



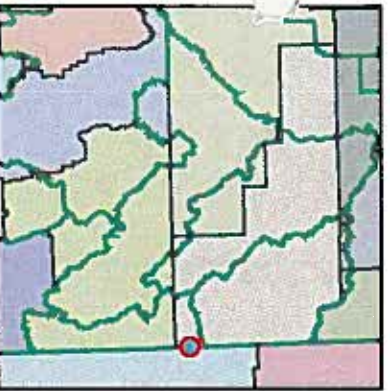
Idaho Department of Water Resources

SRBA Recommendation:

24-10007

Legend

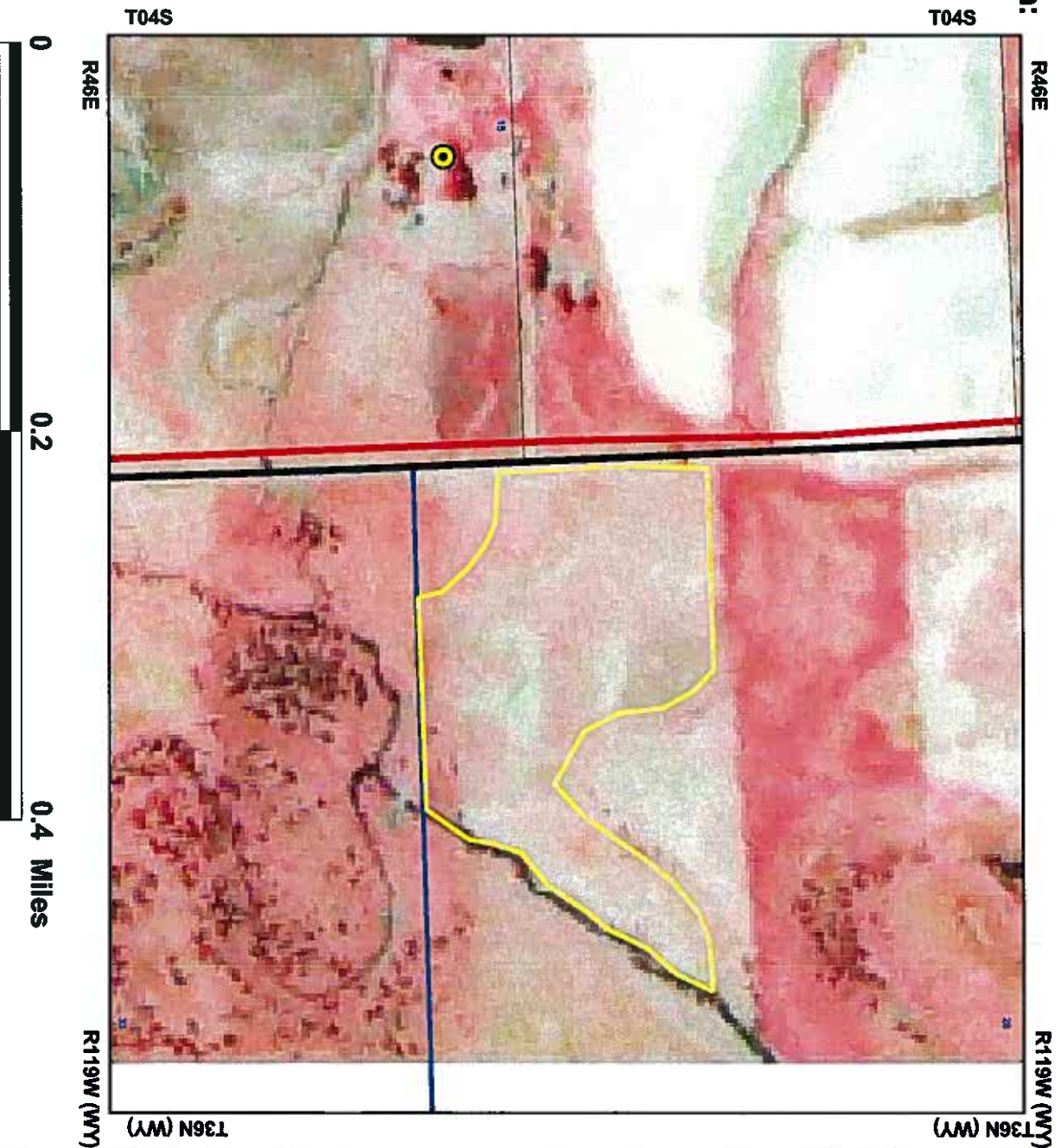
-  Point of Diversion
-  Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters



Bonneville County
IDWR Basin 24



Prepared by A. Golart
On Monday, August 14, 2006
1987/88 Aerial Photography



09/11/2006

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

RIGHT NUMBER: 24-10007

NAME AND ADDRESS: M EUGENE HOFFMAN
PO BOX 7302
JACKSON WY 83001

NANCY S HOFFMAN
PO BOX 7302
JACKSON WY 83001

SOURCE: NEWSWANDER CREEK

TRIBUTARY: SALT RIVER

QUANTITY: 0.300 CFS

PRIORITY DATE: 06/01/1881

POINT OF DIVERSION:

T04S R46E S15 NWNWSE Lot 3 Within BONNEVILLE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.020 CFS
IRRIGATION	04/15 10/15	0.300 CFS

PLACE OF USE: The place of use for this water right is in Wyoming, and includes 15 acres described as T36N R119W S28 PM6.

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

SCANNED

AUG 8 2011

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: A24-10007
Date Received: 10/25/1989
Receipt No: E010876
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: NANCY S. HOFFMAN 307-733-5633
Address: P.O. BOX 7302
JACKSON, WY 83001

OR

Name: M. EUGENE HOFFMAN 307-733-5633
Address: P.O. BOX 7302
JACKSON, WY 83001

2. Date of Priority: JUN 01, 1881

3. Source: NEUENSCHWANDER CREEK Trib. to: SALT RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
04S	46E	15	NW	NE	SE		BONNEVILLE

5. Description of diverting works:

SMALL ROCK DAM & HEADGATE. CREEK AT POINT OF DIVER. IS 15' WIDE.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/15	10/15	0.840		
DOMESTIC	01/01	12/31	0.020		

7. Total Quantity Appropriated is:

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

8. Total consumptive use is 84.0 Acre Feet Per Annum.

9. Non-irrigation uses:

30 HEAD CATTLE; 5 HORSES

A24-10007

Page 1

Date: 10/25/89

A2410007



MICROFILMED

NOV 06 1992

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
----------	-------	---------	------------	-----	-----	-------

11. Place of use in counties:

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

13. Other Water Rights Used:
NONE

14. Remarks:

PREVIOUS OWNER OF PROPERTY WAS BRENT ROBINSON.

*** PLACE OF USE IS WITHING THE STATE OF WYOMING, DESCRIBED AS:
T36N R119N SEC. 28 24 ACRES IN SE1/4 SW1/4 AND 18 ACRES
IN THE SW1/4 SE1/4 FOR A TOTAL OF 42 ACRES. *****

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 6/27/1928

ROBINSON

Decree Plaintiff

vs

MILLER

Decree Defendant

BY 10/18/89IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number A24-10007Date Received 9/28/89Receipt Number E010876NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

SEP 28 1989

Department of Water Resources
Eastern District Office

Please type or print clearly

1. Name of Claimant (s) NANCY S and M EUGENE HOFFMAN Phone (307) 733-5633Mailing Address P.O. Box 7302, JACKSON, WY Zip 830012. Date of Priority (Only one (1) per claim) 6/1/18813. Source of water supply (a) NEUENSCHWANDER CREEK
which is tributary to (b) SALT RIVER4. a. Location of existing point of diversion is: Township 4S Range 46E Section 15,
NW 1/4 of NE 1/4 of SE 1/4, Govt. Lot, - B.M., County of BONNEVILLEAdditional points of diversion if any: NONE

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.Small rock dam and
Headgate: Creek at point of diversion is
approximately 15' wide

MICROFILMED

NOV 06 1992

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from April 15 to Oct. 15 amount .84 or _____

For Stockwater purposes from JAN. 1 to DEC 31 amount .02 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .86 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is .84 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) 30 CATTLE; 5 HORSES

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 instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
<u>36N</u>	<u>119W</u>	<u>28</u>												<u>24</u>			<u>18</u>		<u>42</u>

Total number of acres irrigated 42

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

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

or None (X)

14. Remarks:

PREVIOUS OWNER OF PROPERTY WAS BRENT
ROBINSON

MICROFILMED

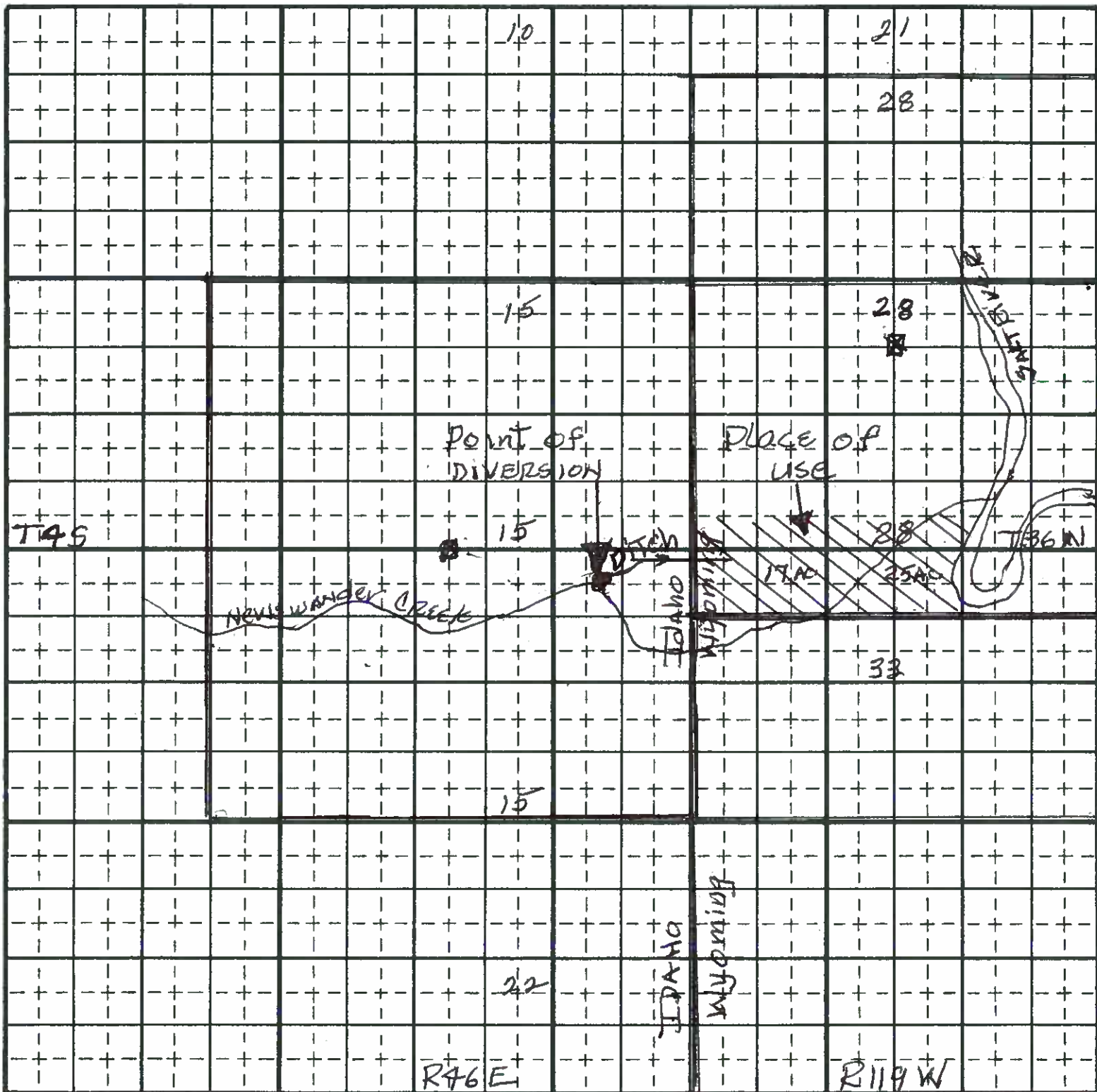
NOV 06 1992

Last Name HOEFMAN Ident No. _____

Copies: White -State, Yellow-Claimant

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



MICROFILMED

NOV 06 1992

Last Name HOFFMAN

Ident No. _____

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____

Decree ☒

If applicable provide IDWR Water Right Number _____

Court BONNEVILLE COUNTY Case Number _____ Decree Date 6/27/1928

Plaintiff vs Defendant Robinson Vs Miller (see Judgement, Book 7, Page 264 in Book of Judgements)

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 2

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s)

W. Eugene Hoffman
Nancy S. Hoffman

Date 9/23/89

Date 9/23/89

For Organizations: I do solemnly swear or affirm that I am _____

Title

of _____, that I have signed the foregoing

Organization

document in the space below as _____ of _____

Title

Organization

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

Signature of Authorized Agent _____

Title and Organization _____

Date _____

State of Idaho/or WYOMING)
County of TETON) SS.

Subscribed and sworn (or affirmed) before me this 23rd day of SEPT 19 89

SEAL

Notary Public

Barbara A. Garrett

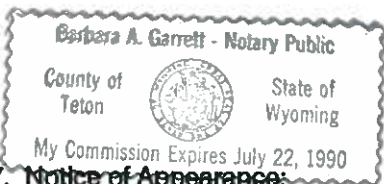
Residing at

TETON COUNTY, WY

My Commission Expires

7-22-90

Please Print Name



17. Notice of Appearance:

Notice is hereby given that I, _____ 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 _____

Address _____

Date _____

Last Name Hoffman Ident. Number _____

MICROFILMED

NOV 06 1992

Copies White-State, Yellow-Claimant

RECEIVED

JAN 19 2007

Department of Water Resources
Eastern Region

CHANGE OF OWNERSHIP
LETTER SENT 12-27-06

24-10007

Records updated, NCAP prepared.
12-27-06.
-P

Rec'd 12-26-06

Please change the address
of Nancy S. Hoffman from
to Box 7302 Jackson WY. To
6008 N. State Line Rd
Freedom, WY. 83120

M Eugene Hoffman passed away
August 13, 2005. Thank
you.
Nancy Hoffman

SCANNED

DEC 26 2006



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

December 27, 2006

RECEIVED

JAN 03 2007

Department of Water Resources
Eastern Region

NANCY S HOFFMAN
6008 N STATE LINE RD
FREEDOM WY 83120

Re: Snake River Basin Adjudication (SRBA)
Notice of Claim to a Water Right #24-10007

Dear Mrs. Hoffman:

I've updated our records to reflect your address change. Before we can remove Eugene's name from the water right claim, however, we need a Notice of Change in Water Right Ownership form completed. I have enclosed that form for your use. Enclosing a copy of a legal document showing you as sole owner of the property and water right claim will replace the requirement for a Warranty Deed and map. Please also enclose a photocopy of Eugene's death certificate with his social security number blocked out to prevent identity theft.

Since your water right claim is still pending before the SRBA court, there is no fee to change the ownership.

Please call me toll-free at 1/800-451-4129 if you have any questions or concerns.

Sincerely,

Sally Sherman
Technical Records Specialist
Adjudication Technical Section

ss:region
Enclosure:

Form 42-248/42-1409(6)

SCANNED
DEC 27 2006

Point of Diversion and Source Data Entry Form

Claim Number 24-10007

Claimed Point of Diversion and Source

T04S R46E S15 NWNESE Within BONNEVILLE County Source: NEWSWANDER CREEK SALT RIVER

☒ Use Claimed POD and Source as Recommended POD and Source

Water Right Point of Diversion and Source

Recommended Point of Diversion and Source

Source Information

Source

Tributary To

Salt River

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source

Other rights from this POD? _____

Document how the POD and Source were verified:

Field Inspection (7/20/2006) AG
POD - Located on Newswander Creek on
Carlisle Ranch. Tag # A0 008782

Reviewer: AGDate: 7/20/2006

Place Of Use Data Entry Form

Claim Number 24-10007

Claimed Place Of Use

T36N R46E S28 SESW 24.00 T36N R46E S28 SWSE 18.00
Total Acres 42

☐ Use Claimed POU as Recommended POU

Water Right Place Of Use

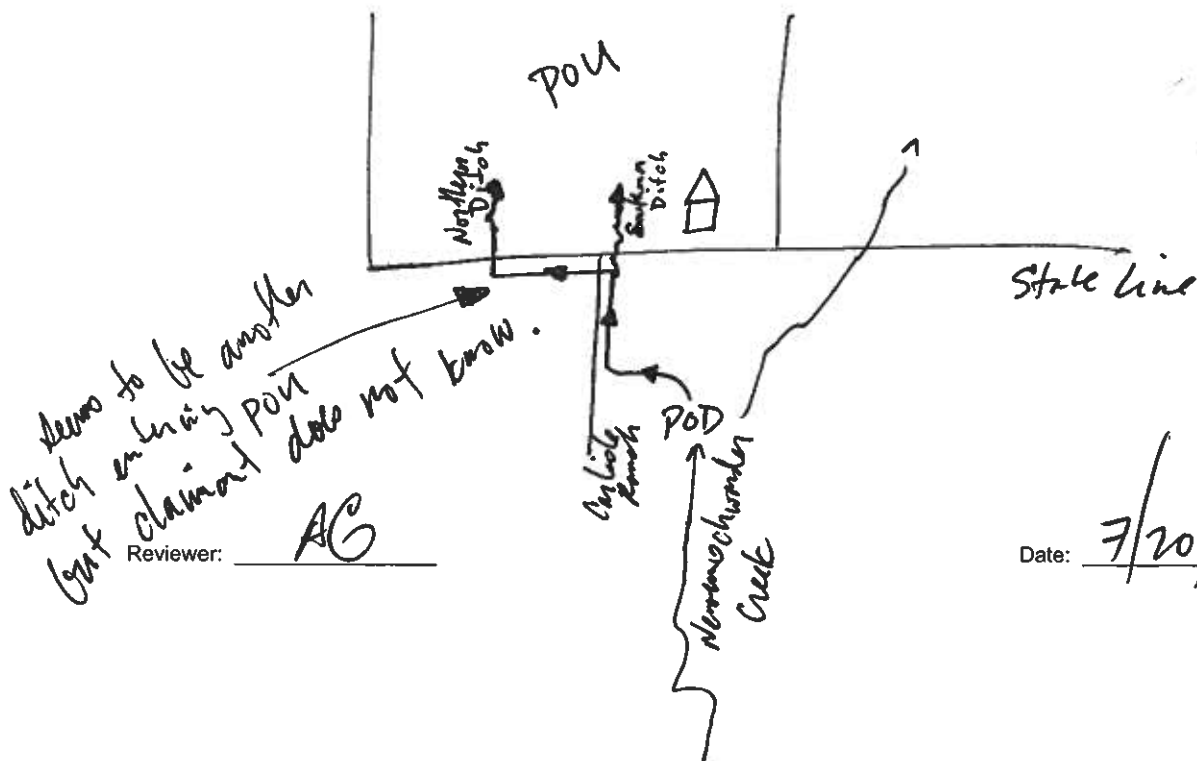
Recommended Place of Use

See corrections to claimed POU above

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

Total Acres ~40

Document how the POU was verified:

Field Inspection (7-20-2006)Reviewer: AGDate: 7/20/06

Purpose of Use Data Entry Form

Claim Number 24-10007

Claimed Purpose of Use

Water Use

Number of Homes

Number of Stock

Acre Limit

IRRIGATION
DOMESTIC☒ 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

Recommended Purpose of Use

Water Use

Number of Homes

Number of Stock

Acre Limit

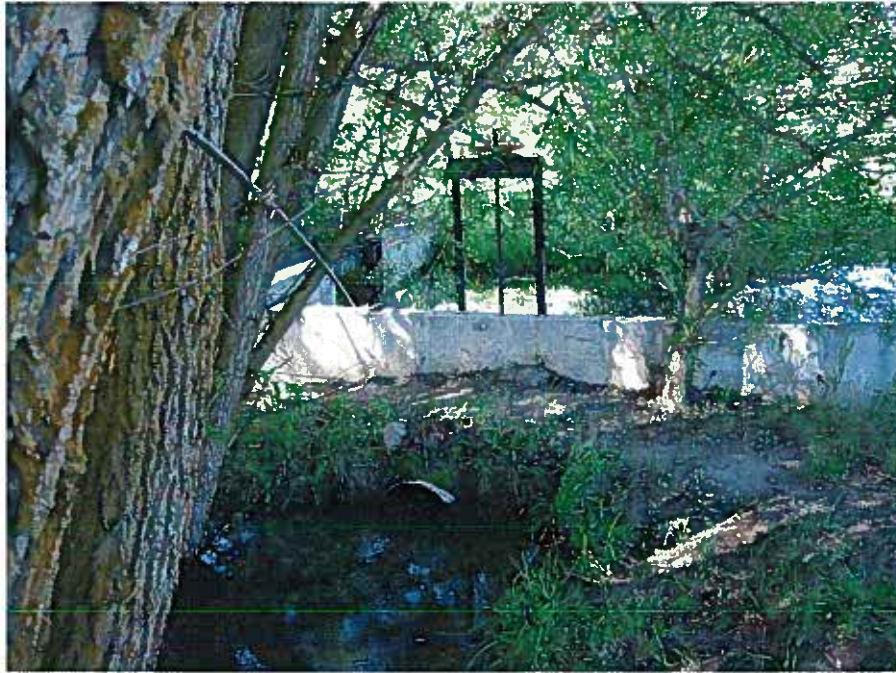
Number of Other

Document how the Purpose of Use was verified:

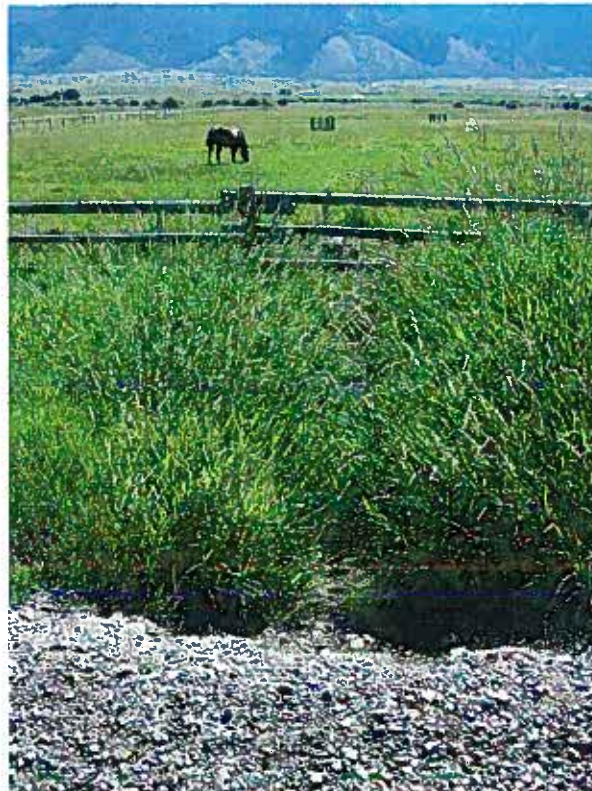
irrigating when field exam was
conducted. (7-20-2006)

~ 2 horses.

Reviewer: ACDate: 7-20-2006



View is of POD facing west upstream on Neuenschwander Creek. Site tag (#Ao008782 E2740421 N1323007) is visible on concrete headgate above culvert. Headgate is located on Carlisle Ranch.



View is of southern ditch entering POU. This ditch enters POU between the northern ditch and the house. This photo was taken standing on the state line facing east.



View is facing north along state line and is showing the northern portion of the POU.



View is facing northeast and shows POU.



Northern ditch entering POU viewing east.



View of northern ditch entering POU facing northeast.



View of POU facing east with ditch in left corner of photo.



View south from where northern ditch crosses state line.

Receipt Details for ID E010876

24-10007
Hoffman

Status	Adjustment Type	Version
	Adjusted Receipt	1

General Information:

Date Received	Date Deposited	Region	Total Amount	Payment Type
9/28/1989 3:46:39 PM	9/28/1989	Eastern	\$92.00	Check
Payer		HOFFMAN, NANCY/M. EUGENE		

Account Information:

Check #	Account #	Credit Card Name	Authorization #
3104			
Card Expiration Date	Credit Card Transaction #		

Comment ADJUDICATION FEE

Fee Detail:

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$92.00	ADJUDICATION FEE	410162	9337	00		6490

Refund(s):

Amount	Payee	Date	Document Number
--------	-------	------	-----------------

Water Right Information:

Basin Number	Sequence Number	Split Suffix	Amount	Type
24	10007		\$92.00	Claim

Notes

- 10-20-04 The claimed legal interest matches the decree. BS
- 3-2-05 The pod for this right is in Idaho.
The pou is in T36N, R119W of the Sixth
Principal Meridian in the State of Wyoming. PB
- 9-12-05 E-mail to Ernie re direction. CB
- 9-13-05 The decree gives 2 POU - 1 in WY + 1 in Id &
spells out a rotation schedule. BP
- 8-3-2006 Spoke with Nancy Hoffman about historical
practice for irrigation for stock water.
She did not know because she purchased
property in ~1970. She irrigates property
~ July 1 - Aug (intermittently).
Irrigates lower pasture near home.

Ranch Number

307-883-5633

Claim Number: 24-10007

Recommended Priority Date: _____ Recommended Basis _____

Document the evidence submitted/reviewed for the priority date claimed, include your analysis of the evidence:

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

Date: _____

Priority Date Data Entry Form

1. Should this water use have been included in a later court decree of the water rights from this source? Yes () No ()
If Yes, go to 2
If No, go to 4
2. Was the owner or the owner's predecessor in interest of the place of use joined in the later decree? Yes () No ()
If Yes, go to 3a
If No, go to 4
- 3a. Is the date the decree was entered after the date a permit is required for the source and the water use? Yes () No ()
If Yes, consult the attorney assigned to the Basin. Go to 3b
If No, go to 4
- 3b. Do the facts support disallowing the claim, or recommending the claim as an enlargement or an expansion? Yes () No ()
If Yes, go to 11
If No, go to 4
4. Is the basis of claim a decree or license? Yes () No ()
If Yes, go to 5
If No, go to 7
5. Does the decree or license have a Priority Date? Yes () No ()
If Yes, go to 6
If No, Consult the attorney assigned to the Basin, go to 15
6. Did the Claimant claim the decreed or licensed Priority Date? Yes () No ()
If Yes, recommend the Priority Date claimed. If questions 1. and 2. were both answered yes, consult attorney. Go to 15
If No, Obtain an amended claim if necessary. If questions 1. and 2. were both answered yes, consult attorney. Go to 15
7. Is the basis of claim a Permit or Application? Yes () No ()
If Yes, go to 10e
If No, go to 8
8. Is the basis of claim a posted notice? Yes () No ()
If Yes, consult the attorney assigned to the Basin, go to 15
If No, go to 9
9. Is the Priority Date claimed after the date a permit is required for the source and the water use? Yes () No ()
If Yes, go to 11
If No, go to 12
- 10e. Will the license be issued prior to filing the Director's Report? Yes () No ()
If Yes, recommend the Priority Date shown on the license, go to 15
If No, recommend the Priority Date shown on the Permit. All other elements should be recommended as shown on the Permit.
Add Condition Code A01 to the Recommendation, go to 15
11. Is the claim for an expansion or enlargement under 42-1416B or 42-1426? Yes () No ()
If Yes, go to 12
If No, disallow with condition P01.
12. Does the claim file contain sufficient evidence of Priority Date? Yes () No ()
If Yes, recommend the date supported by the evidence submitted, go to 15
If No, Request additional evidence of Priority Date, go to 13
13. Has additional evidence of priority date been submitted? Yes () No ()
If Yes, recommend the date supported by the evidence submitted, go to 15
If No, recommend a Priority Date based on available evidence if possible. If some of the claimed water uses can be recommended with the Priority Date supported by the evidence, then do so, go to 14
14. Can any portion of the claim be recommended as a valid water right? Yes () No ()
If Yes, go to 15
If No, disallow with condition P01.
15. Is the basis of claim coded correctly? Yes () No ()
If Yes, go to 16
If No, Enter the appropriate basis of claim.
16. Is a Priority Date remark and/or condition required? Yes () No ()
If Yes, Enter the appropriate basis of claim. Priority Date review is complete.
If No, Priority Date review is complete.

Priority Date

Claim No A24 - 10007

Point of Diversion and Source Data Entry Form

 Claim Number: 24-10007

Water 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	OOQ of OQ of Q	County	Source
GPS Coordinates: _____						
GPS Coordinates: _____						
GPS Coordinates: _____						
GPS Coordinates: _____						
GPS Coordinates: _____						
GPS Coordinates: _____						

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

1. Is the basis of claim a Decree or License?

Yes () No ()

If Yes, go to 4
If No, go to 2

2. Is the basis of claim a Permit or Application?

Yes () No ()

If Yes, go to 3
If No, go to 6

3. Has the License been issued?

Yes () No ()

If Yes, go to 5
If No, recommend the POD as shown on the Permit. Go to 10

4. Does the parent right have a POD?

Yes () No ()

If Yes, go to 5
If No, go to 6

5. Can the claimed POD be verified using the water right file?

Yes () No ()

If Yes, recommend the POD as shown in the water right file. Go to 10
If No, go to 6

6. Is there evidence that there has been a change in the POD?

Yes () No ()

If Yes, go to 7
If No, go to 9

7. Can the change be verified as an accomplished transfer?

Yes () No ()

If Yes, add condition C03, go to 9
If No, Notify claimant that a transfer is necessary before the claimed POD can be recommended. Go to 8

8. Was a transfer filed?

Yes () No ()

If Yes, recommend the POD as shown on the approved transfer. Go to 10
If No, go to 9

9. Does the file contain all of the necessary information to verify the POD?

Yes () No ()

If Yes, recommend the POD as it existed on 11-19-1987. Describe how the POD was verified. Go to 10
If No, collect the necessary information. Conduct field exam if necessary. Recommend the POD as it existed on 11-19-1987. Go to 10

10. Is a POD remark and/or condition required?

Yes () No ()

If Yes, enter the appropriate remark and/or condition. POD review is complete
If No, POD review is complete.

Point of Diversion

Claim No. A24-10007

1. Is the basis of claim a Decree or License? Yes () No ()
If Yes, go to 4
If No, go to 2
2. Is the basis of claim a Permit or Application? Yes () No ()
If Yes, go to 3
If No, go to 6
3. Has the License been issued? Yes () No ()
If Yes, go to 5
If No, recommend the Source as shown on the Permit. Go to 11
4. Does the parent right have a Source? Yes () No ()
If Yes, go to 5
If No, go to 7
5. Can the claimed Source be verified using the water right file? Yes () No ()
If Yes, recommend the Source as shown in the water right file. Go to 11
If No, go to 7
6. Is the basis of claim a Posted Notice? Yes () No ()
If Yes, consult the attorney assigned to the basin. Go to 7
If No, go to 7
7. Is there evidence that there has been a change in the Source? Yes () No ()
If Yes, go to 8
If No, go to 10
8. Can the change be verified as an accomplished transfer? Yes () No ()
If Yes, add condition C02, go to 10
If No, Notify claimant that a transfer is necessary before the claimed Source can be recommended. Go to 9
9. Did the claimant file a transfer? Yes () No ()
If Yes, recommend the Source as shown in the transfer. Go to 11
If No, go to 10
10. Does the file contain all of the necessary information to verify the Source? Yes () No ()
If Yes, recommend the Source as it existed on 11-19-1987. Go to 11
If No, collect the necessary information. Recommend the Source as it existed on 11-19-1987. Go to 11
11. Is a Source remark and/or condition required? Yes () No ()
If Yes, enter the appropriate remark and/or condition. Source review is complete.
If No, Source review is complete.

Source

Claim No A24 - 10007

Purpose of Use Data Entry FormClaim Number: 24-10007☐ 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

1. Is the basis of claim a Decree or License? Yes () No ()
If Yes, go to 4
If No, go to 2
2. Is the basis of claim a Permit or Application? Yes () No ()
If Yes, go to 3
If No, go to 6
3. Has the License been issued? Yes () No ()
If Yes, go to 5
If No, recommend the Purpose(s) of Use as shown on the Permit. Go to 13
4. Does the parent right have a Purpose of Use? Yes () No ()
If Yes, go to 5
If No, go to 6
5. Can the claimed Purpose of Use be verified using the water right file? Yes () No ()
If Yes, recommend the Purpose(s) of Use that is (are) claimed and shown in the water right file. Go to 13
If No, go to 6
6. Is there evidence that there has been a change in the Purpose of Use? Yes () No ()
If Yes, go to 7
If No, go to 11
7. Can the change be verified as an accomplished transfer? Yes () No ()
If Yes, add condition C04, go to 11
If No, go to 8
8. Does the change include an enlargement of the Purpose of Use? Yes () No ()
If Yes, describe the evidence that supports that there has been an enlargement in the Purpose of Use. Go to 9
If No, Describe the evidence that supports the change occurred after 11-19-1987. Notify claimant that a transfer is necessary before the claimed Purpose(s) of Use can be recommended. Go to 12
9. Was an enlargement claim filed? Yes () No ()
If Yes, go to 11
If No, Notify claimant that an enlargement claim is necessary. Go to 10
10. Did the claimant file an enlargement claim? Yes () No ()
If Yes, go to 11
If No, recommend only the Purpose(s) of Use that existed on the date established as the priority date of this right. Go to 13
11. Does the file contain all of the necessary information to verify the Water Use? Yes () No ()
If Yes, recommend the Purpose(s) of Use in existence on 11-19-1987. Go to 13
If No, collect the necessary information. Conduct field exam if necessary. Recommend the Purpose(s) of Use in existence on 11-19-1987. Go to 13
12. Did the claimant file a transfer? Yes () No ()
If Yes, recommend the Purpose(s) of Use shown on the approved transfer. Go to 13
If No, recommend only the Purpose(s) of Use in existence on 11-19-1987. Go to 13
13. Is a Purpose of Use remark and/or condition required? Yes () No ()
If Yes, enter the appropriate remark and/or condition. Purpose of Use review is complete.
If No, purpose of Use review is complete.

Purpose of Use

Claim No. 124 - 10007

Place Of Use Data Entry Form

Claim Number: 24-10007☐ 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: _____

Place Of Use Data Entry Form

1. Is the basis of claim a Decree or License?

If Yes, go to 2a
If No, go to 2b

Yes () No ()

2a. Is a POU required?

If Yes, go to 5
If No, go to 14

Yes () No ()

2b. Is a POU required?

If Yes, go to 3
If No, go to 14

Yes () No ()

3. Is the basis of claim a Permit or Application?

If Yes, go to 4
If No, go to 7

Yes () No ()

4. Has the License been issued?

If Yes, go to 6
If No, recommend the POU as shown on the Permit. Go to 14

Yes () No ()

5. Does the parent right have a POU?

If Yes, go to 6
If No, go to 7

Yes () No ()

6. Can the claimed POU be verified using the water right file?

If Yes, recommend the POU as shown in the water right file. Go to 14
If No, go to 7

Yes () No ()

7. Is there evidence that there has been a change in the POU?

If Yes, go to 8
If No, go to 13

Yes () No ()

8. Can the change be verified as an accomplished transfer?

If Yes, add condition C05, go to 13
If No, go to 9

Yes () No ()

9. Does the change include an enlargement of the POU?

If Yes, describe the evidence that supports that there has been an enlargement in the POU. Go to 10
If No, describe the evidence that supports the change occurred after 11-19-1987. Notify claimant that a transfer is necessary before the claimed POU can be recommended. Go to 12

Yes () No ()

10. Was an enlargement claim filed?

If Yes, go to 13
If No, notify claimant that an enlargement claim is necessary. Go to 11

Yes () No ()

11. Did the claimant file an enlargement claim?

If Yes, go to 13
If No, recommend the POU as it existed on of 11-19-1987. The size of the POU is limited to the size that existed on the date established as the priority date of this right. Go to 13

Yes () No ()

12. Was a transfer filed?

If Yes, recommend the POU as shown on the approved transfer. Go to 14
If No, recommend the POU as it existed on of 11-19-1987. The size of the POU is limited to the size that existed on the date established as the priority date of this right. Go to 13

Yes () No ()

13. Does the file contain all of the necessary information to verify the POU?

If Yes, go to 14
If No, collect the necessary information. Conduct field exam if necessary. Go to 14

Yes () No ()

14. Is a POU remark and/or condition required?

If Yes, enter the appropriate remark and/ or condition. POU review is complete.
If No, POU review is complete.

Yes () No ()

Place of Use

Claim No. 124-10007

Period of Use and Quantity Data Entry FormClaim Number: 24-10007☐ 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

Overall Diversion Rate _____

Overall Diversion Volume _____

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

Reviewer: _____

Date: _____

Period of Use and Quantity Data Entry Form

1. Is the basis of claim a Decree or License? Yes () No ()
If Yes, go to 4
If No, go to 2
2. Is the basis of claim a Permit or Application? Yes () No ()
If Yes, go to 3
If No, go to 6
3. Has the License been issued? Yes () No ()
If Yes, go to 5
If No, recommend the Period of Use as shown on the Permit. Go to 18
4. Does the parent right have a Period of Use? Yes () No ()
If Yes, go to 5
If No, go to 6
5. Can the claimed Period of Use be verified using the water right file? Yes () No ()
If Yes, go to 14
If No, go to 6
6. Is there evidence that there has been a change in the Period of Use? Yes () No ()
If Yes, go to 7
If No, go to 12
7. Does the change include an enlargement in the Period of Use? Yes () No ()
If Yes, go to 9
If No, go to 8
8. Can the change be recommended as an accomplished transfer? Yes () No ()
If Yes, add Condition C10. Describe the evidence that supports the change occurred after 11-19-1987. Go to 12
If No, notify claimant that a transfer is necessary. Go to 11
9. Was an enlargement claim filed? Yes () No ()
If Yes, go to 12
If No, notify claimant that an enlargement claim is necessary. Go to 10
10. Did the claimant file an enlargement claim? Yes () No ()
If Yes, go to 12
If No, recommend the Period of Use as it existed on 11-19-1987, subject to completing the review. Go to 12
11. Was a transfer filed? Yes () No ()
If Yes, go to 14
If No, recommend the Period of Use as it existed on 11-19-1987, subject to completing the review. Go to 12
12. Does the file contain all of the necessary information to verify the Period of Use? Yes () No ()
If Yes, go to 13
If No, collect the necessary information. Conduct field exam if necessary. Go to 13
13. Is the basis of claim a decree, license or a transferred beneficial use right that has had the Period of Use administratively determined? Yes () No ()
If Yes, go to 14
If No, go to 15
14. Is irrigation claimed as a purpose of use? Yes () No ()
If Yes, go to 16
If No, recommend the Period of Use of the parent right. Go to 18
15. Is irrigation claimed as a purpose of use? Yes () No ()
If Yes, recommend the "standard" Period of Use for the location of the POU. Go to 18
If No, the Period of Use is usually recommended as claimed. Go to 18
16. Is the Period of Use on the decree, license or transfer shorter on either the start date or end date than allowable under current IDWR standards? Yes () No ()
If Yes, go to 17
If No, recommend the Period of Use of the parent right. Go to 18
17. Was the Period of Use shortened by a Transfer to a "standard" Period of Use that is shorter than the current standard Period of Use? Yes () No ()
If Yes, recommend the current standard Period of Use if the Period of Use of the parent right prior to the transfer was not established, equal to, or longer than the current standard. If the Period of Use of the parent right prior to the transfer was shorter than the current standard, recommend the Period of Use of the parent right and add the appropriate shoulder remark. Consult attorney assigned to the Basin if the Period of Use was an element transferred. Go to 18
If No, recommend the Period of Use of the parent right. Add appropriate shoulder remark. Go to 18
18. Is a Period of Use remark and/or condition required? Yes () No ()
If Yes, enter the appropriate remark and/or condition. Period of Use review is complete.
If No, Period of Use review is complete.

Period of Use

Claim No. #24 - 10007

1. Is the basis of claim a Decree or License? Yes () No ()
If Yes, go to 4
If No, go to 2
2. Is the basis of claim a Permit or Application? Yes () No ()
If Yes, go to 3
If No, go to 6
3. Has the License been issued? Yes () No ()
If Yes, go to 5
If No, recommend the Quantity shown on the Permit. Go to 11
4. Does the parent right have a diversion rate and/or volume? Yes () No ()
If Yes, go to 5
If No, go to 7
5. Can the claimed diversion rate and/or volume be verified using the water right file? Yes () No ()
If Yes, go to 8
If No, go to 7
6. Is the basis of claim a posted notice? Yes () No ()
If Yes, consult the attorney assigned to the Basin. Go to 7
If No, go to 7
7. Is a flow measurement required? Yes () No ()
If Yes, attach all related measurement documents. Describe the flow measurement that was made. Go to 9
If No, describe why a flow measurement is not required. Go to 9
8. Does the parent right have an annual diversion volume limit? Yes () No ()
If Yes, go to 10
If No, go to 9
9. Is the source Ground Water and does the purpose of use require a diversion volume limit? Yes () No ()
If Yes, go to 10
If No, go to 11
10. Is irrigation a purpose of use? Yes () No ()
If Yes, view the map of field irrigation requirements. Show the calculation of the annual diversion volume or describe how the annual diversion volume was determined. Go to 12
If No, recommend an annual diversion volume. Show the calculation of the annual diversion volume or describe how the annual diversion volume was determined. Go to 12
11. Has a diversion volume limit for this water use been established by a decree, license or transfer? Yes () No ()
If Yes, recommend an annual diversion volume. Show the calculation of the annual diversion volume or describe how the annual diversion volume was determined. Go to 12
If No, go to 12
12. Is a Quantity remark and/or condition required? Yes () No ()
If Yes, enter the appropriate remark and/or condition. Quantity review is complete.
If No, quantity review is complete.

Quantity

Claim No. A24 - 10007

1. Is the basis of claim a Decree, License, Permit, Application or Posted Notice? Yes () No ()
If Yes, go to 2
If No, go to 3
2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture? Yes () No ()
If Yes, consult the attorney assigned to the Basin. Document the period of time the right or portion of the right was not used. Go to 4
If No, status will be set as Active. Go to 5
3. Is the water being used for all of the purposes claimed and to the extent claimed? Yes () No ()
If Yes, status will be set as Active. Go to 5
If No, consult the attorney assigned to the Basin. Recommend only the uses found and limit the elements of those uses to the extent of the beneficial use found. Go to 4
4. Is any portion of the claim being recommended? Yes () No ()
If Yes, status will be set as Active. Go to 5
If No, claim will be disallowed. Enter the appropriate condition code. Status will be set as Disallowed. Go to 5
5. Does this right have any combined used limits with other rights? Yes () No ()
If Yes, go to 6
If No, go to 6
6. Is an additional remark and/or condition required? Yes () No ()
If Yes, enter the appropriate remark and/or condition. Go to 7
If No, go to 7
7. Would you like to view the recommended right? Yes () No ()
If Yes, go to 8
If No, the review is incomplete. The recommendation must be viewed to complete the review.
8. Is this a "split" or "combined" right? Yes () No ()
If Yes, go to the Update Pedigree Process in Workflow when the review is complete. Do any necessary data entry. Go to 9
If No, go to 9
9. Do you have documents you would like to attach or link to the file? Yes () No ()
If Yes, go to PowerDOCS and profile the documents. Go to 10
If No, go to 10
10. Would you like to set the verification date? Yes () No ()
If Yes, the review is complete.
If No, the review is incomplete. The recommendation must be verified to complete the review.

Summary

Claim No. 124-10085



Claim No.: _____

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

Reviewer _____ Date _____

FVL

MEMORANDUM

TO: Adjudication Bureau Staff Adjudication Memo No. 53

FROM: Dave Tuthill

DATE: January 27, 2005

RE: Adjudication Recommendations for Out-of-State Diversions or
Places of Use

For an out-of-state diversion with place of use in Idaho, prepare recommendations for all elements of the water right. For point of diversion use the location where the conveyance system enters Idaho. To clarify the point of diversion use this condition:

Condition

F15

The point of diversion for this water right is in [state], [pls, including meridian].
The point of diversion shown above is where the conveyance system enters Idaho.

Notes:

1. Digitize the POD at the location where the conveyance enters the state. This location is useful for spatial queries. Place the actual POD in the SpatialData layer.
2. As the recommendation for an out-of-state diversion is forwarded to the SRBA Court, the format will be changed in the State Office to conform with previous similar submittals.

For an in-state diversion with the place of use out-of-state, prepare recommendations for all elements except place of use. To clarify the place of use, use this condition:

The place of use for this water right [includes _ acres irrigated and] is in [state], [pls, including meridian].

Condition F16



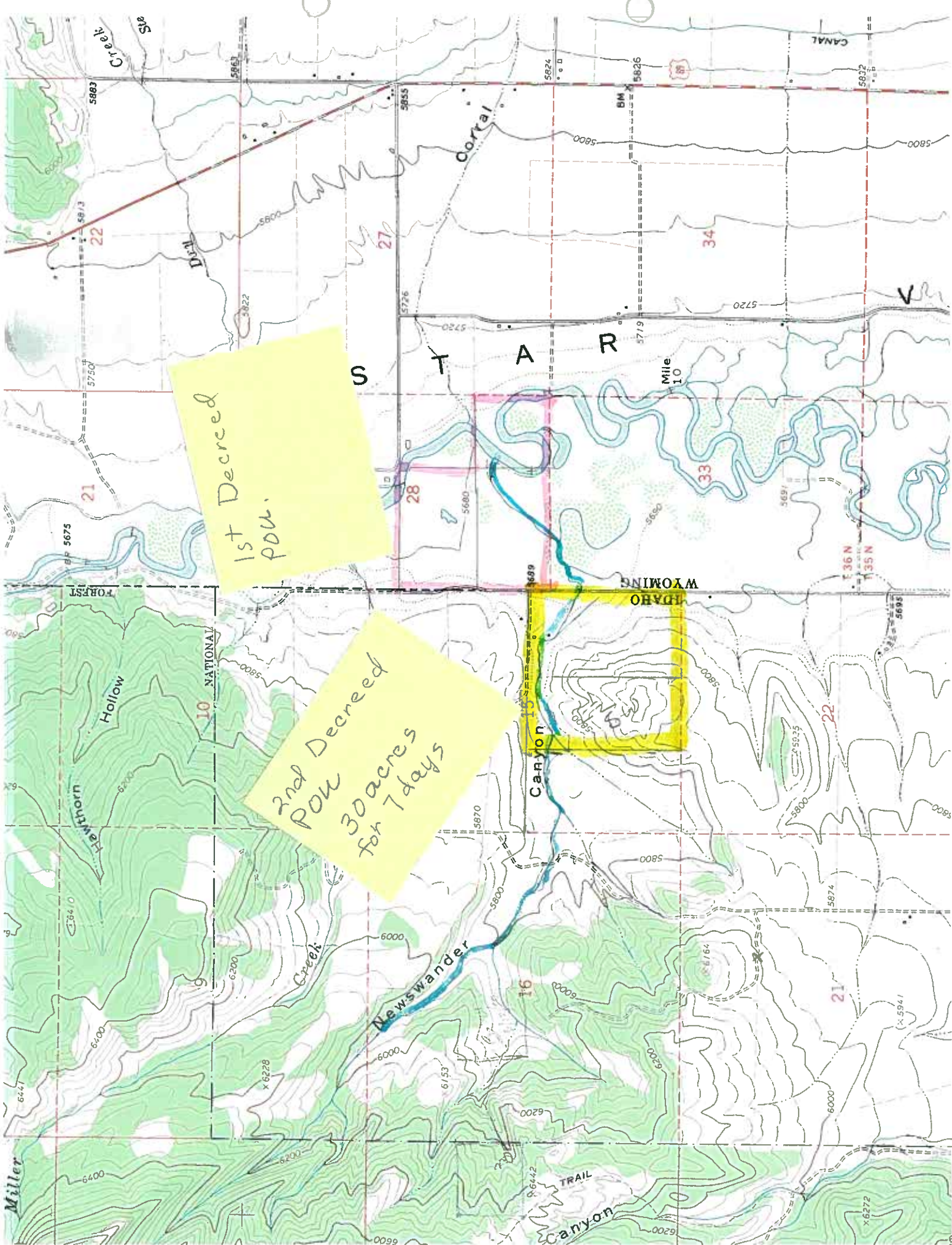
Close

From: Bird, Cindy
To: Carlsen, Ernie
Cc: Payne, Barbara; Spencer, Nick
Subject: 24-10007
Sent: 9/12/2005 4:25 PM

Importance: Normal

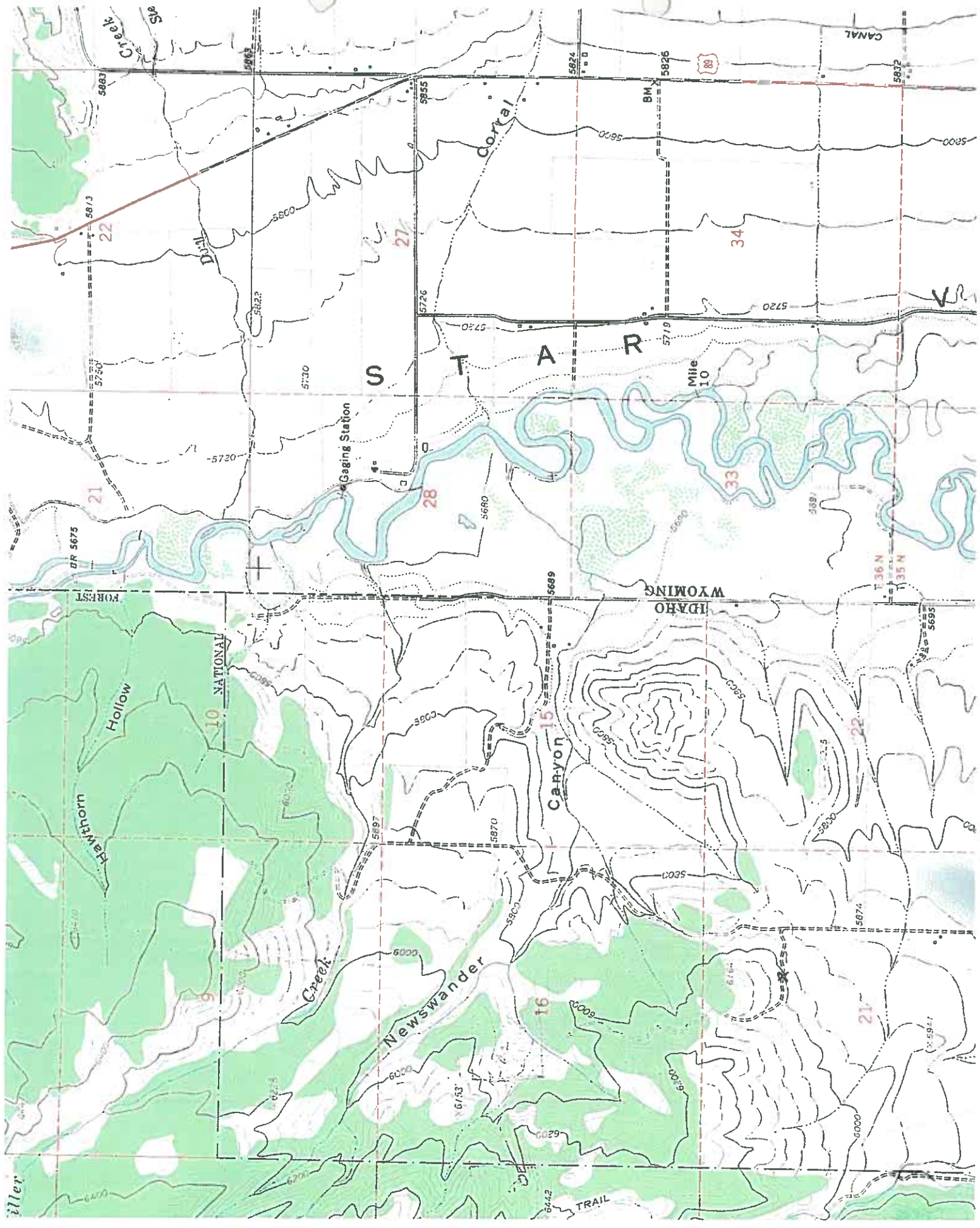
Hi Ernie,
Claim 24-10007 POU is in Wyoming and the POD is in Idaho. Do we need to create a POU shape and layout for this claim? Do we still need to verify the POU? The reason that I am asking is because it appears that the POU is larger than the 42 acres as decreed. What jurisdiction do we have in Wyoming? Thanks.

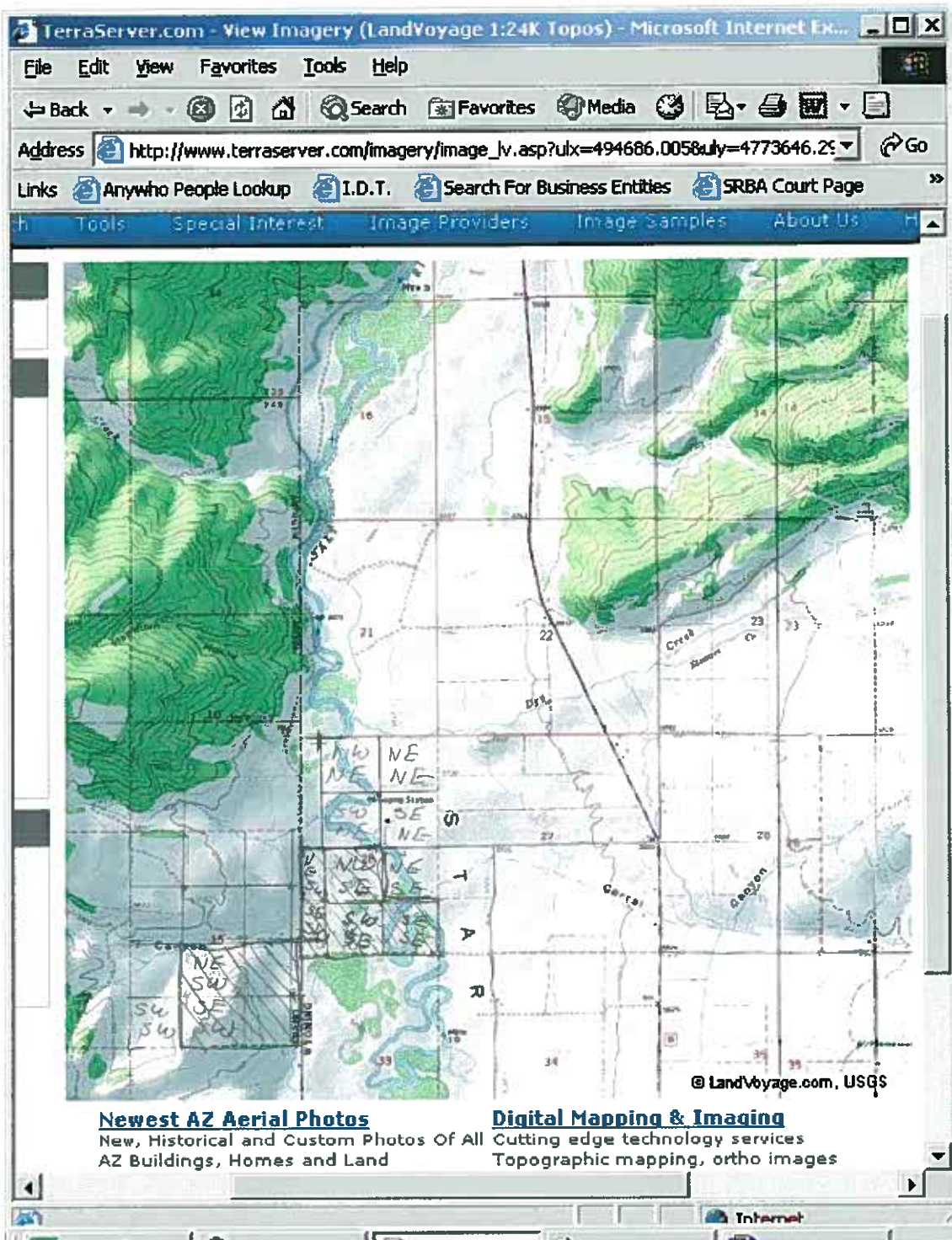
Cindy

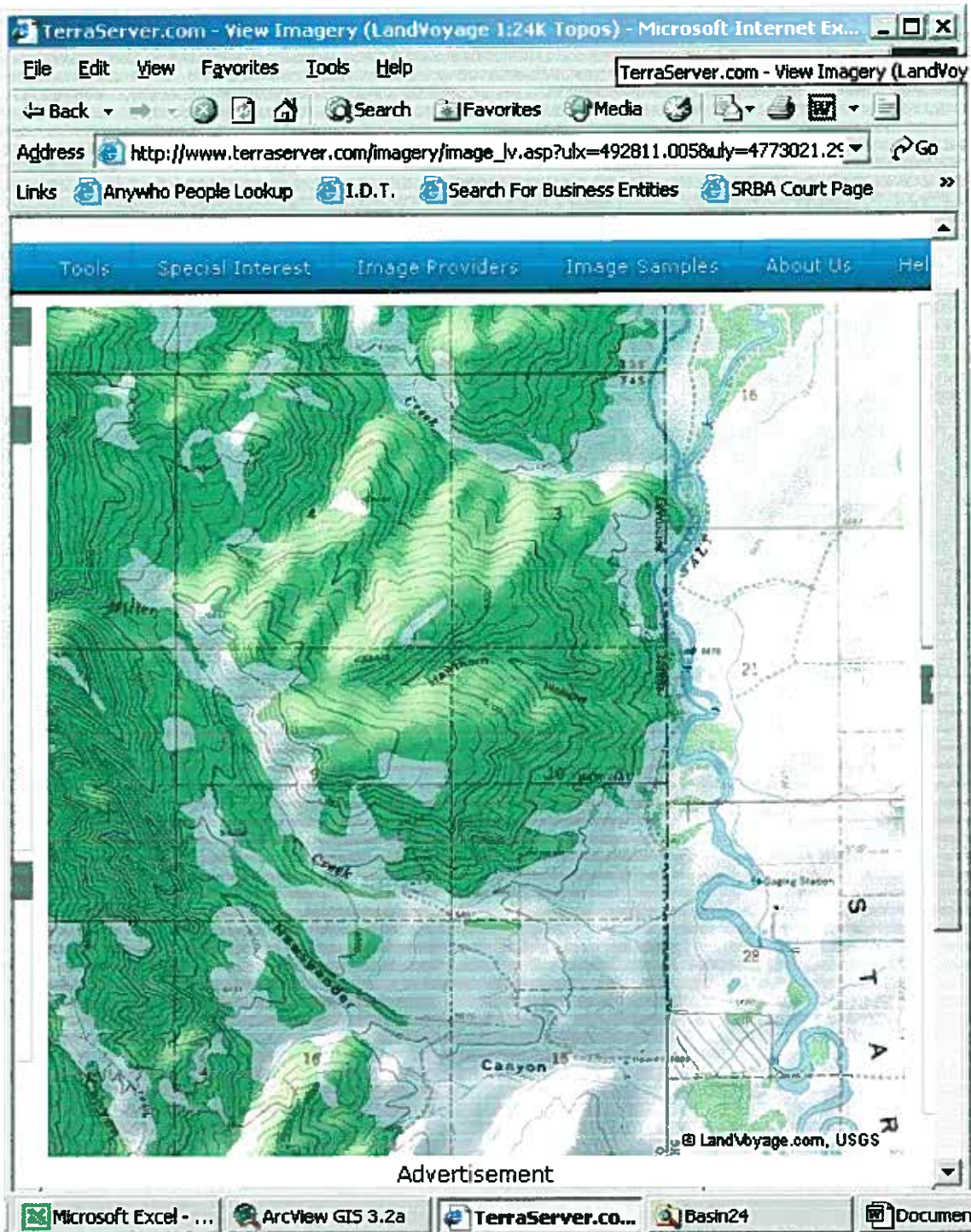


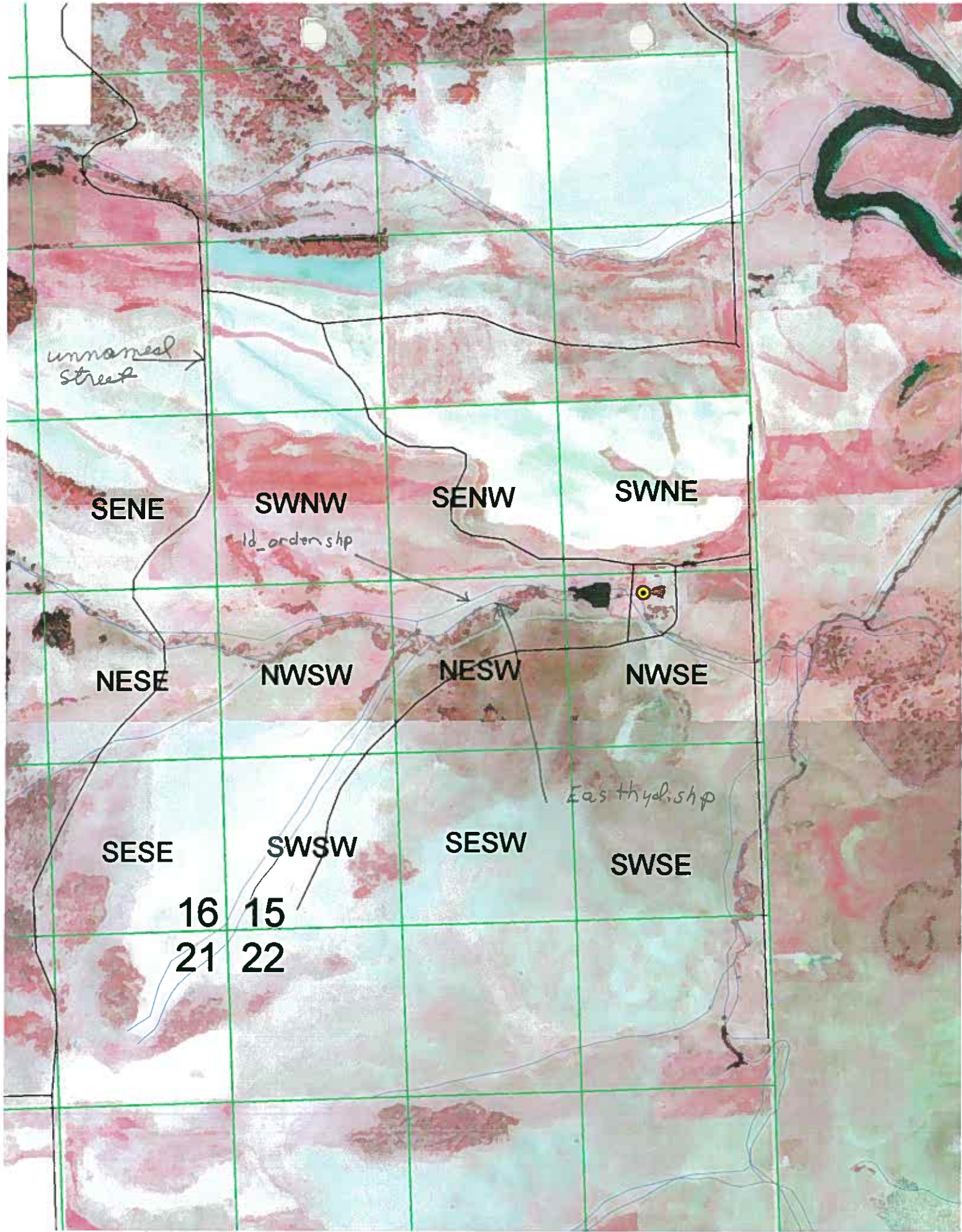
1st Decreed
POW.

2nd Decreed
POW
30 acres
for 7 days









MEMORANDUM

TO: Adjudication Bureau Staff

FROM: Dave Tuthill

DATE: Draft

RE: Adjudication Recommendations for Out-of-State Diversions or
Places of Use

For out-of-state diversions with place of use in Idaho, prepare recommendations for all elements except point of diversion. To clarify the point of diversion use this condition:

The point of diversion for this water right is in [state], [pls, including meridian].
The point of diversion shown above is where the conveyance system enters Idaho.

Note: Digitize the POD at the location where the conveyance enters the state. Place the actual POD in the SpatialData layer.

For in-state diversions with the place of use out-of-state, prepare recommendations for all elements except place of use. To clarify the place of use, use this condition:

The place of use for this water right is in [state], [pls, including meridian].

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 24-10007

WATER RIGHT NUMBER: 24-10007

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	M EUGENE HOFFMAN PO BOX 7302 JACKSON, WY 83001 (307)733-5633
Current Owner	NANCY S HOFFMAN PO BOX 7302 JACKSON, WY 83001 (307)733-5633

Priority Date: 06/01/1881

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
NEWSWANDER CREEK	SALT RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/15 to 10/15	0.840 CFS	
DOMESTIC	1/01 to 12/31	0.020 CFS	
<u>Total Diversion:</u>		0.860 CFS	

Location of Point(s) of Diversion

NEWSWANDER CREEK	NW1/4NE1/4SE1/4	Sec. 15, 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	
36N	46E	28												24.0			18.0		42.0

Total Acres: 42

DOMESTIC same as IRRIGATIONConditions of Approval:Remarks:

- General PREVIOUS OWNER OF PROPERTY WAS BRENT ROBINSON.
*** PLACE OF USE IS WITHING THE STATE OF WYOMING, DESCRIBED AS: T36N R119N
SEC. 28 24 ACRES IN SE1/4 SW1/4 AND 18 ACRES IN THE SW1/4 SE1/4 FOR A TOTAL OF
42 ACRES. *****

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 24-10007

Comments:Dates and Other Information:

Claim Received Date: 9/28/1989

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

State or Federal: S

Owner Name Connector: OR

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
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Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
----------------	------------------------	-----------------	-----------------

Decedent, and Unknown Heirs and Devisees of C. S. Stevens, deceased, Bonnaville County, a municipal corporation, unknown owners and claimants of Lots 33, 34, and 35 in Block 30 of Capitol Hill Addition to Idaho Falls, Idaho, each and all and every one of them, have no right, title or interest in or to or lien or claim upon the said described premises, or any part thereof.

VIII. That the addition in which the said described real estate is located is sometimes written Capitol Hill Addition, but that the correct name of said Addition is Capitol Hill Addition, and that wherever either of said names are used in this action, they refer to the same identical addition to the City of Idaho Falls, Idaho.

IX. That the plaintiff is entitled to the relief sought by him as prayed for in his complaint on file herein, and to the decree of this court, quieting title to said described property in the plaintiff, and barring every claim, of every nature and kind, of each and every and all of said defendants.

CONCLUSIONS OF LAW.

As conclusions of law, the Court finds that the plaintiff is the owner of the fee simple title to the premises hereinbefore described, and that this Court should enter a decree confirming his ownership thereof, and that the defendants, and each and every and all of them have no right, title, interest or lien upon, or claim in or to the said premises, or any part thereof.

JUDGMENT AND DECREE.

WHEREFORE, IT IS ADJUDGED AND DECREED that the plaintiff was at the time of the commencement of this action, and now is, the owner absolute, in fee simple, of the premises herein described, and all right and interest in said premises as such owner in fee simple is hereby declared and established.

IT IS FURTHER ADJUDGED AND DECREED that the defendants D.L. Corning, "Jana Dee" Corning, his wife, C.W. Stevens, "Mary Roe" Stevens, his wife, Unknown Heirs and Devisees of C. S. Stevens, Decedent, Bonnaville County, a municipal corporation, unknown owners and claimants to Lots 33, 34, and 35 in Block 30 of Capitol Hill Addition to Idaho Falls, Idaho, and each and every and all of them, and all persons claiming under them, or any one of them, subsequent to the filing of the notice of the pendency of this action, be, and all and every and each of them are hereby forever barred from any, every and all claim or right, or title, to said premises or lien thereon, or any part thereof. That wherever used in connection with this action, the name Capitol Hill Addition refers to and means the same as the words Capitol Hill Addition, but that the true and correct name of said addition is Capitol Hill Addition to the City of Idaho Falls, Idaho.

The following is the description of the land and premises affected by this judgment:

Lots 33 34 and 35 in Block 30 of Capitol Hill Addition to the City of Idaho Falls, Bonnaville County, State of Idaho, according to the recorded plat thereof, together with the tenements, hereditaments and appurtenances thereto belonging or in any wise appertaining.

Filed July 27, 1929.
Geo. Witt, Clerk.
By Harrison Dennis, Deputy.

C. J. Taylor, District Judge.

Civil / 2000

IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, BONNAVILLE COUNTY.

CYNTHIA MYLER AND JACOB A. MYLER,

Plaintiffs,

-vs-

W. C. ROBINSON, KIM ROBINSON, and
CLARENCE ADAMS,

Defendants.

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND DECREE.

MAY 15 1936

Compared

This cause came on regularly to be heard before the Court, on the 11th day of June, 1928, plaintiffs appearing in person and by their attorney of record O. L. Johannesen, and the defendant E. G. Robinson appearing in person and by his attorneys of record W. M. Holden and Lewis A. Lee. Witnesses were sworn and testified for and on behalf of the plaintiffs, and witnesses were sworn and testified for and on behalf of the defendants, and documentary evidence was introduced, whereupon the Court took the matter under advisement; and the Court being fully informed as to the facts and the law, and the said parties having submitted to the jurisdiction of the Court, the Court makes the following Findings of Fact, Conclusions of Law, and Decree and Judgment:

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

II. That the plaintiffs, Cynthia Miller and Jacob A. Miller are husband and wife; that the defendant Clarence Ahlert has been and is merely a tenant of the defendants E. G. Robinson and Elsie Robinson his wife, and that said named defendant has no interest whatsoever in the subject matter of this controversy and claims no right to the use of any of the waters of Keweenawwunder Creek.

III. That sometime on or about the first day of June, 1881, Cynthia Miller, one of the plaintiffs in this action, settled upon the West Half of the Southeast Quarter (SW 1/4) and the Southeast Quarter of the Southeast Quarter (SE 1/4 - SW 1/4), and Lots Three and Four (3-4) in Section 20, Township 36, North, Range 119 West of the Sixth Principal Meridian, in the State of Wyoming; and that the said named plaintiff has at all time from said date, been the owner of and in the possession of the said described premises; that the said named plaintiff is now the owner and in possession of said property.

IV. That sometime on or about the first day of June, 1881, for the purpose of irrigating the land described in the preceding paragraph, the plaintiff Cynthia Miller appropriated and diverted by means of headgate and a ditch, all of the normal flow of water flowing in what is known as Keweenawwunder Creek; that the said named plaintiff, on or about said time, constructed a dam across the said Keweenawwunder Creek and installed therein a proper headgate, said dam and headgate being located at a point near the center of Section 15, Township 4 South, Range 46 East Boise Meridian, in Bonneville County, Idaho; that the said named plaintiff also, at the said time, constructed an irrigating ditch having its point of intake upon the said named Creek, as aforesaid, and extending thence in a Northeasterly and easterly direction through the fractional East Half of said Section 15, to the land herein first described and owned by the said Cynthia Miller; that the ditch constructed and maintained by the said Cynthia Miller is approximately 5 feet wide in the bottom and about 2 feet deep, with banks of the usual slope.

V. That the said Cynthia Miller, was the first person in point of time, to appropriate and use for beneficial purposes, the waters of the said Keweenawwunder Creek, and that she has continued to divert and use from the said Creek, all of the normal flow waters flowing in said Creek, during the irrigating season of each and every year; that from the year 1881, and continuously, each and every year during the irrigating season, the said Cynthia Miller has, under the claim of absolute ownership, diverted and used all of the aforesaid normal flow waters in the said named Creek, upon the land herein first described and owned by said Cynthia Miller, for the irrigation of said lands, and by means of such irrigation has grown crops thereon; that the land herein first described is arid in character, and would not grow the crops successfully and profitably unless irrigated; that all of the aforesaid waters flowing in the said named Creek are necessary to the proper irrigation of the said described lands and the successful growing of crops thereon.

VI. That the ditch hereinbefore referred to, and which has its point

RECORDED
MAY 15 1936

2

of intake on the said Neuenekwunder Creek near the center of Section 15, Township 4 South, Range 46 East Boise Meridian, extends through the farming land owned by the defendants W. G. Robinson and Elsie Robinson, and now occupied under a lease held by the defendant Clarence Luskent; that the plaintiff Cynthia Miller has, at all times from on or about the first day of June, 1881, claimed and now claims to be the owner of and entitled to the use of the aforesaid ditch and the necessary right-of-way therefor; that the said claim of ownership by the said Cynthia Miller has been open and notorious and has been fully known at all times to the defendants herein.

VII. That since the filing of the complaint in this action, and some time on or about the 13th day of September, 1936, plaintiffs were induced to enter into a written agreement with the defendant W. G. Robinson, and which agreement has been introduced in evidence in this action; that the said agreement and its terms were mis-understood by the plaintiffs, and therefore should be annulled and cancelled, and rendered for naught.

VIII. That the defendants W. G. Robinson and Elsie Robinson are owners of certain lands situated in Bonanza County, State of Idaho, and described as the East Half of the Southwest quarter (NE-1/4), and Lots Three and Four (3-4) in Section 15, Township 4 South, Range 46 East Boise Meridian, about thirty acres of which can be irrigated from the aforesaid Neuenekwunder Creek. That sometime on or about the 12th day of May 1904 William R. Robinson, the predecessor in interest of the defendant W. G. Robinson, obtained a permit, being Permit No. 593, from the Department of Reclamation of the State of Idaho, authorizing the appropriation of 2.8 second feet of the waters of said Creek with a priority date of May 12, 1904.

IX. That the plaintiffs herein have irrigated approximately one hundred acres of land on the premises owned by them and heretofore described, such appropriation and use dating from the year 1881. That excepting for the plaintiffs and the defendants W. G. Robinson and Elsie Robinson, there are no other person or persons using water from the said Neuenekwunder Creek.

X. That the plaintiffs have consented, in open Court, that a decree may be entered by this Court to the effect that plaintiffs have the first and prior right to the use of all of the said normal flow waters of Neuenekwunder Creek, for use upon the land described in paragraph III of these Findings of Fact, with a priority date of June 1st 1881, and that when said water is not in use by the plaintiffs for irrigation of their said lands, the said water may be used by the defendants Robinson in the irrigation of thirty acres of their land, and with the further provision that after the plaintiffs have fully and completely irrigated their said lands for the first time each season, and the water is returned back to the Creek, the said water shall be permitted to flow continuously for a period of seven consecutive days, so that it can be diverted and used by the said defendants Robinson upon the thirty acres of their land, or so much of said water as may be necessary in the irrigation of their said land, and that after the said period of seven days, the said plaintiffs may again divert all of the normal flow waters of said Creek and use the same in the second irrigation of their said lands, and that after the completion of the second irrigation and return of the water to the Creek, the defendants Robinson shall be permitted to divert and use the said water or so much thereof as may be necessary for another continuous period of seven days, and that in this manner the said plaintiffs and defendants Robinson shall alternate the use of the said water during the irrigation season of each year.

XI. That "Cynthia Hunt Miller" is the same identical person as "Cynthia Miller", one of the plaintiffs in the above entitled action; that the name "Neuenekwunder Creek" is sometimes written "Neuenawunder Creek", but that both names re-

T4S, R46E, Sec. 15

T4S, R46E, Sec. 15,
E1/2 SW, Lots 3+4
30.0 ac.

MAY 15 1936

present and identify the same stream of water, and the creek from which the parties of this action are now diverting and using waters as referred to and described above.

Conclusions of Law.

In conclusions of Law, the Court finds that the plaintiffs are entitled to the decree of this Court, in accordance with the findings of fact herein contained and are entitled to have decreed to them the normal flow waters of Neuenhewander Creek for the irrigation of their said described lands, subject only to the provisions and arrangements with respect to the alternating of the use of the water as hereinbefore provided for.

Decree and Judgment.

It is hereby ordered, adjudged and decreed:

I. That the agreement entered into on the 13th day of September, 1925 by and between the plaintiffs and the defendant W. C. Robinson, he, and the same is hereby cancelled, annulled and by the decree of the Court rendered as though the same had never been entered into.

II. That Cynthia Miller and Jacob A. Miller, are the owners of and entitled to the use of all of the normal flow waters flowing in what is known as Neuenhewander Creek, a natural stream of water situated in the State of Idaho, and being principally located in the Southeastern part of Bonnaville County, in said State, with a priority date of June 1st, 1901, subject only to a certain arrangement relative to the use of said water, as herein more fully set out.

III. That the said named plaintiffs are the owners of a certain irrigation ditch having its point of intake on the Neuenhewander Creek at or near the center of Section 15, Township 4 South, Range 46, East Boise Meridian, and which extends from said point of origin through the fractional East half of said described Section, in a northeasterly and easterly direction, and crosses the State line between the States of Idaho and Wyoming, and thence to and on the lands of the plaintiffs, described as:

The East Half of the Southeast Quarter (W $\frac{1}{2}$ -SE $\frac{1}{4}$) and the Southeast quarter of the Southeast Quarter (SE $\frac{1}{4}$ -SE $\frac{1}{4}$) and Lots 3 and 4, in Section 28, Township 26 North, Range 119 West of the Sixth Principal Meridian, in the State of Wyoming.

IV. That the said plaintiffs have been at all times, from and ever after the first day of June, 1901, and they now are, the owners absolute, of the said normal flow waters hereinbefore referred to, and of the ditch hereinbefore described, and the right and interest in said waters and in said ditch, as such owners, dating from the first day of June, 1901, is hereby declared and established, subject only to the provisions hereinbefore set out relative to the use of said water.

V. That the plaintiffs herein, during each annual irrigation season, in perpetuity, and their successors and assigns, are entitled to use, before any other person or persons whomsoever, for the irrigation of the West Half of the Southeast Quarter, and the Southeast Quarter of the Southeast Quarter, and Lots 3 and 4, in Section 28, Township 26, North, Range 119 West of the Sixth Principal Meridian, in the State of Wyoming, all of the normal flow of waters flowing in Neuenhewander Creek, and which may be required by them for the first irrigation of all crops growing and standing upon the said described premises, and to continue and use of all of such waters until all of the crops upon the said lands have been fully and completely irrigated; that after the said plaintiffs, their successors and assigns, have completed the first irrigation of all of the crops growing and standing upon the premises aforesaid, they shall permit the defendant W. C. Robinson, his successors and assigns, to have the use of all of the normal flow waters of said Neuenhewander Creek, or so much thereof as may be necessary, and which may be required in the irrigation of thirty acres of the East Half of the Southwest Quarter, and Lots 3 and 4, Sec.

T4S, R46E, Sec. 15

Path of stream:

T36N, R119W, Sec. 28,
W $\frac{1}{2}$ SE, SESE, Lots 3 & 4

1st User
1st Water in
T36N, R119W, Sec. 2
W $\frac{1}{2}$ SE, SESE
Lots 3 & 4,

2nd User, 1st Water
T4S, R46E, Sec. 15
E $\frac{1}{2}$ SW
Lots 3 & 4
3000
7 days

irrigate 3000 for 7 days

tion 15, Township 4 South, Range 46 East Boise Meridian, Bonneville County, Idaho, and to continue the use of such water for a period of seven (7) days, such use to be repeated annually, in perpetuity, after the plaintiffs, their successors and assigns, have completed the first irrigation of their premises, heretofore described; that after the defendant W. G. Robinson, his heirs and assigns, have had the use of the aforesaid water, or so much thereof as they may have required, for a period of seven consecutive days, then the use of the water shall revert again to the plaintiffs herein, their heirs and successors, who shall have the right to use all of the waters of said Housenickwader Creek for the second irrigation of their premises, heretofore described, and to retain the use of said water until all of the crops growing and standing, upon the aforesaid premises have been fully and completely irrigated; that after plaintiffs, their successors and assigns, have completed the second irrigation of their aforesaid lands, the use of said waters shall revert to the defendant W. G. Robinson his heirs and assigns, who shall be entitled to the use thereof for a period of seven consecutive days; that thereafter the said water shall, in like manner and for like periods, rotate back and forth between the aforesaid parties; that nothing in this decree shall be construed to in any manner limit the number of days that the said plaintiffs, their heirs and assigns, shall have the use of the aforesaid waters, for each irrigation, it being hereby expressly provided that the said named parties shall be entitled to the use of all of said waters, during each irrigation, until all of the crops growing and standing upon their said described premises have been fully and completely irrigated, the said plaintiffs and their heirs and assigns being the sole judges as to the length of time required in so doing; that the defendant W. G. Robinson, his heirs and assigns, are expressly limited to the use of said water to periods of not exceeding seven (7) days, for each successive irrigation, such time to commence with the day succeeding the day on which the plaintiffs, their heirs and assigns, have completed the irrigation of the crops on their said described lands, and have so advised the said W. G. Robinson, his heirs and assigns.

Done this 27th day of July, 1928.

Filed July 27, 1928
Geo. Witt, Clerk,
by Harrison Dennis, Deputy.

C. J. Taylor
District Judge.

Civil # 3205
IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT, OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE.

WMA GEIST
vs.
Plaintiff,
FRANCIS GEIST
Defendant.

DEFAULT

IN THIS ACTION, The defendant Francis Geist, having been regularly served with process, and having failed to appear and answer the Plaintiff's complaint on file herein, and the time allowed by law for answering having expired, upon application of A. H. Wilkie, attorney for plaintiff, the default of the said defendant Francis Geist, in the premises is hereby duly entered according to law.

SEAL

Geo. Witt, Clerk of said Court.

ATTEST by hand and seal of said Court: this third day of August., A.D. 1928.

Filed Aug. 3, 1928
Geo. Witt, Clerk,
by Alice E. Balo, Deputy.

Geo. Witt, Clerk.
by Alice E. Balo, Deputy Clerk.

MAY 15 1996

T4S, R46E, Sec. 15
E 1/2 SW, Lots 344

1st User, 2nd Watering
Wyoming

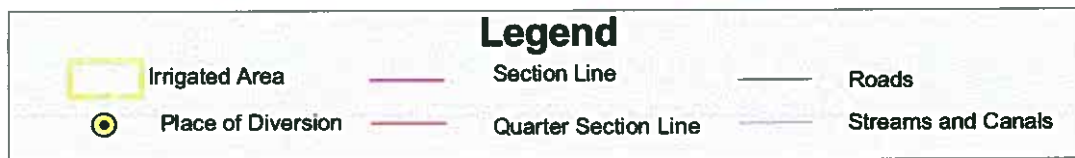
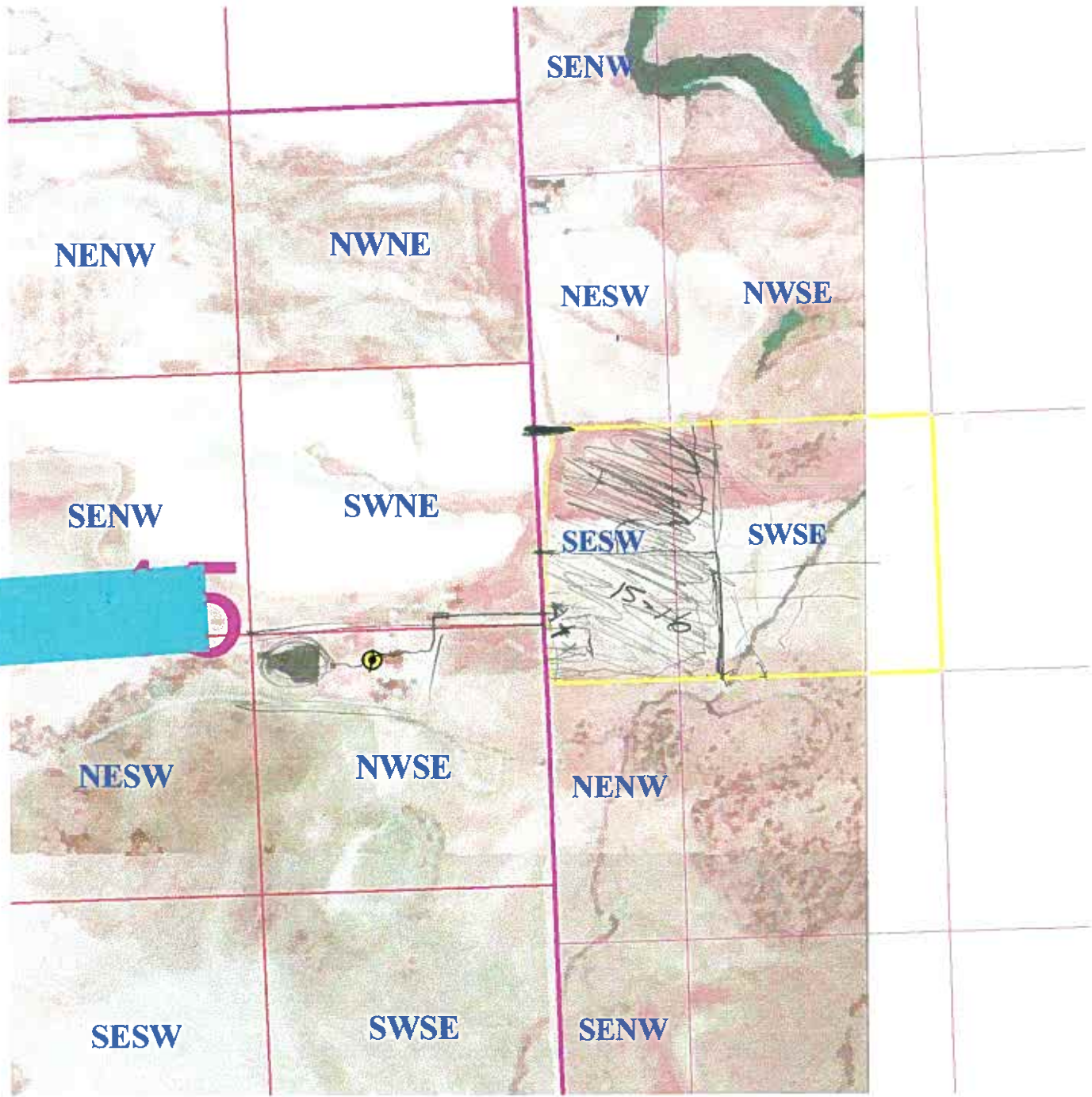
2nd User 2nd Idaho Watering
7 days
Rotation until end of irrigation season.

Compared

Water Right Claim Number 24-10007

Township , 10S45E

05/01/2001

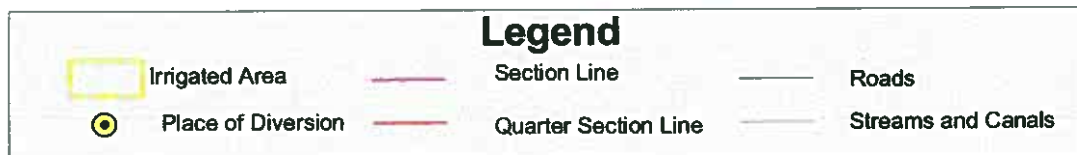
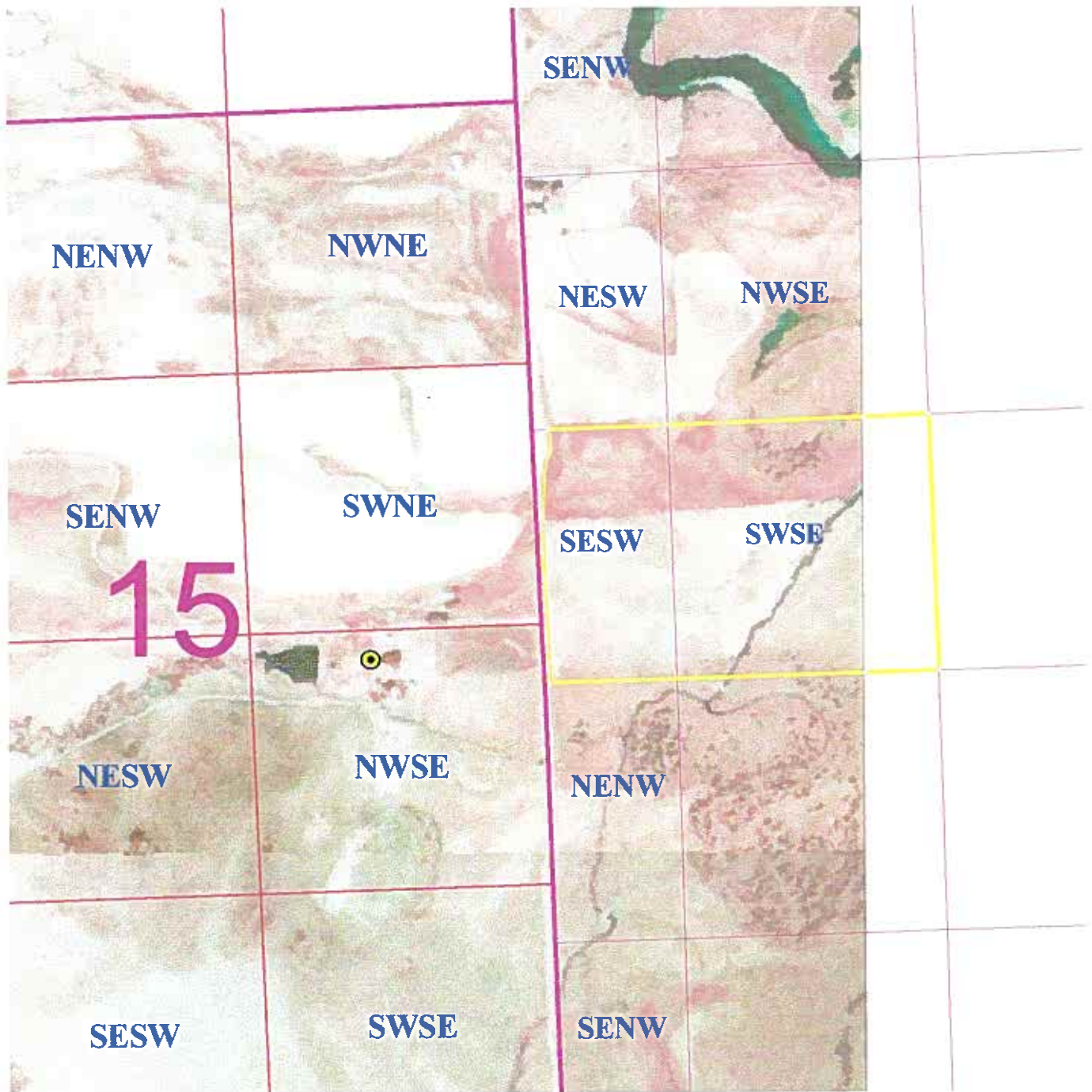


500 0 500 1000 Feet



Water Right Claim Number 24-10007
Township , 10S45E

05/01/2001

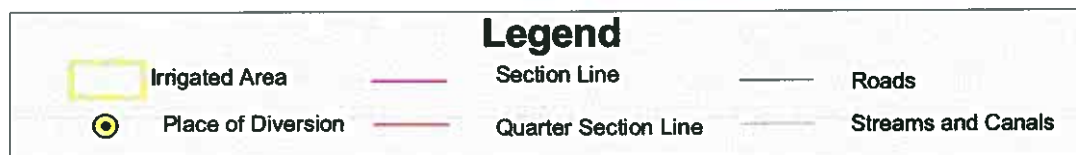
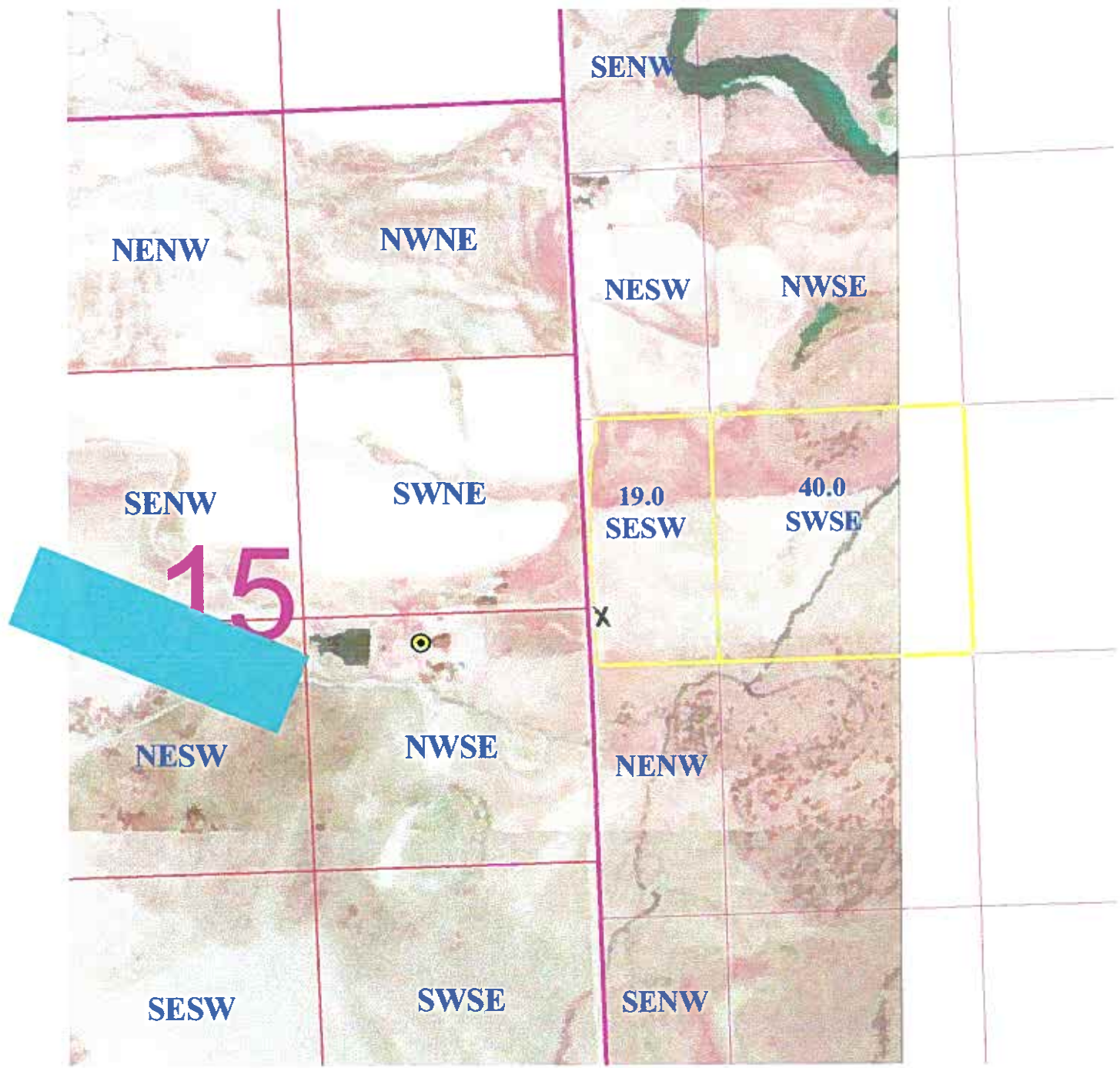


500 0 500 1000 Feet



Water Right Claim Number 24-10007
Township , 10S45E

05/01/2001



500 0 500 1000 Feet



CLAIMANT'S NAME HOFFMAN CLAIM NO. A24-10007DATE RECEIVED 9/28/89 CK # _____ AMOUNT \$ _____

- | | YES | NO | Required Info? |
|--|----------|----------|----------------|
| 1. Is the name and address complete with zip code? | <u>X</u> | | * |
| 2. Is a priority date entered? | <u>X</u> | | * |
| Is the priority date acceptable in view of mandatory filing dates? | <u>X</u> | | * |
| See Adjudication Memos #1 and #4 to determine if a Permit is required. | <u>X</u> | | * |
| 3. (a) Is a source entered? | <u>X</u> | | * |
| (b) Is a tributary to entered? (if required) N/A <u>SE</u> | <u>X</u> | | * |
| 4. Is the legal description of the p.d. sufficient? | <u>X</u> | | * |
| 5. Is there a description of the diverting works? | <u>X</u> | | |
| 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. | <u>X</u> | | * |
| Is the period of use included? | <u>X</u> | | |
| Is a quantity claimed for each use? | <u>X</u> | | * |
| 7. Is a total quantity claimed entered? | <u>X</u> | | |
| 8. If required is a consumptive use entered? N/A | <u>X</u> | | |
| Is the consumptive use correct? N/A | | <u>X</u> | |
| 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. | <u>X</u> | | * |
| 10. Is (are) the place(s) of use and purpose(s) indicated? | <u>X</u> | | * |
| 11. Is (are) the county(ies) entered? | <u>X</u> | | |
| 12. Is the ownership of p.u. checked? | <u>X</u> | | |
| 13. Are other water rights listed or "none" indicated? | <u>X</u> | | |
| 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 | <u>X</u> | | |
| 15. Is the basis of the claim indicated? | <u>X</u> | | |
| 16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.) N/A | <u>X</u> | | |
| 17. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block. | <u>X</u> | | * |
| 18. Has the claim been signed, sealed, and dated by a notary? | <u>X</u> | | * |
| 19. Was this claim filed on time, or was an extension granted? | <u>X</u> | | * |
| 20. Is the fee enclosed correct? Exempt | <u>X</u> | | * |
| 21. If this claim is based on an existing water right, has the identification number been entered? N/A | | <u>X</u> | |
| 22. Should this claim be data entered? | <u>X</u> | | |

Claim checked by: TC Date: 9/29/89Claim must be returned to claimant: (Yes) X (No)Claimant must be notified of modifications: (Yes) X (No)

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

Comments: P/D IN IDAHO, P/U IN WYOMING, NEED FOR RESEARCH COUNTY RECORDS FOR BASIS OF CLAIM
NOV 8 6 1989
CODE P/U IN REMARKS



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

Date: September 18, 1989

Nancy and M. Eugene Hoffman
P.O. Box 7302
Jackson, WY 83001

RE: Notice(s) of Claim to a Water Right Returned

Dear Mr. and Mrs. Hoffman:

The Idaho Department of Water Resources (IDWR) is returning your check #3104 (\$92.00) and Notice(s) of Claim to a Water Right because of insufficient information and/or fees. All items on the notice(s) must be correctly completed and fees submitted before the IDWR can process the claim(s).

Please correct the items identified below and return the forms to the IDWR within 30 days of the date of this letter. Failure to return the corrected notice(s) within the 30-day period may result in an assessment of an additional \$50.00 late-fee.

- A separate Notice of Claim must be submitted for each water right, Wolfley Creek (6/1/91) and Newswander Creek (6/1/1881).
- The point where water is diverted from Wolfley Creek (aka Miller Creek), must be listed in Item #4 and on the map of your irrigation system for the Wolfley Creek Notice of Claim.
- The filing fee for each irrigation Notice of Claim is \$50.00 plus \$1.00 per irrigated acre, however, the acreage fee must only be paid once. For example, if you submit two Notices of Claim for the same 42 acres, the total filing fee would be \$142.00.

If you have any questions, please call Tony Olenichak, Water Right Agent, at (208)-525-7161.

Sincerely,

Ernest Carlsen
Adjudication Supervisor

Enclosure

MICROFILMED

NOV 06 1992

CONTINUATION OF ABSTRACT OF TITLE

PREPARED BY

THE OFFICE OF COUNTY CLERK AND
EX-OFFICIO REGISTER OF DEEDS
LINCOLN COUNTY, WYOMING

Sheet No. 17

Recorder's No. 164080

CHARACTER OF INSTRUMENT

Mortgage Deed

GRANTORS

Or the Parties of the First Part

TO

GRANTEES

Or Parties of the Second Part

in K. Clinger and Arlean S. Clinger,
and wife

Land Bank Commissioner

Date of Instrument 9/7/45

Date of Record 10/16/45

Book 22 of Mortgages

Page 430

Consideration \$ 700.00

Are Signatures Sealed?

Acknowledged 9/25/45 before Orrin Jenkins

Notary Public and for Lincoln

County Wyo.

Is Official Seal Attached? Yes Date of Expiration of Commission 10/20/48

Names of Witnesses

Granting Words grant, bargain, sell and convey

DESCRIPTION AND REMARKS

SE 1/4 and the W. 10 A. of SE 1/4 Sec. 28 T. 36 N., R. 119 W. 6th P.M., Wyo., containing 50 A. and Lots 3 & 4, excepting the N. 5 A. of said Lot 3 Sec. 28 T. 36 N., 117 W. 6th P.M., Wyo.

Subject to right of way for telephone and electric transmission and distribution lines, ditches and public roads, as may now exist over and across said property, together with all water rights, and rights in ditches, canals and laterals, and rights of way therefor, appurtenant to said premises or used in connection therewith now and/or at any time during the existence of this mtg., including (but not limited to) the following: Right to the use of the waters of Housenwunder Creek with priority as of 6/1/81 as evidenced by decree filed 6/27/28 in Book 7 Judgments page 264, rec. Bonneville County, Ida., and to the use of the waters of Wolfley Creek with priority as of 6/1/91 as evidenced by suppl. order and decree dated 5/4/34 in Book 9 Judgments page 328, rec. of said County and State,

Knowledge is according to Wyo. Statutory form

Subject to mtg. to Federal Land Bank of Spokane for \$4300.00

JACOB MILLER

WOLFLEY CREEK

PAGE 433 BOOK NUMBER

4 OF MISSILE RECORD

Judgement Records

Book 7 April 29, 1927

through Oct. 14, 1929

IN THE MATTER OF:)
Establishing a Water Right)
in Neuenschwander Creek)
_____)
State of Idaho)
County of Bonneville)

AFFIDAVIT

Glen Robinson and Elsie Robinson being first duly sworn,

depose and say: That we and each of us know that since at least sometime in approximately 1904, water from Neuenschwander Creek has been used regularly and at least annually for irrigation purposes on certain real property in Lincoln County, Wyoming, more particularly described as follows:

In Section 28, Township 36 North Range 119 West of Sixth Principal Meridian, to-wit:
Beginning at the Southwest Corner of Lot 4 which is the SE 1/4 SW 1/4 of said Section, and running thence North 48 rods; thence East 140 rods; thence South 48 rods; thence West 140 rods, to the place of beginning, containing 42 acres of land, together with improvements and water-rights.

We and each of us lived on land adjoining that hereinabove described for many years, and since said date we have had occasion to be in the area frequently since we still had family living in the area and had business interests that required attention there.

We make this affidavit both jointly and severally and for the purpose of establishing the use of the water from the mentioned Creek on the real property hereinabove described for the benefit of the present owners, Brent Robinson and Ilta Robinson, husband and wife, who own the real property as joint tenants and not as tenants in common, with full rights of survivorship.

Elsie Robinson
William A. Robinson
(signature)

Subscribed and sworn to before me this 9th day of October 1976.

John M. [Signature]
(notary public)

Residing at Idaho Falls, Idaho
My commission expires Dec. 15, 1976.

deceased, and Unknown Heirs and Devisees of C. S. Stevens, deceased, Bonneville County, a municipal corporation, unknown owners and claimants of Lots 33, 34, and 35 in Block 30 of Capitol Hill Addition to Idaho Falls, Idaho, each and all and every one of them, have no right, title or interest in or to or lien or claim upon the said described premises, or any part thereof.

VIII. That the addition in which the said described real estate is located is sometimes written Capitol Hill Addition, but that the correct name of said Addition is Capitol Hill Addition, and that wherever either of said names are used in this action, they refer to the same identical addition to the City of Idaho Falls, Idaho.

IX. That the plaintiff is entitled to the relief sought by him as prayed for in his complaint on file herein, and to the decree of this court, quieting title to said described property in the plaintiff, and barring every claim, of every nature and kind, of each and every and all of said defendants.

CONCLUSIONS OF LAW.

As conclusions of law, the Court finds that the plaintiff is the owner of the fee simple title to the premises hereinbefore described, and that this Court should enter a decree confirming his ownership thereof, and that the defendants, and each and every and all of them have no right, title, interest or lien upon, or claim in or to the said premises, or any part thereof.

JUDGMENT AND DECREE.

WHEREFORE, IT IS ADJUDGED AND DECREED that the plaintiff was at the time of the commencement of this action, and now is, the owner absolute, in fee simple, of the premises herein described, and all right and interest in said premises as such owner in fee simple is hereby declared and established.

IT IS FURTHER ADJUDGED AND DECREED that the defendants D.W. Corning, "Jane Doe" Corning, his wife, C.S. Stevens, "Mary Roe" Stevens, his wife, Unknown Heirs and Devisees of C. S. Stevens, Deceased, Bonneville County, a municipal corporation, Unknown owners and claimants to Lots 33, 34, and 35 in Block 30 of Capitol Hill Addition to Idaho Falls, Idaho, and each and every and all of them, and all persons claiming under them, or any one of them, subsequent to the filing of the notice of the pendency of this action, be and all and every and each of them are hereby forever barred from any, every and all claim or right, or title, to said premises or lien thereon, or any part thereof. That wherever used in connection with this action, the name Capitol Hill Addition refers to and means the same as the words Capitol Hill Addition, but that the true and correct name of said addition is Capitol Hill Addition to the City of Idaho Falls, Idaho.

The following is the description of the land and premises affected by this judgment:

Lots 33 34 and 35 in Block 30 of Capitol Hill Addition to the City of Idaho Falls, Bonneville County, State of Idaho, according to the recorded plat thereof, together with the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining.

Filed July 27, 1928.
Geo. Witt, Clerk,
By Harrison Dennis, Deputy.

C. J. Taylor, District Judge.

Civil / 2000

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

CYNTHIA MILLER AND JACOB A. MILLER,
-vs- Plaintiffs,
W. C. ROBINSON, EUGENE ROBINSON, and
CLARA ROBINSON, Defendants.

FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND DECREE.

This cause came on regularly to be heard before the Court on the 11th day of June, 1926, plaintiffs appearing in person and by their attorney of record O. A. Johannesen, and the defendant W. G. Robinson appearing in person and by his attorneys of record H. M. Holden and Lewis A. Lee. Witnesses were sworn and testified for and on behalf of the plaintiffs, and witnesses were sworn and testified for and on behalf of the defendants, and documentary evidence was introduced, whereupon the Court took the matter under advisement; and the Court being fully informed as to the facts and the law, and the said parties having submitted to the jurisdiction of the Court, the Court makes the following Findings of Fact, Conclusions of Law, and Decree and Judgment:

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

II. That the plaintiffs, Cynthia Miller and Jacob A. Miller are husband and wife; that the defendant Clarence Ashment has been and is now a tenant of the defendants W. G. Robinson and Elsie Robinson his wife, and that said named defendant has no interest whatsoever in the subject matter of this controversy and claims no right to the use of any of the waters of Neuenschwander Creek.

III. That sometime on or about the first day of June, 1931, Cynthia Miller, one of the plaintiffs in this action, settled upon the West Half of the Southeast Quarter (SE¹/₄) and the Southeast Quarter of the Southeast Quarter (SE¹/₄ of SE¹/₄), and Lots Three and Four (3-4) in Section 28, Township 35, North, Range 119 East of the Sixth Principal Meridian, in the State of Idaho, and that the said named plaintiff has at all time from said date, been the owner of and in the possession of the said described premises; that the said named plaintiff is now the owner and in possession of said property.

IV. That sometime on or about the first day of June, 1931, for the purpose of irrigating the land described in the preceding paragraph, the plaintiff Cynthia Miller appropriated and diverted by means of headgates and a ditch, all of the normal flow of water flowing in what is known as Neuenschwander Creek; that the said named plaintiff, on or about said time, constructed a dam across the said Neuenschwander Creek and installed therein a proper headgate, said dam and headgate being located at a point near the center of Section 15, Township 4 South, Range 46 East Boise Meridian, in Bonneville County, Idaho; that the said named plaintiff also, at the said time, constructed an irrigating ditch having its point of intake upon the said named Creek, as aforesaid, and extending thence in a northeasterly and easterly direction through the fraction 1 East Half of said Section 15, to the land herein first described and owned by the said Cynthia Miller; that the ditch constructed and maintained by the said Cynthia Miller is approximately 5 feet wide in the bottom and about 2 feet deep, with banks of the usual slope.

V. That the said Cynthia Miller, was the first person in point of time, to appropriate and use for beneficial purposes, the waters of the said Neuenschwander Creek, and that she has continued to divert and use from the said Creek, all of the normal flow waters flowing in said Creek, during the irrigating season of each and every year; that from the year 1931, and continuously, each and every year during the irrigating season, the said Cynthia Miller has, under the claim of absolute ownership, diverted and used all of the aforesaid normal flow waters in the said named Creek, upon the land herein first described and owned by said Cynthia Miller, for the irrigation of said lands, and by means of such irrigation has grown crops thereon; that the land herein first described is arid in character, and would not grow the crops successfully and profitably unless irrigated; that all of the aforesaid waters flowing in the said named Creek are necessary to the proper irrigation of the said described lands and the successful growing of crops thereon.

VI. That the ditch heretofore referred to, and which has its point

of intake on the said Neuenschwander Creek near the center of Section 15, Township 4 South, Range 46 East Boise Meridian, extends through the farming land owned by the defendants W. G. Robinson and Elsie Robinson, and now occupied under a lease held by the defendant Clarence Akment; that the plaintiff Cynthia Miller has, at all times from on or about the first day of June, 1881, claimed and now claims to be the owner of and entitled to the use of the aforesaid ditch and the necessary right-of-way therefor; that the said claim of ownership by the said Cynthia Miller has been open and notorious and has been fully known at all times to the defendants herein.

VII. That since the filing of the complaint in this action, and sometime on or about the 12th day of September, 1926, plaintiffs were induced to enter into a written agreement with the defendant W. G. Robinson, and which agreement has been introduced in evidence in this action; that the said agreement and its terms were mis-understood by the plaintiffs, and therefore should be annulled and cancelled, and rendered for naught.

VIII. That the defendants W. G. Robinson and Elsie Robinson are owners of certain lands situated in Bonneville County, State of Idaho, and described as the East Half of the Southwest quarter (E $\frac{1}{2}$ -SW $\frac{1}{4}$), and Lots Three and Four (3-4) in Section 15, Township 4 South, Range 46 East Boise Meridian, about thirty acres of which can be irrigated from the aforesaid Neuenschwander Creek. That sometime on or about the 12th day of May 1904 William P. Robinson, the predecessor in interest of the defendant W. G. Robinson, obtained a permit, being Permit No. 593, from the Department of Reclamation of the State of Idaho, authorizing the appropriation of 2.8 second feet of the waters of said Creek with a priority date of May 12, 1904.

IX. That the plaintiffs herein have irrigated approximately one hundred acres of land on the premises owned by them and hereinbefore described, such appropriation and use dating from the year 1881. That excepting for the plaintiffs and the defendants W. G. Robinson and Elsie Robinson, there are no other person or persons using water from the said Neuenschwander Creek.

X. That the plaintiffs have consented, in open Court, that a decree may be entered by this Court to the effect that plaintiffs have the first and prior right to the use of all of the said normal flow waters of Neuenschwander Creek, for use upon the land described in paragraph III of these Findings of Fact, with a priority date of June 1st 1881, and that when said water is not in use by the plaintiffs for irrigation of their said lands, the said water may be used by the defendants Robinson in the irrigation of thirty acres of their land, and with the further provision that after the plaintiffs have fully and completely irrigated their said lands for the first time each season, and the water is returned back to the Creek, the said water shall be permitted to flow continuously for a period of seven consecutive days, so that it can be diverted and used by the said defendants Robinson upon the thirty acres of their land, or so much of said water as may be necessary in the irrigation of their said land, and that after the said period of seven days, the said plaintiffs may again divert all of the normal flow waters of said Creek and use the same in the second irrigation of their said lands, and that after the completion of the second irrigation and return of the water to the Creek, the defendants Robinson shall be permitted to divert and use the said water or as much thereof as may be necessary for another continuous period of seven days, and that in this manner the said plaintiffs and defendants Robinson shall alternate the use of the said water during the irrigation season of each year.

XI. That "Cynthia Hunt Miller" is the same identical person as "Cynthia Miller", one of the plaintiffs in the above entitled action; that the name "Neuenschwander Creek" is sometimes written "Neuenswander Creek", but that both names re-

present and identify the same stream of water, and the creek from which the parties of this action are now diverting and using waters as referred to and described above.

Conclusions of Law.

As conclusions of Law, the Court finds that the plaintiffs are entitled to the decree of this Court, in accordance with the findings of fact herein contained and are entitled to have decreed to them the normal flow waters of Neuenschwander Creek for the irrigation of their said described lands, subject only to the provisions and arrangements with respect to the alternating of the use of the water as hereinbefore provided for.

Decree and Judgment.

It is hereby ordered, adjudged and decreed:

I. That the agreement entered into on the 13th day of September, 1925 by and between the plaintiffs and the defendant W. G. Robinson, be, and the same is hereby cancelled, annulled and by the decree of the Court rendered as though the same had never been entered into.

II. That Cynthia Miller and Jacob A. Miller, are the owners of and entitled to the use of all of the normal flow waters flowing in what is known as Neuenschwander Creek, a natural stream of water situated in the State of Idaho, and being principally located in the Southeastern part of Bonneville County, in said State, with a priority date of June 1st, 1881, subject only to a certain arrangement relative to the use of said water, as herein more fully set out.

III. That the said named plaintiffs are the owners of a certain irrigation ditch having its point of intake on the Neuenschwander Creek at or near the center of Section 15, Township 4 South, Range 46, East Boise Meridian, and which extends from said point of origin through the fractional East half of said described Section, in a northeasterly and easterly direction, and crosses the State line between the States of Idaho and Wyoming, and thence to and on the lands of the plaintiffs, described as:

The West Half of the Southeast Quarter ($W\frac{1}{2}-SE\frac{1}{4}$) and the Southeast quarter of the Southeast Quarter ($SE\frac{1}{4}-SE\frac{1}{4}$) and Lots 3 and 4, in Section 26, Township 36 North, Range 119 West of the Sixth Principal Meridian, in the State of Wyoming.

IV. That the said plaintiffs have been at all times, from and ever after the first day of June, 1881, and they now are, the owners absolute, of the said normal flow waters hereinbefore referred to, and of the ditch hereinbefore described, and the right and interest in said waters and in said ditch, as such owners, dating from the first day of June, 1881, is hereby declared and established, subject only to the provisions hereinafter set out relative to the use of said water.

V. That the plaintiffs herein, during each annual irrigation season, in perpetuity, and their successors and assigns, are entitled to use, before any other person or persons whomsoever, for the irrigation of the West Half of the Southeast Quarter, and the Southeast quarter of the Southeast Quarter, and Lots 3 and 4, in Section 26, Township 36, North, Range 119 West of the Sixth Principal meridian, in the State of Wyoming, all of the normal flow of waters flowing in Neuenschwander Creek, and which may be required by them for the first irrigation of all crops growing and standing upon the said described premises, and to continue and use of all of such waters until all of the crops upon the said lands have been fully and completely irrigated; that after the said plaintiffs, their successors and assigns, have completed the first irrigation of all of the crops growing and standing upon the premises aforesaid, they shall permit the defendant W. G. Robinson, his successors and assigns, to have the use of all of the normal flow waters of said Neuenschwander Creek, or so much thereof as may be necessary, and which may be required in the irrigation of thirty acres of the East Half of the Southwest Quarter, and Lots 3 and 4, Sec-

tion 15, Township 4 South, Range 46 East Boise Meridian, Bonneville County, Idaho, and to continue the use of such water for a period of seven (7) days, such use to be repeated annually, in perpetuity, after the plaintiffs, their successors and assigns, have completed the first irrigation of their premises, hereinbefore described; that after the defendant W. G. Robinson, his heirs and assigns, have had the use of the aforesaid water, or so much thereof as they may have required, for a period of seven consecutive days, then the use of the water shall revert again to the plaintiffs herein, their heirs and successors, who shall have the right to use all of the waters of said Neuenschwander Creek for the second irrigation of their premises, hereinbefore described, and to retain the use of said water until all of the crops growing and standing upon the aforesaid premises have been fully and completely irrigated; that after plaintiffs, their successors and assigns, have completed the second irrigation of their aforesaid lands, the use of said waters shall revert to the defendant W. G. Robinson his heirs and assigns, who shall be entitled to the use thereof for a period of seven consecutive days; that thereafter the said water shall, in like manner and for like periods, rotate back and forth between the aforesaid parties; that nothing in this decree shall be construed to in any manner limit the number of days that the said plaintiffs, their heirs and assigns, shall have the use of the aforesaid waters, for each irrigation, it being hereby expressly provided that the said named parties shall be entitled to the use of all of said waters, during each irrigation, until all of the crops growing and standing upon their said described premises have been fully and completely irrigated, the said plaintiffs and their heirs and assigns being the sole judges as to the length of time required in so doing; that the defendant W. G. Robinson, his heirs and assigns, are expressly limited to the use of said water to periods of not exceeding seven (7) days, for each successive irrigation, such time to commence with the day succeeding the day on which the plaintiffs, their heirs and assigns, have completed the irrigation of the crops on their said described lands, and have so advised the said W. G. Robinson, his heirs and assigns.

Done this 27th day of July, 1928.

Filed July 27, 1928
Geo. Witt, Clerk,
By Harrison Dennis, Deputy.

C. J. Taylor
District Judge.

Civil # 3205
IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT, OF THE STATE OF IDAHO, IN AND FOR
THE COUNTY OF BONNEVILLE.

VERA GEIST

Plaintiff,

vs.

FRANCIS GEIST

Defendant.

DEFAULT

IN THIS ACTION, The defendant Francis Geist, having been regularly served with process, and having failed to appear and answer the Plaintiff's complaint on file herein, and the time allowed by law for answering having expired, upon application of A. H. Wilkie, attorney for plaintiff, the default of the said defendant Francis Geist, in the premises is hereby duly entered according to law.

SEAL

Geo. Witt, Clerk of said Court.

ATTEST By hand and seal of said Court this third
day of August., A.D. 1928.

Filed Aug. 3, 1928
Geo. Witt, Clerk,
By Alice K. Bale, Deputy.

Geo. Witt, Clerk.

By Alice K. Bale Deputy Clerk.