

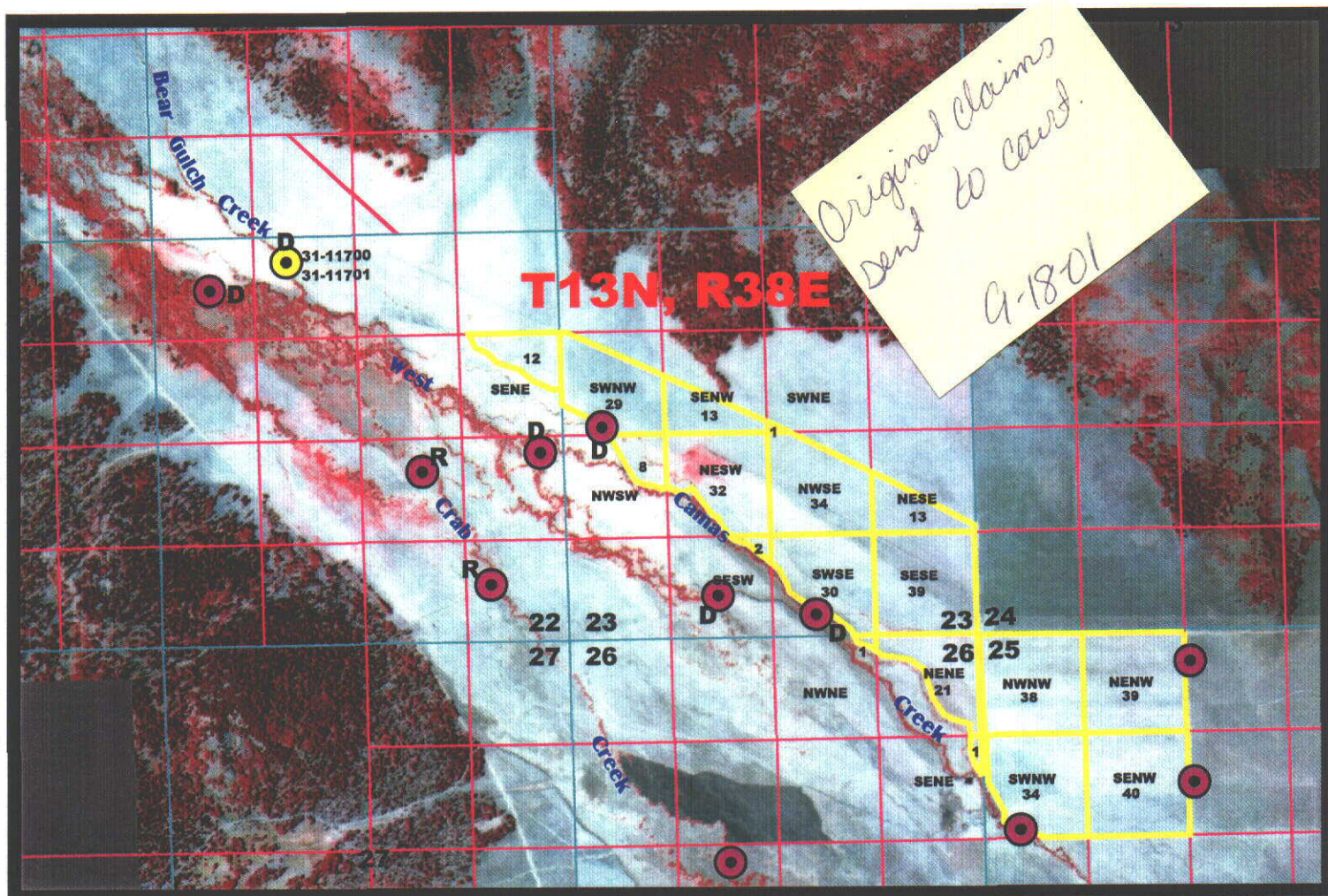


STATE OF IDAHO

Department of Water Resources

Eastern Region

Water Right(s): 31-11700, 31-11701



1000 0 1000 2000 3000 4000 5000 6000 7000 8000 9000 10000 11000 12000 13000 Feet

LEGEND



Point of Diversion

SESE

Place of Use



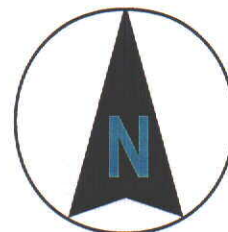
Section Line



Quarter-section line

Legal Description: T13N, R38E
(parts of) Secs. 22, 23, 25, 26

Point(s) of Diversion: T13N, R38E
Sec. 22 NWNENW (Bear Gulch Ck)



GIS Place of Use Illustration
1987/1988 NAPP photography
Prepared by: A. Ruberry
Date: April 2001

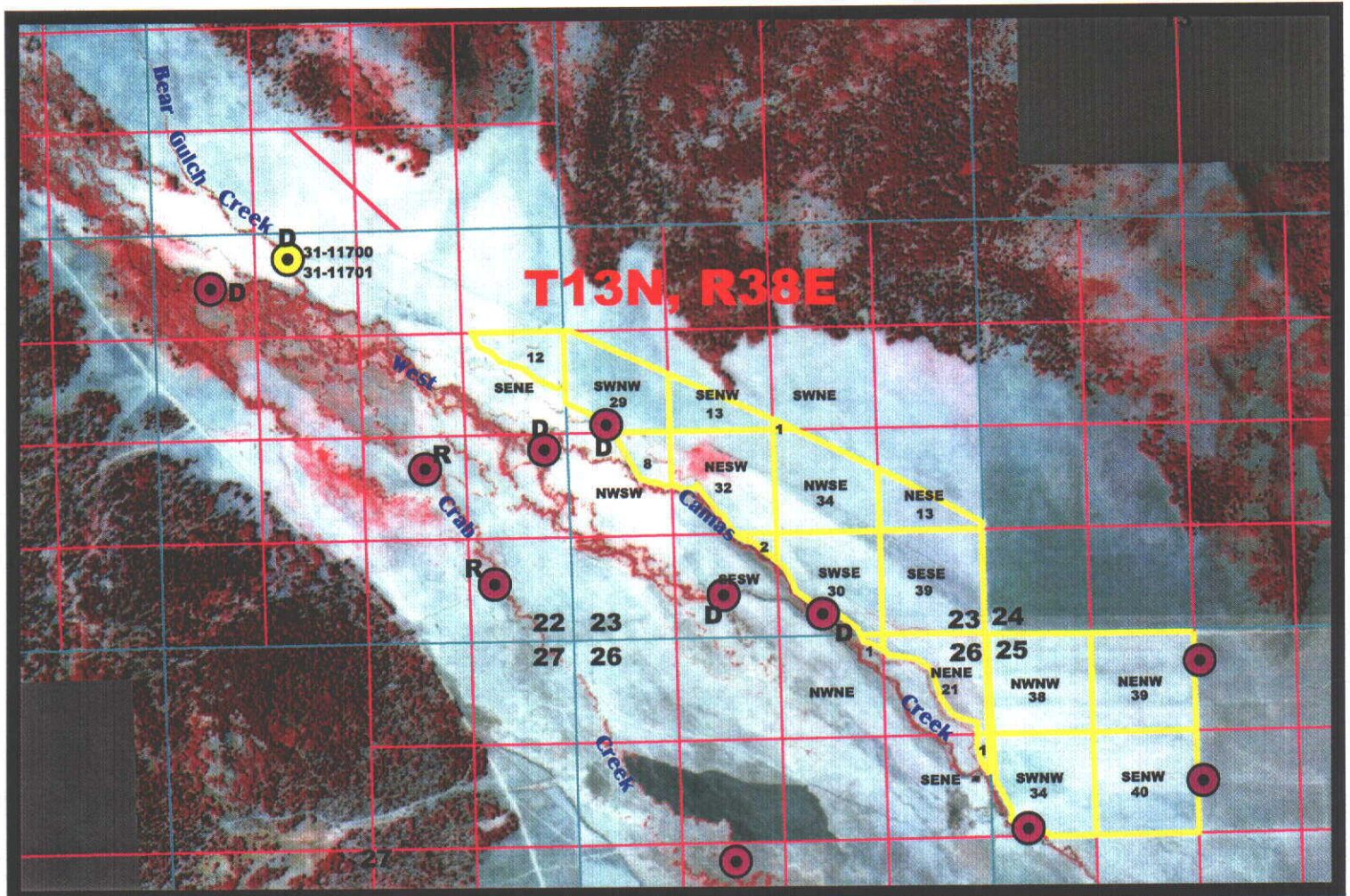


STATE OF IDAHO

Department of Water Resources

Eastern Region

Water Right(s): 31-11700, 31-11701



1000 0 1000 2000 3000 4000 5000 6000 7000 8000 9000 10000 11000 12000 13000 Feet

LEGEND



Point of Diversion

SESE

Place of Use



Section Line



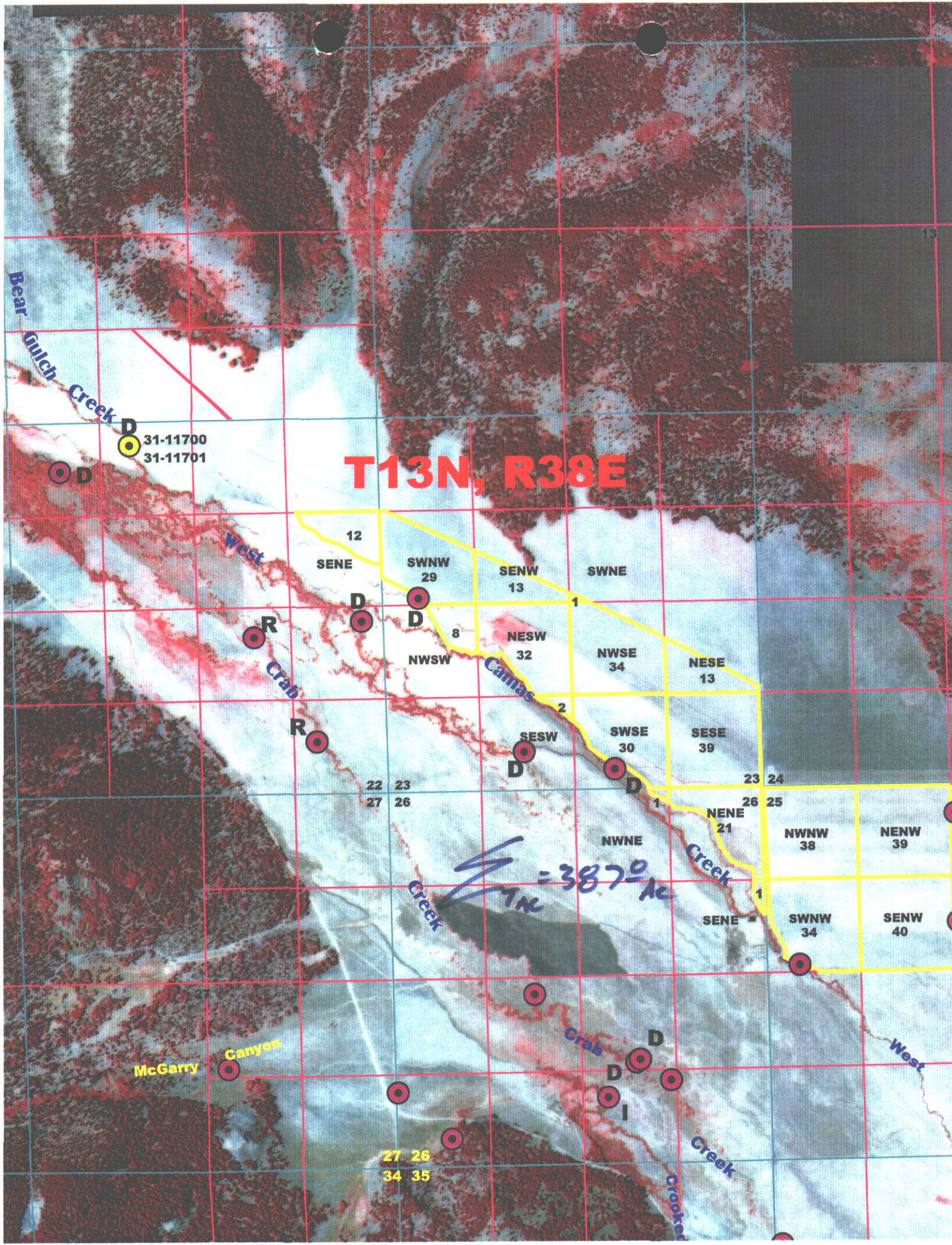
Quarter-section line

Legal Description: T13N, R38E
(parts of) Secs. 22, 23, 25, 26

Point(s) of Diversion: T13N, R38E
Sec. 22 NWNENW (Bear Gulch Ck)



GIS Place of Use Illustration
1987/1988 NAPP photography
Prepared by: A. Ruberry
Date: April 2001



T13N, R38E

31-11700
31-11701

SENE

SWNW 29

SENW 13

SWNE

R

D

D

1

NESW 32

NWSE 34

NESE 13

R

R

NWSW

8

SESW

SWSE 30

SESE 39

22 23
27 26

Handwritten: 387° AC

23 24

26 25

NENE 21

NWNW 38

NENW 39

NWNE

Creek

Creek

SENE

SWNW 34

SENW 40

McGarry

Canyon

Crab

D

D

I

27 26
34 35

Creek

West

09/17/2002

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

RIGHT NUMBER: 31-11701

VERSION 2

NAME AND ADDRESS: RANDY J HILLMAN
5518 N 4000 W
REXBURG ID 83440

RON R HILLMAN
3120 E 2200 N
HAMER ID 83425

NICK R HILLMAN
2300 N 2800 E
HAMER ID 83425

SOURCE: BEAR GULCH CREEK

TRIBUTARY: WEST CAMAS CREEK

QUANTITY: 1.60 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 7.74 CFS. COMBINED RIGHT NOS.: 31-82, 31-83,
31-84, 31-85, 31-86, 31-11700, 31-11701.

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT
EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 09/01/1909

POINT OF DIVERSION:

T13N R38E S22 NWNENW Within CLARK County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	05/01 10/31	0.200 CFS
IRRIGATION	05/01 10/31	1.600 CFS

PLACE OF USE:	T13N R38E S22	SENE	12.0	T13N R38E S23	SENE	1.0
	T13N R38E S23	SWNW	29.0	T13N R38E S23	SENE	13.0
	T13N R38E S23	NESW	32.0	T13N R38E S23	NWSW	8.0
	T13N R38E S23	SESW	2.0	T13N R38E S23	NESE	13.0
	T13N R38E S23	NWSE	34.0	T13N R38E S23	SWSE	30.0
	T13N R38E S23	SESE	39.0	T13N R38E S25	NENW	39.0
	T13N R38E S25	NWNW	38.0	T13N R38E S25	SWNW	34.0
	T13N R38E S25	SENE	40.0	T13N R38E S26	NENE	21.0
	T13N R38E S26	NWNE	1.0	T13N R38E S26	SENE	1.0

STOCKWATER same as IRRIGATION

387 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 387 ACRES IN A SINGLE IRRIGATION
SEASON. COMBINED RIGHT NOS.: 31-82, 31-83, 31-84, 31-85, 31-86, 31-11700,
31-11701.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 80 ACRES WITHIN THE PLACE OF USE
DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

Water Right 31-11701

09/17/2002

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF 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.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

EXPLANATORY MATERIAL: Beneficial Use

STOCKWATER; 1200 CATTLE.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT
TO SECTION 42-1425, IDAHO CODE.

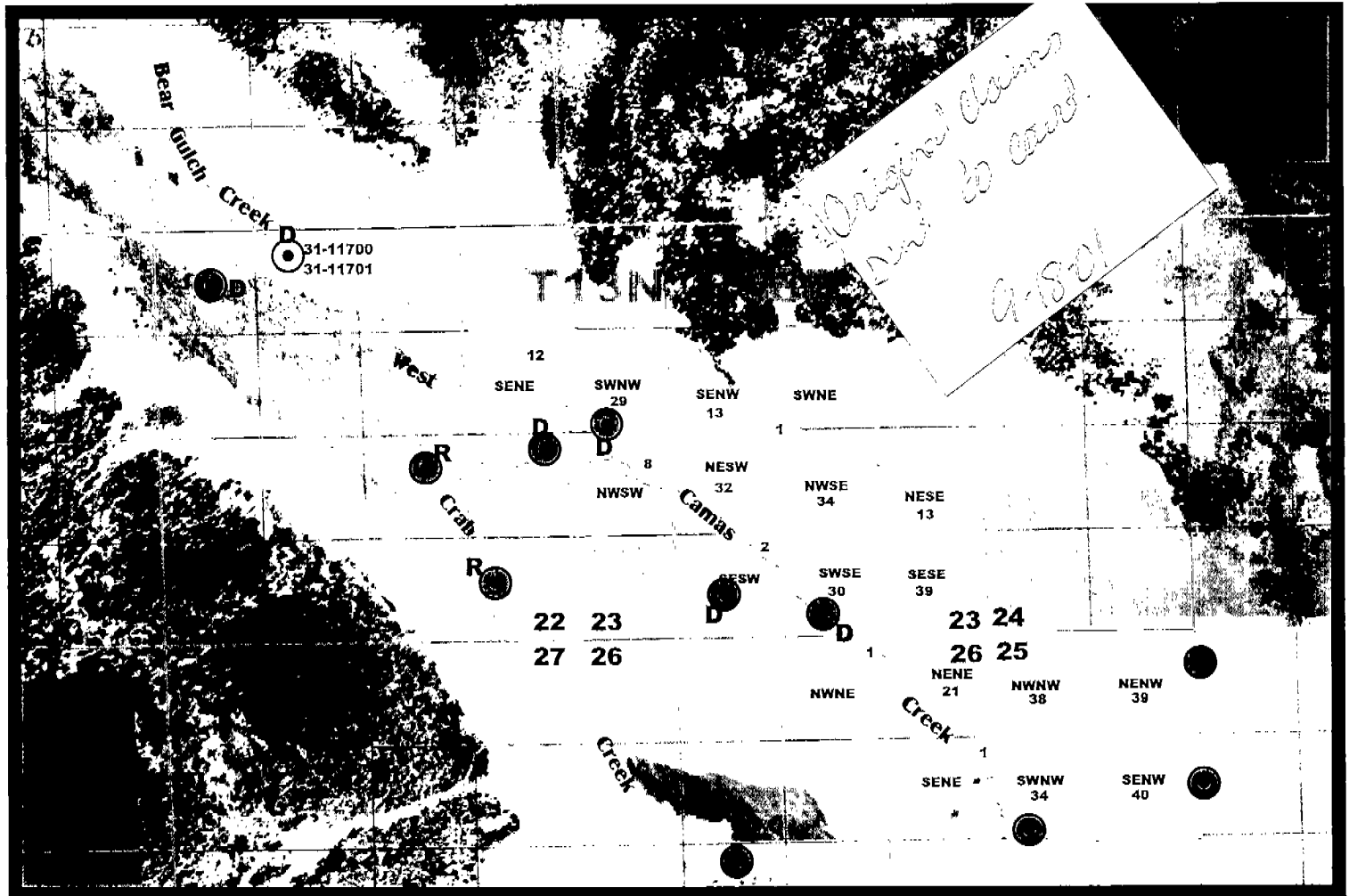


STATE OF IDAHO

Department of Water Resources

Eastern Region

**Water Right(s):
31-11700, 31-11701**



LEGEND



Point of Diversion

SESE

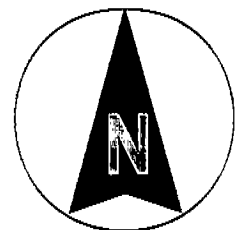
Place of Use

Section Line

Quarter-section line

**Legal Description: T13N, R38E
(parts of) Secs. 22, 23, 25, 26**

**Point(s) of Diversion: T13N, R38E
Sec. 22 NWNENW (Bear Gulch Ck)**



GIS Place of Use illustration
1987/1988 NAPP photography
Prepared by: A. Ruberry
Date: April 2001

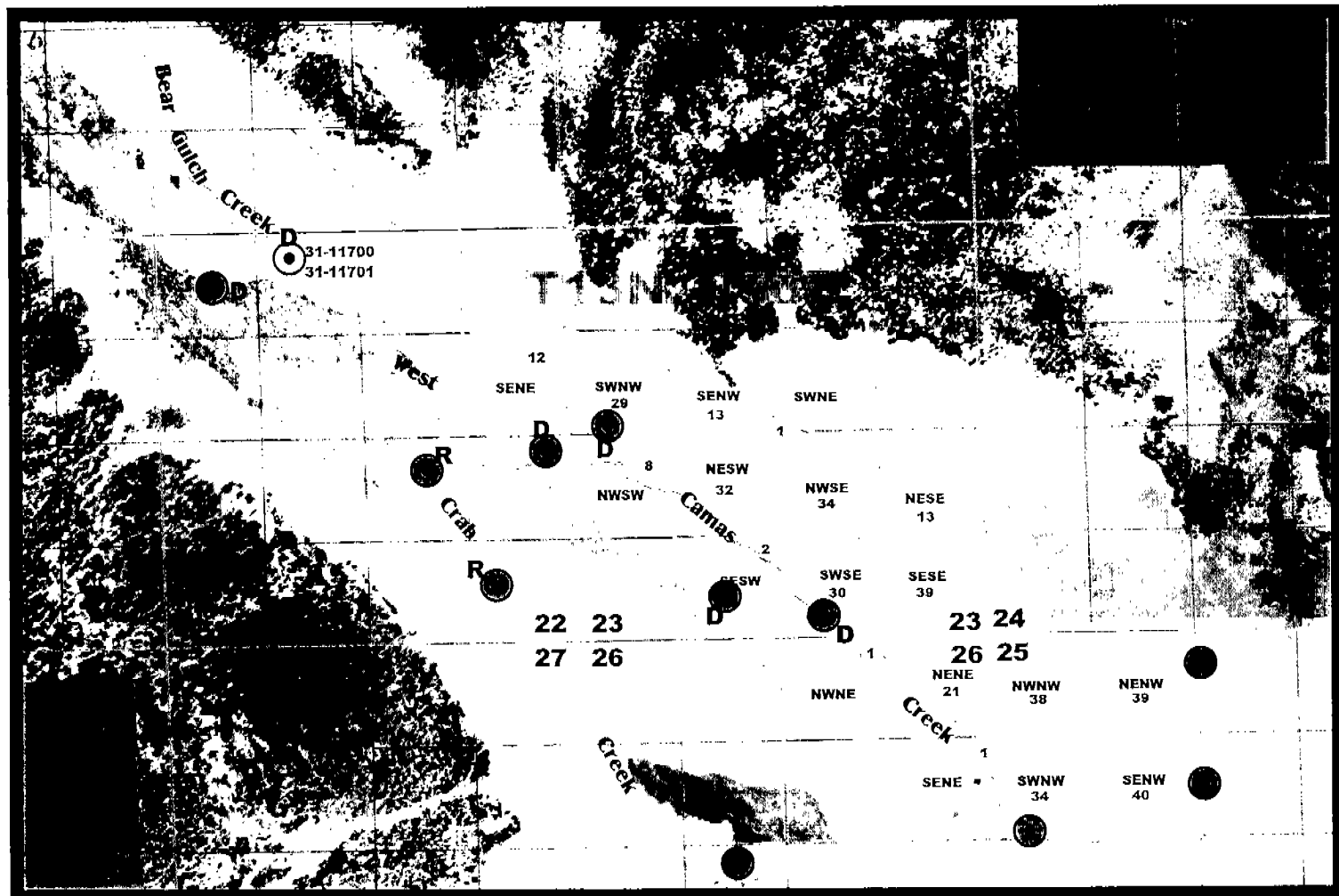


STATE OF IDAHO

Department of Water Resources

Eastern Region

**Water Right(s):
31-11700, 31-11701**



1000 0 1000 2000 3000 4000 5000 6000 7000 8000 9000 10000 11000 12000 13000 Feet

LEGEND



Point of Diversion

SESE

Place of Use



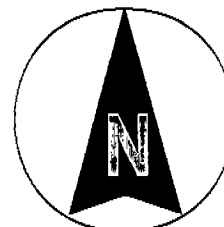
Section Line



Quarter-section line

**Legal Description: T13N, R38E
(parts of) Secs. 22, 23, 25, 26**

**Point(s) of Diversion: T13N, R38E
Sec. 22 NWNE (Bear Gulch Ck)**



GIS Place of Use illustration
1987/1988 NAPP photography
Prepared by: A. Ruberry
Date: April 2001

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

04/11/2001

RIGHT NUMBER: 31-11701
NAME AND ADDRESS: NICK R HILLMAN
2300 N 2800 E
HAMER, ID 83425
RON R HILLMAN
3120 E 2200 N
HAMER, ID 83425
RANDY J HILLMAN
5518 N 4000 W
REXBURG, ID 83440

SOURCE: BEAR GULCH CREEK TRIBUTARY: WEST CAMAS CREEK

QUANTITY: 1.6 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE
SHALL NOT EXCEED 13,000 GALLONS PER DAY.
USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 7.74 CFS. COMBINED RIGHT
NOS.: 31-82, 31-83, 31-84, 31-85, 31-86, 31-11700, 31-11701.

PRIORITY DATE: 05/01/1898

POINT OF DIVERSION: T13N R38E S22 NWNENW Within CLARK County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	05-01 10-31	1.60 CFS
STOCKWATER	05-01 10-31	0.20 CFS

PLACE OF USE:

IRRIGATION Within CLARK County					
T13N R38E S22	SENE	12	T13N R38E S23	SENE	1
T13N R38E S23	SWNW	29	T13N R38E S23	SENE	13
T13N R38E S23	NESW	32	T13N R38E S23	NWSW	8
T13N R38E S23	SESW	2	T13N R38E S23	NESE	13
T13N R38E S23	NWSE	34	T13N R38E S23	SWSE	30
T13N R38E S23	SESE	39	T13N R38E S25	NENW	39
T13N R38E S25	NWNW	38	T13N R38E S25	SWNW	34
T13N R38E S25	SENE	40	T13N R38E S26	NENE	21
T13N R38E S26	NWNE	1	T13N R38E S26	SENE	1

STOCKWATER Use same as IRRIGATION

387 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED
TO THE IRRIGATION OF A COMBINED TOTAL OF 387 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-82, 31-83, 31-84,
31-85, 31-86, 31-11700, 31-11701.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 80 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION
SEASON.

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

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: BASIS OF CLAIM - Beneficial Use

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT
TO SECTION 42-1425, IDAHO CODE.
STOCKWATER; 1200 CATTLE.

Fee: Claim 50⁰⁰
Late 50⁰⁰
\$100⁰⁰

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 31-11701
Date Received: 4/9/01
Receipt No:
Received By: E026618
E026619

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

NICK R HILLMAN Phone: (208)662-5434

2300 N 2800 E
HAMER ID USA 83425

RANDY J HILLMAN Phone: (208) 359-1877

5518 N 4000 W
REXBURG ID USA 83440

RON R HILLMAN Phone: (208)662-5483

3120 E 2200 N
HAMER ID USA 83425

2. Date of Priority: 05/01/1898

3. Source: BEAR GULCH CREEK Trib. to: WEST CAMAS CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
13N	38E	22	NW NE NW	CLARK	

5. Description of diverting works:

HEADGATE WITH WEIR TO OPEN DITCH.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	05/01	10/31	1.6	
STOCKWATER	05/01	10/31	0.2	

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

8. Total consumptive use:

9. Non-irrigation uses:
 Number of other uses: 1200

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
13N	38E	22	SW	NE	IRRIGATION	12
			NE	SE	IRRIGATION	9
			SE	SE	IRRIGATION	25
			SW	SE	IRRIGATION	7
Section Acres						53
13N	38E	23	NW	NE	IRRIGATION	1
			SE	NW	IRRIGATION	13
			SW	NW	IRRIGATION	29
			NW	SW	IRRIGATION	26
			NE	SW	IRRIGATION	36
			NW	SE	IRRIGATION	34
			NE	SE	IRRIGATION	13
			SW	SE	IRRIGATION	34
			SE	SW	IRRIGATION	24
			SW	SW	IRRIGATION	23
			SE	SE	IRRIGATION	39
			Section Acres			
13N	38E	25	NW	NW	IRRIGATION	38
			SW	NW	IRRIGATION	34
			SE	NW	IRRIGATION	40
			NE	NW	IRRIGATION	39
Section Acres						151
13N	38E	26	NE	NE	IRRIGATION	24
			NW	NE	IRRIGATION	22
			SW	NE	IRRIGATION	10
			SE	NE	IRRIGATION	16
			NE	NW	IRRIGATION	21
			NW	NW	IRRIGATION	32
			SW	NW	IRRIGATION	11
			SE	NW	IRRIGATION	36
Section Acres						172
13N	38E	27	NE	NE	IRRIGATION	12
			NW	NE	IRRIGATION	6
Section Acres						18
Total Acres						666

11. Place of use in counties: CLARK

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

13. Other Water Rights Used:

14. Remarks:

THIS CLAIM IS BASED ON A DEED WHICH SHOWS 80 INCHES FROM 1 MAY 1898.
STOCKWATER PLACE OF USE IS SAME AS IRRIGATION.
PERMISSIBLE PLACE OF USE WITH OTHER RIGHTS; 31-82, 31-83, 31-84, 31-85, 31-82, 31-11700. THIS RIGHT IS LIMITED TO 80 ACRES.

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:

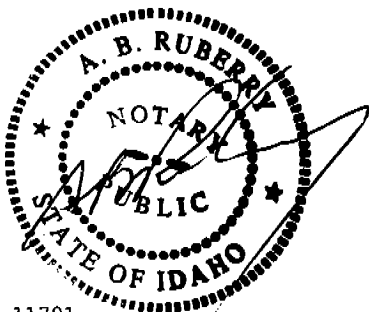
I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): *Mike Hillman* Date: 4-9-01
Ben A Hillman Date: 4-9-01
Randy J Hillman Date: 4-9-01

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 9th
of April 2001 *Alex B Ruberry*
Notary Public

Residing at *Edna Falls Rd*
My commission Expires 9/23/03



Idaho Department of Water Resources Receipt

Receipt ID E026619

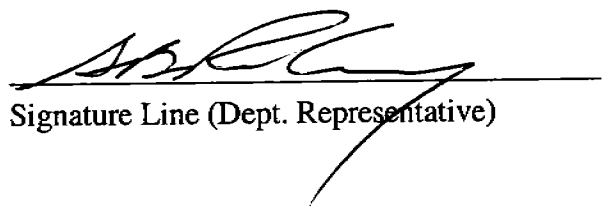
Payment Amount Date Received Region State
Payment Type Check Number

Payer

Comment

Fee Detail

Amount	Description	Fund	FD	PCA	SO
\$139.00	ADJUDICATION FILING FEE	0337	43503	1155	


Signature Line (Dept. Representative)

THIS INSTRUMENT, Made the 20th day of September, in the year of our Lord, one thousand nine hundred and sixteen, between M. Hillman, and Elizabeth Hillman, his wife, of Bannock County, Madison, County, State of Idaho, parties of the first part, and Chas. P. Bartlett, of Pocatello, Bannock County, State of Idaho, party of the second part,

WITNESSETH: That the said parties of the first part for and in consideration of the sum of Fourteen Thousand Five Hundred Dollars, (\$14,500.00) do by these presents, Grant, Bargain, Sell and Convey unto the said party of the second part, and to his heirs and assigns forever, all that certain real property situate in the County of Fremont, and State of Idaho, and bounded and particularly described as follows, to-wit:

The Northwest quarter of Section 25; the North Half of Section 26; the South Half of the Southeast quarter, and the Southwest quarter of Section 22; the Northeast quarter of the Northeast quarter of Section 27; The Southeast quarter, the South Half of the Northeast quarter, the Northwest quarter of the Northeast quarter, and the East Half of the Northwest quarter of Section 22; all in Township 13, North Range 28, East of the Boise Meridian, in Fremont County, Idaho, containing 1120 acres, more or less, according to the Official plat of the survey of the said lands returned to the General Land Office by the Surveyor General.

31-11700
Also all of our right, title and interest in and to any and all water appertaining to the said land, and more particularly all our right, title and interest in and to 4 cubic feet of water per second of time of the waters of X Bear Creek and its tributaries in Fremont County, Idaho, as the same is shown and recorded in Book "B" of Notice of Water Rights, at page 74, in the Office of the County Recorder of Fremont County, Idaho, which said waters have since October 19, 1897, been used upon the northwest quarter of Section 25.

31-11701
Also 60 miners inches of water dating from the 1st day of May, 1896, and used at all times since for the irrigation of the northwest quarter of Section 25, as shown in a decree of the District Court of Fremont County, Idaho, in the case of Levi Cartier vs. W. M. Buck, et al., said decree being entered by said Court June 20, 1902, and said decree being recorded in Book "A" of Judgments, page 570, in the Office of the Clerk of the District Court in Fremont County, Idaho.

Also all our right, title and interest in and to that certain water right to 4.8 second feet of the waters of Bartlett Springs, referred to in Permit #910, Certificate of Completion of Works, issued out of the State Engineer's Office August 17, 1907, recorded in Book "4" of Permits, page 910, in the Office of the State Engineer.

Also that certain water right to 12 second feet of the waters of Goudy Spring, referred to in Permit #911, Certificate of Completion of Works, issued out of the State Engineer's Office, August 21, 1907, recorded in Book "4" of Permits, page 911, in the office of the State Engineer.

Also all our right, title and interest in and to the filings on high waters out of the West Fork of Camas Creek in said Fremont County, according to the records of Fremont County.

This mortgage is given subject to a certain subsisting mortgage on said property made by Chas. P. Bartlett and H. Bertha Bartlett, his wife, in the sum of \$2500.00, dated March 10, 1918, and recorded in Fremont County, Idaho,

This mortgage is given subject to a certain lease made by Chas. P. Bartlett, and H. Bertha Bartlett, his wife, to C. A. Colishaw, dated about May 1st, 1914, which said lease is for a period of five years and expires about May 1st, 1919.

This mortgage is given as a part of the purchase price of the land herein conveyed by Chas. P. Bartlett and H. Bertha Bartlett, his wife, this date, to the grantor herein.

Together with the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

And the said parties of the first part hereby agree to keep the buildings on said premises fully insured against loss by fire in some reliable fire insurance company, with loss, if any, payable to the party of the second part, as mortgagee, as his interest may appear.

THIS GRANT is intended as a mortgage to secure the payment of one certain promissory note of even date herewith executed

and delivered by said parties of the first part to the party
of the second part, of which the following is a copy:

"\$14,500.00 (copy)

Pocatello, Idaho,
September 28, 1916.

Five Years after date, without grace, for value received, we, or either of us, promise to pay to the order of Chas. P. Bartlett, Fourteen Thousand Five Hundred Dollars, negotiable and payable at the office of FLETCHER R. BURRUS & COMPANY, #248 North Main Street, Pocatello, Idaho, without defalcation or discount, with interest at the rate of seven per cent. per annum, from date until paid, and if suit be instituted for the collection of this note, we agree to pay a reasonable attorney's fee.

Right is reserved of paying \$100.00 or more on this note on any interest paying date.

Interest payable annually.

(Signed) H. Hillman.

(Signed) Elizabeth Hillman. "

And these presents shall be void if such payment be made. But in case default shall be made in the payment of said principal sum of money or any part thereof as provided in the said note, or if the interest be not paid as therein specified, then it shall be optional with the said party of the second part, his executors, administrators, or assigns, to consider the whole of said principal sum expressed in said note as immediately due and payable; and immediately to enter into and upon all and singular the above described premises, and to sell and dispose of the same according to law, and out of the money arising from such sale, to retain the principal and interest which shall then be due on the said promissory note, together with the costs of foreclosure suit, including reasonable counsel fees, and also the amounts of all such payments of taxes, assessments, incumbrances or insurance as may have been made by said second party, his heirs, executors, with the interest on the same, rendering the overplus of the purchase money (if any there shall be) unto the said parties of the first part, their heirs, executors, administrators, or assigns.

IN WITNESS WHEREOF, the said parties of the first part
have hereunto set their hands and seals the day and year first
above written.

Signed, Sealed and
delivered in the
presence of:

M. Hillman

Elizabeth Hillman

James R. Wright

STATE OF IDAHO,)
(ss.
County of Madison.)

On this 26th day of September, 1916, before me,

James R. Wright a Notary Public in and for said County

and State, personally appeared M. Hillman and, Elizabeth
Hillman, his wife, known to me to be the persons whose names are
subscribed to the within instrument and acknowledged to me that
they executed the same.

In Witness Whereof I have hereunto set my hand and
affixed my official seal the day and year in this certificate first
above written.

James R. Wright
Notary Public **NOTARY PUBLIC,**

Residing at Rexburg, Madison County, Idaho,

My Commission Expires February 5th, 1920.

ALAN G. LANCE
Attorney General

CANDICE M. MCHUGH
Deputy Attorney General
P.O. Box 83720
Boise, Idaho 83720-0098
Telephone: (208) 372-7920
Fax: (208) 327-7866
ISB # 5908

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

In Re SRBA	)	Subcase No. 31-11700 and 31-11701
	)	
Case No. 39576	)	AFFIDAVIT OF ALLEN RUBERRY
	)	
_____	)	

State of Idaho)
) ss.
County of Ada)

Allen Ruberry, being first duly sworn, deposes and states as follows:

1. My name is Allen Ruberry. I am a Senior Water Resources Agent with the Adjudication Bureau of the Idaho Department of Water Resources ("IDWR" or the "Department"). This affidavit is based upon my own personal knowledge.
2. My work address is Idaho Department of Water Resources, 900 North Skyline Drive, Suite A, Idaho Falls, Idaho 83402. I reside in Idaho Falls, Idaho.

3. My educational background is as follows: BS Geology, Boise State Univ. 1980; Assoc. Degree, Civil Engineering, Idaho State Univ., 1979; Cert. Drafting and Design, 1968.

4. My Department of Water Resources work experience includes the following: 1975 to 1977, IDWR, Hydrologic Aid, Adjudication Bureau; 1979 to 1980, IDWR, Water Resource Agent, Dam Safety; 1993 to Present IDWR, Sr. Water Resource Agent, Adjudication Bureau.

5. As part of my duties as Senior Water Resources Agent, I conduct field investigations for water right claims filed in the Snake River Basin Adjudication.

6. I understand that on May 16th the Court held a scheduling conference on subcase nos. 31-11700 and 31-11701. The parties involved in these subcases are: Claimants, Nick R. Hillman, Randy J. Hillman and Ron R. Hillman (Hillmans) and objectors, Margaret Hagenbarth, David J. Hagenbarth and James F. Hagenbarth (Hagenbarths). At that scheduling conference the Court requested an affidavit from the Department addressing whether or not the Department considered these two water rights to be duplicate claims of claim no. 31-82. This affidavit responds to that request.

7. I have attached a diagram as Figure 1 that provides an overview of the water rights discussed in this report as well as a visual perspective of their relationship to the Hagenbarths' water rights. The diagram shows West Camas Creek, Bear Gulch Creek and Crab Creek. The area around West Camas Creek and Crab Creek below the confluence of Bear Gulch Creek and West Camas Creek has many springs that contribute water to the main channel of West Camas Creek and Crab Creek. Bear Gulch Creek does not contribute significant amounts of water to West Camas Creek. The Hillmans water right nos. 31-11700 and 31-17701 are the only water rights from Bear Gulch Creek. As the diagram shows, the confluence of Bear Gulch Creek and West Camas Creek is downstream from the diversion used by objector, Hagenbarths. Water

right nos. 31-11700 and 31-11701 with the source as Bear Gulch Creek do not affect water users upstream from the Bear Gulch Creek confluence with West Camas Creek.

8. The following information sets forth the basis of my recommendation of Hillmans' water right nos. 31-82, 31-11700 and 31-11701. On April 9, 2001, I met with Nick Hillman concerning his water rights, which, include for purposes of this report, water right nos. 31-82, 31-11700 and 31-11701.¹ I did not consider 31-11700 and 31-11701 as duplicates of 31-82 for the following reasons:

9. The claim for 31-82 was from the source West Camas Creek based on a prior decreed right from the *Sauve v. Abbott* decree. *Sauve v. Abbott*, Case No. 635, Decree (Dist. Idaho Nov. 1, 1930). Both claim nos. 31-11700 and 31-11701 claim Bear Gulch Creek tributary to West Camas Creek as their source.

- a. In addition to having different sources than 31-82, claim nos. 31-11700 and 31-11701 also have a different basis. According to a Mortgage document I received from Nick Hillman, (a copy of which is attached hereto as Attachment A) claim no. 31-11700 is based on a posted notice dated October 19, 1897 and is referenced in the second single-spaced indented paragraph in the Mortgage document. Claim no. 31-11701 has a priority date of one year later, May, 1898, and is discussed in the third single-spaced indented paragraph in the Mortgage document which states that there is a water right based on a decreed right in a case titled *Cartier v. Buck*.²

¹ Hillmans have several other water rights from West Camas Creek that are not discussed in this report because they are not relevant. Those water right numbers include 31-83, 31-84, 31-85, 31-86.

² According to the Mortgage, this decree was entered by the District Court of Fremont County, Idaho on June 20, 1902, recorded in Book "A" of Judgments, page 570 in the Office of the Clerk of the District Court in Fremont County, Idaho.

b. The claimed (and recommended) points of diversions between 31-82 and 31-11700 and 11701 are also different. The point of diversion for 31-82 from the *Sauve v. Abbott* decree states that the point of diversion is “[o]ne-fourth mile up stream from the land to be irrigated (land located in Township 13 North, Range 38 East, Section 25, NW quarter).” However, the posted notice upon which claim no. 31-11700 is based discusses a point of diversion “[a]bout two miles West” of the land in the NW quarter of Section 25 Township 13 North, Range 38 East. Claim no. 31-11701 is mentioned in the Mortgage following reference to the Posted Notice for water from Bear Gulch Creek so I concluded that it too was a water right from Bear Gulch Creek.

c. The following chart provides a comparison of the three claims.

Claim No.	Source Claimed	Point of Diversion Claimed	Priority Date Claimed	Basis of Claim
31-82	West Camas Creek	13N 38E S22 NWSENE 13N R38E S23 SWSWSE	5/1/1898	Decreed <i>Sauve v. Abbott</i>
31-11700	Bear Gulch Creek	13N 38E S22 NWNENW	10/19/1897	Beneficial Use
31-11701	Bear Gulch Creek	13N 38E S22 NWNENW	5/1/1898	Beneficial Use

Given the above information, I did not consider 31-11700 and 31-11701 as duplicates of 31-82.

10. The objector Hagenbarths allege that the *Cartier v. Buck* decree was superseded by the *Sauve v. Abbott* decree and that water right nos. 31-11700 and 31-11701 are duplicates of water right no. 31-82 which was decreed in *Cartier v. Buck*. I have made a brief review of that decree since Hagenbarths have provided a copy. The *Cartier v. Buck* decree apparently sets

forth water rights from Camas Creek and its tributaries and has priority dates that range from April 1, 1883 to May 1, 1901. The *Cartier v. Buck* decree does not set out for each water right decreed, the source of that right or the place of use. A brief comparison between the *Sauve v. Abbott* decree and the *Cartier v. Buck* decree demonstrates that other water rights from tributaries to Camas Creek and Camas Creek itself existed in addition to the rights decreed in *Cartier v. Buck*. In other words, the *Cartier v. Buck* decree does not appear to decree all the water rights from Camas Creek and its sources. For example, water right 31-53 (decreed in *Sauve v. Abbot* as water right no. 29) is for 0.4 cfs (20 inches) from Camas Creek with a priority date of May 1, 1896. This water right is not decreed in *Cartier v. Buck* even though it is from Camas Creek with a priority date similar to the water rights decreed in *Cartier v. Buck*. Similarly, water rights 31-85 and 31-86 (decreed in *Sauve v. Abbott* as water right no. 41) are both for 4.0 cfs (200 inches) with a priority date of August 18, 1899 and August 17, 1899 respectively. The source for these two water rights is West Camas Creek a tributary to Camas Creek. However, water rights with these priority dates and amounts of water were not decreed in the *Cartier v. Buck* decree. Thus, although Hillman's predecessor, Frank Serfas, was decreed a water right in *Cartier v. Buck*, this does not necessarily mean that the one water right decreed to Mr. Serfas was the only water right he owned. As the above examples show, other water rights existed besides the ones decreed in *Cartier v. Buck*.

11. I recommended claim nos. 31-11700 and 31-11701 with a priority date that pre-dated the *Sauve v. Abbott* decree because Bear Gulch Creek as a source was not specifically decreed in the *Sauve v. Abbott* decree. Thus, I recommend beneficial use irrigation rights from Bear Gulch Creek with priority dates that pre-dated the *Sauve v. Abbott* decree. However, if the source was specifically decreed in the *Sauve v. Abbott* decree, I recommended the irrigation water right with a priority date one day after the decree. For example, Hagenbarths claimed a

beneficial use irrigation water right from Dry Creek with a November 10, 1893 priority date.

However, since Dry Creek was decreed in *Sauve v. Abbott*, I recommended Hagenbarths' claim no. 31-10740 with a November 2, 1930 priority date (one day after the *Sauve v. Abbott* decree).

Hagenbarths have objected to this recommendation wanting the 1893 priority date.

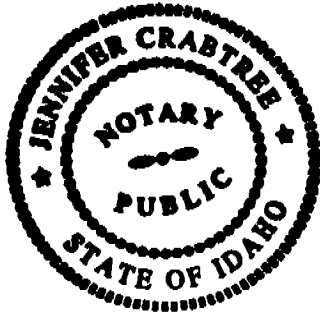
12. The information that I was provided for claim nos. 31-11700 and 31-11701, including the Posted Notice and the Mortgage, demonstrated that these water rights were valid historical beneficial use rights so I recommended them accordingly.

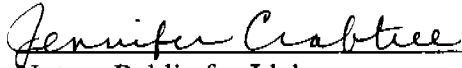
Further, your affiant sayeth naught.

DATED this 14 day of June, 2002.


ALLEN RUBERRY
Senior Water Resources Agent, IDWR

SUBSCRIBED AND SWORN to before me this 14 day of June, 2002.




Notary Public for Idaho
Residing at Boise Idaho Falls, Idaho
My Commission Expires: 9/23/03

CERTIFICATE OF MAILING

I certify that on June 14, 2002, I mailed and/or delivered the original and copies of this form, including all attachments, to the following interested parties, by placing them in sealed envelopes, 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, ID 83303-2707

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☒ Facsimile

2. Copies to:

Chief, Natural Resource Division
Office of the Attorney General
Box 83720
Boise, ID 83720-0010

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

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

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Ray Rigby
Attorney for Nick, Randy & Ron Hillman
P.O. Box 250
Rexburg, ID 83440-0250

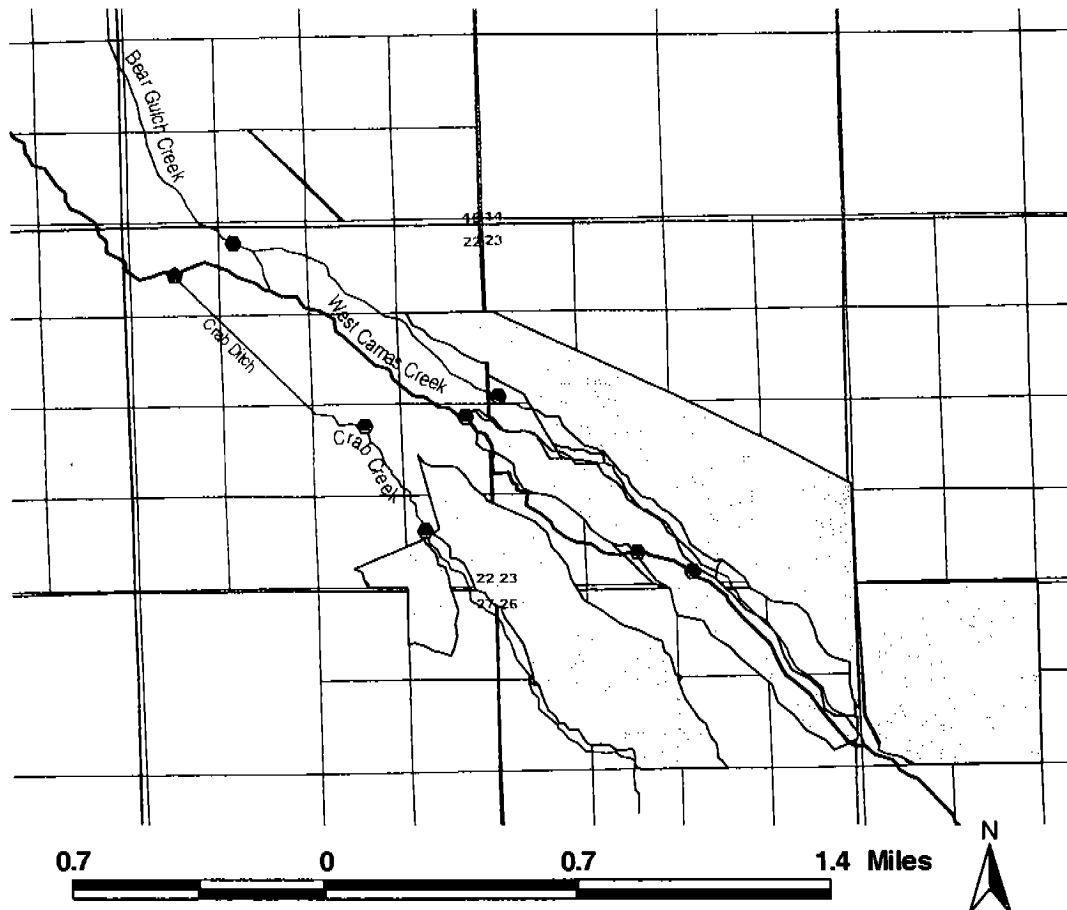
☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☒ Facsimile

Michael Creamer
Attorney for Margaret Hagenbarth
P.O. Box 2720
Boise, ID 83701-1200

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Jennifer Crabtree
Signature of person delivering form

Figure 1



- Hillmans' Diversion (31-11700, 31-11701)
- Hagenbarth's Diversion
- Hillmans' Diversions (31-82 and others)
- Hillman Place of Use

THIS INDENTURE, made the 20th day of September, in the year of our Lord, one thousand nine hundred and sixteen, between M. Hillman, and Elyabeth Hillman, his wife, of Madison, County, State of Idaho, parties of the first part, and Chas. P. Bartlett, of Pocatello, Bannock County, State of Idaho, party of the second part,

WITNESSETH: That the said parties of the first part for and in consideration of the sum of Fourteen Thousand Five Hundred Dollars, (\$14,500.00) do by these presents, Grant, Bargain, Sell and Convey unto the said party of the second part, and to his heirs and assigns forever, all that certain real property situate in the County of Fremont, and State of Idaho, and bounded and particularly described as follows, to-wit:

The Northwest quarter of Section 21; the North Half of Section 26; the South Half of the Southeast quarter, and the Southwest quarter of Section 22; the Northeast quarter of the Northeast quarter of Section 27; The Southeast quarter, the South Half of the Northeast quarter, the Northwest quarter of the Northeast quarter, and the East Half of the Northwest quarter of Section 28; all in Township 13, North Range 36, East of the Boise Meridian, in Fremont County, Idaho, containing 1120 acres, more or less, according to the Official plat of the survey of the said lands returned to the General Land Office by the Surveyor General.

Also all of our right, title and interest in and to any and all water appertaining to the said land, and more particularly all our right, title and interest in and to 4 cubic feet of water per second of time of the waters of Bear Creek and its tributaries in Fremont County, Idaho, as the same is shown and recorded in Book "E" of Notice of Water Rights, at page 74, in the Office of the County Recorder of Fremont County, Idaho, which said waters have since October 19, 1897, been used upon the northwest quarter of Section 25.

Also 80 miners inches of water dating from the 1st day of May, 1898, and used at all times since for the irrigation of the northwest quarter of Section 21, as shown in a decree of the District Court of Fremont County, Idaho, in the case of Levi Cartier vs. W. H. Buer, et al., said decree being entered by said Court June 20, 1902, and said decree being recorded in Book "A" of Judgments, page 170, in the Office of the Clerk of the District Court in Fremont County, Idaho.

Also all our right, title and interest in and to that certain water right to 4.8 second feet of the waters of Bartlett Springs, referred to in Permit #910, Certificate of Completion of Works, issued out of the State Engineer's Office August 17, 1907, recorded in Book "4" of Permits, page 910, in the Office of the State Engineer.

Also that certain water right to 12 second feet of the waters of Goudy Spring, referred to in Permit #911, Certificate of Completion of Works, issued out of the State Engineer's Office, August 21, 1907, recorded in Book "4" of Permits, page 911, in the office of the State Engineer.

Also all our right, title and interest in and to the filings on high waters out of the West Fork of Camas Creek in said Fremont County, according to the records of Fremont County.

This mortgage is given subject to a certain subsisting mortgage on said property made by Chas. P. Bartlett and H. Bertha Bartlett, his wife, in the sum of \$2500.00, dated March 10, 1914, and recorded in Fremont County, Idaho,

This mortgage is given subject to a certain lease made by Chas. P. Bartlett, and H. Bertha Bartlett, his wife, to C. A. Colishaw, dated about May 1st, 1914, which said lease is for a period of five years and expires about May 1st, 1919.

This mortgage is given as a part of the purchase price of the land herein conveyed by Chas. P. Bartlett and H. Bertha Bartlett, his wife, this date, to the grantor herein.

Together with the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

And the said parties of the first part hereby agree to keep the buildings on said premises fully insured against loss by fire in some reliable fire insurance company, with loss, if any, payable to the party of the second part, as mortgagee, as his interest may appear.

THIS GRANT is intended as a mortgage to secure the payment of one certain promissory note of even date herewith executed

and delivered by said parties of the first part to the party of the second part, of which the following is a copy:

"\$14,500.00 (copy)

Pocatello, Idaho, 1916
September 28, 1916.

Five Years after date, without grace, for value received, we, or either of us, promise to pay to the order of Chas. P. Bartlett, Fourteen Thousand Five Hundred Dollars, negotiable and payable at the office of FLETCHER R. BURRUS & COMPANY, 2248 North Main Street, Pocatello, Idaho, without defalcation or discount, with interest at the rate of seven per cent. per annum, from date until paid. And if suit be instituted for the collection of this note, we agree to pay a reasonable attorney's fee.

Right is reserved of paying \$100.00 or more on this note on any interest paying date.

Interest payable annually.

(Signed) H. Hillman.

(Signed) E. J. Hillman " "

And these presents shall be void if such payment be made. But in case default shall be made in the payment of said principal sum of money or any part thereof as provided in the said note, or if the interest be not paid as therein specified, then it shall be optional with the said party of the second part, his executors, administrators, or assigns, to consider the whole of said principal sum expressed in said note as immediately due and payable; and immediately to enter into and upon all and singular the above described premises, and to sell and dispose of the same according to law, and out of the money arising from such sale, to retain the principal and interest which shall then be due on the said promissory note, together with the costs of foreclosure suit, including reasonable counsel fees, and also the amounts of all such payments of taxes, assessments, incumbrances or insurance as may have been made by said second party, his heirs, executors, with the interest on the same, rendering the overplus of the purchase money (if any there shall be) unto the said parties of the first part, their heirs, executors, administrators, or assigns.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and delivered in the presence of:

James R. Wright M. Hillman
Elizabeth Hillman

STATE OF IDAHO,)
(ss.
County of Madison.)

On this 26th day of September, 1916, before me.

James R. Wright a Notary Public in and for said County and State, personally appeared M. Hillman and, Elizabeth Hillman, his wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

James R. Wright
Notary Public NOTARY PUBLIC,
Residing at Rexburg, Madison County, Idaho,
My Commission Expires February 5th, 1920.

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
TWIN FALLS CO., IDAHO
FILED

2002 NOV 6 AM 9 51

In Re SRBA)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 31-11701

NAME AND ADDRESS: NICK R HILLMAN
2300 N 2800 E
HAMER, ID 83425

RON R HILLMAN
3120 E 2200 N
HAMER, ID 83425

RANDY J HILLMAN
5518 N 4000 W
REXBURG, ID 83440

SOURCE: BEAR GULCH CREEK TRIBUTARY: WEST CAMAS CREEK

QUANTITY: 1.60 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE
SHALL NOT EXCEED 13,000 GALLONS PER DAY.

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 7.74 CFS. COMBINED RIGHT NOS.:
31-82, 31-83, 31-84, 31-85, 31-86, 31-11700, 31-11701.

PRIORITY DATE: 09/01/1909

POINT OF DIVERSION: T13N R38E S22 NWNENW Within Clark County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	05-01 TO 10-31	1.60 CFS
	Stockwater	05-01 TO 10-31	0.20 CFS

PLACE OF USE:	Irrigation		Within Clark County
	T13N R38E S22	SENE 12.0	
	S23	SENE 1.0	SWNW 29.0
		SENE 13.0	NESW 32.0
		NWSW 8.0	SESW 2.0
		NESE 13.0	NWSE 34.0
		SWSE 30.0	SESE 39.0
	S25	NENW 39.0	NWNW 38.0
		SWNW 34.0	SENE 40.0
	S26	NENE 21.0	NWNE 1.0
		SENE 1.0	
	387.0 Acres Total		

Stockwater Within Clark County
Same as Irrigation

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 387 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-82, 31-83, 31-84,
31-85, 31-86, 31-11700, 31-11701.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 80 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL

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

OTHER PROVISIONS (continued)

USE.

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 NOV 06 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): 31-11701

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 31-11701 was mailed
on November 06, 2002, with sufficient first-class postage prepaid
to the following:

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

MARGARET HAGENBARTH
Represented by:
BLOOMQUIST, JOHN E.
DONEY, CROWLEY, BLOOMQUIST
108 S WASHINGTON
PO BOX 1418
DILLON, MT 59725
Phone: 406-683-8795

MARGARET HAGENBARTH
Represented by:
MICHAEL C. CREAMER
PO BOX 2720
BOISE, ID 83701-2720
Phone: 208-388-1200

CERTIFICATE OF MAILING

PAGE 1
11/06/02

NICK R HILLMAN
RANDY J HILLMAN
RON R HILLMAN
Represented by:
RAY W. RIGBY
PO BOX 250
REXBURG, ID 83440-0250
Phone: 208-356-3633

ROBBIN HALL
Chief Deputy Clerk

SF5

05/04/2001

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

RIGHT NUMBER: 31-11701
NAME AND ADDRESS: NICK R HILLMAN
2300 N 2800 E
HAMER ID 83425

RANDY J HILLMAN
5518 N 4000 W
REXBURG ID 83440

RON R HILLMAN
3120 E 2200 N
HAMER ID 83425

2002 SEP 12 AM 11:40

COPY

FILED
T-SRBA
TWIN FALLS CO., IDAHO

SOURCE: BEAR GULCH CREEK TRIBUTARY: WEST CAMAS CREEK

QUANTITY: 1.600 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 7.74 CFS. COMBINED RIGHT NOS.: 31-82, 31-83,
31-84, 31-85, 31-86, 31-11700, 31-11701.
THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT
EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 05/01/1898

Sept. 1, 1909 SFH.

SPR. RWR
SME
Jmm ASR

POINT OF
DIVERSION:

T13N R38E S22 NWNENW Within CLARK County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
STOCKWATER	05/01 10/31	0.200 CFS
IRRIGATION	05/01 10/31	1.600 CFS

PLACE OF USE: IRRIGATION Within CLARK County

T13N R38E S22	SENE	12.0	T13N R38E S23	SENE	1.0
T13N R38E S23	SWNW	29.0	T13N R38E S23	SENW	13.0
T13N R38E S23	NESW	32.0	T13N R38E S23	NWSW	8.0
T13N R38E S23	SESW	2.0	T13N R38E S23	NESE	13.0
T13N R38E S23	NWSE	34.0	T13N R38E S23	SWSE	30.0
T13N R38E S23	SESE	39.0	T13N R38E S25	NENW	39.0
T13N R38E S25	NWNW	38.0	T13N R38E S25	SWNW	34.0
T13N R38E S25	SENW	40.0	T13N R38E S26	NENE	21.0
T13N R38E S26	NWNE	1.0	T13N R38E S26	SENE	1.0

STOCKWATER same as IRRIGATION

387 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 387 ACRES IN A SINGLE IRRIGATION
SEASON. COMBINED RIGHT NOS.: 31-82, 31-83, 31-84, 31-85, 31-86, 31-11700,
31-11701.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 80 ACRES WITHIN THE PLACE OF USE
DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

Claimant

Ray W. Regby

Objector

James H. Hagenbush

Attorney for
Hagenbush

Chas. H. Hagenbush

Sept 12/02

IDWR:

9/12/02
Candice M. Hagenbush

Handwritten signature of Nick R. Hillman

SF5

05/04/2001

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

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER
USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
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: BASIS OF CLAIM - Beneficial Use

STOCKWATER; 1200 CATTLE.
RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO
SECTION 42-1425, IDAHO CODE.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

August 24, 2001

KARL J. DREHER
Director

NICK R HILLMAN
2300 N 2800 E
HAMER ID 83425

Re: Snake River Basin Adjudication (SRBA)
Water Right Nos. #31-82, 31-83, 31-84, 31-85, 31-86,
31-7030B, 31-7031, 31-7032, 31-7183, 31-7184, 31-7185, 31-7188,
31-7225, 31-7230, 31-7232, 31-7233A, 31-7234, 31-7236, 31-7237,
31-7238, 31-7239, 31-7240, 31-7242, 31-7243, 31-10711, 31-11356,
31-11700 and 31-11701
and Decreed Water Right Nos. #21-12431, 31-10219, 31-10220,
31-10508, 31-10712 and 31-10713
Change of Ownership

Dear Mr. Hillman:

I appreciated your help and that of your family last week regarding correct addresses for your water rights.

I have printed each water right for you and highlighted the Current Owner(s). Each of the Basin 31 rights has been recommended and shows you either as Current Owner or as Representative.

I have enclosed a Notice of Change in Water Right Ownership for your use. Even though you are Ralph Hillman's son and Representative, you will still need to enclose a legal document showing you as beneficiary of the land and water rights. Additionally, we require an aerial photograph of the properties affected (see Item 2c on the ownership change form).

Please refer to Item 8 on the form regarding fees to reflect you as owner on the six decreed water rights.

X See ADDITIONAL Documentation IN
31-11700.

Nick R. Hillman
August 24, 2001
Page Two

Please call me toll-free at 1/800-451-4129 if you have any questions.

Sincerely,



Sally Sherman
Technical Records Specialist
Adjudication Bureau

SS:region
Enclosures:

Copy of Water Rights Referenced Above
Form 42-248/42-1409(6)

SEP - 7 2001

COPY

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**

A. Subcase 31-11701

In Re SRBA)

Case No. 39576)

OBJECTION FORM**B. NAME AND ADDRESS OF PERSON OBJECTING**

Name: Margaret Hagenbarth, David J. Hagenbarth, James F. Hagenbarth

Address: P.O. Box 1128
Dillon, MT 59725

Daytime Phone: (406) 683-2163

Name and address of Attorney, if any:

Givens Pursley LLP
Michael C. Creamer
John M. Marshall
P.O. Box 2720
Boise, ID 83701
(208) 388-1200

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

Name:	Nick R. Hillman	Ron R. Hillman	Randy J. Hillman
Address:	2300 N. 2800 E. Hamer, ID 83425	3120 E. 2200 N. Hamer, ID 83425	5518 N. 4000 W. Rexburg, ID 83440

D. We object to all elements of this water right as recommended in the Director's Report. This water right should not exist. This water right appears to be a duplicate filing of the decreed water right claimed as the basis of water right claim 31-82.

E. REASONS SUPPORTING OBJECTIONS:

Hillman's predecessors in interest were Frank Serfas and M. Hillman. Frank Serfas was a party to the Cartier v. Buck decree in 1902 adjudicating the waters of Camas Creek and its tributaries, and M. Hillman was a party to the Sauve v. Abbott decree in 1930 again adjudicating the waters of Camas Creek and its tributaries. The basis of this water right is beneficial use. The source of water is from Bear Gulch, a tributary of Camas Creek. Frank Serfas was decreed a water right from West Camas Creek in the Cartier and Sauve decrees with the same flow rate and priority date of this water right. There is a question as to whether this water right was in fact addressed or decreed by the Courts in the Cartier and Sauve decrees and whether this is a duplicate filing of the decreed right based on beneficial use with Bear Gulch as the source of water.

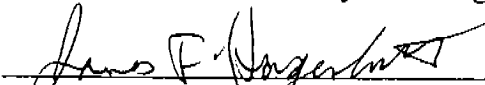
F.

VERIFICATION

State of Montana)
) ss.
County of Beaverhead)

James F. Hagenbarth, duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this objection on behalf of Margaret Hagenbarth, David J. Hagenbarth and myself, as defined by I.C. § 42-1401A(1) and (6) and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.



James F. Hagenbarth

Subscribed and sworn to before me on:

September 4, 2001


Notary Public for Montana
Residing at: Dillon, Montana
My Commission Expires: 1/1/04

G.

CERTIFICATE OF MAILING

I certify that on September 4, 2001, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original (**Sent certified mail**) 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:

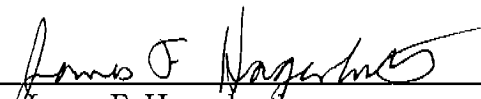
Name:	Nick R. Hillman	Ron R. Hillman	Randy J. Hillman
Address:	2300 N. 2800 E. Hamer, ID 83425	3120 E. 2200 N. Hamer, ID 83425	5518 N. 4000 W. Rexburg, ID 83440

3. Copies to:

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

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. 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


James F. Hagenbarth

31-11700/11701

BENEFICIAL USE CLAIMS

A.) 11700 ① BASED ON RECORDED NOTICE OF CLAIM, FILED 27 Oct 1897,
By Frank Sorkas. FREEMONT CO. 27 Oct. 1897; AS RECORDED.
BEAR CREEK, 4 cfs, 19 Oct 1897
PLACE OF USE: NW 1/4 SEC. 25 T13N R38E.
CONVEYANCE APPROXIMATES 2 MILES FROM SOURCE.

RE: 42-202 (6) IC Limiting DIVERSION RATE TO 0.02 cfs/AC.
151 AC @ 0.02 cfs/AC = 3.02 cfs AT POOL. LEAVES 0.78 cfs
CONVY. LOSS (OVER TWO MILES) WHEN USED ON ORIGINAL POOL.
POOL RECOMMENDED IS ALL NORTH OF WEST CAMAS CK.
APPROXIMATING 386 AC (COMBINED USE WITH OTHER RIGHTS
ADDRESSSED BY SORKAS DECREE (CIRCA) 1930). $\Rightarrow$ C05

② No WEST CAMAS CK EXCHANGE IS AUTHORIZED
DUE TO THE DESCRIBED RIGHTS BEING APPURTENANT TO
THE SAME POOL (PLUS 280 AC, NOT) RECOMMENDED BY BUI'S.

③ THESE WATER RIGHTS (CLAIMS) WERE NOT ENJOINED TO THE
1930 SORKAS IS ABSENCE DECREE.

B.) 11701 ① BASED ON DEED REFERENCE FOLLOWING DESCRIPTION OF
11700. THEREFORE, SINCE NO OTHER SOURCE IS REFERENCED
THAT DESCRIBES THE ELEMENTS OF THE DEED IT IS THOUGHT
TO BE YET ANOTHER RIGHT FROM BEAR CREEK CR WITH
A 1 YR LATER PRIORITY DATE. DISCUSSES SAME POOL AS
THAT OF NOW 31-11700.

② Same claim as 11700.

Bear Gulch Creek

D 31-11700
31-11701

T-13N

West

SENE

SWNW 29

SENW 13

SWNE

D

D

1

R

8

NESW 32

NWSE 34

NESE 13

NWSW

Camas

2

R

SESW

SWSE 30

SESE 39

22 23
27 26

23 24
26 25

1

NENE 21

NWNW 38

NENW 39

NWNE

$\gamma_K = 387^\circ$ AC
Creek

SENE

SWNW 34

SENW 40

Creek

D

D

D

West

Creek

Crooked