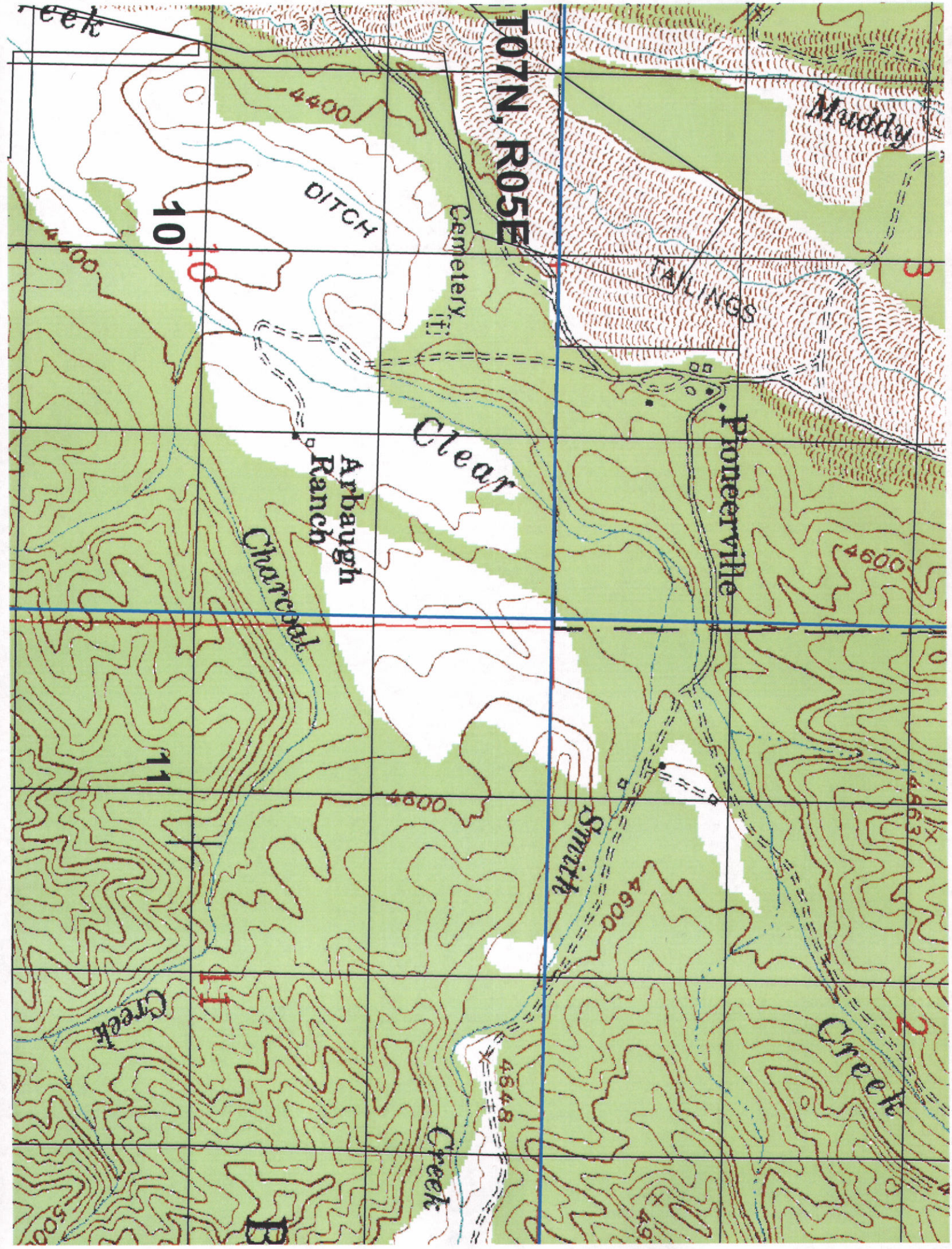


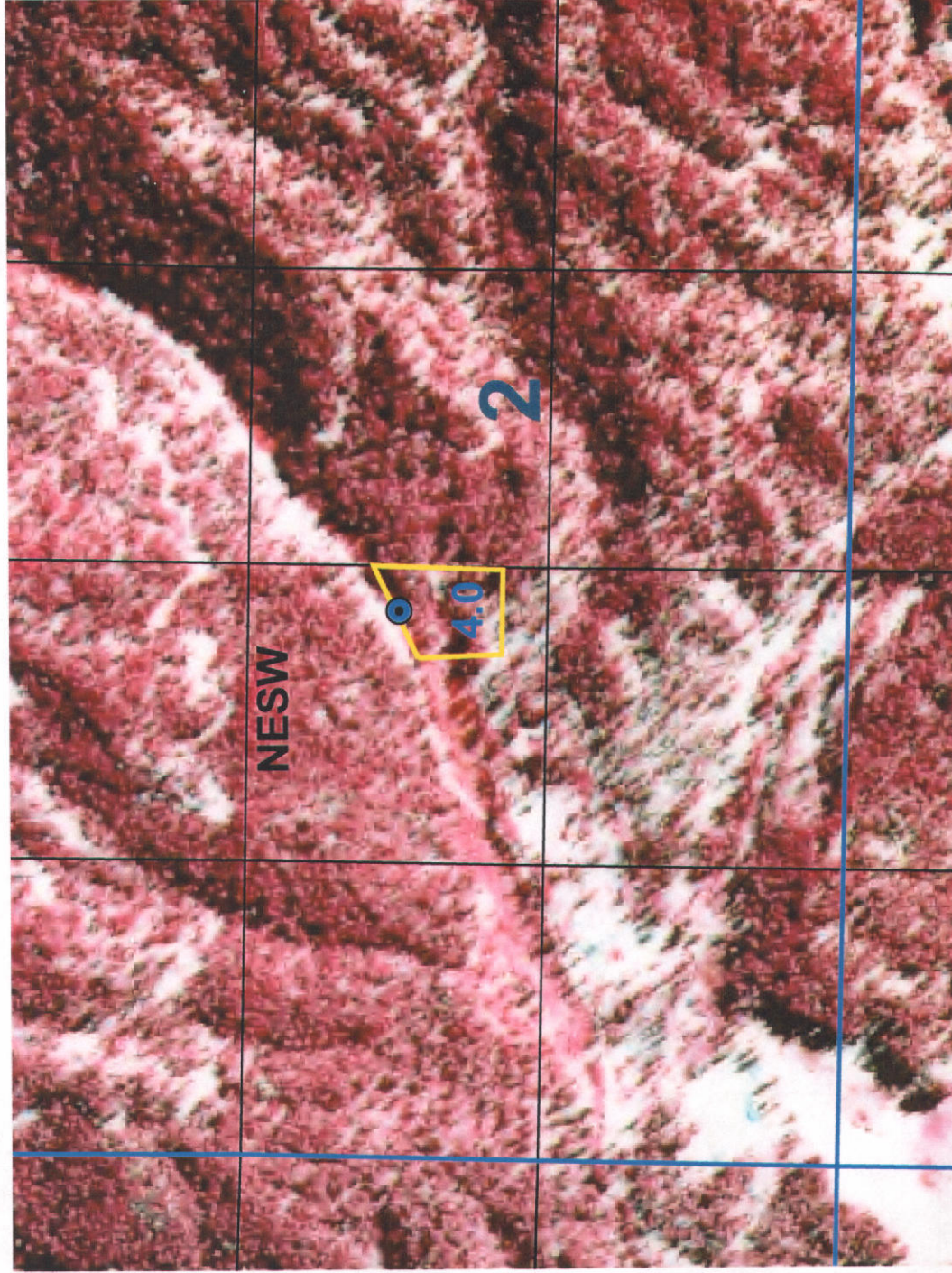
63-313A
9-19-2001 Exam

Red - Pumped
Black - Fracture
Box



IDAHO DEPARTMENT OF WATER RESOURCES

T07N, R05E, S02



1987 NAPP PHOTO

POINT OF DIVERSION

PLACE OF USE

1/4 1/4 LINES

SECTION LINES

6 ACRES

6 SECTION NUMBERS

CLAIM(S): 63-313A

OWNER(S): KRAUS, ELIZABETH &
THOMAS

DATE: DECEMBER 4, 2001

by: Mel Schulte

0 0.25 0.5 0.75 1 Miles

IDAHO DEPARTMENT OF WATER RESOURCES

T07N, R05E, S02



1987 NAPP PHOTO

POINT OF DIVERSION

PLACE OF USE

1/4 1/4 LINES

SECTION LINES

6 ACRES

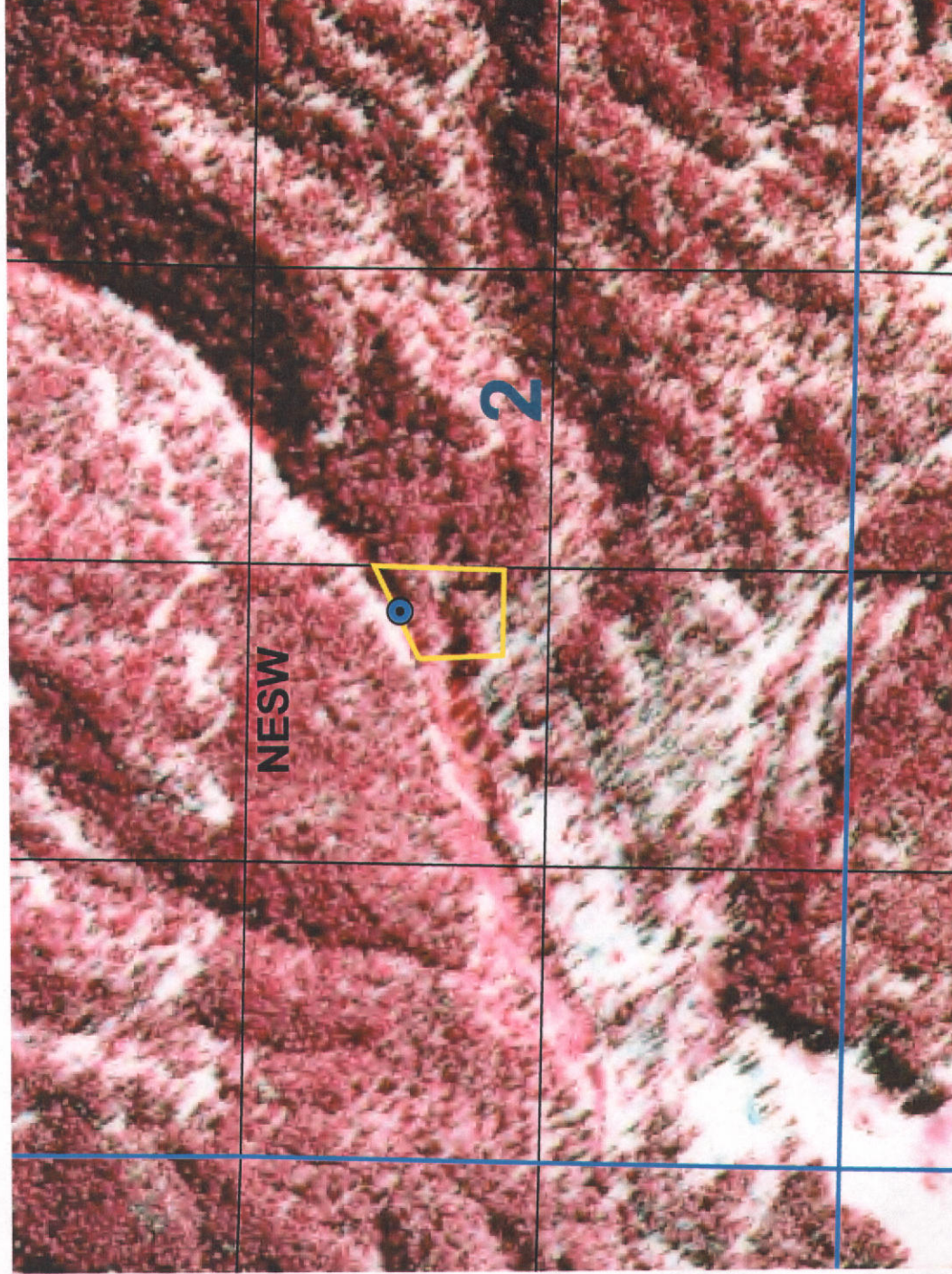
6 SECTION NUMBERS

CLAIM(S): 63-313A

OWNER(S): KRAUS, ELIZABETH &
THOMAS

DATE: DECEMBER 4, 2001

by: Mel Schulte



0 0.25 0.5 0.75 1 Miles

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: A63-00313A
Date Received: 4/10/1989
Receipt No: W002549
Received By: DE MTH.

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: THOMAS D. KRAUS 208-375-9017
Address: 6415 GRANDVIEW DR.
BOISE, ID 83709
OR
Name: ELIZABETH F. KRAUS 208-375-9017
Address: 6415 GRANDVIEW DR.
BOISE, ID 83709

2. Date of Priority: JAN 01, 1911

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:
OPEN DITCH FROM CREEK TO PLACE OF USE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.200		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
D\ 1 HOME AND LAWN WATERING

A63-00313A

Page 1

Date: 04/25/89

MICROFILMED
AUG 17 1992

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07N	05E	2	NE SW		IRR	10.0
Section Acres						10.0
Total Acres						10.0

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:

WELL, USED FOR DOMESTIC & LAWN WATERING

14. Remarks:

NONE

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

Decree Plaintiff

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: A63-00313A
Date Received: 2/13/1989
Receipt No: W002549
Received By: RDH

Department of Water Resources
Western Regional Office
**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name: ELIZABETH F. KRAUS 208-375-9017
Address: 6415 GRANDVIEW DR.
BOISE, ID 83709

OR
Name: THOMAS D. KRAUS 208-375-9017
Address: 6415 GRANDVIEW DR.
BOISE, ID 83709

2. Date of Priority: JAN 01, 1911

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:

PUMP IN CREEK W/PIPELINE TO PLACE OF USE.
OPEN DITCH FROM CREEK TO PLACE OF USE.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.200		

7. Total Quantity Appropriated is:

0.200 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses: 1 household and lawn watering
NONE

A63-00313A

Page 1

Date: 02/13/89

MICROFILMED

AUG 17 1992

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07N	05E	2	NE SW		IRR	10.0
Section Acres						10.0
Total Acres						10.0

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:

GROUNDWATER RIGHTS. WELL LOCATED IN THE NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, T. 7 N., R. 5 East,
USED FOR DOMESTIC AND LAWN WATERING PURPOSES FOR USE IN THE AREA.

14. Remarks:

15. Basis of Claim: DECREED dated October 1, 1918

Case Number:

Court : Dist. Court, Third Judicial District, County of Bosie

Decree date: October 1, 1918

ISAAC VANWINKLE

Decree Plaintiff

vs

LEWIS AND MABEL R. ARBAUGH

Decree Defendant

See attached copy.

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: 1

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): Ejardeth M. Kraus Date: April 7, 1989
Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 7th day
of April 19 89

Sandra A. Huntington
Notary Public

Seal

Residing at Boise, Idaho

My Commission Expires 6/4/93

08/01/2002

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

RIGHT NUMBER: 63-313A

NAME AND ADDRESS: THOMAS D KRAUS
6415 GRANDVIEW DR
BOISE ID 83709

ELIZABETH F KRAUS
6415 GRANDVIEW DR
BOISE ID 83709

SOURCE: CLEAR CREEK

TRIBUTARY: GRIMES CREEK

QUANTITY: 0.08 CFS

PRIORITY DATE: 01/01/1911

POINT OF DIVERSION:

T07N R05E S2 NENESW Within BOISE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/01 10/31

0.080 CFS

PLACE OF USE: IRRIGATION Within BOISE County

T07N R05E S02 NESW 4.0

4 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

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-313A V1

WATER RIGHT NUMBER: 63-313A V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	THOMAS D KRAUS 6415 GRANDVIEW DR BOISE, ID 83709 (208)375-9017
Current Owner	ELIZABETH F KRAUS 6415 GRANDVIEW DR BOISE, ID 83709 (208)375-9017

Priority Date: 01/01/1911

Basis: Decreed

Status: Active

Source

CLEAR CREEK

Tributary

GRIMES CREEK

Beneficial Use

IRRIGATION

From

04/01

To

11/01

Diversion Rate

0.080 CFS

Annual VolumeTotal Diversion:

0.080 CFS

Location of Point(s) of Diversion

CLEAR CREEK

NE1/4NE1/4SW1/4

Sec. 2, Twp 07N, Rge 05E, B.M.

BOISE County

Place of UseIRRIGATION Within BOISE County

T07N R05E S02 NESW 4.0

Total Acres: 4

Conditions of Approval:

1. C18 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.

Remarks:Comments:Dates and Other Information:

*DECREE DID NOT
SPECIFY SOURCE
10/31 IS standard*

*DH -
printed*

10/31

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-313A V1

Dates and Other Information:

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag:
State or Federal: S
Owner Name Connector: OR
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES 12/05/2001
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

63-313A

NAME AND ADDRESS: THOMAS D KRAUS
6415 GRANDVIEW DR
BOISE ID 83709

ELIZABETH F KRAUS
6415 GRANDVIEW DR
BOISE ID 83709

SOURCE: CLEAR CREEK

TRIBUTARY: GRIMES CREEK

QUANTITY: 0.08 CFS

PRIORITY DATE: 01/01/1911

POINT OF DIVERSION:

T07N R05E S2 NENESW Within BOISE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/01 11/01

0.080 CFS

PLACE OF USE: IRRIGATION Within BOISE County

T07N R05E S02 NESW 4.0

4 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). A63-313A

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: 1-1-1911
(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: _____

4. ☒ No Change — POINT OF DIVERSION
☐ Point of diversion is different than the claim and/or new P/D's:

Township _____ Range _____ Section _____ 1/4 _____ 1/4 _____ 1/4 _____
Township _____ Range _____ Section _____ 1/4 _____ 1/4 _____ 1/4 _____

5. ☐ No Change - DESCRIPTION OF DIVERTING WORKS
☐ Incomplete description, list below:

Pump used to sprinkle POU which is mostly
natural vegetation with some lawn area.
Irrigation is primarily for fire control but
suspect.

6. ☒ No Change - WATER USES

☐ Different uses, (list uses found):

Use IRR From 4-1 To 10-31 Amount .08 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 5E Section 2 1/4 NE 1/4 SW - 4 acres.
Use: Township Range Section 1/4 1/4
Use: Township Range Section 1/4 1/4
Use: Township Range Section 1/4 1/4

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

Area irrigated is South of Clear Creek.
Decree is ambiguous as to POB and the number
of acres irrigated historically

☐ SYSTEM DIAGRAM INCLUDED

☐ NA

☐ Shown on GIS Layout

☐ CK IF IN OFFICE EXAM

DATE EXAM CONDUCTED: 9-19-2001

FIELD EXAMINER:

Print Name

Mel Schutte
Signature

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

WATER RIGHT NO. 63-313

Owner Type Name and Address
Current Owner MABEL ARBAUGH

Priority Date: 01/01/1911
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	/	/	0.4 CFS		
Total Diversion			0.4 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		NESW			SESW							
				NWSE			SWSE							

Remarks:

1. General AC. IRR.=160.

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:
Swan Falls Dismissed:

A63-313A

12 M-1

13-1

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

ISAAC VAN WINKLE,
Plaintiff,

DECEASED.

LETTIE ARBAUGH AND
MABEL ARBAUGH,
Defendants.

This cause having heretofore come on regularly for trial before the court, without jury upon the plaintiff's amended complaint and the answer thereto and cross-complaint, the defendants (each and every of the allegations of each and every of the separate cross-complaint of the separate defendants, by stipulation of the parties, being deemed denied for the purpose of the suit); Messrs. P. W. Copenhagen and J. H. Robert appearing as attorneys for the plaintiff and Messrs. J. E. Haines and H. W. Hoden, appearing as attorneys for the defendants and cross-complainants; and the court, having heard the evidence adduced by the plaintiff and each of the defendants and cross-complainants, 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 BY THE COURT, TO BE DONE, 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 basis 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 being 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 Ticks	Description of land in all or part of which water is appurtenant	Area of Land
Isaac Van Antle	Jan. 1, 1894	\$75.	SW 1/4, 2, 7N, 5E. NE 1/4, 11, 7N, 5E. SE 1/4, 10, " "	120
Lewis Arbaugh	Jan. 1, 1916	\$80	SW 1/4, 11, 7N, 5E. NE 1/4, 10, 7N, 5E. SE 1/4, 10, 7N, 5E	160
Mabel Arbaugh	Jan. 1, 1911	\$20	W 1/2 SE, 2, 7N, 5E. E 1/2 SW, 2, 7N, 5E	100

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 both 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 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 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 on water to the ditch.

4. Each and every party hereto, in his agent, and attorneys, employees, privies and successors in interest are 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 torturing the waters of said

stream or in any way tampering with any lands or waters herein-
before referred to other than their own and respective rates and
taxes, 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, 1918.

Charles P. McCarthy.
District Judge.

Filed October 2, 1918, and recorded in Book 4 of Judgments, on
page 517.

W. R. Butler.
Recorder

WILLIAM COLEMAN
Deputy

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

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

Decree..... recorded in my office of Book of..... 4243-2200
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....., 1903.

By *Frances E. Elliott*
Deputy.

WILLIAM COLEMAN
Ex-Officio Recorder.

63-313A

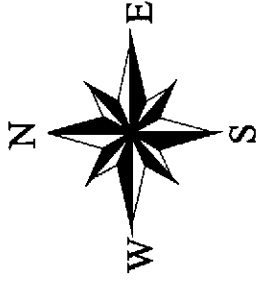
9-19-2001 Exam





IDAHO DEPARTMENT OF WATER RESOURCES

T07N, R05E, S02



1987 NAPP PHOTO

● POINT OF DIVERSION

PLACE OF USE

1/4 1/4 LINES

SECTION LINES

6 ACRES

6 SECTION NUMBERS

CLAIM(S): 63-313A

OWNER(S): KRAUS, ELIZABETH &
THOMAS

DATE: DECEMBER 4, 2001

by: Mel Schulte

0 0.25 0.5 0.75 1 Miles

IDAHO DEPARTMENT OF WATER RESOURCES

T07N, R05E, S02



1987 NAPP PHOTO

● POINT OF DIVERSION

PLACE OF USE



1/4 1/4 LINES



SECTION LINES

6 ACRES

6 SECTION NUMBERS

CLAIM(S): 63-313A

OWNER(S): KRAUS, ELIZABETH &
THOMAS

DATE: DECEMBER 4, 2001

by: Mel Schulte

0 0.25 0.5 0.75 1 Miles

Idaho Dept. of Water Resources
Place of Use Comparison Report

Type	WR #	Owner	Source	TRS	NENE	NNNE	SWNE	SENE	NENW	NNNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NENE	NWSE	SWSE	SESE	Total
Claim	63 2168	BETTY M BERMENSOLO,	CLEAR CREEK	07N05E2											14						14
Claim	63 311	BETTY M BERMENSOLO,	CLEAR CREEK	07N05E2											40						40
Claim	63 313A	THOMAS D KRAUS, ELIZABETH F KRAUS,	CLEAR CREEK	07N05E2									10								10
Claim	63 313B	MARY KEYES,	CLEAR CREEK	07N05E2									10			10					20
Right	63 2168	ISAAC VAN WINKLE,	CLEAR CREEK	07N05E2																	14
Right	63 311	ISAAC VAN WINKLE,	CLEAR CREEK	07N05E2											X						0
Right	63 313	MABEL ARBAUGH,	CLEAR CREEK	07N05E2									X			X		X			0
Right	63 314	C R PONCIA,	CLEAR CREEK	07N05E2																	0
Claim	63 15165	THOMAS D KRAUS, ELIZABETH F KRAUS,	GROUND WATER	07N05E2									X								0
Claim	63 28574	ERNEST F KEYS, IDAHO PACIFIC DEVELOPMENT CO,	GROUND WATER	07N05E2									X								0
Right	63 28574	IDAHO PACIFIC DEVELOPMENT CO, ERNEST F KEYS,	GROUND WATER	07N05E2									X								0
Claim	63 15232	BOISE CASCADE CORP.	UNNAMED STREAMS	07N05E2	X	X	X	X	X			X						X	X		0

435
12 P-1
RT-1 1916 63-1

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

ISAAC VAN WINKLE,
Plaintiff,

-vi-

D E C R E E .

LEWIS A. BRUGH AND
MABEL A. BRUGH,
Defendants.

This cause having heretofore come on regularly for trial before the court, without a jury: upon the plaintiff's 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. P. W. Oppenheim and J. M. Lambert appearing, as attorneys for the plaintiff and Messers. C. E. Elaine and D. L. Rhodes, appearing as attorneys for the defendants and cross-complainants; and the court, having heard the evidence adduced by the plaintiff and each of the defendants and cross-complainants, 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 Inches	Description of Land in smallest legal sub-division to which water is appurtenant	Area of Land
Isaac VanVinkle	63 0311 Jan. 1, 1894	75.	SW 1/4 SW 1/4, 2, 7N, 5E. NE 1/4 SW 1/4, 11, 7N, 5E. SE 1/4 SW 1/4, 10, " "	120
Lewis Arbaugh	64 0311 Jan. 1, 1916	80	SW 1/4 SW 1/4, 11, 7N, 5E. NE 1/4 SW 1/4, 10, 7N, 5E. SE 1/4 SW 1/4, 10, 7N, 5E	160
Mabel Arbaugh	65 0311 Jan. 1, 1911	20	SW 1/4 SW 1/4, 2, 7N, 5E. NE 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 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 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 the water into the ditch.

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

stream or in any way tampering with any headgate or line as 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 his own costs and disburse-
ments 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.

G. R. Shook,
Recorder

WILLIAM COMMAN
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, 1908.

By *Frances Elliott*
Deputy.

WILLIAM M. PROGAN
Ex-Officio Recorder.