

GIVENS PURSLEY LLP

LAW OFFICES
601 W. Bannock Street
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300
WEBSITE: www.givenspursley.com

CHRISTOPHER H. MEYER
DIRECT DIAL: 208 388-1236
CELL: 208 407-2792
EMAIL: chrismeyer@givenspursley.com

Gary G. Allen
Peter G. Barton
Christopher J. Beeson
Clint R. Bolinder
Erik J. Bolinder
Jeremy C. Chou
William C. Cole
Michael C. Creamer
Amber N. Dina
Elizabeth M. Donick
Kristin Bjorkman Dunn
Thomas E. Dvorak
Jeffrey C. Fereday
Justin C. Fredin
Martin C. Hendrickson

Steven J. Hippler
Donald E. Knickrehm
Debora K. Kristensen
Anne C. Kunkel
Jeremy G. Ladle
Michael P. Lawrence
Franklin G. Lea
David R. Lombardi
John M. Marshall
Kenneth R. McClure
Kelly Greene McConnell
Cynthia A. Melillo
Christopher H. Meyer
L. Edward Miller
Patrick J. Miller

Judson B. Montgomery
Deborah E. Nelson
Kelsey J. Nunez
W. Hugh O'Riordan, LL.M.
Angela M. Reed
Justin A. Steiner
Scott A. Tschirgi, LL.M.
J. Will Varin
Conley E. Ward
Robert B. White

RETIRED
Kenneth L. Pursley
James A. McClure
Raymond D. Givens (1917-2008)

October 27, 2009

Mr. Kelly K. Christensen
Senior Water Resource Agent
Western Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: *Chris and Jackie Flanigan Water Rights*

Dear Kelly:

It appears that the Department's online records do not consistently reflect Givens Pursley LLP as the attorneys for the following water rights owned by Chris and Jackie Flanigan:

37-2168A
37-12219

37-2168C
37-8870

37-22121

37-22125

Enclosed is a copy of the Special Power of Attorney for Water Rights executed by Chris and Jackie Flanigan on April 25, 2008. Please update your records accordingly to ensure that I receive notice of any activity regarding these water rights. Thank you for your help in sorting through these rights.

Sincerely,


Christopher H. Meyer

Encl: *Special Power of Attorney for Water Rights*
cc: Chris and Jackie Flanigan
Jill Eshman, Esq.

CHM:ch
9582-1_694190_1.DOC

SPECIAL POWER OF ATTORNEY FOR WATER RIGHTS

Chris Flanigan and Jackie Flanigan, husband and wife, whose mailing address is HC 64, Box 8028, Ketchum, Idaho 83340, hereby appoints the attorneys of Givens Pursley LLP, 601 West Bannock Street, P.O. Box 2720, Boise, Idaho, 83701, as their true and lawful attorneys for the purpose of signing on their behalf the following forms for submission to the Idaho Department of Water Resources and/or any Court undertaking an adjudication of water rights held by Chris Flanigan and/or Jackie Flanigan:

1. Notice of Claim to a Water Right (including late claims and/or amendments of claims);
2. Application for Amendment of Permit to Appropriate the Waters of the State of Idaho;
3. Notice of Change of Water Right Ownership;
4. Request for Extension of Time to Provide Additional Time in Which to Submit Proof of Beneficial Use for a Water Right Permit;
5. Notice of Protest;
6. Application for Transfer of a Water Right;
7. Proof of Beneficial Use;
8. Application for Exchange of Water;
9. Application for Extension of Time to Avoid Forfeiture of a Water Right;
10. Application to Sell or Lease a Water Right to the Water Supply Bank;
11. Application for Temporary Approval of a Water Application;
12. Application for Permit to Appropriate the Waters of the State of Idaho;
13. Pleadings submitted to any Court undertaking a general or special adjudication of water rights held by Chris Flanigan and/or Jackie Flanigan; and
14. Any pleading or other document in support or furtherance of any of the above.

All may rely on such authority. This Special Power of Attorney shall be effective until revoked in writing by Chris Flanigan and Jackie Flanigan.

For purposes of the exercise of the powers herein granted, the facsimile signature of said attorneys shall be lawful and binding and any person may rely upon such facsimile signature as if it were an original.

[End of text]

IN WITNESS WHEREOF, we have executed this Special Power of Attorney effective as of the last date noted.

Dated: 4/25/08

Chris Flanigan
Chris Flanigan

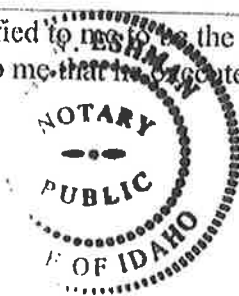
Dated: 4/25/08

Jackie Flanigan
Jackie Flanigan

ACKNOWLEDGMENT

State of IDAHO)
) ss.
County of BLAINE)

On this 25th day of April, in the year of 2008, before me Jill Eshman, a notary public, personally appeared **Chris Flanigan**, known or identified to me to be the person that executed the above instrument, and acknowledged to me that he executed the same.



Jill Eshman
Notary Public for STATE OF IDAHO
Residing at BLAINE COUNTY
My Commission Expires FEB 12, 2015

State of IDAHO)
) ss.
County of BLAINE)

On this 25th day of April, in the year of 2008, before me Jill Eshman, a notary public, personally appeared **Jackie Flanigan**, known or identified to me to be the person that executed the above instrument, and acknowledged to me that she executed the same.



Jill Eshman
Notary Public for STATE OF IDAHO
Residing at BLAINE COUNTY
My Commission Expires FEB 12, 2015

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: **A37-02168C**
Date Received: 8/ 3/1994
Receipt No: S017199
Received By: _____

**COPY FOR
YOUR FILES**

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

**COPY FOR
YOUR FILES**

1. Name: RICHARD R S SMITH
Address: 535 MADISON AVE 11TH FLOOR
NEW YORK NY 10022
AND
Name: SHERILL S SMITH
Address: 535 MADISON AVE 11TH FLOOR
NEW YORK NY 10022
2. Date of Priority: JAN 22, 1910
3. Source: OREGON CREEK (GULCH) Trib. to: BIG WOOD RIVER
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
05N	17E	10	SE	NE	SW		BLAINE

5. Description of diverting works:
HEADGATE DELIVERING TO EARTHEN DITCH
6. Water is used for the following purposes:
- | Purpose | From | To | C.F.S | (or) | A.F.A. |
|------------|-------|-------|-------|------|--------|
| IRRIGATION | 04/15 | 10/15 | 0.120 | | |
7. Total Quantity Appropriated is:
0.120 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
05N	17E	10	SW	SE		IRR	3.0
Section Acres							3.0
Total Acres							3.0

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:
37-10637 USED FOR DOMESTIC PURPOSES

14. Remarks:
PROPERTY IS PORTION OF HES 123 & 124.

12/6/96 TF; OWNERSHIP CHANGED GREENSLATE TO SMITH PER WARRANTY
DEED.

15. Basis of Claim: LICENSE
Water Right Number: 5840



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 736-3033 FAX: (208) 736-3037

January 17, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

RICHARD R S SMITH
SHERILL S SMITH
535 MADISON AVE 11TH FL
NEW YORK NY 10022

RE: SRBA Claim(s) A37-02168C

Dear Mr. and Mrs. Smith:

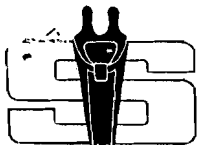
Pursuant to the change in ownership request that has been submitted to the Department, we have changed the record of current ownership to you. Please find the enclosed copies of the computer record of the claim(s) noting the change in claimant. Review these records and if there is an error, or you have any questions, please contact this office.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Trish Fawcett'.

Trish Fawcett
Technical Records Specialist

enc.



Order No. 96007689
This form furnished by
Blaine County Title Associates

RECEIVED

WARRANTY DEED

SEP 20 1996

Department of Water Resources
Southern Region

For Value Received ROBERT L. GREENSLATE and LADORAH C. GREENSLATE, husband and wife

the Grantor hereby grants, bargains, sells, conveys and warrants unto RICHARD R.S. SMITH and SHERILL S. SMITH, husband and wife

the Grantee whose current address is: 535 MADISON AVENUE, 11TH FLOOR, NEW YORK NY 10022

the following described premises, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE INCORPORATED HEREIN.

Together with the following described Water Right:

-Water Right No. A37-02168C Priority Date 1-22-1910

BLAINE CO. REQUEST

BLAINE COUNTY TITLE

1996 SEP -6 P 1:04

MARY GREEN, CLERK
FEES \$6⁰⁰ MPP

Deed

394122

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, their heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that it is the owner in fee simple of said premises; that said premises are free from all incumbrances and that he will warrant and defend the same from all lawful claims whatsoever.

Dated: August 19, 1996

Robert L. Greenslate
ROBERT L. GREENSLATE

Ladorah C. Greenslate
LADORAH C. GREENSLATE

State of Idaho

SS.

County of Blaine

On this 21st day of August, 1996, before me, the

LEGAL DESCRIPTION

Order Number: 96007689

A parcel of land within H.E.S. 123 and H.E.S. 124 in unsurveyed Township 5 North, Range 17 East, B.M., Blaine County, Idaho, and more particularly described by metes and bounds as follows:

COMMENCING at a stone marking Corner 4 of said H.E.S. 123; THENCE North $18^{\circ} 32'$ West 1851.55 feet to the TRUE POINT OF BEGINNING. THENCE North $18^{\circ} 32'$ West, 207.56 feet along the westerly boundary of said H.E.S. 123; THENCE North $65^{\circ} 42'$ East 1223.97 feet to the westerly boundary of U.S. Highway 93; THENCE South $33^{\circ} 17'$ East 70.19 feet along the westerly boundary of U.S. Highway 93; THENCE South $59^{\circ} 28'$ West 1263.25 feet to the TRUE POINT OF BEGINNING.

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: **A37-02168C**
Date Received: 11/16/1988
Receipt No: 5017199
Received By: Adm

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

1. Name: ROBERT L GREENSLATE 208-733-7310
Address: PO BOX 1026
TWIN FALLS ID 83301
OR
Name: LA DORAH C GREENSLATE 208-733-7310
Address: PO BOX 1026
TWIN FALLS ID 83301

2. Date of Priority: JAN 22, 1910

3. Source: OREGON CREEK (GULCH) Trib. to: BIG WOOD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
05N	17E	10	SE	NE	SW		BLAINE

5. Description of diverting works:
HEADGATE DELIVERING TO EARTHEN DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/15	10/15	0.120		

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

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

9. Non-irrigation uses:
NONE

COPY

MICROFILMED

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05N	17E	10	SW	SE		IRR	3.0
Section Acres							3.0
Total Acres							3.0

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:
37-10637 USED FOR DOMESTIC PURPOSES

14. Remarks:
PROPERTY IS PORTION OF HES 123 & 124.

15. Basis of Claim: LICENSE

Water Right Number: 5840

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: M2p5

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. Greenblatt Date: 8/3/94.

Date: _____

COPY

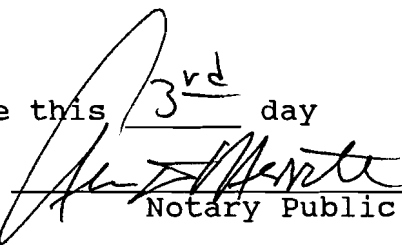
MICROFILMED
AUG 24 1994

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 3rd day

of Aug 19 94

Seal


Notary Public

Residing at Kimberly, ID
My Commission Expires 6/30/2000

COPY

MICROFILMED

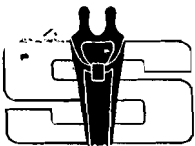
T. 5 N., R. 17 E.B.M.

H.E.S. 123 & Pt. 124

POOR ORIGINAL

MICROFILMED

NOV 24 1994



Order No. 96007689
This form furnished by
Blaine County Title Associates

RECEIVED

WARRANTY DEED

SEP 20 1996

Department of Water Resources
Southern Region

For Value Received ROBERT L. GREENSLATE and LADORAH C. GREENSLATE, husband and wife

the Grantor hereby grants, bargains, sells, conveys and warrants unto RICHARD R.S. SMITH and SHERILL S. SMITH, husband and wife

the Grantee whose current address is: 535 MADISON AVENUE, 11TH FLOOR, NEW YORK NY 10022

the following described premises, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE INCORPORATED HEREIN.

Together with the following described Water Right:

-Water Right No. A37-02168C Priority Date 1-22-1910

BLAINE CO. REQUEST

BLAINE COUNTY TITLE

1996 SEP -6 P 1:04

MARY GREEN. CLERK

FEES \$ 6⁰⁰ MPP

Deed

394122

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, their heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that it is the owner in fee simple of said premises; that said premises are free from all incumbrances and that he will warrant and defend the same from all lawful claims whatsoever.

Dated: August 19, 1996

Robert L. Greenslate
ROBERT L. GREENSLATE

Ladorah C. Greenslate
LADORAH C. GREENSLATE

State of Idaho

ss.

County of Blaine

On this 21st day of August, 1996, before me, the undersigned, a Notary Public, in and for said State, personally appeared ROBERT L. GREENSLATE and LADORAH C. GREENSLATE

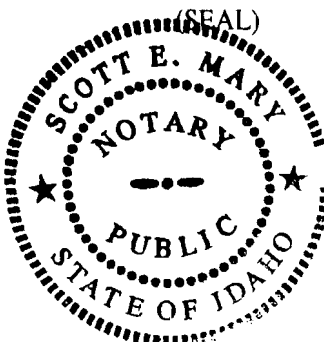
known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that they executed the same.

WITNESS MY HAND AND OFFICIAL SEAL.

Notary Public

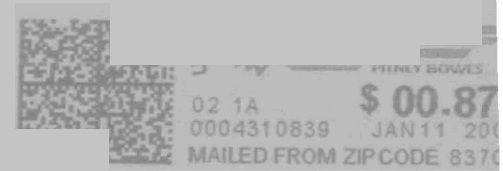
Residing at: KETCHUM, ID

Commission Expires: 6/6/97



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

ADDRESS SERVICE
REQUESTED



SHERILL S SMITH
RICHARD R S SMITH
535 MADISON AVE 11TH FLO
NEW YORK NY 10022

RE
DEC 05 2017
DEPARTMENT

37-2168C

ADDRESS SERVICE
REQUESTED

if Water

Rejudication Bureau
P. O. Box 83720
 Boise, ID 83720-0098



ATTEMPTED
NOT KNOWN

37-2168C

RICHARD R S SMITH

SHERILL S SMITH
535 MADISON AVE 11TH FLOOR
NEW YORK NY 10022

RECEIVED
FEB 14 2007
DEPARTMENT OF
WATER RESOURCES



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

RETURN SERVICE REQUESTED

37-21480

RECEIVED
SEP 28 2004
Department of Water Resources
Southern Region

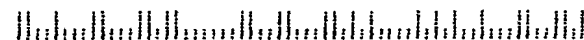
SMITH
535 MADISON AVE 11TH FLOOR
NEW YORK NY 10022

★ ★ PITNEY BOWES
★ ★
★ ★
U.S. POSTAGE
1460 PB3524253
3301 \$00.370 SEP 10 2004
1882 MAILED FROM ZIP CODE 83301

RETURN
TO SENDER
POSTED
BY ORD.
VIRK

Nick

83301-35522421





Idaho Department of Water Resources

SRBA Recommendation:

37-2168C

(Irrigation)

Legend

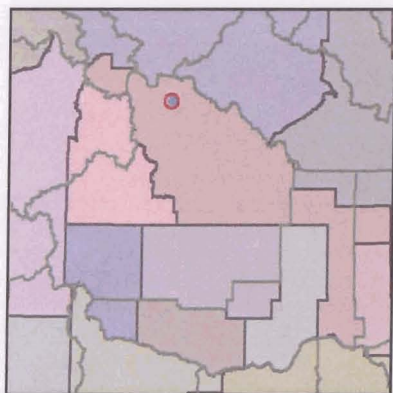
● Point of Diversion

□ Place of Use

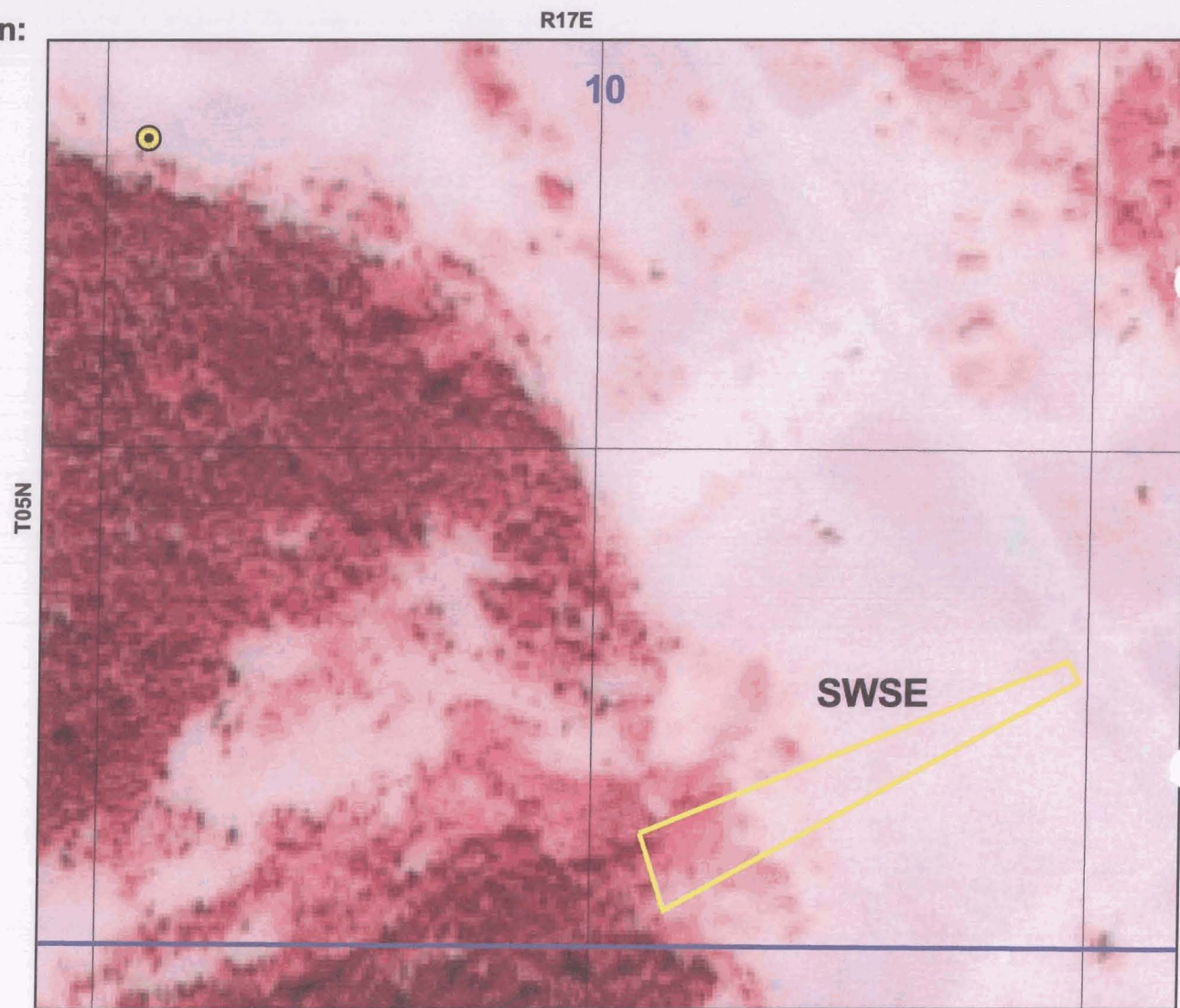
□ Townships

□ PLS Sections

□ Quarter Quarters



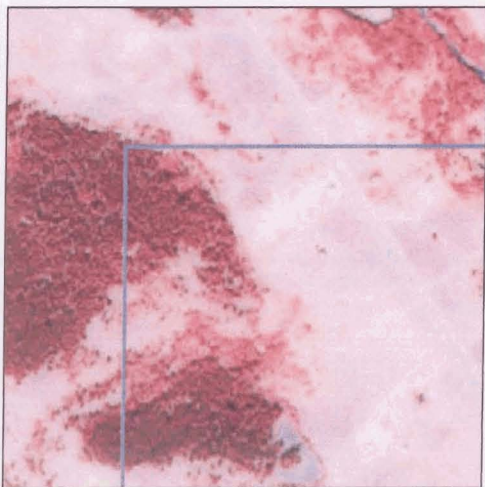
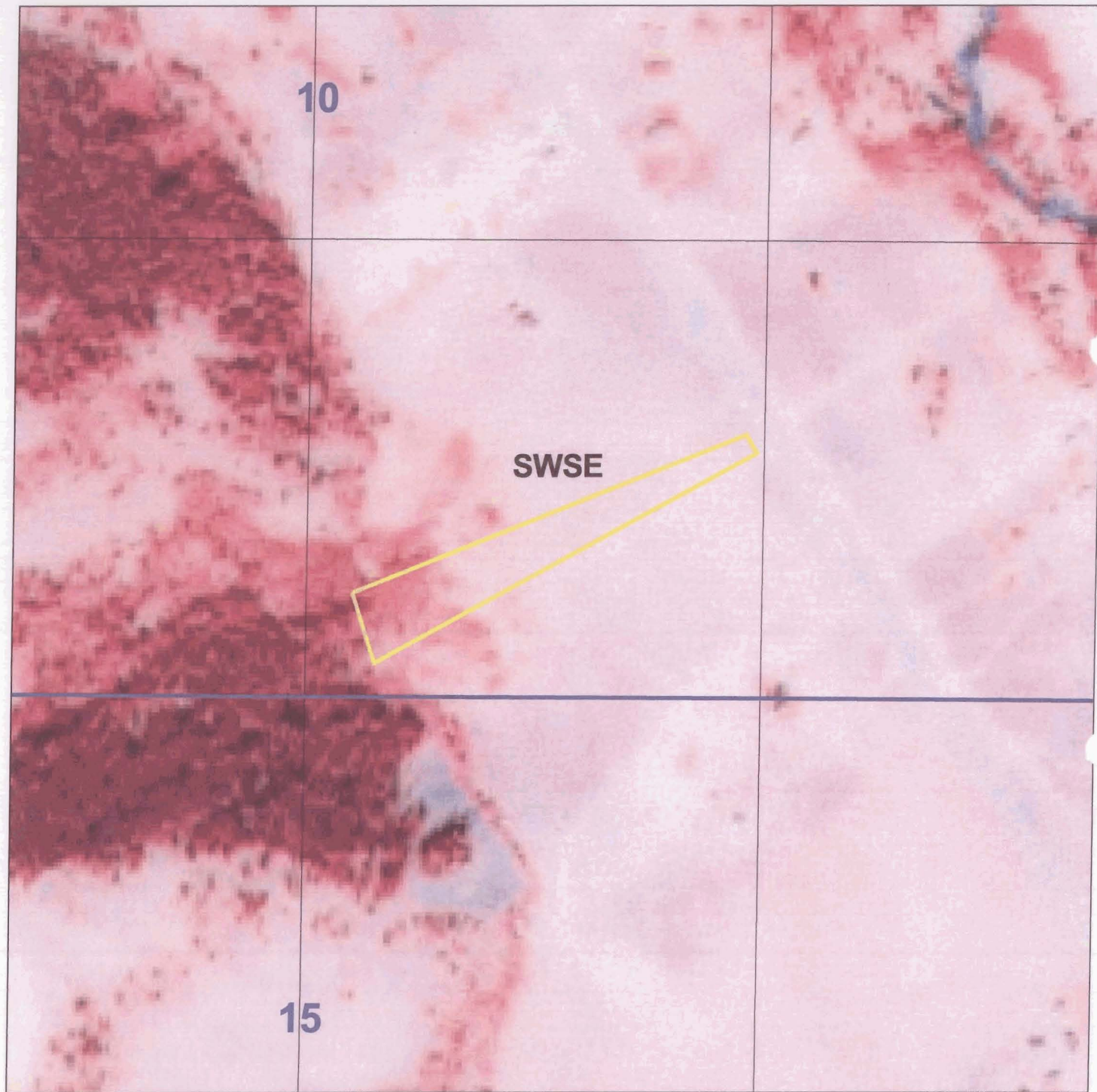
Blaine County
IDWR Basin 37



0 0.2 0.4 Miles

Prepared by D. Smith
On Wednesday, January 10, 2007
1987/88 Aerial Photography

37-2168C



01/10/2007

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

RIGHT NUMBER: 37-2168C

NAME AND ADDRESS: SHERILL S SMITH
535 MADISON AVE 11TH FLOOR
NEW YORK NY 10022

RICHARD R S SMITH
535 MADISON AVE 11TH FLOOR
NEW YORK NY 10022

SOURCE: OREGON CREEK

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.120 CFS

This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

PRIORITY DATE: 01/22/1910

POINT OF DIVERSION:

T05N R17E S10 SENESW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 11/15	0.120 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T05N R17E S10 SWSE 3.00

3 ACRES TOTAL

PROPERTY IS PORTION OF HES 123 & 124.

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 - License

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

BLAINE COUNTY TITLE

RECEIVED

SEP 20 1996

208 SPRUCE AVENUE NORTH
P.O. BOX 3176 - KETCHUM, IDAHO 83340
(208) 726-0700
(208) 726-8406 (FAX)
1-800-346-6879
(OUTSIDE OF IDAHO)

Department of Water Resources
Southern Region

SCOTT E. MARY
PRESIDENT

IDAHO DEPARTMENT OF WATER RESOURCES
222 SHOSHONE STREET EAST
TWIN FALLS, ID 83301-6105

September 18, 1996

RE: Escrow No. 96007689 GREENSLATE/SMITH

Dear SIRS

With regards to the above described real estate transaction, please find enclosed the following:

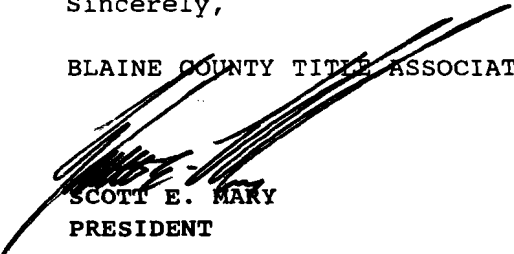
____ Title Commitment
____ Closing Statement
____ Deed of Trust - Instrument No. _____
____ Note
____ Warranty Deed - Instrument No. _____
____ Quitclaim Deed - Instrument No. _____
____ Escrow Instructions
____ Tax Notice
____ Insurance Binder
____ Lender's Documents
____ Cover Letter(s) - Copy
____ Owner's Policy No. _____
____ Mortgagee's Policy No. _____
____ Endorsements _____

____ Lot Book Report
____ Lien Affidavit
XX Other: WATER RIGHTS TRANSFER FORMS
____ Other: _____
____ Check # _____ in the amount of \$ _____
____ Representing: _____

If you should have any questions, please do not hesitate to contact the undersigned.

Sincerely,

BLAINE COUNTY TITLE ASSOCIATES


SCOTT E. MARY
PRESIDENT



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see instructions on back of page)

RECEIVED

DATE OF CLOSING: 9-6-96

SEP 20 1996

LEGAL DESCRIPTION OF PROPERTY: Township _____ Range _____ (SEE ATTACHED LEGAL) Department of Water Resources
Section _____, 1/4 of _____ 1/4 of _____ 1/4, Govt. Lot _____, BM. Southern Region
Lot _____, Block _____, Subdivision/Townsite _____
If you have additional legal descriptions, please attach separate sheet.

- ☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)
- ☐ Water Right Number(s)
Assigned by IDWR: A37-02168C .120 CFS Priority Date 1-22-1910
- ☐ Name and Address of Former Owner/Claimant(s)(Seller): ROBERT L. AND LADORAH GREENSLATE
P.O. BOX 1026
TWIN FALLS, ID 83301
- ☐ New Owner/Claimant (Purchaser): RICHARD R.S. AND SHERILL S. SMITH
- ☐ New Mailing Address: 535 MADISON AVENUE, 11TH FLOOR
NEW YORY, NY 10022
- ☐ New Telephone Number: () _____ - _____
- ☐ Does the change in ownership result in a splitting of the water right owned/claimed? yes no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

☐ Attach proof of ownership, describe proof attached: _____

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

☐ Signature of New Owner/Claimant(s) *Sherill S. Smith* Date 8-28-96
Date 8-28-96

☐ Signature of Former Owner/Claimant(s): _____ Date _____
Date _____

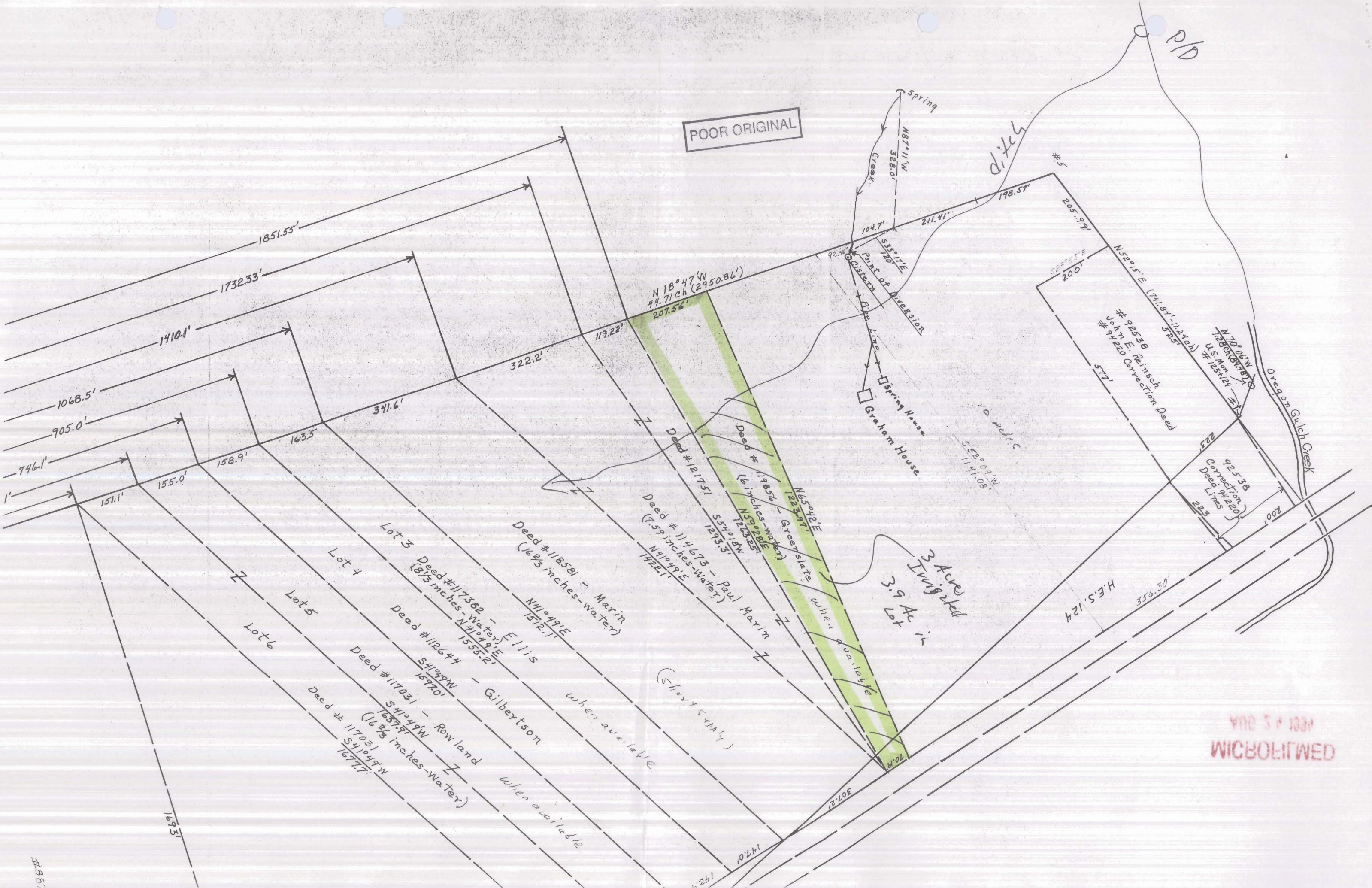
(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:
Initial Review and Data-Entry
Date: _____ By: _____
Further Action Needed:
Further Action Taken
Date: _____ By: _____
Final Review and Data-Entry
Date: _____ By: _____
Claim Numbers of Split, if any:

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner

P/D

POOR ORIGINAL



DEMOLITION
APR 1 1984

#881

POOR COPY

North

Canyon

Murdoch Campground

River

93

North Fork
Campground

Leroux

Point of
Diversion

Mile
105

Oregon Gulch

10

Lands
Irrigated

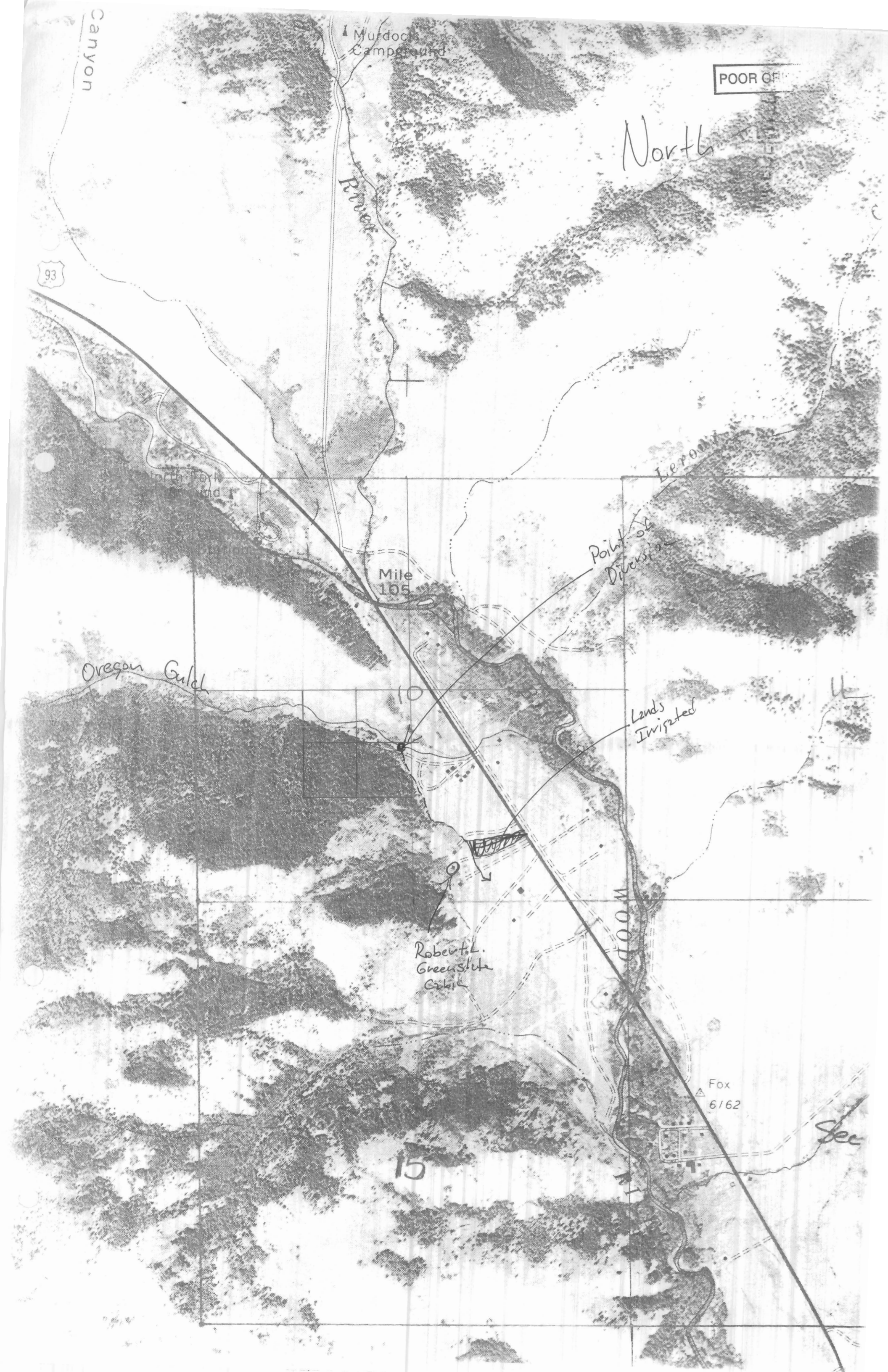
Robert L.
Greenslate
Creek

DOOM

Fox
6/62

15

Sec



COPY

DISTRICT COURT - 5th JUDICIAL DISTRICT
TWIN FALLS COUNTY, IDAHO
FILED

2008 FEB 6 PM 10 03

**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

Subcase No. 37-2168C

Case No. 39576

**NOTICE OF COMPLETED
ADMINISTRATIVE PROCEEDING**

IDWR has completed the following Administrative proceeding: **SUBSTITUTION OF PARTY**

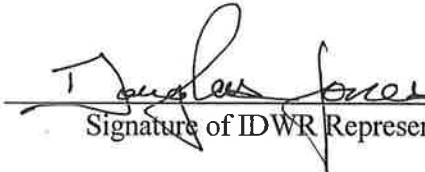
Does the change in "ownership" result in a splitting of the water right claimed? ☐ Yes ☒ No

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

Dated:

1/22/08


Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on 2/16, 2008, I delivered the original and copies of this form, including all attachments, to the following persons, postage prepaid if required and addressed as follows:

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. Copies to:

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

United States Dept Of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724

Chris Flanigan
Jackie Flanigan
HC 64 Box 8028
Ketchum ID 83340

Richard Smith
Sherrill Smith
535 Madison Ave 11th Fl
New York NY 10022



Signature of person or attorney mailing the form

01/08/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-2168C

NAME AND ADDRESS: CHRIS FLANIGAN
HC 64 BOX 8028
KETCHUM ID 83340

JACKIE FLANIGAN
HC 64 BOX 8028
KETCHUM ID 83340

SOURCE: OREGON CREEK

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.120 CFS

This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

PRIORITY DATE: 01/22/1910

POINT OF
DIVERSION:

T05N R17E S10 SENESW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 11/15	0.120 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T05N R17E S10 SWSE 3.00

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 - License

PROPERTY IS PORTION OF HES 123 & 124.

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380
Phone: (208) 736-3033 • Fax: (208) 736-3037 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

February 5, 2008

CHRIS FLANIGAN
JACKIE FLANIGAN
HC 64 BOX 8028
KETCHUM ID 83340

RE: SRBA Claim(s) 37-2168C

Dear Claimants:

Please find the enclosed copy of the Notice of Completed Administrative Proceeding, which the department has filed with the SRBA Court regarding the above referenced claims. You have received this notice pursuant to SRBA Court Administrative Order 11 requiring IDWR to report to the court and interested parties any pending changes to adjudication claims in basins for which a Director's Report has been filed with the court.

Please contact this office if you have any questions about the notice or the administrative process.

Sincerely,

Trish Fawcett
Technical Records Specialist

cc: Richard & Sherrill Smith
535 Madison Ave 11th Fl
New York NY 10022

**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

Subcase No.: 37-2168C

STANDARD FORM 5

**STIPULATED ELEMENTS OF A
WATER RIGHT**

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT:

Jackie and Chris Flanigan

Christopher H. Meyer Date
Attorney for Jackie and Chris Flanigan

IDWR CONCURRENCE:

Kelly K. Christensen 11-18-09

Kelly K. Christensen Date
Sr. Water Resource Agent

IDWR CONCURRENCE:

Nicholas B. Spencer Date
Deputy Attorney General
Attorney for IDWR

10/27/2009

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-2168C

NAME AND ADDRESS: CHRIS FLANIGAN
HC 64 BOX 8028
KETCHUM ID 83340

JACKIE FLANIGAN
HC 64 BOX 8028
KETCHUM ID 83340

SOURCE: OREGON CREEK

TRIBUTARY: BIG WOOD RIVER

QUANTITY: ~~0.12~~ 0.070 CFS

This right when combined with all other rights shall provide no more than
0.02 ~~0-02~~ cfs per acre nor more than 3.5 afa per acre at the field headgate
for irrigation of the lands above.

PRIORITY DATE: 01/22/1910

POINT OF
DIVERSION:

T05N R17E S10 ~~NENSW~~ ~~GENESW~~ Within BLAINE County

KKC

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

05/01 10/31 11/15

~~0.12~~ 0.070 CFS

PLACE OF USE:

IRRIGATION in BLAINE County

T05N R17E S10

SWSE 3-1.70

3-1.70 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of
13.2 acres in a single irrigation season. Combined Right Nos.: 37-2168A,
37-2168C, and 37-22125.

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 - License

PROPERTY IS A PORTION OF HES 123 & 124.

Right includes accomplished change in point of diversion pursuant to Section
42-1425, Idaho Code.

Right includes accomplished change in place of use pursuant to Section
42-1425, Idaho Code.

10/27/2009

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-2168C

NAME AND ADDRESS: CHRIS FLANIGAN
HC 64 BOX 8028
KETCHUM ID 83340

JACKIE FLANIGAN
HC 64 BOX 8028
KETCHUM ID 83340

VERIFIED BY KKC
Routed 10-27-09

SOURCE: OREGON CREEK TRIBUTARY: BIG WOOD RIVER

QUANTITY: ~~0.12~~ 0.070 CFS

This right when combined with all other rights shall provide no more than
~~0.02~~ ~~0.03~~ cfs per acre nor more than 3.5 afa per acre at the field headgate for
irrigation of the lands above.

PRIORITY DATE: 01/22/1910

POINT OF
DIVERSION:

T05N R17E S10 ~~NENWSW~~ ~~SENESEW~~ Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 <u>10/31</u> ~~11/15~~	~~0.12~~ <u>0.070</u> CFS

PLACE OF USE: IRRIGATION in BLAINE County

T05N R17E S10 SWSE ~~3~~-1.70
3-1.70ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 13.2
acres in a single irrigation season. Combined Right Nos.: 37-2168A,
37-2168C, and 37-22125.

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 - License

PROPERTY IS A PORTION OF HES 123 & 124.

Right includes accomplished change in point of diversion pursuant to Section
42-1425, Idaho Code.

Right includes accomplished change in place of use pursuant to Section
42-1425, Idaho Code.

FAX COVER SHEET

DATE: Thursday, July 2, 2009

PAGES (INCLUDING COVER): 4

ORIGINAL TO FOLLOW: No

From:

CHRISTOPHER H. MEYER

GIVENS PURSLEY LLP

601 West Bannock Street

Post Office Box 2720

Boise, Idaho 83701-2720

Telephone: 208-388-1236

Fax: 208-388-1300

Email: chrismeyer@givenspursley.com

Web: www.givenspursley.com

RE: Notes re yesterday's discussion – Flanigan rights
Our File No. 9582-1

TO: **Chris & Jackie Flanigan**

Kelly K. Christensen, IDWR Western Region – (208) 334-2348

Nick Spencer, IDWR Deputy Attorney General – (208) 287-6700

Vicki Kelly, IDWR – (208) 287-6700

Scott King, SPF – (208) 383-4156

Jill Eshman, Esq. – (208) 727-1706

Phil Rassier, IDWR – (208) 287-6700

MESSAGE: Please see attached email message. We are waiting to get a fax number for Chris & Jackie Flanigan so we can fax the message to them as well. Please contact me if you have any questions. Our email system is having difficulties today, so telephone is probably best.

— Chris

If this fax does not transmit fully or is difficult to read, please contact me or my secretary, Caralea Hopingardner, at (208) 388-1227.

CONFIDENTIALITY NOTICE

This facsimile may contain confidential information that is protected by the attorney-client or work product privilege. It is intended only for the use of the individual(s) named above. If you are not a named recipient or an employee responsible for delivering the facsimile, you are instructed not to deliver, distribute or copy this facsimile, nor should you disclose its contents or take any action in reliance on the information it contains. If you have received this facsimile in error, please notify us immediately by telephone to arrange for the return of the transmitted documents to us. Thank you.

Caralea Hopingardner

From: Caralea Hopingardner
Sent: Thursday, July 02, 2009 1:34 PM
To: Christopher H Meyer; Jackie and Chris Flanigan (chrisflanigan@mac.com); Kelly K. Christensen (Kelly.Christensen@idwr.idaho.gov); Nick Spencer (nick.spencer@idwr.idaho.gov); Vicki Kelly (vkelly@idwr.state.id.us); Scott King (sking@spfwater.com)
Cc: Jill Eshman (jill@jeshmanlaw.com); Phil Rassier (phil.rassier@idwr.idaho.gov)
Subject: RE: Notes re yesterday's discussion - Flanigan rights [IWOV-GPDMS.FID325594]

Our office is having issues with being black listed. I'm resending Chris Meyer's email message from earlier today. I will also fax a copy of this email to all parties to ensure delivery.

Caralea

From: Christopher H Meyer
Sent: Thursday, July 02, 2009 1:10 PM
To: Jackie and Chris Flanigan (chrisflanigan@mac.com); Kelly K. Christensen (Kelly.Christensen@idwr.idaho.gov); Nick Spencer (nick.spencer@idwr.idaho.gov); Vicki Kelly (vkelly@idwr.state.id.us); Scott King (sking@spfwater.com)
Cc: Jill Eshman (jill@jeshmanlaw.com); Phil Rassier (phil.rassier@idwr.idaho.gov)
Subject: Notes re yesterday's discussion - Flanigan rights [IWOV-GPDMS.FID325594]

Kelly, Vicki, Nick, Scott, & Jill,

First, let me thank Nick, Vicki, and especially Kelly for the tremendous effort you have put into helping us get this sorted out.

We are very appreciative.

Thanks also to Kelly for your summary email from this morning.

Here are some notes summarizing yesterday's meeting at IDWR (following the initial hearing on 37-22121 and 37-22125) and setting out which way we would like to go.

These notes also reflect my subsequent telephone discussion with Chris Flanigan, who provided additional information about BOWETA, and my conversation today with Phil Rassier. (Scott King has reviewed an earlier draft of this email, and concurs.)

Property Ownership

Kelly raised a concern about the fact that part of the Flannigan homesite is owned by BOWETA, and the POU descriptions do not correspond to the property boundaries dividing the Flanigan-owned property from the BOWETA-owned property.

Here is a re-cap of ownership history:

The Flanigans originally owned Lots 1, 2, 3 and 4 of the current subdivision.

The Flanigans sold Lot 2 to the Welshs, retaining all of the subject water rights (37-8870, 37-2168A, 37-2168C, 37-22121, 37-22125 & 37-12219).

7/2/2009

The Flanigans conveyed Lots 1 & 4 to BOWETA LLC, including appurtenant water rights.
(Kelly, please note that this includes Lot 4, too. You may be under the impression that BOWETA only owns lot 1.)
This conveyance to BOWETA was made solely for estate planning purposes.
Lots 1, 3 & 4 continue to be operated as a single entity under a common irrigation system.
There are no plans to split off, convey, or develop the BOWETA property separately from the Flanigan property.

Place of Use

The POU for water right 37-2168C corresponds to former tax lot 3508, the sliver of land in the southern portion of lots 1 and 2.

However, the irrigated portion lies entirely within lot 1, owned by BOWETA.
Thus, BOWETA owns 100% of 37-2168A.

The POU for water right 37-2168A is located on the remaining land, that is, within Lots 1, 4 and 3 that are not in former tax lot 3508.

Thus, 37-2168A is partly owned by the Flanigans and partly by BOWETA.

Although the boundaries for these two rights do not track the boundary between BOWETA and Flanigan, this does not really matter.

As noted, the land will continue to be irrigated together, as a single system, the foreseeable future.

At some point, perhaps, we may want to split and/or realign the rights to correspond to the separate ownership. But it does not need to be addressed today in connection with the SF5's

New Ownership Notice

Idaho law requires that IDWR be notified of any change in ownership of land with appurtenant water rights. We discussed this at our meeting today, and we concluded that this ownership notification requirement would be met without filing a notice of change in ownership so long as the Flanigans have a clear right to hold the water rights in their name and to use the water on the BOWETA property. BOWETA will execute a license or similar instrument confirming this arrangement. With that in hand, there will be no obligation to file a new ownership form.

In yesterday's meeting, Phil Barber said he was comfortable with this.

I called Phil Rassier today, and ran this by him. He concurred that this works.

Phil noted that the purpose of the new ownership requirement is not to establish legal title, but simply to ensure that IDWR has up-to-date contact information for purposes of providing notice.

Combined Use Conditions

Since the POU for 37-2168A, 37-2168C, and 37-22125 overlap, I suggest the following conditional language for all three rights:

"The combined place of use for water rights Nos. 37-2168A and 37-2168C overlaps with the place of use for water right No. 37-22125. The total combined instantaneous rate of flow for water diverted for irrigation under these three rights shall not exceed 0.31 cfs. Water applied to land irrigated by any of these three rights shall not exceed 0.02 cfs per acre at the field headgate nor more than 3.5 afa per acre at the field headgate."

POU Shapes

We understand that IDWR is making some refinements to the POU shapes and total acreages. Scott King will work directly with Kelly Christensen to get that pinned down.

Conveyance Losses

Scott King will get information regarding channel losses to Kelly Christensen. This will document that the claimed diversion rates are justified. It is our expectation that this documentation, combined with the proposed conditions above, will be sufficient and that no further quantity refinements in the Director's Recommendation will be required.

Best regards,

7/2/2009

- Chris Meyer

Cc: Chris & Jackie Flanigan

Contact information:

Christopher H. Meyer

Givens Pursley LLP

Mailing Address:

P.O. Box 2720

Boise, Idaho 82701

Street Address:

601 W. Bannock Street

Boise, Idaho 83702

Direct: 208-388-1236

Fax: 208-388-1300

Cell: 208-407-2792

Home: 208-336-2485

Assistant:

Caralea Hopingardner (208-388-1227)

caraleah@givenspursley.com

7/2/2009



Tax lot boundaries received from the county as of 3-12-08. Tax lot shape does not line up perfectly with the aerial photo which is an Arc Map issue.



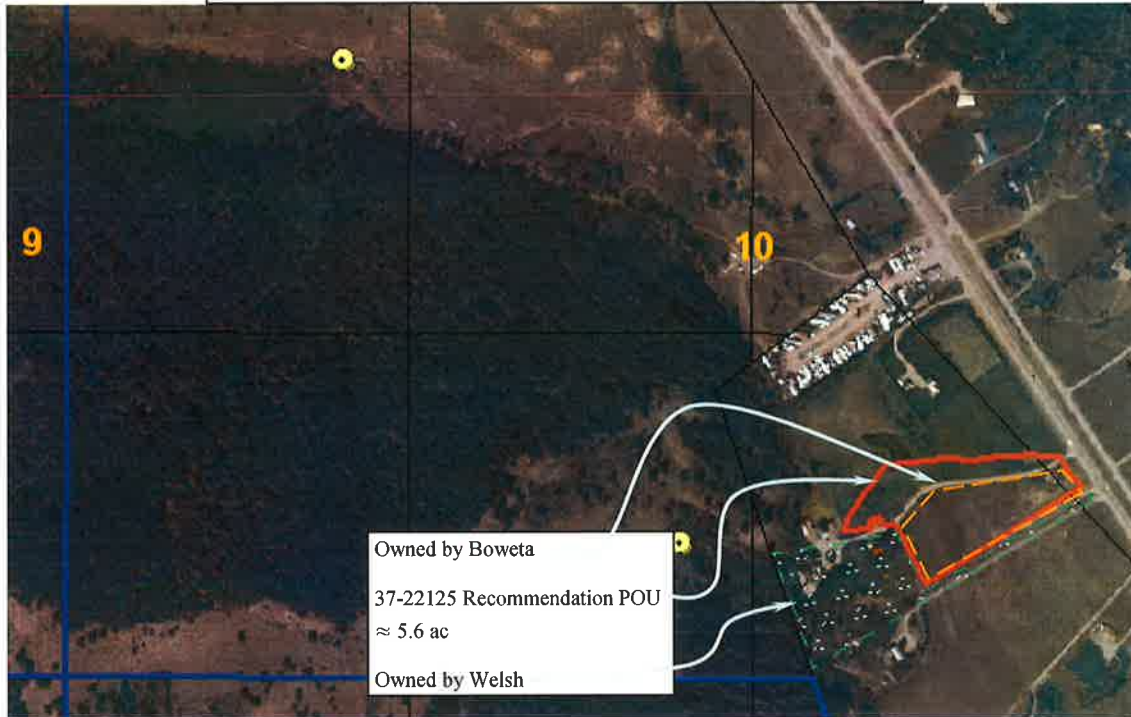
Original recommended POU boundary. Line within the shape is an error generated when developing the original shape. The upper shape is for 37-2168A and the lower shape is for 37-2168C

37- 2168A	1.7ac	1.7	
2168C	10.6 ac	11.0	
22125	<u>.50ac</u> (beyond P/u for 2168)	<u>.5</u>	✓
total		13.2ac	
		<u>Comb. Right language limit</u>	

Boweta LLC ownership boundary and overlap area with 37-22125

Welsh property boundary partly included in the initial recommended POU

2004 aerial photo



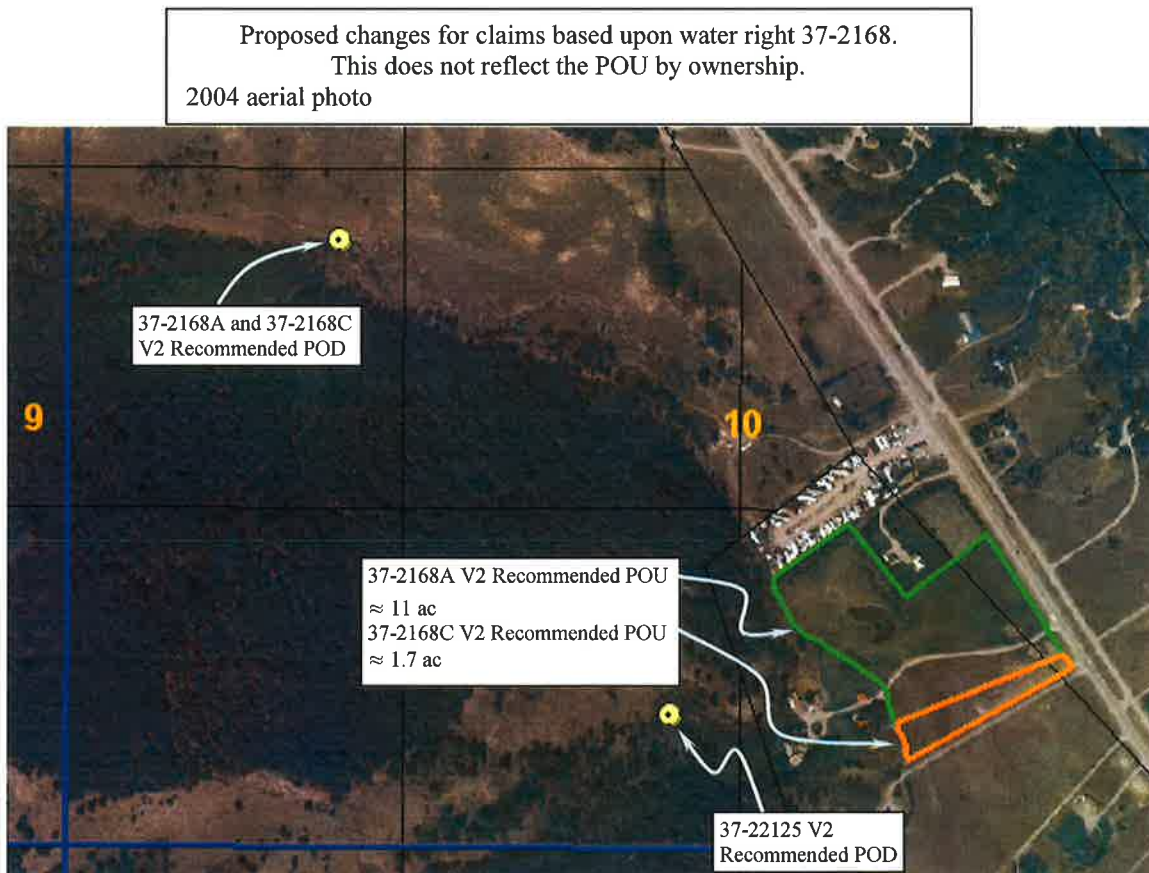
OWNERSHIP ISSUE

It is my understanding that all of the POU for 37-2168C and a portion of the POU for 37-2168A is owned by a different legal entity (Boweta LLC). Although Boweta LLC is controlled by Flanigan it is a separate and unique owner. This creates overlap issues with 37-22125. It is my understanding that both parcels are currently and historically operated as a common system rather than being managed on an ownership basis.

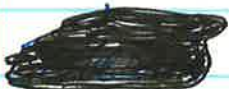
One possible solution would require a reassessment of the recommended POU for both 37-2168A and C. As the claims are based upon the same licensed right I feel that it would be reasonable to modify the POU for each right to reflect the ownership boundaries. As it stands if Boweta were to submit a change of ownership 37-2168A would have to be split creating two rights based upon 37-2168 for the Boweta property. This approach would not require any amendments to the claims as 37-2168A would be reduced by that portion going to Boweta and the recommendation 37-2168C could be increased by the same respective acreage. The claimed POU for 37-2168C exceeds the proposed increase in the POU under this analysis.

37-22125 could then be split based upon ownership and better reflect the actual ownership/overlap between the two systems and there would not be multiple claims derived from the same base right on either parcel.

The following aerial representations of the property in question are an attempt to visually describe what was discussed above.



The revised recommendations for 37-2168A and 37-2168C recognize that the ground west of the delivery ditch has never been irrigated and has therefore been excluded in the V2 recommendation. Also the director's report recommendation included a portion of the Welsh property which is also excluded in this recommendation.



Flanigan

37-2168A Obj source should be Oregon Cr trib to sinks.

2168B C Obj " " " " " " "

Response Obj filed by Concerned Water Users.

37-12219. Dom/stock use decreased
GW

37-8870 Domestic licensed not a part of SRBA.
Spring.

37-2168A

Recom as claimed 15.6^{ac} @ .31 cfs P/u should be
smaller.

37-2168C {Smith} Now Flanigan
Recom for 3ac @ .12 cfs

37-2168 licensed for 2.00 cfs. on 160 ac
 $2.00/160 = \underline{0.0125 \text{ cfs/acre}}$

Christensen, Kelly

From: Christensen, Kelly
Sent: Friday, June 19, 2009 9:35 AM
To: Bromley, Chris; Kelly, Vicki
Subject: 37-2168A & C 37-22125 Flanigan possible settlement solution to an ownership issue.

Attachments: 37-2168A and C V2 analysis.doc

The southern portion of the overall recommended POU is now owned by Boweta LLC and Welsh. In reviewing additional information I do not believe that the Welsh property ever received water from Oregon Gulch. This is somewhat supported by the agreed POU recommended for 37-22125. The primary ownership issue involves claims against 37-2168. Currently there are two claims filed based upon lot ownership at the time of claims taking. Although the lots were under different ownership all currently available information suggests that the two claims shared a common system and operated at least somewhat in conjunction with each other. After Flanigan purchased the various parcels they were then subdivided differently but the irrigation system basically stayed the same (integrated).

All this to say that I feel the recommendations could be modified to reflect ownership maintaining 2 claims against 37-2168 rather than ultimately having 2 claims for Boweta and a third for Flaingan. This would also be advantageous in describing the overlap issues associated between this system and 37-22125.

I thought that I would run this by you before approaching Chris Meyer.



37-2168A and C V2
analysis.doc...

If my proposals are acceptable (including the reductions to the POU and subsequent diversion rates) the SF-5 preparations would only take a short day (including processing an ownership change).

Kelly K Christensen
Sr Water Resource Agt
Boise, Western Region
(208)-334-2190

37-22121 & 22125

Flanigan ~~Dec~~ Jan 13th @ 4:00 PM.

Christopher H. Meyer, Idaho State Bar No. 4461
Michael P. Lawrence, Idaho State Bar No. 7288
GIVENS PURSLEY LLP
601 West Bannock Street
P.O. Box 2720
Boise, Idaho 83701-2720
Office: (208) 388-1200
Fax: (208) 388-1300
www.givenspursley.com

Attorneys for Christopher A. Flanigan and Jacqueline Renee Adams Flanigan, Husband and Wife, and for BOWETA LLC

**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

Subcase Nos. 37-2168A, 37-2168C
37-22121, and 37-22125

**STIPULATION FACILITATING
SF5s**

The undersigned parties ("Parties"), by and through their counsel of record, hereby stipulate as follows with respect to Water Right Nos. 37-8870, 37-2168A, 37-2168C, 37-12219, 37-22121, and 37-22125 (collectively as the "Water Rights"):

1. Christopher A. Flanigan and Jacqueline Renee Adams Flanigan, Husband and Wife (the "Flanigans"), who are named as Chris and Jackie Flanigan in some documents pertaining to the Water Rights, are the claimants for Water Right Nos. 37-2168A, 37-2168C, 37-22121, and 37-22125.

2. Some of the Water Rights and/or land to which the Water Rights are appurtenant may be owned by BOWETA LLC, a Colorado limited liability company.

3. The Flanigans own and control BOWETA LLC, a family-owned entity employed for estate and tax planning purposes.

4. The Flanigans and/or BOWETA LLC also own Water Right No. 37-8870, a licensed right for which no SRBA claim has been filed, and Water Right No. 37-12219, for which a partial decree has been issued by the SRBA Court.

5. The Flanigans filed objections to the Director's Reports for Water Right Nos. 37-2168A and 37-2168C. In their objections, the Flanigans contended that Oregon Gulch Creek is tributary to sinks. Part "E" of those objections set out the following explanation of the Flanigans' position:

Oregon Gulch Creek is physically separate from the Big Wood River. Oregon Gulch Creek is a "dry creek" and does not discharge to the Wood River during the irrigation season. Instead, it is tributary to sinks. Administration of this right historically has been separate from surface rights on the Big Wood River. This separate administration should be reflected in the general provisions governing this water right. . . .

6. Tom O'Gara, John F. Stevenson, Bill Molyneux, Pete Van Der Meulen, Grace Eakin, Gerald Bashaw, and Pepin Corso-Harris ("Concerned Water Users") and Big Wood Canal Company ("Canal Company") filed a combined Standard Form 2 Response to Objection ("Response") for Water Right No. 37-2168C.

7. The purpose of the Response was to contest the Flanigans' Objection as described in paragraph 4 above. Concerned Water Users and Canal Company did not file a response in connection to Water Right No. 37-2168A, but they have the same concern with respect to the Flanigans' "dry creek" objection as to that water right.

8. The Flanigans agree to enter into a Standard Form 5 Stipulation ("SF5") for Water Right Nos. 37-2168A and 37-2168C containing the following key terms: First, the Flanigans will withdraw their claim that the Oregon Gulch Creek is a "dry creek" entitled to

separate administration from the Big Wood River as described in paragraph 4 above. Second, the SF5s will correct the location of the point of diversion, which has not physically moved but is incorrectly displayed.

9. Concerned Water Users and Canal Company will execute the above-described SF5 for Water Right No. 37-2168C.

10. Concerned Water Users and Canal Company agree not to file any objection or response or otherwise to oppose recognition of Water Right No. 37-2168A as reflected in the above-described SF5.

11. Concerned Water Users and Canal Company agree not to file any objection or response or otherwise to oppose recognition of Water Right Nos. 37-22121 and 37-22125 so long as those water rights are recommended for approval by the Director of the Idaho Department of Water Resources materially in conformance with how they have been claimed (as reflected in the water right summaries set out as Exhibits A and B), except that the Director may, in his judgment, chose to describe the point of diversion for one or both of these rights as the spring source of the unnamed stream. The water rights shall contain no condition or general provision regarding separate administration.

12. Concerned Water Users and Canal Company agree not to oppose or collaterally attack Water Right Nos. 37-8870 or 37-12219.

13. This Stipulation is intended to facilitate the final adjudication those Water Rights now before the SRBA. The Flanigans are free to file a request with the Department to transfer, lease, or convey all or part of any of the Water Rights in the future, and Concerned Water Users and Canal Company are free to oppose any such action based on such legal grounds that they

might have in the future in light of and in recognition of the partial decree of these Water Rights agreed to in this Stipulation.

14. The obligations on the Parties set out in this Stipulation are contingent upon the approval by the SRBA Court of the above-referenced SF5s for Water Right Nos. 37-2168A and 37-2168C materially in accordance with paragraph 8 and upon the issuance of Director's Reports and approval by the SRBA Court of Water Right Nos. 37-22121 and 37-22125 materially in accordance with paragraph 11.

15. Except as set forth expressly in this Stipulation, the Flanigans and BOWETA LLC retain the right to pose any legal or factual defense (including but not limited to futile call) that they may have with respect to any future delivery call, curtailment, or administration of any of the Water Rights.

This Stipulation may be executed in counterparts. Facsimile and electronic signatures shall be treated as originals. This Stipulation is effective only if executed by all Parties.

Respectfully submitted,

GIVENS PURSLEY LLP

Dated: Sept. 24, 2008

By: 
Christopher H. Meyer

*Attorneys for Christopher A. Flanigan and
Jacqueline Renee Adams Flanigan, Husband and
Wife*

GIVENS PURSLEY LLP

Dated: Sept. 24, 2008

By: 
Christopher H. Meyer

Attorneys for BOWETA LLC

BARKER, ROSHOLT & SIMPSON, LLP

Dated: 10/7/08

By: 

Albert P. Barker

*Attorneys for Tom O'Gara, John F. Stevenson,
Bill Mohyneux, Pete Van Der Meulen, Grace
Eakin, Gerald Bashaw, and Pepin Corso-Harris*

HOBDEY & HOBDEY

Dated: _____

By: _____

Craig D. Hobdey

Attorneys for Big Wood Canal Co.

BARKER, RSHOLT & SIMPSON, LLP

Dated: _____

By: _____
Albert P. Barker

*Attorneys for Tam O'Gara, John F. Stevenson,
Bill Molyneux, Pete Van Der Meulen, Grace
Eakin, Gerald Bashaw, and Pepin Corso-Harris*

HOBDEY & HOBDEY

Dated: 9-25-08

By: *Craig D. Hobdey*
Craig D. Hobdey

Attorneys for Big Wood Canal Co.

EXHIBIT A: Adjudication Claim Report for No. 37-22121

Water Right Report

Page 1 of 2

[Close](#)

IDAHO DEPARTMENT OF WATER RESOURCES Adjudication Claim Report

09/09/2008

WATER RIGHT NO. 37-22121

Owner Type	Name and Address
Current Owner	CHRIS FLANIGAN
Current Owner	JACKIE FLANIGAN
	HC 64 BOX 8028
	KETCHUM, ID 83340
	(208)725-5980

Priority Date: 03/25/1920

Basis: Beneficial Use

Status: Active

Source	Tributary
UNNAMED STREAM	SINKS

Beneficial Use	From	To	Diversion Rate	Volume
STOCKWATER	01/01	12/31	0.04 CFS	
Total Diversion			0.04 CFS	

Location of Point(s) of Diversion:

UNNAMED STREAM End of Stream Flow	NWSWSE	Sec. 10	Township 05N	Range 17E	BLAINE County
UNNAMED STREAM Beginning of Stream Flow	SWSWSE	Sec. 10	Township 05N	Range 17E	BLAINE County

<http://www.idwr.idaho.gov/apps/TextSearch/RightReportAJ.asp?BasinNumber=37&Sequenc...> 9/9/2008

Place(s) of use:

Place of Use Legal Description: STOCKWATER BLAINE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
05N	17E	10		SWSE										

Dates:

Licensed Date:

Claim Received Date:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal:

Owner Name Connector: AND

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

<http://www.idwr.idaho.gov/apps/fix/Search/RightReportAJ.asp?BasinNumber=37&Sequenc...> 9/9/2008

EXHIBIT B: Adjudication Claim Report for No. 37-22125

Water Right Report

Page 1 of 2

[Close](#)

IDAHO DEPARTMENT OF WATER RESOURCES Adjudication Claim Report

09/09/2008

WATER RIGHT NO. 37-22125

Owner Type	Name and Address
Current Owner	CHRIS FLANIGAN
Current Owner	JACKIE FLANIGAN
	HC 64 BOX 8028
	KETCHUM, ID 83340
	(208)725-5980

Priority Date: 03/25/1920

Basis: Beneficial Use

Status: Active

Source	Tributary
UNNAMED STREAM	SINKS

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	04/15	10/31	0.31 CFS	
Total Diversion			0.31 CFS	

Location of Point(s) of Diversion:

UNNAMED STREAM	SESESW	Sec. 10	Township 05N	Range 17E	BLAINE County
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Place(s) of use:

Place of Use Legal Description: IRRIGATION BLAINE County

<http://www.idwr.idaho.gov/apps/ExtSearch/RightReportAJ.asp?BasinNumber=37&Sequenc...> 9/9/2008

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
05N	17E	10		SWSI	15.6									

Total Acres: 15.6

Dates:

Licensed Date:

Claim Received Date:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal:

Owner Name Connector: AND

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

<http://www.idwr.idaho.gov/apps/ExtSearch/RightReportAJ.asp?BasinNumber=37&Sequenc...> 9/9/2008

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd of October, 2008, the foregoing was filed, served, or copied as follows:

ORIGINAL FILED

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

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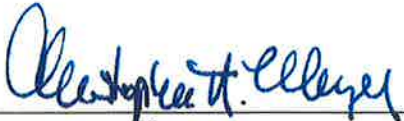
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