

SEP 16 2008

DEPARTMENT OF
WATER RESOURCES

September 12, 2008

Sandy Egbert
Idaho Department of Water Resources
322 E. Front St.
P.O. Box 83720
Boise, ID 83720

Re: Subcase Nos. 63-3330B, 63-7075B, 63-31189

Dear Sandy,

A Status Conference was held for the above-captioned Subcases on August 5, 2008. During the hearing, SPF agreed to file amended claims in two of the Subcases (63-3330B and 63-7075B) and provide a written proposal for settlement. This letter is an attempt to fulfill that agreement.

I have enclosed copies of amended claims for water rights 63-3330B and 63-7075B. These claims were mailed to the SRBA court on September 12, 2008. I have also enclosed three draft water right descriptions that show proposed changes in overscore/understrike format.

The original claims were filed by Mr. Daniel's predecessor and did not accurately describe how the water was being used at the time. Mr. Daniel later became concerned about the possibility of forfeiture because the land was not being irrigated at the time of purchase. For this reason, he purchased and transferred water right 63-31189 to assure irrigation for a small vineyard. The error on the original claims became apparent when the three water rights were recommended as overlapping in the SRBA.

In fact, water rights 63-3330B and 63-7075B had been used to irrigate the entire area shown on the map accompanying the amended claims, including the five acres now irrigated under water right 63-31189. The Daniels do not wish to file an enlargement claim to represent that use. Instead, they propose leaving water right 63-31189 exactly where it is and correcting the original claims for water rights 63-3330B and 63-7075B to show a total of 40 acres of irrigation within a 48 acre permissible place of use.

I hope this explanation is helpful. Please call me if you have questions.

Sincerely,



Roxanne Brown

Cc: David Daniel

Enclosures

Amended Claims

SPF Job No.: 241.0010

RECEIVED

SEP 16 2008

DEPARTMENT OF
WATER RESOURCES

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

In Re SRBA

) Subcase 63-3330B

) (Insert water right number)

)

Case 39576

) STANDARD FORM 4

)

) MOTION TO FILE:

) ☐ LATE NOTICE OF CLAIM

) ☒ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

☒ I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is David Daniel

My address is 12197 Deer Flat Rd., Nampa, ID 83686

My phone number is: Work (208) 467-1525 Home _____

I am an attorney representing _____

My name is _____

My address is _____

My phone number is _____

MOTION TO FILE A LATE NOTICE OF CLAIM

A Motion to File a Late Notice of Claim will require a hearing before the Presiding Judge.

☐ I did not file a Notice of claim to the use of water in the SRBA because:

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☐ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

I have attached:

☐ A fully completed Notice of Claim (available from IDWR).

☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.

- ☐ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on _____
(Insert Date and Time)

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File an Amended Notice of Claim may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

☒ I must amend my Notice of Claim to the use of water in the SRBA because:

The original claim did not correctly identify the irrigated place of use and an

amendment is necessary to resolve an objection filed in the SRBA.

☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

I have attached:

☒ An amended Notice of Claim (available from IDWR).

☐ Payment of the following additional fees required by IDWR:

VERIFICATION (Must be completed)

State of Idaho

County of Canyon

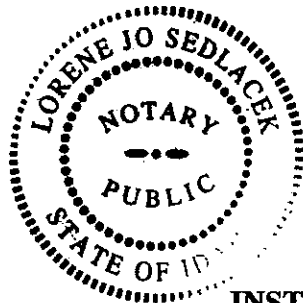
David Daniel, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

David Daniel
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on September 10th 2008
(Insert Date)



Lorene Jo Sedlacek
Notary Public for ID

Residing at: Nampa ID

My Commission expires: 2/26/09

INSTRUCTIONS FOR MAILING

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

CERTIFICATE OF MAILING

I certify that on _____, 2008, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

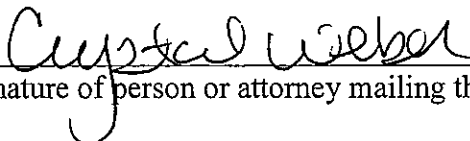
2. Copies to:

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

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

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.



Signature of person or attorney mailing the form

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 63-3330B

Date Received:

Receipt No:

Received By:

AMENDED NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

David and Angela Daniel Phone: (208)467-1525
12197 Deer Flat Rd.
Nampa, ID 83686

2. Date of Priority: February 25, 1963

3. Source: ground water Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
2N	3W	24	SE NW	Canyon	

5. Description of diverting works: well and pump

6. Water is used for the following purposes:

Purpose	From	To	C.F.S. (or)	A.F.A
IRRIGATION	3/1	11/15	0.45	175.5

7. Total Quantity Appropriated is:
0.45 CFS

8. Total consumptive use: n/a

9. Non-irrigation uses: none

10. Place of use:

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
2N	3W	24			34		14												48

Note: Place of use claimed is 39 acres within a 48 acre place of use. Right Nos. 63-3330B and 63-7075B are limited to the irrigation of a combined total of 40 acres in a single irrigation season.

11. Place of use in counties: Canyon

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

13. Other Water Rights Used: 63-7075B

14. Remarks:

15. Basis of Claim: License

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 X 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): *D. Daniel* Date: 9/10/08
Angela Daniel Date: 9/10/08

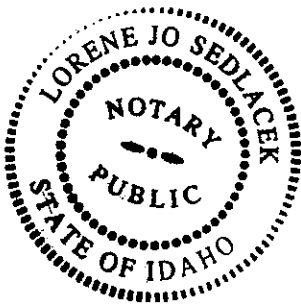
State of Idaho)
County of Canyon) SS.

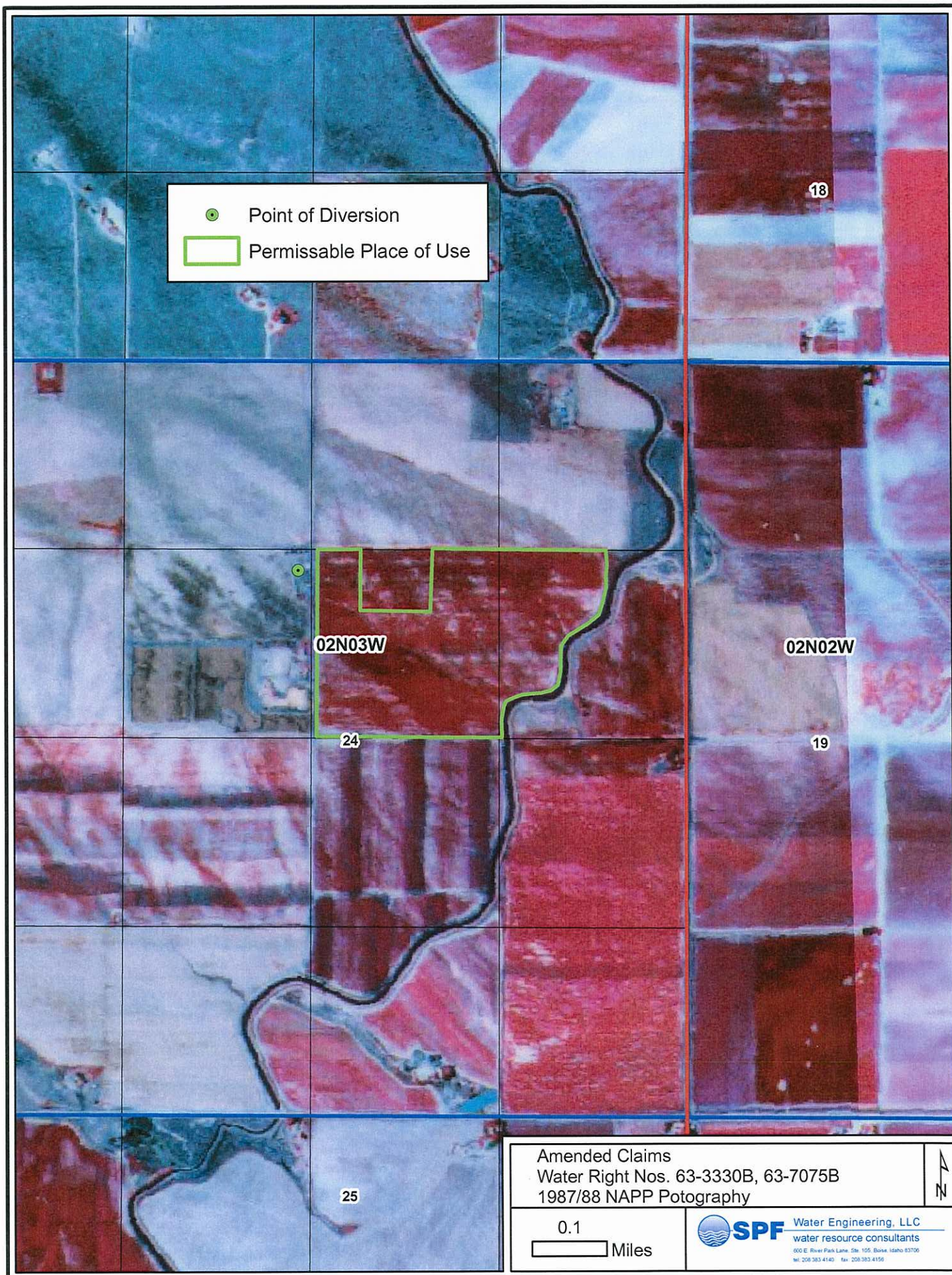
Subscribed and sworn (or affirmed) before me this 10th of September 2008

Lorene Jo Sedlacek
Notary Public

Residing at Nampa ID

My commission Expires 2/26/09





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

RIGHT NUMBER: 63-3330B

NAME AND ADDRESS: DAVID DANIEL
12197 DEER FLAT RD
NAMPA ID 83686

ANGELA DANIEL
12197 DEER FLAT RD
NAMPA ID 83686

SOURCE: GROUND WATER TRIBUTARY:

QUANTITY: 0.450 CFS
175.50 AFY

Right Nos. 63-3330B, and 63-7075B and ~~63-31189~~ are limited to a total combined diversion rate of .8 cfs and to a total combined annual diversion volume of 180 AF.

PRIORITY DATE: 02/25/1963

POINT OF
DIVERSION: T02N R03W S24 SENW Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.450 CFS 175.50 AFY

PLACE OF USE: IRRIGATION in CANYON County

T02N R03W S24 SWNE ~~39.00~~ 34.00 T02N R03W S24 SENE 14.00
39 48 ACRES TOTAL

Right Nos. 63-3330B, ~~and~~ 63-7075B and ~~63-31189~~ are limited to the irrigation of a combined total of 40 acres in a single irrigation season.

This right is limited to the irrigation of 39 acres within the place of use described above in a single irrigation season.

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 - License

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

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

RIGHT NUMBER: 63-7075B

NAME AND ADDRESS: DAVID DANIEL
12197 DEER FLAT RD
NAMPA ID 83686

ANGELA DANIEL
12197 DEER FLAT RD
NAMPA ID 83686

SOURCE: GROUND WATER TRIBUTARY:

QUANTITY: 0.350 CFS
137.50 AFY

Right Nos. 63-3330B, and 63-7075B and ~~63-31189~~ are limited to a total combined diversion rate of .8 cfs and to a total combined annual diversion volume of 180 AF.

PRIORITY DATE: 03/11/1968

POINT OF
DIVERSION: T02N R03W S24 SENW Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/15	0.350 CFS 137.50 AFY

The use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in CANYON County

T02N R03W S24 SWNE ~~39.00~~ 34.00 T02N R03W S24 SENE 14.00
39 48 ACRES TOTAL

Right Nos. 63-3330B, and 63-7075B and ~~63-31189~~ are limited to the irrigation of a combined total of 40 acres in a single irrigation season.

This right is limited to the irrigation of 40 acres within the place of use described above in a single irrigation season.

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 - License

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

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

RIGHT NUMBER: 63-31189

NAME AND ADDRESS: DAVID DANIEL
12197 DEER FLAT RD
NAMPA ID 83686

ANGELA DANIEL
12197 DEER FLAT RD
NAMPA ID 83686

SOURCE: GROUND WATER TRIBUTARY:

QUANTITY: 0.100 CFS
22.50 AFY

~~Right Nos. 63-3330B, and 63-7075B and 63-31189 are limited to a total combined diversion rate of .8 cfs and to a total combined annual diversion volume of 180 AF.~~

PRIORITY DATE: 04/13/1967

POINT OF
DIVERSION: T02N R03W S24 SWNE Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.100 CFS 22.50 AFY

PLACE OF USE: IRRIGATION in CANYON County

T02N R03W S24 SWNE 5.00
5 ACRES TOTAL

~~Right Nos. 63-3330B, and 63-7075B and 63-31189 are limited to the irrigation of a combined total of 40 acres in a single irrigation season.~~

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 - License

Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

Failure of the right holder to comply with the conditions of Transfer 69110 is cause for the Director to rescind approval of the transfer.

The right holder shall accomplish the change authorized by Transfer 69110 within one (1) year of the date of this approval.