

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. Lee
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*

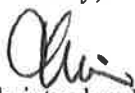
Dear Kelly:

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^{AS} 37-2168C^{AS} 37-22121^{AS} 37-22125^{AS}
37-12219^{pd} 37-8870^{Libase}

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

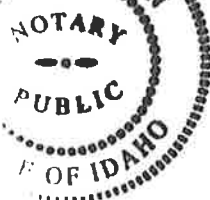
Dated: 4/25/08

Jackie Flanigan
Jackie Flanigan

ACKNOWLEDGMENT

State of IDAHO)
County of BLAINE) ss.

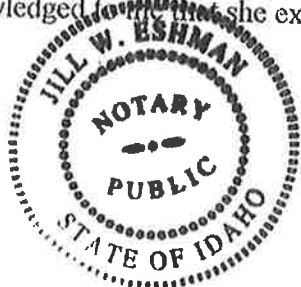
On this 25th day of April, in the year of 2008, before me Jill Eshman, a notary public, personally appeared **Chris Flanigan**, known or identified to me to be the person that executed the above instrument, and acknowledged to me that he executed the same.



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

State of IDAHO)
County of BLAINE) ss.

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



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

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 26, 2002

JAMES P SPECK
SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340

Re: SRBA Claim(s) 37-2168A / Chris and Jackie Flanigan

Dear Jim:

Pursuant to the change in ownership request that has been submitted to the Department, we have changed the record of current ownership to your client. Please find the enclosed copies of the computer records 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,

Trish Fawcett
Technical Records Specialist

Enc.

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

RECEIVED
DEC 23 2002
 Department of Water Resources
 Southern Region

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

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

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
<u>37-8870</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>37-2168A</u>	<u>37-2168A</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>37-12219</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

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

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

OR

If your water right(s) and/or adjudication claim(s) are for ten or more acres of irrigation, you must submit USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Claire Kendall Bailey fka Claire Kendall
PO Box 6119 - Ketchum, ID 83340
4. New Owner/Claimant(s) Chris and Jackie Flanigan, husband and wife
 Name Connector (Check one): [] and, [] or [x] and/or
- New Mailing Address HC 64 Box 8028
- City, State and Zip Code Ketchum, ID 83340
- New Telephone Number (208) 725-5980
5. Date you acquired the property June 22, 1999

6. **IF THE CHANGE IN OWNERSHIP AFFECTS THE ENTIRE WATER RIGHTS FOR EACH WATER RIGHT OR ADJUDICATION CLAIM NUMBER LISTED IN ITEM 1, THEN SKIP THIS ITEM AND GO TO ITEM 7.** If the change of ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (Cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc.)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (Cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc.)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

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

Chris Flanigan
Chris Flanigan
Jackie Flanigan
Jackie Flanigan

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

For Office Use only

Received by H. W. W. W. Date 12/24/02 Fee 50.00
 Receipted by H. W. W. W. Date 12/24/02 Receipt No. 5025384
 Processed by H. W. W. W. AJ Date 12/26/02 WR _____ Date _____

Order No. 22138

WARRANTY DEED

For Value Received

Claire Kendall Bailey, who acquired title as Claire Kendall, as her sole and separate property

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

Chris Flanigan and Jackie Flanigan, husband and wife

whose address is: 1504 Selkirk Rd., Sandpoint, ID 83864

Hereinafter called the Grantee, the following described premises situated in Blaine County, Idaho, to-wit:

Lots 2 and 3 of NORTH FORK SUBDIVISION, according to the official plat thereof, recorded as Instrument No. 229263, records of Blaine County, Idaho.

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

Dated: June 22, 1999

Claire Kendall Bailey
Claire Kendall Bailey

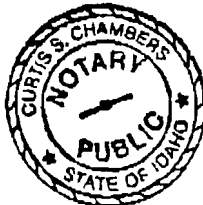
State of ID

County of BLAINE

On JUNE 28, 1999, before me, the undersigned, a Notary Public in and for said State, personally appeared Claire Kendall Bailey personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

WITNESS my hand and official seal.

Signature Jackie Flanigan
Residing: HAILEY
Commission Expires: 5-15-2004



BLAINE CO. REQUEST
FIRST AMERICAN TITLE
JUN 30 09 10 29
FEE \$ 3.00
429028

Claimants Name:

Chris Flanigan and Jackie Flanigan

Attorney Name & Address:

**James P. Speck
Speck & Aanestad
A Professional Corporation
120 East Avenue
P. O. Box 987
Ketchum, Idaho 93340
(208) 726-4421
FAX: (208) 726-0752**

RECEIVED
DEC 23 2002
Department of Water Resources
Southern Region

**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

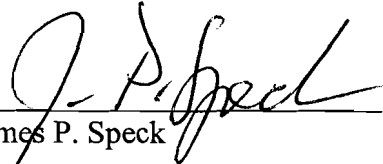
This is a notice of appearance by counsel on behalf of the new claimant and purchaser of the water right claims identified below.

NOTICE OF APPEARANCE

The law firm of Speck & Aanestad, A Professional Corporation, hereby enters its appearance in the action on behalf of Claimants, Chris Flanigan and Jackie Flanigan, for the following claimed water rights which are not the subject of any subcase: 37-8870, 37-2168A and 37-12219.

DATED this 17 day of December, 2002.

SPECK & AANESTAD
A Professional Corporation

By 
James P. Speck

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of December, 2002, 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

SPECK & AANESTAD

A PROFESSIONAL CORPORATION

ATTORNEYS

120 EAST AVENUE

POST OFFICE BOX 987

KETCHUM, IDAHO 83340

JAMES P. SPECK

jimspeck@cox-internet.com

DOUGLAS J. AANESTAD

aanestad@cox-internet.com

TELEPHONE

(208) 726-4421

FACSIMILE

(208) 726-0752

December 18, 2002

Mr. Allen Merritt
Idaho Department of Water Resources
1341 Fillmore, Suite 200
Twin Falls ID 83301

RECEIVED
DEC 23 2002
Department of Water Resources
Southern Region

Re: Notice of Change of Water Right Ownership - Chris and Jackie Flanigan

Dear Allen:

Enclosed you will find the original and one copy of a Notice of Change of Water Right Ownership and a Notice of Appearance by my firm for Chris and Jackie Flanigan. My clients recently purchased property north of Ketchum from Claire Bailey formerly known as Claire Kendall together with the water rights referenced in the Notice. Although they acquired the property in 1999, they did not become aware of the ownership change documentation requirement until recently.

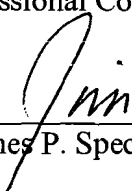
Please have your secretary receipt date stamp the copy of the two notices and return them to me in the postage prepaid, self-addressed envelope included for that purpose. I have also included my firm's check for the \$50.00 filing fee relating to the ownership change for Water Rights 37-8870 and 37-12219.

Kindly call me if there are any questions. Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By:


James P. Speck

JPS:sgg

Enclosures

cc: Client (w/enclosures)

U.S. Department of Justice (w/enclosures)

Environmental and Natural Resources (w/enclosures)

IDWR, Boise (w/enclosures)

Chief, Natural Resources Division (w/enclosures)

Office of the Attorney General (w/enclosures)

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

RECEIVED
DEC 07 1998
Department of Water Resources
Southern Region

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

1. Water Right No(s): _____

Adjudication Claim No(s): -12174, -12219

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

* **Tax Records w/ both Lynn and Claire Bailey's names or marriage certificate**

~~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 attached to your deed or on file with the county.)~~

~~OR~~

~~C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.~~

3. Name and Address of Former Owner/Claimant

Claire Kendall

4. New Owner/Claimant(s)

Claire and/or Lynn Bailey Claire Bailey

New Mailing Address

Name Connector (Check one): ☐ and, ☐ or, ☒ and/or
PO Box 6119

City, State and ZIP Code

Ketchum, ID. 83340

New Telephone Number

(208) 726-7371

5. Date you acquired the property _____

6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(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 you irrigate _____ 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 Owner or Claimant(s)

Claire Bailey and/or Lynn Bailey

(Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign form.)

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



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

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

September 20, 1999

CLAIRE BAILEY

PO BOX 6119

KETCHUM ID 83340

RE: CHANGE OF OWNERSHIP SRBA CLAIM NO. 37-02168A, 12174, 12219

Dear Ms. Bailey:

Thank you for returning the NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP form. Our records, however, cannot be updated without the required information requested under item 2 of the ownership change form. Specifically, we need a copy of your Marriage Certificate or Tax Records with both yours and Lynn Bailey's name. Apparently, you were aware of this requirement as it is highlighted on the owner change form and typed in. Everything else seems to be in order. It may be that the copy of the marriage certificate or tax records was accidentally not put in the envelope with the ownership change form.

Enclosed is your original ownership change form. Please attach the required information and return the entire packet in the enclosed self-addressed envelope. As soon as this information is received, our records will be updated and you will be notified by mail that the change has been completed.

Thank you for your prompt attention to this matter and should you have any questions please feel free to contact me.

Sincerely,

Cheryl E. Timm
SRBA Records Clerk

Enc: Self -Addressed Envelope, Original Ownership Change form.

CT:ct

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: **A37-02168A**
Date Received: 3/ 2/1994
Receipt No: 5016600
Received By: ADm

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: CLAIRE KENDALL
Address: PO BOX 6119
KETCHUM ID 83340 208-726-7371

2. Date of Priority: JAN 22, 1910

3. Source: OREGON GULCH Trib. to: SINKS

4. Point of Diversion:

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

5. Description of diverting works:
HEADGATE AND DITCH TO FLOOD IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
STOCKWATER	01/01	12/31	0.020		
IRRIGATION	04/01	11/01	0.310		

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

8. Total consumptive use is 39.0 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER, 15 HEAD HORSES

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05N	17E	10	SW	SE		STOCK	
			SW	SE		IRR	15.6

MICROFILMED

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	15.6
					Total Acres	15.6

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:
37-12219 FOR STOCKWATER

14. Remarks:
CLAIM IS AMENDED TO ADD IRRIGATION USE WHICH WAS WRONGLY OMITTED WHEN CLAIM WAS ORIGINALLY FILED. CLAIMANT IS FORMER WIFE OF ORIGINAL CLAIMANT WHO RECEIVED THE LANDS AND WATER RIGHTS IN DIVORCE PROCEEDINGS. A NOTICE OF CHANGE OF OWNERSHIP HAS BEEN FILED.

15. Basis of Claim: LICENSE

MICROFILMED



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

02-Mar-1994 14:54

James P Speck
PO Box 987
Ketchum, ID 83340

RE: Change of Ownership for SRBA Claims A37-02168A, 12174 & 12219
Amendment of A37-02168A

Dear Jim:

Pursuant to the notification that Claire Kendall presently owns the property in which the above referenced adjudication claims are appurtenant, the Department has changed the record of the current owner as requested. We also added you as attorney of record. Please find enclosed a copy of the computer record of the claims noting the change in claimant. We also amended the one claim as requested. Please find enclosed your receipt for fees paid for this amendment. Please review the records and if you have any corrections please contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Allen Merritt'.

Allen Merritt, P.E.
Water Rights Supervisor

Encl:

MICROFILMED

AUG 24 1994

Claimant Acknowledgement of Change in Attorney in Snake River Basin Adjudication (SRBA)

RECEIVED

Name(s) of Claimant (please print):

Claire Kendall

MAR - 2 1994

I/we acknowledge (check one):

Department of Water Resources
Southern Region Office

☐ The attorney formerly representing me has withdrawn and I/we will be representing myself/ourselves.

☒ I/we are now represented by the attorney at the address below.

James P. Speck, Esq.

Hogue, Speck & Aaenstad, P.A.

Post Office Box 987

Ketchum, ID 83340

Attorney's Phone 208/726-4421

The SRBA water right claim notice(s) affected by this change are listed below or on the attached sheet(s).

A37-02168A A37-12174 A37-12219 _____

For Individuals:

Authorized signature(s) Date 2/25/94

Claire Kendall

For Organizations:

I am _____ of _____, and I

Title

Organization

have signed the foregoing document in the space below as

_____ of _____.

Title

Organization

Signature of Authorized Agent _____

Title _____ Date _____

Organization _____

IDWR Use:

Date Received _____

Data Entry _____

Revised Date 4-03-92

MICROFILMED

AUG 24 1994



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

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

RECEIVED

MAR - 2 1994

Department of Water Resources
Southern Region Office

DATE OF CLOSING: _____

LEGAL DESCRIPTION OF PROPERTY: Township 5N Range 17E
Section 10, NW 1/4 of NE 1/4 of SW 1/4, Govt. Lot _____, BM.
Lot _____, Block _____, Subdivision/Townsite Oregon Gulch.
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: A37-02168A , A37-12174, A37-12219
- ☐ Name and Address of Former Owner/Claimant(s)(Seller): Charles Kendall, Jr.
- ☐ New Owner/Claimant (Purchaser): Claire Kendall
- ☐ New Mailing Address: P.O. Box 6119
Ketchum, ID 83340
- ☐ New Telephone Number: (208) 726 - 7371
- ☐ 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: Quitclaim Deed, Instrument No. 335174

(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) Claire Kendall Date 2/25/94
- ☐ Signature of Former Owner/Claimant(s): _____ 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: 3/2/94 By: AD

Further Action Needed:

Further Action Taken

Date: _____ By: _____

Final Review and Data Entry

Date: 3/2/94 By: AD

Claim Numbers of Split, if any:

MICROFILMED

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner AUG 24 1994

RECEIVED

FEB - 4 1994

ORIGINAL

This form furnished by
Blaine County Title, Inc.

Hogue, Speck & Aanestad

QUITCLAIM DEED

THIS INDENTURE, Made this

21st

day of

~~September~~

October

in the year of our Lord one thousand nine hundred and

ninety-one

between

CHARLES KENDALL, JR.

PO

as Grantor and

CLAIRE KENDALL

as Grantee

whose current address is 738 BERKSHIRE AVE., FLINTRIDGE, CA 91011

WITNESSETH That said Grantor for and in consideration in lawful money of the United States of America, in hand paid by the Grantee, the receipt whereof is hereby acknowledged, does by these premises remise, release and forever QUITCLAIM, unto the said Grantee and to its heirs and assigns all that certain lot, piece or parcel of land, situate, lying and being in, County of Blaine, State of Idaho, bounded and particularly described as follows, to-wit:

PARCEL 1: Lots 2 and 3 of the North Fork Subdivision.

PARCEL 2: Lot 1, Block 2 of the Bigwood Subdivision #2-3.

PARCEL 3: SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT A
WHICH IS INCORPORATED HEREIN.

BLAINE CO. REQUEST

BLAINE COUNTY TITLE

1991 NOV -5 P 3:25

MARY GREEN, CLERK

FEES \$6.00

335174

Deed

THIS INSTRUMENT WAS FILED FOR
RECORD BY BLAINE COUNTY TITLE, INC.
AS AN ACCOMMODATION ONLY. IT HAS
NOT BEEN EXAMINED AS TO ITS EXECU-
TION OR AS TO ITS EFFECT UPON THE
TITLE.

TOGETHER With all and the tenements, hereditaments and appurtenances thereunto belonging or in
anywise 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 its heirs and assigns forever.

IN WITNESS WHEREOF, The said Grantor has hereunto set its hand and seal the day and year first above written.

MICROFILMED

AUG 24 1994

County of LOS ANGELES

TOWNSHIP 5 NORTH, RANGE 17 EAST, BOISE MERIDIAN, BLAINE COUNTY, IDAHO.

Portion of H.E.S. 123, more particularly described as follows:

BEGINNING at Corner No. 5 of said H.E.S. 123; thence

S. 18° 47' East, 610.00 feet to the TRUE POINT OF BEGINNING; thence

N. 52° 09' East, 1141.08 feet to the West boundary of U.S. Highway 93 (75);

thence

S. 33° 14' East, 550.00 feet along the Westerly boundary of U.S. Highway 93

(75); thence

S. 65° 42' West, 1223.37 feet; thence

N. 18° 47' West, 288.00 feet to the TRUE POINT OF BEGINNING.

TL# 6416

cancel TL# 4002

POOR COPY

Exhibit "A"

MICROFILMED

AUG 24 1994

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION
ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
J. STEPHEN CRABTREE
TRACY DUNLAP
JOHN A. SEILLER

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

March 1, 1994

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

Allen Merritt
State of Idaho
Department of Water Resources
Southern Region
222 Shoshone Street East
Twin Falls, Idaho 83301

RECEIVED

MAR - 2 1994

Snake River Basin Adjudication
Twin Falls, Idaho

Re: Snake River Basin Adjudication Claims
A37-02168A, A37-12174 and A37-12219

Dear Allen:

Enclosed you will find a Notice of Change of Water Right Ownership for the above-referenced Snake River Basin Adjudication claims and a Claimant Acknowledgment of Change in Attorney so that I am designated as the attorney of record on each of those claims. I am also enclosing an Amended Notice of Claim A37-02168A and our check payable to the Department in the amount of \$41.00 as the additional filing fee for this Amended Notice of Claim. Once the Amended Notice of Claim has been entered into the Department's computer database, please send me a printout.

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

Sincerely yours,

HOGUE, SPECK & AANESTAD


James P. Speck

JPS/vl

Enclosures

cc: Mr. and Mrs. Lynn G. Bailey (with enclosures)
Mr. Greg Sturtevant (with enclosures)

MICROFILMED
AUG 24 1994

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

CIVIL CASE NUMBER: 39356

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

Ident Number A37-02168A
Date Received _____
Receipt Number _____

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

1. Name of Claimant(s): Claire Kendall
Phone: 1-208-726-7371
Mailing Address: P.O. Box 6119
Ketchum, ID 83340

2. Date of Priority: January 22, 1910

3. Source of water supply (a) Oregon Gulch
which is tributary to (b) (Sinks)

4. a. Location of point of diversion is:

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>¼</u>	<u>¼</u>	<u>¼</u>	<u>Lot</u>	<u>County</u>
5N	17E	10	NW	NE	SW		Blaine

Additional points of diversion if any:

b. If instream flow beginning point:

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>¼</u>	<u>¼</u>	<u>¼</u>	<u>Lot</u>	<u>County</u>
Ending point:							
<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>¼</u>	<u>¼</u>	<u>¼</u>	<u>Lot</u>	<u>County</u>

5. Description of existing diversion works: Headgate and ditch to flood irrigation

COPY

RECEIVED

MAR - 2 1994

Department of Water Resources
Southern Region Office

MICROFILMED
AUG 24 1994

6. Water is claimed for following purposes:

<u>Purpose</u>	<u>From</u>	<u>To</u>	<u>Amount</u>
Irrigation	April 1	November 1	0.31 cfs
Stockwater	January 1	December 31	0.02 cfs

7. Total Quantity Claimed: 0.31 cfs

8. Total consumptive use claimed is 39 acre feet per annum.

9. Non-irrigation uses: Stockwater - 15 horses

10. Place of use:

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>1/4</u>	<u>1/4</u>	<u>Use</u>	<u>Irrig. Acres</u>
5N	17E	10	SW	SE	I/S	15.6

Total number of irrigated acres: 15.6

11. Place of use is located in Blaine County.

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

13. Describe any other water rights used at the same place and for the same purposes as described above? A37-12219 for stockwater

14. Remarks: Claim is amended to add irrigation use which was wrongly omitted when claim was originally filed. Claimant is former wife of original claimant who received the lands and water rights in divorce proceedings. A Notice of Change of Ownership has been filed.

COPY

Last Name: KENDALL

f:\wpdata\water\ \3702168a.clm

Ident No. A37-02168A

MICROFILMED

AUG 24 1994

15. Basis of Claim: License.

IDWR Water Right Number: 37-02168

Court:

Case Number:

Decree Date:

Plaintiff v. Defendant:

16. Signature(s)

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

[For individuals] I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) Claire Kendall Date 2/25/94
CLAIRE KENDALL

State of Idaho)
County of Blaine) ss.

Subscribed and sworn before me this 25 day of February, 1994.

J. P. Speck
Notary Public for Idaho
Residing at East Fork, ID
Commission Expires 1/29/97

17. Notice of Appearance:

Notice is hereby given that I, James P. Speck, will be acting as attorney at law of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to the address listed below.

Signature: J. P. Speck
James P. Speck
Hogue, Speck & Aanestad
P.O. Box 987
Ketchum, ID 83340

Date: 2/25/94

Last Name: KENDALL

f:\wpdata\water\... \3702168a.clm

COPY

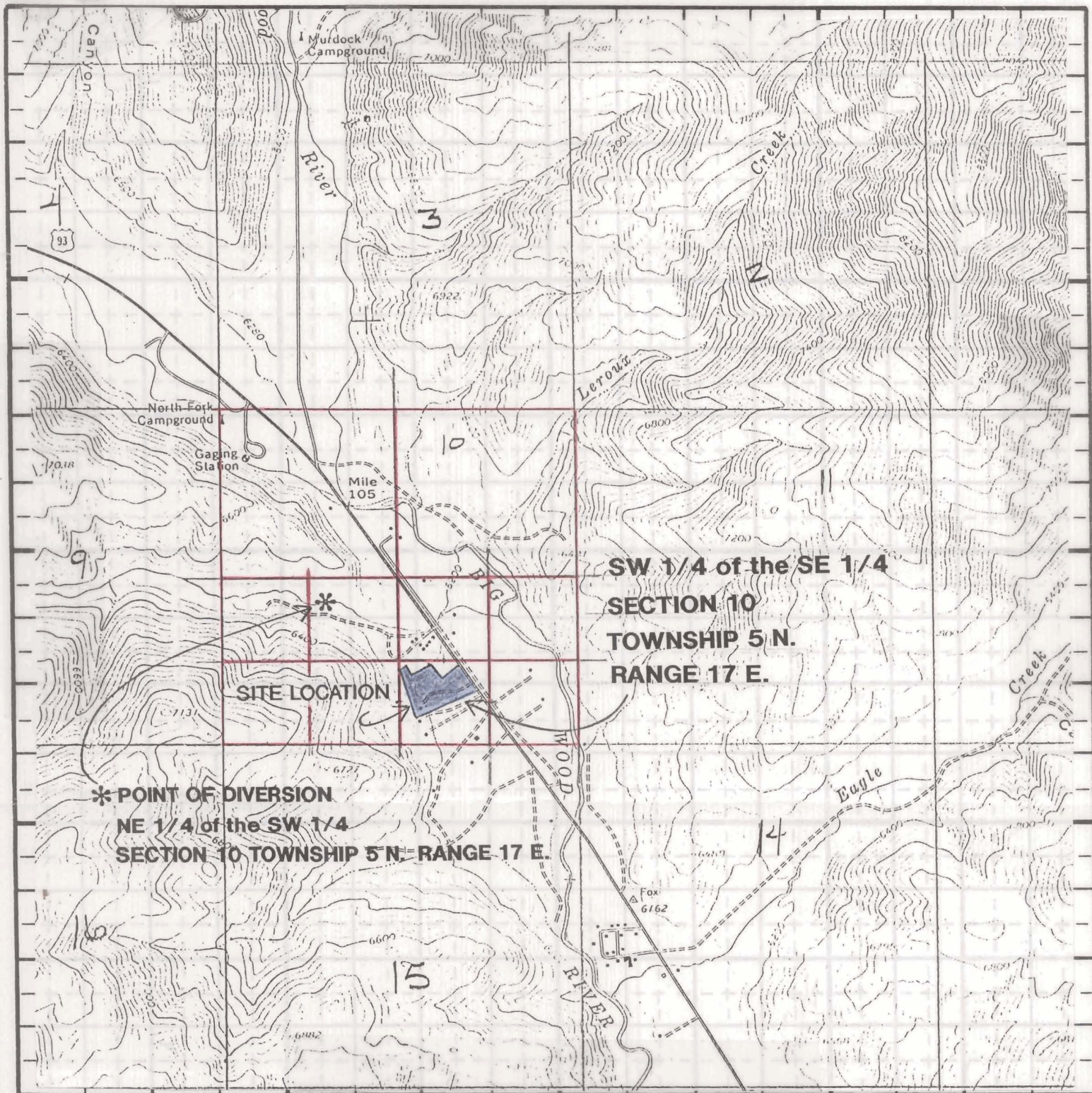
Ident No. A37-02168A

MICROFILMED

AUG 24 1994

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number

Scale: 2 inches equals 1 mile



MICROFILMED

AUG 24 1994

Last Name KENDALL

Ident No. A37-02168A

Copies: White-State, Yellow-Claimant

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT

11/28/91 00:04:32
PAGE 2

PREFIX TRANSLATION: ADJUDICATION CLAIM

- - - - DECREE PLAINTIFF - - - +

+ - - - - DECREE DEFENDANT - - - +

+ - DECREE DATE - +
00/00/0000

- - - - - COMMENTS

NO COMMENTS FOUND

ADJUDICATION RIGHTS DATES AND FLAGS AREA

```

COURT REPORT FILING - 00/00/0000
OBJECTION FILED DATE - 00/00/0000
RESPONSE FILED DATE - 00/00/0000
CLAIM RECEIVED DATE - 11/25/1988
PROOF DUE DATE - 00/00/0000
LICENSED DATE - 00/00/0000
CLAIMS TAPE ERROR FLG -
FEE EXEMPT FLAG -

```

```
FIELD INSPECTION MADE      - 00/00/0000
FIELD INSPECTION FLAG     - 
VERIFIED DATE              - 00/00/0000
LAST AMENDED DATE         - 00/00/0000
PROOF MADE DATE           - 00/00/0000
RECEIPT NUMBER            - C003579
PDU OWNERSHIP FLAG        - Y
NAME CONNECTOR            -
```

CIVIL CASE NUMBER	-	39576
OLD CASE NUMBER	-	
OLD JUDICIAL DISTRICT	-	
TEMPORARY RIGHT	-	P
WATER DISTRICT	-	
FEDERAL/STATE INDICATOR	-	S
PRESUMPTION FLAG	-	
NOTICE OF ERROR FLAG	-	

05N170107840

ENTERED 10-31-93 RLS

CHECKED 2/6/94 DDP

"Verified By"
 Topo Map/Ortho-PQ
 ASCS Map
 Watermaster Records
 NAPP Photos
 Field Exam
 Other (See Remarks)
 County Records
 Witness Statement
 Project Records
 IDWR Records

VERIFIED

FEB 1 1992

CERTIFIED

MAR 22 1992

WATER EXAMINER

MICROFILMED

AUG 24 1994

(3)
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: A37-02168A
Date Received: 11/25/1988
Receipt No: C003579
Received By: B

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: CHARLES B. KENDALL 298-726-7371
Address: BOX 3342
KETCHUM, ID 83340

2. Date of Priority: JAN 22, 1910

3. Source: OREGON GULCH Trib. to: SINKS

4. Point of Diversion:

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

5. Description of diverting works:
HEADGATE TO DICTH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
STOCKWATER	01/01	12/31	0.020		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
S/ 15 HEAD HORSES

10. Place of Use:

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

11. Place of use in counties: BLAINE

A37-02168A

Page 1

Date: 11, 29/88

MICROFILMED

feb 23 1993

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

13. Other Water Rights Used:
NONE

14. Remarks:

***** MEMO TO FILE *****
THIS CLAIM WAS FILED UNDER LICENSE # 37-2168, WHICH INCLUDED BOTH
DOMESTIC/STOCK AND IRRIGATION FOR 2.0 CFS, AS THIS CLAIM ONLY
INDICATED 0.02 CFS FOR STOCKWATER ONLY THIS CLAIM WAS SPLIT TO
37-02168A, AS THE ORIGINAL CLAIM AS OF THIS DATE REMAINED UN-
CLAIMED. AB-11-25-88

15. Basis of Claim: LICENSE

2/28/94

Speck's office called & asked
what the fee would be for
claiming irrig. of 15.6 Ac
on this claim I told them

1825 ← additional base fee
16 ← Area charge
1841 ← total
MICROFILMED
AUG 24 1994
Adm

MICROFILMED

FEB 23 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 _____ 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): _____ Date: _____

_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day

of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

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 A37-02168A
Date Received 10-18-88
Receipt Number COO3579

NOTICE OF CLAIM
TO A
WATER RIGHT

ACQUIRED UNDER STATE LAW

For Domestic and/or Stockwater Purposes

Where Daily Use is less than 13,000 gallons per day. Filing fee \$25

RECEIVED
OCT 18 1988
Department of Agriculture
Southern Region Office

Please type or print clearly

1. Name of Claimant (s) CHARLES B. KENDALL Phone 208 726 7371

Mailing Address Box 3342 Ketchum, ID Zip 83340

2. Date of Priority (Only one (1) per claim) JAN 22, 1910

3. Source of water supply (a) OREGON GULCH
which is tributary to (b) SINKS

4. Location of point of diversion is: Township 5N Range 17E

Section 10 SW 1/4 of SE 1/4 of 1/4 Govt. Lot B.M.

County of Blaine

Additional points of diversion if any.

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

6. Water is claimed for the following (Limited to Domestic and/or Stockwater only - See Instructions)
(Both dates are inclusive)

For STOCKWATER purposes from JAN 1 to Dec 31 amount 0.02

For purposes from to amount

For purposes from to amount 0.02

For purposes from to amount

For purposes from to amount 15 HORSES

MICROFILMED
FEB 23 1993

10. Place a "D" for domestic and "S" for stockwater use in the corresponding place or use below.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4			
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4
5N	17E	10											S				S	

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

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

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

14. Remarks: _____

15. Basis of Claim (check one) Beneficial Use X Posted Notice _____ License X Permit X USDA
Decree _____ # 5732

If applicable provide IDWR Water Right Number 37-2168

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

16. Signature (s)

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

Number of attachments _____

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

Signature of Claimant (s) Charles B. Kuntz Date 10/10/88

_____ Date _____

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

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

document in the space below as _____ of _____
Title _____ Organization _____

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

Signature of Authorized Agent _____

Title and Organization _____ Date _____

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

Subscribed and sworn (or affirmed) before me this _____

SEAL

Notary Public

Recorded in

My Commission Expires _____

Agent No. _____

day of October

1988

Richard W. Bailey
Notary Public

MICROFILMED

10/4/91

FEB 23 1993

Agent No. _____

Copyright © 1993

**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.: 37-2168A**

) **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
Sr. Water Resource Agent

Date

IDWR CONCURRENCE:

Nicholas B. Spencer
Deputy Attorney General
Attorney for IDWR

Date

10/27/2009

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

RIGHT NUMBER: 37-2168A

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

CHRIS FLANIGAN
HC 64 BOX 8028
KETCHUM ID 83340

SOURCE: OREGON CREEK

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.310 CFS

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

This right when combined with all other rights shall provide no more than 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 NENWSW NWNESW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 10/31	0.310 CFS
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T05N R17E S10 SWSE ±5.6 11.00

STOCKWATER in BLAINE County

T05N R17E S10 SWSE

±5.6 11.00 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:

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

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

PROPERTY IS A PORTION OF HES 123 & 124.

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

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: 208 388-1235
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
Deborah K. Kristensen
Anne C. Kunkel
Jeremy G. Ladle
Michael P. Lawrence
Franklin G. Lee
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.
Conley E. Ward
Robert B. White

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

November 17, 2009

Via Email and U.S. Mail

Albert P. Barker, Esq.
Barker, Rosholt & Simpson, LLP
1010 W. Jefferson, Suite 102
P.O. Box 2139
Boise, ID 83701-2139
apb@idahowaters.com

Craig D. Hobdey, Esq.
Hobdey & Hobdey
PO Box 176
125 5th Avenue
Gooding, ID 83330
hobdeycraig@hotmail.com

Re: ***Water Right Nos. 37-2168A, 37-2168C, 37-22121, 37-22125: Stipulation and SF5s***

Dear Al and Craig:

I am writing on behalf of my clients, Chris and Jackie Flanigan. On October 7, 2008, the Flanigans entered into a *Stipulation Facilitating SF5s* with your clients addressing the above-captioned water rights (copy enclosed). I am pleased to enclose copies of the draft SF5 summaries for each of these rights.

Your clients are not parties to the subcases for Water Right Nos. 37-22121, 37-22125, or 37-2168A, so you are not signatories on those SF5s. It had been my expectation that you would be signatories for the SF5 on No. 37-2168C. However, on checking with the SRBA Court, IDWR determined that the you did not file a response or objection in that subcase either. This is odd, because I have a copy of your response that was served on my client. But apparently the original was never filed with the Court. Accordingly, your clients are not parties to that subcase either.

In any event, this is immaterial. My clients have entered into a stipulation covering all four rights, they are bound by that stipulation, and they have complied with it. The enclosed draft SF5s show that we have addressed the concerns raised by your clients. Specifically, the two rights out of Oregon Creek (Nos. 37-2168A and 37-2168C) show that the water is tributary to the Big Wood River. The quantities for the two spring rights (Nos. 37-22121 and 37-22125)

Albert P. Barker, Esq.
Craig D. Hobdey, Esq.
November 17, 2009
Page 2

have been adjusted downward, thus satisfying the condition in paragraph 11 of the Stipulation. Moreover, the three overlapping irrigation rights (Nos. 37-2168A, 37-2168C, and 37-22125) now have a condition limiting the duty of water from all three rights to an inch per acre and 3.5 afa at the field headgate. Although not required by the Stipulation, your clients should be pleased with this.

Although you are not signatories and the Flanigans are not obligated to inform you of these draft SF5s, they choose to do so in the spirit of good faith embodied in the Stipulation. We appreciate the cooperation your clients have shown in allowing these claims to be resolved without litigation.

In sum, I believe that we have met the conditions set out in paragraph 14 of the Stipulation. Accordingly, the Stipulation continues to bind your clients and mine, particularly with respect to paragraphs 12 and 13 in the event of any further actions involving these rights.

Please let me know at once if you have any concerns or disagreement with what I have outlined above.

Sincerely,



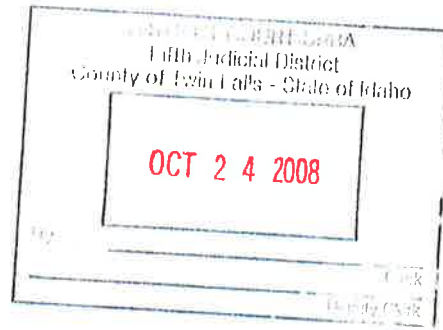
Christopher H. Meyer

Encl: Copy of Stipulation (with correction noted in paragraph 7)
Draft SF5 summaries for above-captioned water rights

cc: Chris and Jackie Flanigan
Scott N. King, SPF Water Engineering, LLC
Jill W. Eshman, J. Eshman Law P.C.
Idaho Department of Water Resources

CHM:ch
9582-1_710109_2.DOC

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**

*in
limited water
right #s.*

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, ROSSHOLT & SIMPSON, LLP

Dated: 10/7/08

By: 
Allen P. Barker

*Attorneys for Tom O'Gara, John F. Stevenson,
Bill Molyneux, 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.

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
	11C 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/ixtSearch/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	Acre	Lot	Tract	Acre	Lot	Tract	Acre	Lot	Tract	Acre
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/1:xtSearch/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
----------------	--------	---------	--------------	-----------	---------------

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		SWS1	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

Close

<http://www.idwr.idaho.gov/apps/ExtSearch/RightReportA.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
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ E-mail

SERVICE

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

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ E-mail

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

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ E-mail

*Bill Molyneux, Gerald Bashaw, Grace Eakin
John F. Stevenson, Pepin Corso-Harris
Pete VanderMeulen, Rocky Sherbine,
Tom O'Gara*

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ E-mail

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Barker, Rosholt & Simpson, LLP
1010 W. Jefferson, Suite 102
P.O. Box 2139
Boise, ID 83701-2139
apb@idahowaters.com

Big Wood Canal Co.
Represented by:
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Hobdey & Hobdey
PO Box 176
Gooding, ID 83330
hobdeycraig@hotmail.com

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ E-mail

COURTESY COPIES

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2735 Airport Way
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kelly.christensen@idwr.idaho.gov

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☐ Overnight Mail
☐ Facsimile
☒ E-mail


Christopher H. Meyer

10/27/2009

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

RIGHT NUMBER: 37-2168A

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

CHRIS FLANIGAN
HC 64 BOX 8028
KETCHUM ID 83340

SOURCE: OREGON CREEK

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.310 CFS

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

This right when combined with all other rights shall provide no more than 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 NENWSW NWNESE Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 10/31	0.310 CFS
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T05N R17E S10 SWSE 15.6 11.00

STOCKWATER in BLAINE County

T05N R17E S10 SWSE

15.6 11.00 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:

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

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

PROPERTY IS A PORTION OF HES 123 & 124.

Right includes accomplished change in point of diversion 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

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:

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 ~~2-1.70~~

~~2-1.70~~ 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.

10/23/2009

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

RIGHT NUMBER: 37-22121

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

JACKIE FLANIGAN
HC 64 BOX 8028
KETCHUM ID 83340

SOURCE: UNNAMED STREAM

TRIBUTARY: SINKS

QUANTITY: 0.020 CFS

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 03/25/1920

POINT OF
DIVERSION:

T05N R17E S10 NW NESWSE End of Stream Flow Within BLAINE County
T05N R17E S10 SWSWSE Begin of Stream Flow Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: STOCKWATER in BLAINE County

T05N R17E S10 SWSE

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.

The quantity of water decreed for this water right is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

10/27/2009

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

RIGHT NUMBER: 37-22125

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

JACKIE FLANIGAN
HC 64 BOX 8028
KETCHUM ID 83340

SOURCE: SPRING

TRIBUTARY: SINKS

QUANTITY: ~~0.11~~ 0.120 CFS

~~This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.~~
~~This right when combined with Right No. 37-2168A shall provide no more than .02 cfs per acre.~~

PRIORITY DATE: 03/25/1920

POINT OF
DIVERSION:

T05N R17E S10 ~~SWSWSE~~ SESESW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 05/01 10/31

~~0.11~~ 0.120 CFS

PLACE OF USE:

IRRIGATION in BLAINE County

T05N R17E S10 SWSE 5-6 6.10

5-6 6.10 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 - Beneficial Use

PROPERTY IS A PORTION OF UES 123 & 124.

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. Barion
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
Deborah K. Kristensen
Anne C. Kunkel
Jeremy G. Ladle
Michael P. Lawrence
Franklin G. Lee
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.

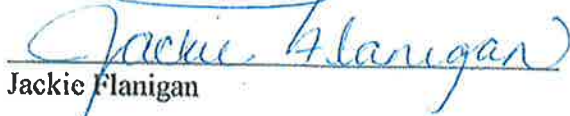
[End of text]

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

Dated: 4/25/08


Chris Flanigan

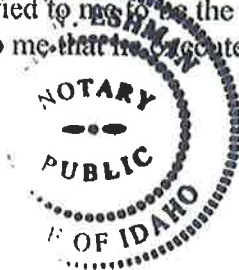
Dated: 4/25/08


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.

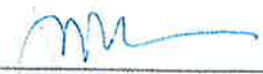



Notary Public for STATE OF IDAHO
Residing at BLAINE COUNTY
My Commission Expires FEB 12, 2015

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.




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



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: chris_meyer@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
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Steven J. Hippler
Donald E. Knickrehm
Deborah K. Kristensen
Anne C. Kunkel
Jeremy G. Ladle
Michael P. Lawrence
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Kenneth R. McClure
Kelly Greene McConnell
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Christopher H. Meyer
L. Edward Miller
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Judson B. Montgomery
Deborah E. Nelson
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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.

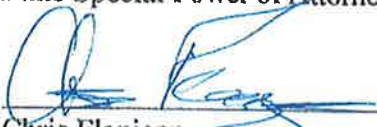
All may rely on such authority. This Special Power of Attorney shall be effective until revoked in writing by Chris Flanigan and Jackie Flanigan.

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.

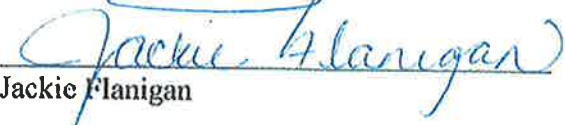
[End of text]

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

Dated: 4/25/08


Chris Flanigan

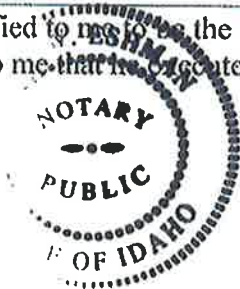
Dated: 4/25/08


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.




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 25 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.




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

37-2168A, 37-2168C, OREGON GULCH -- FLANIGAN
BASIS FOR SETTLEMENT RECOMMENDATIONS AND CONVEYANCE LOSS DISTRIBUTION

The claimant provided sufficient information to substantiate 0.13 cfs conveyance losses associated with the Oregon Gulch diversion system.

PROPORTIONATE SHARE CALCULATION FOR CONVEYANCE LOSSES

Combined POU = 11 ac + 1.7 ac = 12.7 ac

37-2168A $11 \div 12.7 \times 0.13 \text{ cfs} \cong 0.11 \text{ cfs}$

$0.22 \text{ cfs} + 0.11 \text{ cfs} = 0.33 \text{ cfs}$ (this exceeds the claimed rate of 0.31 cfs by 0.02 cfs)

37-2168C $1.7 \div 12.7 \times 0.13 \text{ cfs} \cong 0.02 \text{ cfs}$

37-2168A Source = Oregon Gulch. License did not include a season of use.

Subsequent to the objection 11 irrigated acres were found rather than the recommended 15.6 acres.

37-2168C Source = Oregon Gulch. License did not include a season of use.

Subsequent to the objection 1.7 irrigated acres were found rather than the recommended 3.0 acres.

<u>Claim</u> 37-2168A	0.31 cfs irrigation	15.6 ac	<u>Recommendation</u>	0.31 cfs irrigation	11 ac
	0.02 cfs stockwater			0.02 cfs stockwater	
	Settlement calculations for rate and acreage			$11 \text{ ac} \times 0.02 \text{ cfs/acre} =$	0.22 cfs

<u>Claim</u> 37-2168C	0.12 cfs irrigation	3.0 ac	<u>Recommendation</u>	0.12 cfs irrigation	1.7 ac
	Settlement calculations for rate and acreage			$1.7 \text{ ac} \times 0.02 \text{ cfs/acre} \approx$	0.03 cfs

37-2168A claimed rate = 0.31 cfs – 0.22 cfs = 0.09 cfs (maximum rate recognizable for conveyance losses), therefore when adding conveyance losses, 37-2168A is recommended for **0.31 cfs**.

As the balance of conveyance losses not recognized through 37-2168A is 0.04 cfs and the claimed rate for 37-2168C exceeds the recommended rate based upon the found POU the difference is being recognized as a part of that right.

Claim 37-2168C Found POU = $1.7 \text{ ac} \times 0.02 \text{ cfs} = 0.034 \text{ cfs} \cong 0.03 \text{ cfs}$
Conveyance loss balance = 0.04 cfs
Diversion rate recommendation = 0.03 cfs + 0.04 cfs = **0.07 cfs**

SUMMARY FOR SETTLEMENT

37-2168A 0.31 cfs on 11 acres
37-2168C 0.07 cfs on 1.7 acres

There is no POU overlap between these two rights but the POU for 37-22125 overlaps all of 37-2168C and a portion of 37-2168A. When all three rights are combined they are limited to 13.2 acres.

10/27/2009

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

RIGHT NUMBER: 37-2168A

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

CHRIS FLANIGAN
HC 64 BOX 8028
KETCHUM ID 83340

VERIFIED BY *KKC*
Routed 10-27-09

SOURCE: OREGON CREEK

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.310 CFS

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

This right when combined with all other rights shall provide no more than 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 ~~NEN~~SW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 10/31	0.310 CFS
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T05N R17E S10 SWSE ~~15.6~~ 11.00

STOCKWATER in BLAINE County

T05N R17E S10 SWSE

15.6 11.00 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:

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

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

PROPERTY IS A PORTION OF HES 123 & 124.

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

37-2168A, 37-2168C, OREGON GULCH -- FLANIGAN
BASIS FOR SETTLEMENT RECOMMENDATIONS AND CONVEYANCE LOSS DISTRIBUTION

The claimant provided sufficient information to substantiate 0.13 cfs conveyance losses associated with the Oregon Gulch diversion system.

PROPORTIONATE SHARE CALCULATION FOR CONVEYANCE LOSSES

Combined POU = 11 ac + 1.7 ac = 12.7 ac

37-2168A $11 \div 12.7 \times 0.13 \text{ cfs} \cong 0.11 \text{ cfs}$

$0.22 \text{ cfs} + 0.11 \text{ cfs} = 0.33 \text{ cfs}$ (this exceeds the claimed rate of 0.31 cfs by 0.02 cfs)

37-2168C $1.7 \div 12.7 \times 0.13 \text{ cfs} \cong 0.02 \text{ cfs}$

37-2168A Source = Oregon Gulch. License did not include a season of use.

Subsequent to the objection 11 irrigated acres were found rather than the recommended 15.6 acres.

37-2168C Source = Oregon Gulch. License did not include a season of use.

Subsequent to the objection 1.7 irrigated acres were found rather than the recommended 3.0 acres.

<u>Claim</u> 37-2168A	0.31 cfs irrigation	15.6 ac	<u>Recommendation</u>	0.31 cfs irrigation	11 ac
	0.02 cfs stockwater			0.02 cfs stockwater	
	Settlement calculations for rate and acreage			$11 \text{ ac} \times 0.02 \text{ cfs/acre} =$	0.22 cfs

<u>Claim</u> 37-2168C	0.12 cfs irrigation	3.0 ac	<u>Recommendation</u>	0.12 cfs irrigation	
	Settlement calculations for rate and acreage			$1.7 \text{ ac} \times 0.02 \text{ cfs/acre} \approx$	0.03 cfs

1.7 updated
3 ac
10-27-09
KFC

37-2168A claimed rate = 0.31 cfs – 0.22 cfs = 0.09 cfs (maximum rate recognizable for conveyance losses), therefore when adding conveyance losses, 37-2168A is recommended for 0.31 cfs.

As the balance of conveyance losses not recognized through 37-2168A is 0.04 cfs and the claimed rate for 37-2168C exceeds the recommended rate based upon the found POU the difference is being recognized as a part of that right.

Claim 37-2168C Found POU = 1.7 ac $\times$ 0.02 cfs = 0.034 cfs $\cong$ 0.03 cfs
Conveyance loss balance = 0.04 cfs
Diversion rate recommendation = 0.03 cfs + 0.04 cfs = **0.07 cfs**

SUMMARY FOR SETTLEMENT

37-2168A 0.31 cfs on 11 acres
37-2168C 0.07 cfs on 1.7 acres

There is no POU overlap between these two rights but the POU for 37-22125 overlaps all of 37-2168C and a portion of 37-2168A. When all three rights are combined they are limited to 13.2 acres.

Christensen, Kelly

From: Christensen, Kelly
Sent: Thursday, October 22, 2009 2:56 PM
To: 'Christopher H Meyer'; Bromley, Chris; Kelly, Vicki
Subject: 37-2168C 2168C 22125 Flanigan proposed recommendations

Attached are the updated recommendations. The recommendations include the conveyance losses as calculated by Scott King. There are some other minor changes also. I have included a summary of the calculations regarding how the conveyance losses were allocated to each portion of 37-2168. If you have any questions give me a call and we can discuss them. If they are acceptable then I can work with Vicki in the preparation of the SF-5s.



37-2168A



37-22125



37-2168C



37-2168A & C

ANIGAN V-2 prelim ANIGAN V-2 prelim ANIGAN V-2 prelim iFlanigan settleme...

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

10/22/2009

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

RIGHT NUMBER: 37-2168A

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

CHRIS FLANIGAN
HC 64 BOX 8028
KETCHUM ID 83340

SOURCE: OREGON CREEK

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.310 CFS

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

This right when combined with all other rights shall provide no more than 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 ~~NW~~NESW ~~NEN~~WSW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 10/31	0.310 CFS
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T05N R17E S10 SWSE ~~15.6~~ 11.00

STOCKWATER in BLAINE County

T05N R17E S10 SWSE

~~15.6~~ 11.00 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:

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

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

PROPERTY IS A PORTION OF HES 123 & 124.

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

10/21/2009

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

RIGHT NUMBER: 37-2168A

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

CHRIS FLANIGAN
HC 64 BOX 8028
KETCHUM ID 83340

VERIFIED BY KKC
tentatively as of 10-22-09

SOURCE: OREGON CREEK

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.31 CFS

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

This right when combined with all other rights shall provide no more than 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 NENWSW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 10/31	0.310 CFS
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T05N R17E S10 SWSE 11.00

STOCKWATER in BLAINE County

T05N R17E S10 SWSE

11 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:

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MEMORANDUM

DATE: October 5, 2009

TO: Kelly Christiansen, Idaho Department of Water Resources

FROM: Scott King, P.E.

CC: Chris and Jackie Flanigan
Christopher Meyer, Givens Pursley, LLP
Jill Eshman, J. Eshman Law P.C.

RE: Conveyance Loss Estimate for Oregon Creek Diversion Ditch



At your request, this memorandum provides an estimate of seepage losses for the ditch conveying water from the Oregon Creek point of diversion to the field headgate for water right nos. 37-2168A and 37-2168C. Seepage losses are calculated using the Worstall Method, which is a seepage equation frequently applied by IDWR and which is based on ditch length, width at water surface, and seepage rates:

$$\text{Seepage loss (cfs / mile)} = 0.0667 \times \text{seepage rate (ft/day)} \times \text{top width of water surface (ft)}$$

A measurement of the ditch length using GIS mapping tools indicates the ditch is approximately 2,300 feet (0.44 miles) long. Mr. Flanigan has indicated that the average width at water surface is about 2 feet, and has also described the majority of the soils over which the ditch crosses as gravelly-sandy with some limited sections of finer material. He has also stated that based on his observations and experience with the ditch, seepage losses are very high.

A reference used by IDWR, ***Guidelines for the Evaluation of Irrigation Diversion Rates*** (Hubble Engineering, Inc. and Associated Earth Sciences, October 1991), provides loss rates for sandy and gravelly soils ranging from 2 to 2.5 feet per day (page 35). I have used an average seepage rate value of 2.25 feet per day, which is the midpoint of values from the Hubble Engineering report relied upon by IDWR when site specific data is not available. Applying the Worstall equation, total seepage is estimated at 0.13 cfs. Actual seepage may be higher or lower than this estimate.

$$\text{Seepage loss} = 0.0667 \times 2.25 \text{ (ft / day)} \times 2 \text{ (ft, top width)} = 0.30 \text{ cfs per mile.}$$

For a ditch 0.44 miles long, total seepage is calculated as:

$$\text{Total seepage} = 0.30 \text{ (cfs / mile)} \times 0.44 \text{ (miles)} = 0.13 \text{ cfs}$$

OCT 29 2009

WATER RESOURCES
WESTERN REGION

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: chris_meyer@givenspursley.com

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RETIRED

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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:

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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

OCT 29 2009

WATER RESOURCES
WESTERN REGION**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;
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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.

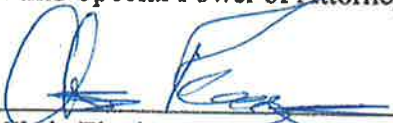
All may rely on such authority. This Special Power of Attorney shall be effective until revoked in writing by Chris Flanigan and Jackie Flanigan.

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.

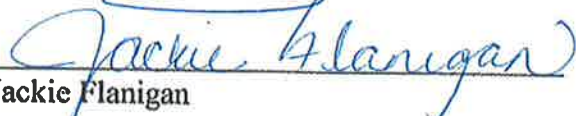
[End of text]

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

Dated: 4/25/08


Chris Flanigan

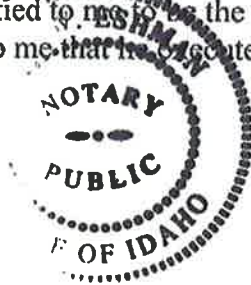
Dated: 4/25/08

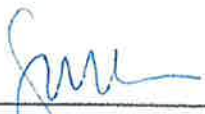

Jackie Flanigan

ACKNOWLEDGMENT

State of IDAHO)
) ss.
County of BLAINE)

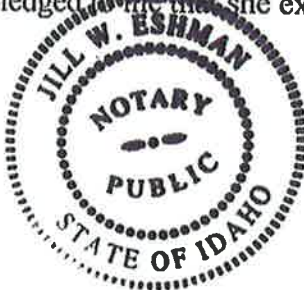
On this 25th day of April, in the year of 2008, before me Jill Eshman, a notary public, personally appeared **Chris Flanigan**, known or identified to me to be the person that executed the above instrument, and acknowledged to me that he executed the same.




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 25 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.




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

Christensen, Kelly

From: Christopher H Meyer [ChrisMeyer@givenspursley.com]
Sent: Tuesday, October 06, 2009 10:43 AM
To: Christensen, Kelly; 'bking@schwabe.com'
Subject: FW: Correction to Notes re yesterday's discussion - Flanigan rights [IWOV-GPDMS.FID325594]
Attachments: SPF Conveyance Loss Memo 37-2168A (10-5-2009).PDF

Kelly,
Just confirming that you rec'd this email.
No need for immediate action. Just want to make sure you have what you need.
If you have any technical questions please feel free to contact Scott King directly.
No need to go thru me unless you wish to.

- Chris

(Reply from chrismeyer@givenspursley.com)

From: Christopher H Meyer [mailto:ChrisMeyer@givenspursley.com]
Sent: Monday, October 05, 2009 2:38 PM
To: 'Christensen, Kelly'; 'chrisflanigan@mac.com'; 'Spencer, Nick'; 'vkelly@idwr.state.id.us'; 'sking@spfwater.com'
Cc: 'jill@jeshmanlaw.com'; 'Rassier, Phil'; 'Chris Flanigan'
Subject: RE: Correction to Notes re yesterday's discussion - Flanigan rights [IWOV-GPDMS.FID325594]

Email from Chris Meyer
To: Kelly Christensen

Kelly, this follows up on our prior email discussions below.

I am attaching a memo from Scott King of SPF documenting conveyance seepage loss of 0.13 cfs for water right No. 37-2168A.

Let me re-cap where we are, as I understand it:

The claim for this right sought 0.31 cfs for 15.6 acres (including a non-cumulative 0.02 for stockwater).
You cut the POU back to 11 acres.

At a duty of water of 0.02 cfs per acre, that would cut the right back from 0.31 to 0.22 cfs.

Adding the additional 0.13 cfs for conveyance losses brings the total to 0.35 cfs (0.22 + 0.13), which is more than the 0.31 cfs claimed. This is more than sufficient to justify the claimed quantity of 0.31 cfs. Accordingly, we ask that the SF5 reflect 0.31 cfs for this right.

Please note, I had wanted to run this email and attached memo by the Flanigans before sending, but I have learned there has been a death in the family and they are unavailable. I don't want to hold up your processing of the SF5, so I am going to go ahead and send this with the caveat that it is subject to review by my client.

Best to you,

- Chris

(Reply from chrismeyer@givenspursley.com)

From: Christopher H Meyer [mailto:ChrisMeyer@givenspursley.com]
Sent: Friday, October 02, 2009 4:40 PM
To: 'Christensen, Kelly'; 'chrisflanigan@mac.com'; 'Spencer, Nick'; 'vkelly@idwr.state.id.us'; 'sking@spfwater.com'
Cc: 'jill@jeshmanlaw.com'; 'Rassier, Phil'; 'Chris Flanigan'
Subject: RE: Correction to Notes re yesterday's discussion - Flanigan rights [IWOV-GPDMS.FID325594]

Kelly,
I'm on a deadline this afternoon. I will come in this weekend, and I will follow up with you on Monday. Thanks.

- Chris

(Reply from chris_meyer@givenspursley.com)

From: Christensen, Kelly [mailto:Kelly.Christensen@idwr.idaho.gov]
Sent: Friday, October 02, 2009 2:43 PM
To: Christopher H Meyer; chrisflanigan@mac.com; Spencer, Nick; vkelly@idwr.state.id.us; sking@spfwater.com
Cc: jill@jeshmanlaw.com; Rassier, Phil; Chris Flanigan
Subject: RE: Correction to Notes re yesterday's discussion - Flanigan rights [IWOV-GPDMS.FID325594]

I was doing my Friday house cleaning and found this one just setting there. Are you still interested in pursuing excess flows? If not we could probably move forward on this one now.

Kelly

From: Christopher H Meyer [mailto:ChrisMeyer@givenspursley.com]
Sent: Wednesday, July 08, 2009 10:50 AM
To: Christopher H Meyer; Jackie and Chris Flanigan (chrisflanigan@mac.com); Christensen, Kelly; Spencer, Nick; Vicki Kelly (vkelly@idwr.state.id.us); Scott King (sking@spfwater.com)
Cc: Jill Eshman (jill@jeshmanlaw.com); Rassier, Phil; 'Chris Flanigan'
Subject: Correction to Notes re yesterday's discussion - Flanigan rights [IWOV-GPDMS.FID325594]

Kelly, Vicki, Nick, Scott & Jill,

I am writing to correct a typographical error in my email to you (below) of July 2, 2009. In the first paragraph under the heading "Place of Use" the final sentence should read: "Thus, BOWETA owns 100% of 37-2168C."

This was probably obvious from the context.
But I want the record to be clear.

Thanks. Scott King will follow up with conveyance loss info.

- Chris

cc: Chris & Jackie Flanigan

(Reply from chris_meyer@givenspursley.com)

From: Christopher H Meyer [mailto:ChrisMeyer@givenspursley.com]

Sent: Thursday, July 02, 2009 11:23 AM

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).

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 [corrected to read 37-2168C] .

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,

- 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



MEMORANDUM

DATE: October 5, 2009

TO: Kelly Christiansen, Idaho Department of Water Resources

FROM: Scott King, P.E.

CC: Chris and Jackie Flanigan
Christopher Meyer, Givens Pursley, LLP
Jill Eshman, J. Eshman Law P.C.

RE: Conveyance Loss Estimate for Oregon Creek Diversion Ditch



At your request, this memorandum provides an estimate of seepage losses for the ditch conveying water from the Oregon Creek point of diversion to the field headgate for water right nos. 37-2168A and 37-2168C. Seepage losses are calculated using the Worstall Method, which is a seepage equation frequently applied by IDWR and which is based on ditch length, width at water surface, and seepage rates:

$$\text{Seepage loss (cfs / mile)} = 0.0667 \times \text{seepage rate (ft/day)} \times \text{top width of water surface (ft)}$$

A measurement of the ditch length using GIS mapping tools indicates the ditch is approximately 2,300 feet (0.44 miles) long. Mr. Flanigan has indicated that the average width at water surface is about 2 feet, and has also described the majority of the soils over which the ditch crosses as gravelly-sandy with some limited sections of finer material. He has also stated that based on his observations and experience with the ditch, seepage losses are very high.

A reference used by IDWR, ***Guidelines for the Evaluation of Irrigation Diversion Rates*** (Hubble Engineering, Inc. and Associated Earth Sciences, October 1991), provides loss rates for sandy and gravelly soils ranging from 2 to 2.5 feet per day (page 35). I have used an average seepage rate value of 2.25 feet per day, which is the midpoint of values from the Hubble Engineering report relied upon by IDWR when site specific data is not available. Applying the Worstall equation, total seepage is estimated at 0.13 cfs. Actual seepage may be higher or lower than this estimate.

$$\text{Seepage loss} = 0.0667 \times 2.25 \text{ (ft / day)} \times 2 \text{ (ft, top width)} = 0.30 \text{ cfs per mile.}$$

For a ditch 0.44 miles long, total seepage is calculated as:

$$\text{Total seepage} = 0.30 \text{ (cfs / mile)} \times 0.44 \text{ (miles)} = 0.13 \text{ cfs}$$

Christensen, Kelly

From: Christensen, Kelly
Sent: Thursday, July 02, 2009 10:16 AM
To: 'Christopher H Meyer'; Spencer, Nick; Kelly, Vicki
Subject: 37-2168A 2168C 22125 Flanigan

I tried to put together an outline that addresses some of the issues from two different scenarios.

1. 37-2168 A and C are recommended as separate claims
2. They are combined into one claim.

This review is based upon the understanding that Flanigan is not considering a change of ownership for the Boweta Lot. This is also primarily from my perspective as a department representative. As some of the assumptions are driven from the unknown 3rd party responses, it is hard to anticipate future problems.

As I have worked through these rights several times and from different approaches I feel that which ever way you want to go can be reasonably explained as falling within the department parameters and I would be willing to provide the department position if necessary.



37-2168A C 22125
Flanigan comb...

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

I. Analysis for amended director's report (ADR) for 37-2168A, 37-2168C and 37-22125

A. Leave 37-2168A and 37-2168C as separate claims

1. Need to determine if the ADR for 37-2168C stays at 1.5 inches per acre or changes to 1 inch per acre.
2. Calculate conveyance losses for each claim (prorate the calculation between the two claims)
3. Develop a field headgate diversion rate remark.
4. Determine combined right language for both rate and acreage for the three claims.

a) Pro –

(1) No need to explain any changes to claim numbering.

b) Con

(1) Need to explain the different rates per acre if 37-2168C stays at 1.5" per acre.

(2) Need to explain basis for conveyance losses

(3) Possibly creates additional work for future transfers.

(4) Additional information required to explain the overlap between the two different sources and the partial overlap with 37-2168A

B. Combine 37-2168A and 37-2168C

1. Calculate conveyance losses and apply that rate to the combined claim
2. Develop a field headgate diversion rate remark.
3. Determine combined right language for both rate and acreage for the two claims.

*e-mail attachment
37-2168A 2168C 22125 Flanigan
7-2-2009 10:16 AM*

a) Pro

- (1) Simplifies the combined language remarks*
- (2) Should reduce future transfer review analysis*
- (3) Fewer remark combined right language values to explain.*

b) Con

- (1) Have to explain why the two rights were combined and why a new claim number now exists.*
- (2) The combined right would recognize the system at 1" per acre and the additional ½ " per acre for 37-2168C would be recognized only within the conveyance loss calculation.*

Christensen, Kelly

From: Christensen, Kelly
Sent: Wednesday, July 01, 2009 10:54 AM
To: 'Christopher H Meyer'
Subject: RE: 37-2168A 22125 et al Flanigan proposal [IWOV-GPDMS.FID325594]
Attachments: 37-2168A and C Prop boundaries Flanigan.doc

Attached is a document showing the original recommendation shapes, the tax lot information as of 2008. It is my understanding that the recommendation shapes represent the tax lot boundaries prior to the reconfiguration of the tax lots for the Welsh sale. I have no written documentation regarding this though.

Kelly

From: Christopher H Meyer [mailto:ChrisMeyer@givenspursley.com]
Sent: Wednesday, June 24, 2009 5:05 PM
To: Christensen, Kelly
Subject: RE: 37-2168A 22125 et al Flanigan proposal [IWOV-GPDMS.FID325594]

Kelly, I owe you a response on this.

- Chris

(Reply from chrismeyer@givenspursley.com)

From: Christensen, Kelly [mailto:Kelly.Christensen@idwr.idaho.gov]
Sent: Tuesday, June 23, 2009 8:02 AM
To: Christopher H Meyer; Spencer, Nick; Kelly, Vicki
Subject: 37-2168A 22125 et al Flanigan proposal

Attached is an analysis that suggests a minor restructuring of the POU recommendations based upon ownership. This idea came to me as I was trying to complete the review of this system.

Probably it would be easier to discuss this over the phone but as I had spent some time forming the idea as a word document I am sending it to you. This approach should not change the overall system but should better and simpler describe the irrigation practices based upon ownership. Let me know what you think or give me a call and we can discuss this further.

<<37-2168A and C V2 analysis.doc>>
Kelly K Christensen
Sr Water Resource Agt
Boise, Western Region
(208)-334-2190



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

e-mail attachment
 RE 37-2168A 22125 et al Flanigan Proposal
 July 1, 2009 10:54 AM.

Christensen, Kelly

From: Christensen, Kelly
Sent: Friday, October 24, 2008 9:44 AM
To: Bromley, Chris; Fritschle, Carter
Cc: Kelly, Vicki
Subject: 37-2168 A and C general info pending SF-5

*Sent to Chris Meyer
10-24-09 4:16 PM*

Attached is a brief outline of the significant issues as I see them. There are multiple issues associated with the draft transfer (currently on hold pending SRBA) that do not need to be addressed at this time. Probably a quick yes or no will allow these two to move forward.



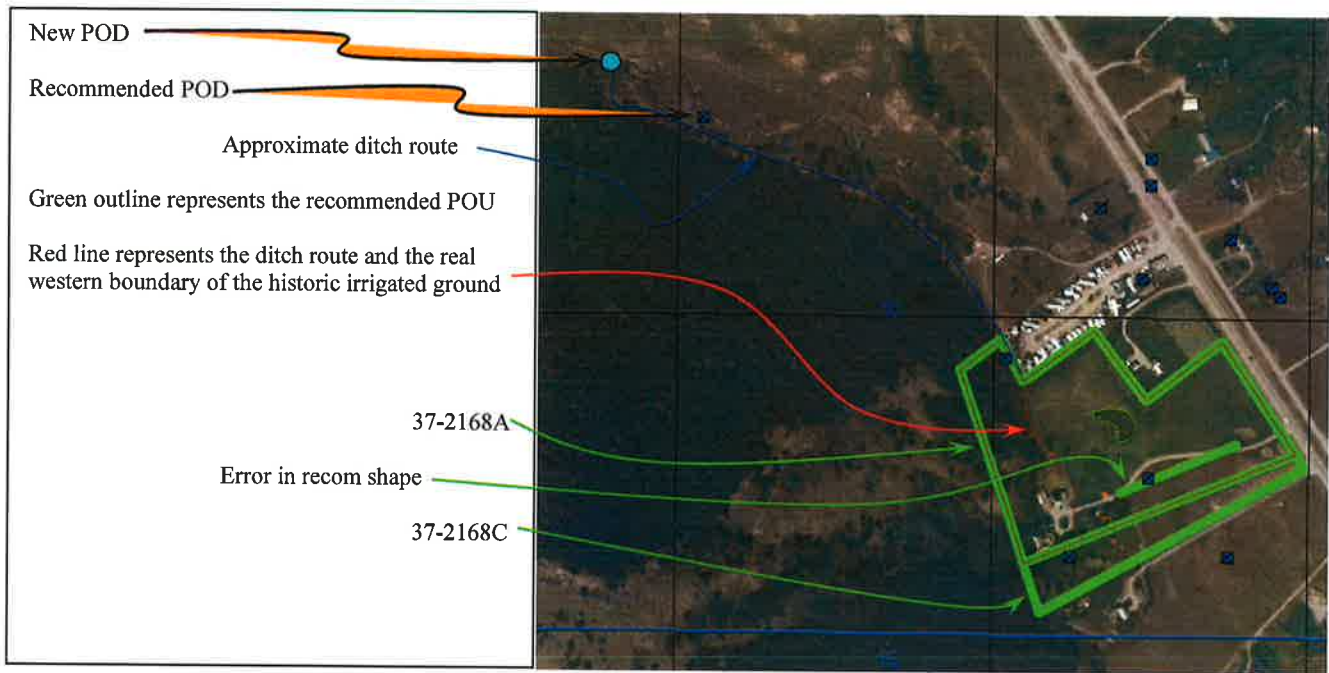
37-2168A
2168C Recommenda

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

37-2168A 37-2168C Recommendation issues.

Flanigan objected to both rights asserting that Oregon Gulch Creek should be declared a dry stream. The claimant name and address was also objected to.

On 10-23-2008 the department received a stipulation facilitating SF-5 which withdraws the assertion that Oregon Gulch Creek should be considered a dry stream. In a draft transfer submitted to the department in June of 2008 they also pointed out that the recommended point of diversion was incorrect.



With the only issue raised in the objection being whether Oregon Gulch Creek should be classified as a dry stream or not can we,

- A. Correct the point of diversion to the actual location.
- B. Correct the place of use to reflect the irrigated POU so that the non-irrigated ground does not get transferred and then become irrigated?

Chris Meyer and SPF (Scott King) are well aware that they want to transfer ground that has never been irrigated but is valid only because of the recommendation. This was briefly discussed during an office visit they made with me last summer.

Attachment to e-mail
37-2168 A and C general info pending SF-5
Oct 24, 2008 9:44 AM

RECEIVED

OCT 24 2008

WATER RESOURCES
WESTERN REGION

Christopher H. Meyer, Idaho State Bar No. 4461
Michael P. Lawrence, Idaho State Bar No. 7288
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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.

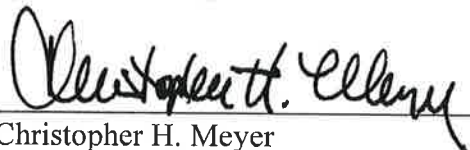
15. Except as set forth expressly in this Stipulation, the Flanigans and BOWETA LLC retain the right to pose any legal or factual defense (including but not limited to futile call) that they may have with respect to any future delivery call, curtailment, or administration of any of the Water Rights.

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

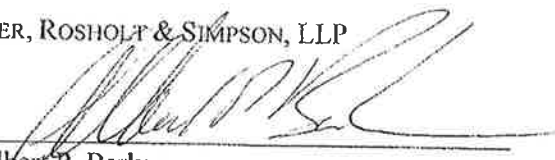
Dated: Sept. 24, 2008

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 Molyneux, 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, ROSHOLT & SIMPSON, LLP

Dated: _____

By: _____
Albert P. Barker

*Attorneys for Tom 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/ExtSearch/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
----------------	--------	---------	--------------	-----------	---------------

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		SWSE	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

[Close](#)<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
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ E-mail

SERVICE

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

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ E-mail

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

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ E-mail

*Bill Molyneux, Gerald Bashaw, Grace Eakin
John F. Stevenson, Pepin Corso-Harris
Pete VanderMeulen, Rocky Sherbine,
Tom O'Gara*

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ E-mail

Represented by:
Albert P. Barker
Barker, Rosholt & Simpson, LLP
1010 W. Jefferson, Suite 102
P.O. Box 2139
Boise, ID 83701-2139
apb@idahowaters.com

Big Wood Canal Co.

Represented by:

Craig D. Hobdey
Hobdey & Hobdey
PO Box 176
Gooding, ID 83330
hobdeycraig@hotmail.com

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ E-mail

COURTESY COPIES

Chris M. Bromley
Deputy Attorney General
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098
chris.bromley@idwr.idaho.gov

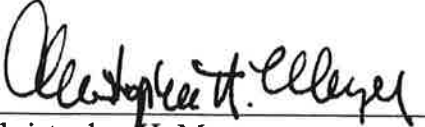
☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ E-mail

Jeff Peppersack
Water Allocation Bureau Chief
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098
jeff.peppersack@idwr.idaho.gov

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ E-mail

Kelly K. Christensen
Senior Water Resource Agent
Western Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082
kelly.christensen@idwr.idaho.gov

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ E-mail



Christopher H. Meyer

01/09/2007

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

RIGHT NUMBER: 37-2168A

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

CHRIS FLANIGAN
HC 64 BOX 8028
KETCHUM ID 83340

SOURCE: OREGON GULCH CREEK

TRIBUTARY: SINKS

QUANTITY: 0.310 CFS

PRIORITY DATE: 01/22/1910

POINT OF DIVERSION:

T05N R17E S10 NWNESW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 10/31	0.310 CFS
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T05N R17E S10 SWSE 15.60

STOCKWATER in BLAINE County

T05N R17E S10 SWSE

15.6 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 ALSO KNOWN AS 13556 STATE HWY 75 PARCEL NO.
05N170107840 ***** CLAIM IS AMENDED TO
ADD IRRIGATION USE WHICH WAS WRONGLY OMITTED WHEN CLAIM
WAS ORIGINALLY FILED. CLAIMANT IS FORMER WIFE OF ORIGINAL
CLAIMANT WHO RECEIVED THE LANDS AND WATER RIGHTS IN DIVORCE
PROCEEDINGS. A NOTICE OF CHANGE OF OWNERSHIP HAS BEEN FILED.

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

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



Idaho Department of Water Resources

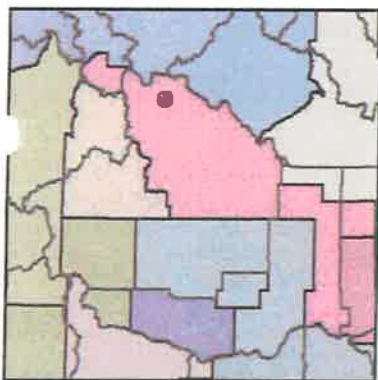
SRBA Recommendation:

37-2168A

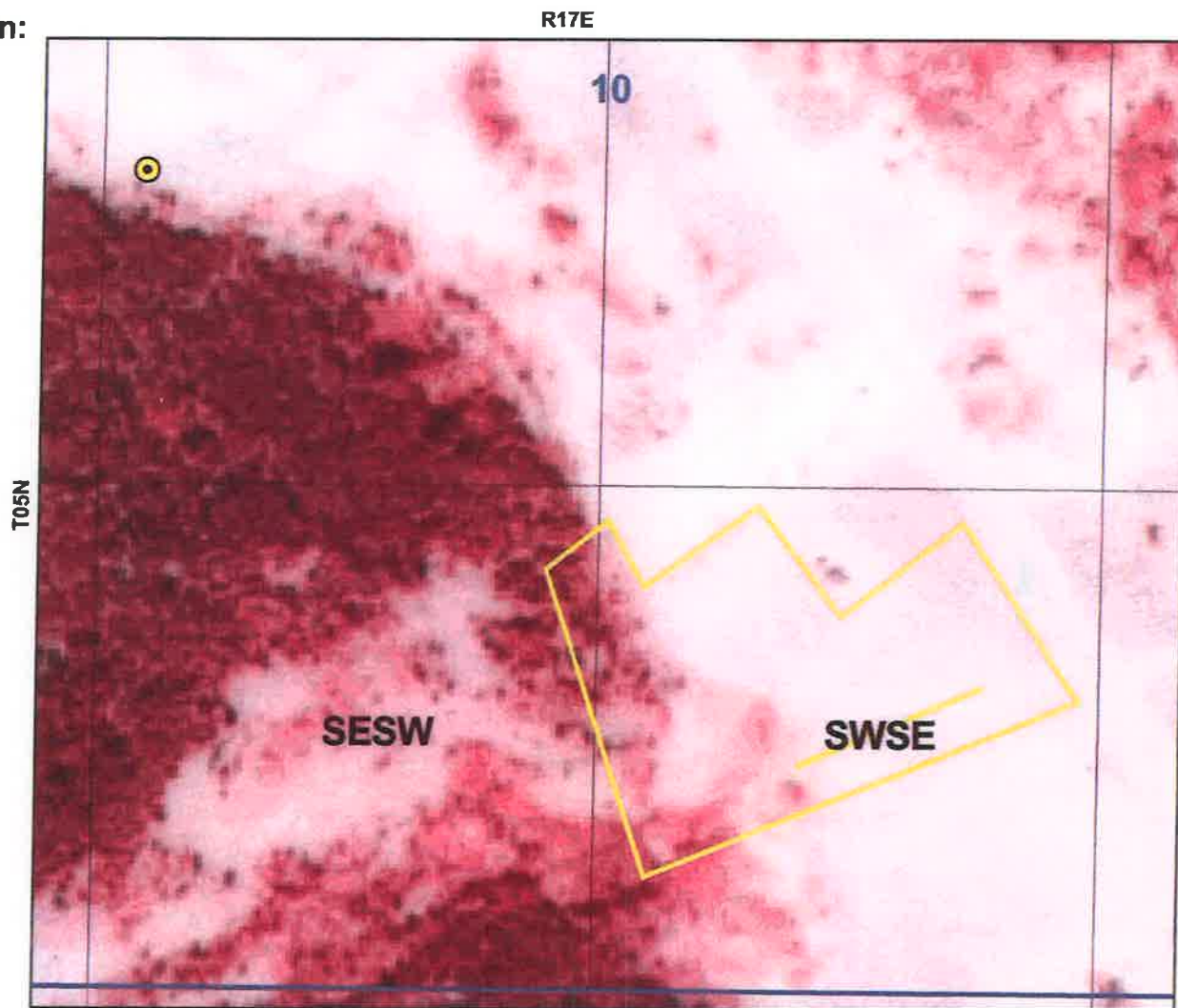
(Irrigation)

Legend

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



Blaine County
IDWR Basin 37

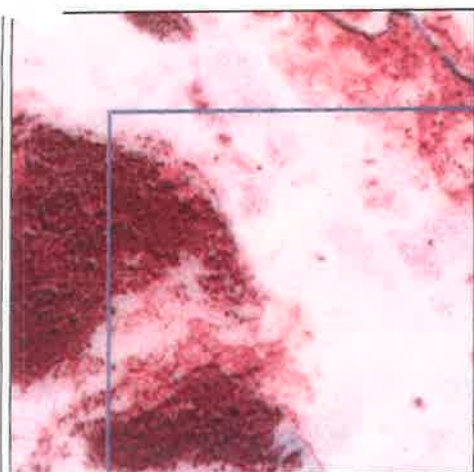
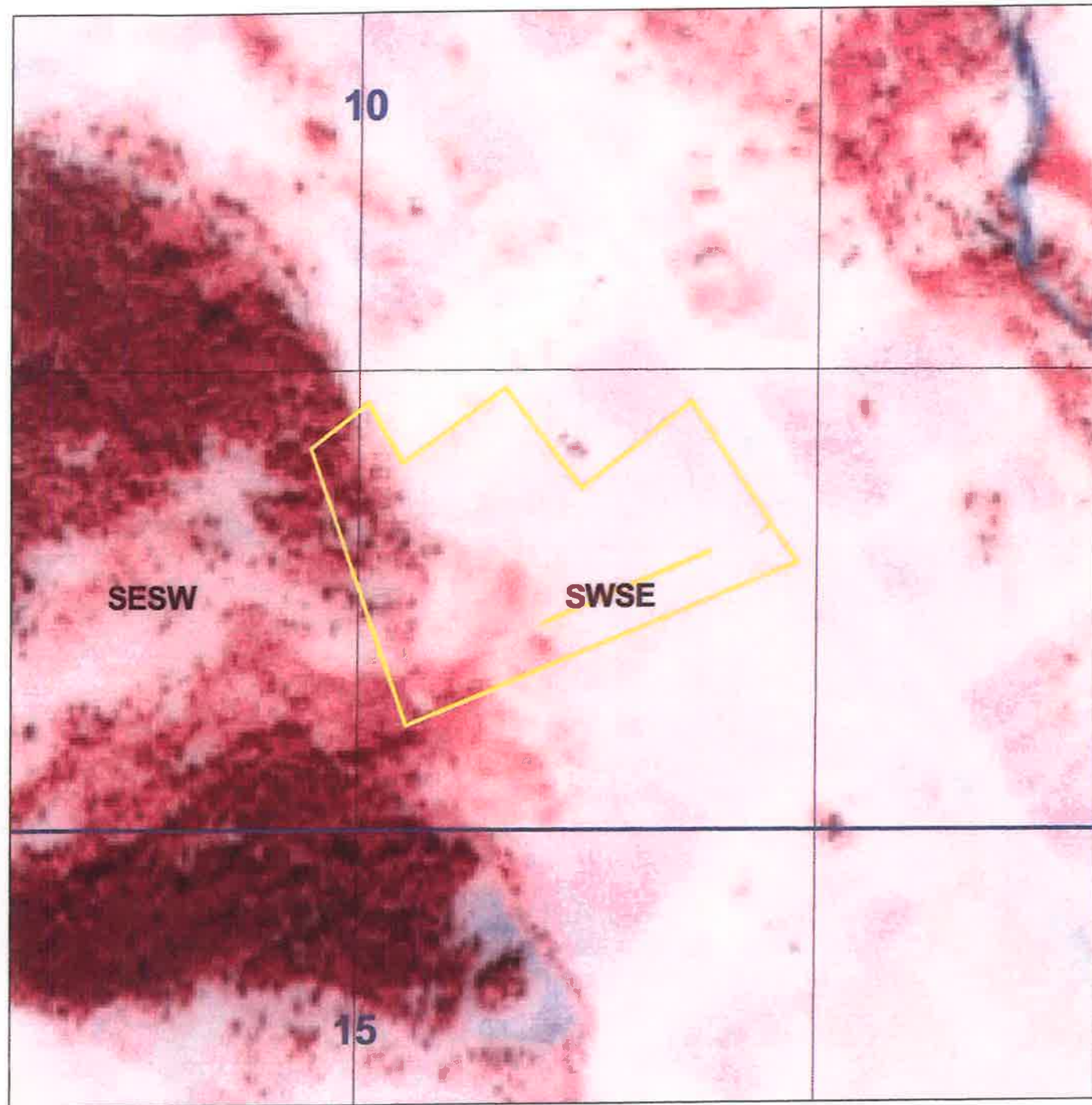


0 0.2 0.4 Miles



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

37-2168A



4/3
9/10

3/2
10/11

SAWTOOTH NATIONAL
RECREATION AREA
HEADQUARTERS

NORTH FORK CANYON ROAD

BARLOW SUBDIVISION

136178

13598

TL 6923

TL 6924

13576

NORTH FORK CAMPS &
TRAILERS 13574

U.S. HIGHWAY

13572

13574

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E. NARRATIVE/REMARKS/COMMENTS

FROM: Georgia Satterlee
DATE: 08 December 1998
RE: 37-08870

I met with Lynn Bailey on 18 November 1998 to conduct field examination for the above permit. The permit is year round domestic use from a spring.

Lynn Bailey is the current spouse of Claire Bailey, she use to go by the name of Claire Kendall (she is the ex-wife of Charles B. Kendall).

There are three adjudication claims in the name of Claire Kendall (she and/or her lawyer have been notified on two occasions regarding the Change of Ownership per claims).

<u>Claim #</u>	<u>Priority Date</u>	<u>Rate</u>	<u>Use</u>	<u>Source</u>
A37-02168A	01/22/1910	0.31 cfs	Irr/Stock	Oregon Gulch
*A37-12174	01/31/1980	0.04 cfs	Domestic.	Spring
A37-12219	09/30/1987	0.02 cfs	Dom/Stock	Groundwater
**37-08870	02/26/1998	0.06 cfs	Domestic	Spring

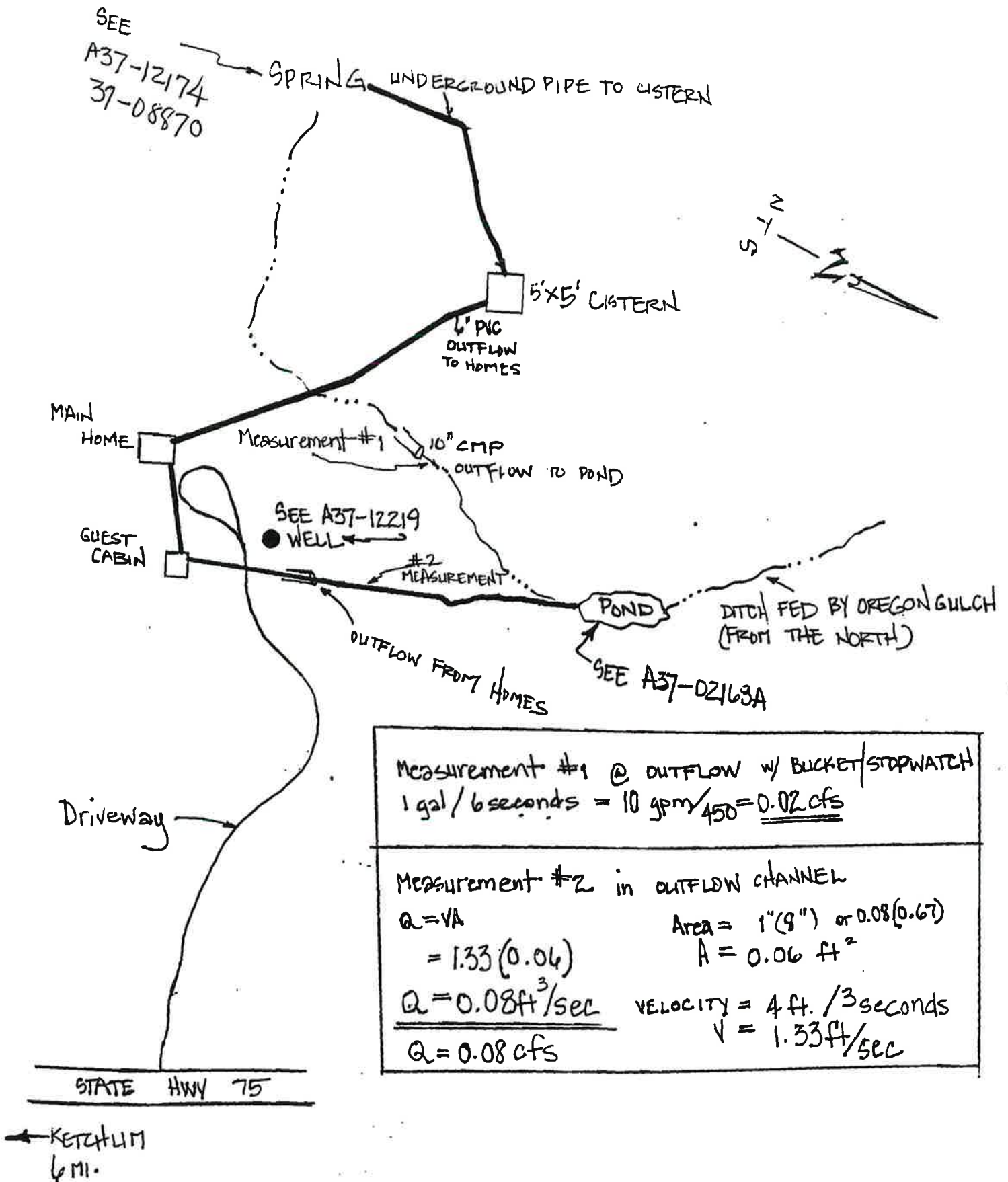
*Recommended to be disallowed per C.Fritschle on 05/13/1998

** Permit in the name of Bailey, Claire

The spring diverts to underground pipe which then dumps into the cistern. From the cistern, the water is fed, via a 6" pvc pipe, into the main home then onto the cabin. From the cabin, the water not used is then diverted into a small ditch. This ditch eventually dumps into a pond. Other sources dump into the pond and according to Mr. Bailey, the pasture is flood irrigated per the claim A37-02168A.

Another domestic use claim, A37-12174, from the same spring, is proposed to be disallowed. My recommendation for the permit is based on the assumption that A37-12174 will be disallowed. Also, I am basing the permit recommendation in addition to the groundwater claim, A37-12219, that calls to domestic and stockwater out of the existing well.

Recom Cor
Disallowal
4-08
KLC



Measurement #1 @ OUTFLOW w/ BUCKET/STOPWATCH
 $1 \text{ gal} / 6 \text{ seconds} = 10 \text{ gpm} / 450 = \underline{0.02 \text{ cfs}}$

Measurement #2 in OUTFLOW CHANNEL

$$Q = VA$$

$$= 1.33 (0.06)$$

$$Q = 0.08 \text{ ft}^3/\text{sec}$$

$$Q = 0.08 \text{ cfs}$$

$$\text{Area} = 1" (8") \text{ or } 0.08 (0.67)$$

$$A = 0.06 \text{ ft}^2$$

$$\text{VELOCITY} = 4 \text{ ft.} / 3 \text{ seconds}$$

$$V = 1.33 \text{ ft/sec}$$

EXAMINER: SATTERLEE, G.
18 NOV 1998

BAILEY, CLAIRE

39-08870

6/9/94

COMMUNICATION DOCUMENTATION

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

IDWR Employee/Agent Georgia Satterlee

*Recommend to be
Disallowed May 1998*

DATE

December 3, 1998 1:50pm

CUSTOMER

Bailey, Claire

SUBJECT: 37-08870, A37-02168A, -12174, -12219

phone call (.) walk-in (.)

Claire Kendall remarried and is now Claire Bailey. The permit (to be licensed) is the correct name, however the AJ claims are still in Kendall. I sent Bailey's a C/O for AJ claims.

2/4



photos looking SW'ly

Bailey, Claire 37-08870.
Examiner: Satterlee 18Nov1998 1030 hrs

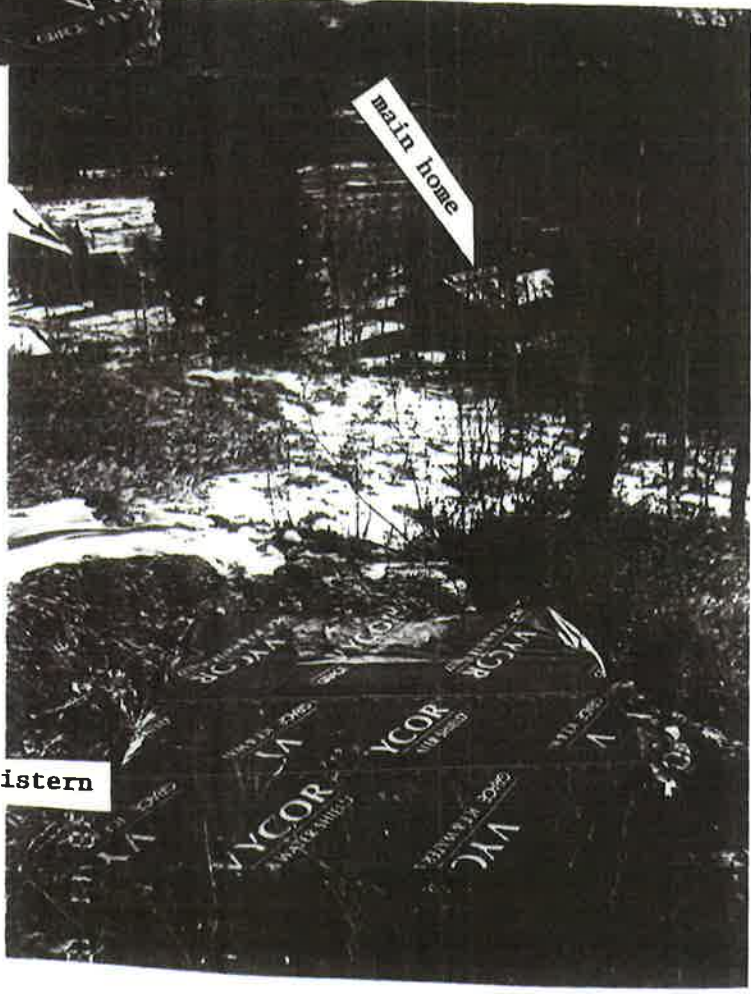


3/4

photo looking NW'ly

CISTERN ↗

CABIN ↗



main home

cistern

4/Δ



photo looking SE'ly

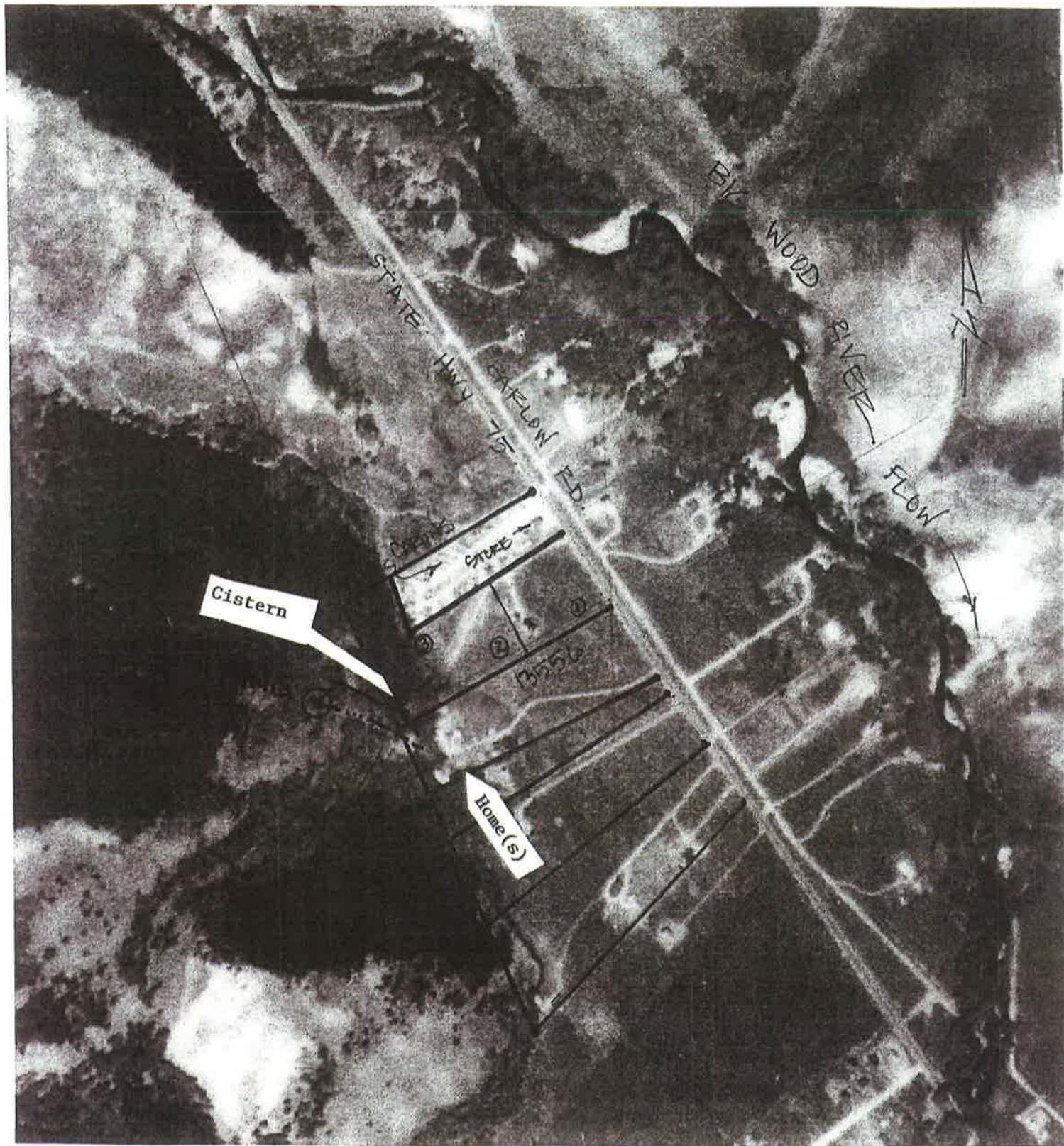
FLOW



photo looking NW'ly

Bailey, Claire
Examiner: Satterlee 18Nov1998
1030 hrs.

37-08870

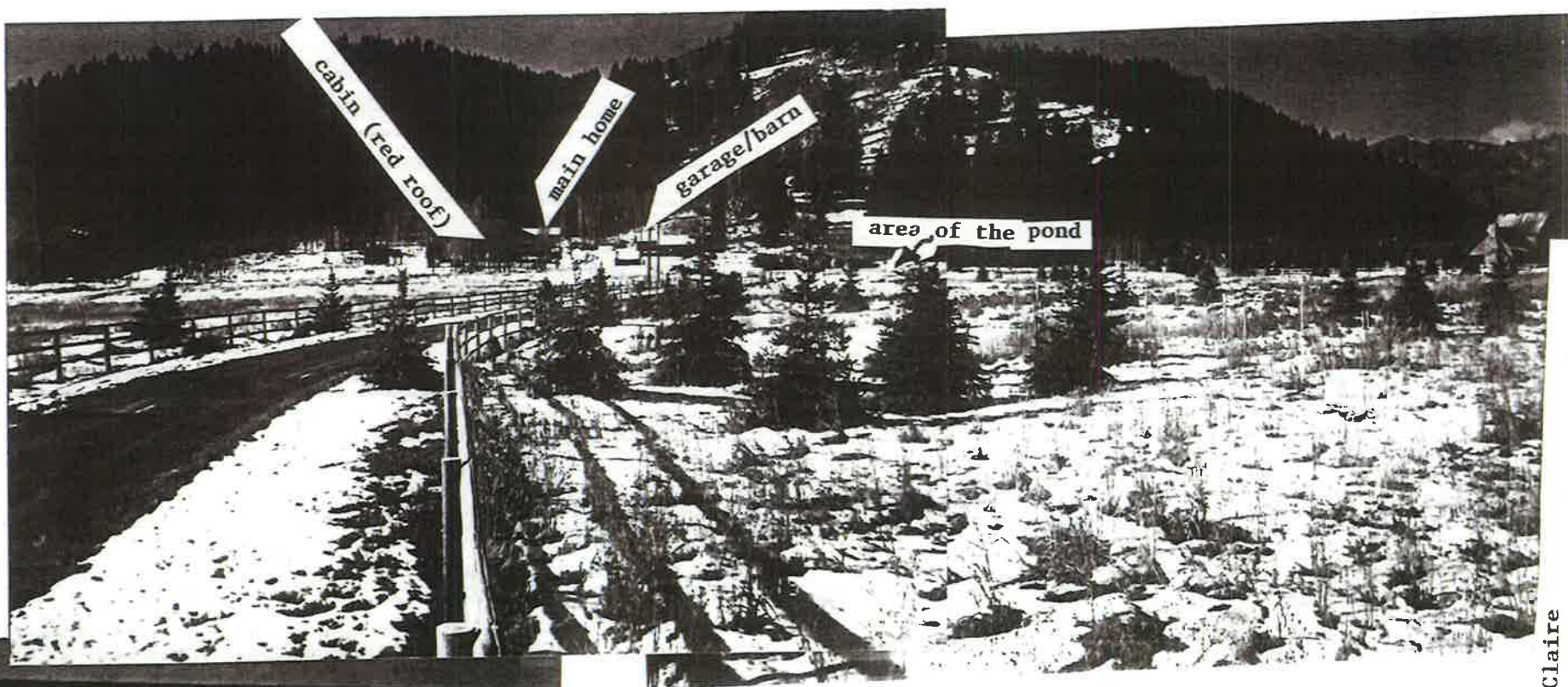


W73 SW 1988 Flight
Scale (approx.) 1"=600'

Bailey, Claire

37-08870

14



Photos looking SW'ly from Hwy 75

Bailey, Claire

Examiner: Satterlee 18Nov1998 10 hrs

37-08870

14



Photos looking S



Bailey, Claire
Examiner: Satterlee 18Nov1998 1:00 hrs

37-08870



same as 1/4



8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of	1/4 Lot	Use	Acres
05N	17E	10	SW	SE	IRRIGATION	15.6
			SW	SE	STOCKWATER	
					Section Acres	15.6
					Total Acres	15.6

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:

CLAIM IS AMENDED TO ADD IRRIGATION USE WHICH WAS WRONGLY OMITTED WHEN CLAIM WAS
ORIGINALLY FILED. CLAIMANT IS FORMER WIFE OF ORIGINAL CLAIMANT WHO RECEIVED THE
LANDS AND WATER RIGHTS IN DIVORCE PROCEEDINGS. A NOTICE OF CHANGE OF OWNERSHIP HAS
BEEN FILED.

CONFORMED ATTORNEY MAILING ADDRESS DMS

15. Basis of Claim: License

01/09/2007

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

RIGHT NUMBER: 37-2168A
NAME AND ADDRESS: JACKIE FLANIGAN
HC 64 BOX 8028
KETCHUM ID 83340

CHRIS FLANIGAN
HC 64 BOX 8028
KETCHUM ID 83340

SOURCE: OREGON GULCH CREEK TRIBUTARY: SINKS
QUANTITY: 0.310 CFS
PRIORITY DATE: 01/22/1910
POINT OF DIVERSION:

T05N R17E S10 NWNESE Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 10/31	0.310 CFS
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: IRRIGATION in BLAINE County
T05N R17E S10 SWSE 15.60
STOCKWATER in BLAINE County
T05N R17E S10 SWSE

15.6 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 ALSO KNOWN AS 13556 STATE HWY 75 PARCEL NO.
05N170107840 ***** CLAIM IS AMENDED TO
ADD IRRIGATION USE WHICH WAS WRONGLY OMITTED WHEN CLAIM
WAS ORIGINALLY FILED. CLAIMANT IS FORMER WIFE OF ORIGINAL
CLAIMANT WHO RECEIVED THE LANDS AND WATER RIGHTS IN DIVORCE
PROCEEDINGS. A NOTICE OF CHANGE OF OWNERSHIP HAS BEEN FILED.

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

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



Idaho Department of Water Resources

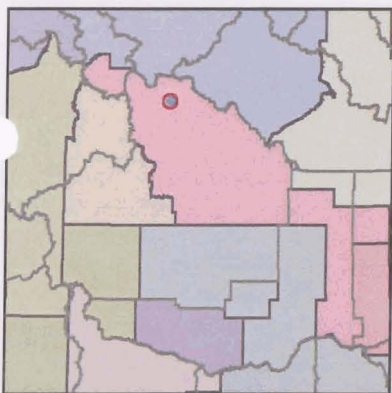
SRBA Recommendation:

37-2168A

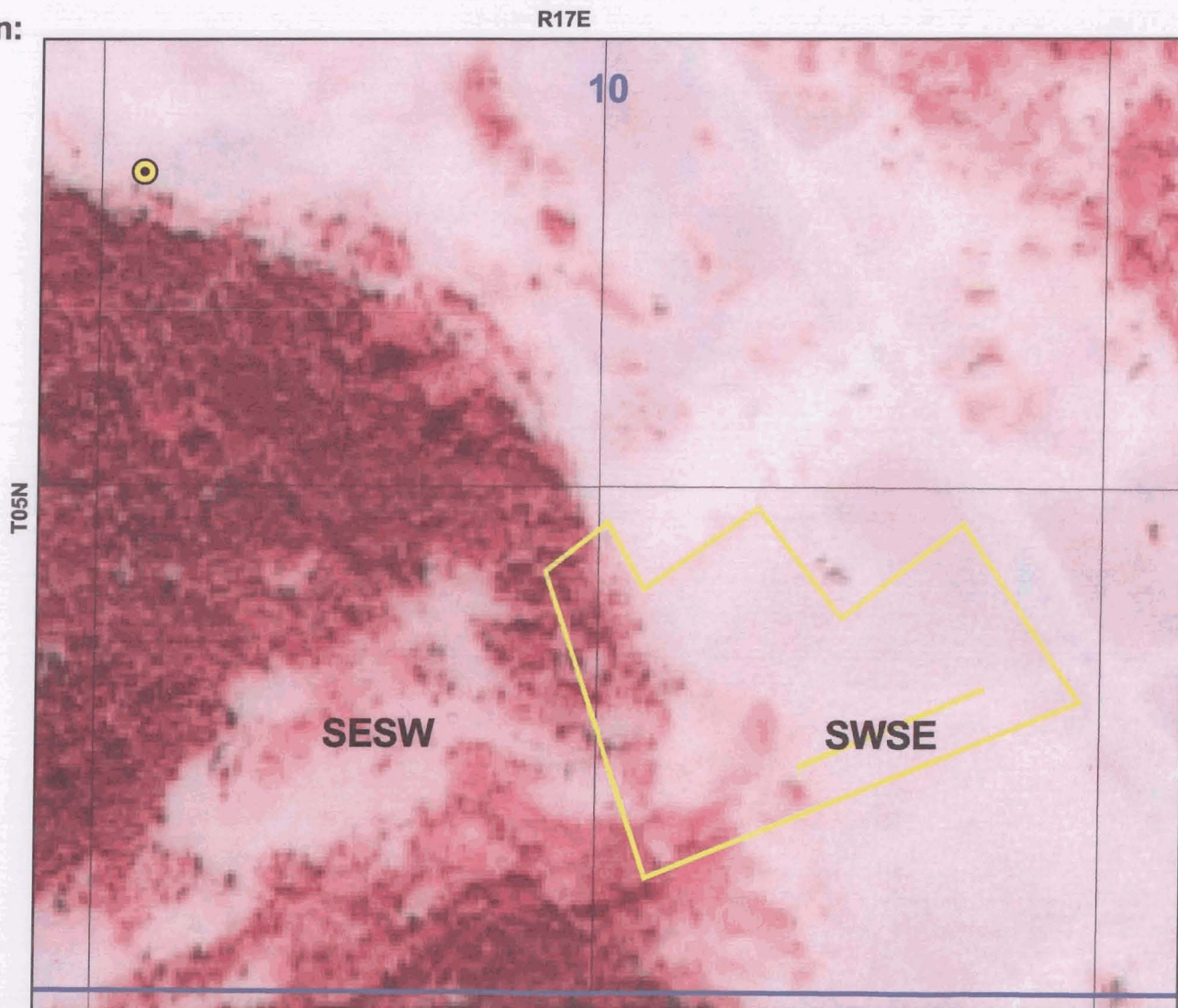
(Irrigation)

Legend

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



Blaine County
IDWR Basin 37

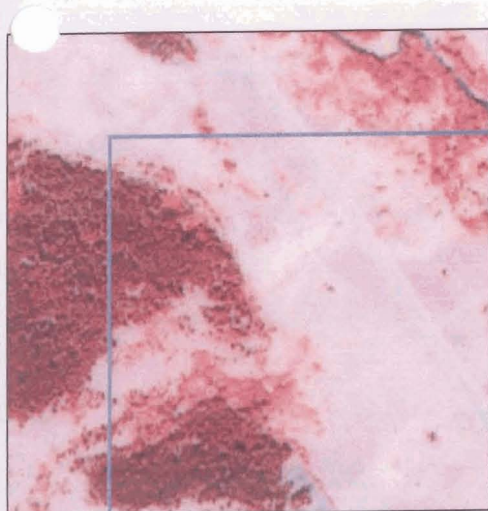
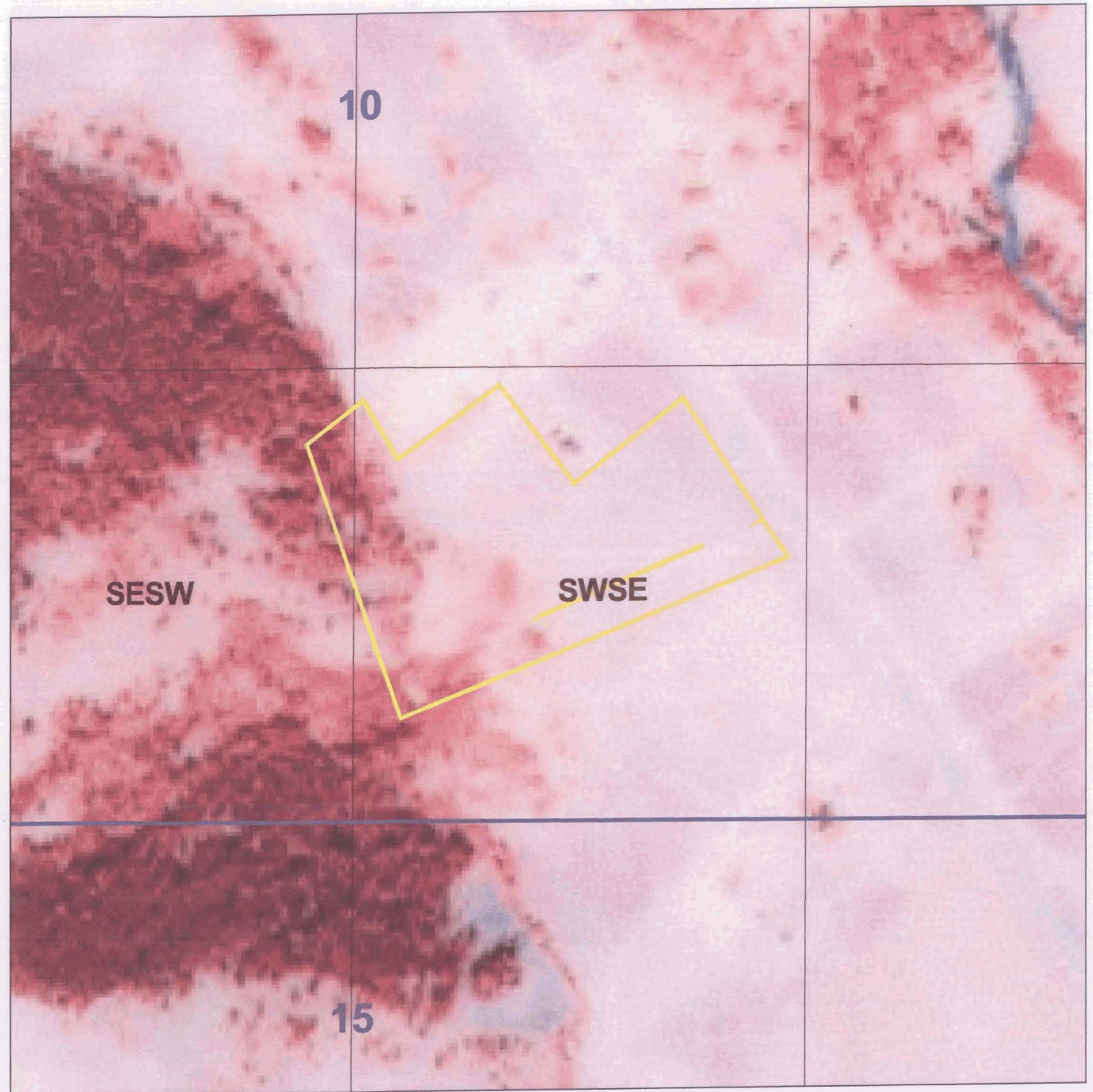


0 0.2 0.4 Miles



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

37-2168A



SOURCES

37-2148



NO STREET DELIVERY
PLEASE HELP US
SERVE YOU BETTER.
PO BOX REQUIRED

FLANIGAN
13556 HWY 75
KETCHUM ID 83340



U.S. POSTAGE

1860

PB3524253

3351 \$00.37 0 SEP 10 2004

1829 MAILED FROM ZIP CODE 83301

RECEIVED

SEP 20 2004

Department of Water Resources
Southern Region



SPECK & AANESTAD

A PROFESSIONAL CORPORATION

ATTORNEYS

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

JAMES P. SPECK
jimspeck@cox-internet.com

DOUGLAS J. AANESTAD
aanestad@cox-internet.com

TELEPHONE
(208) 726-4421
FACSIMILE
(208) 726-0752

October 24, 2005

Mr. Kelly K. Christensen
Idaho Department of Water Resources
1341 Fillmore, Suite 200
Twin Falls, Idaho 83301

RECEIVED
OCT 26 2005
Department of Water Resources
Southern Region

**Re: Chris Flanigan and Exchange 05-3097, LLC;
SRBA Claims 37-11852 and 37-11854**

Dear Kelly:

Enclosed you will find the original and a copy of a Notice of Appearance by my firm on behalf of Chris Flanigan and Exchange 05-3097, LLC for the above-referenced two SRBA claims. Please receipt date-stamp the copy and return it to my office in the postage prepaid, self-addressed envelope included for that purpose.

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

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: 
James P. Speck

JPS/jef

Enclosure

cc: Attorney General's Office (w/encl.)
Dept. Of Justice (w/encl.)
IDWR (w/encl.)

ORIGINAL IN FILE

Claimants Names:

**Christopher Flanigan
Exchange 05-3097, LLC**

Attorney Name & Address:

**James P. Speck, ISB#2067
Speck & Aanestad
A Professional Corporation
120 East Avenue
P. O. Box 987
Ketchum, Idaho 83340
(208) 726-4421
FAX: (208) 726-0752**

RECEIVED
OCT 26 2005
Department of Water Resources
Southern Region

**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

)
)
)
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)

NOTICE OF APPEARANCE

DESCRIPTIVE SUMMARY

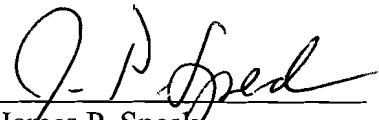
This is a notice of appearance by counsel on behalf of the new claimant and purchaser of the water rights identified below.

NOTICE OF APPEARANCE

The law firm of Speck & Aanestad, A Professional Corporation, hereby enters its appearance in the action on behalf of Claimants , Christopher Flanigan and Exchange 05-3097, LLC, for the following water rights which are not the subject of any subcases: 37-11852 and 37-11854.

DATED this 24th day of October, 2005.

SPECK & AANESTAD
A Professional Corporation

By 
James P. Speck

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of October, 2005, 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

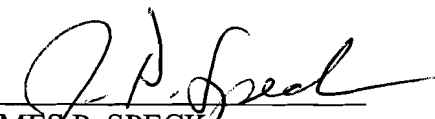
- ☒ United States Mail, Postage Prepaid
☐ Hand Delivery
☐ Facsimile, with copy by United States Mail, Postage Prepaid

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

Water Right Number - 37-02168 Adj. Flag Translation: Standard Water Right Number Old (D) Number - 5840

+ - - - - - Last Name - - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***
BRINEGER THOMAS EDWARD 1 -
2 -
3 -
City- KETCHUM State- ID Zip- 83340
Phone -

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
01/22/1910 17 L - LICENSE

+ - - - - - Source - - - - - + + - - - - - Tributary - - - - - +
OREGON CREEK BIG WOOD RIVER

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

+ - - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 2.000
43 - DOMESTIC

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
2.000

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
05N	17E	10	SW NW			01	IRRIGATION	13 BLAINE
05N	17E	10	SE NW			01	IRRIGATION	13 BLAINE
05N	17E	10	NE SW			01	IRRIGATION	13 BLAINE
05N	17E	10	NW SW			01	IRRIGATION	13 BLAINE
05N	17E	10	SW SW			01	IRRIGATION	13 BLAINE
05N	17E	10	SE SW			01	IRRIGATION	13 BLAINE
05N	17E	15	NW NE			01	IRRIGATION	13 BLAINE
05N	17E	15	SW NE			01	IRRIGATION	13 BLAINE
05N	17E	15	NE NW			01	IRRIGATION	13 BLAINE
05N	17E	15	SE NW			01	IRRIGATION	13 BLAINE

Total Acres:

+ - - - - - Version Means -
+ - - - - - Irrigation Use -
+ - - - - - Other Rights for Same Use -

MICROFILMED
FEB 23 1993

Water right number - 37-02168 Adj. flag translation: Standard Water Right Number

+ - - - - Remarks - - - - - +
AC. IRR. = 160.
P/D INCOMPLETE. UNSURVEYED LAND.
P/D LOCATED 1 1/2 MILES FROM MOUTH OF OREGON CK.

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

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +
00/00/0000

+ - - Microfilm Rolls -

+ - - Audit Fields - 05/20/85 05/28/88 CONVERT

+ - - - - Water Rights Dates and Flags Area - - - - - +

Proof Due Date - 00/00/0000	Field Exam Made - 00/00/0000	Field Exam Fee -
Approved/Denied - 00/00/0000	Protested Date - 00/00/0000	Swan Falls -
Proof Made Date - 00/00/0000	Hearing Date - 00/00/0000	Temporary Right - P
Start Work Date - 00/00/0000	Verified Date - 05/20/1985	DLE/Carey Act -
Order Show Cause - 00/00/0000	Receipt Number -	Water District - 37
Licensed Date - 05/10/1979	Appl Received - 00/00/0000	Transfer/Amended -
Decree Date - 00/00/0000		

MICROFILMED
FEB 23 1993

DATE RECEIVED 10/18

CK # 373

AMOUNT \$ 25.00

YRS Temp

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 form? 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?

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? 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?

Claim checked by: JB

Comments:

MICROFILMED

FEB 23 1993

TRANSMITTAL COVER SHEET

OMNIFAX G66

TO: JANIS FULTON

fax # 726-8466

TOTAL PAGES SENT: 4

DOCUMENT DESCRIPTION: PROFILE REPORTS OF SNAKE RIVER
Basin ADJUDICATION CLAIMS A37-02168A, A37-02219,
AND A37-12174

FROM: **IDAHO DEPARTMENT OF WATER RESOURCES**
1341 Fillmore Street, Suite 200
Twin Falls ID 83301-3380

PHONE: 736-3033

FAX: 736-3037

SENDER: Corey Skinner

CHARGES:

One (1) free copy per request, cover sheet not counted. Two (2) or more copies per request will cost \$0.25 per page. (\$0.50 minimum)

Please consider this document as a billing statement.

The charge for your fax copies is: NINE
Please remit to the above address.

COMMENTS: THESE WERE THE ONLY RECORDS IN
CLAIRE KENDALL'S NAME. NOTE THAT THESE
ARE CLAIMS AND MAY OR MAY NOT
BE VALID WATER RIGHTS.

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 37-2168A
Date Received: 3/2/1994
Receipt No: S016600
Received By:

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

1. Name of Claimant(s)

JACKIE FLANIGAN Phone: (208)725-5980
HC 64 BOX 8028
KETCHUM ID 83340

CHRIS FLANIGAN Phone: (208)725-5980
HC 64 BOX 8028
KETCHUM ID 83340

2. Date of Priority: 01/22/1910

3. Source: OREGON GULCH CREEK Trib. to: SINKS

4. Point of Diversion:

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

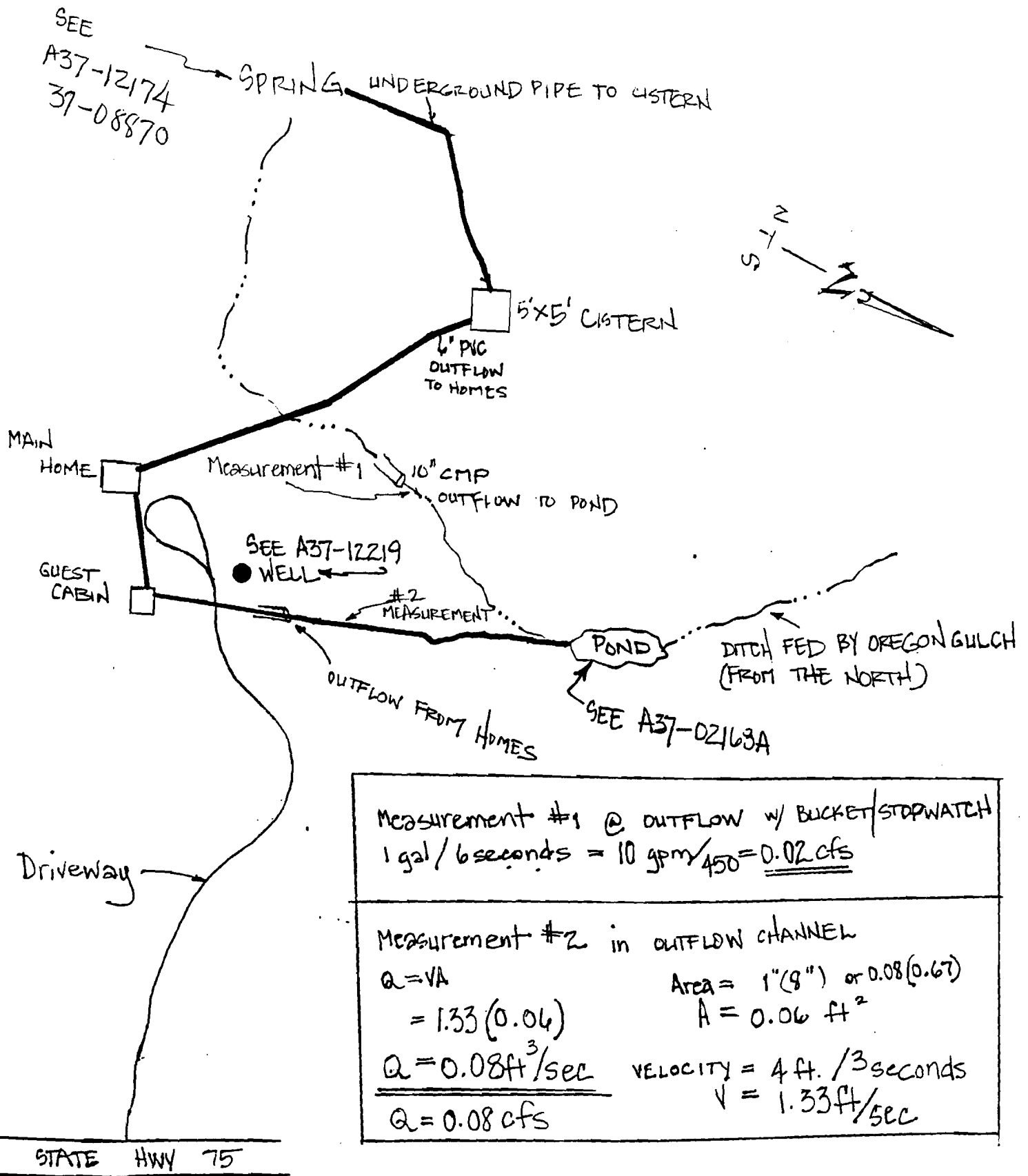
5. Description of diverting works:

HEADGATE AND DITCH TO FLOOD IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	11/01	0.31	
STOCKWATER	1/01	12/31	0.02	

7. Total Quantity Appropriated is:
0.31 C.F.S.



EXAMINER: SATTERLEE, G.
18 NOV 1998

BAILEY, CLAIRE

37-08870

E. NARRATIVE/REMARKS/COMMENTS

FROM: Georgia Satterlee
DATE: 08 December 1998
RE: 37-08870

I met with Lynn Bailey on 18 November 1998 to conduct field examination for the above permit. The permit is year round domestic use from a spring.

Lynn Bailey is the current spouse of Claire Bailey, she use to go by the name of Claire Kendall (she is the ex-wife of Charles B. Kendall).

There are three adjudication claims in the name of Claire Kendall (she and/or her lawyer have been notified on two occasions regarding the Change of Ownership per claims).

<u>Claim #</u>	<u>Priority Date</u>	<u>Rate</u>	<u>Use</u>	<u>Source</u>
A37-02168A	01/22/1910	0.31 cfs	Irr/Stock	Oregon Gulch
*A37-12174	01/31/1980	0.04 cfs	Domestic	Spring
A37-12219	09/30/1987	0.02 cfs	Dom/Stock	Groundwater
**37-08870	02/26/1998	0.06 cfs	Domestic	Spring

*Recommended to be disallowed per C.Fritschle on 05/13/1998

** Permit in the name of Bailey, Claire

The spring diverts to underground pipe which then dumps into the cistern. From the cistern, the water is fed, via a 6" pvc pipe, into the main home then onto the cabin. From the cabin, the water not used is then diverted into a small ditch. This ditch eventually dumps into a pond. Other sources dump into the pond and according to Mr. Bailey, the pasture is flood irrigated per the claim A37-02168A.

Another domestic use claim, A37-12174, from the same spring, is proposed to be disallowed. My recommendation for the permit is based on the assumption that A37-12174 will be disallowed. Also, I am basing the permit recommendation in addition to the groundwater claim, A37-12219, that calls to domestic and stockwater out of the existing well.

6/9/94

COMMUNICATION DOCUMENTATION

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

IDWR Employee/Agent Georgia Satterlee

*Recommend to be
Disallowed May 1998*

DATE

December 3, 1998 1:50pm

CUSTOMER

Bailey, Claire

SUBJECT: 37-08870, A37-02168A, -12174, -12219

phone call (.) walk-in (.)

Claire Kendall remarried and is now Claire Bailey. The permit (to be licensed) is the correct name, however the AJ claims are still in Kendall. I sent Bailey's a C/O for AJ claims.

2/A



photos looking SW'ly

3/4

location of spring
is 300'± from cistern



photo looking NW'ly



CISTERN ↗

CABIN ↘

main home ↘

cistern



4/Δ



photo looking SE'ly

FLOW

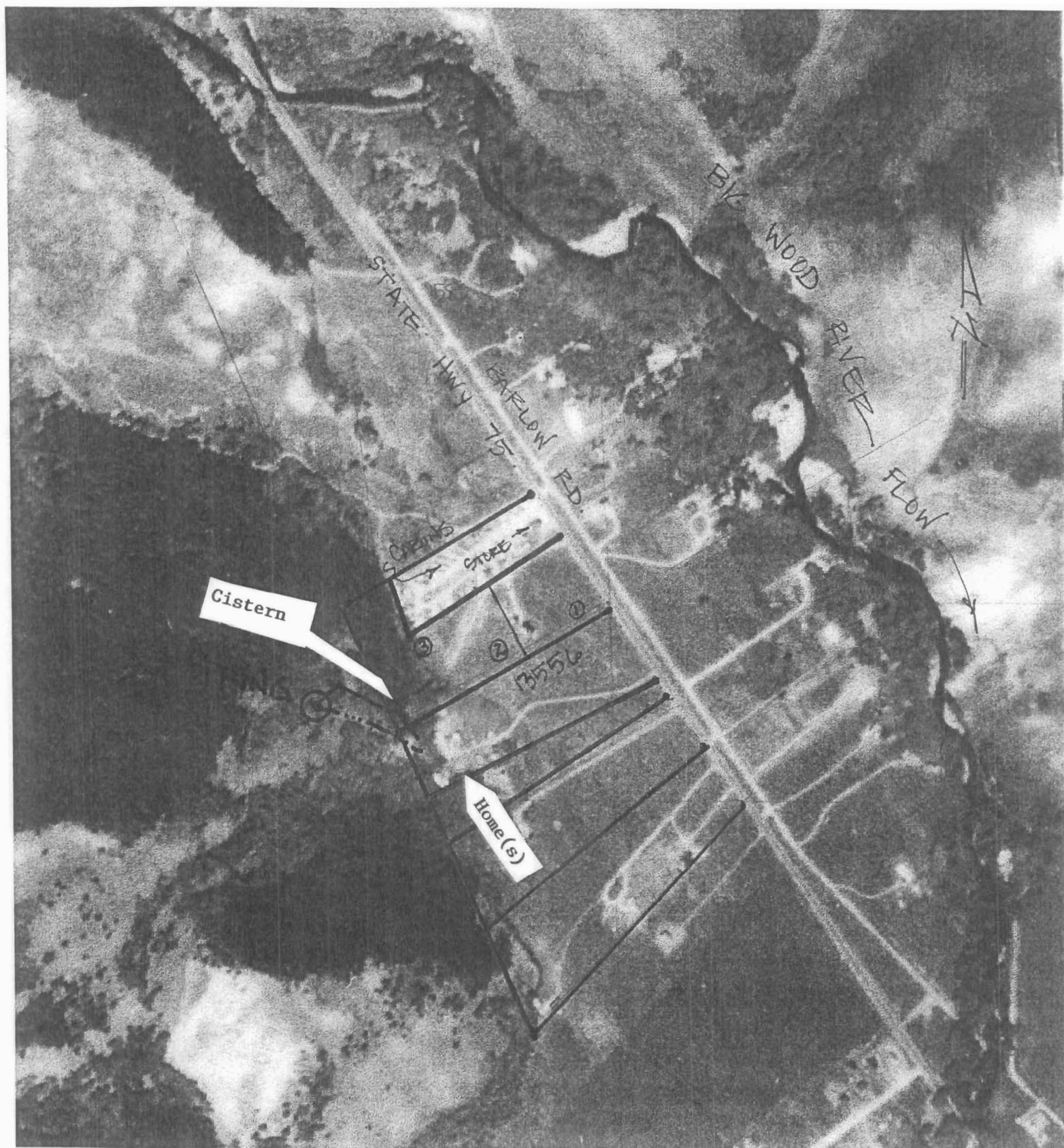


well is located here
just out of photo

photo looking NW'ly

Bailey, Claire
Examiner: Satterlee 18Nov1998
1030 hrs.

37-08870

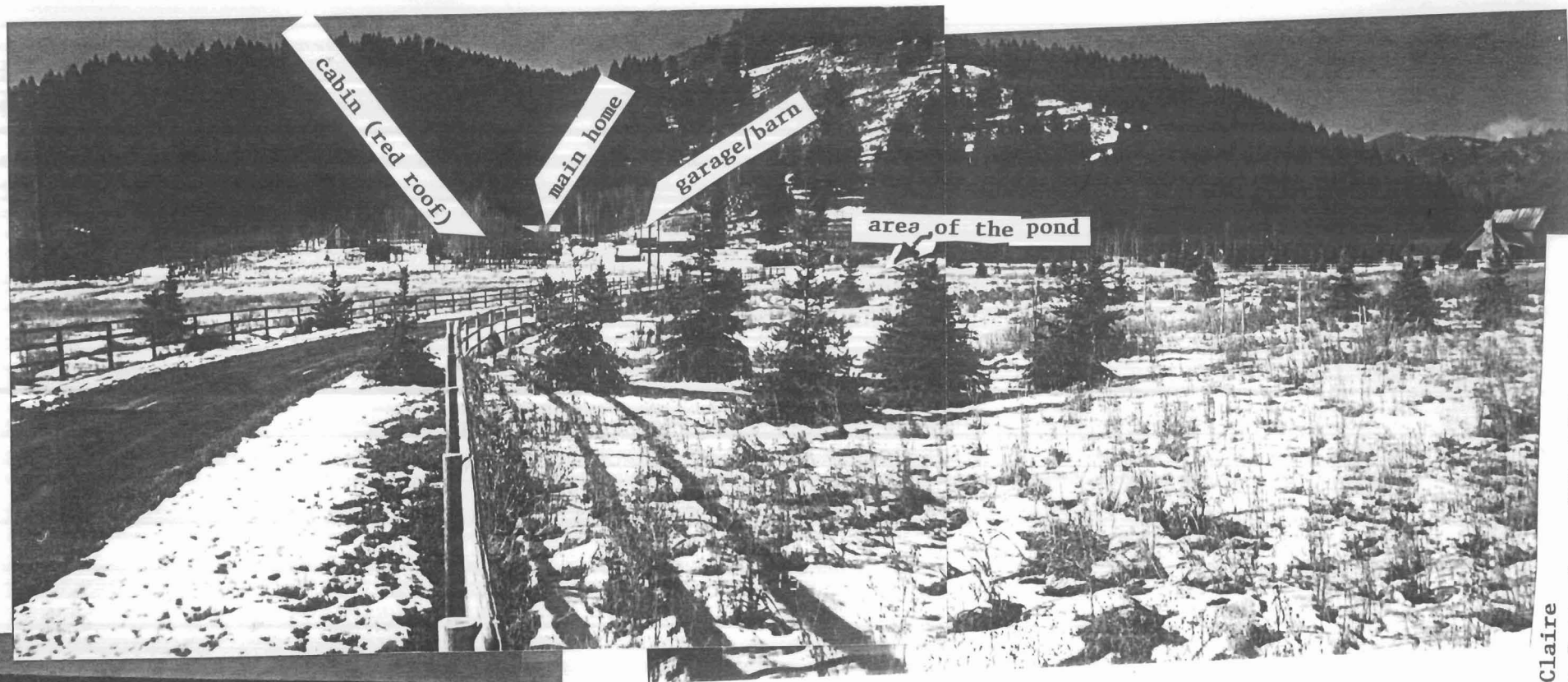


W73 SW 1988 Flight
Scale (approx.) 1"=600'

Bailey, Claire

37-08870

14

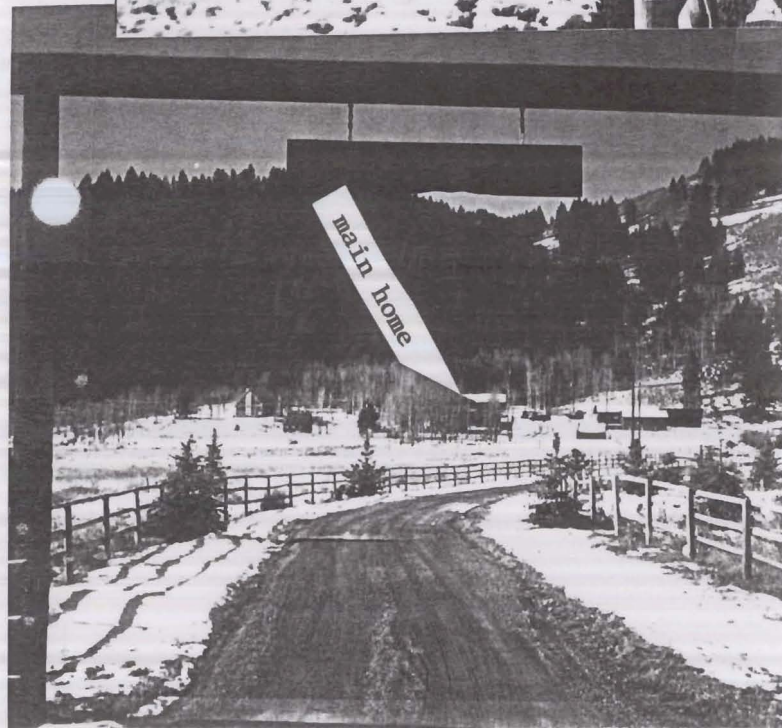
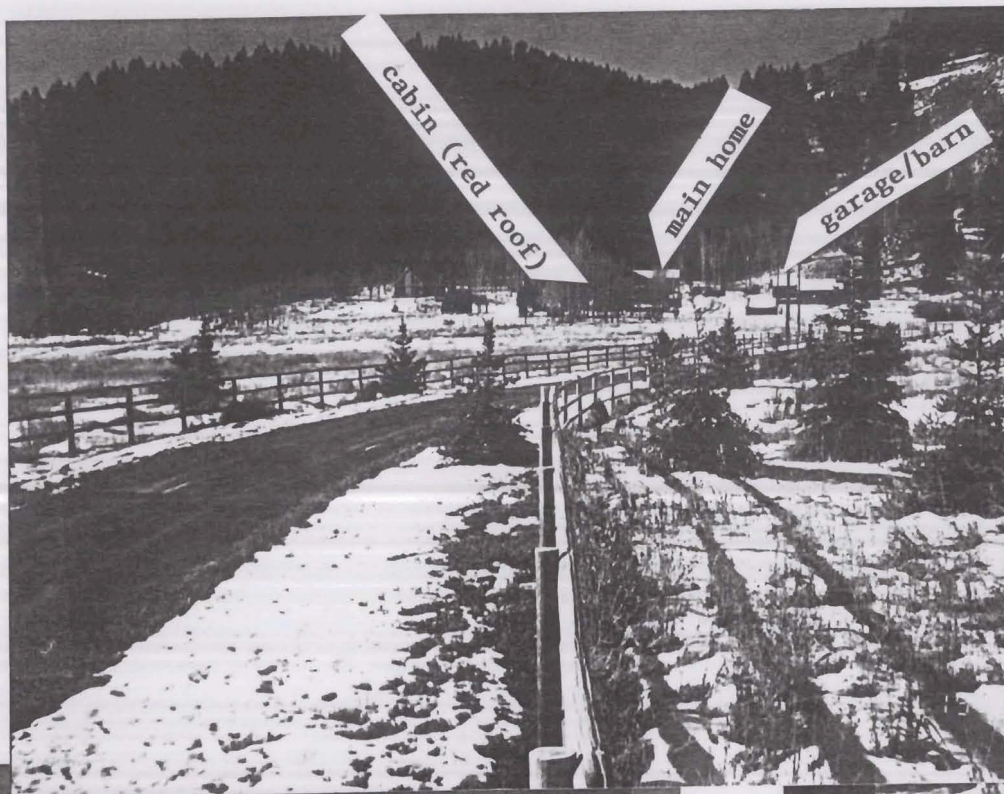


Photos looking SW'ly from Hwy 75

Bailey, Claire
Examiner: Satterlee 18Nov1998 1030 hrs

37-08870

14



Photos looking S



photo looking NW'ly

Bailey, Claire
Examiner: Satterlee 18Nov1998 1030 hrs

27-08870

same as 1/4

