

Robertson, Jean

From: Saxton, Craig
Sent: Monday, July 11, 2011 3:41 PM
To: Robertson, Jean
Subject: RE: SRBA Recommendation 45-13796

Thanks Jeanie. Sounds good. I will put it on the list to report in the next late claim report.

Later,
c

From: Robertson, Jean
Sent: Monday, July 11, 2011 3:03 PM
To: Saxton, Craig
Subject: RE: SRBA Recommendation 45-13796

Talked to Doug and he said to tell you to put this on the list for the next late claim report and we will put the file back on the shelf here in the meantime. (I will also have it scanned.) I am also going to go in and put beginning and ending pods since this is an instream use. Jeanie

From: Saxton, Craig
Sent: Monday, July 11, 2011 1:50 PM
To: Robertson, Jean
Subject: SRBA Recommendation 45-13796

Hello,

Sorry to bother you about this, but you are my only lead to who might know something about 45-13796.

Long story short is I found a recommendation for 45-13796 which you prepared in 2006 that hasn't been submitted to the court. I am trying to figure out if this is a valid claim/recommendation and should be added to the next late claim DR just so it gets reported.

Sometimes, I find these and they aren't valid because the fee's haven't been paid or the claim was never signed...etc. It looks like the \$25 filing fee was paid in 2004 under receipt S027012. However, I can't seem to locate a file. It hasn't been entered into the barcode system and there is nothing scanned in the backfile. The courts webpage has no record of this of course which is what prompted my inquiry.

I don't suppose you know anything about this??? I know it has been 5 years since you had tracks in it. Even if you don't, is there any way we could look for a file there at Southern?

Thanks,
Craig

VERIFIED BY: *[Signature]* 7-11-11

07/11/2011

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

RIGHT NUMBER: 45-13796

NAME AND ADDRESS: GERALD L MARCHANT
24 E BASIN RD
OAKLEY ID 83346

CELIA S MARCHANT
24 E BASIN RD
OAKLEY ID 83346

SOURCE: SUMMIT CREEK

TRIBUTARY:

QUANTITY: 0.020 CFS

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 01/01/1920

POINT OF DIVERSION:

T14S R23E S9 SWSW End of Stream Flow Within CASSIA County

T14S R23E S9 SWSW Begin of Stream Flow Within CASSIA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

STOCKWATER

01/01 12/31

0.020 CFS

PLACE OF USE: STOCKWATER in CASSIA County

T14S R23E S09 SWSW

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

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

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

VERIFIED BY JS 5/5/06

05/05/2006

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

RIGHT NUMBER: 45-13796

NAME AND ADDRESS: GERALD L MARCHANT
24 E BASIN RD
OAKLEY ID 83346

CELIA S MARCHANT
24 E BASIN RD
OAKLEY ID 83346

SOURCE: SUMMIT CREEK

TRIBUTARY:

QUANTITY: 0.020 CFS

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 01/01/1920

POINT OF DIVERSION:

T14S R23E S9 SWSW Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: STOCKWATER Within CASSIA County

T14S R23E S09 SWSW

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

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

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

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 45-13796 V1

WATER RIGHT NUMBER: 45-13796 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	GERALD L MARCHANT 24 E BASIN RD OAKLEY, ID 83346 (208)862-3811
Current Owner	CELIA S MARCHANT 24 E BASIN RD OAKLEY, ID 83346 (208)862-3811

Priority Date: 01/01/1920

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
SUMMIT CREEK	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	01/01 to 12/31	0.020 CFS	
	<u>Total Diversion:</u>	0.020 CFS	

Location of Point(s) of Diversion

SUMMIT CREEK	SW1/4SW1/4	Sec. 9, Twp 14S, Rge 23E, B.M.
CASSIA County		

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14S	23E	9												X					

Conditions of Approval:

1. N05 The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
2. N08 The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
3. C18 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.

Comments:

1. jroberts 5/5/2006 Copied from Remarks
Comment: This use was not claimed in the Basin Creek Adjudication but instream use was not recognized at that time anyway.
2. jroberts 5/5/2006 Basis of Recommendation
Comment: Recommended as claimed.

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 45-13796
Date Received: 5/28/2004
Receipt No: 5027012
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

GERALD L MARCHANT Phone: (208)862-3811
CELIA S MARCHANT
24 E BASIN RD
OAKLEY ID USA 83346

2. Date of Priority: 01/01/1920

3. Source: SUMMIT CREEK Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
14S	23E	9	SW SW	CASSIA	

5. Description of diverting works:

Instream stockwater use.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
STOCKWATER	01/01	12/31	0.02	

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

8. Total consumptive use:

9. Non-irrigation uses:
Number of other uses: 100+ range cattle

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
14S	23E	9	SW SW	STOCKWATER	

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:

14. Remarks:

This use was not claimed in the Basin Creek Adjudication but instream use was not recognized at that time anyway.

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 45-13796
Date Received: 5/28/2004
Receipt No: SØ27012
Received By: KKC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

GERALD L MARCHANT
24 E BASIN RD
OAKLEY ID USA 83346

Phone: (208)862-3811

CELIA S MARCHANT
24 E BASIN RD
OAKLEY ID USA 83346

Phone: (208)862-3811

2. Date of Priority:

SM 1-1-1920

3. Source: SUMMIT CREEK

Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
14S	23E	9	SW SW	CASSIA	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
STOCKWATER			0.02	

SM Jan. 1 - Dec 31

7. Total Quantity Appropriated is:

0.02 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

SM 100+

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
14S	23E	9	SW SW	STOCKWATER	

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:

14. Remarks:

This use was not claimed in the Basin Creek Adjudication but instream use was not recognized at that time anyway.

15. Basis of Claim: Beneficial Use

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.

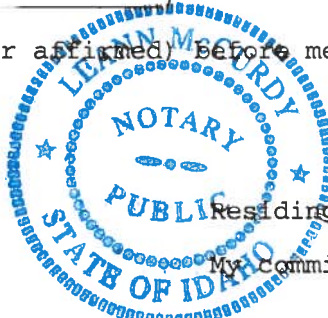
Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): *Arnold J. Marchant* Date: *June 20, 04*
Celia J. Marchant Date: *July 14, 04*

State of Idaho)
County of CASSIA) SS.

Subscribed and sworn (or affirmed) before me this *19th*
of *July* 20*04*
 *Liann McCurdy*
Notary Public
Residing at *CASSIA*
My Commission Expires *11/3/06*



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 28, 2004

GERALD MARCHANT
24 E BASIN RD
OAKLEY ID 83346

RE: 45-13796 (Unclaimed stock water use in Section 9, T14S, R23E)

Dear Mr. Marchant,

I have consulted with our attorneys regarding this previously unclaimed use and because the Basin Creek Adjudication did not recognize **instream** uses, in fact, it disallowed such claims without an actual point of diversion; you may file a claim for this use now.

I have prepared 45-13796 for your use. Please indicate a **priority date** that you feel you can substantiate if necessary and also fill in the **season of use** when you normally use the right, whether year round or some other period, and the **approximate number of cattle**. Then sign, have your signature notarized, and return it to my attention **ASAP** with the \$25.00 filing fee.

If you would like to return the claim in person, please call ahead for an appointment if possible. Feel free to call if you have any questions.

Sincerely,

Jeanie Robertson
Sr. Water Resource Agent

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 45-13796
Date Received: 5/28/2004
Receipt No:
Received By:

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

1. Name of Claimant(s)

GERALD L MARCHANT
24 E BASIN RD
OAKLEY ID USA 83346

Phone: (208)862-3811

CELIA S MARCHANT
24 E BASIN RD
OAKLEY ID USA 83346

Phone: (208)862-3811

priority date

2. Date of Priority:

3. Source: SUMMIT CREEK

Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
14S	23E	9	SW SW	CASSIA	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
STOCKWATER			0.02	

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

Season of Use

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	Use	Acres
14S	23E	9	SW SW	STOCKWATER	

OF CATTLE

Robertson, Jean

From: Bromley, Chris
Sent: Friday, May 28, 2004 12:00 PM
To: Robertson, Jean
Cc: Kelly, Vicki
Subject: RE: another Basin Decree question...

I assume that would mean that in-stream stock was not required to be filed on since it wasn't recognized as a right.

Susan and I talked with Don Shaff and Dave Tuthill and they both said that in-stream stock wasn't required in the Basin Creek adjudication. The Idaho Code didn't recognize in-stream stock until 1984.

Therefore, Marchant could file a claim for in-stream stockwater on Summit Creek with any priority date that he feels he could prove up.

Hopefully that answers your question. Let me know if you need anymore help with this.

Chris

-----Original Message-----

From: Robertson, Jean
Sent: Friday, May 28, 2004 11:39 AM
To: Bromley, Chris
Subject: RE: another Basin Decree question...

I don't know if we have the commencement order or not but I do know that George Wells filed 45-13566 about a year ago. It is for a combination of 45-611 and 45-658, two insteam uses that were claimed but disallowed in the Basin Decree because there was no diversion. When he realized the department now recognizes instream uses, he resurrected those two rights under the new claim. Does that help at all?

-----Original Message-----

From: Bromley, Chris
Sent: Friday, May 28, 2004 11:30 AM
To: Robertson, Jean
Subject: RE: another Basin Decree question...

Regarding the priority date for in-stream stockwater, if the order commencing the Basin Creek adjudication required users to claim in-stream stockwater, then the priority date would have to be one day after the final decree was filed.

If the order commencing the Basin Creek adjudication did not require in-stream stockwater, the priority date would be the date the claimant could establish that the water was first put to beneficial use.

I can't give you an answer on Marchant because we don't seem to have the commencement order in our files. Do you happen to have it in yours?

-----Original Message-----

From: Robertson, Jean
Sent: Friday, May 28, 2004 10:31 AM
To: Bromley, Chris
Subject: RE: another Basin Decree question...

I think that would be fine with him. He said he doesn't use it for very long, just early in the season and then he moves the cows up onto the Forest Service allotment. He just didn't want to lose the ability for his cows to drink there. What kind of priority date would he get? Since everything in this area has supposedly been adjudicated already, would the best be a day after the decree signing or what?

-----Original Message-----

From: Bromley, Chris
Sent: Friday, May 28, 2004 10:24 AM
To: Robertson, Jean
Subject: RE: another Basin Decree question...

How much water does he want? If it's not too much, he could file for a small in-stream stockwater right.

Chris

-----Original Message-----

From: Robertson, Jean
Sent: Friday, May 28, 2004 10:02 AM
To: Bromley, Chris
Subject: RE: another Basin Decree question...

Yes, this would be a new claim that was never filed in the Basin Adj. I guess the watermaster (George Wells - also the same guy now asking about that cemetery right) mentioned to Marchant that he didn't see any rights for this stockwater use. Coincidentally, he is the one who owns the property this lane access goes through. I will try to fax the map. Let me know if it doesn't fax well cause I guess I could always mail it and you could deal with it next week. We are getting close to a deadline, but it isn't quite here yet so there is still a little time! Thanks.

-----Original Message-----

From: Bromley, Chris
Sent: Friday, May 28, 2004 9:54 AM
To: Robertson, Jean
Subject: RE: another Basin Decree question...

That might help. I'm trying to figure out where everything is and see what's what.

I pulled up a claim under his name for Summit Creek with water right no. 45-544A. That's the only Marchant right/claim that has Summit Creek listed as source. Is that what he is claiming, or is this an entirely new claim that we don't have in our system?

Thanks

-----Original Message-----

From: Robertson, Jean
Sent: Friday, May 28, 2004 9:48 AM
To: Bromley, Chris
Subject: RE: another Basin Decree question...

The guy has quite a few claims but there is no stockwater right out of Summit Creek for this area. (There is 45-604 to Kyle Adams, but he is neighbor and Mr. Marchant says that right is for a similar little lane access to Summit Creek, but about 1/4 mile away on the section line between 9 and 16.) He just noticed that **he** doesn't have a right for his access. {Said Karl Black, the owner at the time of the Basin Adjudication was getting **Alzheimer's** during that period and may have missed some things.} I made a little map of the area...would you like me to fax it? Would that help?

-----Original Message-----

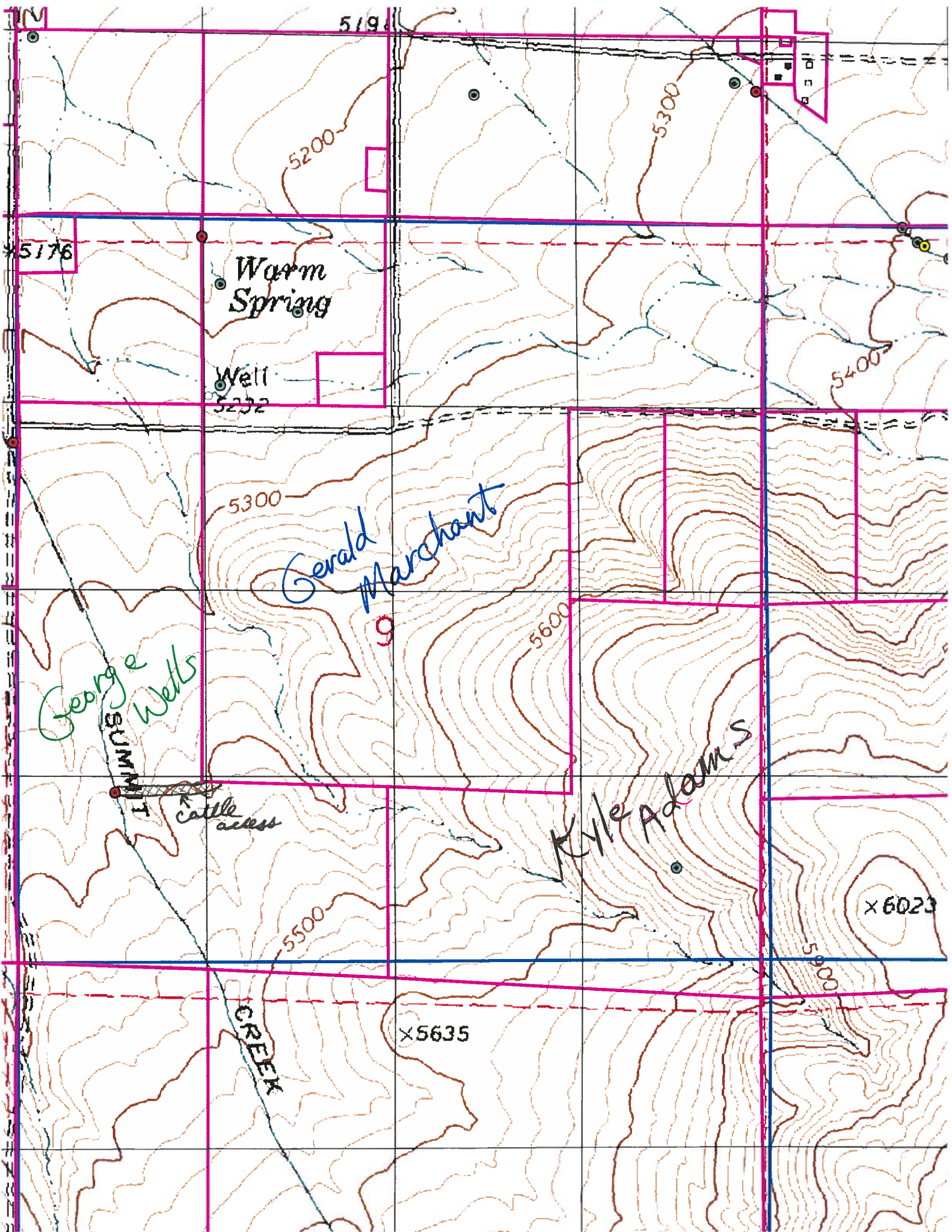
From: Bromley, Chris
Sent: Friday, May 28, 2004 9:28 AM
To: Robertson, Jean
Subject: RE: another Basin Decree question...

Do you have a water right number for this property?

-----Original Message-----

From: Robertson, Jean
Sent: Thursday, May 27, 2004 3:54 PM
To: Bromley, Chris
Subject: another Basin Decree question...

I met with a guy (Gerald Marchant) this afternoon and he asked about a stockwater right from Summit Creek in the SW 1/4 of Section 9, T14S, R23E. He bought property in the Basin in 1986 from Dennis Smith who bought from Karl Black. (Karl Black **was** a party to the Basin Decree, as spouse of Raida C.) Mr. Marchant filed his claims in the SRBA in 1989 but said he didn't know much about what was going on then. Now he notices that there is no stockwater right in this area of Section 9 where there is a fenced lane about a rod wide that lets cattle down to Summit Creek. The lane goes from the SW corner of his property (from the SWNESW) and runs west to the creek, through a neighbor's place, George Wells. He said it has always been like this, and wonders if he can file a claim to protect this right? Since his predecessor was a party but didn't claim this, is there any recourse? Can he have **one day junior to the signing date of 3/27/1987** as a beneficial use right? Thanks, Jeanie



5191

5200

5300

5400

Warm Spring

Well 5232

5300

5600

Gerald Marchant

9

George Wells

SUMMIT

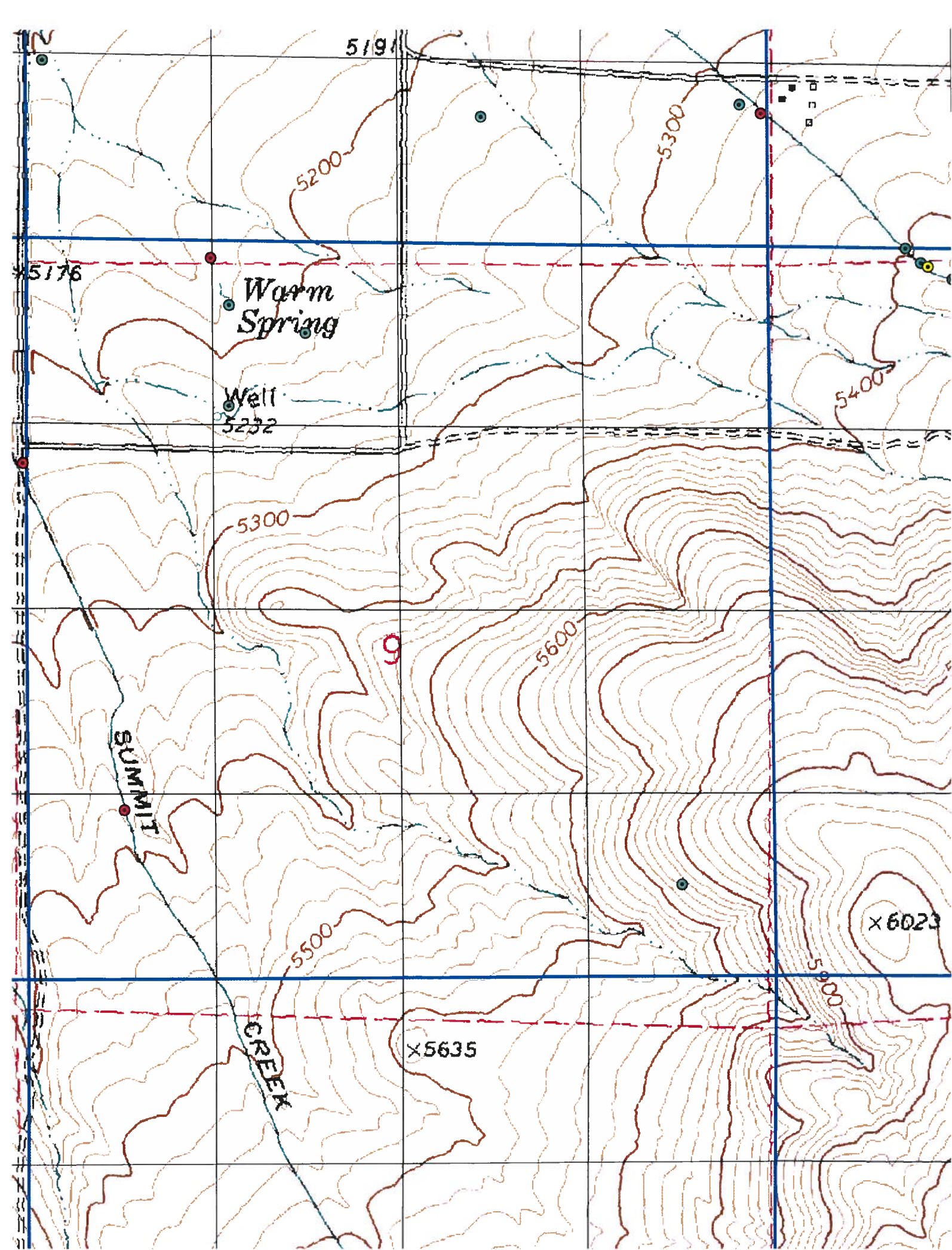
Cattle access

Kyle Adams

x 6023

x 5635

CREEK



TRANSMITTAL COVER SHEET

TO: Chris Bromley

TOTAL PAGES SENT: 2 + cover
(including cover sheet)

DOCUMENT DESCRIPTION: maps for possible new
Summit Creek stockwater claim

FROM: by Marchant

IDAHO DEPARTMENT OF WATER RESOURCES

1341 FILLMORE ST, STE 200

TWIN FALLS ID 83301-3380

PHONE: 736-3033

FAX: 736-3037

CHARGES: One (1) free copy
per request, cover sheet not
counted. Two (2) or more
copies per request will cost
\$0.25 per page. (\$0.50
minimum)

Please consider this document as a billing statement.

The charge for your fax copies is: _____ Please remit to the above address.

SENDER: Jeanie

COMMENTS: _____

05/28 09:02
IDWR SO
00:02:23
03
OK
STANDARD

DATE, TIME
FAX NO./NAME
DURATION
PAGE(S)
RESULT
MODE

TIME : 05/28/2004 09:04
NAME : IDWR SOUTHERN REGION
FAX : 2087363037
TEL : 2087363033

TRANSMISSION VERIFICATION REPORT

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 45-13796
Date Received: 5/28/2004
Receipt No:
Received By:

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

1. Name of Claimant(s)

GERALD L MARCHANT
24 E BASIN RD
OAKLEY ID USA 83346

Phone: (208)862-3811

CELIA S MARCHANT
24 E BASIN RD
OAKLEY ID USA 83346

Phone: (208)862-3811

2. Date of Priority:

3. Source: SUMMIT CREEK

Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
14S	23E	9	SW SW	CASSIA	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
STOCKWATER			0.02	

7. Total Quantity Appropriated is:
0.02 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
14S	23E	9	SW SW	STOCKWATER	

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:

14. Remarks:

This use was not claimed in the Basin Creek Adjudication but instream use was not recognized at that time anyway.

15. Basis of Claim: Beneficial Use

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/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

State of Idaho)
) SS.
County of _____)

Subscribed and sworn (or affirmed) before me this

of _____ 20__

Notary Public

Residing at _____

My commission Expires _____