

DEPARTMENT OF
WATER RESOURCES

☐ I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is _____

My address is _____

My phone number is: Work _____ Home _____

I am an attorney representing: RIVERSIDE IRRIGATION DISTRICT

My name is: ALBERT P. BARKER

My address is: P. O. BOX 2139, BOISE, ID 83701-2139

My phone number is: (208) 336-0700

MOTION TO FILE A LATE NOTICE OF CLAIM

A Motion to File a Late Notice of Claim will require a hearing before the Presiding Judge.

☒ I did not file a Notice of claim to the use of water in the SRBA because:

THIS POINT OF DIVERSION WAS INADVERTENTLY OVERLOOKED IN
ADJUDICATION PROCESS. THIS WAS DISCOVERED AFTER THE FINAL
REVIEW AND MAY BE DUE TO CONFUSION WITH THE ARENA LAKE DRAIN.

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☒ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

SEE EXHIBIT A (ATTACHED), AFFIDAVIT OF VERN E. CASE.

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have also enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$_____.
- ☒ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$50.00 for late fee; claim filing fee on acres previously paid with other rights.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on: NOVEMBER 17, 2009 AT 1:30 P.M.
(Insert Date and Time)

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File an Amended Notice of Claim may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

- ☐ I must amend my Notice of Claim to the use of water in the SRBA because:

- ☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

I have attached:

- ☐ An Amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION (must be completed)

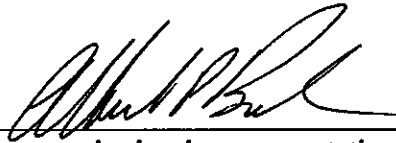
State of Idaho

County of Ada

ALBERT P. BARKER, being first duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

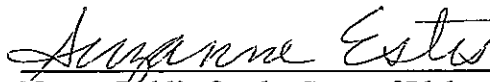
Signature of person filing motion



Attorney signing in representative capacity

Subscribed and sworn to before me on August 27, 2009.





Notary Public for the State of Idaho
Residing at: Boise Idaho
My Commission expires: June 1, 2012

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on August 27 2009, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

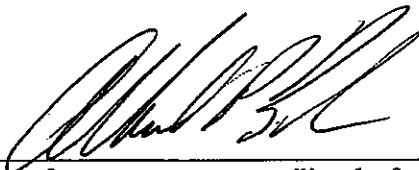
IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

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

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

3. If you are filing an amended Notice of Claim in a Subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that Subcase.

(Insert Names/address of parties)



Signature of person or attorney mailing the form

Albert P. Barker
Paul L. Arrington, ISB # 7198
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson St., Ste. 102
P.O. Box 2139
Boise, ID 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034

Attorneys for Wilder Irrigation District, Objector

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA

Case No. 39576

)
)
) **Subcase Nos.: 63-32533**

) **AFFIDAVIT OF VERN E. CASE**
)
)
)
)

I, VERN E. CASE, being first duly sworn upon oath, deposes and hereby states as
follows:

1. I am a member of the Board of Directors for both the Wilder Irrigation District ("Wilder") and the Riverside Irrigation District Ltd. ("Riverside"). I am over the age of 18 and state the following based upon my personal knowledge. I reside at 30895 Red Top Road, Wilder, ID 83676. I was born and raised in the Arena area of western Canyon County and have lived here for most of my life. My parents farmed land in this same area before me. I am a farmer and water user with land in Arena area under Wilder Irrigation District delivery and Riverside delivery. My home is less than a mile from the Aten property at issue in this subcase.

2. As a Board member for Wilder and Riverside, I am familiar with the operations of each irrigation district. I am also familiar with the drains within the irrigation districts and the diversions of private water rights out of the drains in the vicinity of my home and farm ground.

3. I am familiar with the water right claimed under water right number 63-32533, owned by Bill Aten, Joe Aten, Matthew Aten and Maria Morales (collectively referred to as "Aten"), which is diverted from the Case Drain. This water is used on about 6.7 acres of land just below and adjacent to the Riverside Canal. This land is just outside and immediately adjacent to the boundary of the Wilder Irrigation District.

4. Drain or waste water flows west from the Arena Drain to the Case Drain. Near where the Arena Drain turns into the Case Drains is a headgate. When opened, the headgate allows water to flow into the East Arena Drain (also known as the East Drain). Generally, drain or waste water in the East Arena Drain flows directly to the Riverside Canal. Wilder and the Boise Project have an obligation by contract to deliver waste water to Riverside. If the waste water in the East Arena drain is checked up before it enters the Riverside Canal, water will back up in the East Arena Drain and overflow into a pipe that conveys the waste water under the Riverside Canal and to the place of use on the Aten property. This is how water has been

delivered to this property by way of the headgate in the Case Drain and through the East Arena Drain, for as long as I have lived in this area.

5. Attached as Exhibit A to this affidavit is a photocopy of a portion of the plat map which is part of the records of the Wilder Irrigation District. This portion of the plat map depicts the location of the Aten point of diversion and place of use. In the upper right hand corner of the plat map, I have written "headgate for East Arena Drain" at the location of the headgate on the Case Drain. Water diverted at that headgate flows through the East Arena Drain -- located in between the two squiggly shapes on the plat map. The area bounded by the squiggly lines is land that the Wilder Irrigation District records show is now owned by Florencio Hernandez, and was formerly owned by Aten. At the end of the East Arena Drain, I have written "Pipe under Riverside Canal" at the location of the pipeline that conveys waste water under the Riverside Canal to Aten's place of use on the property remaining in Aten's ownership, which is located immediately adjacent to the Riverside Canal. The Aten property is in a horseshoe shape, bounded on three sides by the Riverside Canal and on the west side by Case Lane.

6. Water in the Arena Drain, Case Drain and East Arena Drain is waste water that is gathered throughout the Wilder Irrigation District. All water delivered from the Case Drain by way of the East Arena Drain to the Aten property is waste water.

7. Bill Aten owns 0.6 shares of Riverside water that is delivered to the same property as water right 63-32533 through the Riverside Canal. This water is diverted out of the Riverside Canal at the point where Case Lane crosses the Riverside Canal, just upstream of pipeline diverting water under 63-32533. The Director's Report for water right 63-32533 includes a comment stating that the use of water pursuant to water right 63-52533 is "combined

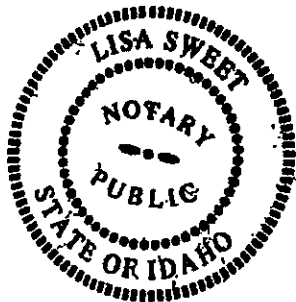
with water from the Riverside Irrigation District." Wilder does not object to Aten's receipt and use of this Riverside water.

DATED this 31 day of July, 2009

FURTHER YOUR AFFIANT SAYETH NAUGHT

Vernon E. Case
Vern Case

SUBSCRIBED & SWORN to before me this ^{7/}31 day of July 2009.



[Signature]
Notary Public in and for the State of Idaho
My Commission Expires: 2/13/2010

CERTIFICATE OF MAILING

I certify that on this ____ day of ____, 2009, I mailed the original and copies of this objection, including all attachments, to the following persons:

Bill Aten
21737 Case Ln.
Wilder, ID 83676

Joe Aten
Matthew Aten
Maria L. Morales
30588 Peckham Rd.
Wilder, ID 83676

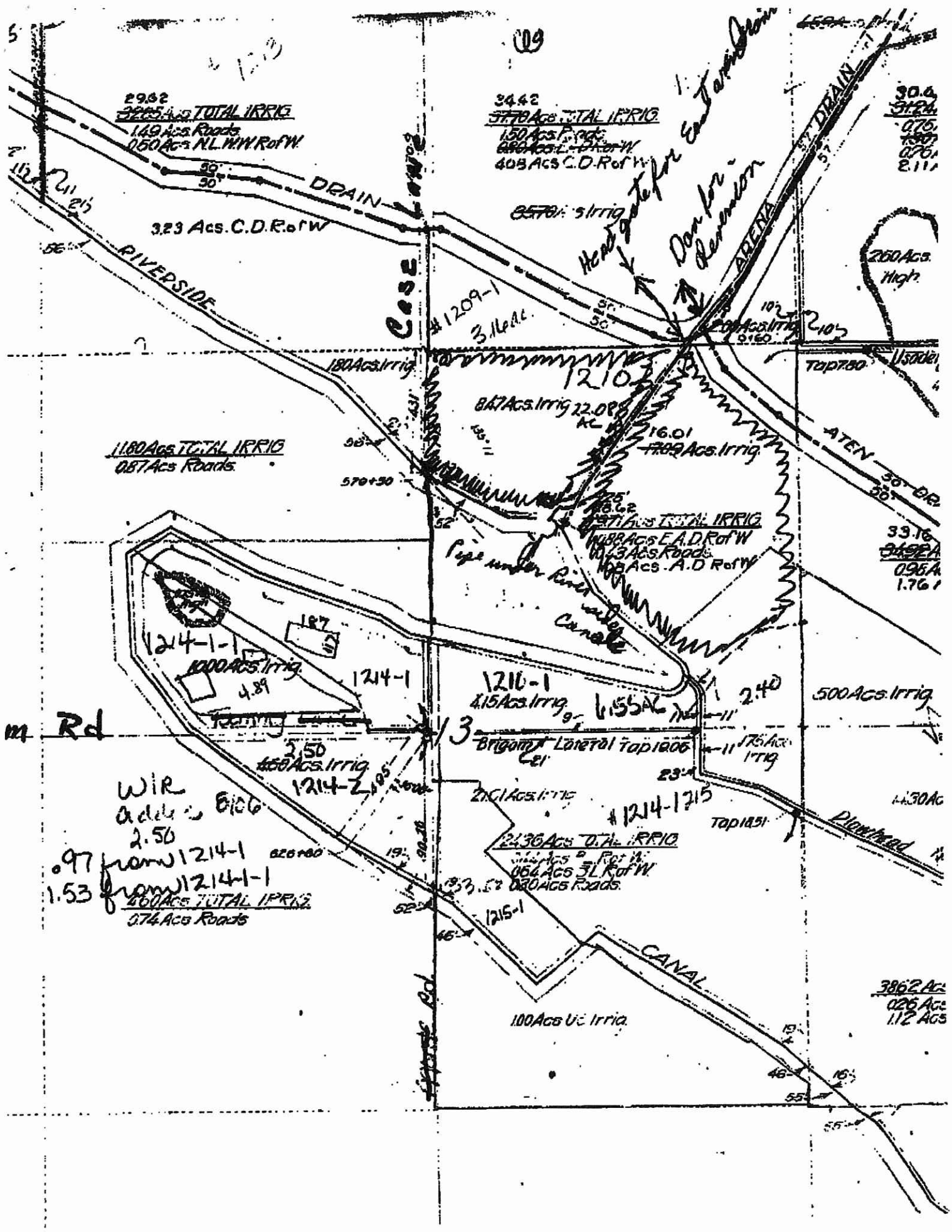
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P.O. Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

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

Paul L. Arrington

EXHIBIT A



2932
3265.40 TOTAL IRRIG
149 Acs Roads
050 Acs NL HW RofW

3442
5770 Acs TOTAL IRRIG
150 Acs F. RofW
680 Acs L. RofW
409 Acs C.D. RofW

30.6
3124
075
180
070
211

1180 Acs TOTAL IRRIG
087 Acs Roads

1210-1
1180 Acs TOTAL IRRIG
1180 Acs E.A.D. RofW
1013 Acs Roads
105 Acs A.D. RofW

33.16
3454
0954
1.761

WIR
Add'l 6106
2.50
0.97 from 1214-1
1.53 from 1214-1-1
460 Acs TOTAL IRRIG
374 Acs Roads

1210-1
415 Acs Irrig
1.55 Acs
Brigand Lateral Tap 1800
210 Acs IRRIG
2436 Acs TOTAL IRRIG
064 Acs 3L RofW
080 Acs Roads

3862 Acs
026 Acs
112 Acs

RECEIVED

AUG 28 2009

DEPARTMENT OF
WATER RESOURCES

SRBA Form No.42-1409-1 (Internet 2/09)

**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 _____
Date Received: _____
Receipt No: _____
Received By: _____

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

Please type or print clearly

1. Name of Claimant (s) Riverside Irrigation District, Ltd. Phone (208) 880-3449

Mailing Address P. O. Box 720 Parma ID ZIP 83660
Street or Box City State

2. Date of Priority (Only one (1) per claim) 10/18/1924
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water () or Other (✓) (a) Arena Drain
which is tributary to (b) Snake River

4. a. Location of Point of Diversion is: Township 4N, Range 6W, Section 13,
NE, 1/4 of SE, 1/4 Govt. Lot _____, BM., County of Canyon

Parcel (PIN) no. _____

Additional points of diversion if any: _____

If available, GPS Coordinates _____

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

Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., County of _____

ending point is: Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed
and as enlarged and the depth of each well. Headgate at intersection of Arena and Case Drains delivers water by
East Avenue Drain to Riverside Canal.

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For irrigation purposes from 3/01 to 11/15 amount 6 or

For purposes from to amount or

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) 6 (cfs) and/or (b) (acre feet)

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

9. Description of place of use: Large POU, see attached map

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.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Parcel (PIN) no(s).

Total number of acres irrigated 10,158

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

11. Do you own the property listed above as place of use? Yes () No (✓)

If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

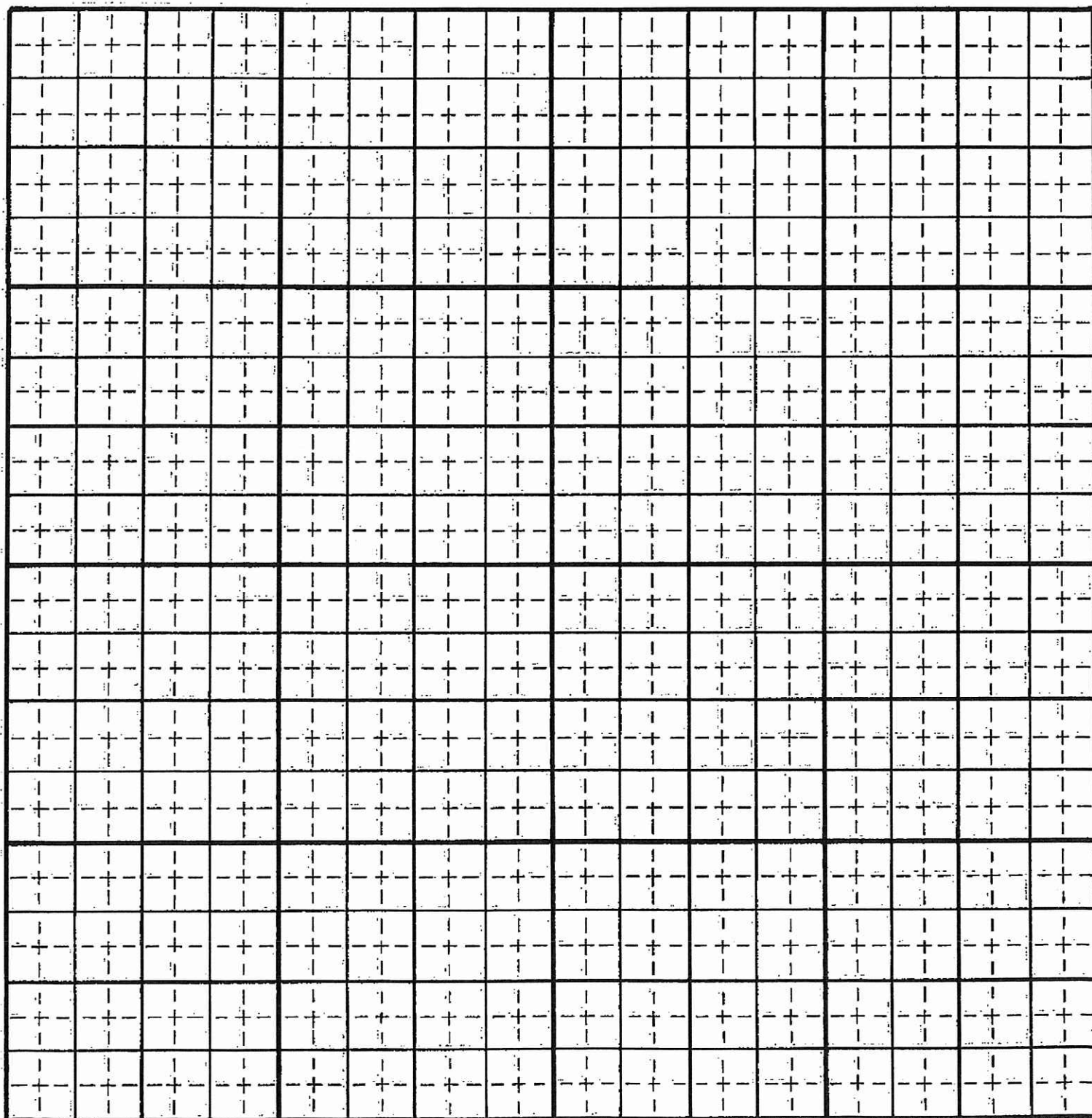
63-226, 63-227, 63-228, 63-229, 63-299, 63-300, 63-2374, 63-2389, 63-4007, 63-4008, 63-4010 or None ()

13. Remarks: Riverside Irrigation District, Ltd. is a non-profit company responsible for the delivery of water to the farmers that own the property in which the places of use are located.

Last Name Riverside Irrigation District, Ltd Identification No.

Map of Project: Attach aerial photograph or topographic map showing clearly the point of diversion, place of use, section number, township, and range number, unless unavailable. Otherwise sketch the elements above on the grid below. See attached map

Scale: 2 Inches equals 1 mile



Last Name Riverside Irrigation Identification No. _____

14. Basis of Claim (Check One) Beneficial Use (☒) Posted Notice (☐) License (☐) Permit (☐) Decree (☐)

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices 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 Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

_____ of _____,
Title Organization

that I have signed the foregoing 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 _____ Date _____

Title and Organization _____

16. Notice of Appearance:

Notice is hereby given that I, Albert P. Barker, will be acting as attorney at law of 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 _____ Date _____

Address Barker Rosholt & Simpson, LLP

P. O. Box 2139, Boise, ID 83701-2139



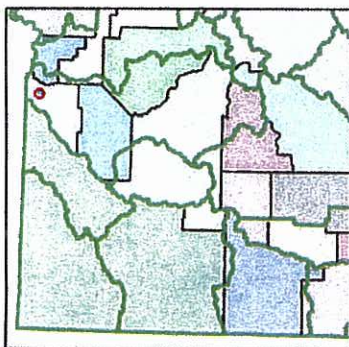
Idaho Department of Water Resources

Adjudication Claim Number: **63-2389**

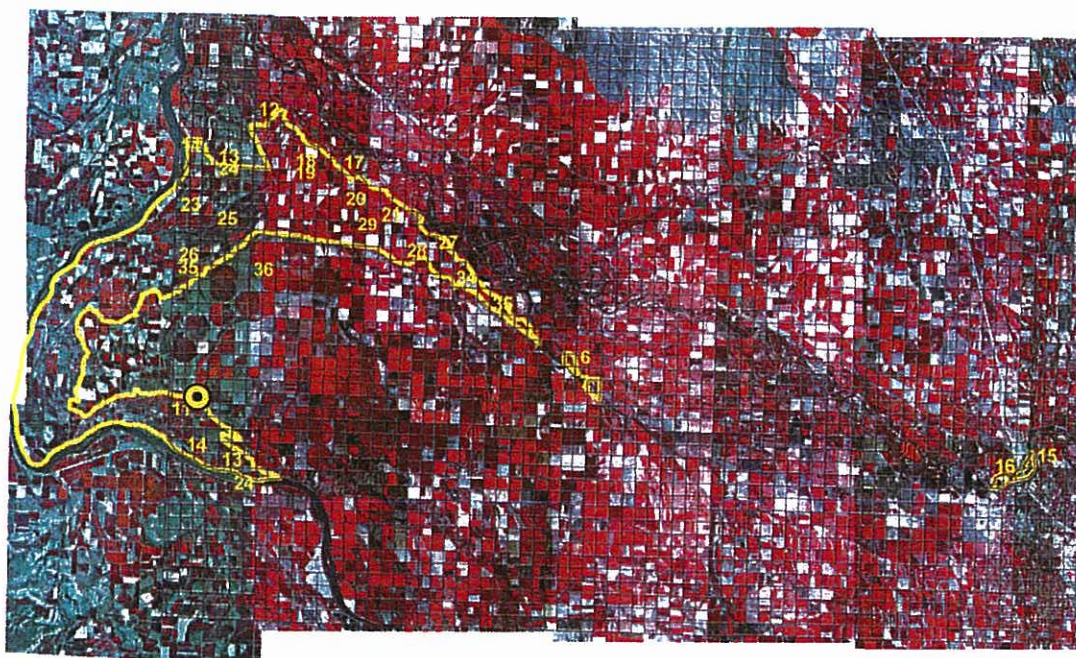
T4N, R3W, T4N, R4W
T4N, R5W, T4N, R6W
T5N, R 3W, T5N, R4W,
T5N, R5W, T5N, R6W

LEGEND

-  POD Recommended
-  Riverside Irrig. Dist



Owyhee County
IDWR Basin 63



0 8 16 Miles



Prepared by A. Warntjes
On Thursday, February 2, 2006
1987/88 Aerial Photography