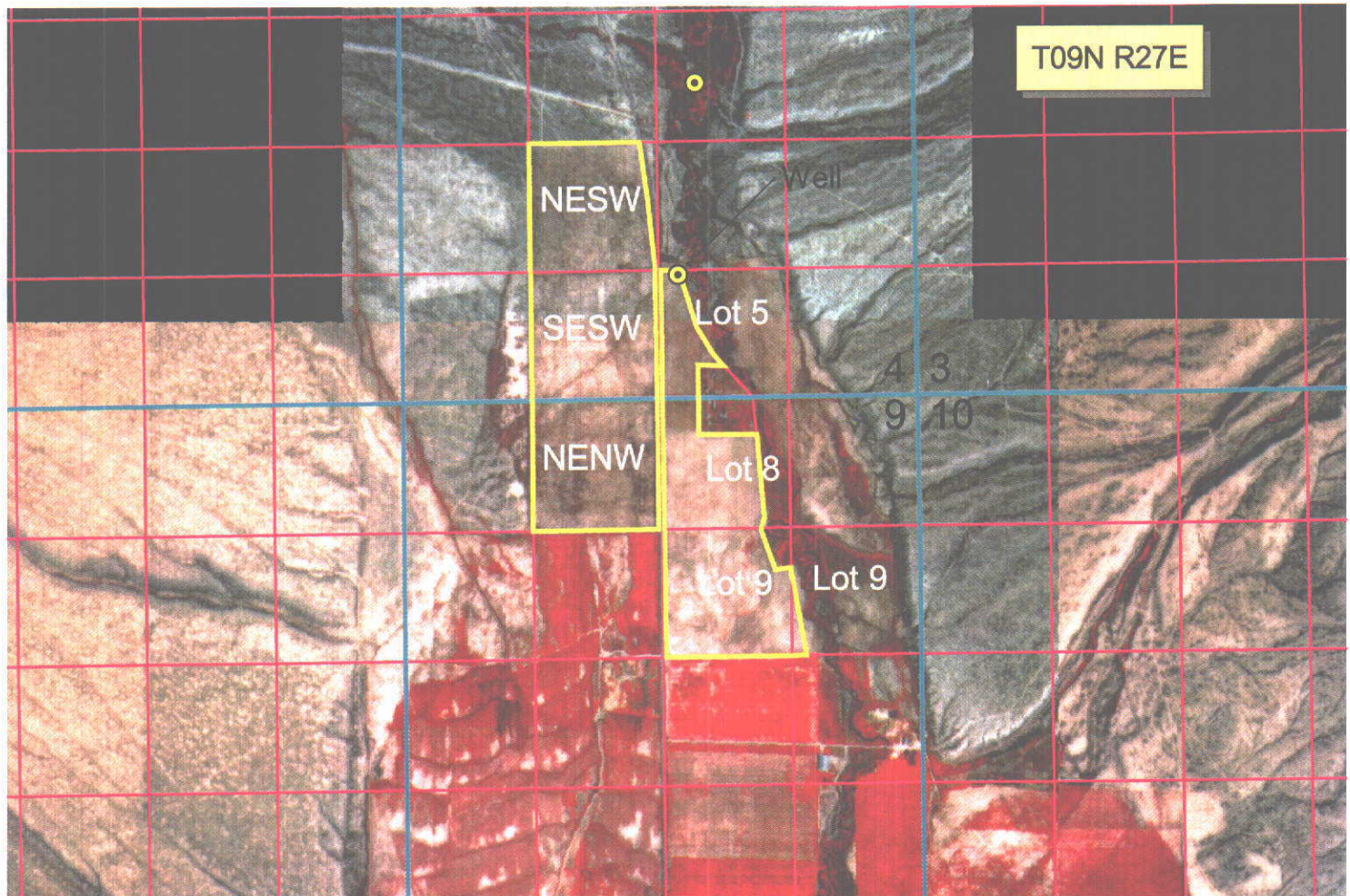




STATE OF IDAHO

Department of Water Resources

Water Right(s): 33-88, 33-89,
33-93D, 33-2089



0 2640 5280 7920 Feet

LEGEND



Point of Diversion



Place of Use

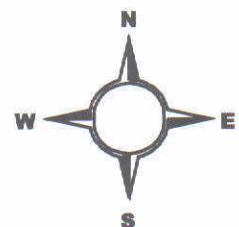


Section Line



Quarter-section line

Acres Irrigated = 189.5



GIS Place of Use Illustration
1987/1988 NAPP photography
Prepared by: E. Carlsen
Date: November 2000



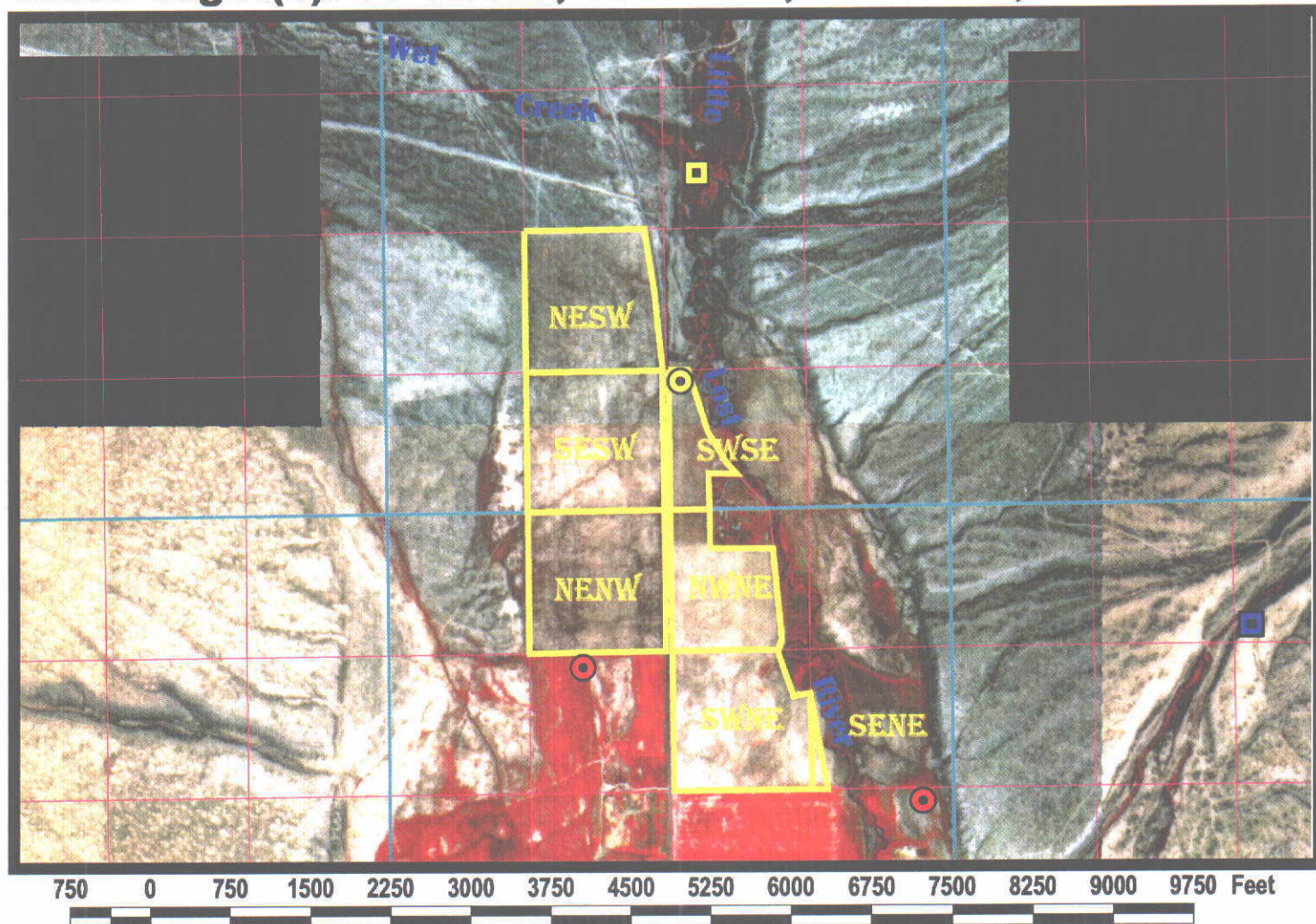
STATE OF IDAHO

Department of Water Resources

Eastern Region

Claimant: Keith Waymire

Water Right(s): 33-02089, 33-00088, 33-00089, 33-00093D



LEGEND



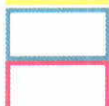
Point of Diversion- GW



Point of Diversion- SW

SESE

Place of Use



Section Line



Quarter-section line

Place(s) of Use: T.9N., R.27E.

Sec. 4 (parts of) E2SW, SWSE,

Sec. 9 (parts of) NWNE, W2NE,

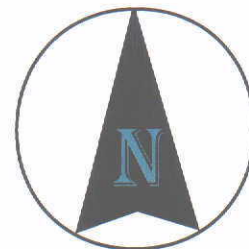
SENE

Point(s) of Diversion: T.9N., R.27E.

Sec. 4 SWSWNE (surface)

Sec. 4 NWSWSE (well)

**NOTE: Place of use revised per Notice
of Error process and filing of 33-00093D.**



GIS Place of Use Illustration
1987/1988 NAPP photography
Prepared by: A. Ruberry
Date: January 2000

11 April 2020

From: BLM Eastern Region 11 April 2020

To: Fred Price, BLM-ISO

CC: Candice McHugh, IDWR ADJUD.

From: A. Ruberry, IDWR Eastern Region

Re: B33 Irr POD's objected to by BLM

POD LOCATION

T11N R26E S10 NWNENE

This legal description defines the beginning of a channelized portion of Sawmill Creek. Apparently back in the 1920'-1930's there were several attempts tried to preserve water from Sawmill Creek because the stream would "break". Among them were things like a canal dug from Sawmill Creek to Summit Creek and a channelization project aimed at cleaning and to some extent straightening the Sawmill Creek channel as it flowed across Mud Flats (ref: OQ U-82).

*See ATTACHED
LIST OF Sawmill
CR RIGHTS.*

In review of the adjudication claims from Sawmill Creek and the Little Lost River, it was initially considered that the source(s) could all be Little Lost River since it was difficult to determine where Little Lost River started and Sawmill Creek ended. Seeing no difference in source recommendations of Sawmill Creek claims were changed to Little Lost River. The Preliminary Director's Report was filed only to find that Sawmill Creek now occasionally breaks at the shearing corrals, which is about half-mile upstream from the confluence of Sawmill Creek and Summit Creek; The beginning of the Little Lost River. This new information seriously impacted recommendations since the Sawmill Creek claims, now changed to Little Lost River, became senior to the junior Little Lost River rights, causing injury to the junior Little Lost River appropriators.

Ultimately, the source issue was changed back to Sawmill Creek. Now a problem arose where a Point of Diversion had to be defined for the Sawmill Creek claims since actual deliveries are made from Little Lost River (except 33-00107 which is a true Sawmill Creek right, but, Decreed as a Little Lost River right). The 1927 Decree states "at the mouth of Sawmill Creek". However, there were no rights diverted at the mouth of Sawmill Creek. And, the dilemma of where was the mouth of Sawmill Creek. In consideration of the channelization project aimed at preserving waters of Sawmill Creek it was determined that the channelization had in-fact changed the streambed to a canal, saving water. Therefore, the beginning of the channelization would now become the Point of Diversion and the ending of the channelization would be a Point of injection back into the Sawmill Creek stream channel. The Point of Injection is near the shearing corrals, about half-mile upstream from the confluence of the streams. The Sawmill Creek claims Point(s) of Diversion are recommended as Points of Re-diversion from Little Lost River at or near their respective Place(s) of Use. This recommendation preserves both the source and the Sawmill Creek priority dates and, forgoes the injury issue of junior Little Lost River rights.

T9N R27E S4 SWNWNE

This objection is a true error. Apparently a typographical error was made during the recommendation process. The TRUE Point of Diversion should read **T9N R26E S4 SWSWNE**. The claimant, Mr. Waymire has been notified and is now aware of the issue.

33-00036
00037
000930

T11NR27E S31 NESESE

BLM believes this POD should read S31 SENESE based on GPS data. However, during the field exam of these claims several Points of Diversion were identified to include the one in question. The recommended POD in-question is an actual Point of Diversion where an unnamed stream intersects with the collector ditch and can be verified using OQ V-32. The site proposed by the BLM is a drainage that was dry during the field exam, thus no recommended POD.

33-00065
33-7087

T6N R28E S2 SESWSW

Specifically named is SRBA claim 33-10995. This claim identifies private lands historically irrigated by the Hawley's, later sold without water. The Point of Diversion used during the irrigation era is on BLM but is now longer used. The claimant filed this SRBA claim and Transfer No. 4551 in an effort to preserve the acreage irrigated by surface water. The transfer is in-place awaiting the BLM objection to prompt IDWR to review and act. However, the transfer is currently protested.

33-00051 Thru
33-00060

T6N R 28E S11 SESENW

This is an historic Point of Diversion dating back to the late 1800's (according to the water right priority dates, 1885-1891) and is one of three serving the ranch. One of which previously mentioned above, T6N R28E S2 SESWSW. The other is within the private holding of the ranch.

33-10996 is an enlargement claim for acres on BLM lands that were historically irrigated by the Hawley's and is part of the Transfer No. 4551 aforementioned. BLM is aware of this claim and supports the transfer of acreage to private lands. As mentioned previously, the transfer is protested.

T7N R28E S21 NWNWSW

According to the Proof of Beneficial Use filed for this right (33-07010) this well dates to the 1940's. However, the Licensed date of priority was March 19, 1971, but then Transfer No. 3809 was filed to "unstack" surface and groundwater rights. As a result, the priority date of the well was advanced to July 2, 1990. Surface water decreed to this ranch date to 1885 to 1891.

This particular well dating to the 1940's (unsupported evidence of prior claimant) was located according to the initial survey dating to July 9, 1890, which no doubt established fence lines. A resurvey of the East line of Section 21 was done in August 1941. Then, in 1978, another resurvey was done as, evidenced by the monument caps. This 1978 resurvey puts the TRUE Point of Diversion of the 33-07010 well in the NENWSW (a BLM QQ). However, this matter was discussed with Ms Deena Teal, BLM, Idaho Falls District Office, in October of 1996, shortly after the discrepancy was found. Ms Teal indicated, at

Rocky Ross

that time, that since the well predated some 1976 ruling, by which BLM operated, they (BLM) would not protest the actual POD.

This basically explains the history of the well and the recommendation; however, the listing of the POD as NWNWSW is clearly an error. The CVR shows the POD to be located as NENWSW Sec. 21, which is accurate.

T8N R28E S31 SWNWSE

This POD defines a well used solely for mitigation and is defined as an amendment to the 1927 decree as a Judgement against Orville Nicholson, 1954. The recommendation does define a Place of Use; however, this POU is by exchange with surface waters as defined in the Judgement. The period of use is 4/1 to 7/15 annually, when all this well does is deliver water to the river. The Objection is not to the Point of Diversion, but rather to the Point of Injection. And, in-fact, as recommended this Point of Injection is accurate.

T6NR29E S31 NWSWNW

This is another typographical error. The recommended POD should read T6N R29E Section 30 NWSWNW. There is a pending Transfer to correct the actual POD location to T6N R28E Section 25 NESENE.

33-02128
33-318
48B
49B
50B
83C

Contor, Bryce
From: Contor, Bryce
Sent: Wednesday, January 19, 2000 4:27 PM
To: Ruberry, Allen; Carlsen, Ernie
Subject: Sawmill Creek Rights

This morning we met via teleconference with Dave Tuthill and Peter Anderson. One of the things we discussed was the Sawmill recommendations. During our call, Bill Stauffer called and reported that he had discussed the Sawmill recommendations with others, including Don Isham, James Andreason, and David Andreason. They all concur with the proposals in the January 6 letter. James Mays has sent us written concurrence.

Per Dave Tuthill's instructions to Al and me, I have gone ahead and changed the source of Sawmill Creek rights back to "Sawmill Creek, tributary to Little Lost River." The point of diversion is 11N 26E section 10, NWNENE, and the point of injection is 10N 27E section 18, NWSESW. The former points of diversion have been identified as points of redirection. I removed any comments relating to change of source and I removed condition C02.

The rights I changed were:

R33-00023B
R33-00030
R33-00043
R33-00077
R33-10070
R33-10073
R33-10084
R33-10086

I'll put a new profile report and a copy of this memo in each file.

There were other Sawmill rights which I did not change. These are:

R33-00038 1927 decree & claim list source as
Little Lost River
R33-00096B Recommended w/ source "Summit Creek"
R33-00107 Recommended originally w/ source
"Sawmill Creek"

33-10464 Stockwater claim already PD w/ source
"Sawmill Creek"

Allen

RECEIVED

OCT 30 2000

Department of Water Resources

200 OCT 27 AM 8:59

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

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

In Re SRBA

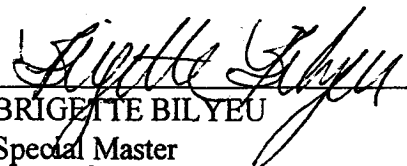
Case No. 39576

) Subcases: 33-00093D and 33-02089
)
)
)
)
)

ORDER REQUIRING SUBMISSION OF
STANDARD FORM 5

An Initial Hearing was held in the above subcases in Arco, Idaho on October 24, 2000. At the Initial Hearing the parties represented that a settlement had been reached in these subcases. IT IS ORDERED that fully executed *Standard Forms 5* shall be filed on or before **November 28, 2000**.

DATED October 27, 2000.



BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

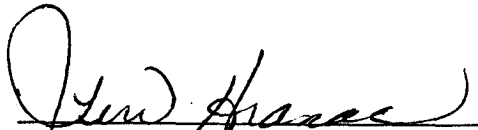
CERTIFICATE OF MAILING

I certify that a true and correct copy of ORDER REQUIRING SUBMISSION OF STANDARD FORMS 5 was mailed on October 27, 2000, with sufficient first-class postage prepaid to the following:

Director of IDWR
PO Box 83720
Boise, ID 83720-0098

U.S. Dept. of Justice
Environment & Natural Resources Div.
550 W Fort St, MSC 033
Boise, ID 83724

Keith & Connie Waymire
PO Box 47
Howe, ID 83244


Deputy Clerk

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 NO: 33-00093D

Case No. 39576

STANDARD FORM 5

STIPULATED ELEMENTS OF A
WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; and they have been served with sufficient process, according to the law; and that they have appeared, prosecuted and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT:

CLAIMANT:

Connie Waymire

Date

Keith Waymire

Date

OBJECTOR:

Larry Brown,
U.S. Department of Justice
Attorney for Objector BLM

Date

IDWR CONCURRENCE:

Ernest Carlson
Al Ruberry *Ernest Carlson*
Senior Water Rights Agent, IDWR

Date

Candice M. McHugh (As to Form)
Attorney for IDWR

Date

SF5 - 33-00093D

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

11/08/2000

RIGHT NUMBER: 33-93D

NAME AND ADDRESS: CONNIE A WAYMIRE
KEITH D WAYMIRE
PO BOX 47
HOWE, ID 83244

SOURCE: DRY CREEK TRIBUTARY: LITTLE LOST RIVER

QUANTITY: 1.6 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 3.79 CFS. COMBINED RIGHT NOS.: 33-00088,
33-00089, 33-02089.

PRIORITY DATE: 04/15/1891

POINT OF DIVERSION:	T09N R27E S4	SWSWNE	Rediversion	Within BUTTE County
	T10N R25E S31	SWNENW		Within BUTTE County
	T10N R26E S36	NWSWNW	Injection	Within BUTTE County

THE AMOUNT OF WATER REDIVERTED FROM THE LITTLE LOST RIVER
SHALL BE REDUCED WHEN NECESSARY TO PREVENT INJURY TO
APPROPRIATORS OF WATER FROM THE LITTLE LOST RIVER DOWNSTREAM
FROM THE POINT OF REDIVERSION PURSUANT TO SECTION 42-105, IDAHO
CODE.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	4-01 11-01	1.60 CFS

PLACE OF USE:

<u>IRRIGATION Within BUTTE County</u>					
T09N R27E S4	NESW	37	T09N R27E S4	SESW	39
T09N R27E S4	<u>LOT 5</u> SWSE	11	T09N R27E S9	<u>LOT 8</u> NWNE	25
T09N R27E S9	<u>LOT 9</u> SWNE	37	T09N R27E S9	<u>LOT 8</u> SENE	1.5
T09N R27E S9	NENW	39			
189.5 ACRES TOTAL					

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 189.5 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 33-00088, 33-00089, AND 33-
02089

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 80 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

gmc

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 - DECREE

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE
PURSUANT TO SECTION 42-1425, IDAHO CODE.

RECEIVED

APR 10 2000

Department of Water Resources

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

In Re SRBA

Case No. 39576

A. Subcase 33-00093D

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America acting through the Department of Interior, Bureau of
Land Management, Idaho State Office

Address: 1387 South Vinnell Way
Boise, Idaho 83709-1657

Daytime Phone: see below

Name & Address of Attorney, if any:

Larry A. Brown 208 387-0835; Paul F. Holleman, 202 305-0494

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

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

Name: ^{Keith}
~~Keith~~ D. & Connie A. Waymire

Address: P.O. Box 47 Howe, ID. 83244

Name:

Address:

Name:

Address:

Name:

Address:

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

1. ☐ **Name and Address**

Should be: _____

2. ☐ **Source**

Should be: _____

3. ☐ **Quantity**

Should be: _____

4. ☐ **Priority Date**

Should be: _____

5. ☐ **Point(s) of Diversion**

Should be: _____

6. ☐ **Instream Flow Description**

Should be: _____

7. ☐ **Purpose(s) of Use**

Should be: _____

8. ☐ **Period of Year**

Should be: _____

9. ☒ **Place of Use**

Should be: See attached

11. **I object because:**

☐ This water right should not exist.

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

E. **REASONS SUPPORTING OBJECTION(S):**

The legal description for element nine (POU) above may include Federal land. The description should be specific enough to exclude Federal land.

F.

VERIFICATION (Must be Completed)

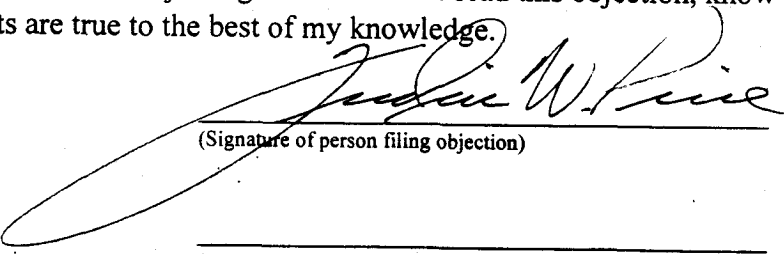
State of Idaho)

) ss.

County of Ada)

Fredric W. Price, Water Rights Specialist, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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


(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: April 7, 2000



Jacqueline L. Simmons

Jacqueline L. Simmons

Notary Public for Idaho

Residing at: Boise

My Commission Expires: 04-07-2005

INSTRUCTIONS FOR MAILING

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

G. CERTIFICATE OF MAILING

I certify that on April 7, 2000, 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
P.O. Box 2707
Twin Falls, ID 83303-2707

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

Name: Kieth D. & Connie A. Waymire
Address: P.O. Box 47 Howe, ID. 83244

Name:
Address:

Name:
Address:

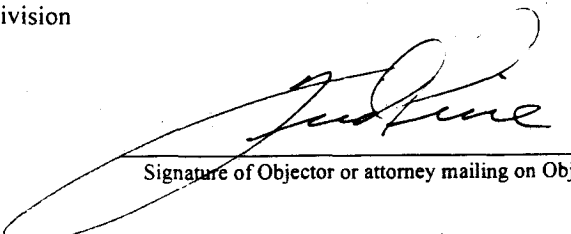
Name:
Address:

3. Copies to:

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

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

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



Signature of Objector or attorney mailing on Objector's behalf

RIGHTS FROM: SOURCE: DRY CREEK TRIBUTARY: LITTLE LOST RIVER

RIGHT NUMBER: 33-00093D

NAME & ADDRESS: KEITH D WAYMIRE
CONNIE A WAYMIRE
PO BOX 47
HOWE ID 83244

SOURCE: DRY CREEK TRIBUTARY: LITTLE LOST RIVER

QUANTITY: 1.6 CFS

THE AMOUNT OF WATER REDIVERTED FROM THE LITTLE LOST RIVER SHALL BE REDUCED WHEN NECESSARY TO PREVENT INJURY TO APPROPRIATORS OF WATER FROM THE LITTLE LOST RIVER DOWNSTREAM FROM THE POINT OF REDIVERSION PURSUANT TO SECTION 42-105, IDAHO CODE.

} remark change?
"evaporation & seepage"

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.79 CFS. COMBINED RIGHT NOS: 33-00088, 33-00089, 33-02089.

PRIORITY DATE: 04/15/1991

POINT OF DIVERSION: T10N R25E S31
R26E S36
T09N R27E S04

SWNENW BLM
NWSWNW (INJECTION)
SWSWNE BLM (REDIVERSION)

Within BUTTE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
04-01 11-01

QUANTITY
1.6 CFS

PLACE OF USE:

IRRIGATION
T09N R27E S04
S09
189.5 ACRES TOTAL

Within BUTTE County

NESE 37
NWSE 25
SESE 39
SWNE 37
LOT 5
LOT 9
LOT 11
LOT 10
LOT 8
LOT 7
LOT 6
LOT 4
LOT 3
LOT 2
LOT 1
LOT 12
LOT 11
LOT 10
LOT 9
LOT 8
LOT 7
LOT 6
LOT 5
LOT 4
LOT 3
LOT 2
LOT 1

Mixed ownership

Mixed ownership

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 80 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 189.5 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 33-00088, 33-00089, AND 33-02089.

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

504 SWSE → LOT 5 = private
LOT 6 = BLM

509 NWSE → LOT 8 = private
LOT 7 = BLM

SWNE → LOT 9 = PRIVATE
LOT 10 = BLM

SENE → LOT 9 = PRIVATE
LOT 10 = BLM

Issue:

~~Points of diversion on BLM~~

Circled places of use are mixed ownership between BLM and private

→ Claimant needs to clarify lot numbers for places of use.

→ Farming on public land is not authorized

RIGHTS FROM:	SOURCE: DRY CREEK	TRIBUTARY: LITTLE LOST RIVER
RIGHT NUMBER:	33-00093D	(CONT)

OTHER PROVISIONS: (CONT)

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 - DECREE

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 33-00088 AND 33-00089.



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

A33-00093D

EASTERN REGION

February 9, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

David Andreason, Watermaster
Water District 33
Howe, Idaho 83244

Dry Creek Water Users
Water District 33
Howe, Idaho 83244

Dear Watermaster and Water Users:

Per a telephone request of Mr. Bill Stauffer of Blaine County Canal Company, I'm sending you this letter to clarify the remark regarding delivery of Dry Creek water, which reads:

"THE AMOUNT OF WATER REDIVERTED FROM THE LITTLE LOST RIVER SHALL BE REDUCED WHEN NECESSARY TO PREVENT INJURY TO APPROPRIATORS OF WATER FROM THE LITTLE LOST RIVER DOWNSTREAM FROM THE POINT OF DIVERSION PURSUANT TO SECTION 42-105, IDAHO CODE."

In notices of error and in the petition, many of the Dry Creek water users disagreed with this remark. I apologize that it was not changed, due to my error. Dave Tuthill had intended that I modify the remark to clearly indicate the reductions should be based upon transmission losses. It should have read something like:

"THE AMOUNT OF WATER REDIVERTED FROM THE LITTLE LOST RIVER SHALL BE REDUCED WHEN NECESSARY TO PREVENT INJURY DUE TO LOSS BY EVAPORATION AND SEEPAGE, PURSUANT TO SECTION 42-105, IDAHO CODE."

Now that the recommendations have gone to the court, however, I can't change the wording. Though the current remark is perhaps a little unclear, in my opinion it doesn't really injure the Dry Creek water users. The whole intent of this remark is to allow the watermaster to assess transmission losses to "developed" waters. It appears not only on the Dry Creek rights but also on the Bell Mountain rights and all exchange wells subject to transmission losses. While it is unfortunate that the remark doesn't explicitly state

"transmission losses," it clearly points to section 42-105 of Idaho Code. That section reads:

"The water that a person is entitled to divert... may be turned into the channel of a natural waterway and mingled with its water, and then reclaimed, but in reclaiming the water so mingled, the amount of water to which prior appropriators may be entitled shall not be diminished, and due allowance shall be made for loss by evaporation and seepage. The use of natural waterways... shall be subject to the regulation of the watermaster within an established water district."

Please review this carefully. If you still believe this remark injures you, you may file an objection with the court. Filing the objection will give you the opportunity to present your concerns with the judge, and the judge may direct IDWR to change the remark accordingly.

Typically the judge will ask IDWR's input, and I think the department's response would be agreeable to changing the wording. The department would still want some type of remark, to preserve historical practice and the intent of the 1966 agreement between Dry Creek users and users of the Little Lost River.

Please call me at 525-7161 or 663-4853 if you have questions or concerns about this issue.

Sincerely,

Bryce A. Contor

Mailing list for Dry Creek Remark Letter:

David Andreason, Watermaster
Water District 33
Howe, Idaho 83244

Bill Stauffer, Chairman
Blaine County Canal Company
Howe, Idaho 83244

Pancheri, Inc.
c/o Jerry Pancheri
HC 65 Box 2104
Howe, Idaho 83244

Keith Waymire
PO Box 47
Howe, Idaho 83244

Daryl Andreason
Brenda Andreason
PO Box 22
Howe, Idaho 83244

James Andreason
Elizabeth Andreason
PO Box 3
Howe, Idaho 83244

Woodie Land and Livestock
HC 65 Box 1019
Howe, Idaho 83244

Mays Land and Livestock
PO Box 1
Howe, Idaho 83244

January 13, 2000

**NOTICE OF ERROR
REPLY**

RECEIVED

JAN 19 2000

Department of Water Resources
Eastern Region

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: January 21, 2000

Water right number: 33-00093D

KEITH D WAYMIRE
CONNIE A WAYMIRE
PO BOX 47
HOWE ID 83244

Daytime Telephone Number:

Evening Telephone Number:

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:

X I AGREE with this proposed recommendation; no changes need to be made.

DATE: 1/18/00 SIGNATURE: Keith Waymire
Please print your name: _____

1/11/2K

KEITH —

THIS IS THE 'NEW' CLAIM FOR
YOUR PART OF THE 33-00093
DECEASED RIGHT FROM Dry Creek

PLEASE REVIEW IT CAREFULLY. CORRECT
AS NEEDED AND INITIAL. SIGN WITH
A NOTARY AND RETURN WITH YOUR
CHECK FOR \$100⁰⁰, PAYABLE TO IDWR.

CALL IF YOU HAVE QUESTIONS

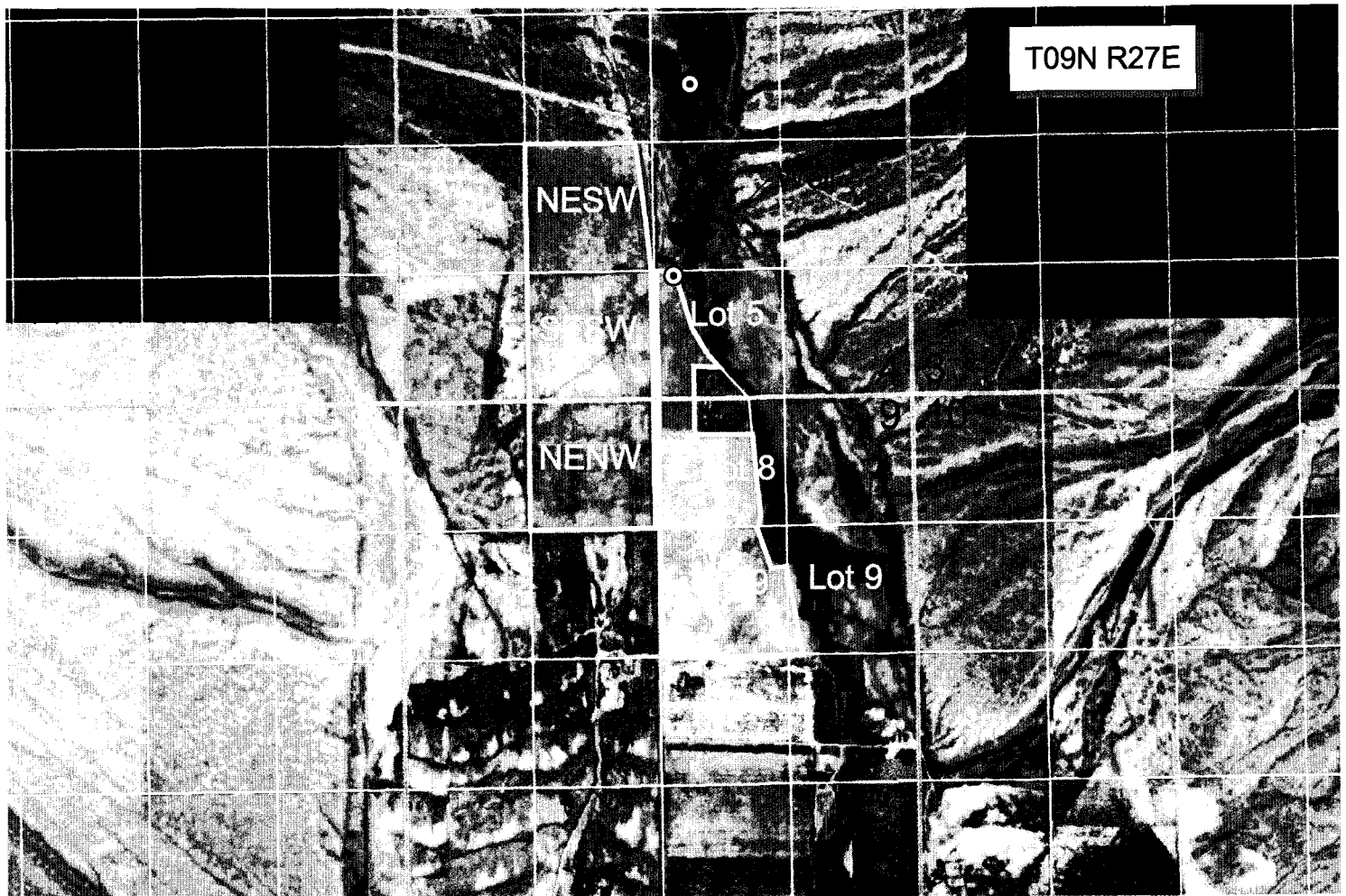
AL K. King



STATE OF IDAHO

Department of Water Resources

Water Right(s): 33-88, 33-89,
33-93D, 33-2089



0 2640 5280 7920 Feet

LEGEND



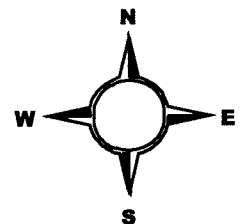
Point of Diversion

Place of Use



Section Line

Quarter-section line



GIS Place of Use Illustration
1987/1988 NAPP photography
Prepared by: E. Carlsen
Date: November 2000

11/08/2000

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

RIGHT NUMBER: 33-93D

NAME AND ADDRESS: CONNIE A WAYMIRE
KEITH D WAYMIRE
PO BOX 47
HOWE, ID 83244

SOURCE: DRY CREEK TRIBUTARY: LITTLE LOST RIVER

QUANTITY: 1.6 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 3.79 CFS. COMBINED RIGHT
NOS.: 33-00088, 33-00089, 33-02089.

PRIORITY DATE: 04/15/1891

POINT OF DIVERSION:	T09N R27E S4	SWSWNE Rediversion	Within BUTTE County
	T10N R25E S31	SWNENW	Within BUTTE County
	T10N R26E S36	NWSWNW Injection	Within BUTTE County

THE AMOUNT OF WATER REDIVERTED FROM THE LITTLE LOST RIVER
SHALL BE REDUCED WHEN NECESSARY TO PREVENT INJURY TO
APPROPRIATORS OF WATER FROM THE LITTLE LOST RIVER DOWNSTREAM
FROM THE POINT OF REDIVERSION PURSUANT TO SECTION 42-105,
IDAHO CODE.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	4-01 11-01	1.60 CFS

PLACE OF USE:

<u>IRRIGATION Within BUTTE County</u>					
T09N R27E S4	NESW	37	T09N R27E S4	SESW	39
T09N R27E S4	SWSE	11	T09N R27E S9	NWNE	25
T09N R27E S9	SWNE	37	T09N R27E S9	SENE	1.5
T09N R27E S9	NENW	39			
189.5 ACRES TOTAL					

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED
TO THE IRRIGATION OF A COMBINED TOTAL OF 189.5 ACRES IN A
SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 33-00088, 33-
00089, AND 33-02089

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 80 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 -

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT
TO SECTION 42-1425, IDAHO CODE.



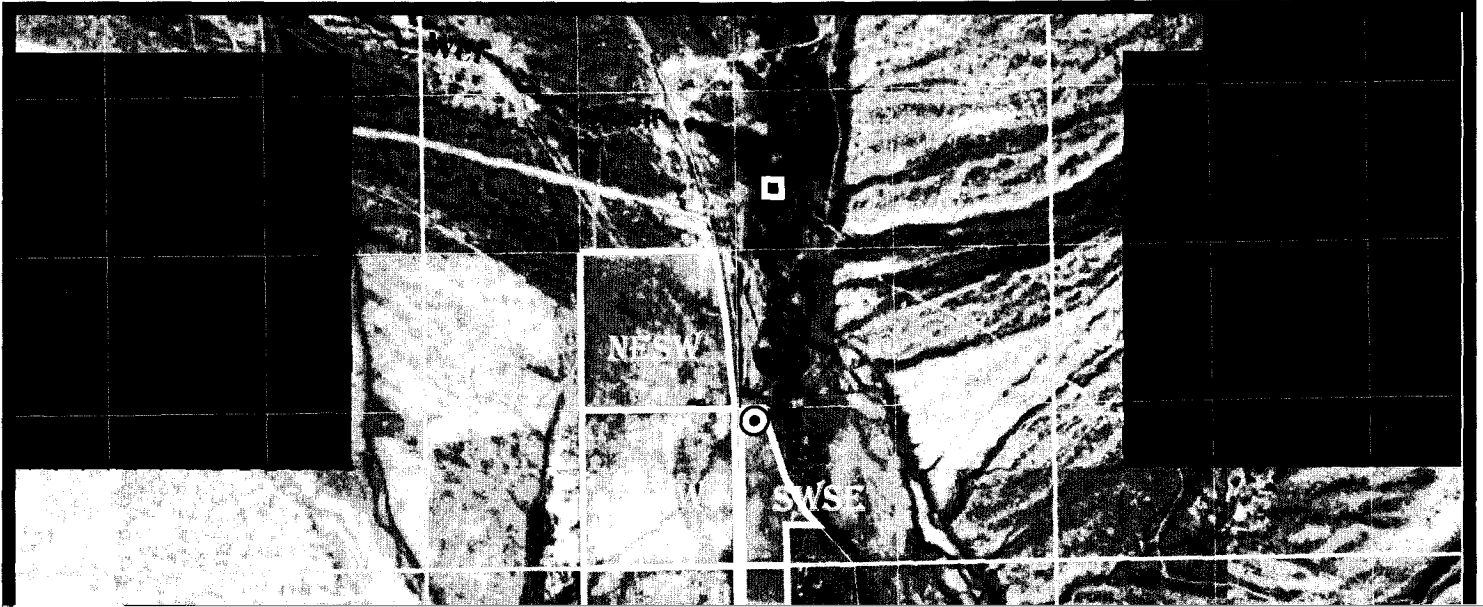
STATE OF IDAHO

Department of Water Resources

Eastern Region

Claimant: Keith Waymire

Water Right(s): 33-02089, 33-00088, 33-00089, 33-00093D



RECEIVED

JAN 19 2000

Department of Water Resources
Eastern Region

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: A33-00093D
Date Received: 1/11/2000
Receipt No: E025562
Received By: _____

*Original
Sent to
Court.*

4-20-00

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: KEITH D WAYMIRE 208-767-3035
Address: PO BOX 47
HOWE ID 83244
AND/OR
Name: CONNIE A WAYMIRE 208-767-3035
Address: PO BOX 47
HOWE ID 83244

2. Date of Priority: APR 15, 1891
3. Source: DRY CREEK Trib. to: LITTLE LOST RIVER
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
09N	27E	4	SW	SW	NE	R	BUTTE
10N	25E	31	SW	NE	NW		BUTTE
	26E	36	NW	SW	NW	I	BUTTE

5. Description of diverting works:
HEADGATE TO DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	1.600		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

A330093D



10. Place of Use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
09N	27E	4	NE	SW		IRR	37.0
			SE	SW		IRR	39.0
			SW	SE		IRR	11.0
						Section Acres	87.0
		9	NW	NE		IRR	25.0
			SW	NE		IRR	37.0
			SE	NE		IRR	1.5
			NE	NW		IRR	39.0
						Section Acres	102.5
						Total Acres	189.5

11. Place of use in counties: BUTTE

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

13. Other Water Rights Used:
33-00088, 33-00089, 33-02089

14. Remarks:
PERMISSIBLE PLACE OF USE WITH OTHER RIGHTS.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

Decree Plaintiff

vs

Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): Keith Jaymire Date: 1/18/00

Date: _____

State of Idaho)
County of Butte) SS.

Subscribed and sworn (or affirmed) before me this 18th day
of January 20 00 Dorothy Taylor
Notary Public

Seal

Residing at Howe, Id
My Commission Expires 06-14-00





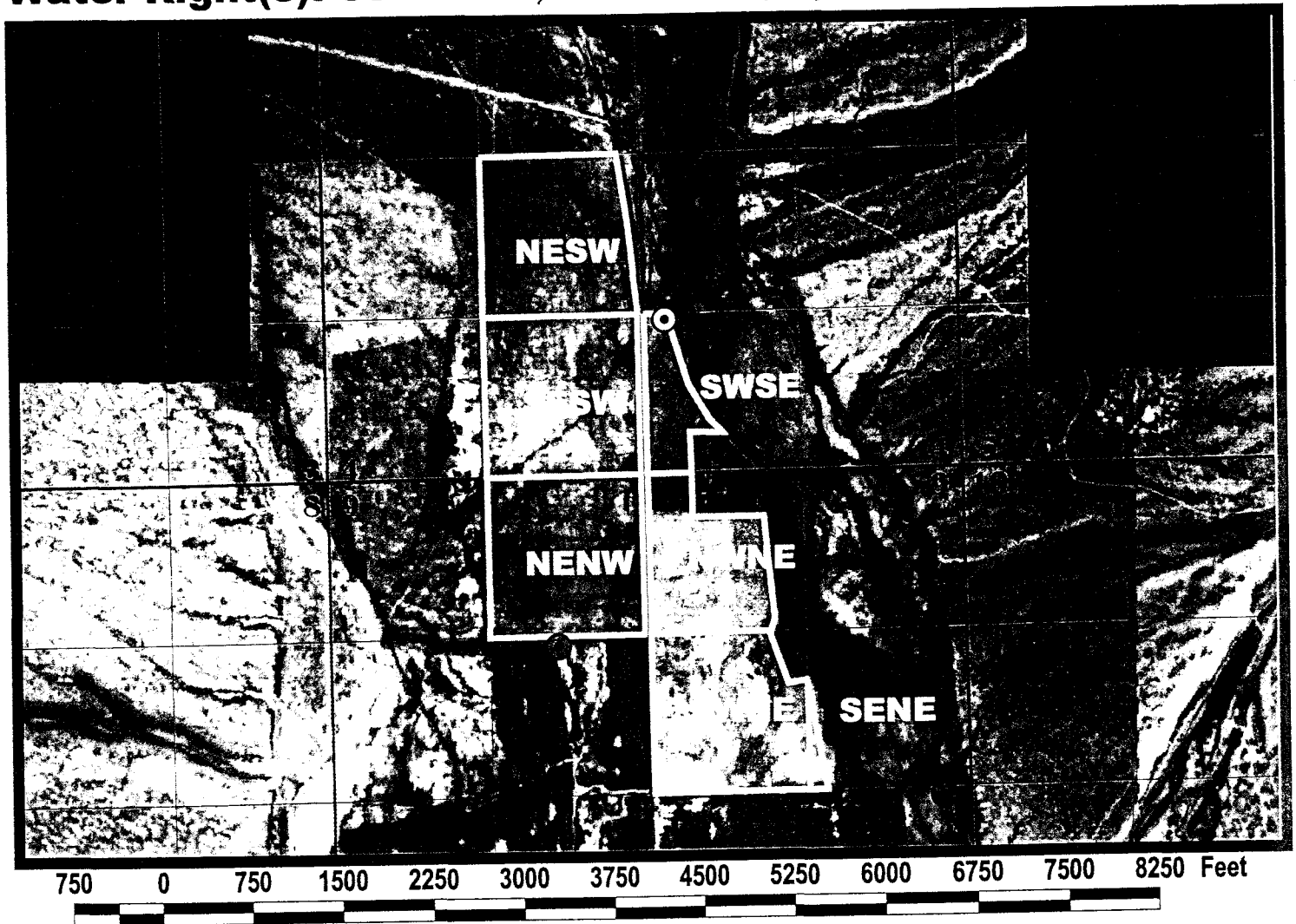
STATE OF IDAHO

Department of Water Resources

Eastern Region

Claimant: K. Waymire

Water Right(s): 33-02089, 33-00093D



LEGEND



Point of Diversion- GW



Point of Diversion- SW

SESE

Place of Use

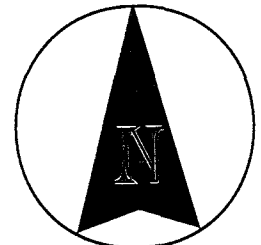


Section Line

Quarter-section line

**Place(s) of Use: T.9N., R.27E.
(Parts of) Sec. 4 SWSE, E2SW,
Sec. 9 E2NE, SENE, NENW**

**Point(s) of Diversion: T.9N., R.27E.
Sec. 4 NWSWSE**



GIS Place of Use Illustration
1987/1988 NAPP photography
Prepared by: A. Ruberry
Date: November 1999

DATE: 01/11/00
PAGE: 1

POU1 THIS RIGHT IS LIMITED TO THE IRRIGATION OF 80 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 189.5 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 33-00089, AND 33-00089, AND

AJ0749NP
No. R33-00093D

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 01/11/00
PAGE: 2

Remarks: 33-02089.

EXP THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE: 33-00088 AND 33-00089.

Dates: Exam Made Date: Verified Date: Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag: C

Comments: Date: 01/11/2000 User-ID: ARUBERRY Subject: COPIED FROM REMARKS
PERMISSIBLE PLACE OF USE WITH OTHER RIGHTS.

Audit: 01/11/00 ARUBERRY