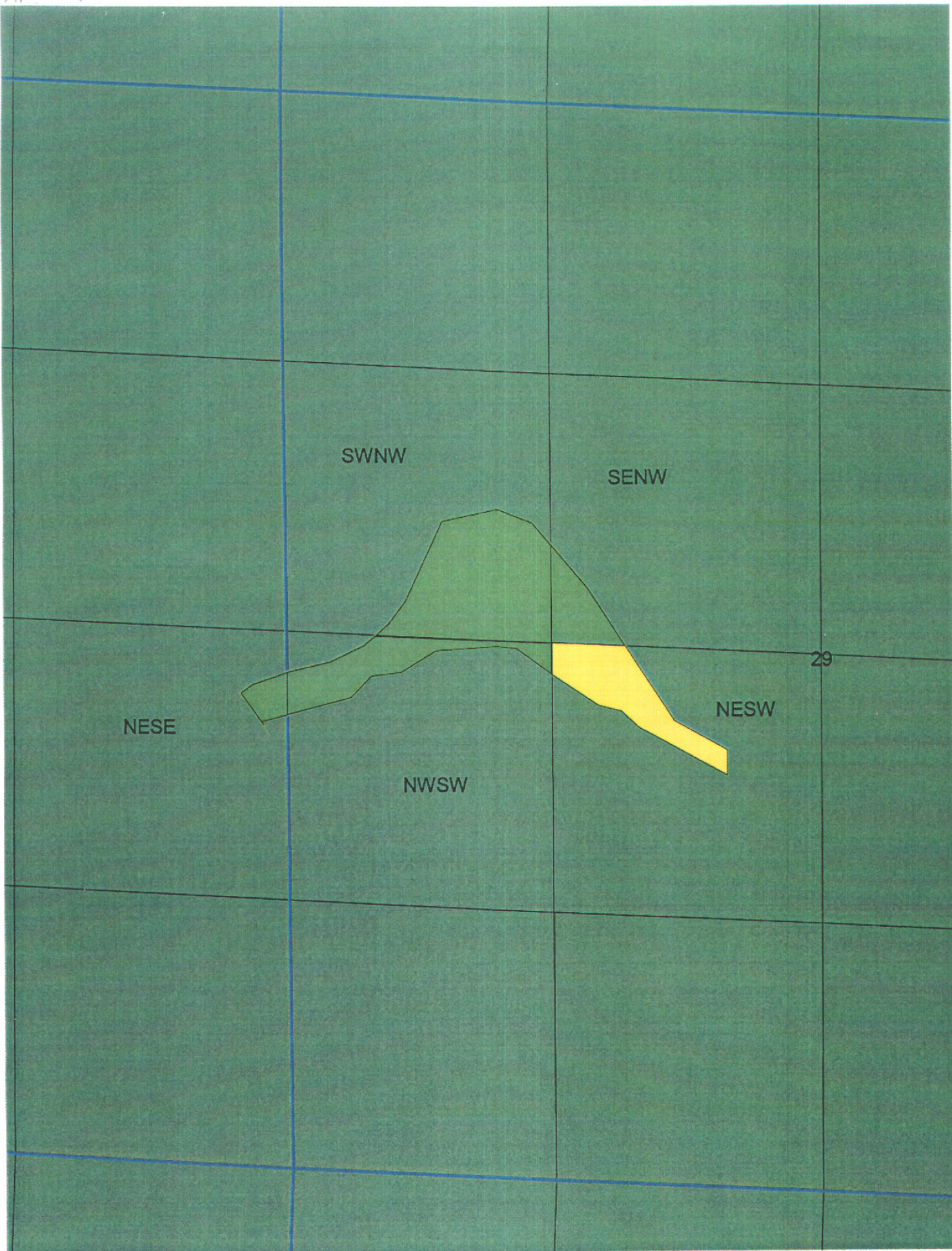




IDAHO DEPARTMENT OF WATER RESOURCES

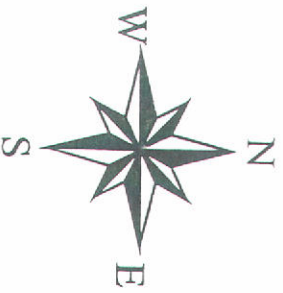
REFERENCE ONLY

T05N R02E S29

WATER RIGHT(S): 63-5107

PREPARED BY: Chris Duncan
16 JAN 2001

- ☒ POINT OF DIVERSION
- ☐ PLACE OF USE
- ☐ SECTION Boundary Lines
- QA Boundary Lines



NAPP 1987



FROM NOE FOR 63-31247

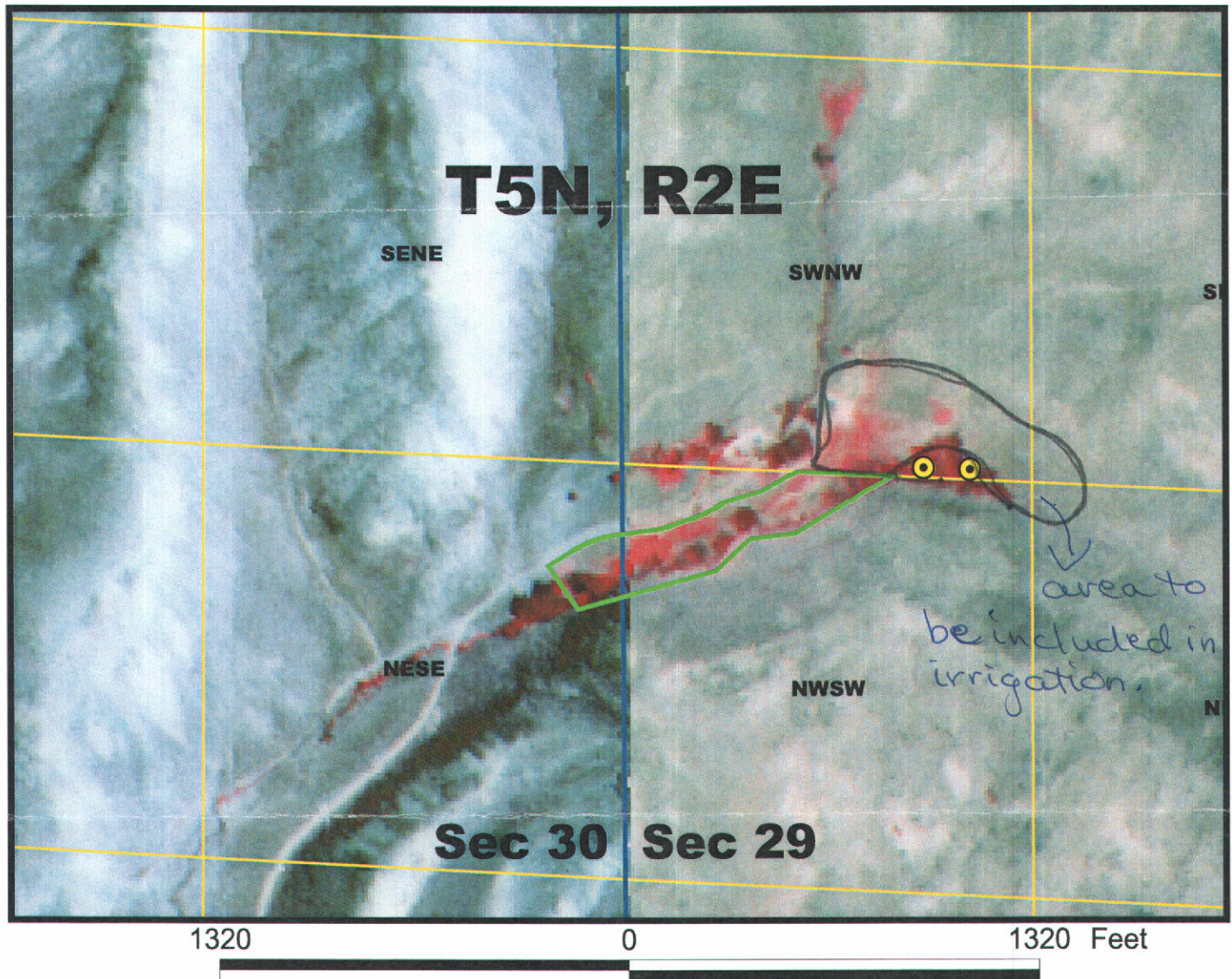


STATE OF IDAHO

Department of Water Resources
Western Region

See 63-32082

Water Right(s): 63-31247



Total Irrigated Acres: 3.3

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



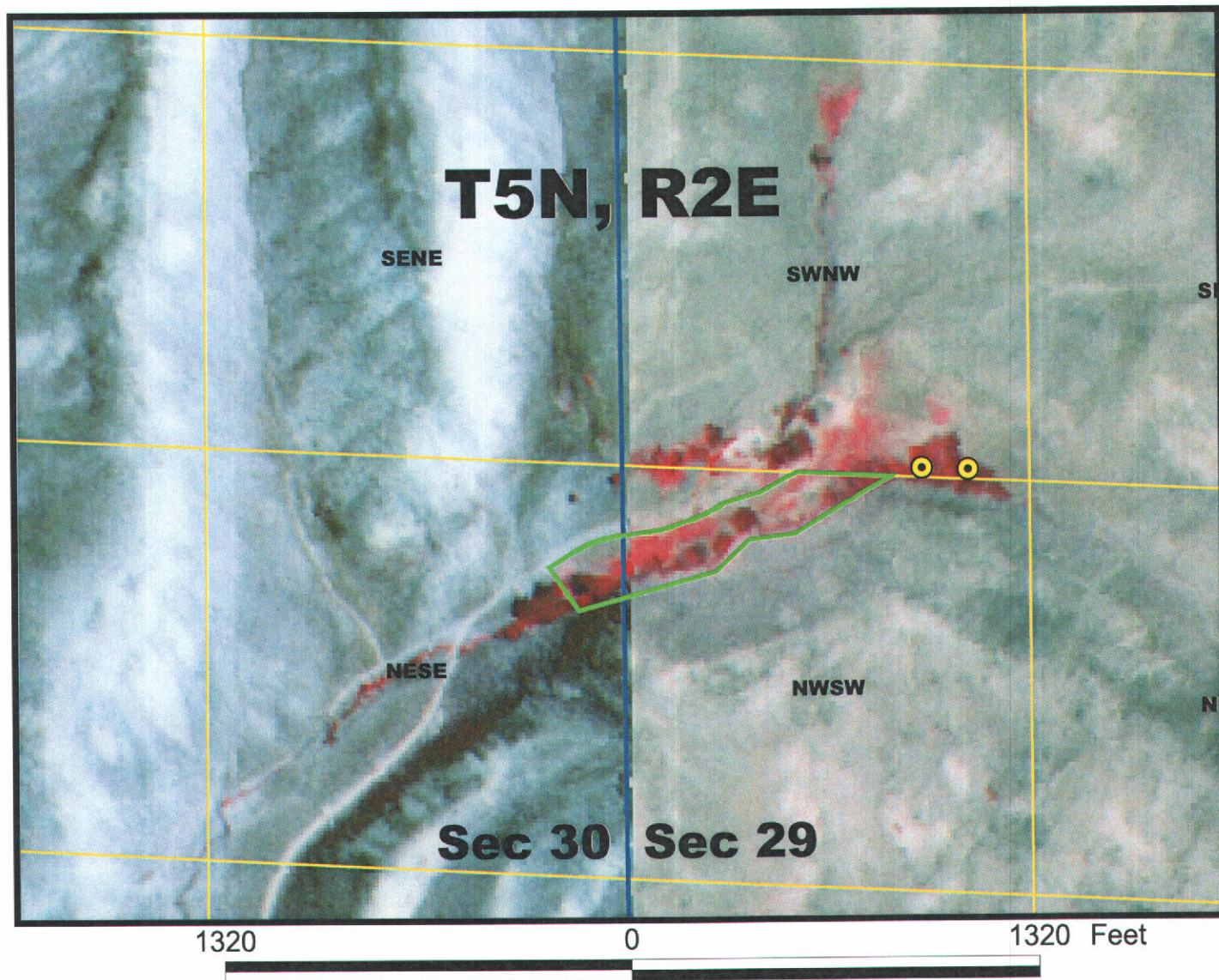
GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: C. Saxton
Date: February 2005



STATE OF IDAHO

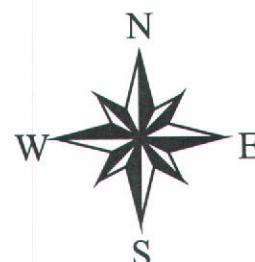
Department of Water Resources
Western Region

Water Right(s): 63-31247



Total Irrigated Acres: 3.3

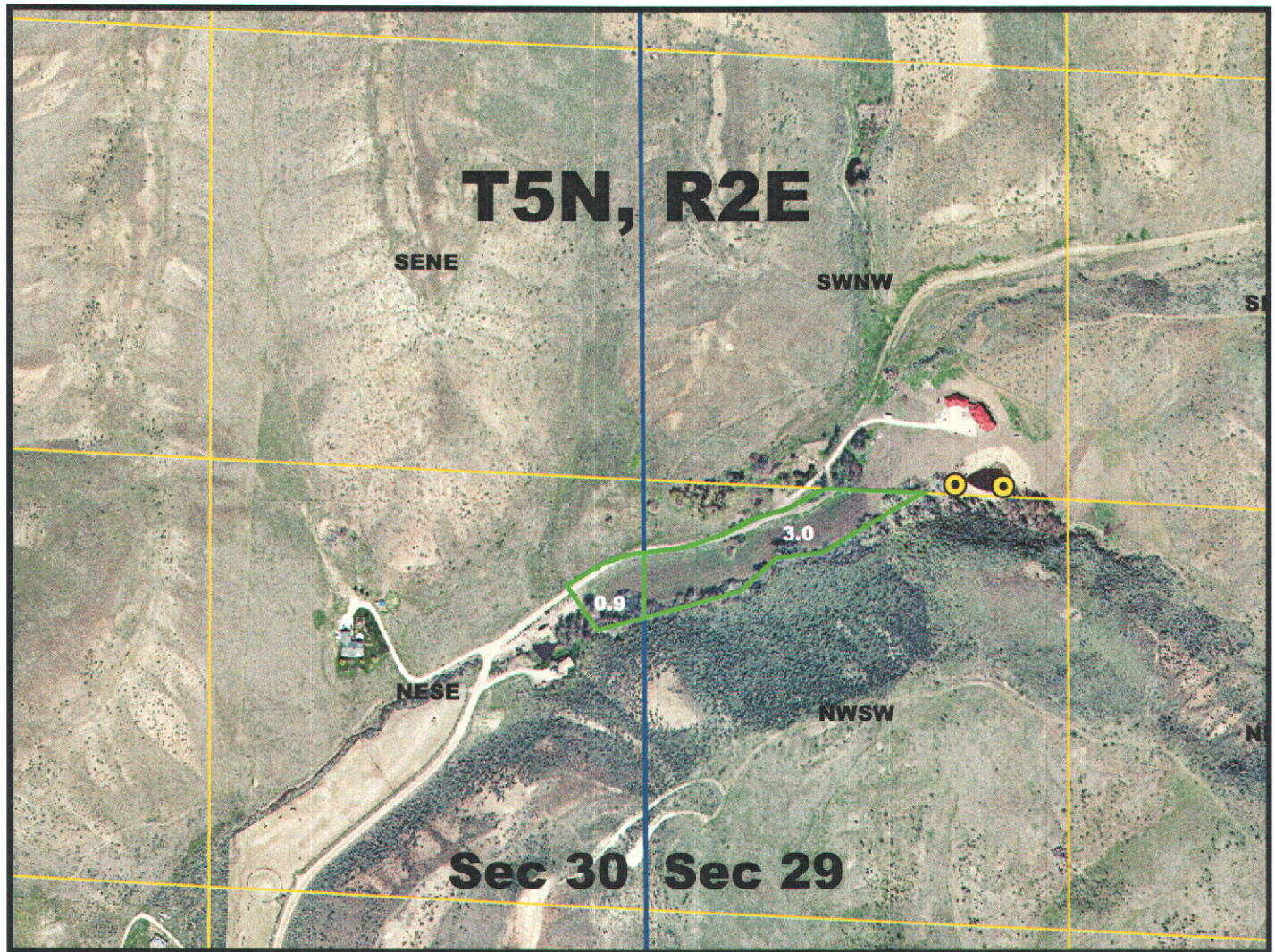
-  Point of Diversion
-  Place of Use
-  Quarter Quarter Lines
-  Section Lines



GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: C. Saxton
Date: February 2005



63-31247 POU & POD Claim Map 2003 Photography



1320

0

1320 Feet

● Claimed Point of Diversion

□ Claimed Place of Use

□ Ada County Tax Lot Data

□ Quarter Quarter Lines

□ Section Lines

Total Claimed Acres: 20.0

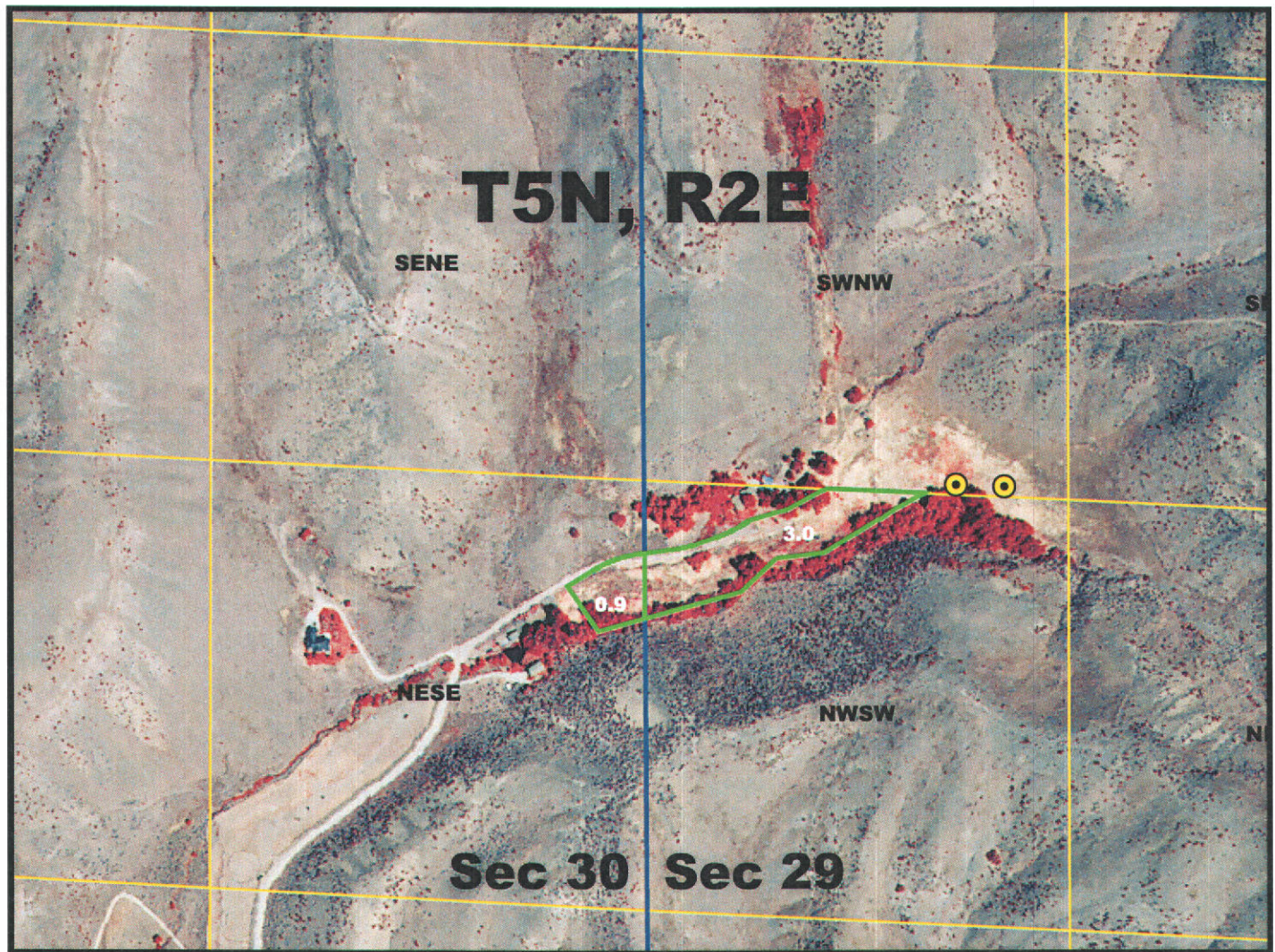
Initial Review found acres: 3.9



Prepared by: C. Saxton
Date: February 2005



63-31247 POU & POD Claim Map 2000 Photography



1320

0

1320 Feet



Claimed Point of Diversion



Claimed Place of Use



Ada County Tax Lot Data



Quarter Quarter Lines



Section Lines

Total Claimed Acres: 20.0

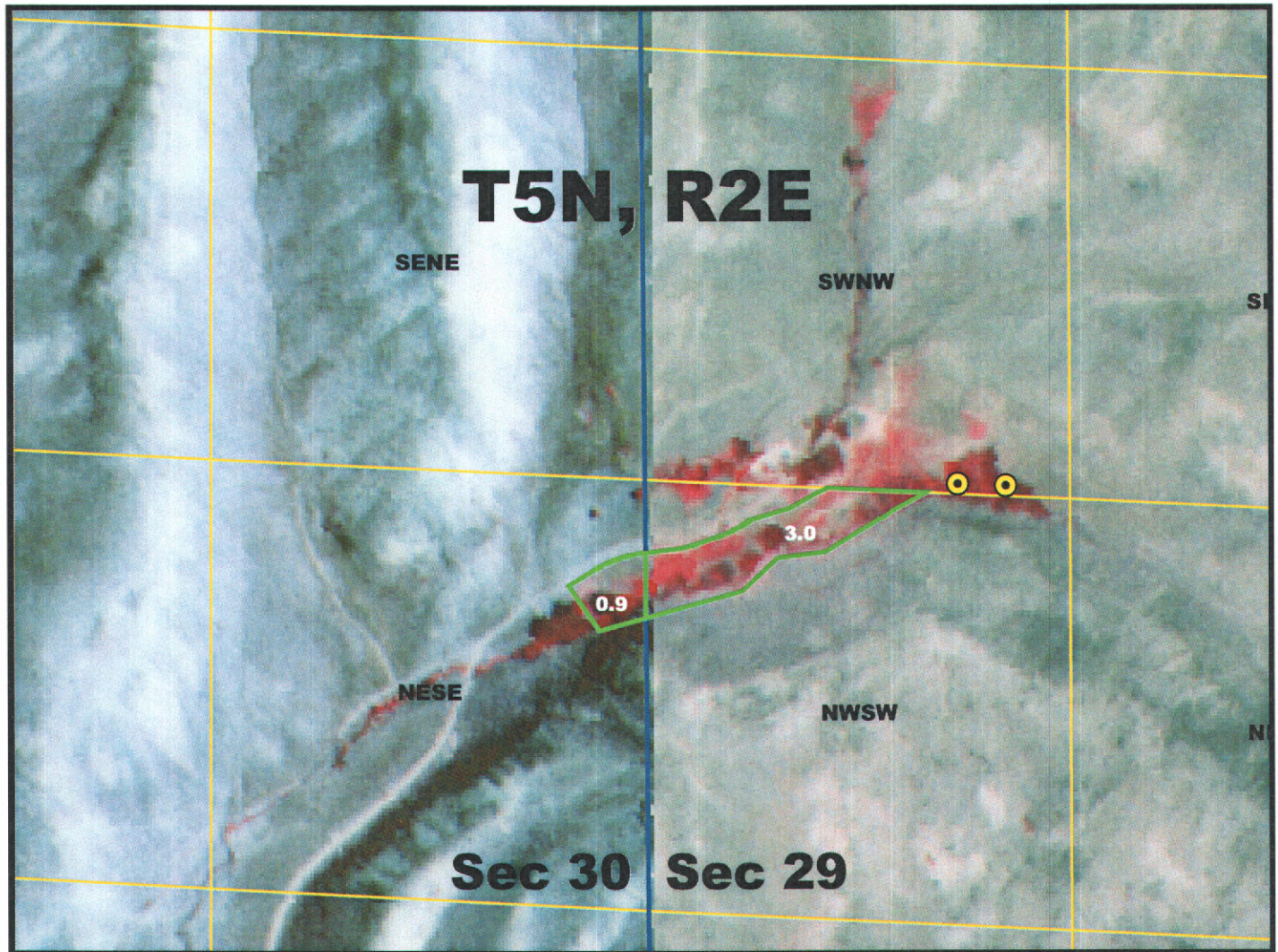
Initial Review found acres: 3.9



Prepared by: C. Saxton
Date: February 2005



63-31247 POU & POD Claim Map 1987 Photography



1320

0

1320 Feet

● Claimed Point of Diversion

□ Claimed Place of Use

□ Ada County Tax Lot Data

□ Quarter Quarter Lines

□ Section Lines

Total Claimed Acres: 20.0

Initial Review found acres: 3.9



Prepared by: C. Saxton
Date: February 2005

DRAFT

S29

S1WNW

S1WSNW

N1WNWSW

T05N, R02E

N1WSW

Pond

Pond

N1WNWSW

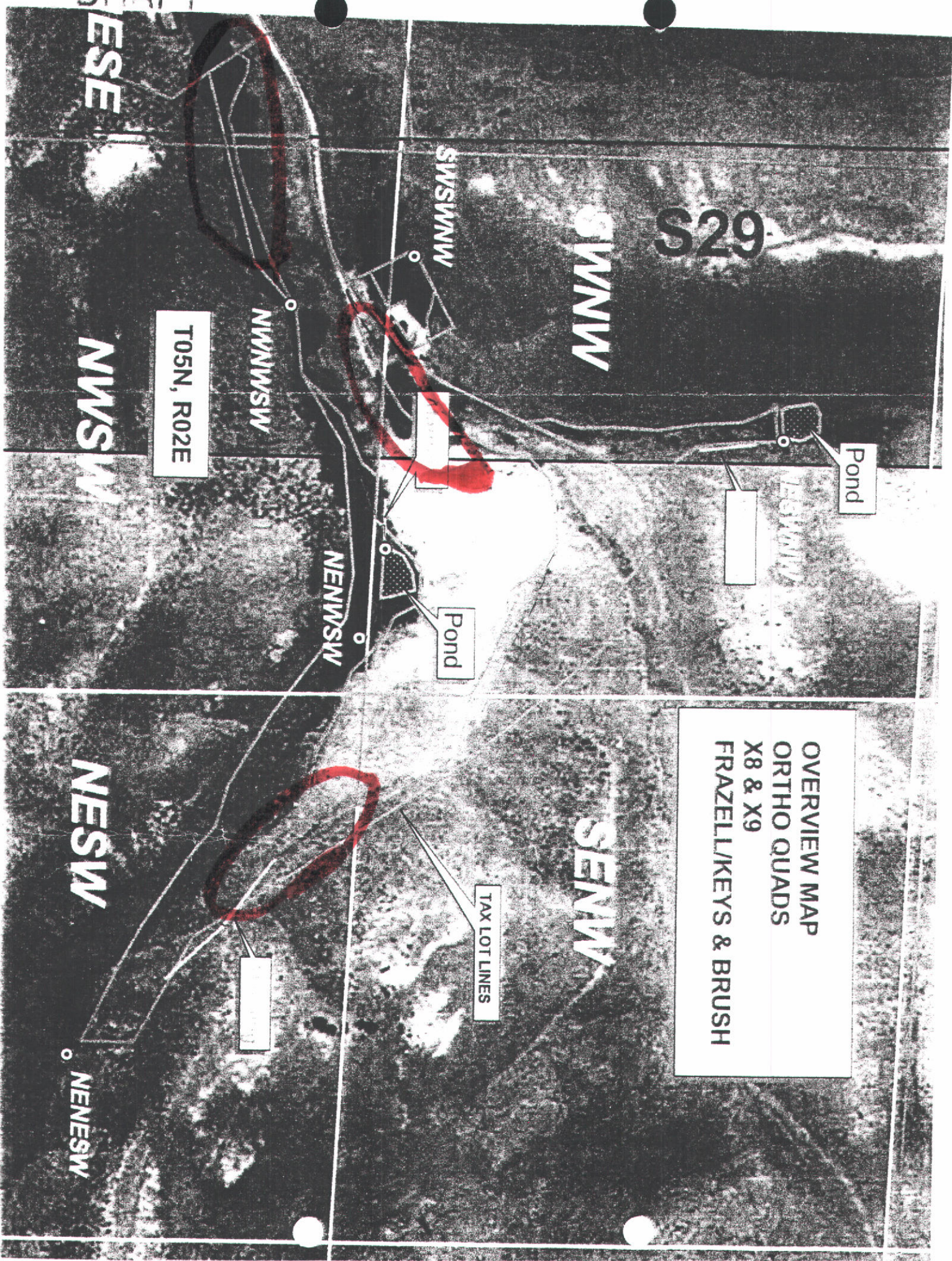
S1ENW

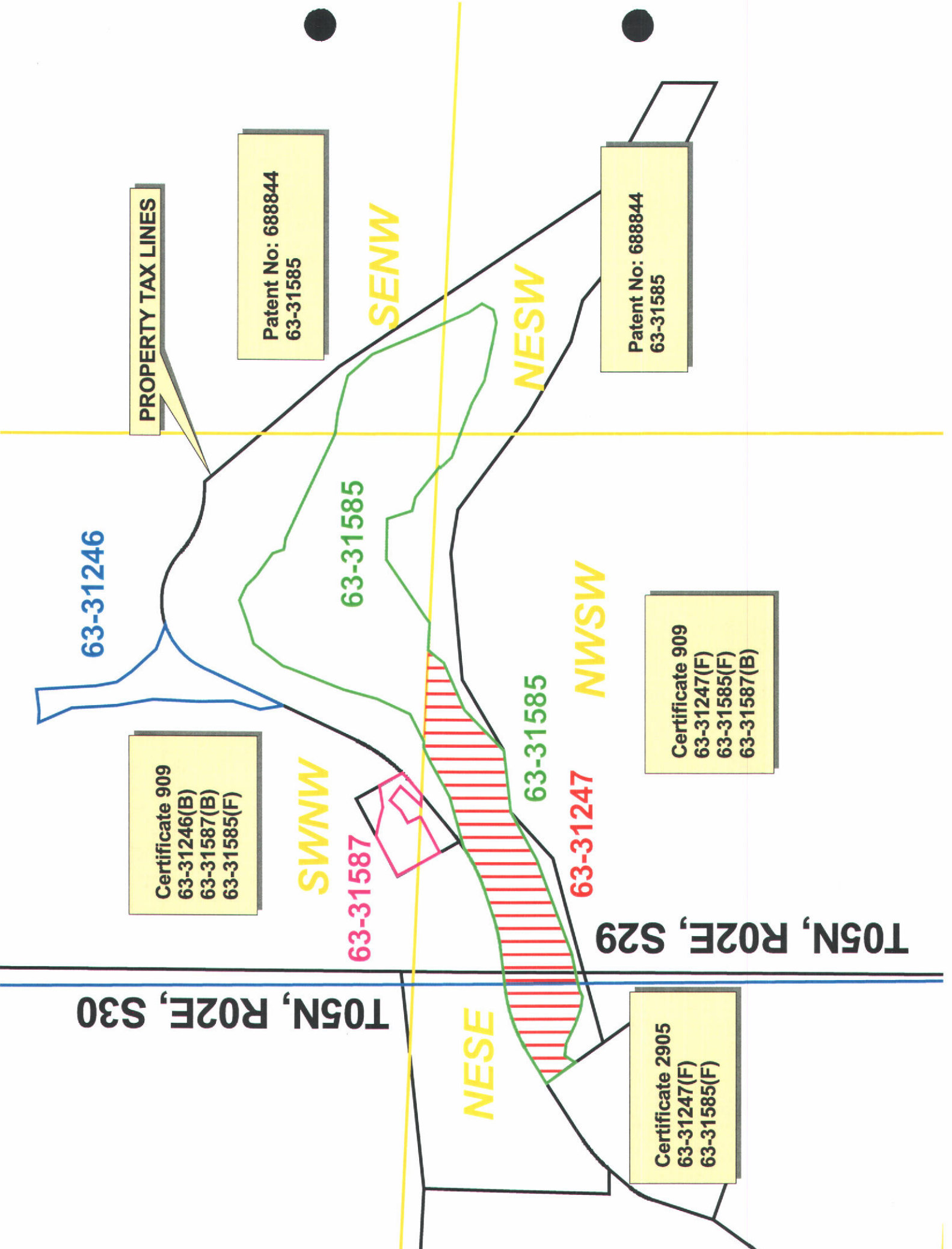
TAX LOT LINES

OVERVIEW MAP
ORTHO QUADS
X8 & X9
FRAZELL/KEYS & BRUSH

N1ESW

N1ENESW





PROPERTY TAX LINES

Patent No: 688844
63-31585

Patent No: 688844
63-31585

63-31246

Certificate 909
63-31246(B)
63-31587(B)
63-31585(F)

SNNW

63-31587

63-31585

SENW

NESW

63-31585

63-31247

NWSW

Certificate 909
63-31247(F)
63-31585(F)
63-31587(B)

T05N, R02E, S30

NESE

Certificate 2905
63-31247(F)
63-31585(F)

T05N, R02E, S29

OVERVIEW MAP
ORTHO QUADS
X8 & X9
FRAZELL/KEYS & BRUSH

Pond
NESWNW
Manning

TAX LOT LINES

Pond
SESWNW

Manning

Manning

T05N, R02E

S29

S30

SWNW

SENW

SWSWNW

NENWSW

NWNWSW

NESE

NWSW

NESW

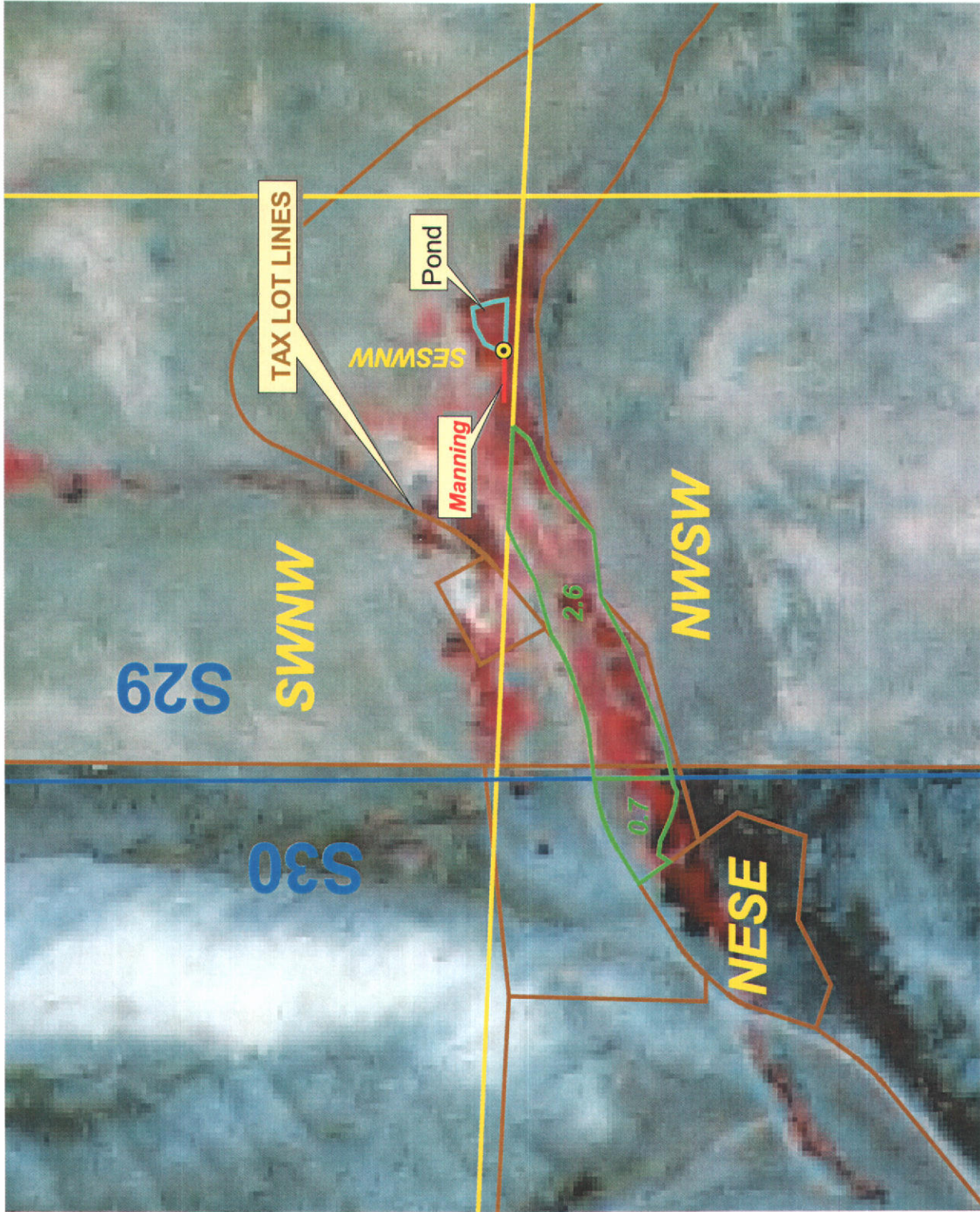
NENESW

IDAHO DEPARTMENT OF WATER RESOURCES

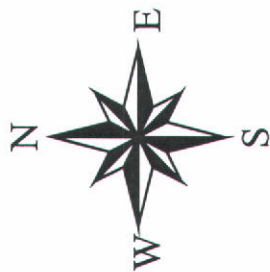
Claims: 63-31247

Date Prepared: 12-12-02

Prepared By: Ron Howerton



**T05N, R02E
S29 & S30**



● Point of Diversion

Place of use

Section

1/4 1/4

3.3 Acres

0 0.1 0.2 0.3 0.4 0.5 Miles

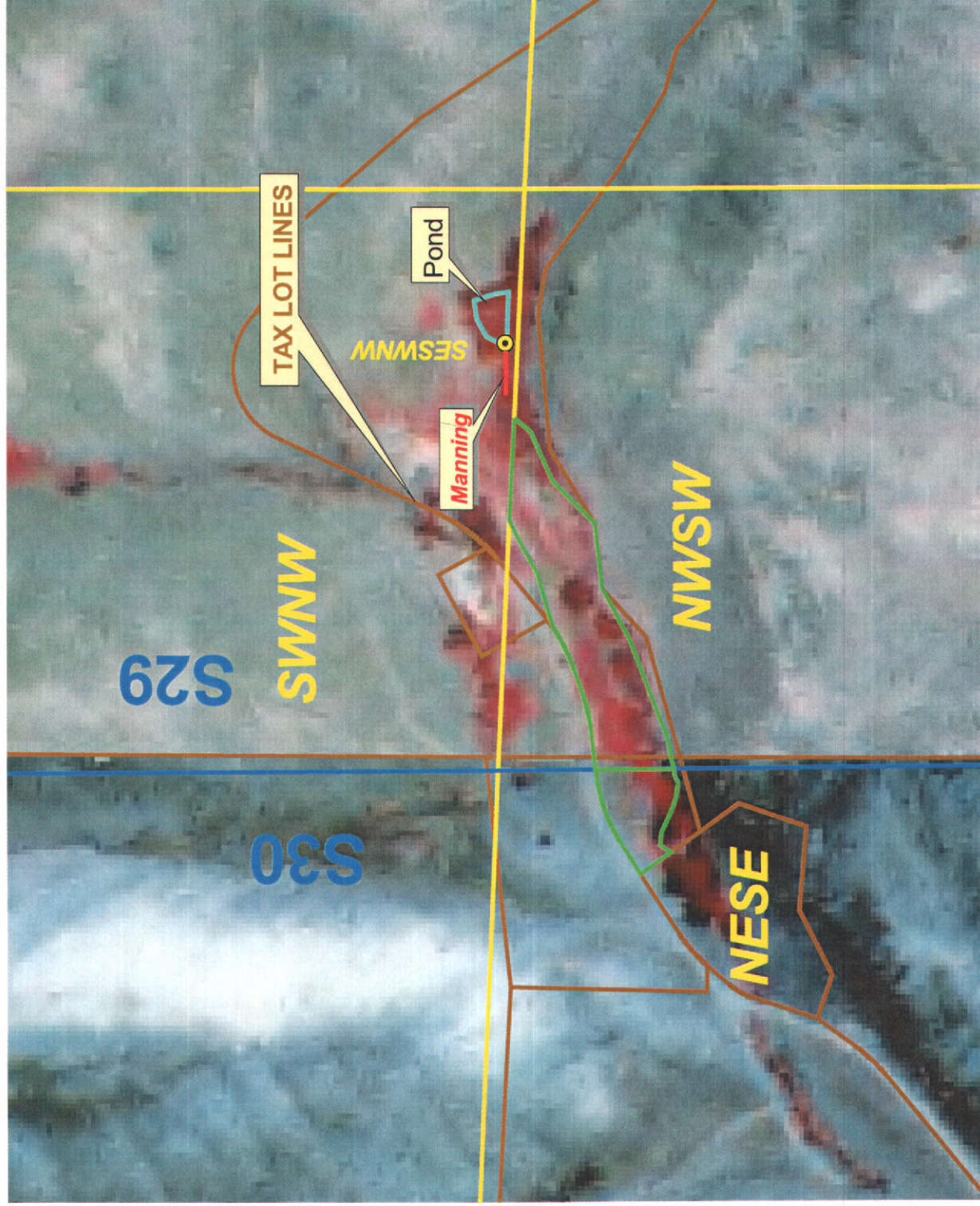
1987 NAPP

IDAHO DEPARTMENT OF WATER RESOURCES

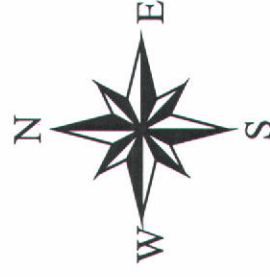
Claims: 63-31247

Date Prepared: 12-12-02

Prepared By: Ron Howerton



**T05N, R02E
S29 & S30**



● Point of Diversion



Place of use

Section

1/4 1/4

0 0.1 0.2 0.3 0.4 0.5 Miles

1987 NAPP

Prepared By: Ron Howerton

1/4 1/4



1987 NAPP

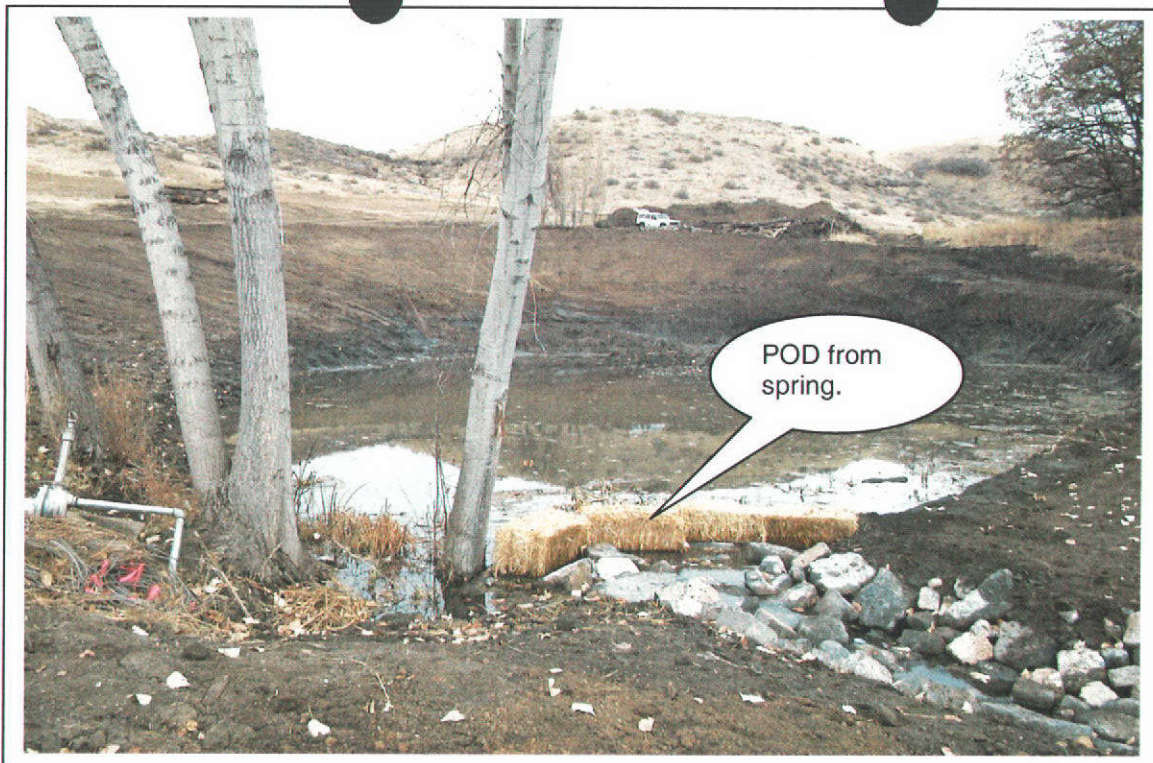


Photo 1: 63-31247, Field Exam 11-15-02: This pond is storage for spring irrigation right 63-31247 and enlargement fire protection right 63-31586. Water is co-mingled. This pond is also used as part of the diversion works from McFarland Creek right 63-31585. Pond is too small for storage from McFarland Creek source because it can fill in less than 24 hours with the recommended CFS. Storage for irrigation is ok from spring because it will not fill in 24 hours with CFS recommended. The POD is located in the SESWNW, S29, T05N, R02E. Pond is approximately 5' deep and has a surface area of 0.2 acres per GIS and total storage of 0.40 AF. Earth, rock, straw dam. See attached maps.



Photo 2: Spring irrigation right 63-31247. Ditch from the pond, which has co-mingled McFarland Creek water right 63-31585 with overlapping irrigation located in the NWSW, S29, T05N, R02E.

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 63-31247
Date Received: 8/17/1989
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

DALE M FRAZELL
15205 N MC FARLAND CREEK RD
BOISE ID USA 83714

Phone: (208) 433-9282

KATHLEEN KEYS
15205 N MC FARLAND CREEK RD
BOISE ID USA 83714

Phone: (208) 433-9282

2. Date of Priority: 10/19/1908

3. Source: SPRING Trib. to: MC FARLAND CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 Lot	County	Type
05N	02E	29	SW	NW		ADA	
05N	02E	29	NW	SW		ADA	

5. Description of diverting works:

DAMS & DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/01	11/15	0.39	
IRRIGATION STORAGE	01/01	12/31		90
IRRIGATION FROM STORAGE	03/01	11/15		90
STOCKWATER	01/01	12/31	0.04	
STOCKWATER STORAGE	01/01	12/31		0.67
STOCKWATER FROM STORAGE	01/01	12/31		0.67
DIVERSION TO STORAGE	01/01	12/31	0.39	

7. Total Quantity Appropriated is:
0.39 C.F.S. and/or 90 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
05N	02E	29	SW	NW	IRRIGATION	10
			SE	NW	IRRIGATION	2
			NE	SW	IRRIGATION	4
			NW	SW	IRRIGATION	3
					Section Acres	19
05N	02E	30	NE	SE	IRRIGATION	1
					Section Acres	1
					Total Acres	20

11. Place of use in counties: ADA

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

13. Other Water Rights Used:

14. Remarks:

Claim amended per claimant request 10/21/02.

This claim is the result of a split due to change in ownership for a portion of
63-5107. DB 6/13/2001

Claim amended per claimant / agent review (office visit) DB 7/24/2001

Address change by DB 4/15/2004

15. Basis of Claim: Beneficial Use

**SNAKE RIVER BASIN ADJUDICATION
CHANGE IN ADDRESS OF NOTICE OF CLAIM**Claim Number(s): 63-31247, 63-31585, 63-31586Previous Mailing Address: Dale Frazell and Kathy Keys
2205 W. Pleasanton Ave
Boise ID 83702New Mailing Address: Dale Frazell and Kathy Keys
15205 N McFarland Creek Rd
Boise, ID 83714Dale Frazell + Kathy Keys →
15205 N. McFarland Creek Rd
Boise, Id 83714
433-9282Telephone Number: (208) 433 9282Signature of Claimant(s): Kathy Keys
Dale Frazell

Please return this completed form to:

Adjudication Bureau
Idaho Dept. of Water Resources
1301 N. Orchard St.
Boise, ID 83706-2237
Ph. 1/800/451-4129 or
FAX 208/327-5400Adjudication Bureau
Idaho Dept. of Water Resources
2735 Airport Way
Boise, ID 83705-5082
Ph. 208/334-2190 or
FAX 208/334-2348Adjudication Bureau
Idaho Dept. of Water Resources
1341 Fillmore St., Ste. 200
Twin Falls, ID 83301-3380 or
FAX 208/736-3037Adjudication Bureau
Idaho Dept. of Water Resources
900 N. Skyline, Ste. A
Idaho Falls, ID 83402-3653 or
FAX 208/525-7177

MATT J. HOWARD

ATTORNEY AT LAW

P. O. BOX 190012

BOISE, IDAHO 83719

TELEPHONE (208) 333-0622

FACSIMILE (208) 333-8409

EMAIL MHOWARD@FIBERPIPE.NET

FACSIMILE TRANSMITTAL SHEET

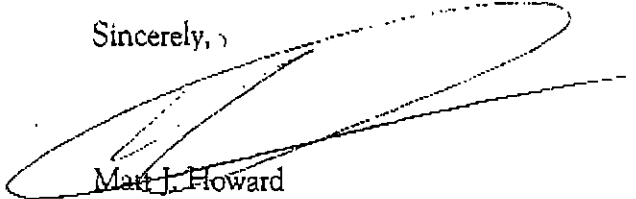
TO:	FROM:
IDWR Western Region	Matt J. Howard
COMPANY	DATE:
	April 15, 2004
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
334-2190 334-2348	2
RE:	
Change of Address - Water Right Nos. 63-31247, 63-31585, and 63-31586	

NOTES/COMMENTS:

Dear IDWR Western Region:

Enclosed is a SRBA Change in Address of Notice of Claim for water right nos. 63-31247, 63-31585, and 63-31586 executed by my clients, Dale Frazell and Kathy Keys. Please make the appropriate changes to your records. Please call me if you have any questions. Thank you very much.

Sincerely,


Matt J. Howard**CONFIDENTIAL & PRIVILEGED INFORMATION**

This facsimile is confidential & privileged. It is for use of the individual(s) named on this cover sheet. If you are not the intended recipient, do not read this facsimile. Any further inspection, dissemination, or copying of this facsimile is prohibited. If you have received this facsimile by error, please notify us by phone immediately, and we will arrange to have it returned to us. Thank you for your cooperation.

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 63-31247
Date Received: 10-21-02
Receipt No: W029815
Received By:

AMENDED

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

RECEIVED

OCT 21 2002

WATER RESOL
WESTERN REGION

1. Name of Claimant(s)

DALE M FRAZELL Phone: (208) 283-7253
2205 PLEASANTON AVE.
BOISE, ID 83702

KATHLEEN KEYS Phone: (208) 283-7253
2205 PLEASANTON AVE.
BOISE, ID 83702

2. Date of Priority: 10/19/1908

3. Source: SPRING Trib. to: MC FARLAND CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
05N	02E	29	NW SW	ADA	
05N	02E	29	SW NW	ADA	

5. Description of diverting works: Dams and ditches.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/01	11/15	0.39	
DIVERSION TO STORAGE	01/01	12/31	0.39	
IRRIGATION STORAGE	01/01	12/31		90.0
IRRIGATION FROM STORAGE	03/01	11/15		90.0
STOCKWATER	01/01	12/31	0.04	
STOCKWATER STORAGE	01/01	12/31		0.67
STOCKWATER FROM STORAGE	01/01	12/31		0.67

7. Total Quantity Appropriated is:
0.39 C.F.S. and/or 90.0 A.F.A.

8. Total consumptive use: N/A

9. Non-irrigation uses: Stock water for 70 head of range cattle.

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
05N	02E	29	SW	NW	IRRIGATION	10
			SW	NW	STOCKWATER	
			SE	NW	IRRIGATION	2
			SE	NW	STOCKWATER	
			NE	SW	IRRIGATION	4
			NE	SW	STOCKWATER	
			NW	SW	IRRIGATION	3
			NW	SW	STOCKWATER	
Section Acres						19
05N	02E	30	NE	SE	IRRIGATION	1
			NE	SE	STOCKWATER	
Section Acres						1
Total Acres						20

11. Place of use in counties: ADA

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

13. Other Water Rights Used: 63-5107 (McFarland Creek).

14. Remarks:

This claim is the result of a split due to change in ownership for a portion of 63-5107.

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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: -0-

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):

Kathleen Mayo
Paul A. Nelson

Date: 10-07-02

Date: 10/7/02

State of Idaho)

County of

Idaho

) SS.

Subscribed and sworn (or affirmed) before me this

of 7 September 2002

Paul A. Nelson

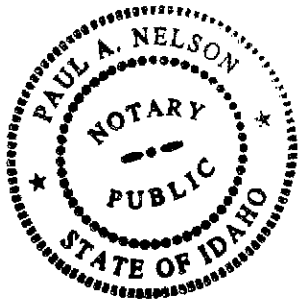
Notary Public

Residing at

Boise, ID

My commission Expires

9/3/04



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 63-31247
Date Received: 8/17/89
Receipt No:
Received By:

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

1. Name of Claimant(s): DALE M FRAZELL
2119 W PLEASANTON AVE
BOISE ID USA 83702

Phone: (208) 850-7253

KATHLEEN KEYS
2119 W PLEASANTON AVE
BOISE ID USA 83702

Phone: (208) 850-7253

2. Date of Priority: 10/19/1908

3. Source: MC FARLAND CREEK Trib. to: CURRANT CREEK
SPRING MC FARLAND CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
05N	02E	29	NW SW	ADA	
05N	02E	29	SW NW	ADA	
05N	02E	29	NW SW	ADA	
05N	02E	29	NE SW	ADA	

5. Description of diverting works:

DAMS & DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	0.35	
IRRIGATION STORAGE	01/01	12/31		0.67
IRRIGATION FROM STORAGE	03/15	11/15		0.67
STOCKWATER	01/01	12/31	0.04	
STOCKWATER STORAGE	01/01	12/31		0.67
STOCKWATER FROM STORAGE	01/01	12/31		0.67

7. Total Quantity Appropriated is:
0.39 C.F.S. and/or 0.67 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
05N	02E	29	SW NW		IRRIGATION	10
			SE NW		IRRIGATION	2
			NE SW		IRRIGATION	4
			NW SW		IRRIGATION	3
Section Acres						19
05N	02E	30	NE SE		IRRIGATION	1
Section Acres						1
Total Acres						20

11. Place of use in counties: ADA

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 change in ownership for a portion of 63-5107. DB 6/13/2001
Claim amended per claimant / agent review (office visit) DB 7/24/2001

15. Basis of Claim: Statutory Claim

.13 cfs 0.0175 per acre

63-5107

Brush 63-31246

pod sunnw only (Spring)
(trib to McFarland Creek)

See 29 sunnw 6
sennw 11
17 acres

Frazell 63-31247

pod ALL 4 pods
sunnw + nwsnw
Spring trib to McFarland
nwsnw + nesnw
McFarland trib to Currader.

See 30 nesw 1
See 29 nwsnw 3
nesw 4
sunnw 10
sennw 2
20 Acres

IRR .30 cfs
IRRS .58 AFA
IRRFs .58 AFA
stock .04 cfs
stocks .58 AFA
stockfs .58 AFA

Total cfs .34
Total AFA .58

.35 cfs
.67 AFA
.67 AFA
.04 cfs
.67 AFA
.67 AFA

.39
.67

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 63-31247
Date Received: 8/17/89
Receipt No:
Received By:

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

1. Name of Claimant(s): DALE M FRAZELL
2119 W PLEASANTON AVE
BOISE ID USA 83702

Phone: (208) 850-7253

KATHLEEN KEYS
2119 W PLEASANTON AVE
BOISE ID USA 83702

Phone: (208) 850-7253

2. Date of Priority: 10/19/1908

3. Source: Unknown

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
05N	02E	29	SW NW SE	ADA	
05N	02E	29	NW SE NW	ADA	
05N	02E	29	NW NE SW	ADA	

5. Description of diverting works:

DAMS & DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	0.21	
IRRIGATION STORAGE	01/01	12/31		0.4

IRRIGATION FROM STORAGE	03/15	11/15	0.4	
STOCKWATER	01/01	12/31	0.06	
STOCKWATER STORAGE	01/01	12/31		0.3
STOCKWATER FROM STORAGE	01/01	12/31	0.3	

7. Total Quantity Appropriated is:
0.23 C.F.S. and/or 0.4 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
05N	02E	29	SW NW		IRRIGATION	2
			SE NW		IRRIGATION	2
			NE SW		IRRIGATION	4
			NW SW		IRRIGATION	4
Section Acres						12
Total Acres						12

11. Place of use in counties: ADA

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 change in ownership for a portion of 63-5107. DB 6/13/2001

15. Basis of Claim: Statutory Claim



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

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

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

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
	<u>A63-05107</u>				

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

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

HAROLD R. BRUSH
PATRICIA R. BRUSH

4. New Owner/Claimant(s)

15121 N. MCFARLAND CRD BOISE IDAHO
83638

Name Connector (Check one): ☐ and ☐ or ☐ and/or

New Mailing Address

DALE M. FRAZEE & Kathleen Keys

City, State and ZIP Code

2119 W. PLEASANTON AVE, BOISE, ID. 83702

New Telephone Number

856-7253 / 371-5750

5. Date you acquired the property

4-06-01

CELL PHONE



PO Box 1768
 McCall, ID 83638

Phone (208) 634-5811
 24 hours

RECEIVED
APR 09 2001
 WATER RESOURCES
 WESTERN REGION

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

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7).		
Water Right and/or Adjudication Claim Number <u>A63-05107</u>		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	<u>.34 CFS</u>	<u>SE NW - 10 AC - 529</u>
Stock	<u>.02 CFS</u>	<u>NW SW - 5 AC - 529</u>
Domestic		<u>NE SW - 2 AC - 529</u>
Other		
Total	<u>.36 CFS</u>	<u>17 AC TOTAL</u>

DESCRIBE (If the right is split)	
Water Right and/or Adjudication Claim Number	
Water Use	Diversion Rate or Volume (cubic feet per second)
Irrigation	<u>see attached</u>
Stock	<u>split tree</u>
Domestic	
Other	
Total	

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

Kathleen Kaye Pustz

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

For Office Use Only

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

• 73 cfs • 0.01736 per acre
37 acres

63-5107

63-31246
Brush

63-31247
Frazell + Keys

SENW 13
NESW 6
NWSW 6
25 acres

SWNW 2
NWSW 4
SENW 2
NESW 4
12 acres

IRR .44
IRRS .85 afa
IRRFs .85
Stock .06
Stocks .95 afa
StockFS .95

IRR .21
IRRS .4 afa
IRRFs .4
Stock .06
Stocks .3 afa
StockFS .3

Total cfs .50
Total AFA .85

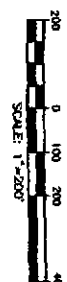
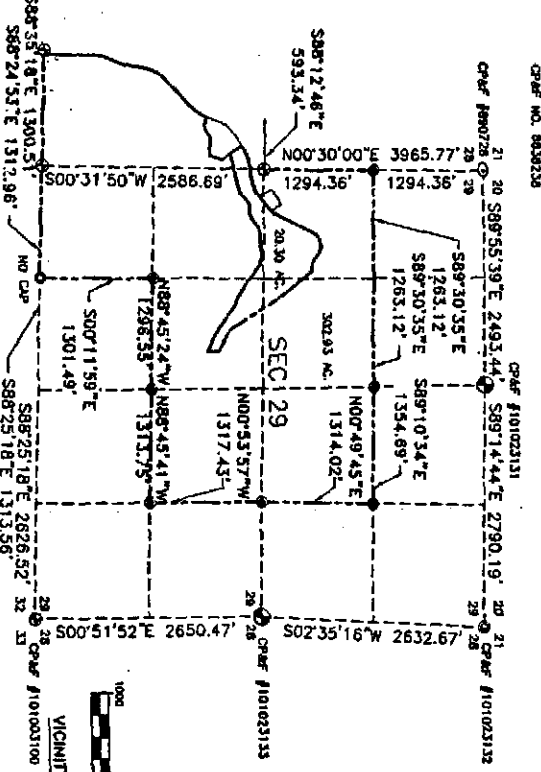
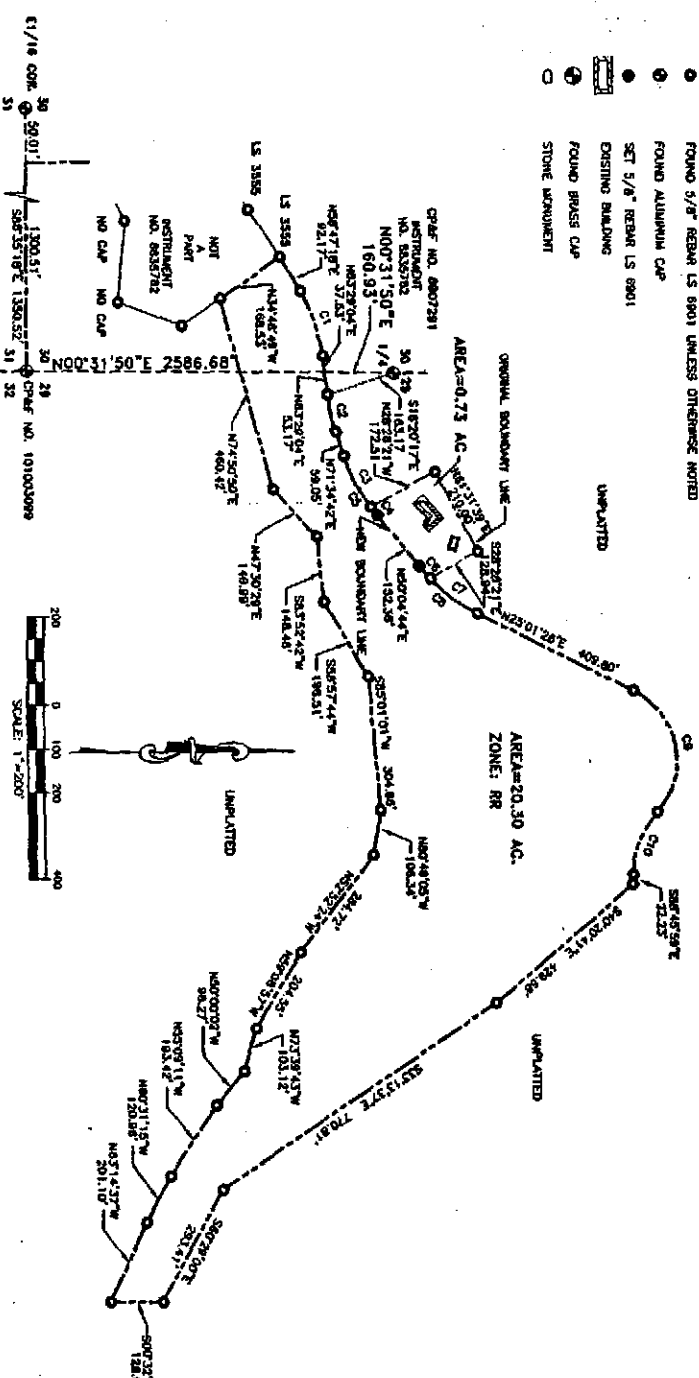
Total cfs .23
Total AFA .4

LEGEND

- ORIGINAL BOUNDARY LINE
- NEW BOUNDARY LINE
- SECTION LINE
- THE LINE
- EXISTING PROPERTY LINE
- FOUND 5/8" REBAR LS 8901 UNLESS OTHERWISE NOTED
- FOUND ALUMINUM CAP
- SET 5/8" REBAR LS 8901
- EXISTING BUILDING
- FOUND BRASS CAP
- STONE MONUMENT

RECORD OF SURVEY AND PROPERTY BOUNDARY ADJUSTMENT FOR BRUSH RANCH

A PORTION OF THE NE1/4 OF SECTION 30 AND THE W1/2 OF
SECTION 29, T5N, R2E, BOISE MERIDIAN
ADA COUNTY, IDAHO
2001



WARNING: THE INTENT OF THIS SURVEY IS TO SHOW THE BOUNDARY ADJUSTMENT. THIS SURVEY WAS MADE AT THE REQUEST OF OWNED AND PART BRUSH TO ADJUST THE PROPERTY LINE. THE ADJUSTED 0.73 ACRES IS TO BE REVERTED BACK TO THE PRESENT PARCEL.

BASIS OF BEARING FOR THIS SURVEY IS G.P.S. IDAHO STATE PLANE WEST ZONE

RECORD OF SURVEY
IN THE VICINITY

NO. 1	WESTINGHOUSE
1282	6843752
937	6844473
1380	68407880
2889	68407880
2845	68407880
2042	68407880
0486	68407880
1507	68407880

CURVE TABLE

NUMBER	LENGTH	CHORD	DELTA	INTERIOR ANGLE	CHORD BEG
01	161.77	173.07	87.42	92.58	161.77
02	88.37	93.07	115.42	64.58	88.37
03	132.89	143.07	107.02	72.97	132.89
04	24.79	25.07	174.02	5.97	24.79
05	37.27	38.07	171.02	8.97	37.27
06	131.86	143.07	107.02	72.97	131.86
07	115.42	123.07	123.02	56.97	115.42
08	24.79	25.07	174.02	5.97	24.79
09	161.77	173.07	87.42	92.58	161.77

CERTIFICATE OF OWNERS

This is to certify that Dry Creek Valley Development, Inc. is the owner of the land as shown on the face of this map, and that they agree to the reversion of the property line on shown.

Michael S. Norman, President
STATE OF IDAHO SS
COUNTY OF ADAM

On this day of January, 2001, before me the undersigned notary public, personally appeared Michael S. Norman, known to me to be the President of Dry Creek Development, Inc., known to be the owner of the indicated 21.03 acres of land.

NOTARY PUBLIC FOR
RESIDING AT
MY COMMISSION EXPIRES

CERTIFICATE OF OWNERS
This is to certify that Michael and Paul Brush are the owners of the land as shown on the face of this map, and that they agree to the reversion of the property line on shown.

ACKNOWLEDGMENT

STATE OF IDAHO SS
COUNTY OF ADAM

On this day of January, 2001, before me the undersigned notary public, personally appeared Michael and Paul Brush, known to me to be the owners of the indicated 20.33 acres of land.

CERTIFICATE OF SURVEYOR

I, Craig R. Jackel, do hereby certify that I am a Registered Professional Land Surveyor, licensed by the State of Idaho, and that this is a reasonably accurate representation of survey as made by me or under my direct supervision, and is in compliance with the Surveying and Mapping Act, Idaho Code 54-1601.

BRUCE R. JACKEL
STATE OF IDAHO SS
COUNTY OF ADAM

CERTIFICATE OF COMMISSIONER

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD AT THE RECORD AND PAY BRUSH AT THE OFFICE OF THE COMMISSIONER OF LANDS AND MINES, STATE OF IDAHO, ON THIS DAY OF JANUARY, 2001.

DEPUTY COMMISSIONER

PINNACLE
Engineers, Inc.
(208) 687-7788

DRAWING NO. 0010021100, 2001

Dale
389-7812



A Pioneer Company
PIONEER TITLE COMPANY
 OF ADA COUNTY

8151 W. Rifleman Ave. / Boise, Idaho 83704
 (208) 377-2700

ADA COUNTY RECORDER
 J. DAVID HAYASRO
 SPOKE, IDAHO

2001 AP -3 PM 4:44

RECORDED-REQUEST OF

FEE 12- DEPUTY

101030903

PIONEER TITLE

201360 SR

WARRANTY DEED

For Value Received Harold R. Brush and Patricia R. Brush, Husband and Wife

hereinafter referred to as Grantor, does hereby grant, bargain, sell, warrant and convey unto

HiYeld, Inc., an Idaho Corporation

hereinafter referred to as Grantee, whose current address is 2229 W. State Street #B, Boise, Idaho 83702

the following described premises, to-wit:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

Subject to that certain Deed of Trust dated February 19, 1999 and recorded February 24, 1999 as Instrument No. 9901839.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated: April 3, 2001

Harold R. Brush
 Harold R. Brush

Patricia R. Brush
 Patricia R. Brush

STATE OF Idaho. County of Ada, ss.

On this *3rd* day of *April*, in the year of 2001, before me The undersigned, notary public personally appeared Harold R. Brush and Patricia R. Brush, who are identified to me to be the person/persons whose name is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.



Susan J. Rich
 Susan J. Rich
 Notary Public of Idaho
 Residing at Boise

Commission Expires May 5, 2006

IDAHO DEPARTMENT OF WATER RESOURCES

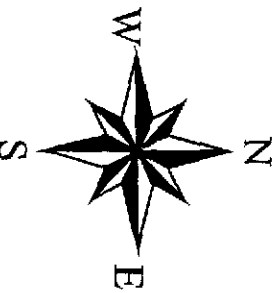
REFERENCE ONLY

T05N R02E S29

WATER RIGHT(S): 63-5107

PREPARED BY: Chris Duncan
16 JAN 2001

- ☒ POINT OF DIVERSION
- ☐ PLACE OF USE
- ☐ SECTION Boundary Lines
- QA Boundary Lines



NAPP 1987

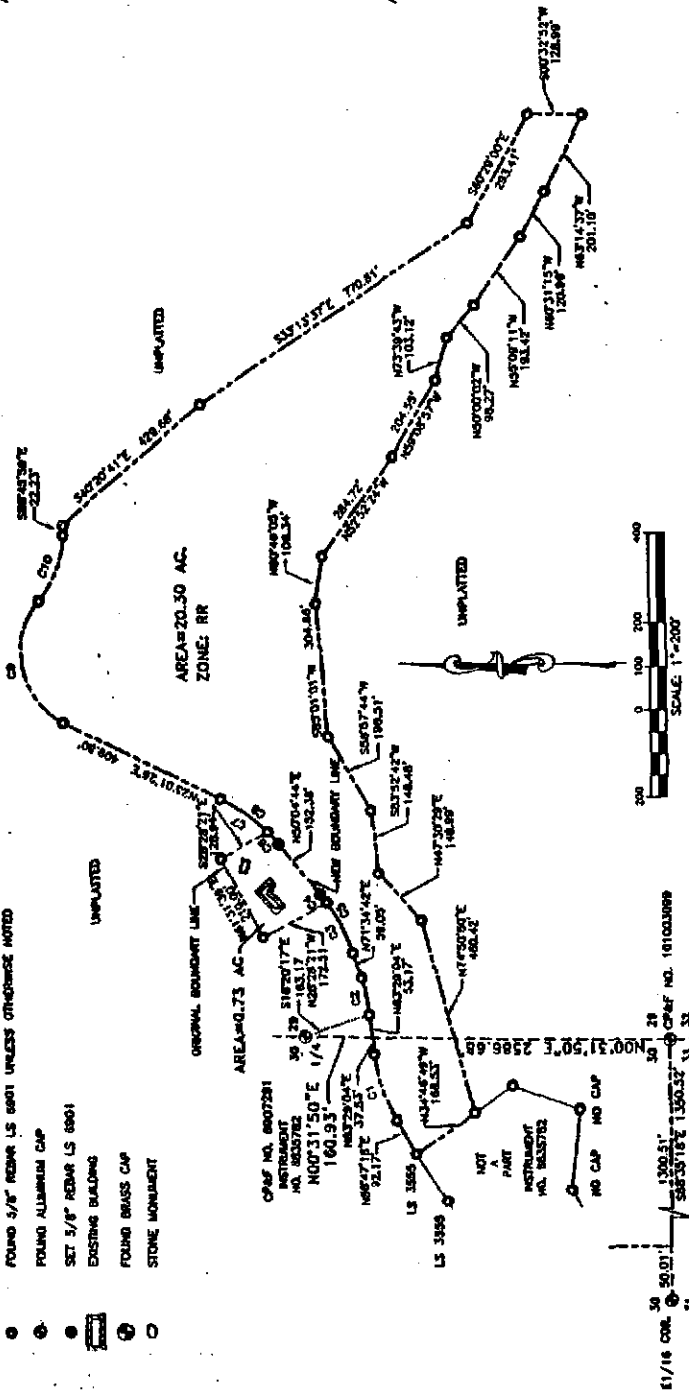


RECORD OF SURVEY AND PROPERTY BOUNDARY ADJUSTMENT FOR BRUSH RANCH

A PORTION OF THE NE1/4 OF THE SE1/4 OF SECTION 30 AND THE W1/2 OF
SECTION 29, T.5N., R.2E., BOISE MERIDIAN
ADA COUNTY, IDAHO
2001

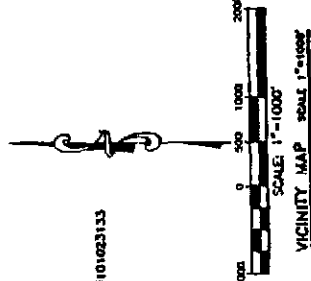
LEGEND

- ORIGINAL BOUNDARY LINE
- NEW BOUNDARY LINE
- SECTION LINE
- EXISTING PROPERTY LINE
- FOUND 5/8" REBAR LS 6801 UNLESS OTHERWISE NOTED
- FOUND ALUMINUM CAP
- SET 5/8" REBAR LS 6801
- EXISTING BUILDING
- FOUND BRASS CAP
- STONE MONUMENT



WHEREAS, THE INTENT OF THIS SURVEY IS TO SHOW THE BOUNDARY
ADJUSTMENT, THIS SURVEY WAS MADE AT THE REQUEST OF HAROLD
AND PAUL BRUSH TO ADJUST THE PARCEL AS SHOWN, THE ADJUSTED 0.73
ACRES IS TO BE REVERTED BACK TO THE PARCEL PARCEL.

BASIS OF BEARING
FOR THIS SURVEY IS G.P.S.
IDAHO STATE PLANE WEST ZONE



RECORD OF SURVEY IN THE VICINITY	REMARKS
1022	8815782
1317	8845475
1300	8907981
2289	9405788
3348	9702568
2032	9171418
0468	8340337
1937	9149004

CURVE TABLE

NUMBER	LENGTH	RADIUS	DELTA	CHORD	CHORD BEG
01	151.72	273.00	24.52°	58.15	180.52
02	88.47	425.00	12.54°	32.32	87.70
03	134.89	425.00	19.09°	52.81	134.15
04	24.72	425.00	3.70°	9.52	24.72
05	158.49	425.00	21.79°	58.88	158.49
06	37.37	400.00	7.71°	18.72	37.37
07	177.55	400.00	19.92°	88.48	177.55
08	324.15	400.00	35.51°	158.32	324.15
09	181.87	425.00	21.13°	85.45	181.87

RECORDING INDEX # 521-28430

PINNACLE
Engineers, Inc.
1500 N. Lincoln St., Suite 200, Boise, Idaho 83725
(208) 987-7700

CERTIFICATE OF OWNERS

This is to certify that Day Creek Valley Development, Inc. is the owner of the land shown on this map, and that they agree to the recording of this map as shown.

Signature of Owner, President
ACKNOWLEDGMENT
STATE OF IDAHO
COUNTY OF ADA

On this day of 2001, before me the undersigned notary public, personally appeared _____, known to be the owner of the land shown on this map, and that they agree to the recording of this map as shown.

CERTIFICATE OF OWNERS

This is to certify that Harold and Paul Brush are the owners of the land shown on this map, and that they agree to the recording of this map as shown.

Signature of Owner
ACKNOWLEDGMENT
STATE OF IDAHO
COUNTY OF ADA

On this day of 2001, before me the undersigned notary public, personally appeared _____, known to be the owner(s) of the land shown on this map, and that they agree to the recording of this map as shown.

CERTIFICATE OF SURVEYOR

I, Craig R. MacDougal, do hereby certify that I am a Registered Professional Land Surveyor, licensed by the State of Idaho, and that this is a responsible and accurate representation of the survey as made by me or under my direct supervision, and is in conformity with the other regulations and filing act, Idaho Code 55-1801.

6901

CERTIFICATE OF COUNTY RECORDER
STATE OF IDAHO
COUNTY OF ADA

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD AT THE REQUEST OF HAROLD AND PAUL BRUSH, ON _____ DAY OF _____, 2001.

EX-OFFICIO RECORDER

DRAWING NO. 0210021-009-1-000

NESE	30	.832
SWNW	29	9.3
NWSW	29	3.8
SENW	29	2.1
NESW	29	4.2
		<u>20.2</u> Ams

include GIS copies

WARRANTY DEED

EXHIBIT "A"

MSH
KPK

A Parcel of land situated in the W1/2 of Section 29, and the NE1/4 of the SE1/4 of Section 30, Township 5 North, Range 2 East, Boise Meridian, Ada County, Idaho and described as follows:

Commencing at an aluminum cap monument marking the SW corner of the SW1/4 of said Section 29, thence N00°31'50"E a distance of 2586.68 feet to an aluminum cap monument marking the NW corner of said SW1/4, thence S18°20'17"E a distance of 163.17 feet to a 5/8 inch rebar marking the POINT OF BEGINNING;

Thence along the arc of a curve to the left having a radius of 425.00 feet, an arc length of 88.32 feet, a central angle of 11°54'22", and a chord bearing N77°31'53"E a distance of 88.16 feet to a 5/8 inch rebar;

Thence N71°34'42"E a distance of 59.05 feet to a 5/8 inch rebar;

Thence along the arc of curve to the left having a radius of 425.00 feet, an arc length of 159.48 feet, a central angle of 21°29'58", and a chord bearing N60°49'43"E a distance of 158.54 feet to a 5/8 inch rebar;

Thence N50°04'44"E a distance of 152.38 feet to a 5/8 inch rebar;

Thence along the arc of a curve to the left having a radius of 400.00 feet, an arc length of 174.92 feet, a central angle of 25°03'18", and a chord bearing N37°33'05"E a distance of 173.53 feet to a 5/8 inch rebar;

Thence N25°01'26"E a distance of 409.80 feet to a 5/8 inch rebar;

Thence along the arc of a curve to the right having a radius of 175.00 feet, an arc length of 328.16 feet, a central angle of 107°26'31", and a chord bearing N78°44'41"E a distance of 282.15 feet to a 5/8 inch rebar;

Thence along the arc of a curve to the left having a radius of 225.00 feet, an arc length of 161.92 feet, a central angle of 41°13'57", and a chord bearing S68°09'02"E a distance of 158.45 feet to a 5/8 inch rebar;

Thence S88°45'59"E a distance of 22.23 feet to a 5/8 inch rebar;

Thence S40°20'41"E a distance of 429.68 feet to a 5/8 inch rebar;

Thence S33°13'37"E a distance of 770.81 feet to a 5/8 inch rebar;

Thence S60°29'00"E a distance of 293.41 feet to a 5/8 inch rebar;

Thence S00°32'52"W a distance of 128.99 feet to a 5/8 inch rebar;

Thence N63°14'37"W a distance of 201.10 feet to a 5/8 inch rebar;

Thence N60°31'15"W a distance of 120.96 feet to a 5/8 inch rebar;

Thence N55°09'11"W a distance of 193.42 feet to a 5/8 inch rebar;

Thence N50°00'02"W a distance of 98.27 feet to a 5/8 inch rebar;

Thence N73°39'43"W a distance of 103.12 feet to a 5/8 inch rebar;

Thence N59°08'57"W a distance of 204.55 feet to a 5/8 inch rebar;

Thence N52°52'24"W a distance of 284.72 feet to a 5/8 inch rebar;

Thence N80°49'05"W a distance of 106.34 feet to a 5/8 inch rebar;

Thence S85°01'01"W a distance of 304.86 feet to a 5/8 inch rebar;

Thence S58°57'44"W a distance of 198.51 feet to a 5/8 inch rebar;

Thence S83°52'42"W a distance of 148.48 feet to a 5/8 inch rebar;

Thence S47°30'29"W a distance of 149.99 feet to a 5/8 inch rebar;

KPK

Thence $S74^{\circ}50'50''W$ a distance of 460.42 feet to a 5/8 inch rebar on the easterly boundary of Parcel "A" as shown on Record of Survey Number 1282, Instrument Number 8835782 as recorded in Ada County;

Thence along said easterly boundary $N34^{\circ}46'50''W$ a distance of 168.53 feet to a 5/8 inch rebar;

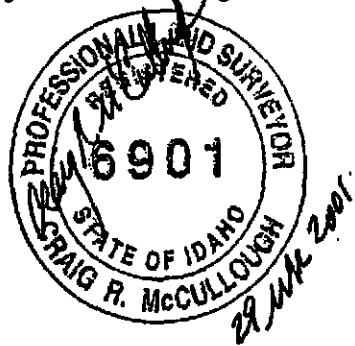
Thence leaving said boundary $N58^{\circ}47'18''E$ a distance of 92.17 feet to a 5/8 inch rebar;

Thence along the arc of a curve to the right having a radius of 375.00 feet, an arc length of 161.77 feet, a central angle of $24^{\circ}42'58''$, and a chord bearing $N71^{\circ}07'35''E$ a distance of 160.52 feet to a 5/8 inch rebar;

Thence $N83^{\circ}29'04''E$ a distance of 90.70 feet to the POINT OF BEGINNING.

Said Parcel contains 20.30 acres more or less and is subject to all existing easements and rights-of-ways of record or implied.

C006146_legal_20.01acre_parcel_adjusted_boundary_pmg032901_revised.doc



A Pioneer Company

PIONEER TITLE COMPANY
OF ADA COUNTY

8151 W. Rifleman Ave. / Boise, Idaho 83704
(208) 377-2700

WARRANTY DEED

For Value Received HiYeld, Inc., an Idaho Corporation

hereinafter referred to as Grantor, does hereby grant, bargain, sell, warrant and convey unto

Rockwood Distinctive Homes, L.L.C., an Idaho Corporation and Dale Frazell, an unmarried man and
Kathleen Keys, an unmarried woman

hereinafter referred to as Grantee, whose current address is, , 2119 W. Pleasanton, Boise Id 83702
the following described premises, to-wit:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

To HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs
and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor
is the owner in fee simple of said premises; that said premises are free from all encumbrances except
current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of
record, and easements visible upon the premises, and that Grantor will warrant and defend the same from
all claims whatsoever.

Dated: March 30, 2001

HiYeld, Inc.

By: Michael S. Homan
Michael S. Homan, President

Dale Frazell
Kathleen Keys

STATE OF Idaho, County of Ada, ss.

On this 30th day of March, in the year of 2001, before me The undersigned, a notary public,
personally appeared Michael S. Homan known or identified to me to be the President of the corporation
that executed the instrument or the persons who executed the instrument on behalf of said
corporation, and acknowledged to me that such corporation executed the same.



Susan J. Rich
Susan J. Rich
Notary Public of Idaho
Residing Boise at

Commission expires: May 5, 2005

Pioneer Title Company of Ada County (208) 377-2700

Buyer's Final Closing Statement

Buyer(s) Rockwood Distinctive Homes, L.L.C.
Seller(s) HiYeld, Inc., 2229 W. State Street, Boise, ID 83702
Lender Action Mortgage, 1456 S. Eagle Flight Way, Boise, ID 83709
Property

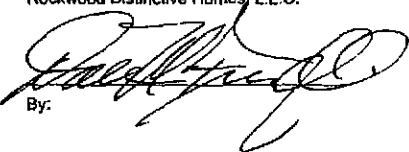
Closing date 3/30/01 Proration date 3/30/01
Escrow Officer Sue Rich

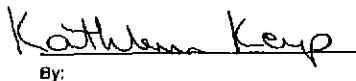
	Debit	Credit
Contract Sales Price.....	450,000.00	
New Loan:		
Principal amount of new loan(s).....		244,329.63
Deposits:		
Deposit or earnest money.....		5,000.00
Title Charges:		
Settlement or closing fee.....	350.00	
Title Insurance \$391.50.....		
Lender's coverage		
Liability amount \$250,000.00.....	391.50	
Endorsements.....	60.00	
Recording Fees/Transfer Charges:		
Recording fees:		
Deed \$9.00; Release \$3.00; Easement Agreement \$24.00.....	33.00	
Additional Charges:		
Proated 2001 Taxes.....	7.80	
Subtotal:	450,842.30	249,329.63
Balance due from Buyer:		201,512.67
Totals:	450,842.30	450,842.30

THE UNDERSIGNED, by the execution hereof, hereby (i) acknowledge that they have read the above and foregoing Closing Statement, (ii) acknowledge that the same is true and correct, and (iii) authorize and direct the Closing Agent to receive all amounts and disburse all amounts pursuant to the foregoing Closing Statement.

It is mutually understood and agreed the taxes are estimated and in case of adjustment same will be made between the parties hereto. The Closing Agent is relieved of any responsibility with the adjustment of said taxes.

Rockwood Distinctive Homes, L.L.C.

By: 

Kathleen Kerp
By: 

201361



A Pioneer Company
PIONEER TITLE COMPANY
OF ADA COUNTY
8151 W. Rifleman Ave. / Boise, Idaho 83704
(208) 377-2700

ADA COUNTY RECORDER
J. DAVID NAVARRO
BOISE, IDAHO

2001 AP -6 PM 4: 59

DEED - REQUEST OF
FEE 42- DEPUTY L. Graham
101032282

PIONEER TITLE

WARRANTY DEED

For Value Received HiYeld, Inc., an Idaho Corporation

hereinafter referred to as Grantor, does hereby grant, bargain, sell, warrant and convey unto

Rockwood Distinctive Homes, L.L.C., an Idaho Corporation and Dale Frazell, an unmarried man and
Kathleen Keys, an unmarried woman

hereinafter referred to as Grantee, whose current address is , , 2119 W. Pleasanton, Boise Id 83702
the following described premises, to-wit:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

****Deed is being re-recorded to amend document and correct legal description****

To HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated: March 30, 2001

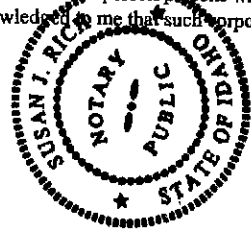
HiYeld, Inc.

By: Michael S. Homan
Michael S. Homan, President

[Signature]
Kathleen Keys

STATE OF Idaho, County of Ada, ss.

On this 30th day of March, in the year of 2001, before me The undersigned, a notary public, personally appeared Michael S. Homan known or identified to me to be the President of the corporation that executed the instrument or the person or persons who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.



[Signature]
Susan J. Rich
Notary Public of Idaho
Residing Boise at

Commission expires: May 5, 2005

RECORDED - REQUEST OF
PIONEER TITLE
FEE 1200 DEPUTY [Signature]

101037778

ADA COUNTY RECORDER
J. DAVID NAVARRO
BOISE, IDAHO

2001 AP 23 PM 4: 06

RECEIVED

APR 24 2001

WATER RESOURCES
WESTERN REGION

WARRANTY DEED

EXHIBIT "A"

MSH
KPC

A Parcel of land situated in the W1/2 of Section 29, and the NE1/4 of the SE1/4 of Section 30, Township 5 North, Range 2 East, Boise Meridian, Ada County, Idaho and described as follows:

Commencing at an aluminum cap monument marking the SW corner of the SW1/4 of said Section 29, thence N00°31'50"E a distance of 2586.68 feet to an aluminum cap monument marking the NW corner of said SW1/4, thence S18°20'17"E a distance of 163.17 feet to a 5/8 inch rebar marking the POINT OF BEGINNING;

Thence along the arc of a curve to the left having a radius of 425.00 feet, an arc length of 88.32 feet, a central angle of 11°54'22", and a chord bearing N77°31'53"E a distance of 88.16 feet to a 5/8 inch rebar;

Thence N71°34'42"E a distance of 59.05 feet to a 5/8 inch rebar;

Thence along the arc of curve to the left having a radius of 425.00 feet, an arc length of 159.48 feet, a central angle of 21°29'58", and a chord bearing N60°49'43"E a distance of 158.54 feet to a 5/8 inch rebar;

Thence N50°04'44"E a distance of 152.38 feet to a 5/8 inch rebar;

Thence along the arc of a curve to the left having a radius of 400.00 feet, an arc length of 174.92 feet, a central angle of 25°03'18", and a chord bearing N37°33'05"E a distance of 173.53 feet to a 5/8 inch rebar;

Thence N25°01'26"E a distance of 409.80 feet to a 5/8 inch rebar;

Thence along the arc of a curve to the right having a radius of 175.00 feet, an arc length of 328.16 feet, a central angle of 107°26'31", and a chord bearing N78°44'41"E a distance of 282.15 feet to a 5/8 inch rebar;

Thence along the arc of a curve to the left having a radius of 225.00 feet, an arc length of 161.92 feet, a central angle of 41°13'57", and a chord bearing S68°09'02"E a distance of 158.45 feet to a 5/8 inch rebar;

Thence S88°45'59"E a distance of 22.23 feet to a 5/8 inch rebar;

Thence S40°20'41"E a distance of 429.68 feet to a 5/8 inch rebar;

Thence S33°13'37"E a distance of 770.81 feet to a 5/8 inch rebar;

Thence S60°29'00"E a distance of 293.41 feet to a 5/8 inch rebar;

Thence S00°32'52"W a distance of 128.99 feet to a 5/8 inch rebar;

Thence N63°14'37"W a distance of 201.10 feet to a 5/8 inch rebar;

Thence N60°31'15"W a distance of 120.96 feet to a 5/8 inch rebar;

Thence N55°09'11"W a distance of 193.42 feet to a 5/8 inch rebar;

Thence N50°00'02"W a distance of 98.27 feet to a 5/8 inch rebar;

Thence N73°39'43"W a distance of 103.12 feet to a 5/8 inch rebar;

Thence N59°08'57"W a distance of 204.55 feet to a 5/8 inch rebar;

Thence N52°52'24"W a distance of 284.72 feet to a 5/8 inch rebar;

Thence N80°49'05"W a distance of 106.34 feet to a 5/8 inch rebar;

Thence S85°01'01"W a distance of 304.86 feet to a 5/8 inch rebar;

Thence S58°57'44"W a distance of 198.51 feet to a 5/8 inch rebar;

Thence S83°52'42"W a distance of 148.48 feet to a 5/8 inch rebar;

Thence S47°30'29"W a distance of 149.99 feet to a 5/8 inch rebar;

465#
L.P.K.

Thence S74°50'50"W a distance of 460.42 feet to a 5/8 inch rebar on the easterly boundary of Parcel "A" as shown on Record of Survey Number 1282, Instrument Number 8835782 as recorded in Ada County;

Thence along said easterly boundary N34°46'50"W a distance of 168.53 feet to a 5/8 inch rebar;

Thence leaving said boundary N58°47'18"E a distance of 92.17 feet to a 5/8 inch rebar;

Thence along the arc of a curve to the right having a radius of 375.00 feet, an arc length of 161.77 feet, a central angle of 24°42'58", and a chord bearing N71°07'35"E a distance of 160.52 feet to a 5/8 inch rebar;

Thence N83°29'04"E a distance of 90.70 feet to the POINT OF BEGINNING.

Said Parcel contains 20.30 acres more or less and is subject to all existing easements and rights-of-ways of record or implied.

C006146_legal_20.01acre_parcel_adjusted_boundary_pmg032901_revised.doc



**Together with an easement for ingress, egress and utilities, over, under, thru and across the existing roadway located in the Northeast quarter of the Southeast quarter of Section 30 and the West half of Section 29. **

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 63-5107
Date Received: 8/17/1989
Receipt No: C009830
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED
JUL 18 2001
WATER RESOURCES
WESTERN REGION

1. Name of Claimant(s)

PATRICIA R BRUSH Phone: (208)634-5811
PO BOX 1768
MCCALL ID USA 83638

HAROLD R BRUSH Phone: (208)634-5811
PO BOX 1768
MCCALL ID USA 83638

2. Date of Priority: 10/19/1908

3. Source: MC FARLAND CREEK , SPRING Trib. to: CURRANT CREEK , MC FARLAND CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
05N	02E	29	SW NW	ADA	Northern Spring
05N	02E	29	NW SW	ADA	Mc Farland (western)
05N	02E	29	NE SW	ADA	Mc Farland (eastern)
05N	02E	29	NW SW	ADA	Spring (southern)

5. Description of diverting works:

DAMS & DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/15	0.65	
IRRIGATION STORAGE	1/01	12/31	0	1.25
IRRIGATION FROM STORAGE	3/15	11/15	0	1.25
STOCKWATER	1/01	12/31	0.08	
STOCKWATER STORAGE	1/01	12/31	0	1.25
STOCKWATER FROM STORAGE	1/01	12/31	0	1.25

7. Total Quantity Appropriated is:
0.73 C.F.S. and/or 1.25 A.F.A.

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
05N	02E	29	SW	NW		IRRIGATION	16
			SE	NW		IRRIGATION	13
			NE	SW		IRRIGATION	4
			NW	SW		IRRIGATION	3
						Section Acres	36
05N	02E	30	NE	SE		IRRIGATION	1
						Section Acres	1
						Total Acres	37

11. Place of use in counties: ADA

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

13. Other Water Rights Used:

14. Remarks:

SMALL ROCK & DIRT DIVERSION WASHES OUT OCCASIONALLY & MUST BE REPLACED PERIODICALLY
This claim has been split. See nos. 63-31246 & 63-31247. DB 6/13/2001
CLAIMANTS CAME INTO OFFICE TO AMEND CLAIM. CLAIM WAS NOT FILED WITH ACRES IN CORRECT LOCATION. AFTER CLAIM HAS BEEN AMENDED, WILL RESPLIT THIS RIGHT. SB 7/10/01

15. Basis of Claim: Statutory Claim

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): Harold R. Bush Date: 7/16/01
Patricia R. Bush Date: 7/16/01

State of Idaho)
County of Valley) SS.

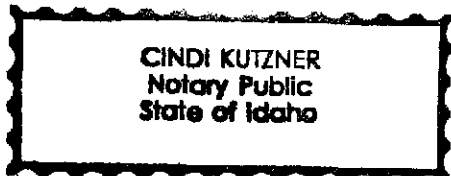
Subscribed and sworn (or affirmed) before me this
of July 16 2001

Cindi Kutzner

Notary Public

Residing at McCall

My commission Expires 2-23-07



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: A63-05107
Date Received: 8/17/1989
Receipt No: C00 9830
Received By: SEA

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: HAROLD R. BRUSH 208-939-6336
Address: RT. 1, DRY CK. ROAD
BOISE, ID 83703
OR
Name: PATRICIA R. BRUSH 208-939-6336
Address: RT. 1, DRY CK. ROAD
BOISE, ID 83703

2. Date of Priority: OCT 19, 1908

3. Source: SPRINGS Trib. to: MC FARLAND CREEK
MC FARLAND CREEK CURRANT CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
05N	02E	29	NW	SE	NW		ADA
			NW	NE	SW		ADA
			SW	NW	SE		ADA

5. Description of diverting works:
DAMS & DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.650		
IRRIGATION STORAGE	01/01	12/31			1.25
IRRIGATION FROM STORAGE	03/15	11/15			1.25
STOCKWATER	01/01	12/31	0.080		
STOCKWATER STORAGE	01/01	12/31			1.25
STOCKWATER FROM STORAGE	01/01	12/31			1.25

7. Total Quantity Appropriated is:
0.730 C.F.S. (and/or) 1.25 A.F.A.

A63-05107

Page 1

Date: 08/17/89

MICROFILMED
AUG 20 1992

8. Total consumptive use is 129.5 Acre Feet Per Annum.

9. Non-irrigation uses:
S/70 RANGE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05N	02E	29	SW	NW		IRR	2.0
			SE	NW		IRR	15.0
			NE	SW		IRR	10.0
			NW	SW		IRR	10.0
Section Acres							37.0
Total Acres							37.0

11. Place of use in counties: ADA

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

13. Other Water Rights Used:
N/A

14. Remarks:
SMALL ROCK & DIRT DIVERSION WASHES OUT OCCASIONALLY & MUST
BE REPLACED PERIODICALLY.

15. Basis of Claim: STATUTORY CLAIM

16. Signature(s)

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

Number of attachments: 1

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): Patricia R. Bruch Date: 8-17-89

Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 17th day
of August 19 89

James E. Lushy
Notary Public

Seal

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

COPY

RECEIVED

MAR 24 2006

DEPARTMENT OF
WATER RESOURCES

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

In Re SRBA

Case 39576

A. Subcase 63-31247

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Dale M. Frazell

Address: 15205 N. McFarland Creek Rd.

Boise, ID 83714

Daytime Phone: (208) 433-9282

Name & Address of Attorney, if any:

N/A

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Dale M. Frazell / Kathleen Keys

Address: 15205 N. McFarland Creek Rd.

Boise, ID 83714

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)):

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity**
Should be: 0.12 cfs; 0.4 afy (volume limit on storage only)
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point(s) of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: 3.9 acres within an 11 acre place of use
11. **I object because:**
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

1. When junior priority rights are not in priority the 3.9 acre place of use for this right justifies a diversion rate of 0.03 cfs/acre.
2. The 0.4 afy volume limit could be misread as limiting total diversion under this right to 0.4 afy.
3. If right no. 63-32082 is out of priority, this right should be allowed to be used with a permissible place of use established since at least 1959.

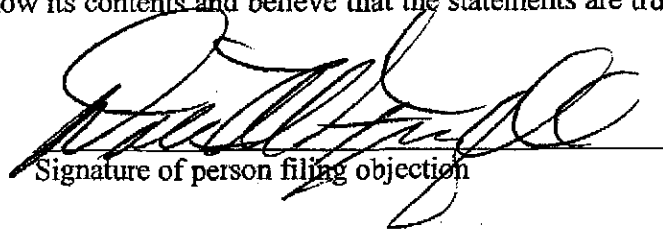
F.

VERIFICATION (Must be Completed)

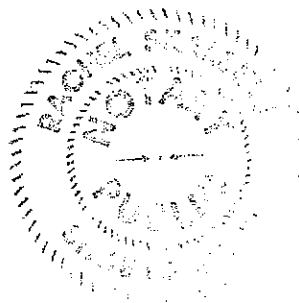
State of Idaho)
) ss.
County of Ada)

Dale M. Fiazell duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.


Signature of person filing objection

Subscribed and sworn to before me on: March 20, 2006



Rachel Skalski
Notary Public for U.S. Bank
Residing at: Meridian, ID
My Commission expires: 2-19-2010

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on March 24th, 2006, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

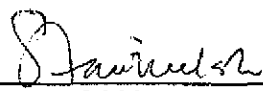
Name: _____
Address: _____

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MCS 033
Boise, ID 83724



Signature of Objector or
person mailing on Objector's behalf

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 SRBA

Case 39576

A. Subcase 63-31247

(Insert water right number)

STANDARD FORM 1 OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Kathleen Keys

Address: 15205 N. McFarland Creek Rd.

Boise, ID 83714

Daytime Phone: (208) 433-9282

Name & Address of Attorney, if any:

N/A

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Dale M. Frazell / Kathleen Keys

Address: 15205 N. McFarland Creek Rd.

Boise, ID 83714

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)):

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity**
Should be: 0.12 cfs; 0.4 afy (volume limit on storage only)
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point(s) of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: 3.9 acres within an 11 acre place of use
11. **I object because:**
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

1. When junior priority rights are not in priority the 3.9 acre place of use for this right justifies a diversion rate of 0.03 cfs/acre.
2. The 0.4 afy volume limit could be misread as limiting total diversion under this right to 0.4 afy.
3. If right no. 63-32082 is out of priority, this right should be allowed to be used with a permissible place of use established since at least 1959.

F.

VERIFICATION (Must be Completed)

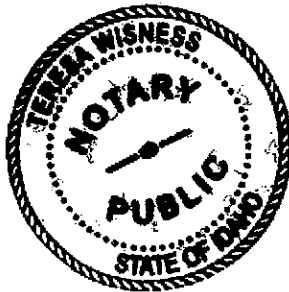
State of Idaho)
County of Ada) ss.

Kathleen Keys duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Kathleen Keys
Signature of person filing objection

Subscribed and sworn to before me on: March 21, 2006



Teresa Wisness
Notary Public for Idaho
Residing at: Boise
My Commission expires: 11/10/2009

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on March 28th, 2006, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

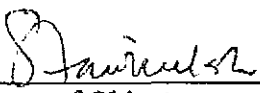
Name: _____
Address: _____

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MCS 033
Boise, ID 83724



Signature of Objector or
person mailing on Objector's behalf

10/22/2005

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

RIGHT NUMBER: 63-31247

NAME AND ADDRESS: DALE M FRAZELL
15205 N MC FARLAND CREEK RD
BOISE ID 83714

KATHLEEN KEYS
15205 N MC FARLAND CREEK RD
BOISE ID 83714

SOURCE: SPRING

TRIBUTARY: MC FARLAND CREEK

QUANTITY: 0.080 CFS
0.400 AFY

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

USE OF THIS RIGHT WITH RIGHT NO. 63-31585, 63-31586 & 63-32082 IS
LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.22 CFS AND TO A
TOTAL STORED VOLUME OF 0.4 AF PER ANNUM.

PRIORITY DATE: 10/19/1908

POINT OF DIVERSION:

T05N R02E S29 SESWNW Within ADA County

T05N R02E S29 SESWNW Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.080 CFS
STOCKWATER STORAGE	01/01 12/31	0.40 AFY
IRRIGATION STORAGE	01/01 12/31	0.40 AFY
STOCKWATER	01/01 12/31	0.030 CFS
STOCKWATER FROM STORAGE	01/01 12/31	0.40 AFY
IRRIGATION FROM STORAGE	03/01 11/15	0.40 AFY

PLACE OF USE: IRRIGATION Within ADA County

T05N R02E S29 NWSW 3.0 T05N R02E S30 NESE 0.9

STOCKWATER same as IRRIGATION

STOCKWATER FROM STORAGE same as IRRIGATION

IRRIGATION FROM STORAGE same as IRRIGATION

3.9 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 63-31585 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 11 ACRES IN A SINGLE IRRIGATION
SEASON.

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL
BENEFICIAL USE.

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.

Water Right 63-31247

1

10/22/2005

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

RIGHT NO. 63-31586 IS AN ENLARGEMENT OF THIS RIGHT PURSUANT TO
SECTION 42-1426, IDAHO CODE.

Stockwater use is for 70 range cattle.

Notice of Error Response – Claim No. 63-31247

Quantity and Place of use:

Claimants state:

Clarify that the .04 afy refers only to the storage use and is not a limitation on the quantity that can be diverted as direct flow.

The quantity condition states that .4 afy is a total stored quantity. Surface water rights do not list an acre foot amount for the acres. The condition is only speaking to the storage component as stated.

Not sure how else to put that it is for the stored quantity – it states: “and to a total stored volume of .4 af per annum.

I have underlined stored in the condition hoping this may make it more obvious.

The situation on the additional acres is being handled in a later priority dated claim for when the pump was put in to irrigate above the pond. See Right No. 63-32082.

05/31/2005

NOTICE OF ERROR
REPLY

RECEIVED
JUN 23 2005
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: July 15, 2005

Water right number: 63-31247

DALE M FRAZELL
15205 N MC FARLAND CREEK RD
BOISE ID 83714
Telephone Number: (208) 433-9282

KATHLEEN KEYS
15205 N MC FARLAND CREEK RD
BOISE ID 83714
Telephone Number: (208) 433-9282

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

2. Describe the changes you wish to make in the proposed recommendation:
Clarify that the 0.4 afy refers only to the storage use and is not a limitation on the quantity that can be diverted as direct flow. Clarify that place of use includes all 11 acres irrigated on the property, allow a permissible place of use of 3.9 acres within the place of use of 11 acres, or recommend the place of use in the subsequently filed claim for which a recommendation was not included.

3. Give a brief explanation as to why you disagree with these portions:
Quantity – The quantity could be interpreted to allow only 0.4 afy to be diverted for all purposes. Clarification is needed.
Place of use – water has been pumped from the spring/pond for use upgradient from pond since 1959. This use needs to be recognized by one of the methods described in item 2.

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

DATE: 6/20/05

SIGNATURE: *[Signature]*

Please print your name: Dale M. Frazell / Kathleen Keys

IDWR Regional Office, 2735 Airport Wy, Boise, ID 83705, 2083342190

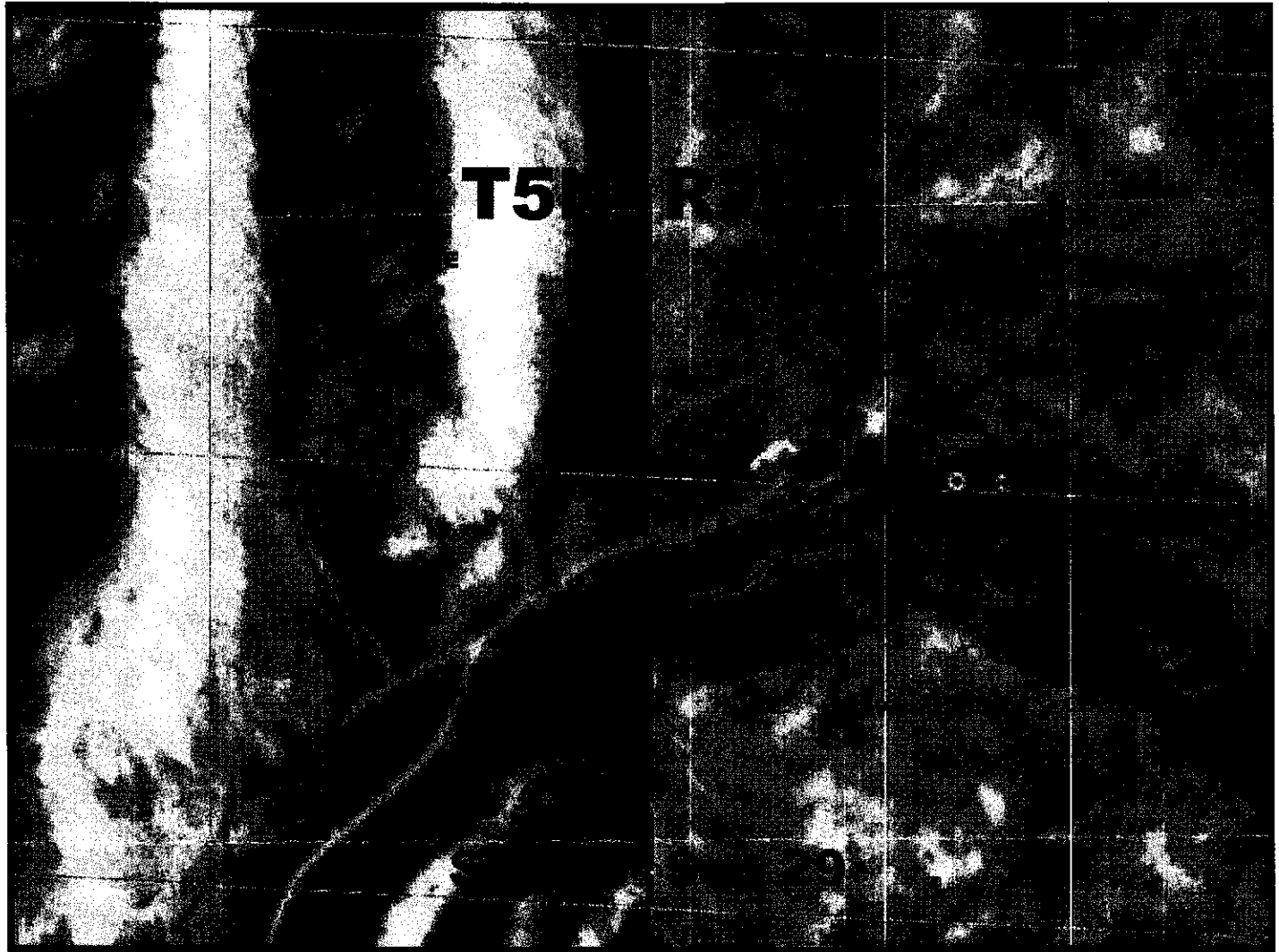


STATE OF IDAHO

Department of Water Resources
Western Region

See 63-32082

Water Right(s): 63-31247



1320 0 1320 Feet

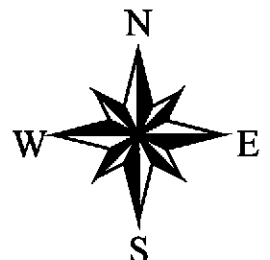
Total Irrigated Acres: 3.3

⊙ Point of Diversion

□ Place of Use

□ Quarter Quarter Lines

□ Section Lines



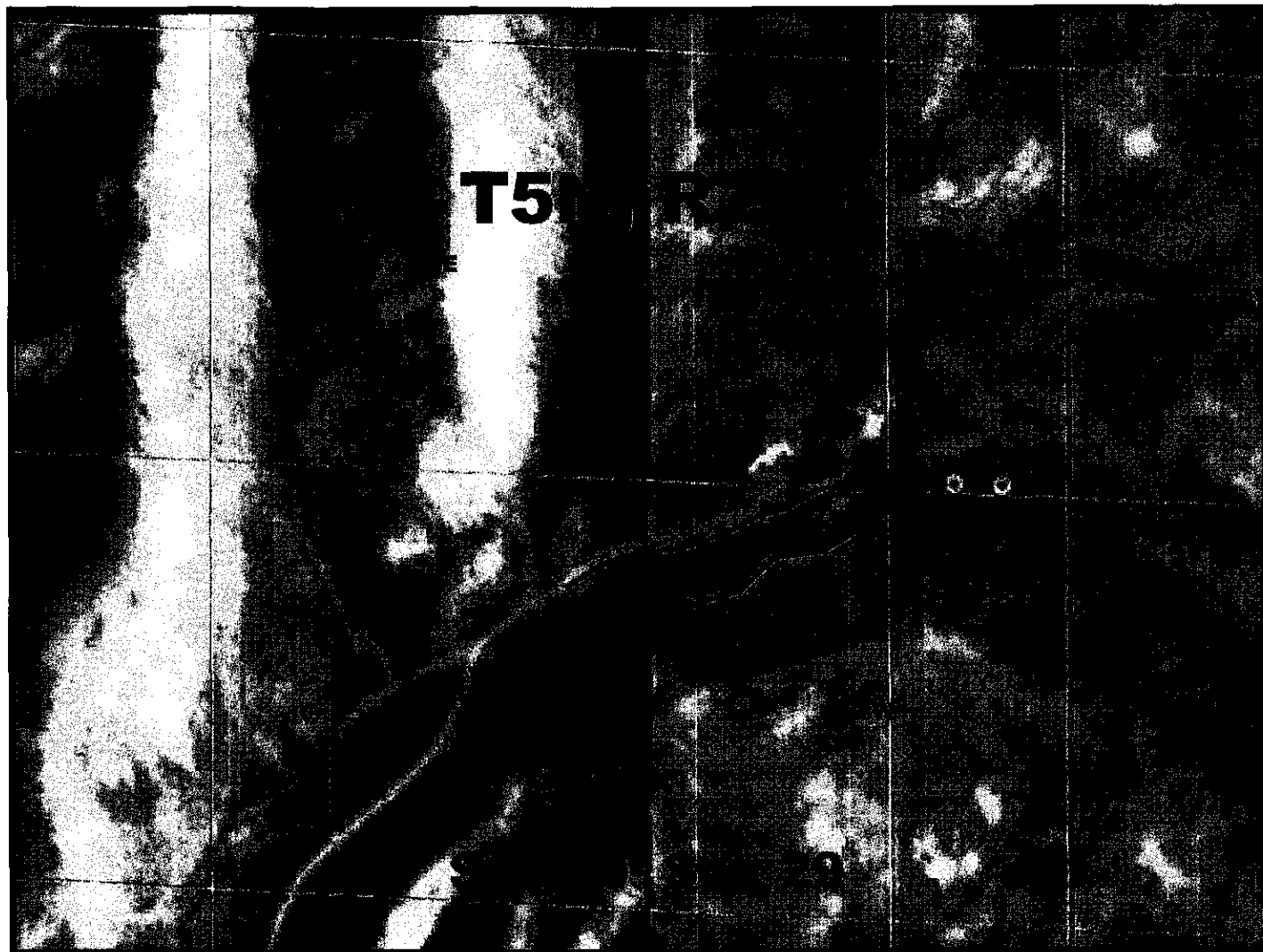
GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: C. Saxton
Date: February 2005



STATE OF IDAHO

Department of Water Resources
Western Region

Water Right(s): 63-31247



1320 0 1320 Feet

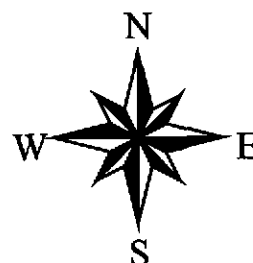
Total Irrigated Acres: 3.3

⊙ Point of Diversion

□ Place of Use

□ Quarter Quarter Lines

□ Section Lines



GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: C. Saxton
Date: February 2005

02/23/2005

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

RIGHT NUMBER: 63-31247

NAME AND ADDRESS: DALE M FRAZELL
15205 N MC FARLAND CREEK RD
BOISE ID 83714

KATHLEEN KEYS
15205 N MC FARLAND CREEK RD
BOISE ID 83714

SOURCE: SPRING

QUANTITY: 0.120 CFS
0.400 AFY

TRIBUTARY: MC FARLAND CREEK

~~USE OF THIS RIGHT WITH RIGHT NO. 63-31585 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.22 CFS.~~

USE OF THIS RIGHT WITH RIGHT NO. 63-31586 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.12 CFS AND TO A TOTAL STORED VOLUME OF 0.4 AF PER ANNUM.

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

PRIORITY DATE: 10/19/1908

POINT OF DIVERSION:

T05N R02E S29 SESWNW Within ADA County

T05N R02E S29 SESWNW Within ADA County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03/01 11/15	0.120 CFS
STOCKWATER STORAGE	01/01 12/31	0.40 AFY
IRRIGATION STORAGE	01/01 12/31	0.40 AFY
STOCKWATER	01/01 12/31	0.030 CFS
STOCKWATER FROM STORAGE	01/01 12/31	0.40 AFY
IRRIGATION FROM STORAGE	03/01 11/15	0.40 AFY

PLACE OF USE:

IRRIGATION Within ADA County

T05N R02E S29 NWSW 3.0 T05N R02E S30 NESE 0.9

STOCKWATER same as IRRIGATION
STOCKWATER FROM STORAGE same as IRRIGATION
IRRIGATION FROM STORAGE same as IRRIGATION

3.9 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 63-31585 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 11 ACRES IN A SINGLE IRRIGATION SEASON.

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

02/23/2005

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

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.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: Beneficial Use

RIGHT NO. 63-31586 IS AN ENLARGEMENT OF THIS RIGHT PURSUANT TO SECTION 42-1426, IDAHO CODE.

Stockwater use is for 70 range cattle.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-31247 V1

WATER RIGHT NUMBER: 63-31247 V1

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	HAROLD R BRUSH PO BOX 1768 MC CALL, ID 83638 (208)634-5811
Current Owner	DALE M FRAZELL 15205 N MC FARLAND CREEK RD BOISE, ID 83714 (208) 433-9282
Original Owner	PATRICIA R BRUSH PO BOX 1768 MC CALL, ID 83638 (208)634-5811
Current Owner	KATHLEEN KEYS 15205 N MC FARLAND CREEK RD BOISE, ID 83714 (208) 433-9282

Priority Date: 10/19/1908

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
SPRING	MC FARLAND CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	0.120 CFS	
STOCKWATER STORAGE	01/01 to 12/31		0.40 AF
IRRIGATION STORAGE	01/01 to 12/31		0.40 AF
STOCKWATER	01/01 to 12/31	0.030 CFS	
STOCKWATER FROM STORAGE	01/01 to 12/31		0.40 AF
IRRIGATION FROM STORAGE	03/01 to 11/15		0.40 AF
	<u>Total Diversion:</u>	0.120 CFS	0.40 AF

Location of Point(s) of Diversion

SPRING	SE1/4SW1/4NW1/4	Sec. 29, Twp 05N, Rge 02E, B.M.
ADA County		
SPRING	SE1/4SW1/4NW1/4	Sec. 29, Twp 05N, Rge 02E, B.M.
ADA County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE	NW	SW	SE	Totals
			NE	NW	SW	SE	

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-31247 V1

05N 02E 29				3.0			3.0
05N 02E 30						.9	.9

Total Acres: 3.9

STOCKWATER same as IRRIGATIONSTOCKWATER FROM STORAGE same as IRRIGATIONIRRIGATION FROM STORAGE same as IRRIGATIONConditions 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.
2. N05 THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
3. N08 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
4. X02 Stockwater use is for 70 range cattle.

Remarks:

1. Quantity USE OF THIS RIGHT WITH RIGHT NO. 63-31585 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.22 CFS.
2. Place of Use - Irrigation USE OF THIS RIGHT WITH RIGHT NO. 63-31585 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 11 ACRES IN A SINGLE IRRIGATION SEASON.
3. Quantity USE OF THIS RIGHT WITH RIGHT NO. 63-31586 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.12 CFS AND TO A TOTAL STORED VOLUME OF 0.4 AF PER ANNUM.
4. Explanatory RIGHT NO. 63-31586 IS AN ENLARGEMENT OF THIS RIGHT PURSUANT TO SECTION 42-1426, IDAHO CODE.

Comments:

1. dbuffington 4/15/2004 Address change

Comment: The data in the name field was changed to show this right has an address change.

2. csaxton 2/23/2005 Recommendation

Comment: Recommendation altered per additional evidence provided by claimant.

3. csaxton 2/23/2005 Two PODs

Comment: Second POD location just placed on the East side of the pond. Since the spring is in the pond then we can consider the embankment of the pond as the man-made diversion works.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-31247 V1

Dates and Other Information:

Decreed Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Defendant:
 Plaintiff:
 Civil Case Number:
 Judicial District:
 Notice of Error Flag:
 State or Federal: S
 Owner Name Connector: OR
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Contacts	1/15/2003 1:09:30 PM	rhowerto			Active
Priority Date	1/15/2003 1:10:35 PM	rhowerto			Active
POD	1/15/2003 1:10:52 PM	rhowerto			Active
Source	1/15/2003 1:11:22 PM	rhowerto			Active
POU	1/15/2003 1:12:21 PM	rhowerto			Active
Use	1/15/2003 1:12:55 PM	rhowerto			Active
Season	1/15/2003 1:13:22 PM	rhowerto			Active
Quantity	1/15/2003 1:13:59 PM	rhowerto			Active
Summary			01/15/2003	rhowerto	Active
Summary			01/15/2003	rhowerto	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
Contacts	1/15/2003 1:09:32 PM	rhowerto	(No) 1. Do you want to schedule an appointment?
			Comment for 1: FX DONE 11-15-02

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-31247 V1

Priority Date	1/15/2003 1:10:37 PM	rhowerto	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (No) 9. Is the Priority Date claimed after the date a permit is required for the source and the water use? (No) 12. Does the claim file contain sufficient evidence of Priority Date? (No) 13. Has additional evidence of priority date been submitted? (Yes) 14. Can any portion of the claim be recommended as a valid water right? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required?
POD	1/15/2003 1:10:53 PM	rhowerto	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (No) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?
Source	1/15/2003 1:11:23 PM	rhowerto	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim an Application or Permit? (No) 6. Is the basis of claim a Posted Notice? (No) 7. Is there evidence that there has been a change in the source? (No) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required? Description for Question 10 - FX
POU	1/15/2003 1:12:23 PM	rhowerto	(No) 1. Is the basis of this claim a Decree or License? (Yes) 2b. Is the POU required? (No) 3. Is the basis of claim a Application or Permit? (No) 7. Is there evidence that there has been a change in the POU? (No) 13. Does the file contain all the necessary information to verify the POU? (Yes) 14. Is a POU remark and/or condition required? Description for Question 13 - FIELD EXAM

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-31247 V1

Use	1/15/2003 1:12:57 PM	rhowerto	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Purpose of Use? (No) 11. Does the file contain all the necessary information to verify the Water Use? (Yes) 13. Is a Purpose of Use remark and/or condition required? Description for Question 10,11,12 - FIELD EXAM
Season	1/15/2003 1:13:24 PM	rhowerto	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined? (Yes) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?
Quantity	1/15/2003 1:14:01 PM	rhowerto	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is the basis of claim a posted notice? (Yes) 7. Is a flow measurement required? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (Yes) 12. Is a Quantity remark or condition required? Description for Question 7 - MANNING
POD	1/15/2003 1:28:29 PM	rhowerto	Edited point location
POU	1/15/2003 1:35:30 PM	rhowerto	Edited shape boundary
POU	1/15/2003 1:35:46 PM	rhowerto	Edited PLS
Summary	1/15/2003 1:39:25 PM	rhowerto	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (Yes) 5. Is an additional remark and/or condition required? (Yes) 6. Would you like to view the recommended right?
POU	2/23/2005 10:47:27 AM	csaxton	Edited shape boundary
POU	2/23/2005 10:48:10 AM	csaxton	Edited shape boundary
POD	2/23/2005 10:30:47 AM	csaxton	Edited point location
POU	2/23/2005 11:42:47 AM	csaxton	Edited shape boundary

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-31247 V1

POU	2/23/2005 12:07:29 PM	csaxton	Edited shape boundary
POU	2/23/2005 12:09:59 PM	csaxton	Edited PLS
POU	2/23/2005 11:29:32 AM	csaxton	Edited shape boundary
Summary	1/15/2003 2:07:30 PM	rhowerto	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (Yes) 5. Is an additional remark and/or condition required? (Yes) 6. Would you like to view the recommended right? (No) 7. Is this a split or combined right? (No) 8. Do you have documents you would like to attach or link to the file? (Yes) 9. Would you like to set the verification date?

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-31247 V1

Altered By Craig Sutton
2-23-05

WATER RIGHT NUMBER: 63-31247 V1

Owner Type Name and Address
Current Owner DALE M FRAZELL ✓
 15205 N MC FARLAND CREEK RD
 BOISE, ID 83714
 (208) 433-9282
Current Owner KATHLEEN KEYS ✓
 15205 N MC FARLAND CREEK RD
 BOISE, ID 83714
 (208) 433-9282

Priority Date: 10/19/1908 ✓

Basis: Beneficial Use ✓

Status: Active ✓

Source

SPRING ✓

Tributary

MC FARLAND CREEK ✓

3.9 ac x 0.03 cfs = 0.117 cfs
(0.117 cfs) (1.9935) = 0.24 AF
Pond Holds 0.90 AF
Thus Needs Storage

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	-0.070 CFS 0.12	
STOCKWATER STORAGE	01/01 to 12/31		0.40 AF ✓
IRRIGATION STORAGE	01/01 to 12/31		0.40 AF ✓
STOCKWATER	01/01 to 12/31	0.030 CFS ✓	
STOCKWATER FROM STORAGE	01/01 to 12/31		0.40 AF ✓
IRRIGATION FROM STORAGE	03/01 to 11/15		0.40 AF ✓
<u>Total Diversion:</u>		-0.070 CFS 0.12	0.40 AF ✓

Location of Point(s) of Diversion

SPRING SE1/4SW1/4NW1/4 Sec. 29, Twp 05N, Rge 02E, B.M.
ADA County SE SW NW 29 T5N R2E

Place of Use

IRRIGATION ✓

Twp	Rge	Sec	NE	NW	SW	SE	Totals
05N	02E	29	NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE	2.6 3.0
05N	02E	30				0.9	0.9

Total Acres: 2.3 3.9

STOCKWATER same as IRRIGATION ✓

STOCKWATER FROM STORAGE same as IRRIGATION ✓

IRRIGATION FROM STORAGE same as IRRIGATION ✓

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-31247 V1

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.
2. N05 THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
3. N08 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
4. X02 Stockwater use is for 70 range cattle.

Remarks:

1. Quantity USE OF THIS RIGHT WITH RIGHT NO. 63-31585 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF ~~0.2~~ CFS.
0.22
2. Place of Use - Irrigation USE OF THIS RIGHT WITH RIGHT NO. 63-31585 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF ~~10~~ ACRES IN A SINGLE IRRIGATION SEASON.
11
3. Quantity USE OF THIS RIGHT WITH RIGHT NO. 63-31586 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF ~~0.07~~ CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 0.4 AF ~~per Annum.~~
0.12 Stored Volume

Comments:

1. dbuffington 4/15/2004 Address change

Comment: The data in the name field was changed to show this right has an address change.

Dates and Other Information:

State or Federal: S
Owner Name Connector: OR
Mitigation Plan: False

Combined Use Limits:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
~~0.07~~ <i>0.12</i>	0.4	
Combined Water Rights: 63-31586 , 63-31247		

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
~~0.02~~		~~10~~
Combined Water Rights: 63-31585 , 63-31247		

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
0.22		~~10~~ <i>11</i>
Combined Water Rights: 63-31585 , 63-31247		

- Add 11d1 For Enlargement

MEMORANDUM

Date: February 22, 2005

To: File

From: Craig L. Saxton

Re: Response to August 4, 2004 letter requesting re-evaluation of Preliminary Recommendations for SRBA claims 63-31247, 63-31585, and 63-31586.

On June 8, 2004, Jan Shurte and I met with Norm Young from ERO concerning his clients request to re-evaluation of Preliminary Recommendations for SRBA claims 63-31247, 63-31585, and 63-31586.

After our discussion, it was decided that more information was needed to review the requested changes.

63-31247:

Claimant Concern:

- Additional Acreage: The claimant requests that the POU for right 63-31247 be increased to represent the same POU as 63-31585.
- Addition Diversion Rate: The other point of concern, is if we do not increase the POU as requested, the diversion should be increased to 0.03 cfs per acre as the recommended POU is 5 acres or less.
- POD: Should be two POD's listed: pond embankment and the pumped and gravity diversions from the pond and spillway.

Conclusion:

- Additional Acreage: Cannot recommend the same POU as 63-31585 (upper area that cannot be flood irrigated by the spring). Concerning the argument that it wouldn't be an administrative issue if no-one else had a claim with an earlier priority date from this source, someone could still file a late claim with an earlier priority date. Plus, we can not just recommend an early priority date because no one else has. A new claim needs to be filed to represent the new appropriation of water, or when the water was pumped up gradient from the spring.

✓
63-32082

However, Additional acreage was added under both 63-31247 and 63-31585 to represent acreage irrigated under the tree canopy that was not originally included in the initial recommendation

- Additional Diversion Rate: Yes. Since we are not increasing acreage under this claim and we are recommending less than 5 acres (3.9), and the mannings equation conducted by Ron Howerton shows that the diversion works has the capacity, we can recommend 0.03 cfs per acre.

- Additional POD: Yes. I can recommend second POD as the dam/pond embankment on the upstream side of the pond. Since the spring is in the pond then we can consider the embankment of the pond as the man-made diversion works.

- Storage Volume: The wording in the remark limiting the storage volume has been changed to limit volume stored only, but not the amount of life flow that may be diverted from the spring source.

- Note: If we change the storage from the spring, we need to know how many times the pond fills during an irrigation season.

- ~~K00~~ ^{K61} added to recognize that 63-31586 is an enlargement of this right.

(There is a question whether right 63-31586 can be recommended as an enlargement of this right. It is currently being reviewed by the legal staff.)

63-31585:

Claimant concern:

- Additional POU: Recognize previously missed irrigated acreage that is under the canopy of the trees along the creek that could not be seen from aerial photography.

- Storage Volume: Add Explanatory stating that no storage needed because the pond can be filled in less than 24 hours.

Conclusion:

- Additional POU: Yes. One acre added.

- Storage Volume: Yes, we can add and Explanatory remark stating that no storage needed because the pond can be filled in less than 24 hours.

NO LAMBER
VALID
AFTER
03-32082
COMES IN
ADDING
7.1 acres
in 1959.
TOTAL 11
acres
under
spring
(over 500)

63-31586:

Claimant concern:

- Combined Use Limitation: Make sure that the limiting remark refers only to the volume that can be stored and not live flow.

Conclusion:

- Combined Use Limitation: Agreed, remark altered to reflect that change.

- Note: If we change the storage from the spring, we need to know how many times the pond fills during an irrigation season.

- Add enlargement priority condition C11 and General Remark K02.

(There is a question weather this right can be recommended as an enlargement of 63-31247. It is currently being reviewed by the legal staff.)



63-31247 POU & POD Claim Map 2003 Photography



1320

0

1320 Feet

⊙ Claimed Point of Diversion

▭ Claimed Place of Use

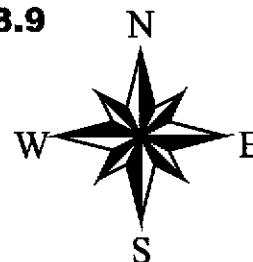
▭ Ada County Tax Lot Data

▭ Quarter Quarter Lines

▭ Section Lines

Total Claimed Acres: 20.0

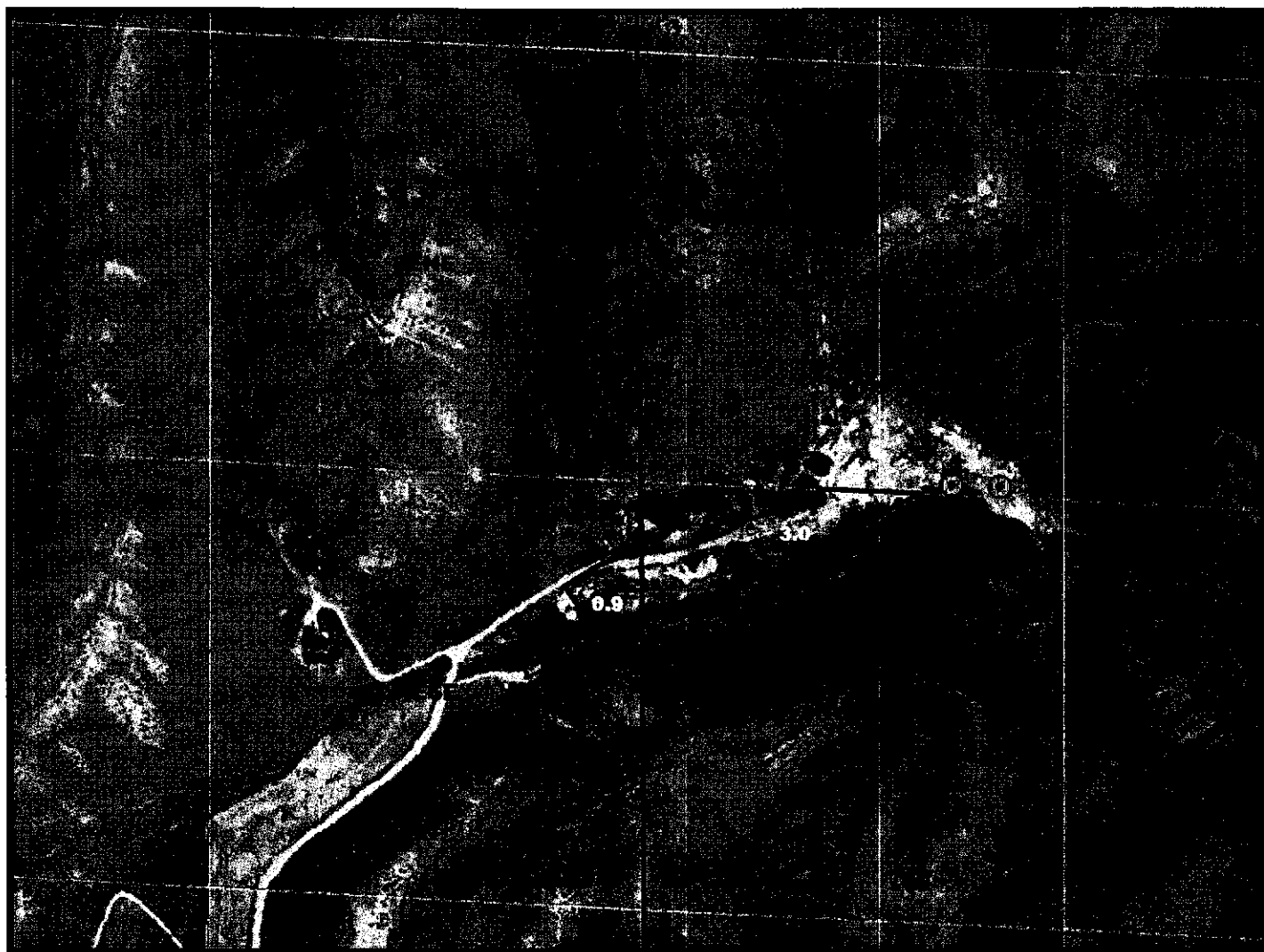
Initial Review found acres: 3.9



Prepared by: C. Saxton
Date: February 2005



63-31247 POU & POD Claim Map 2000 Photography



1320 0 1320 Feet

⊙ Claimed Point of Diversion

□ Claimed Place of Use

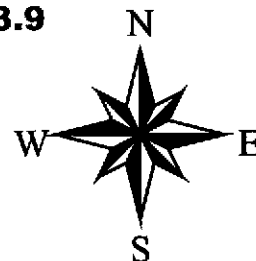
□ Ada County Tax Lot Data

□ Quarter Quarter Lines

□ Section Lines

Total Claimed Acres: 20.0

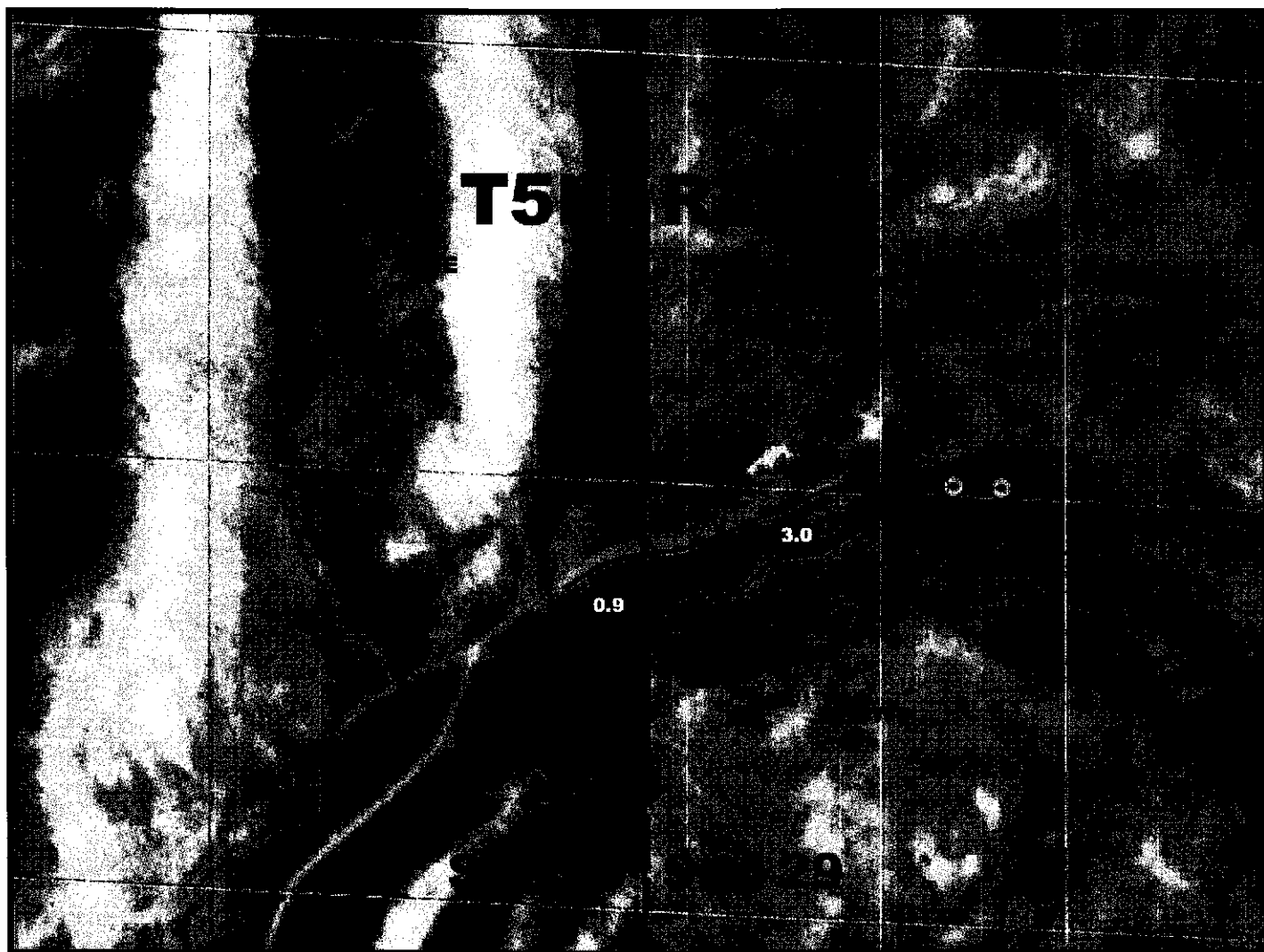
Initial Review found acres: 3.9



Prepared by: C. Saxton
Date: February 2005



63-31247 POU & POD Claim Map 1987 Photography



1320

0

1320 Feet

⊙ Claimed Point of Diversion

□ Claimed Place of Use

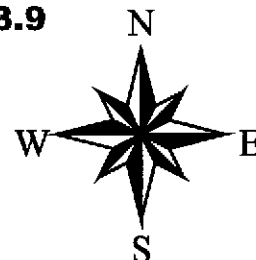
□ Ada County Tax Lot Data

□ Quarter Quarter Lines

□ Section Lines

Total Claimed Acres: 20.0

Initial Review found acres: 3.9



Prepared by: C. Saxton
Date: February 2005



ERO Resources Corp.
1106 N. Cole Rd. Suite C
Boise, ID 83704-8661
(208) 373-7983
Fax: 373-7985
Denver • Boise
www.eroresources.com
eroboise@eroresources.com

RECEIVED

AUG 06 2004

WATER RESOURCES
WESTERN REGION

August 4, 2004

Craig Saxton
Idaho Department of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705

RE: Claim Nos. 63-31247, 63-31585 and 63-31586 (Frazell and Keys)

Dear Mr. Saxton:

Much thanks to you and Jan Shurte for meeting with me on June 8, 2004 to discuss the above referenced claims. I am sure you will remember that I have been assisting Matt Howard in a review of the preliminary recommendations posted in IDWR's electronic database for issuance of partial decrees on the claims. Because Mr. Howard has accepted a position with the U.S. Bureau of Reclamation and has indicated that the right holders' remaining concerns are more technical than legal in nature, I was asked to review with you, on behalf of the right holders, the concerns listed and discussed below:

Description of Diversion and Use of Water under Claim Nos. 63-31247, 63-31585 and 63-31586.

Water is diverted and used from two sources – McFarland Creek and a spring tributary to McFarland Creek - for irrigation, stock watering and fire protection purposes. The integrated water use system includes: 1) open ditches to divert water from McFarland Creek and the spring for irrigation, 2) a pond fed both by the spring and from McFarland Creek for storage for irrigation, stock watering and for fire protection, and 3) a portable pump has been used to re-divert water from the pond for irrigation and to fight fires.

Three diversions directly from McFarland Creek and at least two from the spring have been used to establish and exercise the water uses claimed under these rights. The uppermost diversion from McFarland Creek is located near the right holders' eastern property line. At this location, a check structure of earth and rock has been used to divert water into an open ditch for direct application of water to the field north and east of the pond. A second diversion from McFarland Creek is located just upstream from

the pond where an open ditch has been used to divert water to the pond for storage or through the pond for direct irrigation. The third diversion from McFarland Creek is located downstream from the confluence of the spring and the creek. Water diverted at this point by a check structure in the creek and an open ditch has been used for direct irrigation of the fields below the pond.

The first diversion from the spring source is the embankment across the spring channel that creates the pond. Because the pond does not have a low-level outlet, the stream channel has been effectively relocated to the spillway channel located on the west end of the embankment. A diversion from this channel, located just upstream from the confluence of the spillway channel with McFarland Creek, takes water in an open ditch to directly irrigate the fields below the pond. In addition to these diversions, a portable pump has been used to re-divert water from the pond. The water diverted using the pump is a combination of stored water and natural flow moving through the pond. The water rising in and diverted to the pond can be used for irrigation of fields above and below the pond, for stock watering and for fire fighting purposes.

During most years, McFarland Creek flows are largest during spring runoff and after major storm events. Based upon the cross-section of the stream channel and the slope of the stream as it enters and flows across the right holders' property, it is visually apparent that peak flows exceed by many times the total recommended diversion rate for Right No. 63-31585. When the flow available in the stream tapers off and stops as the irrigation season progresses, the more stable flow rate available from the spring that feeds the pond is spread to as much of the place of use as possible to sustain the pasture and other crops.

Concerns Raised by the Preliminary Recommendations and Requested Revisions:

1. Place of use and Point of Diversion for Claim No. 63-31247 (Spring Source).

The recommendation limits the place of use for this right to land that can be irrigated using open ditches and surface application of water. However, the original claimant, Harold Brush (see the attached affidavit signed by Mr. Brush), has indicated that a portable pump has been used to irrigate land from the pond. Note that according to Mr. Brush the pond and its uses were in existence when he bought the property in 1958. The priority date assigned to the irrigation use from the pond for the lands relying upon pumping should not be an issue in administration of this reach of McFarland Creek unless there are rights with priority dates later than 1908 but earlier than the pre-1958 date that can be attached to the use of pumped water under this claim. Please let me know if you disagree and feel that a separate claim is needed to cover the pumped water with a later priority than 1908. Because the spring and pond provide a more reliable supply of water after the flow in the creek has diminished, the available water has been judiciously put to beneficial use as needed on the property. Accordingly the place of use of Claim No. 63-31247 (Spring Source) should duplicate the place of use of Claim No. 63-31585 (McFarland Creek). At least two points of diversion should be listed in the SESWNW, Section 29 to reflect the pond embankment and the pumped and gravity diversions from the pond and spillway.

2. Rate of Flow for Claim No. 63-31247 (Spring Source).

Agreed

The rate of flow recommended is apparently based upon 0.02 cfs per acre or upon a measurement made in late summer during a drought period. Early in the irrigation season during wetter periods and when the pond has been drawn down by pumping, the spring discharge exceeds the rate now recommended. As you noted during the meeting, Ron Howerton's notes indicate that the capacity of the ditch from the pond, based upon a calculation using Manning's Equation and the size and slope of the ditch, is larger than the presently recommended diversion rate. For irrigation of parcels of 5 acres or less, IDWR's standard rate of flow is 0.03 cfs per acre (References: Rule 35.03b of the "Beneficial Use Examination Rules" IDAPA 37.03.02, Application Processing Memorandum No. 17 and Paragraph 5f of Transfer Processing Memorandum No. 24). If the place of use is not changed from that now recommended, the diversion rate should be increased to 3.3 acres times 0.03 cfs/acre = 0.10 cfs. If the place of use is changed to that recognized in the previous paragraph, the rate of flow should be 0.02 cfs per acre recommended to allow diversion and use of the full supply available from the spring source to continue as it has historically been used.

3. Acreage for Claim No. 63-31585 (McFarland Creek).

As we discussed at the meeting, the claimants are concerned that the number of acres recommended by IDWR to be irrigated from McFarland Creek is substantially less than the number of acres they understood had irrigation rights when they purchased the property. My visual inspection of the property led me to believe that additional area should be added to reflect a more northerly location for the ditch from McFarland Creek from the furthest upstream diversion and to recognize irrigation along the canopy of trees along McFarland Creek and on the west side of the irrigated area. Based upon your higher resolution photographs, the location of the upper ditch from McFarland Creek appears to have been accurately described in the recommendation. My understanding from the meeting was that IDWR would review the place of use to assure that the recommendation adequately includes some areas, including under the canopy of the large trees at the west end of the field and along the creek, an area on the extreme east end of the upper parcel and an area on the west side of the upper parcel. An aerial photo with these areas circled is attached.

4. Storage as a purpose of use on No. 63-31585 (McFarland Creek).

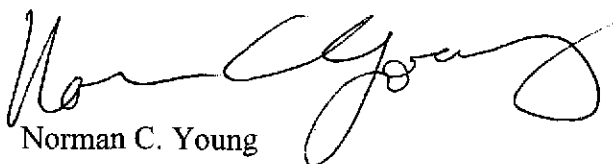
IDWR's files include information recognizing that water can be diverted from the creek into the pond, but the notations made by the initial claims reviewer, Ron Howerton, indicate that storage does not need to be included as a purpose of use on the water right because the rate of flow from the creek under this right is large enough to refill the pond within 24 hours. Under the 24-hour guideline used by IDWR, short-term storage is considered to be necessary for efficient operation of irrigation systems and is allowed without specific authorization on the right. During our meeting, we agreed that a remark could be added to the recommendation for this right noting that the storage from McFarland Creek occurs in the pond under this guideline.

- What type of Remark does your client want added. in connection of this discussion.

5. Combined Use Limitation.

The combined use limitation attached to the preliminary recommendations for Claim No. 63-31247 (Spring Source) and Claim No. 63-31586 (Fire Protection) should be adjusted to incorporate the rate of flow ultimately recognized for Claim No. 63-31247 and to clarify that the volume limitation relates only to the use of water from storage and is not a limitation on the volume that is allowed to be diverted directly for the purposes authorized under these rights. It is also my understanding that IDWR will also apply recently received administrative guidance concerning the annual volume allowed for storage from ponds that are drafted and filled more than once during a year.

Sincerely,

A handwritten signature in black ink, appearing to read "Norman C. Young", with a stylized, flowing script.

Norman C. Young

encl. Brush affidavit
Aerial photo

cc: Dale Frazell and Kathy Keys

DRAFT

SESE

NWSW

T05N, R02E

NWNWSW

SWSWNW

SWNW

S29

Pond

SESWNW

Pond

NENWSW

SESW

TAX LOT LINES

OVERVIEW MAP
ORTHO QUADS
X8 & X9
FRAZELL/KEYS & BRUSH

NESW

NENESW

AFFIDAVIT

RECEIVED

AUG 06 2004

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO)
County of Valley)ss.

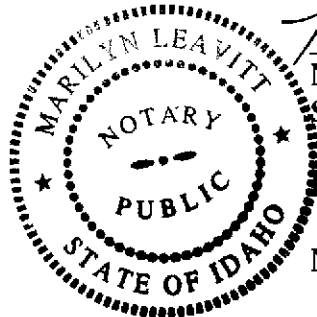
HAROLD R. BRUSH, being first duly sworn upon oath, deposes and says:

1. I make the following statements based upon my personal knowledge.
2. I am familiar with a 20-acre parcel of land located within the S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 29 and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30, all in Township 5 North, Range 2 East, Boise Meridian, which lands are currently owned by Dale Frazell and Kathy Keys (the Frazell-Keys parcel).
3. From 1958 until 2001, my wife and I owned the Frazell-Keys parcel.
4. There is a small pond located on the Frazell-Keys parcel that I maintained and used for irrigation and fire protection purposes (hereinafter "the pond"). The pond was in existence when I bought the property, and had been used by the previous owner for these purposes. The pond is fed by a spring or springs located in the bottom of the pond.
5. From ^{59 HRP}1961 to 1987, I used the water from the pond to irrigate portions of the Frazell-Keys parcel located both above and below the pond elevation. In order to irrigate the ground up gradient from the pond, I used a 5-hp (or it could have been a 6-hp) gasoline powered pump to divert water from the pond. I ran approximately four to five Rainbird-brand sprinklers from the pump and spaced the sprinklers approximately 30 to 40 feet apart. I operated the sprinklers in one area for about four hours, and then shut off the sprinklers to allow the pond to refill. I would then move the sprinklers to another area and repeat the process. On average, the sprinklers were moved approximately once per week, sometimes more or less depending upon the availability of water, weather conditions, and the need to use the water from the pond on land below the pond by gravity flow using either or both of the two ditches that diverted downstream of the pond. I have five children, who are all adults now, who used to help me move the sprinklers around.
6. I used the water from the pond to grow alfalfa.

Further your affiant sayeth naught.

Harold R. Brush
HAROLD R. BRUSH

SUBSCRIBED AND SWORN to before me on this 2nd day of August, 2004

A circular notary seal for Marilyn Leavitt, Notary Public for the State of Idaho. The seal features her name 'MARILYN LEAVITT' around the top inner edge, 'NOTARY PUBLIC' in the center, and 'STATE OF IDAHO' around the bottom inner edge, separated by two stars.
Marilyn Leavitt
NOTARY PUBLIC FOR THE
STATE OF IDAHO
Residing at: McCall
My Commission Expires: 7-28-09

Memorandum

Date: June 8, 2004

From: Craig L. Saxton

To: File

RE: Requested change in recommendations for 63-31247 and 63-31585

Norm Young from ERO made an appointment to meet with myself and Jan Shurte concerning SRBA claims 63-31247 and 63-31585 at 8:30 am on June 8, 2004.

Mr. Young's client had several concerns:

- There are actually two points of diversion from the pond. We agreed to add the second POD. One point of diversion for the dam and one for the ditch from the pond.
- The limiting remark on both 63-31586 and 63-31247 (spring source) listed the volume as less than it should be. After a discussion with Jan Shurte, it was thought that this remark might not even be needed. It appears the limit was for the storage AF amount and not the diversion volume. Either the remark needs to be changed to be more specific to storage AF or deleted completely. We need to revisit this subject at a later time. The AF storage amount could be increased if it is shown that the pond fills more than one time during the irrigation season.
- No storage component was recommended under claim 63-31585 from McFarlands ck. This was assumed to have been done because under the recommended diversion rate, the pond could be filled or drained in a 24 hour period and a storage volume was not necessary.
- POU was too small. I said I could support 11 acres instead of 10 based on the aerial photography.
- Feels that the spring right 63-31247 should include the entire place of use as defined by 63-31585. A conclusion on this was not reached. I called Ron Howerton, who originally made the recommendation, and confirmed with him that there was not evidence that a pump was in place in 1908 and that the acreage recommended under this right should be limited to what could have been flood irrigated. We are waiting to see if Mr. Young can find evidence to support otherwise.

Saxton, Craig

From: Saxton, Craig
Sent: Thursday, May 13, 2004 1:29 PM
To: 'Norm Young'
Cc: Shurte, Jan
Subject: RE: 63-31585 and 63-31247 (Frazell and Keys)

Hey Norm,

Here are the shape files that you requested. I took them directly off the recommendation layer so they are what Ron recommended. Note that the POU shapes for 63-31585 and 63-31247 overlap each other so it might be hard to see one over the other.

As far as who is responsible for these recommendations at this point, it will be me. And regarding your original E-mails, these recommendations have not been submitted as a directors report yet. Thus, there is still room for changes to be made to the recommendations without filing a formal objection. That being said, I am not very familiar with the files and why Ron made the recommendations the way he did. But it is my understanding that Ron worked extensively with Matt Howard as well as conducting detailed field exams. In order for me to feel comfortable changing the recommendations, I would need some extensive evidence to prove the water rights should be described differently.

If you have other questions, let me know. Hope this helps.

Craig

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

From: Shurte, Jan
Sent: Thursday, May 13, 2004 8:35 AM
To: 'Norm Young'
Cc: Saxton, Craig
Subject: RE: 63-31585 and 63-31247 (Frazell and Keys)

Hi Norm,

Thanks for the kind reminder. I did just give that to Craig this week and am sending him a cc of this note. In his defense I believe it was on Tuesday, so he hasn't had a chance to prepare a response. He is planning on emailing you Ron's shapefiles after he reviews the files.

It did almost slip through - somehow it surfaced in my mind again. Maybe there is hope for me yet.

Jan

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

From: Norm Young [mailto:nyoung@eroresources.com]
Sent: Wednesday, May 12, 2004 11:30 AM
To: Shurte, Jan
Subject: Re: 63-31585 and 63-31247 (Frazell and Keys)

Jan:

I do not mean to "bug" you on this request, but I do want to check on the status just to be sure that the information has not already been prepared and has gone astray before I received it.

Thanks for your help - I know you have to be the busiest person at IDWR given your staffing level and workload.

5/13/2004

Norm

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

From: Shurte, Jan**To:** 'Norm Young'**Sent:** Friday, April 30, 2004 4:29 PM**Subject:** RE: 63-31585 and 63-31247 (Frazell and Keys)

Norm - I have a CD of Ron's shapefiles and haven't had a chance to look at it to send a copy to you. I will do that first thing Monday. Thanks for your patience.

Jan

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

From: Norm Young [mailto:nyoung@eroresources.com]**Sent:** Tuesday, April 27, 2004 4:41 PM**To:** Shurte, Jan**Cc:** Matt Howard**Subject:** 63-31585 and 63-31247 (Frazell and Keys)

Jan:

I am working with Matt Howard evaluating whether these two rights are worth a little more land/water than the current IDWR recommendations as shown in the data base. Ron Howerton did the claims review, so I am not sure who may have the responsibility for these, now.

Would it be possible to email the shape files for the rights to me so I can compare some GPS readings that I took?

My understanding is that these recommendations have not yet been included in a Director's report. If that is correct, and I find some adjustments that I think should be made, can these be discussed and perhaps implemented with IDWR staff?

Thanks for your help.

Norm

04/15/2004

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

RIGHT NUMBER: 63-31247

NAME AND ADDRESS: DALE M FRAZELL
15205 N MC FARLAND CREEK RD
BOISE ID 83714

KATHLEEN KEYS
15205 N MC FARLAND CREEK RD
BOISE ID 83714

SOURCE: SPRING

TRIBUTARY: MC FARLAND CREEK

QUANTITY: 0.070 CFS
0.400 AFY

USE OF THIS RIGHT WITH RIGHT NO. 63-31585 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 0.2 CFS.

USE OF THIS RIGHT WITH RIGHT NO. 63-31586 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 0.07 CFS AND TO A TOTAL ~~COMBINED~~ *STORAGE VOLUME*
~~ANNUAL DIVERSION VOLUME~~ OF 0.4 AF. *PER ANNUM.*

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

PRIORITY DATE: 10/19/1908

POINT OF DIVERSION:

T05N R02E S29 SESWNW Within ADA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03/01 11/15	0.070 CFS
STOCKWATER STORAGE	01/01 12/31	0.40 AFY
IRRIGATION STORAGE	01/01 12/31	0.40 AFY
STOCKWATER	01/01 12/31	0.030 CFS
STOCKWATER FROM STORAGE	01/01 12/31	0.40 AFY
IRRIGATION FROM STORAGE	03/01 11/15	0.40 AFY

PLACE OF USE: IRRIGATION Within ADA County

T05N R02E S29 NWSW 2.6 T05N R02E S30 NESE 0.7

STOCKWATER same as IRRIGATION
STOCKWATER FROM STORAGE same as IRRIGATION
IRRIGATION FROM STORAGE same as IRRIGATION

3.3 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 63-31585 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 10 ACRES IN A SINGLE IRRIGATION
SEASON.

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

04/15/2004

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

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.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: Beneficial Use

Stockwater use is for 70 range cattle.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 15, 2004

DALE M FRAZELL
KATHLEEN KEYS
15205 N MC FARLAND CREEK RD
BOISE ID 83714

Re: Notice of Claim to a Water Right No. 63-31247, 63-31585 & 63-31586

Dear Claimant(s):

Enclosed is a copy of the above referenced claim(s), which reflects your change in address.

Please note that the enclosed Notice of Claim to a Water Right is not a determination of your water right. This claim was filed during claims taking in the Snake River Basin Adjudication (SRBA) and has not yet been verified by this Department. Water rights are established and maintained by beneficial use of water for the uses designated on this claim form dating back to the priority date listed. This claim will be investigated, verified and recommended to the SRBA Court for court decree sometime in the near future. You will be notified prior to the beginning of any verification of this water right.

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

Sincerely,

A handwritten signature in cursive script that reads "Denise Buffington".

Denise Buffington
Office Specialist I
Adjudication Section
Western Region Office

DB: db

Enclosure

cc: Matt J Howard, attorney

11/17/2003

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

RIGHT NUMBER: 63-31247

NAME AND ADDRESS: DALE M FRAZELL
2205 W PLEASANTON AVE
BOISE ID 83702

KATHLEEN KEYS
2205 W PLEASANTON AVE
BOISE ID 83702

SOURCE: SPRING

TRIBUTARY: MC FARLAND CREEK

QUANTITY: 0.070 CFS
0.400 AFY

USE OF THIS RIGHT WITH RIGHT NO. 63-31585 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 0.2 CFS.

USE OF THIS RIGHT WITH RIGHT NO. 63-31586 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 0.07 CFS AND TO A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 0.4 AF.

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

PRIORITY DATE: 10/19/1908

POINT OF DIVERSION:

T05N R02E S29 SESWNW Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.070 CFS
STOCKWATER STORAGE	01/01 12/31	0.40 AFY
IRRIGATION STORAGE	01/01 12/31	0.40 AFY
STOCKWATER	01/01 12/31	0.030 CFS
STOCKWATER FROM STORAGE	01/01 12/31	0.40 AFY
IRRIGATION FROM STORAGE	03/01 11/15	0.40 AFY

PLACE OF USE:

IRRIGATION Within ADA County

T05N R02E S29 NWSW 2.6 T05N R02E S30 NESE 0.7

STOCKWATER same as IRRIGATION
STOCKWATER FROM STORAGE same as IRRIGATION
IRRIGATION FROM STORAGE same as IRRIGATION

3.3 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 63-31585 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 10 ACRES IN A SINGLE IRRIGATION
SEASON.

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

11/17/2003

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

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.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: Beneficial Use

Stockwater use is for 70 range cattle.

MATT J. HOWARD

ATTORNEY AT LAW

P. O. BOX 190012

BOISE, IDAHO 83719

TELEPHONE (208) 333-0622

FACSIMILE (208) 333-8409

EMAIL: MHOWARD@FIBERPIPE.NET

July 16, 2003

RECEIVED

JUL 17 2003

WATER RESOURCES
WESTERN REGION

Ron Howerton
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

RE: Notices of Claim for Water Right Nos. 63-31247, - 31585, and -31586

Dear Ron:

Enclosed are copies of the patents and affidavit that you requested to support the claimed priority dates for the above-referenced water rights. After you have had a chance to look at the enclosed documents, I will need to talk with you concerning the possibility of filing amended claims. I will be out of the office next week but will contact you shortly after my return.

Very truly yours,

Matt J. Howard

Enclosures
Cc: Clients

THE UNITED STATES OF AMERICA.

To all to whom these Presents shall come, Greeting:

CERTIFICATE

No. 909

Territory

Whereas Patrick McFarland of Ada County Idaho

has applied in the General Land Office of the United States a Certificate of the Register of the Land Office at Boise City Idaho Territory whereby it appears that full payment has been made by the said Patrick McFarland

according to the provisions of the Act of Congress of the 24th of April 1820, entitled "An Act making further provision for the sale of the Public Lands," and the acts supplemental thereto, for the South West quarter of the North West quarter and the North West quarter of the South West quarter of Section twenty nine in Township five North of Range two East of Boise Meridian in Idaho Territory, containing eighty acres.

according to the Official Plat of the Survey of the said Lands, returned to the General Land Office by the Surveyor General, which said Tract has been purchased by the said Patrick McFarland

Now know ye, That the United States of America, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant unto the said Patrick McFarland

and to his heirs, the said Tract above described. To have and to hold the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereto belonging, unto the said Patrick McFarland

and to his heirs and assigns forever, subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietors of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law.

In testimony whereof J. Benjamin Harrison

President of the United States of America, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the twenty ninth day of September, in the year of our Lord one thousand eight hundred and ninety, and of the Independence of the United States the one hundred and fifteenth

By the President:

Benjamin Harrison
M. McKeen, Secretary

J. R. Cornell, Recorder of the General Land Office ad-interim.

L. S.

The United States of America,

To all to whom these presents shall come, Greeting:

Homestead Certificate No. 2905.

Application 6095.

WHEREAS, There has been deposited in the GENERAL LAND OFFICE of the United States a Certificate of the Register of the Land Office at Boise, Idaho, whereby it appears that, pursuant to the Act of Congress approved 20th May, 1862, "To secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of

PATRICK McFARLAND

has been established and duly consummated, in conformity to law, for the southwest quarter of the southwest quarter of Section twenty-nine and the east half of the southeast quarter of Section thirty in Township five north of Range two east of the Boise Meridian, Idaho, containing one hundred twenty acres,

according to the Official Plat of the Survey of the said Land, returned to the GENERAL LAND OFFICE by the Surveyor General:

NOW KNOW YE, That there is, therefore, granted by the UNITED STATES unto the said Patrick McFarland

the tract of Land above described; TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto the said Patrick McFarland

and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law. And there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, **Theodore Roosevelt**, President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed.

(SEAL)

GIVEN under my hand, at the City of Washington, the nineteenth day of October, in the year of our Lord one thousand nine hundred and eight, and of the Independence of the United States the one hundred and thirty-third.

By the President:

By

Secretary.

Recorder of the General Land Office.

BOISE 05021,

The United States of America,

To all to whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Registrar of the Land Office at **BOISE, IDAHO,**
has been deposited in the General Land Office, whereby it appears that full payment has been made by the claimant
SAMUEL P. GLENN

according to the provisions of the Act of Congress of April 24, 1820, entitled "An Act making further provision for the sale of the Public Lands" and the acts supplemental thereto, for the **SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, AND THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION TWENTY-NINE IN TOWNSHIP FIVE NORTH OF RANGE TWO EAST OF THE BOISE MERIDIAN, IDAHO, CONTAINING ONE HUNDRED SIXTY ACRES,**

according to the Official Plat of the Survey of the said Land, returned to the GENERAL LAND OFFICE by the Surveyor-General:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT, unto the said claimant and to the heirs of the said claimant the Tract above described; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereto belonging, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States; reserving, also, to the United States all coal in the lands so granted, and to it, or persons authorized by it, the right to prospect for, mine, and remove coal from the same upon compliance with the conditions of and subject to the limitations of the ACT OF MARCH 3, 1909 --35 STAT., 844--.

IN TESTIMONY WHEREOF, I,

WILLIAM H. TAFT

President of the United States of America, have caused these letters to be made
Patent, and the Seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the **TWENTY-THIRD**
day of **JANUARY** In the year of our Lord one thousand
nine hundred and **ELEVEN** and of the Independence of the
United States the one hundred and **THIRTY-FIFTH.**

By the President:

By

Secretary,

(SEAL)

172324

RECORD OF PATENTS: Patent Number

See Supplemental Patent No.

688844

issued under the Act of April 14, 1914

T05N, R02E, S30

T05N, R02E, S29

PROPERTY TAX LINES

**Patent No: 688844
63-31585**

**Patent No: 688844
63-31585**

**Certificate 909
63-31246(B)
63-31587(B)
63-31585(F)**

**Certificate 909
63-31247(F)
63-31585(F)
63-31587(B)**

**Certificate 2905
63-31247(F)
63-31585(F)**

63-31246

63-31585

63-31587

63-31585

63-31247

Idaho Department of Water Resources

CLAIM VERIFICATION NARRATIVE SHEET

Updated: November 27, 2002

Date of Exam: 11-15-02

Field examiner:

Ron Howerton
Senior Water Right Agent

Water Right Nos.: 63-31247

Contacts: Attorney, Matt Howard

Narrative:

Field Exam 11-15-02: This pond is storage for spring irrigation right 63-31247 and enlargement fire protection right 63-31586. Water is co-mingled. This pond is also used as part of the diversion works from McFarland Creek right 63-31585. Pond is too small for storage from McFarland Creek source because it can fill in less than 24 hours with the recommended CFS. Storage for irrigation is ok from spring because it will not fill in 24 hours with CFS recommended. The POD is located in the SESWNW, S29, T05N, R02E. Pond is approximately 5' deep and has a surface area of 0.2 acres per GIS and total storage of 0.40 AF. Earth, rock, straw dam. The pond, has co-mingled McFarland Creek water right 63-31585 with overlapping irrigation located in the NWSW, S29, T05N, R02E.

See attached maps and Manning measurements:

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION FIELD REPORT**

Prior to Field Exam

- ☒ Copy of Claim, claim has been signed, sealed, and dated by notary?
- ☒ Check fees paid
- ☐ Well logs (if needed)
- ☒ Copy of topo or NAPP
- ☒ Check of Govt. Lots, if needed, Govt. Plat/Tax lot information
- ☒ Check POD & POU overlap, see below – include overlapping right for exam
- ☐ Evidence of Priority – if none, talk with claimant

CLAIMANT INFORMATION – verify contact information is completeClaim No(s) 63-31247

Owner: _____ Phone No. _____

Current Address: _____

- ☒ No change NAME IS THE SAME
- ☐ NEW OWNER _____
- ☐ No change Address
- ☐ NEW ADDRESS _____
- ☐ How long owned property? _____

Accompanied by: MATT HOWARD – ATTORNEY FOR CLAIMANT**PRIORITY DATE**

- ☐ No change – Complete evidence submitted or not necessary
- ☐ Incomplete – Claimant should be asked when water was first used and submit proof of date.
- ☐ Priority date is acceptable/within mandatory filing dates?

Priority date, per claimant, is: _____

(If priority date, based on your exam, seems questionable, explain below.)

WAITING FOR EVIDENCE – RECEIVED 7-7-03

Source: _____ Tributary to _____

- ☒ No Change – SAME SOURCE
- ☐ Source found is different than claimed: _____

POINT OF DIVERSION

- ☐ No change CLARIFIED TO 10 ACRE TRACT
- ☐ POD found is different than claimed: _____
- ☐ If different, when did POD change? _____

Place of Use			NE				NW				SW				SE				Totals
TWP	RGE	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	2E	29										2.6							2.6
		30										5			0.7				0.7
															5				
																			3.3

Overlap with other water rights: 63-31586 Enlargement Claim & McFarland Cr. Claim 63-31585

Does overlap increase rate of flow, volume, additional acres, different source for same acres? Explain:
 OVERLAP ACRES - COMBINED RIGHTS APPLY - ENLARGEMENT CLAIM
 ALSO COMBINED & ENLARGEMENT RIGHTS APPLY.

Delivery System Narrative: GRAVITY IRRIGATION; ^{SPRING} WATER IS COMBINED with McFarland Cr, basically A PART OF DIVERSION WORKS WITH McFarland CREEK, SPRING IN SMALL POND DUE TO WATER ALLOWS STORAGE USE, HOWEVER TOO SMALL TO PROVIDE STORAGE FOR McFarland Cr. SMALL EARTH RACK FROM DAM ALLOWS GRAVITY DIVERSION INTO COMMON DITCH OF BOTH SOURCES.

Well or Diversion Identification No GPS ID	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge size

FLOW MEASUREMENTS: SEE ATTACHED MANNINGS

Attach appropriate documents

NARRATIVE/REMARKS/COMMENTS

SEE ATTACHED NARRATIVE SHEET
 NO - DIVERSION TO STORAGE; - POND IS ON-STREAM

OVERLAP REVIEW SHEET FOR THE FOLLOWING WR #'s: 63 - 31585 _____

AGENT Hoyt DATE 12-12-02 63-31247 -

Sr W 31-32 Age 10-11

[illegible]

USE/SOURCE	NUMBER	TNS	RNG	SEC	NE				NW				SW				SE				TOTAL	SYSTEM TOTAL
					NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
	63																					
5 th PRINC	31247	5N	2E	29											2.6					2.6		
				30											OVERLAPS					.7		
COMBINED ACRE																						
TOTAL OVERLAP													4.7	1.2	.7	2.7			.7		10	

[illegible][illegible]

E01 Qnt Rmk
E11 POU
N05 N08
C18

E25 Combined with 63-31585
Limit to .2 cfs
Limit to 10 Acres

E25 Combined with Enlargement claim 63-31586
Limit to .07 cfs & .4 AF

AFTER EXAM THE FILE SHOULD CONTAIN:

- ☒ Completed claim checklist
- ☒ Photographs of POD's and POU
- ☒ GPS readings
- ☒ Completed map and or GIS layout showing POD's and POU

DATE EXAM CONDUCTED: 11-15-02

FIELD EXAMINER: Don [unclear]
[unclear]

OVERVIEW MAP
ORTHO QUADS
X8 & X9
FRAZELL/KEYS & BRUSH

SENW

TAX LOT LINES

Manning

NESW
NENESW

Pond

NESW

Manning

Pond

Manning

NENSW

SWNW

SWSWNW

NWNWSW

T05N, R02E

NWSW

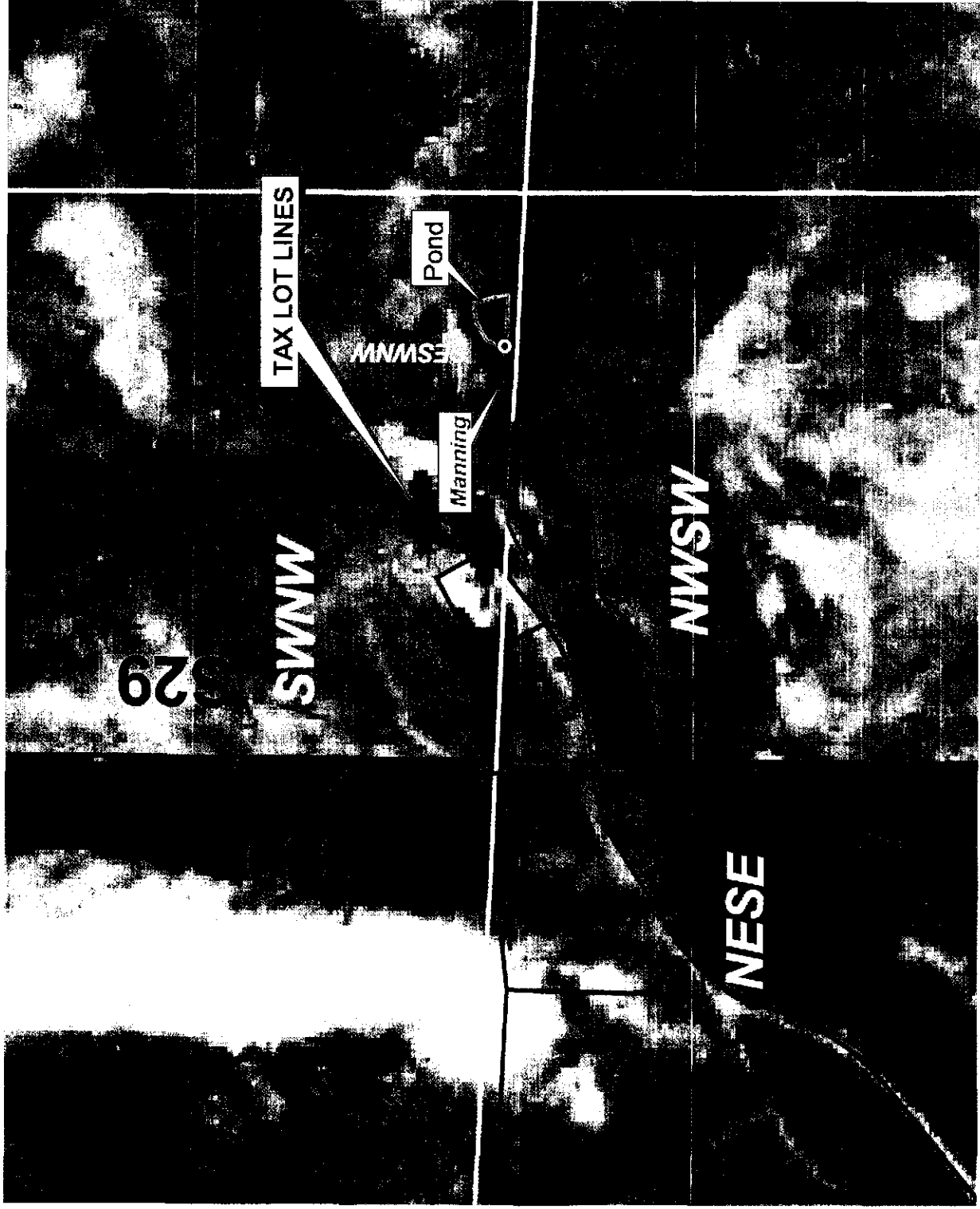
NESE

IDAHO DEPARTMENT OF WATER RESOURCES

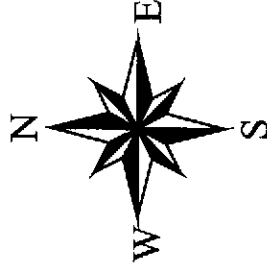
Claims: 63-31247

Date Prepared: 12-12-02

Prepared By: Ron Howerton



T05N, R02E
S29 & S30



⊙ Point of Diversion

☐ Place of use

☐ Section

1/4 1/4

3.3 Acres

0 0.1 0.2 0.3 0.4 0.5 Miles

1987 NAPP

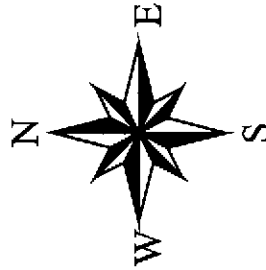
IDAHO DEPARTMENT OF WATER RESOURCES

Claims: 63-31247

Date Prepared: 12-12-02

Prepared By: Ron Howerton

T05N, R02E
S29 & S30

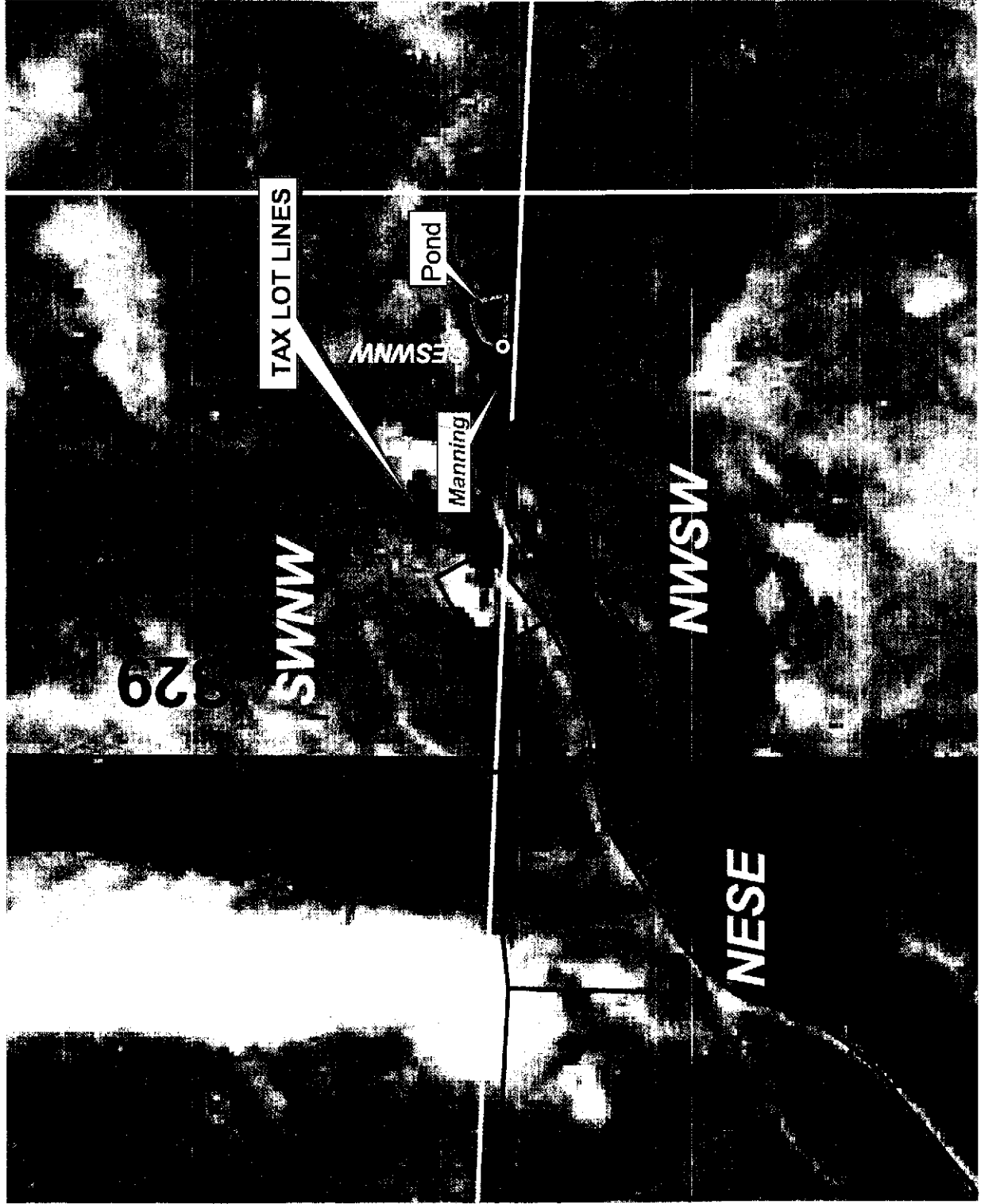


⊙ Point of Diversion

☐ Place of use

☐ Section

1/4 1/4



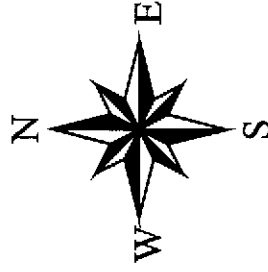
0 0.1 0.2 0.3 0.4 0.5 Miles

1987 NAPP

IDAHO DEPARTMENT OF WATER RESOURCES

Claims: 63-31247
Date Prepared: 12-12-02
Prepared By: Ron Howerton

T05N, R02E
S29 & S30

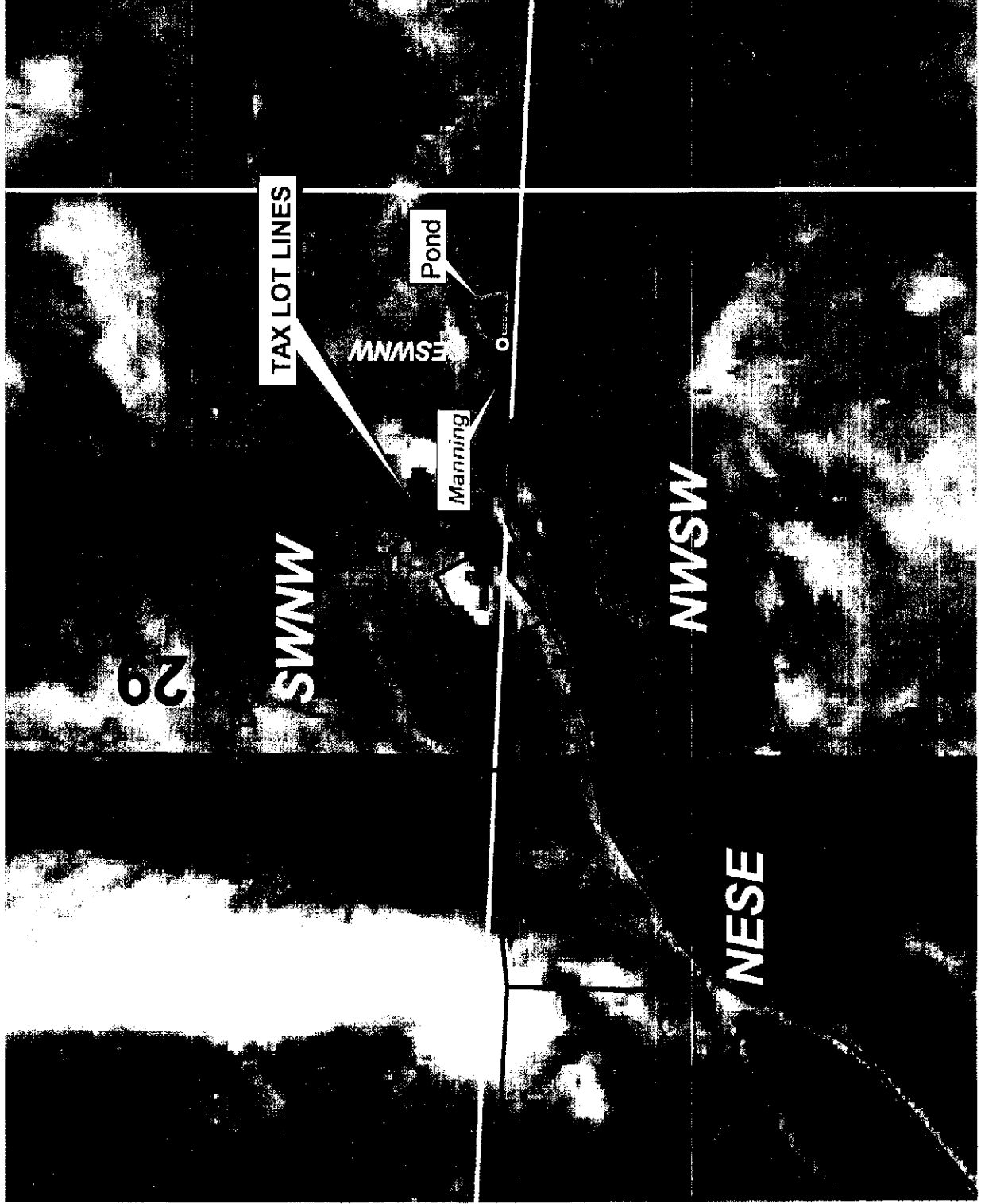


⊙ Point of Diversion

☐ Place of use

☐ Section

1/4 1/4



0 0.1 0.2 0.3 0.4 0.5 Miles

1987 NAPP



Photo 1: 63-31247, Field Exam 11-15-02: This pond is storage for spring irrigation right 63-31247 and enlargement fire protection right 63-31586. Water is co-mingled. This pond is also used as part of the diversion works from McFarland Creek right 63-31585. Pond is too small for storage from McFarland Creek source because it can fill in less than 24 hours with the recommended CFS. Storage for irrigation is ok from spring because it will not fill in 24 hours with CFS recommended. The POD is located in the SESWNW, S29, T05N, R02E. Pond is approximately 5' deep and has a surface area of 0.2 acres per GIS and total storage of 0.40 AF. Earth, rock, straw dam. See attached maps.

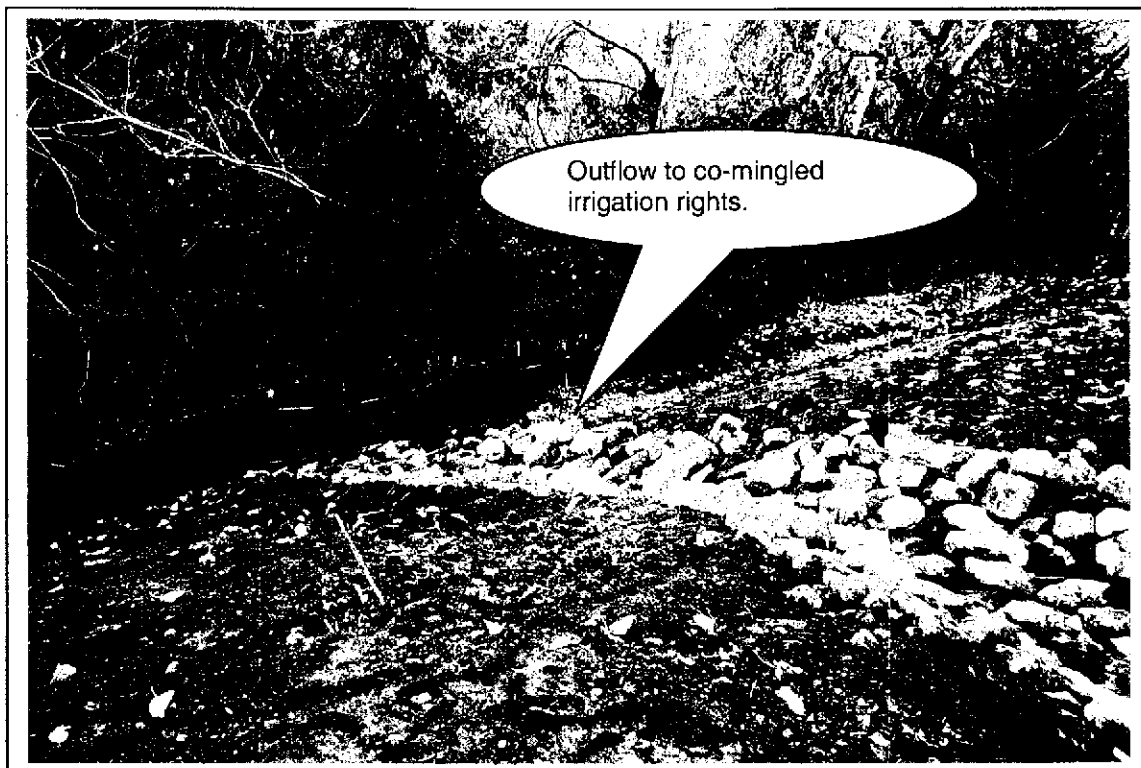


Photo 2: Spring irrigation right 63-31247. Ditch from the pond, which has co-mingled McFarland Creek water right 63-31585 with overlapping irrigation located in the NWSW, S29, T05N, R02E.

MANNING EQUATION CHANNEL CAPACITY RESULTS

11-26-2002

File Number: 63-31247
Claimant: FRAZELL
Channel measured: SPRING
Date of measurement: 11-15-02
Measurement location:

Calculation prepared by: RDH
Comments about the measurement:

The results of the calculation are:

The length of the channel measured is 93 feet.
The upstream and downstream rod readings are 3.24 and 4.68 feet.
The channel cross section is 1.10 ft-sq.
The wetted perimeter is 3.34 feet.
The hydraulic radius is 0.33 feet.
The slope is 0.0155
The roughness coefficient is 0.0250
The flow velocity is 3.537 ft/sec.
The rate of flow is 3.89 cfs.

CROSS SECTION NUMBER 1

For File Number 63-31247 for the SPRING

Number	Rod Reading	Water Depth	Distance
1	0.00	0.00	0.00
2	0.20	0.20	0.50
3	0.60	0.60	1.00
4	0.65	0.65	1.50
5	0.55	0.55	2.00
6	0.20	0.20	2.50
7	0.00	0.00	3.00

The area for this cross section is 1.10 square feet
and the wetted perimeter is 3.34 feet.

MANNING EQUATION - DATA COLLECTION

Claim Number(s): 65-31247 GPS - P01Name of Claimant(s): FRAZELLName of Ditch, Canal, or Stream: SPRING (POND)Date of Measurement: 11-15-02 Data Collected By: RdhMeasurement Location: SW 1/4 NW 1/4 Section 29 T5N R2ECross Section Data Accompanied By
ATTORNEY - MATTBasis: high water mark(☒) maximum capacity(☐) (TOWARD)

Note: minimum of five depth or rod readings; first and last must be equal or zero

depth or rod reading	distance from initial point	depth or rod reading	distance from initial point
1. <u>0</u>	<u>0</u>	7. <u> </u>	<u> </u>
2. <u>.5</u>	<u>.2</u>	8. <u> </u>	<u> </u>
3. <u>1</u>	<u>.6</u>	9. <u> </u>	<u> </u>
4. <u>1.5</u>	<u>.65</u>	10. <u> </u>	<u> </u>
5. <u>2</u>	<u>.55</u>	11. <u> </u>	<u> </u>
6. <u>2.5</u>	<u>.2</u>	12. <u> </u>	<u> </u>
<u>3</u>	<u>0</u>		

Slope Data

Basis: high water mark(☒) channel bottom(☐) land surface(☐)

Level Readings:	upstream	downstream	
upper stadia	<u>3.45</u>	<u>4.94</u>	
center	<u>3.24</u>	<u>4.68</u>	
lower stadia	<u>3.03</u>	<u>4.43</u>	channel length
stadia difference	<u>(0.42</u>	<u>+ 0.51</u>	<u>) x 100 = 93</u>

Note: for elevations, the downstream rod reading must be higher than the upstream rod reading

Comments

Are maps and/or photos attached? yes

This is outflow from pond, spring is in pond. [out flow] is POD from spring LOCATION

MANING'S "n" (roughness coefficient)

BASIC "n" CHANNEL MATERIAL				CHANNEL OBSTRUCTIONS			
earth	.020		(1)	negligible	.000		(1)
rock	.025		(2)	minor	.010		(2)
fine gravel	.024		(3)		.015		(3)
coarse gravel	.028		(4)	appreciable	.020		(4)
					.030		(5)
				severe	.040		(6)
					.050		(7)
					.060		(8)
SURFACE IRREGULARITY				VEGETATION			
smooth	.000		(1)	low	.005		(1)
minor	.005		(2)		.010		(2)
moderate	.010		(3)	medium	.015		(3)
severe	.020		(4)		.020		(4)
					.025		(5)
				high	.030		(6)
					.040		(7)
					.050		(8)
				very high	.060		(9)
					.075		(10)
					.100		(11)
VARIATIONS IN SIZE AND SHAPE OF CROSS-SECTION				DEGREE OF MEANDERING			
gradual	.000		(1)	minor	1.00		(1)
occasional	.005		(2)	appreciable	1.15		(2)
frequent	.010		(3)	severe	1.30		(3)
	.015		(4)				

MATT J. HOWARD
ATTORNEY AT LAW

P. O. BOX 190012
BOISE, IDAHO 83719
TELEPHONE (208) 333-0622
FACSIMILE (208) 333-8409

EMAIL: MHOWARD@FIBERPIPE.NET

October 18, 2002

RECEIVED
OCT 21 2002
WATER RESOURCES
WESTERN REGION

Idaho Department of Water Resources
Western Region Office
2735 Airport Way
Boise, Idaho 83705

RE: Dale Frazell and Kathy Keys – SRBA Notices of Claim (Basin 63)

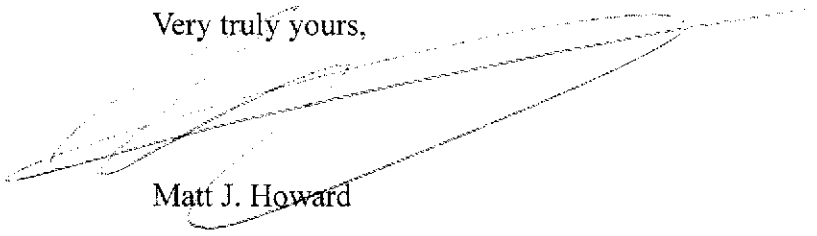
Dear Clerk:

Enclosed for filing are the following:

1. Amended Notice of Claim for 63-31247 (Spring – Irrigation and Stockwater);
2. Notice of Claim (McFarland Creek – Irrigation and Stockwater); and
3. Notice of Claim (Spring – Fire Protection).

Also, enclosed is a check in the amount of \$200 as payment of the filing fees for the above-mentioned claims. I have also enclosed an additional copy of the above-referenced claims that I would ask that you conform and return to me in the enclosed envelope. Please copy this office with all communications concerning the enclosed claims. Thank you.

Very truly yours,



Matt J. Howard

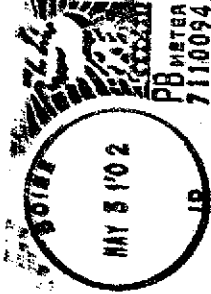
Enclosures
Cc: Client (w/o encls.)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720
Boise, Idaho 83720-0098

Return Service Requested

603-31247

PRESORTED
FIRST CLASS



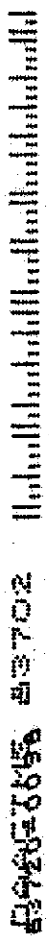
RECEIVED

DALE M FRAZELL
2119 W PLEASANTON AVE
BOISE ID 83702

JUN 07 200
WATER RESOURC
WESTERN REGIO

FRAZ114 03702225 1601 06
RETURN TO SENDER
FRAZELL, DALE M
2119 W PLEASANTON AVE
BOISE ID 83702-3634
RETURN TO SENDER

Sent again 6/10/02



January 14, 2002

State of Idaho
Water Resource Board

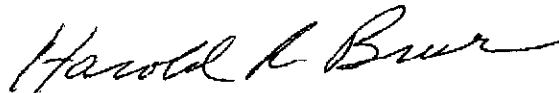
I, Harold R. Brush and Patricia R. Brush have owned the property described in water right number 63-5107 since 1958. We purchased the property with the water rights dating to 1909. We used the water for irrigation and stock water to the present time.

We purchased the 360 acre property from Violet Brown, her mother and stepfather, Walter Alfard who used the water to pasture cattle and raise hay.

In approximately 1920 through the thirties, Mr. Harry Turner owned the property. He had a large fruit orchard, many grapes and a vegetable operation. He sold his fruit and produce in Boise and the mining towns in Boise County via Cartright Road. He employed local people to harvest the crops. His daughter, Mrs. Kenneth Heinderich, who was raised there, told this to me personally. There are still a few fruit trees and many grapes. The water rights were utilized for this operation as well as for stock.

Attached are copies of old deeds to the property stating the water rights.

Thank you,



Harold R. Brush



Patricia R. Brush

Memo to file: 63-31247, 63-31246, 63-12063

Date: July 24, 2001

Sue Bock

Directions: North on Seamans Gulch past entrance to Hidden Springs. Turn right on Dry Creek and left on N. McFarlan Creek.

Shari Mulligan (63-12063) 939-8983, called and spoke with Gary today. She indicated that her upstream neighbors, Frazell (63-31247), were excavating a spring from which they receive water. She wanted someone to come up and see the system before any work was done which might alter the water flow.

During my meeting with Shari we discussed her water right, that it is a license with a 1993 priority date from Mc Farland Creek. Shari indicated that the flow in the creek appeared to be a normal flow (2001 being a very dry year). The creek is fed by several springs to the east of her property. I explained that the SRBA would be conducting field exams in the area in 2002, and what we base our recommendations on. I told her that if she wanted to object to the recommendation for Frazell, she would be welcome to do so and what process she would need to go through. She asserted that there had been no irrigation on the property since the early 1990's. I explained that the SRBA would be looking at irrigation prior to the filing of the claim and that once the claim was filed this stayed forfeiture. Since she was still receiving her water right in full, I told her there was nothing we could do. If Frazell's actions cause the creek to dry up she can complain in the form of a letter.

I went on up to Frazell's property and met with him and his wife. I explained the same issues as I had with Shari. I told them they would want to try to substantiate that irrigation had occurred and evidence of priority. They had a backhoe up there to do excavation work on the pond. This is the same pond that the Brush's had and it has fallen into disrepair. A spring feeds the pond directly. Mr. Frazell indicated that he has no intention to dry up the creek. He needs the pond in place to be able to irrigate most efficiently.

I took a few photos of the pond area and the creek. Due to the dense vegetation, it is difficult to discern many details. These photos are in the 63-31247 file.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 13, 2001

DALE M FRAZELL
KATHLEEN KEYS
2119 W PLEASANTON AVE
BOISE ID 83702

Re: Original Notice of Claim to a Water Right No. 63-05107

Renumbered Notice of Claim to a Water Right No. 63-31247

Dear Claimants:

We have received and processed a Change of Ownership for a portion of the original Claim to a Water Right Number as referenced above. This Change of Ownership required a split of the original claim resulting in renumbering this claim, using a new water right number to represent each split. The new Notice of Claim to a Water Right number for your portion is referenced above and a copy is enclosed.

Your portion of this claim has a specified point of diversion, nature of use and place of use. If you plan on changing the nature of use, place of use, or point of diversion under this right, including adding a new point of diversion, then an Application for Transfer on your portion of this right is required. Please contact this office for further information on the Application for Transfer form. If you do not plan on changing any items on your claim, then no further action is required at this time. You will be notified of any future action taken on this claim.

Please feel free to contact this office if you have any questions concerning your claim or this letter.

Sincerely,

Denise Buffington

Denise Buffington
Office Specialist 1
Adjudication Section
Western Region

DB:db

Enclosure