

RECEIVED

APR 13 2007

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 No. 39576

A. Subcase 35-13601

(Insert water right number
From the Objection Form)

STANDARD FORM 4

MOTION TO FILE:

☒ LATE NOTICE OF CLAIM

☐ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By file a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

√ I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is _____

My address is _____

My phone number is: Work _____ Home _____

I am an attorney representing Deloy Z. Ward, Neal D. Ward, Shelly Ward and Nola J. Ward

My name is Robert L. Harris

My address is PO Box 50130, Idaho Falls, ID 83402-0130

My phone number is 208-523-0620

MOTION TO FILE A LATE NOTICE OF CLAIM

A Motion to File a Late Notice of Claim will require a hearing before the Presiding Judge.

√ I did not file a Notice of Claim to the use of water in the SRBA because:

This Motion to File a Late Notice of Claim relates to an unauthorized water use notice received by the Wards from the Water District 120 Watermaster. Part of the property to which the notice relates was purchased by the claimants in May 1994, and was purchased out of bankruptcy. At that time, it was the claimants' understanding that all of the water rights had been filed on. The particular property purchased by the Wards has been subject to a number of foreclosures, and there was some confusion as to the status of the SRBA Claims on this particular property. Attached to the claim for 35-13601 are FSA Reports from 1984 and 1985 showing that the property at issue was irrigated pasture. These acres should have been included in the original SRBA claims. Now that the claimants have been notified of the problem, they have filed this claim.

- ☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.
- ☐ I am providing a legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you

are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of you Notice of Claim.)

I have attached:

- ✓ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.
- ✓ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ 248.00.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on June 19, 2007 1:30 p.m.

(Insert Date and Time)

at the SRBA Court courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File an Amended Notice of Claim may require a hearing before the presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

- ☐ I must amend my Notice of Claim to the use of water in the SRBA because:

- ☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

I have attached:

- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

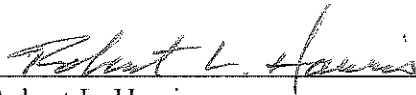
VERIFICATION

State of Idaho

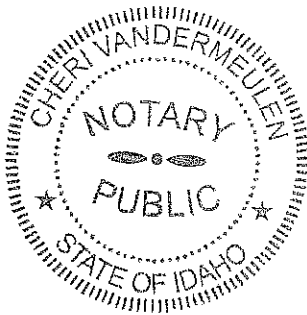
County of Bonneville

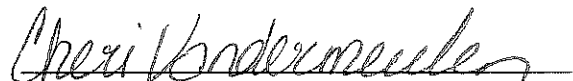
Robert L. Harris, being first duly sworn, upon oath, deposes and says:

That I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.


Robert L. Harris

Subscribed and sworn to before me this 21st day of March, 2007.




Notary Public for Idaho
Residing at: Idaho Falls, Idaho
My Commission expires: July 7, 2009

CERTIFICATE OF MAILING

I certify that on the 21st day of March, 2007, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

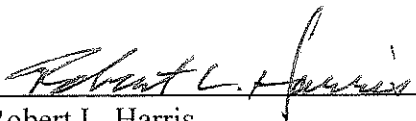
2. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

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

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

3. If you are filing an amend Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.



Robert L. Harris

G:\WPDATA\RLH\ Ward\Motion to File Late Claim.wpd

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 35-13601
Date Received: 3/20/2007
Receipt No:
Received By: TG

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

1. Name of Claimant(s)

DE LOY Z WARD Phone: (208)356-5190
1305 S 2 E
REXBURG ID USA 83440

NEAL D WARD Phone: (208)356-5190
1305 S 2 E
REXBURG ID USA 83440

SHELLY WARD Phone: (208)356-5190
1305 S 2 E
REXBURG ID USA 83440

VIOLA J WARD Phone: (208)356-5190
1305 S 2 E
REXBURG ID USA 83440

2. Date of Priority: 04/01/1984

3. Source: GROUND WATER , GROUND WATER , GROUND WATER Trib. to: , ,

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
01S	34E	26	NE SW NW	BINGHAM	
01S	34E	35	SW SW NE	BINGHAM	
01S	34E	35	SW NW	BINGHAM	

5. Description of diverting works:

All wells are interconnected and are used to irrigate all land.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	10/31	0.42	96

7. Total Quantity Appropriated is:

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
01S	34E	34	NE	NE	IRRIGATION	24
					Section Acres	24
					Total Acres	24

11. Place of use in counties: BINGHAM

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

13. Other Water Rights Used:

14. Remarks:

Right Nos. 35-2314, 35-2441 and 35-13601 are limited to a total combined diversion rate of 10.5 cfs and to a total combined annual diversion volume of 2428 AF.

The rights listed below are limited to the irrigation of a combined total of 631 acres in a single irrigation season. Combined Right Nos.:35-2314, 35-2441, 35-13601.

This right is for an enlargement of 24 acres within the place of use described for this right.

This right is based upon an enlargement of Right Nos. 35-2314 and 35-2441 pursuant to Section 42-1426, Idaho Code.

This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

The following rights are also diverted through point of diversion described above:35-2314, 35-2441.

15. Basis of Claim: Beneficial Use

16. Signature(s)

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

Number of attachments: _____

For Individuals:

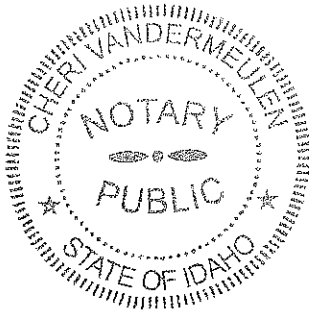
I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Robert L. Harris, Attorney Date: Mar. 21, 2007

Date: _____

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 21st day of March 2007



Cheri Vandermeulen

Notary Public

Residing at Idaho Falls, ID

My commission Expires July 7, 2009

FARM NO. NAME AND ADDRESS FARM LAND CROP LAND
59 Talmage Mickelson/Sons 1368 648.4
rt 4 Box 335 M-6 0-6
00 Blackfoot Id 83221 0-7

OPERATOR NONE
OWNER NONE
PROGRAM YEAR 1985
OTHER 1985

SECTION I. FARM FIELD REPORT (Note: Grey Shaded Area For County Office Use Only)

TRACT NO.	FIELD NO.	CROP OR LAND USE	CROP OR LAND USE SUMMARY					KEY	SH. ARE	DISPOSITION	GROSS ACRES		DEDUCTIONS		NET ACRES	INIT DATE
			Wheat	Barley	Oats	Corn	ACR	SUGAR BEETS	POTATO	PASTURE	8	9	10	11	12	
0-71	3	full	60.0													
0-6	4	root- grub														
59c	7	spring grain	72.1													
1494	8	with grain														
	9	Acres					12.0									
	10	Acres					7.0									
	11	"					6.0									
	12	"					15.2									
	13	"					16.9									
4113	14	Acres														
4113	15	Acres														
4113	16	Acres														
4113	17	Acres														
4113	18	Acres														
4113	19	Acres														
4113	20	Acres														
4113	21	Acres														
4113	22	Acres														
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4113	37	Acres														
4113	38	Acres														
4113	39	Acres														
4113	40	Acres														
4113	41	Acres														
4113	42	Acres														
4113	43	Acres														
4113	44	Acres														
4113	45	Acres														
4113	46	Acres														
4113	47	Acres														
4113	48	Acres														
4113	49	Acres														
4113	50	Acres														
4113	51	Acres														
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4113	97	Acres														
4113	98	Acres														
4113	99	Acres														
4113	100	Acres														

SECTION II - OPERATOR'S CERTIFICATION

I certify to the best of my knowledge and belief that the acreages of crops and land uses listed herein are true and correct. I understand that an inaccurate acreage report could result in a payment reduction or loss of program benefits and/or reduction in future allotments and quotas when applicable.

C. OPERATOR'S SIGNATURE DATE

SECTION 1 - FARM FIELD REPORT (Continued)

Grey Area for County Office Use Only

TRACT NO.	FIELD NO.	CROP OR LAND USE	CROP OR LAND USE SUMMARY										KEY	SH. ARE	DISPOSITION	GROSS ACRES	DEDUCTIONS		NET ACRES	INIT. & DATE	
			1	2	3	4	5	6	7	8	9	10					11	12			
4718	1	pasture																			
4718	2	pasture																			
4718	3	pasture																			
4718	4	pasture																			
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4718	99	pasture																			
4718	100	pasture																			

SKETCHES OR REMARKS

PM. 6/11/85

Land designated for ACR acreage meets the cropping requirements or other eligibility requirements as applicable.

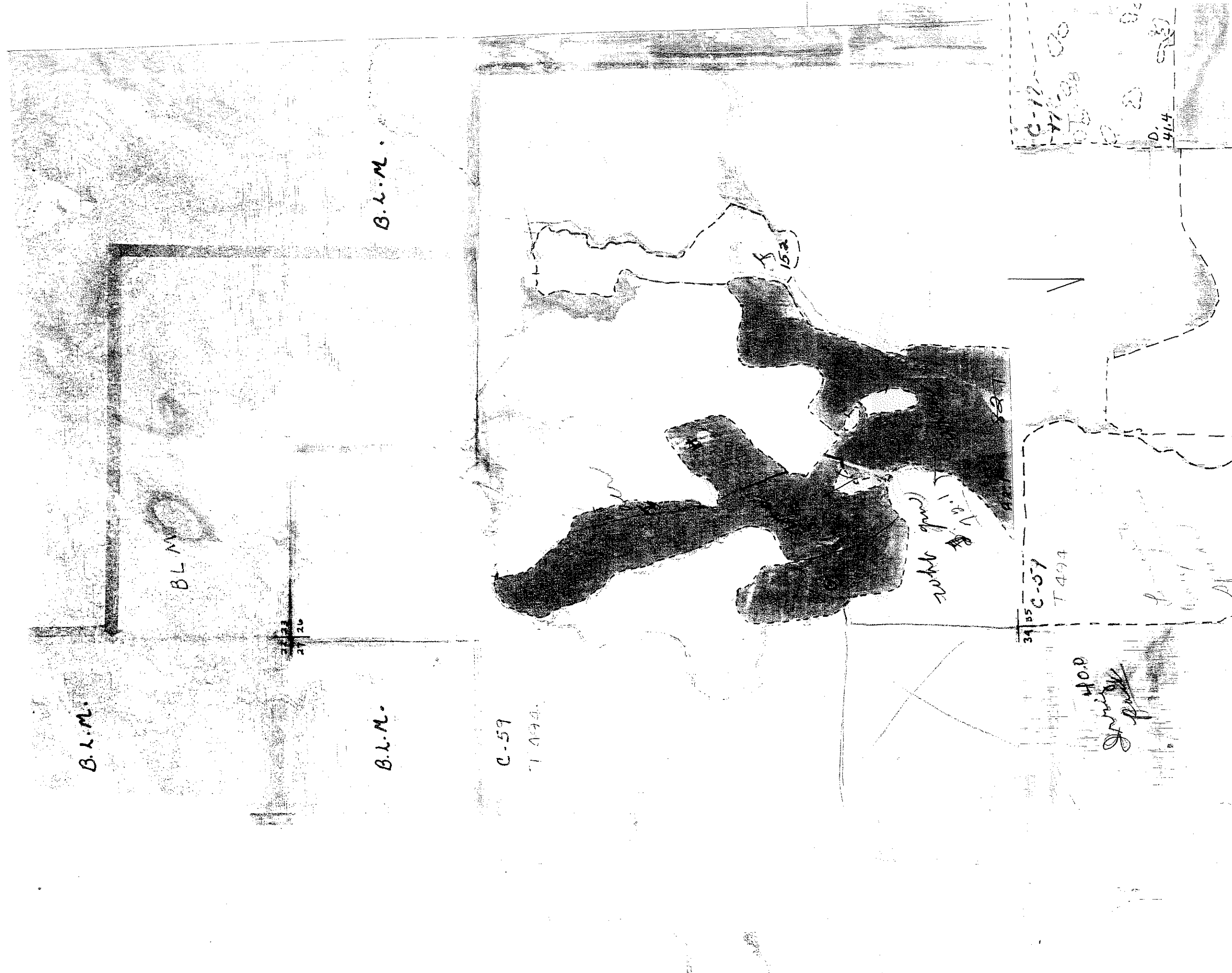
101



1985 Crop Report Photo

Sheela Reghey 2-14-07

USDA FARM SERVICE AGENCY
725 JENSEN GROVE DR. STE. #2
BLACKFOOT, ID 83221



ASCS-578
(6-7-78)

REPORT OF ACREAGE

USDA - ASCS

NOTE: Sec. 1374a, 7 U.S.C., authorizes collection of the following data. The data will be used to determine eligibility for assistance. Furnishing this data is voluntary; however, without it assistance cannot be provided. The data may be furnished to any agency responsible for enforcing the Act.

FARM NO.	NAME AND ADDRESS	FARM- LAND NO.	CROP- LAND NO.	OPERATOR		OTHER INTERESTED PRODUCERS NAME AND ADDRESS	CROP	ASSIGNMENT	JOB
				OWNER	OTHER				
59	Talmage Mickelson/Sons	1908	84	NONE					
C	rt 4 Box 335	M-6	0-6	NONE					
A	00 Blackfoot Id	83221	0-7	NONE					
0									
R	82 6031539 8								
Sec. 22, 23, 26, 27, 34 TIS 234E				PROGRAM YEAR					
Sec. 21, 22, 27, 28 TIS 234E				1984					
Sec. 29 TIS 234E				WLC					

SECTION I - FARM FIELD REPORT (NOTE: Grey Shaded Area to be Filled in by Reporter ONLY.)

TRACT NO.	FIELD NO.	CROP OR LAND USE	WHT	Bely	OATS	COGN	ACR	POT	KEY SHARE	DISPOSITION	METHOD	GROSS ACRES	DEDUCTIONS IDENT./MEAS.	ACRES	NET ACRES	INITIAL & DATE
471 B	1															
N-6 A	2	Past 162														
B		Bush ground														
C		Bush ground														
103 C		OWN														
Ole A		Hay land														
		July 83														
B		Acres of field														
		new field														
C		Hay land														
		July 83														
D		Acres of field														
		Acres 83														
E		Hay land														
		new field														
F		Hay land														
TOTAL OPERATOR REPORT			123.3	61.5	0	0	75.9	0								
TOTAL REPORTER'S REPORT																

SECTION II - OPERATOR'S CERTIFICATION

I certify to the best of my knowledge and belief that the acreages of crops and land uses listed herein are true and correct. Further, my signature constitutes authority for ASCS

OPERATOR'S SIGNATURE	DATE
Operator's Signature	DATE

BINGHAM COUNTY
MAR 01 2007
FSA OFFICE

SECTION 1 - FARM FIELD REPORT (Continued) (Gray Area to be Filled in by Reporter ONLY.)

TRACT NO.	FIELD NO.	CROP OR LAND USE	CROP OR LAND USE SUMMARY				KEY	SHARE	DISPOSITION	METHOD	GROSS ACRES	DEDUCTIONS		NET ACRES	INITIAL DATE
			WHT	RR	CRP	Other						IDENTITY & MEAS.	ACRES		
1	2	3													
	G	WHT Fertilizer	45.2												
	H	Hay - Corn		61.5											
	I	Brushland													
	J	Pasture													
	K	WHT													
	L	Hay - R													
	M	WHT - Fertilizer	138.6												
	N	WHT													
	O	WHT - R													
	P	WHT													

SKETCHES OR REMARKS

U.S. GOVERNMENT PRINTING OFFICE: 1983-607-313:1058

Land designated for Act Meets 2 year cropping requirements
 in other eligibility requirements as applicable

1983-1984

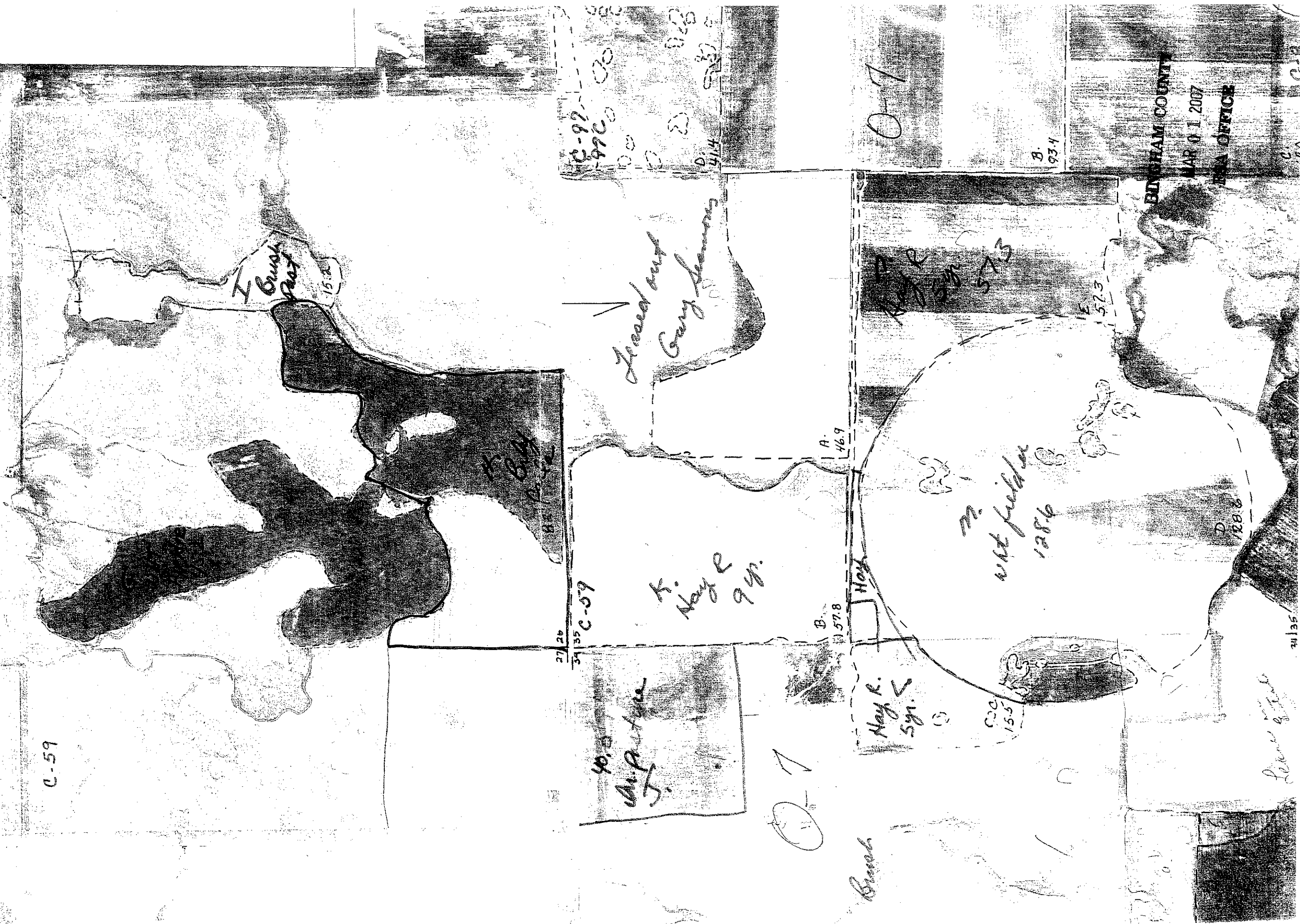
23 23
27 26

B.L.N.

O-6

B.L.M.

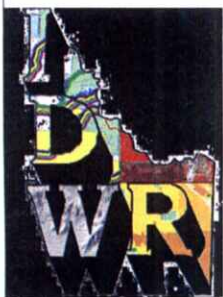
C-59



EDMUND COUNTY

MAR 01 2007

ESA OFFICE



Idaho Department of Water Resources

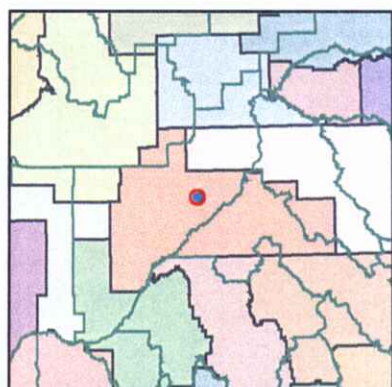
SRBA Claim:

35-13601

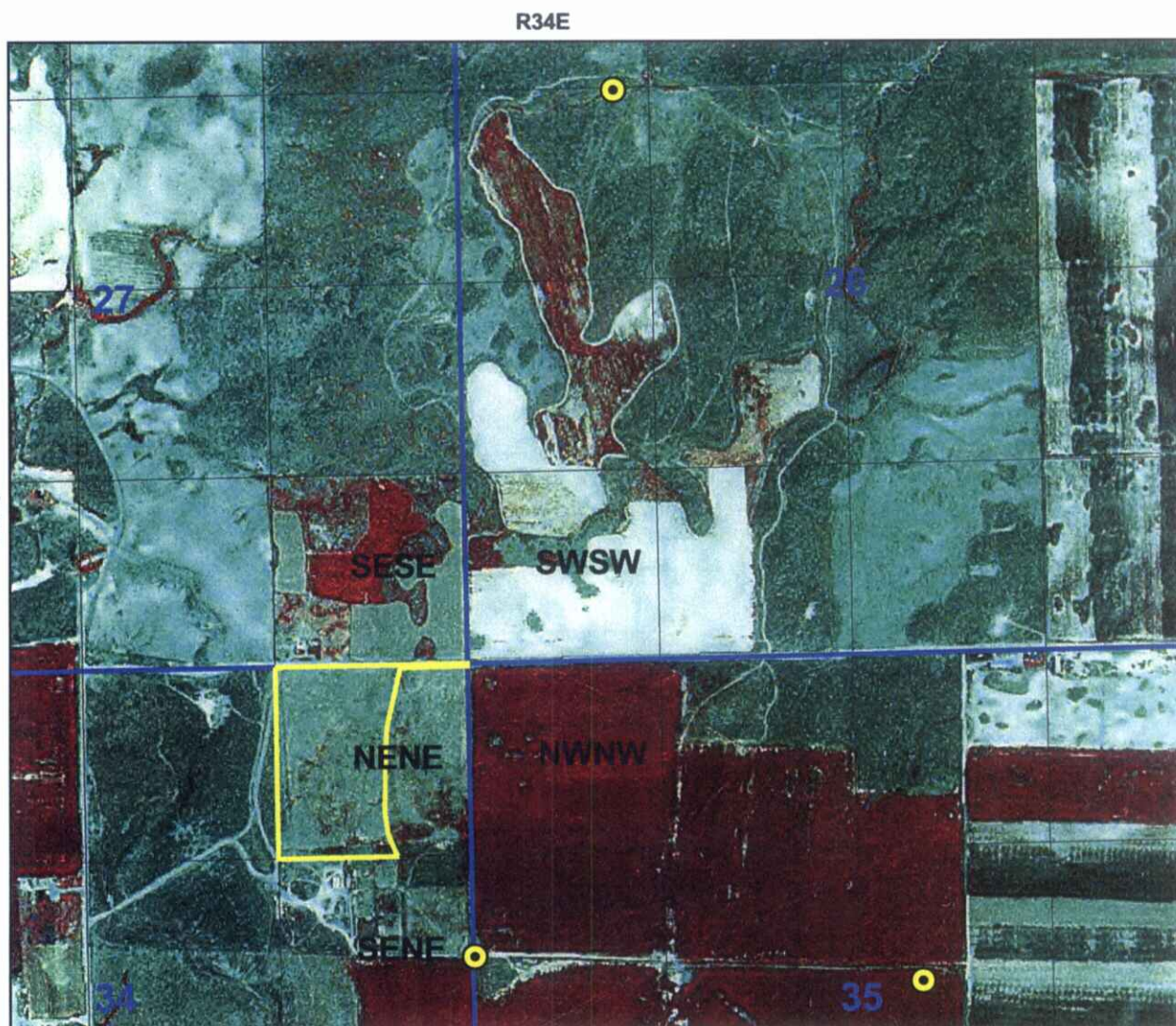
(Irrigation)

Legend

-  Point of Diversion
-  Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters



Bingham County
IDWR Basin 35



Prepared by T. Galbraith
On Tuesday, March 20, 2007
1987/88 Aerial Photography