

DEPARTMENT OF
WATER RESOURCES

My phone number is: (208) 356-3633

MOTION TO FILE A LATE NOTICE OF CLAIM

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

X I did not file a Notice of Claim to the use of the water in the SRBA because:

The claimed place of use is located between two canal companies and it also has some private rights with irrigation as the purpose of use. Due to the need to fully determine what water rights Claimant has, Claimant recently hired a consultant which reviewed all of the rights associated with the lands of Claimant. The consultant has only recently determined that the claimed water right, which has been beneficially applied, was not included within the present canal companies or other private rights. Therefore, it has become necessary to file this late beneficial use claim to acquire what has historically been diverted upon the lands of Claimant.

- ☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of claim for domestic or stock watering use.
- ☐ I am providing legal and factual documentation for my claimed use of water. You must described these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

I have attached:

- X** A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$_____.
- X** A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$100.00 (acre fee may have previously been paid under 01-286A).

Follow these instructions regarding the hearing on this motion.

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

This motion will be heard on: Tuesday, June 15, 2010 at 1:30 p.m.
at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

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

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

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

I have attached:

- ☐ An Amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:
Fees have been paid when the claims were originally filed.

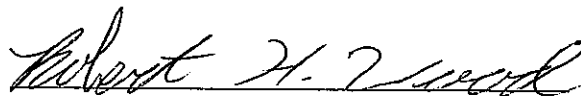
VERIFICATION

STATE OF IDAHO,)
 ss
County of Madison.)

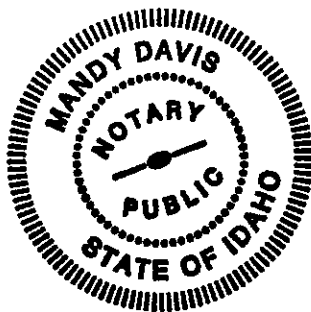
Jerry R. Rigby, being first duly sworn, upon oath, deposes and says:

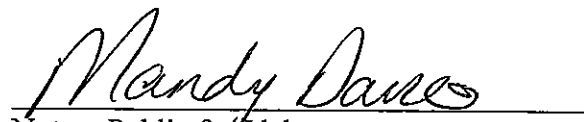
That I am the Secretary of party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 4204101A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Signature of person filing motion


Attorney signing in representative capacity.

Subscribed and sworn to before me on this 23rd day of March, 2010.




Notary Public for Idaho
Residing at St. Anthony
My Commission Expires: 06/24/2011

CERTIFICATE OF MAILING

I certify that on March 23, 2010, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to

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

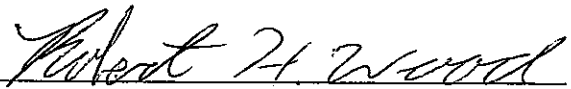
2. Copies to:

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

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

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

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


Signature of person or attorney mailing the form

**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 01-10571

Date Received: _____

Receipt Number: _____

Received By: _____

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

1. Name of Claimant(s) Idahoan Foods, LLC Phone (208) 754-8100
Mailing Address PO Box 130, Lewisville, ID Zip 83431
2. Date of Priority (Only (1) per claim) April 1, 1970
3. Source of water supply (a) Snake River
which is tributary to (b) Columbia River
4. a. Location of existing point of diversion is: Township 4N Range 38E Section 2,
1/4 of SW 1/4 of NE 1/4, Govt. Lot _____, County of Jefferson
Additional points of diversion if any: _____
If Available, GPS Coordinates: _____
- b. If instream flow, beginning point of claimed instream flow is:
Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4
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. Pump, known as the Fresh Pak pump, located on the Dry Bed. Water is pumped from the Dry Bed to a sprinkler system.

6. Water is claimed for the following purposes: (Both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 4/01 to 10/31 amount 2.78 or

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) 2.78 (cfs) and/or (b) (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) None

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 instruction for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	38E	2		40	19		32	6											97
				L2			L3	L4											
5N	38E	35												11			37		48

Total number of acres irrigated 145

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

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

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

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

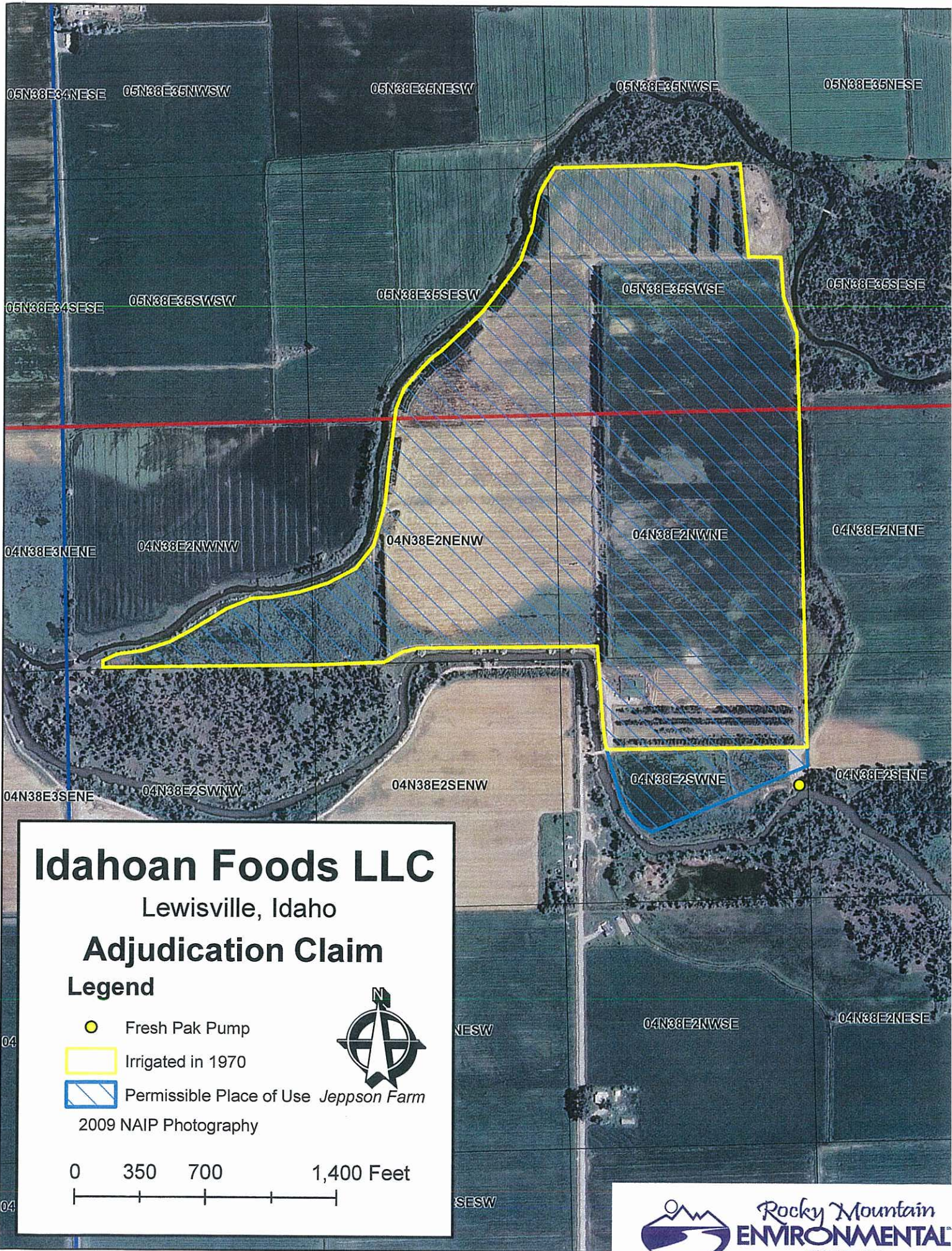
Water right 01-286A is also used on this permissible place of use, but it is limited to 36.4 acres. It is also diverted through the same point of diversion.

 or None ()

13. Remarks:

This right was developed through beneficial use as described in the attached Affidavit of Gene Christiansen. When it was developed, it was only used on 139 acres as shown on the attached map. But as the land was further developed, an additional 6 acres was added to the place of use prior to 1987. Claimant also owns shares in North Rigby Irrigation and Canal Company, Inc and Long Island Irrigation Company that originally pertained to this property. That water is delivered through the Fresh Pak pump listed as a point of diversion on this claim.

Last Name Idahoan Foods Ident. Number 01-10571



Idahoan Foods LLC

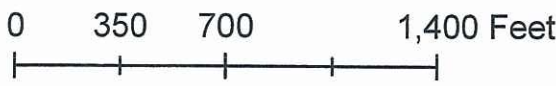
Lewisville, Idaho

Adjudication Claim

Legend

-  Fresh Pak Pump
-  Irrigated in 1970
-  Permissible Place of Use Jeppson Farm

2009 NAIP Photography



14. Basis of Claim (Check one) Beneficial Use X Posted Notice _____ Permit _____ Decree _____
License _____ If applicable provide IDWR Water Right Number _____

Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

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 _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of Attachments _____

For Individuals: I/we do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am VP Operations of _____
(Title)

Idahoan Foods LLC, that I have signed the foregoing document in the space below as _____
(Organization)

VP Operations of Idahoan Foods LLC and that the statements contained _____
(Title) (Organization)

in the foregoing document are true and correct.

Signature of Authorized Agent Sam Haffner

Title and Organization VP Operations Idahoan Foods LLC Date 2/12/2010

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 Idahoan Foods Ident. Number 01-10571

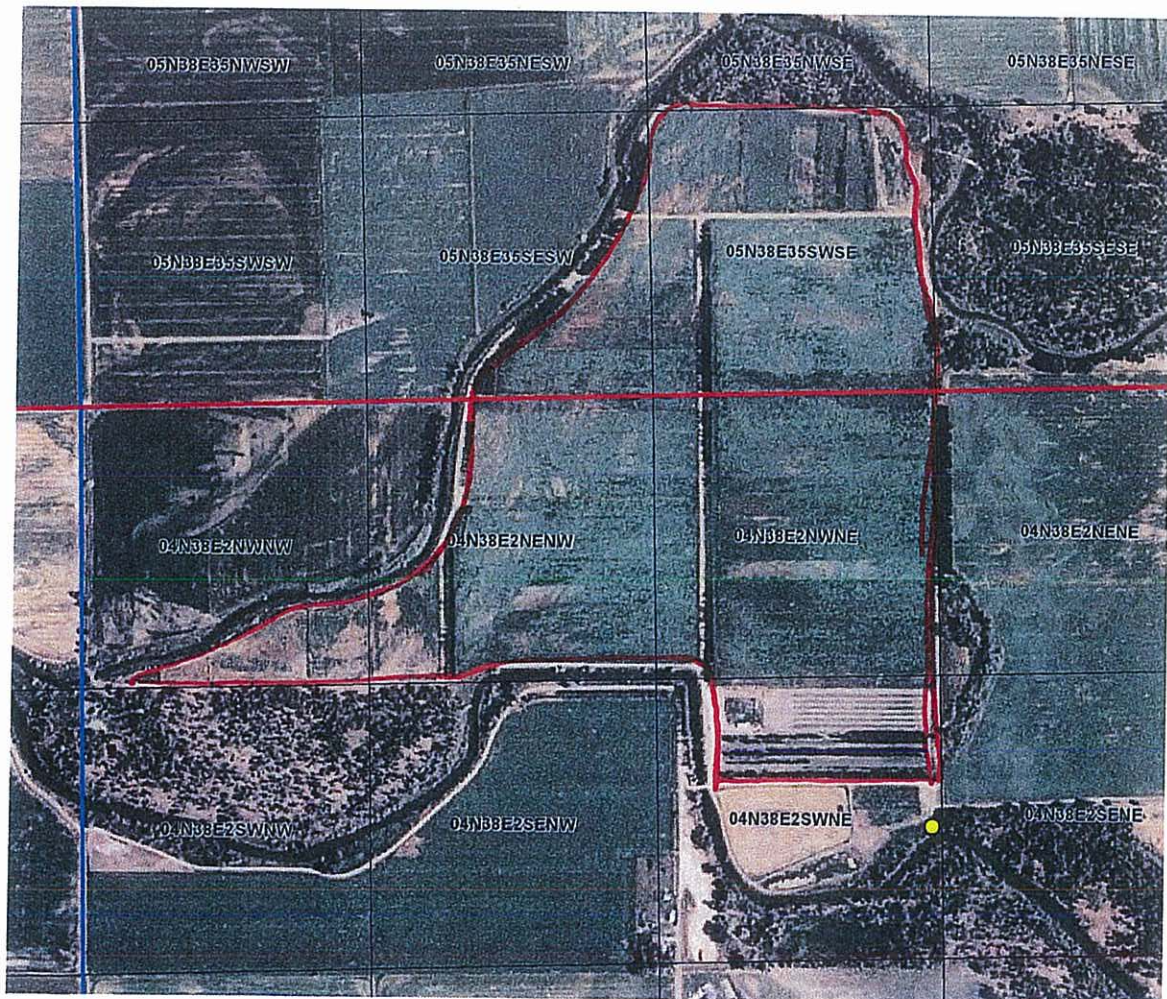
Affidavit of Gene Christiansen

As a boy, I remember hunting ducks on and around the Jeppson Farm, which was run by a Mr. Fullmer. I remember seeing a 1937 Ford motor that was used to pump water from the Dry Bed to irrigate the farm.

In 1963, I began working as a laborer for Idaho Fresh Pak, Inc. At that time, the wastewater from the processing facility was dumped directly into the Dry Bed because they didn't have a farm on which to dispose of the wastewater.

In about 1967 and 1968, we started construction on the farm located between the two channels of the Dry Bed, or what is currently known as the Jeppson Farm. We moved the natural river channel from its original location to a manmade channel that runs east-west just north of the Hedelius Farm (in the NW1/4 of Section 2, T4N, R38E). All the gravel from the new channel was used to levy the farm roads on the newly constructed farm.

In 1968, I installed a new pump to replace the old 1937 Ford motor. We didn't start using it until 1970, which was also the first year that the wastewater from the processing plant was transported by pipeline to be dispersed on the farm. The Jeppson Farm, as outlined on the map below, was irrigated using the pump.



Be it known that the undersigned, being duly sworn, deposes and says that the matters and facts herein are true to the best of the affiant's knowledge.

Gene P. Christiansen
Gene Christiansen

State of Idaho)
County of Jefferson)

Sworn to before me this 22 day of Dec., 2009.

Notary Public for: Tami Holmes Idaho
Residing at: Risby
My commission expires: 3-23-2012

