

Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
1000 Riverwalk Dr., Ste. 200
P.O. Box 50130
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518
Idaho State Bar Number 7018

RECEIVED

NOV 14 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

Case No. 39576

Subcase No.: 21-4140

**MOTION TO SET ASIDE SF5 AND
SPECIAL MASTER'S REPORT AND
MOTION TO FILE AMENDED NOTICE
OF CLAIM**

Eagle Ridge Ranch, LLC, by and through counsel of record, Robert L. Harris of the law firm Holden, Kidwell, Hahn & Crapo, PLLC, hereby moves this court to set aside a Standard Form 5 executed by all parties in this matter, and to further set aside the Special Master's Report and Recommendation regarding Water Right No. 21-4140. Counsel for Claimant recently discovered a single error in relation to the stipulated elements for Water Right No. 21-4140. That element is the total volume which can be stored in a pond commonly known as "Blue Lake". The basis for this motion is set forth below.

Earlier this year, the parties executed a Standard Form 5 stipulating to the elements of Water Right No. 21-4140. The primary dispute regarding this water right at that time was the priority date. The Standard Form 5 was executed in February of 2008 resolving this issue. In the summer of 2008, counsel for Eagle Ridge Ranch made a field visit to Blue Lake in order to visit with ranch hands

regarding a claim to an enlarged water right, Water Right No. 21-13064. Additionally, counsel made the visit in response to an email from Joe Larsen, then an employee with the Idaho Department of Water Resources, regarding his belief that the dam which forms Blue Lake had been raised without obtaining an additional water right, potentially subsection Eagle Ridge Ranch to a Notice of Violation. Mr. Larsen has since left the Department, but his records regarding this matter are still with the Department.

In the field visit with ranch hands from Eagle Ridge Ranch, they estimated the approximate depths of Blue Lake at various points along the lake. Based upon their estimations, and Mr. Harris's own visual inspection, the parties were able to make an approximation as to the depth of the lake at various points. Based upon these discussions and subsequent GIS mapping, the claimant believes there was an error made in the original claim as to the actual volume Blue Lake can hold. The attached exhibits best explain the error.

Attached hereto as Exhibit A is a Statutory Claim to a Water Right filed by Gordon and Algenia McCrea. These individuals were the persons responsible for constructing the original dam, and filed the statutory claim in 1983. The claim lists the volume stored at 75 acre feet, and lists the diversion works of a dam approximately 12 feet wide and 200 feet long. Based on the Statutory Claim, Mr. McCrea filed a claim in the Snake River Basin Adjudication, which was assigned to Mitchell & Valynn Jacobs when the Jacobs family purchased the property in 1989.

Based on IDWR Dam Safety Inspection records, the height of the dam in 1994 was 12.2 feet. In 2006, the height was 14 feet. See Exhibit B. Thus, sometime between 1994 and 2006, the dam had been raised, which increased the volume of the lake. Because this change was subsequent to the cutoff date for the Snake River Basin Adjudication, it will be necessary for the new owner, Eagle Ridge Ranch, to file an Application for Permit for the additional volume now stored in the lake as a result of raising the dam. In calculating the amounts that would need to be asked for in such an Application for Permit, Mr. Harris discovered that the original amount currently being recommended for Partial Decree of 75 acre feet is likely an underestimation of the actual amount stored in Blue Lake.

Attached hereto as Exhibit C is a GIS map prepared by Mr. Harris, which shows the outline of the new Blue Lake, which is the outline of the lake after the dam was raised (and is based upon a 2004 NAIP aerial photo), and the approximate outline of old Blue Lake, which was taken from a 1962 USGS Topo map. On Exhibit C, the location of old Blue Lake was moved slightly, and was

necessary because of slight geo-referencing differences between current aerial photography and USGS maps. Attached as Exhibit D is the same map contained at Exhibit C, only it is overlaid on a 2004 NAIP aerial photo. As shown in Exhibit C, the new Blue Lake shape outlines the current location of the lake, and the yellow shapes outlines the former Blue Lake previous to the dam being raised.

In addition, Exhibit D shows white lines with acreage amounts listed within each shape. The shape which lists 6.9 acres, at its maximum depth, is 25 feet deep; the shape which shows 11.1 acres is approximately 10 feet deep; the shape which shows 3.2 acres is approximately 3 feet deep; and the shape which shows 1.6 acres is approximately 2 feet deep. These amounts were based upon ranch hand testimony and Mr. Harris' observation. Attached hereto as Exhibit E is a spreadsheet prepared by Mr. Harris, with an attached copy of a sheet obtained from the Idaho Department of Water Resources to assist their agents with determining reservoir capacity. Blue Lake is a v-shaped reservoir, and as seen in the sheet attached to the spreadsheet, the capacity of such a reservoir is calculated by taking the surface area, multiplying by the maximum depth, and then multiplying by a factor of 0.4. Based upon this formula, we have calculated that new Blue Lake holds approximately 119 acres feet.

However, because new Blue Lake has been enlarged, and will require an Application for Permit, it was necessary to also calculate the total acre feet of old Blue Lake. As the dam was raised approximately 2 feet (1.8 to be exact), as noted on the spreadsheet, the maximum depth at each section of old Blue Lake outlined in white was lowered by two feet. In looking at Exhibit D, it is remarkable that old Blue Lake actually lines up very well with the approximate locations of the white lines. Thus, with old Blue Lake, no acres were covered under the shallowest depth amount of new Blue Lake, and in the area of new Blue Lake which covers approximately 3.2 acres, the actual surface area at that point was estimated by Mr. Harris to be approximately 2 acres. With these changes made, the spreadsheet shows that **old Blue Lake actually had a capacity of almost exactly 100 acre feet**. Additionally, old Blue Lake's size was approximately 20 acres, and new Blue Lake is approximately 23 acres, with a volume of 119 acre feet.

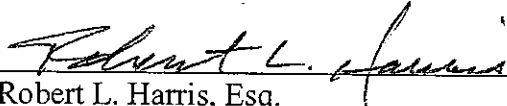
In sum, the original amount claimed by Gordon McCrea of 75 acre feet was 25 acre feet less than what should have been claimed and what was actually developed with a 12.2 foot dam. Our understanding is that the 12.2 foot dam had existed since Mr. McCrea constructed the dam, and the only time it has been raised was sometime in the 1990s to its current height of 14 feet. Additionally,

the approximate size of Blue Lake was taken from a 1962 USGS Topo map, which should accurately depict the approximate size of the lake as it was originally constructed. We believe this is sufficient evidence to infer that the amount actually stored at Blue Lake is 100 acre feet, not the 75 acre feet originally claimed by Mr. McCrea. We presume that Mr. McCrea made an estimation of the approximate amount held by Blue Lake, and that the amount was not actually based upon any measurements or formula. Based on the Department's formula, and the claimant's own observation, we believe the water right should be recommended with a 100 acre foot volume amount.

Because previous landowners to Eagle Ridge Ranch, LLC relied upon Mr. McCrea's claim, no one sought to amend the claim of 75 acre feet. Because only 75 acre feet was originally claimed, it will be necessary for Eagle Ridge Ranch to file the attached Amended Notice of Claim attached as Exhibit F. The only change made between the elements agreed to between the parties is the volume for recreation storage. All other elements of the water right remain the same.

We apologize for the inconvenience and potential confusion this motion may cause. However, we believe it is of utmost importance to accurately document what was developed on the property, which is the purpose for this motion and the attached Amended Notice of Claim. We ask the Court to set aside the SF5 and the Special Master's Recommendation, and request that the Amended Notice of Claim be granted.

DATED this 12th day of November, 2008


Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

CERTIFICATE OF MAILING

I hereby certify that on the 12th day of November, 2008, 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

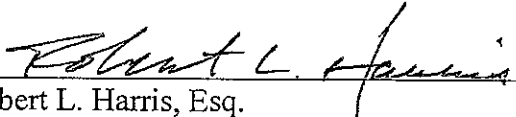
2. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

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

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

Garrick Baxter
Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098


Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

G:\WPDATA\RLH\11129 Eagle Ridge Ranch, LLC\Motion to Set Aside SF5.wpd:cdv

Exhibit A

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that Wm. Gordon McCrea & Algernia S. McCrea
(Name of Claimant)
P.O. Box 17, Island Park, ID 83429 Telephone No. 558-7420
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use) October 1, 1935
A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.
- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Blue Lake tributary to Sheep Creek/Henrys Fork
- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

	Quantity	Use	Period of Use From		To	
			Mo., Day	Mo., Day		
(4)	75 af	Fish Propagation	1-1	12-31		
	75 af	Recreation	6-15	10-1		
	75 af	TOTAL QUANTITY USED.				

- (5) A) Point of diversion: (Location of point where water is diverted from its source)
NW 1/4 SW 1/4, Sec. 14 Twp. 13N Rge. 42E B.M., County of Fremont
Additional points of diversion:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Dam approximately 12 feet high 200 ft. long.

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

T	R	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTAL
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
13N	42E	14									40	40							80

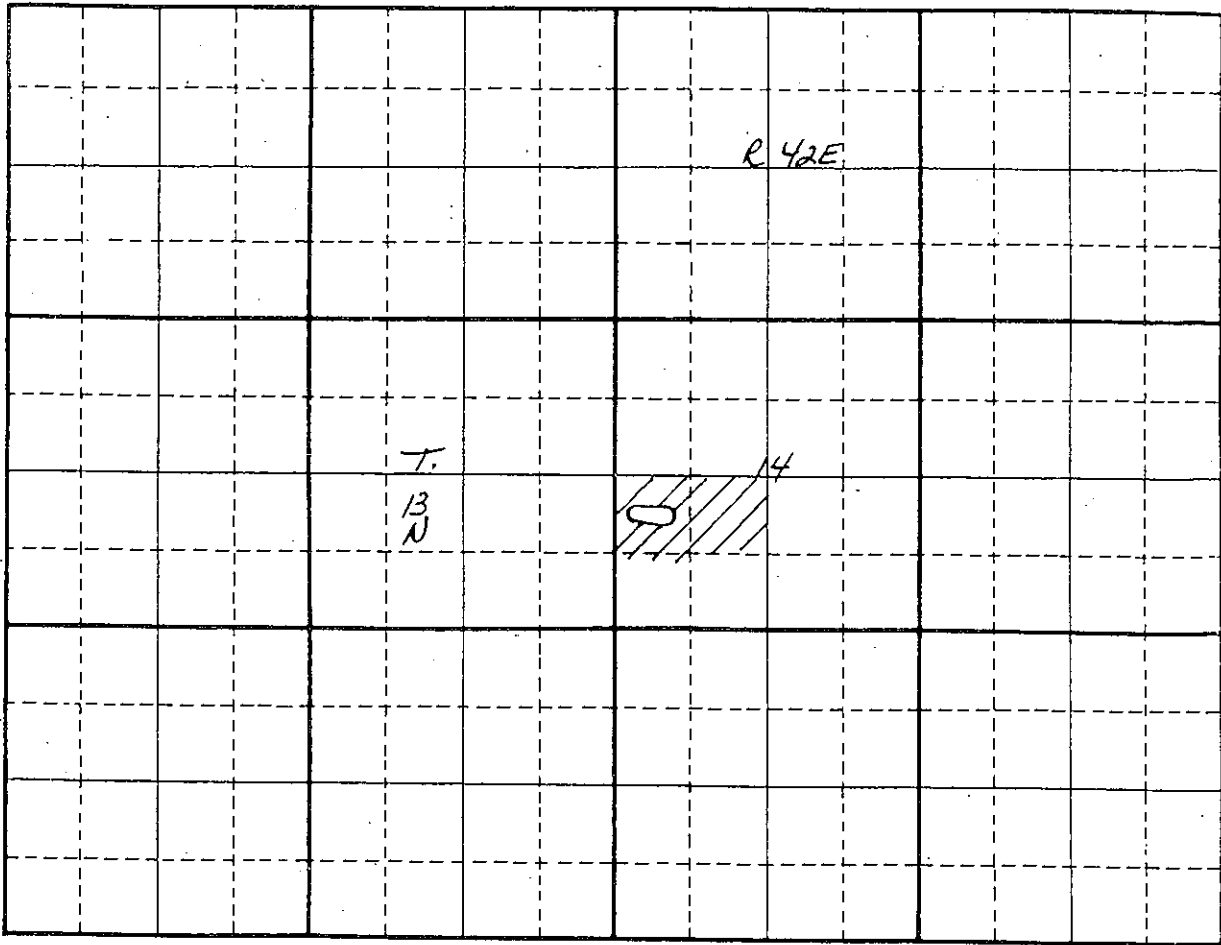
No. of acres 80

- B) If water is used for other than irrigation, fully describe that use, being as specific as possible:
Stockwatering 500-800 head of cattle, recreation on private licensed fish pond. Cattle use pond for water.

NOTE: Include here the type and number of stock watered: 500-800 beef cattle

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

18) Remarks _____



Scale: 2 inches equal 1 mile.

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

State of Idaho |
County of Bingham | ss.

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

[Signature]
(Claimant)

Sworn to before me this 30th day of June, 1983.

[Signature]
Notary Public
Residing at Firth, Idaho

My commission expires 2/14/86

FOR DEPARTMENT USE ONLY

Received by [Signature] Date 6-30-83 Exception filed by: _____ Forwarded to _____ Date _____
Prelim. check by RCW Date 4-28-83
\$30.00 fee received by [Signature] Date 6-30-83 claimant by: _____
Published in [Signature] 4-5-84
Dates 1983 2-14-86

Exhibit B

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
RECORD OF INSPECTION OF DAM

Name of Dam: Jacobs Dam
Name of Owner: Frank Vandersloot

Stream: Sheep Creek
Location: nws, Sec 14, T13N R42E

☐ Offstream

Individuals Accompanying Inspector: Mike Stubblefield, Sonny Hornbaker & Matt Daulton – Ranch Manager

Reservoir Characteristics: Dam Height : 14 ft

Surface Area: 20 ac

Storage Capacity: 75 AF

Hazard Classification: Significant (no change)

Photographs : yes

CONDITION OF EMBANKMENT OR STRUCTURE : ☐ - Poor ☒ - Fair ☐ - Good ☐ - Excellent

TYPE : ☒ - Earth ☐ - Rockfill ☐ - Conc. Arch ☐ - Conc. Gravity ☐ - Timber Crib ☐ - Other _____

	UPSTREAM SLOPE	CREST	DOWNSTREAM SLOPE	TOE AREA
SURFACE COVER MATERIAL	some rock rip rap	earth	earth.	earth
GROWTH	none	Weeds and grass	weeds and grass	marsh
SETTLEMENT Or CRACKS	none	none	Along edge of crest where fill was placed to raise dam	
SURFACE EROSION	some benching	none	none	
DEBRIS	none	none	none	
ANIMAL BURROWS	none	none	some	
CREST WIDTH AND SLOPE MEASUREMENTS	.5 to 1: 1 (very steep above high water line)	12 ft	1.5: 1	

CONDITION OF OUTLET WORKS ; ☐ - Poor ☐ - Fair ☐ - Good ☐ - Excellent

Location ; ☒ - Left Side ☐ - Center ☐ - Right Side X - Other no low level outlet

Description and Condition:

There is an outlet/spillway pipe under the left spillway that diverts water to a smaller reservoir. A control works has not been found.

Gate Hoist : ☐ - Manual ☐ - Electric ☐ - Other _____

Stem : ☐ - Inclined from entrance to crest ☐ - Vertical on tower at entrance

☐ - Vertical through dam crest ☐ - Downstream valve

Entrance ; _____

Outlet : _____

CONDITION of SPILLWAY : ☐ - Poor ☐ - Fair ☒ - Good ☐ - Excellent

THREE SPILLWAYS*

Location : ☒ - Left abutment ☒ - Right abutment ☐ - Away from dam ☒ - Other Center

Base width : 4.5 ft Freeboard at crest : 6.8 ft Sideslope : vertical Channel slope : steep

Over flow channel : X - Well defined X - Flow directed away from toe ☐ - Flow could reach toe

Erosion control present : concrete overflow

Erosion present : minor below structure

Maintenance condition : Debris none

Growth none

* Above info is for main spillway. See survey in file for dimensions of other two spillways.

SEEPAGE:Reservoir level during inspection : Full and spilling

	TOE AREA	DOWNSTREAM SLOPE	ABUTMENTS	OTHER
Piping of material Evident (Est. G.P.M.)	none	none	none	
Flowing water (Est. G.P.M.)	none	none	none	
Marshy or Standing water	left of icehouse	none	none	
Damp	left of icehouse	none	none	
Evident from Growth present	left of icehouse	none	none	

GENERAL CONDITION AND DESCRIPTION OF DAM :

Fair to Good: The crest of the dam has been raised. This has led to benching along the upstream slope. Mr. Daulton indicated that there are plans to widen the crest and place riprap on the upstream slope this fall. There are three spillways from which water can flow. The left and right spillways have flashboards to back the water up. The middle one is free flowing.

INSTRUMENT READINGS (Piezometer, Seepage measurements, Alignment, Elevation, etc.)none**RECOMMENDATIONS :**DO NOT REAUTHORIZE STORAGE UNTIL REPAIRS ARE COMPLETED.

- Repair areas of benching and widen crest to minimum of ten feet
- Continue regular maintenance

DATE : 6/6/06INSPECTED BY : Ryan Madsen

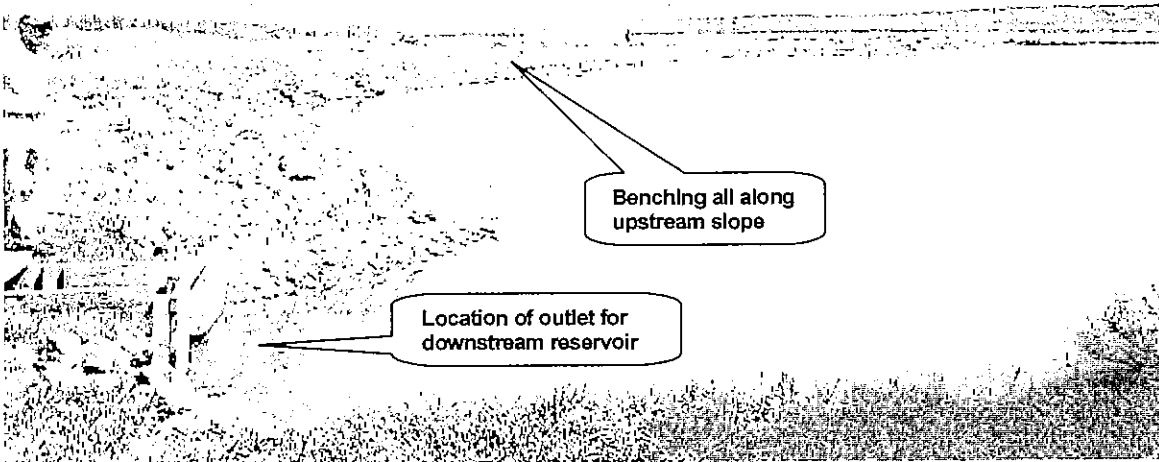


Photo 1: Left spillway, upstream slope and crest of dam.

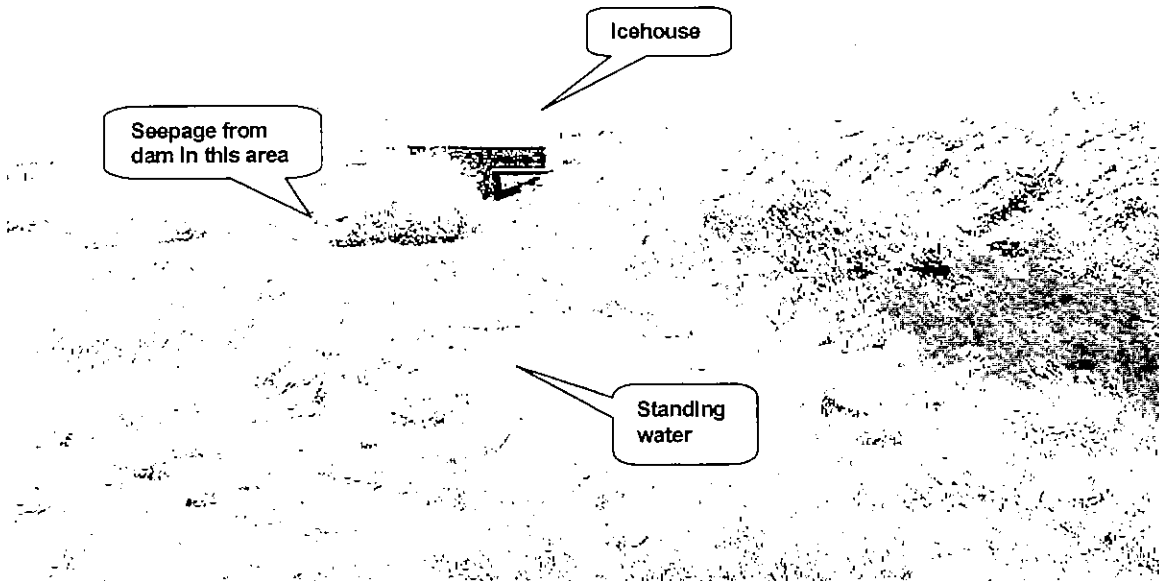


Photo 2: Downstream slope and ponding of water at toe near center of dam. Water in foreground appears to be seepage from small dam located near left abutment of dam.



Photo 3: Middle spillway, located near center of dam on right side of icehouse.

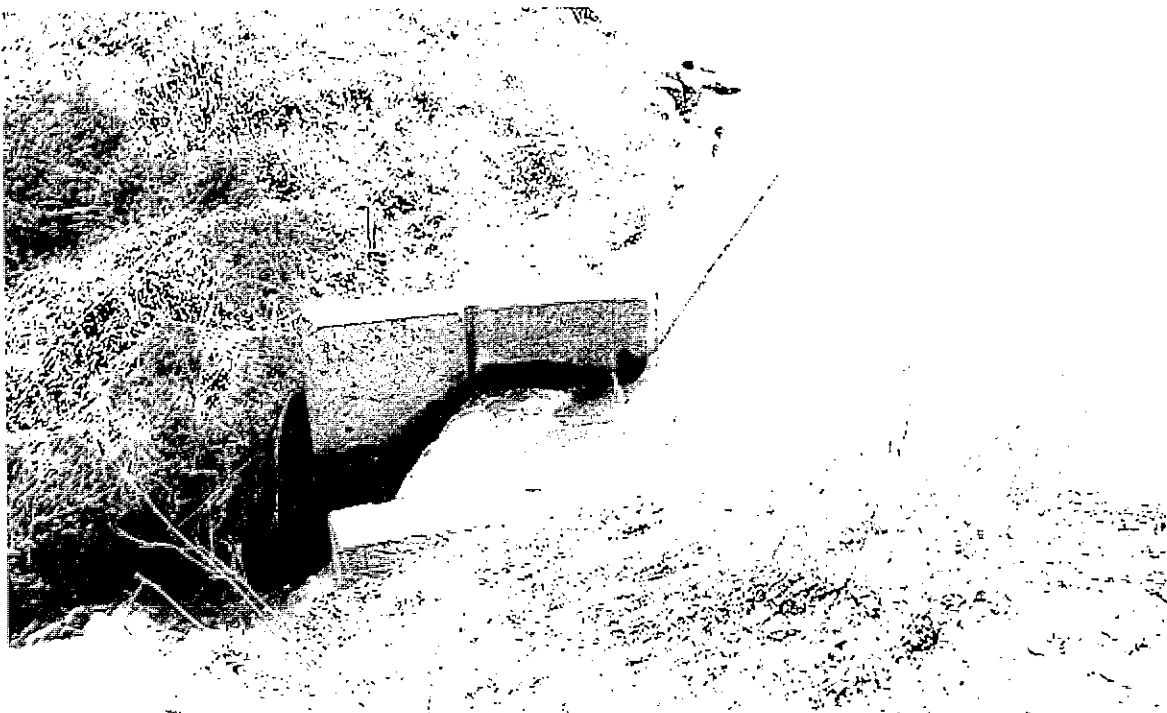


Photo 4: Right (main) spillway, located at right abutment of dam. Note erosion of channel directly below concrete structure.

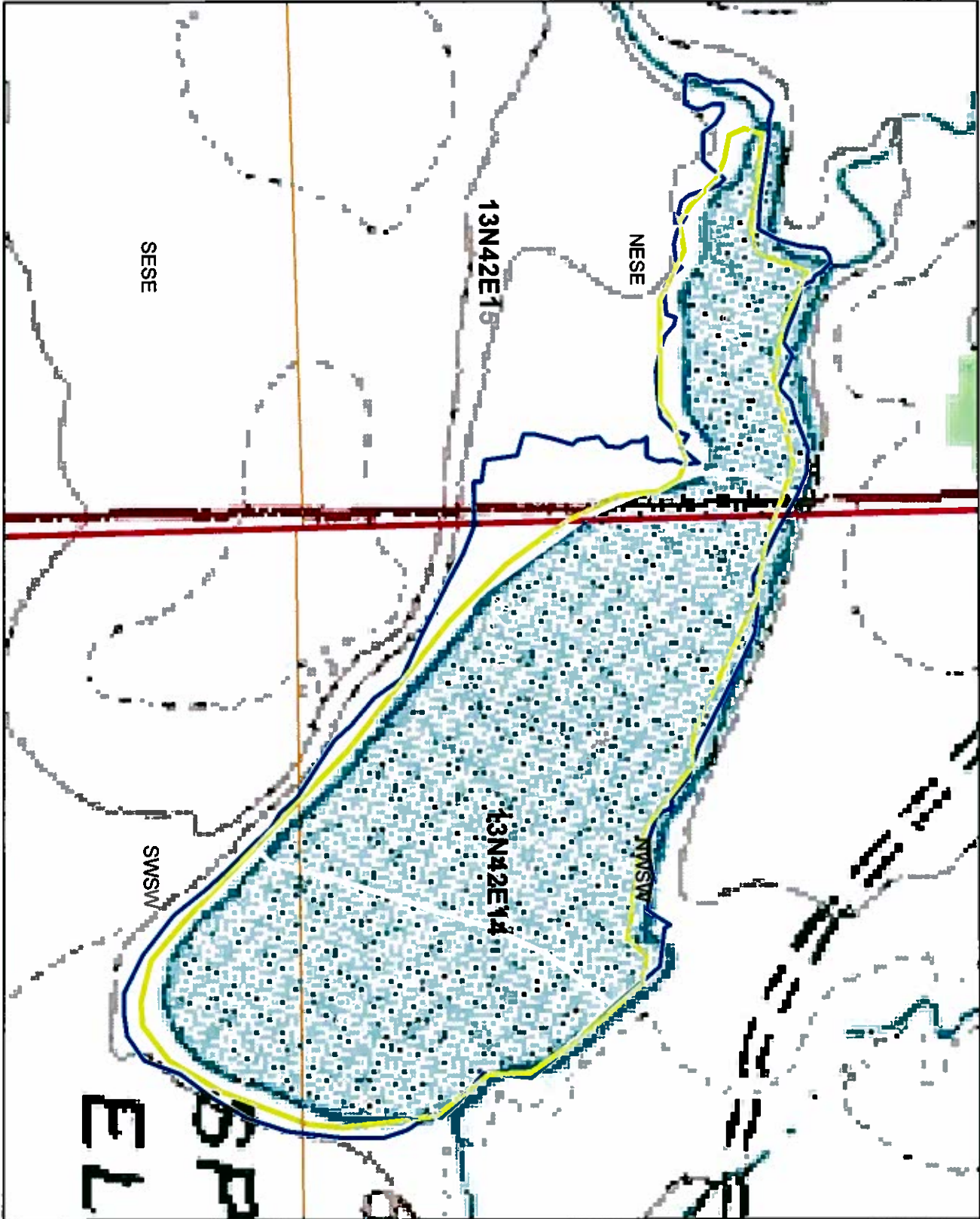
Exhibit C

EAGLE RIDGE RANCH BLUE LAKE



Legend

- 21-4126_POU
- Old_Blue_Lake
- New_Blue_Lake
- Section_Lines
- Quarter-quarters
- Blue_Lake_Depths

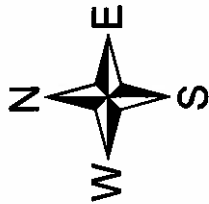


0 0.02 0.04 0.08 Miles

Prepared by:
Robert L. Harris
2004 NAIP Aerial Photo

Exhibit D

EAGLE RIDGE RANCH BLUE LAKE



Legend

- 21-4126_POU
- Old_Blue_Lake
- New_Blue_Lake
- Section_Lines
- Quarter-quarters
- Blue_Lake_Depths

Prepared by:
Robert L. Harris
2004 NAIP Aerial Photo

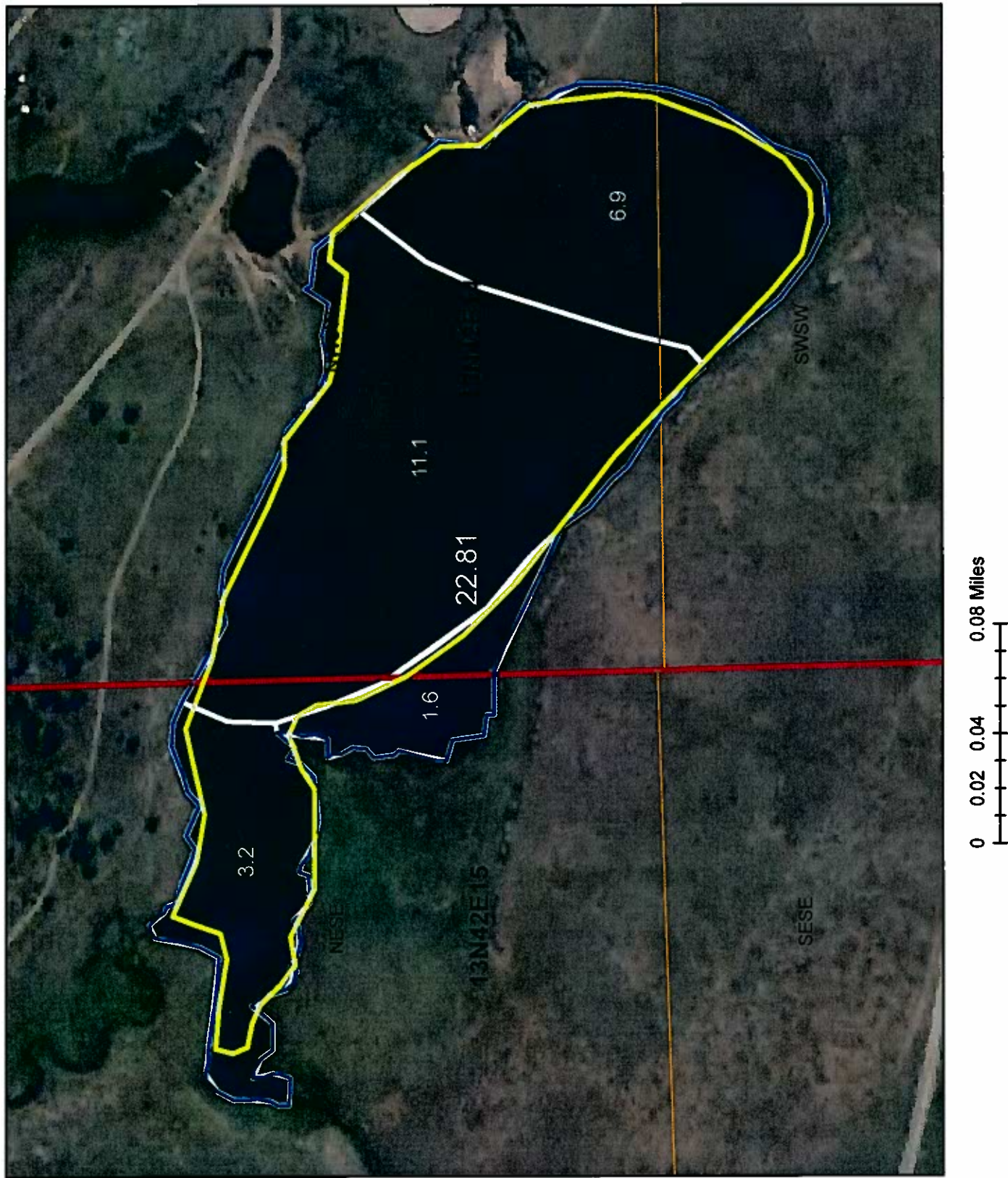


Exhibit E

EAGLE RIDGE RANCH

CALCULATED VOLUME AMOUNTS FOR BLUE LAKE

<u>NEW</u> BLUE LAKE [^]	Maximum Depth (ft)*	Depth Surface Area (acres)**	Conversion Factor***	TOTAL ACRE-FEET
Deepest Depth	25	6.9	0.4	69
Middle Depth	10	11.1		44.4
Shallow Depth	3	3.2		3.84
Shallowest Depth	2	1.6		1.28
TOTAL		22.8	GRAND TOTAL	118.52

<u>OLD</u> BLUE LAKE ^{^^}	Maximum Depth (ft)*	Depth Surface Area (acres)**	Conversion Factor***	TOTAL ACRE-FEET
Deepest Depth	23	6.9	0.4	63.48
Middle Depth	8	11.1		35.52
Shallow Depth	1	2		0.8
Shallowest Depth	0	0		0
TOTAL		20	GRAND TOTAL	99.8

* These amounts were estimated by visiting with ranch hands at the ranch, and by personal observation and estimation by Rob Harris.

** These amounts were calculated by Rob Harris using ArcGIS after ranch hands drew the approximate areas and depths on a map.

***The conversion factor was taken from an IDWR manual used to determine reservoir capacity. See attached sheet.

[^] Shape taken from 2004 NAIP Aerial Photo.

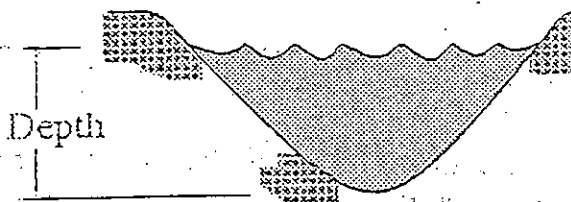
^{^^} Shape taken from 1962 USGS Topo Map.

CONCLUSION: The original amount claimed by Gordon McCrea of 75 AF was 25 AF less than what should have been claimed and what was actually developed with a 12.2 foot dam. Between 1994 and 2006, the dam was raised approximately 1.8 feet to a height of 14 feet. This increased Blue Lake's capacity by approximately 19 AF. It will be necessary for Eagle Ridge Ranch to submit an application for permit for the additional 19 AF.

DETERMINING RESERVOIR CAPACITY

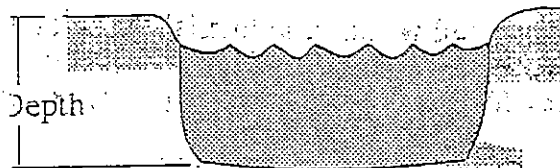
A. V shaped reservoirs, lakes, and ponds.

$$\text{Capacity} = \text{Surface Area} \times \text{Maximum Depth} \times 0.4$$

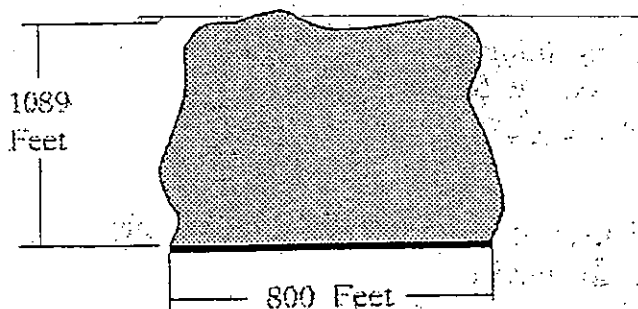


B. Flat Bottom reservoirs, lakes, and ponds.

$$\text{Capacity} = \text{Surface Area} \times \text{Maximum Depth}$$



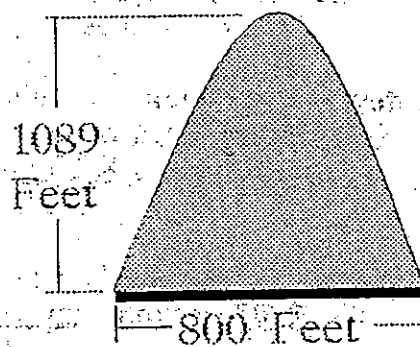
EXAMPLES:



1. Smith Creek Pond is 800' wide, 1089' long and 9' deep.

$$\begin{aligned} \text{Surface Area} &= 300' \times 1089' \\ &= 43,560 \\ &= 20 \text{ acres} \end{aligned}$$

$$\begin{aligned} \text{Capacity} &= 20 \text{ acres} \times 9 \text{ feet} \\ &= 180 \text{ acre feet} \end{aligned}$$



1. Trout Creek Reservoir is 800' wide, 1089' long and 9' deep.

$$\begin{aligned} \text{Surface Area} &= \frac{1}{2}(800') \times 1089' \\ &= 43,560 \\ &= 10 \text{ acres} \end{aligned}$$

$$\begin{aligned} \text{Capacity} &= 10 \text{ acres} \times 9 \times 0.4 \text{ feet} \\ &= 36 \text{ acre feet} \end{aligned}$$

Exhibit F

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 21-4140
Date Received _____
Receipt Number _____

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

1. Name of Claimant(s) Eagle Ridge Ranch, LLC Phone _____

Mailing Address 2880 N. 55th W., Idaho Falls, ID Zip 83402

2. Date of Priority (Only (1) per claim) October 1, 1935

3. Source of water supply (a) Blue Lake

which is tributary to (b) Sheep Creek

4.a. Location of existing point of diversion is:
Township 13N Range 42E Section 14, SE 1/4 of NW 1/4 of SW 1/4, Govt. Lot ____,
County of Fremont

Additional points of diversion if any: _____

If Available, GPS Coordinates: _____

b. If instream flow, beginning point of claimed instream flow is:

Township ____ Range ____ Section ____, __ 1/4 of __ 1/4 of __ 1/4, Govt. Lot ____ B.M., County of _____

ending point is: Township ____ Range ____ Section ____, __ 1/4 of __ 1/4 of __ 1/4 Govt. Lot ____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged
and the depth of each well. _____

6. Water is claimed for the following purposes: (Both dates are inclusive) (cfs) (acre feet)

For Stockwater Storage purposes from 01/01 to 12/31 amount _____ or 11.00 afy

For Stockwater from Storage purposes from 01/01 to 12/31 amount _____ or 11.00 afy

For Recreation Storage purposes from 01/01 to 12/31 amount _____ or 100.00 afy

7. Total quantity claimed (a) _____ (cfs) and/or (b) _____ (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of
livestock Etc.) _____

9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13N	42E	14										R,S	R,S						
		15													R,S				

Total number of acres irrigated N/A

10. In which county(ies) are lands listed above as place of use located? Fremont

11. Do you own the property listed above as place of use? Yes ☒ No ☐
If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.
_____ or None (☒)

13. Remarks:

Water Right is for Blue Lake.

14. Basis of Claim (Check one) Beneficial Use ☒ (Statutory Claim) _____ Posted Notice _____ Permit _____
Decree _____ License _____ If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

15. 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 Organizations: I do solemnly swear or affirm under penalty of perjury that I am THE ATTORNEY of _____ (Title)

EAGLE RIDGE RANCH, LLC, that I have signed the foregoing document in the space below as _____ (Organization)

ATTORNEY of EAGLE RIDGE RANCH, LLC and that the statements contained in the _____ (Title) (Organization)

foregoing document are true and correct.

Signature of Authorized Agent Robert L. Fanning

Title and Organization ATTORNEY, EAGLE RIDGE RANCH, LLC Date Nov. 12, 2008

Last Name Eagle Ridge Ranch LLC Ident. Number 21-4140

17. Notice of Appearance:

Notice is hereby given that I, Robert L. Harris, will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Robert L. Harris
Address 1000 Riverwalk Dr., Ste. 200,
PO Box 50130, Idaho Falls, ID 83405-0130
Date Nov. 12, 2008

G:\WPDATA\RLH\11129 Eagle Ridge Ranch, LLC\Amended Claim, 21-4140.wpd:cdv