

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 37-48B
Date Received: 11/1/1988
Receipt No: C003134
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

ELIZABETH K GRAY Phone: (208)726-5329
PO BOX 2162
KETCHUM ID 83340

2. Date of Priority: 05/01/1887

3. Source: BIG WOOD RIVER Trib. to: MALAD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
04N	18E	30	NE SE NE	BLAINE	

5. Description of diverting works:

COMSTOCK #10 DIVERSION. CONCRETE DIVERSION DAM.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	11/15	0.5	

7. Total Quantity Appropriated is:

0.5 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
04N	18E	29	SW	SW	IRRIGATION	1.3
Section Acres						1.3
Total Acres						1.3

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:

14. Remarks:

THIS RIGHT IS A SPLIT OF A3700048.

Irrigation use under Right No. 37-00048B shall not exceed the diversion rate of 0.04 cfs and 4.6 afa at the field headgate for the irrigation of 1.3 acres.

The remainder of Right No. 37-00048B, 0.46 cfs, is for conveyance loss to the extent necessary and any remaining water shall be left in the river.

Place of use is located within Lot 1, Block 1, Cliffside Subdivision.

Use of water under this water right will be regulated by the watermaster of State Water District No. &DISTRICT.

The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

This right when combined with all other rights shall provide no more than .03 cfs per acre nor more than 3.5 afa per acre for irrigation of the lands above.

Approval of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.

The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

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

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

15. Basis of Claim: Decreed

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

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

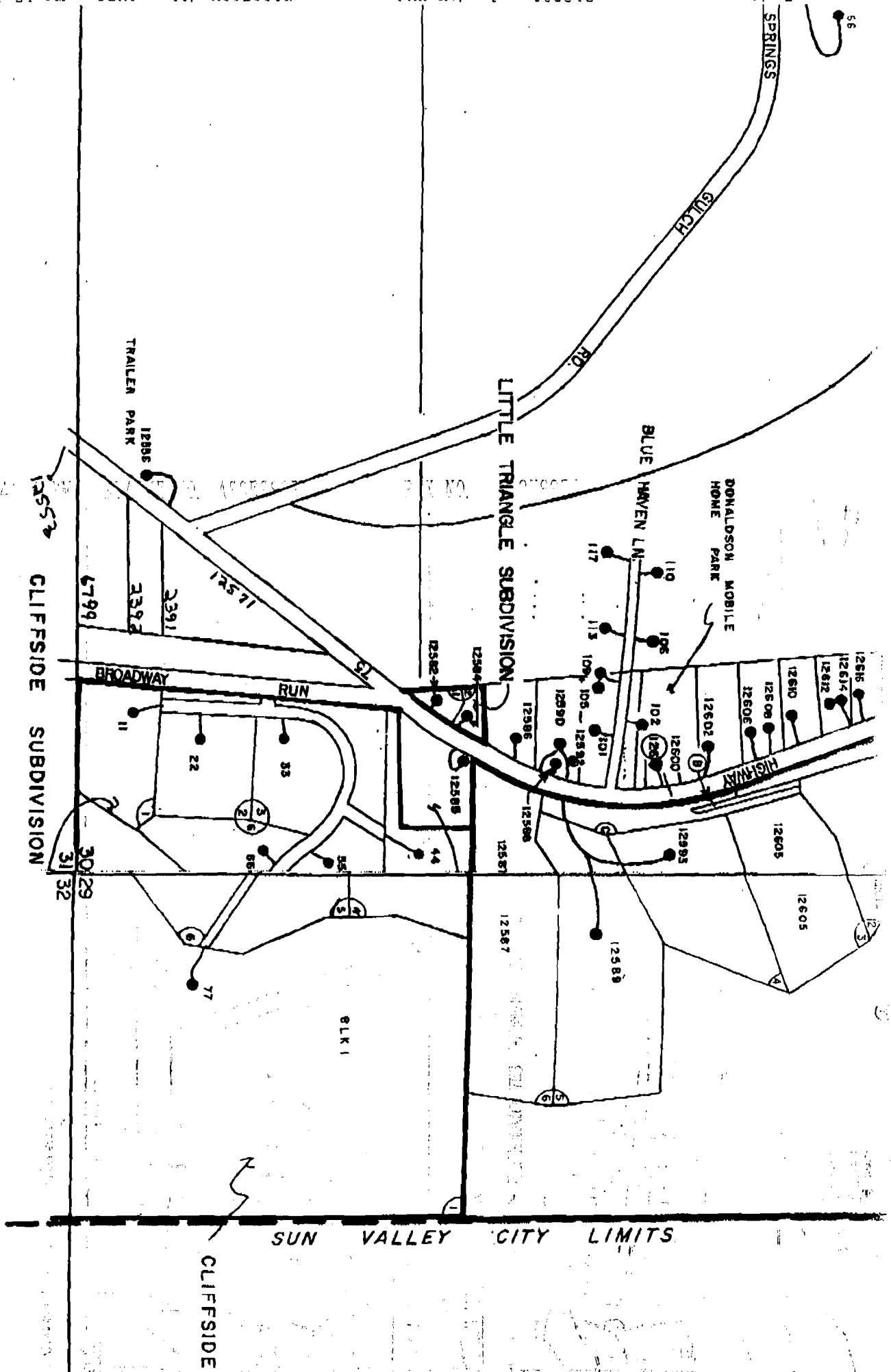
RECEIVED

AUG 22 1997

Department of Water Resources
Southern Region

1. Water Right Number(s) 37-00048B
 Adjudication Claim Number(s) A37-00048B
2. The following REQUIRED information must be submitted with this form.
 - A. A copy of the most recent DEED, TITLE, POLICY, CONTRACT OF SALE, or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.
 AND
 - B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually on file with the county.)
 OR
 - C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Services Agency (formerly ASCS) AERIAL PHOTO with irrigated acre outlined and point(s) of diversion clearly marked.
3. Name and Address of Former John H. McDonald and Lois F. McDonald
 Owner/Claimants
PO Box 1, Ketchum, ID 83340
4. New Owner/Claimant(s) Elizabeth K. Gray
 Name connector (check one): [] AND, [] OR, [] AND/OR
 New Mailing Address P. O. Box 2162
 City, State and ZIP Code Ketchum, ID 83340
 New Telephone Number (208) 726 - 5997
5. Date you acquired the property July 21, 1997
6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water rights(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.
 Number of acres actually irrigated _____ Number and type of stock _____
 Diversion rate in CFS _____ Number of homes _____ Other uses _____
 If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.
7. Signature of New Elizabeth K. Gray Date 8/11/97
 Owner/Claimant(s) ELIZABETH K. GRAY
 Date _____
 (Corporations or other organizations must submit a list of directors/officers demonstrating authority to sign form.)
8. For Snake River Basin Adjudication Claims: If you are represented by an attorney and you want IDWR to correspond directly with your attorney for all matters related to your claims, please attach a Notice of Appearance completed by your attorney.

S. 30, T. 4 N., R. 18 E.



RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

James P. Speck, Esq.
HOGUE, SPECK & AANESTAD
P. O. Box 987
Ketchum, Idaho 83340

(space above line for Recorder's use)

RECEIVED

AUG 22 1997

Department of Water Resources
Southern Region

QUITCLAIM DEED

FOR VALUE RECEIVED, JOHN H. McDONALD and LOIS F. McDONALD, husband and wife, whose address is P. O. Box 1, Ketchum, ID 83340 (hereinafter referred to as the "Grantor"), does hereby convey, release, remise and forever quitclaim unto PETER GRAY and ELIZABETH K. GRAY, husband and wife, whose address is P. O. Box 2162, Ketchum, ID 83340 (hereinafter referred to as the "Grantee"), any and all interest Grantor may have in the following described water right, appurtenant to premises, situated in Blaine County, Idaho, to wit:

0.5 cfs of the Big Wood River with a May 1, 1887 priority date pursuant to Idaho Water Right No. 37-00048 and Claim No. A37-00048B in In Re the General Adjudication of Rights to the Use of Water From the Snake River Basin Water System, Twin Falls District Court Case No. 39576.

TOGETHER WITH all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anyway appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular the said premises, together with the appurtenances, unto the Grantee, and to Grantee's heirs and assigns forever.

DATED this 16 day of Sept, 1996.

GRANTOR:

DATE: 09-16-96


JOHN H. McDONALD

DATE: 9-17-96

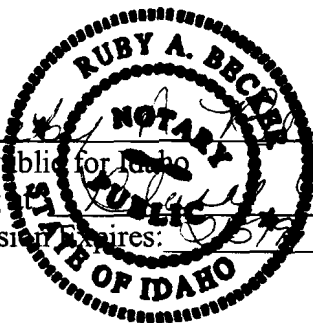
Lois F. McDonald
LOIS F. McDONALD

STATE OF IDAHO)
) ss.
County of Blaine)

On this 17th day of September, 1996, before me the undersigned notary public in and for said state, personally appeared JOHN H. McDONALD and LOIS F. McDONALD, known or identified to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Ruby A. Becker
Notary Public for Idaho
Residing at 1111 1/2 N. 1st St. Blaine
Commission Expires: 9/17/97



RECEIVED

AUG 22 1997

Department of Water Resources
Southern Region

Claimants Names:
Elizabeth K. Gray

Attorney Name & Address:
James P. Speck
Hogue, Speck & Aanestad, P.A.
120 East Avenue
P. O. Box 987
Ketchum, Idaho 93340
(208) 726-4421
FAX: (208) 726-0752

**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

)
)
)
)
)
)

NOTICE OF APPEARANCE

DESCRIPTIVE SUMMARY

This is a notice of appearance by counsel on behalf of the new claimant and purchaser of the water rights identified below.

NOTICE OF APPEARANCE

The law firm of Hogue, Speck & Aanestad hereby enters its appearance in the action on behalf of Claimant Elizabeth K. Gray, for the following water right claim which is not the subject of a subcase: A37-00048B.

DATED this 19th day of August, 1997.

HOGUE, SPECK & AANESTAD, P.A.

By 
James P. Speck

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of August, 1997, I served a true and correct copy of the foregoing NOTICE OF APPEARANCE on the following persons in the manner designated below:

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

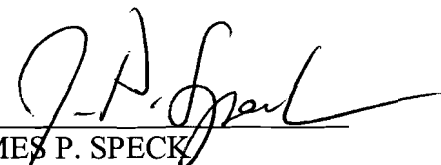
- ☒ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid

The United States Department of Justice
Environmental and Natural Resources
Division
550 West Fort Street
Box 33
Boise, ID 83724

- ☒ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid

Idaho Department of Water Resources
Document Depository
P.O. Box 83720
Boise, ID 83720-0098

- ☒ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid


JAMES P. SPECK

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION
ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
TRACY DUNLAP
MICHELE C. MESKE

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340
(208) 726-4421
FAX (208) 726-0752

HAILEY OFFICE:
16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567
FAX (208) 788-4230

August 21, 1997

RECEIVED

AUG 22 1997

Department of Water Resources
Southern Region

Alan Meritt
Idaho Department of Water Resources
1341 Fillmore
Suite 200
Twin Falls, Idaho 83301-3380

Re: Elizabeth K. Gray - Water Right No. 37-00048B

Dear Alan:

Enclosed you will find a Notice of Change of Water Right Ownership for Elizabeth K. Gray, the new owner of the above-referenced water right, together with a Notice of Appearance from my firm to appear on her behalf for that water right in the SRBA. Please file these documents and return to me a computer print out showing the change of ownership for the claim filed in the SRBA for this water right.

Please call me if you have any questions. Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD, P.A.


James P. Speck

JPS:rsd
enclosure
c: Peter Gray, w/encl.

53⁰⁰

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: A37-00048B

Date Received:

Receipt No: C003134

Received By: _____

RECEIVED

OCT 27 1988

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

Department of Water Resources

1. Name: JOHN H. MC DONALD
Address: BOX 1
KETCHUM, ID

208-726-5135

83340

2. Date of Priority: MAY 01, 1887

3. Source: BIG WOOD RIVER Trib. to: MALAD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04N	18E	30	NE	SE	NE		BLAINE

5. Description of diverting works:
COMSTOCK #10 DIVERSION. CONCRETE DIVERSION DAM.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.500		

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

8. Total consumptive use is 7.5 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE.

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	18E	31	SW	NE		IRR	2.7

Section Acres 2.7

A37-00048B

Page 1

Date: 10/20/88

COPY

MICROFILMED
FEB 22 1992

10. Place of Use: Continued

Total Acres 2.7

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:
A3711812

14. Remarks:
THIS RIGHT IS A SPLIT OF A3700048.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date: 12/13/1909

S. C. FROST, ET. AL.

Decree Plaintiff

vs

ALTURAS WATER COMPANY, ET. AL.

Decree Defendant

COPY

MICROFILMED
FEB 22 1993

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: _____

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): John A. McDonald Date: 10-20-88

Date: _____

State of Idaho)
County of Blaine) SS.

Subscribed and sworn (or affirmed) before me this 20 day
of Oct 19 88

John Dal Carlson
Notary Public

Seal

Residing at Blaine Id
My Commission Expires 6/2/94

COPY

MICROFILMED
FEB 22 1993

PLAT SHOWING

CLEAR CREEK LIGHT INDUSTRIAL PARK

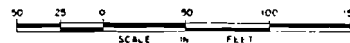
LOCATED IN THE SW 1/4, NE 1/4, SECTION 31, T. 4 N., R. 18 E., B.M.

BLAINE COUNTY, IDAHO

JANUARY 1986

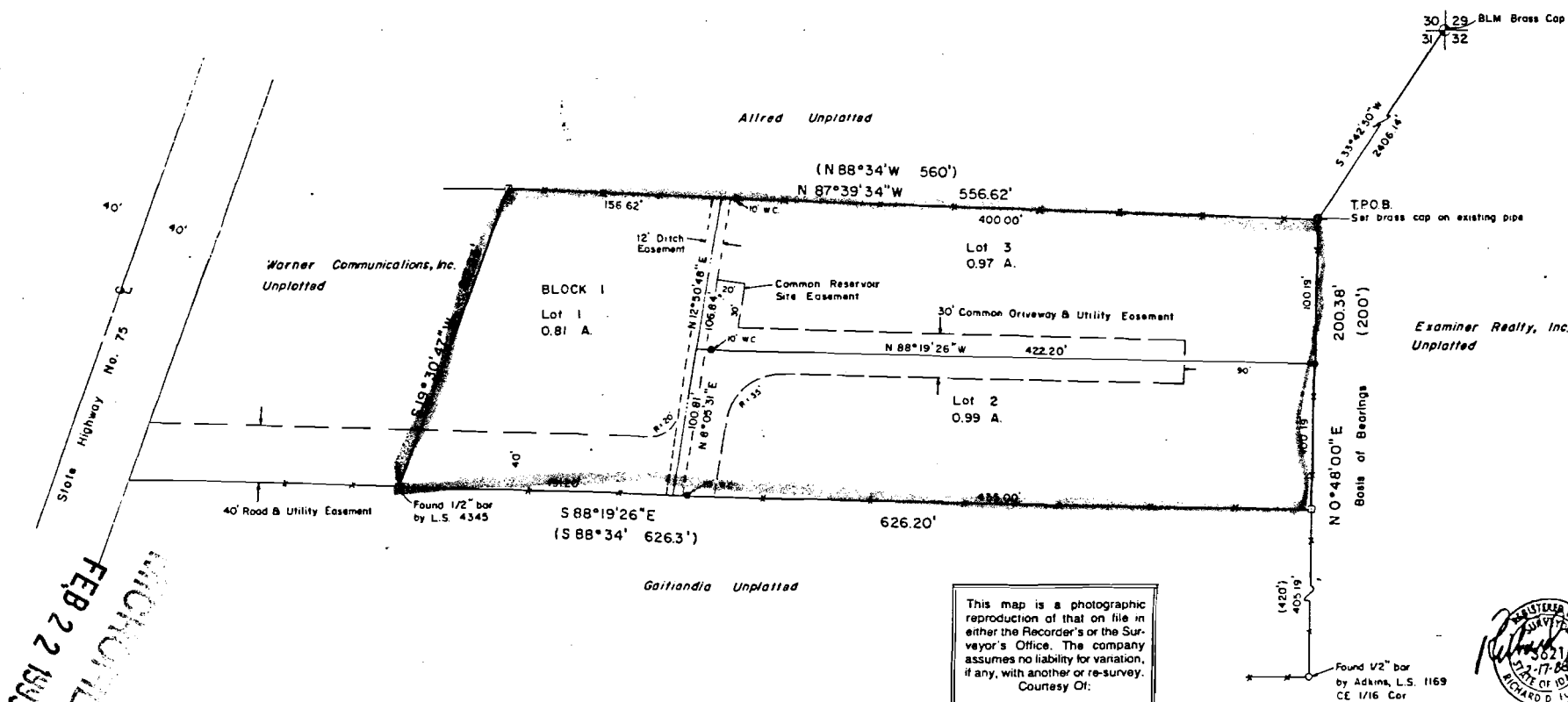
LEGEND

- ⊕ Brass Cap
- ⊙ Found Iron Pipe
- ⊠ Found Square Iron Monument
- Found 1/2" Bar
- Set 1/2" Bar Copped L.S. 3621
- x— Fence Line



NOTES

1. Landscaping of the north and east lot lines of the parcel is a responsibility of the developer
2. Utilities shall be underground.
3. Before a lot may be sold, the developer must install paved access roads and domestic water to each lot.
4. Before a building permit can be issued, the developer must provide for fire protection, a water storage tank and water piping to each lot.
5. The Planning and Zoning Commission shall review any development plans for the lots.
6. A 10' Public Utility Easement is centered on interior lot lines and adjacent to exterior lot lines.



This map is a photographic reproduction of that on file in either the Recorder's or the Surveyor's Office. The company assumes no liability for variation, if any, with another or re-survey.

Courtesy Of:



CLEAR CREEK LIGHT INDUSTRIAL &
GALENA ENGINEERING, INC
KETCHUM, IDAHO
SHEET 1 OF 2

Dept. of Water Resources
Adjudication Bureau
P. O. Box 83720
Boise, ID 83720-0098

ADDRESS SERVICE
REQUESTED

RECEIVED

DEC 04 2006

DEPARTMENT OF
WATER RESOURCES

FIRST CLASS
02 1A
0004310839
NOV 22 2006
\$00.87
MAILED FROM ZIP CODE 83700

Not this address

**NOT DELIVERABLE
AS ADDRESSED,
UNABLE TO FORWARD**

ELIZABETH K GRAY
PO BOX 2162
KETCHUM ID 83340

37-48B

Bx18

SCANNED
Dec 2, 2007

09/28/2006

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

RIGHT NUMBER: 37-48B

NAME AND ADDRESS: ELIZABETH K GRAY
PO BOX 2162
KETCHUM ID 83340

SOURCE: BIG WOOD RIVER

TRIBUTARY: MALAD RIVER

QUANTITY: 0.500 CFS

Irrigation use under Right No. 37-00048B shall not exceed the diversion rate of 0.04 cfs and 4.6 afa at the field headgate for the irrigation of 1.3 acres. The remainder of Right No. 37-00048B, 0.46 cfs, is for conveyance loss to the extent necessary and any remaining water shall be left in the river.

This right when combined with all other rights shall provide no more than .03 cfs per acre nor more than 3.5 afa per acre for irrigation of the lands above.

PRIORITY DATE: 05/01/1887

POINT OF DIVERSION:

T04N R18E S30 SENE Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 11/15	0.500 CFS

PLACE OF USE: IRRIGATION Within BLAINE County

T04N R18E S29 SWSW 1.30

1.3 ACRES TOTAL

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

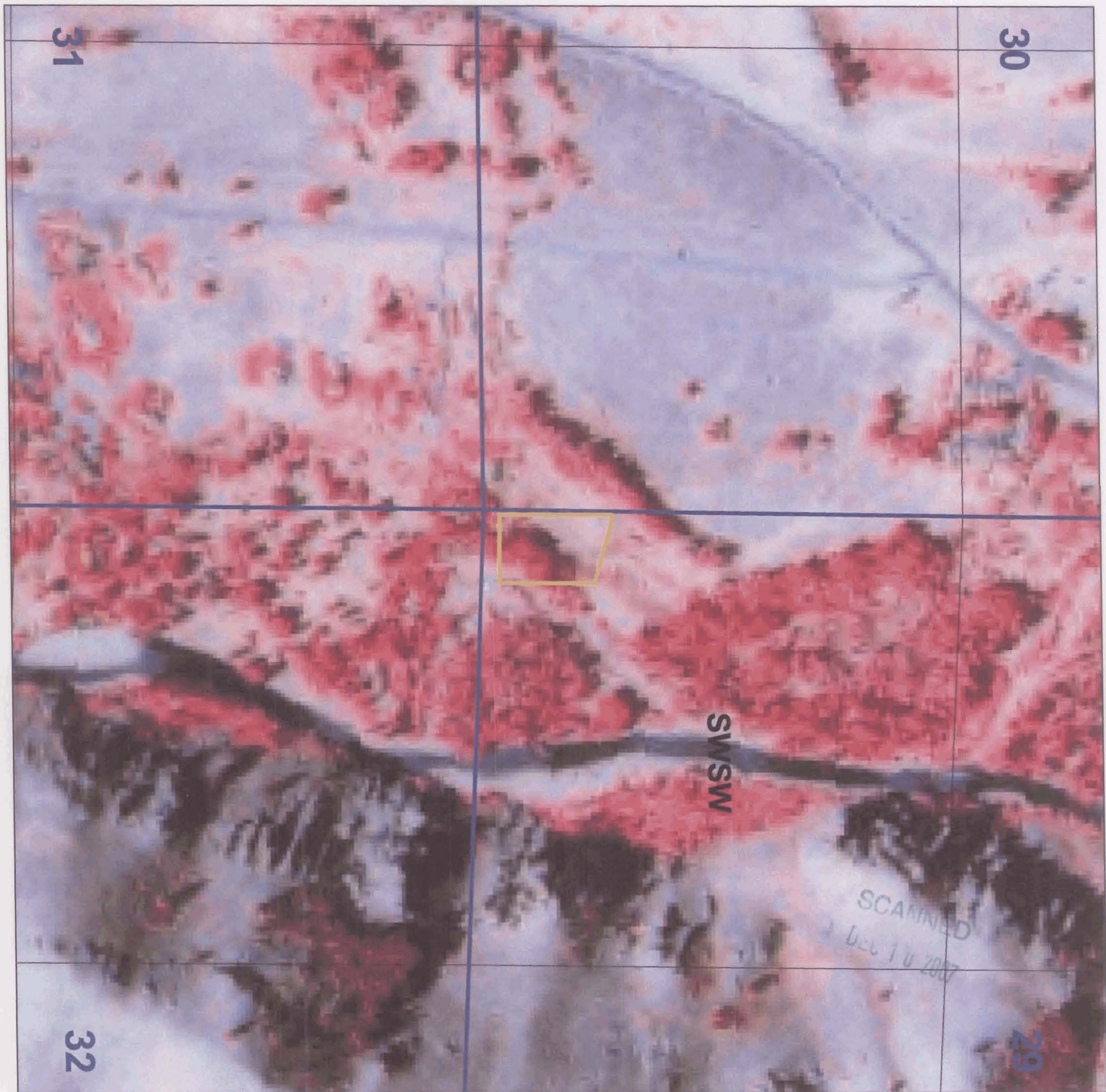
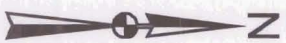
THIS RIGHT IS A SPLIT OF A3700048.

Use of water under this water right will be regulated by the watermaster of State Water District No. 37.

Place of use is located within Lot 1, Block 1, Cliffside Subdivision.

Approval of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.

37-48B



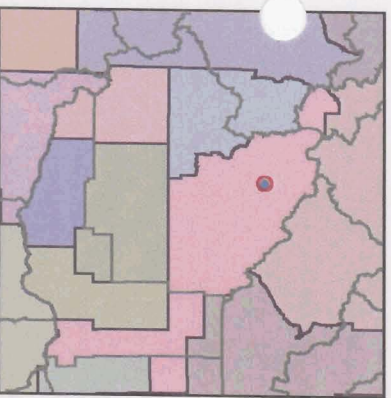
Idaho Department of Water Resources



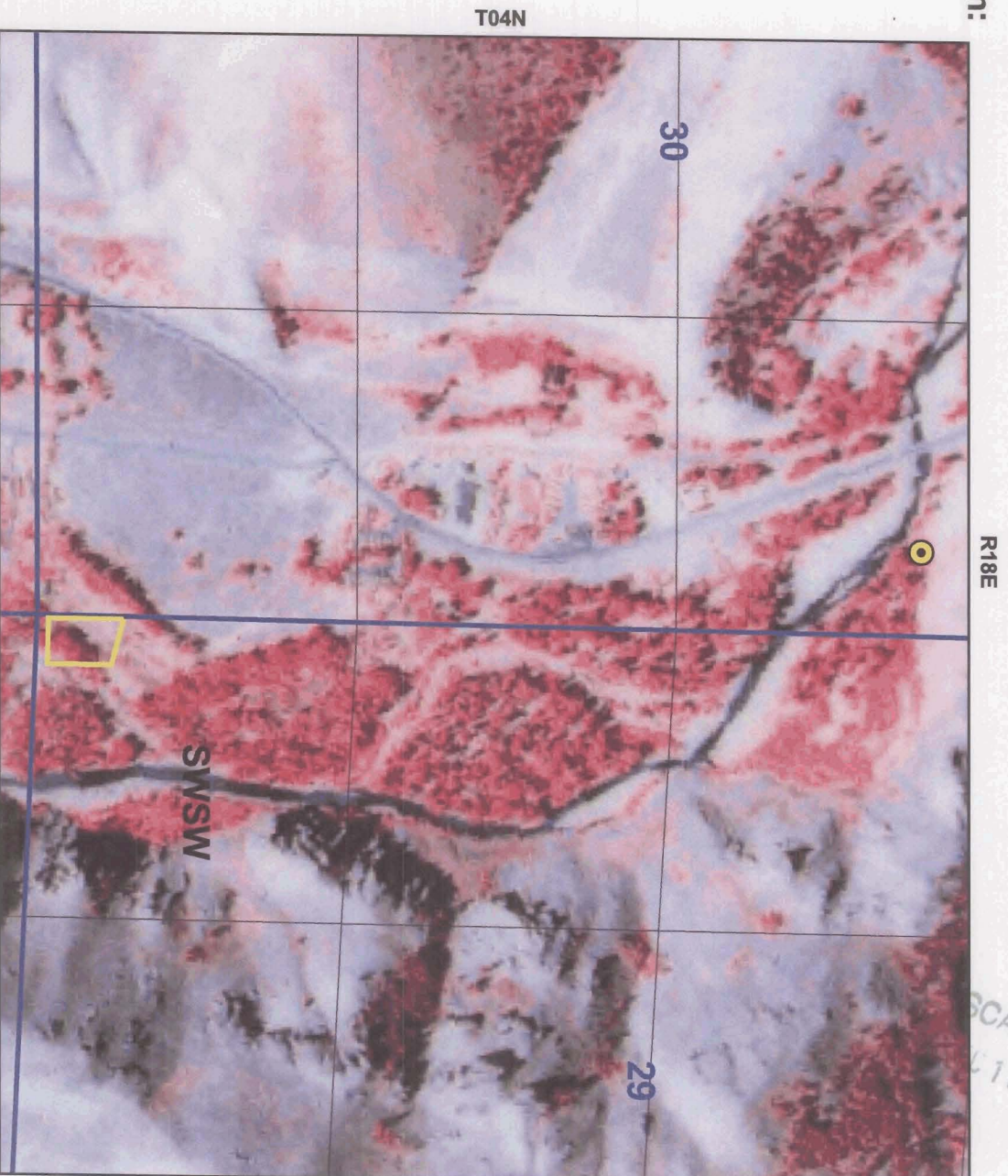
SRBA Recommendation:
37-48B
 (Irrigation)

Legend

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



Blaine County
 IDWR Basin 37

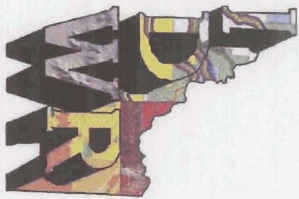


T04N



Prepared by E. NORQUES
 On Thursday, September 28, 2006
 1987/88 Aerial Photography

SCANNED
 11/1/2007



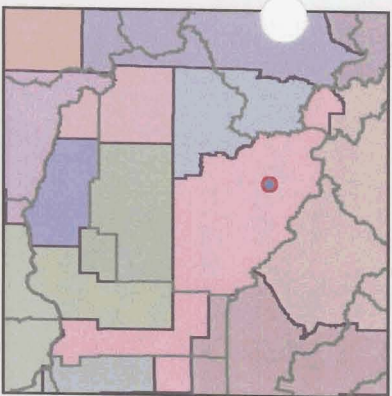
Idaho Department of Water Resources

SRBA Recommendation:

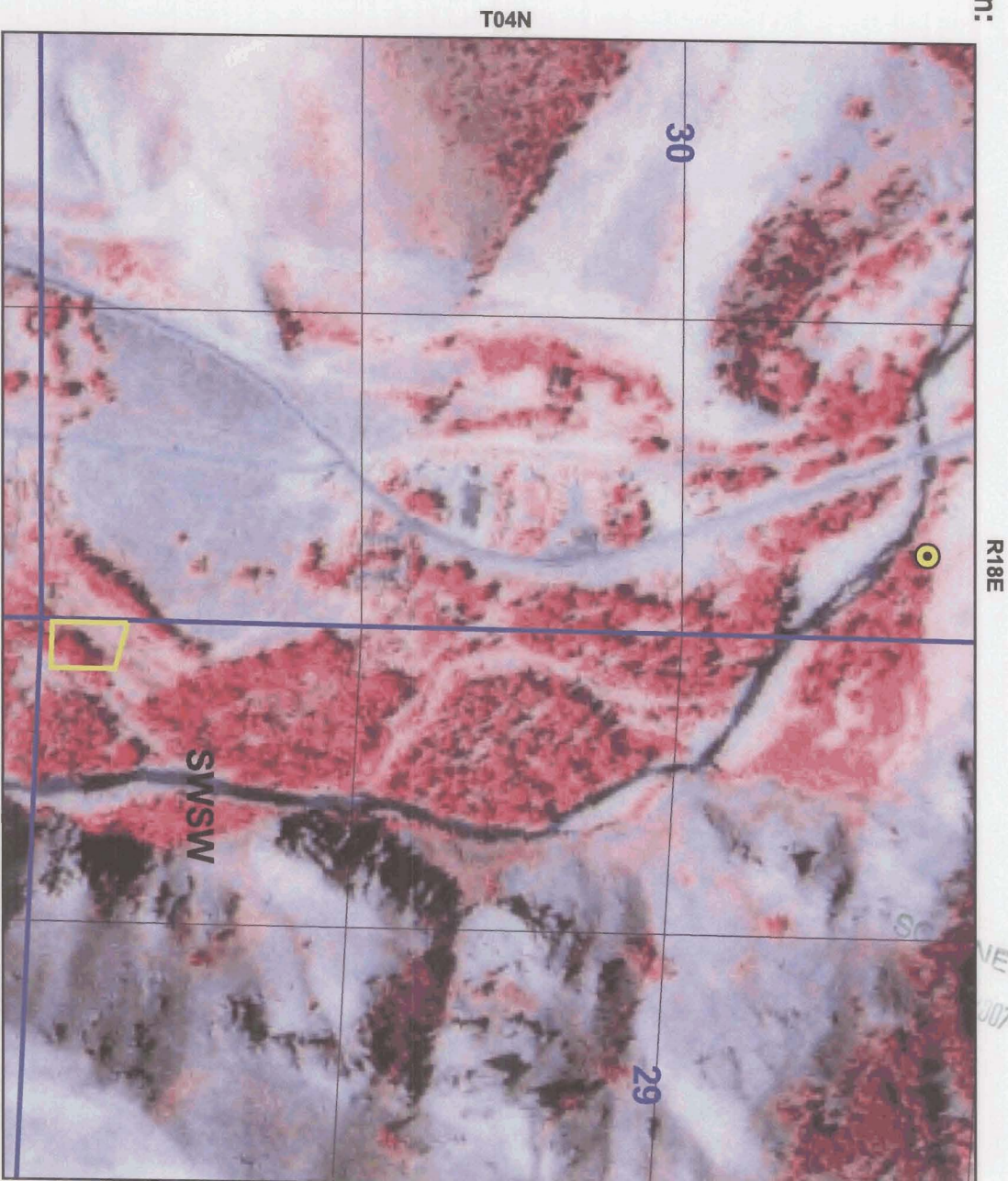
37-48B
(Irrigation)

Legend

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

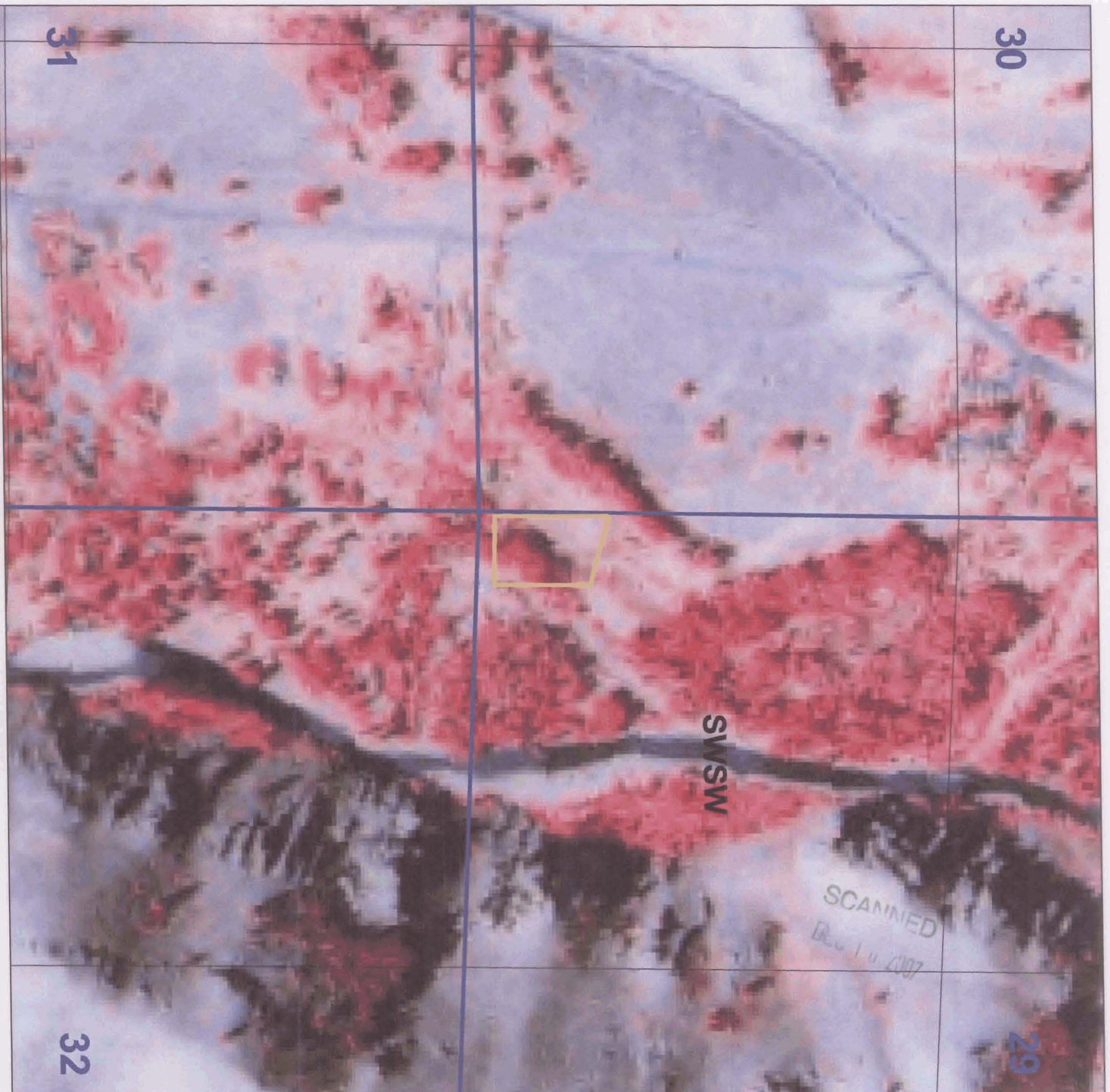
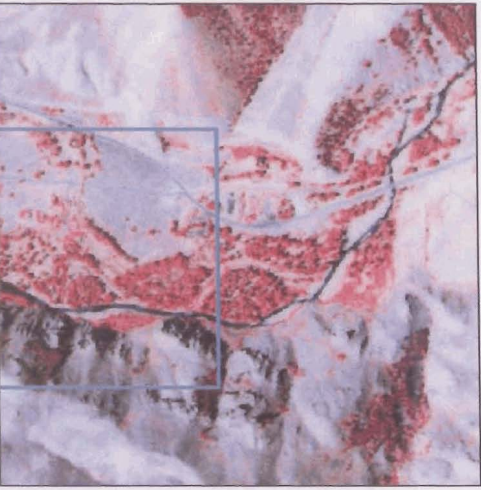


Blaine County
IDWR Basin 37



Prepared by E. NORQUES
On Thursday, September 28, 2006
1987/88 Aerial Photography

37-48B



37/0025	Allen, Calvin S.	120 inches.	27	Aug.	6, 1902.	Big Wood River.
37/0026	Alfred, George	225	"	102	May 23, 1885.	" " " TRANS # 1946
37/0027	"	100	"	120	June 15, 1886.	" " " TRANS # 1946
37/0028	Alturas Water Co.	100	"	35	Nov. 24, 1883.	" " " (From Riley ditch.)
	Anderson, Harry W.					Big Cottonwood Canal Company shares.
37/0029	Angel, Mary B.	100	"	51	June 1, 1883.	Big Wood River.
37/0030	Arnold, Castro S.	90	"	105	June 1, 1885.	Chimney Creek.
37/0031	"	70	"	164	June 1, 1889.	" "
37/0032	Arthur, Edward B. and John B.	100	"	46	May 15, 1883.	Little Wood River.
37/0033	Ashton, Edward	42	"	140	July 1, 1887.	Big Wood River.
37/0034	Babbington, Charles	90	"	45	June 1, 1882.	Corral Creek. 773
37/0035	Babbington, Thomas	50	"	730	June 1, 1887.	" " " 774
37/0036	Baldwin, Theodore	320	"	301	Apr. 23, 1906.	Big Wood River.
37/0037	Ballard, Elmer	60	"	171	May 1, 1890.	Soldier Creek.
37/0038	Ballard, Nancy P.	75	"	143	Nov. 8, 1887.	" "
37/0039	Ballard, Philip	100	"	41	Aug. 4, 1884.	" " ✓
37/0040	Bannon, Lawrence J.	15	"	187	June 1, 1891.	Big Wood River.
37/0041	Bannon, Miles F.	60	"	736	June 1, 1887.	" " "
37/0042	"	130	"	787	June 1, 1891.	" " "
37/0043	Bannon, Peter	100	"	167	June 1, 1891.	" " "
37/0044	Barnett, Fred.	80	"	303	Aug. 2, 1909.	" " "
37/0045	Barnett, James	150	"	274	July 1, 1896.	" " "
37/0046	Barnett, William	110	"	322	Aug. 2, 1909.	" " "
37/0047	Barnum, Gay O.	300	"	120	Oct. 31, 1889.	" " "
37/0048	Barry, Martin	200	"	731	May 1, 1887.	" " "
37/0049	Baugh, W. H.	210	"	37	Apr. 1, 1883.	Little Wood River.
37/0050	Baxter, John L.	150	"	51	June 27, 1883.	Soldier Creek.
37/0051	Beallinger, Merritt	100	"	186	May 15, 1891.	Big Wood River.
37/0052	Beggs, Joseph D.	130	"		June 15, 1885.	" " "

JUN 04 1996

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301-3380

RETURN SERVICE REQUESTED

RECEIVED

SEP 20 2004

Department of Water Resources
Southern Region

Nick

48B



UNDELIVERABLE AS ADDRESSED
FORWARDING ORDER EXPIRED.

GRAY
PO BOX 2162
KETCHUM ID 83340

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 4974
WATER RIGHT NO. 37-00048B

JUL 31 1997

This is to certify that: ELIZABETH K GRAY
C/O JAMES P SPECK ESQ
HOGUE SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	04/15 to 11/15	*0.50 CFS

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
BIG WOOD RIVER	MALAD RIVER

Priority: 05/01/1887

LOCATION OF POINT(S) OF DIVERSION: SENE , Sec. 30, Township 04N, Range 18E
BLAINE County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
04N 18E 29	SWSW 1.3			1.3
Total number of acres irrigated:				1.3

CONDITIONS OF APPROVAL AND REMARKS

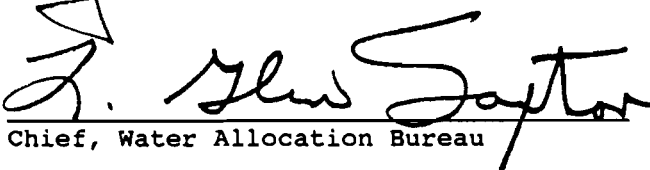
1. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
2. A measuring device and lockable controlling works of a type approved by this Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
3. This right when combined with all other rights shall provide no more than .03 cfs per acre nor more than 3.5 afa per acre for the lands above.
4. Approval of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.

TRANSFER NO. 4974
WATER RIGHT NO. 37-00048B

CONDITIONS OF APPROVAL AND REMARKS

5. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
6. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.
7. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
- * 8. Irrigation use under Right No. 37-00048B shall not exceed the diversion rate of 0.04 cfs and 4.6 afa at the field headgate for the irrigation of 1.3 acres.
9. The remainder of Right No. 37-00048B, 0.46 cfs, is for conveyance loss to the extent necessary and any remaining water shall be left in the river.
10. Place of use is located within Lot 1, Block 1, Cliffside Subdivision.

Dated this 21st day of July, 1997.


Chief, Water Allocation Bureau

1

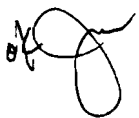
MEMORANDUM

TO: FILE NO. 37-00048

FROM: PAM SKAGGS^{CS}/STATE OFFICE

SUBJECT: TRANSFER NO. 4974

DATE: July 17, 1997



=====

Transfer No. 4974 changes the point of diversion and the place of use under a portion of Right No. 37-00048, splitting the right into parts A and B.

Originally the region office recommended this transfer be denied because of apparent non-use. Further field investigation with the original owner, at the request of the applicant's attorney confirmed limited use as recommended in Allen Merritt's memo of 07-07-97.

Season of use and irrigation volume were adjusted to current standards. Recommended conditions include watermaster control, measuring device/lockable controlling works, irrigation overlap, right-of-way, irrigation use limits, conveyance loss water and standard transfer conditions.

FROM: Allen Merritt

DATE: January 21, 1997

TO: TRANSFER #4974 FILE IN THE NAME OF GRAY

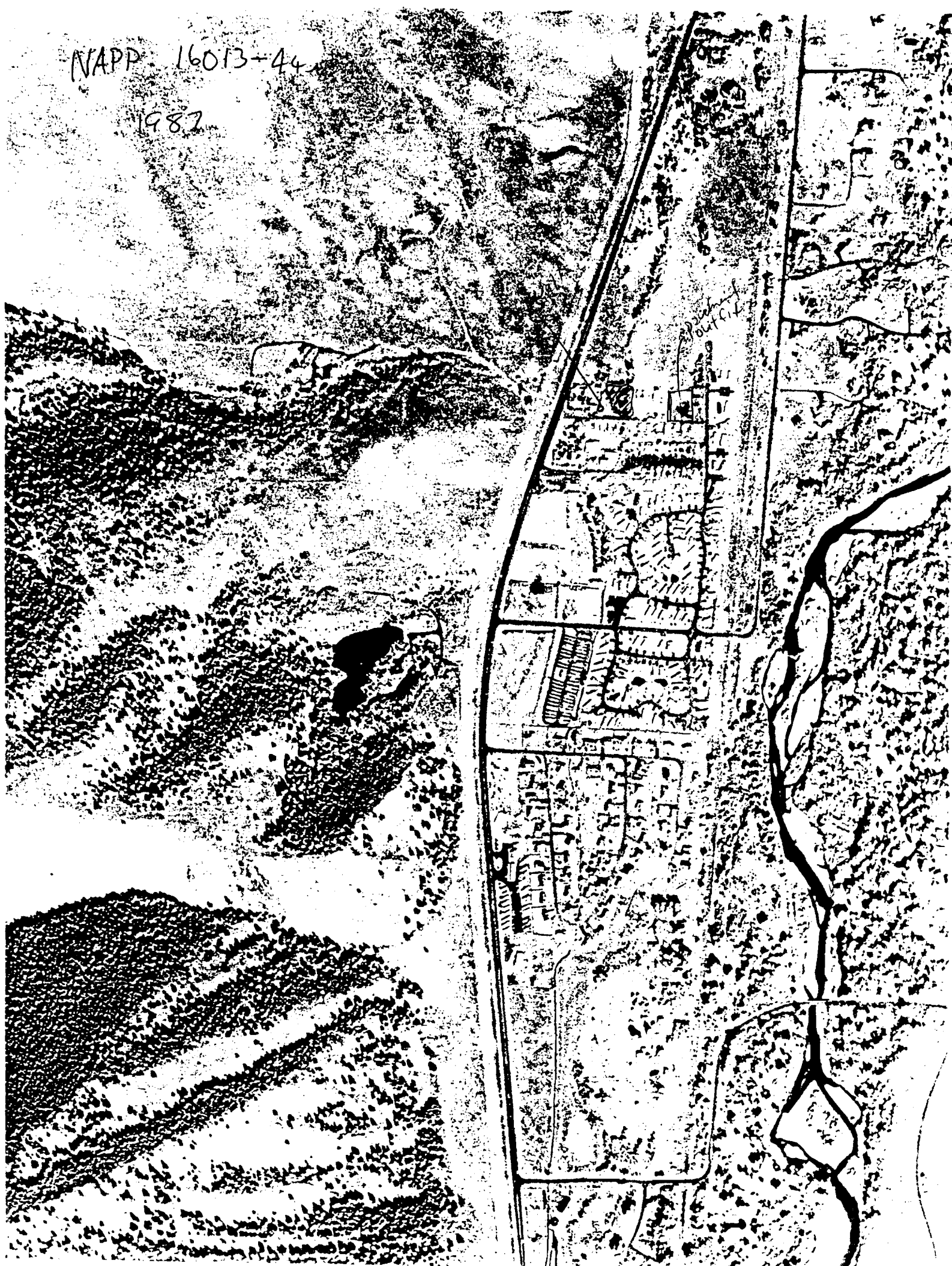
SUBJECT: Field Review

On 10/28/96, while in the area for other business, I stopped by to view the use of the right proposed to be transferred. I took the attached photos. Nobody was home at the McDonald residence but I observed the lands supposed to be irrigated. The attached photos were taken during my visit. I could not determine that river water was being used for irrigation at this site. Much of the site is in driveway, trailer parking and light industrial use. The only irrigation appeared to be around the McDonald residence and presumed to be from the well.

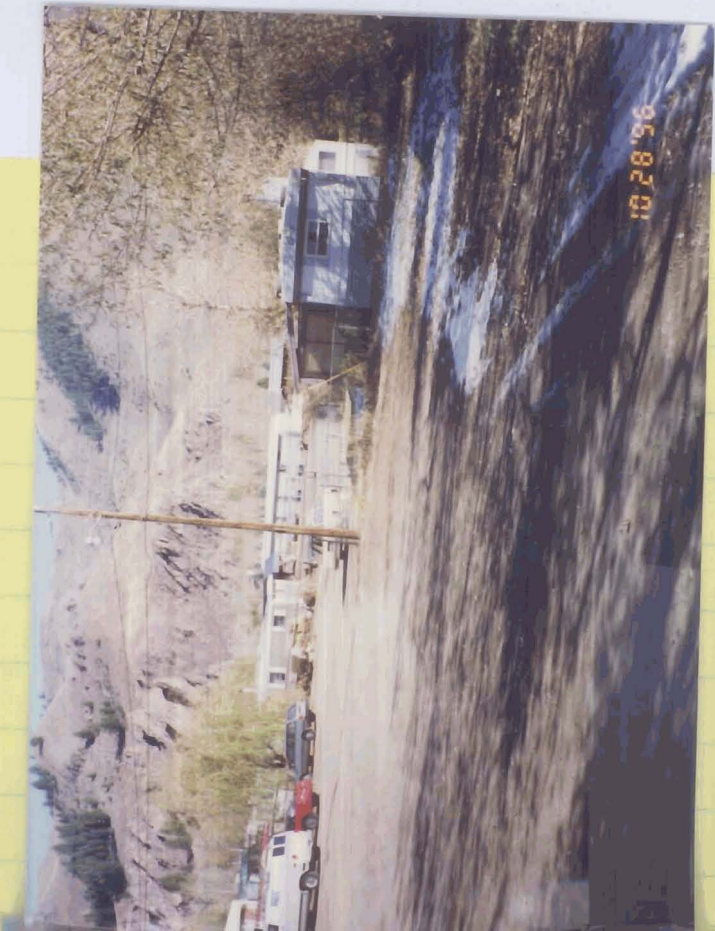
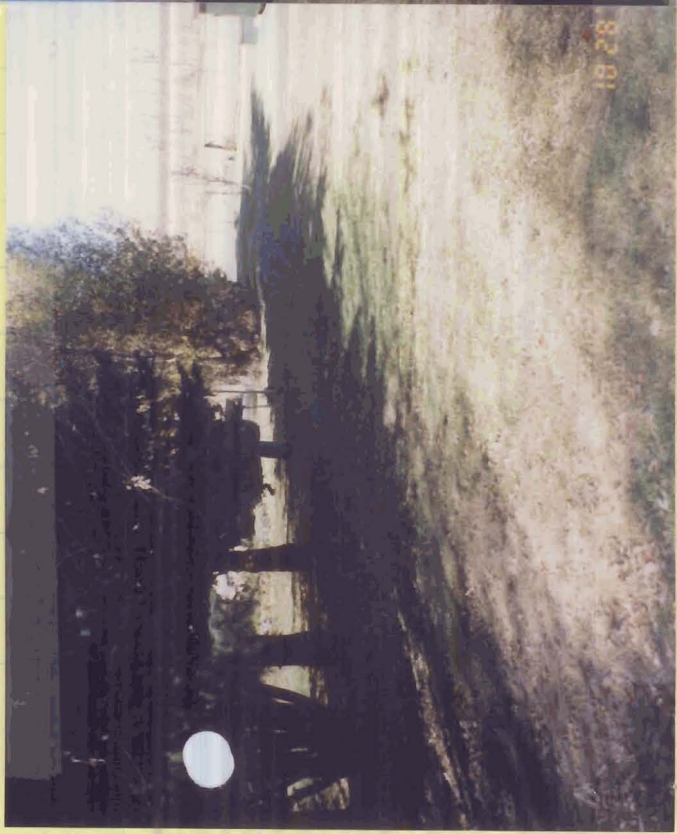
A37-00048B

NAPP 16013-44

1982



[illegible]



FROM: Allen Merritt

DATE: July 7, 1997

TO: Transfer File No. 4974
In the Name of: Elizabeth K. Gray

SUBJECT: Re-evaluation & Recommendation

Upon learning that my initial recommendation that the transfer be disallowed, Jim Speck, attorney for the applicant, requested I contact John McDonald to re-evaluate the historical water use. On June 27, 1997 I met with Mr. McDonald at his home to review the historic use. He is selling Elizabeth Gray, applicant, his water right which is the subject of transfer #4974.

During my visit with Mr. McDonald, he explained what portions of his land had historically been irrigated. He indicated that the land below the ditch had been irrigated prior to his purchase; he indicated that at the time of purchase the property was in just weeds. He indicated that he initially attempted to irrigate the land by gravity but couldn't do it satisfactorily so he installed a 5 HP electric pump in the Comstock ditch. The pump was periodically operated at 65 psi with a 2" intake and 2½" or 3" discharge (Based on theory with .70 efficiency, this pump would discharge 0.21 cfs). He indicated the pump irrigated a line of trees (approximately 10' wide) on the perimeter of the west side of his property and also a pasture area and horse corral area on the east side of the property. These areas are shown in green on the attached map (I have calculated the area described as irrigated and find it to be 1.3 acres.). Mr. McDonald indicated these areas were last irrigated in either 1993 or 1994. He also indicated that he could only irrigate when other rights were being delivered downstream on the ditch (Rinker & others). He indicated that if only his water was in the ditch it would not make it to his property.

Since 1993 or 1994 the pump has been removed. Presently the Comstock ditch is piped through the property. The bulk of the irrigated pasture land has been rented to a paving company and is presently a parking/storage area. The corral area and tree lines remain but are not presently irrigated. During my visit Mr. McDonald pointed out old portions of "exposed" buried plastic pipeline that are remnants of the abandoned sprinkler and drip system.

EVALUATION

Based on what Mr. McDonald has indicated and the physical remnants of the old system it does not appear we have clear and convincing evidence the water was not used on the property for a long time. I recommend that the transfer be approved subject to the following conditions and limitations:

-Subject to SRBA.

A37-00048B

-Under control of watermaster of 37.

-Limit acres to be irrigated to 1.3 acres at the new place of use.

-Allow 0.04 cfs for diversion at the field headgate for irrigation of the 1.3 acres. The remainder of the right (0.46 cfs) shall be allowed for conveyance loss to the extent necessary. The remaining portion, if any, shall remain in the river.

PLAT SHOWING

CLEAR CREEK LIGHT INDUSTRIAL PARK

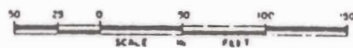
LOCATED IN THE SW 1/4, NE 1/4, SECTION 24, T 4 N., R 10E., S 44

COUNTY, IDAHO

Journal of Management Inquiry 20(4)

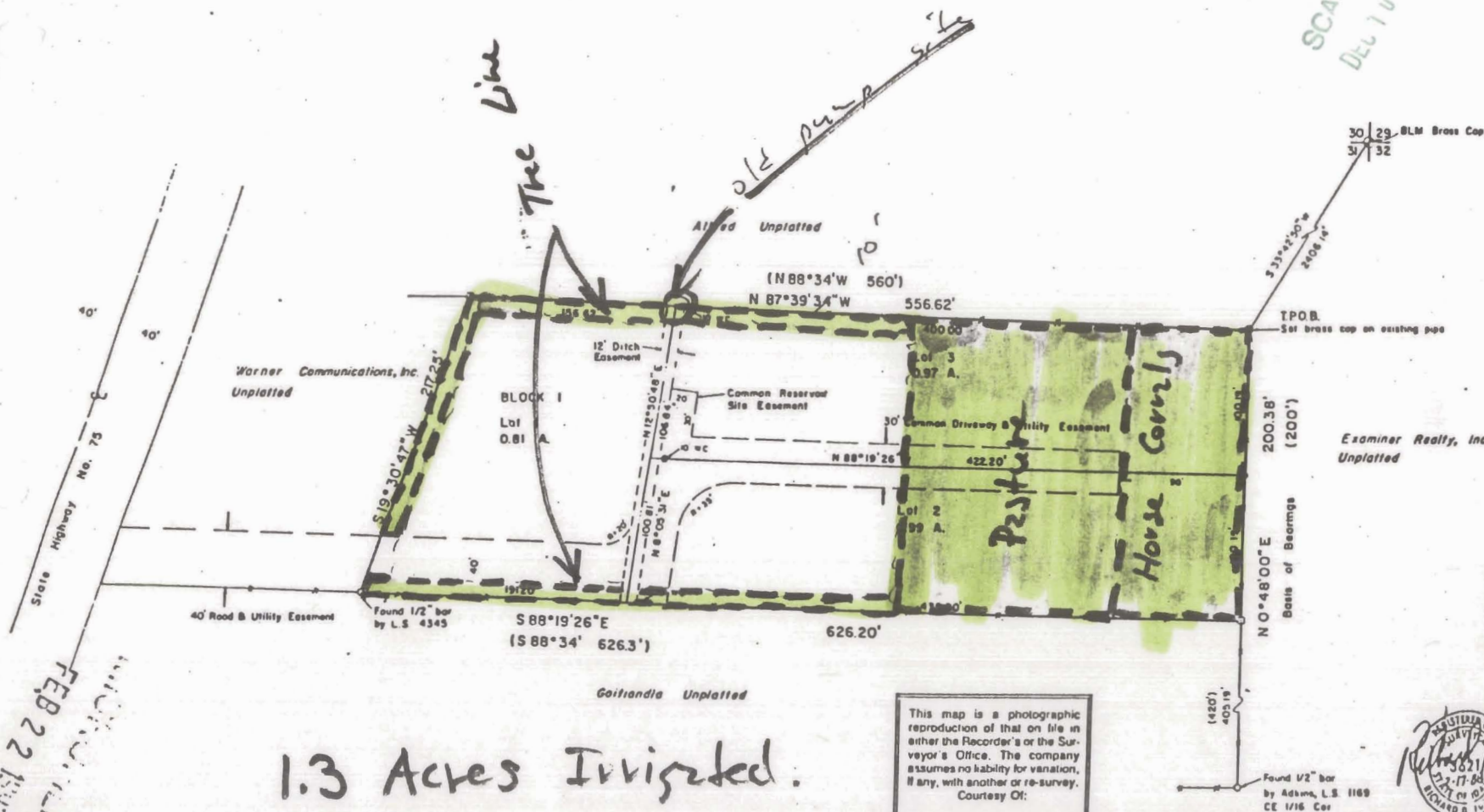
LEGEND

- ⊙ Brass Cap
- ⊙ Found Iron Pipe
- ⊙ Found Square Iron Monument
- Found 1/2" Bar
- Set 1/2" Bar Capped L.S. 3621
- Fence Line



NOTES

1. Landscaping of the north and east lot lines of the parcel is a responsibility of the developer.
2. Utilities shall be underground.
3. Before a lot may be sold, the developer must install paved access roads and domestic water to each lot.
4. Before a building permit can be issued, the developer must provide for fire protection, a water storage tank and water piping to each lot.
5. The Planning and Zoning Commission shall review any development plans for the lots.
6. A 10' Public Utility Easement is centered on interior lot lines and adjacent to exterior lot lines.



1.3 Acres Irrigated.

This map is a photographic reproduction of that on file in either the Recorder's or the Surveyor's Office. The company assumes no liability for variation, if any, with another or re-survey.
Courtesy Of:

CLEAR GREEN 1041
DALENA ENGINEER
RELICUM, IDAH
SHEET 1 OF 2

FROM: Allen Merritt

DATE: March 25, 1997

TO: Transfer File No. 4974
In the Name of: Elizabeth K. Gray

SUBJECT: Review and Recommendation

This transfer proposes to move a right for 0.5 cfs which reportedly irrigates 2.7 acres to another location for irrigation. I looked at the place of use and found that it is not irrigated by the ditch (Only a yard is irrigated and probably by a well, see memo 1/21/97). Although the right may have been delivered into the ditch by the watermaster, I don't know where it has been used. I strongly suspect it has been used as additional flow in the ditch to fill the Gray's aesthetic ponds and not been used for irrigation.

I recommend the transfer be denied.

37-00048 B. 1 77 77 77

Form 222
7/92

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

RECEIVED

OCT 16 1996

Name of applicant: Elizabeth K. Gray Phone: 1-208-726-5329
Post Office address: c/o James P. Speck, Hogue, Speck & Aarnestad, P. O. Box 987, Ketchum, ID 83340 Region

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☒ Other *Change recorded but not actual P/D*

2. Describe the reason for the proposed changes: Applicants have entered into an agreement to purchase the water right contingent upon the approval of the transfer of the place of use to their property.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1.

Right Number	Priority	Amount	Nature of Use	Period of Use	Volume
37-00048B	May 1, 1887	0.5 cfs	irrigation	April 1 to November 1	

2. Total amount of water being transferred: 0.5 cubic feet/second and/or _____ acre-feet per annum.

3. Source of water: Big Wood River tributary to Malad River

4. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	SE	NE	30	4N	18E	Blaine	Comstock Ditch headgate

5. Lands irrigated or Place(s) of Use:

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	18E	29											2.7					2.7	

Total acres: 2.7

6. General Information:

a. Description of diversion system concrete diversion dam, pump, irrigation sprinklers.b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes X No If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer: The land will no longer be irrigated with this right.d. Remarks: Place of use is Lot 1, Block 1, Cliffside Subdivision, Blaine County, Idaho. A map showing the proposed place of use is attached. A copy of the Quitclaim Deed from the current owners is also attached.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____
And said Application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19____.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. 37-00048 Decreed to Martin Barry
In case of S. C. Frost, et al. vs. Alturas Water Company, et al.
Dated December 13, 1909 in District Court of Lincoln County
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Check appropriate box below.

____ Tax notice ____ Warranty Deed X Other Quitclaim Deed
from current
owner to
Applicant

3. Source of water Big Wood River4. Date of priority May 1, 1887

5. Water is used for the following purposes:

amount 4.0 cfs for Irrigation purposes from April 15 to October 15 ^{Js 10-28-96}

6. Total amount of water under right 4.0 cubic feet/second and/or ____ acre-feet per annum.

7. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
			NW	SW	29	4N	18E	Blaine	Comstock ditch #10 diversion

8. Lands irrigated or place(s) of use:

TWP	RGE	SEC	N E				N W				S W				S E				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	18E	31	X			X								X			X	gs 4.0	

Total acres: 4.0 ^{Js 10-28}9. Describe any other water rights used for the same purpose as described above None.

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
No. If yes, describe _____

B. DESCRIPTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit parts B and C)

1. amount 0.5 cfs for irrigation purposes from April 15 to November 15 ^{October 10-28-96}

2. Point(s) of Diversion: Same as 2.A.7.

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	SE	NE	30	4N	18E	Blaine	Comstock ditch #10 diversion

Jo
10-28-96

3. Lands irrigated or Place(s) of Use: Present place of use of portion of water right to be moved

TWP	RGE	SEC	N E				N W				S W				S E				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	18E	31			2.7														2.7

Total acres: 2.7

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

(See Part A of this Part 2, above)

1. amount 3.5 cfs for irrigation purposes from April 15 to November 15 ^{October}

2. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
			NW	SW	29	4N	18E	Blaine	Comstock ditch diversion

3. Lands irrigated or Place(s) of Use: See A,8 of Part 2, above.

TWP	RGE	SEC	N E				N W				S W				S E				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	18E	31	X			X									X			X	3.5

Total acres: 3.5 ¹⁰⁻²⁸⁻⁹⁶

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
In case of _____ vs. _____
Dated _____ in _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. A37-0048B on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Check appropriate box below.

☐ Tax notice☐ Warranty Deed☒ Other

Quitclaim Deed
from current
owner to
Applicant

3. Source of water Big Wood River4. Date of priority May 1, 1887

5. Water is used for the following purposes:

amount 0.5 cfs for Irrigation purposes from April 1 to November 1.

6. Total amount of water under right 0.5 cubic feet/second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	SE	NE	30	4N	18E	Blaine	Comstock ditch #10 diversion

8. Lands irrigated or place(s) of use:

TWP	RGE	SEC	N E				N W				S W				S E				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	18E	31			2.7														2.7

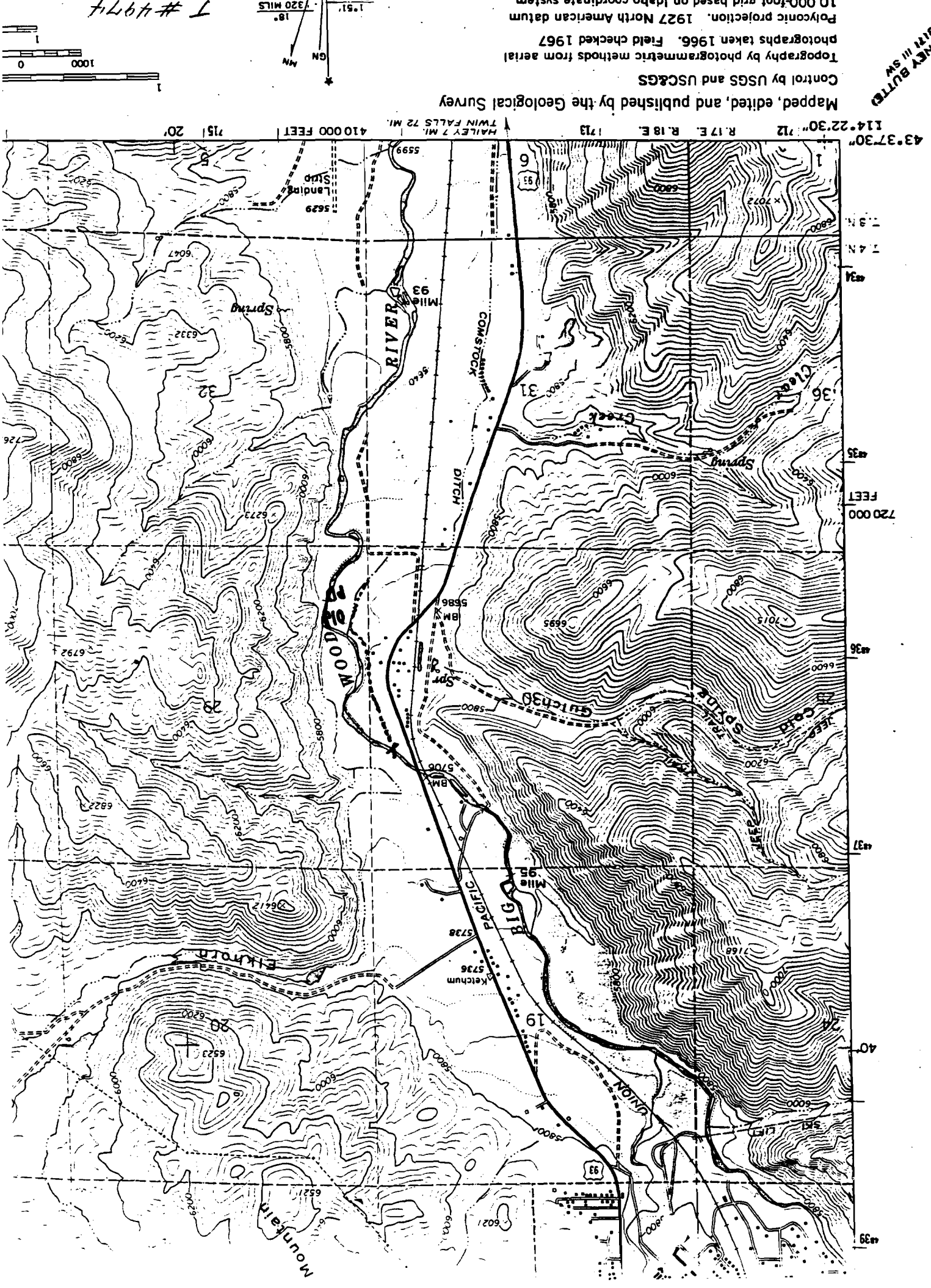
Total acres: 2.79. Describe any other water rights used for the same purpose as described above None.

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
No. If yes, describe _____

MAHONEY BUTTE
3171 III SW

Topographic by photogrammetric methods from aerial
photographs taken 1966. Field checked 1967
Control by USGS and USC&GS

Mapped, edited, and published by the Geological Survey



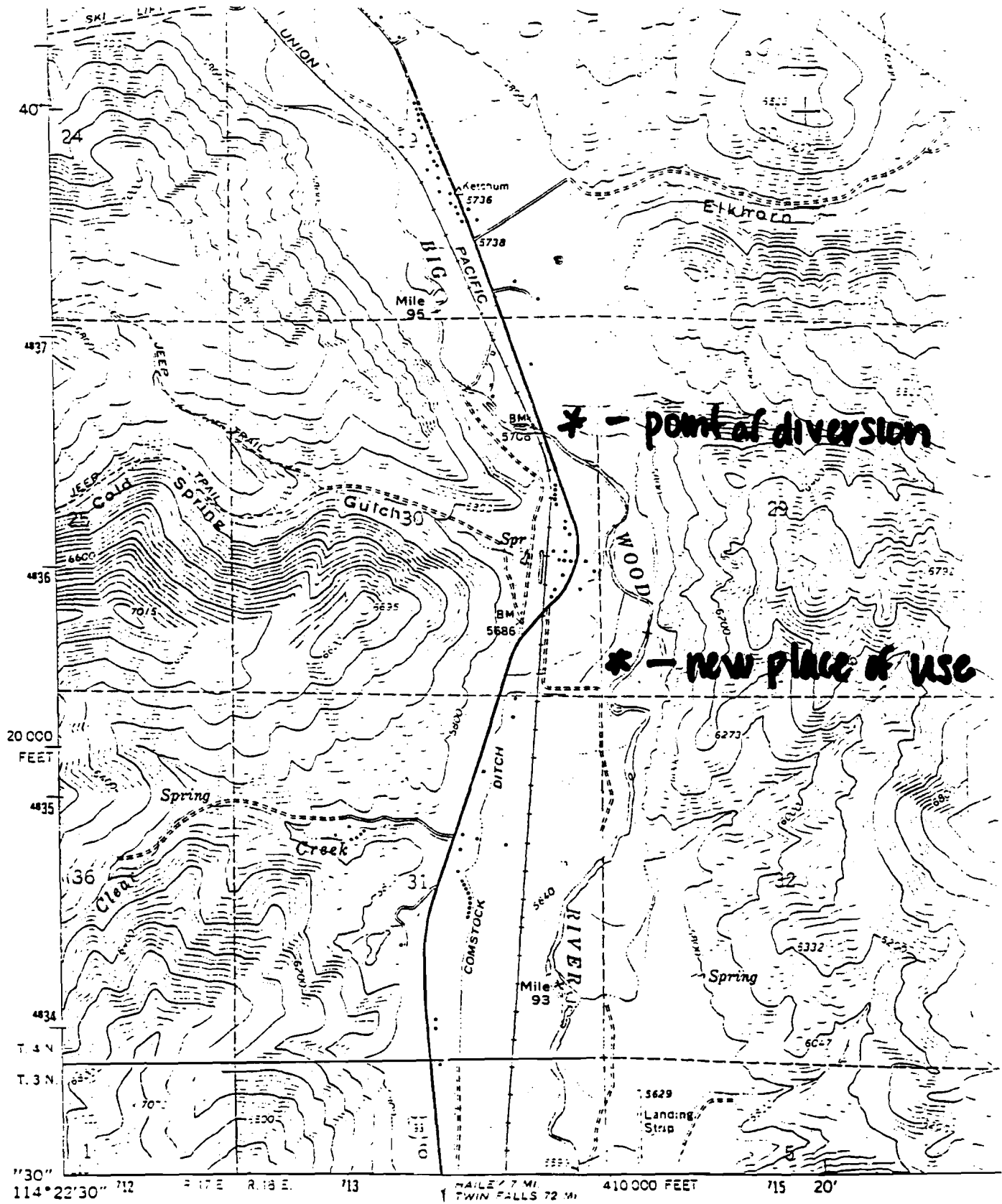
10 000-foot grid based on Idaho coordinate system
Polconic projection, 1927 North American datum
photographs taken 1966. Field checked 1967
Control by USGS and USC&GS

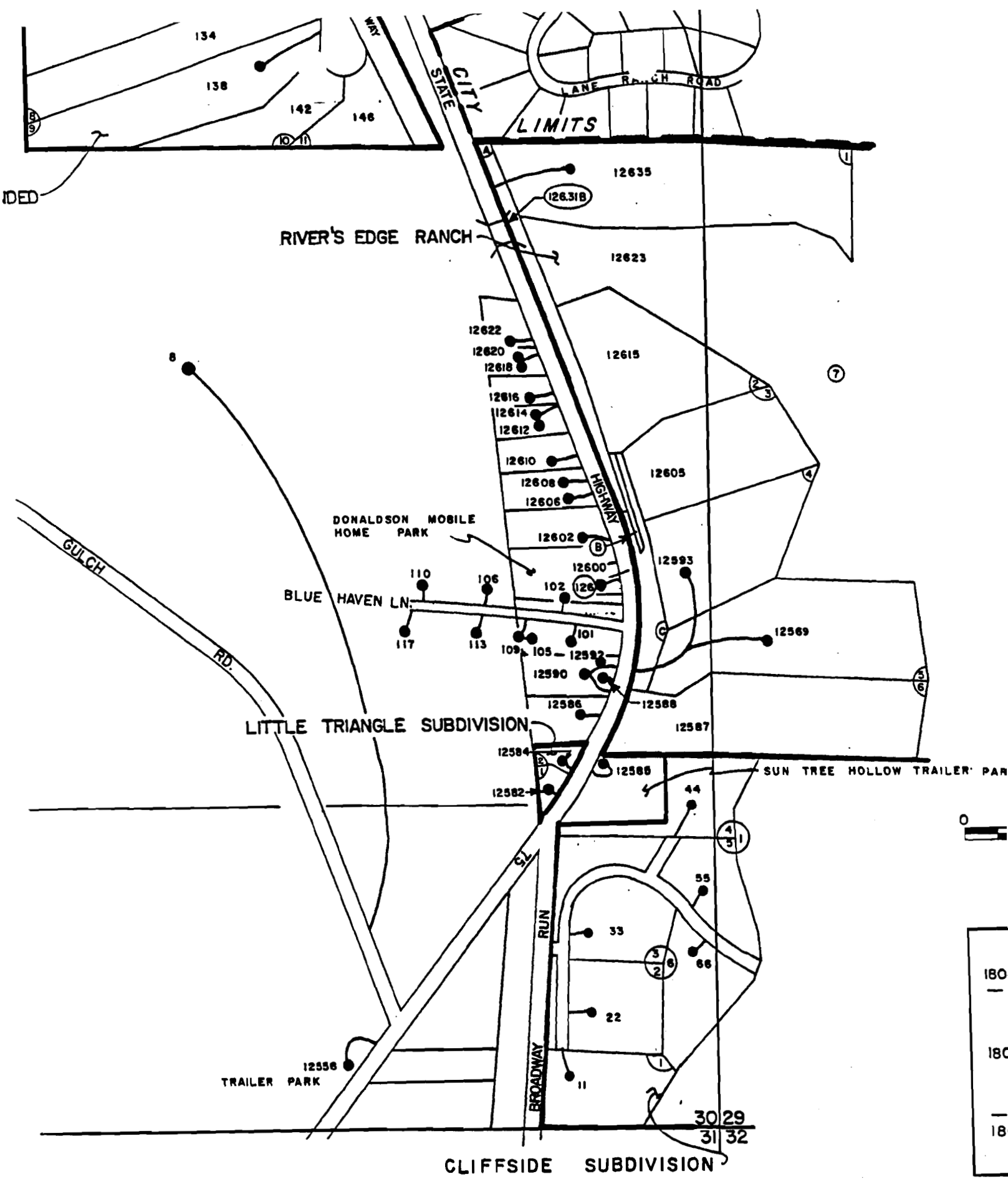
10 000-foot grid based on Idaho coordinate system
Polconic projection, 1927 North American datum
photographs taken 1966. Field checked 1967
Control by USGS and USC&GS

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Polconic projection, 1927 North American datum
photographs taken 1966. Field checked 1967
Control by USGS and USC&GS

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.





T. 4 N., R. 18 E.

PLAT SHOWING

CLEAR CREEK LIGHT INDUSTRIAL PARK

LOCATED IN THE SW1/4, NE 1/4, SECTION 31, T.4 N., R.18 E., B.M.

BLAINE COUNTY, IDAHO

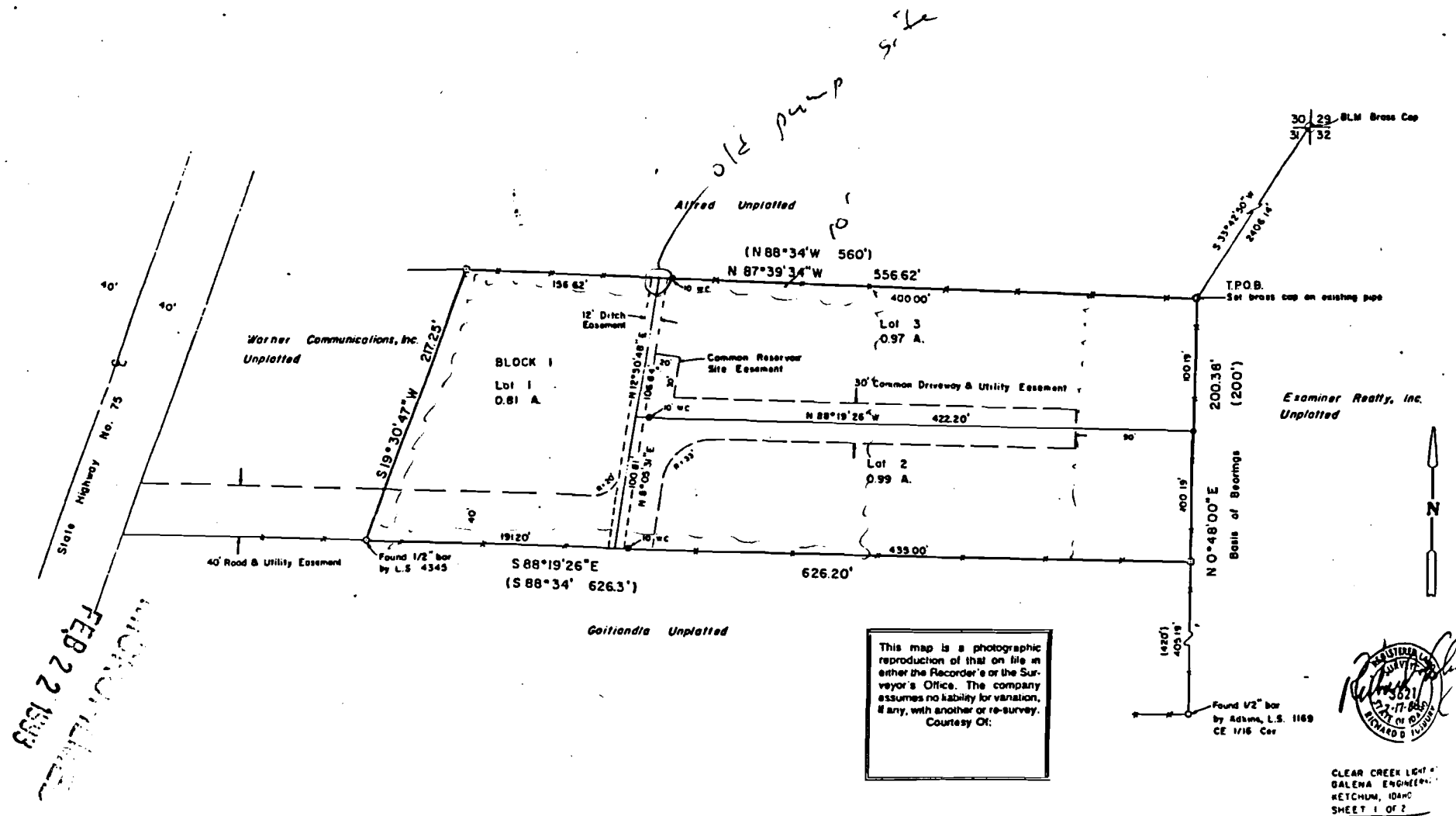
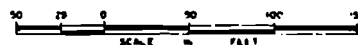
JANUARY 1986

NOTES

1. Landscaping of the north and east lot lines of the parcel is a responsibility of the developer.
2. Utilities shall be underground.
3. Before a lot may be sold, the developer must install paved access roads and domestic water to each lot.
4. Before a building permit can be issued, the developer must provide for fire protection, a water storage tank and water piping to each lot.
5. The Planning and Zoning Commission shall review any development plans for the lots.
6. A 10' Public Utility Easement is centered on interior lot lines and adjacent to exterior lot lines.

LEGEND

- Brass Cap
- Found Iron Pipe
- Found Square Iron Monument
- Found 1/2" Bar
- Set 1/2" Bar Capped L.S. 3621
- - - Fence Line



SEC 31

6799

TL 2013
Allred

P.S. Law

TL 2809
McDonak

TL 2810

TL 2811

TL 2152A

TL 2136

Bramble Patch
Ltd

P.S.
TL 2812

MORSE SUB

LOT 1 LOT 2

Morse

Agub

6917

Allred

6918

LOT 1

LOT 3

CLEAR CREEK LIGHT

INDUSTRIAL PARK

LOT 2

Mr. Donald

TL 6974

Goitandia

1 Nature
Conservation
ANIMAL SUB

2 Acker

TL 7093

TL 7094

4A

P.S.

RED

CLIFFS

4

Lipton

RED CLIFF

8

Monroe

2

Robert E

Investor

3

SOUTHERN COM

Lewis

11

10

Morgan

12

Reyes

5

COMFORT

Noyes

2

1

STARLITE

Ross

2

4

Ross

5

4

Climes

12

Gannon

11

ASPEN

GROVE

Gosney

1

13

Bauman

2

Willard

RUN

SE

NE

2

Huffman

6

RIVER ROCK

HUFFMAN-BET

1

River

5

4

Acarregui

3

CNA Property

Co

2

Shapiro

EDGEWATER

1A

Acarregui

SUB

4A

P.S.

4A

4A

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1987



See map
K 10

65
78

PART 3**B. CHANGES IN NATURE OF USE**

1.

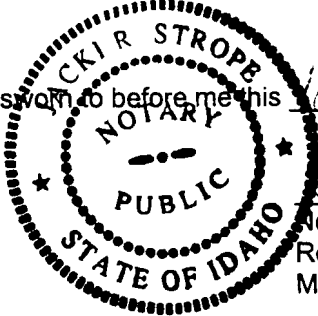
New Nature of Use	Amount (cfs/AF)	Hours/Days/Year	Period Of Use
			to
			to
			to

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

DATE: Oct 16, 1996
Elizabeth K. Gray
 Elizabeth K. Gray
Subscribed and sworn to before me this 16th day of October, 1996.
CKIR R. Strobe
 Notary Public for Idaho
Residing at HaileyMy commission expires 1/3/2000**FOR DEPARTMENT USE ONLY**Received by J. Estanton Date 10-17-96Prelim. check by GLS NOV. 18, 96 Fee \$100.Receipted gs 10-17-96 5019615Published in Wood River JournalPub. dates 3/5 + 3/12/97 mmend: approve denyWatermaster recommendation requested 2/19/97 rec'd _____Field exam conducted (required for statutory claims) _____

Protest filed by:

Hearing held by:

TO: File

DATE: January 28, 1997

FROM: Jim Stanton

SUBJECT: App. for Transfer, Elizabeth Gray

This transfer proposes to change the place of use and recorded point of diversion for a water right delivered thru the Comstock Ditch. The head of the Comstock Ditch was moved upstream to its present location sometime between 1986 and 1990 due to problems with the original location. No transfer was approved to change this p/d for all the Comstock Ditch rights, however. Permits have been approved out of the new location, such as 37-08535, so we have already recognized the "new" point of diversion for the Ditch.

M E M O T O F I L E

FROM: Georgia Satterlee
DATE: 18 November 1996
RE: Transfer per 37-00048/A37-00048B

The application for transfer submitted to the department is in the name of Elizabeth Gray & James Speck. The applicant proposes to change the place of use of 2.7 acres supposedly being irrigated in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 31. The proposed new place of use is in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 29. All the places of use are in T04N, R18E, BM, Blaine County. The application for transfer proposes to split the water right 37-00048. In addition to 37-00048, A37-00048B, in the name of John H. McDonald, is the SRBA claim associated with the proposed transfer.

OWNER(S) OF THE PROPOSED PLACE OF USE:

The water rights and SRBA claims connected with the applicant are either in the name of Elizabeth Gray or Graystone, Inc. Elizabeth Gray is the wife of Peter Gray who is a partner in Graystone, Inc. Peter Gray is the developer of the Cliffside Subdivision. A portion of the Cliffside Subdivision is the proposed place of use of the enclosed transfer.

Staffing the application for transfer produced the following concerns:

PERIOD OF USE:

The period of use is noted on the application as April 1 to November 1. The irrigation season for Basin 37 is April 15 to October 15. The proposed area for the transfer does not have a prolonged season of use. The extended season applied for in the proposed transfer is unnecessary.

OVERLAPPING RIGHTS EXISTING AT THE ORIGINAL PLACE OF USE:

Both SRBA claims, A37-11812 and A37-00048B (claim associated with the proposed transfer) are in the name of John H. McDonald. A37-11812 show two uses. The first use is irrigation (2.0 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 31, T04N, R18E) and domestic (same property description). A37-00048B has irrigation only for 2.7 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 31, T04N, R18E. The maps submitted with both adjudication claims show the same place of use. However, A37-11812 calls out to 2 acres and A37-00048B calls to 2.7 acres. If A37-00048B is moved northerly, as the transfer proposes, this would be considered an expansion of the right.

EXISTING RIGHTS ON THE PROPOSED PLACE OF USE:

1. T37-00577X1 Pending transfer, #4210, a decree with a priority date of 03/24/1883 in the name of Graystone, Inc., 0.48 cfs of surface water which irrigates 0.5 acre in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 29, and 3.0 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 30.
2. 37-30035/A37-10913 Transfer #3590, a decree with a priority 03/24/1883 in the name of Graystone, Inc., 0.15 cfs of surface water which irrigates 6.0 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30.
3. 37-08538 Licensed in 1996 in the name of Graystone, Inc., for 0.12 cfs of groundwater to irrigate 6.0 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30.
4. 37-08584 The field examination to license the permit was recently performed Sept. 1996, which is in the name of Elizabeth Gray. The rate and irrigated acres recommended for 37-08584 is 0.11 cfs for a total of 1.5 acres in the SW $\frac{1}{4}$ of Section 29 and 1.5 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30.
5. 37-08535 The field examination to license the permit was performed May 1996, which is in the name of Graystone, Inc. The use is aesthetic ponds with an allowable rate of 10.0 cfs. The ponds are located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 29 and in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30.
6. A37-00419B A claim based on a decree with a priority date of 08/02/1889 in the name of Graystone, Inc. A rate of 0.18 cfs which irrigates 6.0 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30.

ANALYSIS:

Excluding the claims that are already irrigating the same place of use, this transfer is proposing to move another 25 inches of water to irrigate 2.7 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 29. As noted above, a total of 2.0 acres are already being irrigated by 37-08584 and T37-00577X1. Because of additional claims for the same place of use, the proposed transfer seems to be not only a disproportionate amount of water per acre but a stacking of water rights.

ANALYSIS:

(Continued from Page 2)

In October and November 1996, the Comstock Ditch, from the headgate at Wood River, Section 29, and approximately one mile south, was investigated and photographed. Documentation has been made regarding areas that appear to be used and maintained and the areas which appear to have not had water delivered. See Investigation Photographs, by C. Skinner, Pages 1-9.

The 2.7 acres at the original place of use, in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31, T04N, R18E, which the transfer application proposes to move, are documented on Page 8, Photos 15-16. According to the investigation and documentation, there does not appear to be a diversion from the Comstock Ditch to irrigate the existing 2.7 acres, which is now a part of the Industrial Park. Also, the massive overgrowth of the natural vegetation choking several portions of the Comstock Ditch, especially related to the existing place of use, shows the ditch as not being maintained and therefore a possible forfeiture is apparent. See Page 7, Photos 13-14.

In conclusion, prior to even considering the approval of the transfer application, issues regarding expansion, stacking of water rights, possible forfeiture, and clarifying why 25 inches of water to irrigate less than three acres, are all need to be resolved.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER DISTRICT NO. 37 & 37 M

P.O. Box T
Shoshone, Idaho 83352
(208) 886-2451



LEE R. PETERSON
Watermaster

OCT 31 1996

Department of Water Resources

Alan Merritt
IDWR
222 Shoshone St. East
Twin Falls, Idaho 83301

October 29, 1996

Alan:

The following is the information you requested on Monday, October 28, 1996, on the Comstock Ditch for a ten year period.

	1986 CFS	1987 CFS	1988 CFS	1989 CFS	1990 CFS
Glen B Gould	0	156.00	221.00	223.90	0
Harry Rinker	0	88.90	129.00	130.40	79.40
John Mc Donald	35.30	12.90	20.00	18.50	10.00
Robert Bloomfield	34.10	85.30	24.30	20.50	20.00
Richard Lindsey	61.50	10.30	130.00	122.30	Sold
Robert Sherwood		53.00	53.00	77.30	16.70
Kanshar & R J Sharp					10.00
Graystone					0
	1991 CFS	1992 CFS	1993 CFS	1994 CFS	1995 CFS
Glen B Gould	0	Sold			
Harry Rinker	104.26	0	292.86	19.70	0
John Mc Donald	0	0	41.60	1.99	78.32
Robert Bloomfield	11.62	17.32	28.02	1.35	83.08
Robert Sherwood	112.16	0	688.00	57.70	1022.
Kanshar & RJ Sharp	99.22	89.36	274.55	13.10	685.43
Graystone	223.12	0	738.98	61.00	1199.

In 1992 you will notice that there was not much water delivered not only was that a dry year but that was the year they did construction on aesthetic ponds.

If you need further information feel free to give us a call.

Sincerely,

Norma Peterson
Secretary/Treasurer

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION
ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
TRACY DUNLAP
MICHELE C. MESKE

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340
(208) 726-4421
FAX (208) 726-0752

HAILEY OFFICE:
16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567
FAX (208) 788-4230

RECEIVED

OCT 16 1996

October 16, 1996

Department of Water Resources
Southern Region

Idaho Department of Water Resources
222 Shoshone St. E
Twin Falls, ID 83301

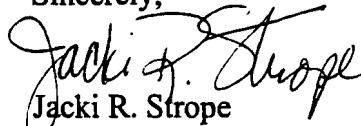
Re: Elizabeth K. Gray -- Application for Transfer Water Right No. 37-00048B

To Whom It May Concern:

Please find enclosed an Application for Transfer of Water Right No. 37-00048B. I have also enclosed our check no. 26325 in the sum of \$100.00 in payment of your filing fee for this matter.

Thank you for your anticipated assistance.

Sincerely,


Jacki R. Strobe
Assistant to James P. Speck

jrs
encl.
c: client

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

**James P. Speck, Esq.
HOGUE, SPECK & AANESTAD
P. O. Box 987
Ketchum, Idaho 83340**

(space above line for Recorder's use)

QUITCLAIM DEED

FOR VALUE RECEIVED, JOHN H. McDONALD and LOIS F. McDONALD, husband and wife, whose address is P. O. Box 1, Ketchum, ID 83340 (hereinafter referred to as the "Grantor"), does hereby convey, release, remise and forever quitclaim unto PETER GRAY and ELIZABETH K. GRAY, husband and wife, whose address is P. O. Box 2162, Ketchum, ID 83340 (hereinafter referred to as the "Grantee"), any and all interest Grantor may have in the following described water right, appurtenant to premises, situated in Blaine County, Idaho, to wit:

0.5 cfs of the Big Wood River with a May 1, 1887 priority date pursuant to Idaho Water Right No. 37-00048 and Claim No. A37-00048B in In Re the General Adjudication of Rights to the Use of Water From the Snake River Basin Water System, Twin Falls District Court Case No. 39576.

TOGETHER WITH all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anyway appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular the said premises, together with the appurtenances, unto the Grantee, and to Grantee's heirs and assigns forever.

DATED this 16 day of Sept, 1996.

GRANTOR:

DATE: 09-16-96


JOHN H. McDONALD

DATE: 9-17-96

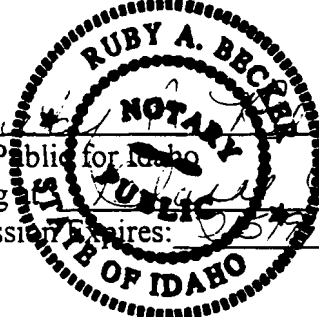
Lois F. McDonald
LOIS F. McDONALD

STATE OF IDAHO)
) ss.
County of Blaine)

On this 17th day of September, 1996, before me the undersigned notary public in and for said state, personally appeared JOHN H. McDONALD and LOIS F. McDONALD, known or identified to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Lois F. McDonald
Notary Public for Idaho
Residing Blaine County
Commission Expires: 9-17-97



Comstock Ditch Investigation

October 30, 1996

by C. SKINNER

Photo #1

View of Comstock Ditch headgate out of Big Wood River located within the SENE $\frac{1}{4}$ of Section 30, Township 04 North, Range 18 East. Headgate inlet consists of a 3 foot diameter CMP. Arrow indicates location where photo #2 was taken from. Photo taken 10/30/96.



Photo #2

View from location indicated by arrow in photo #1. This view is looking down the Comstock Ditch. Photo taken 10/30/96.



Comstock Ditch Investigation
Page 2

Photo #3

View of the first use of water from the Comstock Ditch. The arrow indicates the approximate location of two check dams on the Comstock Ditch channel. These check dams back water up in the channel, apparently for recreation and aesthetic purposes for the River's Edge Ranch. Photo taken 10/30/96.



Photo #4

View below water use shown in photo #3. The arrows indicate locations of check dam control structures that back water up the Comstock Ditch Channel for the River's Edge Ranch. Photo taken 10/30/96.



Photo #5

View of first diversion from the Comstock Ditch. Squiggly arrow indicates location of the Comstock Ditch. Diversion is a headgate that diverts water from the ditch towards the west, as indicated by smaller arrow. This particular diversion was labeled "LAR-KEN". Photo taken 10/30/96.



Photo #6

View of use of water diverted through headgate shown in photo #5. The arrow indicates direction of water flow. Water use is in a series of ponds such as the one shown in this view. The ponds are located within Cliffside Subdivision. Road access is by Cliffside Drive off of Broadway Run. Photo taken 10/30/96.



Comstock Ditch Investigation
Page 4

Photo #7

View of headgate at confluence of the Cliffside Subdivision pond system and the Comstock Ditch. The squiggly arrow in the foreground shows location and direction of the Comstock Ditch. Smaller arrow indicates location of a drop inlet structure that diverts water into the small pond shown in photo #8. Photo taken 10/30/96.



Photo #8

View of last pond in the Cliffside Subdivision pond system. Pine tree is same pine tree shown in photo #7. The squiggly arrow shows the location of the Comstock Ditch. The smaller arrow indicates location of discharge from drop inlet structure shown in photo #7. Drop inlet shown in this view (circled) carries water from the Cliffside Subdivision's pond system eastward to the Big Wood River. Photo taken 10/30/96.



Comstock Ditch Investigation
Page 5

Photo #9

View of discharge from drop inlet structure circled in photo #8. Discharge into the Big Wood River is through a 1.5 foot diameter pipe and occurs several hundred feet east of the area shown in photo #8. Photo taken 10/30/96.



Photo #10

View looking down the Comstock Ditch below the area shown in photo #7. Note a small dam (indicated by arrow) located in the ditch. The dam was constructed out of river rock, firewood, and a sheet of plastic. Note the large grass in the Comstock Ditch beyond the dam. Photo taken 10/30/96.



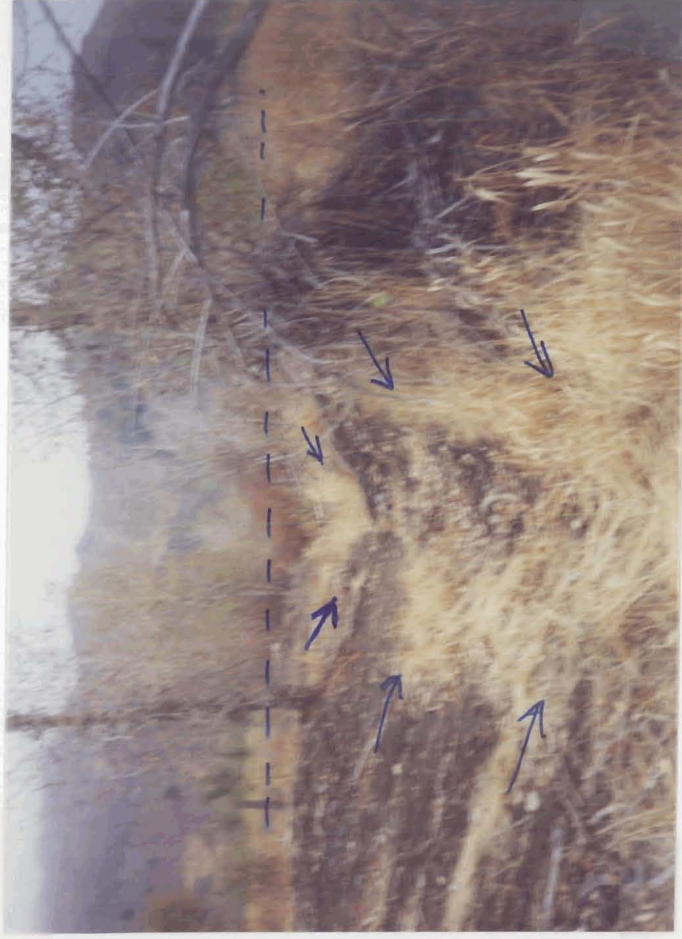
Photo #11

View looking west across Broadway Run down the Comstock Ditch (shown by arrows). The old rail-road (now a bike path) is visible in this view, and is approximately located along the dashed line. The Comstock Ditch crosses Broadway Run in a 3 ft x 4 ft CMP and crosses the bike path in a 4 ft diameter CMP. Note growth visible in Comstock Ditch in this view. **Photo taken 10/30/96.**



Photo #12

View looking east, up the Comstock Ditch, towards the bike path. The ditch is indicated by arrows and the bike path is approximately located by the dashed line. Note growth in the ditch visible in this view. **Photo taken 10/30/96.**



Comstock Ditch Investigation November 5, 1996

Photo #13

View looking up the Comstock Ditch (shown by arrows) in the SWNE $\frac{1}{4}$ of Section 31 (T04N, R18E) along Highway 75. Note the growth in the ditch. Photo taken 11/5/96.



Photo #14

View looking up the Comstock Ditch (shown by arrows), further down the ditch from photo #13. This view still within SWNE $\frac{1}{4}$ of Section 31. Note abundant growth in the ditch visible in this view. Roadway sign (circled) on left edge of view indicates approximate location of Highway 75. Photo taken 11/5/96.



Comstock Ditch Investigation
Page 8

Page #15

View looking down the Comstock Ditch (shown by arrows) towards the north boundary of the Clear Creek Light Industrial Park (located beyond board fence). Note a large CMP culvert (circled) that carries any water from the Comstock Ditch under the industrial park. Photo taken 11/5/96.



Photo #16

Westward view within the industrial park along South Clear Creek Industrial Park Drive (roadway along right edge of view). Squiggly arrow indicates Comstock Ditch path. The roadway is built on a "bridge" over the old ditch along the right edge of this view. Any water that might flow through the Comstock would follow the squiggly arrow path into the 2½ foot diameter CMP culvert (circled). All the water visible in this view is from Clear Creek and is diverted west of Highway 75. This Clear Creek Water enters the Comstock system in this view, from ditch shown by small arrows. Photo taken 11/5/96.

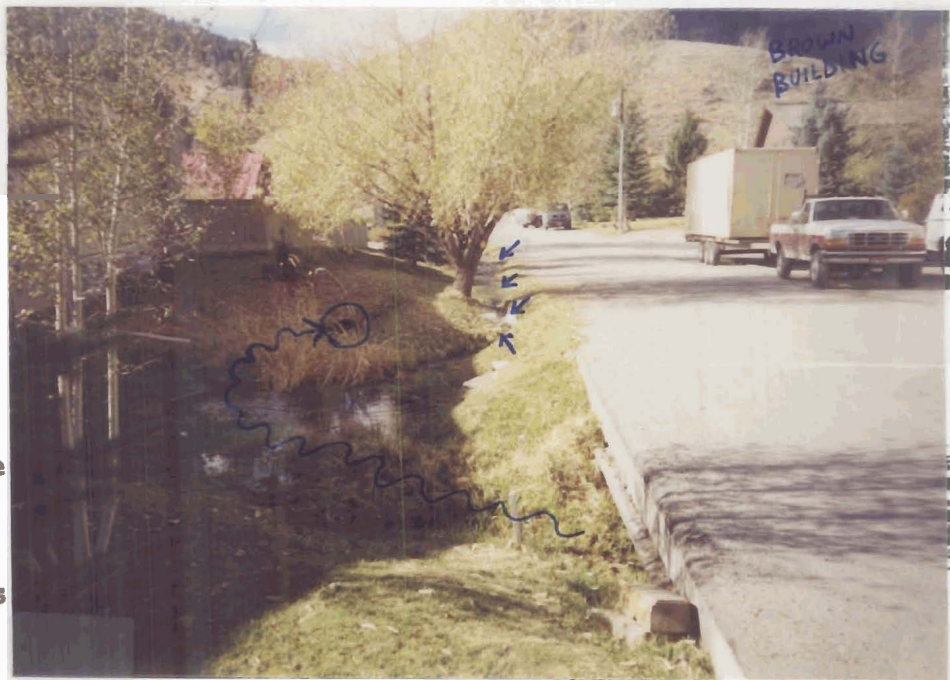


Photo #17

View of last culvert (indicated by arrow) leaving the industrial park. Any water ran through the Comstock Ditch would have to exit the industrial park through this culvert. The Comstock Ditch continues south from this view. The water present in the Comstock Ditch in this view, and further south, is from Clear Creek. The brown building visible by the pine trees and powerpole in this view is the same brown building visible in the upper right corner of photo #16. Photo taken 11/5/96.



I continued the Comstock Ditch investigation southward to the Golden Eagle Ranch property, approximately to the NWSE $\frac{1}{4}$ of Section 7, Township 03 North, Range 18 East. I observed that the Comstock Ditch continued without interruption all the way to the Golden Eagle Ranch property. However, the ditch does flow through several culverts under intersecting roadways along the way. The smallest of these culverts is a two foot diameter CMP located within the NWSE $\frac{1}{4}$ of Section 7 near the Golden Eagle Property. The Comstock Ditch was in significantly better condition below the Clear Creek Light Industrial Park so I did not take any photographs of the Comstock Ditch below the industrial park.

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT CLAIMS PROOF READING REPORT

(OD-26)

Water Right Number 37-00048 Adj. Flag Translation: Standard Water Right Number Old (D) Number -
+ - - - - - Last Name - - - + + - First Name - - - + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***
BARRY

MARTIN

1 -
2 -
3 -
City- State- Zip-
Phone -

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
05/01/1987 17 D - DECREED

+ - - Source - - - - - + + - - - - - Tributary - - - - - +
BIG WOOD RIVER MALAD RIVER

+ - - - - - - - - - - - Point of Diversion - - - - - Stream Index (Blank if no Index Code) - - - - - +
Twn Rng Sec Tract Lot RFlg County

04N 18E 29 NW SW (13) BLAINE

+ - - Description - - - - - Water Use - - - - - Diversion Rate Diversion Volume - - - - - +
Code Period From Period To

01 - IRRIGATION

4.000

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
4.000

+ - - - - - - - - - - - Place of Use - - - - - Description - - - - - County - - - - - +
Twn Rng Sec Tract Lot Acres Code

| | | | | | | | |
|-----|-----|----|-------|--|----|------------|--------------|
| 04N | 18E | 31 | NE NE | | 01 | IRRIGATION | (13) BLAINE |
| 04N | 18E | 31 | SE NE | | 01 | IRRIGATION | (13) BLAINE |
| 04N | 18E | 31 | NE SE | | 01 | IRRIGATION | (13) BLAINE |
| 04N | 18E | 31 | SE SE | | 01 | IRRIGATION | (13) BLAINE |

Total Acres:

+ - - Diversion Means - COMSTOCK #10 DIVERSION

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use -

+ - - - - - - - - - - - Remarks - - - - - +
P/D NOT GIVEN IN DECREE BUT VERIFIED BY WATERMASTER.

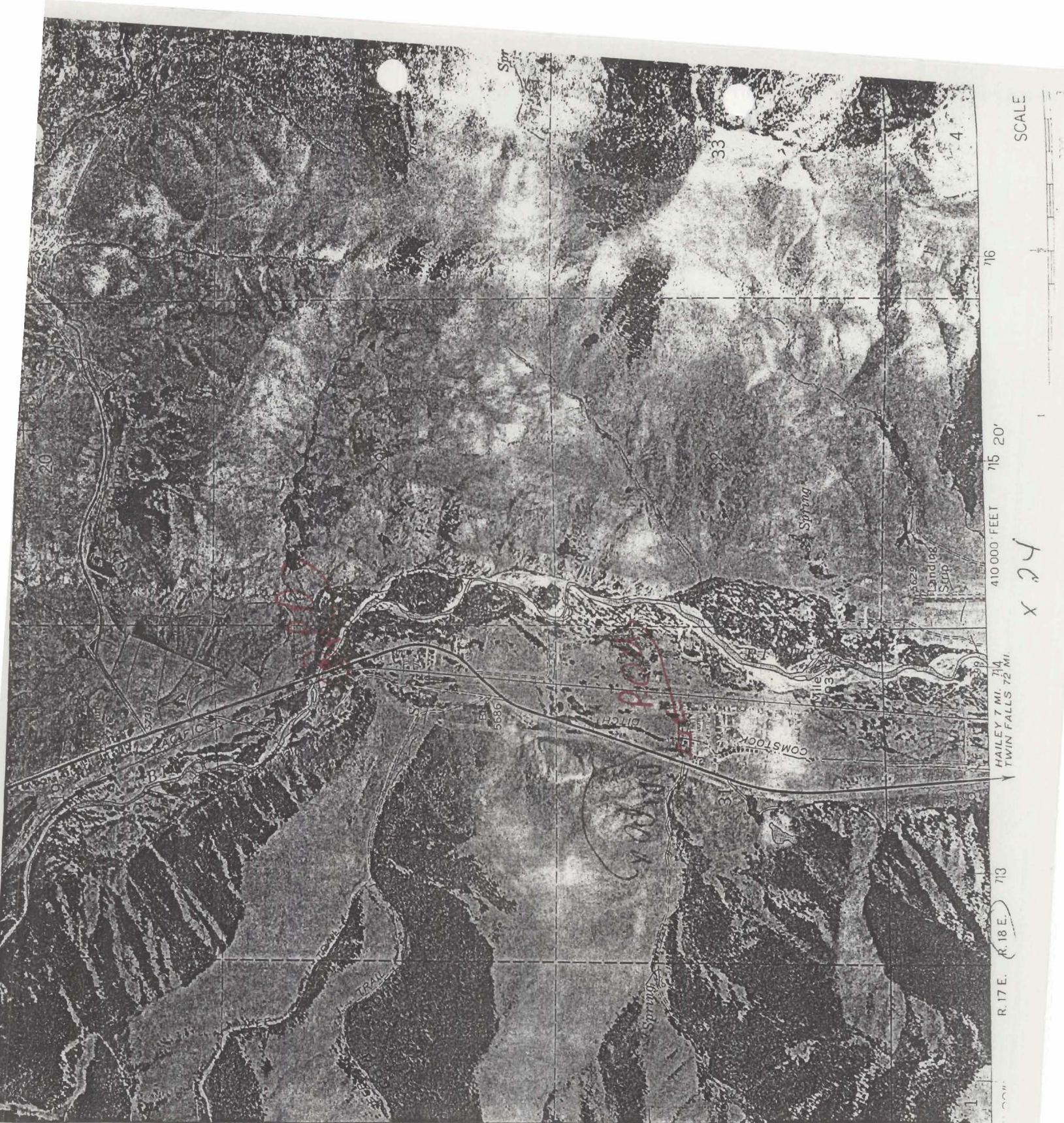
+ - - - - - - - - - - - Conditions of Approval - - - - - +
No Conditions of Approval found.

+ - - Decree Plaintiff - - - + + - - - Decree Defendant - - - + + - Decree Date - - +
S.C. FROST, ET. AL. ALTURAS WATER COMPANY, ET. AL. 12/13/1909

RECORDED
FEB 22 1989

| | | | |
|-------------------------|--------------|------------------------|-----------------------------|
| Water right number - | 37-00048 | Adj. flag translation: | Standard Water Right Number |
| + - - Microfilm Rolls - | | | |
| + - - Audit Fields - | 02/11/86 | 05/28/88 | CONVERT |
| + - - | - - - - - | - - - - - | - - - - - |
| Proof Due Date | - 00/00/0000 | Field Exam Made | - 00/00/0000 |
| Approved/Denied | - 00/00/0000 | Protested Date | - 00/00/0000 |
| Proof Made Date | - 00/00/0000 | Hearing Date | - 00/00/0000 |
| Start Work Date | - 00/00/0000 | Verified Date | - 06/03/1985 |
| Order Show Cause | - 00/00/0000 | Receipt Number | - |
| Licensed Date | - 00/00/0000 | Appl Received | - 00/00/0000 |
| Decree Date | - 12/13/1909 | | |
| | | Field Exam Fee | - |
| | | Swan Falls | - |
| | | Temporary Right | - P |
| | | DLE/Carey Act | - |
| | | Water District | - 37 |
| | | Transfer/Amended | - |

MICROFILMED
FEB 22 1993



SCALE

410 000 FEET 715 20'

HAILEY 7 MI. 714
TWIN FALLS 72 MI

R. 17 E. R. 18 E. 713

43° 37' 30"

MICROFILMED
FEB 22 1993

T 4N

T 3N

T. 4 N.

T. 3 N.

x 24

/1988

SRBA CLAIMS RECEIVING CHECKLIST

CLAIMANT'S NAME McDonagh CLAIM INT. NO. A37-00048B

DATE RECEIVED 10-27-88 CK # 310 AMOUNT \$ 109

- | | YES | NO |
|--|-------------------------------------|--------------------------|
| 1. Is the name and address complete with zip code? | ☒ | ☐ |
| 2. Is a priority date entered? | ☒ | ☐ |

Is the water use exempt from the Permit requirements, or if it is not exempt, has a Permit been approved or a License issued?
A Permit is required: (1) for groundwater developed after March 25, 1963 (except single family domestic and stockwater wells using less than 13,000 gpd), or (2) for surface water developed after May 20, 1971 (except for instream stockwater). **USE CARE IF CLAIM IS RETURNED. REFER TO ADJUDICATION MEMOS # 1 (ADJ. CLAIMS/APPLICATIONS) AND # 9 (REJECTION OF CLAIMS).** **EXPLAIN IN COMMENTS.**

- | | | |
|---|--|--------------------------|
| 3. (a) Is a source entered? | ☒ | ☐ |
| (b) Is a tributary to entered? (if required) | ☒ N/A | ☐ |
| 4. Is the legal description of the p.d. sufficient? | ☒ | ☐ |
| 5. Is there a description of the diverting works? | ☒ | ☐ |
| 6. Are the water uses appropriate for the farm? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form. | ☒ | ☐ |
| Is the period of use included? | ☒ | ☐ |
| Is a quantity claimed for each use? | ☒ | ☐ |
| 7. Is a total quantity claimed entered? | ☒ | ☐ |
| 8. If required is a consumptive use entered? | ☒ N/A | ☐ |
| Is the consumptive use correct? | ☒ N/A | ☐ |
| 9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4. | ☒ N/A | ☐ |
| 10. Is (are) the place(s) of use and purpose(s) indicated? | ☒ 3 acres | ☐ |
| 11. Is (are) the county(ies) entered? | ☒ | ☐ |
| 12. Is the ownership of p.u. checked? | ☒ | ☐ |
| 13. Are other water rights listed or "none" indicated? | ☒ | ☐ |
| 14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.) | ☒ N/A | ☐ |
| 15. Is the basis of the claim indicated? | ☒ | ☐ |
| 16. Is the claim signed by the claimant, and is the signature appropriate? (If an individual is the claimant, has that individual signed the claim, or if an organization is the claimant, is the organization signature block complete?) | ☒ | ☐ |
| Has the claim been signed, sealed, and dated by a notary? | ☒ | ☐ |
| Was this claim filed on time, or was an extension granted? | ☒ | ☐ |
| Is the fee enclosed correct? | ☒ 53. Exempt | ☐ |
| If this claim is based on an existing water right, has the identification number been entered? | ☒ N/A | ☐ |
| Should this claim be receipted and data entered? | ☒ | ☐ |

Comments: \$4 Overpayment

Claim checked by: RS
MICROFILMED
FEB 22 1993