and confirm
Covenants. Warrant and defend.
Does wife join throughout instrument? xx
Are there any irregularities or defects? xx
Are there any conditions, limitations or recitals? xx

Conveys an undivided ½ of E½ E½ Section 36 Township 2 North, Range 43 East of the Boise Meridian, together with an undivided ½ of all water rights.
Also other property.

? WHAT ARE ALL WATER Rts.?

MICROFILMED
NOV 07 1996

FLB 7

POOR ORIGINAL

Continuation of Abstract of Title

The Bonneville Abstract Company, Ltd., Idaho Falls, Idaho

A23-04011

W. E. Cleveland and O. A. Johannesen, executors of the estate of A. J. Bernard, deceased.

Grantor.

TO

Leslia Jacobson,

Grantee.

Character of Instrument Warranty Deed.
Date November 21st, 1922
Recorded Jan. 26, 1923 at 3:00 P.M.
Book #22 of Deeds Page 249
Records of Bonneville Co, Idaho
Transcribed from Book ..... Page ...
Records of Bonneville County, Idaho.
Consideration $4200.00 (IRS. 34.50 cld.)

Acknowledgement.

O. A. Johannesen-
Date November 24th, 1922
Before Ida Olson, Notary Public
In and for Bonneville County, State of Idaho.
Residence Idaho Falls, Idaho.
Is Official Seal Affixed? yes
Is Acknowledgement regular? yes
Does Acknowledgement show separate examination of wife? xx

Granting words. Grant, bargain, sell, convey and confirm
Covenants. Warrant and defend.
Does wife join throughout instrument?
Are there any irregularities or defects?
Are there any conditions, limitations or recitals?

W. E. Cleveland acknowledged November 24th, 1922 before E. Stewart, Notary Public, in and for the County of Weber, State of Utah. Sealed. Regular. Residing at Ogden, Utah.

The South Half of the Northeast Quarter ($S\frac{1}{2}NE\frac{1}{4}$) and the Southeast Quarter ($SE\frac{1}{4}$) of Section Thirty-six (36) Township Two (2) North, Range Forty-three (43) East Boise Meridian.

Together with all ditch and water right thereto belonging, however the same may be represented, and particularly any and all water rights decreed for use upon said described premises.

This conveyance is made pursuant to the terms and provisions of the Last Will and Testament of A.J.Bernard, deceased, wherein and whereby the above grantors were authorized to sell and convey said described premises.

MICROFILMED
NOV 07 1990

FEB 19

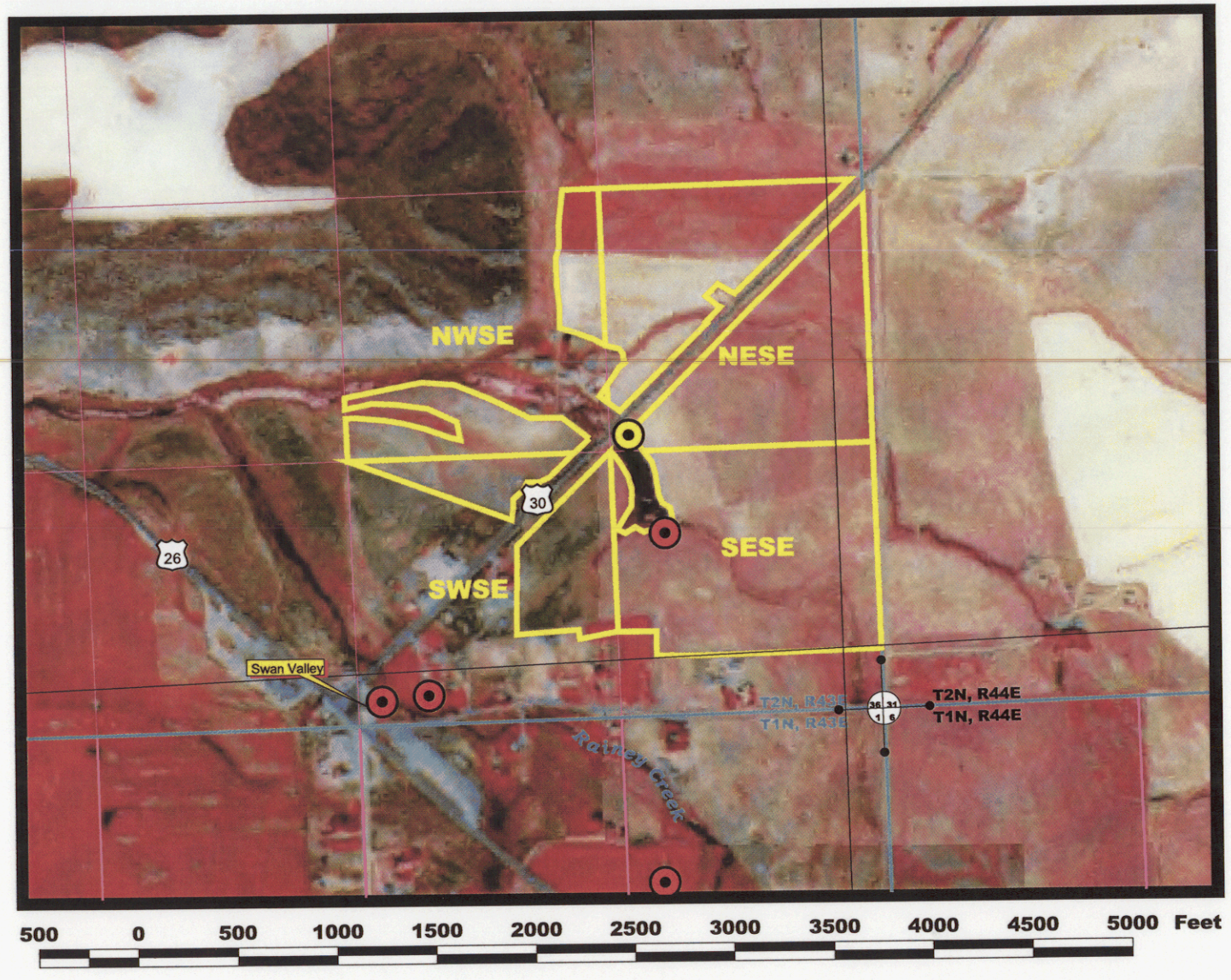
Log for claim 23-04011 **Spatial Dynamics BTD** **6/6/01**

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
02n43e	36	NESE	40	37	POD placement?
02n43e	36	NWSE	20	15	
02n43e	36	SWSE	10	16	
02n43e	36	SESE	30	35	
Totals:			100	103	

State of Idaho

Department of Water Resources

Eastern Region



Water Right(s):
23-04011

Place of Use: T2N, R43E
(parts of) Sec. 36 SE

Point(s) of Diversion: T2N, R43E
Sec. 36 SWNESE

N
W E
S

LEGEND

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

GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: A. Ruberry
Date: April 2003

Water Right Claim Number 23-04011

06/06/2001

Townships , 2N43E, 2N44E, 1N44E, 1N43E

Legend

- Irrigated Area
- Place of Diversion
- Section Line
- Quarter Section Line
- Roads
- Streams and Canals

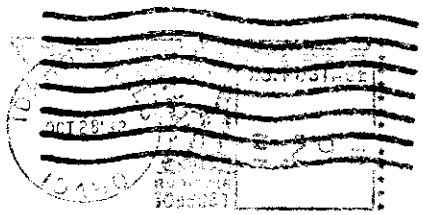
N

SPATIAL DYNAMICS

400 0 400 800 Feet

4/14/03 AOR

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern District Office
150 Shoup — Suite 15
Idaho Falls, Idaho 83402



DAVE SHAW
DEPT OF WATER RESOURCES
1301 N ORCHARD
BOISE ID 83706

MICROFILMED
APR 11 1994