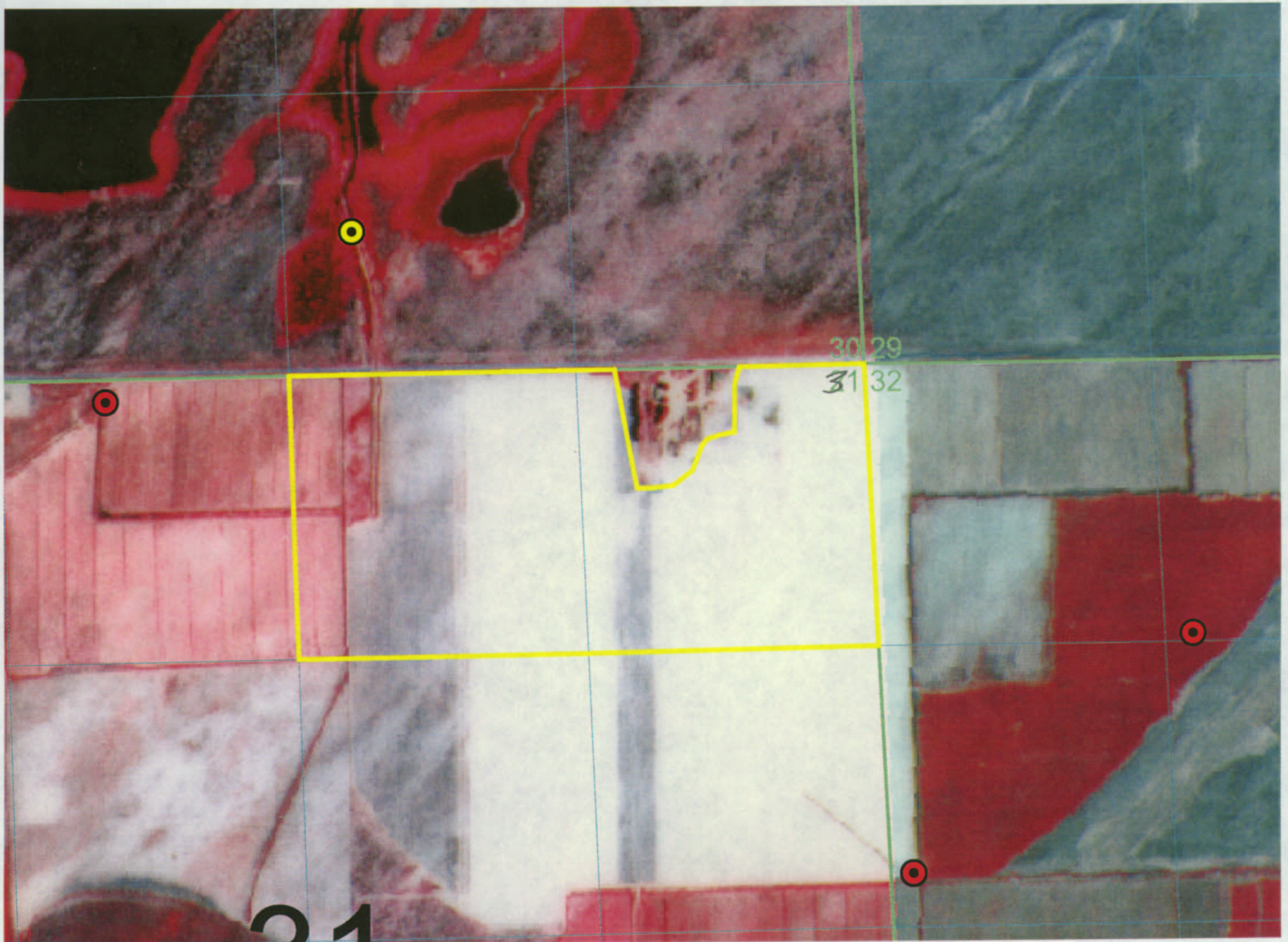


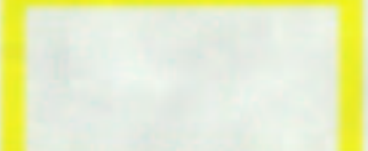
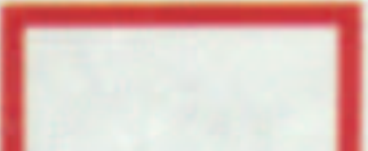
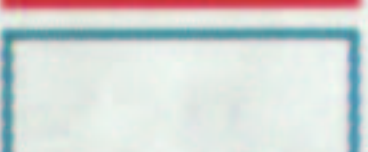
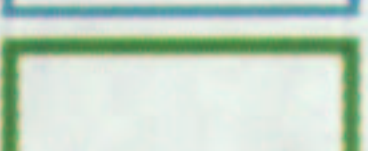
Idaho Department of Water Resources

Water Rights 31-262, 31-267

Township 7N Range 36E Section 31



0 1320 Feet

-  Point of Diversion
-  Point of Diversion - Other Rights
-  Place of Use
-  Place of Use - Other Rights
-  Quarter-quarter Sections
-  Section Lines



GIS Illustration prepared from 1987/1988 NAPP photography by B. Contor 11/2000

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

In Re SRBA
Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 31-00267

JUL 18 2002

By _____
Clerk

NAME AND ADDRESS: PERRY L WOODARD
PO BOX 85
HAMER, ID 83425

SOURCE: RAYS LAKE TRIBUTARY: MUD LAKE
QUANTITY: 0.50 CFS

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 3.60 CFS. COMBINED RIGHT NOS.:
31-262, 31-267, 31-2307A, 31-2408A, 31-7095A.

PRIORITY DATE: 08/10/1917

POINT OF DIVERSION: T07N R36E S30 NWSWSE Within Jefferson County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.50 CFS

PLACE OF USE:	Irrigation	Within Jefferson County
	T07N R36E S31 NENE 35.0 76.0 Acres Total	NWNE 41.0

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 25 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION
OF A COMBINED TOTAL OF 76 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 31-262, 31-267.

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION
OF A COMBINED TOTAL OF 180 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 31-262, 31-267, 31-2307A, 31-2408A,
31-7095A.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE RIGHT HOLDER SHALL USE THE FULL ALLOTMENT OF APPURTENANT
GROUND WATER RIGHTS IN CONJUNCTION WITH SURFACE WATER DIVERTED
UNDER THIS RIGHT AND SHALL ONLY DIVERT SURFACE WATER UNDER THIS
RIGHT WHEN WATER FROM THE APPURTENANT GROUND WATER RIGHTS CANNOT
BE DELIVERED TO THE RIGHT HOLDER.

IF THE GROUND WATER RIGHT(S) APPURTENANT TO THE PLACE OF USE IS
SOLD, TRANSFERRED, LEASED OR USED ON ANY OTHER PLACE OF USE, THIS
RIGHT TO DIVERT SURFACE WATER SHALL NOT BE USED WITHOUT AN
APPROVED TRANSFER PURSUANT TO SECTION 42-222, IDAHO CODE, OR
APPROVAL OF THE DEPARTMENT IF A TRANSFER IS NOT REQUIRED.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

2002 JUL 18 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 31-00267

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 31-00267 was mailed
on July 18, 2002, with sufficient first-class postage prepaid
to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

INDEPENDENT WATER USERS
MUD LAKE WATER USERS INC
Represented by:
KENT W FOSTER
PO BOX 50130
IDAHO FALLS, ID 83405
Phone: 208-523-0620

PERRY L WOODARD
Represented by:
RAY W. RIGBY
PO BOX 250
REXBURG, ID 83440-0250
Phone: 208-356-3633

ROBBIN GLATZ
Chief Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
07/18/02

RECEIVED

JUL 19 2002

DEPARTMENT OF WATER RESOURCES
Fifth Judicial District
County of Twin Falls - State of Idaho

JUL 18 2002

By _____

Clk

Department of Water Resources
**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

)
) **ORDER OF PARTIAL DECREE**

)
) **For Water Right 31-00267**

On May 24, 2002, a *Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 31-00267 is hereby decreed as set forth in the attached *Partial Decree* Pursuant to I.R.C.P. 54(b).

DATED July 18, 2002



ROGER S. BURDICK
Presiding Judge
Snake River Basin Adjudication

ORDER OF PARTIAL DECREE

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

WATER RIGHT NO. 31-267

Owner Type Name and Address
 Current Owner PERRY L WOODARD
 PO BOX 85
 HAMER, ID 83425
 (208)662-5477

Priority Date: 08/10/1917
Basis: Decreed
Status: Valid

Source Tributary to
 RAYS LAKE MUD LAKE

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	04/01	10/31	0.5 CFS		
Total Diversion			0.5 CFS		

Point(s) of Diversion:
 Township Range Section 1/4 of 1/4 of 1/4 Lot County
 07N 36E 30 NW SW SE JEFFERSON

IRRIGATION Use:
 Acre Limit: 25

Place(s) of use:

Place of Use Legal Description: IRRIGATION JEFFERSON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
07N	36E	31		NENE	35		NWNE	41						

Total Acres: 76

Conditions of Approval:

1. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
3. 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. Place of Use - Irrigation THIS RIGHT IS LIMITED TO THE IRRIGATION OF 25 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
2. Place of Use - Irrigation USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 180 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-262, 31-267, 31-2307A, 31-2388A, 31-7095A.
3. Quantity USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.60 CFS. COMBINED RIGHT NOS.: 31-262, 31-267, 31-2307A, 31-2408A, 31-7095A.
4. Place of Use - Irrigation USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 76

ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-262, 31-267.

Dates:

Licensed Date:
 Claim Received Date: 11/30/2000
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Decreed Date: 11/01/1930
 Date Filed with Court:
 Objection Filed Date:
 SF5 Filed:
 Special Master Recom Signed Date:

Element Reviewed/Verified Dates:

Element	Last Review Date	Reviewer	Last Verified Date	Verifier	Status
POD	11/30/00 1:27:57 PM	bcontor			In Process
POU	11/30/00 1:34:25 PM	bcontor			In Process
	11/30/00 1:30:54 PM	bcontor			In Process
Priority Date	11/30/00 1:26:25 PM	bcontor			In Process
Quantity	11/30/00 1:32:42 PM	bcontor			In Process
Season	11/30/00 1:32:16 PM	bcontor			In Process
Source	11/30/00 1:28:51 PM	bcontor			In Process
Summary	11/30/00 1:35:56 PM		11/30/00 1:35:56 PM	bcontor	Complete
Use	11/30/00 1:31:27 PM	bcontor			In Process

Other Information:

Receipt Number(s):
 State or Federal:
 Owner Name Connector:
 Overall Max Diversion Rate: 0.5
 Overall Max Diversion Volume:
 Generic Max Rate per Acre:
 Generic Max Volume per Acre:
 Civil Case Number:
 Old Case Number:
 Decree Plaintiff:
 Decree Defendant:
 PresumptionFlag:
 Notice of Error Flag:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Cary Act Number:
 Mitigation Plan: False

Verification Log:

Element	Date Time Stamp	Reviewer	Log Text
POD	11/30/00 1:27:56 PM	bcontor	1. (NO) The basis is not beneficial use. 2. (YES) Parent right has a Point of Diversion. 3. (NO) The claimed Point of Diversion can not be verified using the water right file. 4. (YES) There is evidence that there has been a change in the Point of Diversion. 5. (YES) The change can be verified as an accomplished transfer. Comment for 5: GIS from aerial photo and USGS topo, Drive-by inspection. 6. (YES) The file contains all the necessary information to verify the POD. 8. (NO) Point of Diversion remark was not required. 9. (NO) Point of Diversion condition was not required. Edited PLS Edited point location
POD	11/30/00 1:27:05 PM	bcontor	
POD	11/30/00 1:26:54 PM	bcontor	
POU	11/30/00 1:34:24 PM	bcontor	1. (YES) The POU is required. 2. (NO) The basis of claim is not beneficial use. 3. (YES) The Parent Right has a POU. 4. (NO) The claimed POU can not be verified using the water right file. 5. (YES) There is evidence that there has been a change in the POU. 6. (YES) The change can be verified as an accomplished transfer.

POU	11/30/00 1:30:53 PM	bcontor	Comment for 6: GIS, PPU with 31-262 per actual practice 12. (YES) POU remark was required. 13. (NO) POU condition was not required. 1. (YES) The POU is required. 2. (NO) The basis of claim is not beneficial use. 3. (YES) The Parent Right has a POU. 4. (YES) The claimed POU can be verified using the water right file. 12. (YES) POU remark was required. 13. (NO) POU condition was not required.
Priority Date	11/30/00 1:26:24 PM	bcontor	1. (NO) There has not been a later court decree of the water right(s) from the water source. 4. (NO) The basis of claim is not beneficial use. 5. (NO) The basis of claim is not a posted notice. 6. (YES) Parent right has a priority date. 7. (NO) The basis of claim is not an application or permit. 12. (YES) The claim is recommended. 13. (YES) The claim is coded correctly. 14. (NO) Priority remark was not required. 15. (NO) Priority condition was not required.
Quantity	11/30/00 1:32:41 PM	bcontor	1. (NO) The basis of claim is not beneficial use. 2. (NO) The basis of claim is not a posted notice. 3. (YES) The parent right has a diversion rate and/or diversion volume. 4. (YES) The claimed diversion rate and/or volume can be verified using the water right file. 6. (NO) The source is not ground water and the purpose of use does not require a diversion volume limit. 7. (NO) The parent right does not have an annual diversion volume limit. 9. (YES) Quantity remark was required. 10. (NO) Quantity condition was not required.
Season	11/30/00 1:32:11 PM	bcontor	1. (NO) The basis of claim is not beneficial use. 2. (NO) The parent right does not have a period of use. 4. (NO) There is not evidence that there has been a change to the period of use. 9. (YES) The file contains all the necessary information to verify the period of use. 11. (NO) The basis of is not a decree, license, or a transferred beneficial use right that has had the period of use administratively determined. 13. (YES) Irrigation is the purposed use. 15. (NO) Period of Use remark was not required. 16. (NO) Period of Use condition was not required.
Source	11/30/00 1:28:49 PM	bcontor	1. (NO) The basis is not beneficial use. 2. (YES) Parent right has a source. 3. (YES) The claimed source can be verified using the water right file. Comment for 7: GIS, decree 8. (YES) The source is surface water. 9. (YES) The source is a standard source. 10. (NO) Source remark was not required. 11. (NO) Source condition was not required.
Summary	11/30/00 1:35:54 PM	bcontor	1. (NO) The basis of the claim is not beneficial use. 3. (NO) There is no indication that there has been a five year period of continuous nonuse that could result in a recommendation of forfeiture or partial forfeiture. 5. (NO) General remark was not required. 6. (NO) Explanatory remark was not required. 7. (YES) Additional condition was required. 8. (YES) Wanted to view the recommended right. 9. (NO) This is not a split right. 10. (NO) This is not a combined right. 11. (NO) Documents were not linked or attached to this file. 12. (YES) Set the verification date.
Use	11/30/00 1:31:25 PM	bcontor	1. (NO) The basis of claim is not beneficial use. 2. (YES) The parent right has a purpose of use. 3. (YES) The claimed purpose of Use can be verified using the water right file. 11. (NO) Purpose of Use remark was not required. 12. (NO) Purpose of Use condition was not required.

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 31-267
Date Received: 11/30/00
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

A3100267



1. Name of Claimant(s)

PERRY L WOODARD Phone: (208)662-5477

PO BOX 85
HAMER ID USA 83425

2. Date of Priority: 08/10/1917

3. Source: RAYS LAKE Trib. to: MUD LAKE

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County
07N	36E	30	SW SW SE	JEFFERSON

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	11/01	0.5	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07N	36E	31	NE	NE	IRRIGATION	25
					Section Acres	25
					Total Acres	25

11. Place of use in counties: JEFFERSON

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

13. Other Water Rights Used:

14. Remarks:

RENUMBERED FROM CLAIM A31-2461, AS DECREED RIGHT 31-267 SUPERCEDED LICENSE.
FEES RECORDED UNDER RECEIPT E004183, ORIGINAL SIGNATURE IN FILE A31-2461. BCONTOR
11/30/2000.

15. Basis of Claim: Decreed

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SEP 10 2001

Department of Water Resources

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

A: Subcase 31-267

(insert water right number)

Case No. 39576

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B: NAME AND ADDRESS OF PERSON OBJECTING

Name: Independent Water Users

Address: C/O Andy Dobson

1595 N 1500 Hamer Idaho 83425

Daytime Phone: (208) 663-4359

Name & Address of Attorney, if any:

Kent Foster

P.O. Box 50130

Idaho Falls ID 83405-1030

C: CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Perry L Woodard

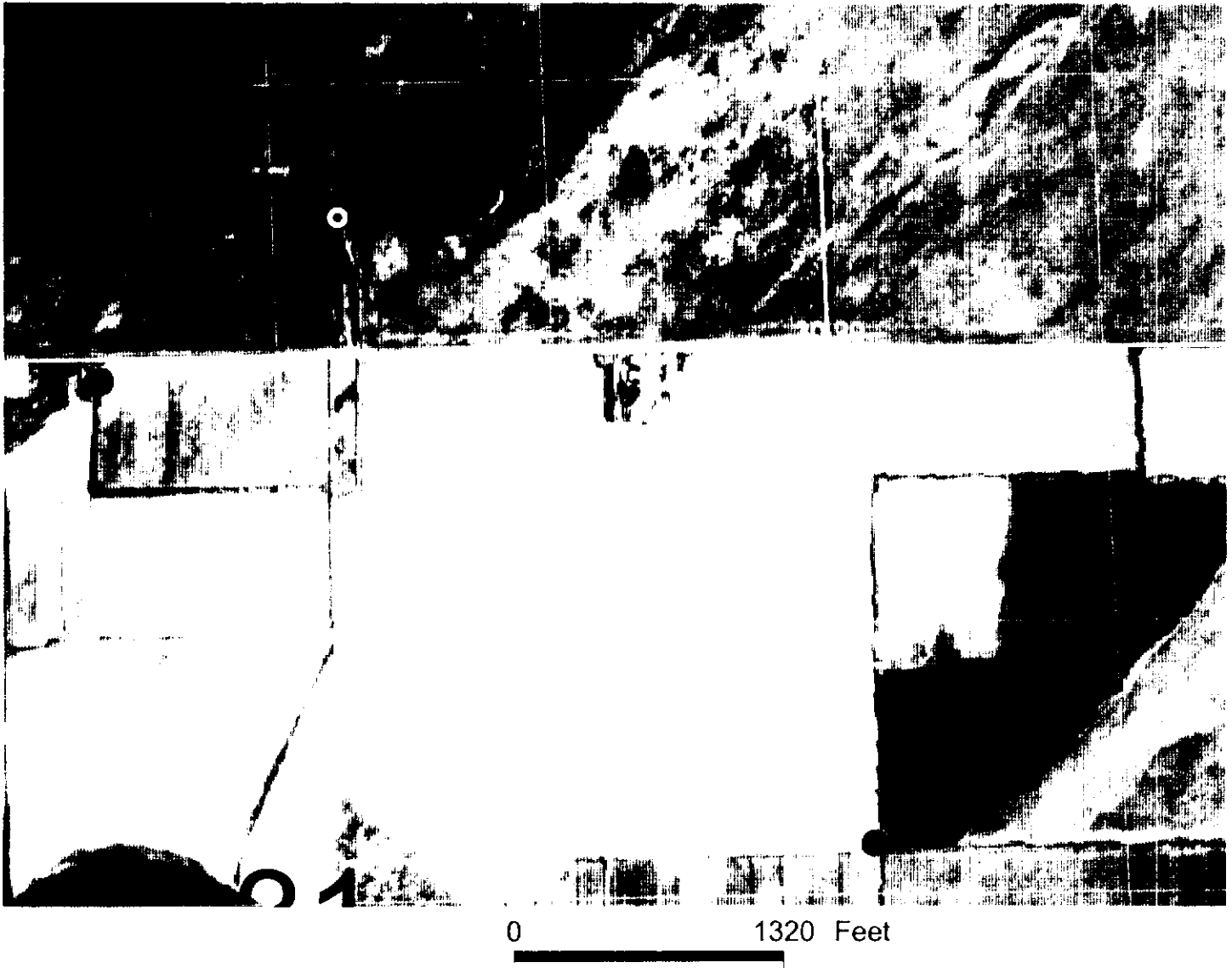
Address: P.O. Box 85

Hamer ID 83425

Idaho Department of Water Resources

Water Rights 31-262, 31-267

Township 7N Range 36E Section 31



GIS Illustration prepared from 1987/1988 NAPP photography by B. Contor 11/2000

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ Name and Address

Should be: _____

2. ☐ Source

Should be: _____

3. ☐ Quantity

Should be: _____

4. ☐ Priority Date

Should be: _____

5. ☐ Point(s) of Diversion

Should be: _____

6. ☐ Instream Flow Description

Should be: _____

7. ☐ Purpose(s) of Use

Should be: _____

8. ☐ Period of Year

Should be: _____

9. ☐ Place of Use

Should be: _____

11. I object because:

☒ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S): SEE ATTACHMENTS

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. FAX filings will not be accepted. You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on _____, 2001, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: Perry L Woodard

Address: PO. Box 85

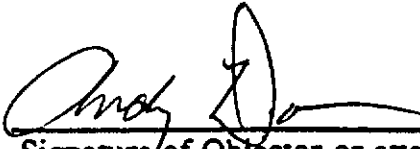
Hamer ID 83425

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724



Signature of Objector or attorney
mailing on Objector's behalf

F:

VERIFICATION (Must be Completed)

State of Idaho)
County of Tettersom)ss.

Andy Dobson

(Name of person filing objection)

, duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Andy Dobson

(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

9-5-2001

Shawna Bart

Notary Public for Ike's Amoco

Residing at: Tettersom, Idaho

My Commission Expires: 5-24-02

- A. The above water right has not been used since the irrigation season of 1987. No water has been diverted or applied to any beneficial use pursuant to any such rights for a period of 14 irrigation seasons, 1988 through 2001.
- B. Under the provisions of Idaho Code 42-222(2) and the cases construing said statutory language, all right to the diversion and use of water pursuant to the above Listed water rights have been lost and forfeited by the failure for the term of more than (5) years to apply water under such fights to the beneficial uses for which they were appropriated.

Wherefore, petitioners that upon examination into this matter as required by the District Court of the Fifth Judicial District of the State of Idaho in and for the County of Twin Falls. Issue a decision formally declaring that each and all of said water rights have been lost and forfeited.

- C. Land that this water right is tied to is currently being irrigated by well water.
- D. We the petitioner have already filled a forfeiture with the IDWR concerning this matter and no action was taken by the department. (See attachment)



Picture taken standing on the old Hamer highway looking South. The existing ditch is covered up with a cellar.



Standing the same location as the previous picture, looking North at the existing ditch coming from the pump at Ray's Lake. You can see the ditch has not been used for an extended period of time.

BEFORE THE DIRECTOR OF THE
IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF THE	)	
FORFEITURE OF WATER RIGHTS	)	PETITION FOR DECLARATORY
NOS. 31-00203, 31-00204, 31-00205,	)	RULING
31-00262 and 31-00267 IN THE	)	
NAMES OF PERRY WOODARD	)	
and SID ASHCRAFT.	)	

Petitioners, Owsley Canal Company, Holley Water Users, Inc., Jackett Canal Company, and Independent Water Users of Mud Lake, Inc., allege and petition the Director of Idaho Department of Water Resources as follows:

I.

Each of the petitioners is a corporation duly organized and existing under and by virtue of the laws of the State of Idaho, for the purpose of holding water rights and owning and operating a diversion and delivery system for diverting water pursuant to such water rights from the public source of supply and delivering the same for use upon the lands of their respective stockholders for the proper irrigation of the same. The service areas of said petitioners are in Jefferson and Clark Counties of the State of Idaho, and each is dependant for its water supply upon the ground and surface waters of Mud Lake, Camas Creek and the tributaries thereto and the aquifers underlying the surrounding areas.

II.

Certain decreed water rights, identified in the records of Idaho Department of Water Resources as rights nos. 31-00203, 31-00204, 31-00205, 31-00262 and 31-00267, apparently

held by Perry B. Woodard or Woodard Farms Limited Partnership and Sidney Ashcraft, have not been used since the irrigation season of 1987. No water has been diverted or applied to any beneficial use pursuant to any of such rights for a period of eight irrigation seasons, 1988 through 1995.

III.

Under the provisions of Idaho Code §42-222(2) and the cases construing said statutory language, all rights to the diversion and use of water pursuant to the above listed water rights have been lost and forfeited by the failure for the term of more than five (5) years to apply water under such rights to the beneficial uses for which they were appropriated.

WHEREFORE, petitioners pray that upon examination into this matter as required by law, the Director of Idaho Department of Water Resources issue a decision formally declaring that each and all of said water rights have been lost and forfeited, and directing the Watermaster of Water District 31 not to deliver water pursuant to any of said rights in the future.

DATED this 26th day of April, 1996.



Kent W. Foster, Esq.
Holden, Kidwell, Hahn & Crapo, P.L.L.C.
Attorney for Petitioners

G:\WPDATA\KWF\5054\OWLY0426.PET.sjw

01/25/2001

**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: March 9, 2001

Water right number: 31-267

PERRY L WOODARD

PO BOX 85

HAMER ID 83425

Telephone Number: (208)662-5477

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:

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

DATE: 2-22-01

SIGNATURE:

Perry L Woodard

Please print your name:

Perry L Woodard

IDWR Regional Office, 900 N Skyline, Idaho Falls, ID 83402, 2085257161

Contor, Bryce

From: Contor, Bryce
Sent: Monday, December 04, 2000 8:06 AM
To: McHugh, Candice; Baxter, Garrick
Cc: Music, Vicky
Subject: Potential Objection B31

I can't remember if I've reported this or not, but here's a heads up for you.

Claims 31-262, 31-267, and 31-10499 are for surface water from Rays Lake (two different claimants on a shared delivery system). Evidence in the file indicates that the water was used up through 1986 or 1987 and claims were filed in 1988 and 1989. All POU is overlapped by various GW rights.

In September, Garth Soderquist of Mud Lake Water users asked me about the status of those recommendations, and presented a copy of a letter written to the water users from attorney Kent Foster in 1996. The attorney recounts the history of an attempt to have the rights declared forfeited. The letter states in part:

"We concluded to go ahead and file a petition for declaratory ruling with the Department to see if the Department would take a look at the forfeiture issues.

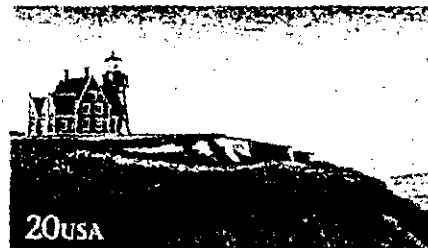
As all of you are aware, the notice of the filing of the petition has never been published and the Department has taken no action so far....

Having not heard from [Mr. Phil Rassier], we called and spoke to him by telephone.... It appeared to us that Mr. Rassier believes the Department should not take the position that it has the authority to determine forfeiture issues in such a proceeding....

It may be necessary for us to make a decision whether to wait for an Application for Transfer to be filed and then protest the transfer on the grounds of forfeiture, or whether to proceed with the declaratory judgment action in District Court, or whether to just wait and let the matter take its course in the adjudication proceeding."

I've finished my review of all these claims and recommended them all, with appropriate combined use limitations tying them to the overlapping GW recommendations. Unless you think otherwise, if MLWU raises the issue again I plan to say that I've recommended these according to Judge Wood's instructions regarding finding of forfeiture, and they'll have to take their objections to the special master.

IDWA
900 W Skelton St A
Idaho Falls ID
83402



Perry Woodard
PO. Box 85
Hamer ID
83425

USPS 1997  Permitted
Mr Woodard-

I have renumbered your claim
A31-2461 to A31-267, because the
deed superseded the license. When
you get your recommendations, that
claim will be reported with the new
number.

Boyer A. Couton