

COPY

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: **A45-10502**
Date Received: 5/11/1989
Receipt No: S019917
Received By: APM

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: EARL WARTHEN
Address: BOX 145
ALBION ID 83311 208-673-5385

2. Date of Priority: AUG 31, 1874

3. Source: SPRING CREEK Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
12S	25E	16	SE	NE	SW		CASSIA

5. Description of diverting works:
OPEN DITCHES AND POND WITH TILE DRAIN

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.400		
GROUNDWATER RECHARGE	11/16	03/14	0.200		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
12S	25E	16	NE	NW		IRR	40.0
			NW	NW		IRR	20.0
			SE	NW		IRR	19.0
			NE	SW		IRR	20.0

COPY

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
12S	25E	16	NE	SW		GWR	

Section Acres 99.0

Total Acres 99.0

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:
A45-07366, A45-00327E

14. Remarks:

WATER IS MINGLED WITH OTHER RIGHTS OF THE CLAIMANT IN AN INTERTIE SYSTEM IRRIGATING THE PLACE OF USE CLAIMED. DURING THE WINTER WATER IS RUN INTO POND TO MAINTAIN LEVEL DURING SUCH TIME WATER IS DISCHARGED VIA TILE DRAIN TO MAINTAIN SPRINGS AND WETLANDS IN MEADOW.

15. Basis of Claim: BENEFICIAL USE

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): Carl H. W. H. Date: 11-19-98

Date: _____

COPY

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 19th day
of November 19 98

[Signature]
Notary Public

Seal

Residing at Kimberly, ID
My Commission Expires 6/30/98

Idaho Dept of Water Resources Claims review notes and narrative

Date: 10-1-2001

File: 45-517 decree split analysis

Prepared by Kelly K Christensen

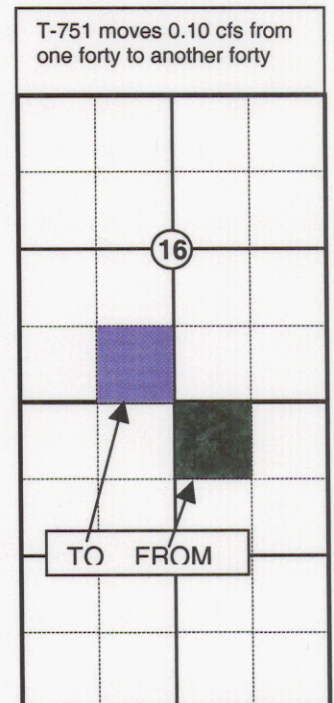
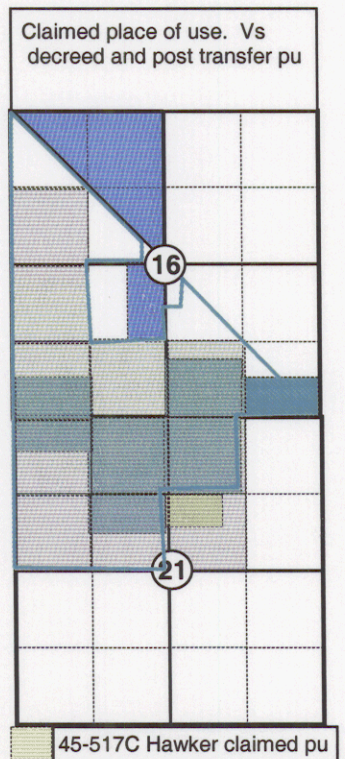
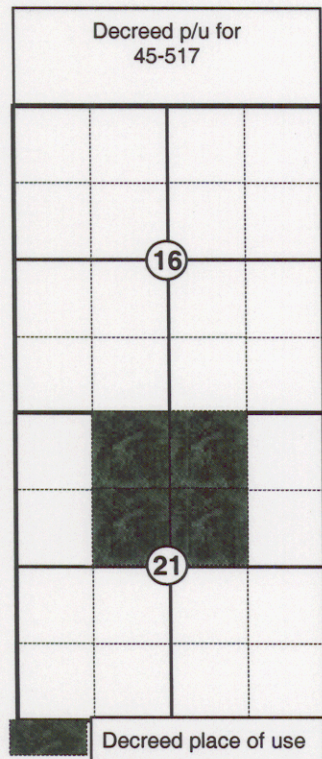
ANALYSIS OF 45-517 4-1-1874 source = Spring Creek 0.40 cfs on four 40 ac tracts

T-751 moves 0.10 cfs from the NWNE sec 21 and **splits** the decreed right

T-775 moves 0.20 cfs into a larger ppu in sec 16 and sec 21. The transfer **splits** the remaining base right from the previous transfer.

T-1029 moves the same 0.20 cfs into a different ppu. It moves the p/u in sec 16 to different gnd in sec 16 and 21. Right is **not split**.

45-517C Hawker	aj	Active	1874-08-31	0.1	SPRING CREEK	
45-517D Anderson	aj	Active	1874-08-31	0.2	SPRING CREEK	
45-10502 Warthen	Aj	Active	1874-08-31	0.1	SPRING CREEK	
45-517	wr	SPLIT INTO RT. 45-0517A & 45-0517B BY TRANS. 751				T-751
45-517A	wr	SPLIT INTO RT. 45-0517C & 45-0517D BY TRANS. 775				
45-517B Anderson	wr	Active	1874-08-31	0.1	SPRING CREEK	
45-517C Stokes	wr	Active	1874-08-31	0.1	SPRING CREEK	T-751 & T-775
45-517D Anderson	wr	Active	1874-08-31	0.2	SPRING CREEK	T-775 & T-1029

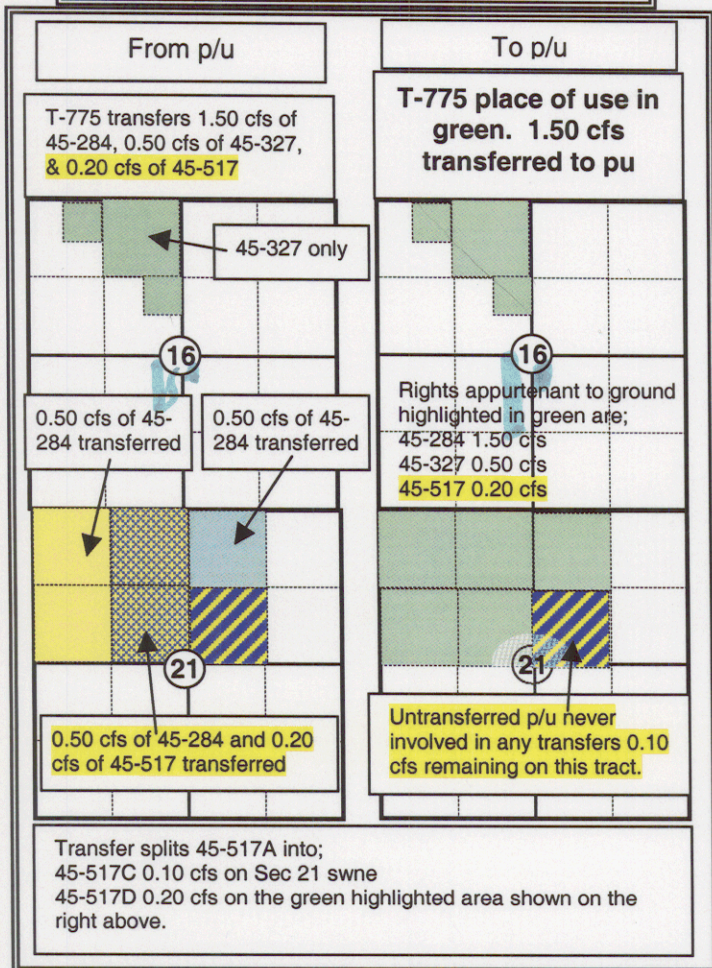


The transfer creates allocations records;
45-517A - Sec 21 swne, e½nw¼
45-517B - Sec 16 sesw

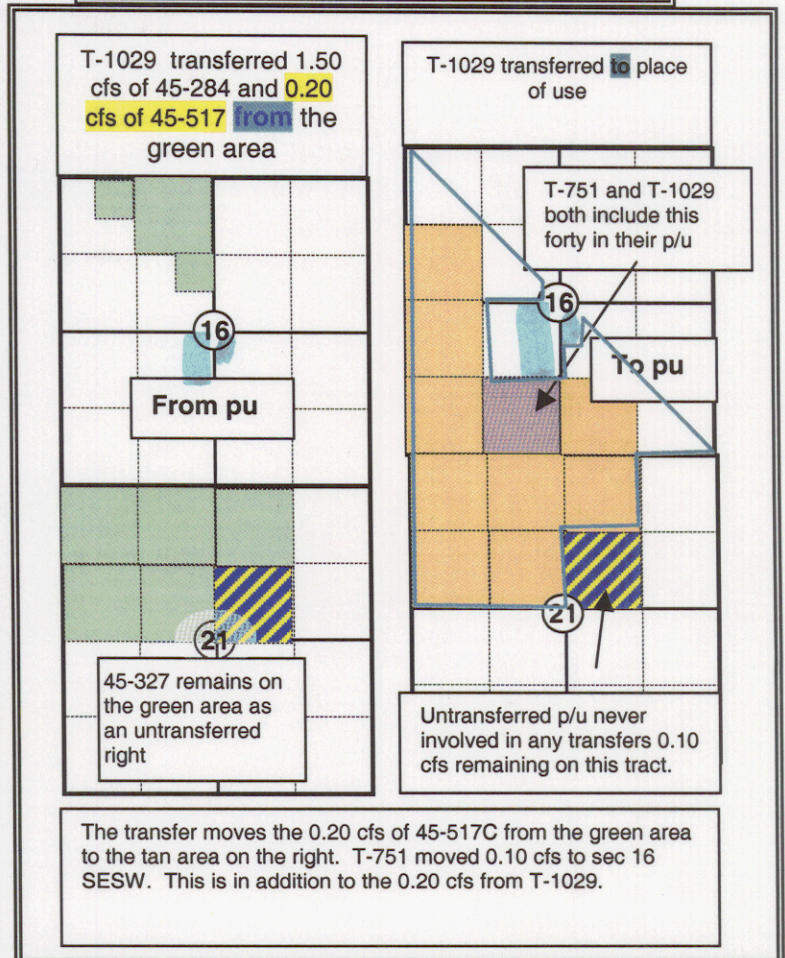


The blue outlined shape shows Anderson owned ground

T-775 transfer analysis



T-1029 transfer analysis



T-751 moved 0.10 cfs to the SESW of Sec 16. T-1029 makes an additional 0.20 cfs appurtenant to the SESW of Sec 16 and the rest of the ground shown as the tan area in the last transfer place of use pictorial. Anderson currently owns all of the tan area. Therefore, although he only claimed 0.20 cfs, 0.30 cfs is appurtenant to his property.

The balance of the decreed right (0.10 cfs) is still appurtenant to the untransferred portion of the decreed place of use. That ground is owned by Hawker and he has claimed the 0.10 cfs.

Warthen has filed claim 45-10502 that claims the same source and priority date as a beneficial use right. Warthen's claimed place of use is not part of the decreed/transferred place of use.

Based upon currently available information I am not recognizing this Warthen's claim as filed.

REFUND REQUEST

ON 12-2-1998

RECEIVE

JAN 20 1999

TO: S. Sherman to Log In
FOR: D. Shaff/D. Allen
FROM: Allen Newitt
SUBJ: Receipt No. 5019917 (Please attach ARQ2 Receipt copy immediately behind blue form)

Date: 11/19/98 Department of Water Resources Southern Region

RE: PayOR Earl Wierthen
Address Box 145
Albion ID

RECEIVED

NOV 20 1998

Claimant(s) if NOT Payor Department of Water Resources
Refund Amount \$ 58.00 Claim Location (Region/Claimant)
Extension Filed? Y/N NA Copy Attached? Y/N NA
Late Fees Paid? Y/N NA Late Fee Receipt #
S.O. Verified Ext. by on D.B. Query by
Refund Generated By X Agent () Claimant
Refund Category:
insufficient fees / claim incomplete / withdrawn / o-pmt

Date of Last Correspondence (copy attached)

Claim No.	Use*	Fees Paid	Correct Fee	Rec't #
445-10502	Irrig	\$ 78.00	0	5019917 (cc att #2)
A45-10502	Added (GR)	\$ 20.00	20.00	
		\$ 0		
		\$	\$	
Total		\$	\$	

*Incomplete claims or insufficient fees for irrigation use will generally NOT be refunded. D.E. claim in AJSP1 at minimum.

Detailed Reason(s) for Refund Attached Y/N
F Hitchcock helped in amending claim in 1997 and charged 578.00 for added acres but acres already paid under 5007085. This day applicant amended claim to add (GR) and should be charged 820.00 for amendment. Total refund should be 78-20 = 58

Region AJ Spvrs. Approval 11/2/98 S.O. AJ Spvrs. Approval
Don Shaff Approval 11/2/98 Hold To Fiscal 11-20-98
Data Base Modified? Y/N NA A &/or R Records By on



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

November 20, 1998

KARL J. DREHER
DIRECTOR

EARL WARTHEN
BOX 145
ALBION ID 83312

RE: Snake River Basin Adjudication (SRBA)
Notice of Claim #A45-10502

Dear Claimant:

Due to an overpayment of the filing fees paid by you in the amount of \$58.00 when you amended your claim in 1997, the refund process has been initiated with the State Auditor's Office. You should receive a check in the near future.

Sincerely,

A handwritten signature in black ink, appearing to read 'Donald V. Shaff', written over a horizontal line.

Donald V. Shaff
Manager, Adjudication Section

DVS:ss:ref

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: **A45-10502**
Date Received: 5/11/1989
Receipt No: S007085
Received By: *[Signature]*

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

1. Name: EARL WARTHEN 208-673-5385
Address: BOX 145
ALBION ID 83311

2. Date of Priority: AUG 31, 1874

3. Source: SPRING CREEK Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
12S	25E	16	SE	NE	SW		CASSIA

5. Description of diverting works:
OPEN DITCHES AND POND

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/01	11/01	0.400		

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

8. Total consumptive use is 60.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
12S	25E	16	NW	NE		IRR	19.0
			NE	NW		IRR	40.0
			SE	NW		IRR	19.0
			NE	SW		IRR	20.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	98.0
					Total Acres	98.0

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:
A45-07366, A45-00327E

14. Remarks:

WATER IS MINGLED WITH OTHER RIGHTS OF THE CLAIMANT IN AN INTERTIE
SYSTEM IRRIGATING THE PALCE OF USE CLAIMED.

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

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

Number of attachments: 2

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): *Ed / Wa - H* Date: 3-11-97

Date: _____

State of Idaho

County of TWIN FALLS) SS.

Subscribed and sworn (or affirmed) before me this 11th day

of MARCH 19 97

Thomas A. Hitchcock
Notary Public

Seal

Residing at TWIN FALLS, ID

My Commission Expires 10-11-2000

RECEIVED

MAR 17 1997

Date Received _____

COPY

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

RECEIVED

MAR 12 1997

Department of Water Resources

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.

Earl Lavell Warthen (208) 673-5385
Name of Claimant Phone Number
Box 145 Albion Idaho 83311
Mailing Address City State Zip
Cassia
County(s) where place of use is located
A 45 10502
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:

To more clearly identify my water use.

Claimant requests an extension to _____, 19 ____
Earl L. Warthen 3-11- 19 92
Signature Date of request

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 June 1, 19 97

Signed this 12th day of Mar, 19 97

D. E. Tuttle
Director or his designated agent

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: A45-10502

Date Received: 5/11/1989

Receipt No: S007085

Received By: *[Signature]*

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: EARL WARTHEN 208-673-5385
Address: BOX 145
ALBION ID 83311

2. Date of Priority: AUG 31, 1874

3. Source: SPRING CREEK Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
12S	25E	16	SE	NE	SW		CASSIA

5. Description of diverting works:
OPEN DITCHES AND POND

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/01	11/01	0.400		

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

8. Total consumptive use is 60.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
12S	25E	16	NW	NE		IRR	19.0
			NE	NW		IRR	40.0
			SE	NW		IRR	19.0
			NE	SW		IRR	20.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	98.0
					Total Acres	98.0

11. Place of use in counties: CASSIA

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

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14. Remarks:
WATER IS MINGLED WITH OTHER RIGHTS OF THE CLAIMANT IN AN INTERTIE
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Number of attachments: 2

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): *Ed / Wa H* Date: 3-11-97

Date: _____

of 1997

TWIN FALLS, ID

and signed for official

10-11-2010

ore me this 11th day

Lynn A. Hitchcock
Notary Public

siding at TWIN FALLS, ID

Commission Expires 10-11-2010

COPY

Date: 03/11/97

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resource

Receipt No:

5019917

Date:

Time:

3/11/1997

12:30:29

Received

From:

EARL L WARTHEN

Type of Payment

Program A cct

Amount

AMEND A4510502-ADD 78 ACRES

64106

229 21 1155

78.00

Total

\$

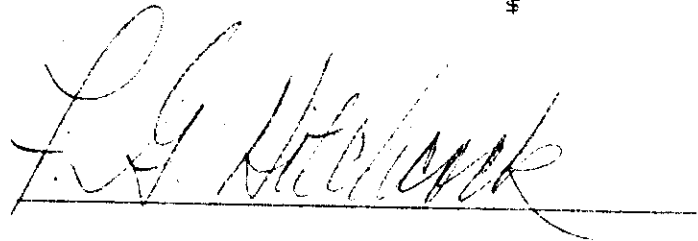
78.00

CHECK

5627

Region: SOUTHERN

Signature:



COPY



EARL L. WARTHEN
P.O. BOX 145 673-5385
ALBION, ID 83311

5627

92-1 124

PAY
TO THE
ORDER OF

3-12-1997
Idaho Department Water Resources \$ *78.00*

Seventy Eight & ^{No} cents

DOLLARS

WESTONE
BANK

West One Bank, Idaho
Burley Office 1-6053
P.O. Box 1268
Burley, ID 83318
1-800-221-5511

FOR

Water Right # A 4510502

Earl L. Warthen

⑈005627⑈ ⑆124100019⑆110000650439⑈

COPY

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: A45-10502
Date Received: 5/11/1989
Receipt No: S007085
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: EARL WARTHEN 208-673-5385
Address: BOX 145
ALBION, ID 83311

2. Date of Priority: MAR 01, 1881

3. Source: WASTE WATER Trib. to: HOWELL CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
12S	25E	16	SE	NE	SW		CASSIA

5. Description of diverting works:
OPEN DITCHES AND POND

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/01	11/01	0.400		

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

8. Total consumptive use is 60.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
12S	25E	16	NE	SW		IRR	20.0

Section Acres 20.0

Total Acres 20.0

A45-10502

Page 1

Date: 05/11/89

MICROFILMED

MAR 10 1993

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:
A45-07366, A45-00327E

14. Remarks:

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

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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): *[Signature]* Date: 5-10-89
Date:

State of Idaho)
County of Twin Falls) SS.

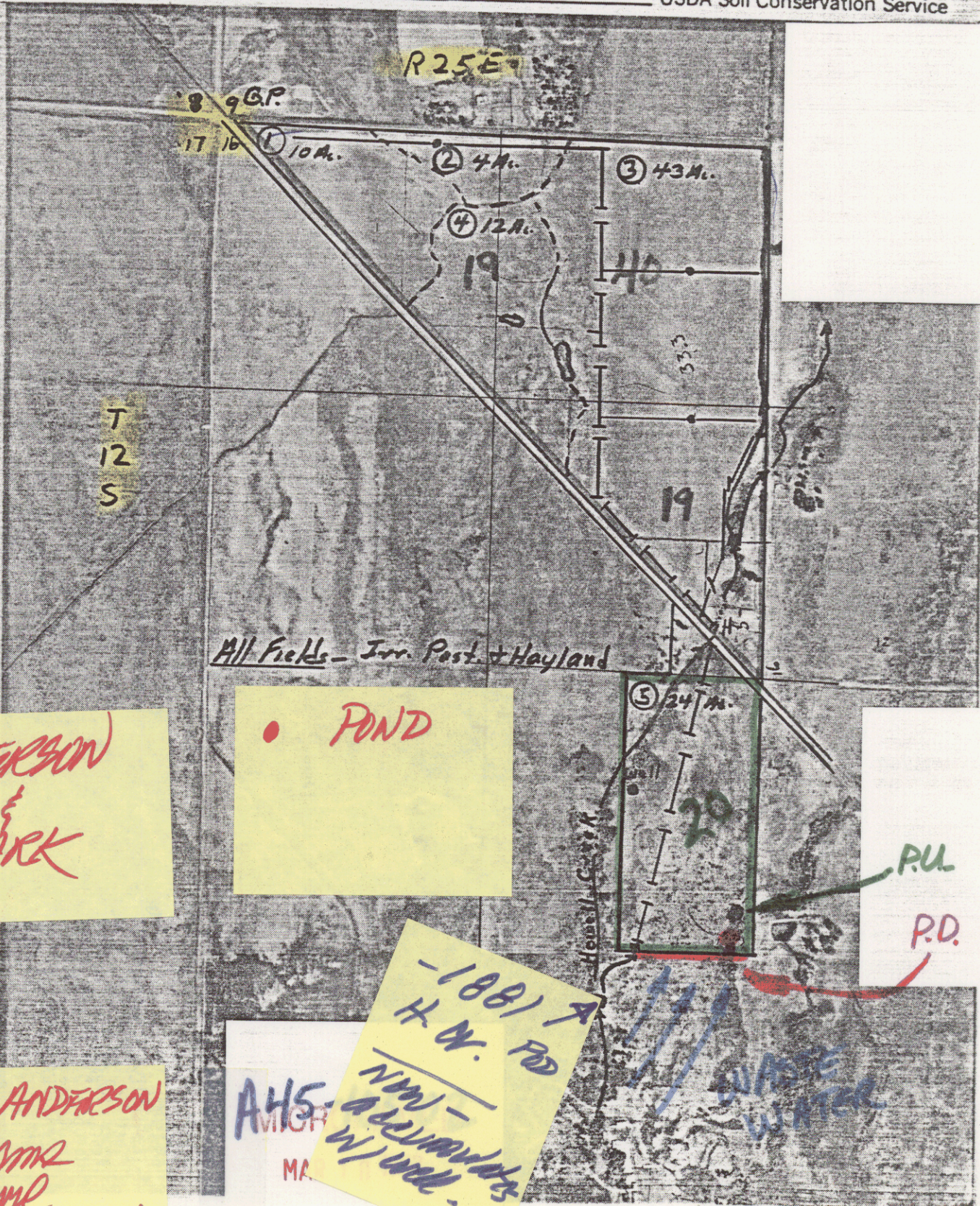
Subscribed and sworn (or affirmed) before me this 11th day
of May 19 89
[Signature]
Notary Public

Seal

Residing at Twin Falls
My Commission Expires Dec 3 1994

CONSERVATION PLAN MAP

Owner Earl Warthen Operator -
County Cassia State Idaho
Approximate acres 103 Approximate scale 8" = 1 mile, 1" = 660'
Cooperating with East Cassia Conservation District
Plan identification - Photo number -
Assisted by R.J. Baum USDA Soil Conservation Service





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

25-Jan-1993

R. KEITH HIGGINSON
Director

A45-10502
EARL WARTHEN
BOX 145
ALBION

ID 82311

RE: Evidence of Priority

RESPONSE DEADLINE

APRIL 1, 1993

Dear Claimant:

The Notice of Claim identified with the number shown above your name on the mailing label has been filed in the Snake River Basin Adjudication (SRBA). The Notice indicates your water usage is based on "Beneficial Use" or a "Statutory Claim". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed. The date of first use, known as the priority date, has not been confirmed by a License, Decree or Permit. The Department will at a later date conduct reviews &/or field exams for the claims in your area. Since the priority date of a beneficial use water right can not be confirmed by field examination, proof must be provided supporting the priority date you have claimed.

Please find enclosed a computer printout of your Notice and the pamphlet entitled "Evidence of Priority". The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement.

SPECIAL NOTE: The Department will not recommend the Notice be decreed by the court as claimed if no evidence of a priority date is submitted. It will be to your advantage to provide clear and convincing evidence. If you choose to submit statements from individuals as evidence, the statement must be in the form of a notarized affidavit.

Please submit the required evidence supporting the priority date by April 1, 1993, referencing all documents with the corresponding Notice number. If you have any questions not covered by this letter or the enclosed pamphlet, please contact this office.

Respectfully submitted,


Allen Merritt, P.E.
Water Rights Supervisor

Enclosures

MICROFILMED

MAR 10 1993

03/05/2004

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

RIGHT NUMBER: 45-10502

NAME AND ADDRESS: EARL WARTHEN
BOX 145
ALBION ID 83311

SOURCE: SPRING CREEK

TRIBUTARY: SINKS

QUANTITY: 0.400 CFS

This right when combined with all other rights shall provide no more than 0.02 cfs per acre.

This right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate for irrigation of the lands above.

PRIORITY DATE: 05/26/1964

POINT OF DIVERSION:

T12S R25E S16 SENESW Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.400 CFS

PLACE OF USE: IRRIGATION Within CASSIA County

T12S R25E S16	NENW	37.0	T12S R25E S16	NWNW	15.0
T12S R25E S16	SESW	16.0	T12S R25E S16	NESW	18.0

86 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 86 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS. 45-7366, 45-327E, and 45-10502.

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: Beneficial Use

**Idaho Dept of Water Resources
Claims review notes and narrative**

Date: 3-5-2004

File: 45-13669 initial analysis 4-2004

Prepared by Kelly K Christensen

SPRING CREEK ANALYSIS

EARL WARTHEN 45-10502, 45-13669; NORMAN SMYER 45-12906; KEVIN SMYER 45-10480

A phone conference was held on 3-4-2004, which included Kelly Christensen, Dave Tuthill, Don Shaff, Candice McHugh, and Doug Jones.

The driving issue was the 'Root Zone Storage' use claimed by Earl Warthen in claim 45-13669. The historical use of the Spring Creek water and decreed rights 45-517B, 45-517C, and 45-517D. Transfers 751, 775, and 1029 either split and moved or moved a portion of the original decreed right 45-517. The transfers also dealt with Howell Creek decreed rights 45-284 and 45-327. The Howell Creek rights are not at issue in this review.

Spring Creek water Spring Creek water was not decreed to any ground in Sec 16 that includes the Warthen and Smyers properties. Transfer 775 moved a portion of 45-517 to additional ground owned by Anderson and also to a portion of the ground currently owned by Warthen. It was not transferred to the ground owned by either of the Smyers. On May 25, 1964 transfer 1029 was approved moving Spring Creek water off of the Warthen property and back to the Anderson property (including ground previously not part of the decreed place of use.

As a portion of the Warthen property was part of the transfers, I am recognizing 45-10502 with a May 26, 1964 priority date.

45-13669

Source = wastewater This right has been claimed with Wastewater as the source. Water coming from 45-284B, 45-285, 45-327D, and 45-571D (Helen Anderson claims) that reaches the Spring Creek channel is considered Spring Creek water. Some wastewater from the Anderson property may reach the pond independent from the Spring Creek channel but it is not clear how much, if any, would be independent of Spring Creek. Wastewater is not available during the non-irrigation season and any claimed uses during the non-irrigation season are considered invalid.

Storage Based upon aerial photography the pond did not exist in 1962 or 1968. The 1976 orthophotograph does not clearly show a pond, however, the smaller scale and small size of the pond I do not consider this enough evidence that the pond did not exist in 1976. I am not recognizing the storage component of this right based upon the currently available information.

Root zone storage The claim identifies the system as the pond with water used from all rights to maintain the pond level and a tile drain is used to maintain springs and wetlands in the meadow. As the pond and tile did not exist as of the claimed priority date I am disallowing this use.

Irrigation As previously discussed the water in question is considered to be primarily Spring Creek water and as such has been recognized through 45-10502. This use is also not being recognized under this right as claimed.

Based upon currently available information I am recommending this claim for disallowal.

**.daho Dept of Water Resources
Claims review notes and narrative**

Date: 10-5-2001

File: 45-10502 warthen system analysis all claims Prepared by Kelly K Christensen

EARL WARTHEN CLAIMS REVIEW

CLAIM NUMBER	BASIS & SOURCE	USE		LICENSED RTS NOT PART OF AJ
45-327E	Dec - Howell Cr	Irr		45-7538
45-10502	B/U Spring Cr	Gw recharge - irr		45-7642
45-7366		Irr	Diff well	
45-10501		Irr - stock - dom	Diff well	

45-327E

See decree split analysis. Additional information concerning the irrigation system and points of diversion can be found in the licensing field exam located in file 45-7366.

45-10502 priority date matches 45-517

The claimed priority date is in conflict with the Wood vs Stokes decree date of 3-21-1892. No evidence of priority has been submitted for this right as of 10-5-2001. 45-517

The licensing field examination for 45-7366 discusses this right briefly and indicates that the source for this right is waste water coming out of a drainage ditch that is diverted at the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of section 16.

Claimed priority date matches 45-517, both are from Spring Creek. See the 2 page analysis of 45-517. 45-517 was decreed and/or transferred to ground just south and/or east of the Warthen claimed place of use. The claimed point of diversion appears to be the pond location and does not appear to have any ties to Spring Creek. Spring Creek is not identified by the USGS.

There is mention of a pond in the claim but no storage component is claimed in any of the existing claims. Pond size is approximately .29 af per notes from licensing field exam for 45-7538 and has a surface area of approximately 0.17 acres. 0.15 cfs for 24 hours would fill the pond. The pond could probably be considered part of the diverting works.

The groundwater recharge appears to have been developed with a tile drain system discharging from the pond. The date of that development is not known.

45-7366

This claim was filed with the basis as a permit. A field examination has since been conducted in 1997 and the right subsequently licensed on July 9, 1998. The recommendation for this right is as licensed.

45-10505 501

The evidence of priority submitted seems to support a 1965 priority date. This would place the irrigation portion of this claim in conflict with the mandatory permit statutes. This well is not the same well as licensed under 45-7366.

The domestic uses 1 house, and 1 greenhouse when combined with stockwater for 100 head of sheep would be ok when limited to a combined diversion rate of 13,000 gpd.

If the irrigation portion is vital to this system, then possibly an application for permit could be filed as the system was in existence prior to 1987.

Spring Cr
45-10502

45-517 was decreed from Spring creek and this right was claimed by Hawken & Anderson

The actual channel for Spring Creek is not clear. It is not identified on any maps. The Hawken claim identifies a drainage just east of Howell cr. The available aerial photography shows an apparent channel somewhat intermittent in nature.

Warthen's claim 45-10502 appears to be from the ^{same} channel as Hawken's claim. Assuming that this is Spring Creek, the earliest priority date that I could recognize would be 3-13-~~1910~~ 1910 (Bridges ^{one day after} Tremeyre decree)

Use could possibly be waste water with the same date.

Transfer 1029 moved Spring Cr water off of the Warthen's property. in 1964

Transfer suggested that Spring Cr water was on Warthen property up to 1964 and was then transferred off. It clarified the 1964 date.

3-5-2004.

Based upon a phone conference on 3-4-04 with Dave Tuthill, Candice McHugh, Don Shaff, Doug Jones and myself it was determined that the earliest priority date that could be recognized for Spring Cr is 1964 based upon T-1029. cont on typed memo

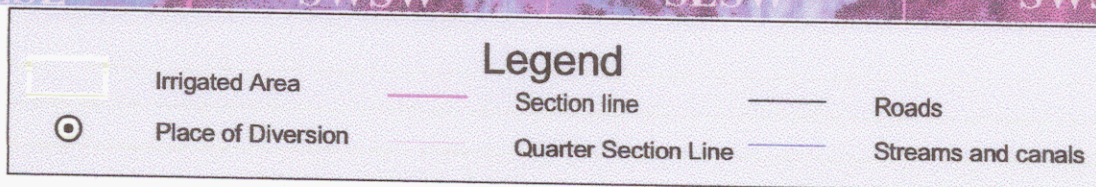
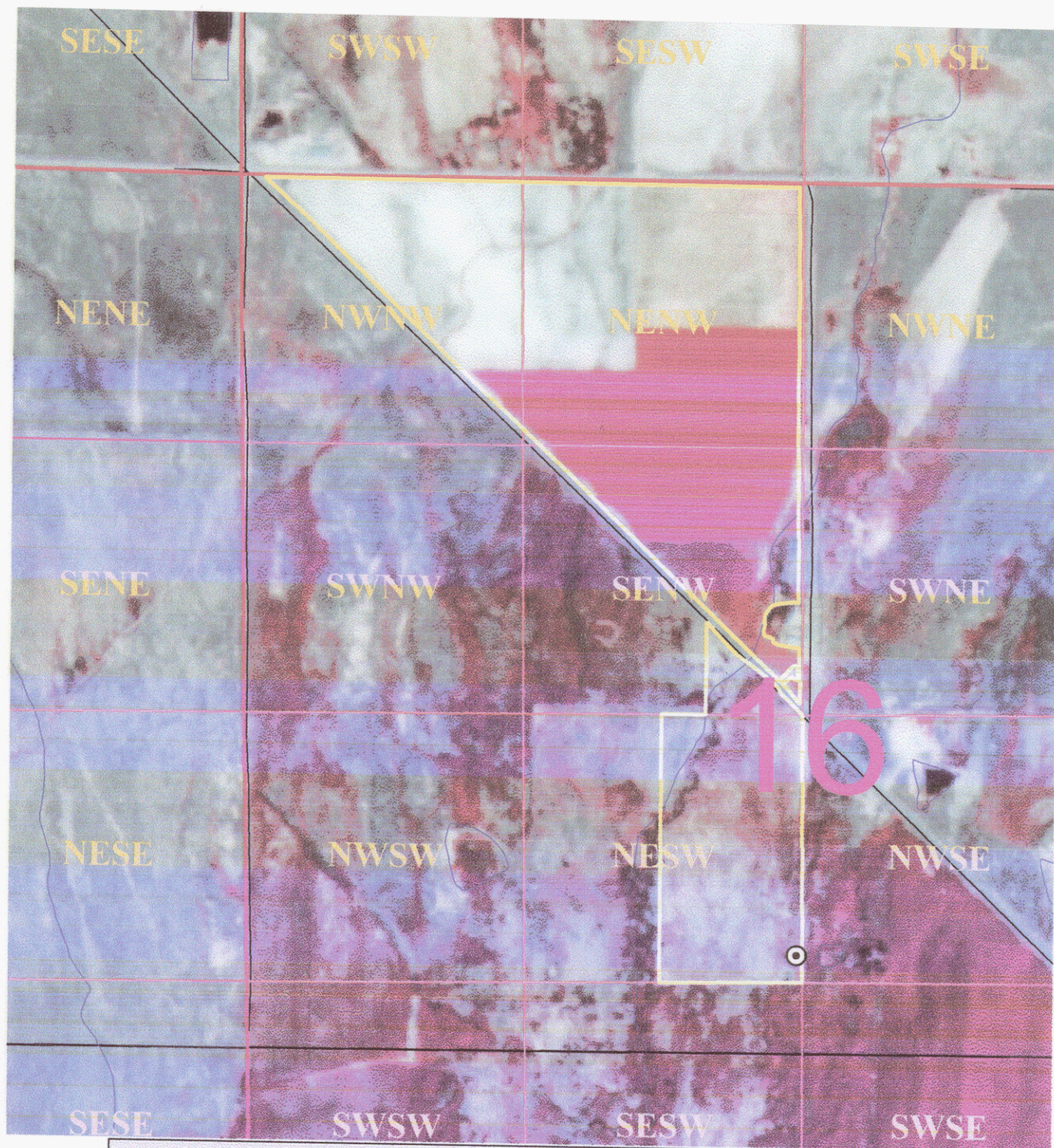
Log for claim A45-10502

Spatial Dynamics AMH

6/2/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
12s25e	16	NENW	40	39	
12s25e	16	NWNW	20	17	
12s25e	16	SEnw	19	19	
12s25e	16	NESW	20	20	
Totals:			99	95	

Township , 12S25E

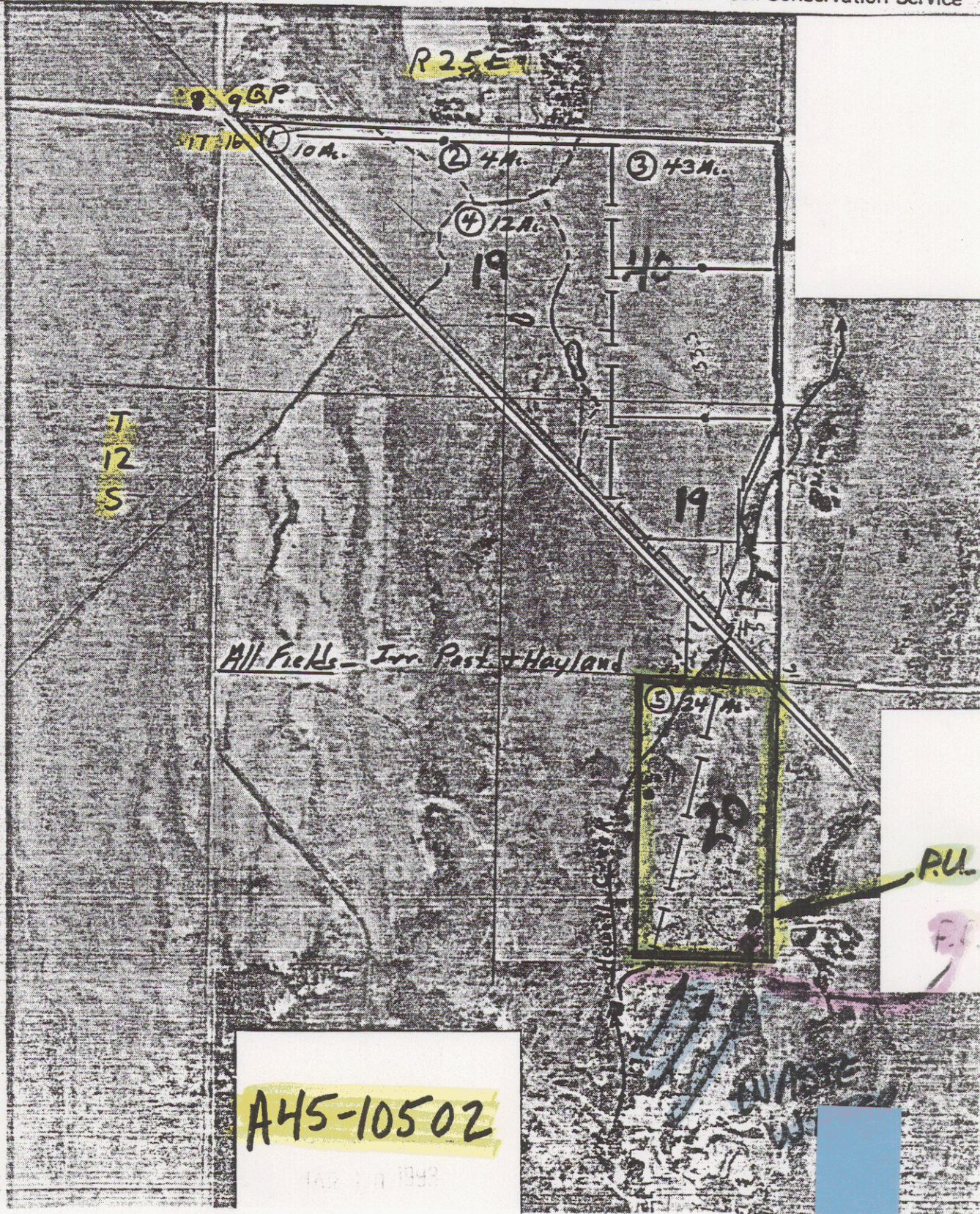


300 0 300 600 Feet



CONSERVATION PLAN MAP

Owner Earl Warthen Operator -
County Cassia State Idaho Date 2-76
Approximate acres 103 Approximate scale 8" = 1 mile 1" = 660'
Cooperating with East Cassia Conservation District
Plan identification - Photo number -
Assisted by R.J. Baum USDA Soil Conservation Service



STATE OF IDAHO
DEPARTMENT OF RECLAMATION

CERTIFICATE OF DECREED WATER RIGHT
TRANSFERRED RIGHT NO. 1029

THIS IS TO CERTIFY, That Richard Storey Anderson of Box 126, Albion, Idaho, is the owner of and using a certain water right of 1.7 cubic feet per second, bearing date of priority as follows: August 31, 1874 for 0.2 cubic feet per second of the waters of Spring Creek; April 1, 1875, for 1.5 cubic feet per second of the waters of Howell Creek, County of Cassia, State of Idaho, decreed to William Stokes by decree of Judge C. O. Stockslager of the 4th Judicial District of the State of Idaho, in and for the County of Cassia, in the case of

R. L. WOOD, et al

Plaintiffs

vs.

WILLIAM STOKES, et al

Defendants

said decree bearing date of March 21, 1892, and being appurtenant to the following described lands, to-wit:

NE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$,
Section 16; NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$,
Section 21, Township 12 South,
Range 25 E.B.M., (by Transfer
No. 775)

That said decree has been entered in the records of the Department of Reclamation of the State of Idaho in Volume 1 of Decrees at Page 607 thereof;

That said Richard Storey Anderson has become the owner of said water right by purchase;

And that now, upon the application of Richard Storey Anderson, for the transfer of 1.7 cubic feet per second of the waters of Howell and Spring Creeks, made before the State Reclamation Engineer of the State of Idaho, and said application having been granted, the right to the use of 1.7 cubic feet per second of the waters of Howell and Spring Creeks upon the above described land is hereby abandoned, and the land under such right and to which the water right HEREBY CONFIRMED, shall become appurtenant by this Certificate for irrigation purposes, is described as follows, to-wit:

SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$,
Section 16;
NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 21, Town-
ship 12 South, Range 25 E.B.M.,

That the said water is to be limited at any given time to an amount actually needed and beneficially used for such purpose, and shall not exceed the following amount, to-wit:

0.2 cubic feet per second
of the waters of Spring Creek,
with priority of August 31, 1874;

1.5 cubic feet per second of the
waters of Howell Creek, with
priority of April 1, 1875;

That the water right hereby transferred has heretofore been conducted from said streams to the first above described lands through private ditch with points of diversion in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 16; NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 21, Township 12 South, Range 25 E.B.M.,

Sec 16 SE $\frac{1}{4}$ NW

Sec 21 NESW, SE $\frac{1}{4}$ NW, NE $\frac{1}{4}$ NW

That the water right hereby transferred will hereafter be conducted to the last above described lands through private ditch with points of diversion in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 16; NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, of Section 21, all in Township 12 South, Range 25 E. B. M.,

Sec 16 SE $\frac{1}{4}$ NW

Sec 21 NESW SE $\frac{1}{4}$ NW NE $\frac{1}{4}$ NW

That the right to the use of the waters aforesaid, hereby confirmed, is restricted to the lands last above described, as provided by the laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed at Boise, Idaho, this 25th day of May, 1964,

(SEAL)

s/ CARL E. TAPPAN

CARL E. TAPPAN
State Reclamation Engineer

RECORDED

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the Matter of the Certificate
of Transfer Issued Pursuant to
the Application of Richard Storey
Anderson, Box 126, Albion, Idaho,
Designated as Transferred Right
No. 1022

ORDER CANCELLING TRANSFER
OF WATER RIGHT NO. 1022 AND
ISSUANCE OF NEW TRANSFER OF
WATER RIGHT NO. 1029.

WHEREAS, Under date of April 2, 1964, an Order was executed granting the transfer requested by the application of Richard Storey Anderson covering a certain water right in Water District No. 26, and as a result of such Order, Certificate of Transfer of Water Right No. 1022 was issued April 2, 1964; and

WHEREAS, said Certificate shows 0.2 cubic feet per second of the waters of Howell Creek with priority of August 31, 1874; and 1.5 cubic feet per second of the waters of Spring Creek with priority of April 1, 1875; this should read

0.2 cubic feet per second of the waters
of Spring Creek, with priority of
August 31, 1874; and 1.5 cubic feet per
second of the waters of Howell Creek with
priority of April 1, 1875;

NOW, Certificate of Transfer of Water Right No. 1022, issued April 2, 1964, is HEREBY CANCELLED, and a new Certificate of Transfer of Water Right No. 1029 shall be issued;

WITNESS the seal and signature of the State Reclamation Engineer of the State of Idaho affixed at Boise, Idaho, this 25th day of May, 1964.

(SEAL)

s/

CARL E. TAPPAN

CARL E. TAPPAN
State Reclamation Engineer

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

Certificate of Water Right
Transferred Right No. 751.

THIS IS TO CERTIFY That ALBERT CLARK, of Burley, Idaho, is the owner of and using a certain water right for five (5) inches (or 0.1 cubic foot per second) of the waters of Spring Creek, a tributary of Marsh Creek, with priority of August 31, 1874, said water being decreed to Wm. Stokes by Judge C. O. Stockslager of the Fourth Judicial District of the State of Idaho, in and for the County of Cassia, in the case of

R. L. WOOD, et al
Plaintiffs,

vs.

WM. STOKES, et al
Defendants.

said decree bearing date of March 21, 1892, and being appurtenant to the following described lands, to-wit:

NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 21, Township
12 South, Range 25 East, B.M.

That said decree has been entered in the records of the Department of Reclamation of the State of Idaho, in Volume 1, beginning at Page 607, of Decrees.

That said ALBERT CLARK has become the owner of said water right through purchase.

And that now, upon the application of Albert Clark, of Burley, Idaho, for the transfer of five inches (or 0.1 cubic foot per second) of the waters of Spring Creek, made before the State Reclamation Engineer of the State of Idaho, and said application having been granted, the right to the use of five inches (or 0.1 cubic foot per second) of the waters of Spring Creek on the above described lands is hereby abandoned and the place of use of said waters to which the water right hereby confirmed shall by this Certificate, become appurtenant for irrigation and domestic purposes is described as follows, to-wit:

SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, Township
12 South, Range 25 East, B.M.

That said water is to be limited at any given time to an amount actually needed and beneficially used for such purposes, and shall not exceed the following amount, to-wit:

Five inches (or 0.1 cubic foot
per second) of the waters of Spring
Creek, with priority of August 31,
1874.

That the water right hereby transferred has heretofore been conducted from Spring Creek to the first above described lands with point of diversion in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 21, Township 12 South, Range 25 East, B.M.

COPY

That the water right hereby transferred will hereafter be conducted to the last above described lands with point of diversion in the SW¹ SW¹ Section 16, Township 12 South, Range 25 East, B.M.

That the right to the use of the water aforesaid, hereby confirmed, is restricted to the lands or place of use last above described, as provided by the laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed at Boise, Idaho, this 27th day of October, 1949.

MARK R. KULP
State Reclamation Engineer

COPY

POOR ORIGINAL

RECEIVED

MAR 30 1993

Department of Water Resources
Southern Region Office

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
Certificate of Water Right
Transferred Right No. 775.

THIS IS TO CERTIFY That RICHARD STORREY ANDERSON of Albion, Idaho, is the owner of and using the following water rights in Howell and Spring Creeks:

RECEIVED

deeded

MAR 11 1997

Department of Water Resources
Southern Region

.50 cubic foot per second
with priority of March 1, 1881.
1.5 cubic feet per second
with priority of April 1, 1875.
.20 cubic foot per second with
priority of August 31, 1874.

*per claimant: basis for
A45-10502... 7-3-11-97*

said water being decreed to William Stokes, et al, by Judge C. J. Stockslager of the Fourth Judicial District of the State of Idaho, in and for the County of Cassia, in the case of

R. L. MOOD, et al.,
vs. Plaintiff,

WILLIAM STOKES, et al.,
Defendants.

and decrees bearing date of March 21, 1892.
that by said decree and by Certificates of Transfer Nos. 679 and 783, these waters were made appurtenant to the
now deceased lands, to wit:

.50 cubic foot per second, March 1,
1881, appurtenant to ~~Section 16,~~ ~~NE 1/4 Sec 16,~~
~~NE 1/4 Sec 16,~~

MICROFILMED

OCT 27 1994

.50 cubic foot per second, April 1,
1875, appurtenant to ~~NE 1/4 Sec 21,~~
~~NE 1/4 Sec 21,~~

.50 cubic foot per second, April 1, 1875
 and .20 cubic foot per second, August 31,
 1874, appurtenant to E¹ NW¹ Section 21;
 .50 cubic foot per second, April 1, 1875,
 appurtenant to E² NW¹ Section 21;
 All in Township 12 South, Range 25 East,
 S.W.

POOR ORIGINAL

It is now upon the application of Richard Storey Anderson of Albion, Idaho, has become the owner of said water rights through purchase.

Richard Storey Anderson of Albion, Idaho, for the transfer of two and one-half (2.50) cubic feet per second of the waters of Howell Creek and Spring Creek, made before the State Engineer of the State of Idaho, and said application having been granted, the right to the use of two and one-half (2.50) cubic feet per second of the waters of Howell Creek and Spring Creek upon the above described lands is hereby abandoned and the place of use of said water under such right hereby confirmed shall by this Certificate be designated for irrigation and domestic purposes as described as follows, to-wit:

NE¹ NW¹ NW¹ Section
 161 NW¹ NW¹ Section 21, Township
 12 South, Range 25 East, B.W.

That said water is to be limited at any given time to an amount actually needed and beneficially used for such purposes and shall not exceed the following amount, to-wit:

- .50 cubic foot per second
 with priority of March 1, 1881.
- 1.5 cubic feet per second
 with priority of April 1, 1875.
- .20 cubic foot per second with
 priority of August 31, 1874.

MICROFILMED
 OCT 27 1994

That the right to the use of the waters aforesaid, hereby confirmed, is restricted to the lands or place of use as above described, as provided by the laws of the State of Idaho.
 If WILKES WICKHAM, I have hereunto set my hand and caused the official seal of the Department of Reclamation of Idaho to be hereunto affixed at Boise, Idaho, this 4th day of August, 1961.

MARK R. KULP
 State Reclamation Engineer

DON SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

September 15, 1969

RECEIVED

MAR 30 1993

Department of Water Resources
Southern Region Office

William T. Goodman
Attorney at Law
P. O. Box 61
Rupert, Idaho 83350

Dear Mr. Goodman:

Our records indicate a decreed right from Howell Creek for use on lands in the NW $\frac{1}{4}$, Section 16, Township 12 South, Range 25 East, B.M. with a priority of March 1, 1881. Water transfer No. 775 filed in our office indicates that 25 inches or .50 cubic feet per second was transferred to the land in the NW $\frac{1}{4}$ of Section 16 bearing the same priority.

If we can be of further assistance please let us know.

Very truly yours,

M. Russell Bosch

M. RUSSELL BOSCH
Administrative Assistant

MRB:ejw

*Water Book
Cassia
Monette*

LAND TITLE
678-3524
MICROFILMED
OCT 27 1994

1138

A45-10502

WARTHEN
AGENT: 74
DATE: 03-11-1997

RE:

NAME OF PARTY:

Change Claim
WARTHEN
transfer # 77.5 (marked A. see exhibit)

- ① priority date: 08-31-1874
- ② diversion rate: .20 cfs (2A) water uses

see Ex. A @ bottom of page where
recital of amounts limited to is
stated to wit:

Change Claim fields #2 and #7
to read 08-31-1874 and .20 cfs

- ③ source: Spring Creek
trib. to: sinks

Change Claim fields: #3

- ④ ... Change POB:
S 1/6

ADD:

NENW - 40

NW " - 19° 78

SE " - 19

20AC - Return orig POB in NESW

- ⑤ water is ~~distributed~~ in system. 98

TELEPHONE CONVERSATION

MEMORANDUM

1122 ✓
INCOMING CALL
OUTGOING CALL
1130
RETURNING CALL

TO:

FH

DATE:

03-07-1997

FROM:

PEARL FORTIN WARTHEIN

FILE:

WARTHEIN

FILE NO:

H45-10502 (?)

SUBJECT:

2ND TIME in 4 YRS - make an
appt -

REMARKS:

Waste water off neighbors

filled in SPBA - per date of the land.

after claimed - change water meter
4 YRS back - dunnell - don't cut in

ROUTING INSTRUCTIONS:

CALENDAR DATES:

TUES - 03/11 - pull files
10 AM

FH/ABH

done

TO: EARL WARTHEN
FROM: FRANK HITCHCOCK
DATE: 03-27-1997
RE: YOUR PHONE MESSAGE 03-25-1997

I've been out of the office and still very busy with other work.

Your message was about the "same" amount of ground in your amended claim A45-10502 that Dan Nelson examined when he was up at your place recently.

I don't know what permits Dan was examining as I don't work with him or licensing of water usages. You have copies of the amended claim that I sent to you for the Spring Creek water with priority date of 1874 per your amendments. You need to talk with Dan on the acres or place of use of the permit(s) that he did the field work on.

I'm enclosing a copy of the data list I sent you 03-19-1997 for your direction on the names and numbers of the claims for Basin 45 filed in the SRBA. I can't request a data processing run without your information.

Please let me know. I am very busy with a number of court deadline cases so I will be getting back to you later and later as time goes by.



Department of Water Resources

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

FRANCIS G. HITCHCOCK
SR. WATER RESOURCE AGENT
SOUTHERN REGIONAL OFFICE
(208) 736-3033
FAX (208) 736-3037
fhitchco@idwr.state.id.us

TELEPHONE CONVERSATION

MEMORANDUM

838
____ INCOMING CALL
✓ ____ OUTGOING CALL
____ RETURNING CALL

TO:

FH

DATE:

03-12-1997

FROM:

WEIRTHEIN, FEARL

FILE:

AJ

FILE NO:

A45-10502

SUBJECT:

Anderson Menses to him - he uses
after he's done

old harmless

REMARKS:

"trillate" secondary to user above? language.

look up WASTE WATER statute

and
ask if any place/office

next wk: call him...

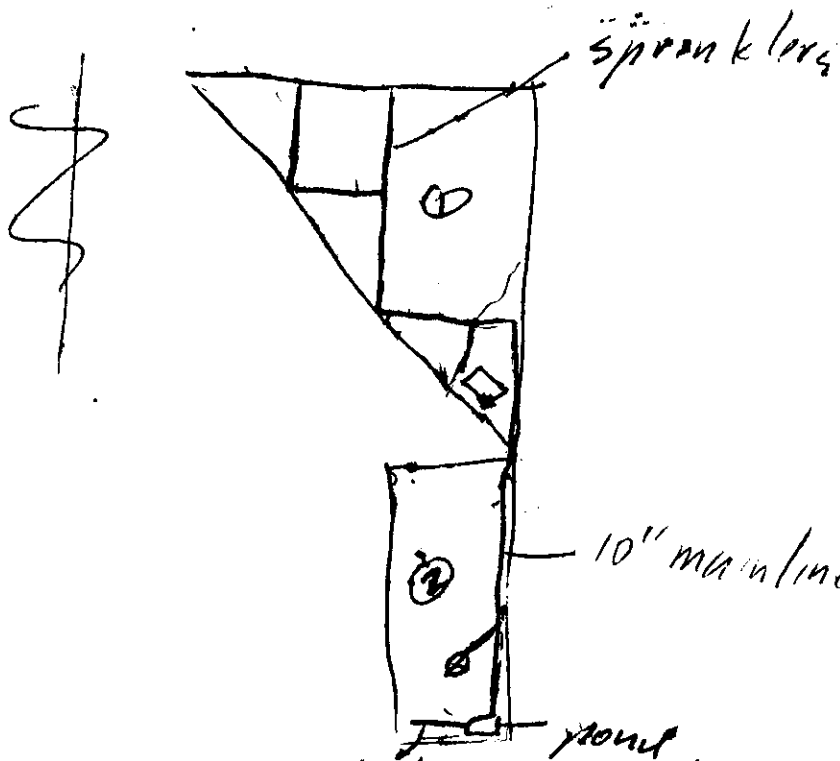
ROUTING INSTRUCTIONS:

CALENDER DATES:

FH/ABH

848

★
Remake
addition



Independent

pond
underground soak when sp. off

pond - catches wastewater, ground water,
creek when flowing

@ 20" E figuring as a rectangle
pond would be $\approx .29$ AF
KRC

150' x 50' x 10-20" full

will on when pond dry
oc. fills pond w/well and soak when area 2 needs
water

85 birds max @ approx 45 p61

MTI # med-coarse ≈ 4.5 gpm

water level static 90

p. L. 180

sheep 100 max.

System needs
measuring when
pond delivers
water to 96 ac
Inquire about
drain field.

Asp. well already filed for - license 45-07366

Hanell Cr. 45-07642

COPY

WARTHEN

RECEIVED

MAR 12 1997

Department of Water Resources
Southern Region

PEARL, WORTHEN

8:50
AM

A45-10502

5/10"
sub-irrigates meadow
yearly

stimulates, feeds, creek
benefits structures thru year

(in the wetland area
pups scattered thru area
form of recharge (dist.)

can it be tied up this way?

maintain ecosystem

MICROFILMED

OCT 27 1994

-10502 WARTHEN
field as wastewater orig owner did ponds

Have Cr - one side
irrig down from ditch

& administered by watermaster

refer to transfer for POV:

\$16

NE SW

essentially recharge district
or wetland

curried mainline
from pond @ POD to POV NE of \$16
SF

PRIORITIES

B4 transfer should be blended into
an acceptable pri date.

MICROFILMED
OCT 27 1994

WILLIAM T. GOODMAN
LARRY R. DUFF
DONALD J. CHISHOLM
ASSOCIATE

Goodman and Duff

ATTORNEYS AT LAW
FREMONT AND G STREETS
BOX 61
RUPERT, IDAHO 83350

AREA CODE 208
TELEPHONE NOS.
436-4774
436-4775
436-4246

September 24, 1969

RECEIVED

Mr. Leslie Nelson
Albion
Idaho

MAR 30 1993

Department of Water Resources
Southern Region Office

Dear Mr. Nelson:

We are returning to you the following documents:

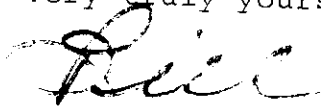
1. Warranty Deed from Wilma Clark.
2. Title Insurance Policy.
3. Photo copy of Water Right Transfer No. 775, indicating .50 cubic feet of water right, under Decree of March 1, 1881.
4. Letter from Department of Reclamation.

The information we have in the matter is as follows: Mr. Ab Clark received a transfer of .50 cubic feet of water from Howell Creek, which is 25 inches of water from the Creek from Richard and Helen Anderson on July 8, 1964, pursuant to a transfer recorded at the Cassia County Courthouse in Burley, Idaho, as Instrument #19529. This water was transferred to you and your wife by the deed from Wilma Clark on May 20, 1969.

This means simply that the property you now own does have a decreed water right of the above amount. We are further informed that prior decrees of water from the creek entered in 1870 use the bulk of the water from the creek and these being prior in date are prior in right. Apparently Mr. Ab Clark attempted to use water on a couple of occasions but the lack of a usable right because of prior rights (1870) indicate that the amount of water is incapable of delivery because there is so little of the same. In any event it would be worthwhile to contact the watermaster at Albion, (I do not presently know who it is), and arrangements for delivery of water under your right could be made.

If you require further information or have any other questions let me know.

Very truly yours,



William T. Goodman

WTG:LA
Encl.

MICROFILMED

OCT 27 1994

CONSERVATION PLAN MA.

POOR ORIGINAL

Owner Earl Warthen Operator -
County Cassia State Idaho Date 2-76
Approximate acres 103 Approximate scale 8" = 1 mile 1" = 660'
Cooperating with East Cassia Conservation District
Plan identification - Photo number -
Assisted by R.J. Baum USDA Soil Conservation Service

