

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
JUL 27 2010	
By _____	Clerk
_____	Deputy Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

A. Subcase

63-33406
63-160
(Insert water right number)

STANDARD FORM 4

MOTION TO FILE:

☒ LATE NOTICE OF CLAIM

☐ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

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

My name is _____

My address is _____

My phone number is: Work _____ Home _____

I am an attorney representing EG Johnson Farms, Inc.

My name is John M. Marshall

My address is 575 W. Bannock, Boise, ID 83702

My phone number is 208-991-2701

MOTION TO FILE A LATE NOTICE OF CLAIM

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

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

The Claimant of this right purchased the farm to which the right is appurtenant after
an accomplished change in the purpose of use of the senior, previously decreed rights
from irrigation to mitigation occurred. Accordingly, until recently when the claimant
commissioned a water right review of the farm, the claimant did not know that senior,
decreed rights were appurtenant to the farm.

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

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

The attached Notice of Claim includes an aerial photograph that shows the farm at issue
and the original decreed place of use for right 63-160.

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock water 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 \$_____.
- ☒ 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 \$ 424.00.

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, October 19, 2010 at 1:30 p.m.
(Insert Date and Time)

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

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

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

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

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- ☐ 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:

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VERIFICATION (Must be completed)

State of Idaho)
) ss.
County of Ada)

John M. Marshall, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

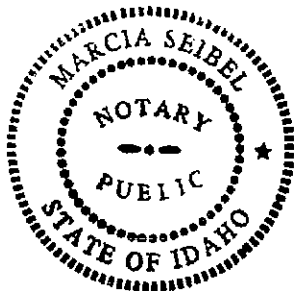
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that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

Signature of person filing motion

[Signature]

Attorney signing in representative capacity

Subscribed and sworn to before me on: 7-26-10
(Insert Date)



Marcia Seibel
Notary Public for Ada City
Residing at: Boise, ID
My Commission expires: 12/21/11

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INSTRUCTIONS FOR MAILING

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

CERTIFICATE OF MAILING

I certify that on July 26, 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
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

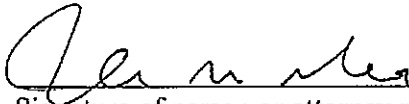
United States Department of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

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

(Insert Names/address of parties)

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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 RIGHT TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM**

CIVIL CASE NUMBER: 39576

Ident. Number _____

Date Received _____

Receipt Number _____

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

Please type or print clearly

1. Name of Claimant(s) EG Johnson Farms, Inc. Phone (208) 722-5013
Mailing Address 24007 - Hwy 20-26, Parma, ID Zip 83660
2. Date of Priority (only one (1) per claim) June 1, 1865
3. Source of water supply (a) Boise River
which is tributary to (b) Snake River
4. a. Location of existing point of diversion is: Township 5N Range 5W Section 25,
1/4 of SW 1/4 of SW 1/4, Govt. Lot, 9 B.M., County of Canyon
Additional points of diversion if any: Portion of right currently left in Boise River for mitigation
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 enlargement in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. The mitigation portion of right is currently left in the
river for mitigation of rights 63-4036A, 63-4036B, 63-28751 and 63-32394. The irrigation portion of this
right is an overlap with junior right 63-3585.

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6. Water is claimed for the following purposes

		(both dates are inclusive)		(cfs)	(acre feet)
For	Mitigation	purposes from	3/1 to 11/15	amount 3.24	or
For	Irrigation	purposes from	3/1 to 11/15	amount 0.56	or
For		purposes from		amount	or
For		purposes from		amount	or

7. Total quantity claimed (a) 3.80 cfs (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is (not applicable) acre feet per annum.

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

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	
05N	05W	25	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	27.9
		36		✓															

Total number of acres irrigated 27.9

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

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 describe above.

63-3585, 63-4036A, 63-4036B, 63-28751 and 63-32394

or None ()

14. Remarks:

1. This right includes a change in the purpose of use pursuant to I.C. § 42-1425 from irrigation to mitigation. This right mitigates the irrigation authorized under 63-4036A, 63-4036B, 63-28751 and 63-32394.

2. This right includes a change in the point of diversion and place of use pursuant to I.C. § 42-1425 and and is an overlap with right 63-3585 that should include a combined use limit to reflect this.

3. Another portion of right 63-160 is claimed by the Obendorfs for use in Section 24.

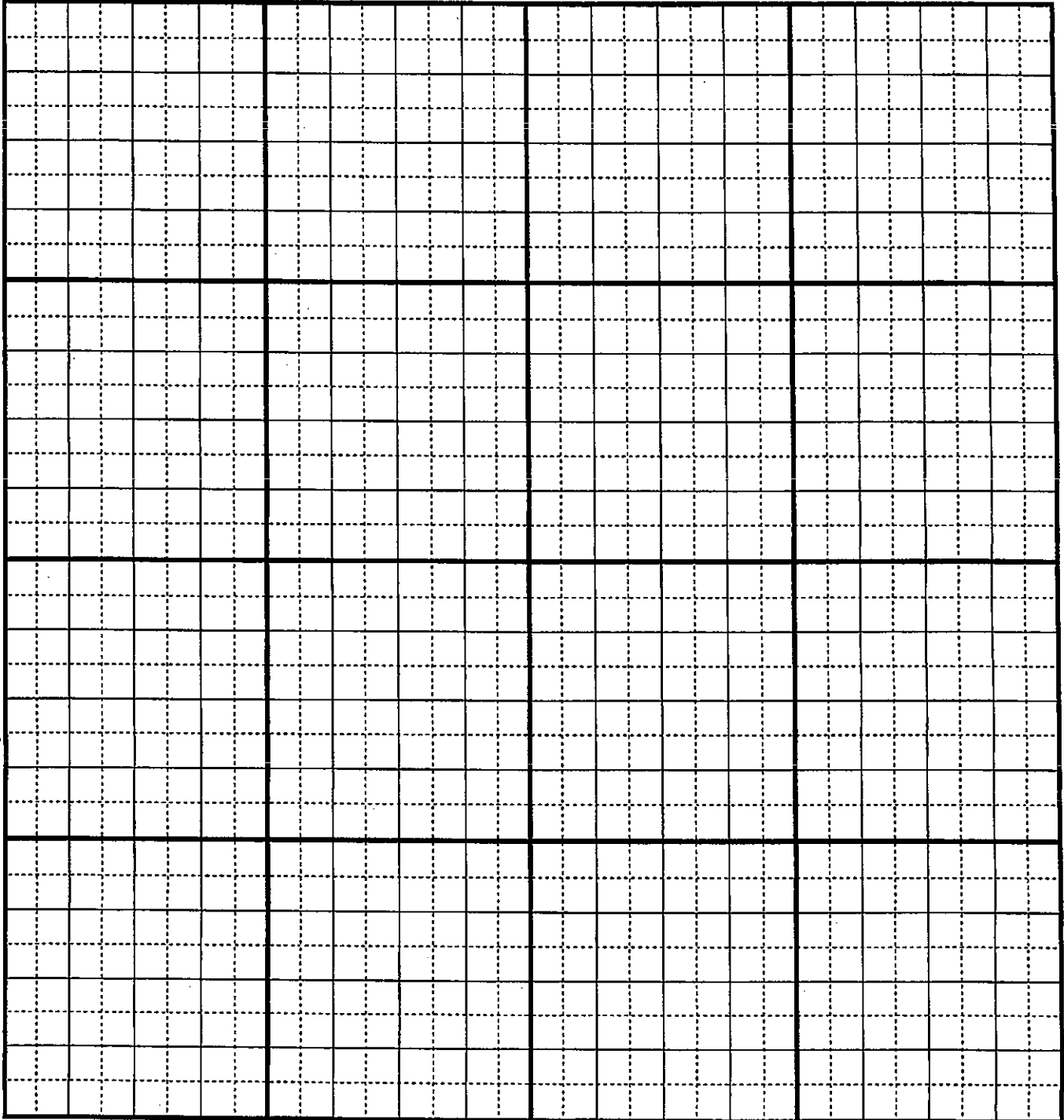
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Last Name EG Johnson Farms, Inc. Ident. Number 63-160

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

Scale: 2 inches equals 1 mile **Please see attached.**



Last Name EG Johnson Farms, Inc. Ident. Number 63-160

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

If applicable provide IDWR Water Right Number 63-160

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 1

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 Jeff Johnson Title _____

of EG Johnson Farms, Inc. , that I have signed the foregoing
Organization

document in the space below as Director of EG Johnson Farms, Inc.
Title Organization

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

Signature of Authorized Agent _____

Title and Organization Director, EG Johnson Farms, Inc. Date 6/29/10

State of Idaho/or _____)

) SS.

County of CANVON)

Subscribed and sworn (or affirmed) before me this 29 day of JUNE 2010

Notary Public

Residing at

My Commission Expires

17. Notice of Appearance:

Please Print Name

Notice is hereby given that John M. Marshall will be acting as attorneys 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 us at the address listed below.

Signature

John M. Marshall, John Marshall Law PLLC

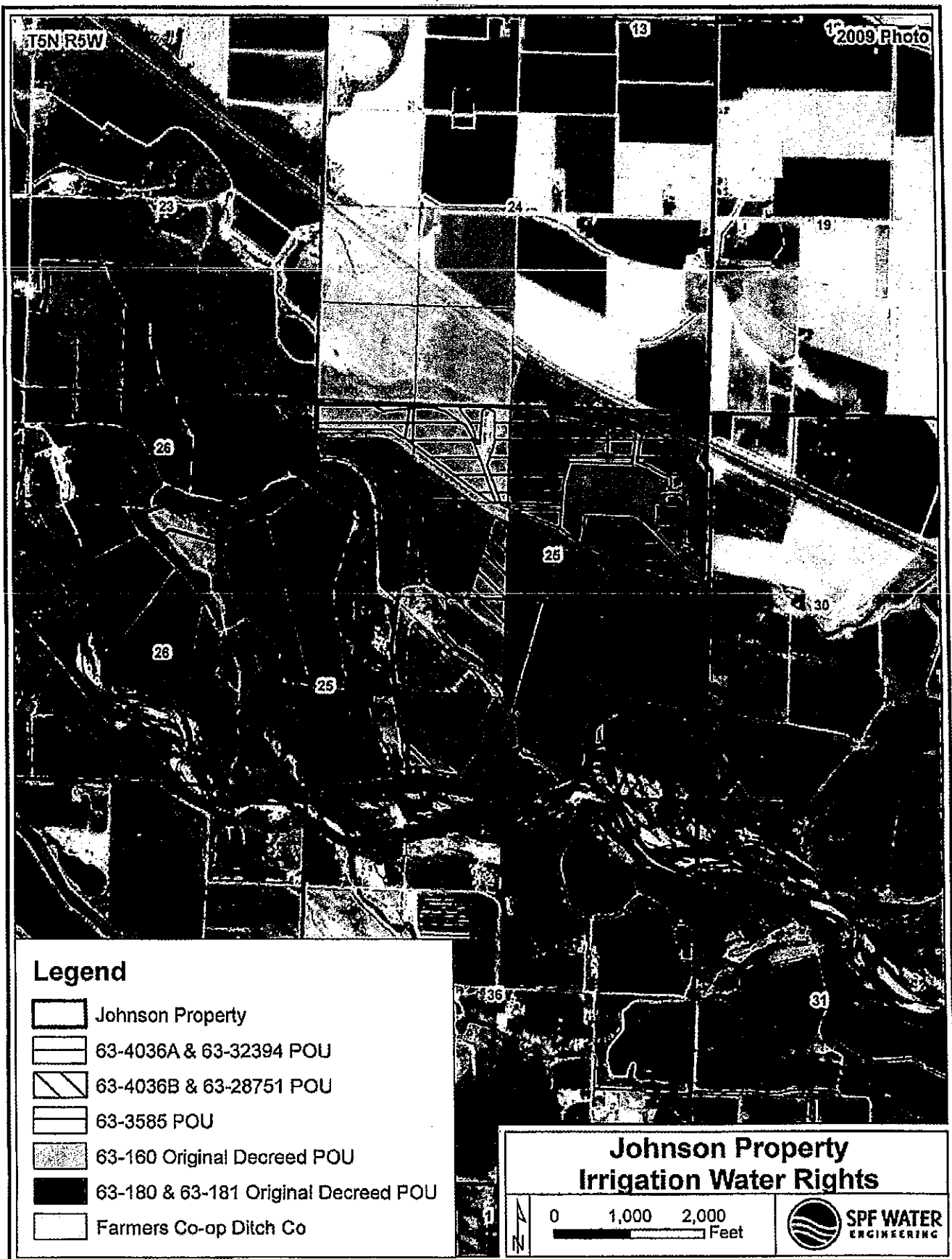
Address 575 W Bannock St, Boise, ID 83702

Telephone 208-991-2701

Date _____

Last Name EG Johnson Farms, Inc. Ident. Number 63-160

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