

11/12/2006

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

RIGHT NUMBER: 24-2020

NAME AND ADDRESS: NEVADA ROCK AND SAND CO
C/O HOLDEN KIDWELL HAHN & CRAPO PLLC
PO BOX 50130
IDAHO FALLS ID 83405-0130

SOURCE: ALLEMAN SPRING
UNNAMED STREAM

TRIBUTARY: CROW CREEK
TRIBUTARY: SINKS

QUANTITY: 1.500 CFS

PRIORITY DATE: 04/27/1912

POINT OF DIVERSION:

T10S R45E S15 SWSWNE Within CARIBOU County

T10S R45E S15 NWNWSW Within CARIBOU County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	1.500 CFS

PLACE OF USE: IRRIGATION in CARIBOU County

T10S R45E S15	SWNE	3.60	T10S R45E S15	NESW	0.70
T10S R45E S15	SESW	0.70	T10S R45E S15	NESE	31.00
T10S R45E S15	NWSE	25.00	T10S R45E S15	SWSE	13.00
T10S R45E S15	SESE	1.00			

75 ACRES TOTAL

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Right Nos. 24-10684 and 24-4010 are also diverted through point of diversion described above.

Right includes accomplished change in source pursuant to Section 42-1425, Idaho Code.

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

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



Idaho Department of Water Resources

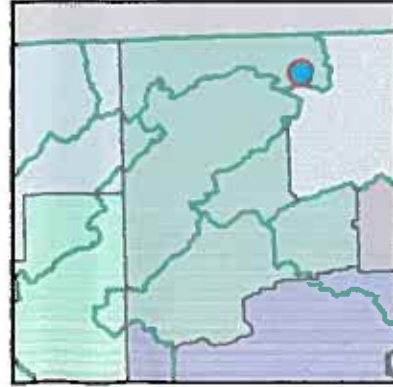
SRBA Recommendation:

24-2020

(Irrigation)

Legend

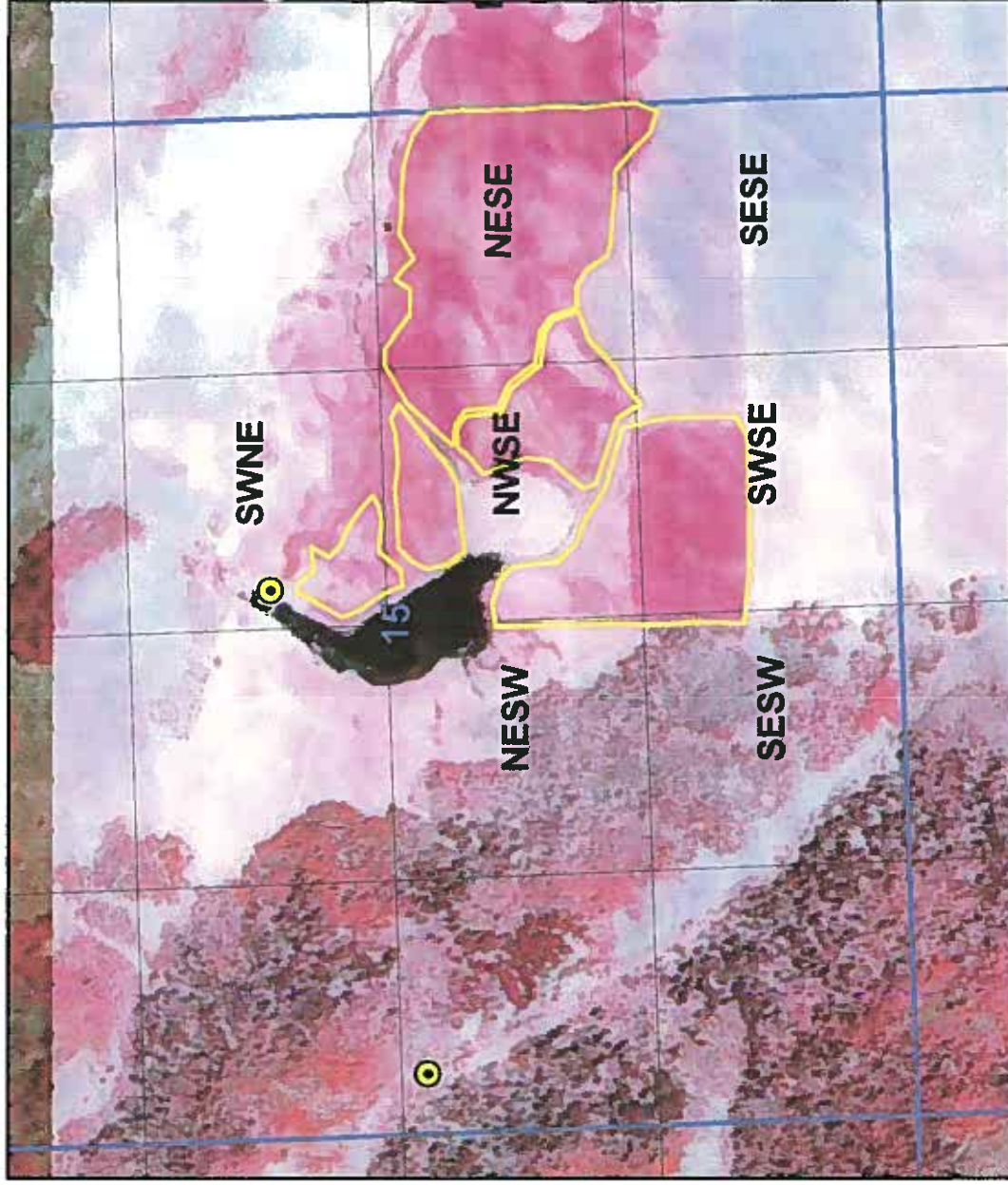
- Point of Diversion
- Place of Use
- Townships
- PLS Sections
- Quarter Quarters



Caribou County
IDWR Basin 24

Prepared by C. Bird
On Sunday, November 12, 2006
1987/88 Aerial Photography

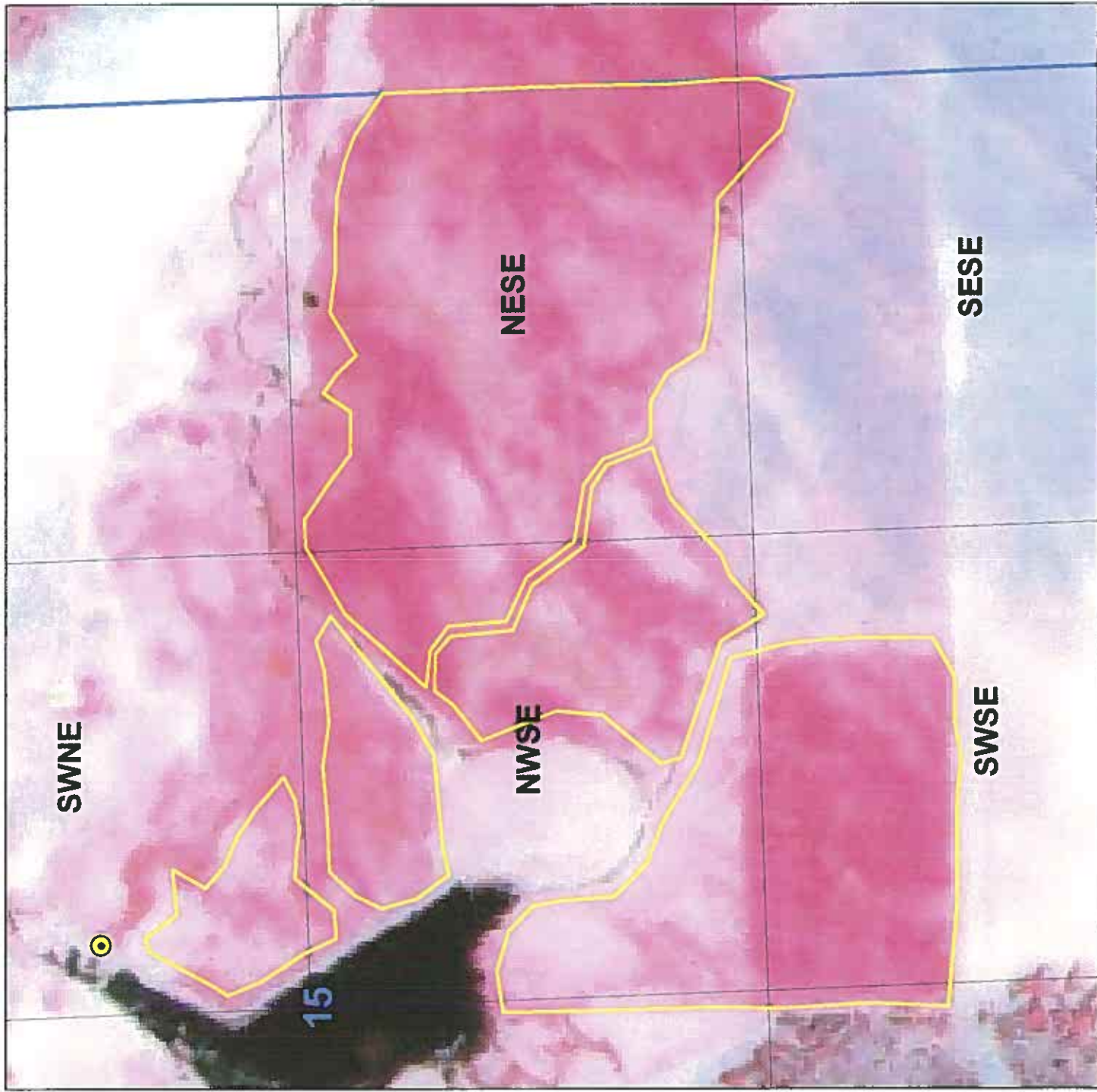
R45E



T10S



24-2020



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 24-2020
Date Received: 9/18/2006
Receipt No:
Received By:

AMENDED

AMENDED

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

1. Name of Claimant(s)

NEVADA ROCK AND SAND CO Phone: (208)523-0620
C/O HOLDEN KIDWELL HAHN & CRAPO PLLC
PO BOX 50130
IDAHO FALLS ID USA 83405-0130

2. Date of Priority: 04/27/1912

3. Source: UNNAMED STREAM , ALLEMAN SPRING Trib. to: SINKS , CROW CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
10S	45E	15	SE SE SW	CARIBOU	
10S	45E	15	SW SW NE	CARIBOU	

5. Description of diverting works:

HEADGATE AND DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	10/31	1.5	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
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10S	45E	15	NE	SE	IRRIGATION	10
			NW	SE	IRRIGATION	20
			SW	SE	IRRIGATION	30
			SE	SE	IRRIGATION	15
Section Acres						75
Total Acres						75

11. Place of use in counties: CARIBOU

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

13. Other Water Rights Used:

14. Remarks:

.4 CFS FROM ALLEMAN SPRING. 1.5 CFS FROM CROW CREEK.

Other water rights used at the same place and for the same purposes as described above: 24-4010 and 24-4009.

15. Basis of Claim: License

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 24-2020

Date Received _____

Receipt Number _____

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

1. Name of Claimant(s) Nevada Rock & Sand Co. Phone (208) 523-0620
Mailing Address C/o Holden, Kidwell, Hahn & Crapo, PLLC, PO Box 50130, Idaho Falls, ID Zip 83405-0130
2. Date of Priority (Only (1) per claim) April 27, 1912
3. Source of water supply (a) Alleman Spring and Unnamed Stream
which is tributary to (b) Crow Creek
- 4.a. Location of existing point of diversion is:
Township 10S Range 45E Section 15, SW 1/4 of SW 1/4 of NE 1/4, Govt. Lot _____, Alleman Spg.
County of Caribou
Additional points of diversion if any: SESESW, Sec. 15, T10S., R45E. Unnamed Stream
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. Headgates & Ditches
6. Water is claimed for the following purposes: _____ (Both dates are inclusive) (cfs) (acre feet)
For Irrigation purposes from 04/01 to 10/31 amount 1.5 cfs or _____
7. Total quantity claimed (a) 1.5 (cfs) and/or (b) _____ (acre feet)
8. Total consumptive use claimed is _____ acre feet per annum.
9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of
livestock Etc.) _____



10. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
b. 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	
10S	45E	15													10	20	30	15	75

Total number of acres irrigated 75

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

12. 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.

13. Describe any other water rights used at the same place and for the same purposes as described above.
24-4010, 24-4009 or None ()

14. Remarks:

15. Basis of Claim (Check one) Beneficial Use ☐ Posted Notice ☐ Permit ☐ Decree ☐ License ☒
If applicable provide IDWR Water Right Number 24-2010
Court Case Number Decree Date
Plaintiff vs Defendant

16. I do solemnly swear or affirm that I am the Corporate Secretary of Nevada Rock & Sand Co., that I have signed the foregoing document in the space below as the Corporate Secretary of Nevada Rock & Sand Co., and that the statements contained in the foregoing document is true and correct.

Signature of Authorized Agent *Monte Stewart*

Title and Organization Corporate Secretary, Nevada Rock & Sand Co. Date 27 Oct 06

State of Idaho Utah)
) SS.
County of Utah)

Subscribed and sworn (or affirmed) before me this 24th day of October, 2006.



Beverly A. Royer
Notary Public
Residing at Brem, Utah
My Commission Expires 3/1/07

Last Name Nevada Rock & Sand Co. Ident. Number 24-2020

17. Notice of Appearance:

Notice is hereby given that I, Kurt W. Foster 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

Kurt W. Foster

Address

PO Box 50130 IDAHO FALLS, ID 83405

Date

10/25/06

G:\WPDATA\KWP\10652 MARTIN, STEPHEN B\08 Nevada Rock & Sand\Amended Claims\Claim.24-2020.wpd.odv

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 24-2020
Date Received: 9/18/2006
Receipt No: B000020
Received By: CB

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

NEVADA ROCK AND SAND CO Phone:

527 REGENTS GATE DRIVE
HENDERSON NV USA 89012

2. Date of Priority: 04/27/1912

3. Source: ALLEMAN SPRING Trib. to: CROW CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
10S	45E	15	SW SW NE	CARIBOU	

5. Description of diverting works:

HEADGATE AND DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	10/31	1.5	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
10S	45E	15	NE	SE	IRRIGATION	10
			NW	SE	IRRIGATION	20
			SW	SE	IRRIGATION	30
			SE	SE	IRRIGATION	15
					Section Acres	75
					Total Acres	75

11. Place of use in counties: CARIBOU

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

13. Other Water Rights Used:

14. Remarks:

.4 CFS FROM ALLEMAN SPRING. 1.5 CFS FROM CROW CREEK.

15. Basis of Claim: License

16. Signature(s)

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

Number of attachments: 0

For Organizations:

I do solemnly swear or affirm that I am _____ of _____

Title_____

_____, that I have signed the foregoing

Organization

document in the space below as _____ of _____

Title

and that the statements contained in the

Organization

foregoing document are true and correct.

Signature of Authorized Agent

Title and Organization

Date _____

State of Idaho)
) SS.
County of)

Subscribed and sworn (or affirmed) before me this

of 20

Notary Public

Residing at _____

My commission Expires _____

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 24-2020

Date Received _____

Receipt Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW



1. Name of Claimant(s) Nevada Rock & Sand Co. Phone (702) 682-8707

Mailing Address 527 Regence Gate Dr., Henderson, NV Zip 89012

2. Date of Priority (Only (1) per claim) April 27, 1912

3. Source of water supply (a) Alleman Spring

which is tributary to (b) Crow Creek

4.a. Location of existing point of diversion is:
Township 10S Range 45E Section 15, SW 1/4 of SW 1/4 of NE 1/4, Govt. Lot _____,
County of Caribou

Additional points of diversion if any: _____

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. Headgate and ditch.

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

For Irrigation purposes from 04/01 to 10/31 amount 1.5 cfs or _____

7. Total quantity claimed (a) 1.5 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

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

- [illegible]

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

13. Describe any other water rights used at the same place and for the same purposes as described above.
24-4010 or None ()

16. Signature(s)

For Organizations: I do solemnly swear or affirm that I am President of
(Title)

President of Nevada Rock & Sand Co. and that the statements contained in the
(Title) (Organization)

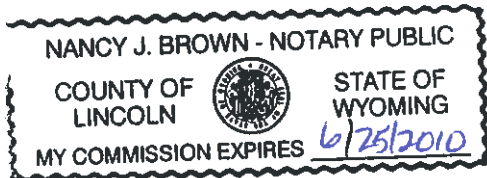
Signature of Authorized Agent Orlando S. Stewart

Title and Organization President, Nevada Rock & Sand Co. Date 9/68/06

Last Name Ident. Number

State of ~~Idaho~~ Wyoming)
) SS.
County of Lincoln)

Subscribed and sworn (or affirmed) before me this 8th day of September, 2006.



Nancy J. Brown
Notary Public Nancy J. Brown
Residing at Thayne WY
My Commission Expires 6/25/2010

17. Notice of Appearance:

Notice is hereby given that I, KENT W. FASTER 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 Kent W. FASTER
Address 1701 Box 50130 LOAN H FALLS, ID 83405
Date 9/13/06

Idaho Department of Water Resources Receipt

Receipt ID B000020

Payment Amount \$150.00 Date Received 9/18/2006 1:52:15 PM Region Soda Springs Status
Payment Type Check Check Number 33950

Payer HOLDEN KIDWELL HAHN & CRAPO PLLC

Comment NEVADA ROCK AND SAND 24-2020
100.00 FILING FEE AND 50.00 LATE FEE. THE LATE FEE SHOULD
BE 100.00.

Fee Detail

Amount	Description	Fund	FD	PCA	SO
\$100.00	ADJUDICATION FILING FEE	0337		43503	1155
\$50.00	ADJUDICATION LATE FEE	0337		43503	1155


Signature Line (Dept. Representative)



State of Idaho
DEPARTMENT OF WATER RESOURCES

15 W. Center St. Soda Springs, Idaho 83276

Phone: (208) 547-3993 FAX: (208) 547-3939 www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

November 27, 2006

KENT FOSTER
HOLDEN, KIDWELL, HAHN & CRAPO P.L.L.C.
PO BOX 50130
IDAHO FALLS, ID USA 83405

REF: NEVADA ROCK AND SAND

Subject: LAYOUTS FOR RECOMMENDATIONS

Dear Mr. Foster,

I've enclosed copies of the layouts for the irrigation recommendations for the claims for Nevada Rock and Sand. If you have any questions please don't hesitate to give me a call at 547-3993.

Respectfully,

Cindy E. Bird
Adjudication Bureau

Enclosure(s): ArcView layouts 24-2020, 24-4008, 24-4010, 24-10684 and 24-10686

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
MARIE T. TYLER
FREDERICK J. HAHN, III
KARL R. DECKER
SHAN B. PERRY
DeANNE CASPERSON**
AMELIA A. SHEETS
ROBERT L. HARRIS
DEBORAH S. O'MALLEY

1000 RIVERWALK DRIVE, SUITE 200
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL KFOSTER@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel
Fred J. Hahn

**Also Licensed in Missouri & Kansas

November 17, 2006

Cindy Bird
Idaho Department of Water Resources
15 W. Center St.
Soda Springs, ID 83276

Dear Cindy:

The Stewarts and I spent a little more time trying to put together an affidavit covering most of the things we discussed in our meeting and giving you the background as best they understand and remember it. We are enclosing with this letter the Affidavit of Monte Stewart which we hope accomplishes that purpose. Please feel free to call if there is anything else we can provide or if we can be of any assistance.

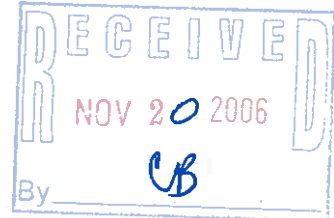
Yours very truly,



Kent W. Foster

Enclosure

G:\WPDATA\KWF\10652 MARTIN, STEPHEN E\08 Nevada Rock & Sand\Cindy Bird ltr 111706 wpd:cdv



**AFFIDAVIT OF
MONTE STEWART**

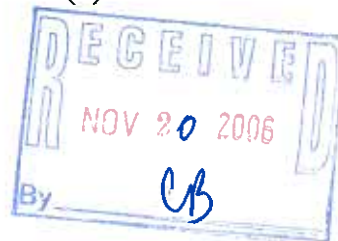
STATE OF UTAH)
)ss
County of Utah)

Monte Stewart, being first duly sworn, on his oath deposes and says:

1. I am a citizen of the United States, over the age of eighteen (18) years, am familiar with the land and irrigation rights described herein and make the following statements from my own personal knowledge and understanding.
2. On August 1, 1963, my father and his brothers, sometimes referred to as "the Stewart Brothers," purchased from Matthew and Hattie L. Alleman a ranch in Idaho, in Sections 14, 15, 22 and 23 of T10S., R45E. The ranch is known locally as the "Alleman Ranch." The ranch consists of about 880 acres and was initially acquired by the Allemans and their relatives from the United States Government by virtue of the following five patents:

Patent No.	Patent Date	Patentee	Legal Description
229806	October 12, 1911	John Peter Alleman	T10S., R45E., Sec. 14: W½SW; Sec. 23: W½NW
266815	May 16, 1912	Abraham Alleman	T10S., R45E., Sec. 15: SE
664620	February 7, 1919	Emeline Alleman	T10S., R45E., Sec. 15: S½NE, SENW
684239	June 7, 1919	Matthew Alleman	T10S. R45E., Sec. 22: NE
1068084	February 14, 1934	Matthew Alleman	T10S., R45E., Sec. 15: E½SW; Sec. 22: E½NW, NESW, N½SE

3. I turned 14 years old the day after our family purchased the ranch. I spent a good deal of time during the first few summers working on and irrigating the ranch. Water for the ranch was diverted by means of headgates and ditches from four (4) sources:



- a. A spring located in the SWNE, Sec. 15, T10S., R45E., known locally as "Alleman Spring," the water from which had created a natural stream channel which runs to the east where it is naturally tributary to Crow Creek. An old ditch with a *measured?* headgate on the channel near the spring diverted up to about 3.0 cfs of water to irrigate a large meadow, mostly on the south side of the natural channel, of between 110 and 135 acres in the SE of Section 15, and the W½SW of Section 14 and also 10 to 20 acres north of the channel in the S½ NE of Section 15. A second ditch was also located on the north side of the natural channel, in the SENE, Sec. 15, to delivery approximately half (about 3.0 cfs) of the stream to the Nate Ranch, to the north on Crow Creek. It was always our understanding with the Nates that we received approximately half of the flow of Alleman Spring and the Nates received the other half.
- b. A smaller unnamed stream that flows from a canyon (which we sometimes refer to as the "north canyon") located to the south of Alleman Spring and that runs east and north until it joins the channel from Alleman Spring and then into Crow Creek. An old headgate diverted water into a ditch in the SESW of Sec. 15 and took water north where it provided irrigation water for up to about 50 acres in the E½SE of Sec. 15. This ditch also delivered the remaining water into the ditch from Alleman Spring and contributed to some extent to the irrigation of the meadow lands served primarily by the ditch from Alleman Spring.
- c. Another old ditch which diverted water from Crow Creek by means of a headgate near (but on the other side of the road from) the present Clear Creek Guard Station, in the NWSE of Sec. 26, T10S., R45E (and which we call the "highline ditch"). Soon after leaving the headgate, the ditch went west through a culvert under the road and then proceeded mostly north, following the contour of the hills on the west side of the small valley, a distance of about a mile to a mile and one-half into and through the E½NE, Sec. 22 and the W½NW, Sec. 23. Water from this source also reached the SWSW, Sec. 14, and the ditch provided Crow Creek water for irrigation of approximately 75 to 85 acres in those sections.

- d. Another small, unnamed stream flows from a second canyon (which we sometimes refer to as the "south canyon"), enters the ranch in the SENW, Sec. 22, and flows through a natural channel, pretty much in an easterly direction, to Crow Creek. In the SENE of Sec. 22, the stream intersects the "highline ditch" and during the irrigation season, its water is intercepted by the "highline ditch" and contributes to the irrigation of the same 75 to 85 acres referenced above. When the Stewarts acquired the property, each of the four (4) headgates and ditches had the appearance of being old and having been there for decades. The irrigation water was used to irrigate meadow or grass hay and cattle had been pasturing the ranch and had access to all of the streams and ditches for as long as we know of.
4. Immediately after acquiring the property, Stewarts commenced a number of projects to increase the irrigated acreage and to improve the irrigation effectiveness. All the irrigation had previously been flood irrigation from the ditches which carry the water from the diversion headgates. The Stewarts undertook four (4) specific efforts, described as follows:
 - a. Equipment was brought in which, during the late summer and fall of 1963, and perhaps spring of 1964, was used to construct a dike at Alleman Spring, which created a reservoir of about 50 acre feet in size, with outlets for the ditch and stream channel. At the request of the Dam Safety Division of IDWR, the height of the dike was raised a couple of feet in 1984, but that did not create any enlargement in the size of the reservoir or the amount of water which can be stored in it.
 - b. At the same time (late 1963 and early 1964) the Stewarts installed an intake for a gravity flow mainline, further up the north canyon, and constructed a family nine hole golf course on land primarily in the SENW and NESW of Sec. 15, adjacent to the new reservoir on the north, west and south. A purpose of the gravity flow mainline was to bring water to the golf course. Watering of this land commenced in 1964, and even though the course was still pretty rough, a family golf tournament was held in the summer of 1965, in which I participated and which I

remember well. I still have the large butcher paper score chart that was used for the tournament. The additional acreage brought under irrigation as described in the two quarter-quarter sections is about 35 to 43 acres. Those acres are no longer used as a golf course, but are used for pasture. Then no later than about 1968 wheel line sprinklers were brought in, attached to the risers on this north canyon mainline where it runs off to the north soon after leaving the mouth of the canyon, and used to sprinkler irrigate the 50 acres in the E½SE of Sec. 15 referenced in paragraph 3.b., above.

- c. Also in the fall of 1963 and spring of 1964, a smaller reservoir of about 5 acre feet in size was created by placing a dike and outlet structure in the channel of the small unnamed stream from the south canyon. That small reservoir is in the SWNE of Sec. 22, and permits storage for stockwater and for augmentation of flows downstream to contribute to the "highline ditch" when there would otherwise be no water in this intermittent stream. The released reservoir water can be used on the same 75 to 85 acres irrigated under the "highline ditch" described above.
 - d. Finally, and no later than about 1968, a second gravity flow steel pipeline and intake facility was installed up the south canyon, in the SENW, Sec. 22, with some risers on the mainline as it proceeds downstream towards the small reservoir. Additional mainline was installed to the north, into the NWNE, and then south in the SWNE. Then wheel line sprinklers were brought in and additional land in the NE, Sec. 22, of up to 80 to 95 acres was brought under sprinkler irrigation.
5. I and other family members have attempted to learn when irrigation began on this ranch, and to what extent, prior to the Stewarts' acquisition on August 1, 1963. We have learned that one of the Allemans, Abraham Alleman, to whom the SE¼ of Sec. 15 was patented in 1912, actually filed an application for, and was granted a permit by the Idaho State Engineer in 1912. The application sought 0.4 cfs from Alleman Spring and 2.8 cfs from Crow Creek for irrigation of Mr. Alleman's entire 160 acres, being the SE¼ of Sec. 15. A license was subsequently issued by the state engineer in 1914, now renumbered

24-2020. After having studied the Application, Permit, Certificate of Completion of Works and other documents available in the IDWR files, and being familiar with the land, we have reached the following conclusions:

- a. The proposed diversion from Alleman Spring was completed and land was brought under irrigation between 1912 and 1914. Although the license was issued for the irrigation of 75 acres, there is approximately 50 of this particular 75 acres, within the W½SE of Sec. 15, that cannot be physically flood irrigated with surface water from either Crow Creek or Alleman Spring. First, there is a ridge or higher ground running from southwest to northeast, through the NWNE of Sec. 22, and the S½SE of Sec. 15, over which water from Crow Creek could not have physically been conveyed or delivered without pumping, which we are certain was never done. No portion of the 75 acres described in the license can possibly be served with gravity flow irrigation from Crow Creek. Second, these approximately 50 acres in the W½SE, Sec. 15 are also too high for water to be delivered by gravity flow from the Alleman Spring ditch. The only possible source of water to irrigate this land by gravity flow is the unnamed stream from the north canyon, from which, when Stewarts arrived, water was being diverted through an old headgate in the SESW, Sec. 15, and delivered through an old ditch which brought water from that unnamed stream, north and east to this land and which eventually emptied into the Alleman Spring ditch. We believe this 75 acres was being irrigated in 1914 when the license was issued, as follows: All 75 acres received water from the unnamed stream from the north canyon, and 25 (or a few more acres) received water from the Alleman Spring ditch, but none of the 75 acres could receive water from Crow Creek.
- b. Given where water is diverted from Alleman Spring, the location of the ditch from Alleman Spring, and the lay of the meadow land down gradient, it is nearly impossible to divert water from Alleman Spring through the old ditch, and from the unnamed stream from the north canyon through that old ditch, without getting water on the rest of the meadow down gradient to the east, approximately another 100 to 115 acres in the SE of Sec. 15 and the W½SW of Sec. 14. It is perhaps

possible that the Alleman Spring ditch was enlarged sometime after the Application for Permit was filed in 1912, but we believe the ditch was probably built, as it remains today, about that time, or very soon thereafter.

- c. The Certificate of Completion of Works, and the License which was issued to Abraham Alleman, make it clear that the diversion from Crow Creek and the "highline ditch" were completed by 1914 when the License was issued. But it was not physically possible for it to irrigate any of the 75 acres up in Sec. 15. It could only irrigate the 75 to 85 acres in Sections 22, 23 and 14, that it still serves. The land in Sec. 22 was patented in 1919, so it was not owned by Abraham Alleman in 1912 or 1914, or even by any other Alleman until the 1919 Patent was issued. The Sec. 23 land had been patented to John Peter Alleman in 1911, and the Sec. 14 land was patented to Matthew Alleman in 1916. It is clear to us that irrigation of the land commenced with the construction of the "highline ditch" between 1912 and 1914.
 - d. We have also concluded that augmentation of water flows in the "highline ditch" from Crow Creek, by means of the intermittent flows in the unnamed stream from the south canyon commenced when the "highline ditch" was constructed, because it crossed and intercepted flows from this intermittent source.
6. Therefore, Nevada Rock & Sand has claimed the following priorities for the early rights:
- a. 24-2020 – April 27, 1912 (the licensed date);
 - b. 24-4007 – April 27, 1912 (also the licensed date);
 - c. 24-4008 – April 27, 1912 (also the licensed date);
 - d. 24-4009 – May 16, 1912 (the patent date for the land served); and
 - e. 24-4010 – May 16, 1912 (the patent date for most of the land served).

DATED this 14th day of November, 2006.

~~Stewart~~



Monte Stewart

SUBSCRIBED AND SWORN TO before me this 14th day of November, 2006.



Beverly A. Royer
Notary Public for Utah
Residing at: Orem, UT
My commission expires: 03/01/07

G:\WPDATA\KWF\10652 MARTIN, STEPHEN E\08 Nevada Rock & Sand\Monte Stewart Affidavit 110806 wpd edv

Notes

9/18/06 Received Notice of Claim from Kent Foster. Not enough filing fee.
Sent Kent a letter requesting additional filing fee.

9/22/06 received additional filing fee. CS
Set claim to active. CS
Mailed receipt to Kent Foster.

9/24/06 Sent letter + layout addressing some of the issues. CS

9/27/06 This POD is only the POD for Allerman Springs under the original license.
The 2nd POD from Crow Creek is claimed under 24-4007.

11/8/06 POD: 24-4010 Allerman Spring
24-4009 Unnamed Stream
is also diverted from the same POD's.

Nevada Rock & Sand
Timeline 24-4007, 4008, 4009, 4010

Claimant's attorney submitted duplicate copies of some forms. Some were the same and some were slightly different which transferred the property from one member of the trust to someone else, etc. I grouped those documents together for ease of handling and underlined the document description when I did group them together and only listed them once.

I did obtain a copy of the Water License off IDWR's site. Chris from the vault looked it up and I was able to download it from 24-2020.

- ✓ 10/12/1911 U.S.A. to John Peter Alleman
T10S, R45E, Sec.14, W1/2SW
T10S, R45E, Sec.23, W1/2NW
160 acres
Subject to any vested and accrued water rights for mining,
agricultural, manufacturing
Recorded #4295
- 3/27/1912 Water License #8159 (24-2020) NOSRB claim. 1.5 cfs
State of Idaho to Abraham Alleman
Priority date 3/27/1912, 3.2 cfs
 (2.8 cfs Crow Creek)
 (0.4 cfs Alleman Spring)
Beneficial use
(NOTE: This information is from the title company's abstract,
noting that it was recorded 11/2/1922 in Book "1" of Water
Locations at page 146.) Recorded #4299
License obtained from the 24-2020 on line
1.1 cfs Crow Creek
.4 of 1 cfs Alleman Spring
POD: T10S, R45E, Sec. 26, NE corner of SWNW
 T10S, R45E, Sec. 15, center of SWNE
POU: T10S, R45E, Sec. 15, NWSE, 20 ac
 T10S, R45E, Sec. 15, SESE, 15 acres
 T10S, R45E, Sec. 15, NESE, 10 acres
 T10S, R45E, Sec. 15, SWSE, 3 acres.
License states it to be used on 75 acres but this does NOT
add up to 75 acres, only 48 acres.
Usage: Irrigation and domestic
- 5/16/1912 U.S.A. to Abraham Allemann
T10S, R45E, Sec. 15, SE
160 acres
Any vested and accrued water rights for mining, agricultural,
manufacturing

Recorded #4297

- 6/25/1914
(24-2020) Certificate of Completion of Works. H. P. King, State Engineer
to Abraham Alleman
Irrigation and domestic purposes
T10S, R45E, Sec. 15
POD: Crow creek, T10S, R45E, Sec. 26, near NE corn SWNW
POD: Alleman Spring, T10S, R45E, Sec. 15, near center
SWNE
To irrigate T10S, R45E, Sec. 15, SE, 160 ac
Recorded #4300
- 1/28/1916 John Peter Alleman to Matthew Allemann
T10S, R45E, Sec. 14, W1/2SW
T10S, R45E, Sec. 23, W1/2NW
160 acres
Recorded #4296
- 2/7/1919 U.S.A. to Emeline Alleman
T10S, R45E, Sec. 15, S1/2NE, SENW
120 acres
Recorded #18088
- 6/7/1919 U.S.A. to Matthew Allemann
T10S, R45E, Sec. 22, NE
160 acres
Subject to any vested and accrued water rights forming,
agricultural, manufacturing
Recorded #4294
- 8/19/1922 Warranty Deed, Abraham & Elizabeth Alleman to
Matthew Alleman
T10S, R45E, Sec. 15, SE, 160 ac
License 8159 (24-2020)
Recorded #4298
- 1/5/1923 Tax Deed, Tax collector to Caribou County
Owner: John P. Alleman
T10S, R45E, Sec. 14, W1/2SW, 80 acres
Recorded #4692
- 5/14/1923 Tax Deed, Caribou County to Matthew Alleman
T10S, R45E, Sec. 14, W1/2SW, 80 acres
Recorded #4974
- 1/22/1934 Indenture, Emeline Alleman Crookston to Matthew Alleman
T20S, R45E, Sec. 15, S1/2NE, SENW 120 acres

Recorded #18089

2/14/1934

U.S.A. to Matthew Alleman
T10S, R45E, Sec.15, E1/2SW
T10S, R45E, Sec. 22, E1/2NW
T10S, R45E, Sec. 22, NESW
T10S, R45E, Sec. 22, N1/2SE
280 acres
Recorded #18090

8/1/1963

Warranty Deed, Matthew & Hattie Alleman to Stewart Bros. Et al

Tract #1, Patent 4295

T10S, R45E, Sec. 14, W1/2SW
T10S, R45E, Sec. 23, W1/2NW
160 acres

Tract #2, Patent 18088

T10S, R45E, Sec. 15, S1/2NE, SENW
120 acres

Tract #3, Patent #4297

T10S, R45E, Sec. 15, SE
160 acres

Tract #4, Patent #4794

T10S, R45E, Sec. 22, NE
160 acres

Tract #5, #18090

T10S, R45E, Sec. 15, E1/2SW
T10S, R45E, Sec.22,E1/2NW, NESW, N1/2SE
280 acres

1/19/1966

Quitclaim Deeds, Wendell Bunker, Marion Bunker,
Richard W. Hunker to Stewart, et al
Same 5 tracts

3/31/1966

Quitclaim Deed, Gerald & Mildred Stewart to
Gary & Connie Stewart
Same 5 tracts

11/3/1971

Warranty Deed, Gilbert & Mary Stewart to Stewart et al
Same 5 tracts

4/3/1974

Quitclaim Deed, Thomas & Anna Stewart to Stewart et al
same 5 tracts

5/12/1975

Warranty Deed in Lieu of Foreclosure, Stewart et al to
Gilbert Sheldon Stewart Trustee
Same 5 tracts

Law Offices
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WILLIAM D. FALER
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(1911-1971)
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(1939-1982)
William S. Holden
(1907-1988)

Of Counsel
Fred J. Hahn

**Also Licensed in Missouri & Kansas

October 25, 2006

Cindy E. Bird
Idaho Department of Water Resources
15 W. Center St.
Soda Springs, ID 83276

RE: SRBA Claims for Nevada Rock & Sand Co.

Dear Cindy:

We are enclosing nine (9) Amended Claims for Nevada Rock & Sand Co. I had not counted the claims previously, but it turned out there were nine, and since we were amending all of them anyway, we used the existing numbers. We have not enclosed any additional maps. We certainly appreciate the maps you have sent us and allowed us to copy.

As we pointed out in our recent meeting, there are four (4) sources of water for the ranch: Alleman Spring, Crow Creek, the unnamed stream from the north canyon and the unnamed stream from the south canyon. As we became more familiar with what the Stewarts found when they acquired the land in August of 1963, and the work they did after they acquired it, it appears to us there needed to be at least four claims (with License No. 24-2020), five with early priorities and four claims covering the construction of reservoirs, gravity flow pipelines and additional irrigation that resulted after the 1963 acquisition.

So, you will find nine amended claims pretty much as we discussed in our meeting. We used the earliest priority for each which we thought could be justified based on the facts as we understand them at this time. Pursuant to your recommendation, we estimated acreage irrigated in each relevant quarter-quarter an acre or two more than what appeared to be the right number to us because, as you pointed out, our lines we drew on the aerial photographs were not exact, and you will need to rely on the technology available to you to refine these numbers. In each claim, we tried to use an amount of 0.02 cfs per acre, plus, in some instances, a little extra for transmission loss. Those numbers will, of course, be affected by the determination of the correct number of acres. There are, as we say, nine amended claims as follows:



1. 24-2020 - This is the claim for the old license. We amended the sources to include, besides Alleman Spring, the unnamed stream from North canyon. We did so because we do not believe Crow Creek water, through the old highline ditch, could reach any of the 75 acres listed in the license, and because some of those acres could only physically have received water from that unnamed stream, in that they are also too high for Alleman Spring water to get there by gravity.
2. 24-4007 - This is the amended claim for the early priority water from Crow Creek. The old license showed a point of diversion where the highline ditch originates and also licensed Crow Creek as one of the sources, so we think it is fairly clear that water was diverted from Crow Creek at about that time. But, since the water could not physically be delivered to the 75 acres listed in the license, we think it is most probable it was delivered to the lands in Sections 22, 23 and 14, some of which were still in the ownership of the United States, rather than Abraham Alleman, when the license was issued.
3. 24-4008 - This is the amended claim for the early priority water from the unnamed stream emanating from the south canyon. As we pointed out, the highline ditch crossed this stream and when Stewarts arrived they found that the stream had historically been entering the highline ditch to augment the water supply for the same land irrigated from that ditch. For the priority, we used the date of the latest patent for the lands irrigated through the highline ditch, although we think it is more probable that the use of water from this unnamed stream began when the highline ditch was constructed, which appears to have been in about the spring or early summer of 1912.
4. 24-4009 - This is the amended claim to pick up the acres which could only have been irrigated from the unnamed stream from the north canyon, but which were not all covered by the license. We actually listed all of the acres where water from this source reached historically so that it is appurtenant where ever used.
5. 24-4010 - This amendment attempts to list all of the land irrigated from Alleman Spring before the Stewarts arrived. It includes some of the land under the old license and especially the lower meadow, and should be appurtenant to all of the land which is reached by water from Alleman Spring.
6. 24-10684 - We amended this claim to pick up the extra land brought under cultivation by the Stewarts after they acquired the ranch in August of 1963, particularly the family golf course they built, which is now irrigated pasture, from the pipeline that was installed up the canyon to provide gravity flow pressure. Again, we listed all the acres to which water from this source may be directed as lands to which the claimed right is appurtenant.
7. 24-10685 - We amended this claim to cover the small reservoir built by Stewarts at the mouth of the south canyon which adds a small amount of storage on the unnamed stream which flows from that canyon into the highline ditch after passing through the reservoir.

Cindy E. Bird
Idaho Department of Water Resources
October 25, 2006
Page 3 of 3

8. 24-10686 - This claim has been amended to document the increased use of water from the unnamed stream from the south canyon after Stewarts installed the gravity flow line up the canyon in late 1963 and early 1964. Most of the extra land irrigated occurred as a result of the use of the wheel lines which did not commence until 1967.
9. 24-10746 - This amended claim is the one to account for the storage created by the construction of the dike by Stewarts in late 1963 and early 1964. We have amended it primarily to adjust the priority and to make the place of use consistent with the other irrigation claims from Alleman Spring.

We hope this will provide the information you need to prepare the recommendations. If you decide there is anything else that would be needful, please let us know and we will try to respond as quickly as we are able. Thank you for your kind efforts and consideration.

Yours very truly,



Kent W. Foster

Enclosures

c: Monte Stewart

15 West Center Street
Soda Springs, Idaho 83276
(208) 547-3993
(208) 547-3939 fax

Idaho Department of
Water Resources

Fax

FAXED
12:17 PM
OB 1pg

To: Katy Jackson From: Cindy Bird
Fax: 525-7177 Pages: 19
Phone: 525-7161 Date: 10-26-06
Re: Amended Claims CC:
☒ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

• Comments:

Katy,
Please data enter the following
amended claims for Nevada Rock
& Sand.

I will print them here after they
are done.

Thanks much,

Cindy.

FAXED
12:30 PM
OB 14/26 18pgs



State of Idaho
DEPARTMENT OF WATER RESOURCES

15 W. Center St. Soda Springs, Idaho 83276

Phone: (208) 547-3993 FAX: (208) 547-3939 www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

September 25, 2006

NEVADA ROCK AND SAND
527 REGENTS GATE DRIVE
HENDERSON, NV 89012

COPY

REF: 24-2020, 24-4007 thru 4010, 24-10684 thru 10686 and 24-10746

Subject: Snake River Basin Adjudication (SRBA) claims need evidence

RESPONSE DATE: OCTOBER 18, 2006

Dear Claimant(s):

I received your Notice of Claim to a Water Right on 24-2020. Since this right is a "perfected right" no evidence is required to support the priority date. Your other SRBA claims are **not** "perfected rights" so they **do** require evidence to support the priority dates. The evidence that I have in the files is the documents referring to Water license 8159 (24-2020) with an April 27, 1912 priority date. Therefore, I still need evidence to support the priority date on your beneficial use claims in the SRBA. License 24-2020 covers 75 acres of irrigated ground in the SE of section 15. I've enclosed a layout of the 75 acres under this right for your convenience to study and determine when the additional land around it was irrigated.

I have outlined several events that could effect the date when the additional lands were irrigated. Please review the information below and the layout on 24-2020 and try to get me the evidence to support the above referenced beneficial use claims by the response date listed above. If no evidence is supplied by that date then the additional beneficial use claims may not be recommended to the SRBA court in late October.

1. Stewart's purchased the property on Aug. 1, 1963.
2. Mandatory permit statute for surface water was effective May 20th 1971.
3. Harold Stewart filed statutory Claims 24-4007 thru 24-4010 on November 10th, 1975.
4. The original special use permit was issued by the USFS in October 1983.

5. According to the information in the IDWR dam safety file the pond was built in 1965 and enlarged in 1984.

When Harold filed the Statutory claims in 1975 was he filing to cover the additional development done by the Stewart's? Was the sprinkler system put in when the Special Use permit was acquired from the Forest Service? Was the irrigation enlarged at this time? Why was the pond enlarged? Was it to cover additional land irrigated? The volume and priority date of the ponds storage of irrigation water will depend on the number of irrigated acres and when they were irrigated.

Since the Statutory claims were filed in 1975 it would tend to suggest that the additional development wasn't done until after the Stewart's purchased the property in 1963?

If you have any questions please don't hesitate to give me a call at 547-3993 because our deadline is rapidly approaching.

Respectfully,

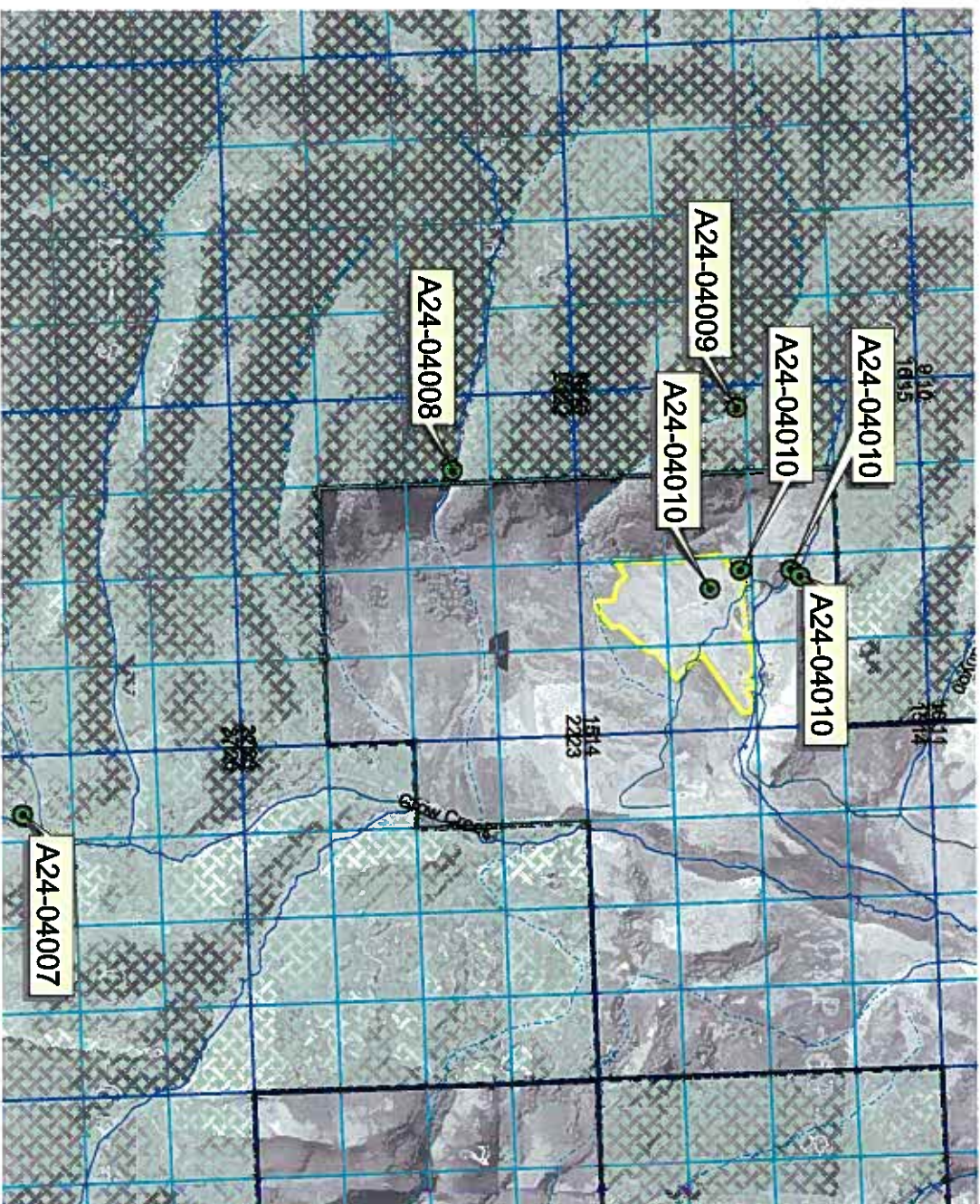
COPY

Cindy E. Bird
Adjudication Bureau

CC: Kent Foster, Attorney at Law (w/attachment)
Nick Spencer, Deputy District Attorney for IDWR (w/o attachment)

Enclosure(s): Layout of irrigated land under 24-2020.

24-2020



LEGEND

- Point of Diversion
- Quarter-Quarter Lines
- Sections
- Private
- U.S. Forest Service
- 24-2020 Place of Use

PREPARED BY: C. BIRD
SEPT. 26, 2006
1956 IMAGERY



State of Idaho
DEPARTMENT OF WATER RESOURCES

15 W. Center St. Soda Springs, Idaho 83276

Phone: (208) 547-3993 FAX: (208) 547-3939 www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

September 22, 2006

KENT FOSTER
HOLDEN, KIDWELL, HAHN & CRAPO P.L.L.C.
PO BOX 50130
IDAHO FALLS, ID USA 83405

REF: 24-2020

Subject: ADDITIONAL LATE FEE

COPY

Dear Mr. Foster,

I've enclosed your receipt for the additional \$50.00 late fee on 24-2020 license for Nevada Rock and Sand's Notice of Claim in the SRBA. If you have any questions please don't hesitate to give me a call at 547-3993.

Respectfully,

Cindy E. Bird
Adjudication Bureau

Enclosure(s): Receipt B000022

Idaho Department of Water Resources Receipt

Receipt ID B000022

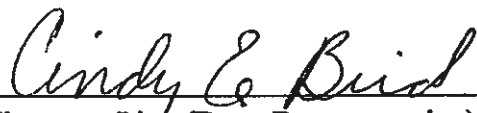
Payment Amount \$50.00 Date Received 9/22/2006 12:21:51 PM Region Soda Springs Status
Payment Type Check Check Number 35851

Payer HOLDEN KIDWELL HAHN & CRAPO PLLC

Comment NEVADA ROCK AND SAND 24-2020

Fee Detail

Amount	Description	Fund	FD	PCA	SO
\$50.00	ADJUDICATION LATE FEE	0337	43503	1155	


Signature Line (Dept. Representative)

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

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Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel
Fred J. Hahn

**Also Licensed in Missouri & Kansas

September 20, 2006

Cindy E. Bird
Idaho Department of Water Resources
15 W. Center St.
Soda Springs, ID 83276

Re: SRBA Claim 24-2020 in the name of Nevada Rock and Sand Co.

Dear Ms. Bird:

Pursuant to your request, we are enclosing our check in the amount of \$50.00 for the additional filing fee in the above mentioned matter.

Thank you for your kind assistance with this matter. If you have any questions, please feel free to contact this office at your earliest convenience.

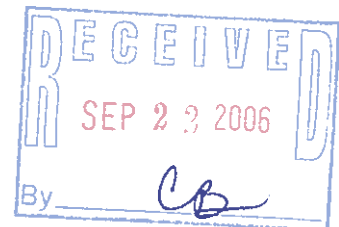
Yours very truly,



Kent W. Foster

Enclosure

G:\WPDATA\KWF\10652 MARTIN, STEPHEN E\08 Nevada Rock & Sand\Cindy E. Bird ltr 092006.wpd:cdv





State of Idaho
DEPARTMENT OF WATER RESOURCES

15 W. Center St. Soda Springs, Idaho 83276

Phone: (208) 547-3993 FAX: (208) 547-3939 www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

September 18, 2006

Kent Foster
Holden, Kidwell, Hahn & Crapo P.L.L.C.
P.O. Box 50130
Idaho Falls, ID 83405

REF: Snake River Basin Adjudication Claim
24-2020

Subject: Additional Filing Fee required

Dear Mr. Foster,

I've enclosed your receipt for the filing fees for the above reference Notice of Claim in the SRBA. I've also enclosed a copy of the Notice of Claim for your records. The above referenced notice of claim status is "Temporary" until we receive the proper filing fee. When the filing fees changed in July the late fee changed from \$50.00 to \$100.00. Please remit the additional late fee as soon as possible. If you have any questions please don't hesitate to give me a call at 547-3993.

Respectfully,

Cindy E. Bird
Adjudication Bureau

Enclosure(s): Receipt #B000020
Copy of the SRBA Claim 24-2020

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

KENT W. FOSTER
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(1939-1982)
William S. Holden
(1907-1988)

Of Counsel
Fred J. Hahn

**Also Licensed in Missouri & Kansas

September 14, 2006

Cindy E. Bird
Adjudication Bureau
Idaho Department of Water Resources
15 W. Center St.
Soda Springs, ID 83276

Re: Nevada Rock & Sand - Claim No. 24-2020

Dear Ms. Bird:

Pursuant to our recent discussion, we prepared and obtained the signature of Mr. Brent Stewart on behalf of Nevada Rock & Sand on the enclosed Claim No. 24-2020. Please let us know how we may be of any additional assistance.

Also enclosed is our check in the amount of \$150.00 for the \$100.00 flat fee and \$50.00 late fee. I do not believe this increases any acreage over the acreage fees that have already been paid.

Yours very truly,



Kent W. Foster

Enclosures

G:\WPDATA\KWF\10652 MARTIN, STEPHEN E\08 Nevada Rock & Sand\Cindy Bird ltr 091406 wpd.cdv

