

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 37-539L
Date Received: 10/20/1988
Receipt No: X999999
Received By:

Amended

Amended

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

ROBERT L MITCHELL Phone: (415)968-3333
2204 GRANT RD
STE 105
MOUNTAIN VIEW CA USA 94040

2. Date of Priority: 06/03/1884

3. Source: WOOD RIVER EAST FORK Trib. to: BIG WOOD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
03N	18E	3	NE SE NE	BLAINE	

5. Description of diverting works:

PETUS #17 HEADGATE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	11/01	0.29	

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

8. Total consumptive use:

9. Non-irrigation uses:

COPY

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
03N	18E	3	NE	SW	IRRIGATION	3.1
			SE	SW	IRRIGATION	3.1
			SW	SE	IRRIGATION	0.7
			NW	SE	IRRIGATION	1.1
Section Acres						8
Total Acres						8

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:

14. Remarks:

THIS RIGHT IS SPLIT FROM A37-00539G DUE TO OWNERSHIP CHANGE.
OWNERSHIP CHANGE 4/9/90 ADM PLACE OF USE IS LOTS 31 AND 32 OF HYNDMAN PEAK
SUBDIVISION.

Claim amended by Robert L. Mitchell to remove Nicole Mitchell from the water right.
Mitchell provided warranty deed to show Nicole Mitchell no longer has ownership of
this property. Robert Mitchell also amended the acreage in which was claimed in
error. 08/01/05 NT

15. Basis of Claim: Decreed

16. Signature(s)

COPY

(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): RR Mitchell Date: 8/1/05

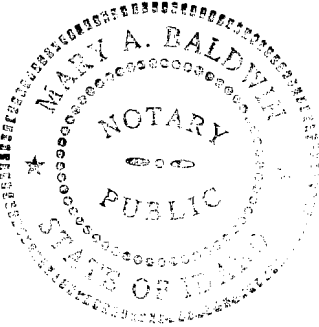
Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 1st day
of August 2005 Mary A. Baldwin

Notary Public

Residing at Twin Falls Id
My commission Expires 10/16/2010



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 THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A37-00539L
Date Received: 10/20/1988
Receipt No: X777777
Received By: AD

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ROBERT L. MITCHELL 415-968-3333
Address: 2204 GRANT ROAD
SUITE 105
MOUNTAIN VIEW, CA 94040

AND

Name: NICOLE MITCHELL 415-968-3333
Address: 2204 GRANT ROAD
SUITE 105
MOUNTAIN VIEW, CA 94040

2. Date of Priority: JUN 03, 1884

3. Source: BIG WOOD RIVER, EAST FORK Trib. to: BIG WOOD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
03N	18E	3	NE	SE	NE		BLAINE

5. Description of diverting works:
PETUS #17 HEADGATE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.290		

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

8. Total consumptive use is 11.0 Acre Feet Per Annum.

9. Non-irrigation uses:

MICROFILMED
FEB 23 1993

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
03N	18E	3	NE		SW		IRR	1.2
			SE		SW		IRR	2.6
			NW		SE		IRR	0.3
			SW		SE		IRR	0.1
							Section Acres	4.2
							Total Acres	4.2

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:
NONE

14. Remarks:

THIS RIGHT IS SPLIT FROM A37-00539G DUE TO OWNERSHIP CHANGE.
OWNERSHIP CHANGE 4/9/90 ADM
PLACE OF USE IS LOTS 31 AND 32 OF HYNDMAN PEAK SUBDIVISION.
LOT 31 HAS 1.72 ACRES IRRIG.
LOT 32 HAS 2.67 ACRES IRRIG.
TOTAL ACRES IRRIG. IS 4.39 ACRES.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

S.C. FROST, ET. AL.

Decree Plaintiff

vs

ALTURAS WATER CO., ET. AL.

Decree Defendant

micronline

FEB 23 1995

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day

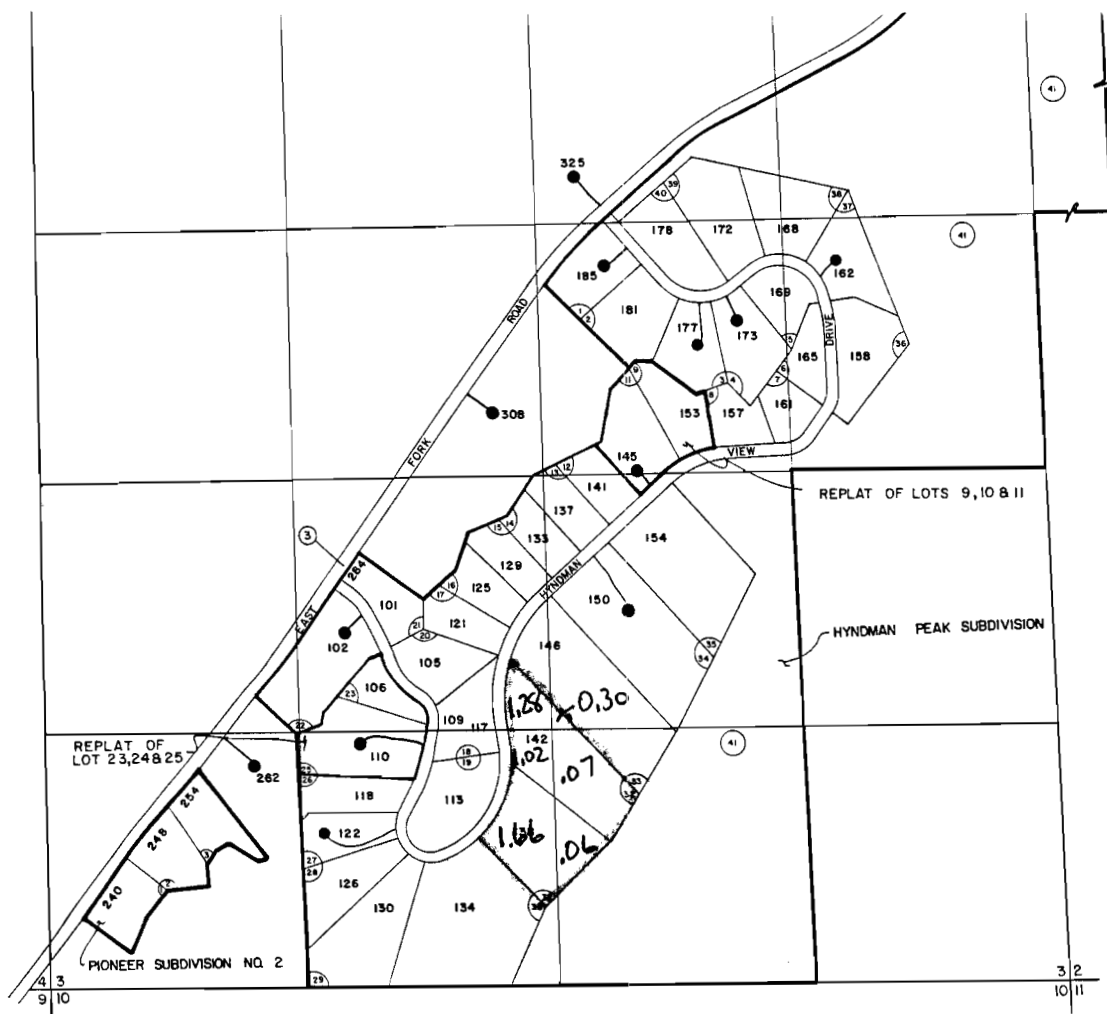
of _____ 19 _____

Notary Public

Seal

Residing at _____

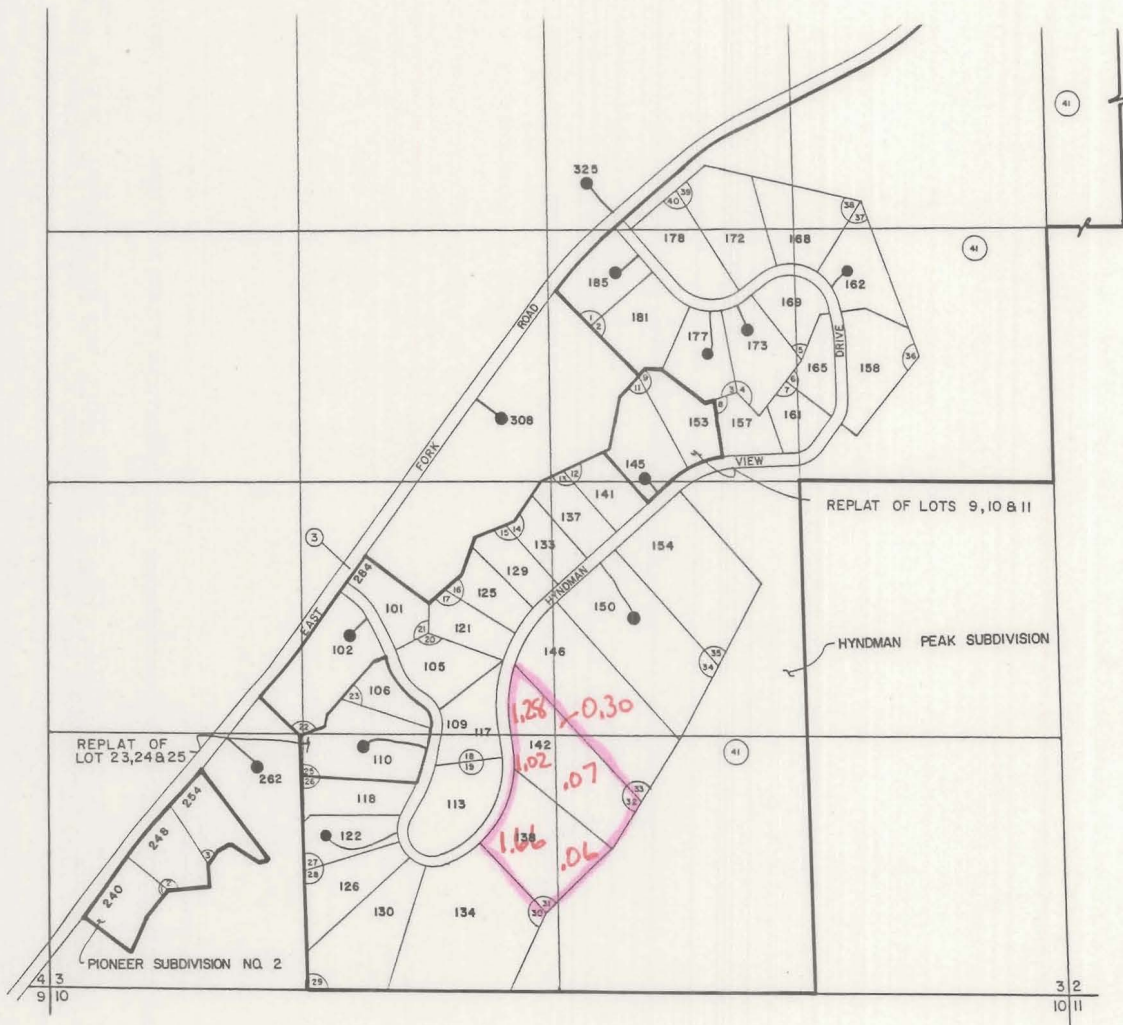
My Commission Expires _____



Acres by phone from
Sletke 4/5/90

AD

MICROFILMED
FEB 23 1990



Acres by phone from
Slettle 4/9/90

ADN

MICROFILMED
FEB 23 1990

RECEIVED

APR 3 1990

CHANGE IN OWNERSHIP OF NOTICE OF CLAIM

Department of Water Resources
Southern Region, P.O.[] Water Right Number(s): 37-0539G[] Name and Address of
Former Claimant: Hyndman Peak Homeowners' AssociationP.O. Box 1126Sun Valley, ID 83353[] New Claimant(s): Robert L. and Nicole Mitchell[] New Mailing Address: 2204 Grant Road, Suite 105Mountain View, CA 94040New Telephone Number: (415) 968 - 3333[] Does the change in ownership result in a splitting of the
water right claimed? x yes noIf yes, then describe the portion of the water right that is
now claimed by the new owner:.29 cfs for 4.39 acres of irrigated land in Lots 31 and 32of Hyndman Peak Subdivision

[] Attach proof of ownership

Describe proof attached: Warranty Deed[] Signature of New Claimant(s): X RL MitchellNicole MitchellDate:

FOR IDWR USE ONLY:

Initial Review and Data-Entry *See attached note

Date: 4/9/90 By: AD

Further Action Needed:

Further Action Taken

Date: By:

Final Review and Data-Entry

Date: 4/9/90 By: AD

Claim Numbers of Split, if any:

A37-00539G
1.004 cfs,A37-00539G
0.714 cfs,A37-00539L
0.29 cfs,

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FEB 23 1993

NELSON, ROSHOLT, ROBERTSON, TOLMAN & TUCKER

Chartered

ATTORNEYS AT LAW

142 3rd AVENUE NORTH

P.O. BOX 1906

TWIN FALLS, IDAHO 83303-1906

TELEPHONE (208) 734-0700

FAX (208) 736-0041

Boise Office

1020 MAIN ST., SUITE 400

P.O. BOX 2139

BOISE, IDAHO 83701-2139

TELEPHONE (208) 336-0700

FAX (208) 344-6034

THOMAS G. NELSON
JOHN A. ROSHOLT
J. EVAN ROBERTSON
STEVEN K. TOLMAN
JAMES C. TUCKER
TERRY R. McDANIEL
GARY D. SLETTE
F. BRUCE COVINGTON
JERRY JENSEN
CAROLYN M. MINDER
BRUCE M. SMITH
G. RICHARD BEVAN
GARY L. QUIGLEY
TIM J. WILLIAMS
SHARON F. DUNKIN
JUSTIN R. SEAMONS

April 2, 1990

APR 3 1990

RECEIVED
IDAHO DEPARTMENT OF WATER RESOURCES
TWIN FALLS, IDAHO

Idaho Department of Water Resources
Attn: Loren Holmes
222 Shoshone Street E.
Twin Falls, ID 83301

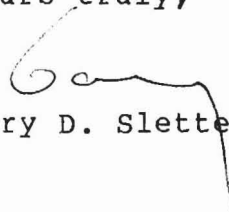
RE: Water Right No. 37-0539G

Dear Loren:

Enclosed please find an executed "Change in Ownership of Notice of Claim" pertaining to the above-numbered license. You will note that a consent of the Hyndman Peak Homeowners' Association (the original claimant) has been attached to this requested change. Kindly process this change and advise me of any fees or additional information that you might be need.

Thank you in advance for your cooperation.

Yours truly,


Gary D. Slette

GDS/mw
51081

cc: Dr. R. L. Mitchell
Brian Ballard

MICROFILMED

FEB 23 1993

NOTE TO CHANGE IN OWNERSHIP OF CLAIM
RE: 37-0539G

The former owner of Lots 31 and 32 of Hyndman Peak Subdivision in Blaine County had previously quitclaimed his portion of the water right herein described to the Hyndman Peak Homeowners' Association. As indicated in the "Remarks" section of the adjudication claim filed, ownership is by individual lot owners. The present owners of the lots, Robert and Nicole Mitchell, desire to have the title to the water placed in their own name, rather than in the name of the Hyndman Peak Homeowners' Association. By their signature below, the officers and members of the Board of Directors of the Hyndman Peak Homeowners' Association have concurred with such change.

CONSENT OF HYNDMAN PEAK HOMEOWNERS' ASSOCIATION

We, Constance G. Porter, Kathleen K. Lynn, and Kathryn K. Rosso, the board members of the Hyndman Peak Homeowners' Association hereby approve of the requested change submitted herewith.

Constance G. Porter
Constance G. Porter

Kathleen K. Lynn
Kathleen K. Lynn

Kathryn K. Rosso
Kathryn K. Rosso

STATE OF IDAHO)
) ss.
County of Blaine)

On this 13th day of March, 1990, before me, a Notary Public, in and for said County and State, personally appeared Constance G. Porter, Kathleen K. Lynn, and Kathryn K. Rosso, known or identified to me to be the Board of Directors of Hyndman Peak Homeowners' Association, and acknowledged to me that said homeowners' association executed the foregoing instrument.

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

Bastara Friend
NOTARY PUBLIC FOR IDAHO
Residing at: Ketchum
My commission expires: 2/23/93

FEB 23 1993

CORPORATION
WARRANTY DEED

FOR VALUE RECEIVED.

Royce O. Hall M.D., P.A.

a corporation duly organized and existing under the laws of the State of Florida, grantor, does hereby
Grant, Bargain, Sell and Convey unto
Robert L. Mitchell and Nicole L. Mitchell, husband and wife
whose address is: 2204 Grant Road, Ste. 105, Mountain View, CA 94040

grantee, the following described real estate, situated in Blaine County, Idaho, to-wit:

Lots 31 and 32 of HYNDMAN PEAK SUBDIVISION, according to the official plat
thereof, recorded as Instrument No. 208275, records of Blaine County, Idaho.

BLAINE CO. REQUEST
FIRST AMERICAN TITLE CO.
90 JUN 15 PM 2 02
MARY GREEN, CLERK
FEES \$ 3.00

315231

TO HAVE AND TO HOLD, the said premises, with their appurtenances unto the said Grantee and to the Grantee's
heirs and assigns forever. And the Grantor does hereby covenant to and with the said Grantee, that the Grantor is
the owner in fee simple of said premises; that they are free from all incumbrances except as above described and that
Grantor will warrant and defend the same from all lawful claims whatsoever.

IN WITNESS WHEREOF, The Grantor, pursuant to a resolution of its Board of Directors has caused its corporate
name to be hereunto subscribed by its President and its Secretary.

Dated: January 8, 1990

Royce O. Hall M.D., P.A.

By Royce O. Hall, M.D., P.A.
PRESIDENT.

ATTEST: [Signature]
SECRETARY.

STATE OF Idaho
County of Blaine

On this 8th day of January, 1990,
before me, a Notary public in and for said State, personally appeared Royce O. Hall and

known to me to be the President and Secretary of the corporation that executed this instrument or the persons who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation 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.

Charles A. Pyle
Notary Public for the State of Idaho,
Residing at _____, Idaho

STATE OF IDAHO, } ss.
County of _____

I hereby certify that this instrument was filed for record at the request of _____
at _____ minutes past _____ o'clock on _____ day of _____
1990, in my office, and duly recorded in Book _____ of Deeds at Page _____

Ex-Officio Recorder.

By _____ Deputy.

Fees \$
Mail to:

INSTRUMENT NO.

FEB 23 1990



DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. E, Twin Falls, Idaho 83301

(208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

09-Apr-1990 11:44

NELSON, ROSHOLT, ROBERTSON, TOLMAN & TUCKER
Attn: Gary Slette
P.O. Box 1906
Twin Falls, Idaho 83303-1906

RE: SRBA Claim A37-00539G & A37-00539L

Dear Mr. Slette:

Pursuant to the notification that the Mitchells presently own a portion of the property in which claim A37-00539G was originally claimed as being appurtenant, the Department has changed the record by splitting off the Mitchell's portion under A37-00539L and reducing by an equal amount the record of claim A37-00539G. Please find enclosed a copy of the computer record for this split. Please review the record and if you have any corrections please contact this office.

Sincerely,

Allen Merritt, P.E.
Water Rights Supervisor

Encl:

MICROFILMED
FEB 23 1993

04-09-90 review -G
+0
-L

FEB 23 1993

ROSHOLT, ROBERTSON & TUCKER
Chartered
ATTORNEYS AT LAW

JOHN A. ROSHOLT
J. EVAN ROBERTSON
JAMES C. TUCKER
GARY D. SLETTE
JERRY V. JENSEN
BRUCE M. SMITH
GARY L. QUIGLEY
JUSTIN R. SEAMONS
JOHN O. FITZGERALD
D. BERNARD ZALEHA

Twin Falls Office
142 3rd Ave. North
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 736-0041

Boise Office
1020 MAIN STREET, SUITE 400
P.O. BOX 2139
BOISE, IDAHO 83701-2139
TELEPHONE (208) 336-0700
FAX (208) 334-6034

February 5, 1992

RECEIVED
FEB 11 1992
SOUTHERN REGION
TWIN FALLS, IDAHO

Attention: Judy Givens
Southern Region
Idaho Department of Water Resources
222 Shoshone St. E.
Twin Falls, ID 83301

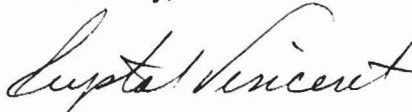
RE: SRBA CLAIMS IN THE SOUTHERN REGION

Dear Judy:

The attached is a list of our clients for whom we filed claims in the SRBA, and who by signing and returning a letter to our office, have requested that we continue to represent them in the adjudication process.

The claims highlighted identify those we filed in your region. Please check these claims and make certain that we are shown on your computer as representative, in order for us to receive the mailings from the department and perform the required service for our clients in a timely manner.

Yours truly,


Crystal Vincent

CV:mw
02059207.CV

MICROFILMED
FEB 23 1992

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: A37-00542
Date Received: 10/20/1988
Receipt No: 1001672
Received By: gc

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: RICHARD A. MECHAM 208-823-4587
Address: BOX 262
CAREY, ID 83320

AND/OR
Name: MILO W. MECHAM 208-823-4587
Address: BOX 262
CAREY, ID 83320

2. Date of Priority: APR 15, 1886

3. Source: LITTLE WOOD RIVER Trib. to: MALAD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
01N	21E	30	NW	SW	SE		BLAINE
01S	21E	27	NW	NW	SE	R	BLAINE

5. Description of diverting works:
HEADGATE ON EAST CANAL & REDIVERSION WITH HEADGATE TO ACRES.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	2.000		

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

8. Total consumptive use is 420.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

MICROFILMED
FEB 23 1993

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
01S	21E	26	NW	SW		IRR	35.0
			SW	SW		IRR	40.0
						Section Acres	75.0
		27	NE	SE		IRR	33.0
			NW	SE		IRR	8.0
			SW	SE		IRR	18.0
			SE	SE		IRR	35.0
						Section Acres	94.0
						Total Acres	169.0

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:

A37-00670A & CANAL CO. & IRRIGATION DISTRICT WATER.

14. Remarks:

SPLIT INTO 37-0542A & 37-0542B BY TRANS. 836.

THIS CLAIM RESTORES PARTS A & B TO THE ORIGINAL SITUATION. THE LANDS COVERED BY A & B ARE NOW UNDER CLAIMANTS' OWNERSHIP.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

Decree Plaintiff

vs

Decree Defendant

MICROFILMED
FEB 23 1993

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: 2

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): *Mike McCham* Date: 10/20/88
Richard A. McCham Date: 10/20/88

State of Idaho)
County of B/ribe) SS.

Subscribed and sworn (or affirmed) before me this 20th day
of Oct. 19 88
Al D. Smith
Notary Public

Seal

Residing at Kimberly, Id.
My Commission Expires 6/30/98

4812

25'

4811

4810

4809
630 000
FEET

4808

4807

2' 30"
114° 00'

CAREY 8 MI.

258

259

510 000 FEET 57' 30"

Produced by the Geological Survey
in cooperation with the Soil Conservation Service

A37-00542

NOT FILMED
FEB 23 1993

08/02/2005

**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:

Water right number: 37-539L

ROBERT L MITCHELL
10620 BERKSHIRE
LOS ALTOS CA 94022
Telephone Number: (415)968-3333

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: _____ SIGNATURE: _____

Please print your name: _____

IDWR Regional Office,

08/25/2005

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

RIGHT NUMBER: 37-539L

NAME AND ADDRESS: ROBERT L MITCHELL
10620 BERKSHIRE
LOS ALTOS CA 94022

SOURCE: EAST FORK WOOD RIVER

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.300 CFS

PRIORITY DATE: 06/03/1884

POINT OF DIVERSION:

T03N R18E S3 NESENE Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	0.300 CFS

PLACE OF USE: IRRIGATION Within BLAINE County

T03N R18E S03	NESW	3.1	T03N R18E S03	SESW	3.1
T03N R18E S03	NWSE	1.1	T03N R18E S03	SWSE	0.7

8 ACRES TOTAL

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

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

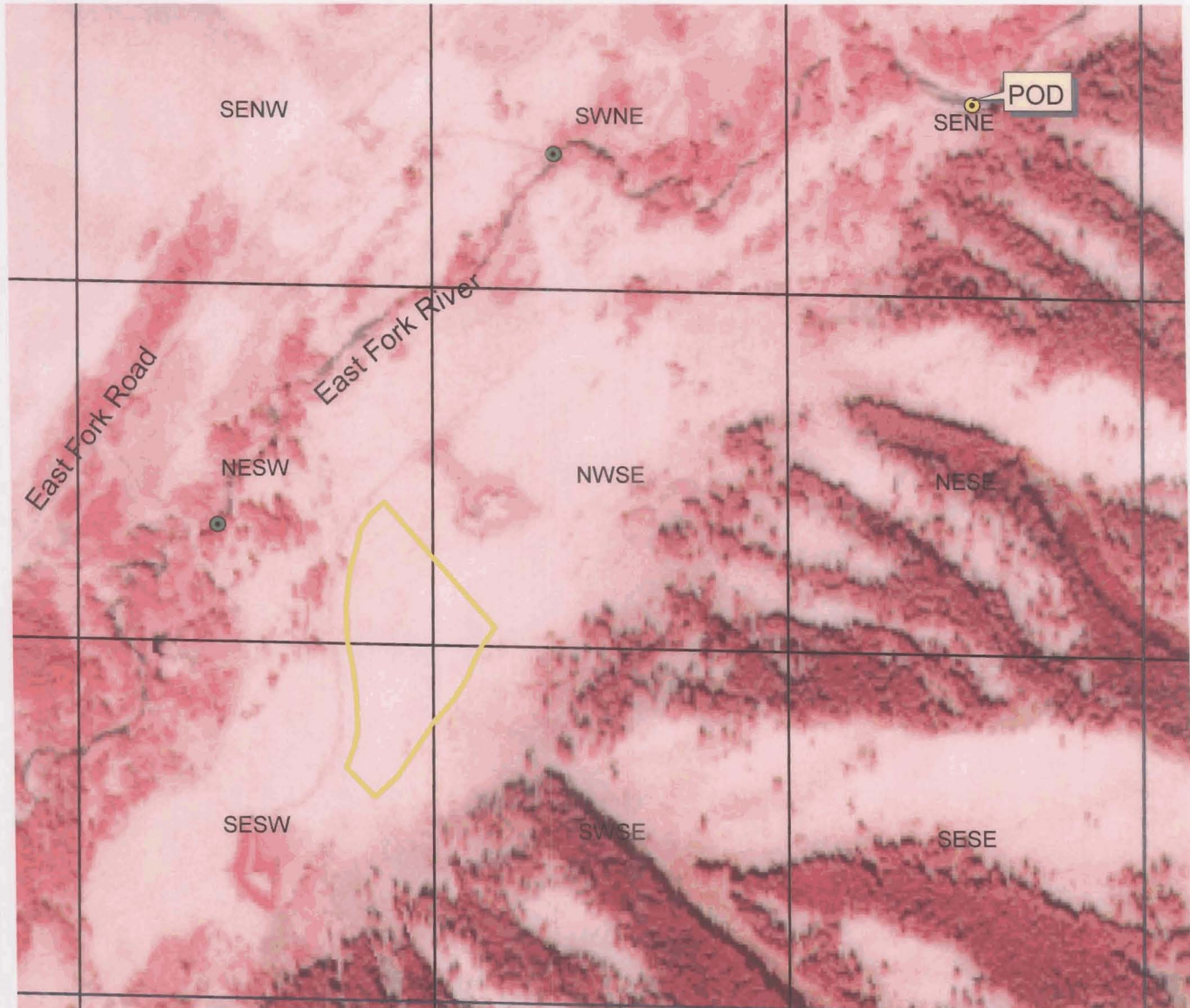
EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Place of use is located within Lots 31 and 32 of Hyndman Peak Subdivision.

This right is a split from former right 37-539G

Idaho Department of Water Resources

**RECOMMENDED PLACE OF USE FOR
37-539L**



1320

0

1320 Feet

PLACE OF USE

TWP 03N, RNG 18E, SEC 03

Data entry on August 01, 2005



● RECOMMENDED POINT OF DIVERSION

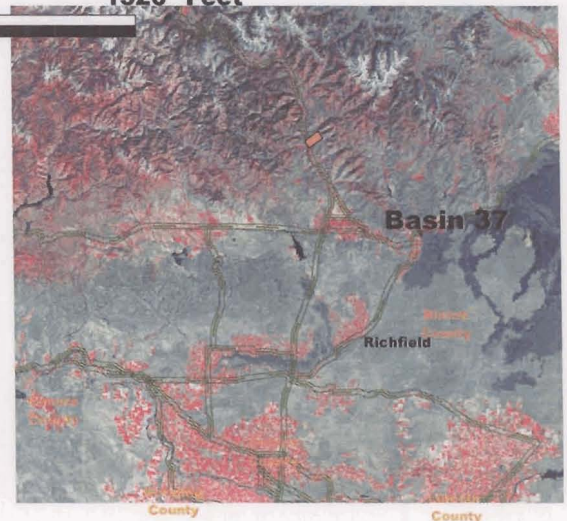
□ RECOMMENDED PLACE OF USE

□ TOWNSHIP LINES

□ SECTION LINES

□ LOCATION IN BASIN

GIS PLACE OF USE PRESENTATION
1987/1988 NAPP AERIAL PHOTOGRAPHY
DATA ENTRY BY NICK TREASURE



11/21/2006

**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: 12/13/2006

Water right number: 37-539L

ROBERT L MITCHELL
10620 BERKSHIRE

LOS ALTOS CA 94022
Telephone Number: (415)968-3333

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: 12/2/06

SIGNATURE: RR Mitchell

Please print your name: R L Mitchell

IDWR Regional Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, 2082874800

SCANNED
DEC 8 2006

SCANNED
DEC 8 2006

08/25/2005

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

RIGHT NUMBER: 37-539L

NAME AND ADDRESS: ROBERT L MITCHELL
10620 BERKSHIRE
LOS ALTOS CA 94022

SOURCE: EAST FORK WOOD RIVER

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.300 CFS

PRIORITY DATE: 06/03/1884

POINT OF DIVERSION:

T03N R18E S3 NESENE Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	0.300 CFS

PLACE OF USE: IRRIGATION Within BLAINE County

T03N R18E S03	NESW	3.1	T03N R18E S03	SESW	3.1
T03N R18E S03	NWSE	1.1	T03N R18E S03	SWSE	0.7

8 ACRES TOTAL

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

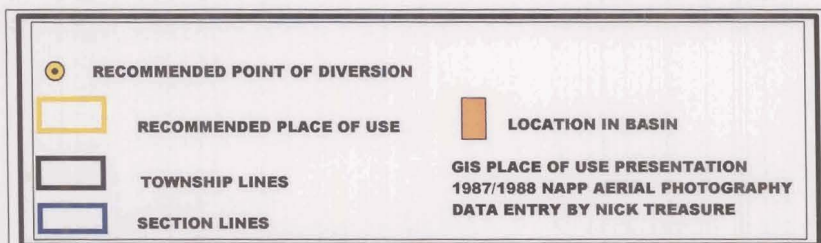
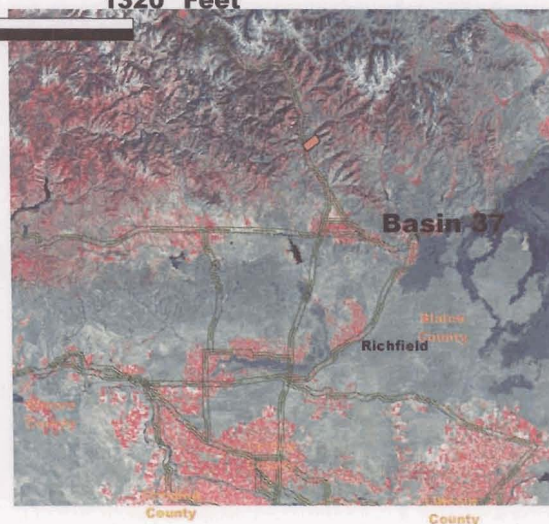
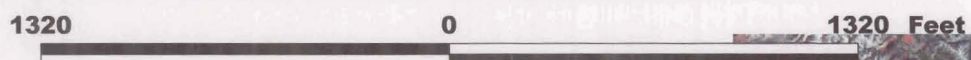
This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Place of use is located within Lots 31 and 32 of Hyndman Peak Subdivision.

This right is a split from former right 37-539G

RECOMMENDED PLACE OF USE FOR 37-539L



Memo

Nick Treasure

July 18, 2005

Subject: SRBA review and recommendation of Hyndman Peak Subdivision, Blaine County. Claims: 37-20379, 37-20380, 37-539D, 37-539F, 37-539J, 37-539L, 37-539H, 37-539I, 37-539K, 37-539G

A review of the history of Hyndman Peak Subdivision shows a series of approved transfers that have occurred from original water right 37-539. This is a 06/03/1884 decreed right for 3.0 cfs of the East Fork Wood River. Through a series of approved transfers and ownership changes, a consistent 0.06 cfs/acre has occurred in this area. The remaining portion of the parent water right 37-539 is water right 37-539G in which there are 4 claims filed against. (See attached split tree analysis-page 8).

The majority of this subdivision was developed during the 1980's. There are currently 40 lots in the subdivision as well as a 20-acre lot of original owner Rupert House. (See attached tax lot map-page 4). Many individual homeowners chose to quitclaim their water rights over to the Hyndman Peak Subdivision Homeowners Association (claim 37-539G). The remaining homeowners decided to individually claim against the 1884 decree (all remaining claims listed above).

A field examination occurred on July 6, 2005 by Water Resource Agent Nick Treasure and Basin 37 Water Master Kevin Lakey. The following was found during the course of this field visit through personal observance as well as conversations with various homeowners of the association.

- There are four Points of Diversions associated with this subdivision:
 1. The original POD to the parent right 37-539 is located in the SENE. This head gate is locally known as the peters #17 head gate. Claimants of this head gate are Robert Mitchell 37-539L and Hyndman Peak Homeowners Association 37-539G.
 2. Transfer 3291 created a POD in the SWSWNE of section 3. This particular POD has no lockable head gate. Claimants of this diversion are Rupert House 37-20379 and Carl Bontrager 37-20380.
 3. Transfer 3280 created a POD in the SWNESW of section 3. This head gate is claimed by Bruce McCaw 37-539F and Thomas Matson 37-539D.
 4. Transfer 3551 created a POD in the NENESW of section 3. The POD is a pump and sprinkler system from East Fork River. The claimant for this diversion is Craig Brandman 37-539J.

- The original Place of Use historically irrigated is depicted on the attached map-*page 5*. Also outlined on the attached map is the ditch system in which we examined and verified with original owner Rupert House before the subdivision existed. The POU outlined in green was irrigated by this irrigation system. Note that the northern areas of the subdivision as well as along the East Fork River are riparian areas and have not historically been irrigated by the 1884 decree.
- The attached map-*page 6* depicts claimants of the 1884 decree by individual owners in association with the historically irrigated ground. Notice the remaining portion of the historic irrigation depicted in green is what the homeowners association wishes to claim.
- There is currently a delivery system through ditches and laterals in which water can be delivered to the claimants listed on *page 6*. However there is no current means of deliverance for the remaining portion for individuals of the Hyndman Peak Homeowners Association though there may have been historically. It appears that a delivery system ended sometime in the late-1980's due to subdivision development.

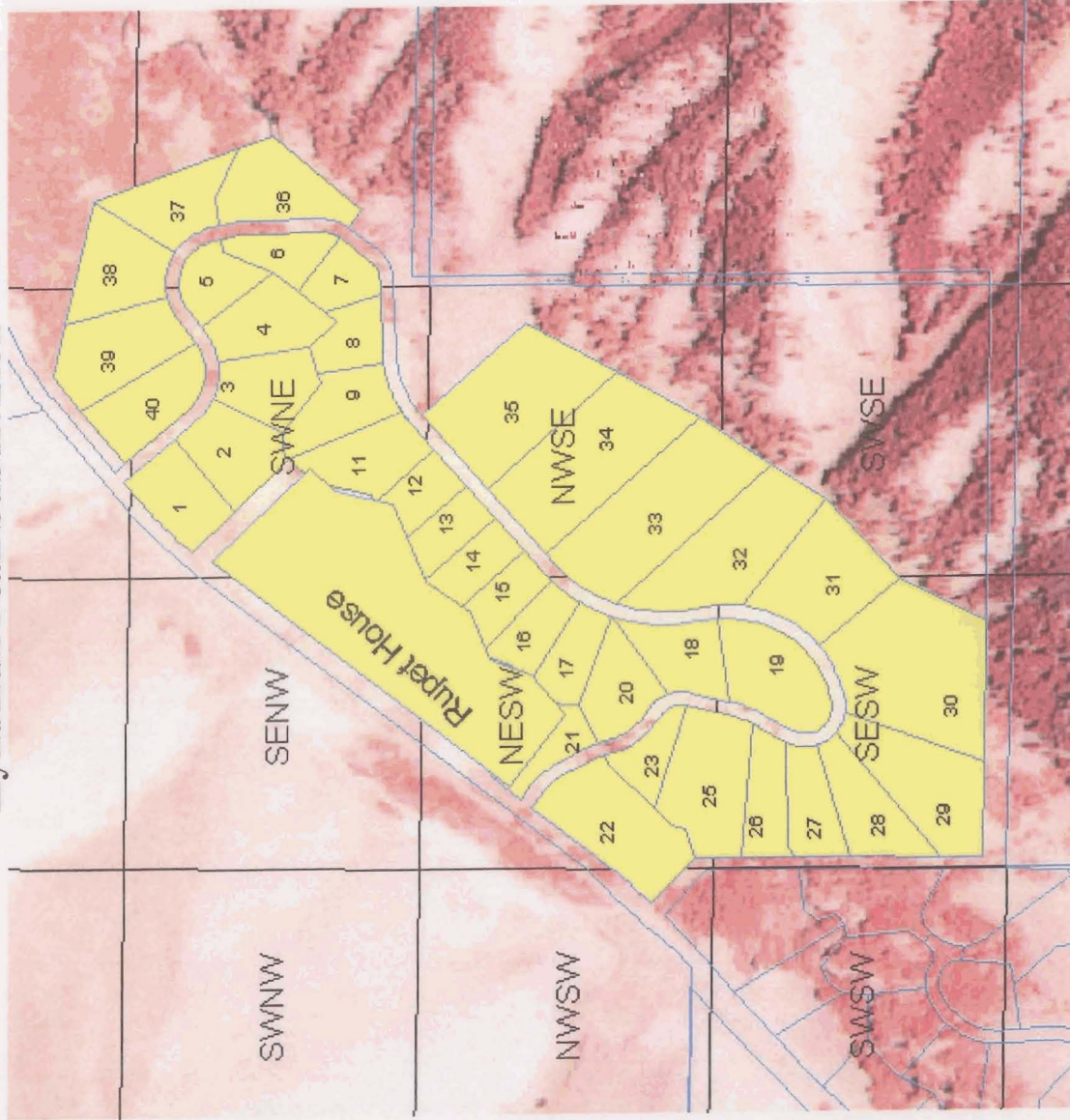
In addition to the above findings, we also found some issues listed below that need to be addressed by the IDWR. A series of transfers and other measures need to be taken in the following situations:

- Upon field examination there were found 2 large ponds on lot 34 of the Hyndman subdivision owned by Robert Mitchell. The 2 ponds together measure approximately 0.75 acres. The 2 ponds are situated directly behind the Mitchell residence. The source of water for these ponds is the East Fork River with the POD in the SENE of section 3. A third pond was also found in lot 33 for the same owner. The pond was being dug as we visited the location but did not yet contain water. This pond will receive water through a drain ditch originating from the first two ponds. It does not appear the ponds are being used in conjunction with irrigation. I met with Dr. Mitchell during our visit. He indicated that the first two ponds were built in the early 1990's. It is confirmed that the ponds did not exist in the 1987 Napp Aerial Photography. All three ponds have no transfers filed. (See photos in claim 37-5391)
- During the field visit, we noticed that a large percentage of the lots have sprinkler irrigation on more than the ½ acre allowed under their Domestic wells. Most individual owners are sprinkler irrigating 2-3 acres of pasture, yard and trees from domestic wells. Among the 40 lots in the Hyndman Peak Subdivision, there are two homeowners who have been licensed for groundwater with the purpose of irrigation. The water rights are 37-8567 for Craig Brandman and 37-8421 for Shawn Szombathy. These are the only two owners in the sub-division who are

authorized to irrigate more than a ½ acre in the subdivision. (See photos in 37-539G)

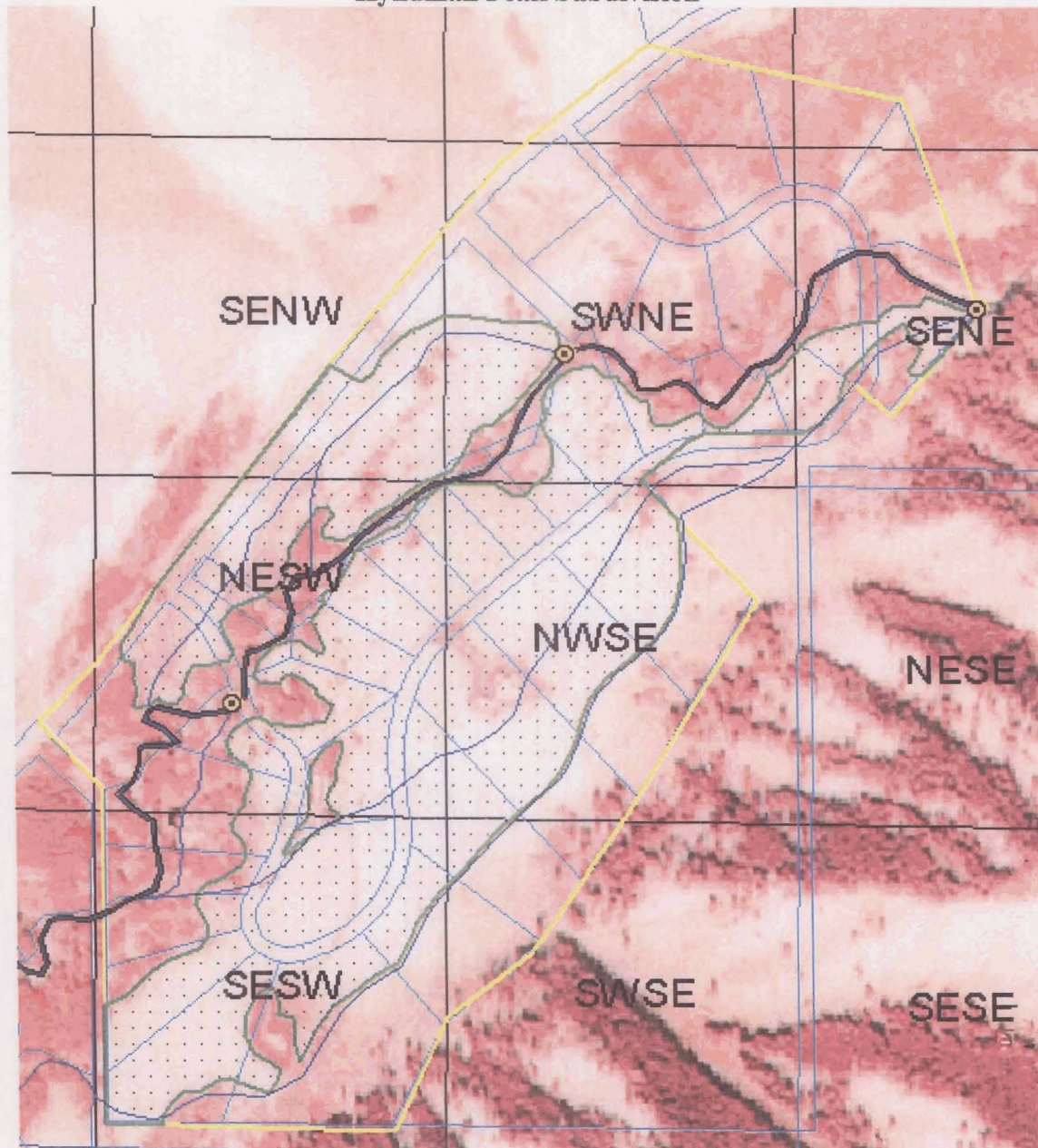
- The Hyndman Peak Homeowner's Association, claim 37-539G, currently has no means of delivery for its members from the claimed POD in the SENE of section 3. The members of the association are spread throughout the subdivision with no organized delivery system. Historically before the subdivision was built, it does appear these lots of the members of the association were irrigated. The subdivision was constructed in the late-1980's. During the construction of the Subdivision, many ditches and laterals were filled in making it impossible to currently irrigated from the claimed POD.

Hyndman Peak Subdivision



- | | | |
|--------------|-------------------------|---------------|
| 1- Bennett | 15- Brandman | 29- Porter |
| 2- Berman | 16- Swigert | 30- Szombathy |
| 3- Danielson | 17- Swigert | 31- Mitchell |
| 4- Kosmos | 18- El Camino(Mitchell) | 32- Mitchell |
| 5- Papworth | 19- El Camin (Mitchell) | 33- Mitchell |
| | | 34- Mitchell |
| | | 35- Mitchell |
| | | 36- Mitchell |
| | | 37- Mitchell |
| | | 38- Mitchell |
| | | 39- Mitchell |
| | | 40- Mitchell |

Hyndman Peak Subdivision



1987 Napp Aerial Photography

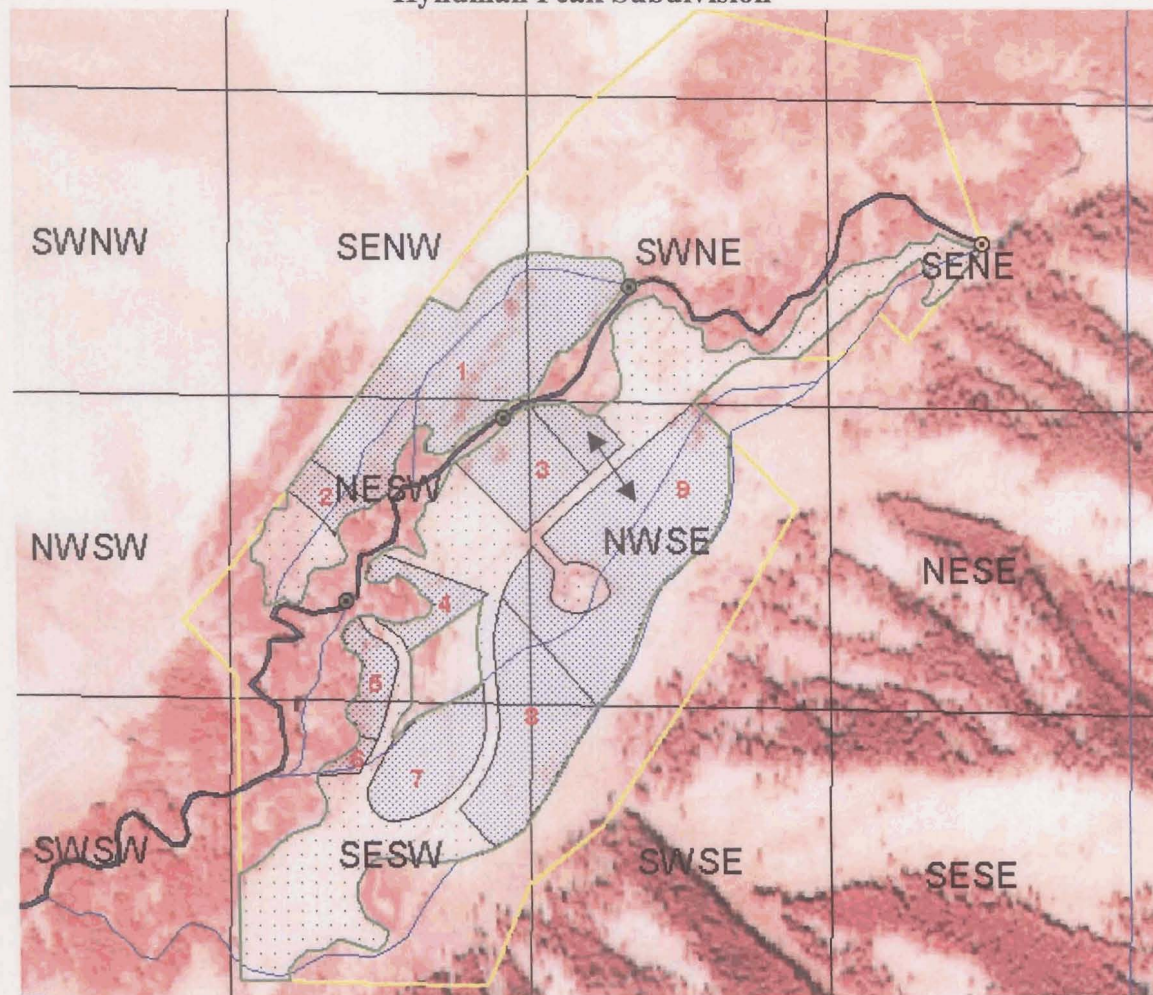


Historically Irrigated



East Fork River

Hyndman Peak Subdivision



1987 Napp Arial Photography



Historically Irrigated



Claimed 1884 East Fork Decree
(See list below)



Ownership Theme



East Fork River



Delivery System (ditches)

Claimants on June 03, 1884 East River Decree

1 Rupert House

6 Bruce McCaw

Hyndman Peak Subdivision



Split Tree
37-539
3.0 cfs

Prepared by:
Nick Treasure
August 2005

T3291

37-539A
2.6 cfs 42ac

T3280

37-539D
0.41 cfs 6.65 ac

AJ 37-539D
0.41 cfs

Matson

0.26 cfs
4.3 ac.

37-539E
2.04 cfs 33 ac

T3551

37-539G
1.89 cfs 30.5ac

T4671
Recommended for
Disallow

Water Right

37-539C
2.19 cfs 35.35ac

T3332

37-539F
0.15 cfs 2.36 ac

AJ 37-539F
0.15 cfs

McCaw

0.08 cfs
1.3 ac

37-539H
0.16 cfs 2.5 ac

AJ 37-539J
0.16 cfs

Brandman

0.15 cfs
2.5 ac

Adjudication
claim

Recomm-
endation

37-539B
0.4 cfs 12 ac

T5318

37-539J
0.33 cfs 10ac

AJ 37-20379
0.33 cfs

House

0.33 cfs
10.0 ac.

37-539K
0.07 cfs 2ac

AJ 37-20380
0.07 cfs

Bontrager

0.07 cfs
2.0 ac.

37-539L
0.29 cfs 4.2ac

Mitchell

0.30 cfs
8.0 ac.

37-539H
0.88 cfs 12.3ac

Mitchell

0.53 cfs
14.1 ac.

37-539I
0.27 cfs 4.4ac

Mitchell

0.15 cfs
4.0 ac.

37-539k
0.06 cfs 1ac

Carson

0.06 cfs
1.0 ac.

37-539G
0.71 cfs 11.6 ac

Hvndamn Peak Sub.

0.85 cfs
22.4 cfs

Notes

07/06/05

Field Exam

Nick Treasure

Lots 31 and 32 are owned by Dr. Robert Mitchell. There are currently NO homes on these lots. However there is a ditch the runs at the base of the mountain in which a series of laterals run towards the sub-division Road.

The POD is in the SENE as claimed

The POM is Approx. 8.0 Acres within the 2 lots as outlined in the attached map.

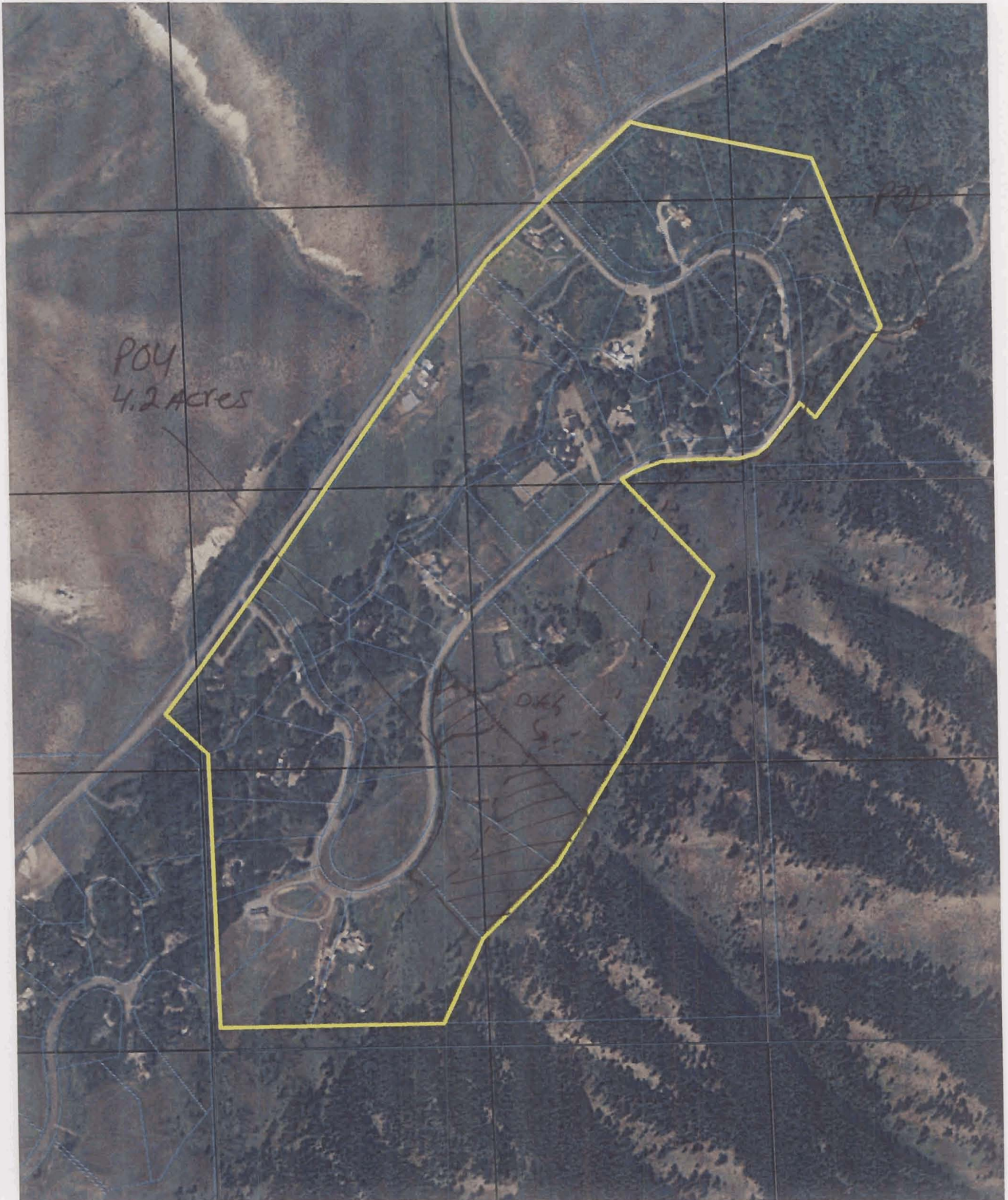
① I was able to meet with Dr. Mitchell. He said there are 8.0 acres total in Lot 31 and 32. He claimed 4.2 acres in 1988. Claimant will need to Amend this claim if this is the case.

② Approx 960 ft of Trees along the Road of Lots 31 and 32. Trees are being watered it appears from Mitchell Residence pond in Lot 34.

08/01/05

Robert Mitchell amended claim to Remove Nicole Mitchell from the Water Right due to a divorce. Mitchell also Amended claim to represent the correct acreage irrigated prior to 1987.

Hyndman Peak Subdivision



500 0 500 1000 1500 2000 2500 Feet

TwP 03N Rng 18E Secs 3



Carl Bonbrager

(118)

SAWTOOTH TITLE CO., INC.
While this is a photographic reproduction of the
recorded plat, the Company assumes no liability
for variations, discrepancies, with a re-survey.

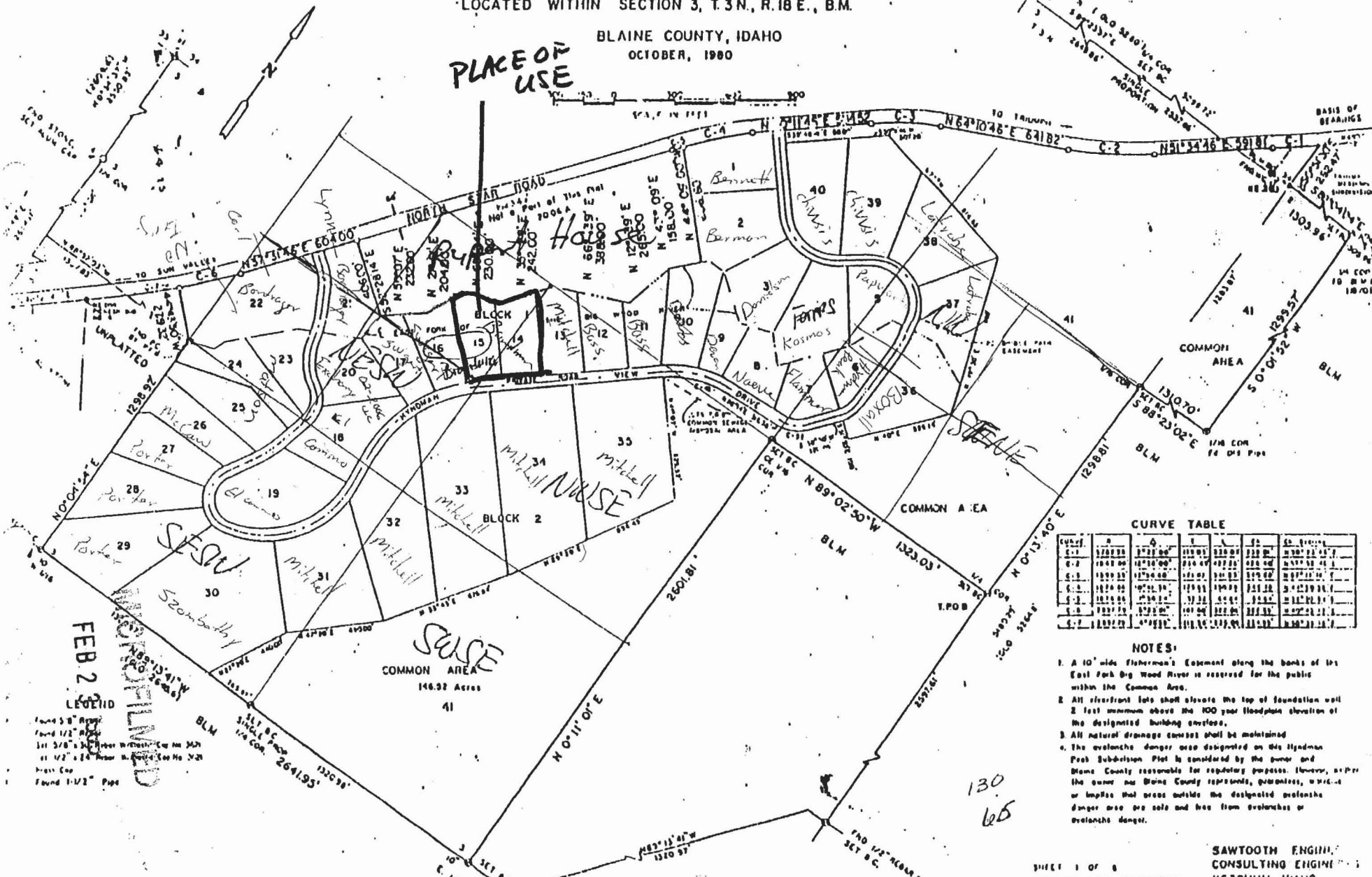
PLAT SHOWING HYNDMAN PEAK SUBDIVISION

LOCATED WITHIN SECTION 3, T.3N., R.18E., B.M.

BLAINE COUNTY, IDAHO
OCTOBER, 1980

Richard D. Hering
10-10-80

PLACE OF
USE



CURVE TABLE									
CHORD	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ
1.00	57.29	1.00	57.29	1.00	57.29	1.00	57.29	1.00	57.29
1.25	45.57	1.25	45.57	1.25	45.57	1.25	45.57	1.25	45.57
1.50	36.87	1.50	36.87	1.50	36.87	1.50	36.87	1.50	36.87
1.75	30.46	1.75	30.46	1.75	30.46	1.75	30.46	1.75	30.46
2.00	26.18	2.00	26.18	2.00	26.18	2.00	26.18	2.00	26.18
2.25	23.04	2.25	23.04	2.25	23.04	2.25	23.04	2.25	23.04
2.50	20.70	2.50	20.70	2.50	20.70	2.50	20.70	2.50	20.70
2.75	18.96	2.75	18.96	2.75	18.96	2.75	18.96	2.75	18.96
3.00	17.60	3.00	17.60	3.00	17.60	3.00	17.60	3.00	17.60
3.25	16.50	3.25	16.50	3.25	16.50	3.25	16.50	3.25	16.50
3.50	15.61	3.50	15.61	3.50	15.61	3.50	15.61	3.50	15.61
3.75	14.89	3.75	14.89	3.75	14.89	3.75	14.89	3.75	14.89
4.00	14.32	4.00	14.32	4.00	14.32	4.00	14.32	4.00	14.32

NOTES:

1. A 10' wide Fisherman's Easement along the banks of the East Fork Big Wood River is reserved for the public within the Common Area.
2. All riverfront lots shall elevate the top of foundation wall 2 feet minimum above the 100 year floodplain elevation of the designated building envelope.
3. All natural drainage courses shall be maintained.
4. The avalanche danger area designated on the Hyndman Peak Subdivision Plat is considered by the owner and Blaine County responsible for regulatory purposes. However, as per the owner no Blaine County represents, guarantees, warrants or implies that areas outside the designated avalanche danger area are safe and free from avalanches or avalanche danger.

INTEROFFICE MEMORANDUM

TO: TRANSFER FILE NO. 5318
FROM: KELLY K CHRISTENSEN
SUBJECT: ADJUDICATION REVIEW OF TRANSFER
DATE: 02/22/99

37-00539 is over-claimed through the adjudication process however based upon a memo dated October 20, 1995 in transfer file 4671 a significant portion of the base right appears to be forfeited based upon non use. The current allocation rights and related adjudication claims are;

37-00539B	0.40	cfs	A37-00539B	claimed in full
37-00539D	0.41	cfs	A37-00539D	claimed in full
37-00539F	0.155	cfs	A37-00539F	claimed in full
37-00539H	0.155	cfs	A37-00539J	claimed in full
37-00539G	<u>1.88</u>	<u>cfs</u>	A37-00539G	(.714 cfs claimed)
total	3.00	cfs	A37-00539H	(.880 cfs claimed)
			A37-00539I	(.274 cfs claimed)
			A37-00539K	(.062 cfs claimed)
			A37-00539L	<u>(.290 cfs claimed)</u>
			total	3.335 cfs (claimed)

Adj claim suffixes 'G', 'H', 'I', 'K', and 'L' are all apparently against the base right 37-00539G.

The place of use prior to transfer is for ground outside the Hyndman Peak Subdivision and two acres are being transferred onto lot 21 of that subdivision. Claim A37-00539G includes lot 21 as a portion of the place of use. Also attached to that claim is a quitclaim deed releasing water rights appurtenant to lot 21 to the Homeowner's association. That Deed was signed by Robert Brennan. As the applicant is asserting that lot 21 is currently dry, this gives weight to the memo indicating

that much of the original place of use is no longer irrigated.

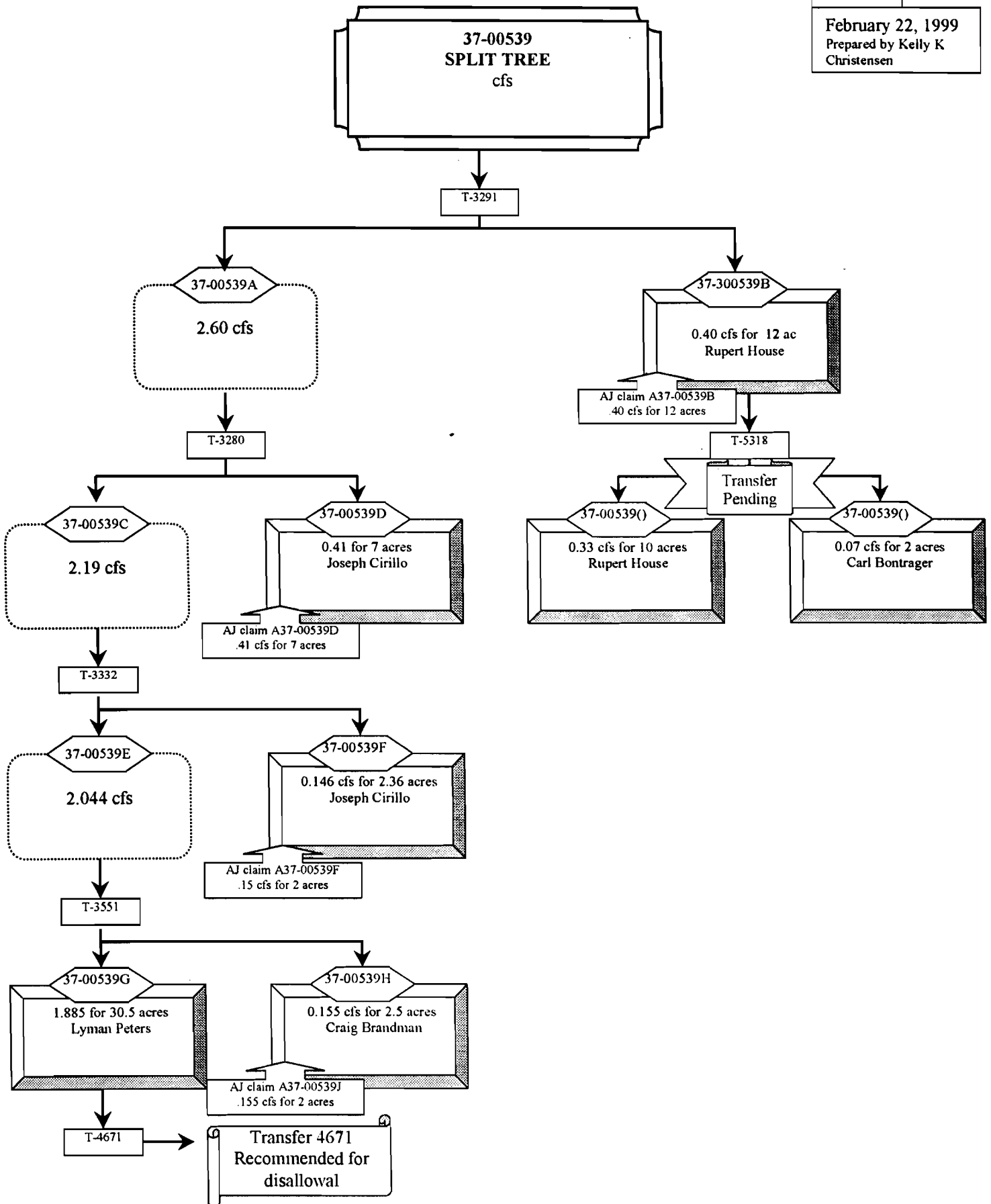
The letter to the file from Water District NO 37 & 37M dated October 18,1995 indicates that the ownership of the place of use covered by this transfer has been one of the few consistently delivered portions of the base right.

I, therefore, am accepting the analysis developed by Corey Skinner as being acceptable for adjudication purposes.

As this transfer will split A37-00539B, I recommend that the suffix assigned to the allocations records recognize the adjudication suffixes already assigned which would allow the adjudication claim split match the allocations assigned suffixes.

See attached split tree for 37-00539.(allocations rights)

February 22, 1999
Prepared by Kelly K
Christensen



FROM: Allen Merritt *AM*

DATE: October 20, 1995

TO: Doug Jones for SRBA files, Transfer #4671 file

SUBJECT: Review and Recommendation of Transfer #4671 and other issues related to 37-00539.

Transfer #4671 is the fifth transfer relating to right 37-00539. The right was originally decreed for 3.0 cfs and made appurtenant to 4 tracts of land (SWNE, NWSE, NESW, SESW in Section 3, Twp.03N, Rge.18E, B.M.). The actual number of acres irrigated was not decreed.

In 9/4/1986 Rupert House filed the first transfer #3291 which split off 0.40 cfs for irrigation of 12 acres. This transfer was approved. In the process Jim Stanton conducted a field review and made a determination that the historical lands irrigated amounted to 57 acres. (See transfer for legal) House split of 15 acres for irrigation of 12 acres. On microfilm there is a aerial photo where Jim has drawn the A and B parts of the right. The photo shows 55.2 acres and a 11.2 acre parcels. The 11.2 acre tract appears to be Rupert House's part. Jim cuts off the southern portion of the 55.2 acre parcel resulting in 42 acres being left for this part. On the transfer in remarks there is a statement that the House portion has been used but the other portion has not been used since 1979. The remaining portion after House takes his was reported to have been sold to Brennan who developed the Hyndman Peak Subdivision.

On 9/22/1986 Joseph Cirillo filed the second transfer #3280 which split off 0.41 cfs to a pump for irrigation of 6.65 acres in Lots 23, 24 and 25 of Block 2 of the Hyndman Peak Subdivision. The transfer was approved. ***Note that lots 23, 24 & 25 are in both the NESW and SESW of Section 3. The transfer only lists NESW. During the review of this transfer a letter from Reid Newby, watermaster addresses delivery of the Brennan 130" and Spackman concludes there is no evidence of forfeiture for the period of 1980 through 1985.

On 5/19/1987 Joseph Cirillo filed the third transfer #3332 which split off 0.146 cfs to the same pump for transfer #3280 for irrigation of 2.36 acres in lot 26 of Block 2 of the Hyndman Peak Subdivision. The transfer was approved. ***Note that lot 26 is in the SESW but transfer list P/U in NESW. No possible forfeiture since 1985 at that time.

On 2/1/1989 Craig Brandman filed the fourth transfer #3551 which split off 0.155 cfs to a pump for irrigation of 2.5 acres in lots 14 and 15 of Block 1 of the Hyndman Peak Subdivision. The transfer was approved. No possible forfeiture since 1985 at that time.

On 3/9/92 Richard Porter sent an application for transfer through his attorney Kenneth Arment. Doug Jones returned the application on 8/14/95 to attorney Brian Ballard because the application did

37-00539 K, T # 4671

not make sense with the record of water rights. On 9/2/1994 a replacement transfer application was filed for Richard Porter by a different attorney, Richard Burleigh. This application is numbered #4671 and subject of this memo. With the new application there were documents filed to attempt to show more acres were irrigated than the department has been tracking as based on Jim Stanton's original estimate.

On 10/17/95 I called the watermaster's office and talked with Norma Peterson. As a result of our conversation she went back into her records and prepared the attached letter describing the delivery of the right back to 1980. In reviewing this letter it appears clear and convincing to me that the portion of the right subject of Transfer #4671 has not been used for 10 years.

Based on this I recommend the transfer be disallowed.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER DISTRICT NO. 37 & 37 M

P.O. Box T
Shoshone, Idaho 83352
(208) 886-2451



LEE R. PETERSON
Watermaster

RECEIVED
OCT 18 1995
Department of Water Resources
Southern Region

Alan Merritt
State of Idaho
Department of Water Resources
222 Shoshone St. East
Twin Falls, Idaho 83301

October 18, 1995

Alan:

The following is a list of owners of water right 37-0539 of 150 inches and the use record for that right. By using the past Watermaster's work sheet I was able to go back as far as 1980.

Year	Owner	Inches Owned	Used
1980	Robert Brennan	130.00	no
	Rupert House	20.00	no
1981	Robert Brennan	130.00	yes
	Rupert House	20.00	yes
1982	Robert Brennan	130.00	no
	Rupert House	20.00	yes
1983	Robert Brennan	130.00	no
	Rupert House	20.00	yes
1984	Robert Brennan	130.00	yes
	Rupert House	20.00	yes
1985	Robert Brennan	130.00	yes
	Rupert House	20.00	yes
1986	Robert Brennan	130.00	no
	Rupert House	20.00	yes
1987	Robert Brennan	102.20	no
	Joseph Cirillo	27.80	yes
	Rupert House	20.00	yes
1988	Robert Brennan	102.20	no
	Joseph Cirillo	27.80	no
	Rupert House	20.00	yes

Years on how-use

1 1
2 2
3 3

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER DISTRICT NO. 37 & 37 M

P.O. Box T
Shoshone, Idaho 83352
(208) 886-2451



LEE R. PETERSON
Watermaster

Page 2

1989	Robert Brennan	94.45	no	4	
	Joeseeph Cirillo	27.80	yes		
	Dr. Craig Brandman	7.75	no		4
	Rupert House	20.00	yes		
1990	Robert Brennan	54.01	no	5	
	Bruce McCaw	27.80	yes		
	Dr Craig Brandman	7.75	no		5
	Robert Mitchell	40.44	no		
	Rupert House	20.00	yes		
1991	Robert Brennan	54.01	no	6	
	Bruce McCaw	28.50	yes		
	Dr Craig Brandman	7.75	no		6
	Robert Mitchell	40.44	yes		
	Rupert House	20.00	yes		
1992	Robert Brennan	54.01	no	7	
	Bruce Mc Caw	27.80	yes		
	Dr Craig Brandman	7.75	no		7
	Robert Mitchell	40.44	yes		
	Rupert House	20.00	yes		
1993	Robert Brennan	54.01	no	8	
	Bruce Mc Caw	27.80	yes		
	Dr Craig Brandman	7.75	no		8
	Robert Mitchell	40.44	yes		
	Rupert House	20.00	yes		
1994	Robert Baugh	10.85	no	9	
	Hyndman Homeowners	43.16	no		
	Bruce Mc Caw	27.80	yes		
	Dr Craig Brandman	7.75	no		9
	Robert Mitchell	40.44	yes		
	Rupert House	20.00	yes		
1995	Robert Baugh	10.85	no	10	
	Hyndman Homeowners	43.16	no		
	Bruce Mc Caw	27.80	yes		
	Dr Craig Brandman	7.75	no		10
	Robert Mitchell	40.44	yes		
	Rupert House	20.00	yes		

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER DISTRICT NO. 37 & 37 M

P.O. Box T
Shoshone, Idaho 83352
(208) 886-2451



LEE R. PETERSON
Watermaster

Page3

In way of explanation for non-use of some portions of this water right. Robert Brennan is a developer, his practice is to buy up land and water rights. As a rule he never uses the water. He then develops the land, sells off parcels and the water right may or may not be used by the new owner. Mr. Brennan has held more water rights in non use situations and has caused much controversy because of this practice.

I hope you find this information useful. If there is anything further we can do to be of help please let us know.

Sincerely,

A handwritten signature in cursive script that reads "Norma Peterson".

Norma Peterson
Secretary/Treasurer