

Idaho Dept. of Water Resources

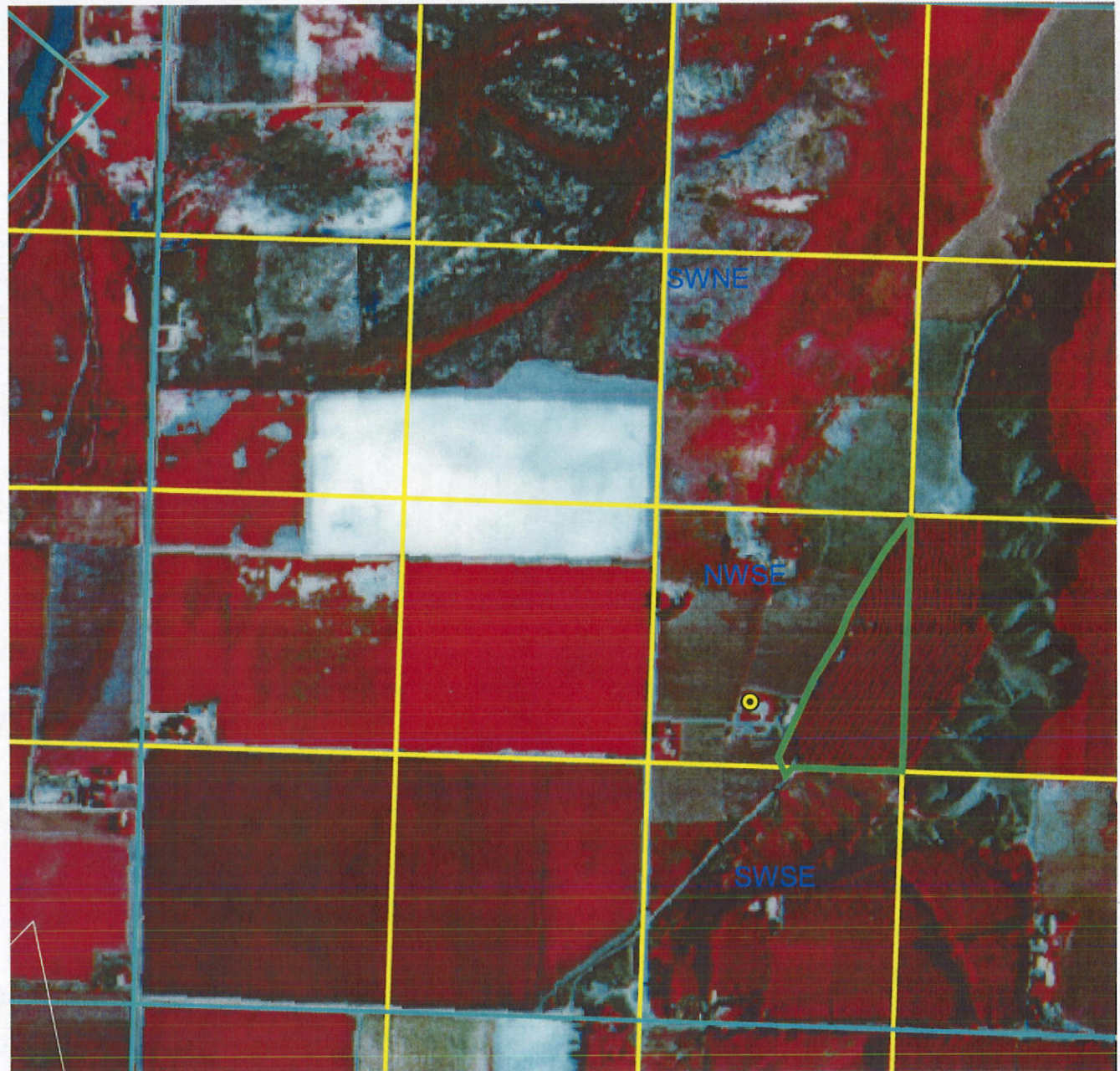
Claim No(s): 65-22332

T7N, R5W, S 9

Prepared by: Sue Bock

Date: 2/01/2001

-  Place of Use
-  Point of Diversion
-  Section lines
-  1/4 1/4 lines



1987 NAPP Photo

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

**IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 5764 (WATER)
RIGHT NO. 65-02983) IN THE NAME)
OF RICHARD E. SURMEIER)**

PRELIMINARY ORDER

Richard E. Surmeier (Surmeier) filed application for transfer no. 5764, and the application was protested by Barry & Vivian Blume Trust (Blume). A hearing was conducted in Fruitland, Idaho on December 6, 2000. Based on the evidence presented at the hearing and the records of the Idaho Department of Water Resources (IDWR), IDWR finds, concludes, and orders as follows:

FINDINGS OF FACT

1. ~~Richard E. Surmeier~~ (Surmeier) filed application for transfer no. 5764, seeking to ~~add a point of diversion and~~ change the point of diversion for a portion of water right no. 65-02983. The lands sought to be irrigated are 14 acres located in the NW ¼ SE ¼ of Section 9, Township 7 North, Range 5 West, Boise Meridian. (Note to Gary, I am confused about what was sought by the application. If a change was sought for a part of the right that has not been forfeited, it seems like a partial approval could be given.) (The application for transfer seeks to add a point of diversion and change a point of diversion for right no. 65-02983. The lands owned by Surmeier are part of the place of use described by the right decreed by the district court in the Payette River Adjudication. No change in the place of use was sought by the application for transfer).

2. License no. 65-02983 was issued to A.O. Johnson on May 9, 1956. License no. 65-02983 authorized irrigation of 30 acres with ground water in the NW ¼ SE ¼ of Section 9, Township 7 North, Range 5 West. The 30 irrigated acres were located on the west side of the 40-acre parcel. The license excluded from the place of use a triangular ten acre piece of land located on the east side of the 40-acre parcel. This triangular piece approximates the land owned by Surmeier that he is attempting to irrigate with ground water by adding a point of diversion.

3. The district court in the Payette River Adjudication ~~reduced~~ found that the total number of irrigated acres described by water right no. 65-02983 had been reduced from 80 to 69 acres, ~~but~~ The district court found that increased the irrigated acreage in the NW ¼ SE ¼, Section 9, Township 7 North, Range 5 West had increased from 30 acres to 36 acres. Water right no. 65-02983, as amended decreed in ~~by~~ the Payette River Adjudication, included the ten-acre triangular piece on the east side of the NW ¼ SE ¼, Section 9 as part of the place of use and removed four acres identified as a home site.

4. Richard Surmeier testified that he has owned the 14 acres described in his application for transfer for approximately five years. Surmeier also testified that he has lived in the area for approximately 30 years. Surmeier testified that the property has been irrigated with surface water diverted from the Payette River through the Black Canyon Irrigation District delivery system and has not been irrigated with ground water.

5. Black Canyon Irrigation District recently identified the lands irrigated by water delivered through its system for the Snake River Basin Adjudication. Black Canyon Irrigation District determined the 14 acres sought to be irrigated with ground water by this application for transfer were not original project lands irrigated with surface water. Black Canyon Irrigation District informed Surmeier that it would no longer deliver surface water for irrigation of the 14 acres.

6. Surmeier testified that ground water had not been applied to the 14 acres for the five years he had owned the property, and that ground water had not been applied to the 14 acres for the previous 25 years during which he was familiar with the property. Surmeier testified that when he was told Black Canyon Irrigation District would no longer deliver surface water to the property, he attempted to file an application for a new ground water right with IDWR. During a visit to the offices of IDWR, Surmeier discovered that water right no. 65-02983, as described by the Payette River Adjudication, identified his property as a place of use.

7. Sheryl Chapman, a geologist hired by Surmeier, reviewed the available information regarding the existing well owned by Blume and other wells in the area. He modeled the effects of pumping from the proposed Surmeier well on the Blume well. He submitted a report of his analysis and conclusions. Chapman concluded the proposed well would not significantly interfere with or affect the Blume well.

8. Diversion and use of ground water would allow Surmeier to continue to irrigate previously irrigated lands.

9. Surmeier has constructed a sprinkler delivery system to irrigate the place of use described by the application for transfer. The sprinkler system operates in a manner that will conserve water.

CONCLUSIONS OF LAW

1. Idaho Code § 42-222 provides in pertinent part as follows:

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-203A(5), Idaho Code; . . .

2. The applicant bears the burden of proof regarding all of the criteria contained in Idaho Code § 42-222.

3. The testimony is unrefuted that ground water has not been used for over 30 years on the 14 acre place of use proposed as the place of use by the application for transfer. Surmeier was not aware there was a ground water right appurtenant to the property until he searched IDWR's records.

4. During the last 30 years, no ground water diverted under water right no. 65-02983 has irrigated the 14 acres that are proposed to be irrigated by the application for transfer. The portion of water right no. 65-02983 that describes the 14 acres owned by Surmeier in the NW ¼ SE ¼ of Section 9, Township 7_North, Range 5_West, (0.32 cfs) is has been forfeited.

5. Irrigation of the 14 acres with water diverted under water right no. 65-02983 would result in an enlargement of in the historic-use of water under that right.

6. Other water rights would not be injured by the proposal to pump water from new points (??) of diversion.

7. Diversion of ground water to irrigate the existing orchard is in the local public interest.

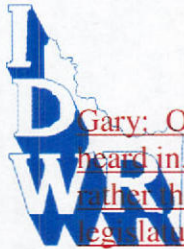
8. Irrigation with a sprinkler system would result in the conservation of the waters of the State of Idaho. (Note to Gary: Why include 6, 7 and 8 if a total denial is issued? If a change in the unforfeited part of the right is sought, the application could be approved in part and these would be needed.) (First, if an appellate court or even the director, were to determine the right was not forfeited, or, that the applicant had satisfied his burden of proof, the other findings of fact and conclusions of law are in place, and the decision would not have to be remanded for further determination. In addition, the decision is written to send a message to the applicant and the protestant that an application for a new water right would probably be approved unless the protestant rebutted the information that has already been compiled).

ORDER

IT IS HEREBY ORDERED that application for transfer no. 5764 (water right no. 65-02983) is **DENIED**.

~~IT IS FURTHER ORDERED that the portion of water right no. 65-02983 that describes the 14 acres owned by Surmeier located in the NW ¼ SE ¼ of Section 9, Township 7N, Range 5W, (0.32 cfs) is forfeited.~~

Dated this _____ day of January, 2001.



State of Idaho

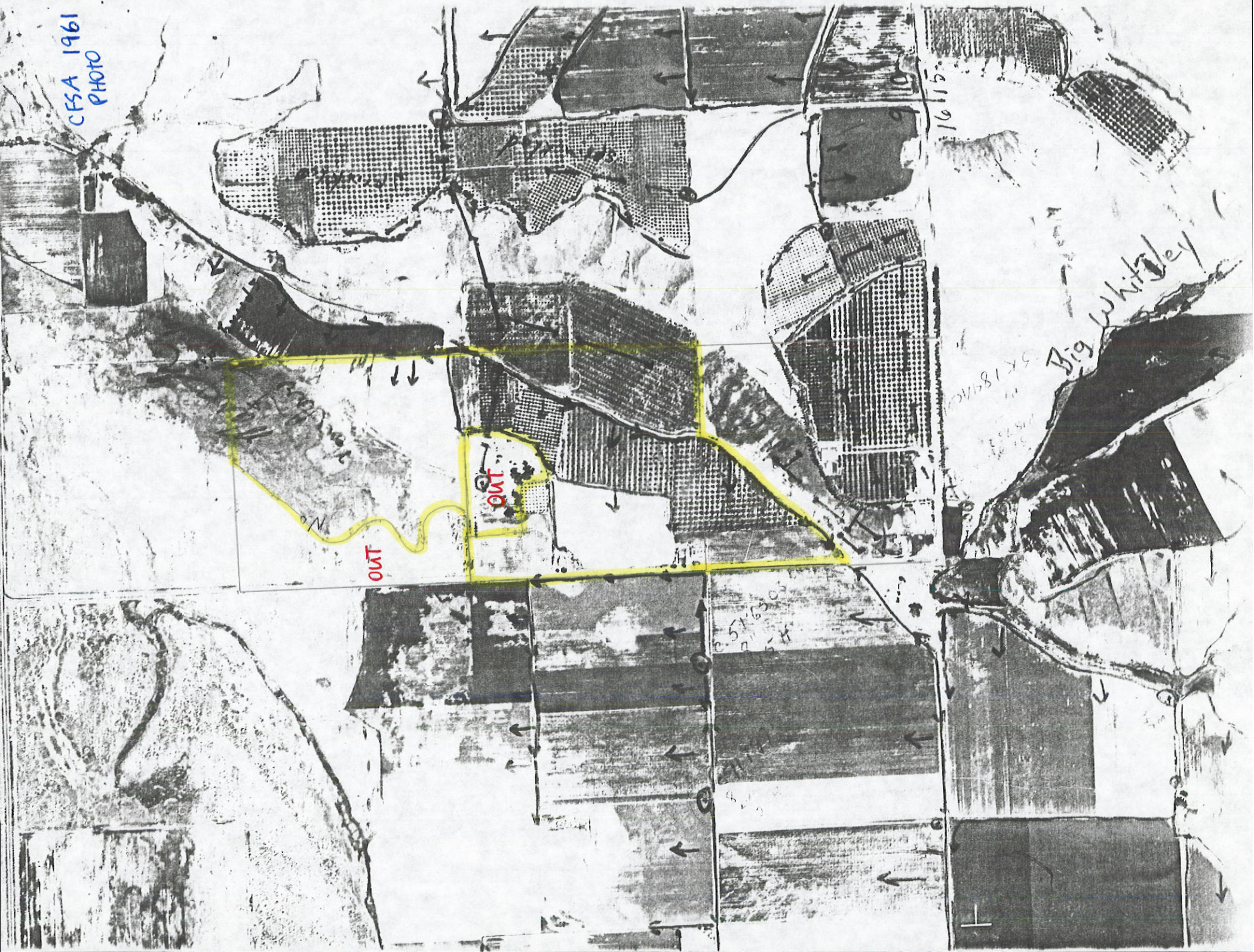
DEPARTMENT OF WATER RESOURCES

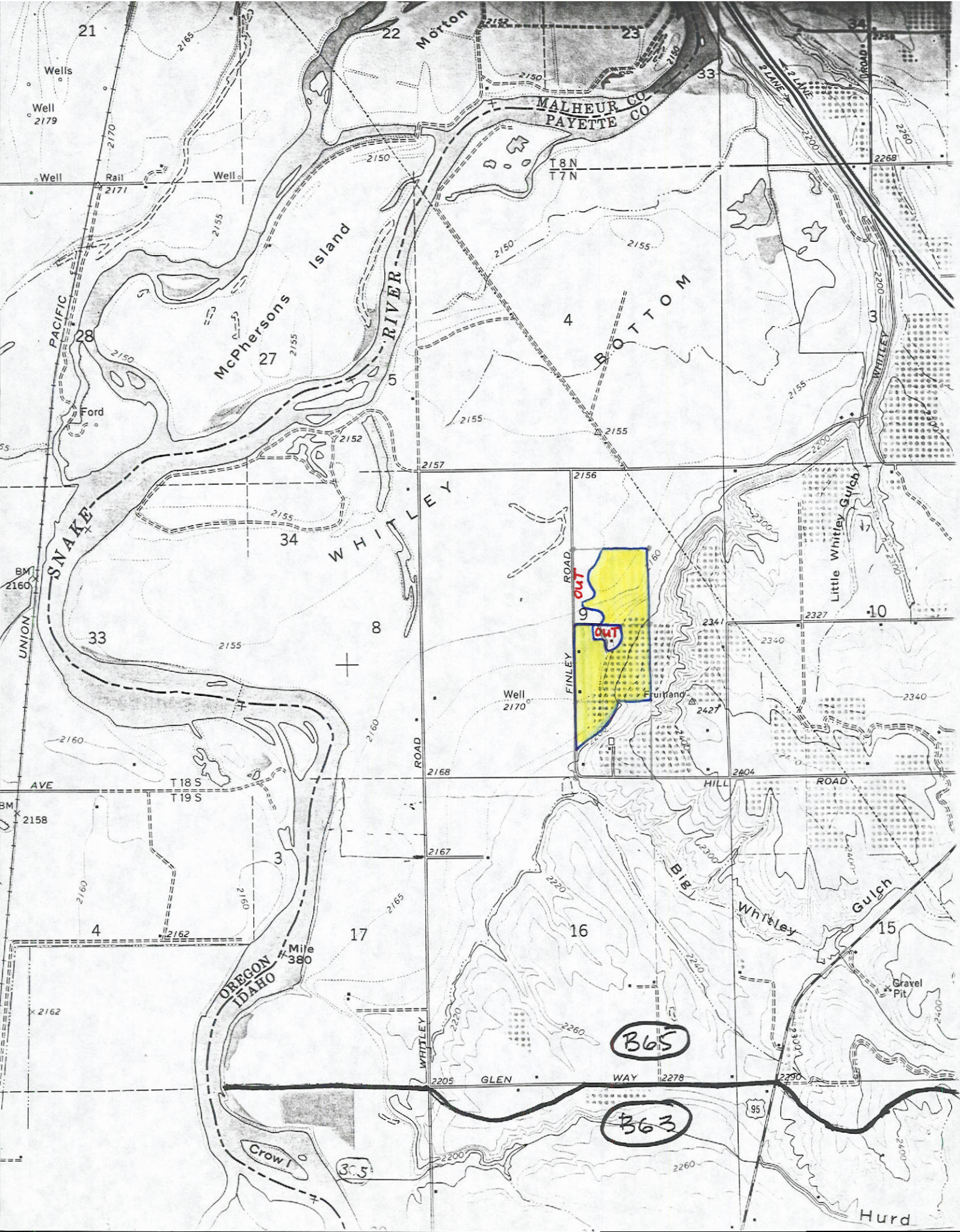
Gary: One of the ongoing issues involves which court appeals of IDWR transfers will be heard in. Phil has drafted legislation that will put the appeals back in the local district court rather than the SRBA court. In the legislative intent he indicates that the intent of the legislature is to have IDWR's administrative decisions be prima facie evidence in the SRBA court. I think we are better off denying an application because the applicant has not met his burden of proof to show that approval will not expand the use of the water right and then not go the next step to find that the right has been forfeited. I have not reread the decision about partial forfeiture, but I recall the Supreme Court of Idaho stating that the historic use of water is not the standard for determining whether a water right is valid. The legislature established forfeiture as the standard. I don't understand why we would want to deny the transfer on the basis that Surmeier did not satisfy his burden of proof. If there is clear and convincing, actually unrefuted, evidence submitted by the applicant in the record that the right has been forfeited, and we are reluctant to find forfeiture in the transfer proceeding, perhaps we should never determine forfeiture in an administrative proceeding. If we do not find forfeiture in this case, then the adjudication will recommend that the acres be recognized as a place of use for the ground water right through the review of aerial photography (the shape file is already prepared and ready for an approval recommendation) without the benefit of the evidence presented at the hearing (or would adjudication staff actually use the administrative proceeding record to recommend forfeiture when the decision for the proceeding would not determine it), and we will force the protestant to again file another form of its protest as an objection in the SRBA. If an objection is not filed in the SRBA, once the partial decree is issued, Surmeier will again file an application for transfer, and despite the past evidence, he will cross his fingers and cry "KINGS X, I have a court decree." I believe we ought to resolve matters that are clearly resolvable in an administrative proceeding presently pending before IDWR. This seems to be one of them.

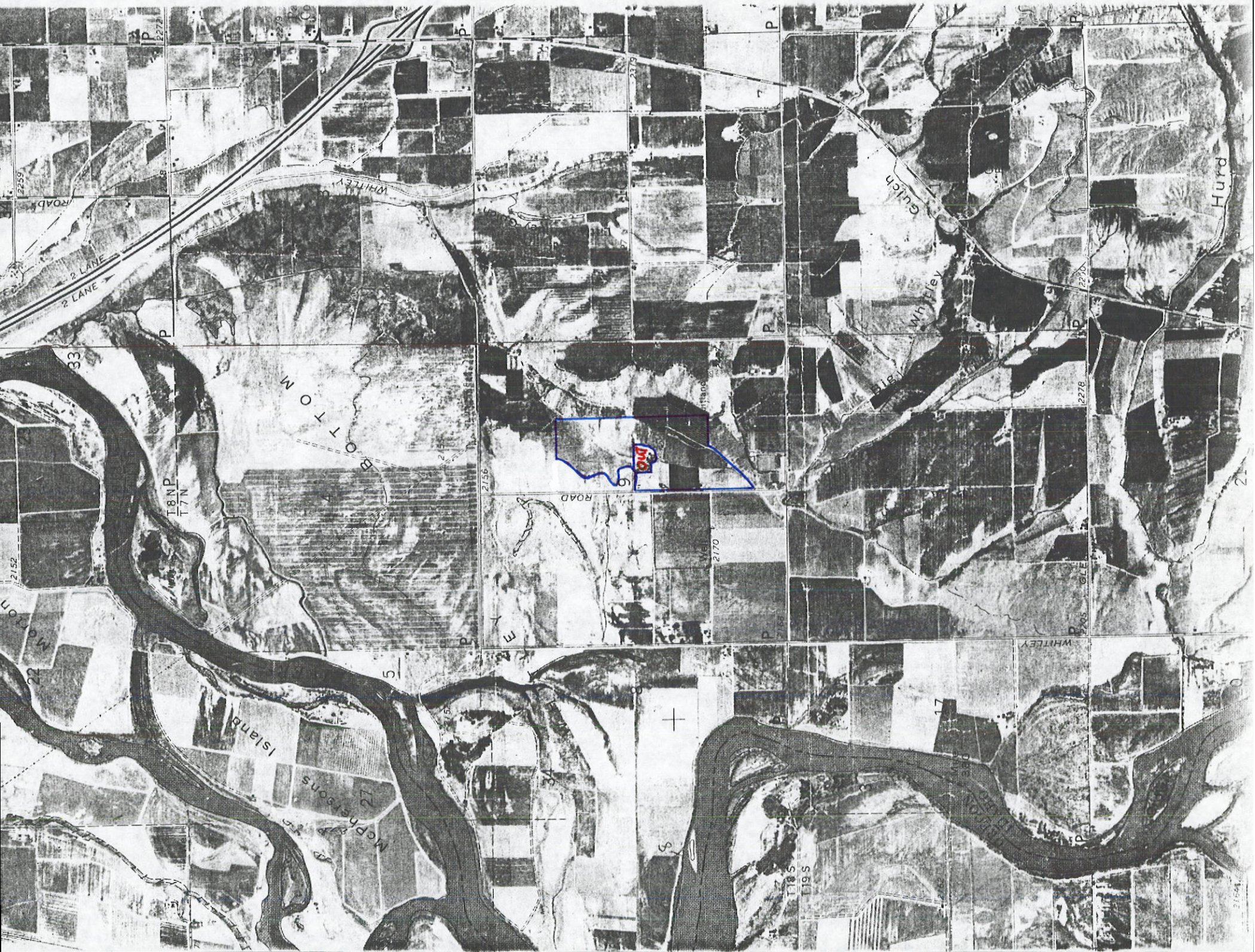
Another issue involves not going further back than the Payette decree. Where the court reduced the acreage in the decree, the issue was addressed up to that point in time. I agree. Nonetheless, the parties at the hearing were confused about what the records of IDWR showed. The protestant produced maps at the hearing from the old license that I didn't understand. The discussion about the old license attempted to review the history of the place of use and show why the original license did not describe the Surmeier lands but they became part of the place of use during the Payette River Adjudication. While the paragraph may not be necessary for the decision, its inclusion does not change the outcome, and, in my opinion, is good background.

Gary Spackman
Hearing Officer

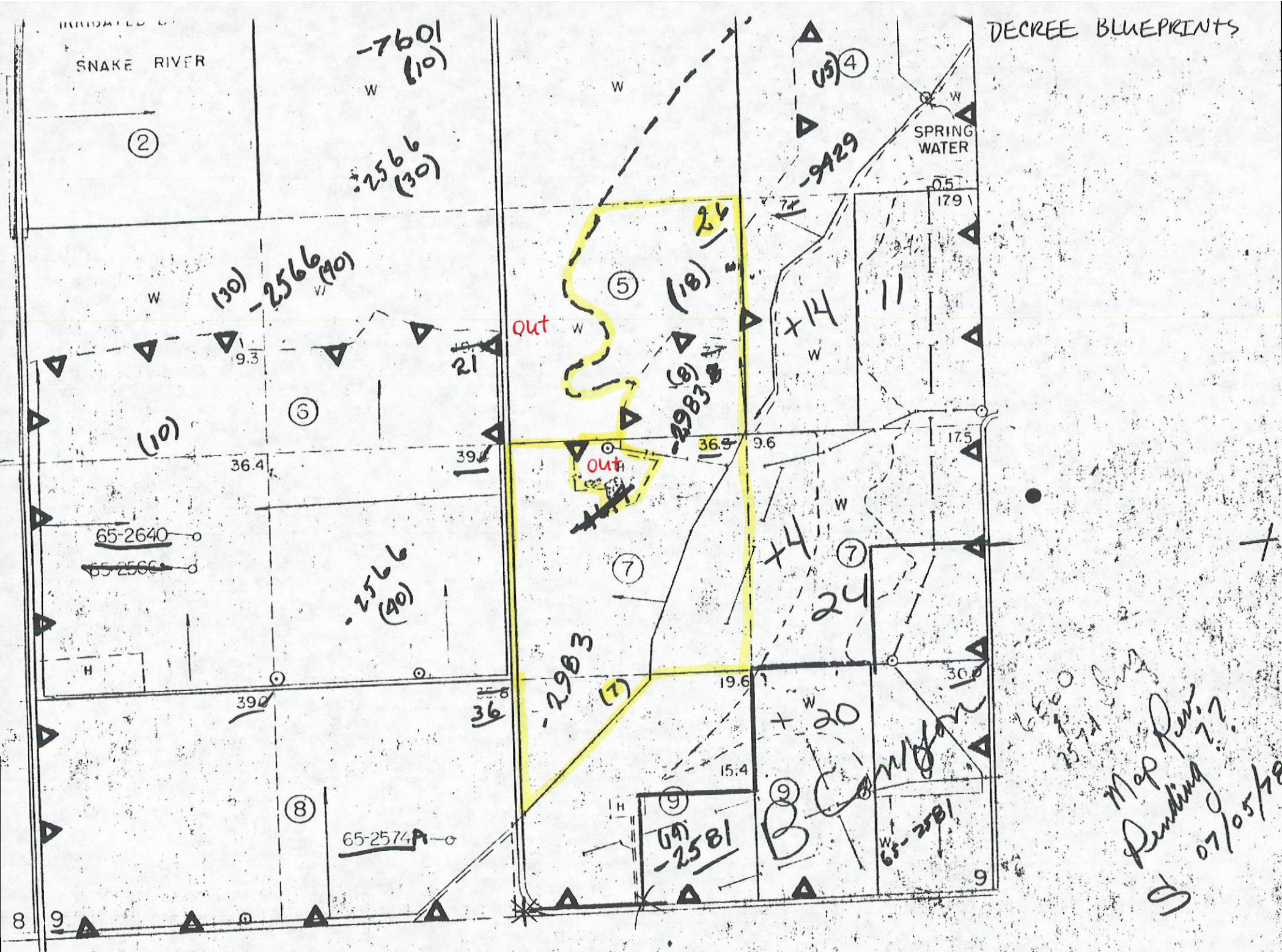
CPSA 1961
PHOTO







DECREE BLUEPRINTS



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 65-22332
Date Received: 9/10/93
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s): RICHARD E SURMEIER
5540 FINLEY RD
FRUITLAND ID USA 83619

Phone: (208)452-5616

2. Date of Priority: 06/01/1954

3. Source: GROUND WATER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
07N	05W	9	NW SE	PAYETTE	

5. Description of diverting works:

WELL, GRAVITY AND SPRINKLERS, PUMP HOUSE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	0.27	

7. Total Quantity Appropriated is:
0.27 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	05W	9	NW SE		IRRIGATION	11.6
					Section Acres	11.6
					Total Acres	11.6

11. Place of use in counties: PAYETTE

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

13. Other Water Rights Used:

14. Remarks:

This claim is the result of a split due to a change in ownership for a portion of 65-02983. DB 1/31/2001.

15. Basis of Claim: Decreed

RECEIVED

MAY 31 2000

WATER RESOURCES
WESTERN REGION

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

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
 Incomplete forms will be returned.

1. Water Right No(s): 65-02983 5764
 Adjudication Claim No(s): A65-02983

2. The following **REQUIRED** information must be submitted with this form:
 - A. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water rights or claims in question, **WITH ATTACHED LEGAL DESCRIPTION.**
 - AND**
 - B. **PLAT OF PROPERTY** or **SURVEY MAP** showing the location of the place of use of the water right(s) or claim(s). (These are usually attached to your deed or on file with the county.)
 - OR**
 - C. If your water right or adjudication claim is 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 BLUME FAMILY TRUST
5664 FINLEY ST, FRUITLAND 83619

4. New Owner/Claimant(s) RICHARD E SURMEIER
Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
 New Mailing Address 5540 FINLEY RD
 City, State and ZIP Code FRUITLAND ID 83619
 New Telephone Number (208) 452-5616

5. Date you acquired the property OCT 5, 1995

6. Did you acquire all of the former owner's property? If you did, skip this item and go to item 7. If you acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). Describe in detail your portion of each water right or adjudication claim in the spaces in the box below only if the water right(s) or claim(s) need to be split between owners. If necessary, attach additional pages. If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

Number of acres you irrigate with this water right <u>14</u>	Number and type of stock _____
Diversion rate in CFS <u>.32</u>	Number of homes you acquired _____ Other uses _____

7. Signature of New Owner(s) or Claimant(s) Richard E Surmeier

Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign form.

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

65-02983

Blume Family Trust

Sumner

11.6 acres

in NWSE

0.27 of S

NWSE → 24.4

other acres stay

the same

1.33 of S

65-22331

65-22332

Redeem to →

257813

255278

P-22728

DEED

FOR VALUE RECEIVED,

LIMBAUGH RANCHES, INC., an Idaho corporation,
a corporation duly organized and existing under the laws of the State of Idaho, grantor, does hereby Grant,
Bargain, Sell and Convey unto

RICHARD E. SURMEIER and CONNIE L. SURMEIER, husband and wife,
grantee whose current address is 1850 S.W. 3rd St., Fruitland, ID 83619

the following described real estate, to-wit:

Land in Twp. 7 N. R. 5 W. ^{Sec 9} ~~300~~ ⁸⁰⁰ E.M., Payette County, Idaho:

In Sec. 9: The West ~~300~~ ⁸⁰⁰ feet of the NE¹/₄SE¹/₄;
AND the NW¹/₄SE¹/₄ lying East of the West boundary line
of the Whitely Bottom Ditch, as the same now crosses
said NW¹/₄SE¹/₄.
TOGETHER WITH an easement for ingress and egress, as
conveyed by grant recorded April 13, 1995, Fee #254976,
and re-recorded April 21, 1995, Fee #255097,
Miscellaneous Records of Payette County, Idaho.

TOGETHER with any and all water, water rights, ditches, ditch rights,
minerals, mineral leases and any and all irrigation rights appurtenant
to said lands or in anywise connected therewith.

Note: This Deed is being re-recorded to correct the legal description contained herein.

257813

State of Idaho, County of Payette

I certify that this instrument was filed for record at the request of Land Title Insurance Company

Oct 5, 1995 4:36 PM in Book 48, Page 257813
Laura L. Stigile, Ex-Officio Recorder by *[Signature]* Deputy fee \$300

TO HAVE AND TO HOLD The said premises, with their appurtenances unto the said Grantee
heirs and assigns forever

IN WITNESS WHEREOF, The Grantor, pursuant to a resolution of its Board of Directors has caused
its corporate name to be hereunto subscribed by its President and its Secretary as follows:
Secretary: this x

LIMBAUGH RANCHES, INC.

Dated: May 2, 1995

By

Thomas E. Limbaugh
PRESIDENT.

ATTEST:

Barbara L. Limbaugh
SECRETARY.

STATE OF IDAHO, Payette County

On this 2nd day of May, 19 95,
before me, a Notary Public in and for said State, personally appeared Thomas E. Limbaugh and
Barbara L. Limbaugh, known to me to
be the President and Secretary of the corporation
that executed this instrument or the persons who executed
the instrument on behalf of said corporation, and
acknowledged to me that such corporation 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.

Residing at
Comm. Expires

Sherry Miller
Notary Public
Idaho

STATE OF IDAHO, COUNTY OF Payette

I hereby certify that this instrument was filed for record at
the request of Land Title Insurance Company

at 42 minutes past 10:00 o'clock A.M.,
this 3 day of May 1995, in my office, and duly recorded in Book 48
of Deeds at Page 255278

LAURA L. STIGILE
Ex-Officio Recorder

By

[Signature]
Deputy.

Fee \$ 300
Mail to:

INSTRUMENT NO. 255278

[illegible]

**Redrawn for
Appraisal Purposes Only**

See Assumptions and Limiting Conditions

Plat Map

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: A65-02983
Date Received: 9/10/1993
Receipt No: W016718 PAID 50.
Received By: EL LATE FEE

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: BARRY L AND/OR VIVIAN B BLUME FAM TRUST 208-452-4912
Address: 5664 FINLEY STREET
FRUITLAND ID 83619

2. Date of Priority: JUN 1, 1954

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07N	05W	9	NW	SE			PAYETTE

5. Description of diverting works:
WELL, GRAVITY AND SPRINKLERS, PUMP HOUSE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	1.600		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07N	05W	9	SW	NE		IRR	26.0
			NW	SE		IRR	36.0
			SW	SE		IRR	7.0

MICROFILMED
AUG 03 1994

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	69.0
					Total Acres	69.0

11. Place of use in counties: PAYETTE

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

13. Other Water Rights Used:
NONE

14. Remarks:

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): *Curran B. Blum*

Date: *Sept. 10, 1993*

Date:

~~MICROFILMED~~

State of Idaho)
County of ADA) SS.

Subscribed and sworn (or affirmed) before me this 10th day
of Sept 19 93

Ron Houston
Notary Public

Seal

Residing at Don Houston

My Commission Expires Residing at Boise, Idaho
My Commission Expires December 8, 1994

MICROFILMED

AUG 13 1994

RIGHT NUMBER: 65-22332
NAME AND ADDRESS: RICHARD E SURMEIER
5540 FINLEY RD
FRUITLAND ID 83619

SOURCE: GROUND WATER TRIBUTARY:

QUANTITY: 0.27 CFS
52.2 AFY

PRIORITY DATE: 05/31/2000

POINT OF DIVERSION:

T07N R05W S9 NWSE Within PAYETTE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.270 CFS 52.20 AFY

PLACE OF USE:

IRRIGATION Within PAYETTE County
T07N R05W S09 NWSE 11.6

11.6 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: Decreed

04/27/2001

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report

WATER RIGHT NO. 65-22332

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	A O JOHNSON RT 1 BOX 166A FRUITLAND, ID 83619

Priority Date: 05/31/2000
Basis: Decreed
Status: Active

Source
GROUND WATER

Tributary to

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	03/15	11/15	0.27 CFS	52.2 AFA	
Total Diversion			0.27 CFS	52.2 AFA	

Location of Point(s) of Diversion:

GROUND WATER	NESE	Sec. 09	Township 07N	Range 05W	PAYETTE County
GROUND WATER	NESE	Sec. 09	Township 07N	Range 05W	PAYETTE County

IRRIGATION Use:
Acre Limit: 11.6

Place(s) of use:

Place of Use Legal Description: IRRIGATION

PAYETTE County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
07N	05W	9		NWSE	11.6						

Total Acres: 11.6

03/09/2001 RECEIVED

NOTICE OF ERROR
REPLY

APR 09 2001

WATER RESOURCES
WESTERN REGION

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

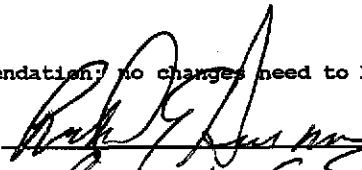
Water right number: 65-22332

RICHARD E SURMEIER
5540 FINLEY RD
FRUITLAND ID 83619
Telephone Number: (208)452-5616

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):
2. Describe the changes you wish to make in the proposed recommendation:
3. Give a brief explanation as to why you disagree with these portions:

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

DATE: 4-5-01

SIGNATURE: 

Please print your name: RICHARD E SURMEIER

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

03/30/2001

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

RIGHT NUMBER: 65-22332
NAME AND ADDRESS: RICHARD E SURMEIER
5540 FINLEY RD
FRUITLAND ID 83619

SOURCE: GROUND WATER TRIBUTARY:

QUANTITY: 0.270 CFS

PRIORITY DATE: 05/31/2000

POINT OF DIVERSION:
T07N R05W S9 NWSE Within PAYETTE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.270 CFS

PLACE OF USE:

IRRIGATION Within PAYETTE County
T07N R05W S09 NWSE 11.6

11.6 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

03/09/2001

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

RIGHT NUMBER: 65-22332
NAME AND ADDRESS: RICHARD E SURMEIER
5540 FINLEY RD
FRUITLAND ID 83619

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.270 CFS

PRIORITY DATE: 06/01/1954

5/31/2000

POINT OF DIVERSION:

T07N R05W S9 NWSE Within PAYETTE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.270 CFS

PLACE OF USE:

IRRIGATION Within PAYETTE County
T07N R05W S09 NWSE 11.6

11.6 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

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

**IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 5764 (WATER)
RIGHT NO. 65-02983) IN THE NAME) PRELIMINARY ORDER
OF RICHARD E. SURMEIER)**

Richard E. Surmeier (Surmeier) filed application for transfer no. 5764, and the application was protested by Barry & Vivian Blume Trust (Blume Trust). A hearing was conducted in Fruitland, Idaho on December 6, 2000. Based on the evidence presented at the hearing and the records of the Idaho Department of Water Resources (IDWR), IDWR finds, concludes, and orders as follows:

FINDINGS OF FACT

1. Surmeier filed application for transfer no. 5764 with IDWR, asking to change a point of diversion and add a point of diversion for a portion of water right no. 65-02983. Both wells are proposed to be located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Township 7 North, Range 5 West. The lands sought to be irrigated are 14 acres located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Township 7 North, Range 5 West, Boise Meridian.
2. License no. 65-02983 was issued to A. O. Johnson on May 9, 1956. License no. 65-02983 authorized irrigation of 80 acres with ground water from a well located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Township 7 North, Range 5 West. Thirty acres of the place of use were located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Township 7 North, Range 5 West. The license excluded from the place of use a triangular ten-acre piece of land located on the east side of the 40 acre parcel. This triangular piece approximates the land owned by Surmeier that he is attempting to irrigate with ground water by adding and/or changing points of diversion.
3. The district court in the Payette River Adjudication found that the total number of irrigated acres described by water right no. 65-02983 had been reduced from 80 to 69 acres. The district court found that the irrigated acreage in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 9, Township 7 North, Range 5 West had increased from 30 acres to 36 acres. Water right no. 65-02983, as decreed in the Payette River Adjudication, included the ten-acre triangular piece on the east side of the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 9 as part of the place of use and removed four acres identified as a home site from the original 30 acre place of use. The excluded home site is the location of the original point of diversion, and is not owned by Surmeier.
4. Surmeier testified that he has owned the 14 acres described in his application for transfer for approximately five years. Surmeier also testified that he has lived in the area for approximately 30 years. Surmeier testified that the property has been irrigated with surface water diverted from the Payette River through the Black Canyon Irrigation District delivery system. Surmeier testified that ground water was not applied to

the 14 acres for the five years he has owned the property and that ground water was not applied to the 14 acres for the previous 25 years during which he was familiar with the property.

5. Black Canyon Irrigation District recently identified the lands irrigated by water delivered through its system for the Snake River Basin Adjudication. Black Canyon Irrigation District determined the 14 acres sought to be irrigated with ground water by this application for transfer were not original project lands irrigated with surface water. Black Canyon Irrigation District informed Surmeier that it would no longer deliver surface water for irrigation of the 14 acres.

6. Surmeier testified that when he was told Black Canyon Irrigation District would no longer deliver surface water to the property, he attempted to file an application for a new ground water right with IDWR. During a visit to the offices of IDWR, Surmeier discovered that water right no. 65-02983, as described by the Payette River Adjudication, identified his property as a place of use.

7. Decreed water right no. 65-02983 locates the point of diversion in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Township 7 North, Range 5 West. Water right no. 65-02983 was claimed by the Blume Trust in the Snake River Basin Adjudication. Barry Blume testified that the Blume Trust owns the original point of diversion for water right no. 65-02983.

8. After Surmeier discovered that water right no. 65-02983 described his property located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9 as a place of use, Surmeier sought to change the ownership of a portion of water right no. 65-02983 claimed by the Blume Trust in the Snake River Adjudication. IDWR staff investigated the beneficial use of water on the Surmeier property, and determined that 11.6 acres of the Surmeier property located within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9 had been irrigated.

9. Barry & Vivian Blume acquired the point of diversion and a large portion of the place of use for water right no. 65-02983 in 1978 (See Protestants Exhibit H, warranty deed from A. O. & Anna Johnson to Barry Lee & Vivian Blume). The total acreage irrigated by the Blume Trust and proposed to be irrigated by Surmeier will not exceed the decreed place of use of 69 acres.

10. Barry Blume testified that ground water has not been applied to the Surmeier property from 1978 to the present. His testimony is consistent with Surmeier's testimony. There has not been a means to divert or deliver ground water to the proposed place of use for approximately 30 years.

11. In 1995, Surmeier drilled a domestic well in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Township 7 North, Range 5 West. The domestic well is one of the proposed points of diversion sought by this application for transfer. Surmeier also seeks to drill another well for irrigation in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Township 7 North, Range 5 West. The application will be interpreted to seek two new wells for irrigation.

12. Sherl Chapman (Chapman), a geologist hired by Surmeier, reviewed the available information regarding the existing well owned by the Blume Trust and other wells in the area. He modeled the effects of pumping from the proposed Surmeier wells on the Blume Trust well. His analysis and conclusions are written in Applicant's Exhibit No. 1. Chapman concluded the proposed wells would not significantly interfere with or affect the Blume Trust well.

13. Diversion and use of ground water would allow Surmeier to continue to irrigate previously irrigated lands.

14. Surmeier has constructed a sprinkler delivery system to irrigate the place of use described by the application for transfer. The sprinkler system operates in a manner that will conserve water.

CONCLUSIONS OF LAW

1. Idaho Code § 42-222 provides, in pertinent part, as follows:

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-203A(5), Idaho Code;

2. The applicant bears the burden of proof regarding all of the criteria contained in Idaho Code § 42-222.

3. The testimony is unrefuted that ground water has not been used for over 30 years on the 14 acres proposed as the place of use by the application for transfer. There has not been a means to divert or deliver ground water. Surmeier was not aware there was a ground water right appurtenant to the property until he searched IDWR's records.

4. Forfeiture must be established by clear and convincing evidence. Courts abhor a forfeiture. If water is not diverted as authorized by a water right because the water has been fully supplied from another source, the water right is not forfeited.

5. Irrigation of the 14 acres with water diverted under water right no. 65-02983 would not result in an enlargement in the use of water under the right.

6. Approval of this application will increase the historical use of ground water because Black Canyon Irrigation District surface water supplied the sole source of water for irrigation of the Surmeier property for at least the last 30 years. Resumption of use of a water right, and recognition of its original priority date after a 30 year period of nonuse, could cause injury to another water user owning a water right bearing a date of priority

between the original date of priority and the date of resumption. As a result, the proof of non-injury should measure to a strict standard of proof. The burden of proof to establish that Blume would not be injured by the resumption of use by Surmeier was not satisfied.

7. Nonetheless, sufficient proof was submitted to establish that resumption would not injure a water user owning a water right bearing a priority date earlier than the filing of the application for transfer. If the date of priority for the portion of water right no. 65-02983 sought to be transferred by Surmeier is advanced to the date of the filing of the application for transfer, other water rights will not be injured.

8. Diversion of ground water to irrigate the existing cropland is in the local public interest.

9. Irrigation with a sprinkler system would result in the conservation of the waters of the State of Idaho.

10. Application for transfer no. 5764 should be approved with the following limitations: (a) The date of priority is May 31, 2000, (b) The place of use is 11.6 acres, and (c) The flow rate is 0.27 cfs.

ORDER

IT IS HEREBY ORDERED that application for transfer no. 5764 (water right no. 65-02983) is **Approved**, with the following limitations:

1. The date of priority is May 31, 2000.
2. The place of use is 11.6 acres.
3. The flow rate is 0.27 cfs.

IT IS FURTHER ORDERED that the portion of water right no 65-02983 transferred is subject to the following conditions:

1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
2. This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
3. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

5. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.

6. The total instantaneous diversion of water from all points of diversion under Transfer 5764 shall not exceed 0.27 cfs, nor total combined annual volume of 52.2 af.

7. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date of this approval.

Dated this 9th day of March, 2001.



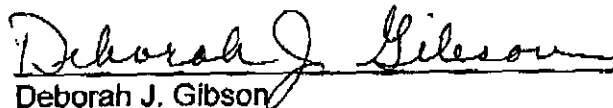
Gary Spackman
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of March, 2001, the above and foregoing document was served upon the following by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to the following:

RICHARD E SURMEIER
5540 FINLEY RD
FRUITLAND ID 83619

BARRY &/OR VIVIAN BLUME TRUST
5664 FINLEY RD
FRUITLAND ID 83619



Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

WATER RIGHT NO. 65-22332

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	RICHARD E SURMEIER 5540 FINLEY RD FRUITLAND, ID 83619 (208)452-5616
Original Owner	BARRY L AND/OR VIVIAN B BLUME FAM TRUST 5664 FINLEY STREET FRUITLAND, ID 83619 (208)452-4912
Original Owner	A O JOHNSON RT 1 BOX 166A FRUITLAND, ID 83619

Priority Date: 06/01/1954
Basis: Decreed
Status: Active

Source Tributary to
GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	03/15	11/15	0.27 CFS		
Total Diversion			0.27 CFS		

Location of Point(s) of Diversion:

GROUND WATER NWSE Sec. 09 Township 07N Range 05W PAYETTE County

IRRIGATION Use:
Acre Limit: 11.6

Place(s) of use:

Place of Use Legal Description: IRRIGATION PAYETTE County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
07N	05W	9		NWSE	11.6									

Total Acres: 11.6

Conditions of Approval:

1. C18 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.

Comments:

<u>Author</u>	<u>Date</u>	<u>Subject</u>	<u>Comment</u>
---------------	-------------	----------------	----------------

sbock 2/1/01 split

This right is split from 65-2983. See original file for information pertaining to right and the use of. Original right licensed for 30 acres in the nwse with no acres on the other side of the ditch. When the right was included in the Payette it changed to 36 acres. GW has not been applied to the other side of the ditch, Black Canyon Water was. Now Black Canyon will no longer deliver to that area and the claimant wanted to file a transfer to add a pod. See file for more info.

Dates:

Licensed Date:
Claim Received Date: 09/10/1993
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Decreed Date:
Date Filed with Court:
Objection Filed Date:
SF5 Filed:
Special Master Recom Signed Date:

Element Reviewed/Verified Dates:

Element	Last Review Date	Reviewer	Last Verified Date	Verifier	Status
Contacts	2/1/01 11:21:27 AM	sbock			In Process
POD	2/1/01 11:22:51 AM	sbock			In Process
POU	2/1/01 11:23:20 AM	sbock			In Process
Priority Date	2/1/01 11:22:07 AM	sbock			In Process
Quantity	2/1/01 11:24:33 AM	sbock			In Process
Season	2/1/01 11:24:18 AM	sbock			In Process
Source	2/1/01 11:23:07 AM	sbock			In Process
Use	2/1/01 11:23:32 AM	sbock			In Process

Other Information:

Receipt Number(s):
State or Federal: S
Owner Name Connector:
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
PresumptionFlag:
Notice of Error Flag:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False
Parent Right: 65-2983 ChangeOfOwnership

Verification Log:

Element	Date Time Stamp	Reviewer	Log Text
Contacts	2/1/01 11:21:26 AM	sbock	1. Appointment has not been scheduled.
POD	2/1/01 11:22:50 AM	sbock	1. (NO) The basis is not beneficial use. 2. (YES) Parent right has a Point of Diversion. 8. (NO) Point of Diversion remark was not required. 9. (NO) Point of Diversion condition was not required.
POD	2/1/01 11:22:31 AM	sbock	Edited point location
POU	2/1/01 11:24:00 AM	sbock	Edited shape boundary
POU	2/1/01 11:23:19 AM	sbock	1. (YES) The POU is required. 2. (NO) The basis of claim is not beneficial use. 3. (YES) The Parent Right has a POU. 4. (YES) The claimed POU can be verified using the water right file. 12. (NO) POU remark was not required. 13. (NO) POU condition was not required.
Priority Date	2/1/01 11:22:06 AM	sbock	1. (NO) There has not been a later court decree of the water right(s) from the water source. 4. (NO) The basis of claim is not beneficial use.

Quantity 2/1/01 11:24:32 AM sbock

- 5. (NO) The basis of claim is not a posted notice.
- 6. (YES) Parent right has a priority date.
- 7. (NO) The basis of claim is not an application or permit.
- 12. (YES) The claim is recommended.
- 13. (YES) The claim is coded correctly.
- 14. (NO) Priority remark was not required.
- 15. (NO) Priority condition was not required.

Season 2/1/01 11:24:18 AM sbock

- 1. (NO) The basis of claim is not beneficial use.
- 2. (NO) The basis of claim is not a posted notice.
- 3. (YES) The parent right has a diversion rate and/or diversion volume.
- 4. (YES) The claimed diversion rate and/or volume can be verified using the water right file.
- 6. (NO) The source is not ground water and the purpose of use does not require a diversion volume limit.
- 7. (NO) The parent right does not have an annual diversion volume limit.
- 9. (NO) Quantity remark was not required.
- 10. (NO) Quantity condition was not required.

Source 2/1/01 11:23:06 AM sbock

- 1. (NO) The basis of claim is not beneficial use.
- 2. (YES) The parent right has a period of use.
- 3. (YES) The claimed Period of Use can be verified using the water right file.
- 12. (YES) Irrigation is the purposed use.
- 14. (NO) The period of use on the decree, license or transfer is not shorter on either the start or end date than allowable under IDWR's current standard.
- 15. (NO) Period of Use remark was not required.
- 16. (NO) Period of Use condition was not required.

Use 2/1/01 11:23:31 AM sbock

- 1. (NO) The basis is not beneficial use.
- 2. (YES) Parent right has a source.
- 3. (YES) The claimed source can be verified using the water right file.
- 8. (NO) The source is not surface water.
- 10. (NO) Source remark was not required.
- 11. (NO) Source condition was not required.
- 1. (NO) The basis of claim is not beneficial use.
- 2. (YES) The parent right has a purpose of use.
- 3. (YES) The claimed purpose of Use can be verified using the water right file.
- 11. (NO) Purpose of Use remark was not required.
- 12. (NO) Purpose of Use condition was not required.

Idaho Dept. of Water Resources

Claim No(s): 65-22332

T7N, R5W, S 9

Prepared by: Sue Bock

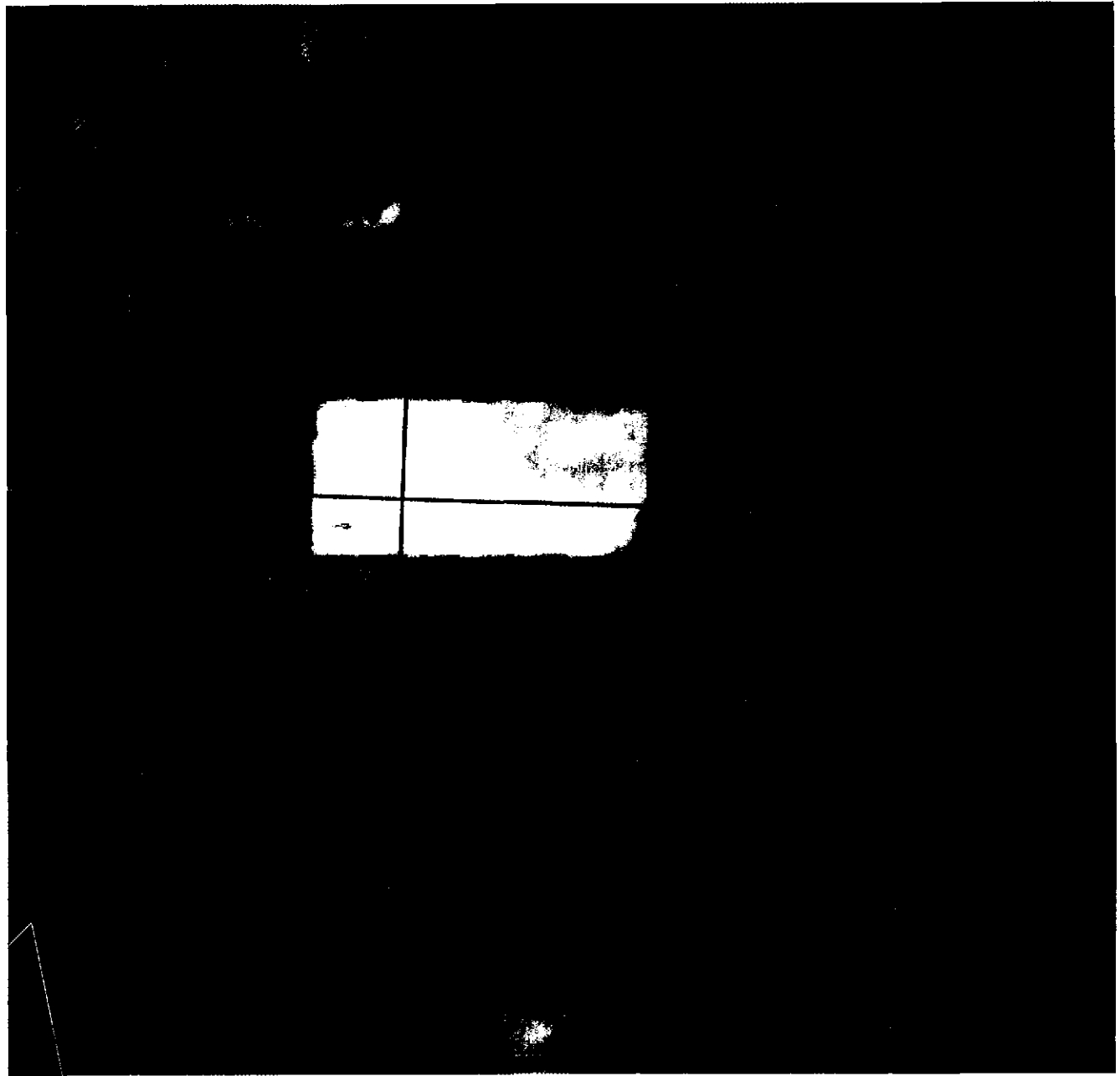
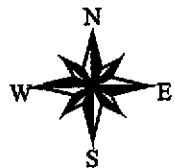
Date: 2/01/2001

 Place of Use

 Point of Diversion

 Section lines

 1/4 1/4 lines



1987 NAPP Photo

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

**IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 5764 (WATER)
RIGHT NO. 65-02983) IN THE NAME) **PRELIMINARY ORDER**
OF RICHARD E. SURMEIER)
_____)**

Richard E. Surmeier (Surmeier) filed application for transfer no. 5764, and the application was protested by Barry & Vivian Blume Trust (Blume). A hearing was conducted in Fruitland, Idaho on December 6, 2000. Based on the evidence presented at the hearing and the records of the Idaho Department of Water Resources (IDWR), IDWR finds, concludes, and orders as follows:

FINDINGS OF FACT

1. ~~Richard E. Surmeier~~ (Surmeier) filed application for transfer no. 5764, seeking to ~~add a point of diversion and change the point of diversion~~ for a portion of water right no. 65-02983. The lands sought to be irrigated are 14 acres located in the NW ¼ SE ¼ of Section 9, Township 7_North, Range 5_West, Boise Meridian. (Note to Gary, I am confused about what was sought by the application. If a change was sought for a part of the right that has not been forfeited, it seems like a partial approval could be given.) (The application for transfer seeks to add a point of diversion and change a point of diversion for right no. 65-02983. The lands owned by Surmeier are part of the place of use described by the right decreed by the district court in the Payette River Adjudication. No change in the place of use was sought by the application for transfer).

2. License no. 65-02983 was issued to A.O. Johnson on May 9, 1956. License no. 65-02983 authorized irrigation of 30 acres with ground water in the NW ¼ SE ¼ of Section 9, Township 7_North, Range 5_West. The 30 irrigated acres were located on the west side of the 40-acre parcel. The license excluded from the place of use a triangular ten acre piece of land located on the east side of the 40-acre parcel. This triangular piece approximates the land owned by Surmeier that he is attempting to irrigate with ground water by adding a point of diversion.

3. The district court in the Payette River Adjudication reduced ~~found that the~~ total number of irrigated acres described by water right no. 65-02983 had been reduced from 80 to 69 acres, ~~but The district court found that increased the irrigated acreage in the~~ NW ¼ SE ¼, Section 9, Township 7_North, Range 5_West had increased from 30 acres to 36 acres. Water right no. 65-02983, as ~~amended~~ decreed in by the Payette River Adjudication, included the ten-acre triangular piece on the east side of the NW ¼ SE ¼, Section 9 as part of the place of use and removed four acres identified as a home site.

4. Richard Surmeier testified that he has owned the 14 acres described in his application for transfer for approximately five years. Surmeier also testified that he has lived in the area for approximately 30 years. Surmeier testified that the property has been irrigated with surface water diverted from the Payette River through the Black Canyon Irrigation District delivery system and has not been irrigated with ground water.

5. Black Canyon Irrigation District recently identified the lands irrigated by water delivered through its system for the Snake River Basin Adjudication. Black Canyon Irrigation District determined the 14 acres sought to be irrigated with ground water by this application for transfer were not original project lands irrigated with surface water. Black Canyon Irrigation District informed Surmeier that it would no longer deliver surface water for irrigation of the 14 acres.

6. Surmeier testified that ground water had not been applied to the 14 acres for the five years he had owned the property, and that ground water had not been applied to the 14 acres for the previous 25 years during which he was familiar with the property. Surmeier testified that when he was told Black Canyon Irrigation District would no longer deliver surface water to the property, he attempted to file an application for a new ground water right with IDWR. During a visit to the offices of IDWR, Surmeier discovered that water right no. 65-02983, as described by the Payette River Adjudication, identified his property as a place of use.

7. Sheryl Chapman, a geologist hired by Surmeier, reviewed the available information regarding the existing well owned by Blume and other wells in the area. He modeled the effects of pumping from the proposed Surmeier well on the Blume well. He submitted a report of his analysis and conclusions. Chapman concluded the proposed well would not significantly interfere with or affect the Blume well.

8. Diversion and use of ground water would allow Surmeier to continue to irrigate previously irrigated lands.

9. Surmeier has constructed a sprinkler delivery system to irrigate the place of use described by the application for transfer. The sprinkler system operates in a manner that will conserve water.

CONCLUSIONS OF LAW

1. Idaho Code § 42-222 provides in pertinent part as follows:

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-203A(5), Idaho Code;

2. The applicant bears the burden of proof regarding all of the criteria contained in Idaho Code § 42-222.

3. The testimony is unrefuted that ground water has not been used for over 30 years on the 14 acre place of use proposed as the place of use by the application for transfer. Surmeier was not aware there was a ground water right appurtenant to the property until he searched IDWR's records.

4. During the last 30 years, no ground water diverted under water right no. 65-02983 has irrigated the 14 acres that are proposed to be irrigated by the application for transfer. The portion of water right no. 65-02983 that describes the 14 acres owned by Surmeier in the NW ¼ SE ¼ of Section 9, Township 7_North, Range 5_West, (0.32 cfs) is has been forfeited.

5. Irrigation of the 14 acres with water diverted under water right no. 65-02983 would result in an enlargement of in the historic-use of water under that right.

6. Other water rights would not be injured by the proposal to pump water from new points (??) of diversion.

7. Diversion of ground water to irrigate the existing orchard is in the local public interest.

8. Irrigation with a sprinkler system would result in the conservation of the waters of the State of Idaho. (Note to Gary: Why include 6, 7 and 8 if a total denial is issued? If a change in the unforfeited part of the right is sought, the application could be approved in part and these would be needed.)(First, if an appellate court or even the director, were to determine the right was not forfeited, or, that the applicant had satisfied his burden of proof, the other findings of fact and conclusions of law are in place, and the decision would not have to be remanded for further determination. In addition, the decision is written to send a message to the applicant and the protestant that an application for a new water right would probably be approved unless the protestant rebutted the information that has already been compiled).

ORDER

IT IS HEREBY ORDERED that application for transfer no. 5764 (water right no. 65-02983) is **DENIED**.

~~IT IS FURTHER ORDERED that the portion of water right no. 65-02983 that describes the 14 acres owned by Surmeier located in the NW ¼ SE ¼ of Section 9, Township 7N, Range 5W, (0.32 cfs) is forfeited.~~

Dated this _____ day of January, 2001.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Gary: One of the ongoing issues involves which court appeals of IDWR transfers will be heard in. Phil has drafted legislation that will put the appeals back in the local district court rather than the SRBA court. In the legislative intent he indicates that the intent of the

legislature is to have IDWR's administrative decisions be prima facie evidence on the SRBA court. I think we are better off denying an application because the applicant has not met his burden of proof to show that approval will not expand the use of the water right and then not go the next step to find that the right has been forfeited. *I have not reread the decision about partial forfeiture, but I recall the Supreme Court of Idaho stating that the historic use of water is not the standard for determining whether a water right is valid. The legislature established forfeiture as the standard. I don't understand why we would want to deny the transfer on the basis that Surmeier did not satisfy his burden of proof. If there is clear and convincing, actually unrefuted, evidence submitted by the applicant in the record that the right has been forfeited, and we are reluctant to find forfeiture in the transfer proceeding, perhaps we should never determine forfeiture in an administrative proceeding. If we do not find forfeiture in this case, then the adjudication will recommend that the acres be recognized as a place of use for the ground water right through the review of aerial photography (the shape file is already prepared and ready for an approval recommendation) without the benefit of the evidence presented at the hearing (or would adjudication staff actually use the administrative proceeding record to recommend forfeiture when the decision for the proceeding would not determine it), and we will force the protestant to again file another form of its protest as an objection in the SRBA. If an objection is not filed in the SRBA, once the partial decree is issued, Surmeier will again file an application for transfer, and despite the past evidence, he will cross his fingers and cry "KINGS X, I have a court decree." I believe we ought to resolve matters that are clearly resolvable in an administrative proceeding presently pending before IDWR. This seems to be one of them.*

Another issue involves not going further back than the Payette decree. Where the court reduced the acreage in the decree, the issue was addressed up to that point in time. *I agree. Nonetheless, the parties at the hearing were confused about what the records of IDWR showed. The protestant produced maps at the hearing from the old license that I didn't understand. The discussion about the old license attempted to review the history of the place of use and show why the original license did not describe the Surmeier lands but they became part of the place of use during the Payette River Adjudication. While the paragraph may not be necessary for the decision, its inclusion does not change the outcome, and, in my opinion, is good background.*

Gary Spackman
Hearing Officer

Bock, Susan

State of Idaho

DEPARTMENT OF WATER RESOURCES

From: Spackman, Gary
Sent: Tuesday, January 16, 2001 3:59 PM
To: Bock, Susan
Subject: FW: Surmeier Transfer Application No. 5764

2735 Airport Way, Boise, Idaho 83705
Phone: (208) 334-2190 FAX: (208) 334-2348 www.idwr.state.id.us/idwr/idwrhome.htm



DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

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

From: Spackman, Gary
Sent: Friday, January 12, 2001 1:42 PM
To: Rassier, Phil
Cc: Young, Norm
Subject: RE: Surmeier Transfer Application No. 5764

Phil,
If you are overwhelmed, I will cancel the meeting.
Gary

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

From: Rassier, Phil
Sent: Friday, January 12, 2001 12:18 PM
To: Spackman, Gary
Cc: Young, Norm
Subject: Surmeier Transfer Application No. 5764

Gary,

I have reviewed the draft Preliminary Order with Norm's comments and your responses. My overwhelming sense is that forfeiture should not be found in a case such as this where the lands in question have been irrigated from an alternate water source.

It seems to be a generally accepted premise that a water right should not be found forfeited for non-use where the water was not diverted because it was not necessary to rely upon diversions under the water right in order to accomplish the approved beneficial use. Diverting the water in such instances could result in excessive or wasteful use of water.

In the present case, it appears that the availability and use of the Black Canyon Irrigation District surface water on the 14 acres in question over an extended period of years made reliance upon the ground water right unnecessary. Under these circumstances, it does not appear to me to be legally supportable to maintain that non-use of the ground water right resulted in forfeiture.

Perhaps there is a reason why this analysis should not be applied in this case. Let me know what you think. Thanks for the opportunity to comment.

Phil

Confidentiality Notice: This e-mail may contain confidential and privileged information exempt from disclosure under applicable law. This message is intended only for the use of the individual or individuals identified above. If you have received this message by mistake, please notify the sender immediately by replying to this message. Please delete the message from your system and do not review, disclose, copy, or distribute any information contained or attached to the message. Thank You!

CPSA 1961
PHOTO

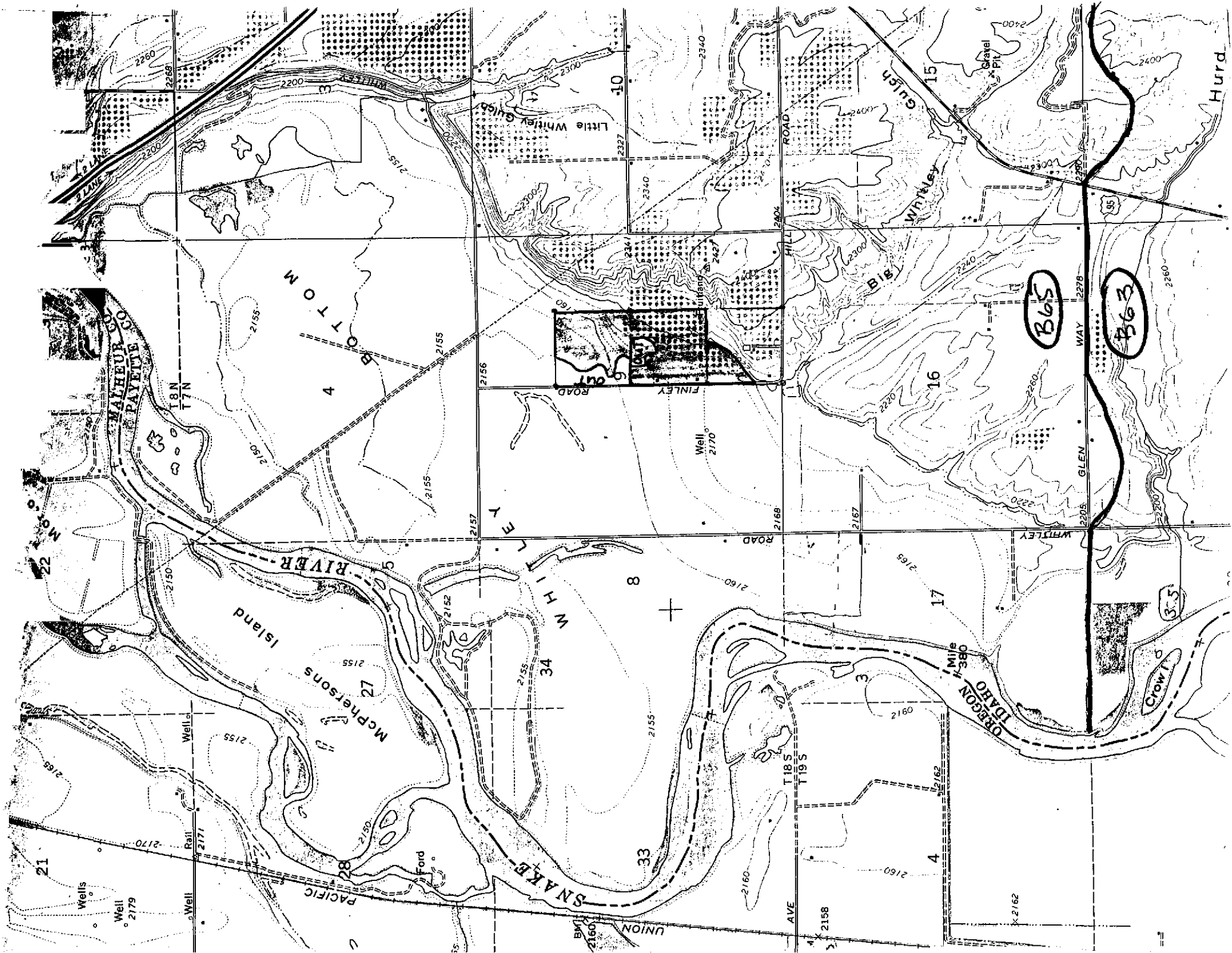


OUT

OUT

16 15

Big Whiskey





IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF GEM

IN THE MATTER OF THE GENERAL DETER-
MINATION OF RIGHTS TO THE USE OF
PAYETTE RIVER

NOTICE OF CLAIM
TO A
WATER RIGHT

65-2983

I.D. No.

Map No.

Fee Paid

Receipt No.

Notice is hereby given that A. O. Johnson

(Name of Claimant)

Route 1, Fruitland, ID 83619

(Mailing Address)

(Zip Code)

Telephone No.

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use, or priority date of decreed, licensed or permit right) 6-01-1954
- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water) groundwater tributary to _____
- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:
- | | | |
|--|--|--|
| Quantity <u>1.6</u>
(CFS, GPD, A/F) | Use <u>Irrigation</u>
(Domestic, irrigation, stock, etc.) | Period of Use From <u>Apr. 1</u> To <u>Nov. 1</u>
(Mo., Day) (Mo., Day)
(Both dates inclusive) |
| Quantity _____
(CFS, GPD, A/F) | Use _____
(Domestic, irrigation, stock, etc.) | Period of Use From _____ To _____
(Mo., Day) (Mo., Day)
(Both dates inclusive) |
| Quantity _____
(CFS, GPD, A/F) | Use _____
(Domestic, irrigation, stock, etc.) | Period of Use From _____ To _____
(Mo., Day) (Mo., Day)
(Both dates inclusive) |
| Quantity _____
(CFS, GPD, A/F) | Use _____
(Domestic, irrigation, stock, etc.) | Period of Use From _____ To _____
(Mo., Day) (Mo., Day)
(Both dates inclusive) |
- (4) 1.6 cfs TOTAL QUANTITY CLAIMED.
(CFS, GPD, A/F)

- (5) A) Point of Diversion: Give location of point where water is diverted from its source NW % SE %
Sec. 9, Twp. 7N, Rge. 5W, B.M. Payette County
- Additional Points: _____
- B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change.
well & pump

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTAL
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
7N	5W	9			<u>40</u>											<u>30</u>	<u>10</u>		<u>40</u>
					<u>26</u>											<u>36</u>	<u>7</u>		<u>43</u>

Total no. of acres 40 69

- B) If water is used for other than irrigation, fully describe that use, being as specific as possible: _____

NOTE: Include here the type and number of stock watered: _____

- (7) If you are claiming water as a member of an organization, list name of organization: _____
- (8) Remarks This right was orig. included as a portion of right 65-5910. No signature necessary. DVS 5-23-78
- (9) Basis of claim (Check one) ☐ A) Right based on diversion and beneficial use.
☐ B) Right decreed by court, cite title of case. _____
☒ C) Right based on application, permit, license, or previous statutory claim filed with the Idaho Department of Water Resources. Give No. License G-24651/65-2983

Be it known that the undersigned, after being duly sworn on oath, depose(s) and say(s) that all statements included herein are true and correct to the best of (his, her, their) knowledge.

Individual

(Signature of Claimant)

(Signature of Spouse)

State of _____

Organization _____

County of _____

Seal _____

(Signature of Authorized Agent)

On this _____ day of _____, in the year _____ before me
a notary public, personally appeared _____
known to me to be the person(s) whose name(s) are subscribed to the above instrument, and acknowledged to me that (he, she, they, corporation,
partnership or _____) executed the same.

My commission expires _____

Notary Public residing at _____

5/24/78

Bock, Susan

State of Idaho

DEPARTMENT OF WATER RESOURCES

From:

Sent:

To:

Subject:



Spackman, Gary
2735 Airport Way, Boise, Idaho 83705

Tuesday, January 16, 2001 3:58 PM

Phone: (208) 334-2190 FAX: (208) 334-2348 www.idwr.state.id.us/idwr/idwrhome.htm

Bock, Susan
FW: Summeier Order

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

—Original Message—

From: Spackman, Gary
Sent: Wednesday, January 10, 2001 12:12 PM
To: Young, Norm; Saxton, Glen; Rassier, Phil
Subject: Summeier Order

Gentlemen,

Glen questioned the inclusion of paragraphs discussing some of the factors not important to a decision denying the application. Norm raised some other questions by returning the text of the original draft with suggested changes and comments. I've responded to his questions in the attached document. My original text is in regular print, his questions/corrections are typed in bold, and he struck out text in the original. My responses are typed in bold italics.

Gary Spackman



Summeiercomment.doc

AJ0749NP
No. A65-02983

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

DATE: 05/17/00
PAGE: 1

=====

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME																																																																																							
C	BARRY L AND/OR VIVIAN B BLUME FAM TRUST 5664 FINLEY STREET FRUITLAND ID 83619 (208) 452-4912	06/01/1954	IRRIGATION	03-15 11-15	1.600 CFS																																																																																								
TOTAL DIVERSION:					1.600 CFS																																																																																								
Water Source: GROUNDWATER		Tributary to:		Stage: DECREED																																																																																									
Point(s) of Diversion:		T07N R05W S09 NWSE		PAYETTE County																																																																																									
Place of use Legal Description for: IRRIGATION																																																																																													
<table><thead><tr><th colspan="4"></th><th colspan="4">NE</th><th colspan="4">NW</th><th colspan="4">SW</th><th colspan="4">SE</th><th></th></tr><tr><th>T</th><th>R</th><th>S</th><th>:</th><th>Lt</th><th>Ac</th><th>Lt</th><th>Ac</th><th>Lt</th><th>Ac</th><th>Lt</th><th>Ac</th><th>Lt</th><th>Ac</th><th>Lt</th><th>Ac</th><th>Lt</th><th>Ac</th><th>Lt</th><th>Ac</th><th>:</th><th>SUM</th></tr></thead><tbody><tr><td>07N</td><td>05W</td><td>9</td><td>:</td><td></td><td></td><td></td><td>26</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td>36</td><td>07</td><td>:</td><td>69.0</td></tr><tr><td colspan="20"></td><td>TOTAL ACRES</td><td>69.0</td></tr></tbody></table>											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	05W	9	:				26											36	07	:	69.0																					TOTAL ACRES	69.0
				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	05W	9	:				26											36	07	:	69.0																																																																								
																				TOTAL ACRES	69.0																																																																								

POU County: PAYETTE

Non-Irrigation Uses: NONE

Other Rights: NONE

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):
65-05910 65-11138 65-20640 A65-05910 A65-11138 A65-12192A

Other Water Rights Listing Overlapping Place(s) of Use:
A65-02581 A65-02581B A65-12192 A65-12192A A65-19682 R65-02581

Dates: Exam Made Date:

Verified Date:

Objection Filed Date:

Misc: Water District Number: 65

Field Inspection Flag:
Presumption Flag:

Memo to protest file 65-02983

November 2, 2000

From: Sue Bock 

Richard Surmeier submitted a change of ownership form on right 65-02983. On the form he indicated 14 acres would be irrigated with this right. Based on the deed and plat map submitted I created a shapefile using GIS. The total irrigated acreage that I came up with was 11.6 acres.

I've decided to postpone splitting the water right until the December 6, hearing. Unless additional information is provided, I will only be recommending the 11.6 acres to Surmeier.

WR5809NP
No. 65-02983

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 01/04/00
PAGE: 11

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	A. O. JOHNSON RT. 1 BOX 166A FRUITLAND ID 83619	06/01/1954	IRRIGATION	03/15 11/15	1.600 CFS	
TOTAL DIVERSION:					1.600 CFS	

Water Source: GROUNDWATER

Tributary to:

Stage: DECREED

Point(s) of Diversion:

T07N R05W S09

NWSE

PAYETTE County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE								
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	SUM
---	---	---	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	---
07N	05W	9	:				26	:					:					:					:	
																					36	07	:	69.0
																					TOTAL ACRES		:	69.0

Pou County: PAYETTE

Other Water Rights Listing Overlapping Place(s) of use:
65-025818 65-12192 65-12702

Dates:	App. Received:	Priority Date:	06/01/1954
	Proof Due Date:	Proof Made Date:	
	Exam Made Date:	Exam Sent to S.O.:	
	Licensed Date:		

Misc: Water District Number: 65 Field Exam Fee:

DATE: 05/23/00
PAGE: 1

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

WR0749NP
No. 65-02983

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 05/17/00
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	A. O. JOHNSON RT. 1 BOX 166A FRUITLAND ID 83619	06/01/1954	IRRIGATION	03/15 11/15	1.600 CFS	
					TOTAL DIVERSION:	1.600 CFS

Water Source: GROUNDWATER

Tributary to:

Stage: DECREED

Point(s) of Diversion: T07N R05W S09 NWSE PAYETTE County

Place of use Legal Description for: IRRIGATION

NE				NW				SW				SE																				
NENE		NWNE		SWNE		SENE		NENW		NWNW		SWNW		SENW		NESW		NWSW		SWSW		SESW		NESE		NWSE		SWSE		SESE		
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	SUM	
07N	05W	9	:				26	:																								
																												36	07	:	69.0	
																												TOTAL ACRES	69.0			

Pou County: PAYETTE

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):

65-04617 65-05910 65-11138 65-12192 65-12702

Other Water Rights Listing Overlapping Place(s) of use:

65-02581B 65-12192 65-12702 65-13949

Dates: App. Received: Priority Date: 06/01/1954
Proof Due Date: Proof Made Date:
Exam Made Date: Exam Sent to S.O.:
Licensed Date:

Misc: Water District Number: 65 Field Exam Fee:

Audit: 04/02/86 04/30/88 CONVERT

PRBA Decree changed previous decree acres.
NWSE changed from 30 TO 36 acres.
4 ac. in QTR sec is house site. The rest
of the QTR QTR is decreed acres for this
right.

MAR 02, 1979

PROPOSED FINDING OF WATER RIGHTS - PAYETTE RIVER DRAINAGE

PAGE 389

INDICATES TOTAL

SOURCE: GROUNDWATER

RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE	USE PERIOD FROM TO	MAX AMOUNT MAX RATE	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
65-4529	TOLL, WILLIAM & TOLL, RUTH BOX 163, FRUITLAND, IDAHO 83619 REMARKS: LOTS 1 & 2, BLOCK 1, NORTH EAST ADDITION.	5/ 1/1954	DOMESTIC	1/ 1 12/31	1.20 AFA .04 CFS	SESE S22 T 8N R 5W	SESE S22 T 8N R 5W	BENEFICIAL USE
65-3625	WADSWORTH, DURANT & WADSWORTH, DORTHELLA ROUTE 1, NEW PLYMOUTH, IDAHO 83655	5/ 1/1954	DOMESTIC	1/ 1 12/31	1.20 AFA .04 CFS	SENH S 9 T 7N R 4W	SENH S 9 T 7N R 4W	BENEFICIAL USE
65-4883	WARDEN, EARL & WARDEN, GOLDIE 132 8TH AVENUE NORTH, PAYETTE, IDAHO 83661	5/ 3/1954	DOMESTIC	1/ 1 12/31	1.20 AFA .04 CFS	SESE S28 T 9N R 5W	SESE S28 T 9N R 5W	BENEFICIAL USE
65-6745	WARDEN, GOLDIE 132 8TH AVENUE NORTH, PAYETTE, IDAHO 83661	5/ 3/1954	DOMESTIC	1/ 1 12/31	1.20 AFA .04 CFS	SESE S28 T 9N R 5W	SESE S28 T 9N R 5W	BENEFICIAL USE
65-0586	BOISE CASCADE CORPORATION TIMBER & WOOD PRODUCTS DIV., 1010 JEFFERSON STREET, BOISE, IDAHO 83702	6/ 1/1954	FIRE PROTC	1/ 1 12/31	--- AFA 2.23 CFS	LOT 8 S12 T 6N R 2W	LCT8 S12 T 6N R 2W	BENEFICIAL USE
65-8271	DAVIS, MARVELLA B. 2958 STARVIEW DRIVE, BOISE, IDAHO 83706 REMARKS: LOT 4, BLOCK 1, HALF MOON COVE SUBDIVISION.	6/ 1/1954	DOMESTIC	1/ 1 12/31	1.20 AFA .04 CFS	LOT 2 S 5 T18N R 3E	LOT2 S 5 T18N R 3E	BENEFICIAL USE
65-1255	GROSS, VERNON V. 501 EAST 3RD STREET, EMMETT, IDAHO 83617 REMARKS: LOT 5, BLOCK 5, CENTRAL TRACT.	6/ 1/1954	DOMESTIC	1/ 1 12/31	1.20 AFA .04 CFS	SENE S 7 T 6N R 1W	SENE S 7 T 6N R 1W	BENEFICIAL USE
65-0038	INDEPENDENT SCHOOL DISTRICT #221 518 EAST 1ST STREET, EMMETT, IDAHO 83617 REMARKS: THIS RIGHT WHEN COMBINED WITH RIGHTS OF LAST CHANCE DITCH CO. SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.	6/ 1/1954	IRRIGATION	3/15 11/15	--- AFA .24 CFS	NESE S 7 T 6N R 1W	NESE(12) S 7 T 6N R 1W #12*	BENEFICIAL USE
65-2983	JOHNSON, A. D. ROUTE 1, FRUITLAND, IDAHO 83619	6/ 1/1954	IRRIGATION	3/15 11/15	--- AFA 1.60 CFS	NWSE S 9 T 7N R 5W	SWNE(26) NWSE(36) SWSE(7) S 9 T 7N R 5W #69*	LICENSE



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 8, 1994

Mr. & Mrs. Barry L. Blume
5664 Finley
Fruitland, ID 83619

RE: Snake River Basin Adjudication (SRBA)
Payette County - #A65-02983 & A65-20640
Receipt #W016718 - \$100.00

Dear Mr. & Mrs. Blume:

An overpayment of your filing fees has been brought to our attention on your above claims in the amount of \$100.00. The refund process has been initiated with the State Auditor's Office, and you should receive your check in the near future.

Sincerely,

A handwritten signature in black ink, appearing to read 'Donald V. Shaff'.

Donald V. Shaff
Manager, Adjudication Section

DVS:sf:ref

MICROFILMED

AUG 03 1994

SEP 14 1993

Department of Water Resources

Approved

State of Idaho
Department of Water Resources
REQUEST FOR EXTENSION OF TIME
TO FILE ADJUDICATION CLAIM(S)

The Idaho Department of Water Resources will consider this form as a request by the claimant for an additional period of time in which to file claim(s) beyond the 90 days allowed by Section 42-1409(10), Idaho Code.

BARRY L. BLUME OR VIVIAN B. BLUME FAMILY TRUST 6208 452-4912
Name of Claimant Phone Number
5664 FINLEY STREET FRUITLAND ID 83619
Mailing Address City State Zip
PAIETTE 4-18-90
County(s) where place of use is located Date claim originally due
A65-02983 & A65-20640
Identify water right(s) for which extension is requested

State why an extension of time is requested explaining how a diligent effort has been made to meet the deadline:

A FAMILY ILLNESS IN 1/88 RESULTED IN OUR FAMILY MOVING
OUT OF STATE TO TAKE CARE OF OTHER FAMILY MEMBER & THEIR
BUSINESS. CONSEQUENTLY HIS DEATH OCCURRED IN 11/89
WHICH RESULTED IN US OUR FAMILY REMAINING OUT OF
STATE UNTIL LATE August 1991

Claimant requests an extension to OCT 10, 19 93
Vivian B. Blume Sept. 10, 19 93
Signature Date of request
Owner
Title

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

The above request for extension of time is hereby [☒ granted] [☐ denied] for the following reasons:

and if granted the filing deadline is extended to October 25, 19 93

Signed this 27 day of September, 19 93

David B. Shaw
Director or his designated agent

DAVID B. SHAW

Mail to: Idaho Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706

MICROFILMED

AUG 03 1994

REFUND REQUEST

SUBMITTED TO AUDITOR

ON 3/9/94

TO: S. Frazee to Log In
FOR: D. Shaff/D. Allen
FROM: RON HOWERTON WESTERN REGION Date: 02-03-94
SUBJ: Receipt No. W016718 (Please attach ARQ2 Receipt copy)

RE: PayOR VIVIAN B. BLUME
Address 5664 FINLEY
FRUITLAND ID 83619

RECEIVED

MAR 15 1994

WATER RESOURCES
WESTERN REGION

Claimant if NOT Payor Per Con 34-94
Refund Amount \$ 100 Claim Location (Region/Claimant)
Extension Filed? ☒ Y/N NA Copy Attached? ☒ Y/N NA
Late Fees Paid? ☒ Y/N NA Late Fee Receipt # W016718
S.O. Verified Ext. by _____ on _____ D.B. Query by _____
Refund Generated By (X) Agent () Claimant
Refund Category Extension of time GRANTED *overpmt.*
Date of Last Correspondence (copy attached) N/A

Claim No.	Use	Fees Paid	Correct Fee	Rec't #
A65-02983	Irrigation	\$ 50.00	0	W016718
A65-20640	Domestic	\$ 75.00	\$ 25.00	W016718
		\$		
		\$		
		\$		
Total		\$ 125.00	\$ 25.00	

Detailed Reason(s) for Refund Attached ☒ Y/N
EXTENSION OF TIME GRANTED.

Region AJ Spvsr. Approval [Signature] S.O. AJ Spvsr. Approval _____
Don Shaff Approval [Signature] Hold _____ To Fiscal 3-8-94
Data Base Modified? Y/N ☒ NA A &/or R Records By _____ on 3-4-94
Logged 3-4-94

NOTE: RECEIPT # CHANGED ON A65-02983 TO X999999 - PRIA FILING

10/29/92

MICROFILMED

AUG 03 1994

State of Idaho License and Certificate of Water Right

Water License No. G-24651

Amount 1.6 second feet

Water District No. _____

Priority January 6, 1954

THIS IS TO CERTIFY that A. O. JOHNSON

of Fruitland, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated January 6, 1954; that Permit No. G-24651 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 1.6 second feet, was issued thereunder on May 9, 1956, showing that said works were completed on the 18th day of January, 1956; and that on the 18th day of January, 1956.

A. O. JOHNSON

of Fruitland, State of Idaho, made proof to the satisfaction of the State Reclamation Engineer, Idaho, of the right to use the waters of a well

(subterranean flow) for the purpose of irrigation use, under Use Permit No. G-24651 of the Department of Reclamation

and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume 9 of Licenses at page 5708, on the 9th day of May, 1956.

The right hereby confirmed dates from January 6, 1954;

The Point of Diversion is located

in the NW 1/4, SE 1/4, Sec. 9, Tp. 7 N., R. 5 W., B. M. Payette County

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 1.6 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
<u>7 N.</u>	<u>5 W.</u>	<u>9</u>	<u>SW 1/4 NE 1/4</u>	<u>40</u>	<u>40</u>
			<u>NW 1/4 SE 1/4</u>	<u>30</u>	<u>30</u>
			<u>SW 1/4 SE 1/4</u>	<u>10</u>	<u>10</u>
			Number of Acres Actually Irrigated		<u>80</u>

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this 9th day of May, 1956

(SEAL)

MARK R. KULP
State Reclamation Engineer

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO
REPORT OF ENGINEER

Permit No. G-24651

This proof is for Completion of Works & Beneficial Use In Water District No. _____

1. Name of applicant: A. O. Johnson
2. Source of water supply: Subterranean Flow, A well.
3. Location of point of diversion: Is in the NW 1/4 of Section 9
T. 7N R. 5W County of Payette
4. Describe works as they exist, giving dimensions and capacities of same: Well is 130' deep by 11" diameter, cased 30'. 2 stage 10" bowls, column is 6" by 40'. Layne Bowler Turbine, serial No. 21845. H=5'. Lift =27'. 10 hp U. S. Motor, serial No. 1010962. 6" by 573' pipe line to the upper outlet. Top Lift is 43' above the pump, center lift is 23' and the bottom discharge is 3' above the pump level. Water flows to the fields through ditches by gravity. This place has considerable orchard and the balance is hay and pasture.
5. Water is used for: Irrigation
6. State whether or not water has been turned into works of diversion: Yes

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if other than irrigation):

10 acres SW 1/4 Sec. 9, 30 Acres in NW 1/4 Sec. 9, and all of SW 1/4 Sec. 9.
Twp. 7N., Rge. 5W B.M. Approximately 80 Acres.

See the map.

(Submit map on attached plat, showing location and details of above description.)

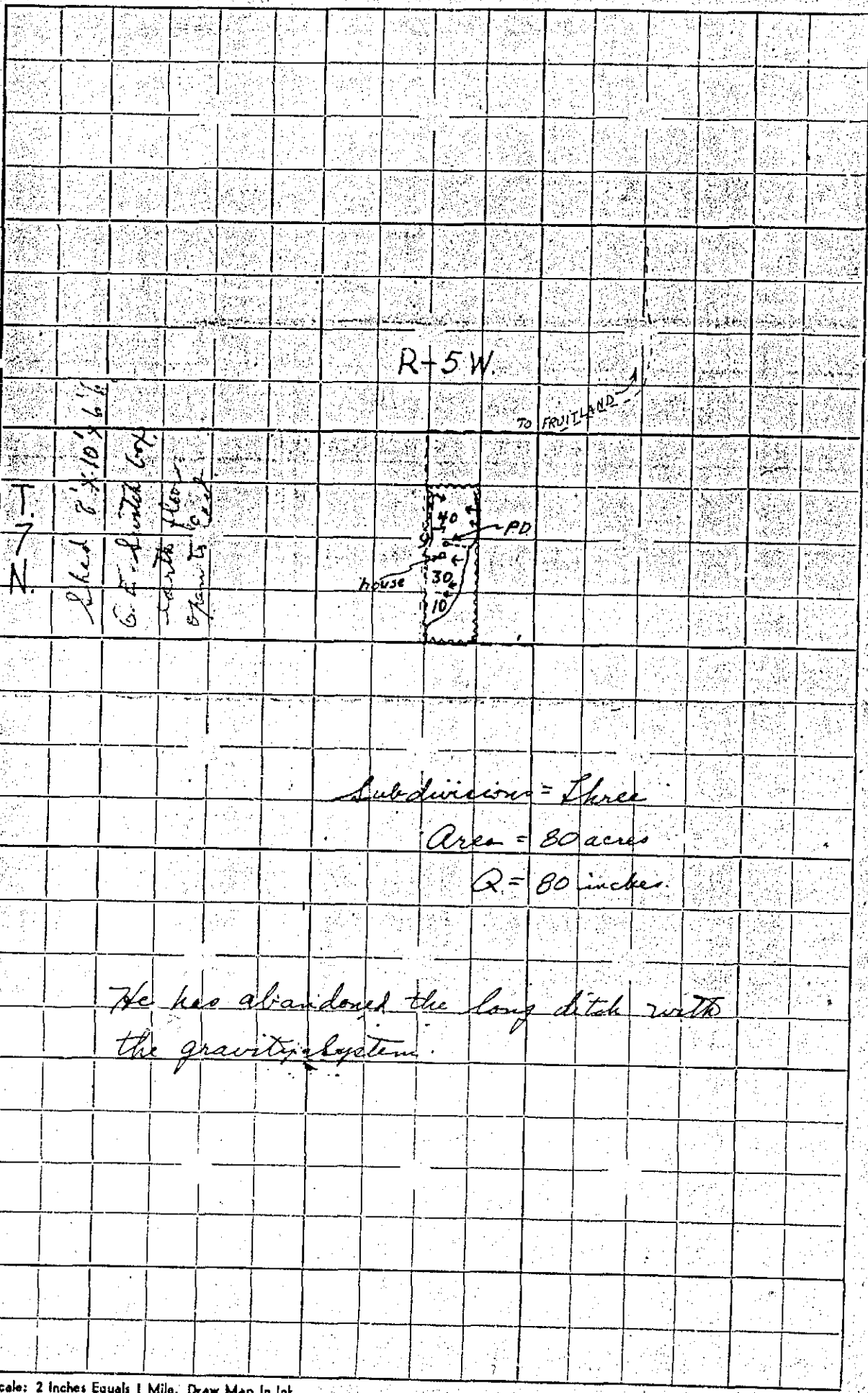
8. What large stream would the water here appropriated finally reach?

Remarks:

Pumping lowers the water table in SW 1/4 NE 1/4 and is helping to reclaim it from a salty condition.

This examination was made on the 27th day of February, 1956(Signed) E. H. Humphrey Examiner

G-24651



Scale: 2 Inches Equals 1 Mile. Draw Map In Ink.

2/1/65

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Permit No. G-24651

Proof of Application of Water to Beneficial Use
and Completion of Works
Deposition of Holder

Ques. 1. State your name, residence, occupation and postoffice address.

Ans. A. O. Johnson, Fruitland, Idaho, farmer - Fruitland, Idaho

Ques. 2. If acting in behalf of corporation, state its name, principal place of business (if a foreign corporation, give name of postoffice of statutory agent), your position with reference to same, and your authority for appearing in its behalf.

Ans. _____

Ques. 3. State number and date of permit, and date of priority you propose to establish under the permit.

Ans. G-24651 - January 7, 1954; January 18, 1954.

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. Location of well about 350 ft. East of west side line of NW 1/4 Sec. 9, T. 7 N. R. 5 W. B. M., and about 25 ft. south of north line of said tract.

Ques. 5. Describe your works of diversion, and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use. If a well, state depth of well, depth and size of casing and depth to water. If pump is used, state discharge of pump and tell how it was measured or determined. If sprinkler irrigation, give number and size of nozzles and operating pressure.

Ans. Well 130 ft. in depth, casing 1 1/2 inch down 30 feet; depth water first encountered 120 ft. but during irrigation season water rises in well to within 6 or 7 ft. of top. 6 in. pipe line connected with pump and on lower level will deliver 80 inches, at middle level will deliver 65 inches and at top level will deliver 55 inches, at pump, and these figures were determined by pressure gauge and also by weir by hand, for pumps for irrigation purposes. Sprinkler not used. Ditch not named.

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have actually been irrigated with said water.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. Water used for irrigation and 10 acres are irrigated in southerly part of SW 1/4 Sec. 9; 30 acres in NW 1/4 Sec. 9, and all of SW 1/4 Sec. 9, T. 7 N. R. 5 W. B. M. 50 acres in orchard and hay and 30 acres in natural meadow, and the natural meadow is rapidly being taken from salt grass to profitable pasture lands.

60

G-24651

Ques. 7. If for other than irrigation purposes; state how applied, amount of horse power generated, etc.

Ans.

Ques. 8. What is the minimum amount of water required for the purpose specified above?

Ans. 60 to 85 inches.

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ques. 10. State when, how, in what amount and to what extent the water diverted under above mentioned permit has been used.

Ans. Well and pump installed in 1951 and used to full capacity during each irrigation season.

Ques. 11. State when, how, in what amount and to what extent waters other than those diverted under the above mentioned permit have been diverted and applied to beneficial use upon the lands herein described. Give full particulars regarding such other appropriations and rights claimed thereunder.

Ans. Have no other irrigation water for this land, though at one time a portion was irrigated from other sources but ditch proved untrustworthy and unreliable and abandoned.

(Sign)

P. O. Johnson

I hereby certify that the foregoing testimony was read to the above subscribed before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me at my office in Payette County of Payette

State of Idaho, on this 18th day of January, A. D. 1956

W. R. R. R.
Notary Public for Idaho
Residing at Payette, Idaho

My commission expires July 5, 1956

124651

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Permit No. G-24651

Proof of Application of Water to Beneficial Use
Deposition of Witness and Completion of Works

The deposition of two witnesses, on this form, taken separately, required in each case.

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. Ray B. Duell, Age 62, Fruitland, Idaho - farmer.

Ques. 2. Are you acquainted with A. C. Johnson, the holder of Permit No. G-24651? How long have you known him and where does he reside?

Ans. 18 years.

Ques. 3. Have you read or heard read said Permit No. G-24651, and are you familiar with its provisions and conditions?

Ans. Yes.

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. The well is located approximately 350 feet East of the West side line of the NW 1/4 of the SE 1/4, Sec. 9, Twp. 7 N. R. 5 W. B.M., and about 25 feet South of the North line of said tract and water is conveyed by six inch pipe line from the well to point of use. 10 HP U.S. motor turbine, Lynn-Bowler pump.

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. 1.6 acre feet each 24 hours; have seen at lower outlet approximately 80 inches; middle outlet approx. 65 inches; top outlet approx. 55 inches.

Ques. 6. (Pumps) How much water in cubic feet per second, miner's inches, or gallons per minute have you seen the pump deliver, and how did you measure estimate the amount?

Ans. Same as in ans. 5 above, according to best estimate in inches based on long experience with irrigation water.

824651

Ques. 7. State for what purpose water is used and at what place. (If for irrigation, give each subdivision in which water has been used and number of acres irrigated in each subdivision.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. Used for irrigation purposes. Irrigates about 10 acres in southerly portion of SW 1/4 SE 1/4, about 30 acres in NW 1/4 SE 1/4 and all of the SW 1/4 NE 1/4, all in Sec. 9, T.7 N.R. 5
M.B.V. 50 acres cultivated, 30 acres natural meadow, has made lands highly productive.

Ques. 8. If for power or other purposes than irrigation, state how water has been applied and to what extent.

Ans.

Ques. 9. (If for irrigation) state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

Ans. Good orchard and hay land, and the pasture land is being reclaimed from salt grass to good pasture, will reasonably require approximately 80 inches average.

Ques. 10. Have you any interest in the works, water or lands above mentioned? If so, in what way and to what extent?

Ans. No.

Ques. 11. State when, how, in what amount and to what extent you have witnessed the application to beneficial use of water diverted under said permit.

Ans. Have seen it at frequent intervals ever since installed, have worked part of time near and in close contact.

(Signed)

Ray B. Buell

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me in Payette
County of Payette, State of Idaho, on this 18th day of January,
A. D. 1956.

Wm. W. W.
Notary Public.

My commission expires July 5, 1956

824651