

**Idaho Dept. of Water Resources
1301 N. Orchard Boise, ID
January 14, 2006**

To: 74-15662/74-15663
From: Roxanne Brown
Subject: Enlargement claim

These are claims for the enlargement of water rights in Swan Basin.

The claimed priority date for the enlargements is 1976. An affidavit submitted with the claims supports irrigation from 1976 to 1979. The affiant also refers to the irrigation having occurred "...for quite some time..." before the irrigation in 1976.

If the irrigation occurred prior to 1971, it could have been claimed in the Lemhi adjudication as a valid beneficial use claim and would have been decreed in that action. Irrigation of the land in question was in violation of the mandatory permit statute in 1976, and continuing to 1979. The Lemhi decree was final in 1986.

If the irrigation started after the commencement of the Lemhi adjudication and continued after the decree was final in 1986, and therefore prior to the commencement of the SRBA on November 19, 1987, it could be recommended pursuant to §42-1426, Idaho Code. The aerial photography available to IDWR is inconclusive as to irrigation under these claims during that time period.

The enlargement claims 74-15662 and 74-15663 will not be recommended for decree in the SRBA.

01/14/2006

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

RIGHT NUMBER: 74-15663
NAME AND ADDRESS: F JAMES WHITTAKER
PO BOX 240
LEADORE ID 83464

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

No lawful appropriation shown.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

No lawful appropriation shown: There are a number of circumstances in which a claim is proposed to be disallowed on this basis. This is most commonly included for a claim based on beneficial use or posted notice that is proposed to be disallowed because the right claimed is not within an exception to the mandatory permit statute, and beneficial use of water prior to the mandatory permit statute was not confirmed. This is also included where a claim is proposed to be disallowed because the claim is to water that is not public water subject to appropriation. This is also included

where

a right was determined not to exist in a prior adjudication.

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 74-15663
Date Received _____
Receipt Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

d.o. p. 1-12-06

Please type or print clearly

1. Name of Claimant (s) F James Whittaker Phone (208) 768 2491
Mailing Address PO Box 240 Leadore ID Zip 83464

2. Date of Priority (Only one (1) per claim) 7/5/76

3. Source of water supply (a) Basin Creek
which is tributary to (b) Timber Creek

4. a. Location of existing point of diversion is: Township 15N Range 25 Section 36,
NE 1/4 of SE 1/4 of NE 1/4, Govt. Lot, _____ B.M., County of Lemhi

Additional points of diversion if any: _____

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

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

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

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

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

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.

headgate to ditch to flood irrigation

Swan Basin 2

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For irrigation purposes from 3/15 to 11/15 amount 2.0 or _____

For Stockwater purposes from 1/1 to 12/31 amount 0.04 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 2.04 (cfs) and/or (b) _____ (acre feet)

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

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Stockwater 250 cow/calf pairs range cattle

10. Description of place of use:

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

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

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
15N	25E	25															25	30	55
																	5	5	
		36	2	5															7
			5	5															

Total number of acres irrigated 62

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

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

13. Describe any other water rights used at the same place and for the same purposes as described above. _____ or None ()

14. Remarks: Enlargement
Beneficial use claim per attached affidavit.

Last Name Whittaker Ident No. _____

Copies: White -State, Yellow-Claimant

Swan Basin 2

Scale: 2 inches equals 1 mile

Please see attached

A 16x16 grid of squares. Each square contains a crosshair pattern consisting of a vertical line, a horizontal line, and a diagonal line from the top-left to the bottom-right. The lines are thin and black, and the squares are separated by thin black borders. The grid is composed of 16 columns and 16 rows, totaling 256 squares.

Copies: White-State, Yellow-Claimant

Swan Basin 2

15. Basis of Claim (check one) Beneficial Use ☒ Posted Notice _____ License _____ Permit _____
Decree _____

If applicable provide IDWR Water Right Number _____

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

16. Signature (s)

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

Number of attachments _____

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

Signature of Claimant (s) James W. Whittaker Date 8/10/04

Date _____

For Organizations: I do solemnly swear or affirm that I am _____

of _____, Title _____, that I have signed the foregoing
Organization

document in the space below as _____ of _____
Title Organization

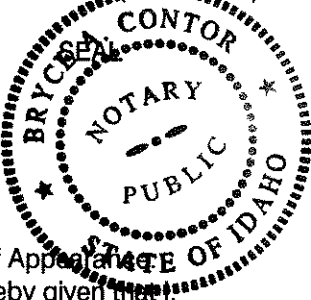
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

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

Subscribed and sworn (or affirmed) before me this 10th day of August 2004



Notary Public Bryce A. Contor

Residing at Mud Lake

My Commission Expires 10/14/2005

Please Print Name

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

Signature _____

Address _____

Date _____

Last Name Whittaker Ident. Number _____

Swan Basin 2

Place of Use

The place of use is 62 acres. Figure 2 is a photo taken looking east along the section line from 15N 25E 36 NW NW. Figure 3 shows the location of the place of use. The place of use is included in shapefile "swanbasinpou.shp" on the data CD. Acreage per quarter-quarter section on the claim is approximate. Total acreage is from GIS analysis of the shapefile.



Figure 2. Looking east towards POU.

Water Resources Field Services

1571 N. 1100 E.

Terreton, ID 83450

208-663-4667

Attachment for Swan Basin 2 Adjudication Claim

Whittaker

Point of Diversion

The points of diversion is at T 15 N, R 25 E, Section 26, NW SW NE. It is located by GPS waypoint 24 at IDTM83 East 2,545,385, IDTM83 North 1,487,650. It is recorded in shapefile "gps.shp" on the data CD. Figure 1 shows the point of diversion.



Figure 1. Swan Basin 2 point of diversion, looking northeast. Creek comes from the right of the photo and exits to the left. Ditch to POU goes away from the camera behind the willows.

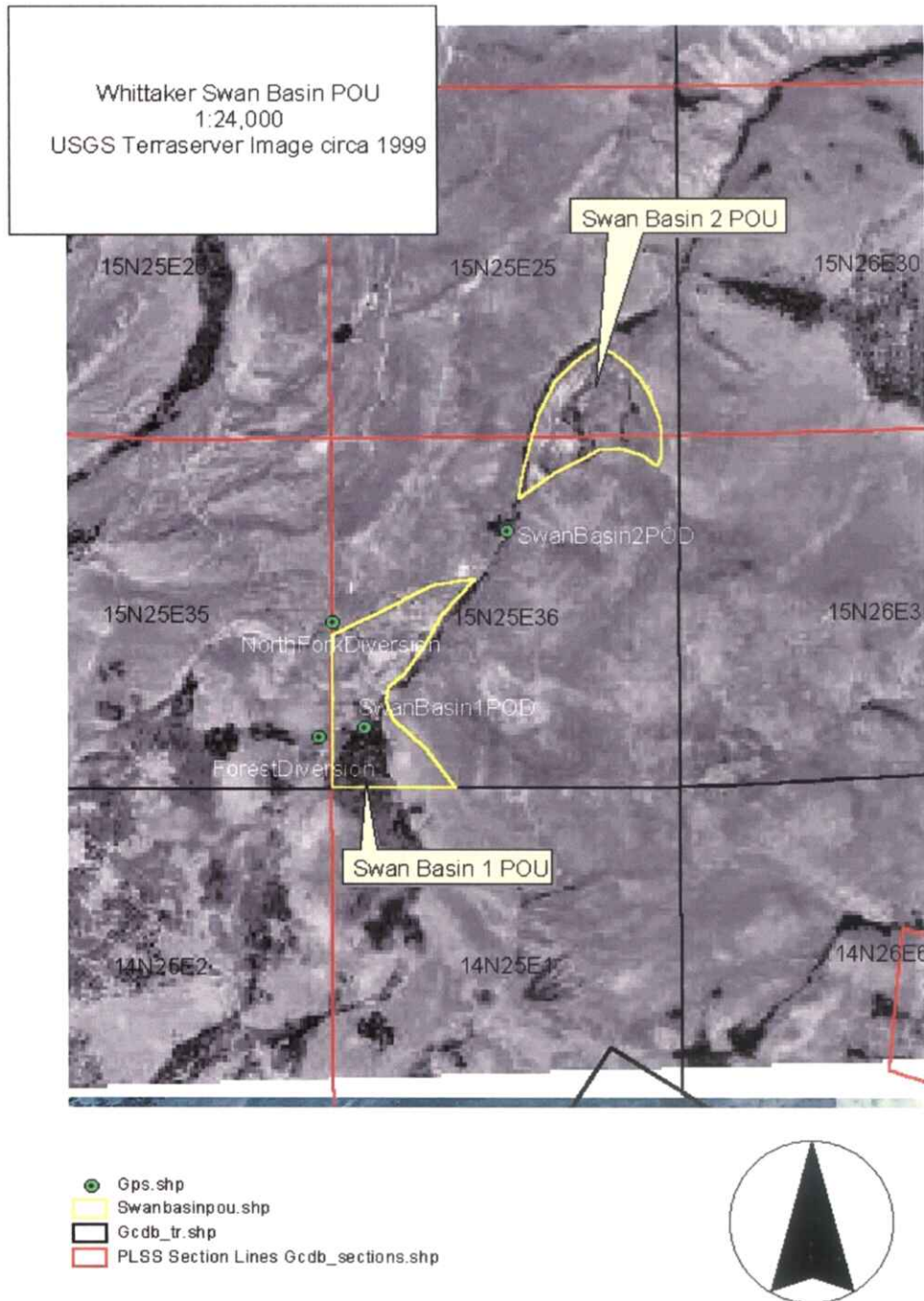


Figure 3. Place of use and points of diversion. Note that IDWR aerial photo did not include this section.

