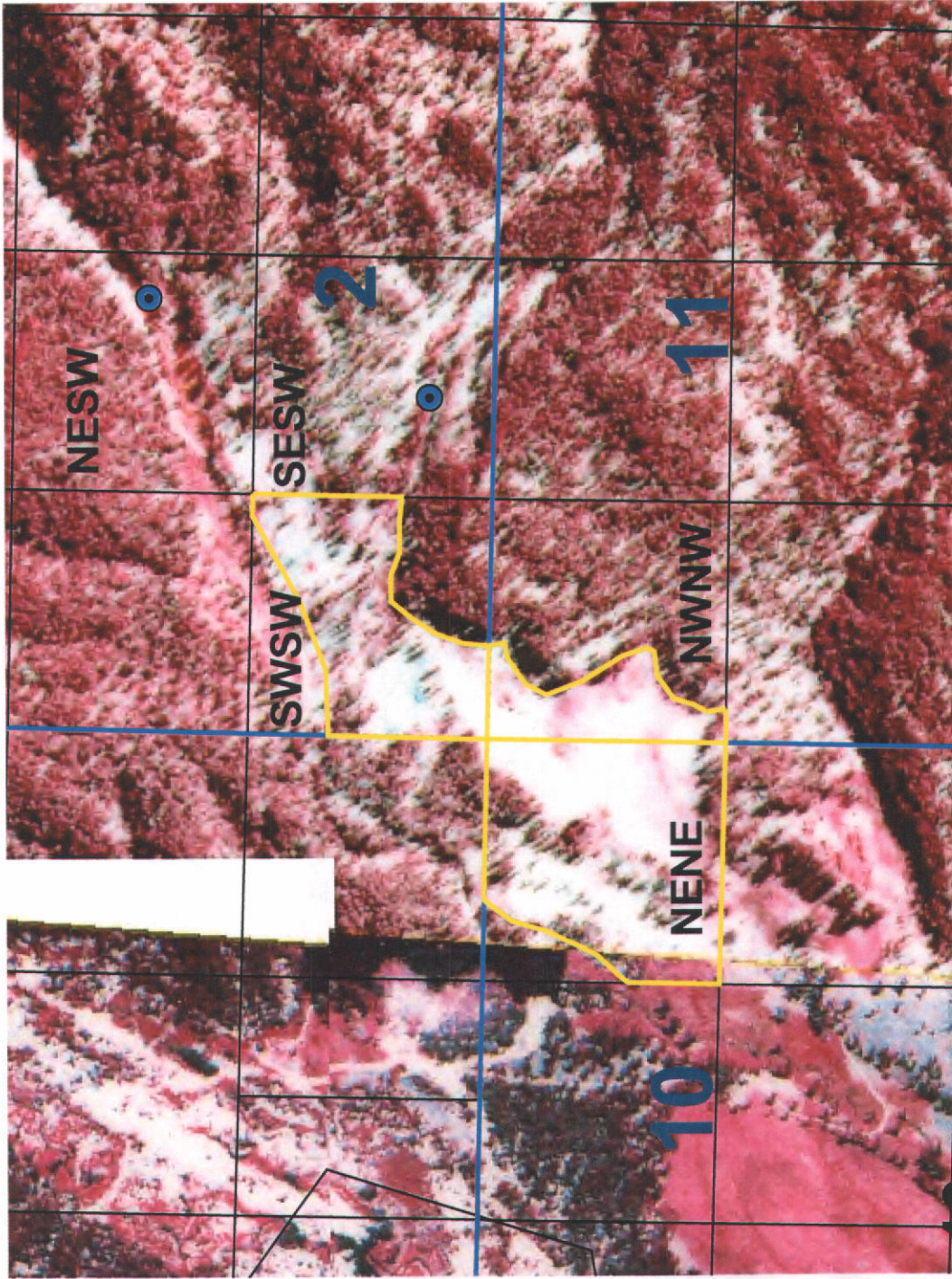


IDAHO DEPARTMENT OF WATER RESOURCES

T07N, R05E, S02, S10 & S11



1987 NAPP PHOTO

POINT OF DIVERSION

PLACE OF USE

1/4 1/4 LINES

SECTION LINES

6 ACRES

6 SECTION NUMBERS

CLAIM(S): 63-311

OWNER(S): BERMENSOLO, BETTY

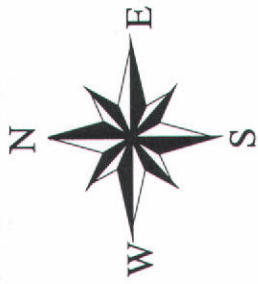
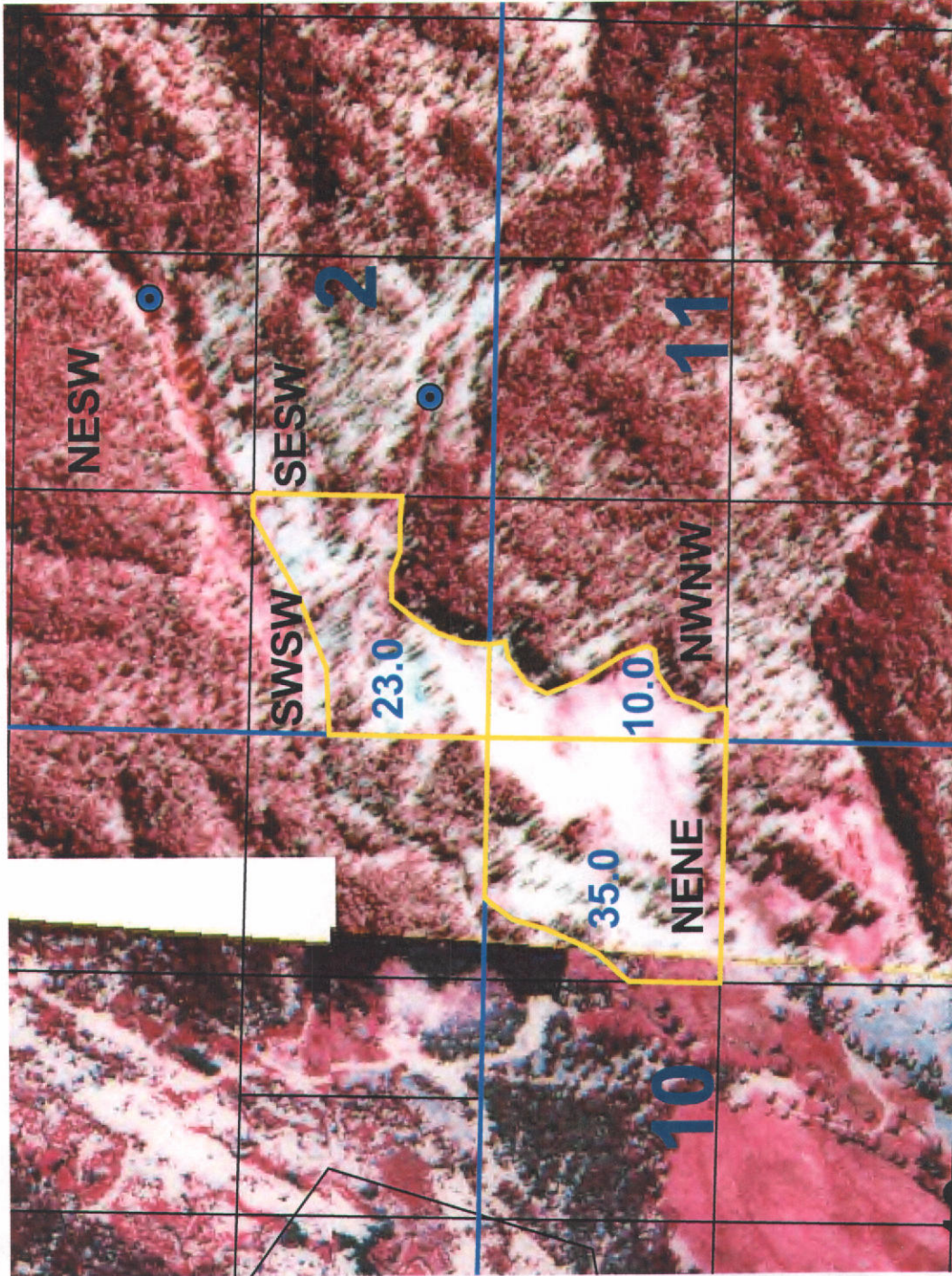
DATE: DECEMBER 5, 2001

by: Mel Schulte

0 0.25 0.5 0.75 1 1.25 Miles

IDAHO DEPARTMENT OF WATER RESOURCES

T07N, R05E, S02, S10 & S11



1987 NAPP PHOTO

POINT OF DIVERSION

PLACE OF USE

1/4 1/4 LINES

SECTION LINES

6 ACRES

6 SECTION NUMBERS

CLAIM(S): 63-311

OWNER(S): BERMENSOLO, BETTY

DATE: DECEMBER 5, 2001

by: Mel Schulte

1.25 Miles

1

0.75

0.5

0.25

0

A63-311

PHOTOS TAKEN 19/19/2001



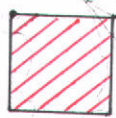
PHOTO #1
DIVERSION STRUCTURE
THAT DIVIDES WATER
BETWEEN 63-311, 63-312B,
63-313 & 63-314

SEE 63-314 FOR A PHOTO
OF THE POINT OF ☐ DIVERSION

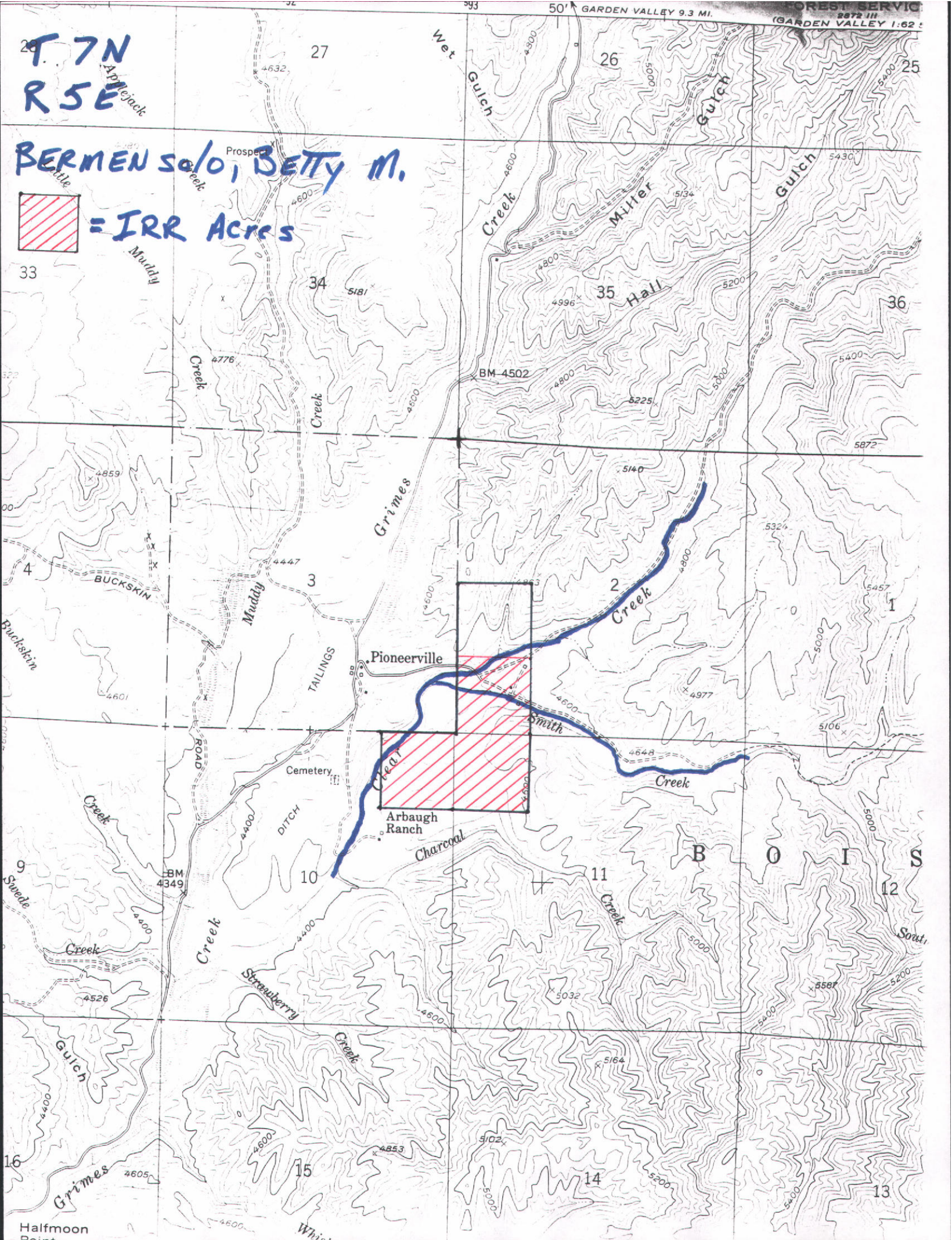


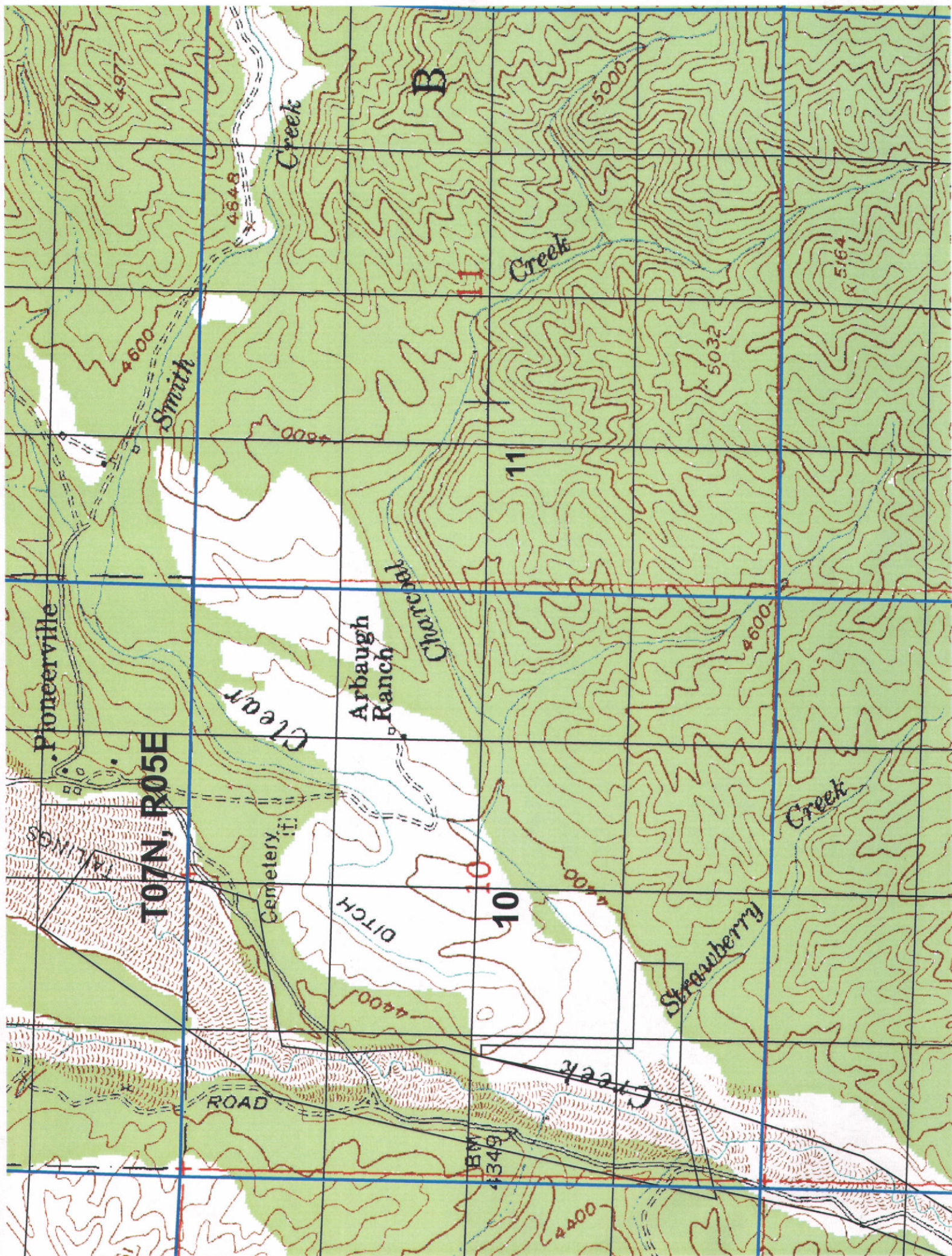
T 7N
R 5E

BERMEN solo, BETTY M.



= IRR Acres





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: A63-00311
Date Received: 10/ 1/1998
Receipt No: W024466
Received By: _____

*updated
receipt
8/3/99
KW*

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: BETTY M. BERMENSOLO 208-375-4249
Address: 1970 NORTH CANONERO WAY
BOISE ID 83709

2. Date of Priority: JAN 1, 1894

3. Source: CLEAR CREEK Trib. to: GRIMES CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07N	05E	2	NE	NE	SW		BOISE

5. Description of diverting works:
HEADGATE-PIPELINE-DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	1.500		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER-DOMESTIC

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07N	05E	2	SW	SW		IRR	40.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	40.0
		10	NE	NE	IRR	40.0
					Section Acres	40.0
		11	NW	NW	IRR	40.0
					Section Acres	40.0
					Total Acres	120.0

11. Place of use in counties: BOISE

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

13. Other Water Rights Used:
A63-02168

14. Remarks:
AC. IRR.=120.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 10/ 1/1918

ISAAC VAN WINKLE
Decree Plaintiff

LEWIS ARBAUGH
vs Decree 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 _____ 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: A63-00311
Date Received: 10/ 1/1998
Receipt No: W024466
Received By: Walt

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: BETTY M. BERMENSOLO 208-375-4249
Address: 1970 NORTH CANONERO WAY
BOISE ID 83709

2. Date of Priority: JAN 1, 1894

3. Source: CLEAR CREEK Trib. to: GRIMES CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07N	05E	2	NE	NE	SW		BOISE

5. Description of diverting works:
HEADGATE-PIPELINE-DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	1.500		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER-DOMESTIC

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07N	05E	2	SW	SW		IRR	40.0

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
						Section Acres	40.0
		10	NE	NE		IRR	40.0
						Section Acres	40.0
		11	NW	NW		IRR	40.0
						Section Acres	40.0
						Total Acres	120.0

11. Place of use in counties: BOISE

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

13. Other Water Rights Used:
A63-02168

14. Remarks:
AC. IRR.=120.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 10/ 1/1918

ISAAC VAN WINKLE
Decree Plaintiff

LEWIS ARBAUGH
vs Decree 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 _____ 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): Betty M. Bernersolo Date: Oct 1, 98

Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 1st day
of OCT 19 98
Seal Malvin Gene Gibson
Notary Public

Residing at Malvin Gene Gibson, Notary Public
Residing at Boise, Idaho
My Commission Expires September 23, 2000

02/20/2002

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

RIGHT NUMBER: 63-311

NAME AND ADDRESS: BETTY M BERMENSOLO
1970 NORTH CANONERO WAY
BOISE ID 83709

SOURCE: CLEAR CREEK
SMITH CREEK

TRIBUTARY: GRIMES CREEK
TRIBUTARY: CLEAR CREEK

QUANTITY: 1.50 CFS

THIS RIGHT SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE AT THE FIELD
HEADGATE.

PRIORITY DATE: 01/01/1894

POINT OF DIVERSION:

T07N R05E S2 NESW Within BOISE County

T07N R05E S2 SESW Within BOISE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	1.500 CFS

PLACE OF USE: IRRIGATION Within BOISE County

T07N R05E S10	NENE	35.0	T07N R05E S11	NWNW	10.0
T07N R05E S02	SWSW	23.0			

68 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: Decreed

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WESTERN REGION ADJUDICATION SECTION
CLAIM VERIFICATION FIELD EXAM SHEET
(Use with the ECVR)

CLAIM NO(s). 463-311

1. ☒ No Change NAME IS SAME

☐ NEW OWNER: _____

☒ No Change ADDRESS

☐ NEW ADDRESS: _____

2. ☒ No Change - DATE OF PRIORITY: Completed evidence submitted

☐ Incomplete - Claimant should be asked during the exam when was water first used and submit proof of date of priority.

Priority date, per claimant, is: 1-1-1894
(If the priority date, based on your exam, seems questionable, explain below.)

as decreed.

3. ☐ No Change — SAME SOURCE

☒ Source is different than that claimed:

* Source found: Clear Creek & Smith Creek.

4. ☐ No Change — POINT OF DIVERSION

☐ Point of diversion is different than the claim and/or new P/D's:

Township 7N Range 4E Section 2 ~~1/4 NE~~ 1/4 NE 1/4 SW - Clear Creek
Township 11 Range 11 Section 11 1/4 SE 1/4 SW - Smith Creek.

5. ☐ No Change - DESCRIPTION OF DIVERTING WORKS

☐ Incomplete description, list below:

*The decree specifies "Clear Creek & its tributaries"
Smith Creek is aka East Fork Clear Creek and
Right Fork Clear Creek in some water right records.
It may also be the "Clear Creek" referenced in the
decree?

6. ☐ No Change - WATER USES
☐ Different uses, (list uses found):

* Use Irrigation From 4-1 To 10-31 Amount 1.50 CFS AFA
Use From To Amount CFS AFA
Use From To Amount CFS AFA

7. ☒ No Change - TOTAL VOLUME

☐ Incomplete on claim, the total is, Amount CFS AFA

☐ Changes found, the new total is, Amount CFS AFA

8. ☒ No Change - NON-IRRIGATION USES:

☐ Changes Exam found:

Domestic # of homes: Stock # List types:

Additional comments:

9. ☐ No Change — PLACE OF USE: (If changed, list below.)

Use: IRR. Township 7N Range 4E Section 2 1/4 SW 1/4 SW - 23 ac.
Use: Township Range Section 10 1/4 NE 1/4 NE - 35 "
Use: Township Range Section 11 1/4 NW 1/4 NW - 10 ac.
Use: Township Range Section 1/4 1/4

Remarks: (Comments pertinent to field examination) See additional attachment

* .14 cfs is for conveyance loss.

C18, QNT E28, Exp - conveyance

☐ SYSTEM DIAGRAM INCLUDED

☐ NA

☐ Shown on GIS Layout

☒ CK IF IN OFFICE EXAM

DATE EXAM CONDUCTED: with 63-312B on 9-19-01

FIELD EXAMINER:

Print Name

Mel Schalte
Signature

07/03/2001

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

WATER RIGHT NO. 63-311

Owner Type Name and Address
Current Owner ISAAC VANWINKLE

Priority Date: 01/01/1894
Basis: Decreed
Status: Active

Source Tributary to
CLEAR CREEK GRIMES CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	/	/	1.5 CFS		
Total Diversion			1.5 CFS		

Location of Point(s) of Diversion:

	Sec.	Township	Range	County
CLEAR CREEK				

Place(s) of use:

Place of Use Legal Description: IRRIGATION BOISE County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
07N	05E	2		SWSW										
		10		NENE										
		11		NWNW										

Remarks:

1. General AC. IRR.=120.

Dates:

Licensed Date:
Decreed Date: 10/01/1918
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Application Received Date:
Protest Deadline Date:
Number of Protests: 0

Other Information:

Receipt Number(s):
State or Federal:
Owner Name Connector:
Water District Number: 63
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:

A63-311

4-25-12

Page 13-1

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BOISE.

ISAAC VAN WINKLE,

Plaintiff,

-v-

LEWIS ARBAUGH AND
MABEL ARBAUGH,

Defendants.

DECREE.

This cause having heretofore come on regularly for trial before the court, without adjournment, upon the plaintiff's amended complaint and the defendants' answers and cross-complaint, the defendants (each and every of the allegations of each and every of the separate cross-complaints of the separate defendants, by stipulation of the parties, being deemed denied for the purpose of the suit); Messers. F. W. Chaschala and J. L. McPart concerning as attorneys for the plaintiff and Messers. F. W. Chaschala and E. L. Boden, being as attorneys for the defendants and cross-complaints; and the court, having heard the evidence adduced by the plaintiff and each of the defendants and cross-complaints, and being fully informed and advised in the premises and having filed its Findings of Fact and Conclusions of Law herein.

NOW, in consideration thereof and of the laws and statutes in that behalf provided.

IT IS ORDERED, ADJUDGED AND DECREED, That the plaintiff and each of the defendants and cross-complaints herein named, do have judgment respectively for a right to use the waters of Clear Creek and its tributaries, situated in Boise County, State of Idaho, to the extent of their needs for irrigation and domestic use and watering of live-stock upon the lands described after each appropriation, respectively, the following number of inches of water (measured under a Four (4) inch pressure) set opposite each name, each fifty (50) inches thereof to be equivalent to a flow of One (1) cubic foot per second, as prescribed by the law of Idaho, the priorities of said appropriations to be from the time hereinafter named, to-wit:

Name of Party	Priority of Appropriation	Amount of Inches	Description of land in smallest legal sub-division to which water is appurtenant	Area of Land
Isaac Van Vinkle	Gen. 1, 1894	70.	SW ¹ / ₄ SW ¹ / ₄ 2, 7N. 5E. NW ¹ / ₄ NW ¹ / ₄ 11, 7N. 5E. NE ¹ / ₄ NE ¹ / ₄ 10, " "	120
Lewis Arbaugh	Gen. 1, 1916	80	SW ¹ / ₄ SW ¹ / ₄ 11, 7N. 5E. SE ¹ / ₄ SE ¹ / ₄ 10, 7N. 5E. NE ¹ / ₄ NE ¹ / ₄ 10, 7N. 5E.	180
Mabel Arbaugh	Gen. 1, 1913	20	SW ¹ / ₄ SE ¹ / ₄ 2, 7N. 5E. SE ¹ / ₄ SW ¹ / ₄ 2, 7N. 5E.	160

2. The plaintiff and the defendant, Lewis Arbaugh, shall have placed under the direction of the State Engineer of the State of Idaho, at their respective points of diversion and the Three (3) taps as referred to in the Findings of Fact and Conclusions of Law heretofore filed, the amount of water to be diverted under the provisions of this decree and said plaintiff and defendant shall each pay One-half (1/2) the cost for having installed said headgate and taps.

3. The plaintiff shall have charge of and keep in repair at his own expense, the headgate at the point of diversion of the waters of Clear Creek to the headgate of the defendant, Lewis Arbaugh; and the defendant, Lewis Arbaugh, shall have charge of and keep in repair, the headgate installed at the point of diversion of the waters for his own use and the ^{Court Ditch} ditch from said point of diversion at his own expense; and the plaintiff is specially enjoined and restrained from closing the headgate at the point of diversion for any purpose other than for repairs to the ditch and headgate or when there is danger of serious injury to the ditch on account of freezing during cold weather, and then only for such time as may reasonably be required to make the necessary repairs, or until it is reasonably safe to again turn water into the ditch.

4. Each and every party hereto, in his agent, and attorneys, employees, privies and successors in interest, is hereby enjoined and restrained from interfering, in any manner, with the right of prior appropriation of the waters of Clear Creek herein decreed, and from obstructing, using and wasting the waters of said

stream or in any way interfering with any dam, etc. or taking herein-
before referred to other than their own and respective gates and
taps, to the injury of any other appropriators.

5. Each party hereto shall pay all own costs and disburse-
ments herein.

Dated this 1st day of October, 1916.

Charles P. McCarthy.
District Judge.

Filed October 8, 1916, and recorded in Book 4 of Judgments, on
page 517.

M. R. Dulles.
Recorder

FRANK COLEMAN
Deputy

STATE OF IDAHO,)
County of Boise,) ss.

I hereby certify the foregoing to be a full, true and correct copy of the

Decree recorded in my office of Book of Judgments
No. 4, page 517, and of the whole thereof.

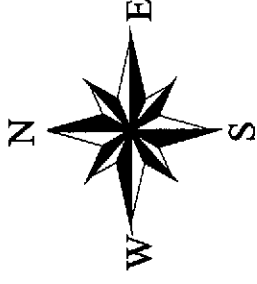
In witness whereof I have hereunto set my hand and affixed my official seal, at Idaho
City, Idaho, this 25th day of April, 1916.

By *Frances E. Elliott*
Deputy.

MARSHALL L. BROWN
Ex-Officio Recorder.

IDAHO DEPARTMENT OF WATER RESOURCES

T07N, R05E, S02, S10 & S11



1987 NAPP PHOTO

● POINT OF DIVERSION

PLACE OF USE

1/4 1/4 LINES

SECTION LINES

6 ACRES

6 SECTION NUMBERS

CLAIM(S): 63-311

OWNER(S): BERMENSOLO, BETTY

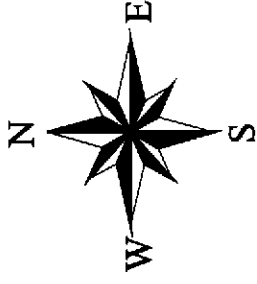
DATE: DECEMBER 5, 2001

by: Mel Schulte

0 0.25 0.5 0.75 1 1.25 Miles

IDAHO DEPARTMENT OF WATER RESOURCES

T07N, R05E, S02, S10 & S11



1987 NAPP PHOTO

● POINT OF DIVERSION

PLACE OF USE

1/4 1/4 LINES

SECTION LINES

6 ACRES

6 SECTION NUMBERS

CLAIM(S): 63-311

OWNER(S): BERMENSOLO, BETTY

DATE: DECEMBER 5, 2001

by: Mel Schulte

0 0.25 0.5 0.75 1 1.25 Miles



A63-311

PHOTOS TAKEN 19/19/2001



PHOTO #1
DIVERSION STRUCTURE
THAT DIVIDES WATER
BETWEEN 63-311, 63-312B,
63-313 & 63-314

SEE 63-314 FOR A PHOTO
OF THE POINT OF
DIVERSION



Idaho Dept. of Water Resources
Place of Use Comparison Report

Type	WR #	Owner	Source	TRS	NEN	NWN	SWNE	SENE	NEN	NWN	SWNW	SENN	NESW	NWSW	SWSW	SESW	NES	NWS	SWSE	SESE	Total
Claim	63 2168	BETTY M BERMENSOLO,	CLEAR CREEK	07N05E11							20										20
Claim	63 311	BETTY M BERMENSOLO,	CLEAR CREEK	07N05E11							40										40
Claim	63 312B	GEORGE A ADAMS, M PAUL THATCHER	CLEAR CREEK	07N05E11							20										20
Right	63 2168	ISAAC VAN WINKLE,	CLEAR CREEK	07N05E11							20										20
Right	63 311	ISAAC VAN WINKLE,	CLEAR CREEK	07N05E11						X											0
Right	63 312	LEWIS ARBAUGH,	CLEAR CREEK	07N05E11							X										0
Claim	63 312A	SARAH FINLEY, ANN FINLEY,	CLEAR CREEK, SMITH CREEK	07N05E11								1									1

A63-311

463-311

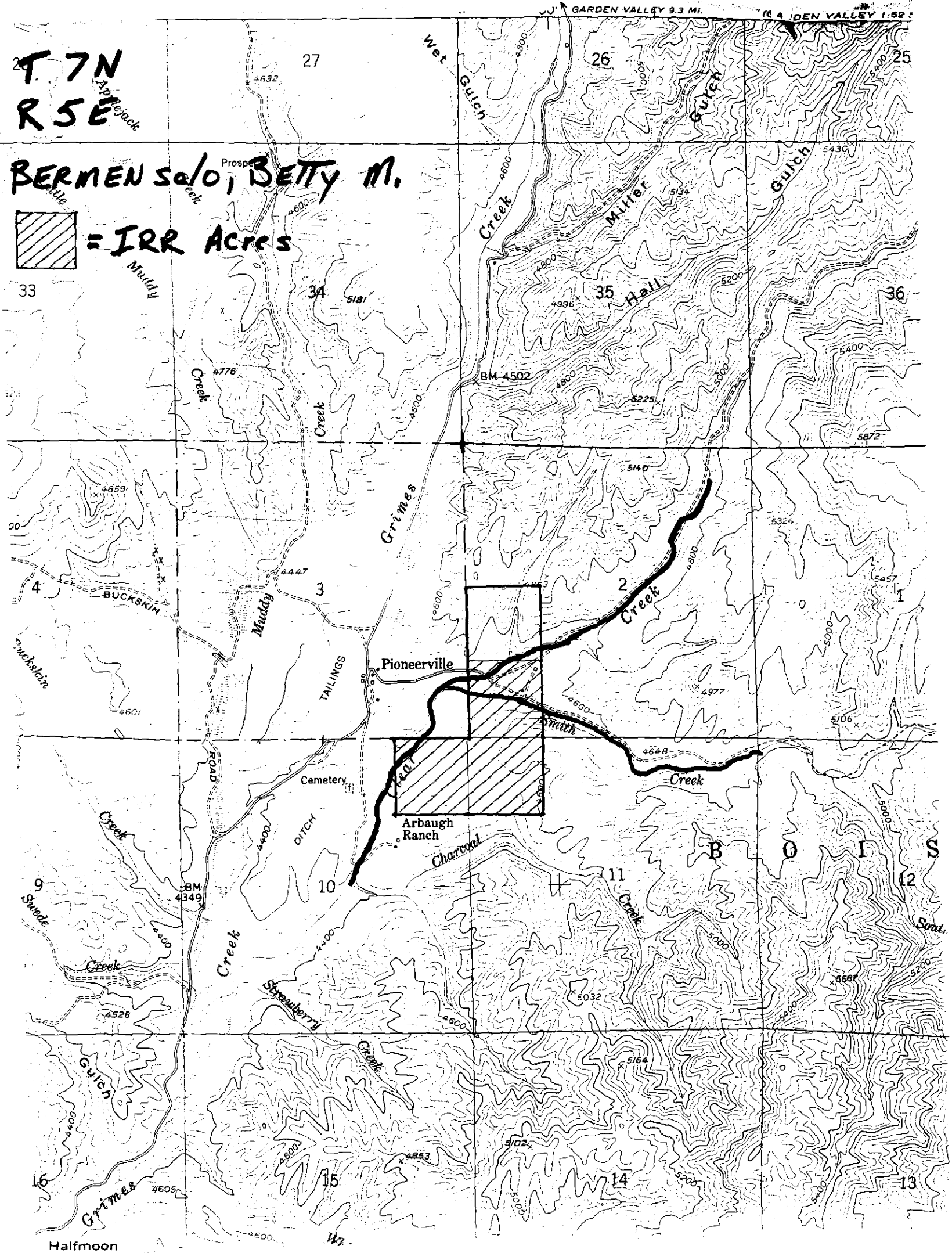
Type	WR #	Owner	Source	TRS	NEN	NWN	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSE	SESE	Total
Claim	63 2168	BETTY M BERMENSOLO,	CLEAR CREEK07N05E2									14					14
Claim	63 311	BETTY M BERMENSOLO,	CLEAR CREEK07N05E2									40					40
Claim	63 313A	THOMAS D KRAUS, ELIZABETH F KRAUS,	CLEAR CREEK07N05E2								10						10
Claim	63 313B	MARY KEYES,	CLEAR CREEK07N05E2								10						20
Right	63 2168	ISAAC VAN WINKLE,	CLEAR CREEK07N05E2									14					14
Right	63 311	ISAAC VANWINKLE,	CLEAR CREEK07N05E2								X						0
Right	63 313	MABEL ARBAUGH,	CLEAR CREEK07N05E2						X				X	X			0

Idaho Dept. of Water Resources
Place of Use Comparison Report[illegible]

"104 DEN VALLEY 1:525

BERMEN 50/0, BETTY M.

= IRR Acres



RECEIPT
For Monies Paid
to the
Idaho Department of Water Resources

Receipt No: **W024466**

Date: **10/ 2/1998**
Time: **12:32:56**

Received
From: **BERMENSOLO, BETTY**

Type of Payment	Program A cct	Amount
NOTICE OF CLAIM:A63-02168,A63-00311	41503	220.00

CHECK 729

Total \$ 220.00

Region: WESTERN

Signature:

Rubie Offland

Uttn: Gene Benson
From: Betty Benson

ASSIGNMENT OF CONTRACT AND AGREEMENT

This agreement is made the 26th day of August, 1991, between Keys Development Company, Ltd., a Limited Partnership, Assignor, and Michael S. Bermensolo and Betina M. Bermensolo, husband and wife, 1970 North Canonero Way, Boise, Idaho 83709, Assignees.

Recitations

Assignor is purchasing under contract from B. Faye Benson and John F. Benson the following described real property in Boise County, Idaho, to-wit:

The West Half of Southwest Quarter of Section 2; the Northeast Quarter of Northeast Quarter of Section 10, and the Northwest Quarter of Northwest Quarter of Section 11, all in Township 7 North, Range 5 East, Boise Meridian.

LESS a roadway right-of-way previously sold to the United States Department of Agriculture Forest Service and described as follows:

A right-of-way, 66 feet in width, 33 feet on each side of the centerline, 1,775.10 feet in length and comprising 2.69 acres. Approximately 860 feet of the easement length is new road construction, and 915.10 feet is over existing road.

A copy of the Benson contract is attached hereto and by reference made a part hereof. Said contract is in escrow at the West One Bank in Boise, Idaho. Payments thereunder are made to the bank. Quarterly payments of \$2,631.21 are payable each January 1st, April 1st, July 1st and October 1st. Interest accrues at the rate of 10% per annum. Each payment is first applied to interest and the balance to principal. Payment of \$2,631.21 is past due plus interest from May 28, 1991. The next quarterly payment of \$2,631.21 is payable October 1, 1991.

MIKE'S

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF IDAHO
IN AND FOR THE COUNTY OF BOISE

Ernest Van Minkle, Plaintiff

vs.

DECEREE

Lewis Arbaugh and Fabel Arbaugh,
Defendants

This cause having heretofore come on regularly for trial before the court, without a jury; upon the plaintiffs amended complaint and the separate answers and cross-complaints the defendants (each and every of the allegations of each and every of the separate cross complaints of the separate defendants, by stipulation of the parties, being deemed denied for the purpose of the suit; Messers E. E. Oppenheim and J. M. Lampert appearing as attorneys for the plaintiffs and Messers S. E. Blaine and D. L. Rhodes, appearing as attorneys for the defendants and cross-complaints; and the court, having heard evidence adduced by the plaintiff and each of the defendants and cross-complaints, and being fully informed and advised in the premises and having filed its Findings of Fact and Conclusions of Law herein.

Now, in consideration thereof and of the laws and statutes in that behalf provided.

It is Ordered, Adjudged and Decreed, that the plaintiff and each of the defendants and cross complainants herein named, do have judgment respectively for a right to use the waters of Clear Creek and its tributaries, situated in Boise County, State of Idaho, to the extent of their needs for irrigation and domestic use and watering of live-stock upon the lands described after each appropriation, respectively, the following number of inches of water (measured under a four (4) inch pressure) set opposite each name, each fifty (50) inches thereof to be equivalent to a flow of One (1) cubic foot per second, as prescribed by the law of Idaho, the priorities of said appropriations to date from the time hereinafter named to-wit:

Name of Party	Priority of Appropriation	Amount of Acres	Description of land in smallest legal sub-division to which water is appurtenant	Amount of Acres
John VanDinkle	63-00311 Jan 1, 1894	7 1/2	SW 1/4 SW 1/4, 2, 7N, 5E. NW 1/4 NW 1/4, 11, 7N, 5E. NE 1/4 NE 1/4, 10, " "	170
Lewis Arbaugh	312 Jan 1, 1916	20	SW 1/4 NW 1/4, 11, 7N, 5E. SE 1/4 SE 1/4, 10, 7N, 5E. SE 1/4 NE 1/4, 10, 7N, 5E.	180
Lewis Arbaugh	313 Jan 1, 1911	20	W 1/2 SE 1/4, 2, 7N, 5E E 1/2 SW 1/4, 2, 7N, 5E	180

2. The plaintiff and the defendant, Lewis Arbaugh shall have placed at the direction of the State Engineer of the State of Idaho, at their respective points of diversion and the three (3) taps as referred to in the Findings of Fact and Conclusions of Law heretofore filed, the amount of water to be diverted under the provisions of this decree and said plaintiff and defendant shall each pay one-half ($\frac{1}{2}$) the cost for having installed said headgate and taps.

3. The plaintiff shall have charge of and keep in repair at his own expense, the headgate at the point of diversion of the waters of Clear Creek and the three (3) taps for the diversion of the water from the ditch to said headgate and the ditch from the point of diversion at Clear Creek to the headgate of the defendant, Lewis Arbaugh; and the defendant, Lewis Arbaugh, shall have charge of and keep in repair, the headgate installed at the point of diversion of the waters for his own use and the ditch from said point of diversion at his own headgate; and the plaintiff is especially enjoined and restrained from closing the headgate at the point of diversion for any purpose other than for repairs to the ditch and headgate or when there is fear of serious injury to the ditch on account of freezing during cold weather, and then only for such time as may reasonably be required to make necessary repairs, or until it is reasonably safe to again turn water into the ditch.

4. Each and every party hereto, his agent, and attorney, employees, privies and successors in interest are hereby enjoined and restrained from interfering, in any manner with the rights of prior appropriators of the

waters of Clear Creek as herein decreed and from obstructing, using and
polluting the waters of said stream or in any way tampering with any head-
gate or tap as hereinbefore referred to other than their own and respective
water and lands, to the injury of any other appropriators.

5. Each party hereto shall pay his own costs and disbursements
herein.

Dated this 1st day of October, 1918.

Charles P. McCarthy,
District Judge.

Filed October 8, 1918 and recorded in Book 4 of Judgments on page 517

L. R. Lukes, Recorder

Nellie Gorman, Deputy

STATE OF IDAHO, } ss
County of Boise, }

I hereby certify the foregoing to be a full, true and correct copy of the
Deed recorded in my office in Book of Judgments
No. 4, page 517 and of the whole thereof

In witness whereof I have herunto set my hand and affixed my official seal, at Idaho City, Idaho, this
21 day of September A. D., 1918.
By Freida Campbell Deputy.
Fred Hancock
CLERK DISTRICT COURT, RECORDER.

