

07/13/2006

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

RIGHT NUMBER: 24-1

NAME AND ADDRESS: CORP OF THE PRESIDING BISHOP
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS
50 E NORTH TEMPLE ST
SALT LAKE CITY UT 84150

SOURCE: MILLER CREEK

TRIBUTARY: SALT RIVER

QUANTITY: 1.890 CFS

PRIORITY DATE: 06/01/1891

POINT OF DIVERSION:

T04S R46E S10 SESESW Within BONNEVILLE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
04/15 10/31

QUANTITY
1.890 CFS

PLACE OF USE: IRRIGATION Within BONNEVILLE County

T04S R46E S10	SESW	9.20	T04S R46E S15 Lot 1 NWNE	30.00
T04S R46E S15	NENW	40.00		

79.2 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 - Decreed



Idaho Department of Water Resources

SRBA Recommendation:

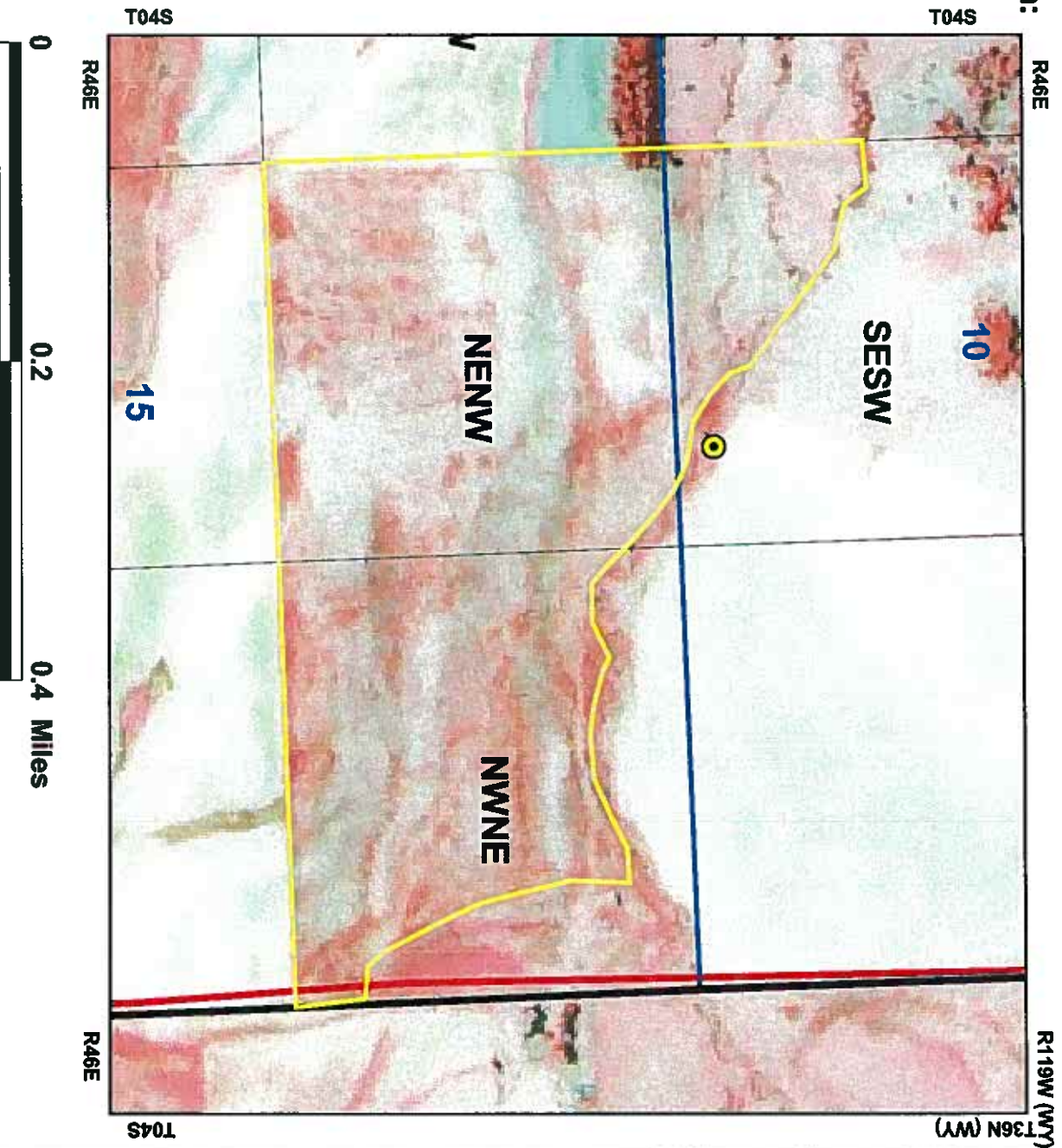
24-1

Legend

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



Bonneville County
IDWR Basin 24



Prepared by A. Golar
On Wednesday, July 12, 2006
1987/88 Aerial Photography

AUG 05 2001

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: A24-00001
Date Received: 9-22-89
Receipt No: C011743
Received By: CA

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: CHURCH OF JESUS CHRIST LATTER DAY SAINTS
Address: REAL ESTATE DIVISION
TWELFTH FLOOR
50 EAST NORTH TEMPLE STREET
SALT LAKE CITY, UT 84150

801-240-2929
RECEIVED
SEP 22 1989

2. Date of Priority: JUN 01, 1891

3. Source: WOLFLEY CREEK
MILLER CREEK

Trib. to: SALT RIVER
SALT RIVER

Department of Water Development

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04S	46E	10	SE	SW			BONNEVILLE

A2400001

5. Description of diverting works:
DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	3.200		

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

A.F.A.

8. Total consumptive use is 420.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04S	46E	10	SE	SW		IRR	40.0

A24-00001

Page 1

Date: 09/14/89

MICROFILMED

NOV 06 1992

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04S	46E	10	SW	SE	4	IRR	44.0
						Section Acres	84.0
		15	NE	NE	1	IRR	44.0
			NE	NW		IRR	40.0
						Section Acres	84.0
						Total Acres	168.0

11. Place of use in counties: BONNEVILLE

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

13. Other Water Rights Used:
24-00002

14. Remarks:

SOURCE: ALSO KNOWN AS MILLER CREEK FROM USGS QUAD SHEET.
ALL OF NORMAL FLOW WATERS.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

JACOB MILLER

Decree Plaintiff

vs

CLARENCE & HELEN ASHMENT.

Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am AUTHORIZED AGENT of _____ Title _____

Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints, a Utah Corporation sole

Organization _____

document in the space below as AUTHORIZED AGENT of _____ Title _____

Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints, a Utah Corporation sole

Organization _____

and that the statements contained in the foregoing document are true and correct.

Jane A. Bahr
Signature of Authorized Agent

AUTHORIZED AGENT

Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints, a Utah Corporation sole

Title and Organization _____

September 19, 1989
Date

Utah
State of Idaho)

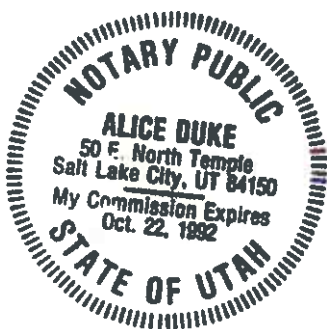
County of Salt Lake) SS.

Subscribed and sworn (or affirmed) before me this 20 day

of Sept 19 89

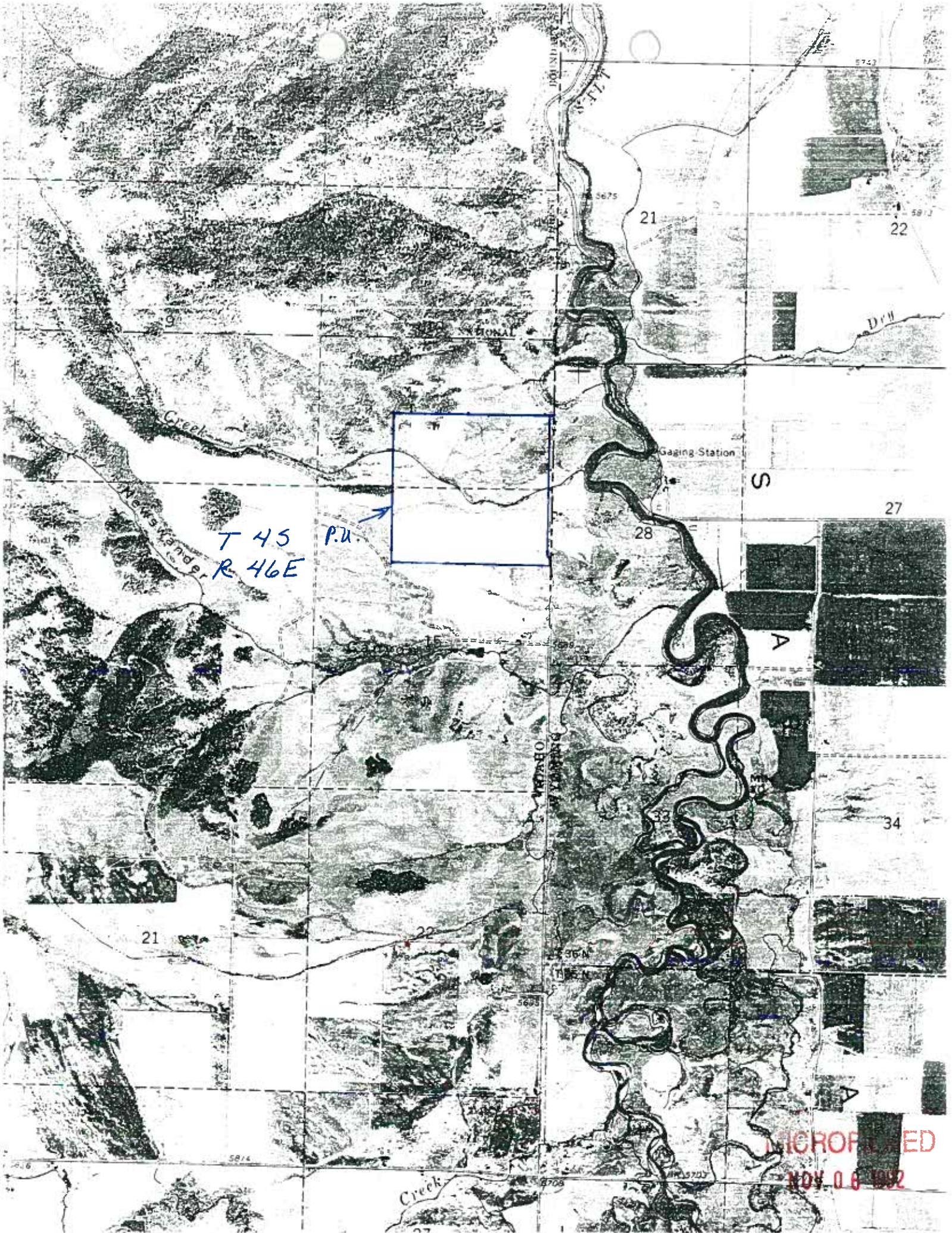
Alice Duke
Notary Public

Seal



Residing at Salt Lake City

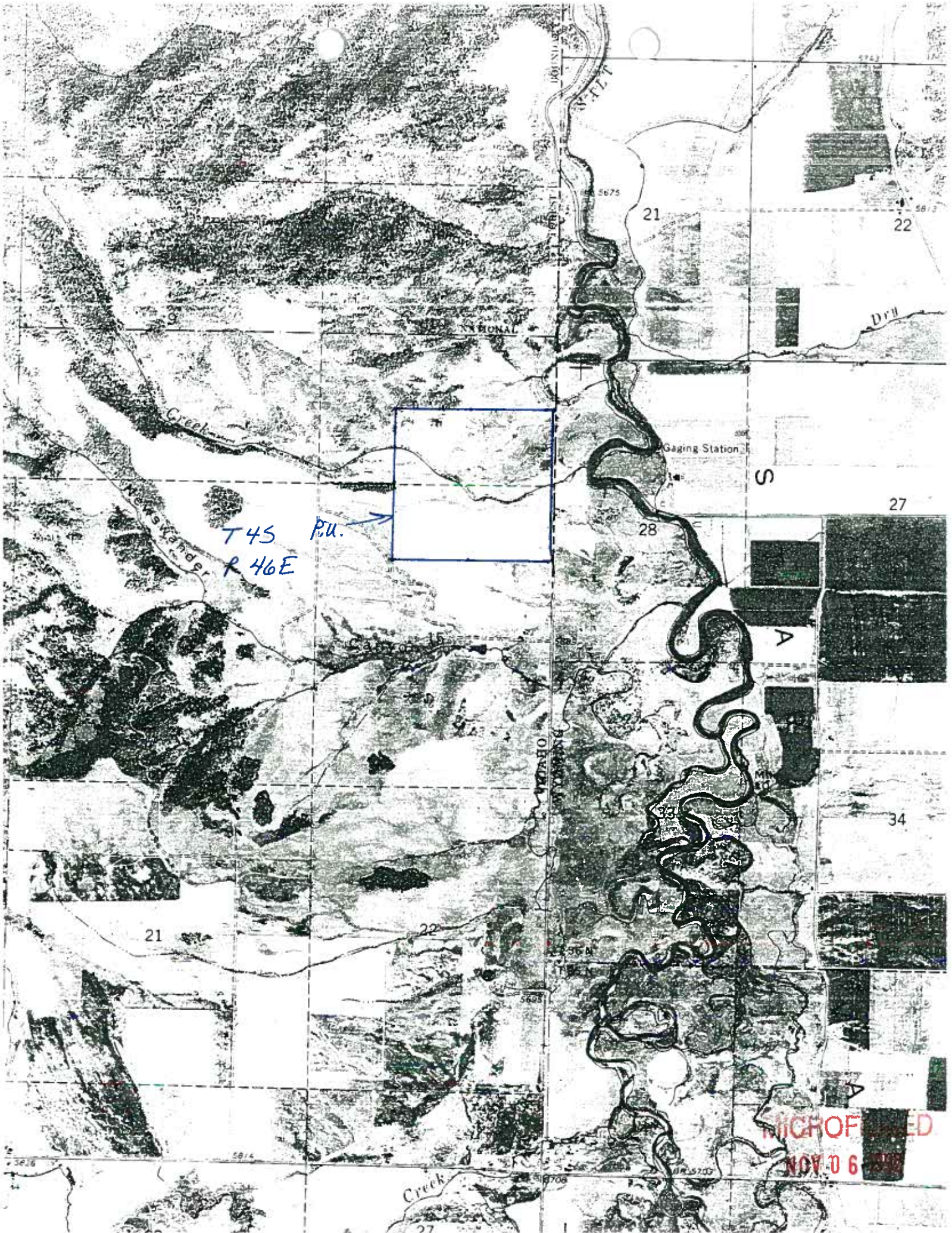
My Commission Expires Oct 22, 1992



T 45
R 46E

P.U.

MICROFILMED
NOV 06 1992



T4S P.U.
R46E

MICROFILMED
NOV 06 1980

RECEIVED

OCT 04 2006

DEPARTMENT OF
WATER RESOURCES

09/12/2006

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS:

Water right number: 24-1

CORP OF THE PRESIDING BISHOP
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS
50 E NORTH TEMPLE ST
SALT LAKE CITY UT 84150
Telephone Number: (801) 240-4074

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

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

DATE:

9/28/06

SIGNATURE:

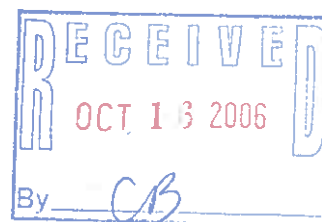
Susan Nash

GSC

Please print your name:

Susan Nash

IDWR Regional Office, 900 N Skyline Dr Ste A, Idaho Falls, ID 83402, 2085257161



COMPLETED
NOE 10/10 KMT

Notes

5/23/06 I got a report that there was a trackhoe and dump truck in the natural channel of Tin Cup creek. So I went into the field to investigate the complaint. Nothing was going on but I got a chance to meet with Fred Brog, which ~~leases~~ operates the church farm. I explained to Fred that even though the LDS church has resumed use of these rights 24-1 & 2, the priority date will advance to the date they resumed the use. In this case 4/15/2000.

5/31/06 T45 R46E Sec. 10. L-4 SWSE 44.35 GCDB
SESW 40.0
Sec 15 NENE 40.0
L-1 NWNE 44.4

5/31/06 I mail to Nicki Spencer. Natural flow of Miller Creek (24-1), and Spring flows (4.0 cfs) under (24-2) SOU charge? Also, determining the number of historical irrigated acres?

Forfeiture / Abandonment Statute. 42-222 Paragraph (2), 4 (d)

The resumption of an abandoned / forfeited right is the date they resume using the water.

Exception ~~or~~ Defense to forfeiture statute 42-222.

Notes

12-1-05 2 letters in the file contesting the church filing on Miller Creek.

Write Marlow Bateman a letter about the irrigation of the Church farm.

The 2001 imagery shows cultivation but I'm not sure that it is irrigated.

12-1-05 Sent LDS Church a request for the warranty deed and info on their irrigation system. CB

12-7-05 Susan Nash called & read 2 letters to her then faxed her copies. She received the requested deed. Still investigating irrigation system. BT

12-8-05 Letter to Mr. Bateman was returned, address unknown. Unable to locate him. DB

2/9/06 Faxed Ray Williams, paralegal for Rick Spencer. He warranty deeds received from the LDS Church. CB

2/9/06 letter to church on irrigation of church farm. 2nd notice.

Susan Nash

2000 - put wheel lines on the farm.

3-22-06 Received ltr & affidavit from document. BP

Notes

On 6/15/2006 Aaron Golart visited property to confirm if north side of property shows evidence of irrigation and to acquire pump information. A call was placed in an attempt to contact Fred Brog, the operator of the farm, but he was out of town at the time. The area located on the north side of the Miller Creek appears to be Barley and dry farmed. The area south of Miller Creek is Alfalfa. I spoke with Clay Brog (Fred's son) and he informed me that when the southern portion was planted three years ago, they irrigated for ~2 weeks with a portable pump. I inspected the pump (Serial # 7846159 B4JQBM) and viewed the 6" portable mainline and 4" hand lines that were used (28 links @ 40' each). Clay informed me that the northern field was planted this year with Alfalfa and that they may irrigate it similar to the southern portion if they need to.

While doing field exam with Fred Brog (7-6-2006) we called Marian Aldred (307) 886-2373 with some questions about irrigation on POU. She described some irrigation occurring as a child, but seemed to resemble a domestic use.

Point of Diversion and Source Data Entry Form

Claim Number 24-1

Claimed Point of Diversion and Source

T04S R46E S10 SESW Within BONNEVILLE County Source: MILLER CREEK SALT RIVER

T04S R46E S10 SESW Within BONNEVILLE County Source: WOLFLEY CREEK SALT RIVER

☐ Use Claimed POD and Source as Recommended POD and Source

Water Right Point of Diversion and Source

T04S R46E S10 SESW Within BONNEVILLE County

T04S R46E S10 SESW Within BONNEVILLE County

Recommended Point of Diversion and Source

Source Information

Source

Miller CR.

Tributary To

Salt River

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source
04S	46E	10		SESW	Bonneville	Miller CR.

Other rights from this POD? _____

Document how the POD and Source were verified:

2740088	Elevation	1761m
NSR1323902	Accuracy	10.0 ft.

Pump Info - Berkley Model B4J H 809-CW

Model # B4J QBM

Serial # 7846159

~50 hp.

BM NO - 53713

IMP-DIA. 10 1/2

800-1000 gpm.

Reviewer: AB

Date: _____

Place Of Use Data Entry Form

Claim Number 24-1

Claimed Place Of Use

T04S R46E S10	SESW	40.00	T04S R46E S10 Lot 4 SWSE	44.00
T04S R46E S15 Lot 1 NENE		44.00	T04S R46E S15 NENW	40.00
Total Acres 168				

☐ Use Claimed POU as Recommended POU

Water Right Place Of Use

T04S R46E S10	SESW	T04S R46E S10 Lot 4 SWSE
T04S R46E S15 Lot 1 NENE		T04S R46E S15 NENW
Total Acres		

Recommended Place of Use

See corrections to claimed POU above

Twp	Rge	Sec	QQ	Q	County	Lot Num	Acres	Purpose of Use
04S	46E	10	SE	SW	Bonnaville		9.2	Irrigation
04S	46E	15	NW	NE	"	1	30	"
"	"	"	NE	NW	"		40	"

Total Acres 79.2

Document how the POU was verified:

Field Exam - 7/6/2006

3-4 years ago for ~ 2-3 weeks land was irrigated to start seed. 28 lines of 40' 6" portable mainline 20' laterals with 1 nozzle 3/16. 32 nozzles x 3 laterals = 96 nozzles
 7.03 gpm per nozzle 1.5 cfs

Reviewer: ABDate: 7/6/2006

Period of Use and Quantity Data Entry Form

Claim Number 24-1

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
IRRIGATION	4/01	11/01	3.2	

Overall Diversion Rate 4

Overall Diversion Volume

☐ Use Claimed Period of Use and Quantity as Recommended Period of Use and Quantity

Water Right Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
IRRIGATION	/	/		

Overall Diversion Rate

Overall Diversion Volume

Recommended Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
IRRIGATION	~ 2-3 weeks		~ 1.5 cfs	

Overall Diversion Rate 1.89 cfs

Overall Diversion Volume

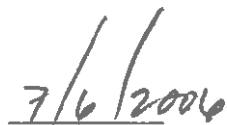
Document how the Period of Use and/or Diversion Rate were verified:

$4 \text{ cfs} / 168 \text{ acres} = 0.0238 \text{ cfs/acre} * 79.2 \text{ acres} = \underline{1.89 \text{ cfs}}$

Reviewer:



Date:





View northeast corner of property looking south over dry farm area.



Same view as above looking west toward Miller Creek drainage.



Miller Creek that splits property.



View looking west on the side that is claimed to be irrigated.



View west up drainage.



6" portable mainline.



Portable pump.

Bird, Cindy

From: Bird, Cindy
Sent: Wednesday, May 31, 2006 6:02 PM
To: Spencer, Nick
Cc: Williams, Ray
Subject: 24-1 and 2 LDS Church

hi Nick,

I've gone back to make the recommendation on the LDS and advancing the priority date to the year they resumed use of the rights to 4/15/2000 and got to looking at the SOU and diversion under the rights, which created more questions. According to the decree (Jacob A. Miller vs Clarence & Helen Ashment) under 24-1 they are allowed to divert all the natural flow of Wolfley Creek also known as Miller Creek, and in addition to the natural flow waters they are entitled to divert 4.0 cfs (24-2) of the flow or spring flow water? Do we need a measurement or some type of determination of water the capacity of the stream is to determine "all the flow"?

The decreed POU description is L-4 and the SESW of sec 10, L-1 and the NENW of sec. 15, T4S, R46E, which is approximately 168 acres and they claimed 168 acres in the adjudication. There are 2 letters in the file that state this farm has never been irrigated in their lifetime and in the 1976 Orthoquad it looks like dry farm. The person that operated the farm now has a portable pump and could get the water to more places than they could ever irrigated because the land is very steep in areas. So how do we determine the "historical" number of acres that were actually developed under these rights? Do we base it on what is being irrigated now with a 2000 priority date?

They claimed 3.2 cfs under 24-1 with 4/1 to 11/1 SOU and under 24-2 they claimed 4.0 cfs with the same SOU? With the wording of the decree does the diversion rate or SOU need to be changed or clarified? Does a "spring flow" have a different season than the "irrigation season"? Our administrative SOU in this area is 4/15 to 10/31.

thanks,
Cindy

April 10, 2006

Susan Nash
Engineer
PHYSICAL FACILITIES DEPARTMENT
50 E. North Temple St., Rm 1205
Salt Lake City, Utah 84150-6320

Ref: Snake River Basin Adjudication (SRBA)
Claims 24-1 and 24-2

Subject: Resuming use of the water.

COPY

RESPONSE DATE: APRIL 24, 2006

Dear Ms. Nash,

Again I apologize for being out of the office on Thursday when you came in. I did finally get my furnace fixed so all is well again. One thing that I forgot to ask you is if the land has been in CRP? If the land has been in CRP that might change the resumption date of the above referenced SRBA claims.

If the land has been in CRP then I will need a copy of your contract and aerial photography with the place of use outlined. If I don't hear from you by the above response date then I will assume that the property has not been in CRP. If you have any other questions please feel free to contact me at (208) 547-3993.

Respectfully,

Cindy E. Bird
Adjudication Bureau

<u>Basin</u>	<u>Sequence</u>	<u>Suffix</u>	<u>Basis</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Source</u>	<u>Water Use(s)</u>	<u>Owner(s)</u>
24	1		Decreed	1891-06-01	4	MILLER CREEK,	IRRIGATION	CORP PRES BISHOP LDS CHURCH (Current)
24	2		Decreed	1891-06-01	4	MILLER CREEK,	IRRIGATION	CORP PRES BISHOP LDS CHURCH (Current)
24	2047 A		License	8/12/1966	0.05	MILLER CREEK	IRRIGATION, STOCKWATER	CHRISTENSEN, KENNETH A. (Current)
24	10158		Beneficial U	1879-04-01	0.02	MILLER CREEK	STOCKWATER	UNITED STATES OF AMERICA ACTING THROUGH (Current)
24	10683		License	8/12/1966	0.96	MILLER CREEK	IRRIGATION, STOCKWATER	WILKES, BOYD W (Current); WILKES, IONE R (Current)
24	10731		Beneficial U	11/9/1934	1.6	MILLER CREEK	IRRIGATION, STOCKWATER	THERAS & LUCILLE JENKINS FAMILY REVOCABLE TRUST (Current)

- 2000 priority

- CRP. ?

THE CHURCH OF
JESUS CHRIST
OF LATTER-DAY SAINTS

PHYSICAL FACILITIES DEPARTMENT

50 E. North Temple St. Rm. 1205
Salt Lake City, Utah 84150-6320
Phone: 1-801-240-3840
Facsimile: 1-801-240-4005

March 17, 2006

Idaho Department of Natural Resources
15 West Center Street
Soda Springs, ID 83276

Dear Cindy,

Enclosed is an affidavit from Fred Brog. He is leasing the Freedom Welfare Farm located on the Idaho/Wyoming border. His affidavit pertains to water right claims 24-1 and 24-2.

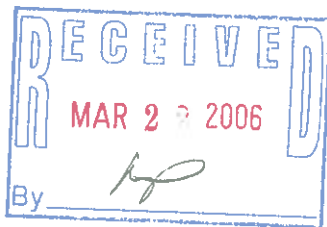
I would like to meet with you before the end of March to discuss the adjudication process and possible options the Church may have with respect to the water rights on the farm.

I will contact you the first of next week to set up an appointment. If you have any questions, please contact me. I can be reached at 801-240-4657.

Thank you,



Susan Nash
Engineer



Reference: Church of Jesus Christ of Latter-Day Saints, Freedom welfare farm
(Bonneville County)

REAL ESTATE DIVISION
NATURAL RESOURCE SECTION

To Whom It May Concern:

MAR 17 2006

I, Fred Brog, this the 5th day of March 2006, do attest to the fact that I have used water for irrigation purposes on said welfare farm. We used a pumping system, comprising mainline, and laterals. We have irrigated this property in the last five years, and plan on irrigating again in 2006.

3-6-06

Sincerely,

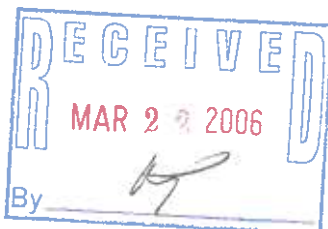
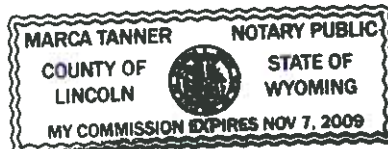
Fred Brog

Fred Brog

Notary:

Fred Brog appeared personally before me the 6th day of March 2006.

Marca Tanner



Bird, Cindy

From: Bird, Cindy
Sent: Tuesday, February 28, 2006 10:06 AM
To: Williams, Ray
Cc: Spencer, Nick
Subject: RE: 24-1 & 24-2 (LDS Church)

Ray,

I got a letter yesterday from Susan Nash, Engineer for the LDS Church, stating "Our manager of the farm stated that in 2000 some mainline was transferred to the property. The tenant provided a pump and wheel lines for irrigating the property. The tenant has been irrigating the entire 168 acres at least since that time."

Sufficient documentation for a recommendation?

Cindy

-----Original Message-----

From: Williams, Ray
Sent: Wednesday, February 08, 2006 10:41 AM
To: Bird, Cindy
Cc: Spencer, Nick
Subject: 24-1 & 24-2 (LDS Church)

Cindy,

I followed up with Nick regarding the fax that you sent last week. Nick suggested that you send the claimant (LDS Real Estate Division) a follow up letter to your December 1, 2005 letter and advise them that they have until March 15, 2006 to provide a copy of the warranty deed from when they originally purchased the property and answers to the other questions that you posed. You can let them know that if you don't receive the information by that deadline, you will recommend the right disallowed.

Once we see what they provide, we can look at any potential abandonment/forfeiture issues.

Also, I didn't see any claims by Marlow Bateman in the data base. Given the contents of his "contest letter", it seems like maybe he should have filed one.

If you have any questions or comments, please let me know. Hope you're enjoying your day in Blackfoot!

Ray

THE CHURCH OF
JESUS CHRIST
OF LATTER-DAY SAINTS

PHYSICAL FACILITIES DEPARTMENT
50 E. North Temple St. Rm. 1205
Salt Lake City, Utah 84150-6320
Phone: 1-801-240-3840
Facsimile: 1-801-240-4005

February 24, 2006

Idaho Department of Water Resources
15 West Center Street
Soda Springs, ID 83276

REF: Snake River Basin Adjudication
Claims 24-1 and 24-2

Dear Cindy,

I sent you a copy of the title of the land back on December 7, 2005. I was not aware that you needed additional information until I received your letter dated February 9, 2006.

Our manager of the farm stated that in 2000 some mainline was transferred to the property. The tenant provided a pump and wheel lines for irrigating the property. The tenant has been irrigating the entire 168 acres at least since that time.

The water is being pumped from Miller creek by a diesel pump.

If you have any questions please contact me. I can be reached at 801-240-4657.

Thank you,



Susan Nash
Engineer



Point of Diversion and Source Data Entry Form

Claim Number: 24-1Water Right Point of Diversion: T , R , Sec. , , , County: Source: Tributary: Claimed Point of Diversion: T , R , Sec. , , , County: Source: Tributary: Recommended Point of Diversion: T , R , Sec. , , , County: Source: Tributary: ☐ Use Claimed POD and Source as Recommended POD and Source

Twp	Rge	Sec	Gov Lot	OOO of OO of Q	County	Source
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
GPS Coordinates: <u> </u>						
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
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GPS Coordinates: <u> </u>						
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
GPS Coordinates: <u> </u>						
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
GPS Coordinates: <u> </u>						

Other rights from this POD?

Document how the POD and Source were verified and/or Pump and Motor data:

Transfers Changing POD Reviewer: Date:

Point of Diversion and Source Data Entry Form

Purpose of Use Data Entry FormClaim Number: 24-1☐ Use Claimed Purpose of Use as Recommended Purpose of Use**Water Right Purpose of Use**

Water Use	Number of Homes	Number of Stock	Acre Limit	Number of Other

Claimed Purpose of Use

Water Use	Number of Homes	Number of Stock	Acre Limit	Number of Other

Recommended Purpose of Use

Water Use	Number of Homes	Number of Stock	Acre Limit	Number of Other

Document how the Purpose of Use was verified:

Transfers Changing Purpose of Use _____

Reviewer: _____

Date: _____

Purpose of Use Data Entry Form

Place Of Use Data Entry Form

Claim Number: 24-1☐ Use Claimed POU as Recommended POU

Claimed Place of Use

Twp	Rge	Sec	QQ	Q	County	Lot Num	Acres	Purpose of Use

Total Acres _____

Recommended Place of Use

Twp	Rge	Sec	QQ	Q	County	Lot Num	Acres	Purpose of Use

Total Acres _____

Document how the POU was verified:

Transfers Changing POU _____

Reviewer: _____

Date: _____

Period of Use and Quantity Data Entry Form

Claim Number: 24-1☐ Use Claimed Period of Use and Quantity as Recommended Period of Use and Quantity

Water Right Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume

Overall Diversion Rate _____

Overall Diversion Volume _____

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume

Overall Diversion Rate _____

Overall Diversion Volume _____

Recommended Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
Irrigation	4/15	10/31		

Overall Diversion Rate _____

Overall Diversion Volume _____

Document how the Period of Use and/or Diversion Rate were verified:

Dept Admin. SOU map. SOU 4/15 - 10/31
Decreed SOU?

Reviewer: _____

Date: _____



State of Idaho

DEPARTMENT OF WATER RESOURCES

15 West Center Street, Soda Springs, ID 83276

Phone: (208) 547-3993 Fax: (208) 547-3939 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 9, 2006

LDS CHURCH
REAL ESTATE DIVISION
TWELFTH FLOOR
50 EAST NORTH TEMPLE STREET
SALT LAKE CITY, UT 84150

REF: Snake River Basin Adjudication (SRBA)
Claims 24-1 and 24-2

Subject: Irrigation of the Freedom Ward Farm

RESPONSE DATE: MARCH 3, 2006

Dear Claimants:

In December we requested some additional information on your irrigation system due to some objections filed on your SRBA claims listed above. The response date on that letter was the 22nd of December. On the 7th of December Barbara Payne faxed you copies of the 2 letters that we received on your claims. We have not received a response to our request for more information. If we do not hear from you by the above response date your claims may be **disallowed** to the SRBA Court.

If you have any additional questions please feel to contact us at (208) 547-3993.

Respectfully,

Cindy E. Bird
Adjudication Bureau

15 West Center Street
Soda Springs, Idaho 83276
(208) 547-3983
(208) 547-3939 fax

Idaho Department of
Water Resources

Fax

To: Ray Williams From: Cindy Bird
Fax: 1-208-287-6701 Pages: 4
Phone: 1-208-287-4815 Date: 2-9-06
Re: LDS Church Deed. CC:
☐ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

• Comments:

24-1 & 24-2 LDS church. deeds.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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Phone: (208) 547-3993 Fax: (208) 547-3939 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 1, 2005

Marlow Bateman
PO Box 6
Etna, WY 83118

REF: LDS Church filings in the SRBA on Miller Creek

Subject: Irrigation of 168 acres.

Dear Marlow,

IDWR is in the process of reviewing the irrigation rights out of Miller Creek for the LDS Church. While reviewing the file I ran across your letter in objection to the filing. Does the LDS Church irrigate the Church farm from Miller Creek?

Did you ever file for a water right to irrigate from Miller Creek? I would appreciate any information you can give me in regards to the irrigation of the Church Farm. If you have any questions please feel free to contact me at (208) 547-3993.

Respectfully,

Cindy E. Bird
Adjudication Bureau

THE CHURCH OF
JESUS CHRIST
OF LATTER-DAY SAINTS

Facsimile Transmission

50 East North Temple Street
Salt Lake City, Utah 84150

To

Name

IDWR

Total pages, including this one

4

Department

Soda Springs Office

Fax number

208-547-3939

Country/Location

Soda Springs, ID

Date

Wednesday, December 7, 2005

From

Name

Susan Nash

Telephone

801-240-4657

Department

Natural Resources

Floor

12th Floor

Comments

*BN*

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL TO WHOM IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone (collect), and return the original message to us at the above address via U.S. Postal Service. Thank you.

CARL COOK
Attorney and Counselor
AFTON, WYOMING

June 26, 1951

OPINION OF TITLE TO LAND OF THE

Freedom Corporation of the Church of Jesus Christ of Latter Day
Saints, a Corporation Sole:

The undersigned has examined the title to the real estate described below, from abstract of title prepared and certified by Idaho Title and Trust Company, Abstracter of Titles in Bonneville County, Idaho. Said Abstract contains 29 entries, and consists of 38 pages besides the certificates of abstracters, and purports to reflect accurately the contents of all records of the County wherein such land lies, pertinent to the title under examination, from the origin of settlement and Government Patent down to April 3, 1951, at 2:18 o'clock P. M., the date of the Abstracter's final certificate, which date shall also be deemed to be the effective date of this opinion.

From such examination of the evidence aforesaid, and the said Certificate, it is the Opinion of the undersigned that the absolute fee simple title to the following described land, to-wit:

Lot Four (4) and the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$), of Section Ten (10); and Lot One (1) and the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$), of Section Fifteen (15), all in Township Four (4) South, Range Forty-six (46) East of the Boise Meridian, in Bonneville County, Idaho,

is vested in FREEDOM CORPORATION OF THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, A CORPORATION SOLE, subject only to the following encumbrances and objections, and none others:

1. The Oil & Gas Lease (at Page 22 of abstract) has been recognized by last previous title owners, was assigned to Federal Land Bank of Spokane, and Land Bank Commissioner, but has now been by them released, and probably follows the title to the land. If it is now in good standing by payment of rentals, or operations, the benefits should go to the present title owner, if there be benefits.

2. The Taxes for second half of the year 1950 are not shown to be paid. The present title owner should pay them, or provide so that its grantors do so.

There appears to be excellent and ample water-rights of early priority for all the above land, also for adjacent land in Wyoming, now owned by this same "Freedom Corporation," etc.

Yours very respectfully,

Carl Cook

STATE OF IDAHO,
County of Bonneville

ss.

On this 15th day of February, in the year 19 51 before me,
the undersigned _____, a Notary Public in and for the State of Idaho, personally
appeared Darwin K. Clinger and Arlean S. Clinger, his wife,

known to me to be the person s whose name s are _____ subscribed to the within instrument, and
acknowledged to me that the y executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal,
the day and year in this certificate first above written.

Leslie C. Nichols
Notary Public

Residing at Idaho Falls, Idaho

My commission expires Nov. 2, 1954



FREEDOM WARD

STAR VALLEY STAKE
Abstract No. 1557

208930
RECEIVED
JAN 11 1951

No. _____
WARRANTY DEED

1951 APR -31 PM 2.18

TO

Dated _____, 19____

STATE OF IDAHO, Idaho as
County of Bonneville

I hereby certify that this instrument
was filed for record at the request of
Darwin K. Clinger & Arlean S. Clinger

at 11 minutes past 2
o'clock P. M., this 15th
day of April, 1951
in my office and duly recorded in
Book 77 of Idaho at
page 11

By Leslie C. Nichols
Notary Public
Deputy

Fees \$ 1.00

WARRANTY DEED

THIS INDENTURE, Made this 15th day of February, 1951
by and between Darwin K. Clinger and Arlean S. Clinger, his wife.

of the County of Lincoln, State of Wyoming, the parties, of the first part, and FREEDOM CORPORATION OF THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, a corporation sole

of the County of Lincoln, State of Wyoming, the part Y of the second part.

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of Ten Dollars and other valuable considerations ~~DOLLARS~~ lawful money of the United States of America, to ~~them~~ in hand paid by the part ~~X~~ of the second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold, and by these presents do grant, bargain, sell, convey and confirm unto the said part ~~X~~ of the second part and to ~~its~~ heirs and assigns forever, all the following described real estate, situate in the County of Bonneville State of Idaho, to wit:

Lot Four (4), and the Southeast quarter of the Southwest quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Ten (10); Lot One (1), and the Northeast quarter of the Northwest quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Fifteen (15), all in Township Four (4) South, Range Forty-six (46) East of the Boise Meridian, Idaho.

Together with all water and water rights, ditch and ditch rights thereto appertaining and belonging.

Subject to taxes from date, also assessments from date.



TOGETHER, With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion or reversions, remainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the said property as well in law as in equity, of the said parties of the first part.

TO HAVE AND TO HOLD, All and singular, the above mentioned and described premises, together with the appurtenances, unto the party..... of the second part, and to its..... heirs and assigns forever. And the said parties..... of the first part, and their..... heirs, the said premises in the quiet and peaceable possession of the said party..... of the second part, and its..... heirs and assigns against the said parties..... of the first part and their..... heirs and against all and every person and persons, whomsoever lawfully claiming or to claim the same, shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, The said parties.....of the first part ha. VC..... hereunto set.....their
hand s..... and seal s..... the day and year first above written.

Signed, sealed and delivered in the presence of

Darwin K. Schneider (SEAL)




(SEAL)

(SEAL)

✓

15 West Center
Soda Springs, ID 83276
Phone (208) 547-3993
FAX (208) 547-3939

Idaho Department of Water Resources

Fax

To: Susan Nash	From: Barbara Payne
Fax: (801) 240-4005	Pages: 6
Phone: (801) 240-4657	Date: 12/7/2005
Re: Documents for 24-1 and 24-2	CC:

Hi Susan,

Attached are copies of the 2 letters I read to you plus one also addressed to Martin S. Clinger. I understand you are continuing to investigate the method of irrigation used on the Freedom Ward Farm. Hope this helps answer the questions you may have.



Barbara Payne

FAXED
12-7-05

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 24-1

WATER RIGHT NUMBER: 24-1

<u>Owner Type</u>	<u>Name and Address</u>
Present Owner	CHURCH OF JESUS CHRIST OF THE LATTER DAY SAINTS C/O OFFICE OF GENERAL COUNSEL 330 S 300 E SALT LAKE CITY, UT 84111
Current Owner	JACOB A MILLER , ID

Priority Date: 06/01/1891

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
MILLER CREEK	SALT RIVER
WOLFLEY CREEK	SALT RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	/ to /		

Total Diversion:Location of Point(s) of Diversion

MILLER CREEK	SE1/4SW1/4	Sec. 10, Twp 04S, Rge 46E, B.M.
BONNEVILLE County		
WOLFLEY CREEK	SE1/4SW1/4	Sec. 10, Twp 04S, Rge 46E, B.M.
BONNEVILLE County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S	46E	10												X				X	
																	L 4		
04S	46E	15	X				X												
			L 1																

Conditions of Approval:

1. SOURCE: ALSO KNOWN AS MILLER CREEK FROM USGS QUAD SHEET.
AMT: ALL OF NORMAL FLOW WATERS.
P/U INCOMPLETE.

Remarks:



State of Idaho

DEPARTMENT OF WATER RESOURCES

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DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 1, 2005

**CHURCH OF JESUS CHRIST LATTER DAY SAINTS
REAL ESTATE DIVISION
TWELFTH FLOOR
50 EAST NORTH TEMPLE STEET
SALT LAKE CITY, UT 84150**

REF: Snake River Basin Adjudication (SRBA)
Claims 24-1 & 24-2

Subject: Ownership

RESPONSE DATE: 12-22-05

Dear Claimants,

IDWR is in the process of reviewing your irrigation rights out of Miller Creek. You have provided us with a Special Warranty Deed putting the property in the name of the LDS Church. Please provide me with a copy of your warranty deed when you originally purchased the property. Who did you purchase the property from? What water rights where conveyed with the farm?

While reviewing the file I ran across a couple letters in the file objecting to your filings. They state that this farm has never been irrigated from Miller Creek. Does the Freedom Ward Farm irrigate from Miller Creek? What type of irrigation system do you use on the Freedom Ward Farm?

If you have any questions please feel free to contact me at (208) 547-3993.

Respectfully,

Cindy E. Bird
Adjudication Bureau



State of Idaho

DEPARTMENT OF WATER RESOURCES

15 West Center Street, Soda Springs, ID 83276

Phone: (208) 547-3993 Fax: (208) 547-3939 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 1, 2005

Marlow Bateman
PO Box 6
Etna, WY 83118

REF: LDS Church filings in the SRBA on Miller Creek

Subject: Irrigation of 168 acres.

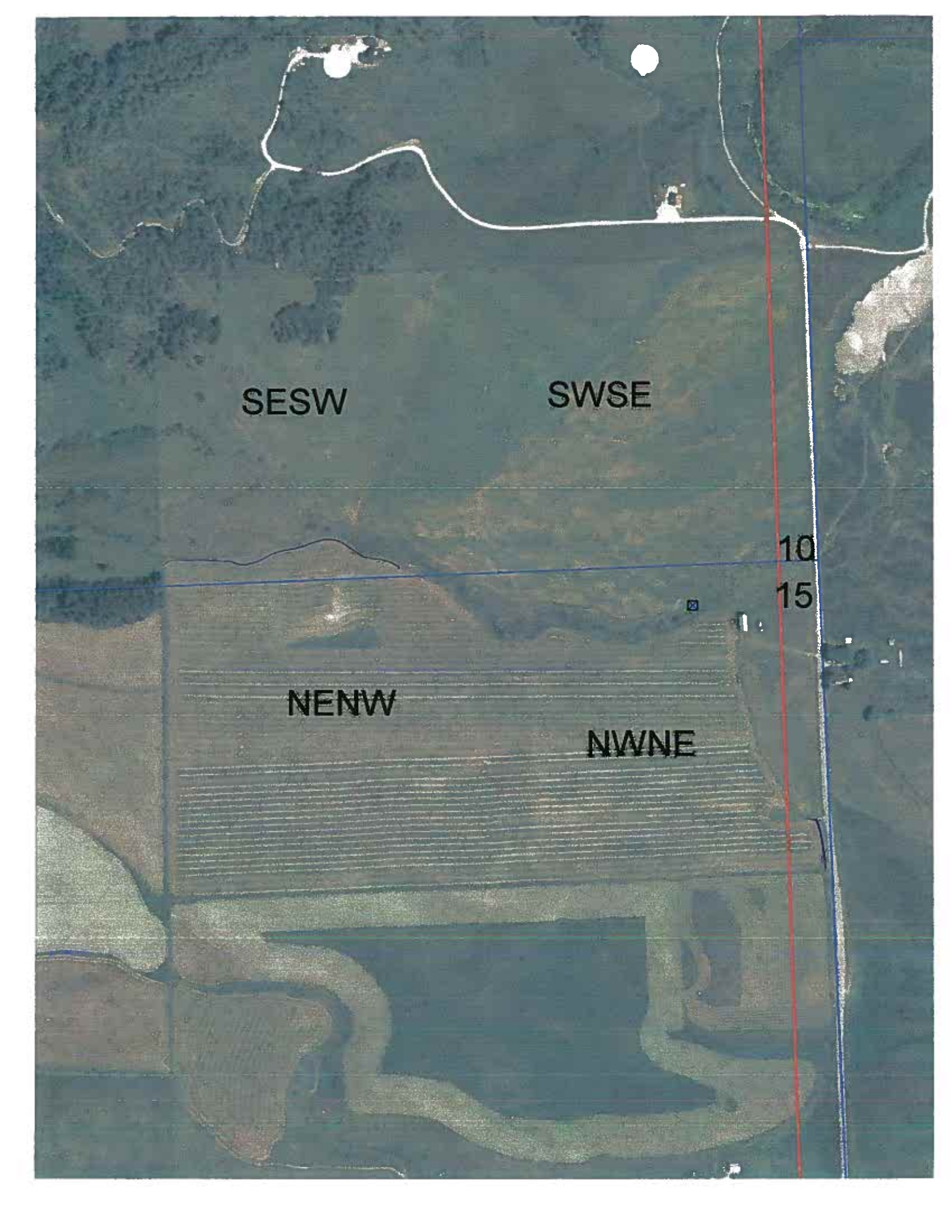
Dear Marlow,

IDWR is in the process of reviewing the irrigation rights out of Miller Creek for the LDS Church. While reviewing the file I ran across your letter in objection to the filing. Does the LDS Church irrigate the Church farm from Miller Creek?

Did you ever file for a water right to irrigate from Miller Creek? I would appreciate any information you can give me in regards to the irrigation of the Church Farm. If you have any questions please feel free to contact me at (208) 547-3993.

Respectfully,

Cindy E. Bird
Adjudication Bureau



SESW

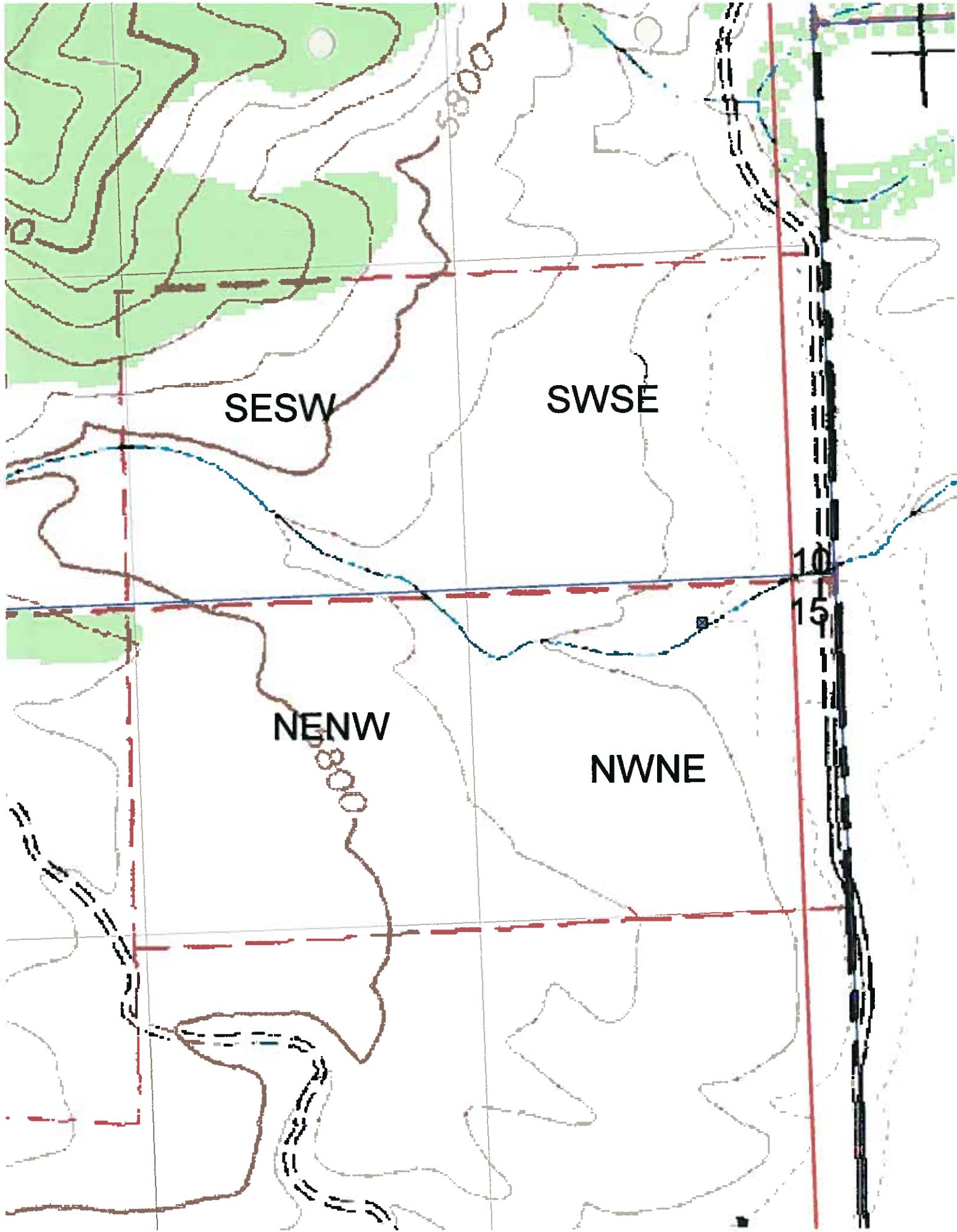
SWSE

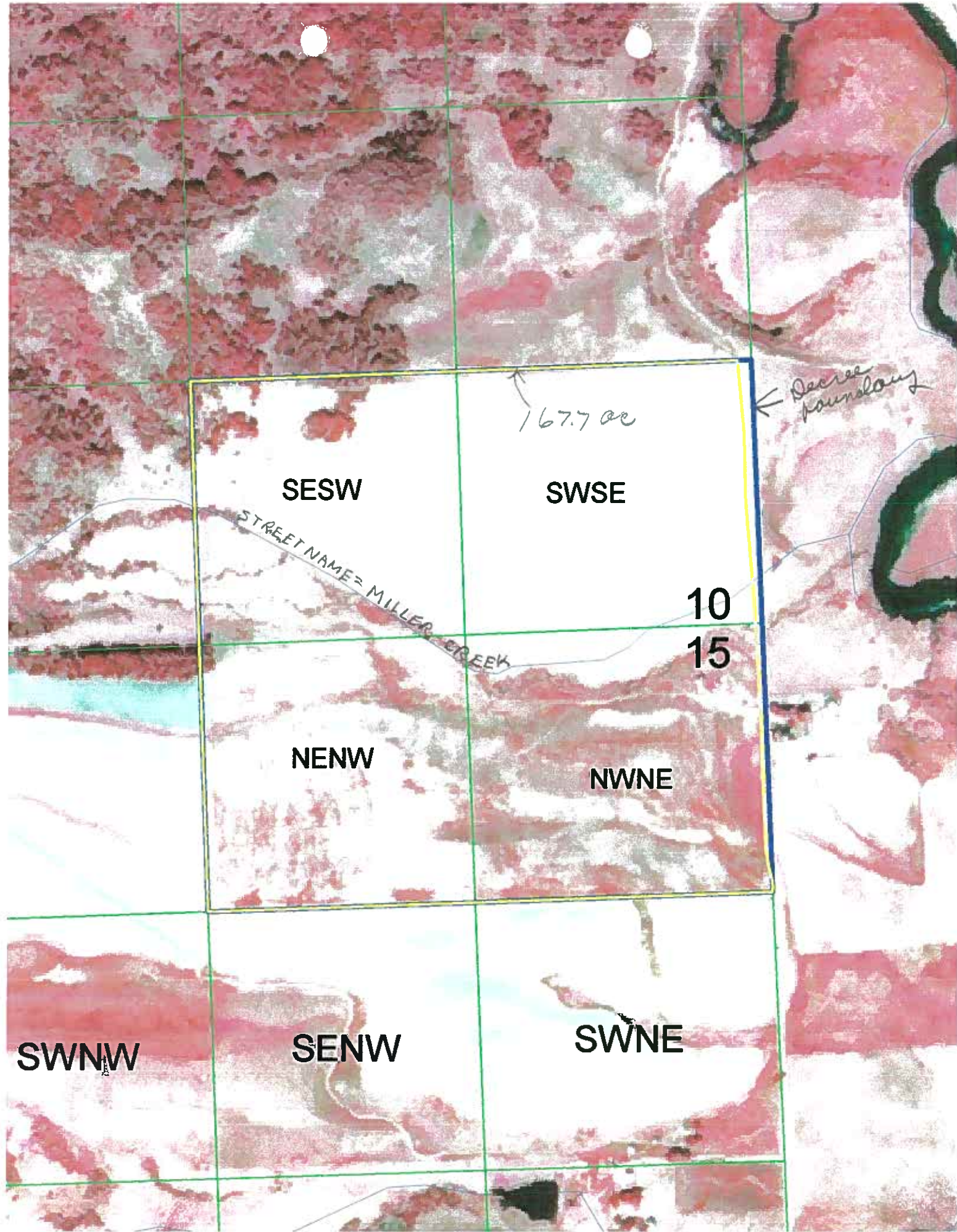
10

15

NENW

NWNE





24-A

320

IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO? IN AND FOR BONNEVILLE COUNTY.

JACOB A. MILLER.

Plaintiff.

vs.

CLARENCE ASHMENT and
HELEN ASHMENT,

Defendants.

RECEIVED

DEC 05 1933

FINDINGS OF FACT? CONCLUSIONS
OF LAW AND DECREE.

This cause came on regularly to be heard at the regular April, 1938, term of the above named court, the plaintiff appeared by his attorney of record, O. A. Johannesen, and the defendants did not appear either in person or by attorney. The plaintiff introduced documentary and other evidence in support of his complaint on file herein and after hearing the same, and the Court being duly advised as to the law and as to the facts, finds as follows, to-wit:

FINDINGS OF FACT.

1.

That the court has jurisdiction of all the parties to said action, and also the subject matter in controversy.

II.

That the defendants have been regularly served with the Summons of this Court, and have failed to appear and plead to plaintiff's Complaint as required by law within the time fixed; that the default of each and all of the defendants has been duly entered, such default having been made on March 9th, 1938.

III.

That the plaintiff is a resident of Bonneville County, State of Idaho, and for many years last past has been the owner of the following described property, situated in Bonneville County, State of Idaho, to-wit:

Lot four (4), and the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 10, Lot One (1), and the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 15, Township 4 South, Range 46, East Boise Meridian.

IV.

That some time during the year 1891, for the purpose of irrigating the said described land, the plaintiff appropriated all of the normal flow of water flowing in what was then known and is now generally known as Wolfley Creek, but which Creek is also sometimes known as Miller Creek, and at the same time constructed an irrigating ditch from the said named Creek, which irrigating ditch had its point of intake on said Creek at a point about thirty rods North of the Southwest corner of the Southeast quarter of the Southwest Quarter of Section 10, Township 4 South, Range 46, East Boise Meridian; that said ditch and its intake situated on the said named Creek was of a size and capacity amply sufficient to divert from said named Creek and on and to the land hereinabove described, all of the normal flow waters of said named Creek.

V.

RECORDED

MAY 15 1936

That the plaintiff herein has been the sole and exclusive claimant and user of all of the normal flow waters of the said named Wolfley Creek, and has made beneficial use of all of the said normal flow waters, each and every year commencing with the year 1891, and continuing until the present time; that the normal flow waters, during the irrigation season, flowing in the said named Creek, is approximately four (4) second feet; that in addition to the said normal flow waters, the plaintiff herein has, each and every year, herein named, claimed to be the owner of and made beneficial use of 4 cubic feet per second of the flood waters of said Creek, which said flood waters are in addition to the normal flow waters herein before referred to; that the plaintiff has claimed to be the owner of said normal flow waters and the said flood waters, at all times, which said claim has been open and notorious, and with notice to all the world, that the said named plaintiff was exclusive owner of the aforesaid waters, and claimed the right to the exclusive use and benefit of said described waters at all times, and that the plaintiff claims that no other person or persons have any right or interest, or are entitled to the use of any part of the normal flow waters and the aforesaid flood waters of said creek.

VI.

That the lands hereinbefore described, are arid in character and require water for their irrigation in order to produce a crop; that the aforesaid water has been used upon the aforesaid lands at all times during the period described and particularly for more than five years prior to the bringing of this action; that the amount of water claimed by the plaintiff is necessary in the proper and reasonable irrigation of the said described lands.

VII.

That the defendants herein claim some right, title or interest, in and to the waters hereinabove described and referred to, and claimed by the plaintiff; that the claims of the said named defendants, and each of them, are wholly without right, either in law or in equity, and the said named defendants, and each of them, have no right title, interest or equity whatsoever, in or to the said described waters, being all of the normal flow waters of Wolfley Creek and 4 cubic feet per second of the flood waters or spring flow waters of said named Creek, and that the said named defendants, and each of them, have no right to the use of the said described waters, or any part thereof.

VIII.

That the defendants, Clarence Ashment and Helen Ashment, are husband and wife, and were so at all times since the institution of this action.

IX.

That the plaintiff has fully proven each and every allegation of his complaint by competent and proper evidence, and that the said named plaintiff is entitled to the decree of this Court in accordance with the prayer of his complaint.

CONCLUSIONS OF LAW.

As conclusions of law, the court finds that the plaintiff is the owner of the waters described and referred to in the Findings of Fact, and that he is entitled to a Decree of the Court, decreeing that he is the sole owner of the said described waters, and is entitled to the use thereof in ~~the~~ irrigation of his said lands hereinbefore described.

JUDGMENT AND DECREE.

IT IS HEREBY ORDERED ADJUDGED AND DECREED:

MAY 15 1996

I.

24 002 That Jacob A. Miller, is the owner of and entitled to the use of all of the normal flow waters, flowing in what is known as Wolfley Creek, sometimes also known as Miller Creek, and that in addition to the said normal flow waters, the said Jacob A. Miller is also the owner of and entitled to the use of 4 cubic feet per second of the flow or spring flow waters of said Creek; that the said Jacob A. Miller is the owner of and in the possession of the irrigation works, the present dam and ditch, diverting the aforesaid waters of the said Wolfley Creek, and conveying the same on and to the lands owned by him; that the land owned by the plaintiff is situated in Bonneville County, state of Idaho, and are described as follows, to-wit:

Lot 4, and the Southeast Quarter of the Southwest Quarter of Section 10; Lot 1, and the Northeast Quarter of the Northwest Quarter of Section 15, Township 4 South, Range 46, East Boise Meridian;

that the waters herein decreed are appurtenant to and are used upon the aforesaid lands; that the use of said waters upon the said lands, and the date of priority of the plaintiff's ownership therein is from June 1st, 1891.

II.

That the defendants, and each of them, and each and every person hereafter, claiming to hold under them, or either of them, are hereby forever enjoined and debarred from asserting any claims, right, or title in or to the said described normal flow waters of the said Wolfley Creek, or in or to 4 cubic feet per second of the flood or spring flow waters of said Creek or to use of any of the said described waters, and the said defendants and each of them, and any and every person holding under them or claiming through them, are hereby forever enjoined and debarred from in any manner interfering with the normal flow waters of the said named Creek, or with 4 cubic feet per second of the flood or spring flow waters of the said named Creek, or in any manner or in any wise, interfering with the plaintiff's diversion or use of the said described waters.

Done this 7th day of April, 1928.

C. J. Taylor, District Judge.

RECORDED

MAY 15 1936

Dep 10 07 10:00A ID Dept of Water Resource 208-321-1000 P.12
US Church, Office of General Counsel
10 South Third East
Salt Lake City, Utah 84111

for Statements to be sent to
US CHURCH REAL ESTATE DIVISION
0 East North Temple
Salt Lake City, Utah 84150
509-6582

SPECIAL WARRANTY DEED

Department of Water Resources

FREEDOM CORPORATION OF THE CHURCH OF JESUS CHRIST OF

LATTER-DAY SAINTS, a Corporation Sole, Grantor, hereby conveys
and warrants, only against acts of itself and none other, to all
claiming by, through or under it to CORPORATION OF THE PRESIDING
BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah
corporation sole, Grantee, for the sum of Ten Dollars (\$10.00) and
other good and valuable consideration, the following described tract
of land situate in the County of Bonneville, State of Idaho, to-wit:

Lot Four (4), and the Southeast Quarter of the
Southwest quarter (SE 1/4 SW 1/4) of Section Ten
(10); Lot One (1), and the Northeast quarter of
the Northwest Quarter (NE 1/4 NW 1/4) of Section
Fifteen (15), all in Township Four (4) South,
Range Forty-six (46) East of the Boise Meridian,
Idaho.

TOGETHER with all water and water rights, ditch and
ditch rights thereto appertaining and belonging.

SUBJECT to all rights, rights-of-way, easements,
covenants, conditions and restrictions of record.

IN WITNESS WHEREOF, the said Grantor has hereto subscribed
its name and affixed its corporate seal by its Corporation Sole this

28th day of January, 1986

INSTRUMENT NO. 403312
DATE 4-21-86
INST. CODE 350
FICHE NO. 3037-005
FEE 3.50
FREEDOM CORPORATION OF THE CHURCH
OF JESUS CHRIST OF LATTER-DAY
SAINTS, a Corporation Sole



STATE OF IDAHO
COUNTY OF LINCOLN

STATE OF IDAHO
COUNTY OF BONNEVILLE)
I hereby certify that the within
instrument was recorded.

Recorded
By Archie C. Hoopes
Notary Public
Residing at Freedom, Wyo

APR 21 12 56 PM '86
BONNEVILLE COUNTY
CLERK

103312

On this 28th day of January, 1986,
personally appeared before me Archie C. Hoopes,
personally known to me to be the Bishop of the Freedom Ward of the
Church of Jesus Christ of Latter-day Saints, who acknowledged to me
that he signed the foregoing instrument as Corporation Sole for the
Freedom Corporation of The Church of Jesus Christ of Latter-day Saints,
a Corporation Sole, and that the seal impressed on the within
instrument is the seal of said corporation, and the said Archie C. Hoopes
acknowledged to me that the said
corporation executed the same.

My Commission Expires:

April 19th 1987

Archie C. Hoopes
Notary Public
Residing at: Freedom, Wyo

MAY 15 1986

Received this copy from the Vault. BP

SCANNED

AUG 05 2001

Log for claim 24-00001

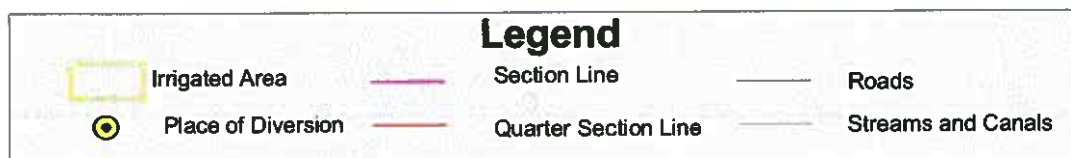
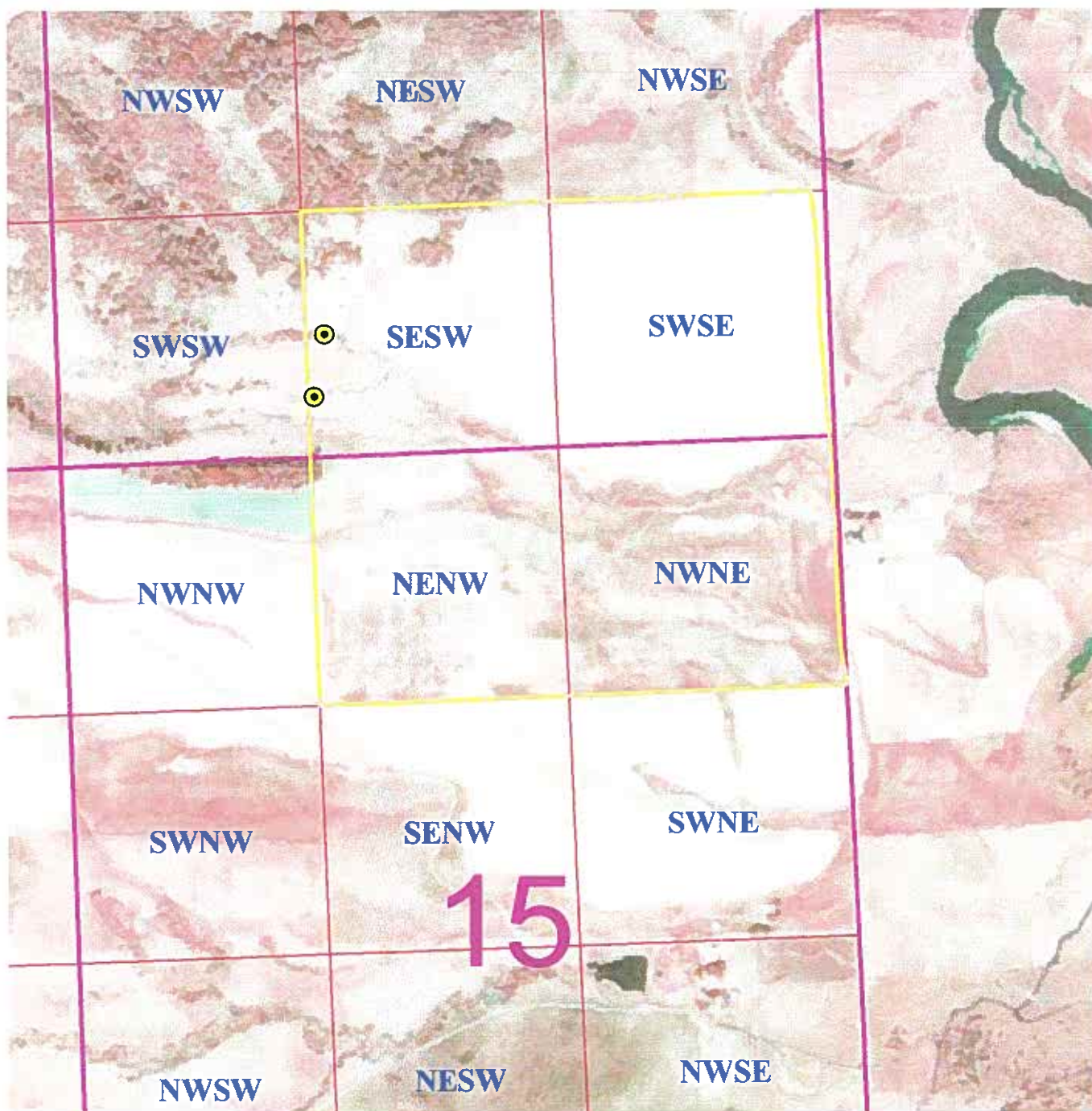
Spatial Dynamics LTD

4/2/01

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
04s46e	10	SESW	40	40	POD placement?
04s46e	10	SWSE	44	43	
04s46e	15	NWNE	44	44	Wrong tract in database?
04s46e	15	NENW	40	40	
Totals:			168	167	

Water Right Claim Number 24-00001
Township , 4S46E

04/02/2001

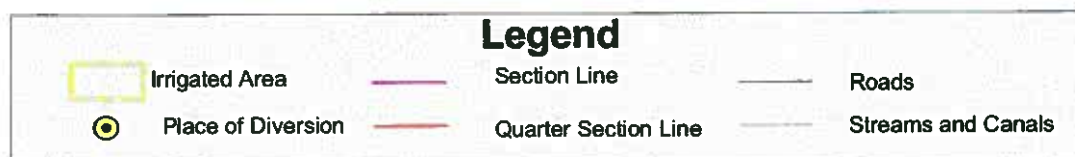


600 0 600 1200 Feet



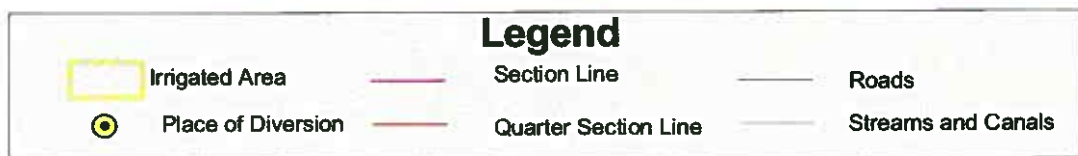
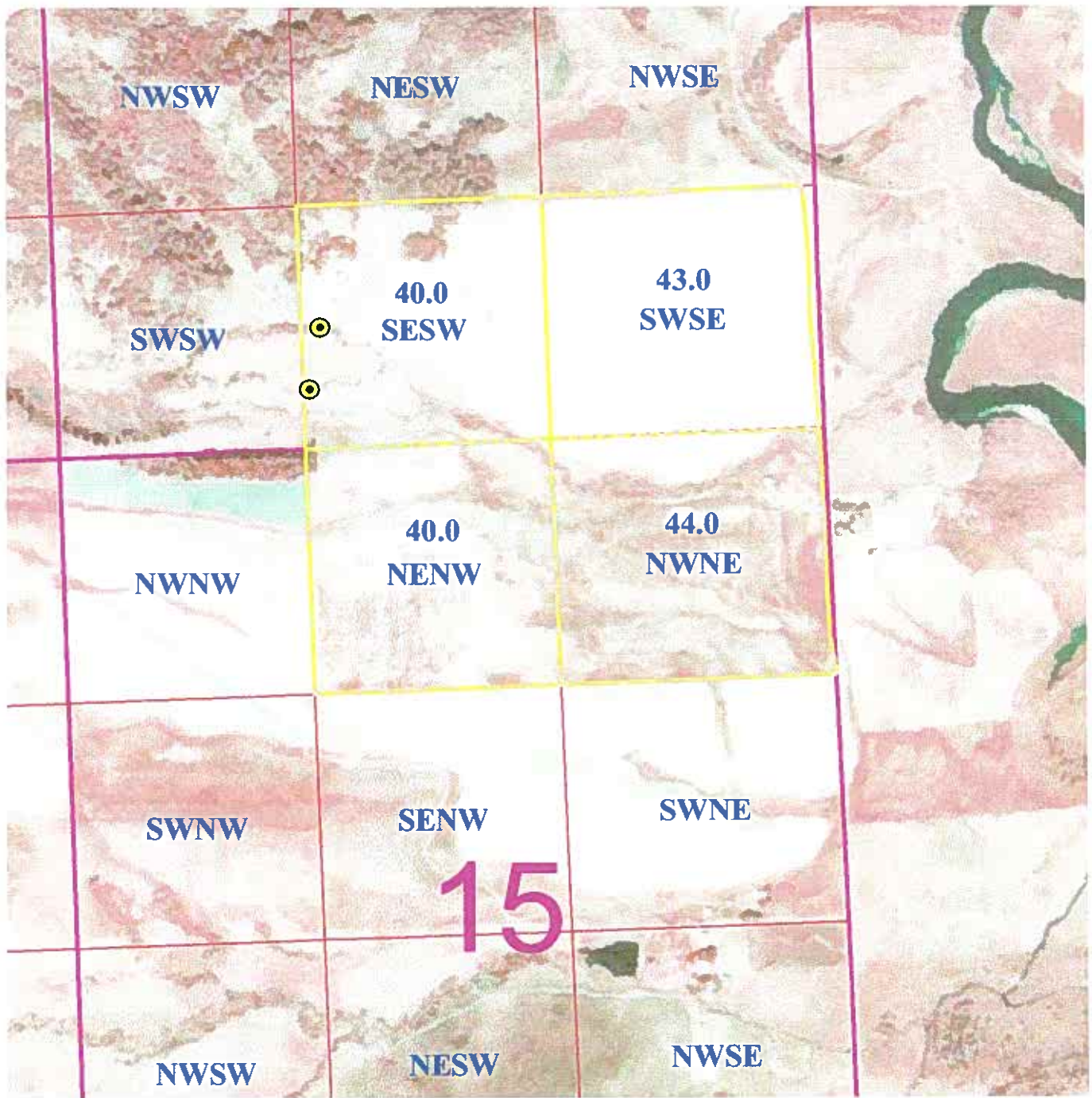
Water Right Claim Number 24-00001
Township , 4S46E

04/02/2001



Water Right Claim Number 24-00001
Township , 4S46E

04/02/2001



600 0 600 1200 Feet



30 Sept. 1989

RECEIVED

OCT 5 1989

Department of Water Resources
Eastern District Office

Idaho Department of Water Resources
Mr. Dennis Dunn
150 Shoup Avenue
Suite 15
Idaho Falls, Idaho 83401

Dear Mr. Dunn:

I am writing to contest the Church of Jesus Christ of Latter-day Saints filing on a 160 acre water right out of Miller Creek.

I have always been under the impression that I have had water rights out of Miller Creek. On my abstract of title I have a seal and recorded patent number indicating so. In checking with the state Engineers office in Cheyenne, I find no recorded record.

This summer I spent several hours with Mr. Glen Nielson out of Boise, Idaho. He was representing the Church of Jesus Christ of Latter-day Saints. We reviewed the Church property, discussed the location of head gates, the stream flow and discussed the present use of water. He became very much aware that on a normal year starting about July 1, the stream flow was about the size of a garden stream.

The property presently owned by the Church and the property I own was homesteaded by the same family. My grandfather purchased the property I presently own in 1917 from Mr. Miller.

I am 48 years of age. I remember my father using the water from Miller Creek to flood irrigate the land I presently own. For the past twenty plus years, I have sprinkled this ground using the water from Miller Creek.

Most of the Church owned property is rolling hills. Some of the ground is too steep to farm and is used for dry farm pasture.

About fifteen years ago, I became interested in looking into the possibility of a gravity sprinkler system for myself, my neighbor, and the Church property. We involved the ASCS in a survey and they indicated after their study that it was not feasible because the Church ground was too steep and the elevation of the ground to the creek was too high.

I have hired a licensed engineer to make a legal survey of my land. I intend to file on water from Miller Creek to sprinkle approximately 30 acres of ground.

I would appreciate your consideration in this matter.

Thank you,

Marlow Bateman
P.O. Box 6
Etna, WY 83218

Marlow Bateman

Marlow Bateman

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NOV 06 1992

MARTIN S. CLINGER

P.O. Box 241

Freedom, Wyo 83120

29 SEPT. 1989

TO THE DEPARTMENT OF WATER RESOURCES:

I, MARTIN S. CLINGER, WAS BORN ON 10 JULY, 1946 IN AFTON, WYOMING. AT THE TIME OF MY BIRTH, MY PARENTS, DARWIN K. AND ARLEAN S. CLINGER OWNED AND OPERATED A FARM APPROXIMATELY 6-7 MILES NORTH OF THE TOWN OF FREEDOM. MY PARENTS FARM CONSISTED OF ROUGHLY 280 ACRES OF WHICH ABOUT 160 ACRES BEING LOCATED IN BONNEVILLE COUNTY IN IDAHO AND THE OTHER 120 ACRES BEING LOCATED RIGHT ACROSS THE IDAHO-WYOMING STATE LINE IN LINCOLN COUNTY, WYOMING.

I SPENT THE EARLY YEARS OF MY YOUTH GROWING UP ON THE ABOVE MENTIONED FARM. JUST PRIOR TO MY STARTING SCHOOL MY PARENTS SOLD THE FARM AND WE MOVED INTO THE TOWN OF FREEDOM. THE IDAHO PORTION OF THE ORIGINAL FARM HAS BEEN OWNED now FOR ABOUT 39 YEARS BY THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS AND HAS BEEN KNOWN AS THE FREEDOM WARD FARM.

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2

A SMALL STREAM KNOWN AS MILLER CREEK RUNS FROM WEST TO EAST THROUGH THE FREEDOM WARD FARM. TO MY KNOWLEDGE IN MY LIFETIME NONE OF THE WATER FROM MILLER CREEK HAS BEEN USED FOR IRRIGATIONAL PURPOSES ON ANY OF THE 160 ACRES LOCATED IN IDAHO AND NOW OWNED BY THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS.

AS PREVIOUSLY MENTIONED I SPENT MY EARLY YOUTH GROWING UP ON THIS RANCH, AND AFTER THE CHURCH PURCHASED IT I SPENT TIME EVERY SUMMER AS A FREEDOM WARD MEMBER WORKING ON THIS FARM. FOR SEVERAL YEARS THE FREEDOM WARD HAD A LIVESTOCK RAISING PROJECT OF WHICH I WAS IN CHARGE. AT LEAST 1 OR 2 DAYS EACH WEEK THROUGHOUT THE SUMMER AND EARLY FALL I WOULD RIDE A HORSE THROUGH THE WARD FARM TO CHECK THE CATTLE WE PASTURED THERE. I HAVE ALSO LIVED MOST OF THE LAST 32 YEARS ABOUT 2 MILES SOUTH OF THE FREEDOM WARD FARM.

DURING MY LIFETIME I HAVE HAD CONSTANT CONTACT WITH THIS PROPERTY AND AT NO TIME CAN I EVER REMEMBER OF

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3

WATER FROM MILLER CREEK BEING USED
FOR IRRIGATIONAL PURPOSES OF CROPLAND
OR PASTURE EITHER ONE ON THE IDAHO
PORTION OF THE FARM.

HOWEVER, I MIGHT MENTION THAT
THROUGHOUT MY LIFE TIME MY GREAT UNCLE
ILIFF IUE, ALWAYS IRRIGATED HIS FARM
GROUND AND MEADOWS FROM MILLER CREEK
BOYD WILKES, WHO CURRENTLY OWNS THE
FORMERLY ILIFF IUE FARM, HAS CONTINUED
TO IRRIGATE THE SAME AS DID UNCLE
ILIFF.

ALSO ANOTHER NEIGHBOR MARLOW
BATEMAN HAS FOR MANY MANY YEARS NOW
PUMPED WATER FROM MILLER CREEK TO
IRRIGATE HIS FARMLAND THAT IS LOCATE
IMMEDIATELY NORTH OF UNCLE ILIFF'S
FARM.

IF I CAN BE OF ANY ASSISTANCE
AS PERTAINING TO THIS MATTER PLEASE
FEEL FREE TO CONTACT ME.

SINCERELY,
Martin S Clinger

THE CHURCH OF
JESUS CHRIST
OF LATTER-DAY
SAINTS

REAL ESTATE DIVISION
Twelfth Floor, RM-1241
50 East North Temple Street
Salt Lake City, Utah 84150
Phone (801) 240-4074

Reference reply to:

September 20, 1989

RECEIVED
SEP 22 1989

Department of Water Resources

Mr. Carter Fritschle
Senior Water Resource Agent
Adjudication Bureau
Idaho Department of Water Resources
1301 North Orchard Street
Boise ID 83720

Dear Mr. Fritschle,

Attached are the signed documents and a check for \$268.00 to pay for the adjudication fees for water rights in Bonneville County.

<u>Groundwater Right</u>	<u>Property Number</u>	<u>Property Name</u>	<u>Adjud. Assess.</u>
24-00001	508-6582	Wel WY Freedom Prop.	\$218.00
24-00002	508-6582	Wel WY Freedom Prop.	50.00
Total			\$268.00

Thanks for your assistance and that of Glen Nielson in getting these rights adjudicated and recorded.

Sincerely,


Ronald C. Johnson
Water Analyst

RCJ:ja
encs.

cc: Terry F. Roylance
M. Glade Pincock
Glen Nielson

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ADJUDICATION FILING FEES FOR IDAHO

RECEIVED

SEP 22 1989

PROPERTY IDENTIFICATION

Idaho State Water Right Permit # 24-00001
LDS Church Property # 5086582

Department of Water Resources

FEE CALCULATIONS

Domestic, stockwatering, fire protection, etc. \$ _____
Flat fee for irrigation. \$ 50.00

VARIABLE FEE SCHEDULE

Irrigation (\$1.00 per acre). \$ 168.00
Power Generation (\$3.00 per kilowatt) \$ _____
Aquaculture (\$10.00 per cfs) \$ _____
All other uses (\$100.00 per cfs) \$ _____

Other charges. \$ _____

TOTAL \$ 218.00

DATE 9-14-89

Carter Fritschle
Carter Fritschle
Idaho Dept. of Water Resources

Glen L. Nielson
Glen Nielson
Field Representative
Church of Jesus Christ
of Latter-day Saints

REAL ESTATE DIVISION
NATURAL RESOURCE SECTION

SEP 19 1989

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NOV 06 1992

August 8, 1990

Martin S. Clinger
P.O. Box 241
Freedom, WY 83120

RE: Exception to A24-00001, A24-00002, LDS Church

Dear Mr. Clinger:

The Department of Water Resources (IDWR) has received your letter dated September 29, 1990, stating an exception to Notices of Claims A24-00001 and A24-00002 filed by the Church of Jesus Christ of Latter-day Saints. The letter will be placed with the Notices for future consideration and a copy has been sent to church headquarters in Salt Lake City.

Recommendation for each notice of claim will be listed in the Director's Report. In preparing this report, IDWR is required by statute to review each notice to ensure it is complete and accurate. Information in the exception letter will be considered as part of this review.

Publication of the Director's Report including Miller Creek is tentatively scheduled for December 1994. When it becomes available for public review, IDWR will mail notification to each claimant. If you are dissatisfied with the recommendation in the Director's Report, you may contest it by filing an objection with the court. Following the objection, the matter will be set for hearing.

If there is a more immediate concern about the Church's use of water, you could file a formal request that the IDWR issue it a cease and desist order for illegally diverting water. It would be necessary, however, for you to file sufficient documentation for the IDWR to be certain that the Church was diverting water it did not own, that had been abandoned or forfeited in the past, or that the Church has failed to properly transfer the water to the place where it is presently being used. The evidence should be in the form of affidavits, photographs and any other documentation such as aerial photographs which shows the use of water.

Feel free to contact this office for further assistance (525-7161).

Respectfully Submitted

Ernest Carlsen
Adjudication Supervisor

cc:file

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NOV 06 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION
August 8, 1990

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

Marlow Bateman
P.O. Box 6
Etna, WY 83118

RE: Exception to A24-00001, A24-00002, LDS Church

Dear Mr. Bateman:

The Department of Water Resources (IDWR) has received your letter dated September 30, 1990, stating an exception to Notices of Claims A24-00001 and A24-00002 filed by the Church of Jesus Christ of Latter-day Saints. The letter will be placed with the Notices for future consideration and a copy has been sent to church headquarters in Salt Lake City.

Recommendation for each notice of claim will be listed in the Director's Report. In preparing this report, IDWR is required by statute to review each notice to ensure it is complete and accurate. Information in the exception letter will be considered as part of this review.

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Feel free to contact this office for further assistance (525-7161).

Respectfully Submitted

Ernest Carlsen
Adjudication Supervisor

cc:file

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NOV 06 1992

4/5/1989

SRBA CLAIMS RECEIVING CHECKLIST #2

CLAIMANT'S NAME LDS Church CLAIM. IDENT. NO. A24-00001

DATE RECEIVED	CK #	AMOUNT \$	YES	NO	Required Info?
1. Is the name and address complete with zip code?			☐	☐	*
2. Is a priority date entered?			☐	☐	*
Is the priority date acceptable in view of mandatory filing dates? ☐					
See Adjudication Memos #1 and #4 to determine if a Permit is required. ☐					
3. (a) Is a source entered?			☐	☐	*
(b) Is a tributary to entered? (if required)		N/A	☐	☐	
4. Is the legal description of the p.d. sufficient?			☐	☐	*
5. Is there a description of the diverting works?			☐	☐	
6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form.			☐	☐	*
Is the period of use included?			☐	☐	
Is a quantity claimed for each use?			☐	☐	*
7. Is a total quantity claimed entered?			☐	☐	
8. If required is a consumptive use entered?		N/A	☐	☐	
Is the consumptive use correct?		N/A	☐	☐	
9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4.		N/A	☐	☐	*
10. Is (are) the place(s) of use and purpose(s) indicated?			☐	☐	*
11. Is (are) the county(ies) entered?			☐	☐	
12. Is the ownership of p.u. checked?			☐	☐	
13. Are other water rights listed or "none" indicated?			☐	☐	
14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.)		N/A	☐	☐	
15. Is the basis of the claim indicated?			☐	☐	
16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.)		N/A	☐	☐	
17. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block.			☒	☐	*
18. Has the claim been signed, sealed, and dated by a notary?			☒	☐	*
19. Was this claim filed on time, or was an extension granted?			☒	☐	*
20. Is the fee enclosed correct?		Exempt	☒	☐	*
21. If this claim is based on an existing water right, has the identification number been entered?		N/A	☒	☐	
22. Should this claim be data entered?			☒	☐	

Claim checked by: CA Date: 6-8-90Claim must be returned to claimant: (Yes) (No)Claimant must be notified of modifications: (Yes) (No)

Receipt Prepared by: _____	Date: _____	Checked by: _____	Date: _____
Claim data entered by: _____	Date: _____		
Sent to claimant by: _____	Date: _____		

Comments: _____

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NOV 06 1992