

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: A22-07054A

Date Received: 9/16/1988

Receipt No: X777777

Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JOHN H SMITH
Address: P O BOX 805
REXBURG ID

208-356-3935

83440

2. Date of Priority: MAR 31, 1972

3. Source: GROUNDWATER

Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
06N	40E	28		SW	NE		MADISON

5. Description of diverting works:
WELL PUMP MAINLINE TO TWO CENTER PIVOTS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	2.580		

7. Total Quantity Appropriated is:
2.580 C.F.S. (and/or) 542.50 A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
06N	40E	28	NE	NE		IRR	40.0
			NW	NE		IRR	40.0
			SW	NE		IRR	40.0
			SE	NE		IRR	35.0

A2207054A



10. Place of Use: Continued

Section Acres 155.0

Total Acres 155.0

11. Place of use in counties: MADISON

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

13. Other Water Rights Used:
NONE

14. Remarks:

APPLICATION FOR PERMIT 22-7510 MADE TO COVER ADDITIONAL GROUND
UNDER THIS SYSTEM IN JULY 1985

15. Basis of Claim: LICENSE

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): _____ Date: _____

_____ Date: _____

Log for claim 22-07054A

Spatial Dynamics LTD

7/3/01

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
06n40e	28	NENE	40	39	
06n40e	28	NWNE	40	39	
06n40e	28	SWNE	40	39	
06n40e	28	SENE	35	33	
Totals:			155	150	

WATER RIGHT NO.	NAME	OWNER	PRIORITY DATE	STG/STS	SOURCE	USE DESC	SYSTEM
22-07054	SMITH, JOHN H.	C	03/31/1972	L/	GROUNDWATER	IRR	WR
A22-07054	SPLIT RIGHT	C	03/31/1972	/Z	GROUNDWATER SPLIT RIGHT	IRR	AJ
A22-07054A	SMITH, JOHN H	C	03/31/1972	L/	GROUNDWATER	IRR	AJ
A22-07054B	DS & S INC	C	03/31/1972	L/	GROUNDWATER	IRR	AJ

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 22-7054 Priority March 31, 1972 Amount 5.25 cfs

THIS IS TO CERTIFY, that JOHN H. SMITH
of Rexburg, Idaho, has complied with the terms and conditions of Permit
No. 22-7054 issued pursuant to Application for Permit dated March 31, 1972,
and has submitted proof to the Department of Water Resources on March 8, 1977,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 5.25 cfs of water from a groundwater source,
tributary to _____, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
<u>Irrigation</u>	from <u>April 1</u> to <u>November 1</u>	at <u>5.25</u> cfs and	<u>1103</u> acre feet
	from _____ to _____	at _____ cfs and	
	from _____ to _____	at _____ cfs and	

(both dates inclusive)

Subject, however, to the condition that no more than 5.25 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
1103 acre feet per year, said waters to be diverted within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 28, Twp. 6N,
Rge. 40E, B.M. in the County of Madison

Description and location of place of use:

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
6N	40E	28	40	40	40	35	40	40	40	40									315

Total number of acres irrigated 315

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 14 day of
June, 19 79.

Director

UNRECORDED
MICROFILMED

LICENSING AMENDMENT

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPROVED

APPLICATION FOR AMENDMENT OF A PERMIT

To change the point of diversion and/or the place of use.

RECEIVED

MAY 01 1978

Comes now John H. Smith Department of Water Resources
of (address) Rt. #4, Box 11, Rexburg, Idaho, and represents to the
Director of the Idaho Department of Water Resources:

That he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho
No. 22-7054, and requests that the permit and permit map be changed as follows:

1. Point of diversion: SW 1/4 NE 1/4, Section 28, Township 6N, Range 40E, B.M.,
County of Madison. Other points of diversion: _____

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)

Amount 5.25 for Irrigation purposes from April 1 to Nov. 1 (both dates inclusive)
(cfs or acre feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre feet per annum)

3. Place of use or land to be irrigated:

NO CHANGE

TWP	RGE	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total number of acres to be irrigated = _____

4. a. Who owns the property at the point of diversion? John H. Smith
b. Who owns the land to be irrigated or the place of use? " " "
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the
applicant to make this filing: _____

MICROFILMED

Show 40-acre subdivisions, townships, ranges and ditches.

Hand-drawn map on a grid showing a road layout. The road starts at the bottom left, goes up, then right, then up again. It is labeled "Twp. 6N" on the left side. The top right section is labeled "Rd. 40E". The road is labeled "4000" at the bottom left, "4000" at the top left, "4000" at the top right, and "3500" at the bottom right. The road is labeled "28" at the bottom right.

Signed at Kefton, this 30 day of March, 1979.

(Signature

#14207

Received by mg Date 6/1/79

Published in N/A

N/A

~~approves the above application for amendment.~~

Witness my hand this 14 day of June 1979

Director

Identification No. _____

Application No. _____

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
APPLICATION FOR PERMIT

APPROVED

To Appropriate the Public Waters of the State of Idaho
 (TYPE OR PRINT IN INK)

1. Name of applicant JOHN H. SMITH
 post office address Route #2 Rexburg, Idaho
2. Source of water supply ground water which is a tributary of _____
3. a. Location of point of diversion is NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 28 Township 6 N
 Range 40 E B.M. Madison County; additional points of diversion if any: _____

- b. If water is not consumed, it will be discharged into _____ at a point in _____ $\frac{1}{4}$
 of _____ $\frac{1}{4}$ of Section _____ Township _____ Range _____ B.M. _____
4. Water will be used for the following purposes:
 Amount 6.40 for irrigation purpose from April 1 to Nov. 1 (both dates inclusive)
(cfs or acre-feet per annum)
 Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
 Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
 a. 6.40 cubic feet per second and/or
 b. _____ acre feet per annum.
6. Proposed diverting works:
 a. Description of ditches, flumes, pumps, headgates, etc. _____
well and sprinkler system

- b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir capacity _____ acre feet, materials used in storage dam: _____
 Period of year during which storage will occur _____ to _____ inclusive.
(Mo. Day) (Mo. Day)
- c. Proposed well diameter is 20 inches; proposed depth of well is 300 feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years.
 b. Estimated construction cost is \$ 4,800.
8. Description of proposed uses:
 a. If water is **not** for irrigation:
 (1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
 Range _____ B.M. _____
 (2) Amount of power to be generated: _____ hp under _____ feet of head.
 (3) List number of each kind of livestock to be watered _____

 (4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____
 (5) If water is to be used for other purposes describe: _____

b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
6 N	40 E	28	40	40	40	40	40	40	40	40									320

Total number of acres to be irrigated 320

c. Describe any other water rights used for the same purposes as described above. None

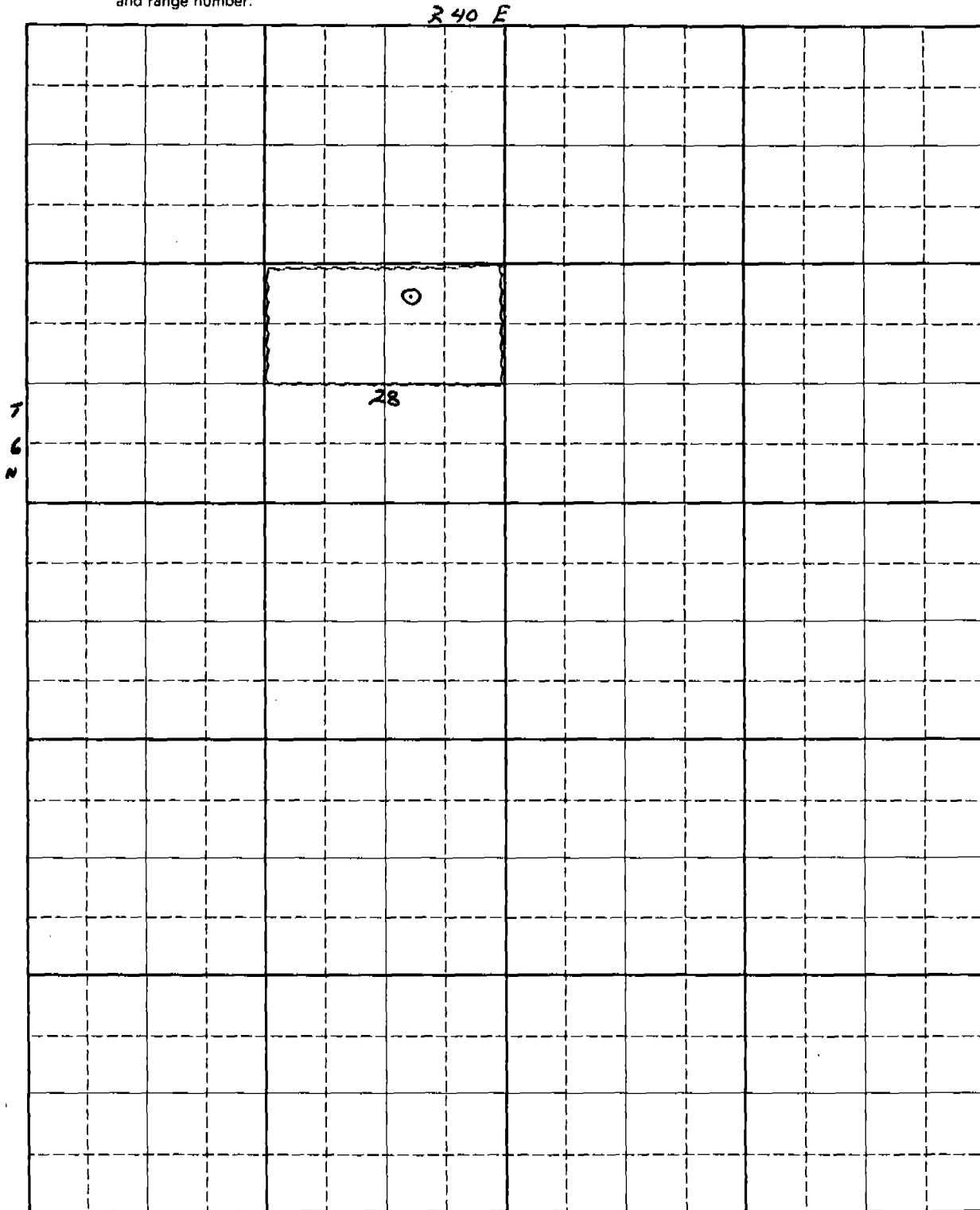
9. a. Who owns the property at the point of diversion John H. Smith

b. Who owns the land to be irrigated or place of use John H. Smith

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing _____

10. Remarks _____

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

X John H. Smith
(Applicant)

22 7054

Received by Date 3-31-72 Time 10:30 A
Preliminary check by Fee \$ 85.00
Receipted by Date 3-31-72
Publication prepared by bj Date 4/6/72
Published in Rexburg Journal, Rexburg, ID
Publication dates 4/13&20/72
Publication approved CR Date 5-4-72
Priority ~~reduced to~~ 3-31-72 Reason

22 7054

Protests filed by:

Copies of protests forwarded by

Hearing held by Date

Recommended for approval denial by D. B. F.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER ADMINISTRATION

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 22-7054, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before May 1, 1977.
- c. Other: A measuring device of a type approved by this Department shall be permanently installed and maintained as part of the diverting works.

2. Denial of said application is for the following reasons:

Witness my hand this 17 day of May, 1972.

L. Keith Higin
Director

MAR 17 1977

TOTAL ACREAGE 320

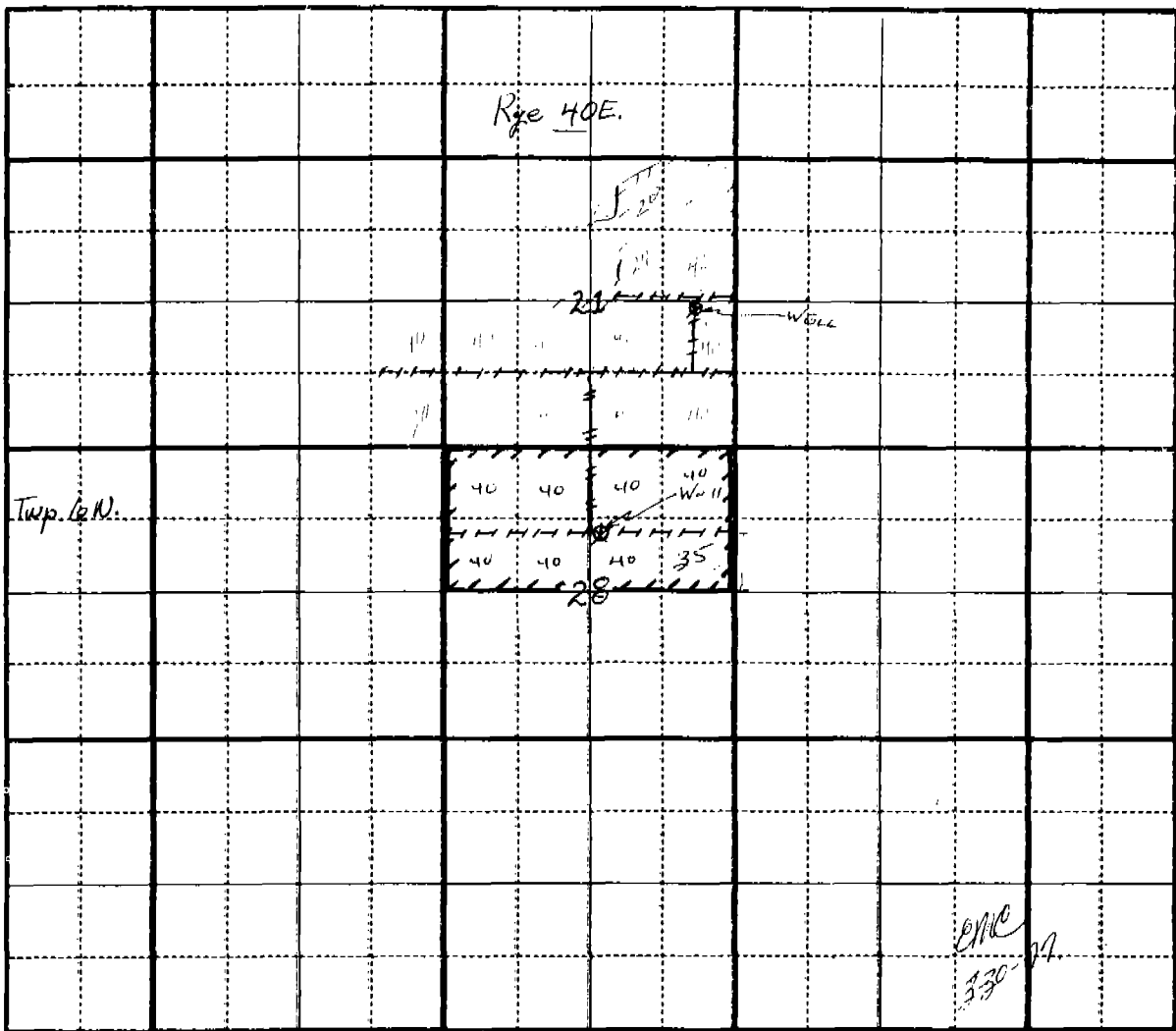
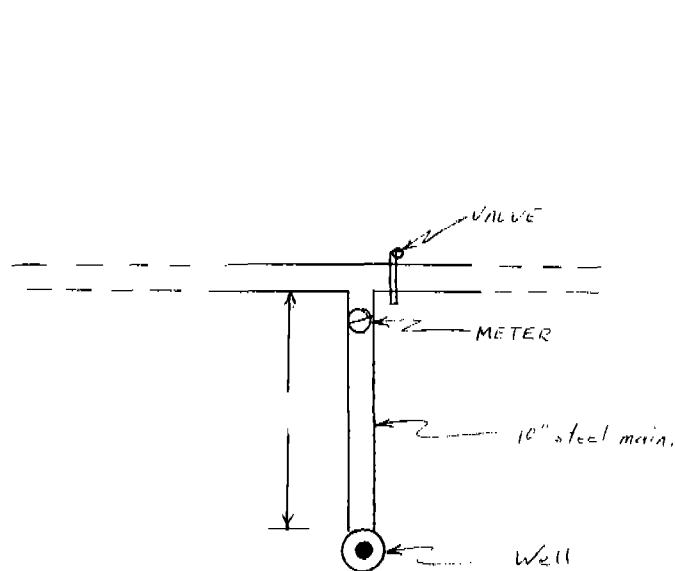


Diagram of System



EMC,
3-30-77.

DATE OF EXAM 3/30/77

ACREAGE

Found 802 AC.
Recommended 318 AC.

Irrigation Requirement 3.5 Ac Ft/Ac

USE

Irrigation Q = 5.25 c.f.s. V = 1102.5 Af/Ann. from April 1 to Dec. 1
Domestic Q = _____ c.f.s. V = _____ Af/Ann. from _____ to _____
Livestock Q = _____ c.f.s. V = _____ Af/Ann. from _____ to _____

Is water commingled? yes _____ no ☒

Name source: _____
Twp. _____ N/S, Rge. _____ E/W, B/M., Sec. _____ Sub. _____ 1/4 _____ 1/4 _____
County _____

Exchange? yes _____ no ☒

Name source exchanged with: _____
Twp. _____ N/S, Rge. _____ E/W, B/M., Sec. _____ Sub. _____ 1/4 _____ 1/4 _____
County _____

Point of injection: P.O.
Twp. _____ N/S, Rge. _____ E/W, B/M., Sec. _____ Sub. _____ 1/4 _____ 1/4 _____
County _____

Point of exchange: P.O.
Twp. _____ N/S, Rge. _____ E/W, B/M., Sec. _____ Sub. _____ 1/4 _____ 1/4 _____
County _____

Total Q measured 5.25 cfs. Method of measurement In line meter

Total Q recommended 5.25 Meter No. 73-10-234 Type 118 Condition STD.

Total V recommended 1102.5

Recommended Amendments:

(P.O.) Should be S.W. Sec 28, Twp 6N Rge 40E.
Place of Use _____
Other _____
None _____

MEASUREMENT CALCULATION:

Direct reading = 2400 gpm.
Timed reading = 0.118 / 84 sec = 435.6 g of 83 sec = 5.25 cfs
 $5.25 \times 3.5 = 18.375$ $5.25 \times 1.98345 \times 21.5 = 22.784$ 500
6/16/77

SYSTEM DESCRIPTION:

5" HDPE line with 1/2" diameter 1" P. 900-1500' of Johnston pump
1 inch steel pipe extends 15 feet north of P.O. to "T" connection. Buried
main line from extruder east of waste. System operates 12, 4 min. labeled
hard lines 7/2/2000.

REMARKS:

System described by John Smith.

Examiner's Signature Scott M. Culbert Date 6/16/77

Checked by Anthony R. Kozlowski Date Jan 12, 1978

Approved by _____ Date _____





State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 13, 1998

JOHN H SMITH
PO BOX 805
REXBURG ID 83440

RE: CHANGE IN OWNERSHIP FOR A22-07054

Dear Mr. Smith:

The request for Change in Ownership for a portion of the above referenced Notice(s) of Claim has been processed with the new Notice(s) reflecting you as one of the claimants.

Since the Change in Ownership involved just a portion of the Notice(s) of Claim, the right was split as follows:

A22-07054A, 2.58 cfs, 155 acres, Smith
A22-07054B, 2.67 cfs, 160 acres, DS&S

Enclosed for your records is a typed Notice(s) reflecting your portion of the right. Review the Notice(s) and if you have other corrections or questions, please contact this office.

Respectfully submitted,

Jennifer Hoagland
Technical Records Specialist

Enclosure

**NEW PROPERTY OWNER
NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP**

DATE OF CLOSING: October, 1997

LEGAL DESCRIPTION OF PROPERTY: See attached copy of Warranty Deed

- ☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)

- ☒ Water Rights Number(s)
Assigned by IDWR:

No *(A)* *(B)*
22-02156, 22-07054, 22-07510 and 22-07538
WATER RIGHT/NO ADT
WATER RIGHT/NO ADT

- ☒ Name and Address of Former Owner/Claimant(s)(Seller):
Craig J. Smith, P.O. Box 375, Rexburg, ID 83440
Jay Fred Smith and Sharon Smith
803 Barney Dairy Road
Rexburg, ID 83440

- ☒ New Owner/Claimant (Purchaser):
DS&S, Inc.

- ☒ New Mailing Address:
3500 East 1496 South
Sugar City, ID 83448

- ☒ New Telephone Number: (208) 356-3465

- ☒ Does the change in ownership result in a splitting of the water right owned/claimed?
x yes _____ no. If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

No overlap
With respect to water rights 22-07150 and 22-07538, all of said rights are appurtenant to the above described property and there will be no splitting. With respect to water right number 22-02156 that portion appurtenant to the land described in the Warranty Deed is now owned by the new owner and with respect to water right number 22-07054, that portion which is appurtenant to the land described in the Warranty Deed is also now owned by the new owner.

- ☒ Attach proof of ownership,
describe proof attached: Warranty Deed

[x] Signature of New DS&S, Inc.

Owner/Claimant(s) by [Signature] Date 1/29/93
its press

[] Signature of Former Owner/Claimant(s) _____ Date _____
_____ Date _____

(Signature of former claimant(s) is not required if proof of ownership is attached)

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: _____ By: _____

Further Action Needed:

Further Action Taken

Date: _____ By: _____

Final Review and Data-Entry

Date: _____ By: _____

Claim Number of Split, if any:

Original to be mailed to Idaho Department of Water Resources. Copies to Former Owner and New Owner

5-12229-1
ALLIANCE TITLE & ESCROW
P.O. BOX 722
REXBURG, ID 83440

268966

WARRANTY DEED

THIS INDENTURE is made this 11th day of October, 1997, by Craig J. Smith, a married man dealing with his sole and separate property, and Jay Fred Smith and Sharon Smith, husband and wife, referred to collectively as the Grantor, and D S & S, Inc., the Grantee, whose mailing address is 3500 East 1496 South, Sugar City, Idaho, 83448.

WITNESSETH, that the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) lawful money of the United States of America, and other good and valuable consideration, to the Grantor in hand paid by the Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and by these presents does grant, bargain, sell, convey and confirm unto the Grantee, and to the Grantee's heirs and assigns forever, all of the following described property in the County of Madison, State of Idaho, to-wit:

Tract 1:

A parcel of property lying in Madison County, State of Idaho, in the East Half of the Southeast Quarter of Section 20, Township 6 North, Range 40 East of the Boise Meridian, and more particularly described as follows: Beginning at the Southeast Corner of Section 20, point also being the true point of beginning; thence South 89°47'43" West along the South line of Section 20, 1063.04 feet; thence North 00°00'00" East 879.15 feet to a point that is in the approximate centerline of the Woodmansee Canal; thence continuing in a Northerly direction along the centerline of canal North 0°56'45" East 360.30 feet; thence North 17°42'06" East 249.36 feet; thence North 8°08'07" East 137.57 feet; thence North 21°03'00" East 142.63 feet; thence North 36°49'48" East 198.28 feet; thence North 45°19'10" East 138.37 feet; thence North 66°19'54" East 127.54 feet; thence North 73°35'59" East 99.07 feet; thence South 84°48'33" East 36.48 feet; thence South 45°41'16" East 33.48 feet; thence South 35°58'27" East 58.11 feet; thence South 47°42'46" East 28.64 feet; thence South 66°41'00" East 37.27 feet; thence South 75°37'29" East 97.79 feet; thence South 68°42'46" East 67.73 feet; thence South 63°02'39" East 60.11 feet; thence South 81°06'41" East 48.73 feet; thence North 65°13'51" East 38.07 feet; thence North 41°43'15" East 41.93 feet; thence North 28°26'48" East 53.24 feet to the East line of

Section 20, thence South 00°27'19" East 1980.32 feet to the true point of beginning.

Tract 2:

Southwest Quarter, Section 21, Township 6 North, Range 40 East Boise Meridian, Madison County, Idaho.

Less any portion of the following parcel lying within Tract 2: A tract of land lying in Madison County, State of Idaho, in Sections 20 and 21, Township 6 North, Range 40 East of the Boise Meridian, and more particularly described as follows: Beginning at the East Quarter Corner of Section 20, said corner being South 89°58'57" East 2642.80 feet of the center corner of Section 20, said corner being the true point of beginning; thence along the quarter section line North 89°58'57" West 632.84 feet to the centerline of the Old Rexburg Milling Ditch; thence South 17°00'00" East along the centerline of said ditch 570.70 feet to the centerline of a canal; thence along the centerline of said canal the following 22 courses: S. 45°41'16" E. 33.48 feet; S. 35°58'27" E. 58.11 feet; S. 47°42'46" E. 28.64 feet; S. 66°41'00" E. 37.27 feet; S. 75°37'29" E. 97.79 feet; S. 68°42'46" E. 67.73 feet; S. 63°02'39" E. 60.11 feet; S. 81°06'41" E. 48.73 feet; N. 65°13'51" E. 38.07 feet; N. 41°43'15" E. 41.93 feet; N. 28°26'48" E. 72.99 feet; N. 25°11'32" E. 119.90 feet; N. 37°01'28" E. 75.59 feet; N. 56°21'13" E. 57.38 feet; N. 65°27'01" E. 75.02 feet; N. 70°41'10" E. 59.31 feet; N. 63°26'14" E. 39.94 feet; N. 37°26'07" E. 61.10 feet; N. 22°52'22" E. 63.66 feet; N. 21°47'55" E. 101.79 feet; N. 25°36'47" E. 105.76 feet; N. 23°12'54" E. 57.06 feet; to a point which falls on the Quarter Section line of Section 21, said point being North 89°35'15" West 2167.03 feet of the center corner of Section 21; thence along quarter section line North 89°35'15" West 476.51 feet to the true point of beginning.

Tract 3:

Northwest Quarter of Section 28, Township 6 North, Range 40 East Boise Meridian, Madison County, Idaho.

NW 1/4

22-7054

SUBJECT TO:

(1) Easements, or claims of easements, not shown by the public records.

(2) (i) unpatented mining claims; or (ii) reservations or exceptions in patents or in Acts authorizing the issuance thereof, whether or not the matters excepted are shown by the public records.

(3) Levies and assessments of the Fremont-Madison Irrigation District, and the rights, powers and easements of said district as by law provided.

(4) Easement for power line over and across a portion of the West Half of the Northeast Quarter of above described Section 21, granted by instrument dated March 7, 1955, executed by John N. Smith and June Smith, his wife, to Utah Power and Light Company, a corporation; recorded April 8, 1955, as Bk/Dr. 178 of Miscellaneous, No. 89, Instrument No. 103455, records of said county. Reference to the recorded instrument is hereby made for full particulars.

(5) Easement for power line over and across a portion of the South Half of the Northeast Quarter of said Section 21, granted by instrument dated March 7, 1955, executed by J. Fred Smith and Josephine N. Smith, his wife, to Utah Power & Light Company, a corporation recorded April 8, 1955, as Bk/Dr. 178 of Miscellaneous, No. 90, Instrument No. 103456, records of said County, to the record of which reference is hereby made for full particulars.

(6) An easement for the purpose shown below and rights incidental thereto as set forth in document: Granted to: Utah Power & Light; Purpose: Public Utilities; Recorded: August 28, 1974; Instrument No. 153538 & 153539 of Official Records. (Section 28-6-40).

(7) An easement for the purpose shown below and rights incidental thereto as set forth in document: Granted to:

Utah Power & Light; Purpose: Public Utilities; Recorded: April 10, 1979; Instrument No. 177949 of Official Records.

(8) Any questions that may arise due to any variation of the Woodmansec/Johnston Irrigation Ditch, or the Rexburg Milling Ditch.

(9) Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey or inspection of the Property.

TOGETHER with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and any reversions, any remainders, rents, issues and profits therefrom; and all estate, right, title and interest in and to the property, as well in law as in equity, of the Grantor.

TO HAVE AND TO HOLD the premises and the appurtenances unto the Grantee, and to the Grantee's heirs and assigns forever. The Grantor and the Grantor's heirs shall warrant and defend the premises in the quiet and peaceable possession of the Grantee and the Grantee's heirs and assigns, against the Grantor and the Grantor's heirs, and against every person whomsoever who lawfully holds (or who later lawfully claims to have held) rights in the premises as of the date hereof.

In construing this Warranty Deed and where the context so requires, the singular includes the plural.

IN WITNESS WHEREOF, the Grantor has executed the within instrument the day and year first above written.

OCT 20 1979
 268668
 MICROFILMED
 ALLIANCE TITLE & ESTATE

Craig J. Smith

Jay Fred Smith
 Jay Fred Smith

Sharon Smith
 Sharon Smith

STATE OF IDAHO)
)ss.
 County of Madison)

On this 14th day of October, 1997, before me the undersigned, a Notary Public, in and for said State, personally appeared Craig J. Smith, a married man dealing with his sole and separate property, known or identified to me to be the persons whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(seal) ALISON BANTA Alison Banta
 NOTARY PUBLIC, STATE OF IDAHO Notary Public for Idaho
 COMMISSION EXPIRES: 11-23-99 Residing at St. Anthony, Id
 My Commission Expires: 11-23-99

STATE OF IDAHO)
)ss.
 County of Madison)
Bonneville

On this 14th day of October, 1997, before me the undersigned, a Notary Public, in and for said State, personally appeared Jay Fred Smith and Sharon Smith, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(seal) ALISON BANTA Alison Banta
 NOTARY PUBLIC, STATE OF IDAHO Notary Public for Idaho
 COMMISSION EXPIRES: 11-23-99 Residing at St. Anthony, Id
 My Commission Expires: 11-23-99

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State of Idaho)
 County of Madison) **268966**
 I hereby certify that the within instrument was
 filed NOV. 07 1997
 19 11 of NOV A.D. 1997
 recorded on film
268966 Fee 2.00
 by BETIE B. REES Recorder
 Deputy
 At the request of [Signature]
CLERK OF DISTRICT COURT