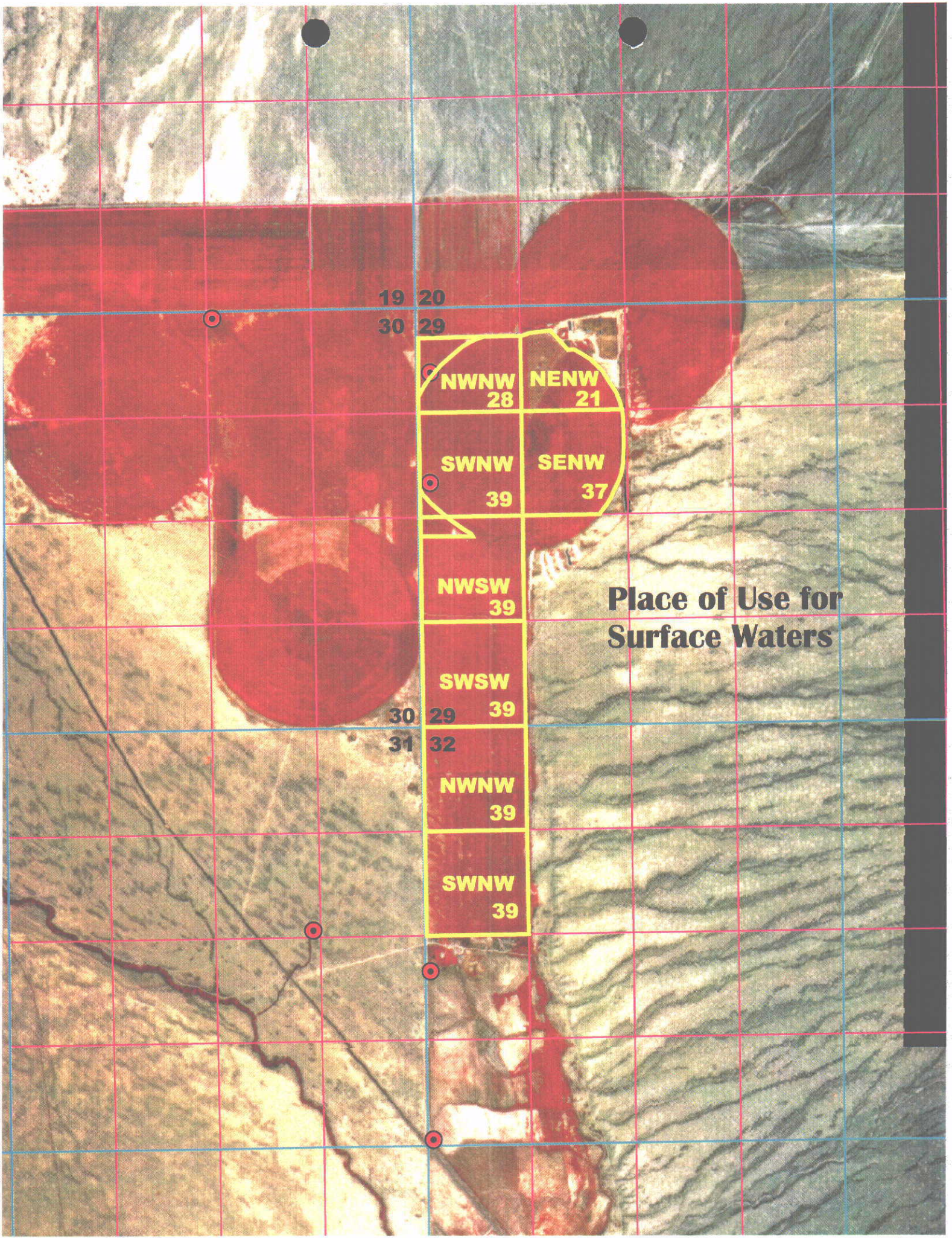




**Place of Use for
Surface Waters**

Sub Lic. 33-02035
for S.W. Well.
(No AdS. (Camp))

Rocky Run Creek

Fallert Springs
Uncle the creek

Lic. POU

33-02128

Big Spring Creek

NOTES: Visits to Well sites: #1) April 94 w/ David Anderson, WATERMASTER; #2) 25 Aug 94 - Photo

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE: CHECK HERE IF RECOMMENDED AS CLAIMED (X)					DIVERSION NAME		NOTES ONLY	DIVERSION NOS
TWP.	RANGE	SEC.	1/4	1/4	COUNTY	STATE		
08N	28E	31	SE	SW	BUTTE	NEB		
08N	28E	31	SW	SW			Point of Diversion - Exchange Well	
08N	28E	24	SW	SW			Point of Diversion to Big Springs Cr	
							RE-DIVERSION AT Uncle Jack Cr (AKA Passck)	
SOURCE: GROUNDWATER								

REVIEWED BY: *AB Robinson* DATE: 22 SEPT 94

SYSTEM DESCRIPTION: DESCRIBED BELOW (X), SEE LICENSE FILE (), OR

Well shown in photo discharges to ditch which flows to Big Springs Creek. Flows over a weir in SWNWSE Sec. 31 and on into river.

ADDITIONAL INFO REGARDING EXCHANGE PORTION -
SEE COMMENTS/REMARKS

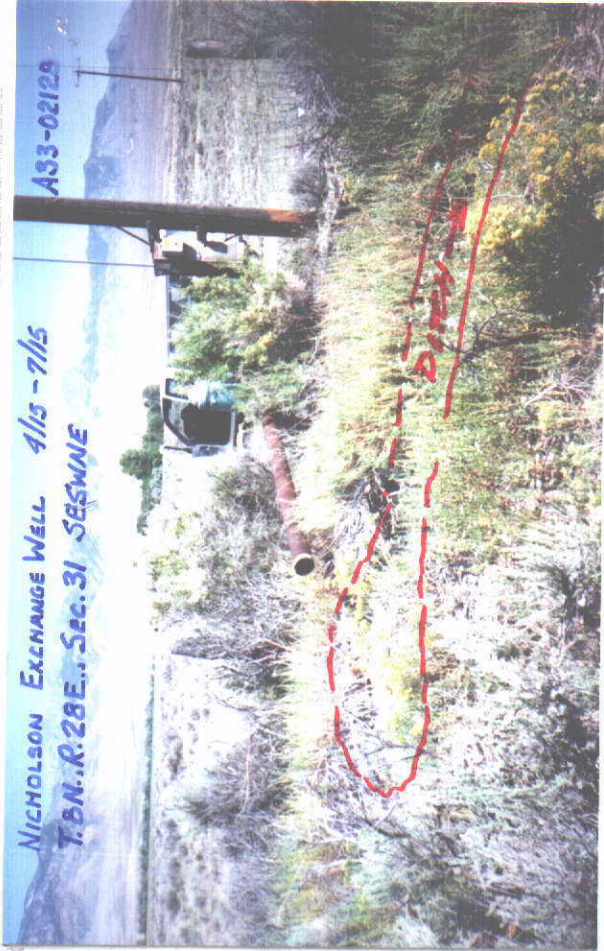


Photo taken 25 Aug. 94



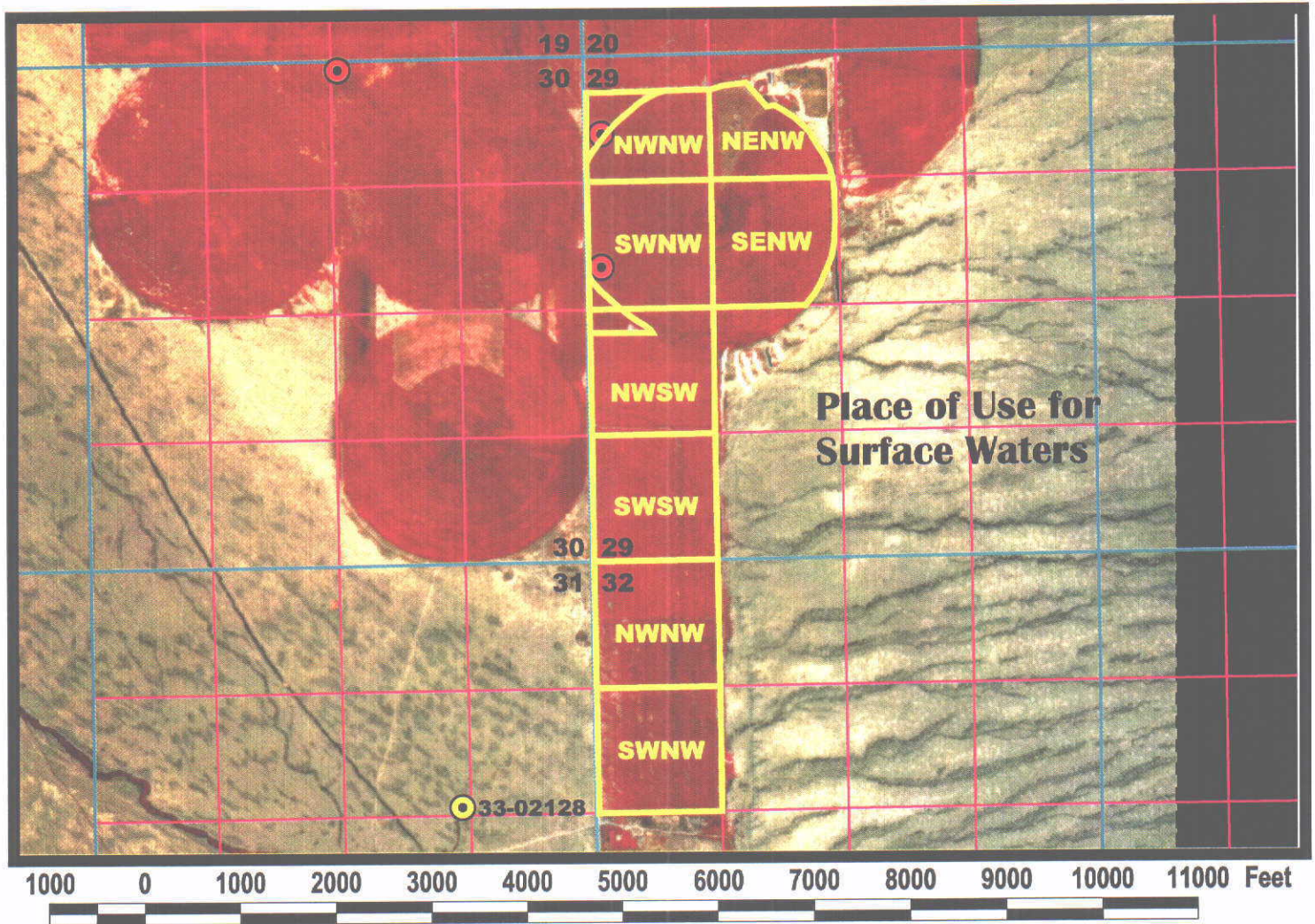
STATE OF IDAHO

Department of Water Resources

Eastern Region

Claimant: O. Nicholson

Water Right(s): 33-02128, 33-02024, 33-00066, 33-00117



LEGEND



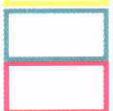
Point of Diversion- GW



Point of Diversion- SW

SESE

Place of Use



Section Line

Quarter-section line

Place(s) of Use: T.8N., R.28E.
Sec. 29 (parts of) NW, W2SW,
Sec. 32 W2NW

Point(s) of Diversion: T.8N., R.28E.
Sec. 16 SWSWNE (Rocky Run Ck)
Sec. 23 SWNWSE (Fallert Spgs)
Sec. 24 SWNWSE (Uncle Ike Ck)
Sec. 31 SESENE (exchange well)

Note: 33-02128 is the exchange well



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

11 April 2020
From: [illegible] 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 S.W.
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.

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.

33-00051
33-00060
THINK

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"

RECEIVED

APR 6 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: 33-02128
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 USDA Forest Service
Address: 550 West Fort Street
MSC 033
Boise, Idaho 83724
Daytime Phone: (208) 387-0835

Name and Address of Attorney, if any:

Randall J. Bramer
550 West Fort Street
MSC 033
Boise, Idaho 83724

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

Name: Orville Nicholson
Address: Rea Nicholson
P.O. Box 40
Howe, ID 83244

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. ☒ **Places of Use**

Should be: T08N R28E S29 and T08N R28E S32

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 Places of Use as described in the Director's Report are on National Forest System land. The Range appears to be in error.

F. VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

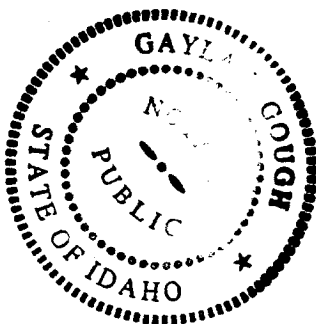
Michael Collette , duly sworn, upon oath, deposes and says:
(Name of person filing objection)

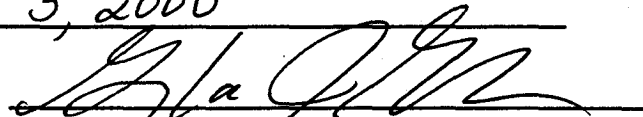
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.


(Signature of person filing objections)


(Attorney signing in representative capacity)

Subscribed and sworn before me on: April 3, 2000




Gayla J. Gough

Notary Public for: Idaho
Residing at: Kuna, Idaho
Commission Expires: 11/17/2004

INSTRUCTIONS FOR MAILING

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

G. CERTIFICATE OF MAILING

I certify that on April 5 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
PO Box 2707
Twin Falls, ID 83303-2707

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

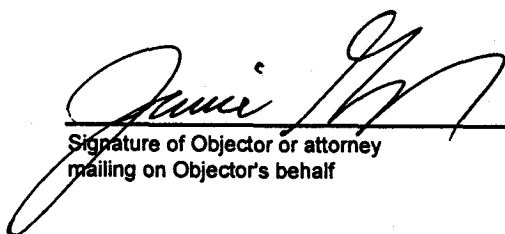
Name: Orville Nicholson
Address: Rea Nicholson
P.O. Box 40
Howe, ID 83244

3. Copies to:

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

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

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



Signature of Objector or attorney
mailing on Objector's behalf

RECEIVED

APR 17 2000

Department of Water Resources
Eastern Region

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 33-02128

(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: Orville & Rea Nicholson

Address: P.O. Box 40 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: See attached

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: _____

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 United States of America, through the Bureau of Land Management, is the owner of the land upon which use is claimed. The claimant's use of Federal land is unauthorized. See attached POD. Claimant's water right should not include this POD.

F.

VERIFICATION (Must be Completed)

State of Idaho)

) ss.

County of Ada)

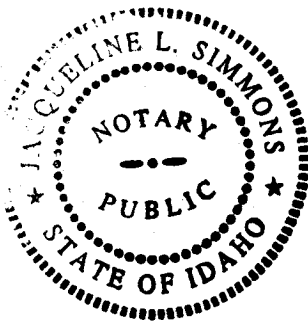
Fredric W. Price, Water Rights Specialist, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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.

Fredric W. Price
(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: Orville & Rea Nicholson
Address: P.O. Box 40 Howe, ID. 83244

Name:
Address:

Name:
Address:

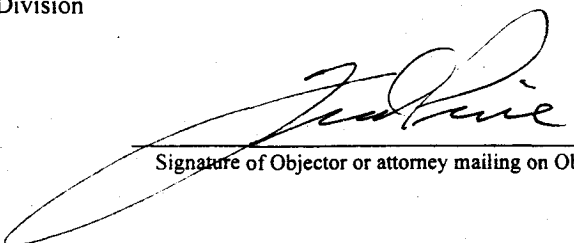
Name:
Address:

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: GROUNDWATER

RIGHT NUMBER: 33-02128

NAME & ADDRESS: ORVILLE NICHOLSON
REA NICHOLSON
PO BOX 40
HOWE ID 83244

SOURCE: GROUNDWATER

QUANTITY: 0.8 CFS
167.0 AFYUSE OF THIS RIGHT WITH RIGHT NO. 33-00117 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 4.0 CFS.

PRIORITY DATE: 08/18/1966

POINT OF DIVERSION: T08N R28E S31
S24SESWNE BLM
SWNWSE (INJECTION) BLM - ~~POD NOT USED~~
SWNWSW (REDIVERSION)

Within BUTTE County

WATER DIVERTED UNDER THIS RIGHT IS EXCHANGED BY INJECTING
WATER DIVERTED UNDER THIS RIGHT INTO BIG SPRING CREEK AT THE
POINT OF INJECTION DESCRIBED ABOVE, AND DIVERTING AN EQUAL AMOUNT
FROM UNCLE IKE CREEK AT THE POINT OF REDIVERSION DESCRIBED ABOVE.PURPOSE AND
PERIOD OF USE:PURPOSE OF USE
IRRIGATIONPERIOD OF USE
04-01 07-15QUANTITY
0.8 CFS
167.0 AFY

PLACE OF USE:

IRRIGATION
T08N R29E S29
S32
281 ACRES TOTALWithin BUTTE County
NENW 21
NWSW 39
NWNW 39NWNW 28
SWSW 39
SWNW 39

SWNW 39

SENEW 37

USE OF THIS RIGHT WITH RIGHT NO. 33-00117 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 278 ACRES IN A SINGLE
IRRIGATION SEASON.THIS RIGHT IS LIMITED TO THE IRRIGATION OF 38 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 281 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 33-02024, 33-00066, 33-00117

Issue:
Points of diversion on BLM

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 33-02128 (CONT)

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 POINT OF DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE.
RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO
SECTION 42-1425, IDAHO CODE.
EXCHANGE SOURCE IS ALSO KNOWN AS PASS CREEK.

A33-02128

ORVILLE NICHOLSON
REA NICHOLSON
HOWE

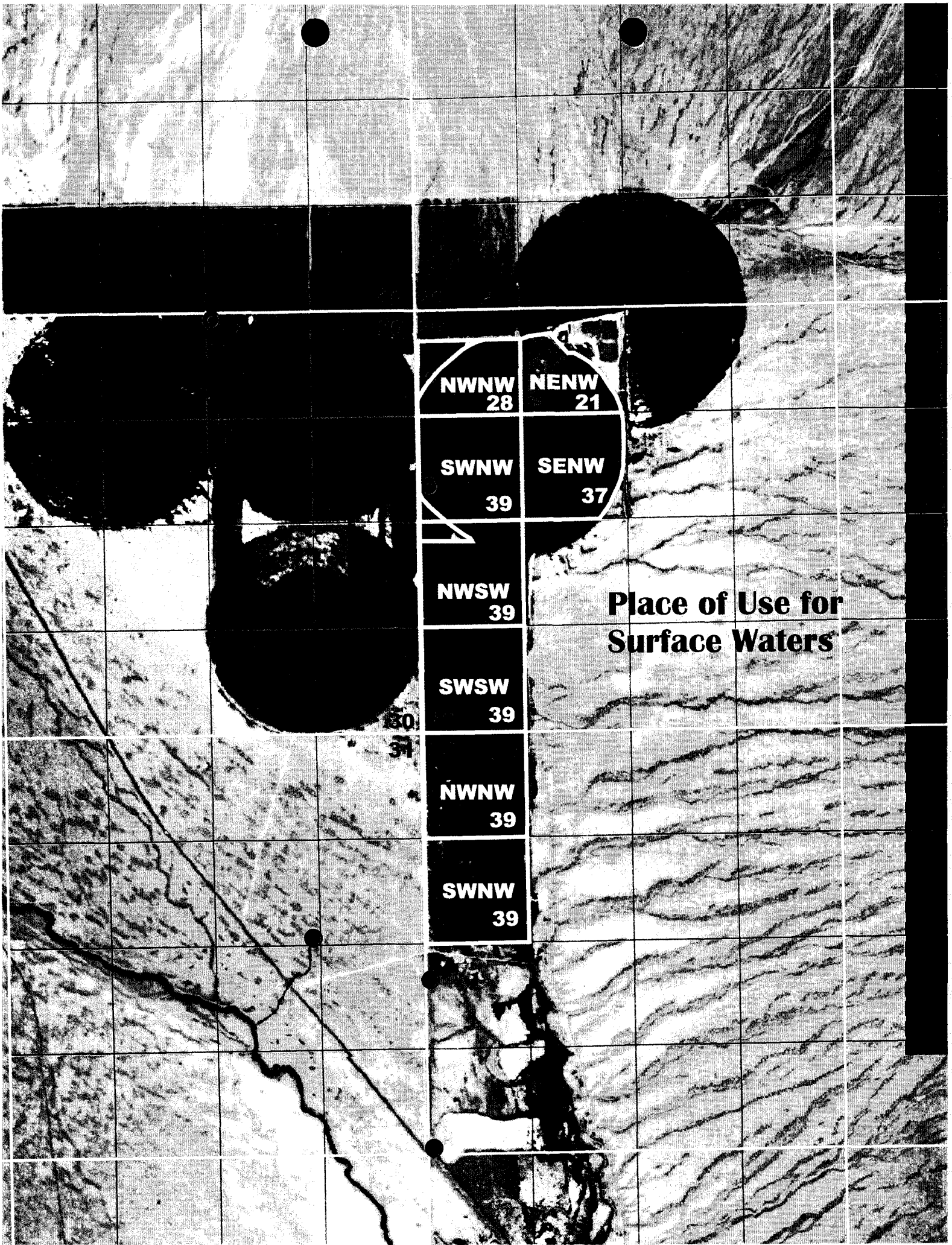
ID 83244



A3302128

EXCHANGE WELL

- ☒ NEED ASCS Photos)
- ☒ How DOES THE PASS OR PART OF THE AGREEMENT work?
- ☒ CLAIMANT NEEDS TO AMEND CLAIM TO INCLUDE EXCHANGE PORTION - AS LICENSED. - OK
- ☒ WHAT IS THE USUAL AND CUSTOMARY IRRIG. SEASON? DEMANDS END YEAR (1974) APRIL 15 - DECEMBER 1
- ☒ How IS THE 30AC. IRRIG. IN SUBD SEC. 32 FROM THIS WELL? - NOT



State of Idaho
Department of Water Administration

WATER RIGHT LICENSE

License of Water Right No. 33129/33-2128 Priority August 18, 1966 Amount 0.98 cfs

THIS IS TO CERTIFY, that ORVILLE NICHOLSON
of Howe, Idaho, has complied with the terms and conditions of Permit
No. 33129/33-2128 issued pursuant to Application for Permit dated August 18, 1966
and has submitted proof to the Department of Water Administration on July 23, 1971
that he has applied water to a beneficial use; an examination by the Department indicates that the work have a
capacity for the diversion of 0.98 cfs of water from a ground water source
tributary to n/a, and that the permit holder has applied to a beneficial use &
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Irrigation	from <u>April 1</u> to <u>Nov. 1</u>	at <u>0.98</u> cfs and	<u>114 acre feet</u>
* Exchange	from <u>April 1</u> to <u>July 15</u>	at <u>0.80</u> cfs and	<u>167 acre feet</u>
	from _____ to _____	at _____ cfs and	

(both dates inclusive)

Subject, however, to the condition that no more than 0.98 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
281 acre feet per year, said waters to be diverted within the SW 1/4 NE 1/4 of Sec. 31,
Twp. 8 N, Rge. 28 E, B.M. in the County of Butte

Description and location of place of use:

Twp.	Range	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
8 N	28 E	32							38										38
IS NOT IRRIG FROM THIS SOURCE. AM																			
Land list same as 33-00117																			

Total number of acres irrigated 38

* Exchange water required under Decree to Orville Nicholson in case of Orville Nicholson, et al, -vs- N.W. Hansen, et al, dated July, 1954, in Sixth Judicial District Court. The right holder must supply 0.80 cfs of water to the Little Lost River, via Spring Creek, during the period of April 1 through July 15 of each year for use on other lands not described under this license. This can be supplied from Pass Creek or by exchange from the well under this license.

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 9th day of
July 19 73

Director

From April 1 to July 15

g.w. ¹³ injected into Spring Creek

in exchange Liberts water from Pass Creek.

W. W. HANSEN, as Water Master of
Water District No. 9 of the State
of Idaho,

Defendant

and

ROBERT R. WAYS, CHARLES O'MALEY,
CHARLES WEBB, CHARLES KYLE, WENDELL
HANSEN, EMIL WAYS, ANDREW LITTLE
and FRANK REED,

Defendants in
Intervention

{DO NOT COPY}

J U D G M E N T

This cause came on regularly to be heard and tried in open
Court on the 20th day of January, 1954, before the Court without a
jury at Arco, Butte County, Idaho; Ralph L. Albaugh, of the firm of...
..... NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

I.

33 0117 That the plaintiffs are the owners of, and have the right to
use 4 cubic feet per second of the waters of Pass Creek with a prior-
ity date of April 8, 1941, as evidenced and confirmed by Idaho State
Water License No. 19119, and to divert and conduct said water from
their present point of diversion on Pass Creek, in the Northeast Quarter
of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$), Section Twenty-six (26), Township
Eight (8) North, Range Twenty-eight (28), East Boise Meridian, and to
use said water for irrigation and domestic purposes on the following
described lands situate in the County of Butte, State of Idaho, to-wit:

NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, SEC. 29 The Northwest Quarter (NW $\frac{1}{4}$) and the West Half of the
Southwest Quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$) of Section Twenty-nine (29),
W $\frac{1}{2}$ NW $\frac{1}{4}$, SEC. 32 The West Half of the Northwest Quarter (W $\frac{1}{2}$ NW $\frac{1}{4}$) of Sec-
tion Thirty-two (32), Township Eight (8) North, Range
T. 8 N., R. 28 E. Twenty-eight (28), East of the Boise Meridian.

II.

33 0118 It is further ordered, adjudged and decreed that the defend-
ants and other water users of Little Lost River have the first, prior
and paramount right to .8 cubic feet per second of the waters of Pass
Creek during only the months of April, May, June and the first fifteen
(15) days of July of each year.

III.

It is further ordered, adjudged and decreed that, except as
provided and adjudged in Paragraph II herein, the said waters of Pass
Creek are wholly independent of Little Lost River or any of its trib-
utaries, and the right of plaintiffs thereto is prior and paramount to
any claim thereon by any user or any claimant of rights in the flow of
Little Lost River or its tributaries, and that the defendants and all
interested parties be, and they are hereby enjoined and barred from as-

33-02128
Lic. POU
for 5 W. Hill.
AdS. (Cham.)
(NO)

Rocky Run Creek

Lic. POU

33-02128

Big Spring Creek

WR0749NP
No. 33-02035

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 11/08/99
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	ROY HAWLEY HOWE ID	04/08/1941	IRRIGATION	00/00 00/00	4.000 CFS	
TOTAL DIVERSION:					4.000 CFS	

Water Source: UNCLE IKE CREEK

Tributary to: BIG SPRING CREEK

Stage: LICENSE

Point(s) of Diversion: T08N R28E S26

NENE

BUTTE County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE										
				NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	SUM		
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	
08N	28E	29	:					:	25	40	40	20	:		40	40	:								:	205.0
08N	28E	32	:					:		40	33		:				:								:	73.0
																							TOTAL ACRES		278.0	

Pou County: BUTTE

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):
33-00117

Other Water Rights Listing Overlapping Place(s) of use:
33-00066 33-00067 33-00117 33-02024 33-02085 33-02128 33-07057C

Dates: App. Received: Priority Date: 04/08/1941
Proof Due Date: Proof Made Date:
Exam Made Date: Exam Sent to S.O.:
Licensed Date: 04/19/1979

Misc: Water District Number: 33 Field Exam Fee:

Audit: 03/26/85 05/22/88 CONVERT 09/29/95 BCHAPMAN

10:48:03
09/01/94

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A33-02128

LAST: NICHOLSON
ADDRESS:
CITY: HOWE
PHONE NUMBER: 208-767-3463
OWNER CODE: C

FIRST: ORVILLE
STATE: ID ZIP: 83244

LAST: NICHOLSON
ADDRESS:
CITY: HOWE
PHONE NUMBER: 208-767-3463
OWNER CODE: C

FIRST: REA
STATE: ID ZIP: 83244

FIELD EXAM REQUIRED?

DATABASE
Y
FIELD
EXAMINER
Y() N()

VERIFICATION REQUIRED DUE TO REMARKS?

CLAIM REMARKS:

EXCHANGE WATER REQUIRED UNDER DECREE TO ORVILLE NICHOLSON IN CASE
OF ORVILLE NICHOLSON, ET AL, US-N.W. HANSEN, ET AL, DATED JULY,
1954, IN 6TH JUDICIAL DIST. CRT. THE RIGHT HOLDER MUST SUPPLY .8
CES OF WATER TO LITTLE LOST R. VIA SPRING CR., DURING THE PERIOD
OF 4-1 THRU 7-15 OF EACH YR. FOR USE ON OTHER LANDS NOT DESCRIBED
UNDER THIS LIC. THIS CAN BE SUPPLIED FROM PASS CR. OR BY EXCHANGE
FROM THE WELL UNDER THIS LIC.

20 January,
cc COMMENTS

CONTACT PERSON: Ar. Rusepp PHONE NUMBER: () - -
DATE OF FIELD EXAM: 9/22/94 APPOINTMENT MADE: Y(X) N() TIME: 10:00 A(X) P()
ACCOMPANIED BY: Orville Nicholson PHONE NUMBER: (208) 767-9463
RELATIONSHIP TO CLAIMANT: Owner
DIRECTIONS TO PROPERTY / NOTES:

Met w/ Mr. Nicholson AT APPOINTED TIME. Visited, Discussed and Photographed All Prints of
Diverses for an Claims (S.W. AND G.W.) , Places of Use, and Sources.

A. AT CLAIM: # A33-02128 PRIORITY DATE: 08-18-1966 STATE: L

B. WR RECORD: # 33-02128 PRIORITY DATE: 08-18-1966 STATE: L

C. CAN THE PRIORITY DATE CLAIMED BE CONFIRMED BY A DECREE OR LICENSE?

D. HAS THERE BEEN A LATER COURT DECREE OF THE WATER RIGHT(S) FROM THIS WATER SOURCE?

E. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE?
(IF YES, DESCRIBE BELOW)

F. IF THIS CLAIM IS BASED ON A PERMIT, WHERE IS THE PERMIT IN THE LICENSING PROCESS?

PROOF OF BENEFICIAL USE SUBMITTED

FIELD EXAM COMPLETED

FIELD EXAM SENT TO STATE OFFICE

LICENSE ISSUED

* IF THE PERMIT WILL NOT BE LICENSED PRIOR TO THE DIRECTOR'S REPORT,
USE CONDITION CODE A01 AND RECOMMEND AS PERMITTED.

G. IF THIS CLAIM IS BASED ON BENEFICIAL USE, IS ADDITIONAL EVIDENCE
OF THE PRIORITY DATE REQUIRED?

* FOR CLAIMS BASED ON BENEFICIAL USE, DESCRIBE THE EVIDENCE OF PRIORITY SUBMITTED,
INCLUDING THE ANALYSIS OF THE EVIDENCE.

H. IS THE STAGE OF THE CLAIM CODED CORRECTLY?

NOTES:

Y() N()

Y() N()

Y() N()

N/A() Y() N()

N/A() Y() N()

N/A() Y() N()

N/A() Y() N()

N/A() Y() N()

Y() N()

RECOMMENDED PRIORITY DATE:

08-18-1966 As claimed

REVIEWED BY *ABP*

DATE *1 Sept 96*

• A CLAIM POINT OF DIVERSION AND SUFFICIENT

RIGHT TWP. RGE. SEC. 1/4 1/4 1/4 LOT 1/4 FLAG COUNTY DIVERSION NAME DIVERSION NUMBER

A33-02128 08N 28E 31 53 5W NE BUTTE

OTHER AJ CLAIMS WITH SAME AJ POD
NR RECORDS IN SAME 40 ACRE TRACT

A PREFIX	R PREFIX
NONE	NONE

MR RECORDS IN SAN
NONE

SOURCE: GROUNDWATER

11
 12
 13
 14
 15

B. UP POINT OF DIVERSION AND SOURCE:

RIGHT TWP. RGE. SEC. 1/4 1/4 1/4 LOT 1/4 POD FLAG COUNTY DIVERSION NAME DIVERSION NUMBER

33-02128	08N	28E	31	SW	WE	RUTTE
33-02128	08N	28E	31	SW	WE	RUTTE

OTHER WR RECORDS WITH SAME WR POD
AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX

NAME	DATE	TIME	LOCATION	REMARKS
NONE	NONE	NONE	NONE	NONE

SOURCE: GROUNDWATER

一、
 二、
 三、
 四、
 五、

C.	IS THE CLAIMED POD WITHIN THE SAME 40 ACRE TRACT THAT IS DESCRIBED IN THE WATER RIGHT FILE?	N/A()	Y(✓)	N()

1. IF NO. AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN POD, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

D. CAN THE CLAIMED POD BE VERIFIED USING THE WATER RIGHT FILE OR CFS DATA?

E. SHOULD THE CLAIMED POI BE VERIFIED BY FIELD EXAM?

F. IS THE CLAIMED SOURCE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? *C.M.*

* IF NO. AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN SOURCE, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER ELAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

G. CAN THE CLAIMED SOURCE BE VERIFIED USING THE WATER RIGHT FILE?

H. SHOULD THE CLAIMED SOURCE BE VERIFIED BY FIELD EXAM?

SECTION 3375
J. HOW WAS THE POD AND SOURCE VERIFIED?

LICENSING FIELD EXAM (DATE OF FIELD EXAM)

AJ FIELD EXAM	DATE OF FIELD EXAM	NAME OF EXAMINER	Y(✓) N()
Wash	25 Aug. 94	AB Rahman	Y(✓) N()

(MOTHER SETON NL HAT 82530) KEHLO

NOTES: Visits to Wm. S. S. #1) April 94 of Danneberg, Wm. S. S. #2) 25 Aug 94 - Photo

TWP. QBN	RGE. 28E	SEC. 31	1/4 SE	1/4 SW	1/4 NE	LOT	CHECK HERE IF RECOMMENDED AS CLAIMED (X)	COUNTY BUTTE	DIVERSION NAME <i>Notes Only</i>	DIVERSION NER
<i>BN</i>	<i>28S</i>	<i>31</i>	<i>SW</i>	<i>NW</i>	<i>SE</i>				<i>Point of Diversion - Exchange Well</i>	
<i>BN</i>	<i>28S</i>	<i>24</i>	<i>SW</i>	<i>NW</i>	<i>SW</i>				<i>Point of Diversion To Big Spring Cr.</i>	
									<i>RE- Point of Diversion at Uncle's Flat Cr. (AKA Patch.)</i>	
SOURCE:	GROUNDWATER									

REVIEWED BY: *J. B. Williams* DATE: *22 Sept 94*

DATE: 22 Sept 94

SYSTEM DESCRIPTION: NOTIFIED BELOW (X), SEE LICENSE FILE (), OR

WELL SHOWN IN PHOTO DISCHARGES TO DITCH WHICH
FLOWS TO BIG SPRING CREEK. FLOWS OVER A WEIR IN
SUNNYSIDE SEC. 31 AND ON INTO RIVER.

ADDITIONAL INFO. REGARDING EXCHANGE PORTION -
SEE COMMENTS/REMARKS



Photo taken 25 Aug. 94

SECRET

IS NOT DERIVATED FROM THIS CLAIMED
SOURCE. EXCHANGE USE ONLY.

ADDITIONAL FOOD FOOD

9/22/94 MR. NICHOLSON STATED 'THIS WELL WAS NEVER USED FOR IRRIGATION, ... WATER CAN'T GET TO SEC 32 BECAUSE ITS UP HILL.' AUTHORIZED DROPPING THE IRRIGATION PORTION OF THIS CLAIM AND ADDING THE OMITTED "EXCHANGE PORTION" AS LICENSED.

TOTAL ACRES **433-0212**

ETTING COUNTY, MD.

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* IF YES, ARE THESE TRACTS LISTED ABOVE (), OR ARE THEY LISTED ON AN ATTACHED SHEET ()

LIST OF ALL RIGHTS WITH A SAME POL AND REGISTRATION USAGE

THE
CITY OF
NEW YORK
COUNTY OF
NEW YORK
IN SENATE
JANUARY 11, 1906.

A33-02128 GROUNDWATER

59000-EEA
RUCKY FLIN
NIA XADZ

UNCLE IKE CREEK
A33-0017

800-670-9095
800-670-9095
800-670-9095

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THE NEW

NICHOLSON, DRVILLE

NOV 20 1964

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THE UNITED STATES OF AMERICA

* IF YES, COMPLETE OVERLAP REVIEW: NO OVERLAP REVIEW - NO IRRIGATION FROM SOURCE, ONLY THROUGH LATERALS w/ 00117.

OTHER RIGHTS LISTED IN CLAIM: 33-7006, 2123, 7057, 2126, 2005, 0117, 0066, 02024

TCU (experience) based on 2017 and

02035 (NOTI. 4/11/11)

- E. IS THE CLAIMED POU THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? *As Lic.* N/A() Y(☒) N()
- A IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN POU, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.
- F. CAN THE CLAIMED POU BE VERIFIED USING THE WATER RIGHT FILE AND AVAILABLE AERIAL PHOTOS? N/A() Y() N(☒)
- G. SHOULD THE CLAIMED POU BE VERIFIED BY FIELD EXAM? Y(☒) N()
- H. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE OF THIS RIGHT, OR ANY PORTION OF THIS RIGHT? Y(☒) N()

MR. NICHOLSON STATES "THIS WATER WAS NEVER USED FOR IRRIGATION."

CHECK DOCUMENTS USED TO VERIFY FOU: (X) ORTHOPHOTOQUAD, TOUR NO. W-33, V-83; () TOPOGRAPHIC QUAD, TOUR NO. ;
(X) NAFF, TOUR NO. W33SW; (X) ASCS PHOTO; (X) OTHER CLAIMANT

NOTES: LICENCED FOR 38 ac. in SWNW Sec. 32 AS CLAIMED. DOES NOT, DERIVED FROM THIS
SOURCE. ONLY THROUGH EXCHANGES WITH A33-00117.

RECOMMENDATIONS:

TOTAL ACRES: 0

N/A()

REVIEWED BY: ASB

DATE: 22 SEPT 94

A. CLAIMED USES:

PURPOSE OF USE

PERIOD OF USE (MONTH/DAY)

DIV. RATE FOR EACH USE

DIV. VOL. FOR EACH USE

A33-02128

IRRIGATION

FROM 04-01 TO 11-01

0.80 760 CFS

As Lic. Per DIVERS

EXCHANGE

TOTAL DIVERSION RATE/VOLUME

0.80 760 CFS

B. WR RECORDED USES:

PURPOSE OF USE

PERIOD OF USE (MONTH/DAY)

DIV. RATE FOR EACH USE

DIV. VOL. FOR EACH USE

33-02128

IRRIGATION

FROM 04-01 TO 11-01

.760 CFS

114.00 AE/A

TOTAL DIVERSION RATE/VOLUME

.980 CFS

281.00 AE/A

C. DOES THE CLAIMED PURPOSE OF USE CORRECTLY DESCRIBE THE WATER USE?

Y() N()

D. IS THE CLAIMED PURPOSE OF USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE?

Y() N()

* IF NO, AND IF THE ACTUAL WATER USE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN PURPOSE OF USE, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

E. SHOULD THE CLAIMED PURPOSE OF USE BE VERIFIED BY FIELD EXAM?

Y() N()

F. DOES THE CLAIMED PERIOD OF USE CONFORM TO IDWR STANDARDS?

Y() N()

G. SHOULD THE PERIOD OF USE BE RECOMMENDED TO IDWR STANDARDS?

Y() N()

H. IS THE CLAIMED PERIOD OF USE IS DIFFERENT THAN IDWR STANDARDS, EXPLAIN IN NOTES BELOW.

Y() N()

I. SHOULD THE CLAIMED DIVERSION RATE FOR EACH USE BE VERIFIED BY FIELD EXAM?

Y() N()

J. IS THE CLAIMED DIVERSION VOLUME FOR EACH USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE?

Y() N()

K. SHOULD THE CLAIMED DIVERSION VOLUME FOR EACH USE BE VERIFIED BY FIELD EXAM?

Y() N()

Presumption Flag: A (Ambiguity in License - No Flagging/only Exchanges)

* Licensed as Perig. and Exchange

WATER MASTER REQUEST

NOTES: D.) CLAIM DOES NOT INCLUDE THE EXCHANGE PORTION.

E.) CONFORMS TO TERMS OF 20 JANUARY 1954, JUDGMENT. G.) JUDGMENT SPECIFICS "IN APRIL TO JULY 1954"

H.) EXCHANGE PORTION, AS DISCLOSED, IS NOT CLAIMED.

AJ CLAIM TOTAL DIVERSION RATE: 0.80 ~~0.980~~ CFS As file. As Denied

WR ROOT RIGHT TOTAL DIVERSION RATE: 0.980 CFS

A. IS THE CLAIMED TOTAL DIVERSION RATE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y(✓) N()

B. CAN THE CLAIMED TOTAL DIVERSION RATE BE VERIFIED USING THE WATER RIGHT FILE? N/A() Y(✓) N()

* ALL CLAIMS BASED ON BENEFICIAL USE (INCLUDING POSTED NOTICES AND STATUTORY CLAIMS) REQUIRE A FLOW MEASUREMENT.

C. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE OF THIS RIGHT, OR ANY PORTION OF THE DIVERSION RATE? Y() N(✓)

* IF AN AMOUNT SMALLER THAN THE ORIGINAL DIVERSION RATE IS CLAIMED AND A FIELD EXAM IS NOT REQUIRED, EXPLAIN IN NOTES.

D. SHOULD THE CLAIMED DIVERSION RATE BE VERIFIED BY FIELD EXAM? Y() N(✓)

E. FLOW MEASUREMENT Nil

MEASUREMENT METHOD Nil, SEE ATTACHED CALCULATIONS.

F. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE
ACRES 38 x 0.02 CFS/ACRE = 0.76 CFS
(Taken from pou review)

IS A DIVERSION RATE PER ACRE GREATER THAN 0.02 CFS/ACRE CLAIMED? Y() N()

IF YES. IS AN ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y() N()

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 95.0 AE/A

ACRES 38 x CONSUMPTIVE VOL. AE/A FOR AREA 2.5 =

TOTAL CONSUMPTIVE USE 95.0 AE/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = 95.0 AE/A

ACRES 38 x DIVERSION VOL. AE/A FOR AREA 2.5 =

TOTAL DIVERSION VOLUME 95.0 AE/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION: SEE BELOW () OR SEE ATTACHMENT ()

April 1 to July 15 (106 days) per Judgment

106 x .80 x 1.9835 = 168.20 AFA

1b. CALCULATIONS

0.76 ENC.

0.80 CLAIMS

NOTES:

MR RECORD CONDITIONS/REMARKS:

1915 - See remarks for additional conditions of approval.
EXCHANGE WATER REQUIRED UNDER DECREE TO ORVILLE NICHOLSON IN CASE
OF ORVILLE NICHOLSON, ET AL. -VS-N.W. HANSEN, ET AL. DATED JULY, 8
1954, IN 6TH JUDICIAL DIST. CRT. THE RIGHT HOLDER MUST SUPPLY .8
CFS OF WATER TO LITTLE LOST R. VIA SPRING CR. DURING THE PERIOD
OF 4-1 THRU 7-15 OF EACH YR. FOR USE ON OTHER LANDS NOT DESCRIBED
UNDER THIS LIC. THIS CAN BE SUPPLIED FROM PASS CR. OR BY EXCHANGE
FROM THE WELL UNDER THIS LIC.

→ 20 January,

RECOMMENDATIONS: CHECK HERE IF RECOMMENDED AS CLAIMED ()

REC. PURPOSE OF USE	REC. PERIOD FROM TO	REC. DIV RATE CFS	DIV EXAMINER	DIV VOL. AF/A	DIV EXAMINER	DIV VOL. AF/A	DIV EXAMINER	DIV VOL. AF/A	DIV EXAMINER
~~IRRIGATION~~	~~04-01~~	~~11-01~~	~~0.750~~						
<i>Exchange</i>	<i>04-01</i>	<i>07-15</i>	<i>0.80</i>						
<i>Percolation</i>	<i>04-01</i>	<i>11-01</i>	<i>0.76</i>						
TOTAL FOR THIS RIGHT			~~0.980~~	<i>0.80</i>			~~0.980~~	<i>0.80</i>	

NON-IRRIGATION USES CLAIMED: ~~NONE~~ *Exchange*

NON-IRRIGATION USES RECOMMENDED: CHECK HERE IF RECOMMENDED AS CLAIMED ()

REVIEWED BY: *ABP/brn*

DATE: *22 Sept 94*

FLAG:

STANDARD CONDITIONS (CODE):

STANDARD REMARKS (CODE):

EXPLANATORY CONDITIONS (CODE):

EXPLANATORY REMARKS (CODE):

G#3: Little lost Ev.; Unrel. Bus. Ch. (Ana Pass Ch.)

A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP
FOREFEIT/ABANDON
ADDITIONAL DIV. AMOUNT
ACCEPTED AS CLAIMED
NEEDS REVIEW
()
()
()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 33-02128

TOTAL DIVERSION RATE OF WR SPLITS

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
-	A33-02128	0.980	R33-02128	0.80	33-02128	0.980
TOTAL CFS		0.980				

DIVERSION RATE REVIEW

DO THE SUM CFS RATE OF THE SPLITS EQUAL THE ROOT RIGHT CFS RATE? (Y/N)
IF NO, IS THE WRITTEN REVIEW DESCRIBED BELOW () OR SEE ATTACHMENT()?

NOTES:

EXCHANGE PORTION OF LICENSE WAS NOT CLAIMED. DISCUSSION w/ CLAIMANT EXPLAINED THE
NEED TO AMEND CLAIM TO INCLUDE EXCHANGES AS LIC. CLAIMANT HAS NOT USED WELL FOR
REIGATION AS CLAIMED AND LICENSED.
DIVERSION RATE IS BEING DROPPED TO 0.80 TO COMPLY WITH EXCHANGE PORTION AS LIC.

AUTHENTICATION:

SIGNATURE:

AB Rulancy

DATE: 22 SEPT 94

NAME OF FIELD EXAMINER:

ANON B. RUGGARY

TITLE:

SA, AG

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

10:48:03
09/01/94

PAGE: 15
QUICKLOOK INFORMATION

15
CLAIM NUMBER: A33-02128

MR ELEMENT	DATA DISCREPANCY Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	ELEMENT DOCUMENTED WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE								
POINT OF DIV	Y			N				
SOURCE				N				
PLACE OF USE	Y			N				
DIV AMOUNT CFS/VOLUME				N				
CONSUMPTIVE USE				Y				
PURPOSES OF USE				Y				
PERIOD OF USE				Y				
BASIS OF CLAIM				Y				
REMARKS	Y			N				
				Y				

BARCODE UPDATED
WHOM/DATE

MAPS AND AERIAL PHOTOGRAPHS USED TO REVIEW THIS NOTICE OF CLAIM TO A WATER RIGHT			COPY INCLUDED IN FILE?	
TYPE OF MAP OR PHOTOGRAPH (CHECK IF USED)			IF USED, SUPPLY APPROPRIATE DATE AND OTHER INFORMATION	
☒ ORTHOPHOTOQUAD	DATE OF PHOTO	W-83(1975), V-83(1975)	IDWR ID NO.	Y() N()
☐ TOPOGRAPHIC	DATE FIELD CHECKED		IDWR ID NO.	Y() N()
☒ NAAPP	DATE OF PHOTO	7/15/1987	IDWR ID NO.	Y() N()
☐ ASCS AERIAL PHOTO	DATE OF PHOTO			Y() N()
☐ ASCS COLOR SLIDE	DATE OF PHOTO			Y() N()
☐ BLM OR USFS AERIAL PHOTO	DATE OF PHOTO			Y() N()
☐ TOWNSHIP SURVEY (GOVERNMENT PLAT)	DATE OF SURVEY			Y() N()
☐ SCS SOIL SURVEY MAP	DATE ISSUED			Y() N()
☐ SUBDIVISION PLAT MAP	DATE OF MAP			Y() N()
☐ OTHER	DATE			Y() N()
☐ OTHER	DATE			Y() N()
☐ OTHER	DATE			Y() N()

LIST OF ATTACHMENTS (CHECK IF ATTACHED)		NO. OF PAGES		NOTES	
☐ LICENSING FIELD EXAM	DATE OF FIELD EXAM				
☒ WATER RIGHT LICENSE	DATE LICENSE SIGNED	9 Feb 73	1		
☐ IDWR APPROVED TRANSFER	DATE TRANSFER APPROVED				
☐ SYSTEM DESCRIPTION	DATE DRAIN				
☒ PHOTOGRAPHS	DATE(S) PHOTOS TAKEN	25 Aug 94	1	EXCHANGE WELL	
☐ SPLIT RIGHT REVIEW	DATE REVIEW COMPLETED				
☐ HUBBLE ANALYSIS	DATE ANALYSIS COMPLETED				
☐ CONVEYANCE LOSS ANALYSIS	DATE ANALYSIS COMPLETED				
☐ FLOW MEASUREMENT CALCULATIONS	DATE SYSTEM MEASURED				
☐ OTHER	DATE				
☐ OTHER	DATE				

Receipt # 1005356

603

2. THEREFORE, SEND AMENDED CLAIM FOR SIGNATURE—

MA



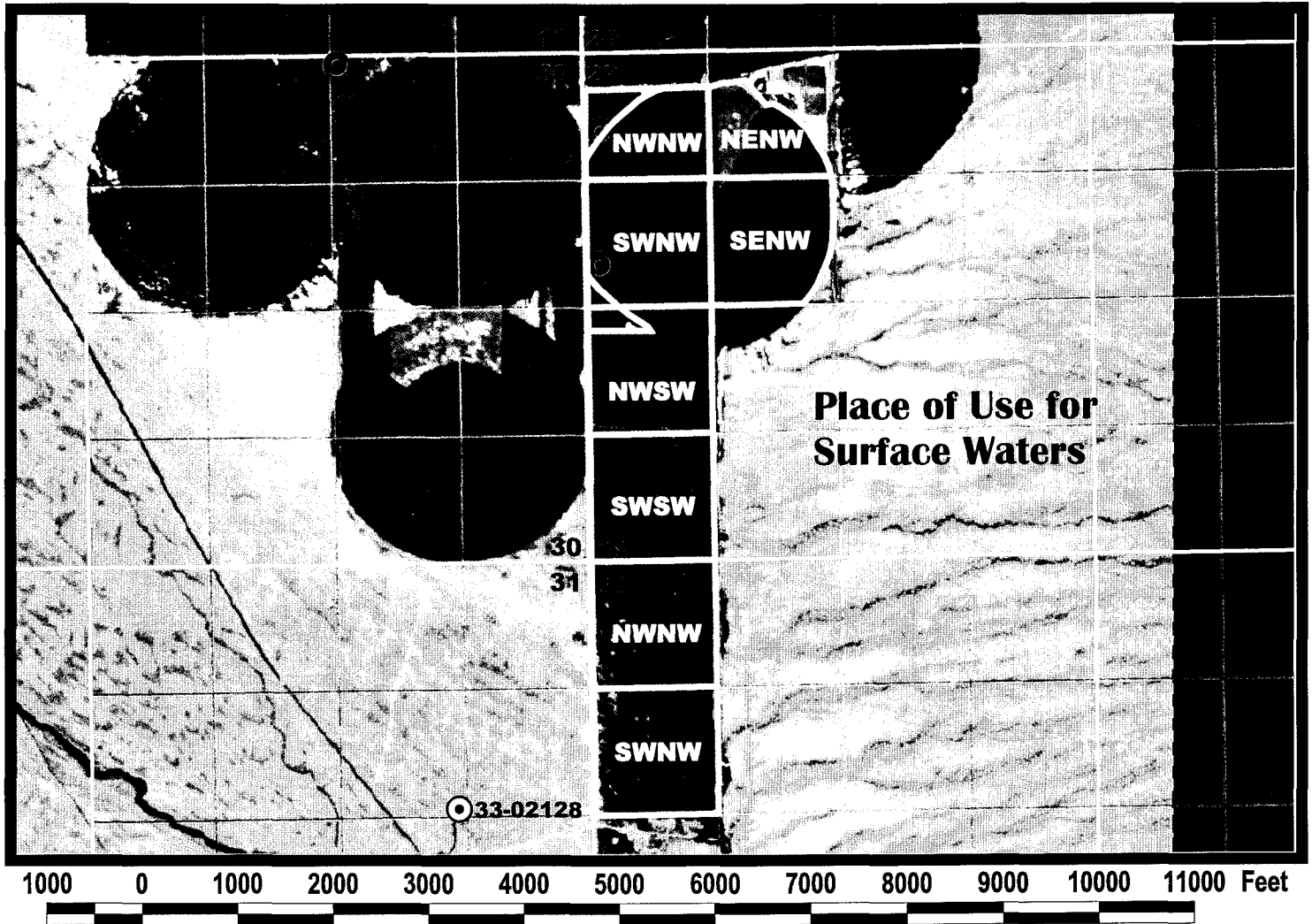
STATE OF IDAHO

Department of Water Resources

Eastern Region

Claimant: O. Nicholson

Water Right(s): 33-02128, 33-02024, 33-00066, 33-00117



LEGEND



Point of Diversion- GW



Point of Diversion- SW

SESE

Place of Use

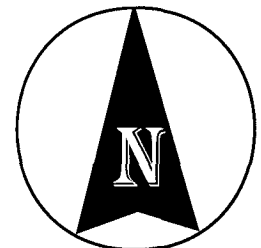
Section Line

Quarter-section line

**Place(s) of Use: T.8N., R.28E.
Sec. 29 (parts of) NW, W2SW,
Sec. 32 W2NW**

**Point(s) of Diversion: T.8N., R.28E.
Sec. 16 SWSWNE (Rocky Run Ck)
Sec. 23 SWNWSW (Fallert Spgs)
Sec. 24 SWNWSW (Uncle Ike Ck)
Sec. 31 SESWNE (exchange well)**

Note: 33-02128 is the exchange well



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

AJ0749NP
No. R33-02128

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

DATE: 12/06/99
PAGE: 1

OWNER CODE NAME & ADDRESS
C ORVILLE NICHOLSON
C REA NICHOLSON
PO BOX 40
HOME ID 83244
(208) 767-3463

PRIORITY DATE WATER USE
08/18/1966 IRRIGATION

USE PERIOD FROM TO
04-01 07-15

DIVERSION RATE
0.800 CFS

DIVERSION VOLUME
167.00 AFA

TOTAL DIVERSION:
0.800 CFS 167.00 AFA

Water Source: GROUNDWATER

Tributary to:

Stage: LICENSE
BUTTE County
BUTTE County
BUTTE County

Point(s) of Diversion: T08N R28E S31
Point(s) of Injection: T08N R28E S31
Point(s) of Re-diversion: T08N R28E S24

Place of use Legal Description for: IRRIGATION

		NE		NW		SW		SE	
		NENE NWNE SWNE SENE		NNWN NWNW SWNW SENW		NWSW NWSW SWSW SESW		NESE NWSE SWSE SESE	
T	R S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac
08N 29E 29	:	:	21	28	39	37	:	:	:
08N 29E 32	:	:	:	39	39	:	:	:	:
								TOTAL ACRES	281.0

POU County: BUTTE

Other Rights: 33-00117, 33-02024, 33-00066

Conditions of Approval:

- C03 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
- PURSUANT TO SECTION 42-1425, IDAHO CODE.
- C05 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO
- SECTION 42-1425, IDAHO CODE.
- C18 - THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
- NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
- ADMINISTRATION OF THE WATER RIGHTS.

Remarks: QNT

USE OF THIS RIGHT WITH RIGHT NO. 33-00117 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 4.0 CFS.

POD

WATER DIVERTED UNDER THIS RIGHT IS EXCHANGED BY INJECTING
WATER DIVERTED UNDER THIS RIGHT INTO BIG SPRING CREEK AT THE
POINT OF INJECTION DESCRIBED ABOVE, AND DIVERTING AN EQUAL AMOUNT
FROM UNCLE IKE CREEK AT THE POINT OF REDIVERSION DESCRIBED ABOVE.

POU1

USE OF THIS RIGHT WITH RIGHT NO. 33-00117 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 278 ACRES IN A SINGLE
IRRIGATION SEASON.
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 38 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

POU Pod # 32, 33, 34
POD Pod # 24

AJ0749NP
No. R33-02128

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

DATE: 12/06/99
PAGE: 2

Remarks:

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 281 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.:33-02024,33-00066,33-00117

EXP EXCHANGE SOURCE IS ALSO KNOWN AS PASS CREEK.

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

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

Comments: Date: 02/06/1995 User-ID: ARUBERRY Subject: COPIED FROM REMARKS
EXCHANGE WATER REQUIRED UNDER DECREE TO ORVILLE NICHOLSON IN CASE
OF ORVILLE NICHOLSON, ET AL, VS N.W. HANSEN, ET AL, DATED JANUARY
1954, IN 6TH JUDICIAL DIST. CRT. THE RIGHT HOLDER MUST SUPPLY .8
CFS OF WATER TO LITTLE LOST R., VIA SPRING CR., DURING THE PERIOD
OF 4-1 THRU 7-15 OF EACH YR. FOR USE ON OTHER LANDS NOT DESCRIBED
UNDER THIS LIC. THIS CAN BE SUPPLIED FROM PASS CR. OR BY EXCHANGE
FROM THE WELL UNDER THIS LICENSE. ***FROM LIC. 33-02128, ABR***

Date: 11/09/1999 User-ID: ARUBERRY Subject: EXCHANGE SOURCE
JUDGEMENT OF 1954 REFERS TO PASS CREEK, USGS QUAD V-84 TITLES THE
STREAM 'UNCLE IKE CREEK'.

Date: 11/22/1999 User-ID: AJU10-EC Subject: AJU10 CONDITION UPDATE
CONDITION CODE(S) C18 ADDED IF NOT ALREADY PART
OF RECORD THRU AJU10.

Audit: 12/06/99 ARUBERRY

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

DATE: 04/22/99
PAGE: 1

Stage: LICENSE

BUTTE County

[illegible]

POU County: BUTTE

Non-Irrigation Uses: NONE

Other Rights: 33-7006, 2123, 7057, 2128, 2085, 0117, 0066, 02024

Conditions of Approval:
016 - See remarks for additional conditions of approval.

Remarks: GEN EXCHANGE WATER REQUIRED UNDER DECREE TO ORVILLE NICHOLSON IN CASE OF ORVILLE NICHOLSON, ET AL, -VS-N.W. HANSEN, ET AL, DATED JULY, 1954, IN 6TH JUDICIAL DIST. CRT. THE RIGHT HOLDER MUST SUPPLY .8 CFS OF WATER TO LITTLE LOST R., VIA SPRING CR., DURING THE PERIOD OF 4-1 THRU 7-15 OF EACH YR. FOR USE ON OTHER LANDS NOT DESCRIBED UNDER THIS LIC. THIS CAN BE SUPPLIED FROM PASS CR. OR BY EXCHANGE FROM THE WELL UNDER THIS LIC.

Dates:	Exam Made Date:	Verified Date:	Objection Filed Date:
	04/08/1985	04/08/1985	04/08/1985

Misc:

Water District Number:	Field Inspection Flag:
	Presumption Flag:

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: A33-02128

Date Received: 12/12/1989

Receipt No: 14005356

Received By: ES

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ORVILLE NICHOLSON 208-767-3463
Address: HOWE, ID 83244

OR

Name: REA NICHOLSON 208-767-3463
Address: HOWE, ID 83244

2. Date of Priority: AUG 18, 1966

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
08N	28E	31	SE	SW	NE		BUTTE

5. Description of diverting works:

THREE WELLS DELIVER WATER TO COMMON MAINLINE SYSTEM.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.760		

7. Total Quantity Appropriated is:

0.980 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 95.0 Acre Feet Per Annum.

9. Non-irrigation uses:

NONE

A33-02128

Page 1

Date: 12/12/89

MICROFILMED

NOV 18 1992

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
08N	28E	32	SW NW		IRR	38.0
Section Acres						38.0
Total Acres						38.0

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:

33-7006, 2123, 7057, 2128, 2085, 0117, 0066, 02024

14. Remarks:

EXCHANGE WATER REQUIRED UNDER DECREE TO ORVILLE NICHOLSON IN CASE OF ORVILLE NICHOLSON, ET AL, -VS-N.W. HANSEN, ET AL, DATED JULY, 1954, IN 6TH JUDICIAL DIST. CRT. THE RIGHT HOLDER MUST SUPPLY .8 CFS OF WATER TO LITTLE LOST R., VIA SPRING CR., DURING THE PERIOD OF 4-1 THRU 7-15 OF EACH YR. FOR USE ON OTHER LANDS NOT DESCRIBED UNDER THIS LIC. THIS CAN BE SUPPLIED FROM PASS CR. OR BY EXCHANGE FROM THE WELL UNDER THIS LIC.

15. Basis of Claim: LICENSE

Water Right Number: 33129

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: 1

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): Orville Nicholson Date: 12-12-89

Date: _____

State of Idaho)
County of Butte) SS.

Subscribed and sworn (or affirmed) before me this 12 day
of December 19 89

[Signature]
Notary Public

Seal

Residing at Idaho Falls, Id.
My Commission Expires 22 Aug 1994

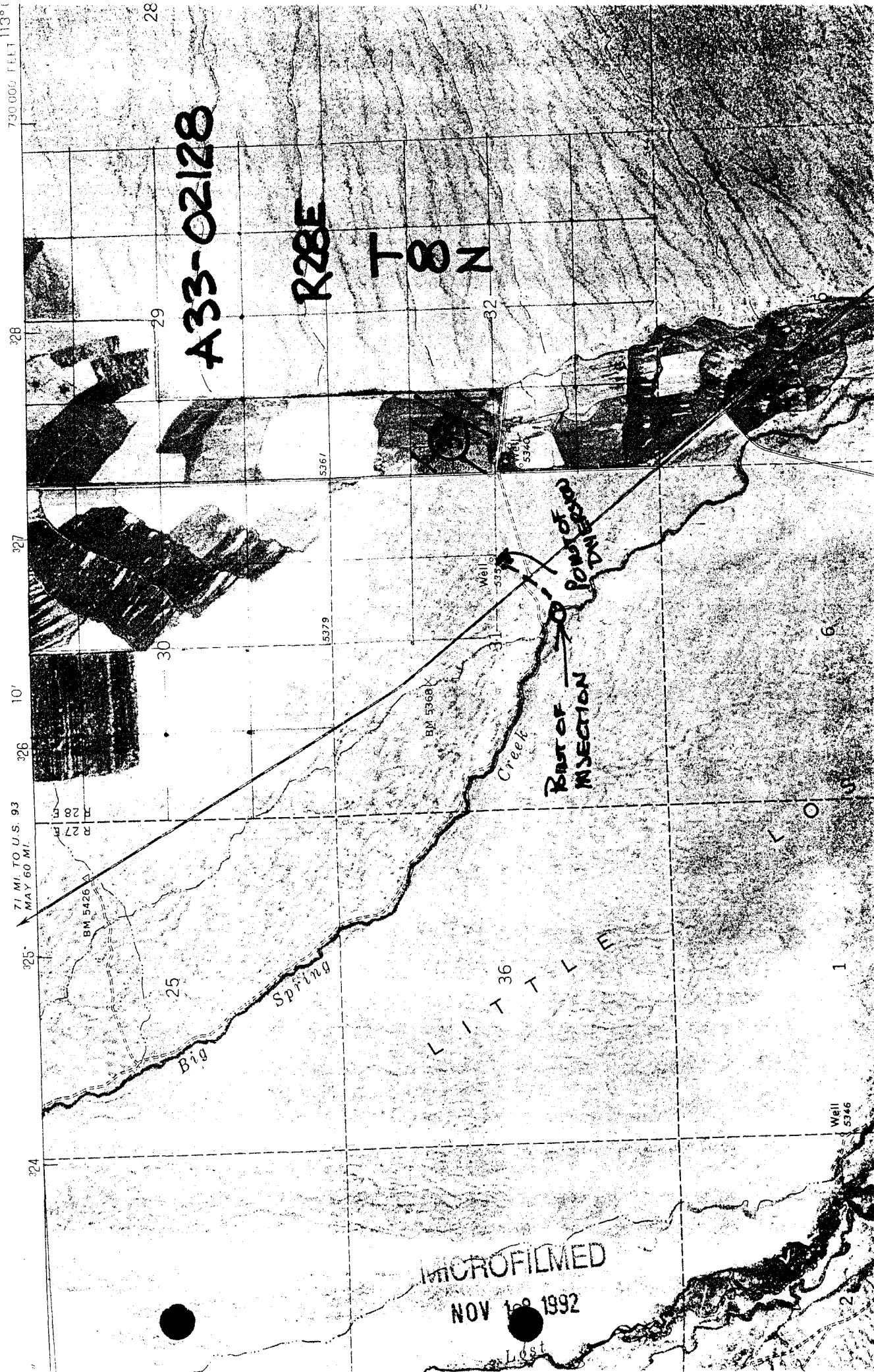
HOWE NW QUADRANGLE

IDAHO

7.5 MINUTE SERIES ORTHOPHOTOQUA

R27E R28E

730 000 FEET 113°



TO SCALE