

Roscoe B. Ward
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA Case No. 39576) AFFIDAVIT OF DAVE SUNDBERG
SUBCASE No. 43-10356)

Having first been duly sworn, the affiant states the following.

1. My name is Dave Sundberg
2. The Objectors in this case asked me to look at the diversion where Joneses are pumping water at the confluence of Almo Creek and Raft River.
3. On about August, 13, 2002, I looked at some photographs which Roscoe Ward had taken on August 12. I then took Roscoe's camera and went and looked and took some pictures of the diversion practices.
4. Some of the pictures which accompany this affidavit were taken by Roscoe and Joyce Ward and some of them were taken by me. They accurately represent what I saw.
5. I have labeled the points from which the Photographs were taken on an aerial photo which Roscoe provided for this purpose. The photographs are also labeled with the same numbers.
6. Number 1 was taken from the earthen dam from which Joneses attempt to run water towards their property.
7. #2 shows where the natural channel of Almo Creek runs together with the channel of the

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stream which is being diverted by the earthen dam. This is about 250 yards Southeast of #1.

8. #3 shows the concrete structure and pond at the pump site where the water was diverted into Jones'es sprinkler system. In August there was no water being diverted by the pump. It was merely being impounded so that it filled the channel towards the earthen dam and also the channel of Almo Creek, as shown in #2.

9. The next photo was taken from Point #1, the earthen dam looking Eastward.

10. The next photo was taken from Point #5, near Jones'es fence, looking towards the Earthen Dam, showing that some water was reaching Jones'es fence. This water ran down the ditch part way to the pump site, to about Point #4, but all sank before it reached the pump site.

11. The next photo shows the pond created by the earthen dam, about 100 yards West of the Dam at point #6.

12. The next photo shows the pond about 220 yards West of the Earthen Dam . This Photo was taken from Point #7.

13. The next photo shows the pond about 3/16ths of a mile West of the Earthen Dam at Point #8, showing the Western end of the pond. Where the pond appears to turn toward the South is very near the measuring device at Point #9. Water springs up in potholes in the area near the measuring device slightly to the Northwest. There is another large spring about 1/2 mile North at the foot of Jim Sage Mountain and somewhat wet areas in between, which are possibly seepage from the mountain.

14. The next group of photographs show the area in the Recommended Place of Use which Joneses claim they have ceased to irrigate allong the South of the Place of Use. They are now

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irrigating new ground on the North side of the Place of Use, up to the line which I have labeled "Fence" on the Aerial Photo. This group of photographs was taken from Point #4 on the West fence looking Southeastward across the field. The area which they claim they have ceased to irrigate is covered with tall rye grass and big sagebrush.

15. On October 17, 2002, I again went and looked at the same places, using a videocamera. I started at Point #1 at 4:34 p.m. and showed the water which is leaking through the Earthen Dam, then proceeded to Point #2 at 4:38 and showed the water which is coming into the stream from Almo Creek. In October the boards had been removed from the dam by the pump so the water which is in the channel can be seen. At 4:42 I showed the water which is running into Raft River at Point #3. This water could not be seen last Summer when the channel was dammed off and full of water and therefore was not reported by the Almo Creek Watermaster.

16. Still at Point #3, at 4:47 I turned around and tried to show that the measuring weir in the ditch by the pump has a hole washed under it so that the water which came down the ditch last Summer was probably not all measured.

17. Then at 4:49 p.m. I went up the ditch to the North of the pump to Point #4 and showed that the water was reaching about half way to the pump from where it crosses under the fence into the Jones property.

18. At 4:51 I then went to Point #5 and showed the stream just before it crosses into the Jones property, showing that there is a fair little stream which all sinks before it reaches Point #4.

19. I then went to Point #8 to show the extent of the impounded water. Considering the amount of water which sinks between Point #5 and Point #4 and that all of the area around the

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pond appears to be the same type of soil, it looks quite obvious that a considerable amount of water is sinking because of this impoundment. This water would all go to Raft River if it were released.

20. As can be seen by the photographs of the earthen dam, there is no way to release the water except by removing the dam.

21. At 5:10 I went to Point #10 by the fence on the North side of the area which was irrigated by the Joneses with the pump and showed across the field to the ground which they claim they have ceased to irrigate, showing that the ground is covered with tall Rye grass and big sage brush.

22. I then went down to Roscoe Ward's diversion on Raft River and showed that some water was reaching. Although only a small amount was reaching, if the Earthen Dam were removed it would probably have been a sufficient amount to be usable. 2001 and 2002 are the only years that I have ever seen that Raft River did not reach Roscoe Ward.

23. The videotape shows fairly accurately what I observed the day that I made it.

DATED this 2ND day of ^{DECEMBER} ~~November~~, 2002.


DAVE SUNDBERG

SUBSCRIBED and SWORN to before me this ____ day of November, 2002.

NOTARY PUBLIC FOR IDAHO

Residing at _____

My commission expires: _____

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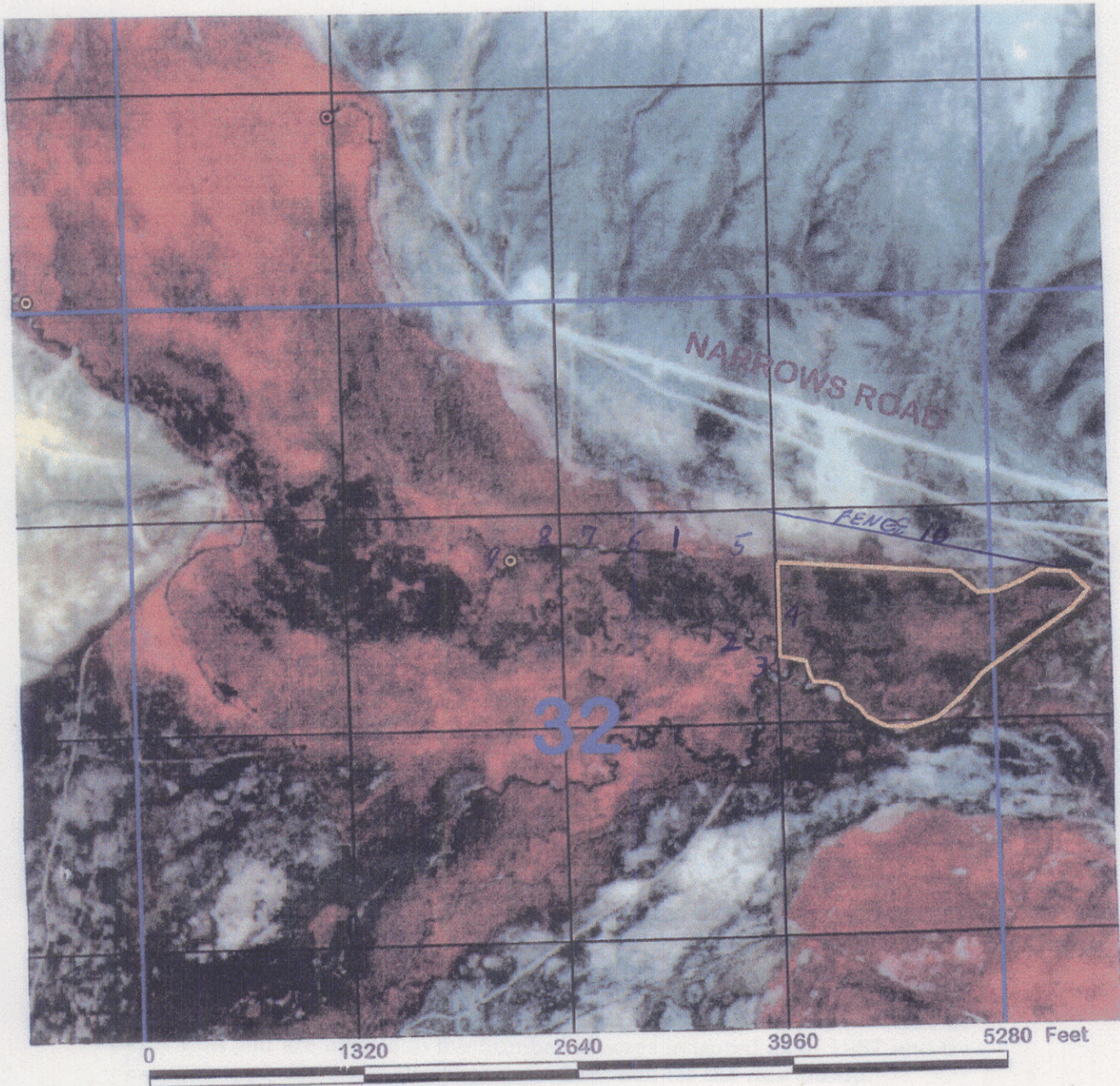
Idaho Department of Water Resources

RECOMMENDED PLACE OF USE

TWP 15S, RNG 25E

Data entry on June 25, 2001

RIGHTS: 43-10356



⊙ RECOMMENDED POINT OF DIVERSION

RECOMMENDED PLACE OF USE

SECTION LINES

QUARTER/QUARTER LINES



GIS PLACE OF USE PRESENTATION
1987/1988 NAPP AERIAL PHOTOGRAPHY
PREPARED BY VIKIE HANCOCK

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2

POINT #1
EARTHEN DAM
LOOKING WEST



POINT #2
JUNCTION OF
ALMO CREEKBED
AND SPRING



POINT #3
CREEK BY
PUMP, JUNCTION OF
ALMO CREEK AND
RAFT RIVER



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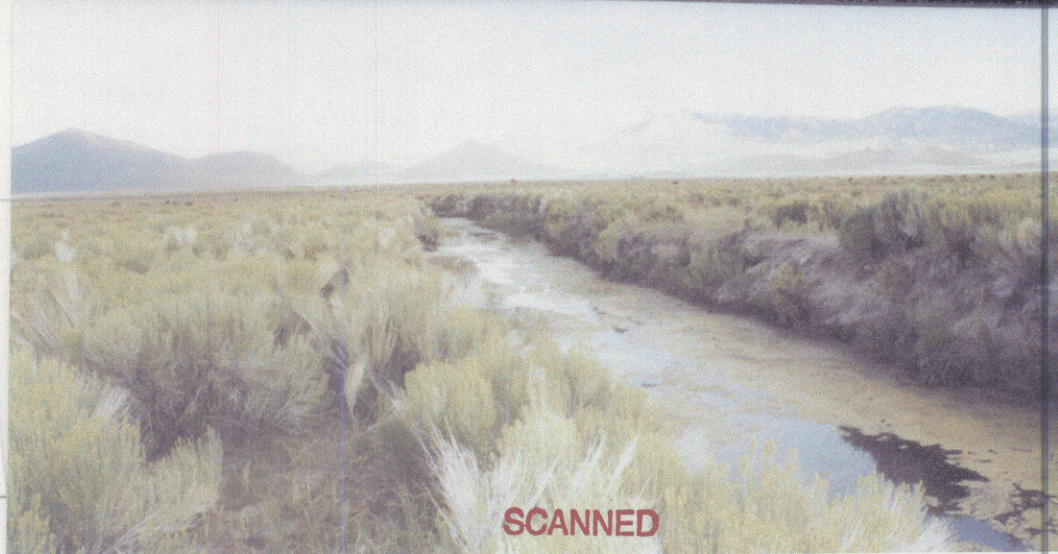
POINT #1
EARTHEN DAM
LOOKING ~~WEST~~
EAST



POINT #5
RIPPLE IN DITCH
WEST OF JONES



POINT #6
WEST OF
EARTHEN DAM



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POINT #7
WEST OF
EARTHEN DAM



POINT #8
WEST OF
EARTHEN DAM



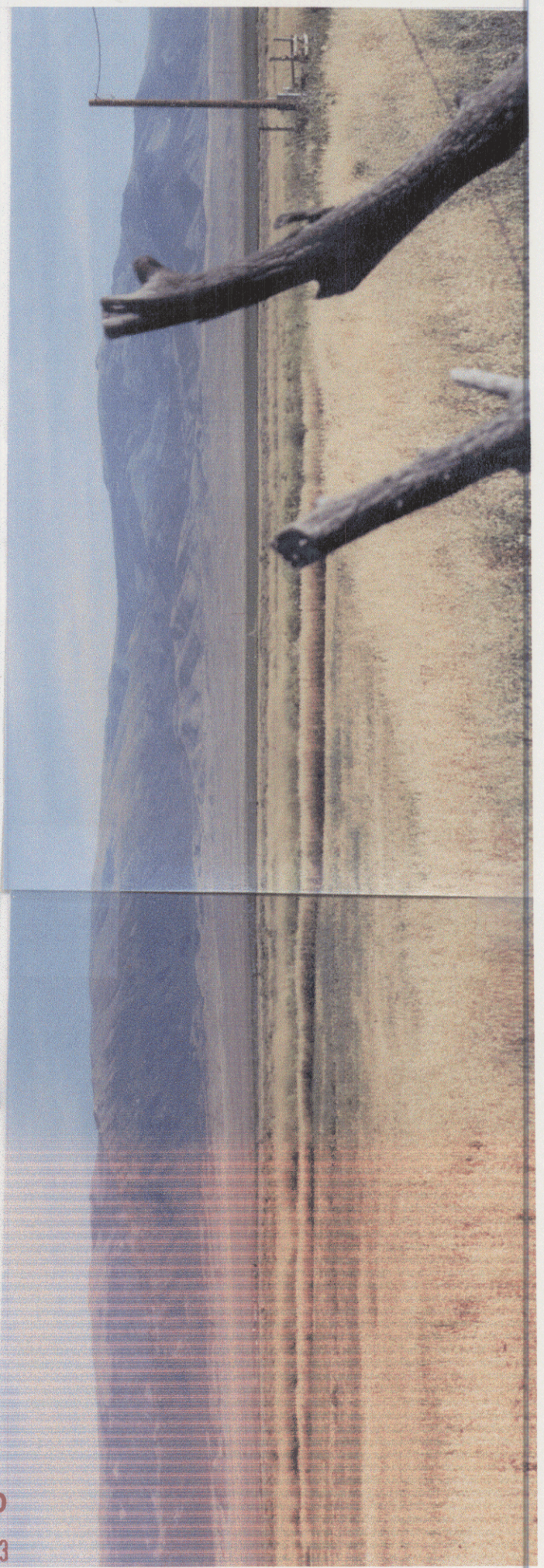
POINT #9
POINT OF
DIVERSION



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LOOKING ACROSS THE FIELD FROM POINT #4



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