

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 37-21412
Date Received: 1/10/2005
Receipt No: W038151
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

*Feb 2010
Amendment*

1. Name of Claimant(s)

INDIAN CREEK RANCH OWNERS ASSN INC Phone: (208) 788-9887
PO BOX 3411
HAILEY ID USA 83333-3411

2. Date of Priority: 08/22/1972

3. Source: INDIAN CREEK Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
03N	18E	23	SE NW	BLAINE	
03N	18E	22	SW SE	BLAINE	
03N	18E	23	SE NW	BLAINE	Beginning Point
03N	18E	33	NE SW	BLAINE	Ending Point

5. Description of diverting works:

Bypass past the City of Haileys intake structure. Headgate structure at Reservoir.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
WILDLIFE	01/01	12/31	4.01	
WILDLIFE STORAGE	01/01	12/31		50
WILDLIFE FROM STORAGE	01/01	12/31		50
RECREATION	01/01	12/31	4.01	
RECREATION STORAGE	01/01	12/31		50
RECREATION FROM STORAGE	01/01	12/31		50
FIRE PROTECTION	01/01	12/31	4.01	
AESTHETIC	01/01	12/31	4.01	
AESTHETIC STORAGE	01/01	12/31		50
AESTHETIC FROM STORAGE	01/01	12/31		50

7. Total Quantity Appropriated is:

4.01 C.F.S. and/or 50 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
03N	18E	27	NW	NW	AESTHETIC	
			NW	NW	AESTHETIC STORAGE	
			NW	NW	WILDLIFE STORAGE	
			NW	NW	RECREATION STORAGE	
			NW	NW	FIRE PROTECTION	
			NW	NW	AESTHETIC FROM STORAGE	
			NW	NW	WILDLIFE FROM STORAGE	
			NW	NW	RECREATION FROM STORAGE	
			NW	NW	RECREATION	
			NW	NW	WILDLIFE	

POU needs additional data
entry as of 2-22-2010. kkc

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:

14. Remarks:

DJ, 1-10-2005: IDWR NOTE: CLAIM RECIEVED 9/28/2004 WITH TRANSFER APPLICATION, CLAIM FORWARDED TO AJ STAFF 1/7/2005. SEE CLAIM FILE FOR REMARKS AND NARRATIVE IN SUPPORT OF CLAIM.

CLAIMED AS PART OF 37-296.

Amended claim submitted 2-19-2010. The amendment changes the claim basis from decree to B/U and is now considered an enlargement of 37-19740. Use changed from Irrigation to Aesthetic, wildlife, recreation, and firefighting and associated uses related to the reservoir. The amendment includes an in-stream diversion use but no in-stream uses.

15. Basis of Claim: Beneficial Use

In Re SRBA) A. Subcase 37-21412
)
) (Insert water right number)
Case No. 39576)
)
)
)
)
)
_____)

B. NAME AND ADDRESS OF PERSON OBJECTING

Name & Address of Attorney, if any:

Name: Indian Creek Ranch Owners Association, Inc.
Address: P.O. Box 3411
Hailey, Idaho 83333

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. **Name and Address**
Should be: _____
2. X **Source**
Should be: Indian Creek and Indian Springs
3. X **Quantity**
Should be: 6.72 cfs with 37-296B or even more
4. **Priority Date**
Should be: _____
5. X **Point(s) of Diversion**
Should be: PODs as in 37-296B and additional points of diversion, including, without limitation: NENW27, SWNW27, NESE28 (2), SWSE28, NWNE33, SENW33.
6. X **Instream Flow Description**
Should be: NENW Section 4, T2N, R18E; NENW Section 23, T3N, R18E (stockwater).
7. X **Purpose(s) of Use**
Should be: Wildlife, Recreation, Aesthetics and stockwater in addition to irrigation.
8. X **Period of Year**
Should be: Wildlife, Recreation, Aesthetics and stockwater – year round.
9. X **Place of Use**
Should be: at least 200 irrigated acres based on 1988 SRBA claim, historical practices and any resumption
11. **I object because:**
This water right should not exist.

This water right was not recommended, but should be recommended with the elements described above.

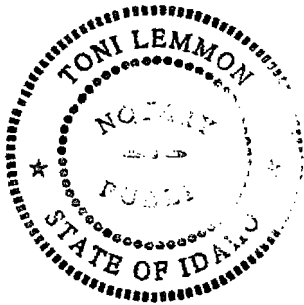
E. **REASONS SUPPORTING OBJECTION(S):** Uses and points of diversion should be recommended as claimed based on usage as of 1987. A pending transfer will add other points of diversion as necessary. Quantity possibly should be 6.72 cfs or even more based on measurements of Indian Creek and the Frost Decree's terms. All flows of Indian Creek and Springs except for 2.62 cfs under 37-296A should be recommended. Acreage was historically used for hay pasture, was claimed in 1988 in the SRBA and resumption acres.

F. VERIFICATION (must be completed)

State of Idaho)
)ss.
County of Blaine)

Dennis Kavanagh, President, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.



Dennis Kavanagh
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

11-13-2007
Toni Lemmon
Notary Public for Idaho
Residing at: Ketchum
My Commission Expires: 7-31-2009

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 37-21412

Date Received: _____

Receipt No: _____

Received By: _____

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

RECEIVED
FEB 19 2010
WATER RESOURCES
WESTERN REGION

Please type or print clearly

1. Name of Claimant(s) Indian Creek Ranch Owners Association, Inc Phone (208) 788-9887
Mailing Address PO Box 3411 Hailey, Idaho Zip 83333
Street or Box City State
2. Date of Priority (Only one (1) per claim) 8/22/1972
Month Day Year (YYYY)
3. Source of water supply (Check one) Ground Water () or Other (X) (a) Indian Creek/Springs
which is tributary to (b) Dry Stream
4. a. Location of Point of Diversion is: Township 3N, Range 18E, Section 23,
1/4 of SE 1/4 of NW 1/4, Govt. Lot _____, B.M., County of BLAINE,
Parcel (PIN) no. _____
Additional points of diversion if any: SWSE Section 22, T3N, R18E, Blaine County
If available, GPS Coordinates _____
b. If instream flow, beginning point of claimed instream flow is:
Township 3N, Range 18E, Section 23, SE, 1/4 of NW, 1/4,
Govt. Lot _____, BM., County of Blaine
Ending point is: Township 3N, Range 18E, Section 33, NE, 1/4 of SW, 1/4
Govt. Lot _____, BM., County of Blaine
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. Bypass past the City of Hailey's intake structure. Headgate
structure at Reservoir.

Last Name ICROA Ident. Number 37-21412

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD) (cfs) (acre feet)

For Diversion from Storage* purposes from 01-01 to 12-31 amount 4.01 or 50 *act*

For Storage* purposes from 01-01 to 12-31 amount _____ or 50

For Aesthetic, Wildlife, and Recreation purposes from 01-01 to 12-31 amount 4.01 or _____

For Fire Protection purposes from 01-01 to 12-31 amount 4.01 or _____

*Storage and Diversion from Storage are for Aesthetics, Wildlife, and Recreation Purposes

7. Total quantity claimed (a) 4.01 (cfs) and/or (b) 50 (acre feet)

8. Non-irrigation uses; describe fully. (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) aesthetic, wildlife and recreation uses are associated with subdivision amenities.

9. 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.

TWN	RNG	SEC	NE				NW				SW				SE				Total
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3N	18E	22												Stor			Stor		
		22												jwrf	jwrf	jwrf	jwrf	jwrf	
		23							jwrf	jwrf		jwrf							
		27		jwrf			jwrf		jwrf	jwrf		jwrf							
		28													jwrf	jwrf	jwrf		
		33		jwrf			jwrf			jwrf	jwrf								

Parcel (PIN) no(s). _____ Total number of acres irrigated _____

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

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

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.

37-19740 or None ()

13. Remarks: Claimant holds water right on behalf of its members

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

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number 37-21412

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 notice in the Snake River Basin Adjudication." (b.) I/We do () do not (X) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of Attachments: one (1) map

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

President _____ of Indian Creek Ranch Owners Association, Inc.
Title _____ Organization _____

that I have signed the foregoing document in the space below as

President _____ of Indian Creek Ranch Owners Association, Inc.
Title _____ Organization _____

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

Signature of Authorized Agent Einar B. Hoff Date February 19, 2010
Einar B. Hoff

Title and Organization President, Indian Creek Ranch Owners Association, Inc.

16. Notice of Appearance:

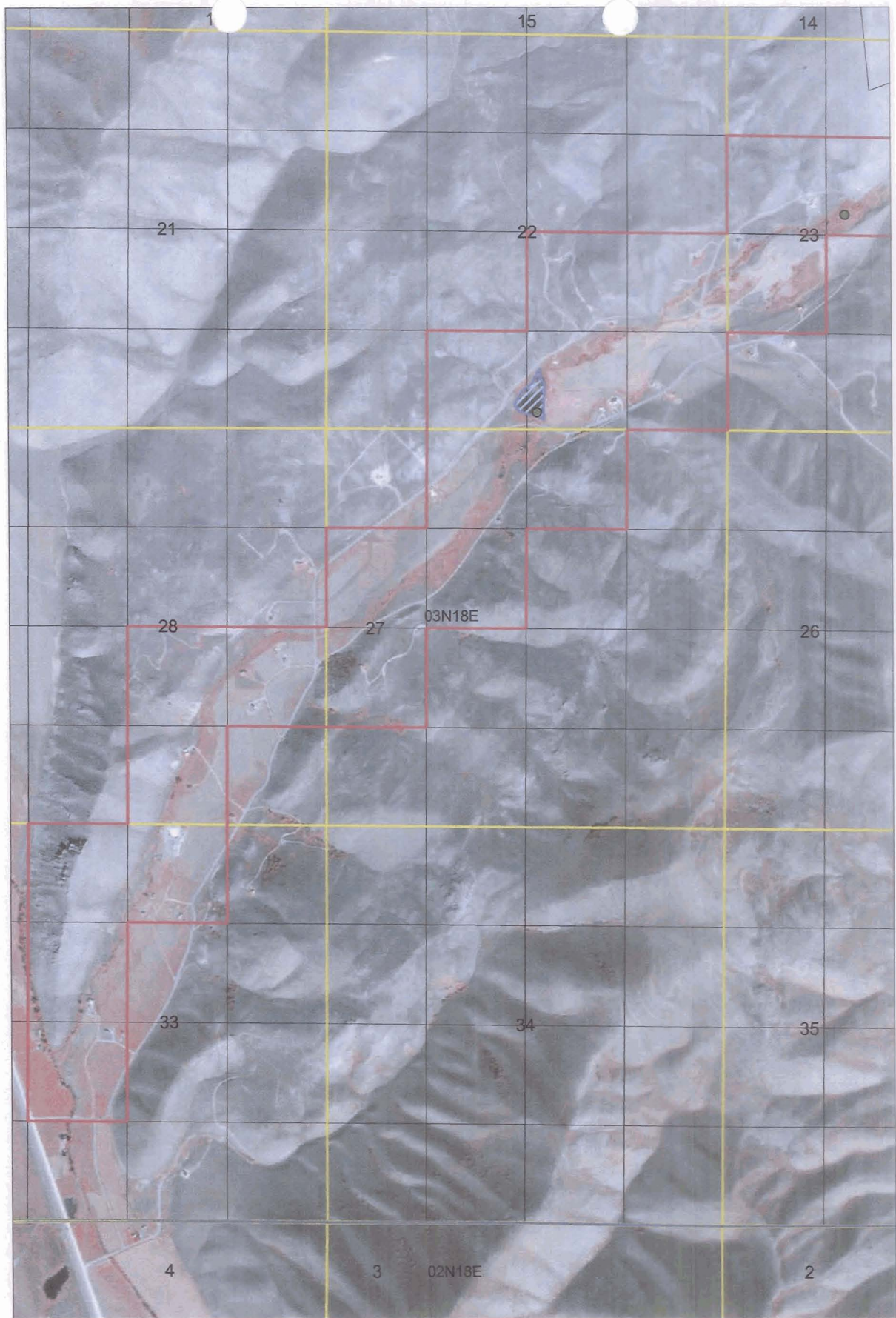
Notice is hereby given that I, Dana L. Hofstetter of Hofstetter Law Office, LLC, will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Dana L. Hofstetter Date February 19, 2010

Address Hofstetter Law Office, LLC

608 West Franklin Street, Boise, Idaho 83702

Last Name ICROA Ident. Number 37-21412



T3N, R18E
Blaine County, Idaho

0 500 1,000
Feet

Legend

- 37-21412 POD
- 37-21412 Place of Use
- ▨ Reservoir

Figure 1 Amended 37-21412

Indian Creek Ranch
Aesthetic, Wildlife, and
Recreation Place of Use

Year of Photo: 1984 (CIRP)
February 16, 2010

ERQ



Idaho Department of Water Resources Receipt

Receipt ID: W038151

Payment Amount \$1,604.00 Date Received 2/19/2010 5:18 PM Region WESTERN
Payment Type Check Check Number 3093
Payer HOFSTETTER LAW OFFICE LLC
Comments AMENDED CLAIM FEES 37-21412

Fee Details

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$1,604.00	ADJUDICATION FILING FEE	42503	0337			1155

Water Rights

Basin	Sequence	Split Suffix
37	21412	

Signature Line (Department Representative)

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 37-21412
Date Received: 1/10/2005
Receipt No:
Received By:

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

1. Name of Claimant(s)

INDIAN CREEK RANCH OWNERS ASSN INC Phone: (208)788-7461
PO BOX 3411
HAILEY ID USA 83333-3411

2. Date of Priority: 04/01/1880

3. Source: INDIAN CREEK

Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 Lot	County	Type
03N	18E	27	SW	NW		BLAINE	
03N	18E	28	NE	SE		BLAINE	
03N	18E	28	NE	SE		BLAINE	
03N	18E	27	NE	NW		BLAINE	
03N	18E	28	SW	SE		BLAINE	
03N	18E	33	NW	NE		BLAINE	
03N	18E	33	SE	NW		BLAINE	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	10/15	1.29	

7. Total Quantity Appropriated is:
1.29 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
03N	18E	27	NW	NW	IRRIGATION	3.2
			SW	NW	IRRIGATION	9.5
					Section Acres	12.7
03N	18E	28	NE	SE	IRRIGATION	12.9
			SE	NE	IRRIGATION	5.2
			SW	SE	IRRIGATION	9
			SE	SE	IRRIGATION	6.3
					Section Acres	33.4
03N	18E	33	NE	NE	IRRIGATION	0.4
			NW	NE	IRRIGATION	8.2
			SW	NE	IRRIGATION	13.3
			SE	NW	IRRIGATION	7.3
			NW	SE	IRRIGATION	0.9
					Section Acres	30.1
					Total Acres	76.2

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:

14. Remarks:

DJ, 1-10-2005: IDWR NOTE: CLAIM RECIEVED 9/28/2004 WITH TRANSFER APPLICATION, CLAIM FORWARDED TO AJ STAFF 1/7/2005. SEE CLAIM FILE FOR REMARKS AND NARRATIVE IN SUPPORT OF CLAIM.

CLAIMED AS PART OF 37-296.

15. Basis of Claim: Decreed

Receipt Details for ID S027079

Status	Adjustment Type	Version
		1

General Information:

Date Received	Date Deposited	Region	Total Amount	Payment Type
9/28/2004 2:13:30 PM	10/1/2004 2:55:47 PM	SOUTHERN	\$536.00	Check
Payer		INDIAN CREEK RANCH OWNERS ASSOC		

Account Information:

Check #	Account #	Credit Card Name	Authorization #
4285			
Card Expiration Date	Credit Card Transaction #		

Comment transfer claim 37-296b

Fee Detail:

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$536.00	TRANSFERS	64106	0229	21		1155

Refund(s):

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

Water Right Information:

Basin Number	Sequence Number	Split Suffix	Amount	Type
--------------	-----------------	--------------	--------	------

CLAIM BASED ON LEFTOVER PORTION OF
37-296 AFTER TRANSFER # 4713?
(NOTE CITY OF HAILEY CLAIM 37-296)

BROCKWAY ANALYSIS OF 84 PHOTO SHOWS 111.2 ACRES
1986 LANDSAT IMAGE MAY SHOW 120+ ACRES
BELOW INDIAN CREEK DAM.

9/3/04 PHOTO SHOWS IRRIGATION?

TRANSFER FILING FEE
4.01 cfs $\Rightarrow$ \$410.00
 $\therefore 536 - 410 = \$126.00$
SRBA CLAIM
FEES?

DOUG,
INDIAN CREEK CLAIM.
RECEIPT (PROBABLY WRONG)
INCLUDED. MAYBE YOU,
ALLEN, AND I CAN SIT
DOWN AND TALK ABOUT
THIS? COREY

MAR 08 2010

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 FORM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number

37-21412

Date Received

9/28/2004

Receipt Number

5022079

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED
SEP 28 2004
Department of Water Resources
Southern Region

Please type or print clearly

1. Name of Claimant (s) Indian Creek Ranch Owners Association c/o Dennis Kavanagh Phone 208-726-2599

Mailing Address _____ P.O. Box 3411 Hailey, ID _____ Zip _____ 83333

2. Date of Priority (Only one (1) per claim) _____ 4/1/1880

3. Source of water supply (a) _____ Indian Creek

which is tributary to (b) DRY STREAM (SER)

4. a. Location of existing point of diversion is: Township _____ Range _____ Section _____,
_____ 1/4 of _____ 1/4 of _____ 1/4, Govt. Lot, _____ B.M., County of _____

Additional points of diversion if any: See attached list for all points of diversion

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. In stream check structures to diversion ditches to fields.

Ditches approximately 1' wide on bottom with 1.5:1 avg side slopes. Moveable tarp check dams are
placed in the ditch to back up the water and flood the fields.

COPY

6. Water is claimed for the following purposes:

(both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 4/15 to 10/15 amount 1.29 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1.29 (cfs) and / or (b) _____ (acre feet)

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

9. Non-irrigation uses; described fully (e.g. Domestic: list number of households served; Stockwater: type and number of livestock, etc.) none

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
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
03N	18E	27						3.2	9.5										12.7
03N	18E	28				5.2									12.9		9.0	6.3	33.4
03N	18E	33	0.4	8.2	13.3					7.3						0.9			30.1

Total number of acres irrigated 76.2

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

12. Do you own the property listed above as place of use? Yes X No X (Both) See Narrative
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.

37-296B Or None ☐

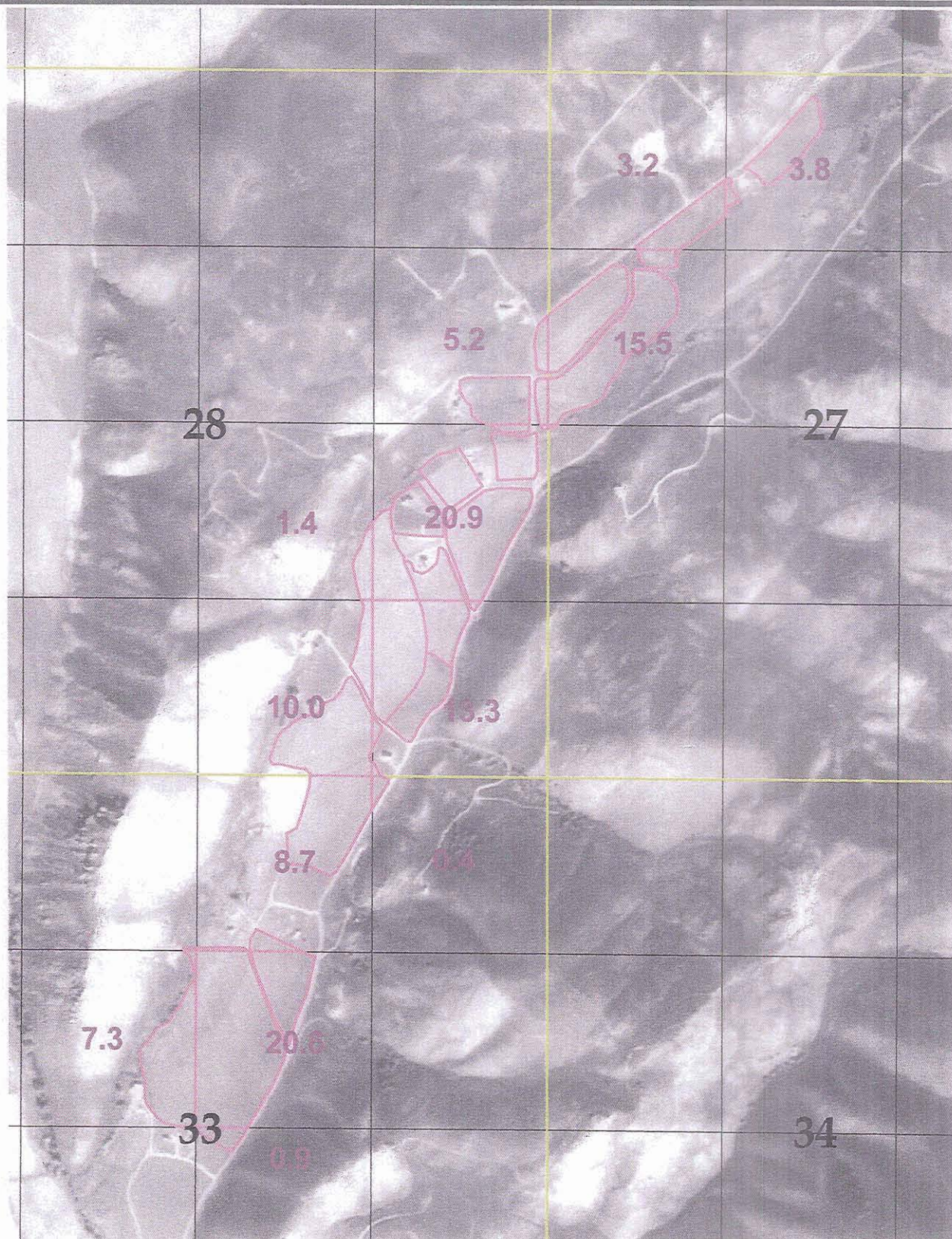
14. Remarks:

Claim is a companion claim to 37-296B with additional POD's and claimed acreage = 35.0 acres.

Acres claimed are the remaining acres not accounted for in Transfer #4713 filed in September 1995.

Total acres claimed on land = 111.2 acres.

Last Name _____ Ident. No. _____



INDIAN CREEK H.O.A.
IRRIGATED & CULTIVATED LAND
1984 USDA FSA AERIAL PHOTO

BROCKWAY ENGINEERING, PLLC.
ALR SEPT. 7, 2003

COPY
TOTAL ACRES = 111.2



Water Right Claim – Supporting Information

Applicant: Indian Creek Ranch Owners Association c/o Dennis Kavanagh

Part #4.A – Point(s) of Diversion:

¼	¼	Sec.	Twp.	Rge.	County	Diversion Name
NE	NW	27	03N	18E	Blaine	2 POD'S
SW	NW	27	03N	18E	Blaine	
NE	SE	28	03N	18E	Blaine	
SW	SE	28	03N	18E	Blaine	
NW	NE	33	03N	18E	Blaine	
SE	NW	33	03N	18E	Blaine	

COPY

Narrative in Support of Water Right Transfer & Claim

Prepared For: Indian Creek Ranch Owners Association

Creation of Permissible Place of Use

Water Right(s): 37-296B & New Claim (#TBD)

The intent of this transfer is to create a permissible place of use and add points of diversion to reflect the irrigation plan for the individual lots and common areas within the association. This right and associated claims are based on historical diversion from Indian Creek for irrigation of land bordering the creek. When the development was created in the early 1970's the water rights were passed to the association for irrigation of the common areas and for individual lot irrigation as desired by the lot owner. Transfer #4713 was filed in June 1995 by the ICROA to change the place of use to reflect the irrigation practice at that time. The transfer was approved in 1996 which created 37-296B leaving a portion of this right unclaimed. At this time, ICROA has submitted an SRBA claim to claim the acres and additional flow associated with this right.

The original claim by ICROA for WR# 37-296B was filed for a diversion rate of 4.01 cfs on a place of use of 200 acres. This claim was the basis for the transfer in 1995. However, as part of the review for this transfer, Steve Clelland of IDWR completed a beneficial use exam of the water under this right and made the determination at that time (1996) that a total of 35.0 acres were being irrigated. His recommendation of 35.0 acres and a diversion rate of 2.72 cfs were recommended and approved as part of the transfer. This reflects the current structure of the water right and claim under 37-296B.

Historical analysis of aerial photographs of this ranch area indicate a much larger amount of irrigation was occurring in the 5 year period prior to 1988. An analysis completed by our office indicate that a total of 111.2 acres were irrigated and cultivated in 1984 as shown in the supporting exhibits. In his report to IDWR in 1996, Mr. Clelland had also done a historical photo analysis of the ranch and calculated a total of 89.8 acres of irrigation in 1984 based on the 1984 ASCS Aerial Photo. The SRBA court has held that the forfeiture statute is tolled at the filing of an SRBA claim. As such, the remaining acres under 37-296B not dealt with in the transfer, are still valid until a partial decree is made. ICROA has submitted an adjudication claim for the amount of 1.29 cfs ($4.01 \text{ cfs} - 2.72 \text{ cfs} = 1.29 \text{ cfs}$) for a place of use equal to 76.2 acres ($111.2 \text{ ac} - 35 \text{ ac} = 76.2 \text{ ac}$). This would reflect the historical beneficial use of the water prior to the filing of the claim in 1988. Based on the tolling of the forfeiture statute, this should be the amount recommended in the adjudication and is the amount used in the proposed transfer.

The proposed transfer creates a permissible place of use which encompasses the majority or land adjacent to the creek which could likely be irrigated at some time by ICROA or its individual members. The PPU area is 407 acres but the water rights would be limited to a total of 111.2 acres of irrigation within this PPU. A total of 18 points of diversion are requested in this transfer which reflects the POD's for individual lot owners with pumps in the creek and POD's for the association to irrigate the common areas.

No change in the nature of use of the water right is proposed and no expansion of the original acres are proposed. The diversion rate of the combined rights (4.01 cfs) is based on a measurement of the creek made by Reid Newby who was the District 37 watermaster. Reid measured the creek at 6.63 cfs. The claim was based on the full flow of the creek minus the amount claimed by the City of Hailey (2.62 cfs).

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

If applicable provide IDWR Water Right Number 37-296

Court _____ Case Number _____ Decree Date 12-13-1909

Plaintiff vs Defendant S.C. Frost vs Alturas Water Company

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) _____ Date _____

_____ Date _____

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

Of Indian Creek Ranch Home owners Assn that I have signed the foregoing

Document in the space below as President of ICROA
Organization Title Organization

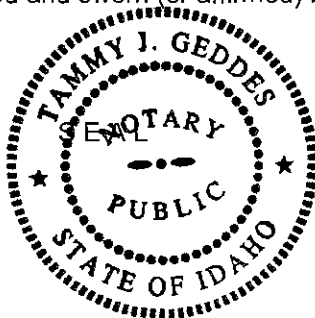
And that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Wanda Kwanong

Title and Organization President Date 9-13-04

State of Idaho / or _____)
County of Blaine) ss.

Subscribed and sworn (or affirmed) before me this 13 day of September, 20 04.



Notary Public Tammy J. Geddes

Residing at Hailey Idaho

My Commission Expires 06-06-07

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 _____

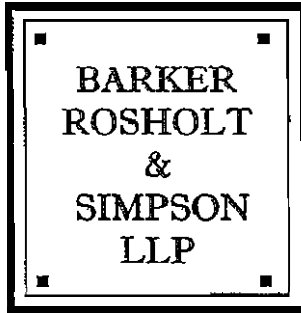
Address _____

Date _____

Last Name _____ Ident. Number _____

COPIES

ALBERT P. BARKER
JOHN A. ROSHOLT
JOHN K. SIMPSON
TRAVIS L. THOMPSON
SHELLEY M. DAVIS
PAUL L. ARRINGTON



1010 W. Jefferson, Suite 102
Post Office Box 2139
Boise, ID 83701-2139
(208) 336-0700 telephone
(208) 344-6034 facsimile
brs@idahowaters.com

113 Main Avenue West, Suite 303
Twin Falls, ID 83301-6167
(208) 733-0700 telephone
(208) 735-2444 facsimile
jar@idahowaters.com

Albert P. Barker
apb@idahowaters.com

May 23, 2008

Dana L. Hofstetter
608 W. Franklin Street
Boise, ID 83702

Re: Water Right No. 37-19740

Dear Dana:

The individuals making up the Concerned Water Users have filed objections to the water right held by Indian Creek Ranch Owners Association on the grounds that the rights for recreation uses are not appropriate rights to be held by a private party without due authorization from the legislature, which has not been given in any of the water right statutes. We understand that you may have a different view of the Department's ability to grant or your client's authority to obtain a recreation right in the absence of legislative authorization. I am not writing here to debate that issue. Instead, I am proposing a method for resolution of the objection by the Concerned Water Users to your client right for recreation uses.

My clients are more concerned about the practical effects of impounding water in the upper portions of the basin than in debating the fine points of constitutional law or the authority of the Department of Water Resources. Accordingly, my clients are willing to withdraw their objections to your client's recreation uses on the following conditions dealing with elements of the water right, rather than whether the water right can exist in the first place. The elements which concern my clients, along with a proposal of how to deal with those concerns, are set forth below.

1. Diversion Rate. The diversion rate would be set at the same diversion rate as an irrigation right: one inch per acre for every acre of surface area of the aesthetic recreation or wildlife purpose. I do not see a diversion rate recommended for your client's water right, so it is unclear what rate your client is claiming. Studies have been done over the years suggesting that the seepage and evaporation from ponds and other aesthetic amenities are approximately the same as that of an irrigated field. The Department has acknowledged pond use to be roughly equivalent consumptive use to irrigated fields in a number of decisions over the years. The

recreation use appears to be transferred from a part of a preexisting irrigation right, so the diversion rate cannot exceed the diversion rate on a per acre basis of the preexisting right.

2. Volume. As with the diversion rate, the consumptive use from the pond should be limited to the irrigation annual total volume of 3.5 feet per acre, not to exceed the right from which the aesthetic, recreational, and wildlife use is derived. We also believe that a provision to ensure that this consumptive use requirement would not be exceeded should be handled by inclusion of the following remark, which has been used by the Department in rights in the Basin.

"At the end of each irrigation season, the right holder shall measure the remaining volume in the storage pond. Any year that the storage volume drops below _____ acre feet [the storage volume of the pond] irrigation the following year shall be reduced by 1.0 acre for every 2.5 acre feet required to increase the volume to the storage volume of the pond.

If the recreation use adds nothing to the rate of diversion or volume of water permitted to be stored for irrigation, perhaps a remark so stating would be the best way to handle this issue for ICROA?

3. Measurement. Many of the water rights in the basin have a generic measurement requirement which typically states something like the following:

"The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the water master suitable control of the diversion."

With ponds, a single measuring device is not sufficient for the water master to adequately measure the usage by the ponds. Therefore, the following remark regarding measuring devices for the ponds would be necessary. The Department has recognized this need in a number of water rights in the Basin. This remark should be carried forward into all of these rights. The following language would be acceptable.

"Prior to diversion of water, flow measuring devices specified by the Department and/or water master shall be installed by the right holder at the point of diversion [from the stream/or to storage] and the point of discharge back to the stream. The flow measuring devices shall provide a means of measurement and lockable controlling works which will provide suitable control of the diversions."

4. Administration. There have been instances in the Big Wood where individual water right holders have attempted to lock out the water master from performing his duties. In order to prevent recurrence of those instances, the following remark shall be included:

"Use of the water under this water right will be regulated by the water master of State Water District No. 37."

5. Water Quality. The Big Wood River is a water quality limited segment. Ponds increase water temperature and nutrients which are returned to the Big Wood River. The Department has included water quality provisions in other water rights. To protect the Big Wood River, the following remark shall be included:

“Water used under this recreation right when discharged back to a natural channel shall comply with Idaho Water Quality Standards. Monitoring may be conducted by the Idaho Department of Water Resources and/or the Idaho Department of Environmental Quality.”

The individuals making up the Concerned Water Users believe that these conditions are both reasonable and consistent with requirements of Idaho Water Law. If your clients are willing to accept these conditions on the use of water in the ponds and the recreation right, the Concerned Water Users will withdraw their objection to the existence of this right. We have consulted with Big Wood Canal Company and they agree to withdraw their objections to these rights on the same conditions. I think you will agree that this is a significant proposal from the objectors and we hope that it will result in resolution of these objections. It will mean that a large scale legal battle can be averted. If proposal is not acceptable, the Concerned Water Users will amend their objections to raise these conditions as to the use of the water under this right.

Very truly yours,

BARKER ROSHOLT & SIMPSON LLP



Albert P. Barker

APB/jcm

cc: Concerned Water Users
Craig Hobdey
Chris Bromley (IDWR)

RECEIVED

NOV 26 2008

DEPARTMENT OF
WATER RESOURCES

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)

A. Subcase No. 37-19740

Case No. 39576)

STANDARD FORM 1

AMENDED OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING:

Tom O'Gara
John F. Stevenson
Bill Molyneux
Pete Van Der Meulen
Grace Eakin
Rocky Sherbine
Gerald Bashaw
Pepin Corso-Harris
c/o Concerned Water Users
P.O. Box 1200
Bellevue, ID 83313

Big Wood Canal Company
112 South Apple Street
Shoshone, ID 83352

Name and Address of Attorney, if any:

Albert P. Barker
Barker, Rosholt & Simpson, LLP
P.O. Box 2139
Boise, ID 83701
Telephone: (208) 336-0700
Attorney for O'Gara, Stevenson,
Molyneux, Van Der Meulen, Eakin,
Sherbine & Bashaw

Craig Hobdey
Hobdey & Hobdey
P.O. Box 176
Gooding, ID 83330
Telephone: (208) 934-4420
Attorney for Big Wood Canal Company

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT:

Name: Indian Creek Ranch Owners Assn. Inc.
Address: P. O. Box 3411, Hailey, ID 83333-3411

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate boxes):

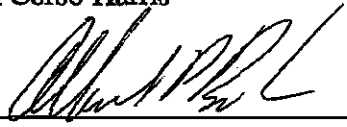
1. ☐ **Name and Address**
Should be:
2. ☒ **Source**
Should be: Indian Creek B Tributary to Big Wood River
3. ☒ **Quantity**
Should be:
4. ☐ **Priority Date**
Should be:
5. ☐ **Point(s) of Diversion**
Should be:
6. ☐ **Instream Flow Beginning and Ending Point**
Should be:
7. ☐ **Purpose(s) of Use**
Should be:
8. ☐ **Period of Year**
Should be:
9. ☐ **Place of Use**
Should be:
10. ☐ **I object because:**
 - ☐ This water right should not exist
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

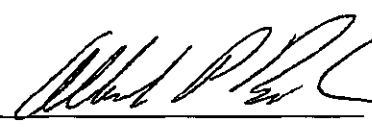
E. REASONS SUPPORTING OBJECTION(S):

- Measuring devices for inflow and outflow of pond should be required.
- Volume of pond should be measured annually.
- Control by District 37 Water Master.

Tom O'Gara
John F. Stevenson
Bill Molyneux
Pete Van Der Meulen
Grace Eakin
Rocky Sherbine
Gerald Bashaw
Pepin Corso-Harris

Big Wood Canal Company

By: 
Albert P. Barker, Attorney

By: 
Craig Hobdey, Attorney

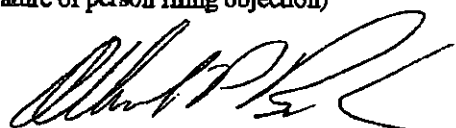
F. VERIFICATION

State of IDAHO)
) ss.
County of Ada)

Albert P. Barker, duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6), or that I am the attorney for the party/claimant objecting, and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)



(Attorney signing in representative capacity)

03/17/2005

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

RIGHT NUMBER: 37-21412

NAME AND ADDRESS: INDIAN CREEK RANCH OWNERS ASSN INC
PO BOX 3411
HAILEY ID 83333-3411

VERIFIED BY KKC
VS. RECORDING OFFICE

SOURCE: INDIAN CREEK

TRIBUTARY:

QUANTITY: 1.290 CFS

PRIORITY DATE: 04/01/1880

POINT OF DIVERSION:

T03N R18E S27 NENW Within BLAINE County

T03N R18E S28 SWSE Within BLAINE County

T03N R18E S33 NWNE Within BLAINE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

1.290 CFS

PLACE OF USE: IRRIGATION Within BLAINE County

T03N R18E S27	NENW	1.7	T03N R18E S27	SWNW	6.2
T03N R18E S28	NESE	8.5	T03N R18E S28	SWSE	8.8
T03N R18E S28	SESE	1.3	T03N R18E S33	NENE	0.2
T03N R18E S33	NWNE	9.9	T03N R18E S33	SWNE	19.0
T03N R18E S33	SENW	3.4	T03N R18E S33	NESW	7.0
T03N R18E S33	NWSE	1.9			

67.9 ACRES TOTAL

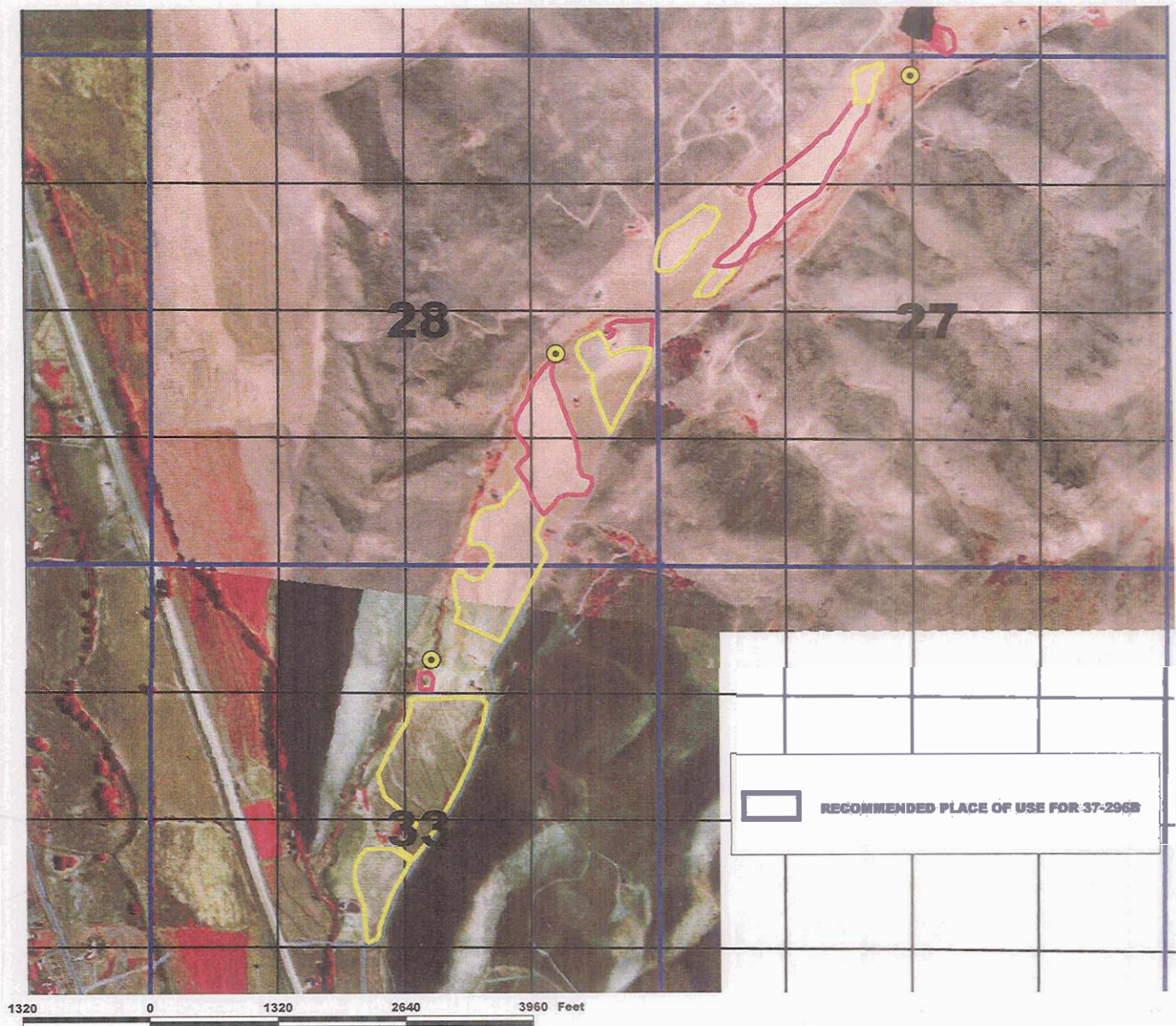
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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: Decreed

Idaho Department of Water Resources

RECOMMENDED PLACE OF USE FOR 37-21412

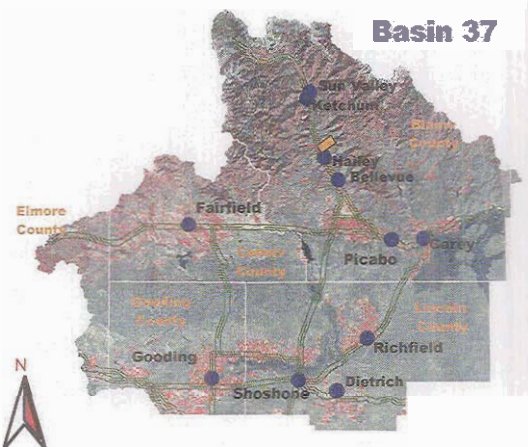


PLACE OF USE
TWP 3N, RNG 18E, SECs 22, 23, 27, 28, and 33
Data entry on March 17, 2005

- RECOMMENDED POINT OF DIVERSION
- RECOMMENDED PLACE OF USE
- TOWNSHIP LINES
- SECTION LINES
- QUARTER/QUARTER LINES

LOCATION IN BASIN

GIS PLACE OF USE PRESENTATION
1987/1988 NAPP AERIAL PHOTOGRAPHY
DATA ENTRY BY KELLY K CHRISTENSEN



SPECK & AANESTAD

A PROFESSIONAL CORPORATION

ATTORNEYS

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

TELEPHONE
(208) 726-4421
FACSIMILE
(208) 726-0752

JAMES P. SPECK
jimspeck@cox-internet.com

DOUGLAS J. AANESTAD
aanestad@cox-internet.com

January 15, 2004

RECEIVED
JAN 20 2004
Department of Water Resources
Southern Region

Mr. Doug Jones
Idaho Department of Water Resources
1341 Filmore, Suite 200
Twin Falls, Idaho 83301

Re: Indian Creek Ranch Owners Association, Inc.;
SRBA Claims 37-296B and 37-19740

Dear Doug:

My law firm represents Indian Creek Ranch Owners Association, Inc. (the "Association"). In November 1988 the Association filed SRBA Claim 37-296B to divert 4.01 cfs from Indian Creek for the irrigation of 200 acres with an April 1, 1880 priority date. This claim is based upon a previously decreed water right.

A preliminary review of this claim was conducted by Steve Clelland for the Department in 1994. No official recommendation has been made as of this date to the SRBA Court by the Department. The Association subsequently filed Transfer Application No. 4713 in September 1995 and it was approved by the Department in January 1996 (those were the good old days!). The approval is consistent with Steve Clelland's preliminary recommendation. No express finding of forfeiture was made in this transfer proceeding.

As you know the rules of the game have changed significantly since 1994. We now have the benefit of rulings from the SRBA Court that the five-year statutory forfeiture period is tolled with the filing of a claim in the SRBA. Accordingly, for Claim 37-296B the relevant period for use of the water right is 1984 through 1988. I am enclosing a copy of a report prepared for the Association by Brockway Engineering analyzing the available evidence of irrigation use during this time period. Brockway Engineering concludes that 106.2 acres were irrigated during this relevant time period.

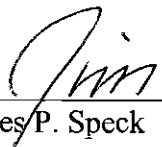
Therefore, the Association requests the Department change its preliminary recommendation for this water right to reflect the irrigation of 106.2 acres with 4.01 cfs and an April 1, 1880 priority date. The irrigated acreage under Claim 37-19740 should also be changed accordingly. The Association is willing to file an amended claim if the Department will agree to make these recommendations when the time comes for formal investigation and review of the SRBA claims in this part of Basin 37.

Mr. Doug Jones
January 15, 2004
Page 2

Please call me at your earliest convenience to discuss this letter. Thank you.

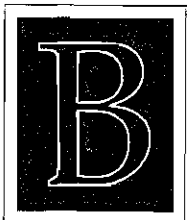
Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: _____
James P. Speck

JPS/jef
Enclosure
cc: Brockway Engineering w/o encl.
Client w/encl.

F:\WPDATA\JIM\ICROA\CORRESP\Jones.01-15.wpd



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

December 15, 2003

James P. Speck
Speck & Aanestad
120 East Avenue, P.O. Box 987
Ketchum, ID 83340

RECEIVED
JAN 20 2004
Department of Water Resources
Southern Region

Re: Indian Creek Ranch Owners Association Water Rights
Acre Delineation 1984, 1987, & 1988 Photos

Dear Jim:

As requested, Brockway Engineering has evaluated the land irrigated by the Association's water rights utilizing the 1984 & 1988 black & white photos and the 1987 Infra Red Photo from IDWR. The source of the black & white photos are from the USDA FSA Aerial Field Office in Salt Lake City, Utah.

Based on a close analysis of these photos, we have delineated those areas which appear to be irrigated and cultivated during these time periods. The justification for this analysis is the appearance of cultivated crops and the visual observation of ditch delivery systems in the photos.

1984 USDA Black & White Photo

An exhibit has been prepared showing the delineated area within the Association property for the 1984 photo. Based on our analysis, we estimate that approximately 101.2 acres were irrigated at the time of this photograph. This is 11.4 more acres than indicated in the irrigated area evaluation made by Mr. Steve Clelland for the same year. For the most part, this photo clearly shows the cultivated areas and we are confident in this delineation, however it is not possible from the photo to see all of the ditch and delivery systems for these fields. The delineated photograph does not include the park area (which did not appear irrigated at this time), and any irrigated lots within the subdivision. According to Steve Clelland's analysis, this could account for 5.5 extra acres on top of that accounted for in our analysis. If the irrigated lots are included in the total irrigation estimate for this year the total acreage would be approximately 106.7 acres.

1987 USDA Infrared Photo

This photograph is from the main set of photographs used by IDWR in determining irrigated areas at the time of the adjudication filings. The infrared photo depicts in bright red color vegetation which is evapotranspiring. Unfortunately, the 1987 infrared photo does not indicate

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

any major areas within the subdivision which are actively evapotranspiring with the exception of the park area which shows up as bright red on the photo. Regardless, we have evaluated the photograph and made our best estimate as to the fields which were likely irrigated at this time. It is possible that at the time of the photograph, the land had recently been harvested and the crops had not begun evapotranspiring again. Based on our analysis of this photograph, we have delineated 101.2 acres which includes the park but does not include the lot areas which utilize Indian Creek to irrigate. Assuming an aggregate of approximately 5 acres of lots are irrigated, the total irrigation estimate based on this photograph is 106.2 acres.

1988 USDA Black & White Photograph

The identical analysis was completed for the 1988 black & white photograph. The delineated areas for this photograph indicate approximately 72.1 acres irrigated within the subdivision. This agrees fairly closely to the analysis made by Steve Clelland who estimated 66.4 acres in the 1988 photo he used in his analysis.

Conclusions & Recommendations

The black and white photographs are good tools in determining the cultivated areas. However, the quality of the 1988 photo is not as good as the other years and delineating the different fields was difficult. Our analysis showed similar results to the numbers calculated by Steve Clelland in his 1994 review of the historical photographs. Either way, the 1984 photograph indicates that we can justify approximately 106+ acres which were irrigated prior to the tolling of the forfeiture statute with the filing of the adjudication claim.

Please review the analysis in this report and the supporting documents. If you have any questions or comments, please don't hesitate to contact our office. Thank you and have a great day.

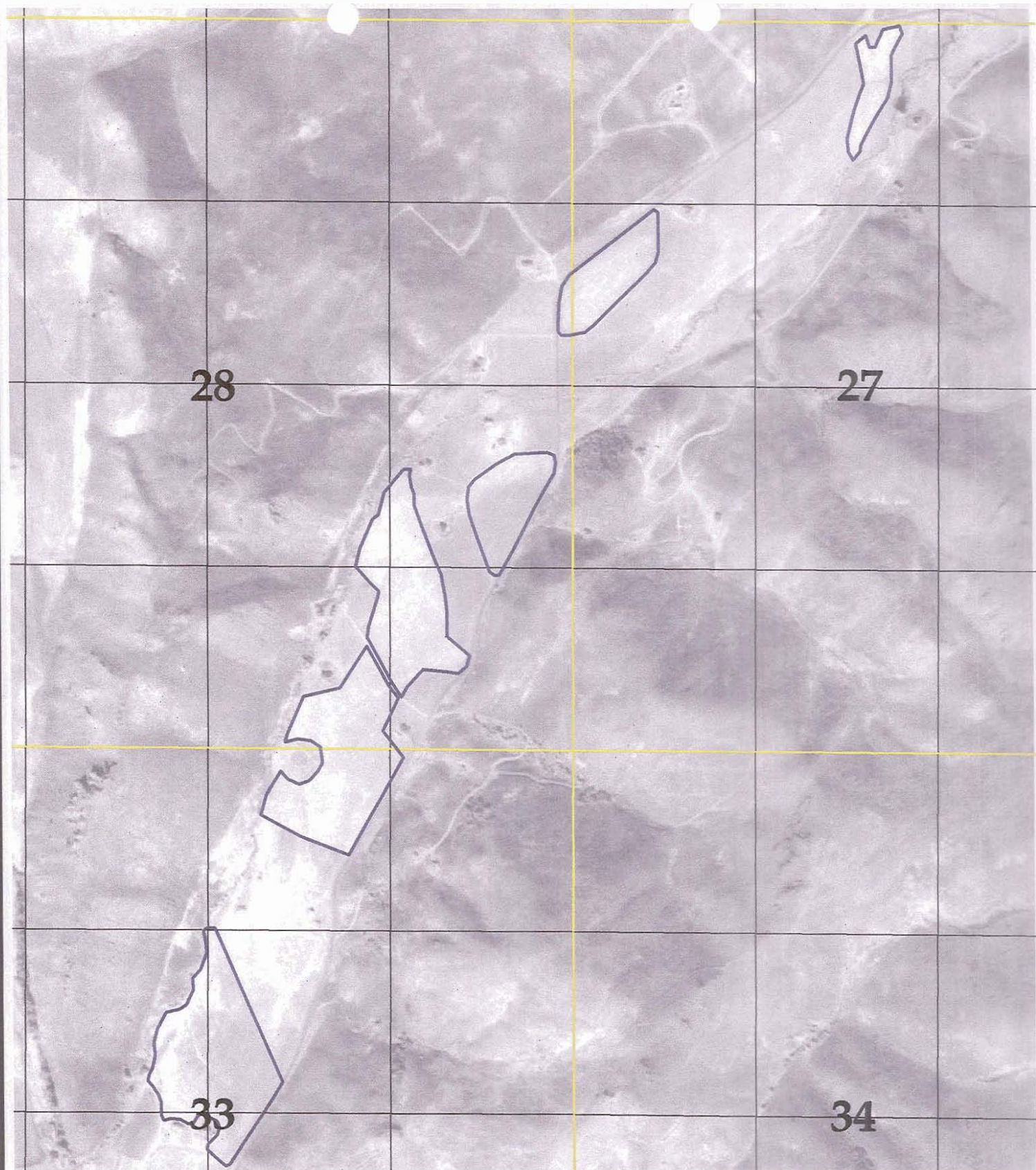
Sincerely,



Jeffrey S. Rau, P.E.

Attachment: 1984 Exhibit
1987 Exhibit
1988 Exhibit

Cc: Ben Hoff (Indian Creek)

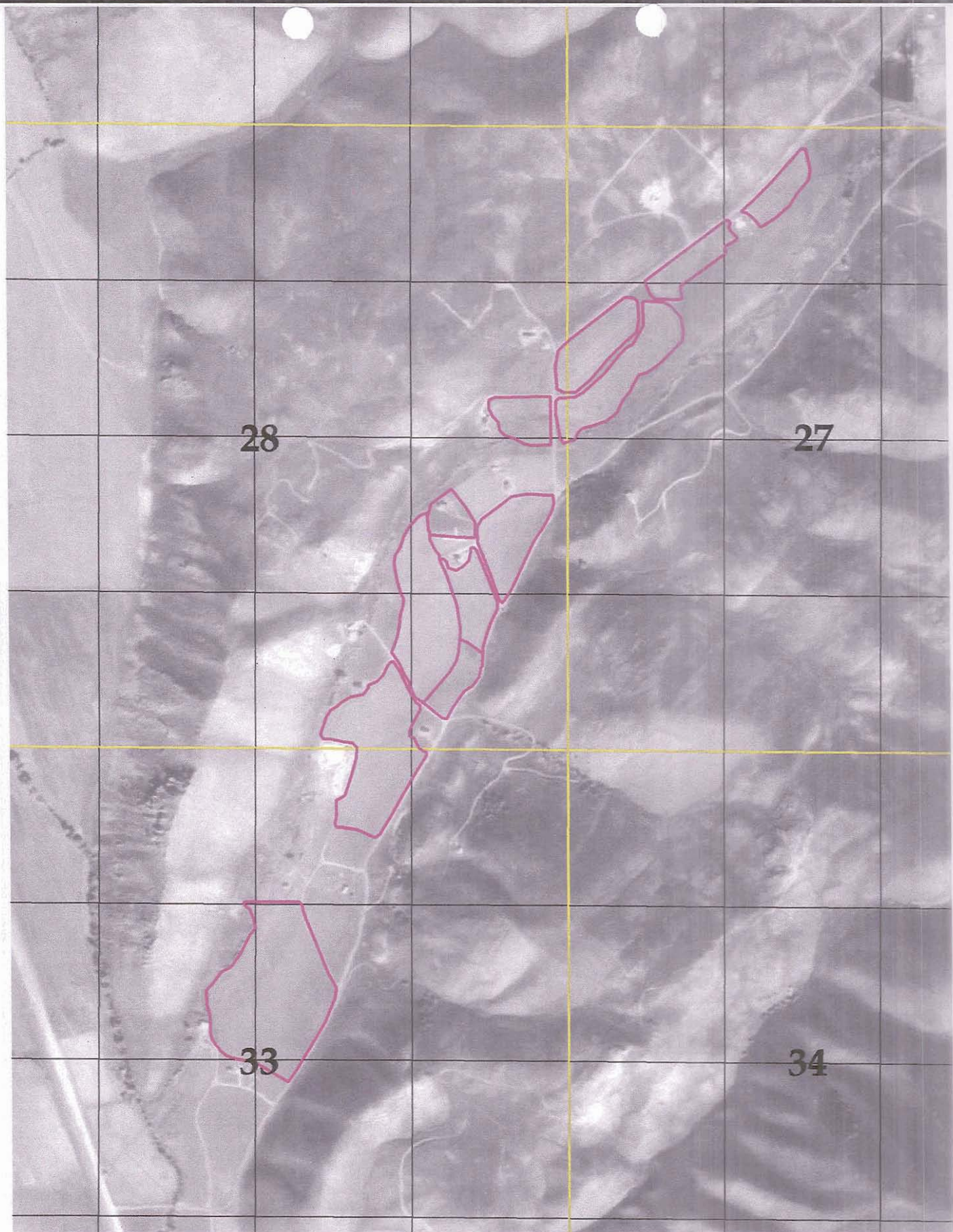


INDIAN CREEK H.O.A.
IRRIGATED & CULTIVATED LAND
1988 USDA FSA AERIAL PHOTO



BROCKWAY ENGINEERING, PLLC.
ALR OCT. 6, 2003

TOTAL ACRES = 72.06

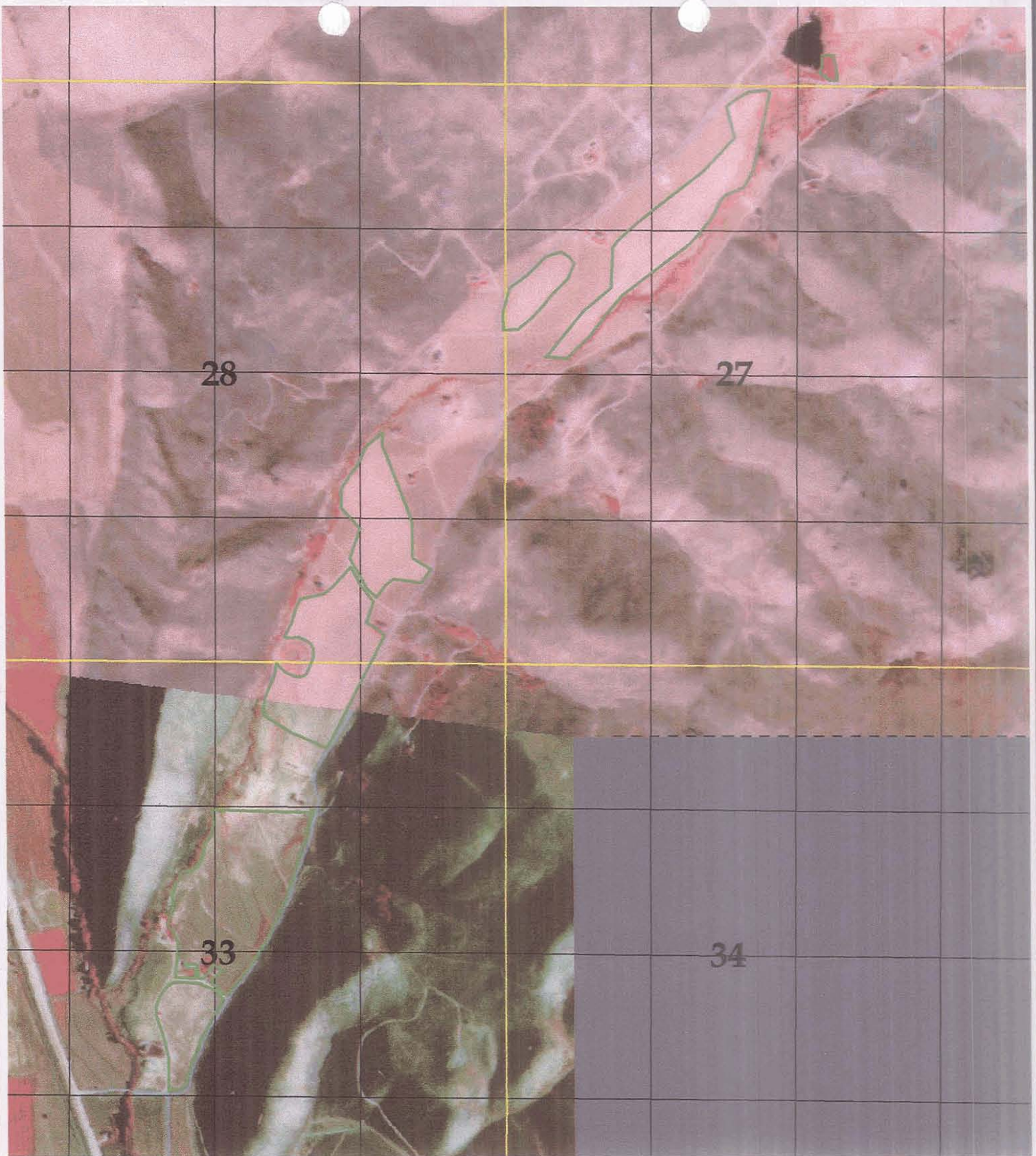


INDIAN CREEK H.O.A.
IRRIGATED & CULTIVATED LAND
1984 USDA FSA AERIAL PHOTO

WAY ENGINE
BROCKWAY ENGINEERING, PLLC.
ALR OCT. 6, 2003

TOTAL ACRES = 101.19



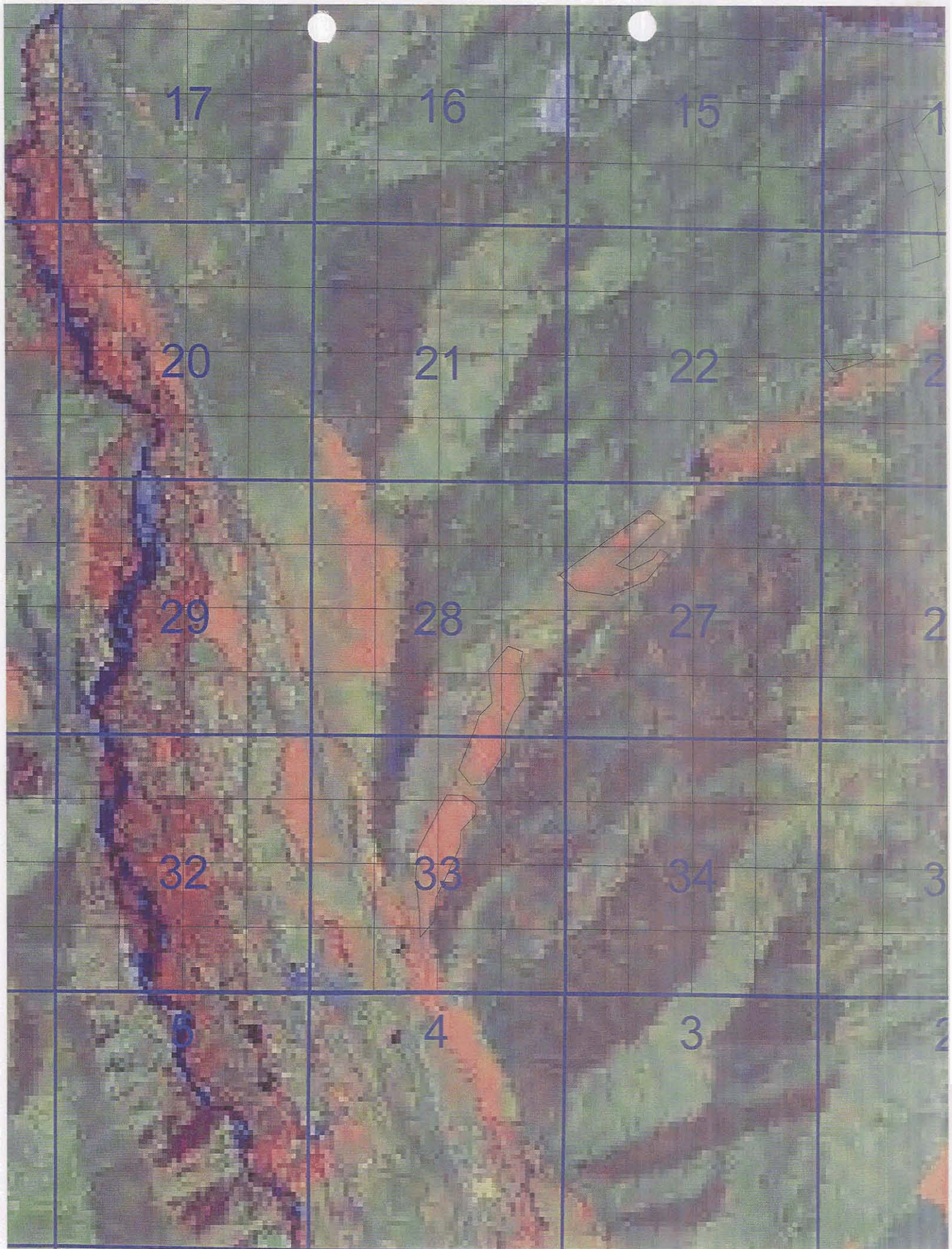


INDIAN CREEK H.O.A.
IRRIGATED & CULTIVATED LAND
FSA 1987 INFARED AERIAL PHOTO

BROCKWAY ENGINEERING, PLLC.
ALR OCT. 6, 2003

TOTAL ACRES =101.21





-64

CV0-2EE-54



INDIAN
CREEK
DAM

9/3/64 photo