

NORTHEAST EMMETT C/A

Water Rights Basin 65

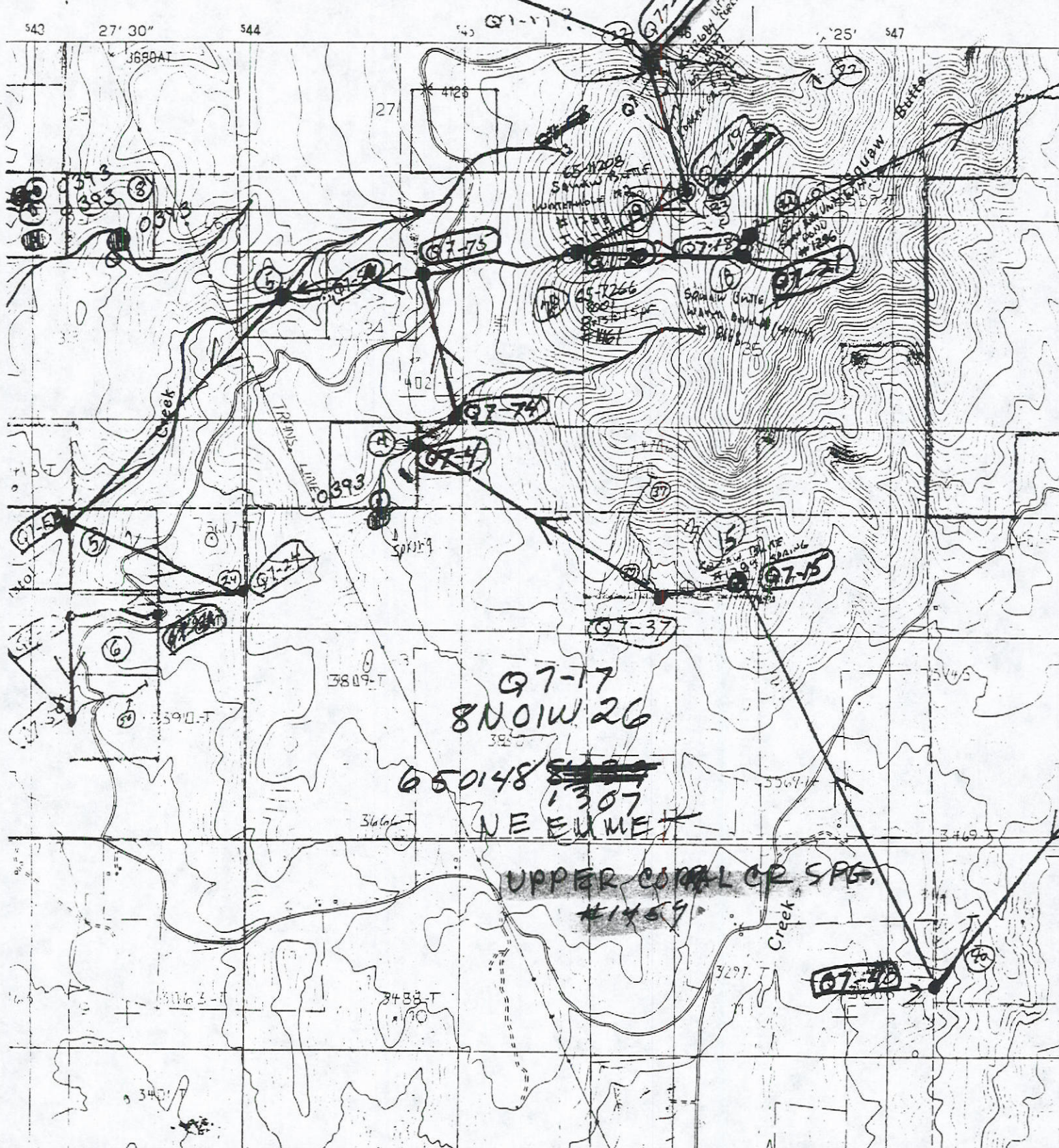
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Department of Water Resources

ENTER
FROM SHEER RIDGE

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

CIVIL CASE NUMBER: 39576

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER
FROM THE SNAKE RIVER BASIN WATER SYSTEM

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE AND FEDERAL LAW

U.S. DEPT. OF INTERIOR
BUREAU OF LAND MGMT.
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706
TELEPHONE: 208-334-1401

PRIORITY DATE: 1874-01-01 *Alb5-20152*
(RESERVED..... 1926-04-17)
AGENCY NUMBER: 6501481307
BLM NUMBER: 6501481307
BASIS OF CLAIM: BENEFICIAL USE
(SUBSEQUENT FEDERAL RESERVE)
BASIN NUMBER: 65

SOURCE	TRIBUTARY TO
-----	-----
CORRAL SPRING	CORRAL CREEK

DESCRIPTION OF DIVERSION WORKS

INSTREAM

PURPOSE OF USE	DIVERSION RATE	DIVERSION VOLUME	PERIOD OF USE FROM	TO
-----	-----	-----	-----	-----
STOCKWATER	0.020	0.00	0101	1231
DOMESTIC	0.020	0.00	0101	1231
WILDLIFE	0.020	0.00	0101	1231
TOTAL:	0.040 CFS	0.00 AF		

NON-IRRIGATION USES

40 RANGE CATTLE, DOMESTIC

TWP	RNG	SEC	TRACT1	POINT OF DIVERSION			COUNTY
				TRACT2	TRACT3	LOT	
---	---	---	-----	-----	-----	---	-----
08N	01W	26		NE	SW	00	GEM

TWP	RNG	SEC	TRACT1	TRACT2	LOT	COUNTY	IRRIGATED	
							OWNED	ACRES
---	---	---	-----	-----	---	-----	-----	-----
08N	01W	26	NE	SW	00	GEM	YES	0.0

MICROFILMED

AUG 04 1994

BLM NUMBER: 6501481307

PAGE: 2

08N 01W 26 NE SW 00 BOISE YES 0.0

TOTAL ACRES IRRIGATED: 0.0

TOTAL CONSUMPTIVE USE IS: DE MINIMUS ACRE FEET PER ANNUM

OTHER WATER RIGHTS

WATER FEDERALLY RESERVED, SEE REMARKS

REMARKS

RESERVED - EXECUTIVE ORDER DATED APR 17, 1926 PWR NO. 107

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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 65-20152

2004 OCT 26 PM 1:16
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED *jm*

NAME AND ADDRESS: USDI BLM
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

SOURCE CORRAL SPRING TRIBUTARY: CORRAL CREEK

QUANTITY 0.02 CFS

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

PRIORITY DATE: 04/17/1926

THIS WATER RIGHT IS CLAIMED BASED ON FEDERAL LAW WITH AN
APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN EXECUTIVE ORDER
SIGNED THE SAME DATE AND KNOWN AS PUBLIC WATER RESERVE 107.

POINT OF DIVERSION: T08N R01W S26 SENWSW Within Gem County

PURPOSE AND PERIOD OF USE.	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE Stockwater Within Gem County
T08N R01W S26 NWSW

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT 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. 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

Recommendation 10/26/2004

John M. Melanson

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

2004 OCT 26 PM 1:15

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

) **SPECIAL MASTER'S REPORT AND**
) **RECOMMENDATION ON FEDERAL**
) **RESERVED WATER RIGHT**
) **PURSUANT TO PWR 107**
)
) **FINDINGS OF FACT AND**
) **CONCLUSIONS OF LAW**
)
) **For subcases: 65-20035 and 65-20152.**
)
)

I. PROCEDURAL BACKGROUND

The above-captioned water rights were claimed by the United States, Department of Interior, Bureau of Land Management as dual based water rights, meaning the rights were claimed as state law-based beneficial use water rights and alternatively as federal reserve water rights pursuant to Public Water Reserve 107 (PWR 107). Notice of the elements of each claim was reported by the Idaho Department of Water Resources. Objections were filed by the State of Idaho.

An *Order Rescinding Order of Reference to Thomas R. Cushman* was entered on July 8, 2004, stating Judge John M. Melanson would proceed in the above subcases in the manner specified by *Administrative Order 1* for Special Masters. On July 20, 2004, a status conference was held.

On August 30, 2004, *Standard Form 5/Amended Claim* forms signed by the claimant and the objector with IDWR concurrence was filed in each of the above subcases. The *SF5* resolved the objections, and retained the dual basis for each right. No objections were filed to the *Amended Director's Report*.

On October 19, 2004, a hearing was held on these claims pursuant to Idaho Code 42-1411A(12), which requires the United States to demonstrate a *prima facie* showing of the existence of the claimed federal reserve water right. In conjunction with that hearing, the United States filed the *Affidavit of Fredric Price* and the *Affidavit of Robert R. Mallis*.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the file and record in this subcase, and the affidavits presented at the hearing on the matter, the Court makes the following findings of fact and conclusions of law:

1. Prior to April 17, 1926, no water rights had been established pursuant to state law for the use of the water from the subject water source for each claim.

3. On April 17, 1926, President Coolidge executed Public Water Reserve 107, which withdrew the 40 acre tract of land upon which the subject water source for the claims is located from the public domain. The tract of land withdrawn for each claim is described as the "place of use" element on the attached *Special Master's Recommendations*.

4. The subject water sources for the claims consist of a spring or water hole of the type contemplated by Public Water Reserve 107.

5. Contemporaneously with the withdrawal of the land, President Coolidge impliedly reserved enough water to fulfill the primary purpose of the land reservation for each claim.

6. The minimum amount of water necessary to fulfill the primary purpose of the land reservation is the amount set forth in the "quantity" element on the attached *Special Master's Recommendation* for each claim.

7. The United States has satisfied its burden under Idaho Code section 42-1411A(12) as to the nature and existence of the claimed federal reserve water right for each claim.

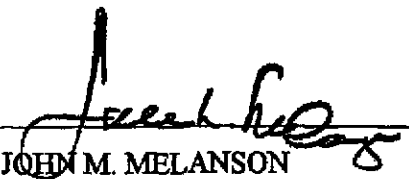
8. The elements of the federal reserved water right for each claim are set forth on the attached *Special Master's Recommendation*.

III. RECOMMENDATION

Therefore, based on the file and record herein, IT IS RECOMMENDED that the above-captioned water right be decreed as a federal reserved water right with the elements as set forth in the attached *Special Master's Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*. It is further recommended that to the extent any concomitant state-law water rights were

claimed in the alternative for the above-captioned right, that said right not be confirmed in any partial or final decree.

Dated October 26 2004. .


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

THE

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s) : 65-20035

Julie Murphy
JULIE MURPHY
Deputy Clerk

PAGE 1
10/26/04

AJ0749NP
No. R65-20152

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 02/26/98
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	UNITED STATES OF AMERICA ACTING THROUGH USDI BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 1387 S VINNELL WAY BOISE ID 837091657 (208) 373-4000	01/01/1874	STOCKWATER	01-01 12-31	0.02 CFS	
TOTAL DIVERSION:					0.02 CFS	

Water Source: CORRAL SPRING

Tributary to: CORRAL CREEK

Stage: BENEFICIAL USE

Point(s) of Diversion:

T08N R01W S26

SENNWSW

GEM County

Place of use Legal Description for: STOCKWATER

				NE				NW				SW				SE				
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:
08N	01W	26	:											S						:

POU County: GEM

Conditions of Approval:

- D01 - *****
- * 4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT. *
- * *
- * THIS WATER RIGHT IS ALSO CLAIMED BASED ON FEDERAL LAW *
- * WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN *
- * EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN AS PUBLIC *
- * WATER RESERVE 107. *
- *****
N11 - THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
- DETERMINATION OF HISTORICAL BENEFICIAL USE.
N13 - THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
- GALLONS PER DAY.

Remarks: EXP BLM RECORD ID = 6501481307
STOCKWATER, 40 RANGE CATTLE

Dates: Exam Made Date: Verified Date: 02/26/1998 Objection Filed Date:

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

AJ0749NP
No. R65-20152

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 02/26/98
PAGE: 2

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Comments: Date: 01/13/1998 User-ID: AJU5-JSH Subject: AJU5 STOCK ONLY UPDATE
USE-NOT-IRRIGATION FIELD TEXT DELETED AND MADE EXP REMARK.
CONDITION CODES N11 AND N13 ADDED IF NOT ALREADY PART OF RECORD.
ANY GEN REMARK CHANGED TO EXP REMARK. IF BLM/USFS, DELETED L12.

Audit: 02/26/98 SBOCK

AJ5809NP
No. R65-20152

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 02/18/98
PAGE: 145

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	UNITED STATES OF AMERICA ACTING THROUGH USDI BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 1387 S VINNELL WAY BOISE ID 837091657 (208) 373-4000	01/01/1874	STOCKWATER	01-01 12-31	0.02 CFS	
TOTAL DIVERSION:					0.02 CFS	

Water Source: CORRAL SPRING

Tributary to: CORRAL CREEK

Stage: BENEFICIAL USE

Point(s) of Diversion:

T08N R01W S26

NESES

2 EWSW

GEM County

Place of use Legal Description for: STOCKWATER

				NE				NW				SW				SE							
T	R	S		NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:
				Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac	
08N	01W	26	:					:					:					:					:

POU County: GEM

Other Rights: ~~WATER FEDERALLY RESERVED, SEE REMARKS~~

Conditions of Approval:

- D01 - *****
- * 4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT. *
- * * * *
- * THIS WATER RIGHT IS ALSO CLAIMED BASED ON FEDERAL LAW *
- * WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN *
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- GALLONS PER DAY.

Remarks: EXP BLM RECORD ID = 6501481307
40 RANGE CATTLE, DOMESTIC

Dates: Exam Made Date:

Verified Date:

Objection Filed Date:

Misc: Water District Number:

Field Inspection Flag:
Presumption Flag:

AJ5809NP
No. R65-20152

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

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CONDITION CODES N11 AND N13 ADDED IF NOT ALREADY PART OF RECORD.
ANY GEN REMARK CHANGED TO EXP REMARK. IF BLM/USFS, DELETED L12.

Audit: 01/10/98 AJCTR 01/12/98 AJU5-JSH

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

In Re SRBA

Case No. 3957

AMENDED NOTICE of CLAIM for
Water Right number.

65-20152

(IDWR number)

NAME and
ADDRESS

United States of America acting through
Bureau of Land Management
Idaho State Office
1387 South Vinnell Way
Boise, ID 83709 - 1657

BLMIDENT

6501481307

Stg

StFed

J

X

SOURCE:

Source

Tributary

CORRAL SPRING

CORRAL CREEK

QUANTITY:

0 02

CFS

or VOLUME:

0

Acre Feet

The quantity of water under this right for stockwater shall not exceed 13,000 gallons per day.

PRIORITY DATE

1/1/1874

Diversion Means

SPRING

REMARKS:

Also reserved pursuant to EO 4/17/26, PWR 107

POINT of
DIVERSION

Twship	Range	Section	T1	T2	T3	LOT	B/E	within the	County of
08N	01W	26	NE	NE	SW			45	GEM

PURPOSE
and
PERIOD
OF USE

Purpose of Use	Period of Use (from - to)	Rate in CFS	or	Volume in AcFt
04	0101	1231	0 02	

CONSUMPTIVE
USE

de minimis

stockwater use

DATE

06-Feb-98

7 11 AM

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.

PLACE
of USE

Water Use	Twship	Range	Section	T1	T2	LOT	within the	County of
04	08N	01W	26	NE	SW		45	GEM

ENTER

NORTHEAST EMMETT C/A

Water Rights Basin 65

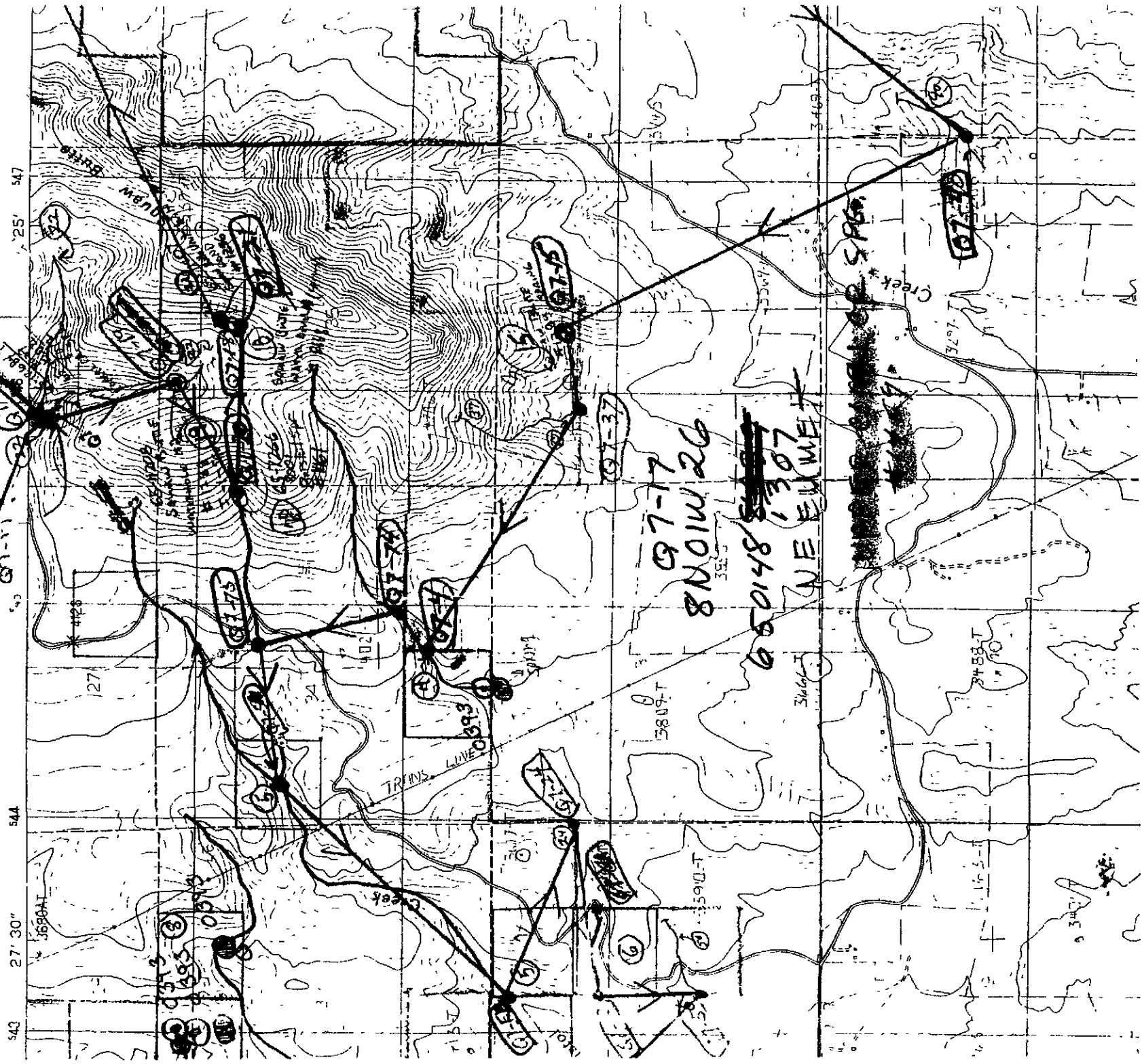


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DEC 11 1997

Department of Water Resources



G17-17
8N01W26
G50148
NE EUMET

~~WATER RIGHTS BASIN 65~~

G17-20