

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: A22-00634
Date Received: 12/14/1988
Receipt No: E005251
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: NORVAL W. BIRCH 208-624-3315
Address: 236 E. MAIN
ST. ANTHONY, ID 83445

2. Date of Priority: DEC 01, 1903

3. Source: TETON RIVER, NORTH FORK Trib. to: HENRYS FORK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
07N	41E	31	NW	NW	NW		FREMONT

5. Description of diverting works:
20 HP PUMP WITH 4" DISCHARGE TO 6" MAINLINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	1.200		

7. Total Quantity Appropriated is:
1.200 C.F.S. (and/or) 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 of	Lot	Use	Acres
07N	40E	36	NE	NE		IRR	16.0
Section Acres							16.0
Total Acres							16.0

A22-00634

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Date: 02/08/89

A2200634



INDEXED
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11. Place of use in counties: FREMONT

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

13. Other Water Rights Used:

14. Remarks:

TRANS. #2168.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

FLOYD GARDNER

Decree Plaintiff

vs

LYNN CRANDALL, W. M.

Decree Defendant

RECEIVED
OCT 28 1992

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: 30356

Ident. Number A22-00634

Date Received 12-14-88

Receipt Number 12005251

RECEIVED

DEC 14 1988

Department of Water Resources
Eastern District Office

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) NORVAL W. BIRCH Phone (208) 624-3315

Mailing Address 236 EAST MAIN, STANTON, IDAHO Zip 83445

2. Date of Priority (Only one (1) per claim) DECEMBER 1, 1903

3. Source of water supply (a) NORTH FORK OF TETON RIVER
which is tributary to (b) NORTH FORK OF SNAKE RIVER

4. a. Location of existing point of diversion is: Township 7N Range 4E Section 31,

NW 1/4 of NW 1/4 of NW 1/4, Govt. Lot, _____ B.M., County of FREMONT

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.

20 H.P. pump with 4 in. discharge
INTO SIX IN MAIN LINE

NOTIFIED

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6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from 4-1 to 11-1 amount 1.2 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1.2 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:

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

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
7	40	36	16																16

Total number of acres irrigated 16

11. In which county (ies) are lands listed above as place of use located? FREMONT

12. Do you own the property listed above as place of use? Yes X No _____

If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

or None (X)

14. Remarks:

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Last Name BIRCH Ident No. _____

Copies: White -State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____

Decree X

If applicable provide IDWR Water Right Number 22-00634

Court _____ Case Number _____ Decree Date _____

Plaintiff vs 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 X

wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) Harold W. Birch Date 12-12-88

Date _____

For Organizations: I do solemnly swear or affirm that I am _____

Title

of _____, that I have signed the foregoing

Organization

document in the space below as _____ of _____

Title

Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho/or _____)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this 12 day of December 19 88

SEAL

Notary Public Dale L. Larsen

Residing at St. Anthony, Idaho

My Commission Expires May 18, 1993

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

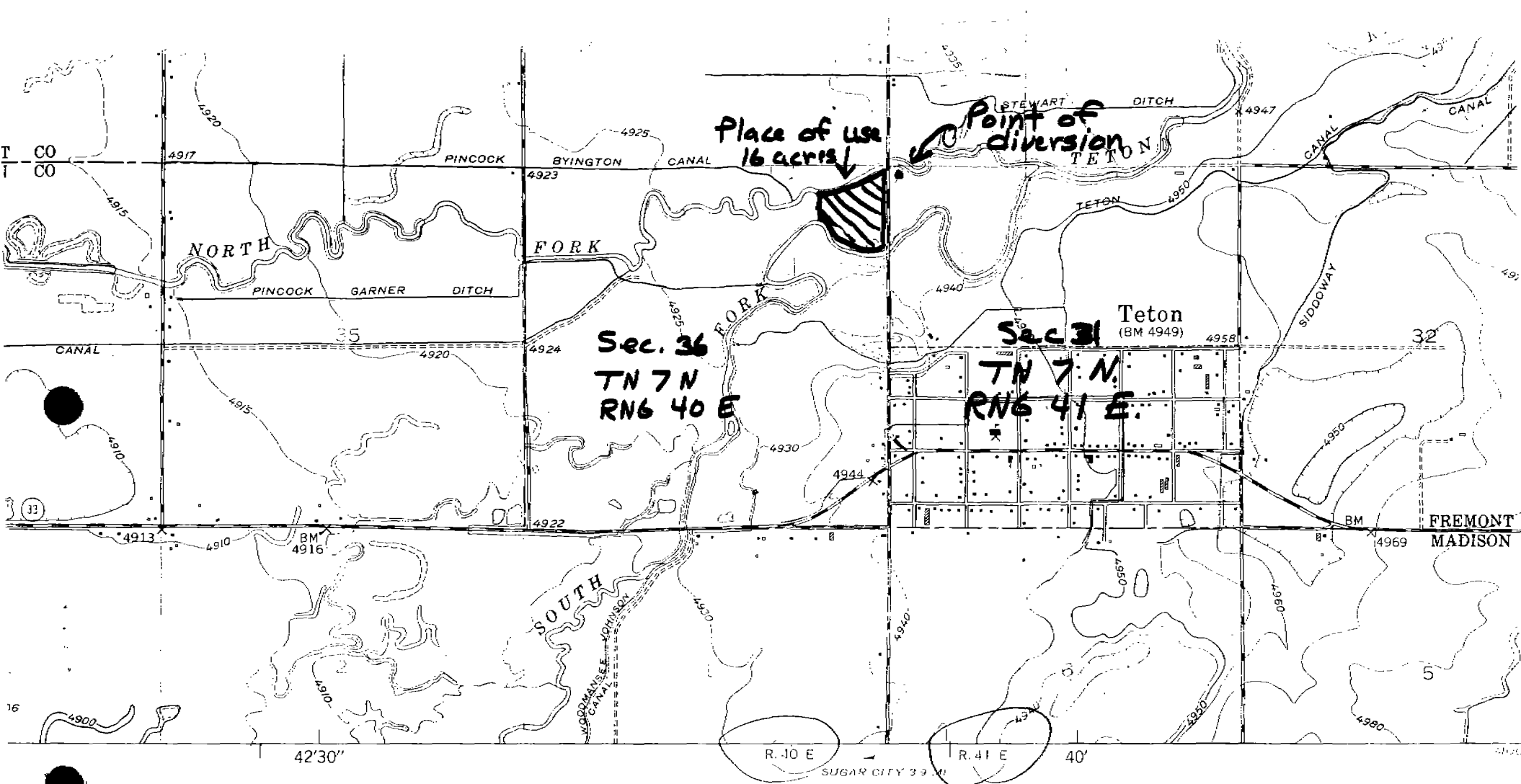
Date _____

NOTIFIED

OCT 28 1992

Last Name BIRCH Ident. Number _____

Copies White-State, Yellow-Claimant



R

HARD-SURFACE ALL
Heavy-duty
Medium-duty
Loose-surface, gra
U. S.

ST

MEMORANDUM

8DEC03

To: The files

From: A. Ruberry

Subject: 22-00634, 22-12528, and 22-00637

Today, Mr. Dallas Leavitt and son were in to inquire into their neighbor's (Mike Birch) suggestion that they come to IDWR and file for a portion of Mr. Birch's water right (22-00634) because Mr. Birch has too much water for his property. Apparently, Mr. Birch did not know Mr. Leavitt had filed a claim in the SRBA. Investigation reveals that Mr. Leavitt filed a claim to a water right in the SRBA under 22-12528. A comparison of water right claims 22-00624 and 22-12528 shows that they both have the same priority date but are for totally different lands. In addition, both have more water right than there are acres to support the quantity, which exceeds §42-202 and §42-220 IC. Suspect more research of the decree is needed here.

Further research of the water right database reveals that the elements of 22-12528 are the same as those of 22-00637 in all respects. The SRBA claim of 22-12528 should be renumbered to 22-00637. The chain of title, as illustrated by ownership of 22-00637 (water right database), was confirmed by Mr. Leavitt's discussion. Apparently, Mr. Birch's father once owned the lands now owned by Mr. Leavitt. Which is where Mr. Birch feels that Leavitt's should have a part of 22-00634, but not the case.

Mr. Leavitt and son were advised that filing for a portion of 22-00634 would gain nothing, that since the priority dates are the same both rights would be cut at the same time and their current claim 22-12528 has more water right quantity than acres anyway. They feel they understand the dilemma and that no part of 22-00634 is appurtenant to their lands.

It was mentioned that 22-12528 would in all likelihood be renumbered to 22-00637 to continue with the original decree number.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 22-634

WATER RIGHT NUMBER: 22-634

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	NORVAL W BIRCH 236 E MAIN ST ANTHONY, ID 83445 (208)624-3315
Current Owner	EAMES THOMPSON IRRIGATION PO BOX 117 TETON, ID
Original Owner	ALBERT BIRCH , ID
Current Owner	DALLAS DEAN LEAVITT , ZZ

Priority Date: 12/01/1903

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
NORTH FORK TETON RIVER	HENRYS FORK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	/ to /	1.200 CFS	
	<u>Total Diversion:</u>	1.200 CFS	

Location of Point(s) of Diversion

NORTH FORK TETON RIVER	NW1/4NW1/4	Sec. 31, Twp 07N, Rge 41E, B.M.
FREMONT County		

Place of UseIRRIGATION Within FREMONT County

T07N R40E S36 NENE 25.0

Total Acres: 25

Conditions of Approval:

1. 001 A measuring device of a type approved by the Department shall be permanently installed and maintained as part of the diverting works.
2. 004 The issuance of this right does not grant any right-of-way or easement across the land of another.

Remarks:

1. General TRANS. #2168.

Comments:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 22-634

Dates and Other Information:

Licensed Date:
Decreed Date: 4/6/1954
Water Supply Bank Enrollment Accepted:
Water Supply Bank Enrollment Removed:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector:
Water District Number: 01
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant: Lynn Crandall
Decree Plaintiff: Floyd Gardner, et al
Civil Case Number: 5254
Judicial District: Ninth District
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:Status

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>
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Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
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IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO IN AND FOR THE

COUNTY OF FREMONT

CASE NUMBER 5254
DISTRICT COURTNINTH JUDICIAL DISTRICT
County of Fremont, State of IdahoFILED 6-4-1934*Jack A. Stone*
CLERKBy _____
DEPUTY CLERKFLOYD GARDNER, LELAN ANDERSON,
WILLIAM D. HOLLIST, DEAN CRAIN
YOSHIHISA UGAKI, ALBERT BIRCH,
DAVID LEROY GARDNER, MARK CLARK,
and EVA B. CUTLER,

Plaintiffs,

-vs-

LYNN CRANDALL, Water Master, Water
District No. 36, of the State of Idaho.

Defendant.

FINDINGS OF FACT, CONCLUSIONS

OF LAW AND JUDGMENT

This cause came regularly on for hearing before the Court sitting without a jury at the Court Room in the Court House at St. Anthony, Fremont County, Idaho, Willard C. Burton, Attorney at Law, St. Anthony, Idaho, appeared for and on behalf of the plaintiffs and the defendant failed to appear either in person or by counsel, and it appeared that the defendant had been duly and regularly served with process herein, and that his default for failing to appear within the time allowed by law had been duly entered, it was ordered that said default entry be and the same is hereby confirmed.

It further appeared that notice had been given as required by law and by order of this court by publication in a newspaper, and that no one had appeared to enter any objections;

Competent evidence having been given in support of the complaint and it appearing therefrom that the allegations of the complaint are materially correct, and the Court being fully advised in the premises and in the law, makes its findings of fact and conclusions of law and judgment herein as follows, to wit:

I

That the plaintiffs, and each of them, are residents of the County of Fremont, State of Idaho;

II

That since on or about the 1st day of March, 1930, the defendant Lynn Crandall, has been and now is the duly elected, qualified and acting Watermaster of Water District No. 36 of the State of Idaho, which includes

within its boundaries the county of Fremont.

III

That the Teton River is a tributary of the Snake River and flows through the south and east part of Fremont County and flows particularly through section 36, Township 7 North, Range 40 East Boise Meridian; that, in fact, near the boundary between Sections 30 and 31 of Township 7 North, Range 41 East Boise Meridian, and before it enters Section 36 of Township 7 North, Range 40 East Boise Meridian, the said river divides, and one fork thereof, commonly known as the North Fork crosses Section 36 in the north part thereof, and the other fork flows diagonally from the north-central part thereof to the south west corner; that the land described in the complaint on file herein and for which an adjudication of water rights is sought lies along the banks of said Forks of said river; that all said lands are arid in character and require artificial application of water to make them agriculturally productive.

IV

That prior owners of the property, above mentioned, subject of this action, who settled said land in the first instance and appropriated water for the use thereof did so between the years 1895 and 1904, and that by December of 1903, all of said lands had been settled and water appropriated for the use thereof in amounts hereinafter indicated; that the use of said water since appropriation in the first instance, as aforementioned, in the respective amounts hereinafter mentioned has been continuous and for a beneficial purpose and uninterrupted;

V

That rights to the use of the waters of the Snake River and its tributaries were heretofore decreed in this Court in the action entitled Rexburg Irrigation Company, et al., plaintiffs vs. Teton Irrigation Canal Company, et al., defendants, and judgment was made and entered therein under date of December 16th, 1910, and appears of record in Book B of Judgments at page 449, records of Fremont County, Idaho. That H. J. Clark, owner in 1898 of property described as the South West Quarter of the South West Quarter of Section 36, Township 7 North, Range 40 E. B. M. had appropriated water for the use thereof prior to ^{May} ~~May~~ 10 of 1898 and obtained an adjudication in the case above-mentioned of 160 inches of water for property described as the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 36, T. 7 N., R. 40 EBM and SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said section, township and range; that the said H. J. Clark, did not in 1898, nor at any other time

own any interest in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 36, T 7 N., R. 40 EBM so far as can be ascertained from the records, and in so far as the adjudication of water right concerned said property it was of no value, but he had acquired a right in and to the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said section and had appropriated water there-fore, and the adjudication of water right therefore in an amount of 80 inches should be confirmed and is binding on all parties.

VI

That owners of all other property subject to this action did nothing so far as can be ascertained to obtain record title to water appropriated for the use thereof, but that they had, by December 1, of 1903 appropriated water for the use thereof as hereinafter indicated; that they are entitled to an adjudication of record showing priority as of that date;

CONCLUSIONS OF LAW

From the foregoing findings of fact the Court concludes as a matter of law that Lelan Anderson, as successor in interest of H. J. Clark, in and to all that property described as the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 36, T 7 N., R. 40 EBM is entitled to priority of water right for the use thereof in an amount of 80 inches with priority date of ~~May~~ 15 1898, per decree already entered; that the other plaintiffs are entitled for their respective properties in amounts hereinafter shown to a priority date of December 1, 1903;

JUDGMENT

It is hereby ORDERED, ADJUDGED and DECREED that the plaintiffs be, and each of them is hereby, awarded priority right to the use of water of the Snake River and its tributary the Teton River, in amount and as of priority date hereinafter indicated for the purpose of irrigation and domestic use:

FLOYD GARDNER: 160 inches Dec. 1, 1903
The NW $\frac{1}{4}$ SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 36, T 7 N., R. 40 EBM

LELAN ANDERSON: 80 inches ~~May~~ 15, 1898
The SW $\frac{1}{4}$ SW $\frac{1}{4}$ SEC. 36, T 7 N., R. 40 EBM.

William D. HOLLIST: 160 inches DEC. 1, 1903
That part of the NE $\frac{1}{4}$ NW $\frac{1}{4}$, of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ and of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 36, T 7, N, R 40 EBM, which is north of the Teton River

YOSHIMISA UGAKI: 150 inches Dec. 1, 1903
Commencing at the NE corner of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec 36, T 7 N., 40 EBM, running thence west 60 rods, thence south 53 $\frac{1}{3}$ rods, thence east 60 rods, thence south 26 $\frac{2}{3}$ rods, thence east 40 rods, thence north 20 rods, thence east 40 rods, thence north 20 rods, thence west 40 rods, thence north 11 rods, thence west 40 rods, thence north to the point of beginning.
ALSO: The west $\frac{1}{2}$ of the west 10 acres of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 36 T 7 N., R 40 EBM
ALSO: The South 57 $\frac{1}{2}$ rods of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec 36, T 7 N., R 40 EBM

ALBERT BIRCH: 60 inches Dec. 1, 1903
All the part of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec 36, T 7 N., R 40 EBM lying
and being south of the Teton River

Eva B. CUTLER: 60 inches Dec 1, 1903
The SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec 36, T 7 N., R 40 EBM

DAVIN LEROY GARDNER: 80 inches Dec 1, 1903
The SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec 36, T 7 N., R 40 EBM

MARK CLARK: 80 inches Dec 1, 1903
That part of the south $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Sec 30 and of the east
70 rods of the NW $\frac{1}{4}$ of Sec 31 of T 7 N., R 40 EBM which lies
between the Forks of the Teton River

DEAN CRAIN: 110 inches Dec 1, 1903
Beginning at the NW corner of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec 36, T 7 N., R 40
EBM and running thence North to the North Fork of the Teton River
thence following the south bank of the said Fork of said River
to the west line of the NE $\frac{1}{4}$ of said section, thence south approx-
imately 66 rods to the Garner Ditch, thence westerly along the
Garner Ditch bank approximately 78 rods, thence north to the point
of beginning.

Said adjudication being under authority of and in accord with the
provisions of Sec. 42-1405 Idaho Code.

Done this 6th day of April, 1954.

Henry S. Martin
District Judge

279076

Filed for record at the request of

Willard C. Burton

at 05 minutes past 3

P. M. 4

June 1954

Judg. 166

✓

Jack A. Stone

Maud Bird

Log for claim 22-00634

Spatial Dynamics LTD

7/26/01

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
07n40e	36	NENE	16	15	
Totals:			16	15	

10/27/1988

SRBA CLAIMS RECEIVING CHECKLIST

CLAIMANT'S NAME

Norval Bir

CLAIM IDENT. NO.

A 22-00634

DATE RECEIVED

12-14-88

CK #

200a

AMOUNT \$

66

YES

NO

1. Is the name and address complete with zip code?

2. Is a priority date entered?

Is the water use exempt from the Permit requirements, or if it is not exempt, has a Permit been approved or a License issued?

A Permit is required: (1) for groundwater developed after March 25, 1963 (except single family domestic and stockwater wells using less than 13,000 gpd), or (2) for surface water developed after May 20, 1971 (except for instream stockwater). USE CARE IF CLAIM IS RETURNED. REFER TO ADJUDICATION MEMOS # 1 (ADJ. CLAIMS/APPLICATIONS) AND # 9 (REJECTION OF CLAIMS). EXPLAIN IN COMMENTS.

3. (a) Is a source entered?

(b) Is a tributary to entered? (if required)

N/A

4. Is the legal description of the p.d. sufficient?

5. Is there a description of the diverting works?

6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form.

Is the period of use included?

Is a quantity claimed for each use?

7. Is a total quantity claimed entered?

8. If required is a consumptive use entered?

N/A

Is the consumptive use correct?

N/A

9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4.

N/A

10. Is (are) the place(s) of use entered?

11. Is (are) the county(ies) entered?

12. Is the ownership of p.u. checked?

13. Are other water rights listed or "none" indicated?

14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.)

N/A

15. Is the basis of the claim checked?

16. Is the claim signed by the claimant, and is the signature appropriate? (If an individual is the claimant, has that individual signed the claim, or if an organization is the claimant, is the organization signature block complete?)

Has the claim been signed, sealed, and dated by a notary?

Was this claim filed on time, or was an extension granted?

Is the fee enclosed correct?

Exempt

If this claim is based on an existing water right, has the identification number been entered?

N/A

Should this claim be receipted and data entered?

Claim checked by:

Comments:

OCT 29 1982

E005851