

RECEIVED

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

AUG 29 2005

Department of Water Resources

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEMCIVIL CASE NUMBER: 39576
Ident. Number 75-14248
Date Received
Receipt Number C078982NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) JOHN E. AND/OR RUTH C. BURNS Phone (208) 756-3645
Mailing Address Box 264, CARMEN, IDAHO Zip 834622. Date of Priority (Only one (1) per claim) MAY 1, 1888 * (SEE BELOW)3. Source of water supply (a) CARMEN CREEK
which is tributary to (b) SALMON RIVER4. a. Location of existing point of diversion is: Township 22N Range 22E Section 2,
SE 1/4 of NW 1/4 of NW 1/4, Govt. Lot, _____ B.M., County of LEMHIAdditional points of diversion if any: SW 1/4 SW 1/4 NW 1/4 SEC 2, T22N, R22E

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.DITCH 10 LKS IN WIDTH
WITH 30" x 36" HEADGATE; DITCH 10 LKS IN
WIDTH WITH 30" DIAMETER METAL HEADGATE
WHICH IS RECENT REPLACEMENT FOR FORMER
30" x 36" WOOD HEADGATE ON THIS DITCH.*USE OF "HIGH WATER" IN ADDITION TO DECREED
RIGHT BEGAN AT THIS TIME, SEE ITEM 14 AND
ATTACHED EXPLANATORY STATEMENT.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from 4/1 to 11/1 amount 0.23 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.23 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 28.7 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
22N	22E	2							3/4			1/4							1
22N	22E	3				3									7 1/2				10 1/2

Total number of acres irrigated 11 1/2

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

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

13. Describe any other water rights used at the same place and for the same purposes as described above.
1875, 1882 EXCH DERIVED RTS; 1888, 1892 DERIVED RTS, or None ()

14. Remarks:

CLAIM FOR "HIGH WATER" RIGHT BASED ON
HISTORIC BENEFICIAL USE, SEE ATTACHED
EXPLANATORY AND SUPPORTING INFORMATION,

Last Name Burns Ident No. 75-14248

15. Basis of Claim (check one) Beneficial Use ☒ Posted Notice _____ License _____ Permit _____
Decree _____
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)
(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled
"How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not ☒
wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments 2 - MAP AND EXPLANATORY SHEET.

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true
and correct.

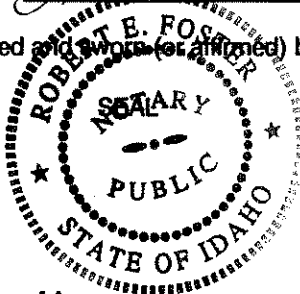
Signature of Claimant (s) [Signature] Date 8/2/05
[Signature] Date 8-2-05

For Organizations: I do solemnly swear or affirm that I am _____ Title _____
of _____, that I have signed the foregoing
Organization
document in the space below as _____ of _____
Title Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____
Title and Organization _____ Date _____

State of Idaho/or _____)
County of Lemhi) SS.

Subscribed and sworn (or affirmed) before me this 24th day of August 18 2005
Notary Public Robert E. Foster
Residing at Salmon Id.
My Commission Expires 02-16-07



17. Notice of Appearance:
Notice is hereby given that I, _____ will be acting as attorney at law on behalf
of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above
should be mailed to me at the address listed below.

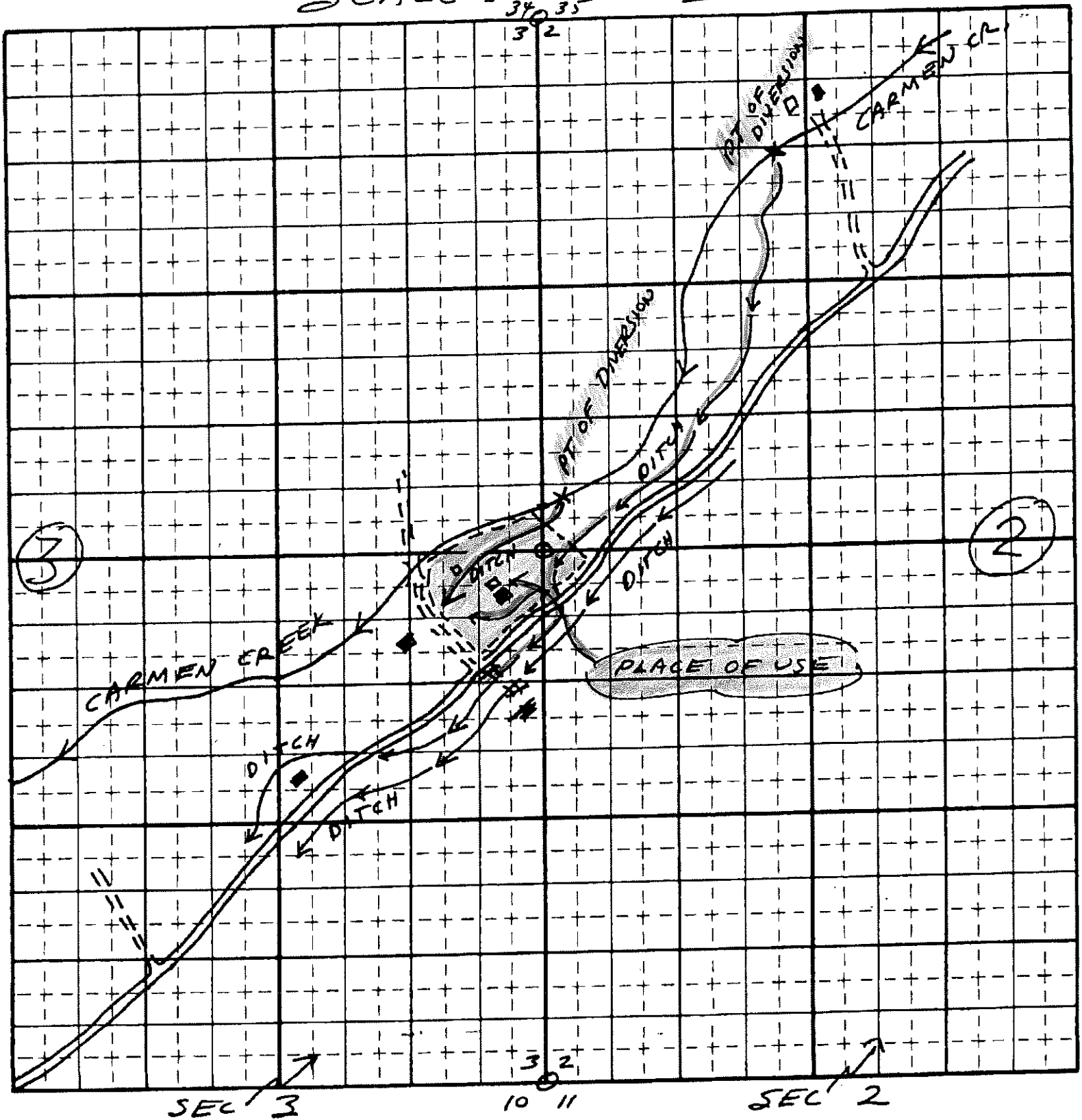
Signature _____
Address _____
Date _____

Last Name Burns Ident. Number 75-14248

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

Scale: 2 inches equals 1 mile

SCALE: 4" : 1 MILE



Last Name BURNS

Ident No. 75-14248

Copies: White-State, Yellow-Claimant

Supporting Information for Claims to Water Right

Burns, John E. and Ruth C.

Dates of Beneficial Use: May 1, 1888 and May 1, 1892

Note: These claims are for non-decreed "high water."

General Land Office plat of Township 22N Range 22E filed for record on August 8, 1892 shows the cultivated lands and two ditches serving those lands on the Thomas Palmer homestead. The cultivated lands and ditches are at the original "home place" for the homestead, which includes the tract owned and irrigated by us using those same ditches, etc. This was the first portion of the homestead brought under cultivation and irrigated.

The GLO township field notes of the survey of the line between Sections 2 and 3 references (page 481) the two ditches, their width, distance from Carmen Creek, the cultivated land traversed by the ditches, and the fences enclosing the cultivated ground, and refers to the house nearby.

The field notes further record that each ditch was 10 links in width, which is about 80 inches or slightly over six and one-half feet. The water use from these ditches formed the basis for the decreed 1888 and 1892 rights to Thomas Palmer. The court decree, findings of fact, etc., are clear that the decreed rights of all parties to the 1902 adjudication were for the period of "low water." At that time, as since then and now, all water users on Carmen Creek have and do rely on extensive use of "high water" for irrigation. The normal pattern has been that high water use is roughly double the amount used during periods of low water. Without the heavier amounts during high water it would be virtually impossible to sufficiently build up the soil moisture to the level needed for hay or pasture production.

The width of the ditches makes it obvious that the ditches were designed and built to carry significantly greater amounts of water than the decreed rights. In addition, the original headgates (sized to the ditch capacities) are 30" x 36" which likewise exceed that needed for the decreed rights. During high flow the ditches run to capacity for about the first half of the season. Once the creek flow has stabilized in the last half of the summer the ditches carry much less.

Since the early 1990's, as a result of increased concerns about retention of the legal right to use high water, I have randomly monitored the flow in the two ditches during the period in question. The lower ditch flow is constrained by the culvert under the Ajax Peak subdivision access road, and my measurements indicate a diversion of 150 inches for a sustained period. For the same period, the flow in the upper ditch has typically been 280 inches, and sometimes more which results in the ditch overtopping in places. Most of this flow passes to the ranch below, but use of a portion is important to the small acreage ownerships dependent on the two ditches as well.

Copies of the GLO plat and field notes can be provided if needed.

Burns 75-14248