

11/15/2006

**NOTICE OF ERROR
REPLY**

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

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

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: December 8, 2006

Water right number: 78-4162

BARBARA J SMITH
PO BOX 186
POLLOCK ID 83547
Telephone Number: (208) 628-3489

GARY D SMITH
PO BOX 186
POLLOCK ID 83547
Telephone Number: (208) 628-3489

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

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

DATE: 11/28/06 SIGNATURE: Barbara J. Smith
Please print your name: _____

IDWR State Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, 2082874800

07/01/2005

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

RIGHT NUMBER: 78-4162

NAME AND ADDRESS: BARBARA J SMITH
PO BOX 186
POLLOCK ID 83547

GARY D SMITH
PO BOX 186
POLLOCK ID 83547

SOURCE: DENNY CREEK

TRIBUTARY: LITTLE SALMON RIVER

QUANTITY: 0.060 CFS

This right when combined with 78-7081 is limited to 2.4 acres.

PRIORITY DATE: 01/01/1932

POINT OF DIVERSION:

T23N R01E S29 SWNE Within IDAHO County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.060 CFS

PLACE OF USE: IRRIGATION Within IDAHO County

T23N R01E S29 SWNE 2.4

2.4 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: Beneficial Use

07/05/2005

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

RIGHT NUMBER: 78-4162

NAME AND ADDRESS: BARBARA J SMITH
PO BOX 186
POLLOCK ID 83547

GARY D SMITH
PO BOX 186
POLLOCK ID 83547

SOURCE: DENNY CREEK

TRIBUTARY: LITTLE SALMON RIVER

QUANTITY: 0.060 CFS

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PRIORITY DATE: 03/15/1932

POINT OF DIVERSION:

T23N R01E S29 SWNE Within IDAHO County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.060 CFS

PLACE OF USE: IRRIGATION Within IDAHO County

T23N R01E S29 SWNE 2.4

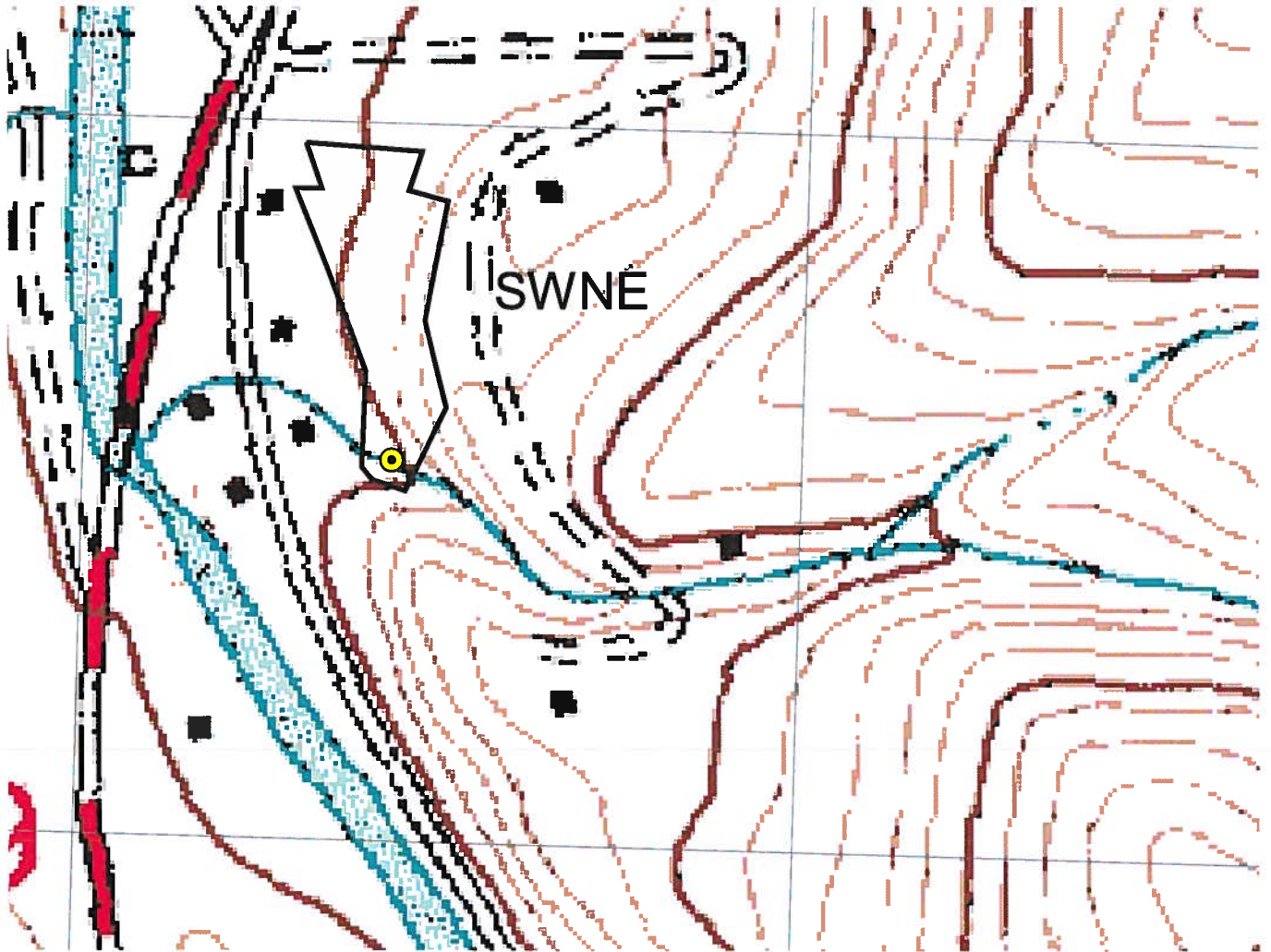
2.4 ACRES TOTAL

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: Beneficial Use

78-4162



0 200 400 Feet

Section 29
T23N R1E



● Point of Diversion

□ Place of Use

Map prepared on June 30, 2005
By Kenneth Knoblock
Idaho Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT



Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that GARY D. AND/OR BARBARA SMITH

(Name of Claimant)

P. O. Box 186, Pollock, ID 83547

(Mailing Address)

Telephone No. 628-3489

(Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use) 1/1/1932

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

Denny Creek

tributary to Little Salmon River

- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Quantity	(cfs, gpd, AFA)	Use	(Domestic, Irrigation, Stock, Etc.)	Period of Use From	(Mo., Day)	To	(Mo., Day)
<u>.06</u>		<u>irrigation</u>		<u>3/15</u>		<u>12/1</u>	
Quantity		Use		Period of Use From		To	
Quantity		Use		Period of Use From		To	
Quantity		Use		Period of Use From		To	
Quantity		Use		Period of Use From		To	

- (4) .06 TOTAL QUANTITY USED.

(cfs, gpd, AFA)

- (5) A) Point of diversion: (Location of point where water is diverted from its source)

SW ¼ NE ¼, Sec. 29 Twp. 23N Rge. 1E B.M., County of Idaho

Additional points of diversion: _____

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Diversion into pipeline

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
23N	1E	29			3														3

No. of acres 3

- B) If water is used for other than irrigation, fully describe that use, being as specific as possible: _____

NOTE: Include here the type and number of stock watered: _____

- (7) If you are claiming water as a member of an organization, list name of organization: _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT



Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that ERVIN V. AND/OR GLADYS A. HODGES

(Name of Claimant)

P. O. Box 187, Pollock, ID 83547

(Mailing Address)

Telephone No. 628-3222

(Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use) 1932

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

Denney Creek tributary to Little Salmon River

- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

	(cfs, gpd, AFA)	(Domestic, Irrigation, Stock, Etc.)	(Mo., Day)	(Mo., Day)
Quantity	<u>.03</u>	Use <u>irrigation</u>	Period of Use From <u>3/15</u>	To <u>12/1</u>
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To

- (4) .03 cfs TOTAL QUANTITY USED.

(cfs, gpd, AFA)

- (5) A) Point of diversion: (Location of point where water is diverted from its source)

SW 1/4 NE 1/4, Sec. 29 Twp. 23N Rge. 1E B.M., County of Idaho

Additional points of diversion:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Diversion to pipeline

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTAL
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
23N	1E	29		1															1

No. of acres 1

B) If water is used for other than irrigation, fully describe that use, being as specific as possible:

NOTE: Include here the type and number of stock watered:

If you are claiming water as a member of an organization, list name of organization:

WATER RIGHT LICENSE

THIS IS TO CERTIFY, that GARY D. SMITH
of Pollock, Idaho, has complied with the terms and conditions of Permit
No. 78-7023 issued pursuant to Application for Permit dated August 11, 1971,
and has submitted proof to the Department of Water Resources on July 1, 1977,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of .06 cfs of water from Denny Creek,
tributary to Little Salmon River, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Description and location of place of use:

Total number of acres irrigated 2.4

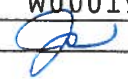
Director

RECEIVED

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: A78-04162
Date Received: 5/11/1988
Receipt No: W000196
Received By: 

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: GARY D. SMITH 208-628-3489
Address: PO BOX 186
POLLOCK, ID 83547
AND/OR
Name: BARBARA SMITH
Address: PO BOX 186
POLLOCK, ID 83547
2. Date of Priority: JAN 01, 1932
3. Source: DENNY CREEK Trib. to: LITTLE SALMON RIVER
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
23N	01E	29	SW	NE			IDAHO
5. Description of diverting works:
DIV. BOX W/SCREEN IN DENNY CR. W/GRAV. FED PIPEL. TO P.O.U.
6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	12/01	0.060		
7. Total Quantity Appropriated is:
0.060 C.F.S. (and/or) A.F.A.
8. Total consumptive use is 9.0 Acre Feet Per Annum.
9. Non-irrigation uses:

A78-04162

Page 1

Date: 06/27/88

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10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
23N	01E	29	SW	NE		IRR	3.0
Section Acres							3.0
Total Acres							3.0

11. Place of use in counties: IDAHO

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

13. Other Water Rights Used:

78-7023(SEE REMARKS),78-7081-GROUNDWATER SOURCE

14. Remarks:

LICENSE NO. 78-7023 WAS FILED BY MISTAKE BY THE PREVIOUS OWNERS WHO WERE NOT AWARE OF THE ABILITY TO FILE ON AN OLD PRIORITY DATE. THE PRESENT OWNERS THEN FILED THIS CLAIM FOR THE OLD DATE. HOWEVER, DUE TO MUCH CONTROVERSY BOTH FILINGS SHOULD BE INCLUDED IN THE ADJUDICATION IN CASE OF OBJECTIONS TO THIS OLD PRIORITY CLAIM.

15. Basis of Claim: BENEFICIAL USE

Water Right Number: 784162

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)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

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: 39356

Ident. Number 78-4162Date Received 5-11-88Receipt Number 48653W000196

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) GARY D. & BARBARA SMITH Phone (208) 628-3489Mailing Address P.O. BOX 186, POLLOCK, ID 83547 Zip 835472. Date of Priority (Only one (1) per claim) 1/1/19323. Source of water supply (a) DENNY CREEKwhich is tributary to (b) LITTLE SALMON RIVER4. a. Location of existing point of diversion is: Township 23N Range 1E Section 29,1/4 of SW 1/4 of NE 1/4, Govt. Lot, B.M., County of IDAHO

Additional points of diversion if any: _____

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

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

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

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

1/4, Govt. Lot B.M., County of5. 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. DIVERSION BOX WITH SCREENIN DENNY CREEK WITH PIPELINE GRAVITY FLOW TO IRRIGATED
GROUND FOR GRAVITY IRRIGATION.

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6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from 3/15 to 12/1 amount .06 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .06 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 9.0 acre feet per annum.

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

10. Description of place of use:

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

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
<u>23N</u>	<u>1E</u>	<u>29</u>			<u>3</u>														<u>3</u>

Total number of acres irrigated 3

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

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

13. Describe any other water rights used at the same place and for the same purposes as described above.
78-7023 (SEE REMARKS), 78-7081 - GROUNDWATER SOURCE. or None ()

14. Remarks:

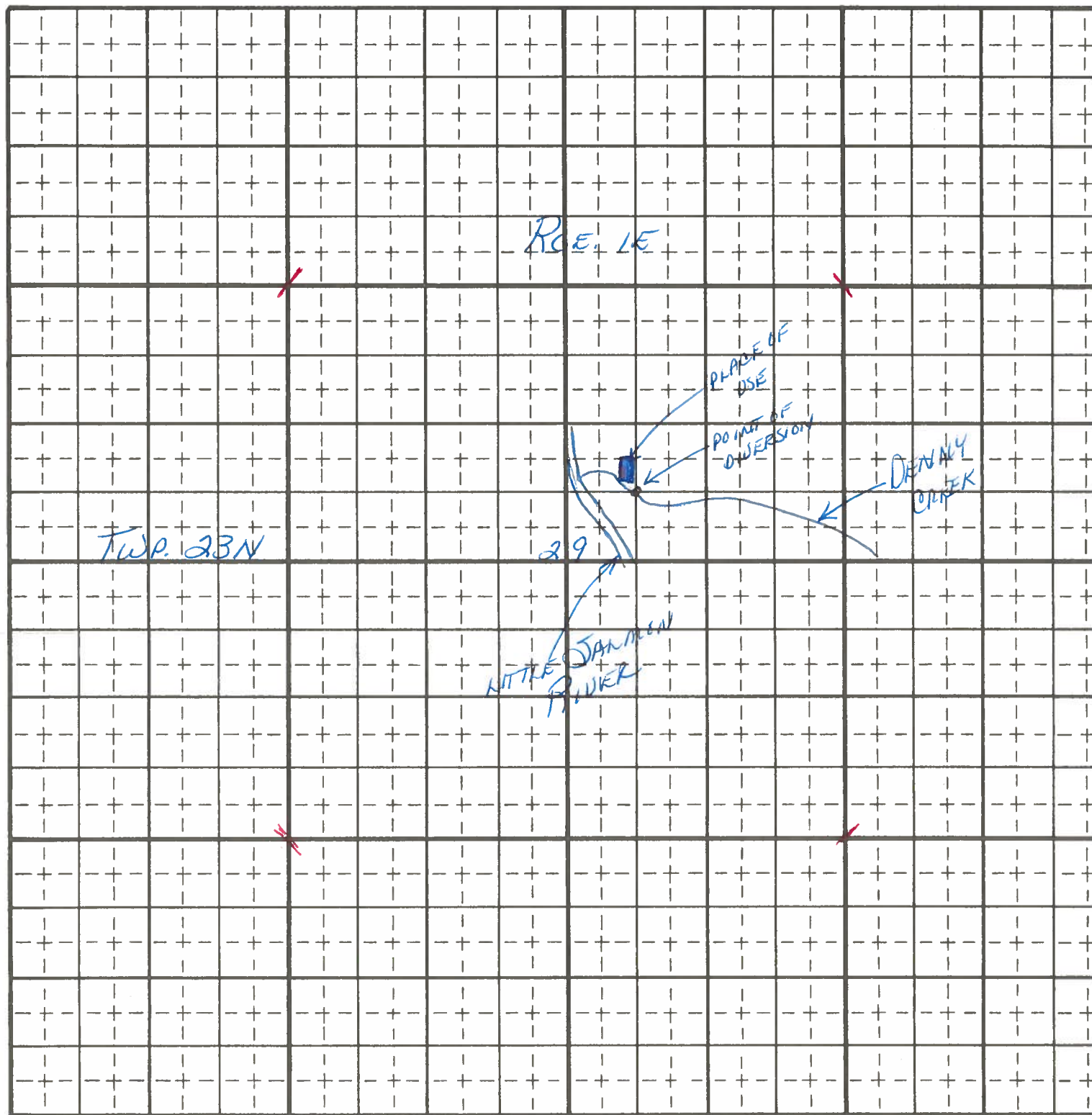
LICENSE No. 78-7023 WAS FILED BY MISTAKE BY THE PREVIOUS OWNERS WHO WERE NOT AWARE OF THE ABILITY TO FILE ON AN OLD PRIORITY DATE. THE PRESENT OWNERS THEN FILED THIS CLAIM FOR THE OLD DATE. HOWEVER, DUE TO MUCH CONTROVERSY BOTH FILINGS SHOULD BE INCLUDED IN THE ADJUDICATION IN CASE OF OBJECTIONS TO THIS OLD PRIORITY CLAIM.

Last Name SMITH Ident No. 78-4162

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Copies: White-State, Yellow-Claimant

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

Scale: 2 inches equals 1 mile



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Last Name SMITH

Ident No. 78-4162

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use ☒ Posted Notice _____ License _____ Permit _____
Decree _____
If applicable provide IDWR Water Right Number 28-4162
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)

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

Number of attachments _____

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

Signature of Claimant (s) ☒ Dan O. Smith Date May 11, 1988
Barbara J. Smith Date May 11, 1988

For Organizations: I do solemnly swear or affirm that I am _____ Title _____

of _____, that I have signed the foregoing
Organization

document in the space below as _____ of _____
Title Organization

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

Signature of Authorized Agent _____

Title and Organization _____ Date _____

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

Subscribed and sworn (or affirmed) before me this 11th day of May 19 88

SEAL

Notary Public Roma P. McQueen

Residing at Whitebird, Id.

My Commission Expires Aug 13, 1993

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 _____

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Last Name SMITH Ident. Number 28-4162

Copies White-State, Yellow-Claimant

I know for a fact, that the Gary Smith
and Erwin Hodges properties were irrigated by
water from Henry Creek as early as 1932.

Kirk & Spain

Box 144
Pollock ID 83547

11/16/81

I came here to Pollock the spring of 196.
They was irrigating the orchard on this
bench then

Respectfully William J. One

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OCT 06 1992

Speed Message 44-900

GrayLine SNAP-A-WAY FORM

Speed Message

To Idaho Board of Water Resources

Boise, Idaho

From Leo L. Ellibee

R. 1

New Meadows, Idaho

Subject

Date November 16, 1981

19

Gentlemen:

In 1955, 1956 and 1957, I personally assisted Floyd Hansen, owner at that time of property now owned by Gary Smith, by hand work and by cat work, in cleaning ditches and building ditches to get the water from Denny Creek available for irrigating. In July and August there was so little water in Denny Creek, extra water was brought from Hat Creek by Mr. Hansen.

There was some water available to and used by the ground then owned by Floyd Hansen, and now owned by Bill Owen. There was no water available for nor used on any ground uphill from Bill Owen. There was no water for the place known as the Bruce Owen place from Denny Creek, nor for any ground above that place.

There has been water on the ground now known as the Gary Smith place continuously to my knowledge since 1955. Water was there before that time also.

Sincerely,

Leo L. Ellibee
LEO L. ELLIBEE

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OCT 06 1992

Signed

11/15/81

Prize to 1971 there
was water used on the land
of Barb & Gary Smith.

Eva L. Stamper

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