



State of Idaho
Idaho Department of Water Resources
Western Region

T7N R5W SECTION(S) 21 & 22
WATER RIGHT(S) : 63-32483



- Point of Diversion
- Place of Use
- Section Lines
- Quarter Quarter Lines

Total Irrigated Acres = 12 acre(s)

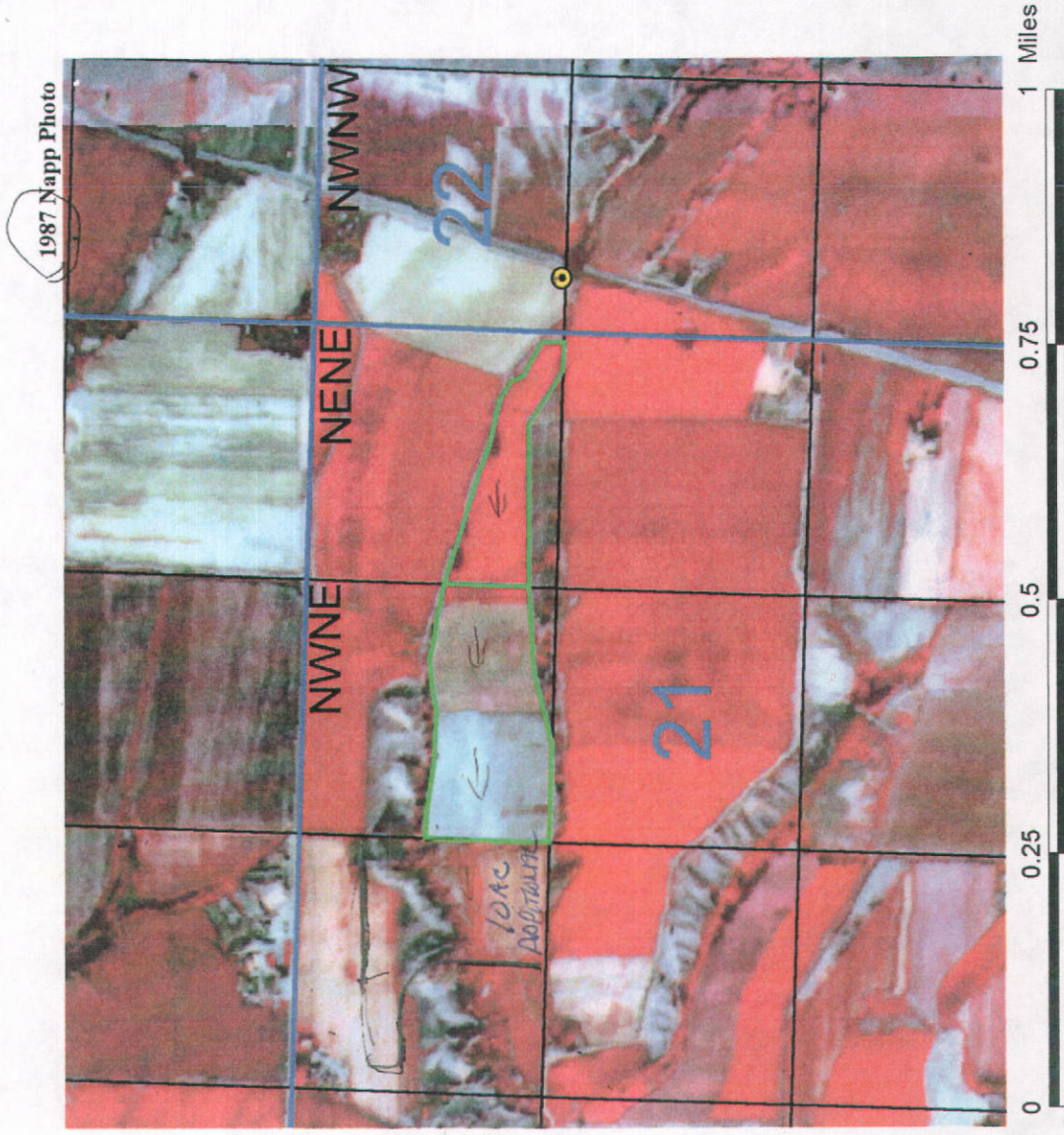
GIS Place of Use Illustration
1987 NAPP Photography
Prepared by: Dan Nelson
Date: September 2006



Idaho Department of Water Resources

Claim Number: 63-04544
Legal: T07N, R05W, S21
Reviewed By:

- Point of Diversion
- Place of Use
- Section Lines
- Quarter Quarter Lines



Note Change on map

56 Hwy 95

46 feet

4 feet

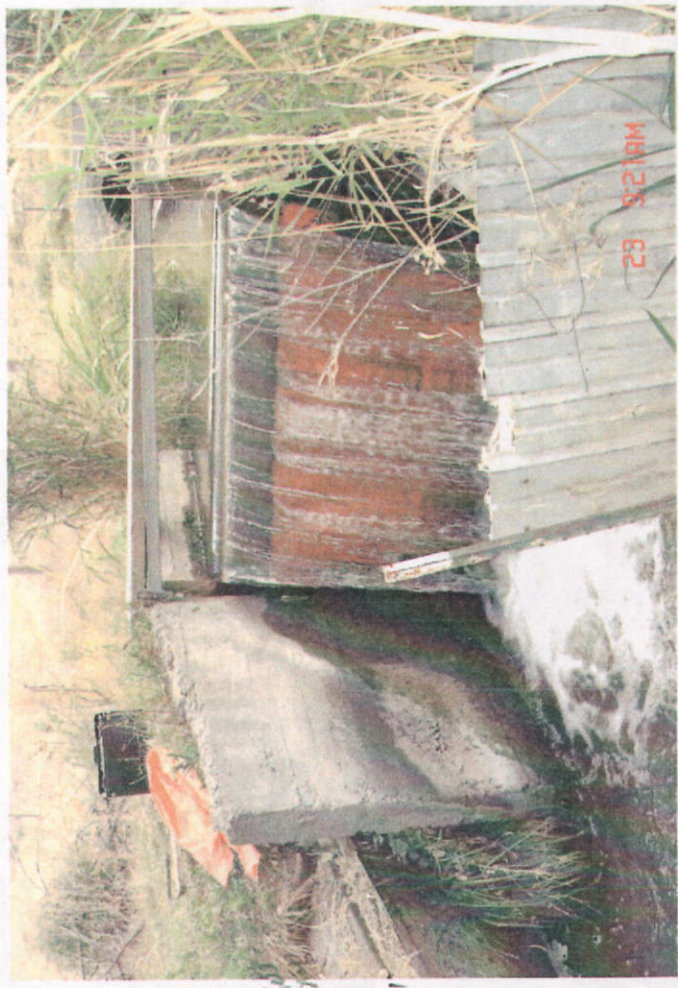


23 9:21AM

Old bridge p10



23 9:23AM



23 9:21AM



23 9:22AM

↓
Drop
Post

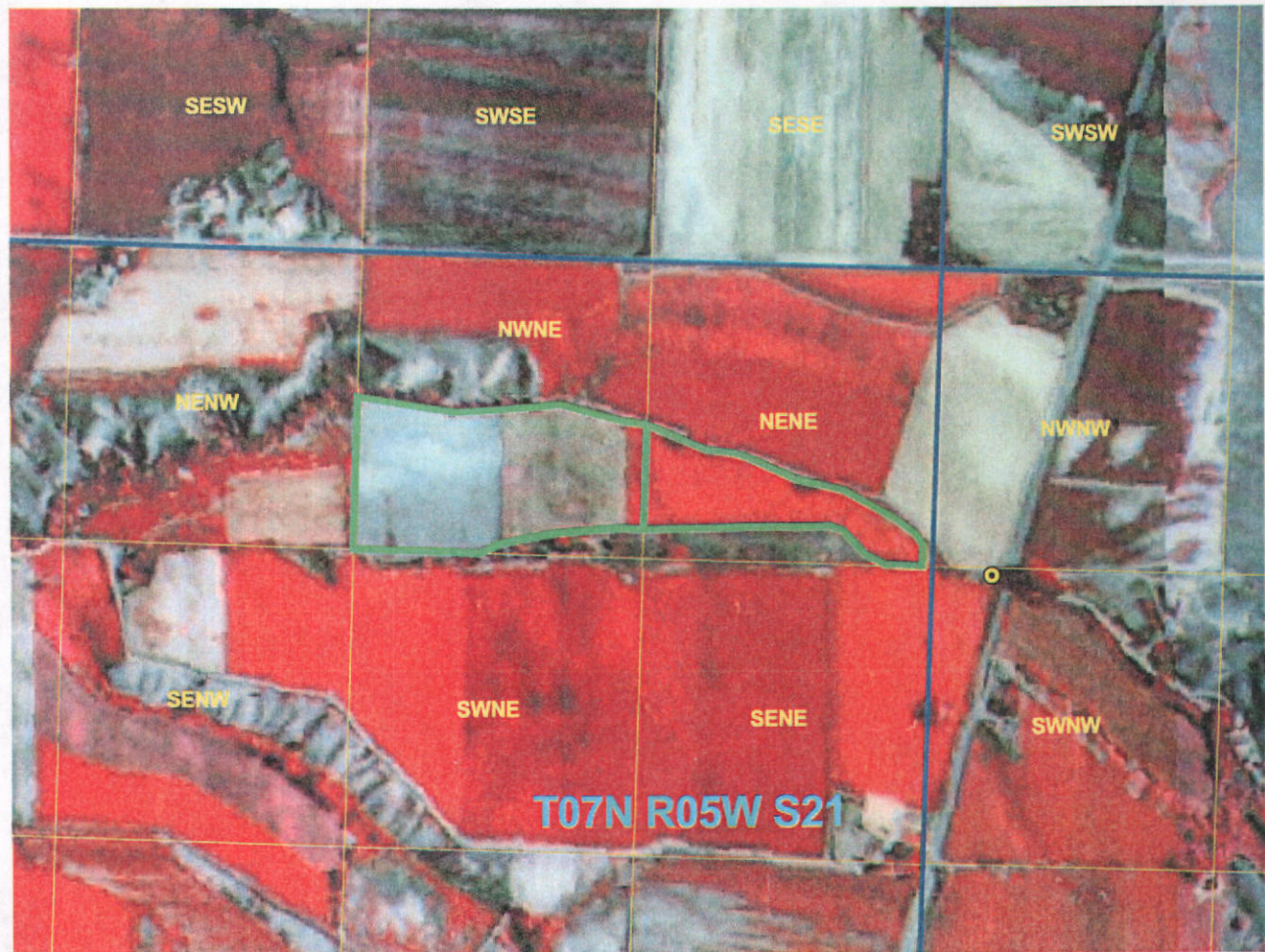
5 feet wide



State of Idaho
Idaho Department of Water Resources
Western Region

T7N R5W SECTION(S) 21
WATER RIGHT(S) : 63-4544

COPY



0.5 0 0.5 1 Miles

- Point of Diversion
- Place of Use
- Section Lines
- Quarter Quarter Lines

GIS Place of Use Illustration
1987 NAPP Photography
Prepared by: Dan Nelson
Date: May 2006

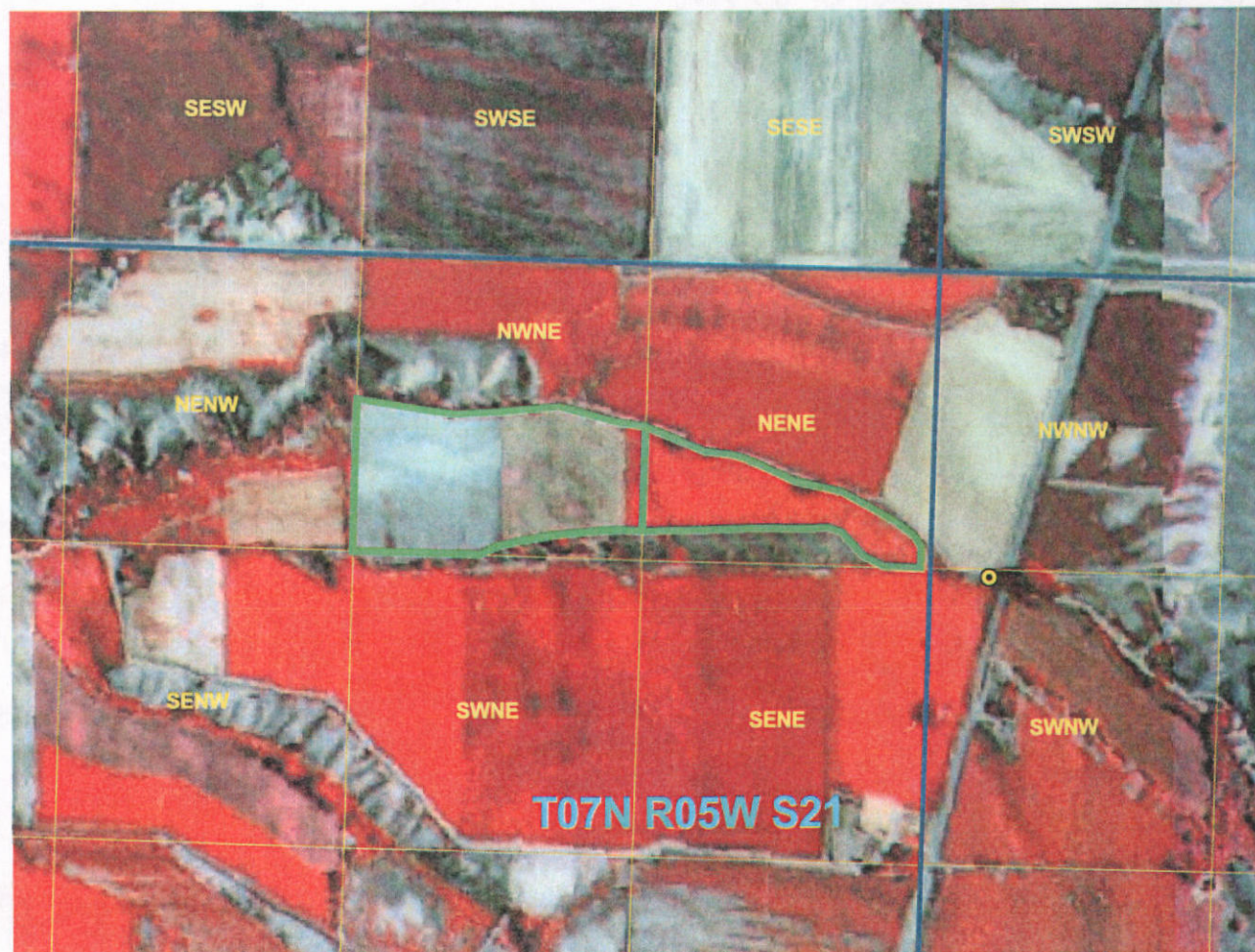




State of Idaho
Idaho Department of Water Resources
Western Region

T7N R5W SECTION(S) 21
WATER RIGHT(S) : 63-4544

COPY



- Point of Diversion
- Place of Use
- Section Lines
- Quarter Quarter Lines

Total Irrigated Acres = 26 acre(s)

GIS Place of Use Illustration
1987 NAPP Photography
Prepared by: Dan Nelson
Date: May 2006



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 63-32483
Date Received: 10/17/2005
Receipt No: W033512
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

CAROLYN E TESNOHLIDEK Phone: (208)452-3243
2535 NW 1ST AVE
FRUITLAND ID USA 83619

DWAINE A TESNOHLIDEK Phone: (208)452-3243
2535 NW 1ST AVE
FRUITLAND ID USA 83619

2. Date of Priority: 04/01/1952

3. Source: HURD GULCH CREEK Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
07N	05W	22	SW NW	PAYETTE	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	0.24	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07N	05W	21	NE	NW	IRRIGATION	12
					Section Acres	12
					Total Acres	12

11. Place of use in counties: PAYETTE

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

13. Other Water Rights Used:

14. Remarks:

Claim renumbered from 63-500. This water right number could not be found in the database and would have been a decreed number.

15. Basis of Claim: Beneficial Use

\$62⁰⁰

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

Renumbered to 63-32483
Ident. Number 63-500
Date Received: 10/17/2005
Receipt No: W033512
Received By: DB

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

CAROLYN E TESNOHLIDEK
2535 NW 1ST AVE
FRUITLAND ID USA 83619

Phone: (208) 452-3243

DWAINE A TESNOHLIDEK
2535 NW 1ST AVE
FRUITLAND ID USA 83619

Phone: (208) 452-3243

2. Date of Priority: 04/01/1952

3. Source: HURD GULCH CREEK Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
07N	05W	22	SW NW	PAYETTE	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/15	0.24	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07N	05W	21	NE	NW	IRRIGATION	12
					Section Acres	12
					Total Acres	12

11. Place of use in counties: PAYETTE

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

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Statutory Claim

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): K. Rhonda Jespersen Date: 10-17-05
_____ Date: _____

State of Idaho)
County of Ada) SS.

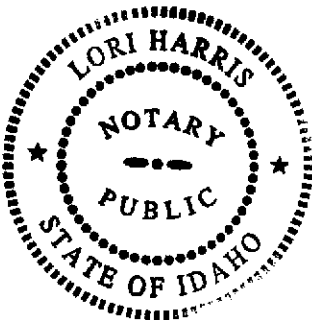
Subscribed and sworn (or affirmed) before me this 17th
of October 2005

Lori Harris

Notary Public

Residing at Boise, Idaho

My commission Expires 12-8-06



In Re SRBA) **A. Subcase** **63-32483**
)
Case No. 39576) **MOTION TO AMEND OPPOSITION**
) **TO WATER RIGHT**


Chas F. McDevitt

CERTIFICATE OF MAILING

I certify that on August 21st, 2007, I mailed the original and copies of this Motion, including all attachments, to the following persons:

1. Original to:

Clerk of the District court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

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

Current Owner:

Name: Carolyn E. Tesnohldek
Dwain A. Tesnohldek

Address: 2535 NW 1st Ave.
Fruitland, ID 83619

3. Copies to:

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

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

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


McDEVITT & MILLER LLP

COPY

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) A. Subcase 63-32483
)
Case No. 39576) STANDARD FORM 1
) OBJECTION
)

NAME AND ADDRESS OF PERSON OBJECTING

Name: Black Canyon Irrigation District
Address: P.O. Box 226
Notus, ID 83656
Daytime Phone: 208-459-4141

Name & Address of Attorney, if any:
Chas F. McDevitt & Miller LLP
McDevitt & Miller LLP
420 W. Bannock
P.O. Box 2564-83701
Boise, ID 83702

CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Current Owner:

Name: Carolyn E. Tesnohldek
Dwain A. Tesnohldek

Address: 2535 NW 1st Ave.
Fruitland, ID 83619

I object to the following elements as recommended in the Director's Report.

1. ☐ **Name and Address**
Should be: _____
2. ☒ **Source**
Should be: The waste waters claimed belong to the Black Canyon Irrigation
District.
3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point of Diversion**
Should be: _____

6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
10. ☐ **I object because:**
☒ This water right Should not exist.
☐ This water right was not recommended, but Should be recommended with
the elements described above.

REASONS SUPPORTING OBJECTIONS(S):

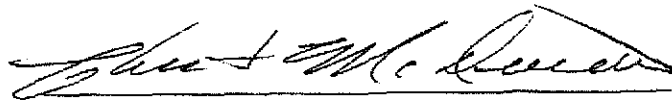
There has been no lawful appropriation of this right. The waste waters belong to the Black Canyon Irrigation District and are not available for private development and appropriation. Further, any attempted development of this right constitutes a trespass against the drains of the Black Canyon Irrigation District.

VERIFICATION

State of Idaho)
)ss.
County of Ada)

Chas F. McDevitt, duly sworn, upon oath, deposes and says:

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.



Chas F. McDevitt
McDEVITT & MILLER LLP

Subscribed and sworn to before me on: 6/14/07

Notary Public for Heather Hulse, Legal Assistant
Residing at: Boise, Idaho
My Commission Expires: 6/20/2012

CERTIFICATE OF MAILING

I certify that on June 14th, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

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

Current Owner:

Name: Carolyn E. Tesnohlidek
Dwain A. Tesnohlidek

Address: 2535 NW 1st Ave.
Fruitland, ID 83619

3. Copies to:

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

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

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


McDEVITT & MILLER LLP

Objection-4

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)
A. Subcase 63-500
Case No. 39576)
STANDARD FORM 1
OBJECTION

63-32483?
RECEIVED
JUN 07 2007
DEPARTMENT OF
WATER RESOURCES

NAME AND ADDRESS OF PERSON OBJECTING

Name: Black Canyon Irrigation District
Address: P.O. Box 226
Notus, ID 83656
Daytime Phone: 208-459-4141

Name & Address of Attorney, if any:
Chas F. McDevitt & Miller LLP
McDevitt & Miller LLP
420 W. Bannock
P.O. Box 2564-83701
Boise, ID 83702

CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Current Owner:

Name: Carolyn E. Tesnohldek
Dwain A. Tesnohldek

Address: 2535 NW 1st Ave.
Fruitland, ID 83619

I object to the following elements as recommended in the Director's Report.

1. ☐ **Name and Address**
Should be: _____
2. ☒ **Source**
Should be: The waste waters claimed belong to the Black Canyon Irrigation
District.
3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point of Diversion**
Should be: _____

Objection-1

Dan

CERTIFICATE OF MAILING

I certify that on June 16, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

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

Current Owner:

Name: Carolyn E. Tesnohldek
Dwain A. Tesnohldek

Address: 2535 NW 1st Ave.
Fruitland, ID 83619

3. Copies to:

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

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

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

Heather Houle, Legal Asst.
McDEVITT & MILLER LLP

09/29/2006

**NOTICE OF ERROR
REPLY**

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: October 31, 2006

Water right number: 63-32483

CAROLYN E TESNOHLIDEK
2535 NW 1ST AVE
FRUITLAND ID 83619
Telephone Number: (208)452-3243

DWAIN A TESNOHLIDEK
2535 NW 1ST AVE
FRUITLAND ID 83619
Telephone Number: (208)452-3243

RECEIVED

OCT 26 2006

WATER RESOURCES
WESTERN REGION

1. Describe the portion of the proposed recommendation with which you disagree (e.g., priority date, period of use, source):
2. Describe the changes you wish to make in the proposed recommendation:
3. Give a brief explanation as to why you disagree with these portions:

✓ ☒ I AGREE with this proposed recommendation: no changes need to be made.

DATE: 10-19-06 SIGNATURE: Dwain Tesnohldek
Please print your name: Dwain Tesnohldek

IDWR Regional Office, 2735 Airport Wy, Boise, ID 83705, 2083342190

09/27/2006

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

RIGHT NUMBER: 63-32483

NAME AND ADDRESS: CAROLYN E TESNOHLIDEK
2535 NW 1ST AVE
FRUITLAND ID 83619

DWAINE A TESNOHLIDEK
2535 NW 1ST AVE
FRUITLAND ID 83619

SOURCE: HURD GULCH CREEK

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.240 CFS

PRIORITY DATE: 04/01/1952

POINT OF DIVERSION:

T07N R05W S22 SWNW Within PAYETTE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/01 11/15

0.240 CFS

PLACE OF USE: IRRIGATION Within PAYETTE County

T07N R05W S21 NENW 12.00

12 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

Right No. 63-4544 is also diverted through point of diversion described above.

Claim renumbered from 63-500. This water right number could not be found in the database and would have been a decreed number.



**State of Idaho
Idaho Department of Water Resources
Western Region**

**T7N R5W SECTION(S) 21 & 22
WATER RIGHT(S) : 63-32483**



- Point of Diversion
- Place of Use
- Section Lines
- Quarter Quarter Lines

Total Irrigated Acres = 12 acre(s)

**GIS Place of Use Illustration
1987 NAPP Photography
Prepared by: Dan Nelson
Date: September 2006**



MEMORANDUM

TO: ADJUDICATION CLAIM FILE 63-32438

FROM: DANIEL A. NELSON

DATE: 9/27/06

SUBJECT: CLAIM REVIEW

The basis for this claim was questionable when first filed. It was originally filed as water right 63-500, which suggests it was a decreed water right. There are no decreed water rights with the water right number 63-500 or 65-500, so it seems as though this was numbered in error, and should be listed as a beneficial use claim. Lori Harris researched this right and the numbers and could not find any older water rights or statutory claims that matched this number or legal description. In looking at the sister right for this claim 63-4544, it appears as though the owner has been attempting to correct the original statutory claim since 1977 to cover the 12 acres being irrigated in the NENW. He has supplied an abundant amount of affidavits verifying that this water use was started in the early 1940s. During the field exam, the owner stated that the 12 acres associated with this right should be on 63-4544. I feel there is adequate documentation of the priority date to recommend this right as claimed with a 1952 priority date.

The season of use will be recommended per department standards. A field examiner measured the rate of diversion. The point of diversion for this right is the same point of diversion for water right 63-4544. The field examiner claimed a rate of diversion of 1.378 cfs measuring water flowing $2\frac{1}{4}$ deep on a 5-foot wide weir. The field examiner showed the rate of diversion as 1.378 cfs on table chart. I could not find a chart that had a 1.378 cfs diversion rate. In reviewing the pictures, I am assuming that the $2\frac{1}{4}$ meant .225 ft of head on a 5 ft broad crested weir. Using this assumption to calculate the rate of flow on a broad crested weir, the flow rate would be between 1.49 cfs and 1.84 cfs. Regardless of the measurement, the flow being diverted was well over the 0.57 cfs recommended for water right 63-4544 and the 0.24 cfs being recommended for this claim, so capacity of the system does not seem to be an issue. The 0.24 cfs is for an inch or 0.02 cfs per acre for 12 acres, which is the standard flow rate allowed.

The field examiner also GPSed the point of diversion and marked out the lands irrigated on a 1987 aerial photo. On the aerial photo, the claimant wanted additional lands above the drain or hillside in the NENW to be included. Those lands cannot be included because they would allow more than the 12 acres claimed, and would have required a pumping system, which was not discussed in the field exam or either of the two claims for this property

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-32483 V1

WATER RIGHT NUMBER: 63-32483 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CAROLYN E TESNOHLIDEK 2535 NW 1ST AVE FRUITLAND, ID 83619 (208)452-3243
Current Owner	DWAINE A TESNOHLIDEK 2535 NW 1ST AVE FRUITLAND, ID 83619 (208)452-3243

Priority Date: 04/01/1952

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
HURD GULCH CREEK	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	0.240 CFS	
<u>Total Diversion:</u>		0.240 CFS	

Location of Point(s) of Diversion

HURD GULCH CREEK	SW1/4NW1/4	Sec. 22, Twp 07N, Rge 05W, B.M.
PAYETTE County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07N	05W	21					12.0												12.0

Total Acres: 12

Conditions of Approval:

1. F05 Right No. 63-4544 is also diverted through point of diversion described above.
2. 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.
3. Claim renumbered from 63-500. This water right number could not be found in the database and would have been a decreed number.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-32483 V1

Comments:

1. dnelson 9/27/2006 Claim Review

Comment: The basis for this claim was questionable when first filed. It was originally filed as water right 63-500, which suggests it was a decreed water right. There are no decreed water rights with the water right number 63-500 or 65-500, so it seems as though this was numbered in error, and should be listed as a beneficial use claim. Lori Harris researched this right and the numbers and could not find any older water rights or statutory claims that matched this number or legal description. In looking at the sister right for this claim 63-4544, it appears as though the owner has been attempting to correct the original statutory claim since 1977 to cover the 12 acres being irrigated in the NENW. He has supplied an abundant amount of affidavits verifying that this water use was started in the early 1940s. During the field exam, the owner stated that the 12 acres associated with this right should be on 63-4544. I feel there is adequate documentation of the priority date to recommend this right as claimed with a 1952 priority date.

The season of use will be recommended per department standards. A field examiner measured the rate of diversion. The point of diversion for this right is the same point of diversion for water right 63-4544. The field examiner claimed a rate of diversion of 1.378 cfs measuring water flowing 2 1/4 deep on a 5-foot wide weir. The field examiner showed the rate of diversion as 1.378 cfs on table chart. I could not find a chart that had a 1.378 cfs diversion rate. In reviewing the pictures, I am assuming that the 2 1/4 meant .225 ft of head on a 5 ft broad crested weir. Using this assumption to calculate the rate of flow on a broad crested weir, the flow rate would be between 1.49 cfs and 1.84 cfs. Regardless of the measurement, the flow being diverted was well over the 0.57 cfs recommended for water right 63-4544 and the 0.24 cfs being recommended for this claim, so capacity of the system does not seem to be an issue. The 0.24 cfs is for an inch or 0.02 cfs per acre for 12 acres, which is the standard flow rate allowed.

The field examiner also GPSed the point of diversion and marked out the lands irrigated on a 1987 aerial photo. On the aerial photo, the claimant wanted additional lands above the drain or hillside in the NENW to be included. Those lands cannot be included because they would allow more than the 12 acres claimed, and would have required a pumping system, which was not discussed in the field exam or either of the two claims for this property

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:
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

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Contacts	9/27/2006 10:47:48 AM	dnelson			Active
Priority Date	9/27/2006 10:48:32 AM	dnelson			Active
POD	9/27/2006 10:52:34 AM	dnelson			Active
Source	9/27/2006 10:54:37 AM	dnelson			Active
POU	9/27/2006 10:58:21 AM	dnelson			Active

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-32483 V1

Use	9/27/2006 10:58:55 AM	dnelson	Active
Season	9/27/2006 11:03:14 AM	dnelson	Active
Quantity	9/27/2006 11:04:39 AM	dnelson	Active
Summary	09/27/2006	dnelson	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
Contacts	9/27/2006 10:47:48 AM	dnelson	(Yes) 1. Do you want to schedule an appointment? (No) 2. Do you want to update the field exam contact information? Contact Person: CAROLYN E TESNOHLIDEK - Contact Phone Number: Date of Field Exam: 9/23/2005 Directions to Property:
General	9/27/2006 10:48:32 AM	dnelson	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (No) 9. Is the Priority Date of this water use after the date a permit is required for the source and the water use? (Yes) 12. Does the claim file contain sufficient evidence of Priority Date? Description for Question 12/13 - Several affidavits from neighbors.
POD	9/27/2006 10:52:16 AM	dnelson	Updated shape
POD	9/27/2006 10:52:34 AM	dnelson	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD? (Yes) 10. Is a POD remark and/or condition required?
Source	9/27/2006 10:54:37 AM	dnelson	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim an Application or Permit? (No) 6. Is the basis of claim a Posted Notice? (No) 7. Is there evidence that there has been a change in the source? (Yes) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required? Description for Question 10 - Field Exam by Contractor.
POU	9/27/2006 10:55:29 AM	dnelson	Updated shape for Active POU

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-32483 V1

Use	9/27/2006 10:58:56 AM	dnelson	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Purpose of Use? (Yes) 11. Does the file contain all the necessary information to verify the Water Use? (No) 13. Is a Purpose of Use remark and/or condition required? Description for Question 10,11,12 - Field Exam by Contractor.
Season	9/27/2006 11:03:15 AM	dnelson	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined? (Yes) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?
Quantity	9/27/2006 11:04:40 AM	dnelson	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is the basis of claim a posted notice? (Yes) 7. Is a flow measurement required? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (No) 12. Is a Quantity remark or condition required? Description for Question 7 - Measurement by Contractor and explained in memo.
Summary	9/27/2006 11:09:32 AM	dnelson	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (No) 5. Does this right have any combined use limits with other rights? (No) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-32483 V1

POU

9/27/2006 10:58:22 AM dnelson

(No) 1. Is the basis of this claim a Decree or License?

(Yes) 2b. Is the POU required?

(No) 3. Is the basis of claim a Application or Permit?

(No) 7. Is there evidence that there has been a change in the POU?

(Yes) 13. Does the file contain all the necessary information to verify the POU?

(No) 14. Is a POU remark and/or condition required?

Description for Question 13 - Field Exam by Contractor.

Water Supply Bank:

09/27/2006

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-32483

WATER RIGHT NUMBER: 63-32483

Owner Type Name and Address
 Current Owner CAROLYN E TESNOHLIDEK
 2535 NW 1ST AVE
 FRUITLAND, ID 83619
 (208)452-3243
 Current Owner DWAINA A TESNOHLIDEK
 2535 NW 1ST AVE
 FRUITLAND, ID 83619
 (208)452-3243

Priority Date: 04/01/1952
 Basis: Beneficial Use
 Status: Active

Source
 HURD GULCH CREEK

Tributary
 SNAKE RIVER

Beneficial Use
 IRRIGATION

From To Diversion Rate
 03/15 to 11/15 0.240 CFS
 3-170 11-15
 Total Diversion: 0.240 CFS

Annual Volume

OK 0.02 CFS/acre
 x 12 acres = 0.24

54 = 12 ac x 4.5 cfs
 54 NO volume
 surface
 water!

Location of Point(s) of Diversion
 HURD GULCH CREEK
 PAYETTE County

SW1/4NW1/4

Sec. 22, Twp 07N, Rge 05W, B.M.

Place of Use
 IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07N	05W	21					12.0												12.0

Conditions of Approval:

1. Claim renumbered from 63-500. This water right number could not be found in the database and would have been a decreed number.

Remarks:Comments:Dates and Other Information:

F05 63-45#4

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-32483

Claim Received Date: 10/17/2005

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

State or Federal:

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

Combined Use Limits:

Water Supply Bank:

COPY

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION FIELD REPORT

See 63-4544

FOR ORIGINAL

Prior to Field Exam

- ☐ Copy of Claim, claim has been signed, sealed, and dated by notary?
- ☐ Check fees paid
- ☐ Well logs (if needed)
- ☐ Copy of topo or NAPP
- ☐ Check of Govt. Lots, if needed, Govt. Plat/Tax lot information
- ☐ Check POD & POU overlap, see below – include overlapping right for exam
- ☐ Evidence of Priority – if none, talk with claimant

CLAIMANT INFORMATION – verify contact information is completeClaim No(s) ALB-04544Owner: Dwaine A Teschler Phone No. 208-452-3243Current Address: 2535 NW 1st Ave Fruitland ID 83619

- ☒ No change NAME IS THE SAME
- ☐ NEW OWNER
- ☐ No change Address
- ☐ NEW ADDRESS
- ☐ How long owned property?

Accompanied by: _____

PRIORITY DATE

- ☐ No change – Complete evidence submitted or not necessary
- ☐ Incomplete – Claimant should be asked when water was first used and submit proof of date.
- ☐ Priority date is acceptable/within mandatory filing dates?

Priority date, per claimant, is: MARCH 15 - 1943

(If priority date, based on your exam, seems questionable, explain below.)

Source: Hard GulchTributary to Snake river Black Canyon

- ☒ No Change – SAME SOURCE
- ☐ Source found is different than claimed: Black Canyon Irrigation run off

POINT OF DIVERSION

- ☒ No change
- ☐ POD found is different than claimed: _____
- ☐ If different, when did POD change? _____

Hwy 95
 Glenway Rd
 Hwy 95
 5 of Intersect
 1/8 mile
 East Side
 Road.
 P.M.
 2000

DIVERSION AND DELIVERY SYSTEM

Points of Diversion:

ID #	Govt Lot #	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks GPS ID
		NE	NE		21	07	05W	Payette	N 43° 56.073 W 116° 55.987
		NW	NW		22	7			

Description of diverting works

6" Culvert in e Hwy 95 Down to existing river

OVERLAP REVIEW

Other water rights with the same point of diversion: None

Does overlap add acres or uses to existing system, increase rate of flow or volume, or other? Explain:

WATER USES

☐ No change

☐ Different Uses

Use Stock From Jan To Dec Amount 1.370 CFS 570 AFA
 Use irrigation From 3-15 To 7-31 Amount 11:15 CFS AFA
 Use _____ From _____ To _____ Amount _____ CFS AFA

TOTAL VOLUME - Groundwater only

- ☐ Incomplete on claim, the total is, Amount _____ CFS _____ AFA
☐ Changes found, the new total is, Amount _____ CFS _____ AFA
☐ More than 1" per Acre? Yes _____ (claimant must complete excess flow sheet)

NON-IRRIGATION USES:

☐ No change

☐ Changes Exam found: Domestic # of homes _____ Stock # 200 head
 Types Cattle Additional comments: _____

PLACE OF USE:

☒ No Change

☐ Changes shown below:

Place of Use			NE				NW				SW				SE				Totals
TWP	RGE	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7N	SW	2A			1/4			1/4											3/4

Overlap with other water rights: None

Does overlap increase rate of flow, volume, additional acres, different source for same acres? Explain:

Delivery System Narrative: See Attachment

Well or Diversion Identification No GPS ID	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge size
N/A					

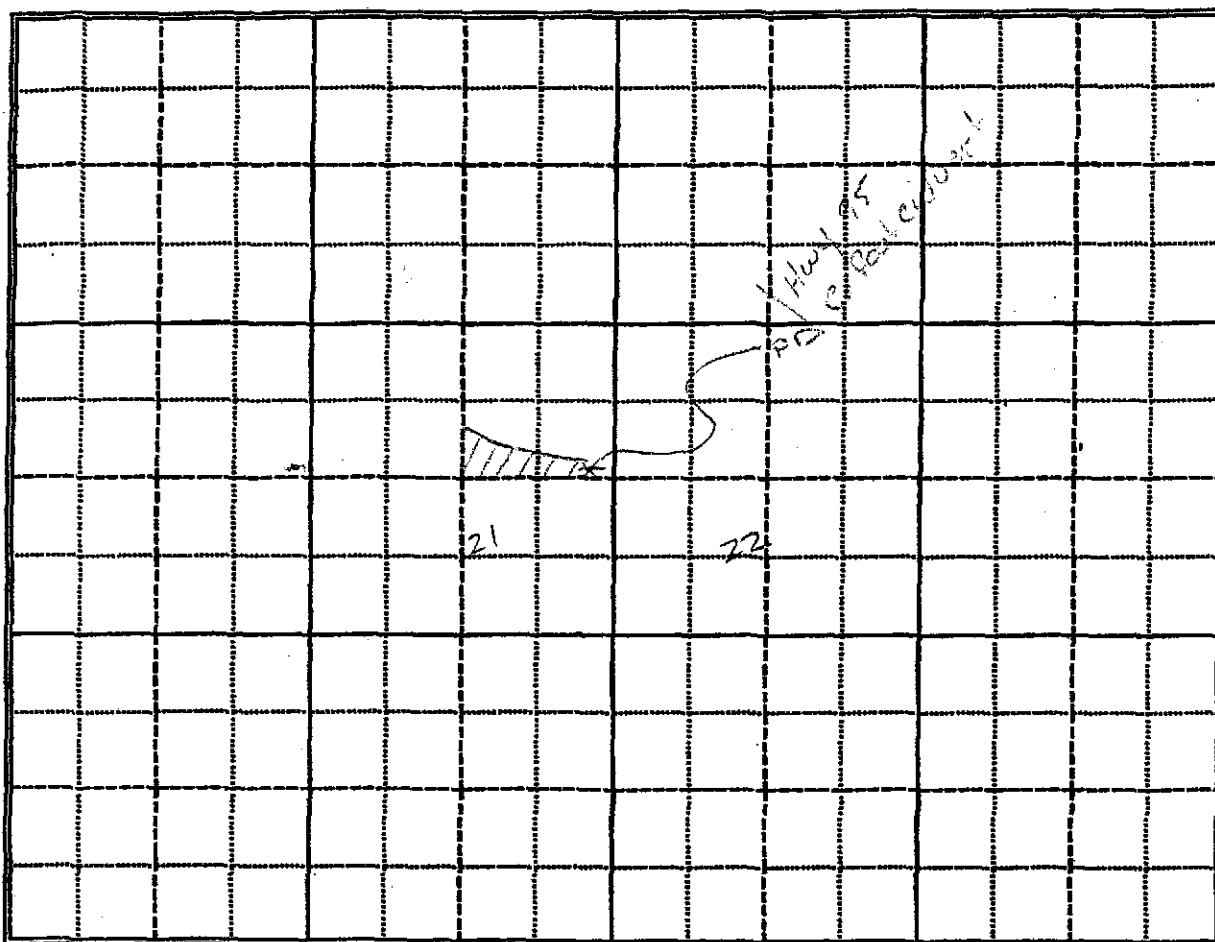
FLOW MEASUREMENTS:

Attach appropriate documents

NARRATIVE/REMARKS/COMMENTS

See Attachment

3. **Delivery System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe I.d. as applicable.



Scale: 1" = _____

____ Copy of USGS Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).

____ Aerial Photo Attached (required for irrigation of 10+ acres)

____ Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size

*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. Measurements: _____

F. FLOW CALCULATIONS

Measured Method:

Table

~~X~~ Additional Computation Sheets Attached

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{IR} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = \underline{\hspace{2cm}}$$

$$V_{DR} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = \underline{\hspace{2cm}}$$

$$V = \text{Smaller of } V_{IR} \text{ and } V_{DR} = \underline{\hspace{2cm}}$$

2. Volume Calculations for Other Uses:

2 1/4 deep (ms)

3 feet wide

=

1.378 cfs

Table Chart

Dwaine A Tesnohldek
2535 Nw 1st ave
Fruitland Id 83619

Priority date claims to be march 15. 1943 irrigation district was established at that date and ran off started irrigation land. Filing is on spring water from hurd gulch and run off from black canyon irrigation district. Mr. Tesnohilikek's property is at the end of hurd gulch. This land is not served with Black Canyon irrigation. Mr. tesnohlidek bought property in 1973 with partner and then bought out partner in 1997 total 36 acres. No claim filed per data base for additional acres ne nw section 21. Mr. Tesnohilikek wants to file on that property. Mr. Tesnohilidek is going to amend claim to increase. Other property falls in Payette county.

9-23-05 water was spilling over flow from black canyon ditch. When black canyon irrigation district has too much water they diverted to spill way onto Mr. Tesnohlidek's property. That day water was 2 ¼ deep (MI) 5 feet wide 4 deep culvert under highway is 6 feet opening. A total of 1.378 cfs water was spilling on 9-23-05. Gps point of desertion is n 43.56.073 w 116.55.987.

Mr. Tesnohlidek .waters around 200 head of cattle.

FIELD EXAM
TELEPHONE CONVERSATION MEMORANDUM

DATE OF CONVERSATION: 9-20-05

DATE SET FOR EXAM: 9-23-05

NAME OF CONTACT: Carolyn - Dawane Tesnowhick

ADDRESS CHANGE: 2535 NW 1st Ave
Freiland ID 83619

PHONE NUMBER: () 452-3273

LOCATION/DIRECTIONS: Glenway Rd Hwy 95

TYPE OF SYSTEM: Spring from Hard Gulch
w/ water

OTHER NOTES: question if Property w/ is
filled on other 10 Acres?

Idaho Department of Water Resources

Claim Number: 63-04544
Legal: T07N, R05W, S21
Reviewed By:

⊙ Point of Diversion

Place of Use

Section Lines

Quarter Quarter Lines

1987 Napp Photo



0 0.25 0.5 0.75 1 Miles

Note change on map

7-10-80
P10



56 feet



56 feet



5 feet wide

IN THE MATTER OF:

AFFIDAVIT

State of Idaho

County of Capitla

Charles C Dean being first duly sworn,

deposes and says:

At one time I owned
Forty acres of land described as
NW NW Sec 22-7-35. I sold that
portion lying west of Highway US 95.
It was joined with another farm
and later purchased by E. L. McEwen.
I farmed the irrigable land on the east portion
from 1940 to 1969. I still own that part.

By 1945 or sooner I can't recall
exactly what year, E. L. McEwen had
placed a structure in field westward
to direct water onto the irrigable land
lying south of field westward.
I think has been used continuously
since that time to irrigate that land.

Charles C Dean
(Signature)

Subscribed and sworn to before me this 8th day of Aug., 1977

Kerth List
(Notary Public)

Residing at

My Commission Expires

Armit Road, Idaho
8-6-78

IN THE MATTER OF:

AFFIDAVIT

State of Idaho

County of Payette

J. Mike Derr being first duly sworn,
deposes and says:

I lived and was
a neighbor and owned a farm
across the Road north of C. C.
McCuen Farm as to when
McCuen put a Division in the
the road westward and irrigated
land on the south side of the
Waste Way was about 1945
and has been use every since
to the best of my knowledge

J. Mike Derr
(Signature)

Subscribed and sworn to before me this 14th day of June, 1978

Donal D. Olson
(Notary Public)

Residing at Fruitland
My Commission Expires Life

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Section 42-225a, Idaho Code

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. The filing of this claim does not confirm the water right but will serve for information purposes only. It may, however, become the basis for future adjudication of the water right by the Court.

Notice is hereby given that KENNETH L. LISLE
(name of claimant)
of Route 1 Fruitland, ID 83619, claims a right to the diversion and beneficial use of
(mailing address)
the public water of the State of Idaho

The extent and nature of said claim is as follows:

- (1) Describe source of water: (name of stream, lake, spring, etc., or ground water) Hurd Gulch, tributary to, Snake River
- (2) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Amount	<u>0.7 cfs</u>	Use	<u>irrigation</u>	Period of Use: From	<u>3-15</u>	To	<u>11-15</u>
Amount	<u>0.02 cfs</u>	Use	<u>stock</u>	Period of Use: From	<u>1-1</u>	To	<u>12-31</u>
Amount		Use		Period of Use: From		To	
	(cfs, gpm or a/d)		(dom., irri., stock, etc.)				(both dates inclusive)

- (3) Total quantity of water claimed: 0.72 cubic feet per second, or _____ acre feet per annum, and/or _____ gallons per minute.
- (4) Priority claimed: (the date water was first applied to beneficial use) March 15, 1943

A claim is not acceptable on a ground-water source with a priority later than March 25, 1963 or on a surface-water source with a priority later than May 20, 1971. An exception to this rule is that a claim may be filed on domestic use from a ground-water source.

- (5) A) Point of diversion: (give location of point where water is diverted from its source)
NW ¼ NW ¼, Sec. 22 Twp. 7N Rge. 5W B. M. County of Payette
Additional points of diversion: _____

B) Describe means of diversion of water: (pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.) Give sizes and capacities; be as specific as possible.
diversion dam and ditches

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

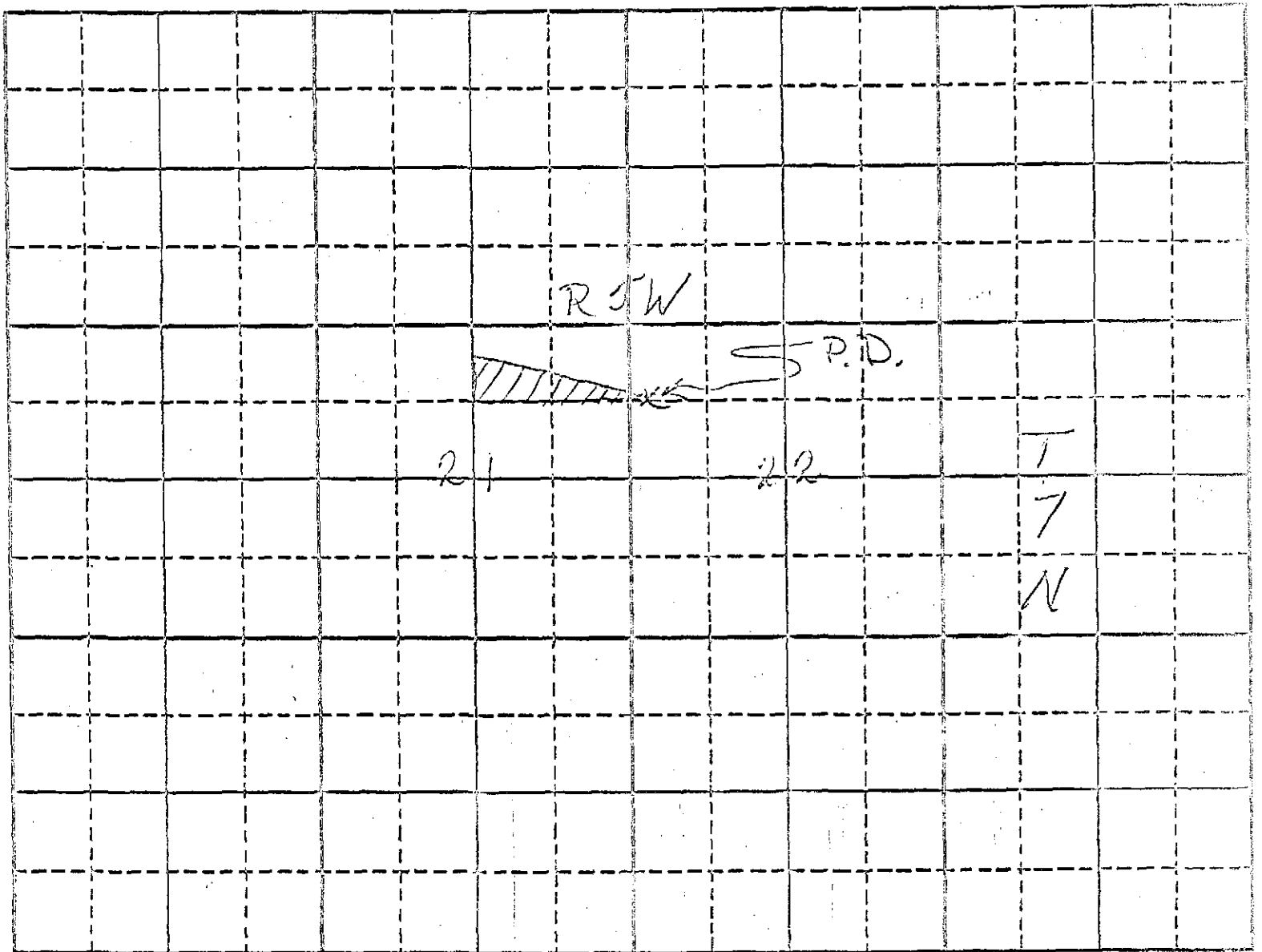
T	R	SEC.	NE ¼				NW ¼				SW ¼				SE ¼				TOTAL
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	5W	21	12	18															30

Total No. of acres 30

B) If the water is used for other than irrigation, fully describe that use, being as specific as possible:
30 head of livestock

- (7) If you are claiming water as a member of an organization, list name of organization: _____

(8) Remarks Diversion rate shows 0.1 cfs for loss and evaporation.



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Ada) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

Sworn to before me this 3rd day of August, 19 77.

Kenneth L. Leslie
(Claimant)

Pete Brudvik
Notary Public
Residing at Boise, ID

My commission expires March 8, 1980

For Department Use Only

Received by \$ Date 8/03/77 Exception filed by: _____ Date _____
Prelim. check by PH Date 8-04-77 claimant by: _____
\$8187 \$10.00 fee received by \$ Date 8/03/77
Approved for publication by _____
Published in Independent Enterprise
Dates August 11-15

05/25/2006

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

RIGHT NUMBER: 63-4544
NAME AND ADDRESS: CAROLYN E TESNOHLIDEK
2535 NW 1ST AVE
FRUITLAND ID 83619

COPY

DWAINA A TESNOHLIDEK
2535 NW 1ST AVE
FRUITLAND ID 83619

SOURCE: HURD GULCH CREEK

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.520 CFS
117.000 AFY

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

PRIORITY DATE: 03/15/1943

POINT OF DIVERSION:

T07N R05W S22 SWNW Within PAYETTE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.520 CFS 117.00 AFY
STOCKWATER	01/01 12/31	0.050 CFS

PLACE OF USE: IRRIGATION Within PAYETTE County

T07N R05W S21 NENE 8.00 T07N R05W S21 NWNE 18.00

STOCKWATER same as IRRIGATION

26 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.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use
Stockwater use is for 200 range cattle.



State of Idaho
Idaho Department of Water Resources
Western Region

T7N R5W SECTION(S) 21
WATER RIGHT(S) : 63-4544

COPY



- Point of Diversion
- Place of Use
- Section Lines
- Quarter Quarter Lines

GIS Place of Use Illustration
1987 NAPP Photography
Prepared by: Dan Nelson
Date: May 2006

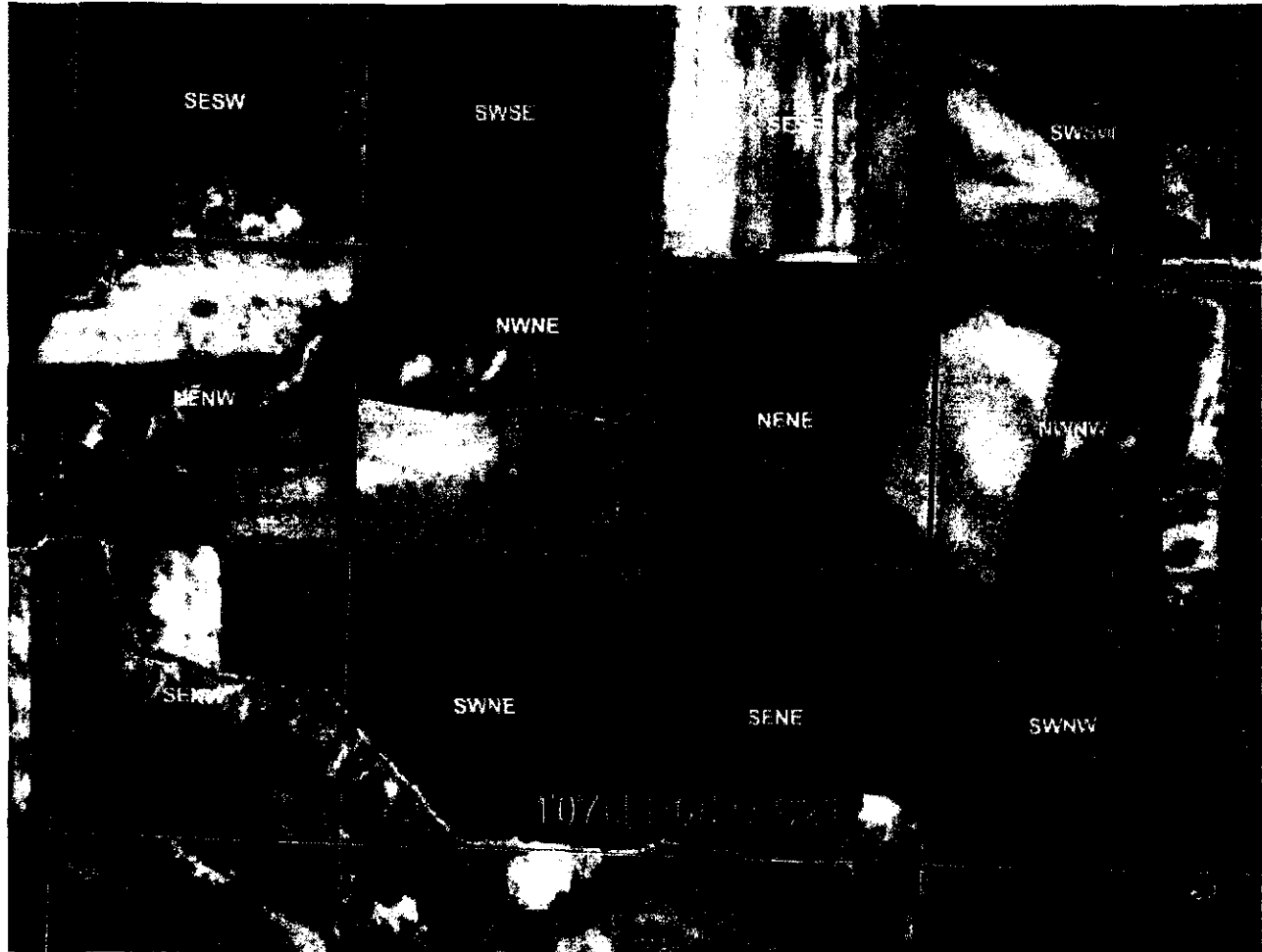




State of Idaho
Idaho Department of Water Resources
Western Region

T7N R5W SECTION(S) 21
WATER RIGHT(S) : 63-4544

COPY



0.5 0 0.5 1 Miles

- Point of Diversion
- Place of Use
- Section Lines
- Quarter Quarter Lines

Total Irrigated Acres = 26 acre(s)

GIS Place of Use Illustration
1987 NAPP Photography
Prepared by: Dan Nelson
Date: May 2006



MEMORANDUM

TO: ADJUDICATION CLAIM FILE 63-4544

FROM: DANIEL A. NELSON

DATE: 5/25/06

SUBJECT: CLAIM REVIEW

COPY

This claim is based on a statutory claim. The statutory claim was for 30 acres and 0.70 cfs. The current owner only claimed 26 acres and 0.57 cfs on the adjudication claim. When creating the map for this claim with the 1987 aerial photo, I agree with the adjudication claim that 26 acres were irrigated under this water right. The file contains letters from a Louise McEwea Young and Charles E. Dean that suggest that the farm was irrigated at the beginning of the irrigation season in 1943. The statutory claim and the adjudication claim both list a March 15, 1943 date, which seems reasonable. Therefore, the priority date will be recommended as claimed. The season of use will be recommended per department standards.

There is an issue with the irrigation diversion rate claimed on this water right. The irrigation diversion rate claimed is 0.57 cfs instead of 0.52 cfs, which is the standard of 0.02 cfs or one minor inch per acre multiplied by 26 acres. The claim also requests 0.05 cfs for stockwater. The total diversion rate is 0.57 cfs. It appears as though a mistake was made on the irrigation diversion rate portion of this claim when it was being prepared. I am recommending that the diversion rate be 0.52 cfs for irrigation and 0.05 cfs for stockwater for a total of 0.57 cfs.

A field examiner measured the rate of diversion. The field examiner claimed a rate of diversion of 1.378 cfs using $2\frac{1}{4}$ deep measurement on a 5-foot wide weir. The field examiner showed the rate of diversion as 1.378 cfs on table chart. I could not find a chart that had a 1.378 cfs diversion rate. In reviewing the pictures, I am assuming that the $2\frac{1}{4}$ meant .225 ft of head on a 5 ft broad crested weir. Using this assumption to calculate the rate of flow on a broad crested weir, the flow rate would be between 1.49 cfs and 1.84 cfs. Regardless of the measurement, the flow being diverted was well over the 0.57 cfs that can be recommended for this claim, so capacity of the system does not seem to be an issue.

COPY

Page 2
Tesnohlidek

The field examiner also GPSed the point of diversion and marked out the lands irrigated on a 1987 aerial photo. On the aerial photo, the claimant wanted additional lands in the NENW to be included. Those lands cannot be included unless the claimant files an amendment to the claim with acceptable proof that they were irrigated in 1943, or by filing a new claim with a priority date of when they were first irrigated. The field examiner found 200 head of cattle, which seems reasonable. The claimant did not pay any additional funds for the stockwater portion, so the use will need to be limited to 13,000 gallons per day.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-4544 V1

WATER RIGHT NUMBER: 63-4544 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CAROLYN E TESNOHLIDEK 2535 NW 1ST AVE FRUITLAND, ID 83619 (208)452-3243
Original Owner	NORMA J LISLE RT 1 FRUITLAND, ID 83619
Original Owner	KENNETH L LISLE 6580 ELMORE RD FRUITLAND, ID 83619 (208)452-3204
Current Owner	DWAINE A TESNOHLIDEK 2535 NW 1ST AVE FRUITLAND, ID 83619 (208)452-3243

COPY

Priority Date: 03/15/1943

Basis: Beneficial Use

Status: Active

Source

HURD GULCH CREEK

Tributary

SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	0.520 CFS	117.00 AF
STOCKWATER	01/01 to 12/31	0.050 CFS	
	<u>Total Diversion:</u>	0.520 CFS	117.00 AF

Location of Point(s) of Diversion

HURD GULCH CREEK

SW1/4NW1/4

Sec. 22, Twp 07N, Rge 05W, B.M.

PAYETTE County

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07N	05W	21	8.0	18.0															26.0

Total Acres: 26

STOCKWATER same as IRRIGATIONConditions of Approval:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-4544 V1

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.
2. X02 Stockwater use is for 200 range cattle.
3. N08 The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
4. N05 The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

Remarks:Comments:

1. dnelson 5/25/2006 Claim Review

Comment: This claim is based on a statutory claim. The statutory claim was for 30 acres and 0.70 cfs. The current owner only claimed 26 acres and 0.57 cfs on the adjudication claim. When creating the map for this claim with the 1987 aerial photo, I agree with the adjudication claim that 26 acres were irrigated under this water right. The file contains letters from a Louise McEwea Young and Charles E. Dean that suggest that the farm was irrigated at the beginning of the irrigation season in 1943. The statutory claim and the adjudication claim both list a March 15, 1943 date, which seems reasonable. Therefore, the priority date will be recommended as claimed. The season of use will be recommended per department standards.

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Page 2
Teshohldek

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COPY

COPY

ESTIMATED FLOW RATES FOR BROADCRESTED DAM USING CALCULATION $[(h) \cdot 1.5]$ (DAM WIDTH) 3.33 (please note used 2.64 under 0.2 feet.)

HEAD IN FEET	FLOW RATE IN CFS	FLOW RATE IN INCHES	HEAD IN FEET	FLOW RATE IN CFS	FLOW RATE IN INCHES	HEAD IN FEET	FLOW RATE IN CFS	FLOW RATE IN INCHES
0.01	0.01	0.66	0.65	8.73	436.27	1.25	23.27	1163.45
0.02	0.04	1.87	0.66	8.93	446.38	1.26	23.55	1177.44
0.03	0.07	3.43	0.67	9.13	456.56	1.27	23.83	1191.49
0.04	0.11	5.28	0.68	9.34	466.82	1.28	24.11	1205.59
0.05	0.15	7.38	0.69	9.54	477.15	1.29	24.39	1219.74
0.10	0.42	20.87	0.70	9.75	487.56	1.30	24.68	1233.95
0.11	0.48	24.08	0.71	9.96	498.05	1.31	24.96	1248.22
0.12	0.55	27.44	0.72	10.17	508.61	1.32	25.25	1262.54
0.13	0.62	30.94	0.73	10.38	519.24	1.34	25.83	1291.34
0.14	0.69	34.57	0.74	10.60	529.95	1.35	26.12	1305.82
0.15	0.77	38.34	0.75	10.81	540.72	1.36	26.41	1320.36
0.16	0.84	42.24	0.76	11.03	551.58	1.37	26.70	1334.95
0.17	0.93	46.26	0.77	11.25	562.50	1.38	26.99	1349.59
0.18	1.01	50.40	0.78	11.47	573.49	1.39	27.29	1364.29
0.19	1.09	54.66	0.79	11.69	584.55	1.4	27.58	1379.04
0.20	1.49	74.46	0.80	11.91	595.69	1.41	27.88	1393.84
0.21	1.60	80.11	0.81	12.14	606.89	1.42	28.17	1408.69
0.22	1.72	85.90	0.82	12.36	618.17	1.43	28.47	1423.60
0.23	1.84	91.83	0.83	12.59	629.51	1.44	28.77	1438.56
0.24	1.96	97.88	0.84	12.82	640.92	1.45	29.07	1453.57
0.25	2.08	104.06	0.85	13.05	652.40	1.46	29.37	1468.63
0.26	2.21	110.37	0.86	13.28	663.94	1.47	29.67	1483.75
0.27	2.34	116.80	0.87	13.51	675.56	1.48	29.98	1498.91
0.28	2.47	123.34	0.88	13.74	687.24	1.49	30.28	1514.13
0.29	2.60	130.01	0.89	13.98	698.99	1.50	30.59	1529.40
0.30	2.74	136.79	0.90	14.22	710.80	1.51	30.89	1544.72
0.31	2.87	143.69	0.91	14.45	722.68	1.52	31.20	1560.09
0.32	3.01	150.70	0.92	14.69	734.63	1.53	31.51	1575.51
0.33	3.16	157.82	0.93	14.93	746.64	1.54	31.82	1590.98
0.34	3.30	165.05	0.94	15.17	758.71	1.55	32.13	1606.50
0.35	3.45	172.38	0.95	15.42	770.85	1.56	32.44	1622.08
0.36	3.60	179.82	0.96	15.66	783.05	1.57	32.75	1637.70
0.37	3.75	187.36	0.97	15.91	795.32	1.58	33.07	1653.37
0.38	3.90	195.01	0.98	16.15	807.65	1.59	33.38	1669.09
0.39	4.06	202.76	0.99	16.40	820.04	1.60	33.70	1684.86
0.40	4.21	210.61	1.00	16.65	832.50	1.61	34.01	1700.68
0.41	4.37	218.55	1.01	16.90	845.02	1.62	34.33	1716.55
0.42	4.53	226.60	1.02	17.15	857.60	1.63	34.65	1732.47
0.43	4.69	234.74	1.03	17.40	870.24	1.64	34.97	1748.44
0.44	4.86	242.98	1.04	17.66	882.95	1.65	35.29	1764.45
0.45	5.03	251.31	1.05	17.91	895.71	1.66	35.61	1780.52
0.46	5.19	259.73	1.06	18.17	908.54	1.67	35.93	1796.63
0.47	5.36	268.24	1.07	18.43	921.42	1.68	36.26	1812.79
0.48	5.54	276.85	1.08	18.69	934.37	1.69	36.58	1829.00
0.49	5.71	285.55	1.09	18.95	947.38	1.70	36.91	1845.26
0.50	5.89	294.33	1.10	19.21	960.45	1.71	37.23	1861.57
0.51	6.06	303.21	1.11	19.47	973.57	1.72	37.56	1877.92
0.52	6.24	312.17	1.12	19.74	986.76	1.73	37.89	1894.32
0.53	6.42	321.22	1.13	20.00	1000.00	1.74	38.22	1910.77
0.54	6.61	330.35	1.14	20.27	1013.31	1.75	38.55	1927.26
0.55	6.79	339.57	1.15	20.53	1026.67	1.76	38.88	1943.81
0.56	6.98	348.87	1.16	20.80	1040.09	1.77	39.21	1960.40
0.57	7.17	358.26	1.17	21.07	1053.57	1.78	39.54	1977.03
0.58	7.35	367.73	1.18	21.34	1067.11	1.79	39.87	1993.72
0.59	7.55	377.28	1.19	21.61	1080.70	1.80	40.21	2010.45
0.60	7.74	386.91	1.20	21.89	1094.35	1.81	40.54	2027.23
0.61	7.93	396.62	1.21	22.16	1108.06	1.82	40.88	2044.05
0.62	8.13	406.42	1.22	22.44	1121.82	1.83	41.22	2060.92
0.63	8.33	416.29	1.23	22.71	1135.64	1.84	41.56	2077.83
0.64	8.52	426.24	1.24	22.99	1149.52	1.85	41.90	2094.80

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-4544

WATER RIGHT NUMBER: 63-4544

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	KENNETH L LISLE 6580 ELMORE RD FRUITLAND, ID 83619 (208)452-3204

Priority Date: 03/15/1943
Basis: Statutory Claim
Status: Active

<u>Source</u>	<u>Tributary</u>
HURD GULCH CREEK	SNAKE RIVER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	1/01 to 12/31	0.020 CFS	
IRRIGATION	3/15 to 11/15	0.700 CFS	
<u>Total Diversion:</u>		0.720 CFS	

Location of Point(s) of Diversion

HURD GULCH CREEK	NW1/4NW1/4	Sec. 22, Twp 07N, Rge 05W, B.M.
PAYETTE County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07N	05W	21	12.0	18.0															30.0

Total Acres: 30

STOCKWATER same as IRRIGATIONConditions of Approval:

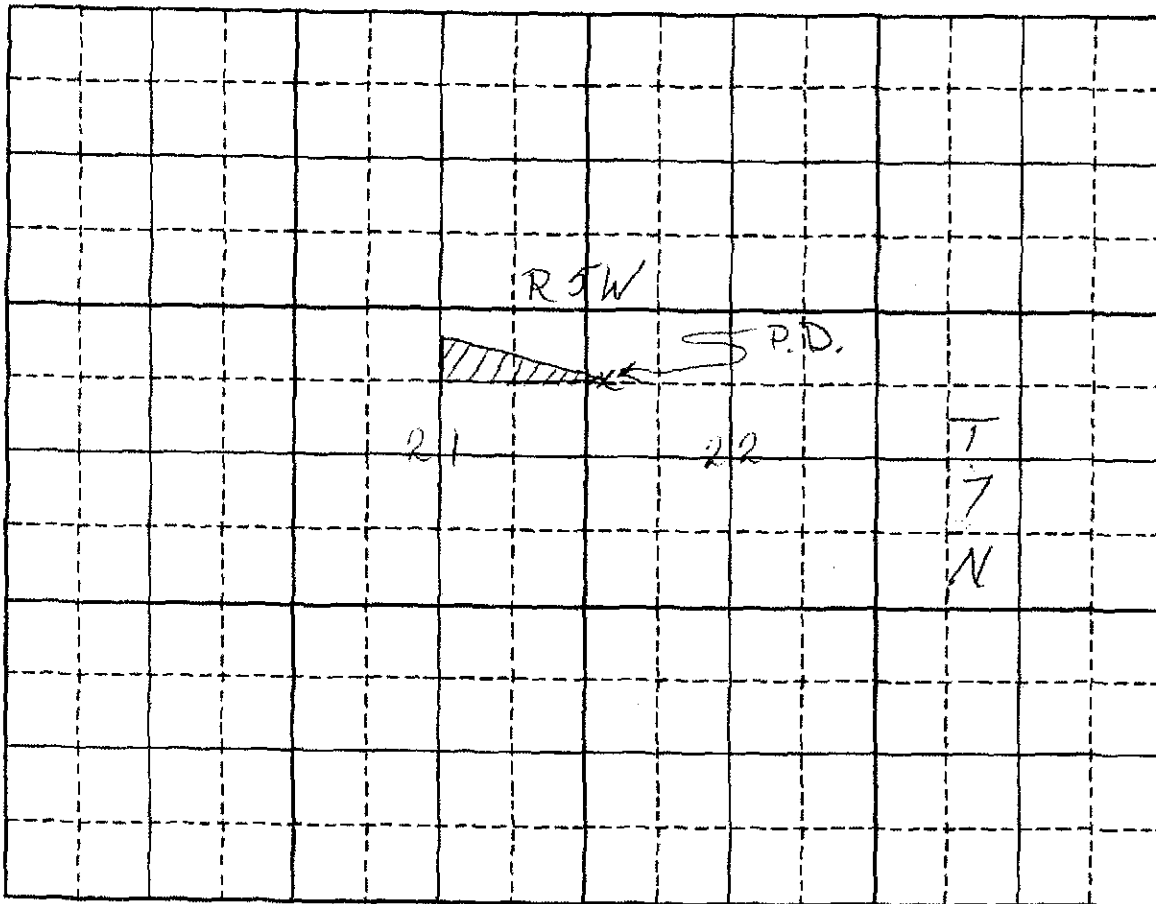
1. DIV. RATE SHOWS .1 CFS FOR LOSS & EVAPORATION.

Remarks:Comments:Dates and Other Information:

COPY

See 63-4544
FOR ORIGINAL

(8) Remarks Diversion rate shows 0.1 cfs for loss and evaporation.



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Ada) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

Sworn to before me this 3rd day of August

Kenneth L. Liska
(Claimant)

Rita Bendale
Notary Public

Residing at Boise, ID

My commission expires March 8, 1980

For Department Use Only

Received by S Date 8/03/77 Exception filed by: Forwarded to
Prelim. check by PLH Date 8-04-77 claimant by: Date
#8187 \$10.00 fee received by S Date 8/03/77
Approved for publication by
Published in Independent Enterprise
Dates August 11-15

file
H 63-4544

IN THE MATTER OF:

AFFIDAVIT

RECEIVED

JUN 14 1978

Department of Water Resources
Western Regional Office

State of Idaho
County of Boyer

I Mike Serie being first duly sworn,
deposes and says: I lived and was

a neighbor and owned a farm
across the road north of the
McCuen Farm as to when
McCuen put a diversion in the
road wasteway and irrigated
land on the south side of the
waste way was about 1945
and has been so ever since
to the best of my knowledge

I Mike Serie
(Signature)

Subscribed and sworn to before me this 14th day of June, 1978

Donal D. Olson
(Notary Public)

Residing at Fruitland
My Commission Expires Life

file # 63-4544

IN THE MATTER OF:

AFFIDAVIT

RECEIVED
JUN 14 1978

Department of Water Resources
Western Regional Office

State of Idaho
County of Payette

I Kenneth L. Lynam being first duly sworn,
deposes and says: I have farmed near the
McEwen place and do hereby state
he used water out of the third
guleh as early as 1944 and
it has been used continuously
since that date.

Kenneth L. Lynam

Kenneth L. Lynam
(Signature)

Subscribed and sworn to before me this 14th day of June, 1978.

Daniel D. Olson
(Notary Public)

Residing at Front Range
My Commission Expires 1980

file # 63-4544

IN THE MATTER OF:

AFFIDAVIT

RECORDED
JUN 11 1927

Department of Agriculture
Washington, D.C.

State of Idaho

County of Caratta

Charles C. Dean being first duly sworn,

deposes and says:

At one time I owned
Forty acres of land described as
NW NW Sec. 22-7-5. I sold that
portion lying west of Highway 45.25.

It was joined with another farm
and later purchased by E. L. McEwen.
I farmed the irrigable land ^{on the East portion} from
1941 to 1969. I still own this part.

By 1945 or sooner, I can't recall
exactly what year, E. L. McEwen had
placed a structure in flood wasteway
to direct water onto his irrigable land
lying south of flood wasteway.

This has been used continuously
since that time to irrigate this land

Charles C. Dean
(Signature)

Subscribed and sworn to before me this 8th day of Aug., 1927

Walter H. Hest
(Notary Public)

Residing at Grainland, Idaho.
My Commission Expires 2-6-28

August 30, 1977

Re: Claim to a Water Right No. 63-4544
(Kenneth L. Lisle)

Robert M. Henggeler
Whitley Drive
Fruitland, Idaho 83619

Dear Mr. Henggeler:

Pursuant to your letter of August 19, 1977, please be advised that your reference to water right 65-2416A must be incorrect since that does not pertain to Hurd Gulch. Water right license 20516/65-2496 was, however, issued to Clyde Hurd. The license was for the diversion of 1.74 cfs from Hurd Gulch and bears a priority of June 28, 1948. The license is appurtenant to 87 acres in Sec. 20, Twp. 7N, Rge. 5W.

With regard to claim to a water right #63-4544 in the name of Kenneth L. Lisle, please be advised that no permit is ever issued pursuant to a claim. There is no mechanism in the statutes to determine the validity of a claim. A claim which is submitted together with any protests and evidence filed against the claim are received and filed in the Department's records. No hearings are held by the Department on protested claims as would be the case on a protested application.

Your letter and the enclosures you sent will be filed in claim file 63-4544.

A petition to the Director of the Department of Water Resources for the adjudication of water rights on a stream system must be signed by five or more or a majority of the waterusers on a stream system. So your letter will not be considered as a request to adjudicate the waters of Hurd Gulch.

If this office may be of further assistance, please contact us.

Sincerely,

L. GLEN SAXTON, P.E.
Western Regional Supervisor

LGS:rf

August 19, 1977

C. Stephen Allred, Director
Idaho Department of Water Resources
92 South Cole Road
Boise, Idaho 83705

Re. Notice of Claim to Water Right # 63 4544

Dear Mr. Allred;

Before any permit is issued with a priority date of 1943, I would appreciate it if you would confirm that Water Right # 65-2416 A has the prior right in Hurd Gulch. The two enclosures will help substantiate this. If necessary, I will send two more depositions from eye witnesses of the development of Hurd Gulch.

In conversation with Mr. Lyle, we would like to petition the Director to adjudicate the rights of Hurd Gulch.

Sincerely,


Robert M. Hengeler

Enclosures 2

20516/65-2496

RECEIVED
AUG 28 1977

Department of Water Resources
Western Regional Office



UNITED STATES
DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION
Central Snake River District
Payette Division O & M Office
Notus, Idaho
June 11, 1948

Mr. Clyde Hurd
RFD # 1
Payette, Idaho

Dear Mr. Hurd:

In answer to your request for a statement of the conditions of your irrigation system at the time of the construction of the wasteway through your farm by Government forces, and provisions made so that you would not be deprived of water due to that construction, I submit the following:

1. In 1939 Government forces straightened and excavated where necessary, a channel which had been caused by flash storms and spring run-off, to provide an emergency outlet to Snake River for water from the "A" Canal of the Payette Division. This wasteway headed at a check and turnout structure in mile 18 of the above canal approximately 4 miles east of where it enters Snake River at your farm.
2. In approaching your farm it was necessary to excavate to a depth of from 5 to 6 feet to go under your outlet road, and to more closely reach the average level of Snake River so that costly drop structures would not be necessary. In doing so your irrigation system which headed at some springs rising on and directly above your farm was destroyed. To offset this, and to provide for the continued irrigation of your farm, bolts were set in the inlet transition to the road crossing for check steps, and walls were constructed with adequate length to provide sufficient overflow area to accommodate any waste which may be necessary from the canal, after you had checked the inlet to sufficient height to raise the water so it would again flow in your ditch system. Further recognition and consideration was given to your irrigation system in the construction of two or three flumes across the wasteway channel between the road crossing and the river.
3. Since this construction took place most of the lands between your farm and the "A" Canal have been brought under irrigation, and the channel carries considerable return flow during the irrigation season. It is very doubtful that the Bureau of Reclamation or any land owner whose farm this channel crosses would ever divert and put to beneficial use enough of this water to diminish the supply so that you would not have sufficient

MICROFILMED

water¹⁵ irrigate your farm. Because of the possibility of its use as an emergency wasteway, operating forces would not permit diversion dikes or structures farther upstream in the channel, and the amount of water which could be taken out without such structures would be very small.

Hoping this covers the information you desired, and assuring you we shall be glad to give you any further information we may have in relating you to clarify your water right, I am

Very truly yours,

Theodore Nelson
Theodore Nelson, Irrigation Eng.

MICROFILMED

RECEIVED

AUG 23 1971

Department of Water Resources
Western Regional Office

DECLARATION

Serial No. _____

STATE OF IDAHO

COUNTY OF

CANYON

SS:

ED MERCNEY,

residing at 1723 1/2 MARSHALL AV

CALDWELL IDAHO,

Being first duly sworn upon his oath

deposes and says:

I Ed Meroney, age 78, worked for Payette County road Department from 1940 to 1944. I was appointed road overseer Jan 27, 1941. During the four years I worked for the county road Department we built the county roads in Black Canyon area between the city of Fruitland and Parma.

Through the building of the roads is how I first worked in Hurd Gulch. Two of the county roads built crossed Hurd Gulch.

Curley Manser (District road Manager) and I cleaned Hurd Gulch every year from 1940 to 1944. We cleaned from the main Black Canyon ditch to Clyde Hurds' diversion to prevent the road culverts from plugging up with silt, weeds and other trash. The process used to clean the gulch was pulling a patrol with a caterpillar. At that time there were not any ponds, check boxes or dams except for Clyde Hurds' water diversion.

When asked the question how much water was running in the gulch and where the water was coming from I remember that we had to put in a 10 in. tin whistle to carry the spring water. The spring would just about fill the 10 in. pipe to full capacity. The springs were running between highway 95 and Hurds' diversion dam. The first two years I worked for Payette County the only water in the draw was spring water because Black Canyon irrigation didn't start irrigating until 1941. The water started in 1940 but it was to late to irrigate.

Grant Hurd was the first ditch rider for Black Canyon ditch in this area.

Ed. meroney
Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS 12 day of APRIL, 1974

[Signature]

NOTARY PUBLIC FOR THE STATE OF IDAHO

Residing at

CALDWELL, IDAHO

My commission expires 25 APRIL 1977

RECEIVED

AUG 23 1977

Department of Water Resources
Western Regional Office

MICROFILMED

STATE OF IDAHO

County of

Payette

) ss

On this 24th day of March, 1990, before me, the undersigned, Notary Public in and for said state, personally appeared Charles Dean known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Jo Ann Myer
Notary Public for Idaho

Residing at: Fruitland, 2d.

RECORDED & FILMED

OCT 06 1995
OCT 07 1996

WATER RESOURCES
WESTERN REGION

Fruitland Idaho
March 24 1990

To whom it may concern,

I took my farm on Black Canyon project out of sagebrush in 1940 and started irrigating that year. The waste water from a small portion of it went into the drain which went thru the farm now owned by Duane Tesnokudek.

There weren't many farms that year but in the next two or three years, as I remember, most of the land which drained into that waste ditch was being farmed.

Mr. E. L. McEwen came about this time and it must have been about 1943 when he started diverting water from this drain to irrigate the field south of the ditch. The water ~~was~~ diverted this way as long as I owned my farm and had knowledge of it. I sold my farm in 1969 so can say the water was used ~~continually~~ each year until then.

CP. Prior to 1940 and until waste water from irrigation entered ~~the~~ the drain it was absolutely dry, except for melted snow water if any.

Charles Dean
2210 Hwy 30 W,
Fruitland Idaho 83619

RECEIVED

OCT 06 1995

WATER RESOURCES
WESTERN REGION

MICROFILMED
OCT 07 1996

Fruitland Idaho
March 27, 1990

To whom it may Concern,

When Mr. E. L. McEwen came to the farm referred to in 1943 he put an old car body in the waste ditch in order to get water onto his south field. He continued to make use of this for a year or two, I can't recall how long. Then he put in a concrete check to better serve the purpose. This was in continuous use until 1969 when I sold my place and no longer had any knowledge of the matter.

Charles E. Dean

RECEIVED

OCT 06 1995

WATER RESOURCES
WESTERN REGION

MICROFILMED
OCT 07 1996

March 24, 1998.

To Whom It May Concern.

In the fall of 1942, we purchased our farm south of Fruitland (Sec 21+22 Township 7 N and Range 5 W.) from a Mr. Caldwell. In 1943 my husband Earl (Ernie) McEwen, put in a head gate structure in Hard Gulch and started irrigating our ground on the south side of the Gulch. This ground has been irrigated out of Hard Gulch each year since the structure was put in. ^{Earl started and} Water has been running year round in the Gulch from 1942 all these years.

Louise McEwen Young.

RECEIVED

OCT 06 1995
WATER RESOURCES
WESTERN REGION
MICROFILMED
OCT 07 1995

Truthton Idaho
March 24 1990

To whom it may concern,

I took my farm on Black Canyon project out of sagebrush in 1940 and started irrigating that year. The waste water from a small portion of it went into the drain which went through the farm now owned by Duane Tesnobek.

There weren't many farms that year but in the next two or three years, as I remember, most of the land which drained into that waste ditch was being farmed.

Mr. E. L. McEwen came about this time and it must have been about 1943 when he started diverting water from this drain to irrigate the field south of the ditch. The water ~~was~~ diverted this way as long as I owned my farm and had knowledge of it. I sold my farm in 1969 so can say the water was used ~~continually~~ each year until then.

CP. Prior to 1940 and until waste water from irrigation entered ~~the~~ the drain it was absolutely dry, except for melted snow water if any.

Charles Dean

2210 Hwy 30 W,

Truthton Idaho 83619

STATE OF IDAHO

County of Payette

} ss

On this 24th day of March, 1990, before me, the undersigned, Notary Public in and for said state, personally appeared Charles Dean known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Jo Ann Nipe
Notary Public for Idaho

STATE OF IDAHO

County of Payette

)
) ss
)

On this 24th day of March, 1990, before me, the undersigned, Notary Public in and for said state, personally appeared Louise McEwen Young known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Jo Ann Nye
Notary Public for Idaho

Residing at: Fruitland, Id.

RECEIVED FILMED
OCT 06 1995
OCT 07 1995
WATER RESOURCES
WESTERN REGION

March 24, 1990.

To Whom It May Concern.

In the fall of 1942, we purchased our farm south of Fruitland (Sec 21+22 Township 7 N and Range 5 W.) from a Mr. Caldiwell. In 1943 my husband Earl (Ernie) McEwen, put in a head gate structure in Hard Gulch and started irrigating our ground on the south side of the Gulch. This ground has been irrigated out of Hard Gulch each year since the structure was put in. ^{Earl started and} water has been running year round in the Gulch from 1942 all these years.

Louise McEwen Young.

STATE OF IDAHO

County of Payette

)
) ss
)

On this 24th day of March, 1990, before me, the undersigned, Notary Public in and for said state, personally appeared Louise McEwen Young known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

JoAnn Nipe
Notary Public for Idaho

Residing at: Fruitland, Id.