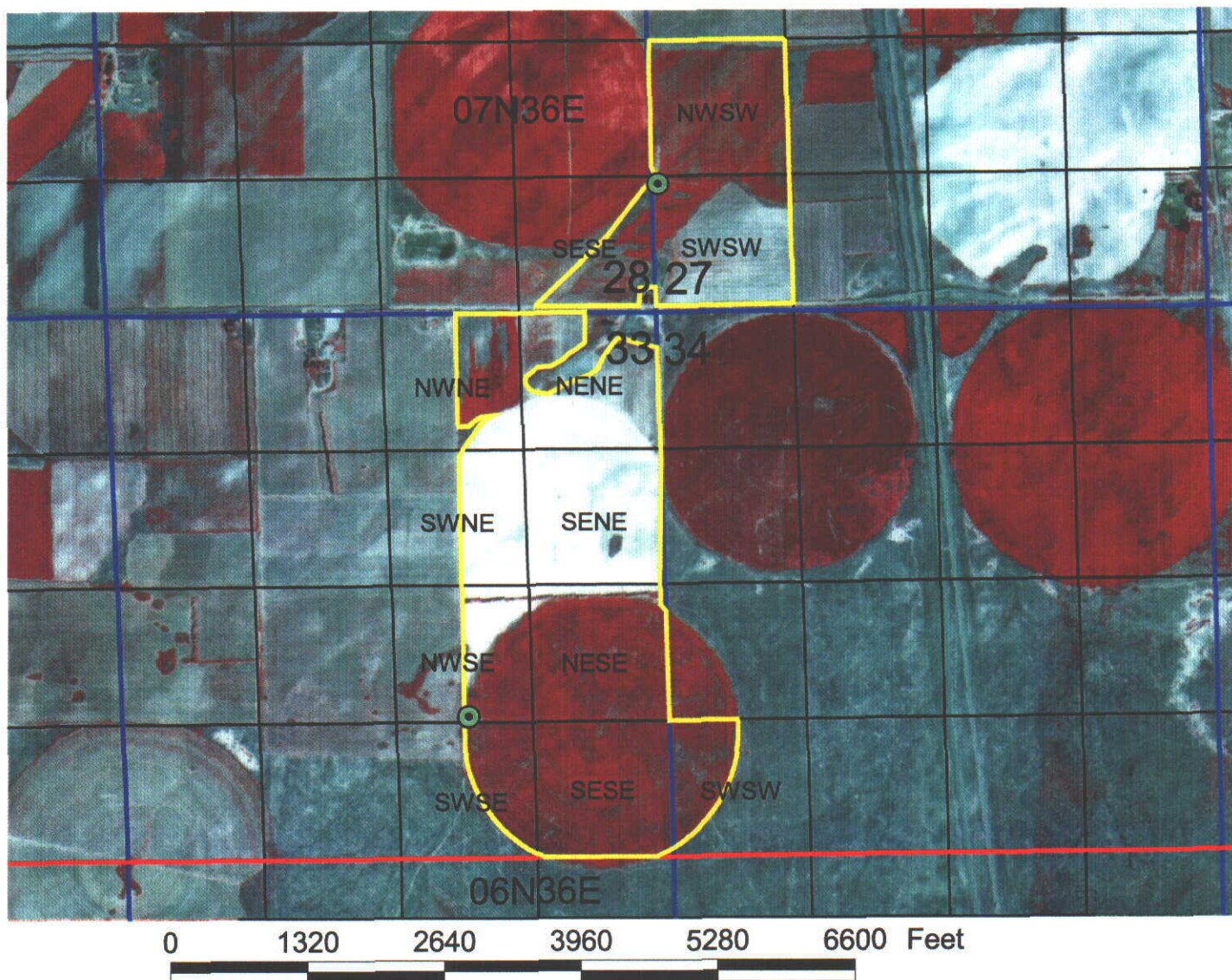




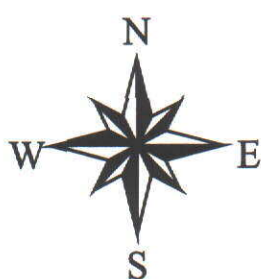
Department of Water Resources

Claim No.: 31-62A, 31-63A
31-11605



Irrigated Acres = 328

- Well.shp
- Water rights.shp
- Townships
- Sections
- QQ



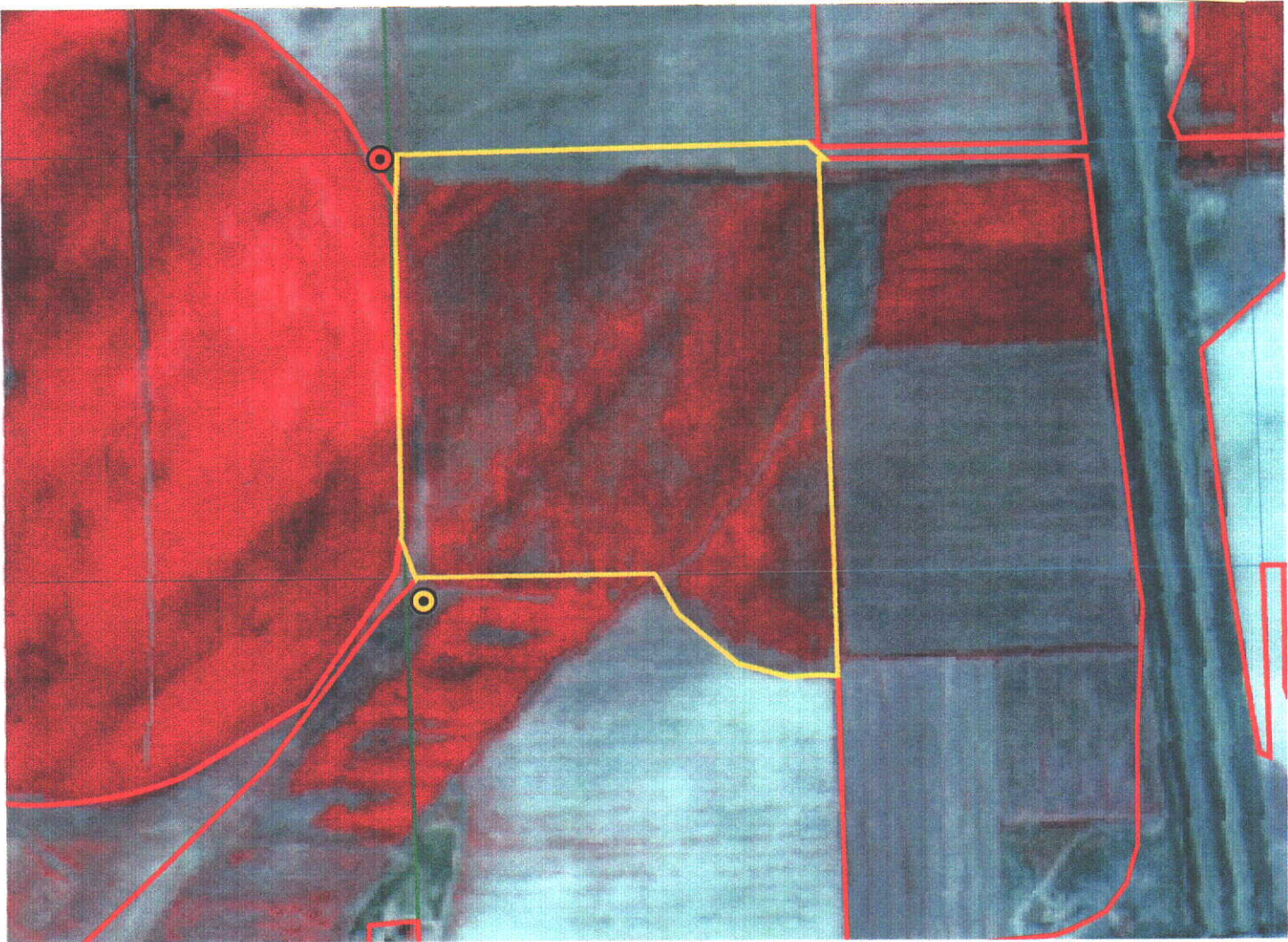
GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepare by: E. Carlsen
Date: February 2002

Idaho Department of Water Resources

Water Right 31-11605

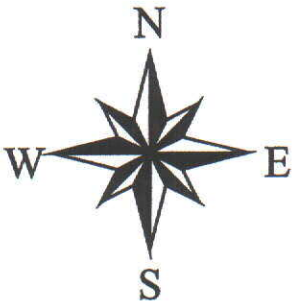
Township 7N Range 36E Section 27, NWSW

originals
sent to
court



0 1320 Feet

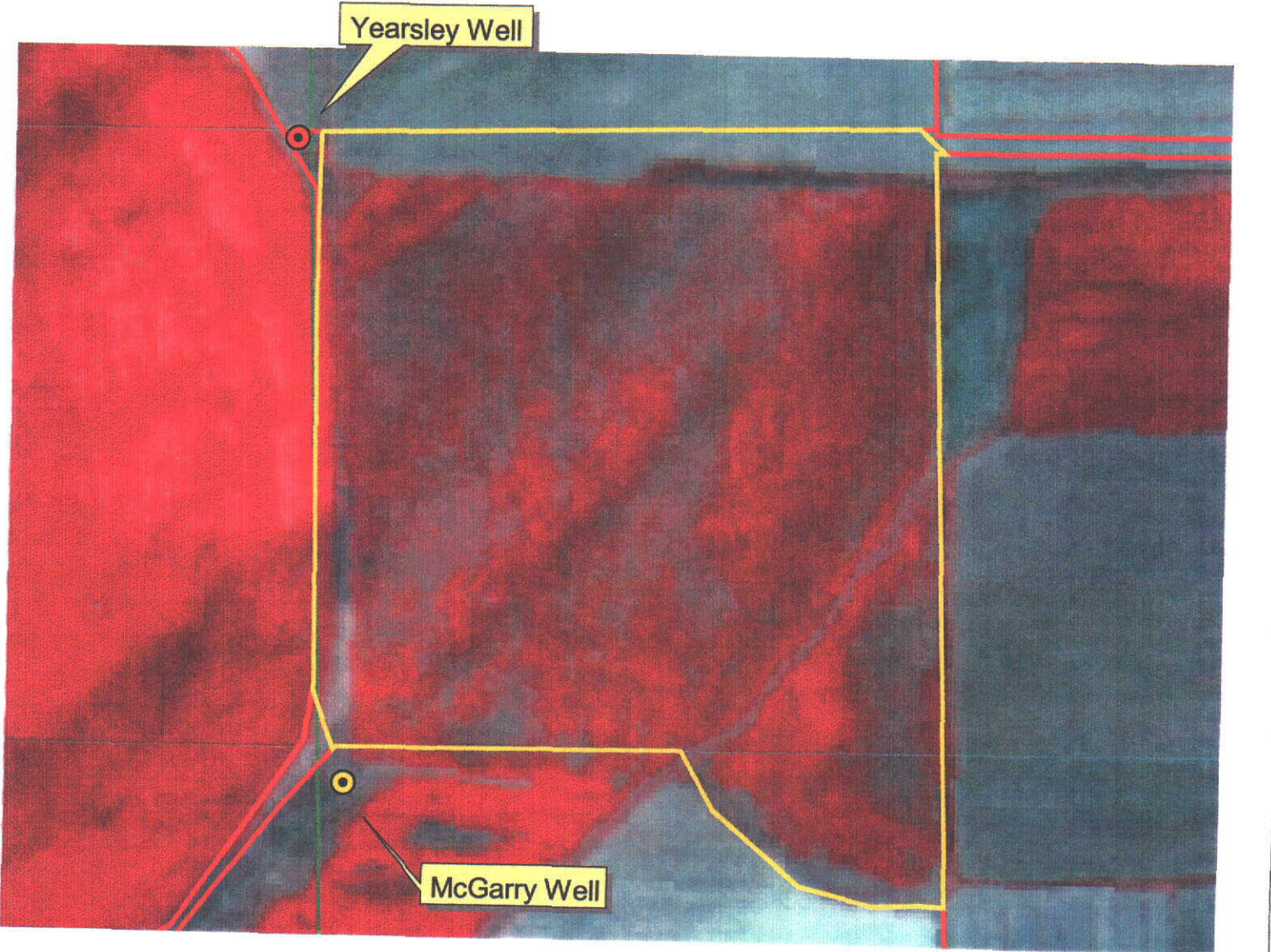
- Point of Re-Diversion
- Point of Diversion - Other Rights
- Place of Use
- Place of Use - Other Rights
- Quarter-quarter Sections
- Section Lines



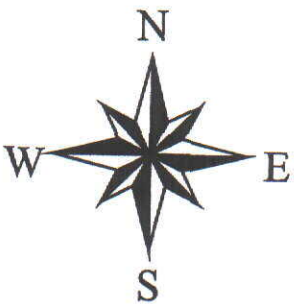
Idaho Department of Water Resources

Enlargement of 31-62A and 31-63A

Township 7N Range 36E Section 27, NWSW



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

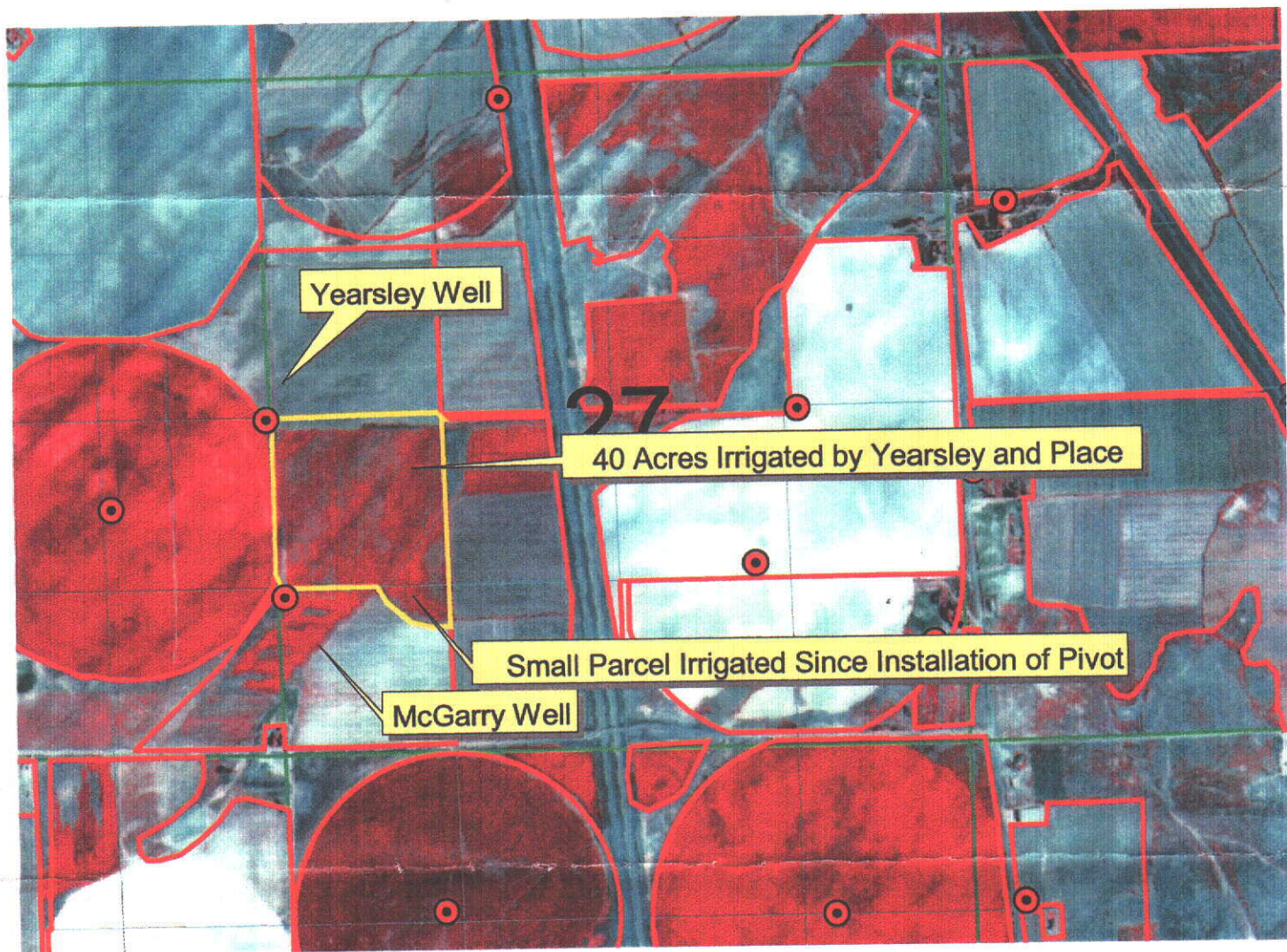


Attachment to Wade Yearsley Affidavit

X

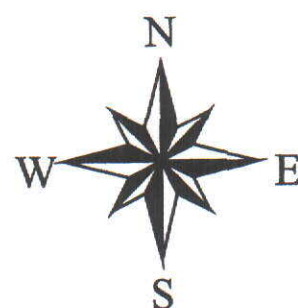
Wade Yearsley

Township 7N Range 36E Section 27, NWSW



0 1320 Feet

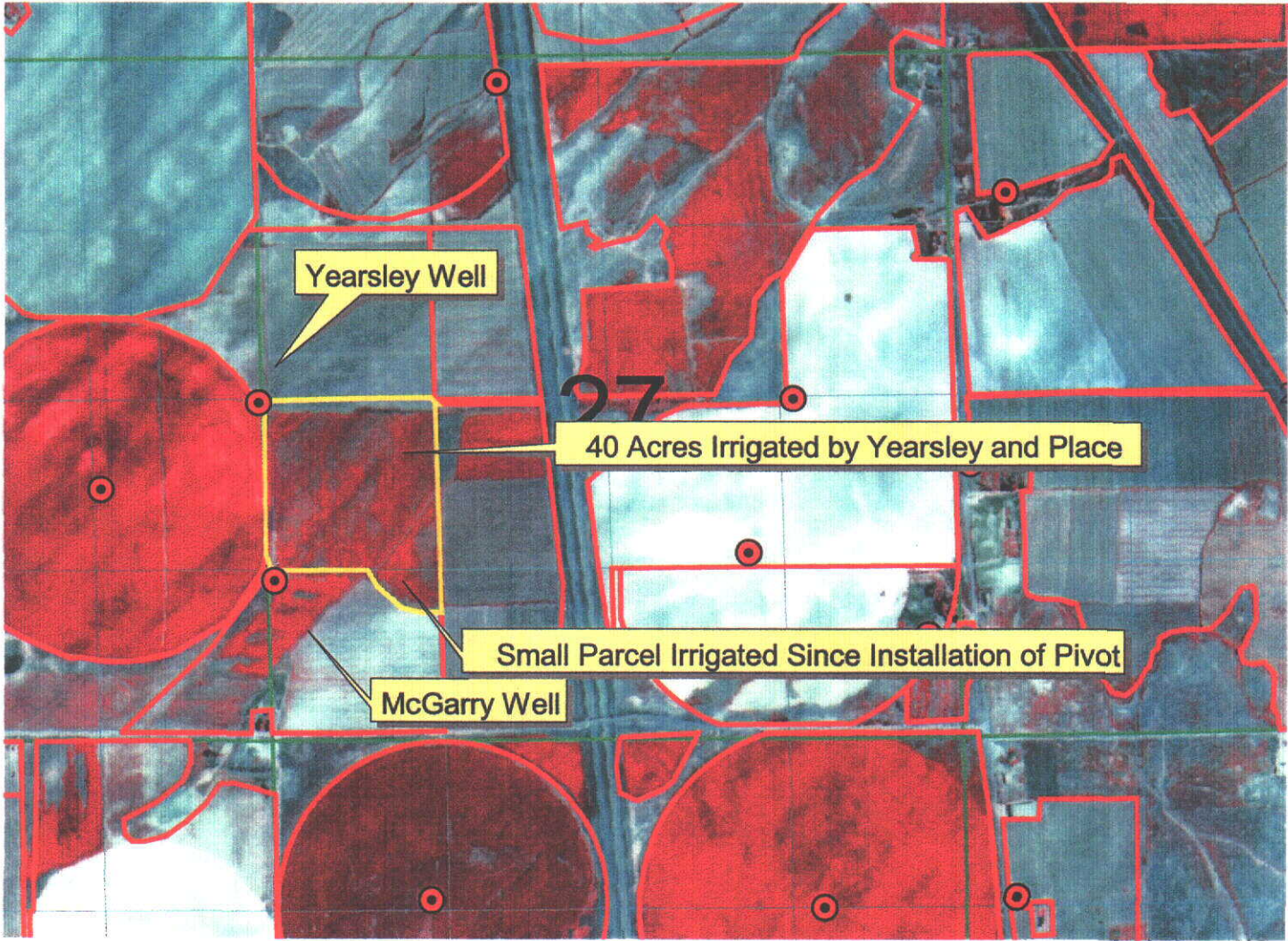
- Point of Diversion
- Place of Use
- Place of Use - Other Rights
- Quarter-quarter Sections
- Section Lines



Attachment to Wade Yearsley Affidavit

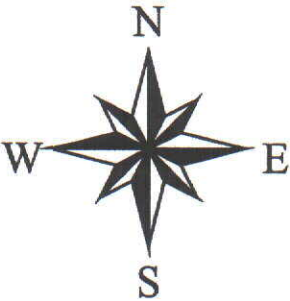
Wade Yearsley

Township 7N Range 36E Section 27, NWSW



0 1320 Feet

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



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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 31-11605

FILED 31 MAY 2002
DISTRICT COURT - 5th JUDICIAL DISTRICT
TWIN FALLS, IDAHO
FILED

NAME AND ADDRESS: PETE MCGARRY
2388 E 1900 N
HAMER, ID 83425

SOURCE: GROUND WATER

QUANTITY: 0.87 CFS
151.20 AFY

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 5.70 CFS. AND TO A TOTAL COMBINED ANNUAL
DIVERSION VOLUME OF 1044.7 AF. COMBINED RIGHT NOS.: 31-62A,
31-63A, 31-7270, 31-11605 AND 31-11619.

PRIORITY DATE: 04/01/1978

THIS WATER RIGHT IS SUBORDINATE TO ALL WATER RIGHTS WITH A
PRIORITY DATE EARLIER THAN APRIL 12, 1994, THAT ARE NOT DECREED
AS ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO CODE. AS
BETWEEN WATER RIGHTS DECREED AS ENLARGEMENTS PURSUANT TO SECTION
42-1426, IDAHO CODE, THE EARLIER PRIORITY RIGHT IS THE SUPERIOR
RIGHT.

POINT OF DIVERSION: T07N R36E S27 NWSWSW Within Jefferson County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.87 CFS 151.20 AFY

PLACE OF USE:	Irrigation	Within Jefferson County
	T07N R36E S27	NWSW 40.0 SWSW 38.0
	S28	SESE 15.0
	S33	NENE 31.0 NWNE 18.0 SENE 39.0 NESE 40.0 SWSE 15.0
		SESE 40.0
	328.0 Acres Total	

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF
A COMBINED TOTAL OF 339 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 31-62A, 31-63A, 31-7270, 31-11605 AND
31-11619.

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF
A COMBINED TOTAL OF 328 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 31-62A, 31-63A AND 31-11605.

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

THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHT NO. 31-62A
AND 31-63A PURSUANT TO SECTION 42-1426, IDAHO CODE.

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).

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

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 31 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): 31-11605

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 31-11605 was mailed
on July 31, 2002, with sufficient first-class postage prepaid
to the following:

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

PETE MCGARRY
2388 E 1900 N
HAMER, ID 83425
Phone: 208-662-5277

ROBBIN GLATZ
Chief Deputy Clerk

RECEIVED
JUL 31 2002
DISTRICT COURT-SRBA
TWIN FALLS CO, IDAHO

JUL 31 2002 19
DISTRICT COURT-SRBA
TWIN FALLS CO, IDAHO
FILE

**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)
) **ORDER OF PARTIAL DECREE**
Case No. 39576)
) **For Water Right 31-11605**
)

On May 29, 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 31-11605 is hereby decreed as set forth in the attached *Partial Decree* Pursuant to I.R.C.P. 54(b).

DATED July 31, 2002



ROGER S. BURDICK
Presiding Judge
Snake River Basin Adjudication

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

TRIBUTARY:

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 5.70 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 1044.7 AF. COMBINED RIGHT NOS.: 31-62A, 31-63A, 31-7270, 31-11605 AND 31-11619.

THIS WATER RIGHT IS SUBORDINATE TO ALL WATER RIGHTS WITH A PRIORITY DATE EARLIER THAN APRIL 12, 1994, THAT ARE NOT DECREED AS ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO CODE. AS BETWEEN WATER RIGHTS DECREED AS ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO CODE, THE EARLIER PRIORITY RIGHT IS THE SUPERIOR RIGHT.

T07N R36E S27 NWSWSW Within JEFFERSON County

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.870 CFS 151.20 AFY

T07N	R36E	S27	NWSW	40.0	T07N	R36E	S27	SWSW	38.0
T07N	R36E	S28	SESE	15.0	T07N	R36E	S33	NENE	31.0
T07N	R36E	S33	NWNE	18.0	T07N	R36E	S33	SWNE	19.0
T07N	R36E	S33	SENE	39.0	T07N	R36E	S33	NESE	40.0
T07N	R36E	S33	NWSE	20.0	T07N	R36E	S33	SWSE	15.0
T07N	R36E	S33	SESE	40.0	T07N	R36E	S34	SWSW	13.0

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 339 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-62A, 31-63A, 31-7270, 31-11605 AND 31-11619.

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 328 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-62A, 31-63A AND 31-11605.

1

02/14/2002

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

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.
THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHT NO. 31-62A AND 31-63A PURSUANT TO SECTION 42-1426, IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

THIS RIGHT IS FOR AN ENLARGEMENT OF 43 ~~43.2~~ ACRES WITHIN THE PLACE OF USE DESCRIBED FOR THIS RIGHT.

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

01/04/2001

WATER RIGHT NO. 31-11605

Owner Type **Name and Address**
Current Owner PETE MCGARRY
 2388 E 1900 N
 HAMER, ID 83425
 (208) 662 5277

Priority Date: 04/01/1978
Basis: Beneficial Use
Status: Valid

Source **Tributary to**
GROUND WATER

<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	0.87 CFS	151.2 AFA	
Total Diversion			0.87 CFS	151.2 AFA	

Location of Point(s) of Diversion:

GROUND WATER NWSWSW Sec. 27 Township 07N Range 36E JEFFERSON County

IRRIGATION Use:
Acre Limit: 43.2

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	27		NWSW	40		SWSW	3.2						

Total Acres: 43.2

Conditions of Approval:

1.

C11

THIS WATER RIGHT IS SUBORDINATE TO ALL WATER RIGHTS WITH A PRIORITY DATE EARLIER THAN APRIL 12, 1994, THAT ARE NOT DECREED AS ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO CODE. AS BETWEEN WATER RIGHTS DECREED AS ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO CODE, THE EARLIER PRIORITY RIGHT IS THE SUPERIOR RIGHT.
2.

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

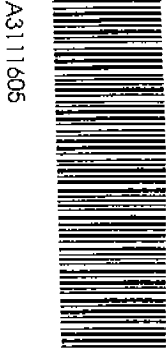
USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 5.70 CFS. COMBINED RIGHT NOS.: 31-62A, 31-63A, 31-11605.
2.

General

THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHT NO. 31-62A AND 31-63A PURSUANT TO SECTION 42-1426, IDAHO CODE.
3.

Explanatory

THIS RIGHT IS FOR AN ENLARGEMENT OF 43.2 ACRES WITHIN THE PLACE OF USE DESCRIBED FOR THIS RIGHT.



Comments:

<u>Author</u>	<u>Date</u>	<u>Subject</u>	<u>Comment</u>
bcontor	1/4/01	Documentation	See memo in paper file 31-7141C regarding phone conversations with Brent Dalling and Wade Yearsley.

Dates:

Licensed Date:
Claim Received Date: 12/28/2000
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Decreed Date:
Date Filed with Court:
Objection Filed Date:
SF5 Filed:
Special Master Recom Signed Date:

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Review Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
POD	1/4/01 9:45:49 AM	bcontor			In Process
POU	1/4/01 9:49:47 AM	bcontor			In Process
Priority Date	1/4/01 9:39:04 AM	bcontor			In Process
Quantity	1/4/01 9:56:32 AM	bcontor			In Process
Season	1/4/01 9:51:16 AM	bcontor			In Process
Source	1/4/01 9:46:30 AM	bcontor			In Process
Summary	1/4/01 10:00:52 AM		1/4/01 10:00:52 AM	bcontor	Complete
Use	1/4/01 9:50:10 AM	bcontor			In Process

Other Information:

Receipt Number(s):
State or Federal:
Owner Name Connector:
Water District Number:
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:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log Text</u>
POD	1/4/01 9:45:47 AM	bcontor	1. (YES) The basis is beneficial use. 4. (NO) There is not evidence that there has been a change in the Point of Diversion. 6. (YES) The file contains all the necessary information to verify the POD. Comment for 6: GPS, parent right transfer 8. (NO) Point of Diversion remark was not required. 9. (NO) Point of Diversion condition was not required.
POD	1/4/01 9:42:54 AM	bcontor	Edited point location
POU	1/4/01 9:49:45 AM	bcontor	1. (YES) The POU is required. 2. (YES) The basis of claim is beneficial use. 5. (NO) There is no evidence that there has been a change in the POU. 9. (YES) The file contains all the necessary information to verify the POU. Comment for 9: GIS, Yearlsey and Dalling phone conversations, conversation w/ claimant at time of claims taking. 12. (NO) POU remark was not required. 13. (NO) POU condition was not required.

Priority Date	1/4/01 9:39:02 AM	bcontor	1. (NO) There has not been a later court decree of the water right(s) from the water source. 4. (YES) The basis of claim is beneficial use. 4b. (YES) The priority date was claimed after the date a permit was required for the source and water use. 9. (YES) The claim was for an expansion or enlargement under 42-1416B or 42-1426. 10. (YES) The claim file contains sufficient evidence of priority date. 12. (YES) The claim is recommended. 14. (NO) Priority remark was not required. 15. (NO) Priority condition was not required.
Quantity	1/4/01 9:56:30 AM	bcontor	1. (YES) The basis of claim is beneficial use. 5. (YES) A flow measurement was required. Comment for 5: NWMD exams, see memo in file 6. (YES) The source is ground water and the purpose of use requires a diversion volume limit. 8. (YES) Irrigation is a purpose of use. 9. (YES) Quantity remark was required. 10. (NO) Quantity condition was not required.
Season	1/4/01 9:51:15 AM	bcontor	1. (YES) The basis of claim is beneficial 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	1/4/01 9:46:28 AM	bcontor	1. (YES) The basis is beneficial use. 4. (NO) There is not evidence that there has been a change in the Source. 7. (YES) The file contains all of the necessary information to verify the source. Comment for 7: NWMD exam of POD, Dalling and Yearsley phone conversations. 8. (NO) The source is not surface water. 10. (NO) Source remark was not required. 11. (NO) Source condition was not required.
Summary	1/4/01 10:00:50 AM	bcontor	1. (YES) The basis of the claim is beneficial use. 2. (YES) All the water being used for all the purposes is being claimed and to the extent it was claimed. 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	1/4/01 9:50:07 AM	bcontor	1. (YES) The basis of claim is beneficial use. 4. (NO) There is not evidence that there has been a change to the purpose of use. 9. (YES) The file contains all the necessary information to verify the purpose of use. 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 31-11605
Date Received: 12/28/00
Receipt No: F 026 405
Received By: Bae

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

PETE MCGARRY Phone: (208) 662 5277
2388 E 1900 N
HAMER ID USA 83425

2. Date of Priority: 04/01/1978

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County
07N	36E	27	NW SW SW	JEFFERSON

5. Description of diverting works:

Well and pump to mainline to center pivot.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	10/31	0.87	

7. Total Quantity Appropriated is:
0.87 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	27	NW SW	IRRIGATION	40
			SW SW	IRRIGATION	3.2

Section Acres 43.2
Total Acres 43.2

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:

THIS IS AN ENLARGEMENT CLAIM BASED UPON RIGHTS 31-62A AND 31-63A. THIS IS BASED UPON IRRIGATION OF THE LANDS BY WADE YEARSLEY IN THE LATE 1970S AND EARLY 1980S, THEN BY JUSTIN PLACE, THEN BY BRENT DALLING. ALL THESE PARTIES LEASED THE LAND FROM THE CLAIMANT.

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: _____

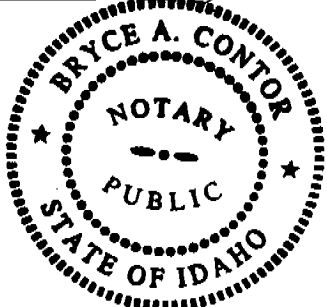
For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Pete McHarvey Date: 12/29/00
Date: _____

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 28 day
of December 20, 2000 Bryce A. Contor



Notary Public
Residing at Mod Lake, ID
My commission Expires 10/14/2005

Idaho Department of Water Resources

Enlargement of 31-62A and 31-63A

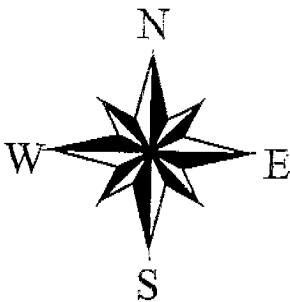
Township 7N Range 36E Section 27, NWSW

Yearsley Well

McGarry Well

0 1320 Feet

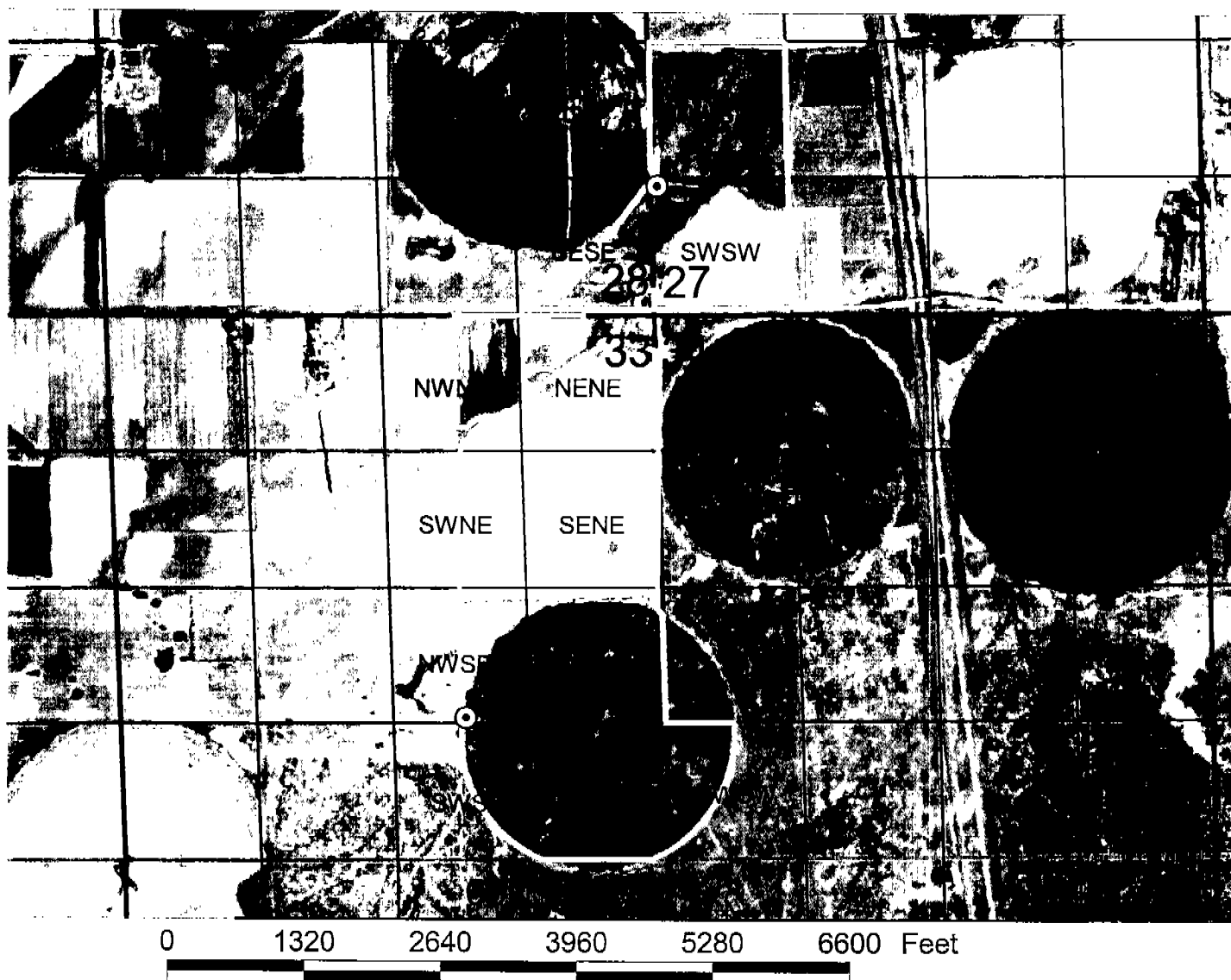
- ⊙ Point of Diversion
- ⊙ Point of Diversion - Other Rights
- Place of Use
- Place of Use - Other Rights
- Quarter-quarter Sections
- Section Lines





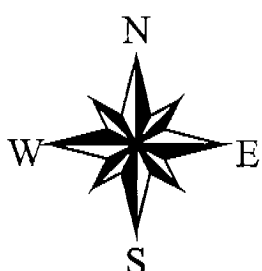
Department of Water Resources

Claim No.: 31-62A, 31-63A
31-11605



Irrigated Acres = 528

- Well.shp
- Water rights.shp
- Townships
- Sections
- QQ



GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepare by: E. Carlsen
Date: February 2002

Idaho Department of Water Resources

Water Right 31-11605

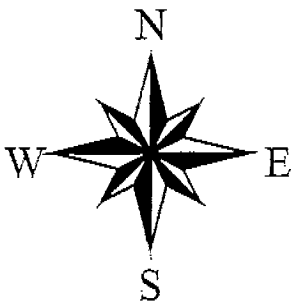
*originals
sent to
court*

Township 7N Range 36E Section 27, NWSW



0 1320 Feet

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



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	)	SUBCASE NO: 31-11605
	)	(Uncontested overlap of 31-62A,
	)	63A and 31-7270)
Case No. 39576	)	STANDARD FORM 5
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; and they have been served with sufficient process, according to the law; and that they have appeared, prosecuted and defended their positions with regard to this water right dispute.

Water right number 31-11619 is an uncontested overlap of contested water rights 31-62A, 31-63A and 31-7270. The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT:	OBJECTOR:
<u>Loren McGarry</u> 2/25/02	<u>Steven J. Schuster</u> 3/4/02
Loren McGarry Loren McGarry Ranches.	Steven J. Schuster Deputy Attorney General Idaho Department of Lands

IDWR CONCURRENCE:	
<u>Carter Fritschle</u> 2-14-02	<u>Candice M. McHugh</u> 2/14/02
Carter Fritschle Adjudication Water Rights Supervisor, IDWR	Candice M. McHugh (As to Form) Attorney for IDWR

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

SF5 31-11605

02/14/2002

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

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.
THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHT NO. 31-62A AND 31-63A
PURSUANT TO SECTION 42-1426, IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

THIS RIGHT IS FOR AN ENLARGEMENT OF 43 ~~43.2~~ ACRES WITHIN THE PLACE OF USE
DESCRIBED FOR THIS RIGHT.

h M
CT *SSS*
8m^s

CERTIFICATE OF MAILING

I certify that on March 14, 2002 I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

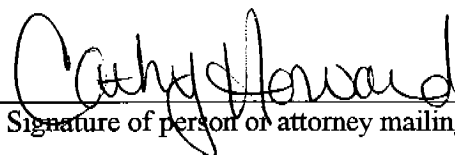
2. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0098

IDWR Document Repository
P.O. Box 83720
Boise, ID 83720-0098

Steve J. Schuster
Deputy Attorney General
Idaho Department Of Lands
P.O. Box 83720
Boise, ID 83720-0050

Loren McGarry
Loren McGarry Ranches
HC 69 Box 1070
Hamer, ID 83425



Signature of person or attorney mailing the form

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: 31-11605

PETE MCGARRY
2388 E 1900 N
HAMER ID 83425

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: 2/21/00 SIGNATURE: *Pete McGarry*
Please print your name: Pete MCGARRY

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

RECEIVED

JAN 09 2001

Department of Water Resources
Eastern Region

AFFIDAVIT

I, Wade Yearsley, affirm that I leased a 40 acre parcel from Loren McGarry, from about the year 1978 to about the year 1985. This parcel is directly east of my large pivot and directly south of my small pump. The legal description is the NW 1/4 of the SW 1/4 of section 27, Township 7N Range 36E, per the attached aerial photograph. I irrigated the full 40 acres. After the end of my lease, Justin Place leased and irrigated the same lands with handlines for one or two years. Following Justin's lease, I observed that a center pivot was installed which basically irrigated the full quarter section, including the 40 acres I irrigated and the small quarter-circle patch immediately south of the 40 acres.

X Wade L Yearsley
Wade Yearsley

1-5-2001

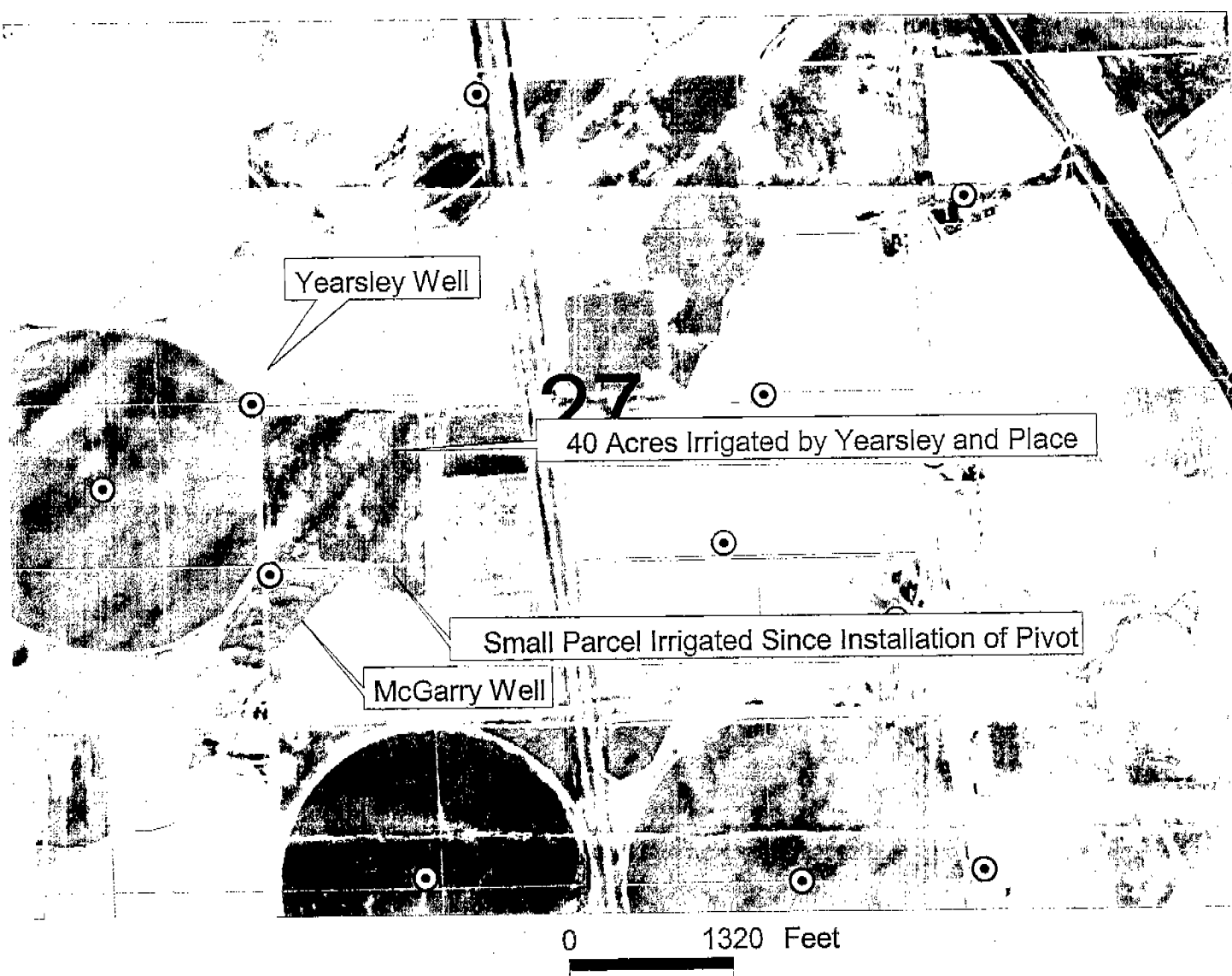
Date

Fill in blanks,
sign affidavit
and photo

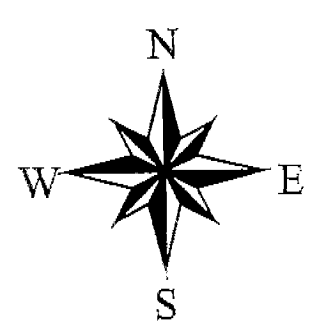
Attachment to Wade Yearsley Affidavit

Wade Yearsley

Township 7N Range 36E Section 27, NWSW



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



31-11605

AFFIDAVIT

I, Wade Yearsley, affirm that I leased a 40 acre parcel from Loren McGarry, from about the year _____ to about the year _____. This parcel is directly east of my large pivot and directly south of my small pump. The legal description is the NW 1/4 of the SW 1/4 of section 27, Township 7N Range 36E, per the attached aerial photograph. I irrigated the full 40 acres. After the end of my lease, Justin Place leased and irrigated the same lands with handlines for one or two years. Following Justin's lease, I observed that a center pivot was installed which basically irrigated the full quarter section, including the 40 acres I irrigated and the small quarter-circle patch immediately south of the 40 acres.

Wade Yearsley

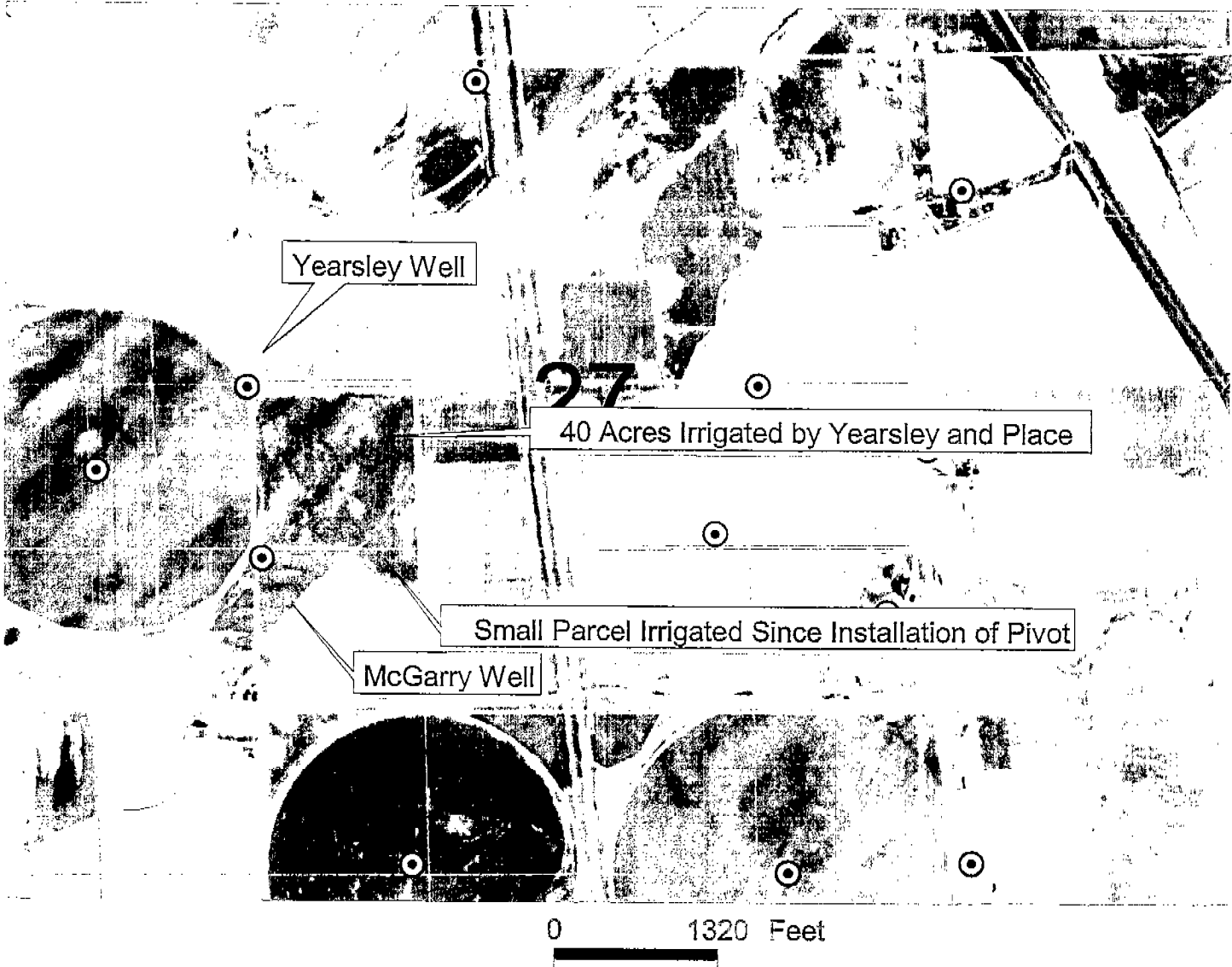
Date

Even if this
affidavit is not
returned, Mr. Yearsley
confirmed these
things to me in a
phone conversation
Dec 1/4/00
See memo in this file

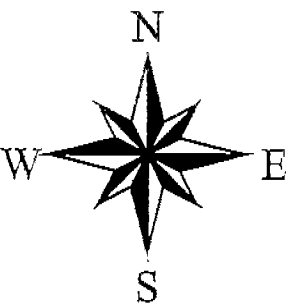
Attachment to Wade Yearsley Affidavit

Wade Yearsley

Township 7N Range 36E Section 27, NWSW



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



MEMORANDUM

To: A31-7141C File
Loren McGarry Ranches AT File
Fr: Bryce Contor
Date: 12/23/2000
Re: Phone conversations w/ Brent Dalling &
Wade Yearsley

31-62A
31-63A
31-7270

I called Brent to discuss whether he had irrigated any lands in the SESE. If he had, he could sign an amended claim asserting accomplished transfer, and I could recommend the full licensed acres.

Brent said he had not irrigated those lands, but that his predecessor Wade Yearsley would know if they had been irrigated prior to Brent's purchase.

We also discussed the lack of an AT claim on the NWSW of section 27. This belongs to McGarry but Brent is interested because he is leasing the ground w/ an option to buy.

Brent stated that those lands had been irrigated by handlines out of Wade Yearsley's small well immediately to the North. I told Brent that McGarry had a post-87 transfer that may prevent asserting enlargement &/or accomplished transfer, but that I would look at the files Tuesday.

12/23/2000 (2)

I then called Wade Yearsley. He confirmed everything Brent had said and added some details.

The important details of these conversations are:

- 1) 31-7141C has only been used in the SWSE of section 28. The entire parcel is 20 acres. The feed lot has been present almost from the beginning. Therefore the original finding of about 15 or 16 acres is probably correct.
- 2) The diversion rate claimed & licensed for 31-7141C is 0.38 cfs, which is more than 0.02/acre on the recommendable acres. If NWMD exam shows current capacity requires the full 0.38, I plan to recommend the 0.38 with an appropriate 14-day volume limitation based on the 0.02/acre rate. This will be on the grounds that the developed diversion rate was within the original license authorization and is required for the installed system. Any injury can be asserted in the objection period.
- 3) When Wade Yearsley installed his small well, he had a lease arrangement with McGarry for the 40 acres just south of his 50 acres. He installed a pump designed for $4\frac{1}{2}$ handlines, as he recalls the design flow was about 800 GPM.

12/23/2000 (3)

- 4) Wade watered the full 90 acres from this well up through about 1985. For two or three years thereafter, Justin Place rented the McGarry 40 and continued to use Yearsley's well for water supply. Sometime later the current pivot was installed & the McGarry 40 has been irrigated from McGarry's well in SWSW of 27 via the pivot.

Based on the above, I need to carefully review the McGarry claims & recommendations and post-87 transfers. One concern I discussed with Brent is that the post-87 transfers may prevent asserting enlargement / accomplished transfer.

However, I need to review with Harold Jones the status of enlargements & transfers at the time the McGarry transfers were approved. It may be that at that time, transfers could not recognize enlargements.

It also may be that the transfer only involved the Hamer Canal right and not the 7000 Series license.

If possible, my plan is to assert an enlargement / accomplished transfer of PD when Yearsley began irrigating the McGarry 40. Then, assert a second accomplished transfer of PD when the pivot was installed (back to the original licensed PD).

Dave A. Couture

of McGarry's
4000-series
license

Transfer is OK, pre-1987

MEMORANDUM

To: A31-11605
Fr: Bryce Contor
Date: 12/28/2000
Re: Diversion Rate



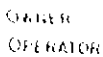
The existing rights on the overlapped POU for the two McGarry Wells include:

31-7270	McGarry	4.64 cfs
31-62A	McGarry	4.03 cfs
31-63A	McGarry	1.67 cfs
31-62P	Dalling	0.71 cfs
31-63P	Dalling	0.29 cfs
Total		11.34 cfs

The capacity measured by the North Water Measurement District is:

North Well	4.21 cfs
South Well	2.33 cfs
Total	6.54 cfs

Therefore I conclude that the enlargement does not result in an increase of diversion rate, and that the recommended diversion rates are adequate to allow current irrigation practices.



R. L. Oram

same
Jefferson, Idaho

Mud Lake Soil & Water Conservation District

FERN R. C.

DATE 10-6-64

SCALE 8" / MI

NOTES 534

PHOTO NO 7 AA-136

