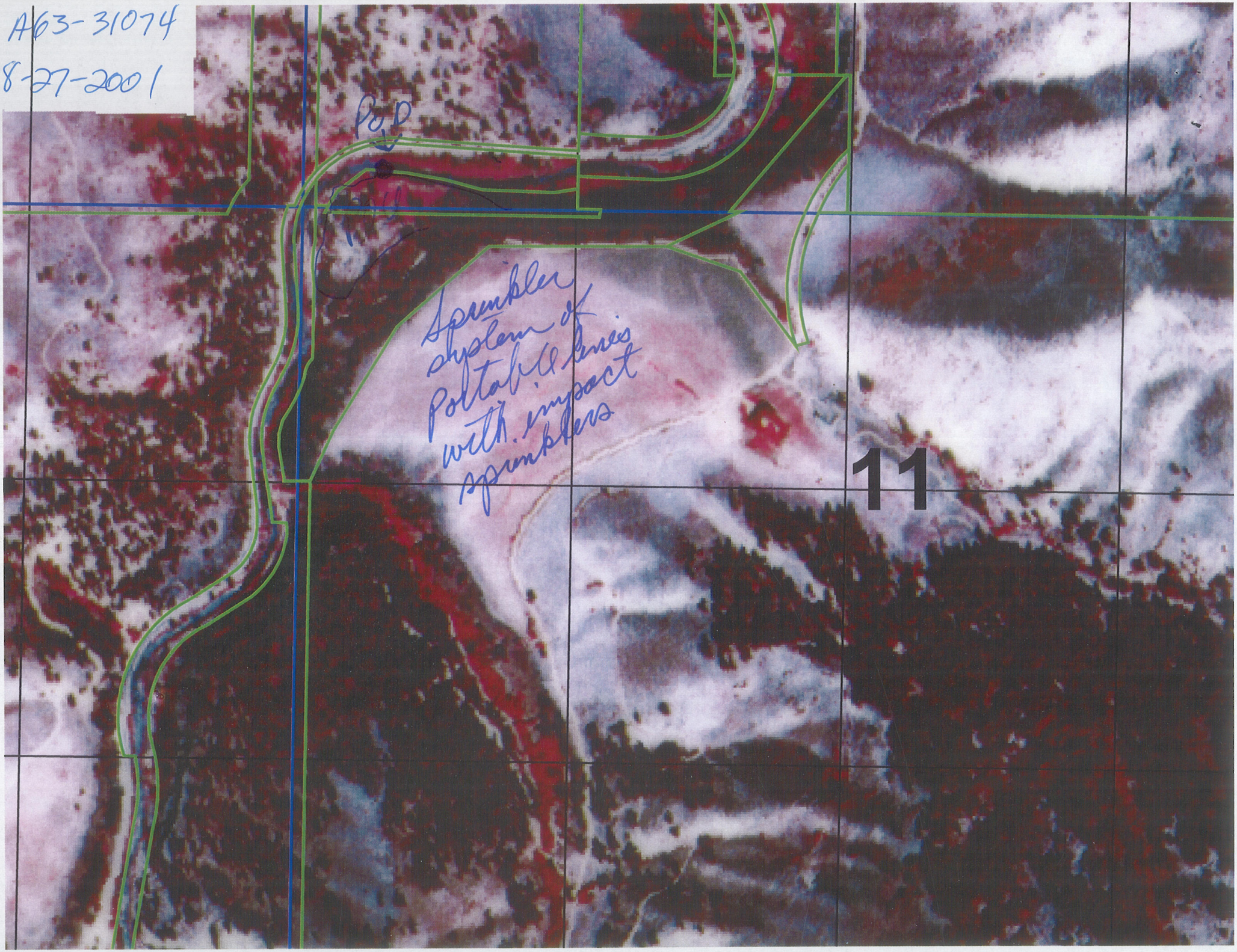
A63-31074 PHOTOS TAKEN 08/27/2001

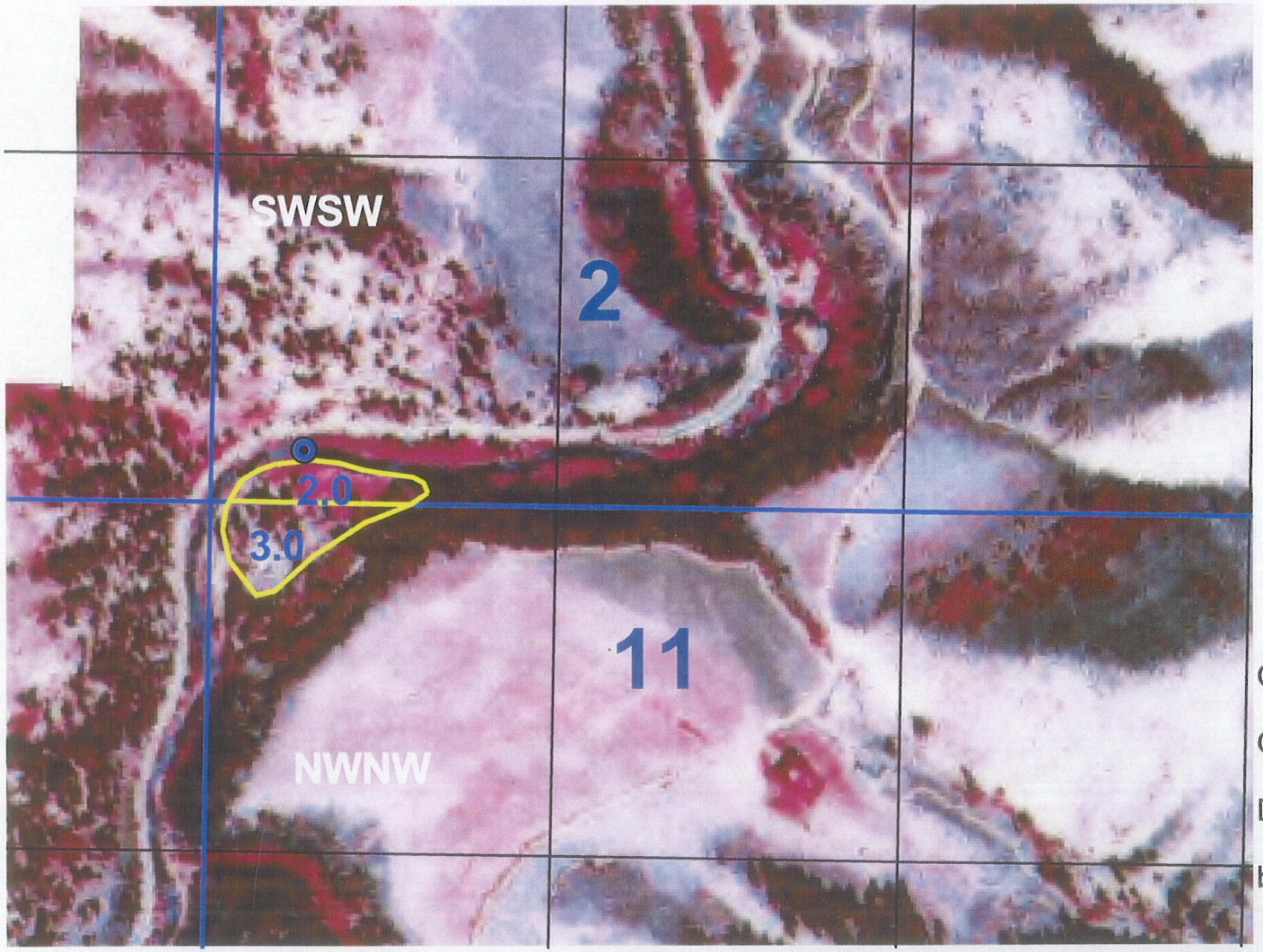
PHOTO #1
PLACE OF USE IN
FRONT OF AND
EAST OF HOME

PHOTO #2
POINT OF DIVERSION
AND PUMP

A63-31074
8-27-2001



IDAHO DEPARTMENT OF WATER RESOURCES
T04N, R04E, S2 & S31



N
W
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1987 NAPP PHOTO

POINT OF DIVERSION

PLACE OF USE

1/4 1/4 LINES

SECTION LINES

6 ACRES

6 SECTION NUMBERS

CLAIM(S): 63-31074

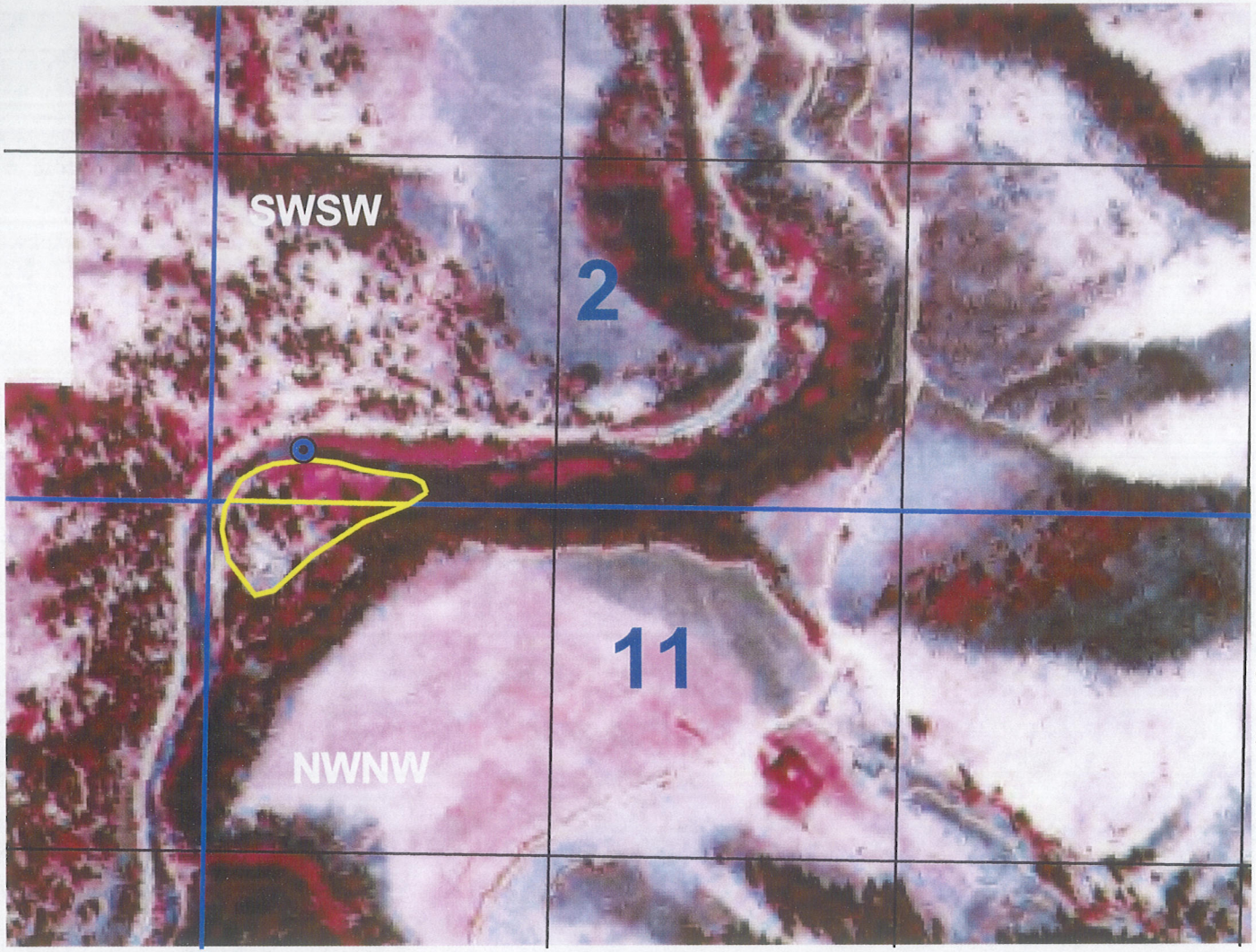
OWNER(S): MARCUS, BARRY

DATE: DECEMBER 14, 2001

by: Mel Schulte

0 0.25 0.5 0.75 Miles

IDAHO DEPARTMENT OF WATER RESOURCES
T04N, R04E, S2 & S31



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1987 NAPP PHOTO

POINT OF DIVERSION

PLACE OF USE

1/4 1/4 LINES

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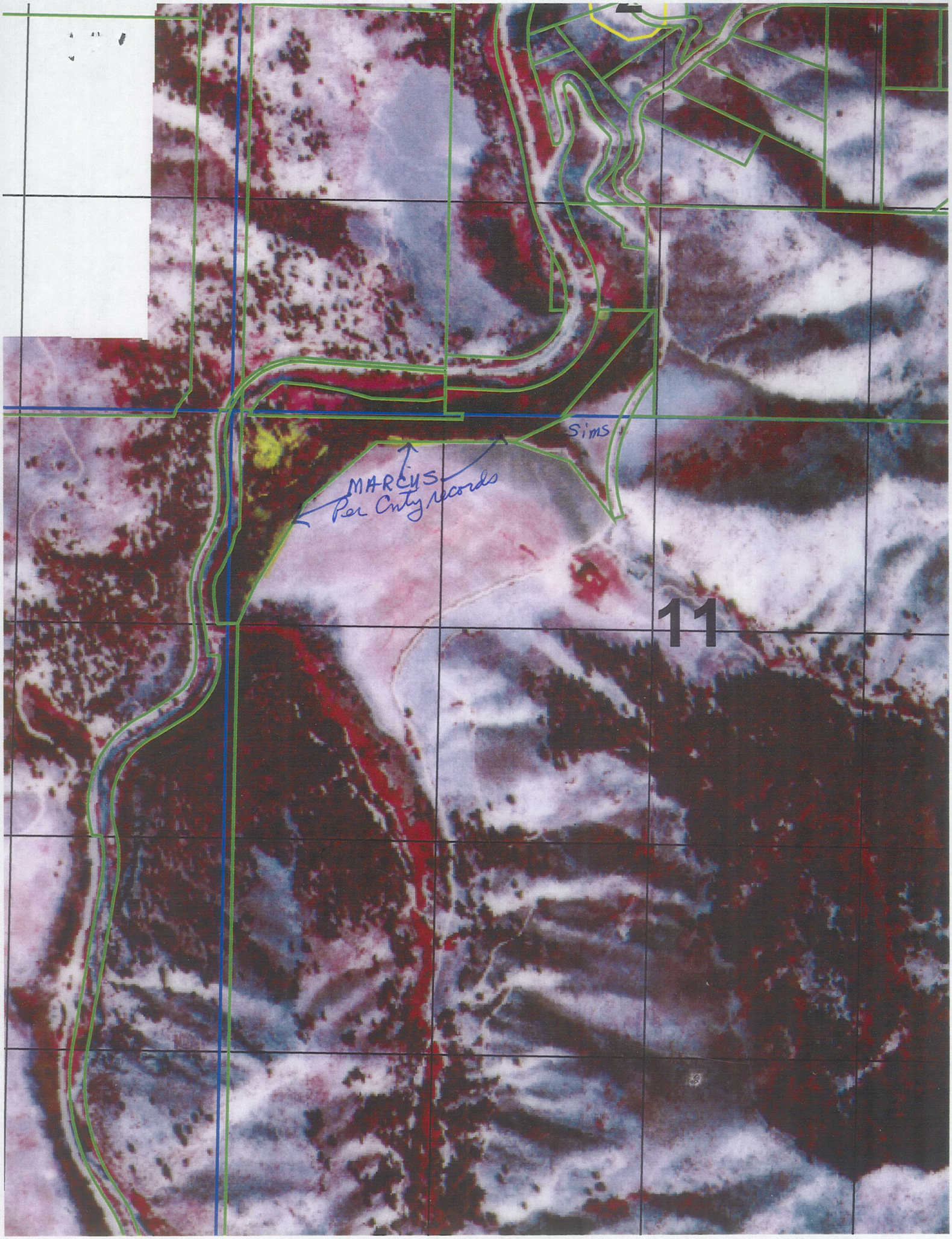

Sims
MARCUS
Per Cnty records
11

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: **A63-31074**
Date Received: 10/ 8/1999
Receipt No: W025805
Received By: _____

COPY FOR YOUR FILES | **NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW** | **COPY FOR YOUR FILES**

1. Name: BARRY MARCUS 208-342-3563
   Address: 737 N 7TH
   BOISE ID 83702

2. Date of Priority: DEC 31, 1940

3. Source: MORES CREEK Trib. to: BOISE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
04N	04E	2	SW SW SW		BOISE

5. Description of diverting works:
   PUMP

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:

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
04N	04E	2	SW SW		IRR	5.0
				Section Acres		5.0

10. Place of Use: Continued

Total Acres 5.0

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:
NONE

14. Remarks:
AFFIDAVITS OF HORACE CHAPMAN AND JUNIOR OWNBY ATTACHED.

15. Basis of Claim: BENEFICIAL USE

NOTICE This Packet Contains Four (4) Separate Forms
Remove This Stub And Fill Out Each Form Separately

Form No. 42-1409 (2) a 1/88

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 A63-31074
Date Received 10-8-99
Receipt Number W025805

RECEIVED
OCT 0 8 1999
WATER RESOURCES
WESTERN REGION

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) BARRY MARCUS Phone (208) 342-3563
   Mailing Address 737 N. 7th BOISE ID, Zip 83702
2. Date of Priority (Only one (1) per claim) 1940
3. Source of water supply (a) MORES CR,
   which is tributary to (b) BOISE R.
4. a. Location of existing point of diversion is: Township 4 N. Range 4 E. Section 2,
   SW 1/4 of SW 1/4 of SW 1/4, Govt. Lot, ____ B.M., County of BOISE
   Additional points of diversion if any: ____
   b. If instream flow, beginning point of claimed instream flow is:
   Township ____ Range ____ Section ____, ____ 1/4 of ____ 1/4 of ____ 1/4,
   Govt. Lot ____ B.M., County of ____
   ending point is: Township ____ Range ____ Section ____, ____ 1/4 of ____ 1/4 of
   ____ 1/4, Govt. Lot ____ B.M., County of ____
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, 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.
   PUMP

6. Water is claimed for the following purposes:

(both dates are inclusive) (cfs) (acre feet)

For IRRIGATION purposes from 4/1 to 11/1 amount .20 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .20 (cfs) and/or (b) _____ (acre feet)

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

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

Amended 8-21-01. BM

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			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	
4N	4E	2											2.5						2.5
		11						2.5											2.5

Total number of acres irrigated 5

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

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.

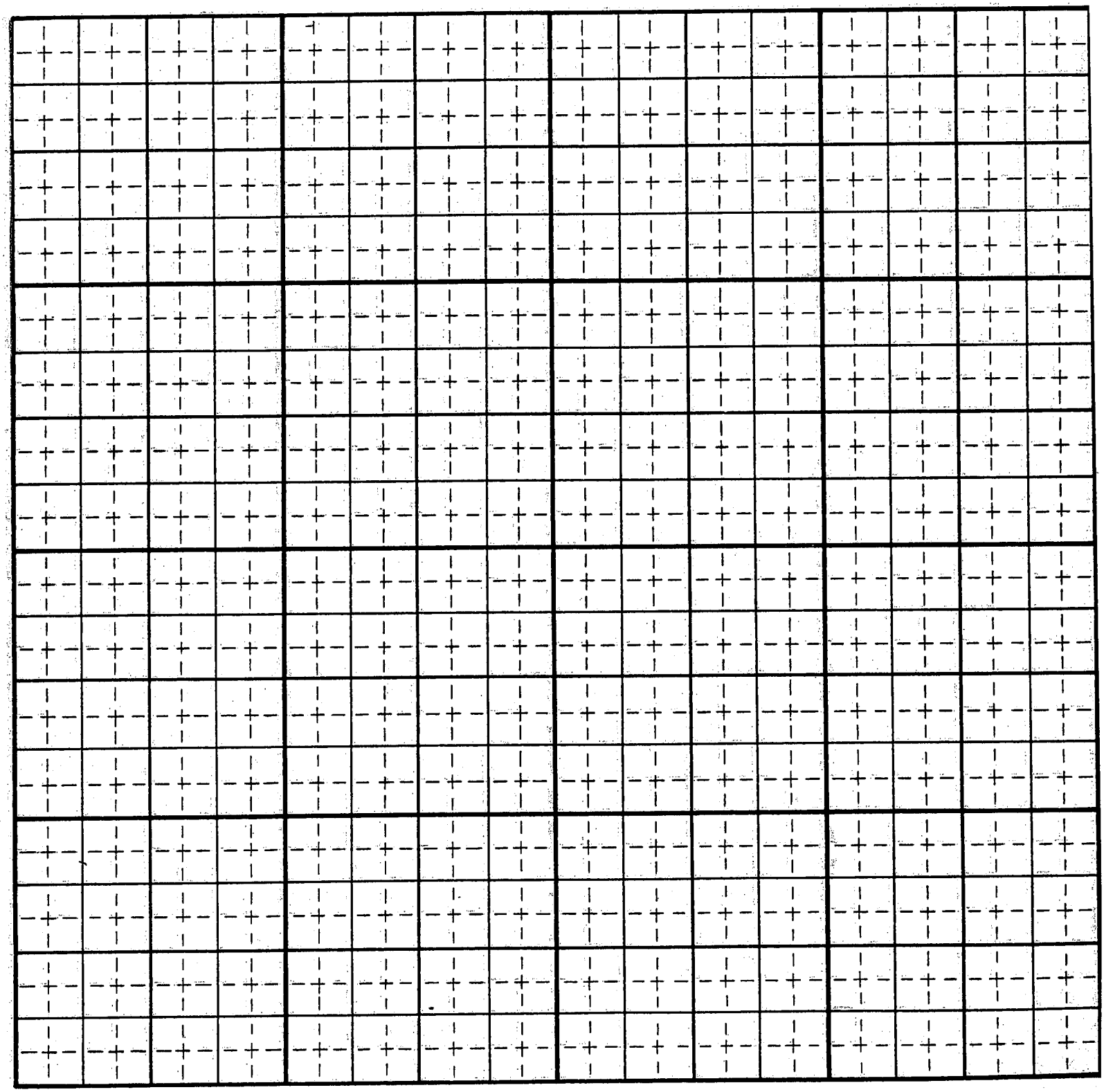
13. Describe any other water rights used at the same place and for the same purposes as described above.
_____ or None (X)

14. Remarks: AFFIDAVITS OF HORACE CHAPMAN AND JUNIOR OWNBY ATTACHED

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

Scale: 2 inches equals 1 mile

SEE MAP ATTACHED



Last Name _____ Ident No. _____ *Copies: White-State, Yellow-Claimant*

15. Basis of Claim (check one) Beneficial Use X Posted Notice _____ License _____ Permit _____
Decree _____
If applicable provide IDWR Water Right Number _____
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 3

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

Signature of Claimant (s) Barry Marcus Date 9/9/99

_____ 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 _____)
) SS.
County of Ada)

Subscribed and sworn (or affirmed) before me this 9th day of September 19 99

SEAL

Notary Public Diane L. Aeschbacher

Residing at Boise ID

My Commission Expires 5/7/03

Please Print Name

17. Notice of Appearance:
Notice is hereby given that I, _____ will be acting as attorney at law on behalf 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 me at the address listed below.

Signature _____

Address _____

Date _____

Last Name _____ Ident. Number _____

Copies White-State, Yellow-Claimant

AFFIDAVIT OF HORACE CHAPMAN

STATE OF IDAHO)
: ss.
County of Ada)

Horace Chapman, being first duly sworn upon oath, deposes and states as follows:

1. I was born in 1928 and have knowledge of the facts stated herein. My family moved to Grimes Creek in Boise County in 1936. I began working with my brother (Earl Chapman) and Bill Adams on Bill's ranch adjoining Mores Creek on the east. The ranch consists of approximately 2000 acres and encompassed property now owned by Barry Marcus and located next to Mores Creek in the NW¼ of the NW¼ of Section 11 and the SW¼ of the SW¼ of Section 2, Township 4 North, Range 4 East, B.M. ("Marcus Property"). I have resided on the ranch continuously since 1940 and eventually became an owner of the ranch.

2. In 1940, when I started working with my brother and Bill Adams, we built a small house and moved a sawmill onto the Marcus Property. The mill rights lived in the house. At that time we developed a spring for use on the property and also began pumping water out of Mores Creek to irrigate approximately 5 acres adjoining the house. Since 1940 and during April to November of every year, water has been pumped out of Mores Creek to irrigate that parcel to grow feed for horses and cattle that we raised on the ranch. We irrigated the 5 acre parcel with a gas powered pump until power was run to the property.

3. In the 1950's, Junior Ownby and his wife moved onto the Marcus Property and occupied it until 1994. They pumped water out of Mores Creek to irrigate the Marcus Property during the time they lived on the property.

4. After acquiring the property in 1995, Barry Marcus continued the same irrigation out of Mores Creek each year.

Dated this 7 day of ~~September~~ OCTOBER, 1999.

Horace Chapman

SUBSCRIBED AND SWORN TO before me this 7 day of ~~September~~ OCTOBER, 1999.

Notary Public for State of Idaho
Residing at BOISE, Idaho
My Commission Expires: 8/4/2004

(SEAL)

LIBERTY CAMPBELL-GLAUB ★ NOTARY PUBLIC ★ STATE OF IDAHO

AFFIDAVIT OF JUNIOR OWNBY

STATE OF IDAHO)
: ss.
County of Ada)

Junior Ownby, being first duly sworn upon oath, deposes and states as follows:

1. I am an adult and have knowledge of the facts stated herein.

2. In 1954 my wife, Nona B. Ownby, and I moved into a small house, owned by Horace Chapman, Earl Chapman and Bill Adams and located in the NW¼ of the NW¼ of Section 11, and the SW¼ of the SW¼ of Section 2, Township 4 North, Range 4 East, B.M. This property is now owned by Barry Marcus ("Marcus Property"). At that time the property was part of the ranch owned by Bill, Horace and Earl. We lived on the Marcus Property continuously from 1956 until we moved off the property in 1994.

3. From 1954 until 1994 we pumped water out of Mores Creek from April to November each year to irrigate approximately 5 acres next to the house, where we raised feed for horses and cattle.

Dated this 21 day of September, 1999.

Junior Ownby

SUBSCRIBED AND SWORN TO before me this 21 day of September, 1999.

Barbara Allen
Notary Public for State of Idaho
Residing at Caldwell, Idaho
My Commission Expires: 5/1/2001

(SEAL)

CHAPMAN/MARCUS SEGREGATION PLA

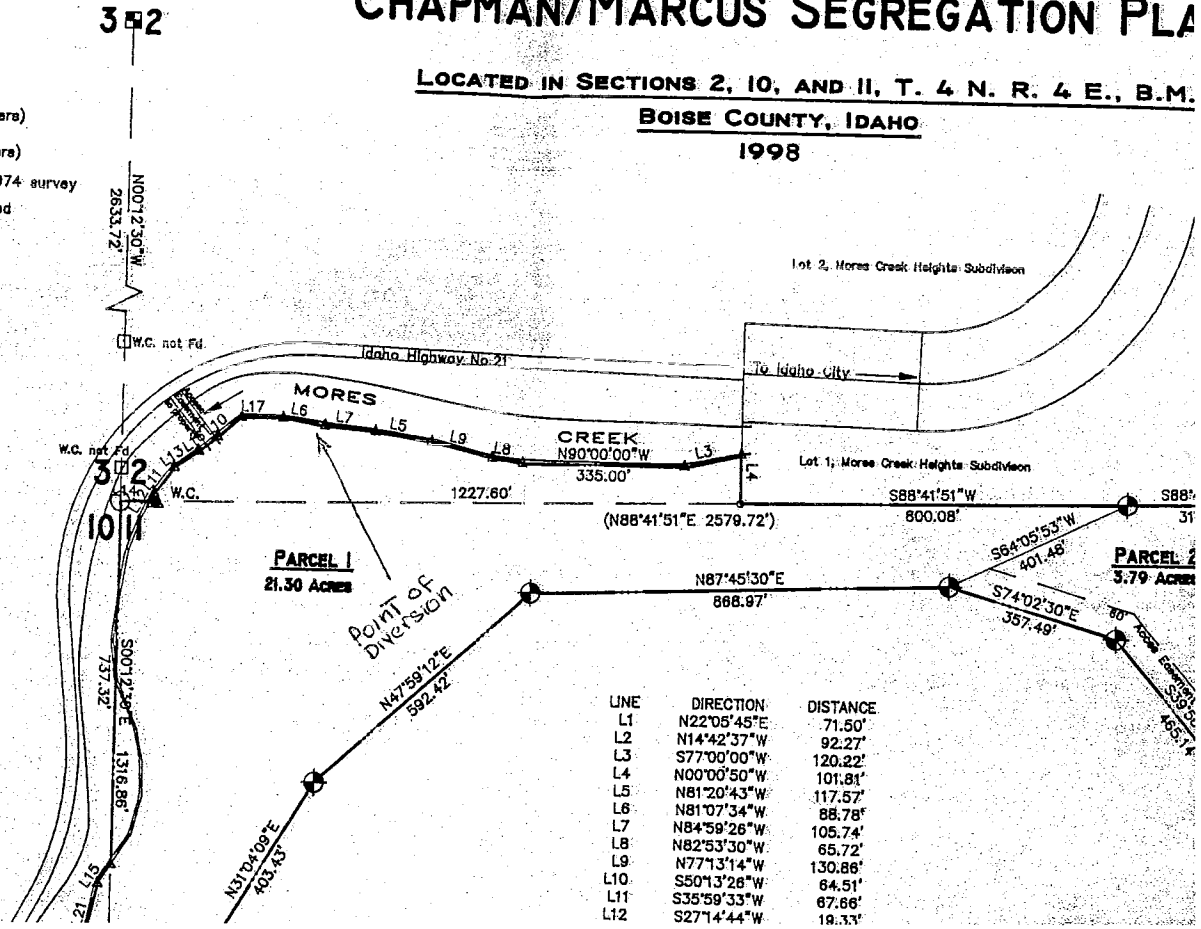
LOCATED IN SECTIONS 2, 10, AND 11, T. 4 N. R. 4 E., B.M.

BOISE COUNTY, IDAHO

1998

LEGEND

- Brass Cap Marker per 1974 survey – P.E. 829 (Hoffman, Fiske, and Wyatt – Consulting Engineers)
- Section/Quarter corner per 1974 survey (Hoffman, Fiske, and Wyatt – Consulting Engineers)
- Witness Corner for Section Corner – RP from 1974 survey
- Set 5/8"x 30" Steel Bar with Plastic Cap marked "D.COUCH PLS 970" as Boundary Corner
- Boundary Line
- Witness Corner
- Section Corner – Lands in River
- Witness Corner for Section Corner Set 5/8"x30" Steel Bar with 3" Alum. Cap
- Calculated Corner – not set
- Corner per 1974 survey



LINE	DIRECTION	DISTANCE
L1	N22°05'45"E	71.50'
L2	N14°42'37"W	92.27'
L3	S77°00'00"W	120.22'
L4	N00°00'50"W	101.81'
L5	N81°20'43"W	117.57'
L6	N81°07'34"W	88.78'
L7	N84°59'26"W	105.74'
L8	N82°53'30"W	65.72'
L9	N77°13'14"W	130.86'
L10	S50°13'26"W	64.51'
L11	S35°59'33"W	67.66'
L12	S27°14'44"W	19.33'

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

2004 SEP 24 PM 4:36

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

In Re SRBA	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 63-31074

NAME AND ADDRESS: BARRY MARCUS
737 N 7TH ST
BOISE, ID 83702

SOURCE: MORES CREEK TRIBUTARY: BOISE RIVER

QUANTITY: 0.15 CFS

PRIORITY DATE: 12/31/1940

POINT OF DIVERSION: T04N R04E S02 SWSWSW Within Boise County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	03-15 TO 11-15	0.15 CFS

DIVERSION FOR IRRIGATION UNDER THIS WATER RIGHT PRIOR TO APRIL 1 AND AFTER OCTOBER 31 SHALL OCCUR ONLY AS AUTHORIZED BY THE WATER DISTRICT 63 WATERMASTER AND ONLY WHEN WATER IS BEING RELEASED FOR FLOOD CONTROL BY THE UNITED STATES FROM THE LUCKY PEAK DAM OUTLET UNDER PROCEDURES AND REQUIREMENTS FOR THE MEMORANDUM OF AGREEMENT BETWEEN THE U.S. DEPARTMENT OF THE ARMY AND THE U.S. DEPARTMENT OF THE INTERIOR FOR FLOOD CONTROL OPERATIONS OF THE BOISE RIVER RESERVOIRS, DATED NOVEMBER 20, 1953, THE WATER CONTROL MANUAL FOR BOISE RIVER RESERVOIR DATED APRIL 1985 AND ANY FUTURE AMENDMENTS OR REVISIONS MADE THERETO PURSUANT TO STATE OR FEDERAL PROCEDURES OR LAW; PROVIDED THAT ANY SUCH USE OF THIS WATER RIGHT PRIOR TO APRIL 1 AND AFTER OCTOBER 31 SHALL BE SUBORDINATED TO WATER RIGHTS FOR STORAGE IN LUCKY PEAK RESERVOIR AND/OR LAKE LOWELL AS DECREED IN SRBA CASE NO. 39576.

PLACE OF USE: Irrigation Within Boise County

T04N R04E S02	SWSW	2.0
S11	NWNW	3.0
5.0 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. I.C. SECTION 42-1412(6).

08/12/2003

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

RIGHT NUMBER: 63-31074

NAME AND ADDRESS: BARRY MARCUS
737 N 7TH ST
BOISE ID 83702

SOURCE: MORES CREEK TRIBUTARY: BOISE RIVER

QUANTITY: 0.150 CFS

PRIORITY DATE: 12/31/1940

POINT OF DIVERSION: T04N R04E S2 SWSWSW Within BOISE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03/15 11/15	0.150 CFS

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir and/or Lake Lowell as decreed in SRBA Case No. 39576.

PLACE OF USE: IRRIGATION Within BOISE County

T04N R04E S02	SWSW	2.0	T04N R04E S11	NWNW	3.0

5 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 - Beneficial Use

RECEIVED
SEP 10 2003
Department of Water Resources

Barry Marcus, ISB No. 1181
MARCUS, MERRICK, CHRISTIAN & HARDEE, LLP
Attorneys at Law
737 North 7th Street
Boise, Idaho 83702
Telephone: (208) 342-3563
Telefax: (208) 342-2170
Attorneys for Claimants

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re:	)	**NOTICE OF APPEARANCE**
	)	
SRBA	)	**SUBCASE NOS:** **63-2472**
	)	**63-31074**
Case No. 39576	)	**63-19A**
	)	**63-5332**
	)	**63-15677**
	)	**63-31173**
	)	**63-15684**
	)	**63-5108**
	)	**63-5334**
	/	

TO: ALL PARTIES IN INTEREST:

COMES NOW, Barry Marcus of the law firm Marcus, Merrick, Christian & Hardee, and hereby enters his appearance in the above-entitled matter as attorney for the following named Claimants:

Name & Address	Claim No(s).
Chapman Ranch LLC 737 N. 7th St. Boise, ID 83702	63-2472
Barry Marcus 737 N. 7th St. Boise, ID 83702	63-31074 63-15677
Larry R. Smith Alda L. Smith 8442 W. Beachside Ct. Boise, ID 83703	63-19A
Osprey Land Co. 737 N. 7th St. Boise, ID 83702	63-5332 63-5334
Hide Associates Partnership Boise Holcomb, Inc. 737 N. 7th St. Boise, ID 83702	63-31173
Chapman Ranch, LLC 737 N. 7th St. Boise, ID 83702	63-15684 63-5108

Dated this 5 day of September, 2003.

MARCUS, MERRICK, CHRISTIAN & HARDEE, L.L.P.

By Barry Marcus
Barry Marcus
Attorneys for Claimants

CERTIFICATE OF SERVICE

I hereby certify that on this 5 day of September, 2003, I caused to be served a true and correct copy of the foregoing **NOTICE OF APPEARANCE** in the above-referenced matter by the method indicated below, and addressed to the following:

Boise Project Board of Control
Represented by:
Albert P. Barker
Amy D. Chestnut
205 N. 10th St., Ste. 520
P.O. Box 2139
Boise, ID 83701-2139

_____ *HAND DELIVER*
__X__ *U.S. MAIL*
_____ *OVERNIGHT MAIL*
_____ *TELECOPY (FAX)*
:_____

United States of America
Represented by:
David Negri
U.S. Department of Justice
Environment & Natural Resource
550 W. Fort Street, MSC 033
Boise, ID 83724

_____ *HAND DELIVER*
__X__ *U.S. MAIL*
_____ *OVERNIGHT MAIL*
_____ *TELECOPY (FAX)*
:_____

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098

_____ *HAND DELIVER*
__X__ *U.S. MAIL*
_____ *OVERNIGHT MAIL*
_____ *TELECOPY (FAX)*
:_____

Michael Sweeney
28 N. Fork Clear Creek Rd.
Boise, ID 83716

_____ *HAND DELIVER*
__X__ *U.S. MAIL*
_____ *OVERNIGHT MAIL*
_____ *TELECOPY (FAX)*
:_____

Barry Marcus

Sue

RECEIVED
FEB 4 - 2003
Department of Water Resources

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)
)
)
)
_____)

A. Subcase 63-31074
(Insert water right number)

STANDARD FORM 1 OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America acting through the Department of Interior, Bureau of Reclamation, Regional Director PN Code-3100
Address: 1150 N. Curtis Rd. Suite 100
Boise, Idaho 83706-1234
Daytime Phone: (208) 378-5306 E.Gail McGarry

Name & Address of Attorney, if any:
David W. Gehlert (303 312-7352)
Trial Attorney, General Litigation Section
Environment and Natural Resource Division
U.S. Department of Justice
999 18th Street, Suite N 945
Denver, CO 80202

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Barry Marcus
Address: 737 N 7th St
Boise, ID 83702

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
   Should be:

2. ☐ **Source**
   Should be:

3. ☐ **Quantity**
   Should be:

4. ☐ **Priority Date**
   Should be:

5. ☐ **Point(s) of Diversion**
   Should be:

6. ☐ **Instream Flow Description**
   Should be:

7. ☐ **Purpose(s) of Use**
   Should be:

8. ■ **Period of Year**
   Should be: April 1 to November 1

9. ☐ **Place of Use**
   Should be:

11. **I object because:**

☐ This water right should not exist.
☐ This water right was not recommended, but should be recommended with the elements described.

E. REASONS SUPPORTING EACH OBJECTION(S):
The Director's Report recommendation appears to expand the Season of Use beyond a customary maximum of April 1 to November 1, which would allow (a) injury to the United States' water rights, (b) impairment of historic river conditions conducive to regular United States Bureau of Reclamation diversions to storage reservoirs and the New York Canal, and (c) diminution of contract water reliability.

F. VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

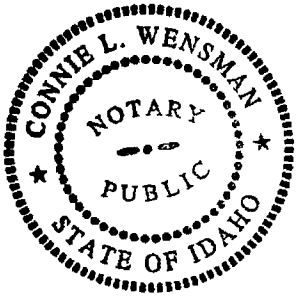
Jerrold D. Gregg, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: January 29, 2003



Connie L. Wensman
Notary Public for: Idaho
Residing at: Meridian
My Commission Expires: 10-06-2004

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted**. You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on January 31, 2003, I mailed the original and copies of this objection, including all attachments, to the following persons, by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID. 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: Barry Marcus

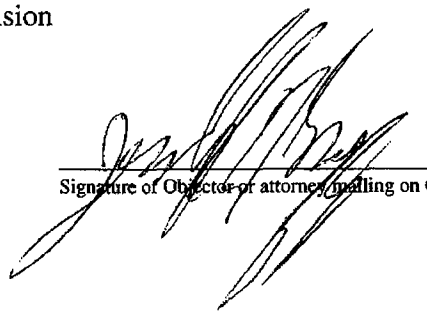
Address: 737 N 7th St
Boise, ID 83702

3. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

IDWR Document Depository
P.O. Box 83720
Boise, Idaho 83720-0098

United States Department of Justice
Environment and Natural Resource Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724



Signature of Objector or attorney mailing on Objector's behalf

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

A. Subcase Number: See Attachment A
(Insert water right number)

STANDARD FORM 1
OBJECTION

RECEIVED
JAN 3 1 2003
Department of Water Resources

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Boise Project Board of Control acting on its own behalf and on behalf of and for the following individual entities:
New York Irrigation District, Nampa & Meridian Irrigation District, Wilder Irrigation District, Boise-Kuna Irrigation District, Big Bend Irrigation District

Address: 2465 Overland Road
Boise, Idaho 83705
Phone: (208) 344-1141

Name & Address of Attorney, if any:
Albert P. Barker, ISB # 2867
Amy D. Chestnut, ISB # 5904
Barker Rosholt & Simpson, LLP
205 North 10th Street, Suite 520
P.O. Box 2139
Boise, Idaho 83701-2139
Telephone: 208-336-0700
Facsimile: 208-344-6034

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: See Attachment B
Address:

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
   Should be:

2. ☐ **Source**
   Should be:

3. ☐ **Quantity**
   Should be:

4. ☐ **Priority Date**
   Should be:

5. ☐ **Point(s) of Diversion**
   Should be:

6. ☐ **Instream Flow Description**
   Should be:

7. ☐ **Purpose(s) of Use**
   Should be:

8. ■ **Period of Year**
   Should be: April 1 to November 1

9. ☐ **Place of Use**
   Should be:

11. **I object because:**
   - ☐ This water right should not exist.
   - ☐ This water right was not recommended, but should be recommended with the elements described.

E. **REASONS SUPPORTING EACH OBJECTION(S):** The Director's Report recommendation appears to expand the Season of Use beyond a customary maximum of April 1 to November 1, which would allow injury to the objector's water rights and diminution of contract water reliability.

F. VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

Albert P. Barker, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: January 30, 2003

BRENDA L. HINNENKAMP NOTARY PUBLIC STATE OF IDAHO

Brenda L. Hinnenkamp
Notary Public for: Idaho
Residing at: Boise
My Commission Expires: 9/11/2004

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on January 30, 2003, I mailed the original and copies of this objection, including all attachments, to the following persons, by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

   Clerk of the District Court
   Snake River Basin Adjudication
   253 Third Avenue North
   P.O. Box 2707
   Twin Falls, ID. 83303-2707

2. One copy to the claimant of the water right at the following address:

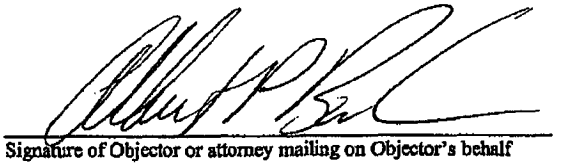
   Name: See Attachment B
   Address:

3. Copies to:

   Chief, Natural Resources Division
   Office of the Attorney General
   State of Idaho
   P.O. Box 44449
   Boise, Idaho 83711-4449

   IDWR Document Depository
   P.O. Box 83720
   Boise, Idaho 83720-0098

   United States Department of Justice
   Environment and Natural Resource Division
   General Litigation Section
   550 West Fort Street, MSC 033
   Boise, Idaho 83724



Signature of Objector or attorney mailing on Objector's behalf

Attachment A

63-3540	63-7984A	63-7984B
63-8624	63-10279	63-31335
63-31336	63-7119	63-7115
63-148B	63-15395	63-2472
63-7529	63-7037	63-2026
63-7207	63-31077	63-5102
63-5192	63-318A	63-318C
63-4629A	63-4797	63-4810
63-5101	63-31074	63-31289
63-31328	63-19A	63-19B
63-378	63-4636	63-5057
63-31124	63-31173	63-31174
63-31319	63-31320	63-31397
63-4548	63-3125	63-15093
63-15677	63-31317	63-5332
63-5334	63-4071	63-31380
63-5235	63-4629C	63-31454
63-5408	63-2171	63-5167
63-317B	63-320A	63-7613D
63-30310	63-97	63-15409
63-3447D	63-3447B	63-3447C
63-5161B	63-15101	63-4731
63-3422B	63-5161C	63-3422A
63-5251	63-5250	63-15684
63-5108	63-15427	63-15094
63-15206	63-15373	63-2252

ATTACHMENT B

63-3540
Rex E Lanham
2630 Highway 21
Boise ID 83716

63-8624
Randall A Ambuehl
HC 33 Box 1610
Boise ID 83706

63-31336
Wilderness Ranch Owners Assn Inc
46 Wilderness Ranch Rd
Boise ID 83716

63-148B
South Boise Water Co
PO Box 6005
Boise ID 83707

63-7529
Walter M Nichols
Thelma E Nichols
14 Cougar Lane
Boise ID 83716

63-2026
James E Bryant
1915 N 11th
Boise ID 83712

63-5102
Laura LA May Holmes
2391 Sheri Dr
Emmett ID 83617

63-318C
Paula E Lewis
Stephen E Lewis
PO Box 4002
Boise ID 83711-4002

63-4810
Walter S Nichols
Sara A Nichols
12 Cougar Ln
Boise ID 83716

63-31289
Walter M Nichols
Thelma E Nichols
14 Cougar Lane
Boise ID 83716

63-7984A
Teresa L Raschke
Steven L Raschke
2095 Panama St
Boise ID 83705

63-10279
Cumer L Green
PO Box 2597
Boise ID 83701

63-7119
Michael Robich
Lynette Robich
87 Beaver Creek Rd
Boise ID 83716

63-15395
Marilyn Priest
Jay R Priest
PO Box 122
Idaho City ID 83631

63-7037
Blue Jay Creek Water & Road Users Inc
C/O Robert O Walker
129 Blue Jay Creek Rd
Boise ID 83706

63-7207
Barbara W Little
1980 Myers Rd
Boise ID 83706

63-5192
David Steadman
Lynae Steadman
8873 Ottowa Ct
Boise ID 83709

63-4629A
Wilderness Ranch Owners Assn Inc
46 Wilderness Ranch Rd
Boise ID 83716

63-5101
Marilyn Priest
Jay R Priest
PO Box 122
Idaho City ID 83631

63-31328
Michael C Perry
Tami J Perry
10 Cougar Ln
Boise ID 83716

63-7984B
Lawrence Poisson
Sheila Poisson
3193 Highway 21
Idaho City ID 83716

63-31335
Val Dean Schroeder
13 Blacksmith Road
Boise ID 83716

63-7115
Michael Robich
Lynette Robich
87 Beaver Creek Rd
Boise ID 83716

63-2472
Chapman Ranch LLC
737 N 7th St
Boise ID 83702

63-2026
Hilda Larson
3015 Silver St
Boise ID 83703

63-31077
State of Idaho
Dept of Parks & Recreation
PO Box 83720
Boise ID 83720-0065

63-318A
Ranch Subdivision Property Owners
Assn
26 Burnett Dr
Boise ID 83716

63-4797
Connie Jo Cooper
Douglas S Cooper
2268 Highway 21
Boise ID 83716

63-31074
Barry Marcus
737 N 7th St
Boise ID 83702

63-19A
Larry R Smith
Alda L Smith
8442 W Beachside Ct
Boise ID 83703

63-19B
Rosemary Swanstrum
Philip Swanstrum
2708 Columbus
Boise ID 83705

63-5057
Francis Mangum
Shirley Mangum
17 Old Mill Rd
Boise ID 83716

63-31174
Michal Sweeney
28 N Fork Clear Creek Rd
Boise ID 83716

63-31397
Michael E Claus
Connie M Claus
105 Johnson Creek Rd
Boise ID 83716

63-15093
Gail G Allen
Robert P Allen
14 Allen Ln
Boise ID 83716

63-5332
Osprey Land Co
737 N 7th St
Boise ID 83702

63-5235
Rex E Lanham
2630 Highway 21
Boise ID 83716

63-5408
Scott R Nicholson, Thomas Emil Nicholson,
Christine Nicholson et al
C & T Ranches Inc
PO Box 690
Meridian ID 83680-0690

63-317B
Richard A Stull
K Gail Richardson
13 Robie Creek Ln
Boise ID 83716

63-97
L G Davison & Sons Inc
1969 Prairie Rd
Prairie ID 83647-9803

63-378
Dirk L Marcum
14364 E Highway 21
Boise ID 83716

63-31124
Allen Cupit
Diana Cupit
25 Old Mill Rd
Boise ID 83716

63-31319
Sandra Miner
1512 Apache Dr Unit D
Chula Vista CA 91910-8160

63-4548
James R Stringfellow
787 David Way
North Salt Lake UT 84054

63-15677
Barry Marcus
737 N 7th St
Boise ID 83702

63-4071
Robert P. Perez
Laurie A. Perez
20 Colleen Lane
Boise, ID 83716

63-4629C
Sherry Smith
James C Smith
7 Mores Creek Cir
Boise ID 83716

63-2171
Rex B Lanham
2630 Highway 21
Boise ID 83716

63-320A
Wade C Woolery
1902 Thompson Street
Richland WA 99352

63-15409
Wilda Bradley
33 Wild Rose Ln
Boise ID 83716

63-4636
Connie M Claus
105 Johnson Creek Rd
Boise ID 83716

63-31173
Hide Associates Partnership
Boise Holcomb Inc
737 N 7th St
Boise ID 83702

63-31320
David Peterson
Toni Peterson
14 Homestead Ct
Boise ID 83716

63-3125
State of Idaho
Dept of Fish & Game
PO Box 25
Boise ID 83707

63-31317
Rex E Lanham
2630 Highway 21
Boise ID 83716

63-31380
Rex E Lanham
2630 Highway 21
Boise ID 83716

63-31454
Jay D Hollinger
Carol L Hollinger
51 Daggett Creek Rd
Boise ID 83716

63-5167
Rex B Lanham
2630 Highway 21
Boise ID 83716

63-7613D
Marvenna S Hodgins
Marilyn E Dawson
PO Box 6466
Boise ID 83707

63-30310
Steven D Cummings
545 Robie Creek
Boise ID 83716

63-3447B
Biff Eshelman
31 Sonshine Lane
Boise ID 83716

63-15101
Steven D Cummings
545 Robie Creek
Boise ID 83716

63-5161C
Sterling Turner
Debbie Turner
328 Robie Creek Rd.
Boise ID 83716

63-5250
Jan Blum
27 Idaho City Stage Rd
Boise ID 83716

63-15684
Chapman Ranch LLC
737 N 7th St
Boise ID 83702

63-15094
Gail G Allen
Robert P Allen
14 Allen Ln
Boise ID 83716

63-2252
Twin Springs Resort LLC
PO Box 3994
Ketchum ID 83340

63-3447C
Alan K Johnson
3929 Overland Rd #840
Boise ID 83715

63-4731
Wilda Bradley
33 Wild Rose Ln
Boise ID 83716

63-3422A
Mary Lou Pote
William W H Pote
27 Idaho City Stage Rd
Boise ID 83716

63-5251
Mary Lou Pote
William W H Pote Jr
27 Idaho City Stage Rd
Boise ID 83716

63-5108
Chapman Ranch LLC
737 N 7th St
Boise ID 83702

63-15206
Val Dean Schroeder
13 Blacksmith Rd
Boise ID 83716

63-3447D
Joan Stephens
James R Stephens
3939 S Transport
Boise ID 83705

63-5161B
Dwaine Wright
Lizabeth Wright
4 Larkspur Lane
Boise, ID 83716

63-3422B
Virginia M Cafferty
Allan E Cafferty
2121 S Eagleson
Boise ID 83705

63-15427
Maurice Brown
11 Hoover Dr
Boise ID 83716

63-5334
Osprey Land Co
737 N 7th Street
Boise, ID 83702

63-15373
Rex E. Lanham
2630 Highway 21
Boise ID 83716

IDAHO DEPARTMENT OF WATER RESOURCES 12/14/2001

PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

63-31074

NAME AND ADDRESS: BARRY MARCUS
737 N 7TH
BOISE ID 83702

SOURCE: MORES CREEK TRIBUTARY: BOISE RIVER

QUANTITY: 0.15 CFS

PRIORITY DATE: 12/31/1940

POINT OF DIVERSION:

T04N R04E S2 SWSWSW Within BOISE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03/15 11/15	0.150 CFS

PLACE OF USE: IRRIGATION Within BOISE County

T04N R04E S11 NWNW 3.0 T04N R04E S02 SWSW 2.0

5 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: Beneficial Use

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

CLAIM NO(s). A03-31074 _____ _____

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: 12-31-1940
(If the priority date, based on your exam, seems questionable, explain below.)
See affidavits in claim pack.

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

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

Pump in Moss Creek diverts to a portable sprinkler system - GE 1 hp motor - #5KC38PN3011 and Water Ace pump with 2" intake and discharge

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

Use Irrigation From 3-15 To 11-15 Amount .15 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 .15 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: Ir Township 4N Range 4E Section 2 l/4 SW 1/4 SW - 2ac
Use: " Township " Range " Section 11 l/4 NW 1/4 NW - 3ac
Use: _____Township _____ Range _____Section _____ l/4_____1/4_____
Use: _____Township _____ Range _____Section _____ l/4_____1/4_____

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

Barry Marcus does not expect more than the standard of 1½"/acre for smaller parcels per our meeting in his office on 8-21-01

CR

☐ SYSTEM DIAGRAM INCLUDED ☐ NA
☒ Shown on GIS Layout

☐ CK IF IN OFFICE EXAM
DATE EXAM CONDUCTED: 8-27-2001

FIELD EXAMINER: _____
Print Name
Mel Schulte
Signature

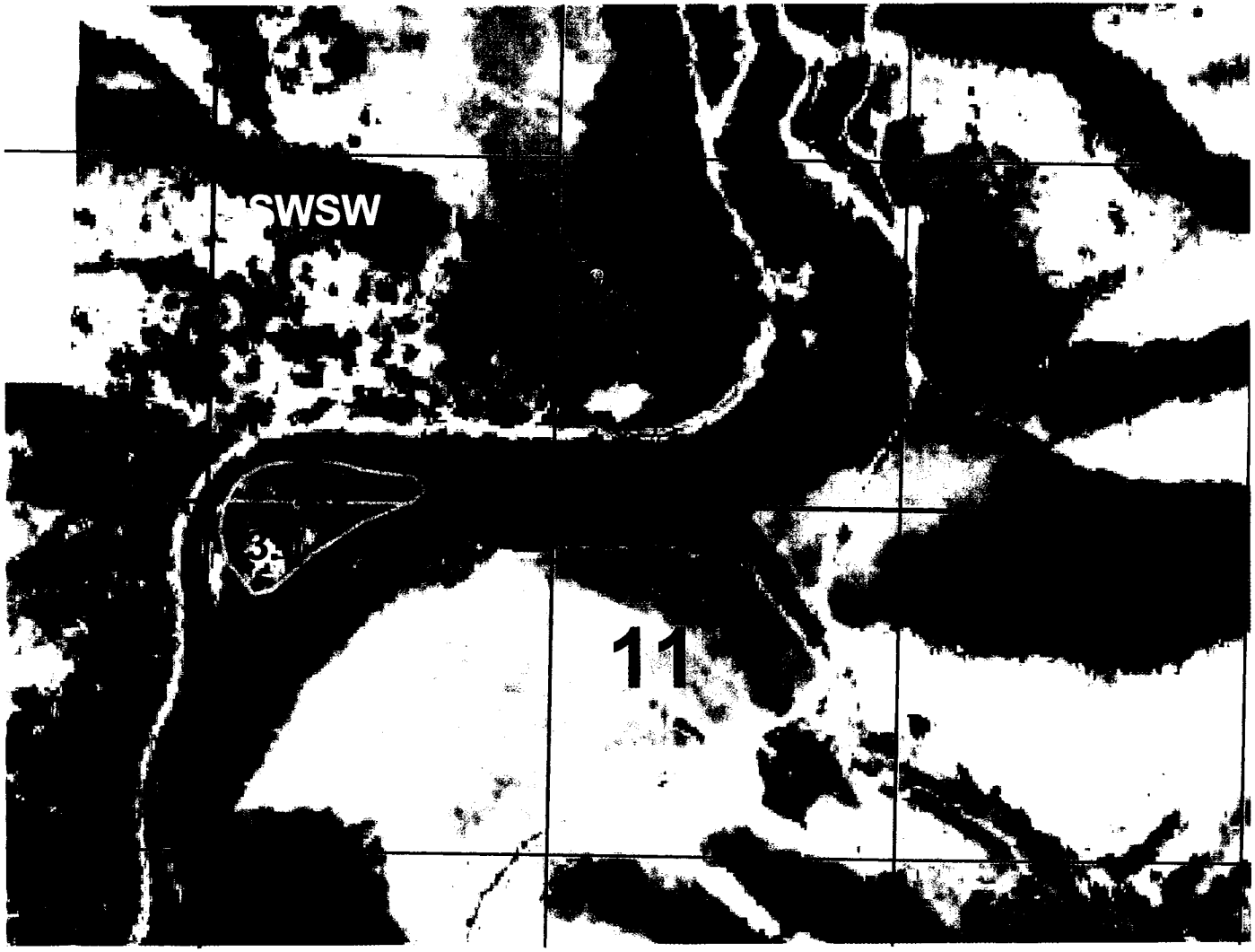
A63-31074 PHOTOS TAKEN 08/27/2001

PHOTO #1
PLACE OF USE IN
FRONT OF AND
EAST OF HOME

PHOTO #2
POINT OF DIVERSION
AND PUMP

A63-31074
8-27-2001

IDAHO DEPARTMENT OF WATER RESOURCES
T04N, R04E, S2 & S31



N
W E
S

1987 NAPP PHOTO

POINT OF DIVERSION

PLACE OF USE

1/4 1/4 LINES

SECTION LINES

6 ACRES

6 SECTION NUMBERS

CLAIM(S): 63-31074

OWNER(S): MARCUS, BARRY

DATE: DECEMBER 14, 2001

by: Mel Schulte

0 0.25 0.5 0.75 Miles

IDAHO DEPARTMENT OF WATER RESOURCES
T04N, R04E, S2 & S31

N
W E
S

1987 NAPP PHOTO

POINT OF DIVERSION

PLACE OF USE

1/4 1/4 LINES

SECTION LINES

6 ACRES

6 SECTION NUMBERS

CLAIM(S): 63-31074

OWNER(S): MARCUS, BARRY

DATE: DECEMBER 14, 2001

by: Mel Schulte

0 0.25 0.5 0.75 Miles

MARCY
Pat Boyd Records

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

August 15, 2001

Re: Claim No(s). 63-5109
63-5373, 63-31074

BARRY MARCUS
737 NORTH 7TH STREET
BOISE, ID 83702

Dear Claimant(s):

In the past, you submitted the above referenced claim(s) in the Snake River Basin Adjudication. Enclosed is a computer generated print-out of the claim(s) for your reference only; this print-out is **NOT** to be returned or re-filed. You have indicated when this claim was filed that the water right(s) was based on either a "Statutory Claim" or "Beneficial Use" of the water. Water rights of this type are established by the historical use of water for a beneficial purpose, dating back to the time the water was first used, this date being the **"Priority Date"** as shown on the enclosed print-out. Your claim(s) has not been confirmed by a previous filing with the Department of Water Resources since there is no decree, license, or permit on file to verify the use of this water. For this reason, the Department is required to gather evidence from claimants supporting the date of priority for claims based on historical beneficial use of water. Any other claims you may have filed, that are not listed above, do not require evidence of priority be submitted at this time.

Enclosed is a pamphlet entitled **"Evidence of Priority"** which describes why evidence of the priority date is necessary along with examples of types of evidence that can be submitted to fulfill this requirement. If no evidence is submitted, or we do not hear from you within the time limit below, your priority date, as claimed, may not be recommended to the Court for decree. This could jeopardize your water use under this right(s), if water availability problems arise in the future. It is our goal to decree the historical water rights within the Snake River Basin as accurately as possible. Field exams to verify claims in this area are now being conducted by Department personnel. Please contact this office as soon as possible to schedule a field exam appointment convenient for you.

The required evidence supporting the priority date(s) must be submitted by **October 15, 2001,** referencing all documents with the corresponding claim number(s). If you have any questions not covered by this letter, or the enclosed pamphlet, please call the Western Region office shown above.

Adjudication Section
Department of Water Resources
Western Region Office

JS:lh
Enclosures

A63-31074

1. POD

2. POU - all in SWSW, is some in NWNW, S11 ?

3. Canes 2" acre -

8-21-01 Per meeting with Barry Mares

demand 1"/acre.