

Idaho Department of Water Resources

Claim Number: 65-05384A

Legal: T07N, R02W, S31

Reviewed By:

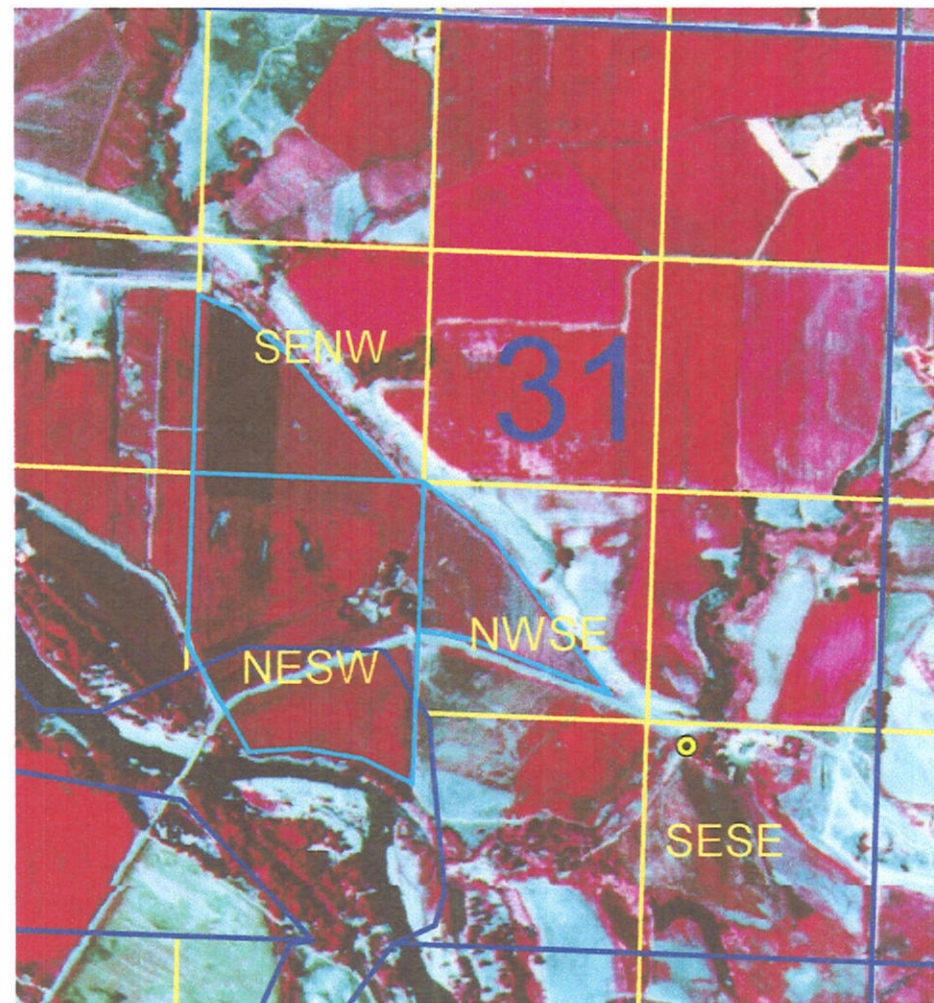
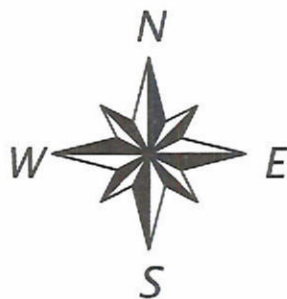
Ron Howerton
Sr Water Agent

● Point of Diversion

Place of Use

Section Lines

Quarter Quarter Lines



1987 Napp Photo

0 0.25 0.5 0.75 Miles

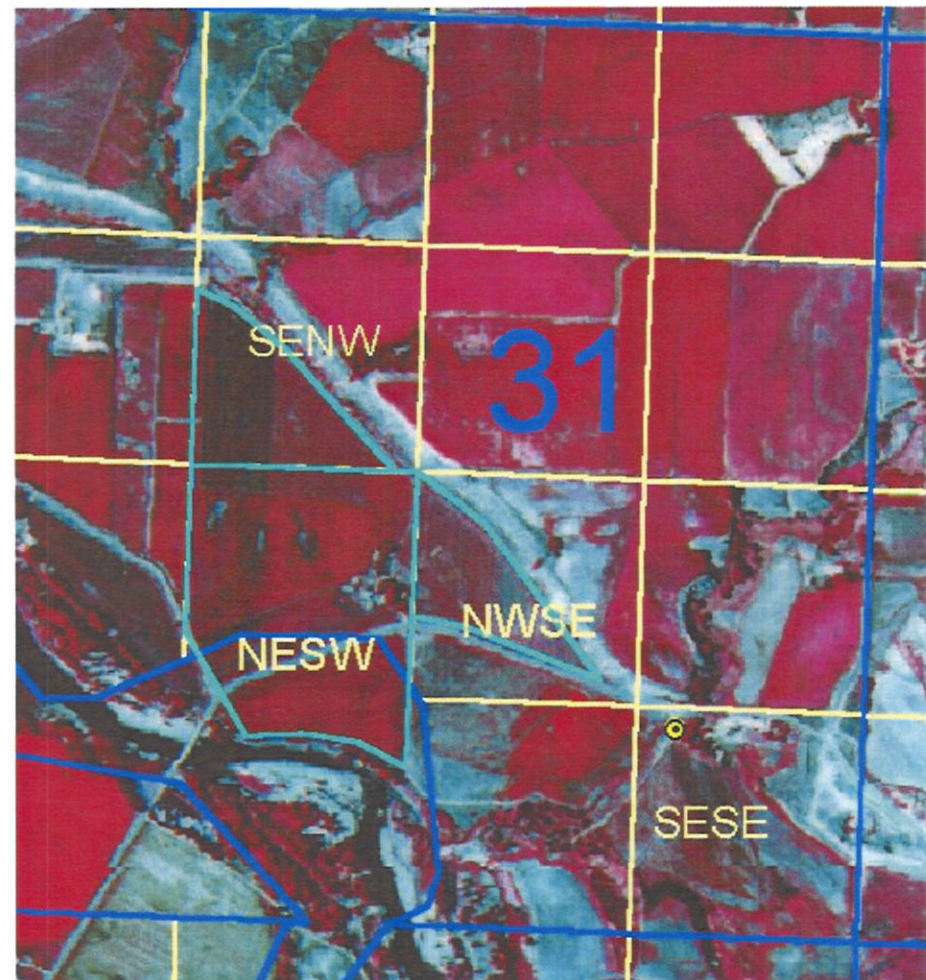
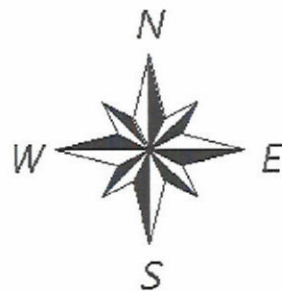
Idaho Department of Water Resources

Claim Number: 65-05384A

Legal: T07N, R02W, S31

Reviewed By:

-  Point of Diversion
-  Place of Use
-  Section Lines
-  Quarter Quarter Lines

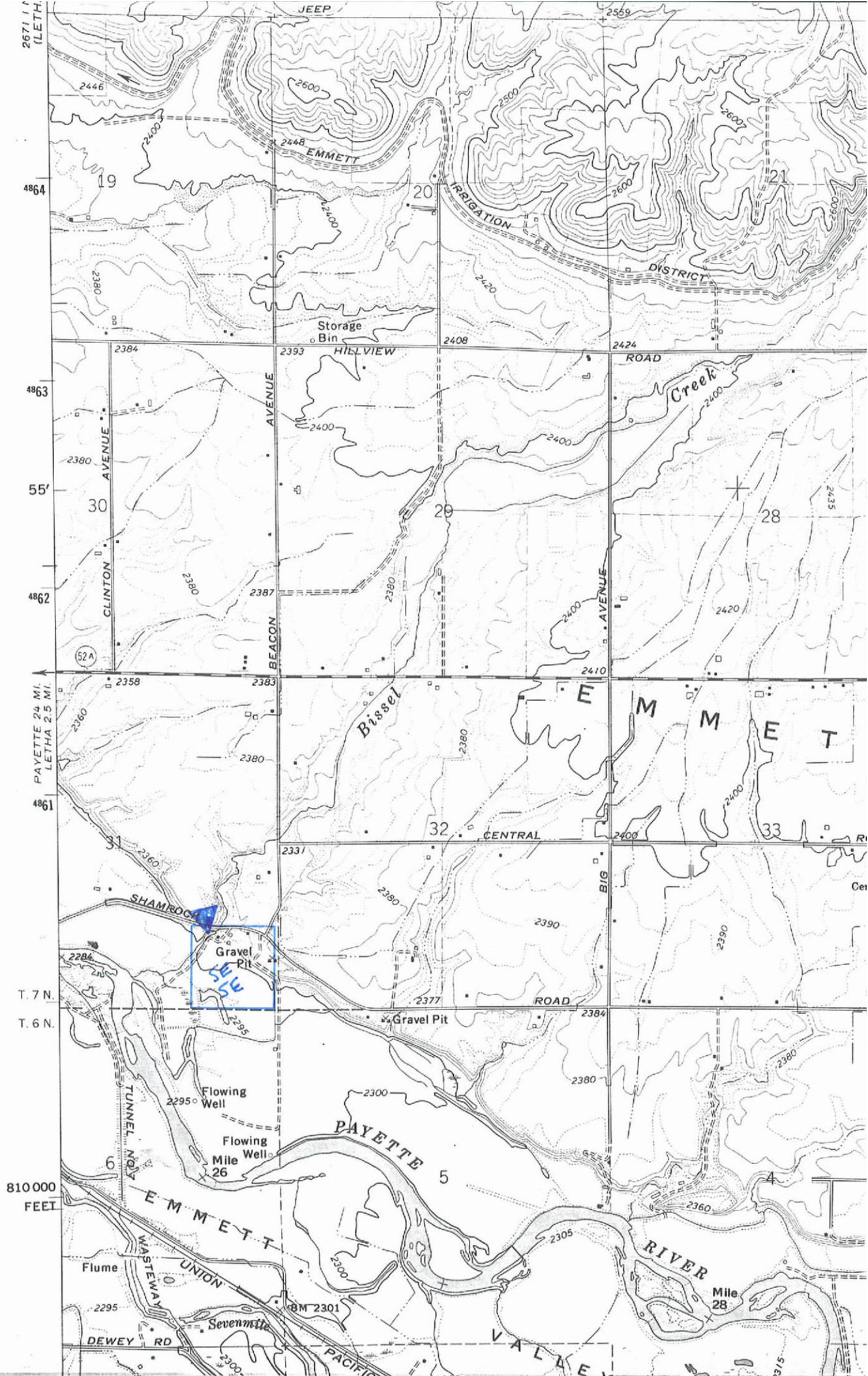


1987 Napp Photo

0 0.25 0.5 0.75 Miles



PLD OVERLAPS: 65-1204, 65-5195 & 65-5384A



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: A65-05384A
Date Received: 1/ 9/1990
Receipt No: X999999
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: STANLEY L. BROWN 208-365-3301
Address: 2798 HANNA AVE.
EMMETT ID 83617

OR

Name: KATHRYN SIMMONS 208-365-2786
Address: 209 SO. COMMERCIAL AVE
EMMETT ID 83617

2. Date of Priority: NOV 8, 1927

3. Source: BISSEL CREEK Trib. to: PAYETTE RIVER
WASTE WATER PAYETTE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07N	02W	31	SE	SE			GEM

5. Description of diverting works:
CONCRETE HEADGATE & CONCRETE DAM & DIV. HEADGATE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	2.000		

7. Total Quantity Appropriated is:
2.000 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 252.0 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER INCIDENTAL TO IRRIGATION

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07N	02W	31	SE	NW		IRR	15.0
			NE	SW	2	IRR	45.0
			NW	SE		IRR	12.0
Section Acres							72.0
Total Acres							72.0

11. Place of use in counties: GEM

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

13. Other Water Rights Used:
N/A

14. Remarks:

CLAIMANT IS FILING THIS CLAIM AS BISSELL CREEK AND WASTE
WATER AS SOURCES AS PER THE AGREEMENT IN THE FILE FOR THIS
PAYETTE ADJUDICATION CLAIM.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 1/21/1986

STATE OF IDAHO
Decree Plaintiff

A & C CORP., ET AL.
vs Decree 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: _____

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): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____
My Commission Expires _____

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 65-5384A
Date Received: 1/9/90
Receipt No: X999999
Received By:

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s): STANLEY A BROWN Phone: (208) 365-2371
6510 W IDAHO BLVD
EMMETT ID USA 83617

STANLEY L BROWN Phone: (208) 365-2371
6510 W IDAHO BLVD
EMMETT ID USA 83617

2. Date of Priority: 11/08/1927

3. Source: BISSEL CREEK Trib. to: PAYETTE RIVER
WASTEWATER PAYETTE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
07N	02W	31	SE SE	GEM	

5. Description of diverting works:

CONCRETE HEADGATE & CONCRETE DAM & DIV. HEADGATE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/15	2	

7. Total Quantity Appropriated is:
2 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	02W	31	SE NW		IRRIGATION	15
			NE SW	2	IRRIGATION	45
			NW SE		IRRIGATION	12
Section Acres						72
Total Acres						72

11. Place of use in counties: GEM

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

13. Other Water Rights Used:

14. Remarks:

CLAIMANT IS FILING THIS CLAIM AS BISSELL CREEK AND WASTE WATER AS SOURCES AS PER THE AGREEMENT IN THE FILE FOR THIS PAYETTE ADJUDICATION CLAIM
Ownership / address change by DB 4/30/2001

15. Basis of Claim: Decreed

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

RECEIVED

APR 13 2001

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

WATER RESOURCES
WESTERN REGION

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided, if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
65-5384 A					

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) are for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former
Owner/Claimant(s)

Kathryn Simmons
209 S Commercial Ave Emmett ID.

4. New Owner/Claimant(s)

Stanley L Brown and Stanley A. Brown
 Name Connector (Check one) [] and, [] or, [] and/or

New Mailing Address

6510 W. I.D. Blvd.

City, State and ZIP Code

Emmett ID 83617

New Telephone Number

(208) 365-2371

5. Date you acquired the property

Sept 22 1989

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s)
(include title if applicable)

Stanley A. Brown
Stanley A. Brown

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____ Date _____ Fee _____
 Receipted by _____ Date _____ Receipt No. _____
 Processed by _____ AJ Date _____ WR _____ Date _____

**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: April 13, 2001

Water right number: 65-5384A

STANLEY L BROWN
2798 HANNA AVE
EMMETT ID 83617
Telephone Number: (208)365-3301

KATHRYN SIMMONS
209 S COMMERCIAL AVE
EMMETT ID 83617
Telephone Number: (208)365-2786

RECEIVED

APR 13 2001

WATER RESOURCES
WESTERN REGION

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

Quantity of water is not sufficient to meet proven demands.

2. Describe the changes you wish to make in the proposed recommendation:

1. Increase of quantity of allocated water to 2.2 inches per acre, as proven by historic use.

3. Give a brief explanation as to why you disagree with these portions:

1. "water rights should not have been cleared, due to the legal objection on file"

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

DATE: 4-10-2001

SIGNATURE: Stanley L Brown

Please print your name: Stanley L. Brown

IDWR Regional Office, 2735 Airport Way, Boise, ID 83705, (208) 334-2190

WARRANTY DEED

FOR VALUE RECEIVED KATHRYN H. SIMMONS, a widow, the grantor, hereby grants, bargains, sells and conveys unto

STANLEY L. BROWN and ELSIE L. BROWN, husband and wife, whose address is 2798 Hanna Ave., Emmett, Idaho 83617, and STANLEY A. BROWN and CHERYL L. BROWN, husband and wife, whose address is 6510 W. Idaho, Emmett, Idaho 83617, the grantees, the following described premises, situate in Gem County, Idaho, to-wit:

Lot 2 of Section 31, together with all accretions to Lot 2;

ALSO, Beginning at the Southeast corner of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31, T. 7 N., R. 2 W., B.M., thence
N.72°59'W. 1,375.84 feet to the West line of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section;
thence
North along said West line to center of Section 31; thence
East along the North line of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section to a point 951 feet
West of the Northeast corner of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section; thence
S.39°E. 1,512 feet, more or less, to the East line of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said
Section; thence
South along said East line to the place of beginning.

ALSO, Beginning at a point on the East line of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 31, T. 7 N., R. 2 W., B.M., at a point 1,129 feet South of the NE corner thereof;
thence
N.44°W. 1,570 feet, more or less, to a point on the North line of the SE $\frac{1}{4}$ NW $\frac{1}{4}$
of said Section; thence
West along said North line to the Northwest corner of said SE $\frac{1}{4}$ NW $\frac{1}{4}$; thence
South to the Southwest corner of said SE $\frac{1}{4}$ NW $\frac{1}{4}$; thence
East to the Southeast corner of said SE $\frac{1}{4}$ NW $\frac{1}{4}$; thence
North to the place of beginning.

All of the above-described property being located in Section 31, Twp. 7 N., R. 2 W., B.M.

Including all water and ditch rights appurtenant thereto or used in connection therewith, and including any easements or rights of ways appurtenant to or used for the benefit of, or dedicated to said described premises. Subject to easements, rights of ways, reservations and exceptions, if any.

Said property is conveyed "as is" under existing boundary fences, if any, after reasonable inspection by the grantee and grantor does not make any representations or warranties as to the qualifications or suitability of said land or premises for water or electrical power, or as to said land or improvements meeting any Federal, State or local laws, rules or regulations pertaining to zoning, building, subdividing, platting, surveys, planning and use, health, ecology, drainage, irrigation, water quality, sewage or disposal systems, hazardous materials and toxic wastes. Grantor makes no warranties as to surveys, boundaries or any matter mentioned in this paragraph. There are no warranties, express or implied, as to merchantability, in a general sense or for a particular purpose, except as herein contained in writing, if any.

TO HAVE AND TO HOLD, the said premises, with their appurtenances, unto the said Grantees, heirs or assigns forever. And the said Grantor does hereby covenant to and with the said Grantees that she is the owner in fee simple of said premises; that they are free from all encumbrances, except as may be otherwise stated herein, and she will warrant and defend the same from all lawful claims whatsoever.

DATED this 22nd day of September, 1989.

Kathryn H. Simmons

STATE OF IDAHO,)
) ss.
County of Gem.)

On this 22nd day of September, 1989, before me, the undersigned, a Notary Public in and for said state, personally appeared KATHRYN H. SIMMONS, a widow, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she 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.

David G. Gannon
Notary Public for Idaho;
Residing at Emmett, Idaho.

176070

Gem County, IDAHO) ss.
Recorder at request of
Elsie Brown, Emmett
Time 11:35 AM
Date May 18, 1993
Instr. No. 176070
Recorded as a Deed

Thomas H. Kolodziej, Clerk
Ex-officio Recorder
By: Judy Bigman Deputy
Fees \$ 6.00

2775 Hanna Ave
Emmett, Id.

Idaho Department of Water Resources

Claim Number: 65-05384A

Legal: T07N, R02W, S31

Reviewed By:

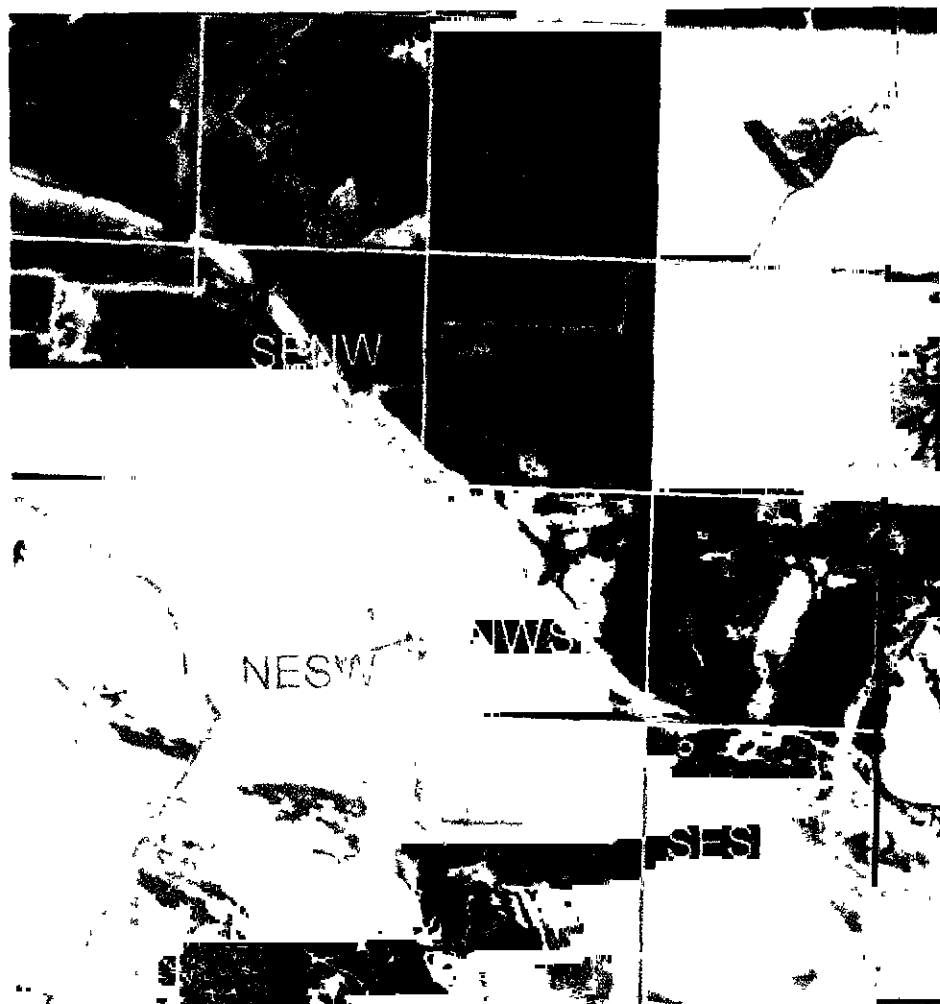
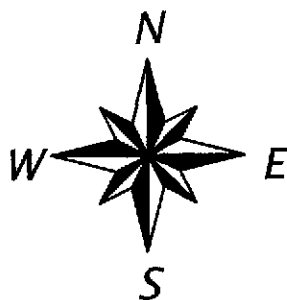
Rep. Information
of Water Rights

⊙ Point of Diversion

Place of Use

Section Lines

Quarter Quarter Lines



1987 Napp Photo

0 0.25 0.5 0.75 Miles

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

Renumbered to A65-05384A

Ident. Number: A65-05384

Date Received: 1/09/1990

Receipt No: X999999

Received By: [Signature]

Department of Water Resources

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: STANLEY L. BROWN 208-365-3301
Address: 2798 HANNA AVE.
EMMETT, ID 83617

OR

Name: KATHRYN SIMMONS 208-365-2786
Address: 209 SO. COMMERCIAL AVE
EMMETT, ID 83617

2. Date of Priority: NOV 08, 1927

3. Source: BISSEL CREEK Trib. to: PAYETTE RIVER
WASTE WATER PAYETTE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07N	02W	31	SE	SE			GEM

5. Description of diverting works:
CONCRETE HEADGATE & CONCRETE DAM & DIV. HEADGATE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	2.000		

7. Total Quantity Appropriated is:
2.000 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 252.0 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER INCIDENTAL TO IRRIGATION

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07N	02W	31	SE	NW		IRR	15.0
			NE	SW	2	IRR	45.0
			NW	SE		IRR	12.0
						Section Acres	72.0
						Total Acres	72.0

11. Place of use in counties: GEM

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

13. Other Water Rights Used:
N/A

14. Remarks:

CLAIMANT IS FILING THIS CLAIM AS BISSELL CREEK AND WASTE
WATER AS SOURCES AS PER THE AGREEMENT IN THE FILE FOR THIS
PAYETTE ADJUDICATION CLAIM.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 1/21/1986

STATE OF IDAHO

Decree Plaintiff

vs

A & C CORP., ET AL.

Decree 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 X 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): Stanley L Brown Date: 1-9-90

Date: _____

State of Idaho)
County of CEM) SS.

Subscribed and sworn (or affirmed) before me this 9th day
of JANUARY 1990

Glenn A. Smith
Notary Public

Seal

Residing at Boise, ID
My Commission Expires 11/08/1994



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

May 4, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Dear Basin 65 water user

This letter is to inform you that you may be eligible to file a stockwater claim with the Idaho Department of Water Resources (IDWR) in connection with the Snake River Basin Adjudication (SRBA). IDWR is sending this letter to water users in Basin 65 who might have relied upon the non-irrigation season stockwater provision in the Payette Adjudication. This provision states:

"When stockwater is not a specifically mentioned use for a right that includes irrigation, a reasonable flow is implied and included for the watering of livestock during the non-irrigation season"

In another basin, the Idaho Supreme Court struck down general provisions that contained similar language. The non-irrigation season stockwater language quoted above was not included in the General Provisions for Basin 65 because of the Idaho Supreme Court's ruling.

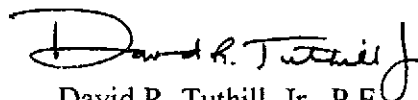
IDWR recognizes that in reliance on the non-irrigation season stockwater language in the Payette Adjudication, water users might not have filed stockwater claims in the SRBA to cover the non-irrigation season period. Individuals who historically watered livestock during the non-irrigation season without a separate stockwater claim might desire to file a new stockwater claim with IDWR.

To be eligible for a new non-irrigation season stockwater claim:

1. You must have actually and historically watered livestock during the non-irrigation season without a separate stockwater right.
2. You must have filed a surface water irrigation claim in both the Payette Adjudication and the SRBA.
3. You must not have filed a stockwater claim with the surface water irrigation claim.

If you meet these three requirements, you may file a Notice of Claim form for stockwater with IDWR. **To have a timely filing you must file this claim with IDWR by May 25, 2001.** IDWR will waive filing fees for these stockwater claims if filed before this deadline. Failure to file your claim in a timely manner may prevent you from claiming it in the future. Notice of Claim forms are available on IDWR's website at www.idwr.state.id.us/info/water/srba/forms.htm or from any IDWR office. Claimants can call IDWR, Western Region at (208) 334-2190 to make an appointment if they need assistance filling out a Notice of Claim form.

Sincerely,


David R. Tuthill, Jr., P.E.
Adjudication Bureau Chief

04/30/2001

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

RIGHT NUMBER: 65-5384A

NAME AND ADDRESS: STANLEY A BROWN
STANLEY L BROWN
6510 W IDAHO BLVD
EMMETT, ID 83617

SOURCE: BISSEL CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 1.44 CFS

PRIORITY DATE: 11/08/1927

POINT OF DIVERSION: T07N R02W S31 SESE Within GEM County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03-15 11-15	1.44 CFS

PLACE OF USE:

<u>IRRIGATION Within GEM County</u>						
T07N R02W S31	SENE	15	T07N R02W S31	LOT 2	NESW	45
T07N R02W S31	NWSE	12				

72 ACRES TOTAL

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

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 - Decreed



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

April 30, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

STANLEY L BROWN
STANLEY A BROWN
6510 W IDAHO BLVD
EMMETT ID 83617

Re: Notice of Claim to a Water Right No. 65-05384A

Dear Claimants:

Enclosed is a copy of the above referenced claim, which reflects the change in ownership of the land and appurtenant water rights covered under the original filing.

The Department will contact you in the future concerning any requirements that may be needed in order to process this claim for final court decree.

In addition, we are returning your check for \$25, as the ownership change fee is not required for this particular water right. This right has not yet been decreed by the SRBA Court.

Thank you for your patience and cooperation, as we have had several ownership changes to process. If you have any questions concerning the enclosed claim, please feel free to contact this office.

Sincerely,

Denise Buffington
Office Specialist I
Adjudication Section
Western Region Office

DB:db

Enclosure

Howerton, Ron

From: Shaff, Don
Sent: Friday, April 27, 2001 11:41 AM
To: Howerton, Ron
Cc: Harvey, Becky; Shurte, Jan
Subject: RE: Brown's 65-5195

Your question connects to Jan's request looking for what I refer to as the Frazier Objection file and a companion Irrigation Loss file. Until those surface, I cannot discern what may have happened for 65-5384

Don
dshaff@idwr.state.id.us
208/327-7932

DO NOT FILM

-----Original Message-----

From: Howerton, Ron
Sent: Friday, April 27, 2001 11:37 AM
To: Shaff, Don
Cc: Howerton, Ron
Subject: RE: Brown's 65-5195

Don,

I made a new layout for 65-5195 for the file and also mailed a new layout to Stanley Brown.

Stanley sent a notice of error in with an ownership change to him as owner for 65-5384A (FYI this was because duplicate claims were filed, one that had Simmons & Brown the others had Simmons only I recommended "A" because it had both names on claim)

Anyway, have you discovered why it didn't have more water like 65-5195?

I checked 65-5195, no mention or objection about 65-5384. I checked the microfilm again I couldn't find any objection for 65-5384, it appeared that it was decreed for 1.44 CFS @ 0.02/acre. The only additional information in this file was about the Riverside exchange agreement, which was a separate issue. His notice of error says that "water rights should not have been decreed due to the legal objection on file". There isn't a copy in the file 65-5384 nor in 65-5195 tying both rights to include more water for both rights.

FYI both water rights come out of the same point of diversion however, the ground that for which had the stipulation 65-5195 and has the extra water on it is adjacent to the land in 65-5384 but is at least 1/2 mile to the first field.

I checked Jeff Peppersacks diversion rate calculations for 65-5195, (4/16/95) no mention for possible addition to prior decreed water right 65-5384. This would seem appropriate not to add more water to it because it was not left in a beneficial use stage like 65-5384 and wouldn't been an issue for him to look at

Ron

-----Original Message-----

From: Shaff, Don
Sent: Friday, April 06, 2001 9:12 AM
To: Howerton, Ron
Subject: Brown's 65-5195

Ron, I moved the Waste Water point to the very northeast corner of the lot. I printed a layout for Brown I will send to him but is not classy like what you do. If you would like to do another one for the file showing the location of the new point, please do.

Now I'll start work on 65-5384 to discover why it does not have more water like 65-5195 has.

Don

12/20/2000

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

RIGHT NUMBER: 65-5384A

NAME AND ADDRESS: KATHRYN SIMMONS
209 SO COMMERCIAL AVE
EMMETT, ID 83617
STANLEY L BROWN
2798 HANNA AVE
EMMETT, ID 83617

SOURCE: BISSEL CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 1.44 CFS

PRIORITY DATE: 11/08/1927

POINT OF DIVERSION: T07N R02W S31 SESE Within GEM County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03-15 11-15	1.44 CFS

PLACE OF USE:

<u>IRRIGATION Within GEM County</u>					
T07N R02W S31	SENE	15	T07N R02W S31	LOT 2	NESW
T07N R02W S31	NWSE	12			45

72 ACRES TOTAL

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

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 - Decreed

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	STANLEY L BROWN 2798 HANNA AVE EMMETT ID 83617 (208) 365-3301	11/08/1927	IRRIGATION	03-15 11-15	2.000 CFS	INCORRECT AMOUNT CLAIMED NO
C	KATHRYN SIMMONS 209 SO COMMERCIAL AVE EMMETT ID 83617 (208) 365-2786				2.000 CFS	

TOTAL DIVERSION:
CONSUMPTIVE USE:

1.44 CFS

SEE WR RECORD IN FILE ORIGINAL CLAIM

Water Source: BISSELL CREEK
WASTE WATER

Tributary to: PAYETTE RIVER
PAYETTE RIVER

Stage: DECREED
GEM County

Point(s) of Diversion: T07N R02W S31 SESE

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE				
T	R	S		Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	SUM
07N	02W	31	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	72.0
TOTAL ACRES																			72.0	

POU County: GEM

Non-Irrigation Uses: STOCKWATER INCIDENTAL TO IRRIGATION

Other Rights: N/A

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):
A65-01204 A65-02985A A65-05195 A65-05384B R65-05195

Other Water Rights Listing Overlapping Place(s) of Use:
A65-01204 A65-05384 A65-05384B

Remarks: GEN CLAIMANT IS FILING THIS CLAIM AS BISSELL CREEK AND WASTE WATER AS SOURCES AS PER THE AGREEMENT IN THE FILE FOR THIS PAYETTE ADJUDICATION CLAIM.

Dates: Exam Made Date:

Verified Date:

Objection Filed Date:

Misc: Water District Number: 65

Field Inspection Flag:
Presumption Flag:

Audit: 03/22/95 HTHORNT0 03/30/95 POST-STD

C/8

SEE ON STIP FOR 5195
NOT SHOWN ON 5384 (SHOWN ON STIP FOR 5195)
ONCE WATER ENTERS BISSELL CREEK IT IS NO LONGER WASTE WATER
UNLESS STIMULATED AS 5195 BUT SHOWS E.P. POU

Idaho Department of Water Resources

Claim Number: 65-05384A

Legal: T07N, R02W, S31

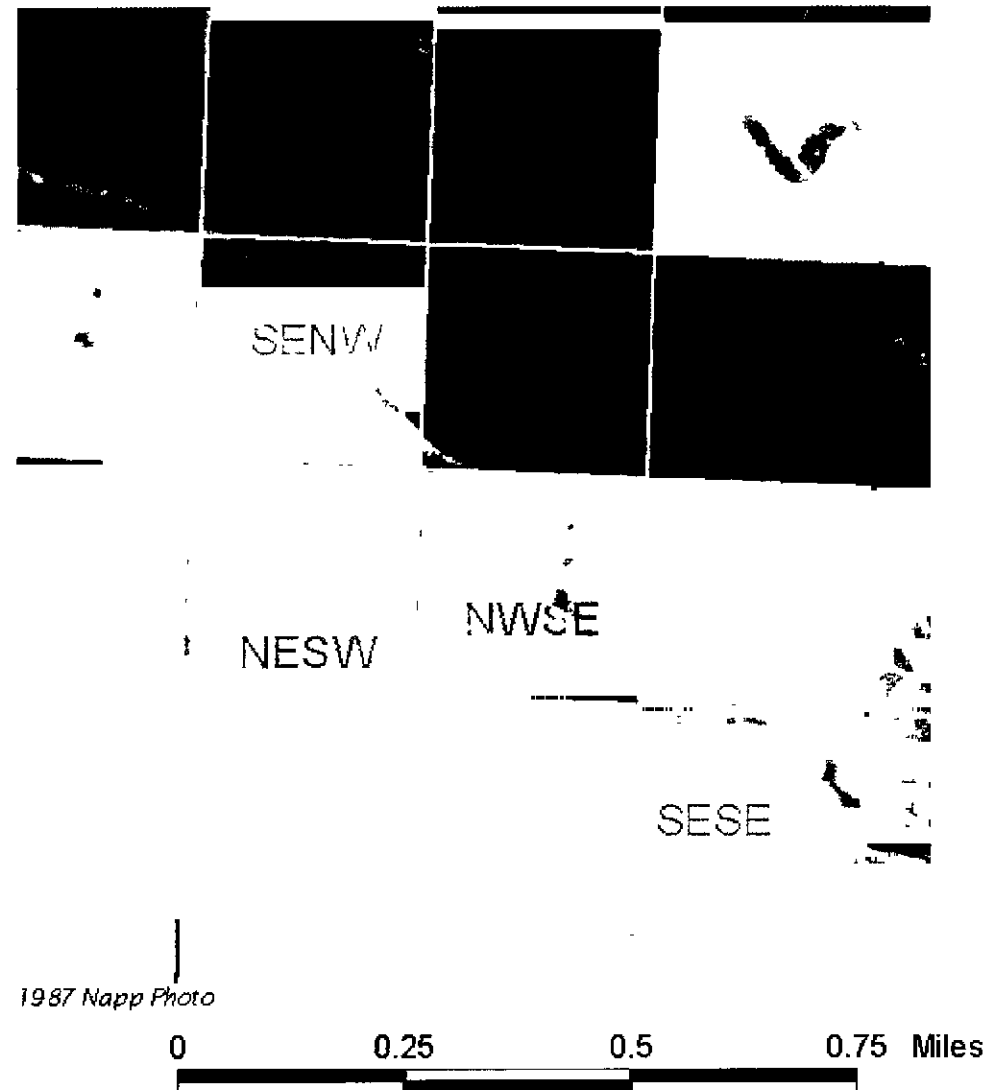
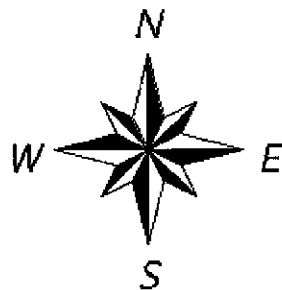
Reviewed By:

⊙ Point of Diversion

□ Place of Use

□ Section Lines

□ Quarter Quarter Lines



AJ5809NP
No. A65-05384B

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 03/14/00
PAGE: 18

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	KATHRYN SIMMONS 209 S COMMERCIAL AVE EMMETT ID 83617 (208) 365-2786	11/08/1927	IRRIGATION	03-15 11-15	1.440 CFS	
TOTAL DIVERSION:					1.440 CFS	
Water Source: BISSEL CREEK		Tributary to: PAYETTE RIVER			Stage: DECREED	
Point(s) of Diversion:		T07N R02W S31 SESE		GEM County		
Place of use Legal Description for: IRRIGATION						
NE NW SW SE						
T R S : Lt Ac Lt Ac Lt Ac Lt Ac : Lt Ac Lt Ac Lt Ac Lt Ac : Lt Ac Lt Ac Lt Ac Lt Ac : Lt Ac Lt Ac Lt Ac Lt Ac : SUM						
07N 02W 31 : : 15 : 02-45 : 12 : 72.0						
TOTAL ACRES 72.0						

CLAIMED SEPARATELY HOWEVER ALSO ON 5384A, RECOMMEND 5384A

POU County: GEM

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):
A65-01204 A65-02985A A65-05195 A65-05384A R65-05195

Other Water Rights Listing Overlapping Place(s) of Use:
A65-01204 A65-05384 A65-05384A

Remarks: GEN JACOB, KATHRYN, AND ABRAHM SIMMONS PURCHASED THE FARM IN 1956.
ABRAHAM SIMMONS, DECEASED 1973. HIS SHARE OF THE FARM WENT TO
BROTHER JACOB.
JACOB SIMMONS, DECEASED 1985. FARM THEN WENT TO HIS WIFE,
KATHRYN H., BY DECREE ON MARCH 17, 1987.
ON SEPTEMBER 22, 1989, FARM SOLD TO STANLEY AND ELSIE BROWN
AND SON ALAN AND CHERYL BROWN.
I CHOSE TO KEEP THE WATER RIGHTS IN MY NAME UNTIL BROWNS'
OBLIGATION HS BEEN FULFILLED.

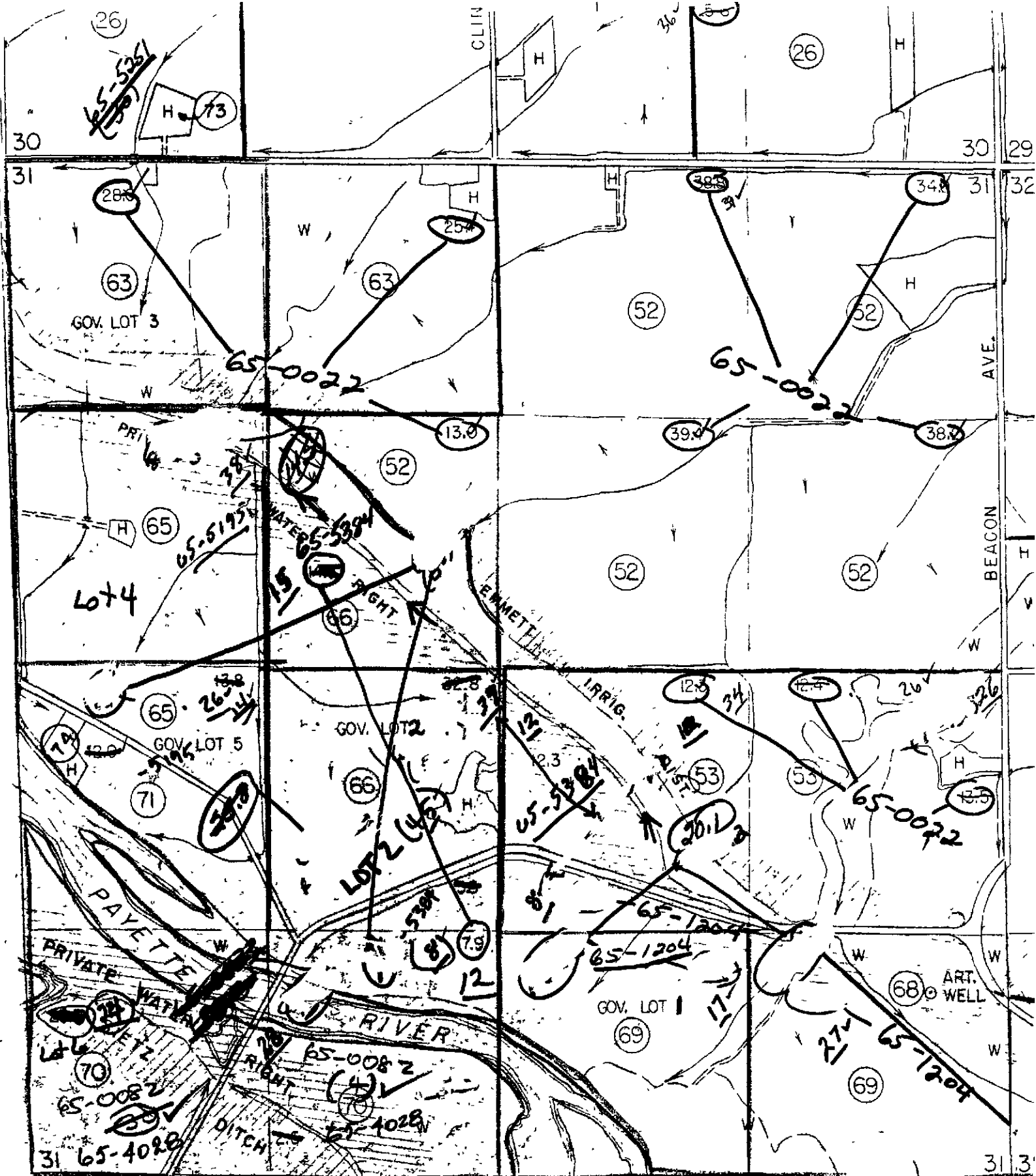
Dates: Exam Made Date: Verified Date: Objection Filed Date:

Misc: Water District Number: 65 Field Inspection Flag:
Presumption Flag:

Audit: 03/22/95 HTHORNT0 03/30/95 POST-STD

DATE: 09/02/99
PAGE: 2

~~Exp Rank - F06~~
~~SAME PID AS: 1204, 5195~~



PRBA BLUELINE MAP F
T7N R2W S31

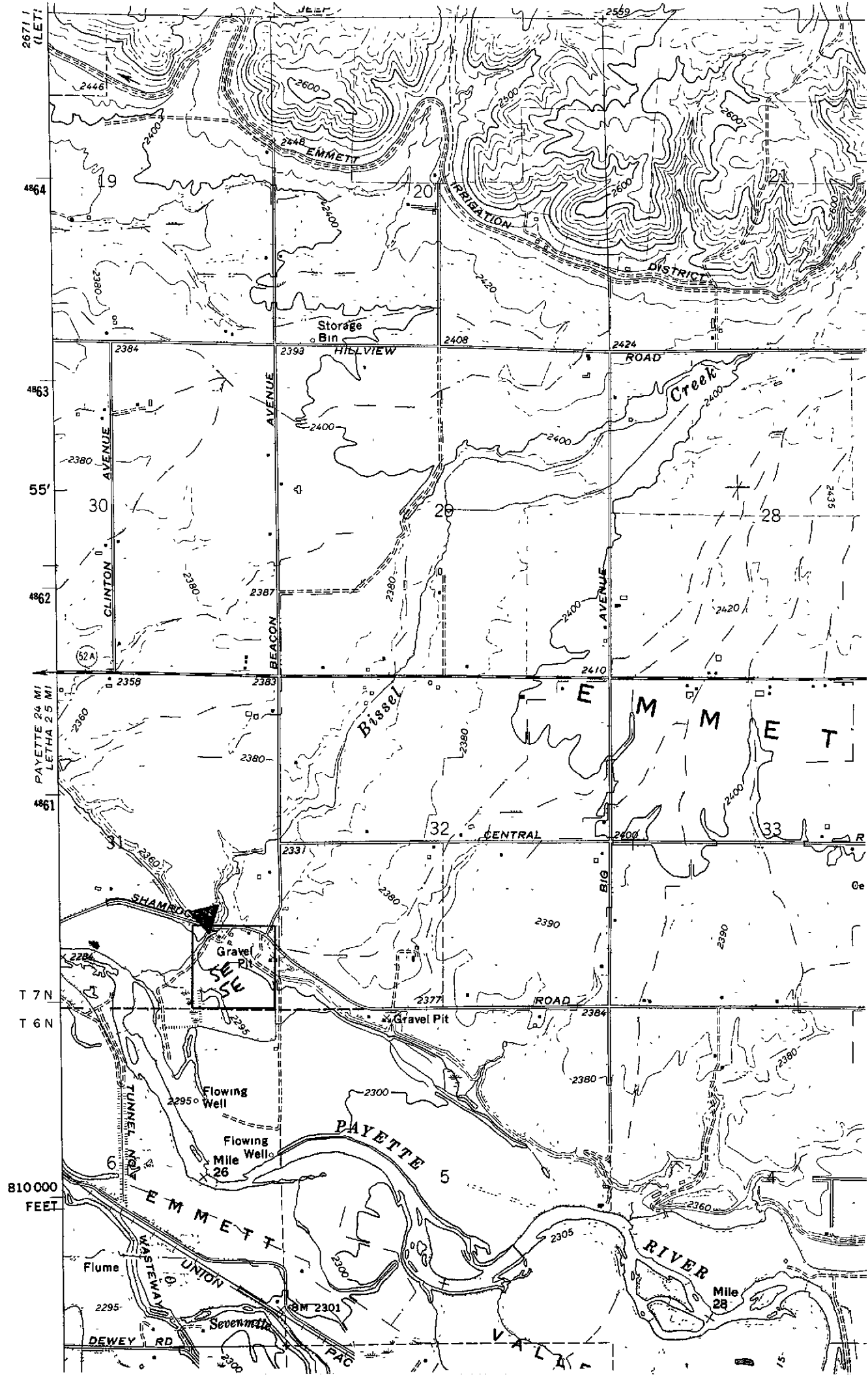
Current Owner

1. Johannessen, Erling
2. Rodgers, Irwin T.
3. Little, Myrn H.
4. Rainey, Wayne

1971 TOPO WB

T7N R2W S31 SESE BISSEL CR

POD OVERLAPS: 65-1204, 65-5195 & 65-5384A





State of Idaho .

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 22, 1995

Stanley L. Brown
2798 Hanna Ave.
Emmett ID 83617

Kathryn Simmons
209 S. Commercial Ave
Emmett ID 83617

RE: Snake River Basin Adjudication (SRBA)

Dear Claimant:

The Identification Number of your Notice of Claim to a Water Right has been changed from A65-05384 to A65-05384A. The suffix "A" has been added to the number in order to distinguish your claim from other claims that may claim a portion of the same original water right. This change does not affect your claim in any other way.

Enclosed is a computer-generated copy of your claim with the new Identification Number. Refer to this record number in any future inquiries or correspondence.

Respectfully,

A handwritten signature in cursive script, appearing to read 'Helen L. Thornton'.

Helen L. Thornton
Adjudication Staff

HHT:h
Enclosures

MICROFILMED
OCT 21 1996

MEMORANDUM

TO: 65-1204, 5195, AND 5384

FROM: DRT 2-1-78

RE: DATE OF PRIORITY

THE RIVERSIDE EXCHANGE AGREEMENT HAS BEEN MENTIONED AS THE BASIS FOR AN 1883 DATE OF PRIORITY FOR TWO OF THESE RIGHTS. THE AGREEMENT CLEARLY ASSIGNS ALL RIGHT AND TITLE TO THE 1883 DATE OF PRIORITY TO EMMETT IER DIST. THEREFORE, THIS EARLY RIGHT HAS BEEN EFFECTIVELY TRANSFERRED FROM THESE LANDS.

THE RT FROM BISSEL CREEK WAS DEVELOPED PRESUMABLY AFTER THE PAYETTE RT WAS TRANSFERRED. THE DATE OF THE AGREEMENT WAS 8-4-1925. & CLAIM 65-1204 INDICATES A DATE OF PRIORITY OF 11-8-1927. THIS DATE WOULD THEN SEEM REASONABLE FOR ALL THREE RIGHTS.

DRT.

Riverside Irrigation Ditch Company,
a corporation, duly authorized

hereunto by a resolution passed
by its stockholders on the 10th day

Agreement, 20197

of 1927, and the said resolution

is hereby acknowledged

before H.M. Mang, Notary Public, Canyon County, Idaho.

(Seal)

(Seal)

(Seal)

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Signed: Emmett Irrigation District, by A. Shorten, its President.

Attest: H. Haylor, Secretary. (Corporate Seal)

Acknowledged October 14, 1927, by H.E. Schroedogost, Secretary and

J.R. Barnett, as President of Riverside Irrigation Ditch Company,

before H.M. Mang, Notary Public, Canyon County, Idaho. (Seal)

Acknowledged November 3, 1927, by A. Shorten as President and

H. Haylor as Secretary of the Emmett Irrigation District, before H.M.

Mang, Notary Public, Canyon County, Idaho, residing at Emmett, Idaho. (Seal)

Witnesseth: I, the said party of the first part, Riverside Irrigation

Ditch Company, a corporation, does hereby sell, convey, assign, transfer,

and release to said party of the second part, Emmett Irrigation District,

a municipal corporation, all its water rights in the Payette River,

as described as follows, to-wit:

That certain water right in said river coming into existence by that

certain notice of ditch location, by Thomas Elliott, locator, to Payette

River, dated the 26th day of November, 1883, filed November 26, 1883, in

Record Book 1 of Water Locations, at page 86, Canyon County records, and

in Record Book 1 of Water Locations, at page 165, Ada County records, in

the State of Idaho, claiming 10,000 inches of the then unappropriated

waters of the Payette River, under a 4 inch pressure, for irrigating

purposes, to be taken out on the Francis Klingback land about 5 miles

below Emmettville (now Emmett, Canyon County, Idaho) on the NE side of said

river, and running thence in a northerly direction about 1 mile to the land

of said locator, to-wit: Lots 2 and 7, Section 6, Twp 6 N., R. 2

N.B.M., and Lot 1 and the SE¹/₄ of the SE¹/₄ of Section 31, Twp. 7 N., R.

2 N.B.M., said water to be used in irrigating said and adjoining lands

which said water right here sold being also mentioned and referred to

in that certain deed of conveyance dated April 16, 1902, and recorded

May 1, 1902, in the office of the County Recorder of Canyon County, Idaho,

in Book 25 of Deeds, at page 271 thereof; and it is expressly understood

by the parties hereto that said party of the first part is hereby conveying

to said party of the second part all its right, title, and interest in

undisturbed and uninterrupted towards the said river, to
may be captured, appropriated, and used by said Rivers
Ditch Company, and its stockholders, and the owners of
by them used for irrigation and domestic purposes.

DET 2-1-78