

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 45-13648  
Date Received: 1/16/2004  
Receipt No:  
Received By:

**NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

CARL F AUSTIN  
PO BOX 93  
OAKLEY ID USA 83346

Phone: (208)436-1562

BARBARA V AUSTIN  
PO BOX 93  
OAKLEY ID USA 83346

Phone: (208)436-1562

2. Date of Priority: 04/29/1948

3. Source: GROUND WATER

Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot			County	Type
15S	21E	25	NE	SE	SW	CASSIA	
15S	21E	25	NE	SE	SW	CASSIA	
15S	21E	25	NE	SE	NE	CASSIA	

5. Description of diverting works:

3 wells, 2 Artesian (one pumped intermittently)  
See Remarks for further description of system.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	3.9	
STOCKWATER	01/01	12/31	0.11	
DOMESTIC	01/01	12/31	0.04	

7. Total Quantity Appropriated is:  
4.05 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:  
 Number of other uses: 500 Beef Cattle  
 Number of homes: 1

10. Place of use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
15S	21E	25	SW	SE		DOMESTIC	
			NW	NE		STOCKWATER	
			SW	NE		STOCKWATER	
			SE	NE		STOCKWATER	
			SE	NW		STOCKWATER	
			NE	SW		STOCKWATER	
			SE	SW		STOCKWATER	
			NE	SE		STOCKWATER	
			NW	SE		STOCKWATER	
			SW	SE		STOCKWATER	
			SE	SE		STOCKWATER	
			NW	NE		IRRIGATION	18
			SW	NE		IRRIGATION	28
			SE	NE		IRRIGATION	5
			SE	NW		IRRIGATION	6
			NE	SW		IRRIGATION	11
			SE	SW		IRRIGATION	6
			NE	SE		IRRIGATION	21
NW	SE		IRRIGATION	29			
SW	SE		IRRIGATION	32			
SE	SE		IRRIGATION	35			
						Section Acres	191
15S	21E	36	NE	NE		IRRIGATION	24
			NE	NE		STOCKWATER	
						Section Acres	24
						Total Acres	215

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:

14. Remarks:

**These three wells were originally claimed under license 45-7373 as 45-7373A. Information suggests an earlier priority date of 4/29/1948, based on permit #20440 and later known as 45-2255 which was cancelled, is more appropriate so they are now being claimed as a beneficial use claim.**

System Description continued:

Well in NESENE of Section 25 (known as Cold Creek Well) was originally engine driven, later upgraded to electric driven pump and mainline pipe.

Well in NESESW of Section 25 (more northerly and known as Gear Head Well) is Artesian with control valves, ditches and pipes. Pumped in early days (parts still by well and in ranch shop), currently uses natural flow.

Other Well in NESESW of Section 25 (more southerly and known as Barn Well) is also Artesian with control valves & plates, ditches, pumped intermittently. Currently pumped (pipelines & ditches run natural flow through pump and/or booster). Well depth 2823 feet.

15. Basis of Claim: Beneficial Use

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): *[Handwritten Signature]* Date: 27 Juny 2004  
\_\_\_\_\_ Date: \_\_\_\_\_

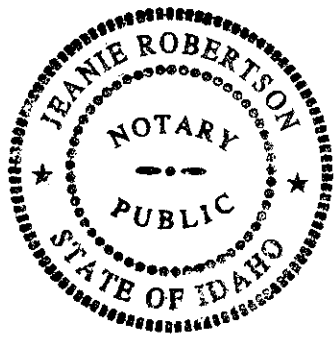
State of Idaho )  
County of Twin Falls ) SS.

Subscribed and sworn (or affirmed) before me this 27<sup>th</sup>  
of January 2004

*[Handwritten Signature]*  
Notary Public

Residing at Twin Falls, Id.

My commission Expires 9-23-06



*Gear Head Well*

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 \_\_\_\_\_

Date Received \_\_\_\_\_

Receipt Number \_\_\_\_\_

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Carl Austin Phone (208) 436 1562

Mailing Address PO Box 93 Oakley ID Zip 83346

2. Date of Priority (Only one (1) per claim) 29 April 1948

3. Source of water supply (a) Ground water (Goose Creek Artesian Basin)\* which is tributary to (b) \_\_\_\_\_

4. a. Location of existing point of diversion is: Township 15 S Range 21 E Section 25, NE 1/4 of SE 1/4 of SW 1/4, Govt. Lot, \_\_\_\_\_ B.M., County of \_\_\_\_\_

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. Artesian well, control valves, ditches and pipes (pumped in early days, parts still by well & in ranch shop) currently used natural flow

# HOW YOU WILL RECEIVE NOTICES IN THE SNAKE RIVER BASIN ADJUDICATION

All documents filed in the Snake River Basin Adjudication other than notices of claims are filed with the court. Notices of claims to water rights filed in the Snake River Basin Adjudication are filed with the Idaho Department of Water Resources. Copies of all documents filed in the Snake River Basin Adjudication will not be mailed to all parties (claimants) in the adjudication.

By order of the court, any document filed with the court will be mailed only to those parties who may be directly affected by it. A monthly docket sheet will be prepared by the department which contains a summary of all documents filed with the court in the previous month and the dates and locations of hearings scheduled for the following three months. The docket sheet will be filed with the district court clerk in each county within the Snake River Basin in Idaho. Copies of the docket sheet may be obtained from any of the offices of the department either in person or by mail; a small fee will be charged to cover the cost of mailing and/or copying. If you wish to receive a copy of the docket sheet each month, you should mark the appropriate place on your notice of claim form. You will be charged a small annual subscription fee to cover the cost of copying and mailing. Copies of any document listed on the docket sheet may be obtained from any of the offices of the department either in person or by mail; a small fee will be charged to cover the cost of mailing and/or copying.

Copies of all notices of claims filed with the department will be available for inspection from all offices of the department. Copies of the notices of claims may be obtained in person or by mail, but you will be charged for the cost of copying and mailing. (A claimant will not be charged for a copy of his or her own notice of claim, and a person who acquires property with water rights for which a notice of claim was filed will not be charged for a copy of the notice of claim filed by the previous owner.)

After the notices of claims have been reviewed, the director will prepare and file a report with the court. Part 1 of the report will contain the director's recommendations as to each water right claimed under state law. Part 2 of the report will list each federal reserved water right claimed. A number of reports will be prepared, one or more for each sub-basin in the Snake River Basin. When the report for your sub-basin is filed with the court, you will be mailed a notice informing you that the report for your sub-basin has been filed. The notice will be sent to the most recent address shown by the department's files. Attached to the notice will be a copy of those portions of the report describing the water rights you have claimed. If you do not agree with the way your water right is described, you may file an objection to the report with the court. You can also file an objection if you disagree with the way other claimant's water rights are described, and the notice will tell you where a copy of the full report is available for inspection. The notice will tell you when and where to file your objection. The notice of filing for each sub-basin report will also be published state-wide in local newspapers.

6. Water is claimed for the following purposes:

(both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from April 1 to Nov 1 amount 0.56 or \_\_\_\_\_

For Stock water purposes from Jan 1 to Dec 31 amount 0.11 or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

7. Total quantity claimed (a) 0.67 (cfs) and/or (b) \_\_\_\_\_ (acre feet)

8. Total consumptive use claimed is 237.7 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Stock water for up to 500 Beef cattle

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		
15S	21E	25		18	28	5					6	11			6	21	29	32	35	191
		36	24																	24

Total number of acres irrigated 215

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

12. Do you own the property listed above as place of use? Yes  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.  
45-151 45-10248 or None ( )

14. Remarks: One of three wells listed on permit N 20440  
Sec Attached explanation

also listed on 45-7173A

Last Name Austin Ident No. \_\_\_\_\_

Water is claimed for the following purposes:

(both dates are inclusive) (ac) (acre feet)

It is very important that you inform the department in writing of any change in your address. This is to make sure that you receive the notices affecting your water rights that are to be mailed by the department.

If you are acquiring property with water rights in the Snake River Basin water system in Idaho (either by purchase, gift, inheritance, or other means), it is very important that you inquire of the department whether a notice of claim has been filed. If not, you must file a notice of claim or the water right may be declared by the court to no longer exist. If a notice of claim has been filed, it is very important that you file a written notice of change in ownership with the department. The notice of change in ownership must be accompanied by some evidence of the change in ownership, such as a copy of the deed or a property tax statement showing the name of the new owner. Again, this is to make sure that you receive the notices affecting your water rights that are to be mailed by the department.

The cost of the subscription to the docket sheet is \$7.50 for calendar year 1988. The cost of the subscription may increase a small amount for calendar year 1989 if the cost of copying and/or mailing should increase.

Totals		If you are planning to file a motion or other pleading (not a notice of claim) with the court (not IDWR), the court has issued an order setting a special procedure that is different from the usual civil rules. A copy of the order may be obtained from any office of IDWR; you may be charged for the cost of mailing and/or copying.																		
151	15																			

Total number of acres irrigated 212

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

12. Do you own the property listed above as place of use? Yes  No  If your answer is No, describe in Remarks below the authority you have to claim this water right.

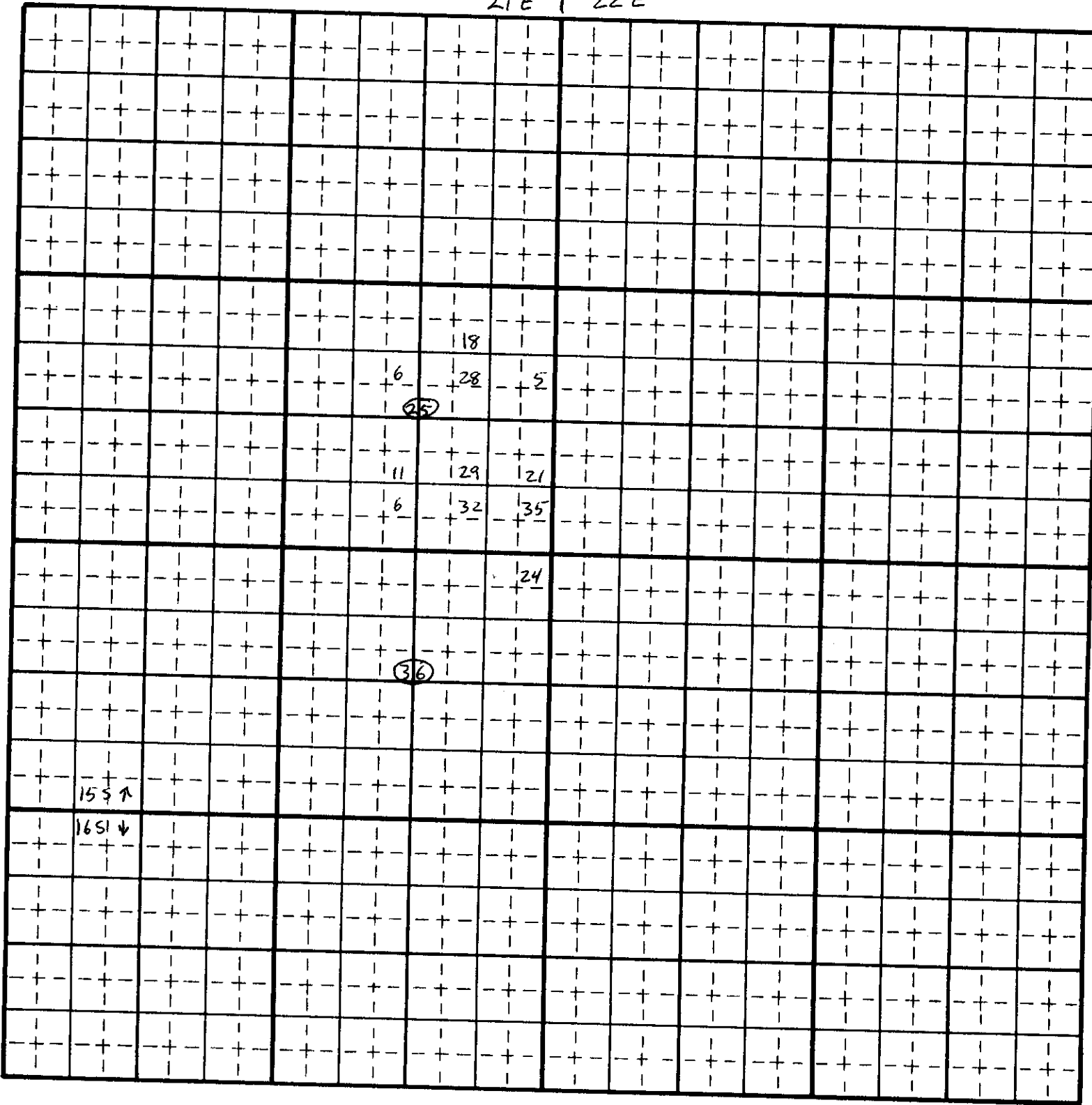
13. Describe any other water rights used at the same place and for the same purposes as described above. ( ) or None ( ) 42-10548 42-121

14. Remarks: One of three wells listed on permit N 50440 see Attached explanation also listed on 42-113A

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

Scale: 2 inches equals 1 mile

21 E | 22 E



Last Name Austin

Ident No. \_\_\_\_\_

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use X Posted Notice \_\_\_\_\_ License \_\_\_\_\_ Permit \_\_\_\_\_  
Decree \_\_\_\_\_  
If applicable provide IDWR Water Right Number \_\_\_\_\_  
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 \_\_\_\_\_ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

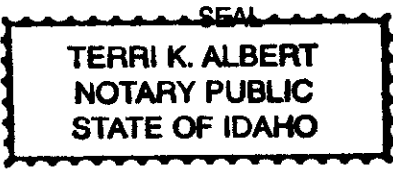
Number of attachments \_\_\_\_\_  
For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.  
Signature of Claimant (s) [Signature] Date 23 Dec 2003  
\_\_\_\_\_ Date \_\_\_\_\_

For Organizations: I do solemnly swear or affirm that I am \_\_\_\_\_ Title \_\_\_\_\_ of \_\_\_\_\_ Organization \_\_\_\_\_, that I have signed the foregoing document in the space below as \_\_\_\_\_ of \_\_\_\_\_ 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 Cassia ) SS.

Subscribed and sworn (or affirmed) before me this 23rd day of December 19 2003



Notary Public [Signature]  
Residing at Burley  
My Commission Expires 01-30-07

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 \_\_\_\_\_

Last Name Austin Ident. Number \_\_\_\_\_

BARN WELL

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
Date Received
Receipt Number

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

wants 1926 date if not, wants '78 Barn Well date

Please type or print clearly

1. Name of Claimant (s) Carl Austin Phone (208) 436 1562
Mailing Address PO Box 93 Oakley ID Zip 83346

2. Date of Priority (Only one (1) per claim) 25 September 1926 (State oil & Gas Commission)

3. Source of water supply (a) Ground water (Gosse Creek Artesian Basin)\* which is tributary to (b)

4. a. Location of existing point of diversion is: Township 15 S Range 21 E Section 25, NE 1/4 of SE 1/4 of SW 1/4, Govt. Lot, Boise B.M., County of Cassia

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. Artesian well, control valves & plates, ditches, pumped intermittently currently pump pipelines & ditches (run natural flow through pump and/or boosted) well depth 2823 feet.

BARU WELL

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO AND FOR THE COUNTY OF TWIN FALLS  
**HOW YOU WILL RECEIVE NOTICES IN THE SNAKE RIVER BASIN ADJUDICATION**

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After the notices of claims have been reviewed, the director will prepare and file a report with the court. Part 1 of the report will contain the director's recommendations as to each water right claimed under state law. Part 2 of the report will list each federal reserved water right claimed. A number of reports will be prepared, one or more for each sub-basin in the Snake River Basin. When the report for your sub-basin is filed with the court, you will be mailed a notice informing you that the report for your sub-basin has been filed. The notice will be sent to the most recent address shown by the department's files. Attached to the notice will be a copy of those portions of the report describing the water rights you have claimed. If you do not agree with the way your water right is described, you may file an objection to the report with the court. You can also file an objection if you disagree with the way other claimant's water rights are described, and the notice will tell you where a copy of the full report is available for inspection. The notice will tell you when and where to file your objection. The notice of filing for each sub-basin report will also be published state-wide in local newspapers.

6. Water is claimed for the following purposes:

(both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from April 1 to Nov 1 amount 2.0 or \_\_\_\_\_

For Stock water purposes from Jan 1 to Dec 31 amount 0.11 or \_\_\_\_\_

For Domestic purposes from Jan 1 to Dec 31 amount 0.04 or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

7. Total quantity claimed (a) 2.15 (cfs) and/or (b) \_\_\_\_\_ (acre feet)

8. Total consumptive use claimed is 537.5 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	
15S	21E	25		18	28	5				6	11			6	21	29	32	35	191
		36	24																24

Total number of acres irrigated 215

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

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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.  
45-151 45-10248 or None ( )

14. Remarks: One of three wells listed on permit No 20440  
See Attached explanation

also listed on 45 7173A

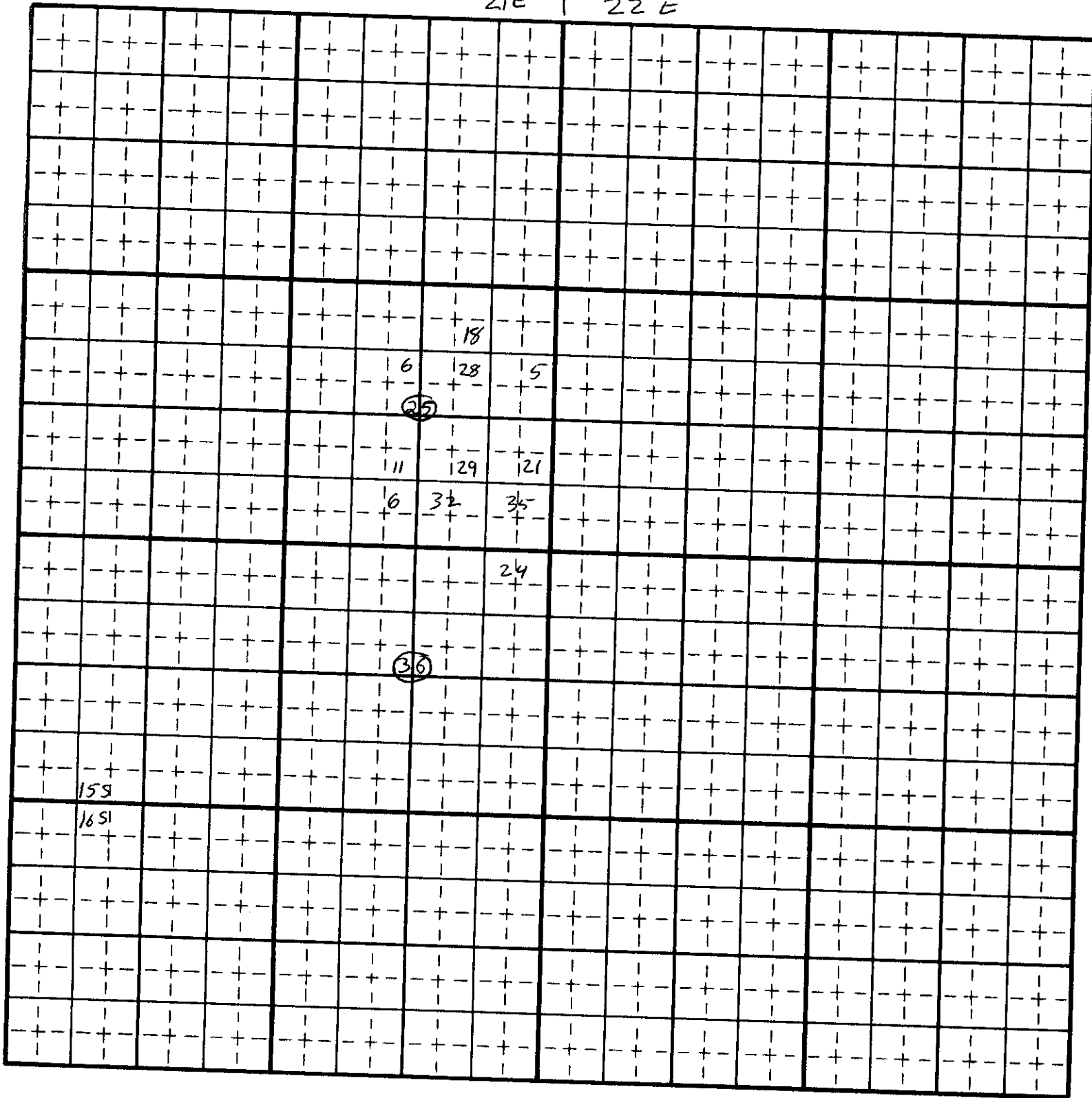
Last Name Austin Ident No. \_\_\_\_\_



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

Scale: 2 inches equals 1 mile

21E | 22E



Last Name Austin Ident No. \_\_\_\_\_

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use X Posted Notice \_\_\_\_\_ License \_\_\_\_\_ Permit \_\_\_\_\_  
Decree \_\_\_\_\_  
If applicable provide IDWR Water Right Number \_\_\_\_\_  
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 \_\_\_\_\_ wish to receive and pay a small annual fee for monthly copies of the docket sheet.  
Number of attachments \_\_\_\_\_

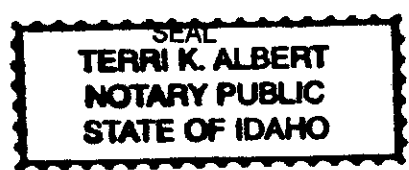
For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.  
Signature of Claimant (s) *Carl W. Austin* Date 23 Dec 2003  
\_\_\_\_\_  
Date \_\_\_\_\_

For Organizations: I do solemnly swear or affirm that I am \_\_\_\_\_ Title \_\_\_\_\_  
of \_\_\_\_\_ Organization \_\_\_\_\_, that I have signed the foregoing  
document in the space below as \_\_\_\_\_ Title \_\_\_\_\_ of \_\_\_\_\_ 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 Cassia ) SS.

Subscribed and sworn (or affirmed) before me this 23rd day of December ~~19~~ 2003



Notary Public *TERRI K ALBERT*  
Residing at Burley  
My Commission Expires 01-30-07

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 \_\_\_\_\_

Last Name Austin Ident. Number \_\_\_\_\_

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

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Mailing Address PO Box 93 Oakley ID Zip 83346

2. Date of Priority (Only one (1) per claim) 29 April 1948

3. Source of water supply (a) Ground water which is tributary to (b)

4. a. Location of existing point of diversion is: Township 15 S Range 21 E Section 25, NE 1/4 of SE 1/4 of NE 1/4, Govt. Lot, Boise B.M., County of Cassia

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. Original - Well, engine driven gear head pump & ditches later upgraded to Electric driven pump and main line pipe

Gold Creek Well

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, COUNTY OF TWIN FALLS  
**HOW YOU WILL RECEIVE NOTICES IN THE SNAKE RIVER BASIN ADJUDICATION**

All documents filed in the Snake River Basin Adjudication other than notices of claims are filed with the court. Notices of claims to water rights filed in the Snake River Basin Adjudication are filed with the Idaho Department of Water Resources. Copies of all documents filed in the Snake River Basin Adjudication will not be mailed to all parties (claimants) in the adjudication.

By order of the court, any document filed with the court will be mailed only to those parties who may be directly affected by it. A monthly docket sheet will be prepared by the department which contains a summary of all documents filed with the court in the previous month and the dates and locations of hearings scheduled for the following three months. The docket sheet will be filed with the district court clerk in each county within the Snake River Basin in Idaho. Copies of the docket sheet may be obtained from any of the offices of the department either in person or by mail; a small fee will be charged to cover the cost of mailing and/or copying. If you wish to receive a copy of the docket sheet each month, you should mark the appropriate place on your notice of claim form. You will be charged a small annual subscription fee to cover the cost of copying and mailing. Copies of any document listed on the docket sheet may be obtained from any of the offices of the department either in person or by mail; a small fee will be charged to cover the cost of mailing and/or copying.

Copies of all notices of claims filed with the department will be available for inspection from all offices of the department. Copies of the notices of claims may be obtained in person or by mail, but you will be charged for the cost of copying and mailing. (A claimant will not be charged for a copy of his or her own notice of claim, and a person who acquires property with water rights for which a notice of claim was filed will not be charged for a copy of the notice of claim filed by the previous owner.)

After the notices of claims have been reviewed, the director will prepare and file a report with the court. Part 1 of the report will contain the director's recommendations as to each water right claimed under state law. Part 2 of the report will list each federal reserved water right claimed. A number of reports will be prepared, one or more for each sub-basin in the Snake River Basin. When the report for your sub-basin is filed with the court, you will be mailed a notice informing you that the report for your sub-basin has been filed. The notice will be sent to the most recent address shown by the department's files. Attached to the notice will be a copy of those portions of the report describing the water rights you have claimed. If you do not agree with the way your water right is described, you may file an objection to the report with the court. You can also file an objection if you disagree with the way other claimant's water rights are described, and the notice will tell you where a copy of the full report is available for inspection. The notice will tell you when and where to file your objection. The notice of filing for each sub-basin report will also be published state-wide in local newspapers.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from April 1 to Nov 1 amount 1.34 or \_\_\_\_\_  
 For Stock water purposes from Jan 1 to Dec 31 amount 0.11 or \_\_\_\_\_  
 For Domestic purposes from Jan 1 to Dec 31 amount 0.04 or \_\_\_\_\_  
 For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

7. Total quantity claimed (a) 1.49 (cfs) and/or (b) \_\_\_\_\_ (acre feet)

8. Total consumptive use claimed is 537.5 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) 1 Domestic & up to 500 beef cattle

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	
15S	21E	25		18	28	D5				6	11			6	21	29	32	35	191
		36	24																24

Total number of acres irrigated 215

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

12. Do you own the property listed above as place of use? Yes  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.  
45-151 45-10248 or None ( )

14. Remarks: One of 3 wells listed on permit No 20440  
See attached explanation

Also listed on 45 7173 A

Last Name Austin Ident No. \_\_\_\_\_

Water is claimed for the following purposes: (both dates are inclusive) (cts) (acre feet)

It is very important that you inform the department in writing of any change in your address. This is to make sure that you receive the notices affecting your water rights that are to be mailed by the department.

If you are acquiring property with water rights in the Snake River Basin water system in Idaho (either by purchase, gift, inheritance, or other means), it is very important that you inquire of the department whether a notice of claim has been filed. If not, you must file a notice of claim or the water right may be declared by the court to no longer exist. If a notice of claim has been filed, it is very important that you file a written notice of change in ownership with the department. The notice of change in ownership must be accompanied by some evidence of the change in ownership, such as a copy of the deed or a property tax statement showing the name of the new owner. Again, this is to make sure that you receive the notices affecting your water rights that are to be mailed by the department.

The cost of the subscription to the docket sheet is \$7.50 for calendar year 1988. The cost of the subscription may increase a small amount for calendar year 1989 if the cost of copying and/or mailing should increase.

TWP	RNG	SEC	ACRES	WATER RIGHTS	REMARKS	TOTAL
122	212	18	36.54		If you are planning to file a motion or other pleading (not a notice of claim) with the court (not IDWR), the court has issued an order setting a special procedure that is different from the usual civil rules. A copy of the order may be obtained from any office of IDWR; you may be charged for the cost of mailing and/or copying.	181
						24

Total number of acres irrigated: 181

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

12. Do you own the property listed above as place of use? Yes  No   
 If your answer is No, describe in Remarks below the authority you have to claim this water right.

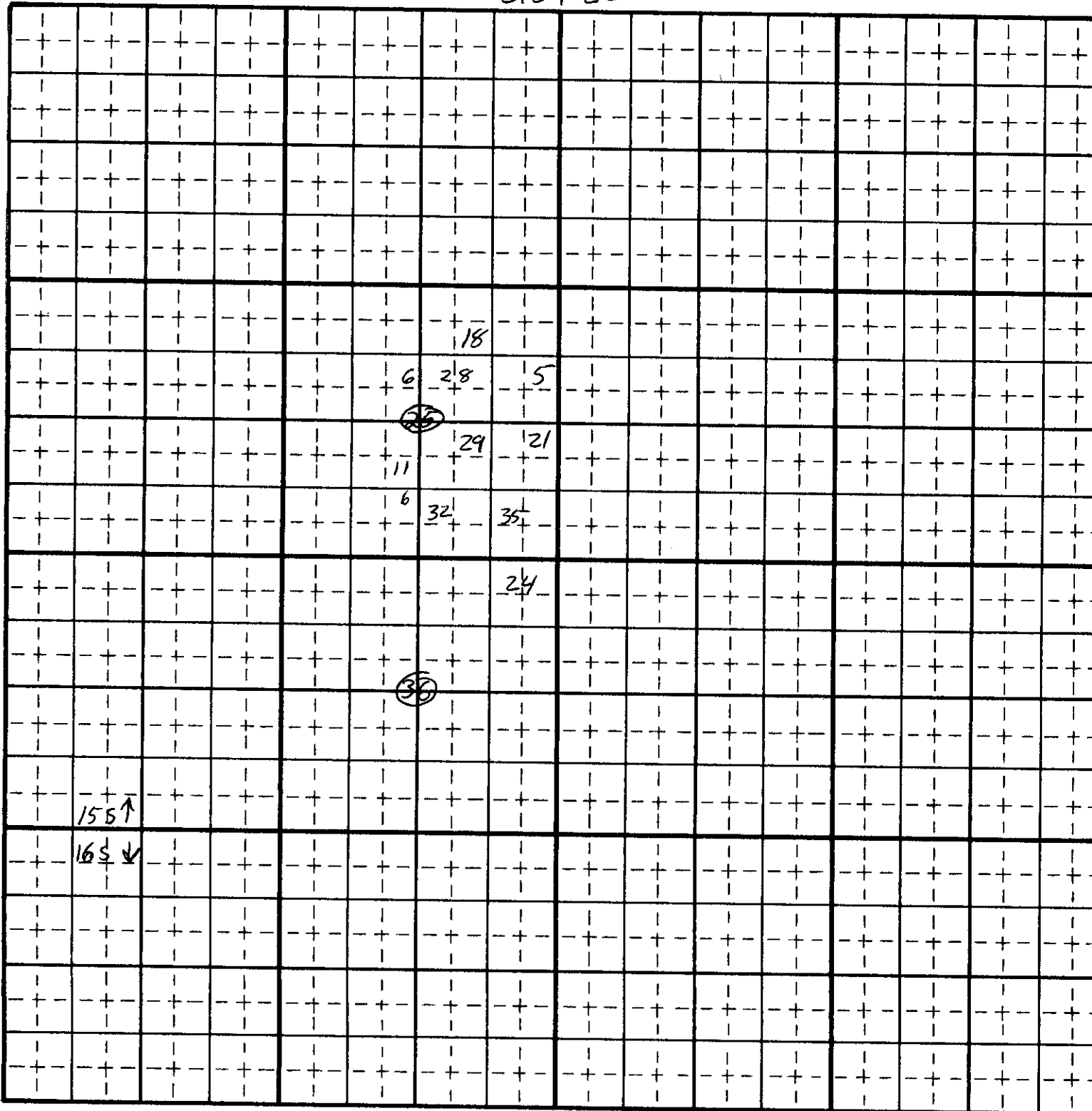
13. Describe any other water rights used at the same place and for the same purposes as described above. ( ) or None ( )  
 47-121 47-10248

14. Remarks: One of 3 wells listed on permit No 20440 see attached explanation. Also listed on 47 7173A

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

Scale: 2 inches equals 1 mile

21E | 22E



Last Name Austin Ident No. \_\_\_\_\_

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use  Posted Notice \_\_\_\_\_ License \_\_\_\_\_ Permit \_\_\_\_\_  
Decree \_\_\_\_\_

If applicable provide IDWR Water Right Number \_\_\_\_\_  
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 \_\_\_\_\_ wish to receive and pay a small annual fee for monthly copies of the docket sheet.  
Number of attachments \_\_\_\_\_

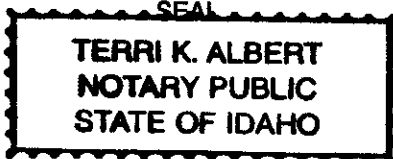
For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.  
Signature of Claimant (s) *Carl Austin* Date 23 Dec 2003  
\_\_\_\_\_ Date \_\_\_\_\_

For Organizations: I do solemnly swear or affirm that I am \_\_\_\_\_ Title \_\_\_\_\_  
of \_\_\_\_\_ Organization \_\_\_\_\_, that I have signed the foregoing  
document in the space below as \_\_\_\_\_ Title \_\_\_\_\_ of \_\_\_\_\_ 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 Cassia ) SS.

Subscribed and sworn (or affirmed) before me this 23rd day of December 192003



Notary Public *Terri K Albert*  
Residing at Burley  
My Commission Expires 01-30-07

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 \_\_\_\_\_

Last Name Austin Ident. Number \_\_\_\_\_

Original

TO: Idaho Department of Water Resources

ATTENTION: Jeanie Robertson

FROM: Carl F. Austin  
P.O. Box 93  
Oakley, Idaho 83346

SUBJECT: Priority dates for 3 water wells described in permit 20440

DATE: 7 January 2003

1. This petition is for the purpose of establishing the correct priority date for certain levels of water production from 3 wells.
2. This petition presents facts that show what transpired some 30 to 70 years ago at which time these wells were put to beneficial use. Although the participants are mostly deceased, some elderly survivors have been located and interviewed and after diligent search in some cases children and grand children with knowledge of the events of interest were located and interviewed.
3. The three wells in question are described in permit No. 20440, later known as 45-2255 according to a letter received from DWR dated 29 October 2002. The fact that these wells were completed and adequate for the requested diversion was certified by Mark R. Kulp, State Reclamation Engineer on 18 January 1951, with a priority date of 0900 hours, 29 April 1948 and a water quantity of 2 csf per well. [Exhibits 1, 2 and 3]
4. When in 2002 the current well owner, Carl F. Austin, presented exhibits 1 through 3 to the Department of Water Resources, the response was a letter with enclosures consisting of letters, a field report and a notice of decision. [Exhibit 4] These had never been seen before by Morris Mitchel, former well owner and business associate of Mr. Baker (personal communication) or by Newell Baker, original applicant (personal communication Rosella Baker Grant). An examination of the enclosures of exhibit 4 shows at the very least gross errors of fact were made by E.R. Humphrey, Deputy state Reclamation Engineer. These errors of fact plus errors of omission are presented and discussed.
5. That Newell Baker, who had the wells drilled and put to beneficial use, complied with the laws of the State of Idaho including proof of proper publication of notices is proven by exhibits 1, 2, 3, and Exhibit 5. All that remained to be done was a field inspection to verify beneficial use.
6. It is with the field inspection that a problem arose. Even a casual reading of the notes of the field inspection shows that the conclusions presented are false and that the

inspector was incompetent, deeply biased or malfeasant. In any event, his own notes prove the conclusions he documented to be false.

7. The results of the so-called field investigation were “supposedly” sent to Mr. Baker on 15 June 1959. [Exhibit 6] The term “supposedly” is used because Exhibit 6 does not show a useable address for Mr. Baker. No reason is given for why the correct street address which was used for Exhibit 5 was not used for Exhibit 6. The address of Exhibit 5 remained valid until 5 January 1962. There is no evidence that Mr. Baker ever received the letter of Exhibit 6. Mr. Humphrey states in Exhibit 6 that he tried to telephone Mr. Baker on a Friday and a Saturday. He does not indicate what date. He does not indicate what year. He does not indicate what number was tried. He does not indicate how many times he tried to call, if the number was busy or if someone answered and he simply hung up, repeating his calls until he had several no answer results so he could then report he called and was unable to reach anyone. Mr. Humphrey states he only tried to call on two days, an unspecified Friday and Saturday, in the course of 7 years. (These comments may seem cynical, but as the government’s expert witness in over 134 condemnation cases and validity contests and as a court official in over 64 drug trials, Carl Austin has seen ploys and schemes such as the events documented by the letter of Exhibit 6 and the field report of exhibit 7 many many times.)
8. Let us now examine the report of the field examination claimed to have been made on 13 June 1959. [Exhibit 7] This was a Saturday. Was this the Saturday Humphrey tried to call Mr. Baker and received no answer? To expect to make contact with a busy business man and Stake President with calls on two random days is nonsense. First off, let us note that the wells, as indicated in Humphrey’s remarks, were available for inspection during the past 7 years. We should also note that there is nothing in the law that requires a well be put to beneficial use 100% of the time every day of the year or that it be in such use on any given single day. This is important. Beneficial use does not mean the well must be operating every single day, including some random day chosen for an inspection without properly notifying the owner. Rather, beneficial use had to take place prior to 12 May 1959. The notes and correspondence provided to date by DWR make no mention of why the inspection was delayed for 7 years. Or was it delayed? It is unlikely to the point of absurdity that Mr. Humphrey or some other appropriate official was never in the Oakley area during the prior 7 years. Was an inspection made and never recorded? Where is the proof that the wells in question had not been turned on and used beneficially during the prior 7 years, in which event there was no requirement they be on when Humphrey visited. Indeed, Humphrey’s description of the wells proving they were in production – one producing 371 gpm at the time – and all three set up for production with ditches, control valves and one even with an engine driven gear head pump shows powerful presumptive evidence to anyone making an accurate report that beneficial use had already been accomplished in prior years.
9. Paragraphs 4 and 6 of Exhibit 6 are not only patently false, they are proven false by Humphrey’s own notes as presented in Exhibit 7. Ignoring the fact that under the

terms of the Whittle Decree (11<sup>th</sup> Judicial District Decree 45-C of 25 February 1925) one would not expect these wells to be turned on until after 20 July, the turnoff date for cheaper creek water, Humphrey made his inspection 37 days prior to the time the wells would normally be turned on. Was this timing fortuitous or planned? We will never know but the timing of the inspection is truly suspicious. Let us now go to the written record to illuminate Humphrey's actions. [Exhibit 7] Regarding the southerly of the two wells west of Goose Creek Humphrey states:

“South well 18”csd, a gate valve control valve open and flowing not over 40” of water... water  
from first well flows north in a ditch along west edge of meadow about a quarter mile then wastes  
into a flat spot in the field – sinks.”

This statement proves, absolutely proves, this well was producing beneficially. The amount of flow was 374 gpm. Was Humphrey too stupid to understand how ditches are used to flood irrigate hay fields? The well was actually producing water. He says so. The water was actually being delivered to a ditch. He says so. The water was actually being turned out of the ditch onto a field. He says so. We still use this same well and ditch today to irrigate the same hay field. Humphrey's report has several glaring omissions. How big was the valve? He does not say. How open was the valve, just cracked, part way open, fully open? He does not say, which means the flow reported of 374 gpm must be considered only a minimum flow, not the maximum the well was capable of. He does not note that this flow was providing stock water, also a beneficial use. He does not specify what crops were being grown. Was the field in grass hay? Grass clover mix? Small grains? Potatoes? He does not say. He also fails to note that the ditch extended north for nearly another ½ mile providing for irrigation of a large area. He does not say how dry the meadow was or for how long the water had been turned into the place where he sarcastically state “wastes” and “sinks”. At the very least this demonstrates incredible bias and incompetence.

The fact that the Oakley Canal Company opposed Baker's original plan for the use of these wells is a well-established fact (interviews with Morris Mitchel and Rosella Baker Grant). Why then did Humphrey choose to visit the ranch accompanied by senior representative of the Canal Company and a powerful local politician? Which one chose the date of the visit and why was a Saturday 37 days prior to expected well turn on chosen? (It should be noted that an interview with the grandson of Eugene Pickett who was the person who went to the ranch with Humphrey disclosed that Mr. Pickett was a county commissioner, chairman of the board, a local road commissioner, and a director of the Canal Company for some time as well as a very prominent downstream rancher.) It is not unreasonable to conclude that the presence of Mr. Pickett might color the conclusions made by Humphrey.

**FACT:** Humphrey's own field report documents that the south well was in fact in beneficial use at the time of the so-called inspection, and that the stated conclusion of no beneficial use is false.

10. Now we come to the second well, located north of the first well. Humphrey states [Exhibit 7]:

“Well north of this approx. 200’ has same size casing and is capped with a flat metal cover bolted on. No water coming from well.”

We should note several things here including errors and misleading statements. This well is a surface flowing artesian well. As such it must be controlled in some fashion. The cheapest and simplest control method is a bolted plate. When flow is desired all but one bolt is removed and the plate rotated to provide the desired opening. This method is still used on two wells on the ranch today as large valves are very expensive if purchased. The well also has a 2 ½ inch diameter tap on one side at ground level. As the hay surrounding the well would have been quite tall by June, it is unlikely Humphrey would have noticed this tap and valve and in any case he does not mention them. We still use this tap to provide both irrigation flow and to fill a stock tank on occasion. Humphrey’s conclusion of no beneficial use either illustrates his incompetence and lack of understanding as to how a surface flowing artesian well is controlled and used or is further evidence of his extreme bias.

FACT Humphreys report, though descriptively vague and incomplete proves this northerly well to be in producible condition, equipped with a control head, and though Humphrey ignores this fact, the well is so situated in a low swale that by merely opening the control head the resulting flow will irrigate a large area to the north and east.

We do not know at this time when this well was mechanically pumped. This well has been referred to by old-timers as “the gear head well”. We still have the second industrial engine and gear head drive that are believed to have been use on this well at some time in the past but we have not yet been able to determine when or for how many years. When last tested (by DWR on 15 July 1982) this well flowed naturally at a rate of 108 gpm.

11. Finally, let us consider the Cold Creek Well. In Exhibit 7 Humphrey states:

“The third well is drilled on North side of Cold Creek not far from the spring that is used for culinary water. There is an old gas engine attached to a Fairbanks Morse rt. /\_ drive on the pump. There is no house, no curbing, no protection for any of the well. No water is being put to beneficial use.”

These pejorative statements by Humphrey are gross nonsense. He says “an old gas engine”. This engine is a 4 cylinder International industrial engine. (I still have it.) The engine was connected to a gear head driven pump. He states this. Engines had to be used to pump as electricity did not come to the ranch until 1960 (interview with Del Roy Mitton who constructed the powerline, verified by date nails in the poles.) What Humphrey then fails to note is that the pump was set up so it delivered water into a ditch that ran south past the Cold Creek House (it still does) to irrigate a sugar beet field. (Morris Mitchel has stated that the pump was used to irrigate this beet field in the late

1950s and early 1960s.) The lack of a pump house is irrelevant. The lack of a curbing or some sort of protection (he does not define what these should be) is likewise irrelevant. The statement that this is an old engine is nonsense though it does imply it had been there and in use for a number of years. Does Humphrey define old or describe the condition of the engine? No. (The term old is irrelevant, the oldest engine still in regular use on the ranch today dates from 1936.) Was the engine fueled and ready to run? He does not say. Did he try to start it (It uses a hand crank)? He does not say. Was the Cold Creek ditch intact, wet or dry, and were the sugar beets in good condition? He does not say. In any event, this well would not have been turned on until after 20 July as the ditch uses Cold Creek water and does not normally go onto the pump until after the creek water is turned off, except for very dry years. In some years Cold Creek goes dry, as it has done once recently.

FACT The Cold Creek well was in full producible condition, fitted with an engine driven gear head pump and a delivery ditch used to irrigate a sugar beet field at the time of the inspection. The evidence that the well had been produced to irrigate fields in the preceding 7 years is overwhelming. One does not install an expensive engine, gear head drive and turbine pump in an expensive well and then build a lengthy ditch for amusement.

12. It is inconceivable that Eugene Pickett who accompanied Humphrey to the ranch did not know how to contact Mr. Baker. The Pickett family was, (and still is) very active in the LDS church. Newell Baker was the Burley stake President from 17 November 1946 until Mother's Day of 1960. Furthermore, Newell Baker had had recent dealings with the Canal Company, owned a wheat elevator in Oakley and ran cattle in the same region the Picketts ran cattle. If Humphrey was unable to contact Mr. Baker to arrange the inspection tour, it is unlikely to the point of absurdity that he would not have commented on this problem to Mr. Pickett who would have then explained how to contact Mr. Baker. Failing to make contact with Mr. Baker would appear with virtual certainty to have been a deliberate omission.

13. We have already noted that the letter to Mr. Baker reporting the false conclusion of no beneficial use was sent to the wrong address. Mr. Baker's address from 1946 to 5 June 1962 was 1459 Burton Avenue, Burley, Idaho. Humphrey sent his letter to simply Newell Baker, Burley Idaho. This is not a deliverable address. We have this same problem constantly even in tiny Oakley, where letters without the proper numerical address are simply returned to sender. (We had this happen again this past week.). No evidence has been provided by DWR that Newell Baker ever received this letter. Then 12 years later (19 years after an inspection should have been made), a cancellation notice dated 4 May 1971 was supposedly sent to Mr. Baker. The notice shows no address. There is no proof of where it was sent to or how it was sent. There has been no proof offered that Newell Baker ever received this notice. There is no mention of this important notice made in either Newell Bakers' memoirs or in his wife's detailed autobiography (personal communication with "Rosella Baker Grant). Was the notice sent return receipt? Is there any evidence Newell Baker received it? In the event DWR claims Baker failed to file a change of address after he moved from

Burley to Bend Oregon in 1962, two points are made – postal changes would have expired in the intervening 9 years, and as illustrated by DWR recently twice losing Carl Austin's change of address notification, it is quite possible Mr. baker made a notice to DWR but the notice was lost. (To further illustrate this type of problem, the state of California lost Dr. Austin's renewal of his registration as a Professional Geologist, but as he had proof of mailing, the problem was amicably resolved.) Does any proof exist that Newell Baker might have received this cancellation notice and for that matter, why was it sent to him instead of to Morris Mitchel who bought the ranch from Newell?

14. In fairness to all parties a possible point of uncertainty exists regarding the south well west of the creek. The evidence in hand shows that this well was originally drilled in 1926 and would have been a surface flowing artesian well put to immediate beneficial use, just as the hot well at the house was that was drilled in 1920. [Exhibit 9] We do not know if the open 1200 foot hole by Chesley made in 1948 was a cleanout of this original well or a redrill along side it.

15. Our petition is as follows:

- A. The priority date for the full production of the Cold Creek well should be 0900 hours, 29 April 1948. If the report of Humphrey had been accurate, this would be the date today.
- B. The full natural flow of the south well should have a priority date of 1926 as shown by the records of the State Oil and Gas Commission.
- C. The full natural flow of the north well should have a priority date of 0900 hours, 29 April 1948. It would have this date today if the report of Humphrey had been accurate.

At this time we are not asking for any changes in the pumped amounts or priority dates for these pumped amounts as filed for by Morris Mitchel/ <sup>ex. appl for Cold Creek</sup> Having learned on 29 October 2002 that these problems occurred as a result of what can be charitably be described as the inaccuracies and falsehoods that exist in the report by Humphrey, and proven by his own statements, we are seeking an amicable resolution to the resulting injustice.

Respectfully



Carl F. Austin

# APPLICATION FOR PERMIT To appropriate the Public Waters of the State of Idaho

APPLICATION No. 28081  
PERMIT No. 20440  
DISTRICT No.

Name of Applicant: NEWEL P. BAKER  
Postoffice address: Burley  
County: Cassia  
State: Idaho

EXHIBIT 1

- I. If applicant is a corporation, give:
  - (a) Date and place of incorporation:
  - (b) Amount of capital stock:
  - (c) Amount paid in:
  - (d) Names and addresses of directors:

II. The financial resources of the applicant are:

- (a) Cash on hand:
- (b) Treasury stock:
- (c) Bonds to be issued:
- (d) Other resources:

1. Quantity of water claimed: Six (6) - 2 from each well

cubic feet per second.

which is a tributary of Will flow into Goose Creek

2. Source of water supply: Subterranean (3 wells)

feet distant from the

corner of Section 25, T. 15 S., R. 21 E., B.M., and is in the NE 1/4 Section 36; and SW 1/4 and SE 1/4

3. Location of point of diversion: , T. , R. , B.M., and is in the NE 1/4 Section 36; and SW 1/4 and SE 1/4

of Section 25, T. 15 S., R. 21 E., B.M., County of Cassia

4. Water is to be used for Irrigation

5. If for mining, milling, power or manufacturing purposes, give:

corner of Section

B.M.

feet distant from

(b) Amount of water permitted:

feet distant from

B.M.

R.

T.

Section

, B.M., in the  
, T. , R. , B.M.

corner of Section , T. , R.  
of Section

distant from the

7. Estimated cost of works: \$ 10,000 per well- Total \$30,000

8. Kind of works: Wells, pumps and ditches

9. Height of dam  
feet; length of dam at top  
feet; length of dam at bottom

feet; material used in dam:

10. Size of headgate: Width  
feet; height  
feet.

11. Ditch: Width at bottom  
feet; width at water line  
feet; depth of water  
feet;

dimensions of flume:  
Diameter of pipe  
inches; length of conduit  
miles.

Average grade per mile  
feet.

12. The time required for the completion of such work is Five (5) years.

13. The time required for the complete application of the water to the proposed use is Six (6) additional years

14. The land to be irrigated is described in the following tabulation: See remarks.

15. Existing water rights and/or valid permits appurtenant to the lands to be irrigated are: 215 inches from Goose Creek  
early water, which is inadequate, and the water herein applied for is to be supplemental.

Exhibit 2

(a) Is reservoir to be used? No  
(b) Name of Reservoir and number of Storage Permit:  
(c) Date of filing of Application for Storage Permit and Name of Applicant:

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

NEWELL P. BAKER Applicant.

By Agent.

Date of first receipt at Department of Reclamation: 9:00 A. M. APRIL 19, 1948

Returned to applicant for correction:

Course of application received:

### Approval of State Reclamation Engineer

The number of this permit is 2-436  
Recorded in Book 73 Page 20140 Approved May 12, 1948

This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho, and hereby approve the same, subject to the following limitations and conditions:

Bond in the sum of \$ to be filed on or before July 12, 1948

Work to begin on or before July 12, 1948 and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.

One-fifth of the work above specified to be completed on or before November 12, 1950

The whole of said work to be completed on or before May 12, 1953

Beneficial use of water appropriated in accordance herewith, to be made on or before May 12, 1959

WITNESS My hand this 12th day of May, 1948

MARK R. KULP  
State Reclamation Engineer.

IN TESTIMONY WHEREOF, WE, C. A. ROBINS, Governor of the State of Idaho,

and J. D. "CY" PRICE

Secretary of State of the State of Idaho, have caused this instrument to

be executed in the name of the State of Idaho, and caused the Great Seal of the State of Idaho to be hereunto affixed, this 12th

STATE OF IDAHO

By J. D. "CY" PRICE Secretary of State  
By C. A. ROBINS Governor.

By **L. D. TICHA** Secretary of State  
**O. A. ROADS** Governor

REMARKS: Location of points of diversion or of wells is as follows: One well in NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 36; One well in SW $\frac{1}{4}$  SE $\frac{1}{4}$  Section 25; and one well in SE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 25; in Twp. 15 South, Range 21 East, B. M.

14.

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 $\frac{1}{4}$	
15 S.	21 E.	25	40	40	40	40	40	40	40	40	40	40	40	400	
	36	36	40											40	
														440	
<p>Comes now Newel P. Baker and represents to the State Reclamation Engineer of the State of Idaho that he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho, No. 20440; that the points of diversion are described in said Permit as being located in the NE<math>\frac{1}{4}</math>NE<math>\frac{1}{4}</math> Section 36; SW<math>\frac{1}{4}</math>SE<math>\frac{1}{4}</math> and SE<math>\frac{1}{4}</math>NE<math>\frac{1}{4}</math> Section 25, Twp. 15 S., Range 21 E., B.M.;</p> <p>That he now requests that the point of diversion be changed to a point located SE<math>\frac{1}{4}</math>NE<math>\frac{1}{4}</math>, NE<math>\frac{1}{4}</math>SW<math>\frac{1}{4}</math> and SE<math>\frac{1}{4}</math>SW<math>\frac{1}{4}</math> Section 25, Twp. 15 S., Range 21 E., B.M.</p> <p>That his reasons for desiring to make such change are as follows: The latter locations have been found more desirable.</p> <p>That no one will be injured by such change, and that such change will be made at Permit Holder's own risk.</p> <p>Signed at Boise, Idaho, this 17th day of Jan., 1951.</p> <p>Date of receipt at Department of Reclamation Jan. 17, 1951.</p> <p>I, Mark W. Kulp, State Reclamation Engineer of the State of Idaho, hereby approve the above and foregoing application for amendment to Permit to appropriate the Public Waters of the State of Idaho, No. 20440. This approval constitutes a new permit and is issued as an amendment to the original permit to which it refers, and of which it becomes a part, and said application is approved only insofar as the rights of others will not be adversely affected thereby.</p>															
												NEWEL P. BAKER			
												MARK R. KULP			
												State Reclamation Engineer			

Permit No. 20440  
CERTIFICATE OF COMPLETION OF WORKS

TO ALL WHOM IT MAY CONCERN:

This is to certify that NEWEL F. MAKER of Burley, County of Cassia, and State of Idaho, the holder of Permit No. 20440, issued upon application No. 28081 bearing date of priority of April 26, 1948, authorizing the diversion of six (6) second feet of the waters of three wells (subterranean flow) County of Cassia, State of Idaho, for irrigation purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use Six (6) second feet of the waters of said wells; that the points of diversion of said waters are in the SE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub> and SE<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub> section 25, Township 10 South, Range 21 East, B.M. and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: NE<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub> Section 25, and SW<sup>1</sup>/<sub>4</sub> Section 36, Township 10 South, Range 21 East, B.M.

Witness my hand this 15th day of January, A. D. 1951.

MARC H. KULP  
State Reclamation Engineer

Proof of Completion of Works made January 17, 1951.  
Certificate of Completion of Works made January 18, 1951.

E.V. 44



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380  
Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

October 29, 2002

CARL AUSTIN  
PO BOX 93  
OAKLEY ID 83346

RE: 20440

Dear Mr. Austin,

I did some checking on this old right that you found. The paperwork that you supplied was actually a copy of old **permit** #20440, which later became known as 45-2255. The process was never completed and put to beneficial use, so eventually the permit was cancelled in 1971. (I have enclosed copies of some correspondence I found in our files for your information.) In 1974 a new permit was applied for on the same wells and this was eventually licensed as 45-7173. Based on this information, amending your claim on these wells for an earlier priority date would not be advisable.

Please feel free to call in you have any questions.

Sincerely,

Jeanie Robertson  
Sr. Water Resource Agent

April 12, 1951

Re: Permits Nos. 20440, 21270, 21279 and 20604

Mr. Noel P. Baker  
1459 Burton Avenue  
Burley, Idaho

Dear Mr. Baker:

We acknowledge receipt of the Affidavits of Publication in connection with Beneficial Use Proofs under the above numbered Permits.

Before final action is taken in the matter, the law requires that a field examination be made by an Engineer from this Department.

We cannot say just when this examination will be made as this Department has but one field Engineer who makes examinations all over the State.

However, he will try to contact you at the time the examination is made so that arrangements may be made to show him over the grounds.

Very truly yours,

MARK R. RUMP  
State Registration Engineer  
By

Chief Clerk

A102

Handwritten notes and stamps on the left margin, including the letters "ON" and some illegible scribbles.

June 15, 1959

Re: Permit No. 20610

Mr. Russell P. Baber  
Burlay, Iowa

Dear Mr. Baber:

I have tried several times to contact you and make inspection for above permit, but without success. You will remember you told me it was not ready to inspect in either 1951 or 1952.

Recently Mr. Carter, State Reclamation Engineer, asked me the status of this permit and why a report had not been made.

I tried on both Friday and Saturday to contact you by phone but was again unable to reach you, but inasmuch as I was working south of Burlay I went out down and made inspection without you.

I found the three walls mentioned in the permit, but I did not find any water coming out of two of the walls and water flowing from the third one was not being put to beneficial use.

I did not check for accuracy of legal description for points of diversion, but I believe the two wells on the west are probably in the same forty.

Since there is no beneficial use, a license will not be issued in connection with above permit.

If you feel this report is incorrect in any detail and that a license should be issued it will be necessary for you to accompany me on an inspection very soon and point out the beneficial use being made of the water.

If you wish another inspection please contact me at once so that we can agree on a date for making same.

Yours truly,

EO. N. CARTER  
State Reclamation Engineer

By:

E. F. HUMPHREY, Deputy  
State Reclamation Engineer

EDH:ew

STATE OF IDAHO  
DEPARTMENT OF RECLAMATION  
BOISE, IDAHO  
REPORT OF ENGINEER

Permit No. 20440

This proof is for Beneficial use

In Water District No.

1. Name of applicant: Maxwell P. Baker, 227 Hurton Avenue, Burley, Idaho

2. Source of water supply: Subterranean from three wells

3. Location of point of diversion: Is in the SE 1/4, NE 1/4 SW 1/4 & SE 1/4 SW 1/4 of Section 25  
T. 15 S. R. 21 E. County of Cassia

4. Describe works as they exist, giving dimensions and capacities of same. There are two wells on west side of house on the west edge of the meadow a short distance north of the hot well where old bath house was that belongs to the Reiner Co. One well 12" dia has a gate valve control. Valve open and flowing out over 40" of water. Well north of this approx 200 has same size cap

5. Water is used for: Irrigation

6. State whether or not water has been turned into works of diversion

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if other than irrigation):

NE 1/4, SE 1/4 NW 1/4, NE 1/4 SW 1/4 and SE 1/4 Section 25;  
NE 1/4 NW 1/4 Section 36;

Township 15 South, Range 21 East, R. M.

and is capped with a flat metal cover bolted on. No water coming from well. Water from front well flows north in a ditch along west edge of meadow about a quarter mile then wastes into a flat spot in the field. sinks.

(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach?

Remarks: The hot well is drilled on north side of Cold Creek not far from the spring that is used for culinary water.

There is an old gas engine attached to the front door. No water in being put to beneficial use. Was unable to get in touch with the owner. Mr. Eugene Pickett went along to find out.

This examination was made on the 13 day of June, 1913

(Signed) C. H. Thompson

EX-10118

STATE OF IDAHO  
DEPARTMENT OF WATER ADMINISTRATION  
Statehouse Annex 2  
Boise, Idaho 83707  
(208) 384-2215



R. Keith Higginson  
Director  
Water Rights Administration  
Water Resource Investigations  
Dam and Reservoir Safety  
Water Well Drilling  
Flood Plain Management  
Irrigation and  
Flood Control Districts

IN THE MATTER OF CANCELLATION OF PERMIT )  
TO APPROPRIATE THE PUBLIC WATERS OF THE )  
STATE OF IDAHO NO. 20440/45-2255 )  
IN THE NAME OF Newel P. Baker )  
\_\_\_\_\_ )

ORDER OF CANCELLATION

WHEREAS, the permit holder has failed to submit adequate proof of beneficial use of water ; and,

WHEREAS, on February 16, 1971, notice was sent to the holder of said permit to appear before the Director of the Department of Water Administration on or before March 28, 1971, to show cause why said permit should not be cancelled; and,

WHEREAS, the holder of said permit has failed to comply with the requirements of said permit and has not shown adequate cause why such permit should not be cancelled.

IT IS THEREFORE ORDERED and Permit 20440/45-2255 is hereby CANCELLED.

Dated this 4th day of May, 1971.

*R. Keith Higginson*  
R. KEITH HIGGINSON  
Director

Exhibit 9

DRILLING RECORD

FROM            To            DESCRIPTION OF FORMATION

WELL REPORTED TO BE 2823' DEEP. SHUT DOWN FOR LACK OF FUNDS. NO LOG COULD BE OBTAINED. AT PRESENT TIME WELL IS PRODUCING ARTESIAN WATER IS HOT, BEING ABOUT 107 °F & IS SULPHUROUS. (VISITED SEPT. 25, 1926 & REPORTED BY W.W. BOYER, ASSOC. GEOL. USGS)

(SEE BULL. 6 OF STATE)

TO: Department of Water Resources

ATTENTION: Jeannie Robertson, Sr. Water Resources Agent

FROM: Carl F. Austin, Double Diamond Ranch

REGARDING: Date when wells were put to beneficial use

SUBJECT: Analysis of Attached Statement by Robert D. Hamblin

1. Mr. Robert D. Hamblin, resident of Burley Idaho and a prominent local businessman, has offered the attached statement which bears on the date at which the wells for which a water right and priority date are being sought can be established.
2. Mr. Hamblin states that in 1948/1949 he worked on a potato planting crew at what is now called the Double Diamond Ranch, owned today by Carl and Barbara Austin. At the time he worked there the ranch was owned and operated by Newell Baker, a close friend of his fathers.
3. What makes Mr. Hamblin's statement of importance is the fact that potatoes were being planted in the 1948/1949 time frame. As under the Whittle Decree, the creek water had to be shut off on 20 July, there is no physical way in which a potato crop could be expected to grow to maturity and be harvested without the use of irrigation water derived from wells. This is ironclad evidence that the wells on the ranch were not only installed, as is shown beyond a shadow of a doubt by records of the State of Idaho, but that the wells were exercised beneficially to irrigate a potato crop. Thus any claim made years later by an employee of the Department of Water Resources that the 3 wells in question were never put to beneficial use is total nonsense. Through the years these wells have provided stock water, water to irrigate potatoes, water to irrigate sugar beets, water to irrigate small grains, and water to irrigate hay.

Respectfully submitted,



Carl F. Austin  
23 December 2003

TO WHOM IT MAY CONCERN

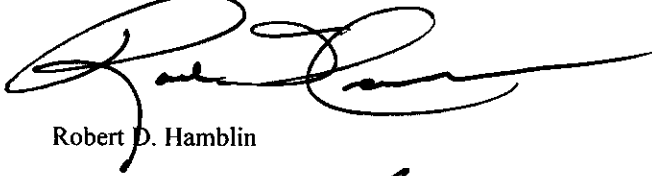
STATEMENT BY ROBERT D. HAMBLIN

I am Robert D. Hamblin of Burley Idaho. My father was a close friend of Newell Baker who in the late 1940's was the owner and operator of the J D Ranch, now known as the Double Diamond Ranch and owned by Carl and Barbara Austin.

In 1948/1949, as a youngster, I worked on a potato planting crew, cutting potatoes on this ranch.

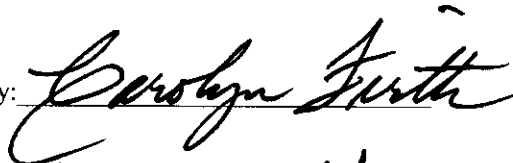
I am thus able to testify that a crop was planted on this ranch in this time frame and that the crop was potatoes.

Statement made on 23 December 2003.

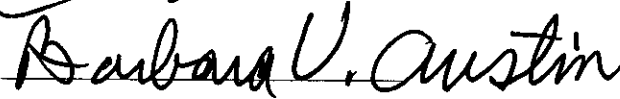


Robert D. Hamblin

Signature witnessed by:



Signature witnessed by:





State of Idaho

## DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380  
Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

January 16, 2004

CARL AUSTIN  
PO BOX 93  
OAKLEY ID 83346

RE: Adjudication Claims (Amended 45-7173A & 45-10248, New 45-13648)

Dear Mr. Austin,

I finally got back to your claims and I have amended two previous and created one new claim. I amended 45-7173A to reflect only the well in Section 30, which was **not** on the old permit (#20440) from 1948 that was eventually cancelled. I used the measurement information from the field exam to calculate the diversion rate. (No charge for amendments.)

I also amended 45-10248 to increase the diversion rate as you requested on that well, and changed the season of use to 3/15 – 11/15, the standard for your area. In the Remarks, you stated that the well was drilled 3-15-1920 and that was your requested priority date, but then you stated that it was **put to beneficial use on 6/21/1921**. The date put to use is more appropriate so I changed the priority date on the amended version also. If you disagree, simply cross out the date, put the new one, initial, and sign. (Again, no charge.)

I created a new claim (45-13648) for the other three wells on which you wished to claim earlier priorities. I tried to combine the elements and rates, from the three paper claims you submitted, into this one claim. As for the Barn Well, you mentioned possibly wanting a 1926 date (when it was drilled) but I felt it was more appropriate to have the 1948 date of when it was put to use and originally “permitted” to Baker. If you wish to pursue the earlier date on this well, an additional claim will be needed to split it out. Otherwise, a \$50.00 filing fee will be required for this new claim.

Please feel free to call if you have any questions. You can bring the paperwork over or mail it in, along with the \$50.00 filing fee, whichever you prefer.

Sincerely,

Jeanie Robertson  
Sr. Water Resource Agent

05/21/2004

**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: see cover letter**

Water right number: 45-13648

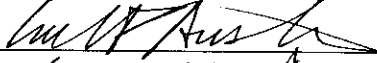
CARL F AUSTIN  
PO BOX 93  
OAKLEY ID 83346  
Telephone Number: (208)436-1562

BARBARA V AUSTIN  
PO BOX 93  
OAKLEY ID 83346  
Telephone Number: (208)436-1562

RECEIVED  
MAY 25 2004  
Department of Water Resources  
Southern Region

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):
2. Describe the changes you wish to make in the proposed recommendation:
3. Give a brief explanation as to why you disagree with these portions:

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

DATE: 25 May 2004 SIGNATURE:   
Please print your name: CARL F. AUSTIN

IDWR Regional Office, 1341 Fillmore St, Suite 200, Twin Falls, ID 83301, 2087363033



05/21/2004

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

---

T15S R21E S25	NWSE	27.0	T15S R21E S25	SWSE	30.0
T15S R21E S25	SESE	35.0	T15S R21E S36	NENE	22.0

215 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A  
COMBINED TOTAL OF 215 ACRES IN A SINGLE IRRIGATION SEASON.  
COMBINED RIGHT NOS.: 45-151, 45-7173A, 45-10248, & 45-13648.

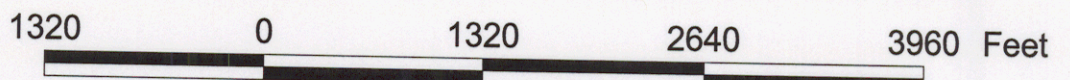
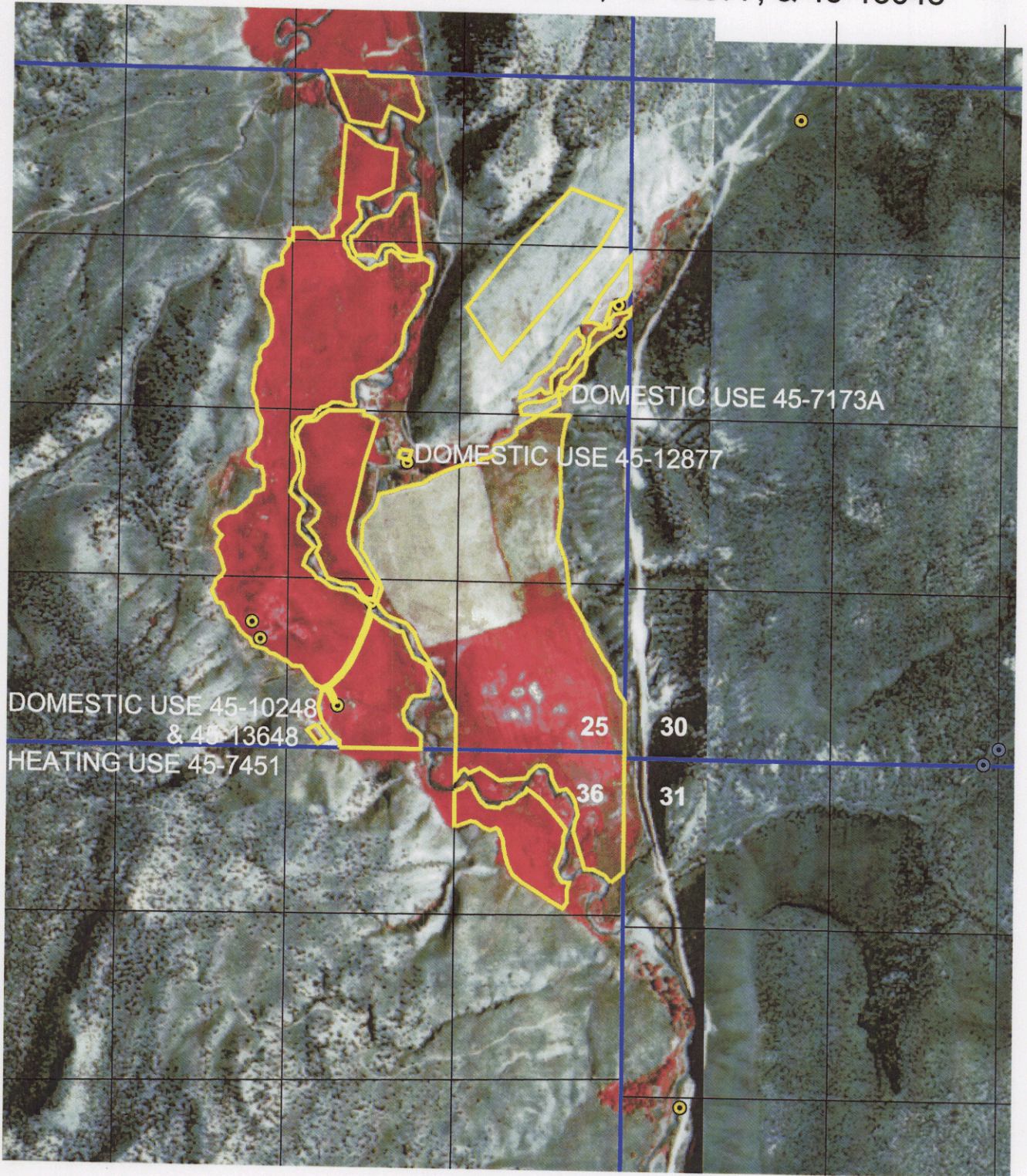
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 207 ACRES WITHIN THE  
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

45-151, 45-7173A, 45-7451, 45-10248, 45-12877, & 45-13648



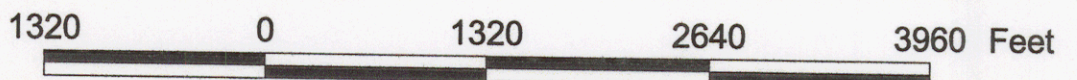
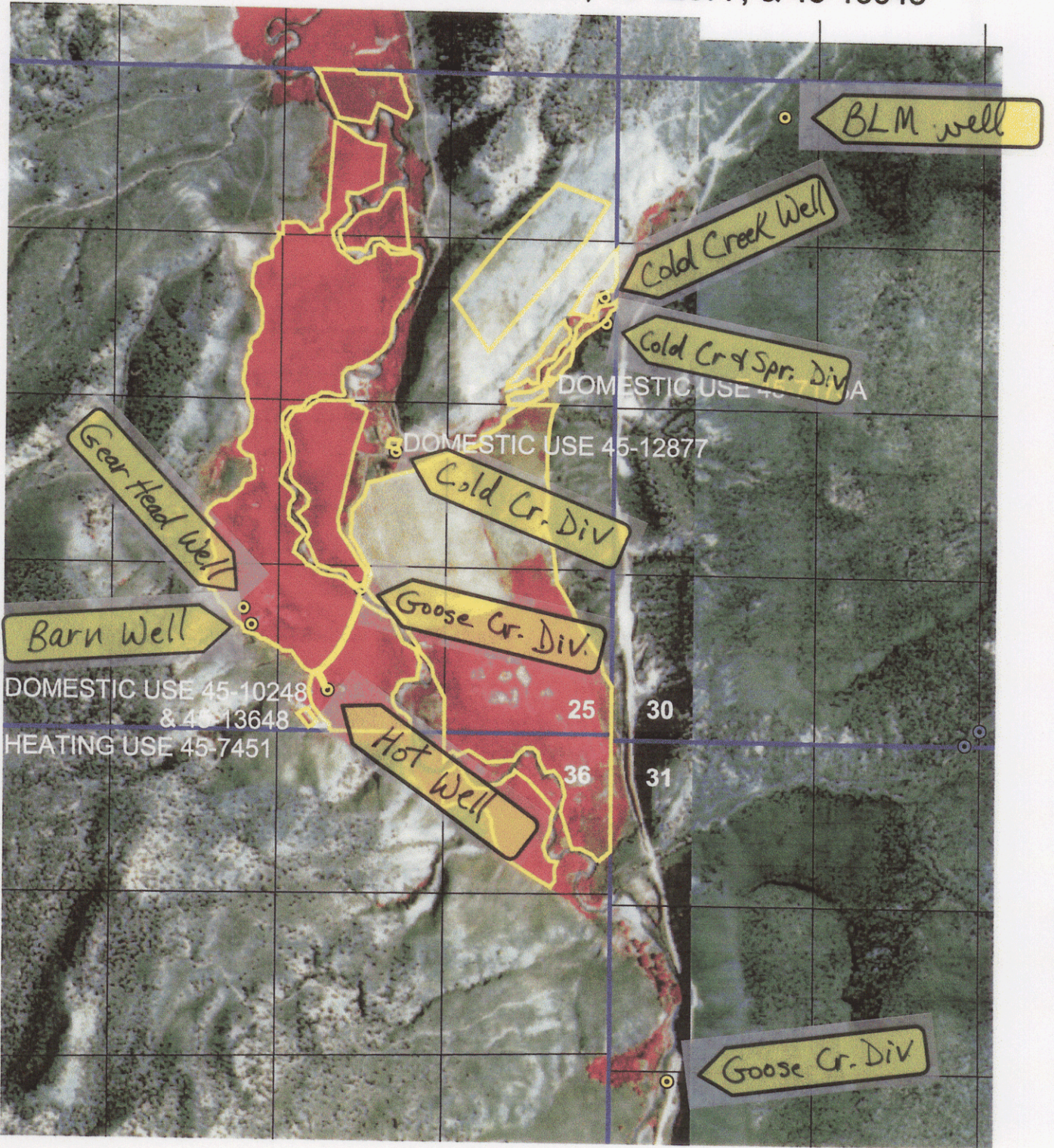
RECOMMENDED PLACE OF USE  
DATA ENTRY ON MAY 25, 2004  
TWP 15S, RNG 21E, SEC. 25 & 36



- Point of diversion
- Place of use
- Quarter-quarter lines
- Section lines

Gis Place of Use Presentation  
1987/1988 Napp Photography  
Prepared by Jeanie Robertson

45-151, 45-7173A, 45-7451, 45-10248, 45-12877, & 45-13648



- Point of diversion
- Place of use
- Quarter-quarter lines
- Section lines

RECOMMENDED PLACE OF USE  
DATA ENTRY ON MAY 25, 2004  
TWP 15S, RNG 21E, SEC. 25 & 36

Gis Place of Use Presentation  
1987/1988 Napp Photography  
Prepared by Jeanie Robertson



IDAHO DEPARTMENT OF WATER RESOURCES  
 Adjudication Recommendation Report 45-13648 V1

15S 21E 25	X	X	X			X	X		X	X	X	X	X
15S 21E 36	X												

IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15S 21E 25	5.0	13.0	24.0	15.0				6.0	11.0			6.0	21.0	27.0	30.0	35.0	193.0
15S 21E 36	22.0																22.0

Total Acres: 215

Conditions of Approval:

1. C18 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.

Remarks:

1. Quantity USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 752.5 AF. COMBINED RIGHT NOS.: 45-7173A, 45-10248, & 45-13648.
2. Place of Use - Irrigation USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 215 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 45-151, 45-7173A, 45-10248, & 45-13648.
3. Quantity USE OF THIS RIGHT WITH RIGHT NO. 45-7173A IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.11 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 6.7 AF FOR STOCKWATER USE AND TO A TOTAL COMBINED DIVERSION RATE OF 0.04 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 1.2 AF FOR DOMESTIC USE.
4. Place of Use - Irrigation THIS RIGHT IS LIMITED TO THE IRRIGATION OF 207 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

IDAHO DEPARTMENT OF WATER RESOURCES  
Adjudication Recommendation Report 45-13648 V1

Comments:

1. jroberts 2/4/2004 Basis of Recommendation

Comment: The wells in this claim were licensed under 45-7173 (originally four wells, the fourth well is now claimed under 45-7173A.) These three wells were applied for back in 1948 under old permit #20440, which became 45-2255, and was later canceled. A new permit was applied for (45-7173) in 1974 and was eventually licensed. Some inconsistencies were found in the field exam notes for 45-2255. It appears these three wells were developed in 1948 and some beneficial use seemed to have been developed by the time of the exam. The examiner never made contact with the permit holder to resolve some unanswered questions and the permit was eventually cancelled with no license issued. This beneficial use claim is claiming the older priority date. I am recommending the earlier date but cannot recognize the claimed diversion rates because there is no measurement information from that time, a requirement for beneficial use claims. I am recommending the total of the diversion rates measured on these wells from the field exam for 45-7173 in 1982, for a total of 2.19 cfs. The volumes are taken from that field exam information also and I am limiting the total acres to the 207 acres licensed under 45-7173. Season of use in this area is 4/1 to 10/31. Volume is calculated as 207 ac X 3.5 Af/ac = 724.5 AFA.

2. jroberts 5/20/2004 NOE

Comment: Tweaked pou per our discussion in my office, same 215 acres.

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: See cover letter

Water right number: 45-13648

CARL F AUSTIN  
PO BOX 93  
OAKLEY ID 83346  
Telephone Number: (208)436-1562

BARBARA V AUSTIN  
PO BOX 93  
OAKLEY ID 83346  
Telephone Number: (208)436-1562

RECEIVED  
MAY 14 2004  
Department of Water Resources  
Southern Region

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

2. Describe the changes you wish to make in the proposed recommendation:

*Adjust the map to show the correct acreage; areas use as discussed in the office conference of 14 May 2004*

3. Give a brief explanation as to why you disagree with these portions:

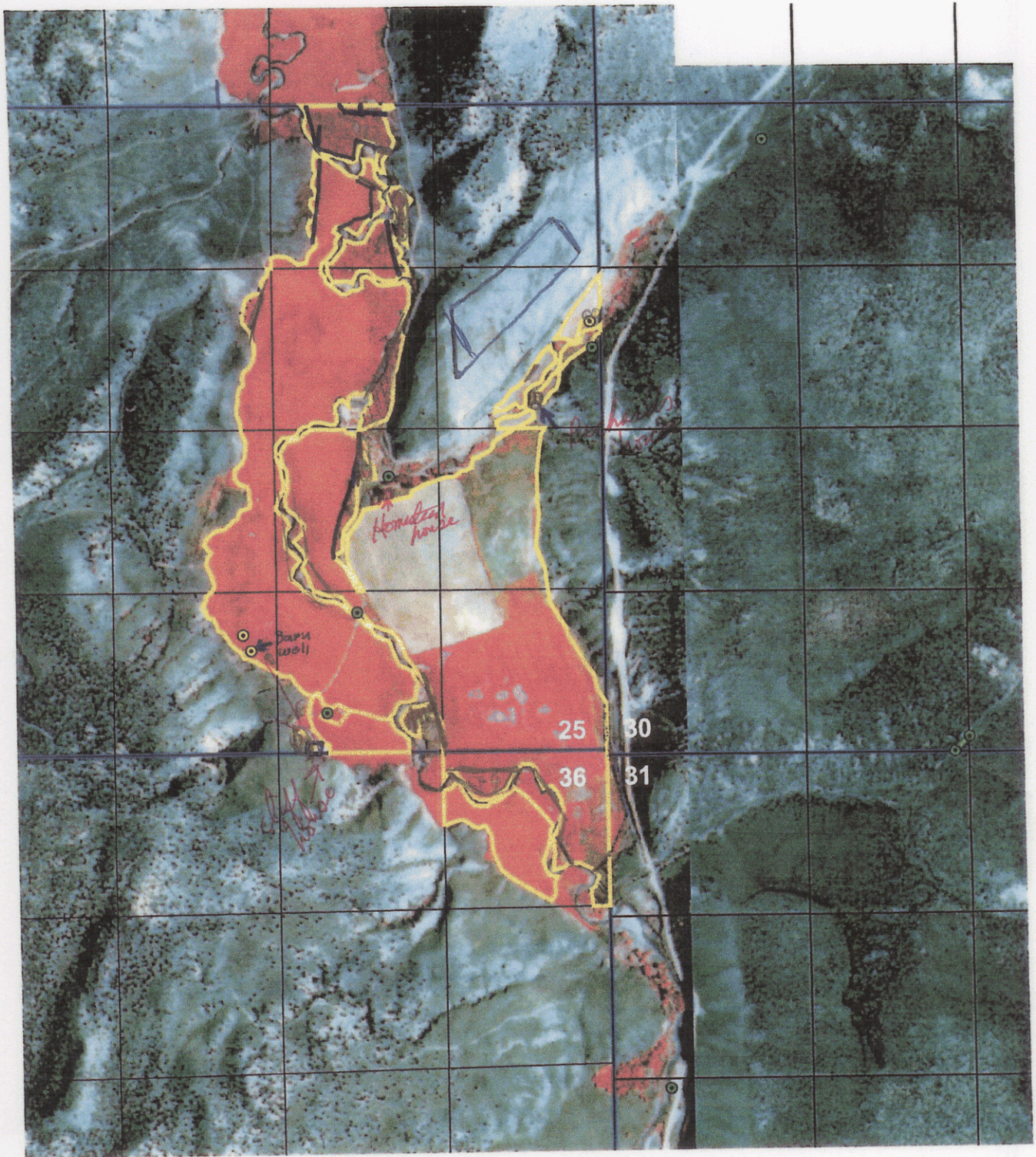
*subject to RZ above*

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

DATE: 14 May 2004 SIGNATURE: *Carl F. Austin*

Please print your name: CARL F. AUSTIN

~~45-13648~~



1320 0 1320 Feet

RECOMMENDED PLACE OF USE  
DATA ENTRY ON FEB. 5, 2004  
TWP 15S, RNG 21E, SEC. 25 & 36



- Point of diversion
- Place of use
- Quarter-quarter lines
- Section lines

Gis Place of Use Presentation  
1987/1988 Napp Photography  
Prepared by Jeanie Robertson



State of Idaho

## DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

February 5, 2004

CARL AUSTIN  
PO BOX 93  
OAKLEY ID 83346

RE: New Recommendations

Dear Mr. Austin,

Enclosed are revised recommendations made after reviewing your amended claims. Please note the following changes from the claims to the recommendations:

I dropped the domestic use from 45-7173A because this is for the well in Section 30 (BLM well) and I don't believe there is any domestic use associated with this well individually. I also added a limiting remark regarding the diversion rate and volume for stockwater use when combined with 45-13648 (other three wells) because all four wells were licensed together and this was the rate and volume for all four when combined.

When you were here last week you asked about getting a beneficial use right for license 45-7451 (heating) in order to get the earlier priority date of 1968, per the statement made by Morris Mitchell in the memo dated 2/3/1993. I created claim 45-13653 to replace the license 45-7174. When I started reviewing your claims again, I realized that the 1968 date was **after the Mandatory Permit Statute, which stated a water right for groundwater could only be established through the Permit-License process after March 25, 1963, except for domestic use.** I apologize for not realizing this problem at the time! I have therefore gone back to the license for this recommendation. (You could, however, have the domestic use for heating (0.02 cfs) with the earlier date under 45-13653 if you wish to pay a \$25.00 filing fee. Both 45-13653, if filed, and 45-7451 would be limited to the 0.16 cfs when combined.)

You amended 45-10248 (irrigation, stockwater, and domestic from the hot well) to increase the diversion rate, but I am recommending the original claimed 0.16 cfs, as measured during the field exam for 45-7451. That was the system capacity of the well, with open discharge to the stream at the time of measurement, and the best information I have at this time.

Lastly, I realized the standard irrigation season in your area is 4/1 to 10/31 so the beneficial use based recommendations now reflect this season of use.

If you have any questions, please wait till after the Preliminary Report goes out in a few weeks. We can discuss any other matters during the Notice of Error Period.

Sincerely,

Jeanie Robertson  
Sr. Water Resource Agent



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

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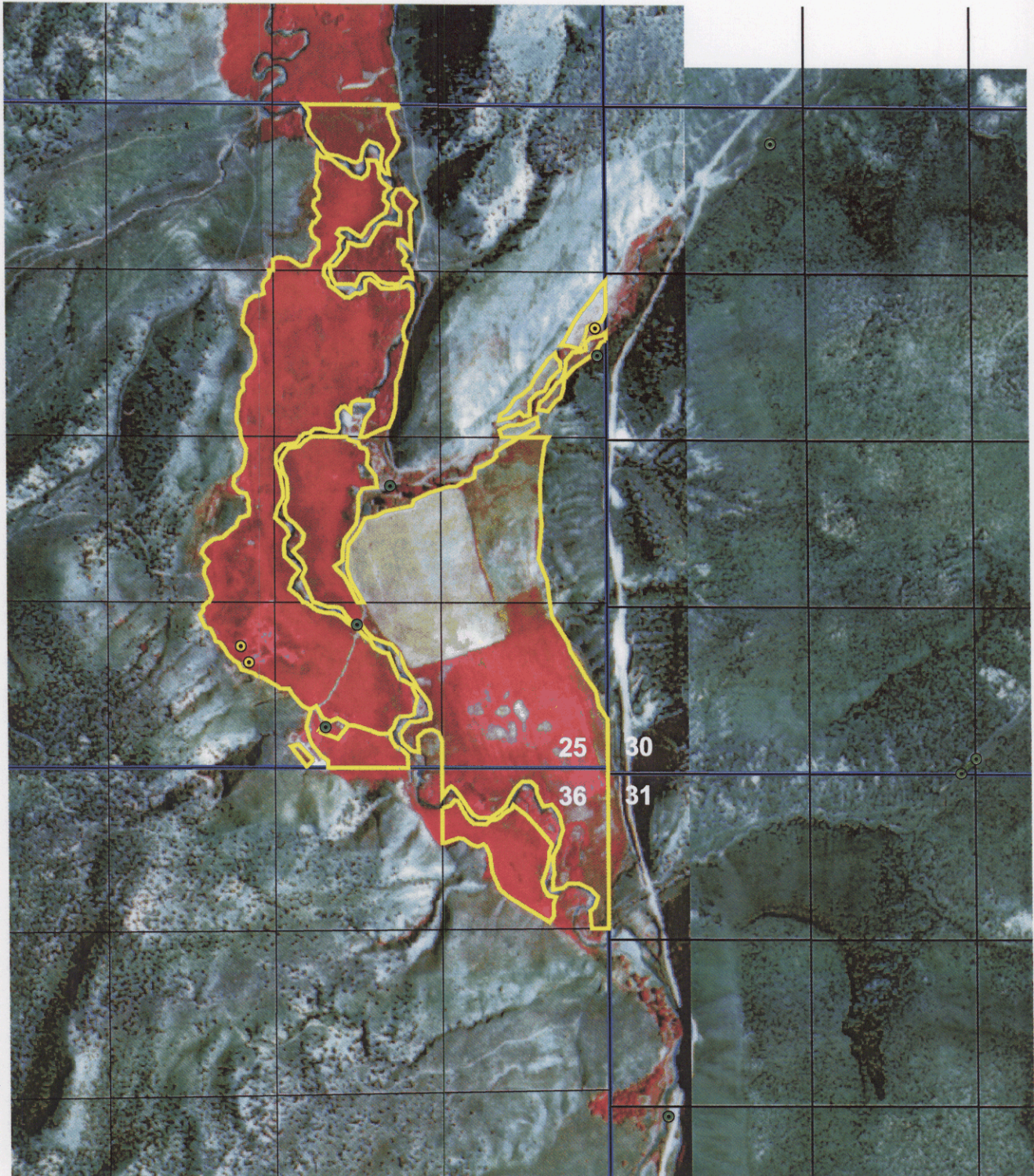
USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A  
COMBINED TOTAL OF 215 ACRES IN A SINGLE IRRIGATION SEASON.  
COMBINED RIGHT NOS.: 45-151, 45-7173A, 45-10248, & 45-13648.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 207 ACRES WITHIN THE  
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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



1320 0 1320 Feet

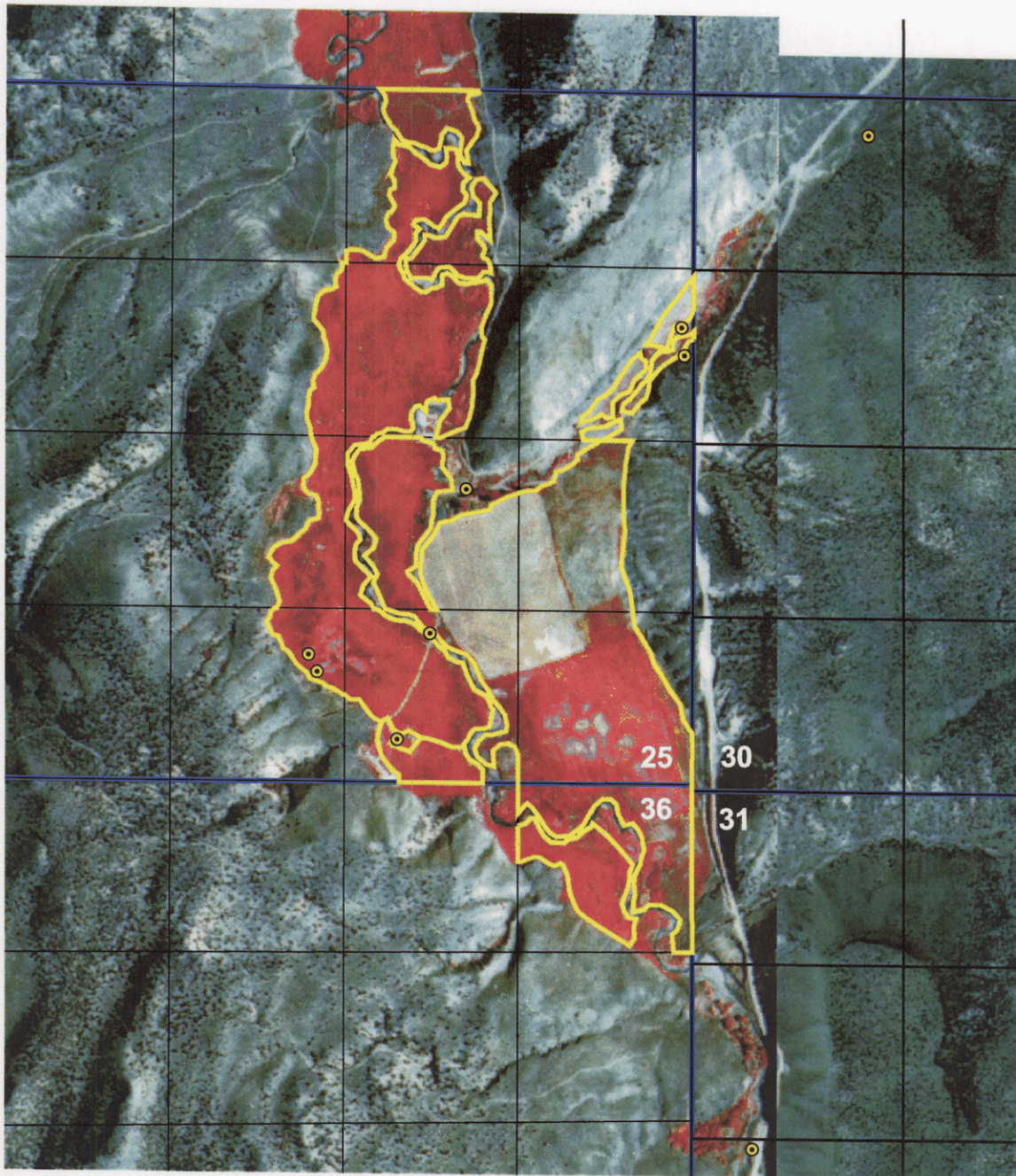
- Point of diversion
- Place of use
- Quarter-quarter lines
- Section lines

RECOMMENDED PLACE OF USE  
DATA ENTRY ON FEB. 5, 2004  
TWP 15S, RNG 21E, SEC. 25 & 36



Gis Place of Use Presentation  
1987/1988 Napp Photography  
Prepared by Jeanie Robertson

45-151, 45-7173A, 45-7451, & 45-10248 # 45-13648



0 1320 2640 3960 Feet

RECOMMENDED PLACE OF USE  
DATA ENTRY ON OCT. 29, 2002  
TWP 15S, RNG 21E, SEC. 25 & 36



- Point of diversion
- Place of use
- Quarter-quarter lines
- Section lines

Gis Place of Use Presentation  
1987/1988 Napp Photography  
Prepared by Jeanie Robertson



IDAHO DEPARTMENT OF WATER RESOURCES  
 Adjudication Recommendation Report 45-13648 V1

15S 21E 25	X	X	X		X	X		X	X	X	X	X
15S 21E 36	X											

IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15S 21E 25	18.0	28.0	5.0				6.0	11.0			6.0	21.0	29.0	32.0	35.0		191.0
15S 21E 36	24.0																24.0

Total Acres: 215

Conditions of Approval:

1. C18 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.

Remarks:

1. Quantity USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 724.5 AF. COMBINED RIGHT NOS.: 45-7173A, 45-10248, & 45-13648.
2. Place of Use - Irrigation USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 215 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 45-151, 45-7173A, 45-10248, & 45-13648.
3. Quantity USE OF THIS RIGHT WITH RIGHT NO. 45-7173A IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.11 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 6.7 AF FOR STOCKWATER USE AND TO A TOTAL COMBINED DIVERSION RATE OF 0.04 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 1.2 AF FOR DOMESTIC USE.
4. Place of Use - Irrigation THIS RIGHT IS LIMITED TO THE IRRIGATION OF 207 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

Comments:

1. Jroberts 2/4/2004 Basis of Recommendation  
 Comment: The wells in this claim were licensed under 45-7173 (originally four wells, the fourth well is now claimed under 45-7173A.) These three wells were applied for back in 1948 under old permit #20440, which became 45-2255, and was later canceled. A new permit was applied for (45-7173) in 1974 and was eventually licensed. Some inconsistencies were found in the field exam notes for 45-2255. It appears these three wells were developed in 1948 and some beneficial use seemed to have been developed by the time of the exam. The examiner never made contact with the permit holder to resolve some unanswered questions and the permit was eventually cancelled with no license issued. This beneficial use claim is claiming the older priority date. I am recommending the earlier date but cannot recognize the claimed diversion rates because there is no measurement information from that time, a requirement for beneficial use claims. I am recommending the total of the diversion rates measured on these wells from the field exam for 45-7173 in 1982, for a total of 2.19 cfs. The volumes are taken from that field exam information also and I am limiting the total acres to the 207 acres licensed under 45-7173. Season of use in this area is 4/1 to 10/31. Volume is calculated as 207 ac X 3.5 Af/ac = 724.5 AFA.

# Idaho Department of Water Resources Receipt

Receipt ID S026451

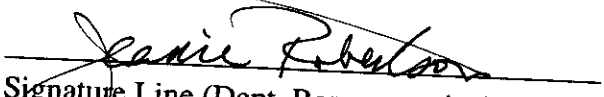
Payment Amount  Date Received  Region  Status   
Payment Type  Check Number

Payer   
Comment

## Fee Detail

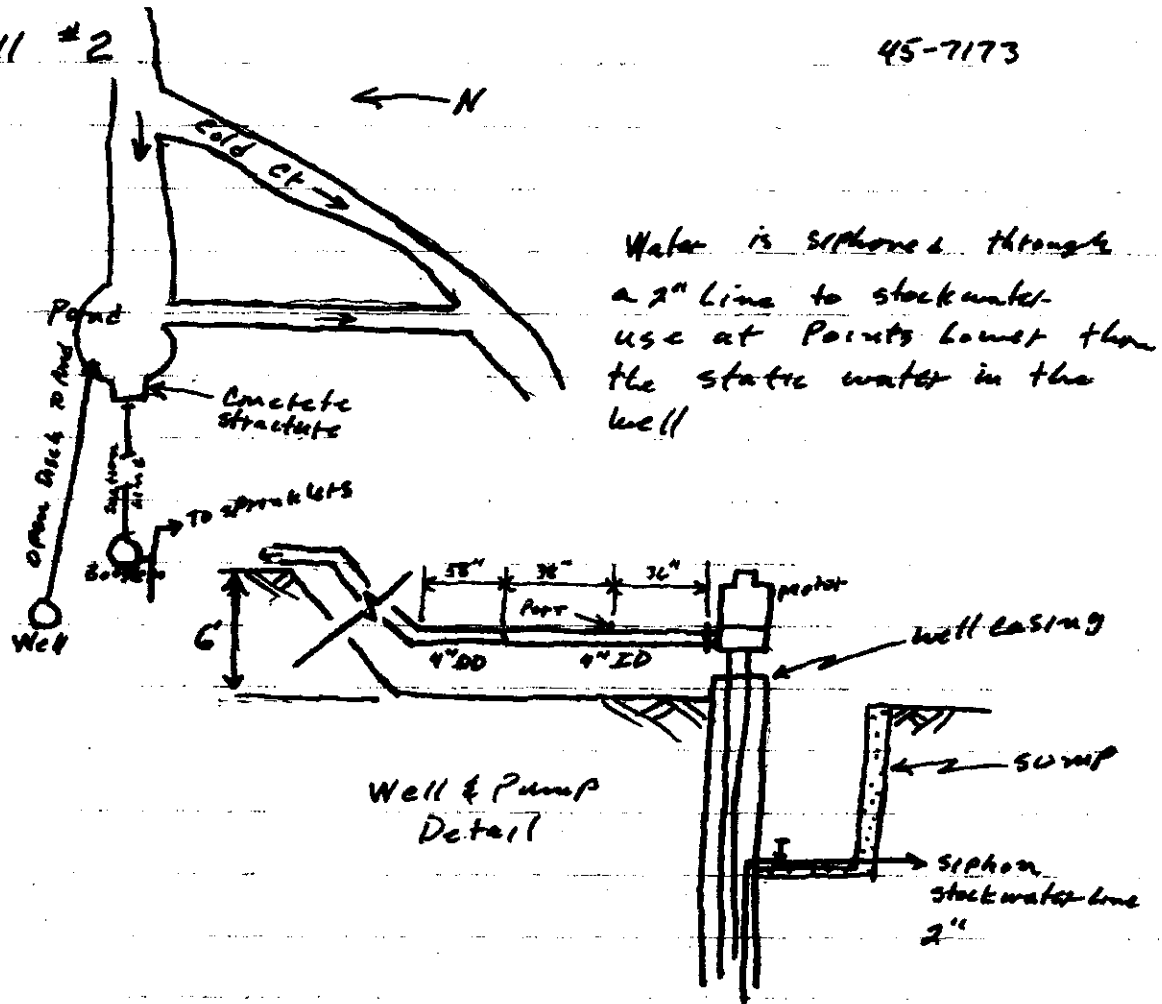
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Amount	Description	Fund	FD	PCA	SO
\$50.00	ADJUDICATION FILING FEE	0337	44503	1155	

  
Signature Line (Dept. Representative)

Well #2

45-7173



Well & Pump Detail

Motor: G.E. 10HP Mod. 5K6227X H1AM Ser# CH10023  
1750 RPM 480 V.

Pump: Peerless Turbine - 4" set at 165 ft.

Well: 20" Dia 256 ft Deep (Reported 61 count.)  
static water @ 6 ft.

Water Measurement:

Measured Volumetrically because no 4" Annubar was available for use with Access Port.

Flow was timed into Duret's Container & then measured out with a .729 ft<sup>2</sup> bucket.

Amount: 8 buckets + 2 gallons

Time: 9.5 Sec.

$$\frac{(8)(.729) \left[ \frac{7.48 \text{ gal}}{2.48 \text{ sec}} \right]}{9.5 \text{ Sec.}} = 0.69 \text{ CF}$$

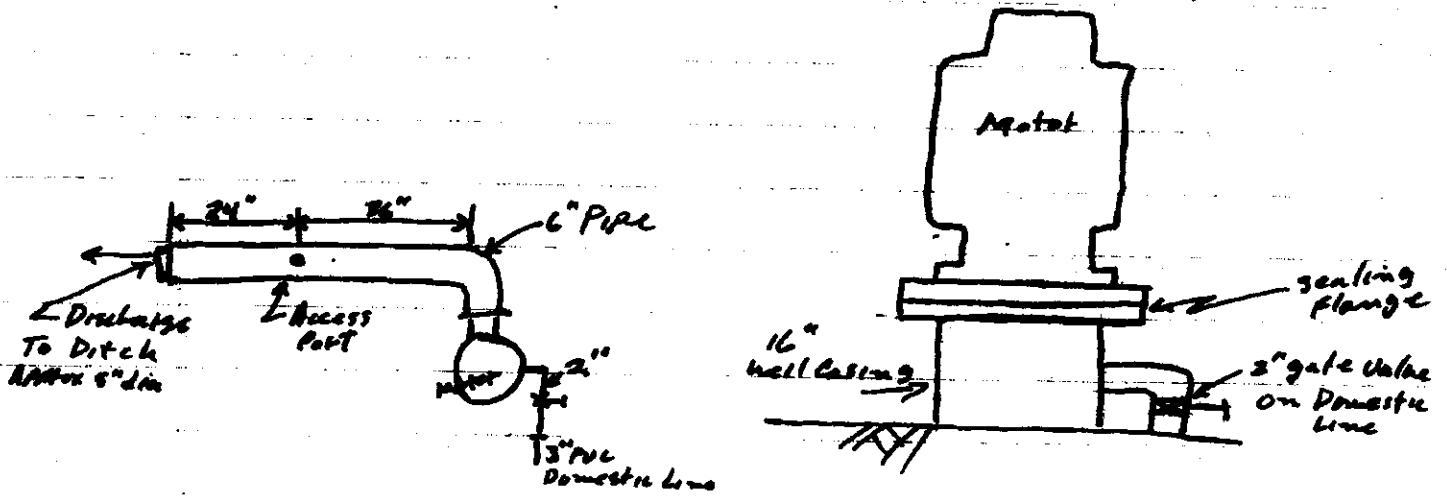
MICROFILMED

#2

SENE Sec. 25 (Cold Creek Well)

Well #3

45-7173



Motor: C.E., 10HP, Mod 5K215VP6005 - 3 phase set# DN  
 Pump: Beck ~~44~~ - Set# 7701314 Rated 500gpm @ 60' head  
 Well: 16" casing, Artesian. A 2" connection to the well casing directs flow from artesian flow for Domestic & lower irrigation.

Water measurement:

Artesian flow: Measured Volumetrically with .728 ft<sup>3</sup> Bucket - Average of 3  $\frac{(.728)(3)}{7.9 \text{ sec}} = \underline{\underline{.29 \text{ cfs}}}$

Pumped: Annubar - 091391-6" Meter: 091474-10" 84  
 Meter Reading - 18"

Flow:  $\frac{(3.85)(6^2)(\sqrt{18})}{448.8} = \underline{\underline{1.31 \text{ cfs}}}$

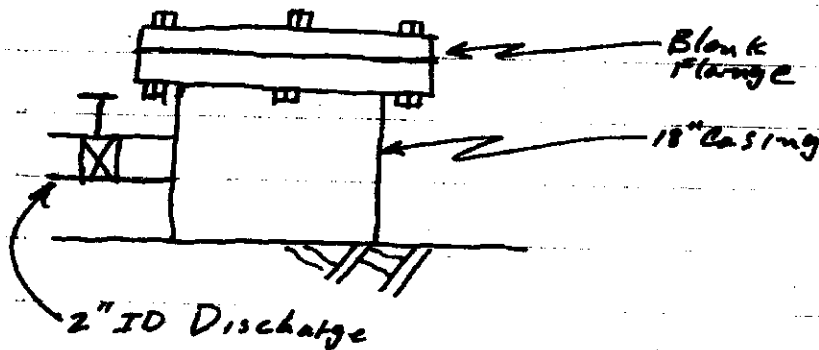
#3

SESW Sec. 25 South Well (Bara Well)

MICROFILMED

Well #4

45-7173



Well: Artesian - static water approx 12' above L.S.D  
(reported by owner) Warm water (cool)

Water measurement: Volumetric, Bucket Volume = .728 ft<sup>3</sup>  
Accumulated 3 trials. Time 950c

$$\frac{(.728)(3)}{950c} = 0.24 \text{ cfs}$$

This well discharges through a 2" pipe which can't be fitted with out minimum 4" annular. The well is used to irrigate acreage between it & Goose creek independently of other wells under the Permit.

#4

SESW Sec-25 North Well (Gear Head Well)

MICROFILMED