

**To:** File 3-2011, 3-10016  
**From:** Steve Robischon  
**Date:** 9/2/2005  
**Re:** Priority Date and Place of Use

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Mr. Don Starr came in to the State office to discuss his SRBA claims. He has a claim for a licensed right (3-2011, 207 acres, 1970 priority date, late proof) and another beneficial use claim (3-10016) covering the same place of use (plus 25 acres). The beneficial use claim asserts a priority date of 1940.

Mr. Starr discussed the history of the land use and brought in several aerial photos along with two affidavits. He has been farming the land since 1956. He described the pre-leveled farming methods of using the ridges and sloughs for supply and drainage, and indicated on the aerial photos where the ditches ran and which lands were farmable. The affidavits (one signed by Thomas P. and the other by Reva S. Allen) state that water was diverted to the land (unspecific as to exact quantity/location) in 1937. Thomas Allen states that in 1938 he hauled some grain, and in 1939 beets, off the island. Reva Allen helped her father (Walter Starr) prime "the big pump that pumped water out of the river."

Mr. Starr also brought in a title abstract that contains a posted notice (appears to have been received in both Payette and Canyon counties) dated December 8, 1902. The notice specifies the intent to divert 35 cfs for power, irrigation, and mining purposes. The intended place of use indicated is 500 acres in T07N, R05W, Sections 5, 8 and 9. The claimed place of use lies in Section 5 and in T08N, Section 32 (14 acres).

Mr. Starr's license (3-2011) file includes documentation of proof of completion of diversion works dated August 1939. Due to the late proof of beneficial use, the priority date on the license was advanced to 1970. His beneficial use claim (3-10016) asserts a priority date of 1940 that covers the 207 acres in the original license as well as 25 additional acres. The major portions of the additional acres lie in the SENW (10 acres) and the NWSW (11 acres). Irrigation of these additional acres was not supported by Mr. Starr's description using the aerial photo.

We explained to Mr. Starr that the additional acres he has claimed on 3-10016 are not supported by the licensing field exam. Further review of the license file indicates the additional acres claimed in the SENW and NWSW match up with the numbers contained on the permit map, not the field exam.

Mr. Starr was asked to provide a markup of the 1955 aerial photo indicating the irrigated acreage. Once received, we will digitize the markup and use the area computed from the resulting polygon(s) to create an amended claim for 3-10016. The amended claim will be sent to Mr. Starr, with an included remark withdrawing his claim for the license (3-2011). When he signs and returns the amended claim, 3-10016 can be recommended with the claimed priority date of 1940 and a place of use not exceeding the 207 acres found on the 3-2011 license.