

09/12/2006

NOTICE OF ERROR
REPLY

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

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

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS:

Water right number: 24-10678

FRED BROG
1644 STATE LINE RD
FREEDOM WY 83120
Telephone Number: (307)883-2363

ANNIE BROG
1644 STATE LINE RD
FREEDOM WY 83120
Telephone Number: (307)883-2363

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):
2. Describe the changes you wish to make in the proposed recommendation:
3. Give a brief explanation as to why you disagree with these portions:

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

DATE: 10-12-06 SIGNATURE: *Fred Brog*
Please print your name: Fred Brog

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





Idaho Department of Water Resources

SRBA Recommendation:

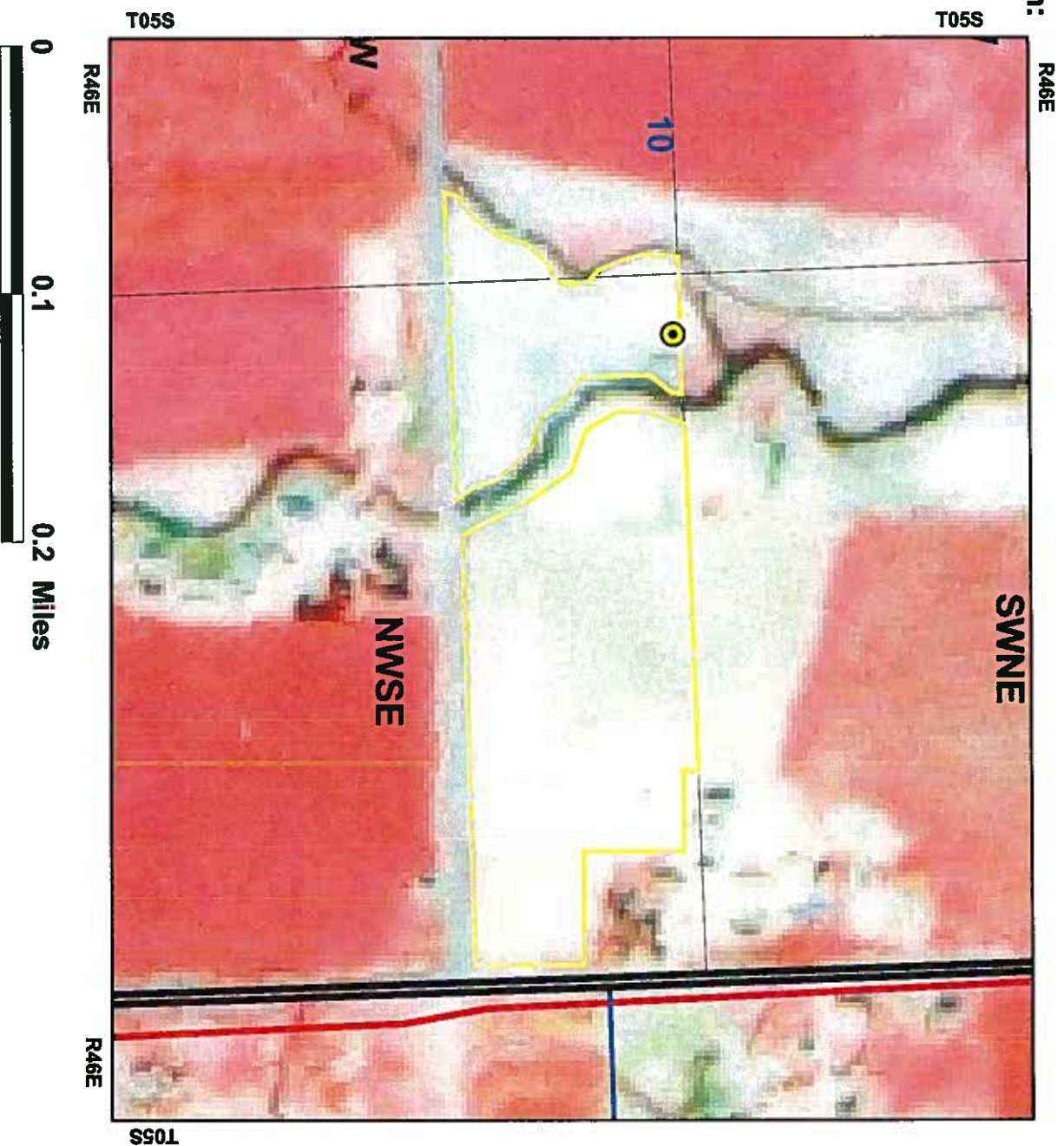
24-10678

Legend

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



Caribou County
IDWR Basin 24



Prepared by A. Golart
On Thursday, August 31, 2006
1987/88 Aerial Photography

Water Resources Field Services
P.O. Box 94
Iona, ID 83427
208-681-9100

To: File A24-200B
Fr: Bryce Contor
Date: 13 September 2005

Bac

Re: General narrative regarding Tincup Creek Adjudication claims.

To date I have done field inspections for all the Tincup Creek Adjudication claims which I received in July 2005. I have not been able to contact the owners of A24-02018, A24-04074A, A24-04074B or A24-10015, though I was able to inspect the places of use and points of diversion. At the location I did visit with a Mrs. V. Haderlie who may be a former claimant for A24-04074A and/or A24-04074B. A24-10668 is in the Tincup area but its source is Salt River, with a Wyoming water right and point of diversion. Places of use are illustrated in Figure 1 at the end of the memo.

This memo discusses several considerations that apply to all Tincup Creek water rights in general. It is filed in paper file A24-2000B but applies to all irrigation claims with Tincup Creek as a source, with notes in each of the other claims referencing the memo.

1. Public Land Survey System.

The overlay of county roads, fences, and claimed places of use on the Public Land Survey System shows a misalignment, as illustrated in Figure 1. Older 2000-series licenses and land patents I have examined describe the parcels in terms of whole quarter-quarter sections, as expected. Newer deeds and legal descriptions show the partial quarter-quarters that appear from the map.

My hypothesis is that the original licenses and patents were described according to some kind of preliminary PLS layout that corresponded to the roads, fences and apparent property lines. It seems that later a new PLS survey was performed which resulted in all the partial quarter-quarters in individual parcels.

Based on this hypothesis I have extrapolated the place of use of original license 24-2007 to the claimed places of use based the license. This does not appear to be an accomplished transfer, even though the GIS polygons of my proposed place of use have slightly different legal descriptions than the nominal legal description of the original license. This is illustrated in Figure 2.

Because there are no competing or overlapping claims from this source, I believe an exhaustive chain of title documenting the exact change in legal description is not necessary to correctly recommend the historical water use that is authorized by the license.

The Wyoming places of use were mapped from scanned images of paper maps from the Wyoming State Engineers Office (provided by claimants) and appear to be consistent with the actual fence lines and apparent property lines.

2. Ownership Issues

Apparently due to this problem with the PLS system, there are some potential ownership issues, as follows:

- a. A24-2000B and A24-4006. These were both claimed by entities with the name "Robinson" in the organization name, and Perry Robinson (208 356-5325) was listed in both files as a contact. In fact Perry Robinson is only associated with A24-4006. The land has changed ownership but he has agreed to continue to provide information as needed for the Adjudication review.
- b. Notes in the files suggest that A24-04074B now belongs to Melvin Hoopes, owner of adjacent claim A24-10015. Visiting with Mrs. V. Haderlie at a home on the place of use, and inspection of the fences, roads, and claims maps, suggest that this is incorrect and the land belongs to Haderlies. The claim adjoining on the other side, A24-04074A, also is in the name of a Haderlie. I have requested a current plat map and ownership list from the Caribou County Assessor.
- c. There apparently is or has been an ownership dispute regarding some of the Wolfley lands. This does not appear to affect the irrigated portion of the lands proposed to be recommended under A24-10029.

3. Nature of Beneficial Use

Claims ~~A24-10676~~, ~~A24-10677~~ and ~~A24-10678~~ contain wording to the effect that these semi-arid lands need irrigation to be productive and therefore the existence of a patent indicates that irrigation must have been present. Some of the lands in Tincup were granted under the Homestead

Act and some under the Desert Entry Act. I think irrigation may have been required under the Desert Entry Act but I don't think it was under the Homestead Act. The attached average precipitation map suggests that at Freedom, annual precipitation is in the 14 inch to 22 inch range. The upper end of that range begins to approach the range where dry farming can be successful. It appears that precipitation increases quite rapidly with elevation as the valley floor rises towards the west. Dry farming is being practiced just up-slope of A24-10015, for instance, but I saw no dry farming along the state line near A24-02018 and other claims. This argument (that the patent establishes priority, because irrigation is necessary for agricultural production) may only apply to the eastern-most claims, if at all.

Claims A24-10031, A24-10668, A24-10676, A24-10677 and A24-10678 appear to be under typical "full irrigation" with sprinklers. This may also be true of A24-02018. A24-02007A and A24-02007B appear to be under active irrigation by gravity. These are the eastern-most claims at the lowest elevation, near the state line. I did not make a detailed investigation, but it appears that the adjacent lands in Wyoming are irrigated if they are in production.

For the other claims, higher in elevation and west of those listed above, the irrigation that takes place presently appears to be confined to dry years or to the first year of establishing an alfalfa stand. For these claims I believe the evidence supports intermittent irrigation, with all of the lands being irrigated in at least some years, but seldom would the whole farm have been irrigated in a given season. In some cases a permissible place of use with a smaller limit of irrigated acres in any one year would be most likely to correctly describe the actual irrigation practice.

4. Overlap of Wyoming Water Rights.

Claim A24-10668 appears to be based on Wyoming "Certificates of Diversion of Water" from the Salt River, with part of the place of use in Idaho. Figure 1 illustrates other lands with Wyoming water rights, most of which appear to be under active irrigation.

5. Unclaimed historical water use.

Some lands in the North of section 9 and the south of Section 4 were historically irrigated by an owner named Carl Robinson, according to some claimants. They appear not to be irrigated now and I have no claim for

these lands.

6. Priority Administration.

While the claims and licenses have different priority dates, it appears that there has been no application of priorities as between Tincup water users. One user said he had heard that "Haderlie had the first right on the creek" but none described operation of priority cuts in allocation of water. It appears that either there is always enough Tincup Creek water for local demand or that an informal rotation system operates in times of scarcity.

In Basin 31 an agreement signed by all the users out of Mud Lake and filed at the county courthouse was incorporated in the partial decrees by reference. This was done by using a special condition attached to certain water rights (see 31-6 for an example). With the viewpoint that one purpose of the Adjudication is to correctly describe actual administrative practices that have been in place for long periods of time, I would propose doing something similar for the Tincup Creek (and tributaries) recommendations, if the users were to come forward with a unanimously-adopted agreement stating that in times of shortage, Tincup water is allocated among local users by rotation, regardless of nominal priority date.

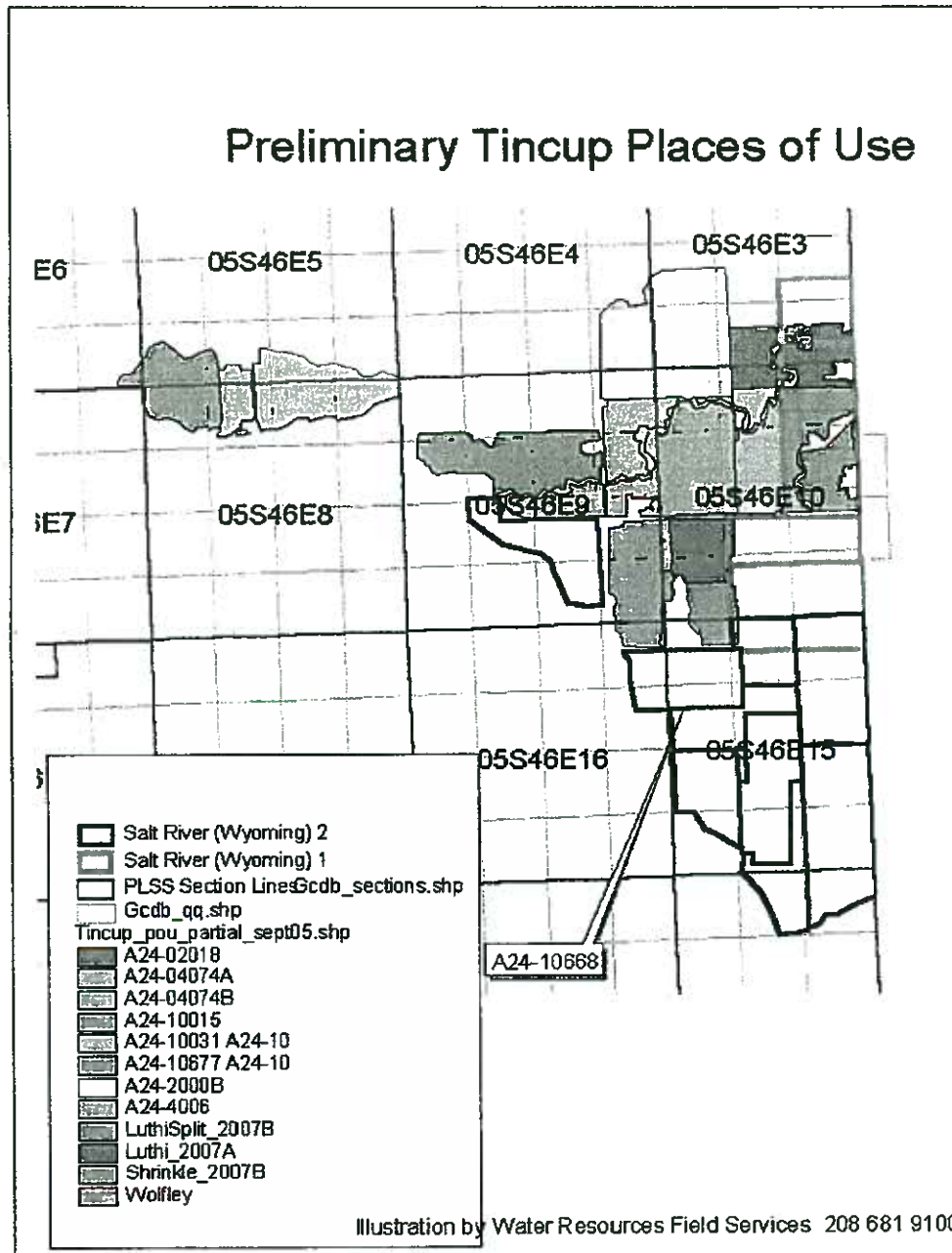


Figure 1. Approximate places of use and misalignment of Public Land Survey System with roads and property lines.

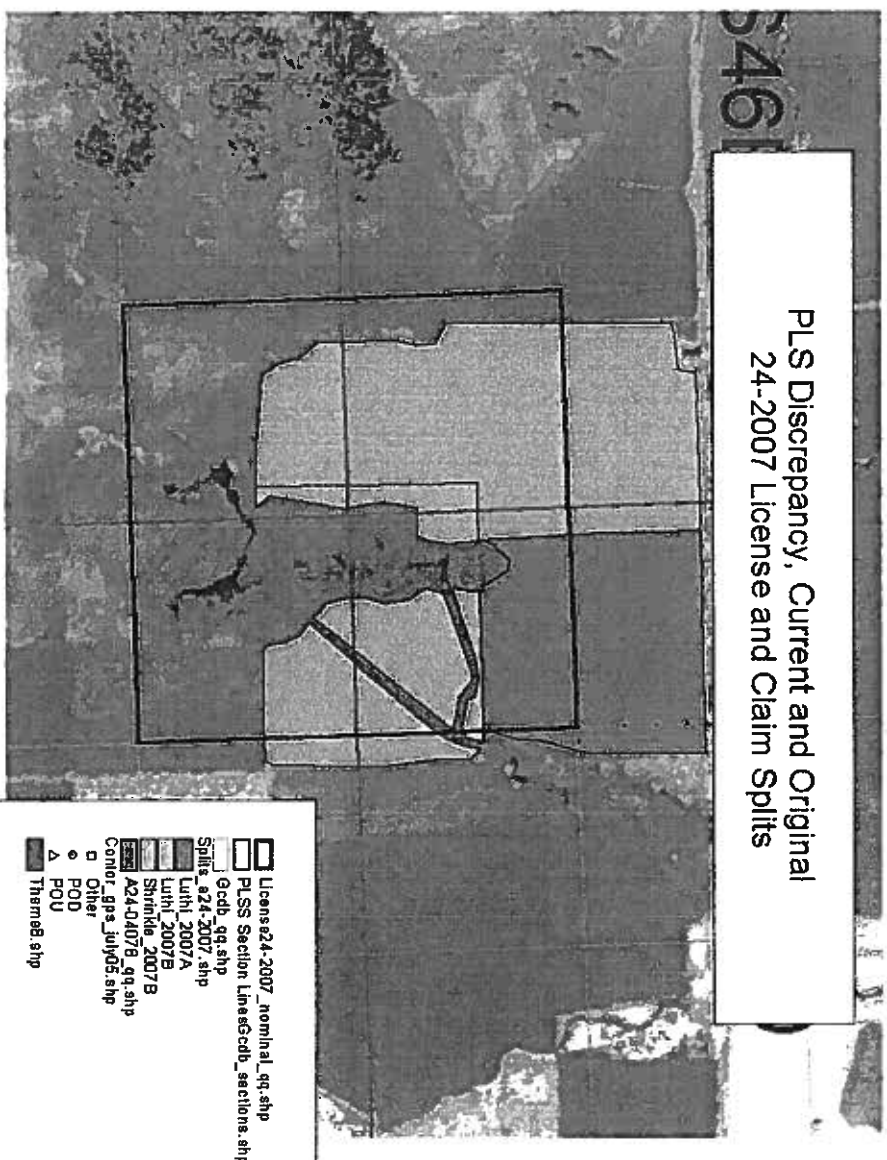


Figure 2. Licensed quarter-quarters and actual place of use, 24-2007.

Proof No. 26721

Certificate Record No. 64, Page 228

for irrigation of the lands herein described, lying and being in Caribou County, Idaho ~~County of~~

Name of Appropriator John J. Federico

Date of Appropriation August 5, 1933
 Total Amount Seventy-seven (77) Acres
 Location Wyoming,

Amount of Appropriation	cu. ft. per sec.; Description of land to be irrigated and for which this appropriation is determined and established
1.10	

The right to water hereby confirmed and established is limited to irrigation and stock use----- and the use is restricted to the place where acquired and to the purpose for which acquired; rights for irrigation not to exceed one cubic foot of water per second for each and several acres of land for which the appropriation is herein determined and established, except when there is surplus water in the stream as provided by Sections 71-216 to 71-224, Wyoming Compiled Statutes, 1945.

IN TESTIMONY WHEREOF, I, **L. C. BISHOP**

IN TESTIMONY WHEREOF, I, L. C. BISHOP, President of the State Board of Control, have hereunto set my hand this 29th day of March, A. D. 19 57, and caused the seal of said Board to be hereunto affixed.

Attest: Earl Stoph Ex-officio Secretary.

THE WILLS COMPANY, MEMPHIS 68101

-President.

Certificate of Appropriation of Water

Certificate Record No. 64, Page 229

has presented to the Board of Control of the State of Wyoming proof of the appropriation

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Ditch under Permit No. 6840-Enl. for stock use and

Carbon County, Idaho

NOW KNOW YE, That the State Board of Control, under the provisions of the Statutes of Wyoming, has, by an order duly made and entered on the 28th day of March, A. D. 1957, in Order Record No. 13, Page 349, determined and established the priority and amount of such

appropriation as follows:

Wyoming:

Forty-five and Six Tenths (45.6) Acres

cu. ft. per sec.; Description of land to be irrigated and for which this appropriation is determined and established:

[illegible]

The right to water hereby confirmed and established is limited to irrigation ~~and stock use~~ and the use is restricted to the place where acquired and to the purpose for which acquired; rights for irrigation not to exceed one cubic foot of water per second for each severly acres of land for which the appropriation is herein determined and established, except when there is surplus water in the stream as provided by Sections 71-216 to 71-224, Wyoming Compiled Statutes, 1945.

President of the State Board of Control, have hereunto set my

Ex-officio Secretary,

be herein affixed

President

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SEVSE

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45 under
certificate

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REY
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MRS. HAZEL
LUTHI

NENW

45.43

NWNE

LUTHER H.
HAERLIE

W.P. ROBINSON
(ESTATE)

45.27
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NWSE

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Freedom Sch. Dist. No 5

GL-3

FRED LUTHI

GL-4

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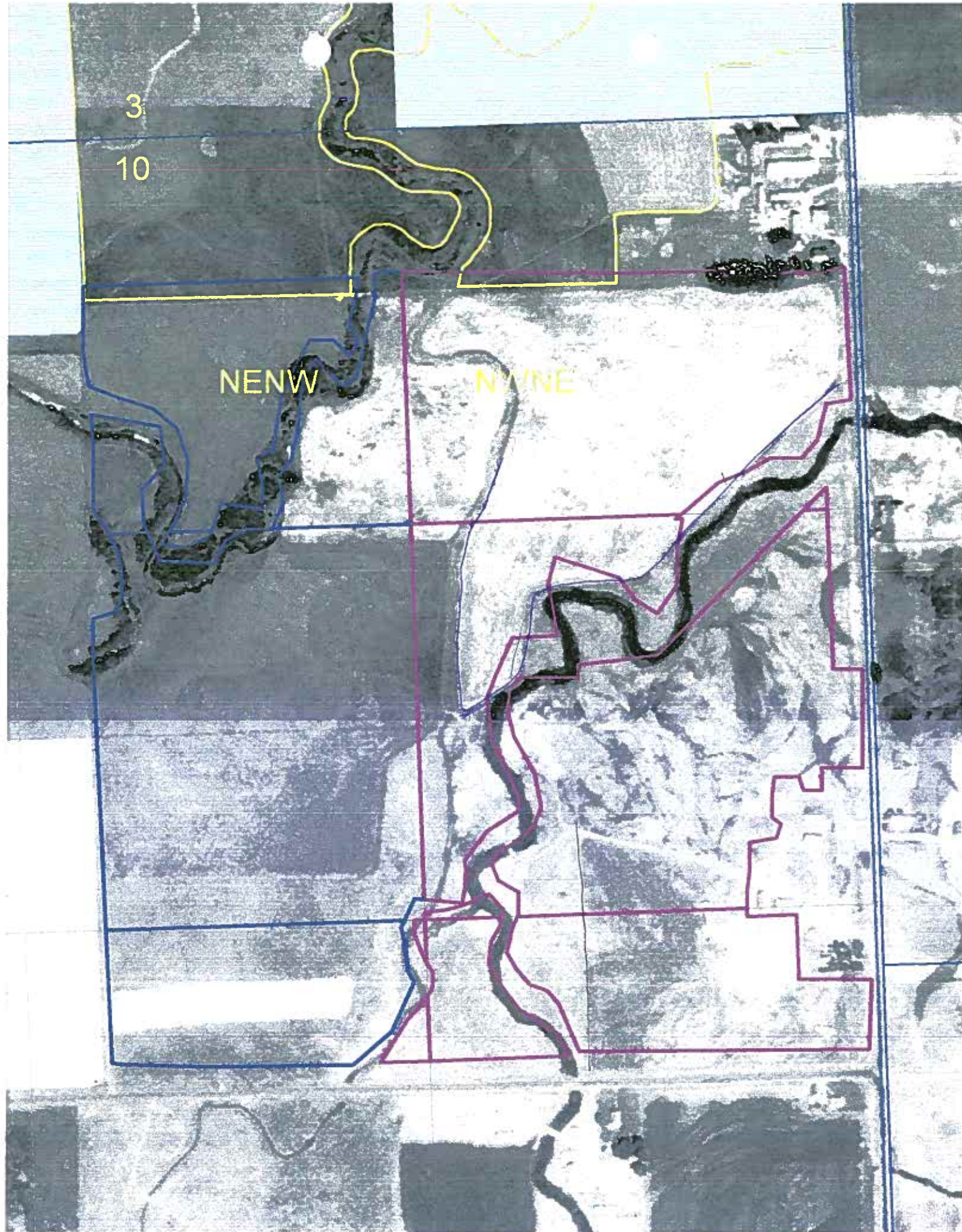
SWSE

HENRY LUTHI

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NENW

NWNE



Notes

8-26-05 Checked with County Assessor's office on ownership of property. Brog's own the property. Parcel #11820, deed reference #165520. Taxed on 136 acres irrigated ag. + 18 acres waste land.

10 Sept 05 See field inspection notes A24-10031 Bac

1-3-06 Letter to claimant re appt. for

9-12-06 See Tincup narrative for evidence of priority.

Purpose of Use Data Entry Form

Claim Number: A24-10678 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:

Irrigation confirmed by field
inspection. Bae 28 Sept 05.

Transfers Changing Purpose of Use _____

Reviewer: _____

Date: _____

Purpose of Use Data Entry Form

Priority Date Data Entry Form

Claim Number: A24-10678

Water Right Priority Date: _____ Water Right Basis: _____

Claimed Priority Date: _____ Claimed Basis: _____

Recommended Priority Date: _____ Recommended Basis: _____

☐ Use Claimed Priority Date and Basis as Recommended Priority Date and Basis

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

Timeline suggests patent date 2/15/1908 for this portion of POU. Claim asserts irrigation is necessary for production & patent indicates land must have been irrigated. Please see discussion in general Tiscup narrative (in A24-20008) regarding this assertion and PLS issues. Note also that this POU is overlapped by Wyoming water rights from Kirkbride ditch system. See "Wyoming Water Rights" paper folder. Bae 28 Sept 05.

Reviewer: _____

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 - 10678

Point of Diversion and Source Data Entry Form

Claim Number: A24-10678

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	QQQ of QQ of Q	County	Source
55	46E	10	3	NWNWSE	Caribou	Unnamed slough stream	
GPS Coordinates: <u>2740533 E</u>					<u>1315020 N</u> <u>EDTM83</u>		
GPS Coordinates: _____					_____		
GPS Coordinates: _____					_____		
GPS Coordinates: _____					_____		
GPS Coordinates: _____					_____		
GPS Coordinates: _____					_____		
GPS Coordinates: _____					_____		

Other rights from this POD? A24-10031, A24-10676, A24-10677

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

GPS waypoint is in "Center_gps_august05" folder.
 Slough is known locally as Kirtz Mc Bride slough.
 See POD/Source description in A24-10031/A24-10676.
 BAC 28 Sept 05 See photo in A24-10031.
 Site tag A ~~100~~ 13655.

Transfers Changing POD _____

Reviewer: _____

Date: _____

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 - 10678

Source

Claim No. _____

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

If Yes, go to 4

If No, go to 2

Yes () No ()

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

If Yes, go to 3

If No, go to 6

Yes () No ()

3. Has the License been issued?

If Yes, go to 5

If No, recommend the Source as shown on the Permit. Go to 11

Yes () No ()

4. Does the parent right have a Source?

If Yes, go to 5

If No, go to 7

Yes () No ()

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

If Yes, recommend the Source as shown in the water right file. Go to 11

If No, go to 7

Yes () No ()

6. Is the basis of claim a Posted Notice?

If Yes, consult the attorney assigned to the basin. Go to 7

If No, go to 7

Yes () No ()

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

If Yes, go to 8

If No, go to 10

Yes () No ()

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

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

Yes () No ()

9. Did the claimant file a transfer?

If Yes, recommend the Source as shown in the transfer. Go to 11

If No, go to 10

Yes () No ()

10. Does the file contain all of the necessary information to verify the Source?

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

Yes () No ()

11. Is a Source remark and/or condition required?

If Yes, enter the appropriate remark and/or condition. Source review is complete.

If No, Source review is complete.

Yes () No ()

Source

Purpose of Use Data Entry Form

Claim Number: A24-10678☐ 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:

Irigation confirmed by
field inspection. Dec 28 Sept 05

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. 424 - 10678

Place Of Use Data Entry Form

Claim Number: A24-10678☐ 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:

Please see attached list. I propose 14.5 acres within
72.5 acre permissible place of use. Bac 28 Sept 05

POU is overlapped w/ A24-10677 and Wyoming water rights. Bac

Transfers Changing POU _____

Reviewer: _____

Date: _____

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. A24 - 10678

Period of Use and Quantity Data Entry Form

Claim Number: A24-10678

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

Water Right Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume

Overall Diversion Rate _____

Overall Diversion Volume _____

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume

Overall Diversion Rate _____

Overall Diversion Volume _____

Recommended Period of Use and Diversion Rate

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

Overall Diversion Rate _____

Overall Diversion Volume _____

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

One pump serves A24-10031, A24-10676, A24-10677 and A24-10678. Per Mr. Brog the system has 4 lines x 32 nozzles @ 3/16". Assuming 7 gpm/nozzle this is $(4 \times 32 \times 7) / 448.83 = 2.00$ gfs total. Motor is 50 HP GE serial 5K6248X H1A, pump is Johnston Model 1205 Serial GE14273. Theoretical assuming 10 ft lift, 70 psi discharge $(50 \text{ hp} \times 702 \times 3960) / (10 \text{ ft} + 70 \times 2.31 \text{ ft}) = 807 \text{ gpm} = 1.8 \text{ gfs}$.

Reviewer: _____

Date: _____

Total acreage (4 claims) is 130.5 acres @ 0.02 gfs = 2.61 gfs.
I propose 2.00 gfs total = 0.01533 gfs/acre. For this claim, 0.22 gfs.

Period of Use and Quantity Data Entry Form

BAC 28 Sept 05

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.

Period of Use

Quantity

Claim No. A24-10678

1. Is the basis of claim a Decree or License?
If Yes, go to 4
If No, go to 2
Yes ☐ No ☐
2. Is the basis of claim a Permit or Application?
If Yes, go to 3
If No, go to 6
Yes ☐ No ☐
3. Has the License been issued?
If Yes, go to 5
If No, recommend the Quantity shown on the Permit. Go to 11
Yes ☐ No ☐
4. Does the parent right have a diversion rate and/or volume?
If Yes, go to 5
If No, go to 7
Yes ☐ No ☐
5. Can the claimed diversion rate and/or volume be verified using the water right file?
If Yes, go to 8
If No, go to 7
Yes ☐ No ☐
6. Is the basis of claim a posted notice?
If Yes, consult the attorney assigned to the Basin. Go to 7
If No, go to 7
Yes ☐ No ☐
7. Is a flow measurement required?
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
Yes ☐ No ☐
8. Does the parent right have an annual diversion volume limit?
If Yes, go to 10
If No, go to 9
Yes ☐ No ☐
9. Is the source Ground Water and does the purpose of use require a diversion volume limit?
If Yes, go to 10
If No, go to 11
Yes ☐ No ☐
10. Is irrigation a purpose of use?
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
Yes ☐ No ☐
11. Has a diversion volume limit for this water use been established by a decree, license or transfer?
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
Yes ☐ No ☐
12. Is a Quantity remark and/or condition required?
If Yes, enter the appropriate remark and/or condition. Quantity review is complete.
If No, quantity review is complete.
Yes ☐ No ☐

Quantity

1. Is the basis of claim a Decree, License, Permit, Application or Posted Notice?

If Yes, go to 2
If No, go to 3

Yes () No ()

2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture?

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

Yes () No ()

3. Is the water being used for all of the purposes claimed and to the extent claimed?

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

Yes () No ()

4. Is any portion of the claim being recommended?

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

Yes () No ()

5. Does this right have any combined used limits with other rights?

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

Yes () No ()

6. Is an additional remark and/or condition required?

If Yes, enter the appropriate remark and/or condition. Go to 7
If No, go to 7

Yes () No ()

7. Would you like to view the recommended right?

If Yes, go to 8
If No, the review is incomplete. The recommendation must be viewed to complete the review.

Yes () No ()

8. Is this a "split" or "combined" right?

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

Yes () No ()

9. Do you have documents you would like to attach or link to the file?

If Yes, go to PowerDOCS and profile the documents. Go to 10
If No, go to 10

Yes () No ()

10. Would you like to set the verification date?

If Yes, the review is complete.
If No, the review is incomplete. The recommendation must be verified to complete the review.

Yes () No ()

Summary

Claim No. A24-10678



State of Idaho

DEPARTMENT OF WATER RESOURCES

15 West Center Street, Soda Springs, ID 83276

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

3 January 2006

DIRK KEMPTHORNE
Governor

KARL J. DREHER
: Director

Fred Brog
1644 State Line Road
Freedom, WY 83120

Re: Snake River Basin Adjudication (SRBA)
Claims 24-10031, 24-10676, 24-10677 & 24-10678

Subject: CLAIM CLARIFICATION

RESPONSE DATE: 17 JANUARY 2006

Dear Claimant(s):

We are in the process of reviewing the above referenced claimed. However, there are several issues that are unresolved. Please call our office and make an appointment with Cindy Bird to discuss these issues so that we can finalize processing your claims. Thank you.

Respectfully,

Barbara Payne

COPY

Barbara Payne

A24-10677, A24-10678 PPU Acres by QQ				
Township,	Section	QQ	Q	Acres
05S46E	10	NW	NE	25
05S46E	10	SW	NE	33
05S46E	10	NE	SW	0.5
05S46E	10	NW	SE	14
Section total				72.5
Total Acres				72.5

Potential date (See timeline in
A24-10031)

Lot
1? } 1917 (12/11) } A24-10677
2? }
3? } 1908 (2/15) } A24-10678

A24-10677 58 acres w/in 72.5 acre PPU

A24-10678 14.5 acres w/in 72.5 acre PPU

Bac 28 Sept 05

OK

This POD serves four water rights. 5S 46E 10 Lot 3 MANWSE									
Waypoint	Lat dd	Lon dd	Claim	Sitetag	Feature	Instrument	Collected	Notes	
38	42.9978	-111.0491833	A24-10031	none	POD	Garmin Geko 201	B. Contor	Pump in slough - see exam writeup	
38	42.9978	-111.0491833	A24-10676	none	POD	Garmin Geko 201	B. Contor	Pump in slough - see exam writeup	
38	42.9978	-111.0491833	A24-10677	none	POD	Garmin Geko 201	B. Contor	Pump in slough - see exam writeup	
38	42.9978	-111.0491833	A24-10678	none	POD	Garmin Geko 201	B. Contor	Pump in slough - see exam writeup	

09/11/2006

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

RIGHT NUMBER: 24-10678

NAME AND ADDRESS: FRED BROG
1644 STATE LINE RD
FREEDOM WY 83120

ANNIE BROG
1644 STATE LINE RD
FREEDOM WY 83120

SOURCE: UNNAMED STREAM

TRIBUTARY: TINCUP CREEK

QUANTITY: 0.290 CFS

PRIORITY DATE: 02/15/1908

POINT OF DIVERSION:

T05S R46E S10 NWNWSE Lot 3 Within CARIBOU County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

0.290 CFS

PLACE OF USE: IRRIGATION Within CARIBOU County

T05S R46E S10

NESW

0.70

T05S R46E S10 Lot 3 NWSE

14.00

14.7 ACRES TOTAL

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Source is also known as Kirk Mc Bride Slough.

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 24-10678
Date Received: 8/16/2005
Receipt No:
Received By:

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

1. Name of Claimant(s)

FRED BROG Phone: (307)883-2363
1644 STATE LINE RD
FREEDOM WY USA 83120

ANNIE BROG Phone: (307)883-2363
1644 STATE LINE RD
FREEDOM WY USA 83120

2. Date of Priority: 02/15/1908

3. Source: KIRK MC BRIDE SLOUGH Trib. to: TINCUP CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
05S	46E	10	NE SW	CARIBOU	

5. Description of diverting works:

ORIGINAL IRRIGATION WAS SUB IRRIGATION VIA BACKING UP THE SLOUGH, PERDISCUSSION
WITH NEIGHBORS. CURRENT IRRIGATION IS ELECTRIC PUMP TO SPRINKLER SYSTEM.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	10/31	1.8	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

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

05S

46E 10

NW NE 6-1
SW NE 6-2
NW SE 6-3IRRIGATION 40
IRRIGATION 40
IRRIGATION 10

Section Acres 90

Total Acres 90

11. Place of use in counties: CARIBOU

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

13. Other Water Rights Used:

14. Remarks:

THIS CLAIM IS FOR THE PART OF THE ABOVE LANDS UNDER PATENT 5204. AN IDENTICAL CLAIM FOR THE PART UNDER PATENT 1142 OVERLAPS THIS CLAIM. THE TWO CLAIMS TOGETHER ARE FOR 1.80 CSF ON 90 ACRES. THE POD IS SHARED WITH 24-10031 UNDER PATENT 1142. PRIORITY DATE BASED ON PATENT AS LANDS REQUIRE IRRIGATION TO BE PRODUCTIVE.

15. Basis of Claim: Beneficial Use

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 24-10678Date Received 8-16-05Receipt Number E031184

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Fred & Annie Brug Phone (207) 883 2363Mailing Address 1644 State Line Rd Freedom WY Zip 831202. Date of Priority (Only one (1) per claim) ~~8/2~~ 2/15/19083. Source of water supply (a) Kirk McBride Slough
which is tributary to (b) Tin Cup Creek4. a. Location of existing point of diversion is: Township 55 Range 46 E Section 10,
_____ 1/4 of NE 1/4 of SW 1/4, Govt. Lot, _____ B.M., County of Caribou

Additional points of diversion if any: _____

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

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

Govt. Lot _____ B.M., County of _____

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

_____ 1/4, Govt. Lot _____ B.M., County of _____

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

Original irrigation was sub irrigation via backing up the
slough, per discussion w/ neighbors. Current irrigation is
electric pump to sprinkler system.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from 4/1 to 10/31 amount 1.80 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1.80 (cfs) and/or (b) _____ (acre feet)

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

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

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See 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	
55	46E	10		40	40											10			90

Total number of acres irrigated 90

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

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

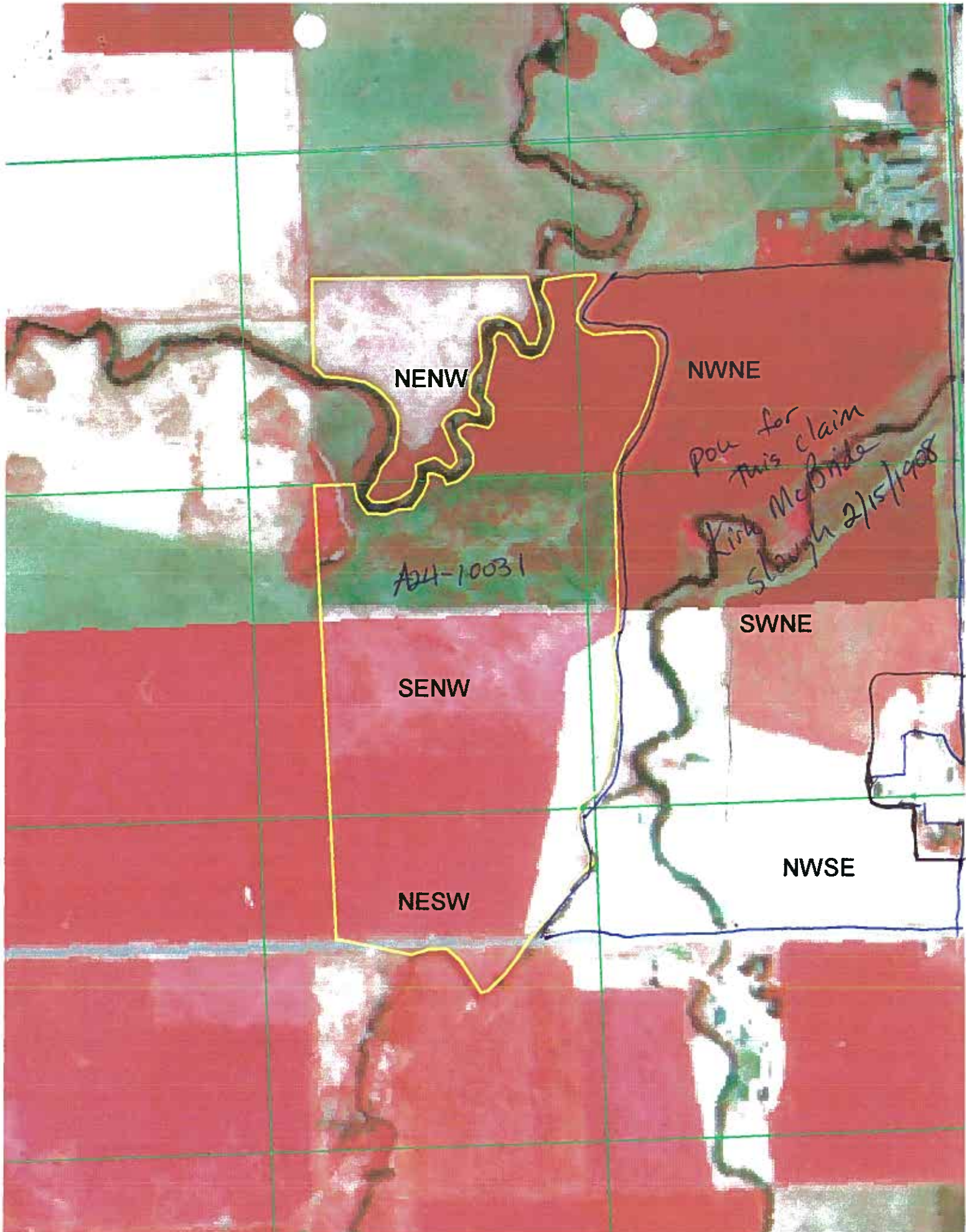
13. Describe any other water rights used at the same place and for the same purposes as described above.

This claim is for the part of the above lands under patent 5204. An identical claim for the part under patent 1142 overlaps this claim. The two claims together are for 1.80 cfs on 90 acres. The POD is shared with A24-10031 and a claim that covers the part of A24-10031 under patent 1142. Priority date based on patent as lands require irrigation to be productive. or None ()

14. Remarks: _____

Last Name Brug Ident No. _____

Copies: White -State, Yellow-Claimant



Attachment for Brog Claim, Kirk McBride Slough, priority 2/15/1908

Scale: 2 inches equals 1 mile

[illegible]Broz

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 _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

16. Signature (s)

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

Number of attachments _____

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

Signature of Claimant (s) Lud D. Brog Date 8-12-05

Annie C. Brog Date 8-12-05

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

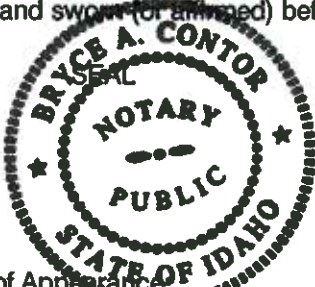
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho/or _____)
County of Caribou) SS.

Subscribed and sworn (or affirmed) before me this 12 day of Aug 2005



Notary Public Bryce A. Contor

Residing at Idaho

My Commission Expires 10/14/2005

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 _____ Ident. Number _____

Copies White-State, Yellow-Claimant