

11/26/2007

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

RIGHT NUMBER: 1-10544

NAME AND ADDRESS: OSGOOD GRAIN INC
C/O KIRK POLATIS
148 N BASSETT RD
IDAHO FALLS ID 83402

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 1.170 CFS

PRIORITY DATE: 10/16/1890

POINT OF
DIVERSION:

T04N R37E S26 NENWNW Lot 7 Within JEFFERSON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/01 10/31

1.170 CFS

PLACE OF USE: IRRIGATION in JEFFERSON County

T04N R37E S26

SWNW

29.00

T04N R37E S27

SENE

23.00

52 ACRES TOTAL

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

This right is a split from former right 1-36H.

Water is delivered through the Brown H Pump

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)

**Water Rights: 01-36H SPLIT
INTO 01-10543 & 01-10544**

Case No. 39576)

**NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING**

IDWR has completed the following Administrative proceeding:

- ☐ Address change
- ☒ Substitution of Party (SPLIT) TOMCHAK – TOMCHAK & OSGOOD GRAIN
- ☐ I.C. § 42-222 transfer
 - ☐ point of diversion ☐ place of use
 - ☐ period of use ☐ nature of use
 - ☐ split of water right ☐ change in ownership

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

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

DATED: Nov 29 2007

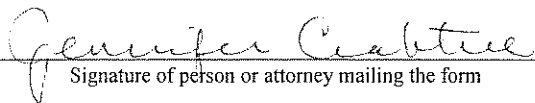


Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on Nov 30, 2007, I mailed the original and copies of this form to the following persons, postage prepaid by regular mail and addressed as follows:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707
2. One copy to:
Claimant/Seller for Substitution of Party or attorney of record:
BURLEIGH TOMCHAK
202 BASSETT RD
ROBERTS, ID 83444
3. One copy to:
Claimant/Purchaser for Substitution of Party, or attorney of record:
BURLEIGH TOMCHAK OSGOOD GRAIN INC
202 BASSETT RD C/O KIRK POLATIS
ROBERTS, ID 83444 148 N BASSETT RD
IDAHO FALLS ID 83402
4. One copy to:
Each party in the subcase, or attorney of record
N/A
5. One copy each to:
Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise ID 83711-4449
6. One Copy to:
United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724


Signature of person or attorney mailing the form



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

EASTERN REGION

November 26, 2007

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

KIRK POLATIS
OSGOOD GRAIN INC
148 N BASSETT RD
IDAHO FALLS ID 83402

RE: Notice of Change of Water Right Ownership (NCO) for
01-36H and Notice of Completed Administrative Proceeding (NCAP)

Dear Mr. Polatis:

The Idaho Department of Water Resources (IDWR) received an NCO changing the right holder for a portion of the above referenced water right(s). Based on this NCO, IDWR water right records for the Snake River Basin Adjudication (SRBA) have been updated with new water right numbers reflecting the division of the water right(s).

Furthermore, as directed by the SRBA Court, this office mailed a copy of the updated water right record(s) to each party listed on the enclosed NCAP. The intent of this mailing is to ensure each party has a current record of the water right(s) as recorded in the SRBA.

Please feel free to contact me if you have any questions concerning this matter.

Respectfully,

Jennifer Crabtree
Technical Records Specialist

Enclosure

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

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

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

Water Right No(s)	Adjudication Claim No(s)	Split(s)	Water Right No(s)	Adjudication Claim No(s)	Split(s)
1-36 H	01-10543 -T. 01-10544 -O.	X			

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 on file with the county Planning and Zoning or Recorder's Office).
OR
- D. If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency or equivalent **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)

Burleigh Tomchar
 202 Bassett Rd.
 Roberts, ID 83444

4. New Owner/Claimant(s)

Osgood Grain Inc.
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or

New Mailing Address

c/o Kirk Polatis 148 N Bassett Rd

City, State and ZIP Code

Idaho Falls, ID 83402

New Telephone Number

(208) 228-3035 Email: Oolive@aol.com

5. Date you acquired the property

5/3/2007 Letter Number

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in line 1, then skip this line and go to line 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (you may copy this page, if 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 will not be split, skip this area and proceed to line 7)		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Water Right and/or Adjudication Claim Number <u>01-364</u>		
Irrigation	<u>38' to 3.0 cfs</u>	<u>54.44 acres</u>
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number _____		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number _____		
Irrigation		
Stock		
Domestic		
Other		
Totals		

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.

7. Signature(s) of New Owner(s) or Claimant(s)

*Disputed from the
by Keri Allen*

Secretary
(title if applicable)

(title if applicable)

IT IS IMPORTANT TO FILE THIS COMPLETED FORM AT THE APPROPRIATE IDWR OFFICE, WITH PAYMENT OF THE FILING FEE AND THE OWNERSHIP DOCUMENT(S), AS REFERRED TO IN LINE 2.

For IDWR Office Use Only:

Received by _____ Date _____
 Receipted by _____ Date _____
 Processed by _____ AJ Date _____

Receipt Amt. _____
 Receipt No. _____
 WR _____ Date _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**INSTRUCTIONS FOR FILING
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP**

This form has been prepared to assist all claimants and owners of water rights to comply with the requirements of Sections 42-248 and 42-1409(6), Idaho Code. All claimants and owners of water rights are required to notify the Department of Water Resources (IDWR) of any change in mailing address or change in ownership of all or part of a water right. In addition, all purchasers of water rights within a pending general adjudication area must inquire whether a notice of claim has been filed and, if not, shall file a notice of claim if necessary. Please attach additional sheets to the form if you require additional space to describe or explain any of the questions on the form.

Effective July 1, 2000, the Idaho Legislature amended Section 42-248, Idaho Code to include a provision for fees to file a Notice of Change in Water Right Ownership. Please see details at Line 8, below, to determine if fees are required for your filing.

Separate brochures are available from IDWR describing the adjudication of water rights and the requirement to notify IDWR of changes in ownership. Please contact your nearest IDWR office if you would like more information or need help completing this form (a list of our offices are listed on page 2 of these instructions), or call 1-800-451-4129. Water right information can be found on the Department's website using the "On-Line Data" search at: www.idwr.idaho.gov.

LINE INSTRUCTIONS:

1. If there are water rights associated with the property, **the seller should be able to provide you with the water right or adjudication claim number(s).** Corresponding water right and adjudication claim numbers should be listed next to each other on the form. You may have purchased only a portion of the water right(s) held by the seller. If so, the water right(s) held by the seller may need to be "split" to provide you your share of each right. Indicate if a split is required by checking in the space provided next to each water right.

If you receive water from a municipal provider, an irrigation district or other water delivery organization, where the water rights are held by the organization, please do not use this form to record a change. You may need to contact the water delivery organization to determine if any action is necessary.

If you or the seller believes there are water rights for the property but the numbers are unknown, you may wish to contact IDWR for assistance in identifying the water rights for the property in question. If adjudication claims for the rights are required and have not been filed, IDWR will so advise you.

2. IDWR cannot process this change without documentation of ownership. The preferred types of documentation are listed. Contact IDWR if you have difficulty obtaining this information. **Do not** obtain a new survey for purposes of this form before contacting IDWR.
3. Please provide the name and address of the former owner/claimant(s) of the water right(s).
4. Enter the name, mailing address, and telephone numbers of the new owner/claimant(s) and indicate the relationship between multiple owners by using the connector "and", "or", or "and/or" as indicated on your deed or other evidence of ownership

5. Provide the date the property in question was acquired. This may be the date of "closing" in the case of a real estate transaction or the date of court order for other types of ownership changes.
6. You may have purchased only a portion of the water right(s) held by the seller. If this change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. For each water right requiring a split between owners, fill in the appropriate spaces. Copy the page as many times as necessary to fully describe each water right after the change. Include documentation as necessary to describe nonstandard agreements or arrangements regarding division of the water right(s). **If the water right(s) will not be split, skip line 6 and go to line 7.**
7. The new owner(s) must sign the form in the space(s) provided. If someone other than the owner signs the notice, evidence of authority to sign for the owner must be attached. If the new owner is a corporation or other organization, the person signing the notice must be an officer of the corporation or otherwise have authority to sign for the organization and must include their title with the signature.
8. The Legislature has waived the fee to file a Notice of Change in Water Right Ownership for any water right pending in a general water right adjudication such as the Snake River Basin Adjudication. This waiver ends when a partial decree is issued for the water right that has been claimed. For water rights not pending in a general adjudication, the filing fee is \$25 per water right, except for those water rights that will be divided as a result of the change in ownership. The filing fee for division of a water right is \$100 per water right to be divided.
9. When complete, retain a copy and **file the original form with the IDWR office nearest you, with copies of your ownership documents and the appropriate filing fee:**

IDWR Northern Region
7600 Mineral Dr., Suite 100
Coeur d'Alene, ID 83815
(208) 762-2800

IDWR Eastern Region
900 N. Skyline Dr., Suite A
Idaho Falls, ID 83402-1718
(208) 525-7161

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

IDWR Southern Region
1341 Fillmore St., Suite 200
Twin Falls, ID 83301-3380
(208) 736-3033

- OR -

IDWR State Office
322 East Front St
Sixth Floor
P.O. Box 83720
Boise, ID 83720-0098
(208) 287-4800

Microfilm No. 358114
5-3-2007
At 11:36 O'Clock A M
CHRISTINE BOULTER
Jefferson Co. Recorder
Fee \$ 12.00 PM Deputy
Recorded at Request of Ron Swafford

WARRANTY DEED

THIS INDENTURE made this 3 day of May, 2007, between

Burleigh Tomchak and Mabel Tomchak, of Idaho Falls, Idaho, the Parties of the First Part,
and **Osgood Grain Inc., an Idaho Corporation**, of Idaho Falls, Idaho, Party of the Second Part.

WITNESSETH, That the said Parties of the First Part, for and in consideration of the sum of Ten Dollars (\$10.00), lawful money of the United States of America, and other good and valuable considerations, to the Parties of the First Part in hand paid by the Party of the Second Part, the receipt whereof is hereby acknowledged, has granted, bargained, sold and by these presents does grant, bargain, sell and convey and confirm unto the said Party of the Second Part's heirs and assigns, forever, all of the following described real estate situated in the County of Butte, State of Idaho, to wit:

Part of the NE 1/4 Section 27, and part of the NW 1/4 Section 26
Township 4 North Range 37 East B.M. Jefferson County, Idaho
described as:

Commencing at the SE corner of Section 27; thence N 00° 15' 28" E 2645.99' feet to the East 1/4 corner of Section 27 and the POINT OF BEGINNING. Thence N 89° 34' 35" W 552.75' feet along the South line of the NE 1/4 of Section 27 to a point on the Easterly Right of Way line of the Union Pacific Railroad; thence N 22° 59' 36" W 1370.69' feet along said Right of Way line; thence S 89° 55' 20" E 1944.94' feet along an existing fence line; thence S 07° 00' 38" E 448.95' feet; thence S 90° 00' 00" E 281.16' feet to a point on the Bank of the Snake River; thence along said bank the following (5) Five Courses; thence (1) S 06° 44' 54" W 151.63 feet; thence (2) S 06° 35' 58" W 230.50' feet; thence (3) S 00° 15' 03" W 192.51' feet; thence (4) S 04° 14' 30" E 142.14' feet; thence (5) S 20° 32' 06" E 93.55 feet to a point on the South line of the NW 1/4 of Section 26; thence S 89° 13' 05" W 1191.05' W 1191.02' feet to the POINT OF BEGINNING.

Parcel contains 54.44 Acres more or less. Also that portion on the SW 1/4 NW 1/4 Section 26 adjacent to the above described parcel lying in the Snake River containing 3.06 Acres more or less and is

RECEIVED BY
ASSESSOR
For PLATTING
Date 5-3-07 Time 11:36

attached to the following described Ingress-Egress Easement to an existing Irrigation pump described as being 7.5' feet both sides of the following described centerline

Commencing at the SE corner of Section 27; thence N 00°15'28" E 2645.99' feet to the East 1/4 corner of Section 27; thence N 89°34'35" W 770.70' feet to a point on the Westerly Right of Way line of the Union Pacific Railroad; thence N 22°59'36" W 1434.57 feet to the POINT OF BEGINNING. Thence S 89°11'59" E 2188.05' feet; thence N 00°00'00" E 17.50' feet; thence S 90°00'00" E 408.33' feet; thence N 07°33'04" E 7.47 feet; thence N 11°20'01" W 37.98' feet; thence N 01°09'10" W 136.16' feet; thence N 04°01'57" E 116.25' feet; thence N 05°05'11" W 278.16' feet; thence N 01°56'55" E 187.92' feet; thence N 02°23'16" W 212.78' feet; thence N 10°43'59" W 153.40' feet; thence N 17°05'28" W 34.98 feet; thence N 72°54'32" E 20.95' feet to the point of terminus of said centerline

TOGETHER with 38% of 400 shares of Palisades water, and 115 inches of Butte and Market Lake canal water.

EXCLUDING therefrom all gas, oil and mineral rights therein.

SUBJECT to all existing easements or claims of easements, patent reservations, rights of way, protective covenants, zoning ordinances and applicable building codes, laws and regulations, encroachments, overlaps, boundary line disputes and other matters which would be disclosed by an accurate survey or inspection of the premises.

ALSO SUBJECT to:

Easements and rights of way for highways, roads, railroads, ditches, canals, gas, pole, power and transmission lines as they may exist;

Rights of the State of Idaho and/or the United States of America, in and to that portion of said land, if any, lying in the bed or former bed of the Snake River;

Any loss or claim arising from any difference between the meander line and the mean highwater line of the Snake River;

Rights of the public in and to that portion of the premises lying within Oregon Shortline Railroad;

And general exceptions contained in the standard title insurance policy issued by Amerititle for policies issued in Jefferson County, Idaho.

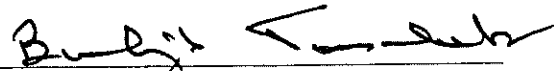
FURTHER SUBJECT to a restriction on usage of the property being conveyed, that such property will only be used for residential or agricultural purposes and specifically not used for a period of at least twenty-five (25) years for a junkyard, auto salvage, heavy industrial use or similar business, a dairy, feedlot, hog farm, other intensive operation creating similar levels or odor, or other utilization which shall create substantial odor or air or water pollution, nor wasting or stripping of the soil, or mineral explorations. These restrictions shall be for the benefit of all owners of property adjacent to the property sold hereunder. All of such adjacent property owners shall have the legal right to enforce these limitations on usage of the property.

TOGETHER with all and singular, the tenements, hereditaments and appurtenances thereunto belonging or in anyway appertaining, and the reversions, remainder and remainders, and rents, issues and profits thereof and all estate, right, title and interest in and to said property, as well as in law as in equity, of said Parties of the First Part.

TO HAVE AND TO HOLD, All and singular the above-mentioned and described premises together with the appurtenances unto the Party of the Second Part, and to Party of the Second Part's heirs and assigns forever. And the said Parties of the First Part, and said Parties of the First Part's heirs shall and will warrant and by these presents forever defend the said premises in the quiet and peaceable possession of the said Party of the Second Part, and the Party of the Second Part's heirs and assigns, against the said Parties of the First Part and Parties of the first Part's heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same.

In construing this deed and where the context so requires, the singular includes the plural.

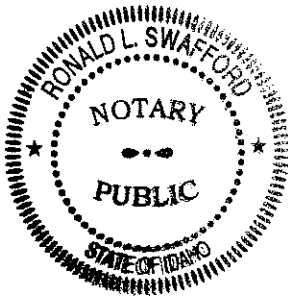
IN WITNESS WHEREOF, the said Parties of the First Part hereunto has set their hand.


BURLEIGH TOMCHAK

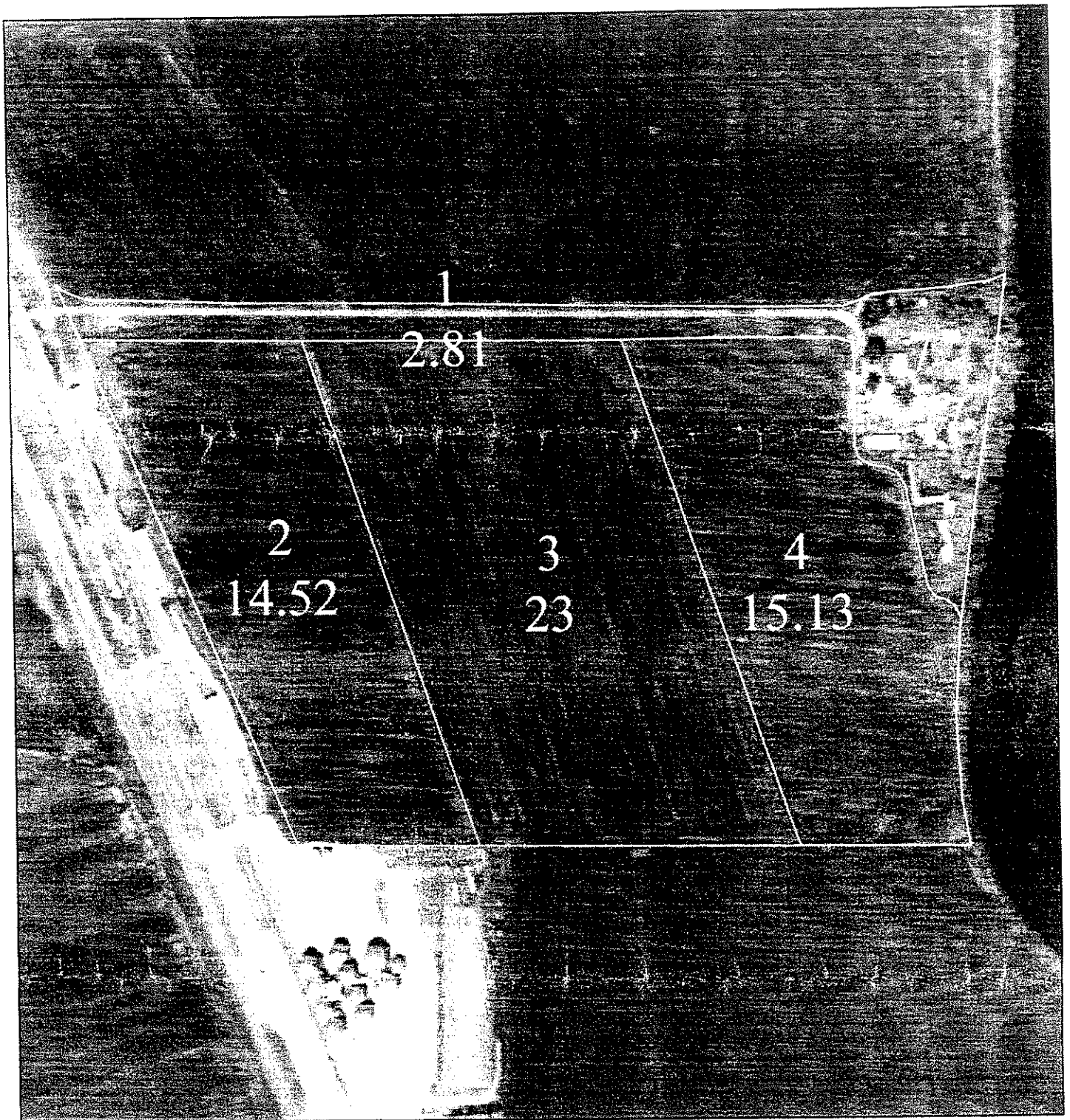

MABEL TOMCHAK

STATE OF IDAHO)
: ss.
COUNTY OF BONNEVILLE)

On this 3rd day of May 2007, before me, the undersigned, a notary public in and for the State of Idaho, personally appeared Burleigh Tomchak and Mabel Tomchak, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he has read the same, understood the contents and the legal effect thereof, and that he has executed the same of his own free will and choice.




NOTARY PUBLIC FOR IDAHO
Residing at Idaho Falls
Commission expires:



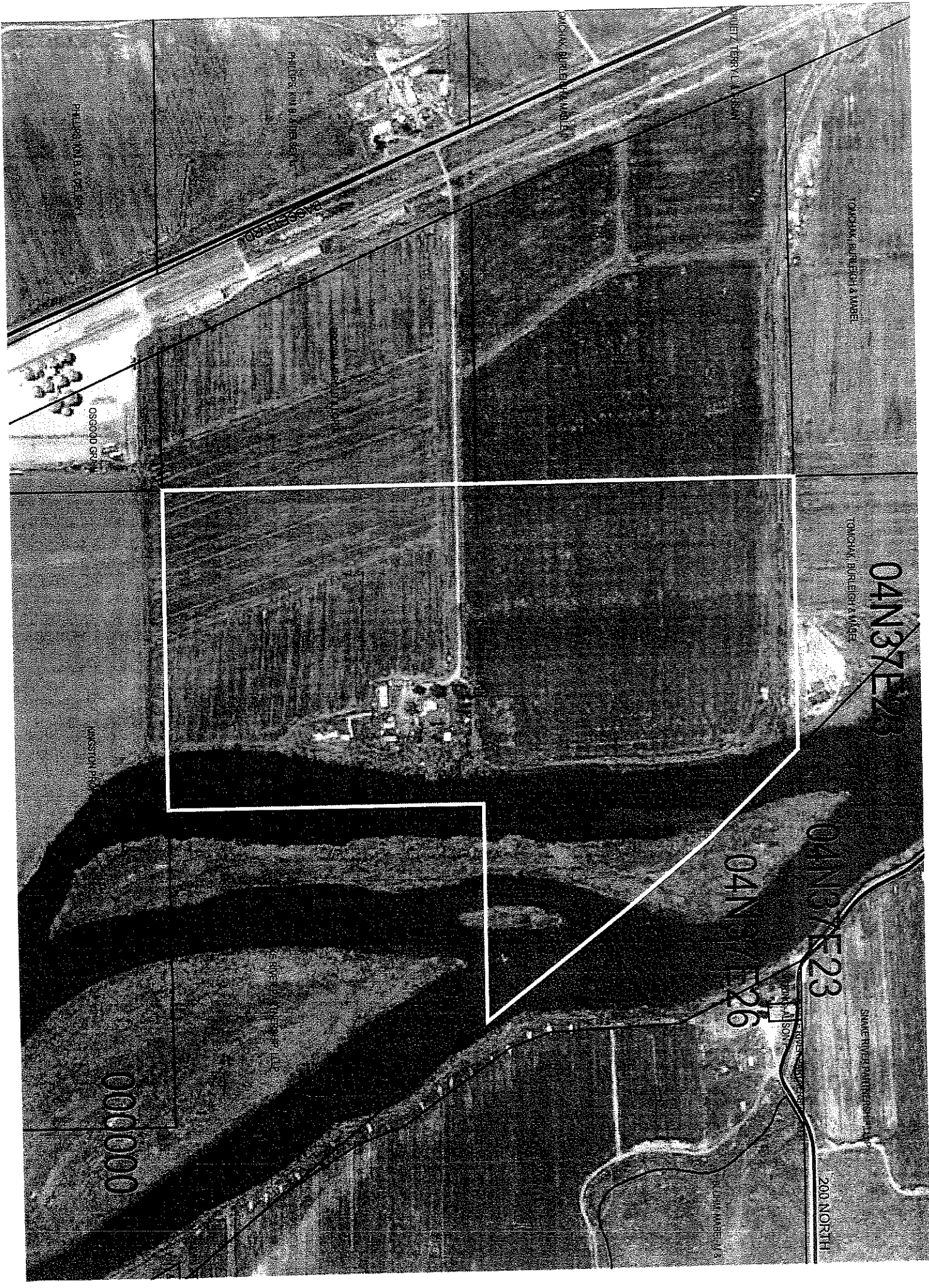
USDA United States Department of Agriculture
Farm Service Agency

Digital Orthophotography
Not to Scale



FARM 3909
TRACT 10480
BURLEIGH TOMCHAK-OP OSGOOD GRAIN-OW
26,27-4-37

Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.



TOMCHAK, BUREIGH & MARE

TOMCHAK, BUREIGH & MARE

04N37E23

04N37E23

04N37E26

SHANEY, MARE & SON

200 NORTH

SHANEY, MARE & SON

PHILIP'S KIM & JAMES

PHILIP'S KIM & JAMES

PHILIP'S KIM & JAMES

030000 GR

030000 GR

000000

Osgood 6 row, Dia

Approx 54.44 aucs