

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: A63-20837  
Date Received: 2/09/1990  
Receipt No: 2014908  
Received By: C. Wong  
*CA*

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name: GEORGE NISHITANI  
Address: P.O. BOX 325  
CALDWELL, ID

83605

2. Date of Priority: MAR 01, 1928

3. Source: GROUNDWATER

Trib. to:

4. Point of Diversion:

Department of Water Resources

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 | Lot | County |
|----------|-------|---------|--------|--------|-----|-----|--------|
| 04N      | 03W   | 15      | SW     | SW     | SW  |     | CANYON |

5. Description of diverting works:

WELL 6" CASING, SUB. PUMP, REPLACEMENT WELL DRILLED IN 1980

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| DOMESTIC   | 01/01 | 12/31 | 0.020  |      |        |
| COMMERCIAL | 01/01 | 12/31 | 0.060  |      |        |

7. Total Quantity Appropriated is:  
0.080 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is

Acre Feet Per Annum.

9. Non-irrigation uses:

DOMESTIC, 1 HOME; COMMERCIAL, 1 GREENHOUSE

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 | Lot | Use    | Acres |
|----------|-------|---------|--------|-----|-----|--------|-------|
| 04N      | 03W   | 15      | SW     | SW  |     | COMMER |       |
|          |       |         | SW     | SW  |     | DOMEST |       |

A63-20837

Page

1

Date: 02/09/90

MICROFILMED

SEP 03 1992

11. Place of use in counties: CANYON

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

13. Other Water Rights Used:  
RIVERSIDE IRRIGATION DISTRICT

14. Remarks:  
GREENHOUSE AND HOME

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:   -0-  

**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): George Justilaw Date: 2/9/90  
Date: \_\_\_\_\_

State of Idaho )  
County of Canyon ) SS.

Subscribed and sworn (or affirmed) before me this 9<sup>th</sup> day

of February 19 90

Seal

Carter Fritschle  
Notary Public

Carter Fritschle, Notary Public  
Residing at \_\_\_\_\_ Residing at Eagle, Idaho  
My commission Expires March 21, 1994  
My Commission Expires \_\_\_\_\_

07/10/2006

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

RIGHT NUMBER: 63-20837

NAME AND ADDRESS: GEORGE NISHITANI  
PO BOX 325  
CALDWELL ID 83605

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.080 CFS  
28.000 AFY

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

PRIORITY DATE: 03/01/1928

POINT OF DIVERSION:

T04N R03W S15 SWSW Lot 1 Within CANYON County

PURPOSE AND  
PERIOD OF USE:

| <u>PURPOSE OF USE</u> | <u>PERIOD OF USE</u> | <u>QUANTITY</u>        |
|-----------------------|----------------------|------------------------|
| COMMERCIAL            | 01/01 12/31          | 0.060 CFS<br>28.00 AFY |
| DOMESTIC              | 01/01 12/31          | 0.020 CFS              |

Domestic use is for 1 home and does not include lawn, garden, landscape, or other types of irrigation.

PLACE OF USE: COMMERCIAL Within CANYON County

T04N R03W S15 Lot 1 SWSW

DOMESTIC Within CANYON County

T04N R03W S15 Lot 1 SWSW

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

The quantity of water decreed for this water right for domestic 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

Commercial use is for one greenhouse.

Use of this right is combined with water from Riverside Irrigation District.

Property is also known as TX 97243, Blk 4 & 3205, Blk 3, Golden Gate Subdivision.

PARCEL NO: R0227201000 & R0227300000.

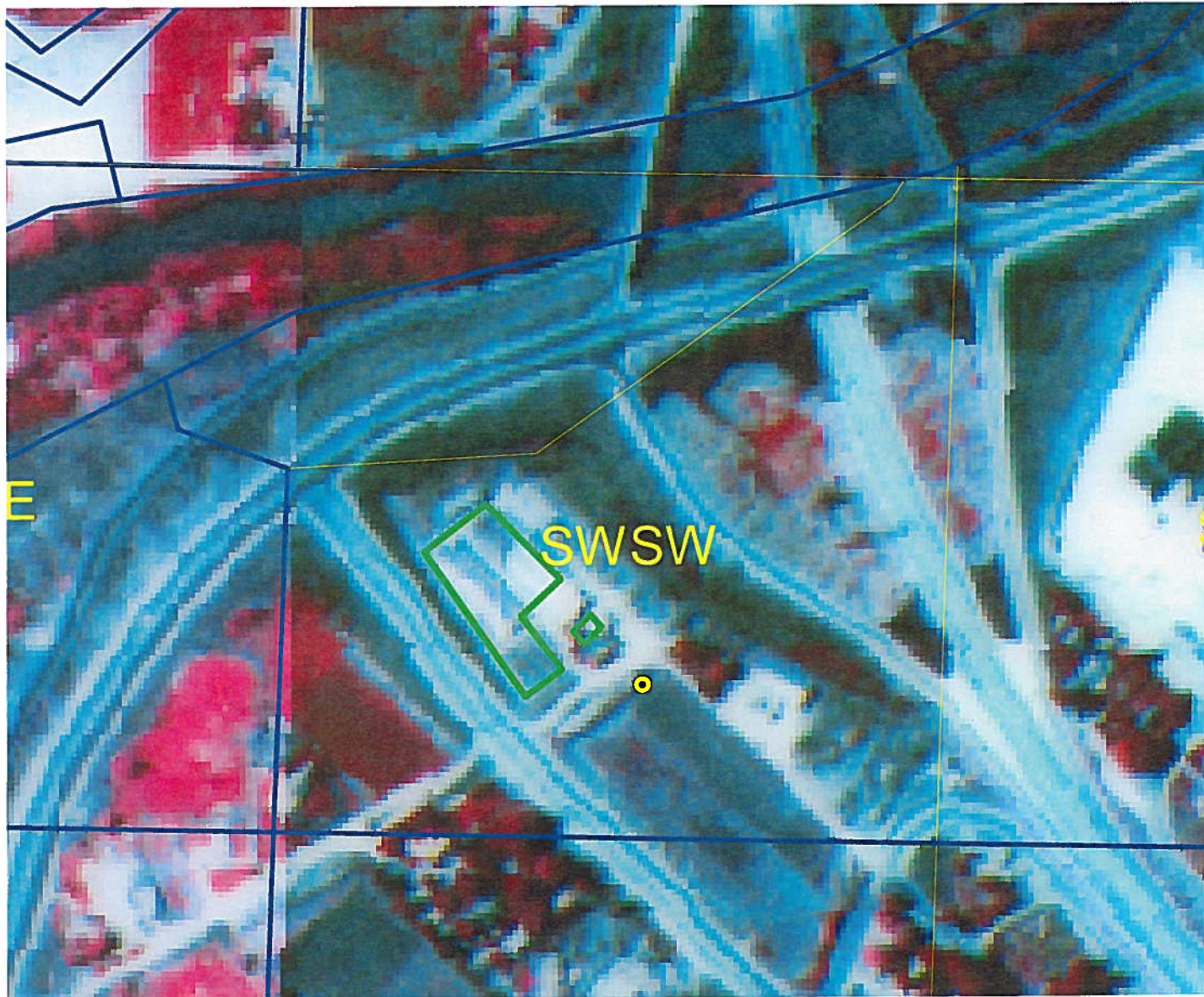
# Idaho Department of Water Resources

**T04N, R03W,  
SEC 15**

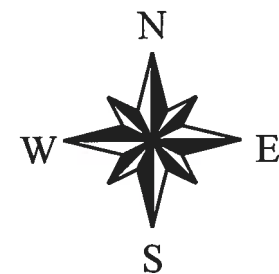
**Claim No: 63-20837**

**Prepared By: Kimberly Brown**

**Date: July 7, 2006**



-  Place of Use
-  Section Lines
-  1/4 1/4
-  Point of Diversion



0.01 Miles



**1987 NAPP**

ADD J01- Place of use is also shown as 1X 51243  
Blk 4 & 3205, Blk. 3 ; Golden Gate Subdivision.

Page 1

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-20837

WATER RIGHT NUMBER: 63-20837 ✓

Owner Type

Current Owner

Name and Address

GEORGE NISHITANI  
PO BOX 325  
CALDWELL, ID 83605  
(208)459-0567

Current Owner:

Michael Nishitani, Trustee  
P.O. Box 151  
Caldwell 83606

Priority Date: 03/01/1928 ✓

Basis: Beneficial Use ✓

Status: Active

Property Address:

222 W. Freeport St.  
Caldwell

Property Address:

Ø W. Elgin St.  
Caldwell

Source

GROUND WATER ✓

Tributary

Beneficial Use

COMMERCIAL ✓

DOMESTIC ✓

From To

1/01 to 12/31 ✓

1/01 to 12/31 ✓

Diversion Rate

0.060 CFS ✓

0.020 CFS ✓

Total Diversion:

0.080 CFS ✓

Annual Volume

28.0 AF

28.0 AF

Location of Point(s) of Diversion

GROUND WATER

CANYON County ✓

SW1/4SW1/4 ✓

Sec. 15, Twp 04N, Rge 03W, B.M. ✓

ADD - Govt. lot 1

Place of Use

COMMERCIAL ✓

Comm.

Volume:  $25,000 \text{ gal/day} \times 365 \text{ days} = 28.0 \text{ AF}$   
325,850 AF

| Twp | Rge | Sec | NE | NW | SW | SE | Totals |
|-----|-----|-----|----|----|----|----|--------|
| 04N | 03W | 15  | NE | NW | SW | SE |        |

DOMESTIC ✓ - "George & Martha" house on map submitted by dmt.

| Twp | Rge | Sec | NE | NW | SW | SE | Totals |
|-----|-----|-----|----|----|----|----|--------|
| 04N | 03W | 15  | NE | NW | SW | SE |        |

Conditions of Approval:

1.

GREENHOUSE AND HOME

ADD WB5 - Domestic use is for 1 home and does not include irrigation of lawn and garden.

Remarks:

ADD N10 & N12 for domestic use

ADD - Commercial use is for one greenhouse.

ADD - Use is combined with Riverside Irrigation Dist. water.

Parcel No: R0227201000 & R0227300000.

## REAL PROPERTY INQUIRY

```

+++++
01 5R 2272-010- -0 001-13 G SCH132+ 0A 2,700 .34
+++++
NISHITANI, GEOFFREY M-TRUST + 30 25,000 1.00
& MOSELEY, CYNTHIA NISHITANI & +
% NISHITANI, MICHAEL-TRUSTEES +
+
PO BOX 151 +
CALDWELL ID 83606 +
+++++
15-4N-3W SW GOLDEN GATE SUB 3205 + TOTAL 43,000 1.34
TX 97243 BLK 4 +
+ SURVEY INST 200365221
+ DRAIN DR VALUE APPR KYL
+ CLASS BF REAP 03 MAN 02 UNIT 0
+ PARCEL 5RC3205004000A H/O N C/B N
+ PRIOR ACCOUNT 4R 2272-010- -0
+ 02 MH on Property NO
W ELGIN ST, CA
MODE:F ACTION: TRAITS INQUIRY TRQK318

ACCOUNT NUMBER UNIT TOTAL UNITS

SITE SEC/TWN/RNG
ASSESSED VALUE ACREAGE
SUB/PARK NAME YEAR/MAKE
CLASS SPACE LOT BLOCK
+++++
YR BUILT AIR COND CARPORT
STORY HEATING CARPORT SQ FT
FIRST SQ FT EXTERIOR DECK/PATIO?
SECOND SQ FT ROOF POOL?
BEDS BSMT SQ FT SPA?
BATHS % BSMT FIN LOT SIZE
FRPLC GARAGE NEIGHBORHOOD
GARAGE SQ FT
+++++
COMMENTS MOBILE HOME ONLY
WIDTH/LENGTH
EXPANDO
REAL ACCOUNT

```

## REAL PROPERTY INQUIRY

```

+++++
01 5R 2273-000- -0 001-13 G SCH132+ 20 25,500 .84
+++++
NISHITANI, MARTHA UYEMATSU + 41 132,900
+
+
+
+
PO BOX 325 +
CALDWELL ID 83606 +
+++++
15-4N-3W SW GOLDEN GATE SUB 3205 + TOTAL 179,700 .84
BLK 3 ++++++
+ SURVEY INST
+ DRAIN DR VALUE APPR KYL
+ CLASS OR REAP 03 MAN 02 UNIT 2
222 W FREEPORT ST, CA + PARCEL 5RC32050030000 H/O N C/B N
+ PRIOR ACCOUNT 4R 2273-000- -0
+ 02 MH on Property NO
MODE:F ACTION: TRAITS INQUIRY TRQK318

ACCOUNT NUMBER R 2273000 0 UNIT 001 TOTAL UNITS 2

SITE 222 W FREEPORT ST CA SEC/TWN/RNG 15-4N-3W
ASSESSED VALUE 197,650 ACREAGE .00
SUB/PARK NAME GOLDEN GATE SUB YEAR/MAKE
CLASS OR OWNER / RENTAL SPACE LOT BLOCK
+++++
YR BUILT 1964 AIR COND AIR - NONE CARPORT A2
STORY 1 STORY HEATING OIL CARPORT SQ FT 624
FIRST SQ FT 1930 EXTERIOR WOOD SIDING DECK/PATIO? Y
SECOND SQ FT ROOF WOOD SHAKES POOL? N
BEDS 2 BSMT SQ FT SPA? N
BATHS 1.00 % BSMT FIN LOT SIZE
FRPLC 1 GARAGE N NEIGHBORHOOD 0
GARAGE SQ FT
+++++
COMMENTS MOBILE HOME ONLY
WIDTH/LENGTH
EXPANDO

```

IDAHO DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIM POU REVIEW REPORT  
ADJUDICATION CLAIM NUMBER: 63-20837

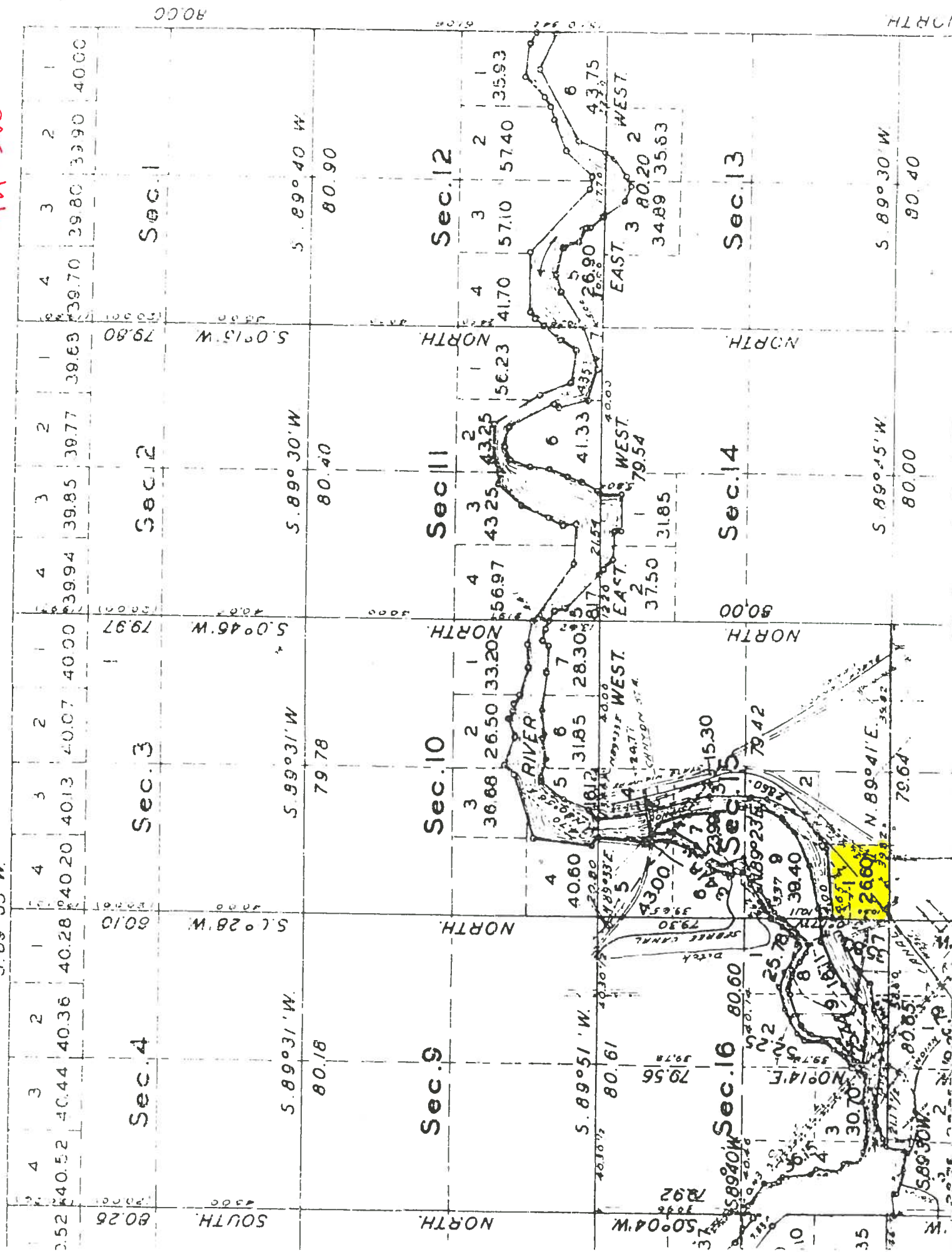
03/23/2006

1

| Right # | Type        | Twp | Rge | Sec | QQ | Q  | Lot | Purpose of Use | Acres/Total | Name                              |
|---------|-------------|-----|-----|-----|----|----|-----|----------------|-------------|-----------------------------------|
| -226    | Claim       | 04N | 03W | 15  | SW | SW |     | IRRIGATION     | 3/7139.3    | THE RIVERSIDE IRRIGATION DIST LTI |
| -227    | Claim       | 04N | 03W | 15  | SW | SW |     | IRRIGATION     | 3/7139.3    | THE RIVERSIDE IRRIGATION DIST LTI |
| -228    | Claim       | 04N | 03W | 15  | SW | SW |     | IRRIGATION     | 3/7139.3    | THE RIVERSIDE IRRIGATION DIST LTI |
| -229    | Claim       | 04N | 03W | 15  | SW | SW |     | IRRIGATION     | 3/7139.3    | THE RIVERSIDE IRRIGATION DIST LTI |
| -299    | Claim       | 04N | 03W | 15  | SW | SW |     | IRRIGATION     | 3/7139.3    | THE RIVERSIDE IRRIGATION DIST LTI |
| -300    | Claim       | 04N | 03W | 15  | SW | SW |     | IRRIGATION     | 3/7139.3    | THE RIVERSIDE IRRIGATION DIST LTI |
| 2279    | Claim       | 04N | 03W | 15  | SW | SW |     | IRRIGATION     | 3/7139.3    | THE RIVERSIDE IRRIGATION DIST LTI |
| 2374    | Claim       | 04N | 03W | 15  | SW | SW |     | IRRIGATION     | 3/7139.3    | THE RIVERSIDE IRRIGATION DIST LTI |
| 2389    | Claim       | 04N | 03W | 15  | SW | SW |     | IRRIGATION     | 3/7139.3    | THE RIVERSIDE IRRIGATION DIST LTI |
| 4007    | Claim       | 04N | 03W | 15  | SW | SW |     | IRRIGATION     | 3/7139.3    | THE RIVERSIDE IRRIGATION DIST LTI |
| 4008    | Claim       | 04N | 03W | 15  | SW | SW |     | IRRIGATION     | 3/7139.3    | THE RIVERSIDE IRRIGATION DIST LTI |
| 4010    | Claim       | 04N | 03W | 15  | SW | SW |     | IRRIGATION     | 3/7139.3    | THE RIVERSIDE IRRIGATION DIST LTI |
| 9976    | Claim       | 04N | 03W | 15  | SW | SW |     | IRRIGATION     | 2/15        | STATE OF IDAHO                    |
| 20536   | Claim       | 04N | 03W | 15  | SW | SW |     | IRRIGATION     | 1/1         | KALEY UYEMATSU                    |
| 9976    | Water Right | 04N | 03W | 15  | SW | SW |     | IRRIGATION     | 2/15        | STATE OF IDAHO                    |
| 20836   | Claim       | 04N | 03W | 15  | SW | SW |     | COMMERCIAL     |             | GEORGE NISHITANI                  |
| 20837   | Claim       | 04N | 03W | 15  | SW | SW |     | COMMERCIAL     |             | GEORGE NISHITANI                  |
| 20836   | Claim       | 04N | 03W | 15  | SW | SW |     | DOMESTIC       |             | GEORGE NISHITANI                  |
| 20837   | Claim       | 04N | 03W | 15  | SW | SW |     | DOMESTIC       |             | GEORGE NISHITANI                  |
| 20838   | Water Right | 04N | 03W | 15  | SW | SW |     | DOMESTIC       |             | GEORGE NISHITANI                  |
| 22362   | Water Right | 04N | 03W | 15  | SW | SW |     | DOMESTIC       |             | CITY OF CALDWELL                  |

— no overlap

S. 09° 35' W.



# Receipt Details for ID C014908

| Status | Adjustment Type     | Version |
|--------|---------------------|---------|
|        | Water Right Receipt | 1       |

## General Information:

| Date Received         | Date Deposited           | Region | Total Amount | Payment Type |
|-----------------------|--------------------------|--------|--------------|--------------|
| 2/23/1990 11:16:33 AM | 2/23/1990                | State  | \$135.00     | Check        |
| <b>Payer</b>          | NISHITANI, GEORGE/MARTHA |        |              |              |

## Account Information:

| Check #              | Account #                 | Credit Card Name | Authorization # |
|----------------------|---------------------------|------------------|-----------------|
| 1497                 |                           |                  |                 |
| Card Expiration Date | Credit Card Transaction # |                  |                 |
|                      |                           |                  |                 |

**Comment** ADJUDICATION FEES

## Fee Detail:

| Amount   | Description       | PCA    | Fund | Fund Detail | Subsidiary | Object |
|----------|-------------------|--------|------|-------------|------------|--------|
| \$135.00 | ADJUDICATION FEES | 410162 | 9337 | 0           | 0          | 6490   |

## Refund(s):

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

## Water Right Information:

| Basin Number | Sequence Number | Split Suffix | Amount  | Type  |
|--------------|-----------------|--------------|---------|-------|
| 63           | 20837           |              | \$56.00 | Claim |
| 63           | 20838           |              | \$25.00 | Claim |
| 63           | 20836           |              | \$54.00 | Claim |

✓ Correct Amount

Print Report

A63-20837

**CYNTHIA NISHITANI MOSELEY**  
**3614 SOUTH HERITAGE AVENUE ♦ BOISE, IDAHO 83709**  
**PHONE & FAX: 208-362-0907**

---

June 30, 2006

**VIA PRIORITY U.S. MAIL**

Kimberly Brown  
Water Resources Agent  
Adjudication Bureau  
Department of Water Resources – Western Region  
2735 Airport Way  
Boise, ID 83705-5082

**RECEIVED**

**JUL 06 2006**

**WATER RESOURCES  
WESTERN REGION**

**RE: EVIDENCE OF PRIORITY**

**SNAKE RIVER BASIN CLAIM NUMBERS:**

**A63-20536: Geoffrey M. Nishitani Trust**

**A63-20836: George & Martha Nishitani Family Trust (w/Commercial Use)**

**A63-20837: George & Martha Nishitani Family Trust (w/Commercial Use)**

Dear Kimberly:

Thank you for the additional time given to submit the evidence for the above claims.

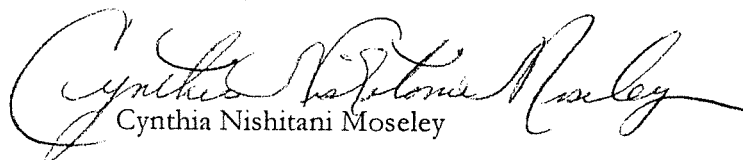
Enclosed please find the following documents that support all three claims, unless specifically indicated otherwise:

- 1) Original Affidavit of Cynthia Nishitani Moseley;
- 2) Original Affidavit of Warren Tamura;
- 3) Commercial Use Volume questionnaire (for A63-20836);
- 4) Commercial Use Volume questionnaire (for A63-20837);
- 5) Copy of Order of Canyon County Water Board dated 07/28/1954;  
(relevant sections highlighted, supporting 0.08 cubic feet per second for industrial purposes since 1937); and,
- 6) Aerial Map with Reference Points (point of diversions, place of uses, domestic homes).

If you require any additional information, please do not hesitate to contact me.

Thank you for your assistance.

Yours truly,

  
Cynthia Nishitani Moseley

c: Ralph V. Nishitani  
Agnes Nishitani

IN THE MATTER OF )  
NOTICE OF CLAIM TO )  
A WATER RIGHT NO. (S) )  
 )  
A63-20536 & A63-20837 )  
& A63-20836 )  
\_\_\_\_\_ )

AFFIDAVIT  
OF WARREN TAMURA

STATE OF IDAHO )  
COUNTY OF CANYON )

WARREN TAMURA, deposes and says:

BACKGROUND & RELATIONSHIP TO CLAIMANTS

- 1) I was born April 7, 1923, and am presently 83 years old.
- 2) I have known the Martha Uyematsu and George Nishitani families all of my life. Over the years, I have kept in general contact with them, including visits to George and Martha's home and business operations.
- 3) I am familiar with and have personal knowledge of the property, wells, and the domestic, agricultural, and commercial water usage of the Uyematsu and Nishitani families near Boise Avenue in Caldwell, Idaho.

ORIGINAL USHITARO & TOME UYEMATSU PROPERTY  
63-20536

- 4) In my youth and from what I know from my own family history, Martha Uyematsu's father Ushitaro Uyematsu grew and sold vegetable crops under the name "Uyematsu Gardens." Prior to 1922, Ushitaro's family raised vegetable crops on their property and washed and cooled them in preparation for sale using the water from the artesian well on the original Uyematsu property. The site of the original Uyematsu well is now under the I-84 ramp.
- 5) Although my family did not own the property at the time, I remember the property condemnation associated with the I-84 interchange in approximately 1980 and related

changes. Due to the condemnation, the original Uyematsu house and well were moved from its original site (now underneath I-84), to its present location at 402 W. Elgin Street. After Ushitaro's wife passed in approximately 1950, that house continued to be occupied by Kaley Uyematsu and/or Lilley Uyematsu and the well water usage continued for domestic and irrigation usage at the new site.

6) It is my understanding that after her death in 1995, Kaley Uyematsu bequeathed her property and home to her nephew, Geoffrey M. Nishitani (George and Martha's grandson).

GEORGE & MARTHA NISHITANI'S GREENHOUSE & HOME  
63-20837

7) After Ushitaro Uyematsu's death, his daughter Martha Uyematsu continued the operations of Uyematsu Gardens. Later, in 1937, Martha married George Nishitani, and together they continued raising vegetable crops and preparing them for sale in the packing shed on the original Uyematsu property using the original well water. This usage continued until the well was vacated in approximately 1980 with the I-84 condemnation.

8) From the time that they were married and the rest of their lives (excluding their short residence in an assisted living facility prior to their passing), George and Martha lived in the same house located across the old canal from my family's house. George and Martha's house, and the later built greenhouses, were also served by a well for residential, irrigation, and commercial purposes.

9) Together, over their lives, George and Martha expanded the original Uyematsu Gardens operation into a substantial wholesale farm, greenhouse, and produce operation using the names "Nishitani Greenhouse" and/or "Nishitani Farm."

a) In approximately 1939, George and Martha built a greenhouse and began growing nursery and bedding plants. This greenhouse operation expanded to a substantial wholesale operation and grew to its current size on the property next to George and Martha's house. The well water

was used to water the expanse of nursery and bedding plants.

b) In approximately 1965, George and Martha expanded their produce operation from selling only the produce that they grew to buying and selling wholesale produce on a large-scale. They conducted business operations, and used the well water from the original Uyematsu well, and later, after the 1980 I-84 condemnation, the Tamura well.

PACKING SHED AT CURRENT LOCATION & ORIGINAL TAMURA HOUSE  
63-20836

10) From approximately 1922 to 1978 my family owned the portion of property, including the still-existing house where I was born, where George and Martha Nishitani relocated their packing shed following the I-84 property condemnation in approximately 1980.

11) The original Tamura house and property was located just across a canal that no longer exists. The canal was covered-over with the I-84 condemnation in approximately 1980.

12) My parents, under my sister's name, purchased the original Tamura house and property in 1922 from seller Monk. At that time, Ushitaro and Tome Uyematsu already owned their property across the canal.

13) When my parents purchased the property it had an existing home and well which continued to be used throughout my family's ownership for domestic and agricultural use.

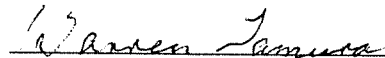
14) George and Martha purchased the property, with house and well, from my sister in approximately 1978.

15) Although my family did not own the property at the time, I remember the property condemnation associated with the I-84 interchange in approximately 1980 and related changes. Due to the condemnation, the original packing shed was moved from its original site (now underneath I-84), to its present location on what used to be my family's property.

16) It is my understanding that the original well on the property my parent's purchased, and later sold to George and Martha, was used by George and Martha, after the condemnation, for the original Tamura house, and for their new packing shed.

17) The produce business in the new packing shed was a good-sized wholesale operation, particularly in the 1970s (see paragraph 9(b) above).

June 27, 2006

  
\_\_\_\_\_  
Warren Tamura  
1103 Lone Star Road  
Nampa, ID 83651  
(208) 466-4830

IN THE MATTER OF                    )  
NOTICE OF CLAIM TO                )  
A WATER RIGHT NO.(S)                )     AFFIDAVIT  
                                      )     OF CYNTHIA NISHITANI MOSELEY  
A63-20536 & A63-20837                )  
& A63-20836                         )  
\_\_\_\_\_ )

STATE OF IDAHO                    )  
COUNTY OF ADA                    )

CYNTHIA NISHITANI MOSELEY, deposes and says:

BACKGROUND & RELATIONSHIP TO CLAIMANTS

- 1) I was born October 2, 1969, and am presently 36 years old.
- 2) I am the granddaughter of George and Martha Uyematsu Nishitani, and the sister of Geoffrey M. Nishitani.
- 3) I am the legal representative for the real properties and associate water rights numbers A63-20536, A63-20836 and A63-30837 currently owned by the family trust of George Nishitani (DOD: 06/03/2006) and Martha Uyematsu Nishitani (DOD: 09/28/2004) and/or the Geoffrey M. Nishitani Trust.
- 4) I am familiar with and have personal knowledge of the property, wells, and the domestic, agricultural, and commercial water usage for these water right claims. I remember the property configuration, business activities, and well placement, before and after the I-84 condemnation.
- 5) In addition to personal knowledge, over my lifetime, I have acquired a general knowledge of the history and former uses of the properties and associated water usage.

16) References used throughout, including related Tax Lots served:

| Reference & Priority Date<br>& Current Owner                                                                                                         | Present Well Location                                                                                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| A63-20536 / c. 1920<br><br>"original Uyematsu property<br>or well"<br><br>current owner: Geoffrey M.<br>Nishitani Trust                              | Since approx. 1980 somewhere<br>under I-84 or I-84 ramp;<br>house & well later relocated<br>to Tax Lot R2272-000. |
| A63-20837 / c. 1928<br><br>"George and Martha greenhouse<br>& home property or well"<br><br>current owner: George &<br>Martha Nishitani Family Trust | Tax Lot R2273-000 with well<br>water also used for Tax Lots<br>R2272-010 & R2272-011.                             |
| A63-20836 / c. 1922<br><br>"packing shed and Tamura<br>house"<br><br>current owner: George &<br>Martha Nishitani Family Trust                        | Tax Lot R2274-000 with well<br>water also used for Tax Lot<br>R2330-000.                                          |

ORIGINAL USHITARO & TOME UYEMATSU PROPERTY  
63-20536

7) The original Uyematsu property was purchased by my great-grandparents, Ushitaro and Tome Uyematsu sometime prior to 1922. During their lifetimes, they lived in the original Uyematsu house and used and the ground water for the following: a) household use to a primary residence, b) irrigation to grow produce and water the yard, c) wash water to prepare the produce for sale to others.

8) My grandmother, Martha Uyematsu Nishitani ran the household and business operations related to the above referenced water rights when her father, Ushitaro Uyematsu passed in 1936. She and her two sisters inherited the property and original Uyematsu house when their mother, Tome Uyematsu passed in 1950.

9) After Tome Uyematsu passed, the original Uyematsu house was occupied by her daughters Kaley Uyematsu and/or Lilley Uyematsu Briscoe.

10) The original well was in front of the original Uyematsu house. There was a holding pool for diverting the well water used for irrigation. The well flowed gushing amounts of water in an amount to my memory that would represent the flow of several garden hoses flowing at full-flow at one time.

11) Due to the I-84 condemnation in approximately 1980, the original Uyematsu house and related well was moved to the physical address commonly know as 402 W. Elgin Street (County Tax Lot R2272-000). In approximately 1995, Geoffrey M. Nishitani inherited that property and owns it in trust presently.

12) Ground water is currently used to irrigate a sizeable yard. I estimate approximately 10,000 sq. ft. of grass/lawn alone, plus additional bushes, trees, and landscaped area.

GEORGE & MARTHA NISHITANI'S GREENHOUSE & HOME  
63-20837

13) Sometime shortly after George and Martha got married in 1937, they moved into the home that they lived in their entire married lives. That home was a few hundred yards away from the original Uyematsu house and was a part of the property purchased by her father sometime prior to 1922.

14) In approximately 1939, they built a greenhouse just behind their home, and began a greenhouse business that they ran along with their farming operation.

15) After George and Martha leased the bulk of their farm ground (200-plus acres off of Hwy. 20) to another farmer, their farming operations slowed but did not cease. At that time, their efforts were directed more heavily on the greenhouse operation (dba Nishitani Greenhouse).

16) In its peak, in the 1980s and 1990s the greenhouse was a good-size wholesale operation. By my estimation, it competed with the five largest local operations of its kind. Nishitani Greenhouse grew and sold bedding plants

and vegetable plants to many of the major grocery-chains and retail nurseries in the Treasure Valley, including Albertson's, D&B Supply, and WinCo Foods almost exclusively.

17) From approximately 1983 to 1992, I was the sole bookkeeper for my grandparents' business operations. From 1992 to 1996, I continued to perform annual financial reviews of their operations.

18) I would estimate that there were approximately 1.5 acres of covered greenhouse or cold frames in plant production. During the busy season, it would require 2 or more employees an entire 8-plus hour workday to water all of the plants using a full-flowing 3/4-inch commercial garden hose to adequately water the plants in production. Additional water would have been required for all other purposes. In the busy season, 40 to 50 employees worked 8 to 10-hour days, 7 days per week. George and Martha and a few key employees worked 12 to 16-hour days, 7 days per week during the busy season.

PACKING SHED AT CURRENT LOCATION & ORIGINAL TAMURA HOUSE  
63-20836

19) In approximately 1978, property contiguous to the original Uyematsu property was purchased from the Warren Tamura family (Tax Lots R2274-000 & R2230-000).

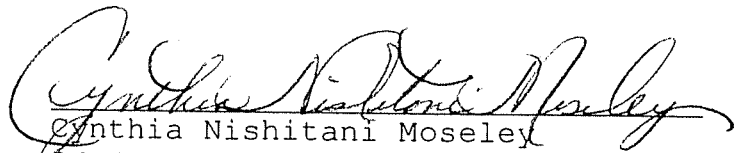
20) In approximately 1980, due to the I-84 condemnation, the original packing shed was moved to its present location. The well water from the original Tamura property well was used for the relocated packing shed.

21) At the height of the produce shed and farming operations (dba Nishitani Farm) in the 1960s and 1970s the vegetable crop produced from approximately 300 acres for farmland was washed and distributed at the Nishitani Farm produce house. Additionally, during that same time period, semi-trucks of produce were purchased, handled, and redistributed throughout the Treasure Valley. It was one of the larger produce sheds in the area, distributing produce well beyond the local area into Mountain Home, Twin Falls and beyond.

22) Produce would come in by truck from the field, washed in large water troughs (2 troughs of approximately 250 gallons each), or sprayed with water on conveyor belts, then packed, and put into the proper temperature-controlled refrigeration to await distribution. A lot of additional water was used to keep the produce handling-area clean and maintain the facility.

23) At various times after the late 1980s, as George and Martha got older, portions of the packing shed were rented-out to other produce handlers (dba, Tarbala Produce and Smith Produce) who conducted business in a manner similar to George and Martha. At all times through October 2002, George and Martha continued some produce operation at the packing shed.

June 30, 2006

A handwritten signature in cursive script, reading "Cynthia Nishitani Moseley".

Cynthia Nishitani Moseley

3614 S. Heritage Ave.

Boise, ID 83709

(208) 362-0907

## COMMERCIAL USE VOLUME

\* Please keep in mind that these questions pertain only to the use of the water listed on the enclosed **Adjudication Claim Report #A63-20836**.

**Type of Establishment:** (example – camp, church, country club, bar/lounge, boardinghouse, factory, motel, highway rest area, hospital, laundry, office, park, restaurant, school, service station, theater)

" Packing Shed (post I-84  
condemnation  
& Tamura house

Produce Packing Shed & Truck and Machinery  
Shop

**Type of Facilities:** (example: kitchen facility/cafeteria, lavatory facilities, shower(s), bath(s), sink(s), trailers, flush toilets)

produce washing and handling area, including  
2 large water troughs, grate-drain flooring,  
and 3 large walk-in coolers; employee toilet + sink.  
multiple spiket faucets indoors and outdoors.

**Number of Fixtures:** (example: number of flush toilets, number of bathtubs, number of bathroom/kitchen sinks, number of showers, etc.)

1 toilet, 1 sink, multiple spiket faucets  
indoors and outdoors

**How many employees (and/or public individuals) per day** use each of the facilities your commercial use is based upon?

During busy-season 10-15 employees per  
day, 6-7 days per week.

**How many hours per day** is the facility open for this specific use?

During busy season, 12-16 hours per day.

**How many days per week** is the facility open for this use?

During busy season, 7 days per week.

A63-20836

Is this facility open year round? ☒ Yes ☐ No

If not, please indicate the length of time the facility is open during the year.

yes, but slow in off-season.

\*\* Most businesses have a good idea of how many gallons of water per day they use. If this is true in your case, please indicate how many **total gallons of water you use** for the commercial purposes explained above:

Uncertain, but would assume that the  
description of use would support a commercial  
volume of 10,000 gallons per day minimum  
during busy season.

**Additional information** you feel may be pertinent:

---

---

---

---

---

Cynthia Nielson-Maley  
Your name

208-362-0907  
Business telephone number

**Please return to:**

**ATTN: Kimberly Brown**  
**Idaho Department of Water Resources**  
**2735 Airport Way**  
**Boise, ID 83705-5082**

## COMMERCIAL USE VOLUME

\* Please keep in mind that these questions pertain only to the use of the water listed on the enclosed **Adjudication Claim Report #A63-20837**.

**Type of Establishment:** (example – camp, church, country club, bar/lounge, boardinghouse, factory, motel, highway rest area, hospital, laundry, office, park, restaurant, school, service station, theater)

Greenhouse  
Tax Lots Served:  
R2273-000  
R2272-010  
R2272-011

**Type of Facilities:** (example: kitchen facility/cafeteria, lavatory facilities, shower(s), bath(s), sink(s), trailers, flush toilets)

Covered greenhouses, cold frames,  
Office building, employee restroom, +  
tenant apartment for employees.

**Number of Fixtures:** (example: number of flush toilets, number of bathtubs, number of bathroom/kitchen sinks, number of showers, etc.)

25-plus outdoor water spigots, 3 toilets,  
2 kitchen sinks, 2 showers,

**How many employees (and/or public individuals) per day** use each of the facilities your commercial use is based upon?

During busy-season, 40-50 employees  
used various facilities listed above.

**How many hours per day** is the facility open for this specific use?

During busy-season, 12-14 hours per day,

**How many days per week** is the facility open for this use?

During busy season, 7 days per week,

Is this facility open year round? ☒ Yes ☐ No

If not, please indicate the length of time the facility is open during the year.

Yes, but slow in off-season.

**\*\* Most businesses have a good idea of how many gallons of water per day they use. If this is true in your case, please indicate how many **total gallons of water you use** for the commercial purposes explained above:**

Uncertain, but would assume that the  
description of use would support a minimum  
commercial volume of 25,000 gallons per day  
during busy season.

**Additional information** you feel may be pertinent:

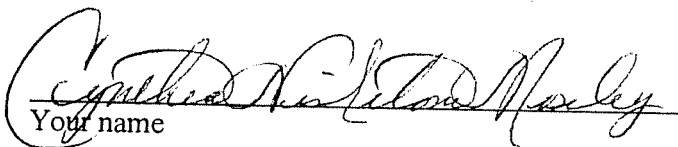
---

---

---

---

---

  
Your name

208-362-0907  
Business telephone number

**Please return to:**

**ATTN: Kimberly Brown  
Idaho Department of Water Resources  
2735 Airport Way  
Boise, ID 83705-5082**

RECEIVED

APR 03 2036

STATE OF IDAHO  
DEPARTMENT OF RECLAMATIONWATER RESOURCES  
WESTERN REGIONIn the Matter of Ed Wagner,  
R. E. Wagner, J.A. Bradford,  
J.F. Brenneman and George  
Nishitani,FINDING, DECISION and ORDER  
of the  
Local Ground Water Board  
for  
Canyon County, Idaho

vs

Elwood Grimes,

Respondent.

The above entitled matter came on regularly for hearing before a local ground water board consisting of Carl E. Tappan, F. C. Bohlsen and Mark R. Kulp, established according to Statute, at 10 o'clock A.M. on June 21, 1954, at Caldwell, County of Canyon, State of Idaho.

Claimants Ed Wagner, R. E. Wagner, J. E. Brenneman, J. A. Bradford and George Nishitani were represented by Peter Boyd, Attorney at Law, Caldwell, Idaho, and the Respondent Elwood Grimes was represented by Robert B. Dunlap, Attorney at Law of Caldwell, Idaho.

## Findings

1. The board finds that: The claimants Ed Wagner, R.E. Wagner, J.F. Brenneman, J.A. Bradford and George Nishitani and the respondent, Elwood Grimes and others unknown are appropriators of ground waters underlying lands including the lands of the said claimants and the said respondent in Sections 15 and 16 in Township 4 North, Range 3 West of the Boise Meridian.

2. That the said ground waters are under artesian pressure or artesian pressures with piezometric surface above the local ground surface elevation. That neither the wells of the claimants or the well of the respondent are equipped with control or capping devices approved by the State Department of Reclamation.

3. That the artesian pressure or pressures of the underground water supply or supplies, tapped by the wells of the claimants and the respondent and others unknown or unlisted, is a potential or potentials common to the claimants and the respondent and to others who have tapped and who are drawing from the said supply or supplies and is not a necessary condition to the use of water appropriated from the underground water supply or supplies.

4. That the claimants have made no provisions for the conservation or maintenance or improvements of the common artesian potential or potentials by providing suitable capping devices for their wells, or by periodic cleaning out of old wells.

5. That the evidence does not show that the wells of the claimants and the respondent tap or take water from the same or common source independent of other sources, nor that the decrease in the artesian pressure on claimants' wells has been caused solely by the operation of the well of the respondent.

6. That Ed Wagner appropriated and put to beneficial use for domestic, irrigation and stock watering purposes by means of a well, to (2) miner's inches (.04 cubic foot per second, or 18 gallons per minute) of subterranean water dating from 1933.

7. That R. E. Wagner appropriated and put to beneficial use for domestic and stock watering purposes by means of a well, one (1) miner's inch (.02 cubic foot per second, or 9 gallons per minute) of subterranean water dating from 1930.

8. That J. F. Brenneman or his predecessors appropriated and put to beneficial use for domestic, irrigation and stock watering purposes by means of a well, one (1) miner's inch (.02 cubic foot per second or 9 gallons per minute) of subterranean water dating from 1929.

9. That C. H. Bradford or his predecessors appropriated and put to beneficial use for domestic and stock watering purposes by means of a well, one (1) miner's inch (.02 cubic foot per second, or 9 gallons per minute) of subterranean water dating from 1936.

10. That George Nishitani appropriated and put to beneficial use for industrial purposes by means of a well on leased land, four (4) miner's inches (.08 cubic foot per second, or 36 gallons per minute) of subterranean water dating from 1937.

11. That the Respondent Elwood Grimes is the holder of Permit No. G-24608 issued by the State Department of Reclamation of the State of Idaho for the appropriation of 3 cubic feet per second of subterranean waters for fish propagation with a priority date of December 11, 1953, and has diverted by means of a pumped well and put to beneficial use one (1) miner's inch (.02 cubic foot per second) for domestic and culinary purposes and 15 miner's inches (.3 cubic foot per second) for commercial purposes in the recreational merchandising of live trout.

Description and Order

1. That the right of the Claimant Ed Wagner to two (2) miner's inches (or .04 cubic foot per second) of subterranean water for domestic, irrigation and stock watering purposes is confirmed. The said right is for use on and is appurtenant to the following described property, to-wit: Commencing at the Northeast Corner of Lot 8 of Section 16 in Township 4 North and Range 3 West of the Boise Meridian and bearing South 0°17' West 96 feet along the east boundary line of the aforesaid Lot 8 to the real point of beginning;

Thence continuing South 0°17' West 5.4 feet, along the East boundary line of the aforesaid Lot 8; thence South 78°01' East 52.1 feet, thence North 27°15' West 240 feet; thence meandering along the Southeast boundary line of a right of way occupied by a private road North 45°45' East 102 feet, Northeast 83.5 feet along a curve to the right with a radius of 114.6 feet, North 87°30' East 110 feet, Northeast 223.4 feet along a curve to the left with a radius of 262 feet and North 38°20' East 271 feet to the real point of beginning.

The said water right to date from 1930.

2. It is further ordered that the right of the Claimant R. E. Wagner to one (1) miner's inch (.02 cubic foot per second) of subterranean water for domestic, dairy and stock watering purposes is confirmed.

The said right is for use on and is appurtenant to the following described property, to-wit:

Lots 1 and 9, Section 16, Township 4 North, Range 3 West of the Boise Meridian. The said right to date from 1930.

3. It is further ordered that the right of the Claimant J. F. Brenneman to one (1) miner's inch (.02 cubic foot per second) of subterranean water for domestic, irrigation and stock watering purposes is confirmed.

The said right is for use on and is appurtenant to the following described property, to-wit:

Lot 2 and a 25 foot road along the north side of the Northeast Quarter of the Southwest Quarter (NE1SW1) Section 16, Township 4 North, Range 3 West of the Boise Meridian.

Said right to date from 1929.

4. It is further ordered that the right of the Claimant Bradford to one (1) miner's inch (.02 cubic foot per second) of subterranean water for domestic and stock watering purposes is confirmed.

The said right is for use on and is appurtenant to the following described property, to-wit:

All of Lot 1 and the Southeast Quarter of the Northeast Quarter (SE1NE1) all in Section 16, Township 4 North, Range 3 West of the Boise Meridian.

The said right to date from 1936.

5. It is further ordered that the right of the Claimant George Nishitani to four (4) miner's inches of subterranean water for industrial purposes is confirmed.

The said right is for use on and is appurtenant to the following described property, to-wit:

Blocks 1, 2, 4 and 7 of Golder Gate Subdivision as shown on the Plat ther of now on file in the office of the Recorder of Canyon County, Idaho.

The said right dates from 1937.

6. It is further ordered that the right of the Claimant Elwood Grimes to one (1) miner's inch of subterranean water for domestic purposes and 15 miner's inches of subterranean water for commercial purposes is confirmed.

The said right is for use on and is appurtenant to the following described property, to-wit: Three acres in the SW1/4 and SW1/4 Section 15, Township 4 North, Range 3 West of the Boise Meridian.

The said right to date from December 11, 1953.

7. It is the decision of the board that the water rights of each and every one of the claimants are senior to the water right of the Respondent.

8. It is the decision of the board that the use of the junior right of the respondent does not affect, contrary to the declare policy expressed in Section 42-226 Idaho Code, the use of the senior rights of the Claimants.

9. It is the decision of the board that the water rights confirmed do not have an exclusive right to artesian pressure or pressure potential as a part of their respective water rights.

Signed at Boise, Idaho, this 28th day of July A.D. 1954.

LOCAL GROUND WATER BOARD FOR CANYON COUNTY, IDAHO

(Signed) MARK R. KULP  
MARK R. KULP  
Chairman

(Signed) CARL E. TAPPAN  
Carl E. Tappan

(Signed) F. C. BOHLSON  
F. C. BOHLSON

1937 →  
★  
4 miner's inches  
or,  
0.08 cubic  
feet per sec.  
or  
9 gallons  
per minute

2004 NISHTAN

"Uyematsu" House

← WELL LOCATION  
A63-20536

Office & Apt.

Greenhouses

Greenhouses

Greenhouses

George & Martha  
House

→ WELL LOCATION  
A63-20837

"Tamura" House

← WELL LOCATION  
A63-20836

Packing Shed

MASTER MAP  
A63-20536 & A63-20837 & A63-20836

**Brown, Kimberly**

---

**From:** Cynthia Moseley [cnmoseley@cableone.net]  
**Sent:** Tuesday, June 27, 2006 4:13 PM  
**To:** Brown, Kimberly  
**Subject:** RE: Claim Nos. 63-20836, 63-20837, and 63-20536

06/27/2006 (Tuesday)

Kimberly,

I received the photo attachment in good order. I will call if there are further questions. Otherwise, you may expect the evidence of priority documentation for the three claims as we discussed.

I thank you for all of your assistance and particularly your clarifications during our phone conversation today.

Cynthia

---

**From:** Brown, Kimberly [mailto:Kimberly.Brown@idwr.idaho.gov]  
**Sent:** Tuesday, June 27, 2006 12:08 PM  
**To:** CNMoseley@cableone.net  
**Subject:** Claim Nos. 63-20836, 63-20837, and 63-20536

Cynthia,  
If possible, please print-out this 2004 aerial photo three times and use the three copies to depict:

- the point of diversion (well) location,
- the place of use (greenhouse, packing shed, and 1 acre of irrigation), and
- the domestic homes

that are associated with each individual water right claim.

If you have any questions, please contact me at #334-2190.

Sincerely,

Kimberly Brown  
Senior Water Resource Agent  
Western Region

<<nishitani.jpg>>

6/28/2006

## Brown, Kimberly

---

**From:** Brown, Kimberly  
**Sent:** Tuesday, June 27, 2006 12:08 PM  
**To:** 'CNMoseley@cableone.net'  
**Subject:** Claim Nos. 63-20836, 63-20837, and 63-20536

Cynthia,

If possible, please print-out this 2004 aerial photo three times and use the three copies to depict:

- the point of diversion (well) location,
- the place of use (greenhouse, packing shed, and 1 acre of irrigation), and
- the domestic homes

that are associated with each individual water right claim.

If you have any questions, please contact me at #334-2190.

Sincerely,

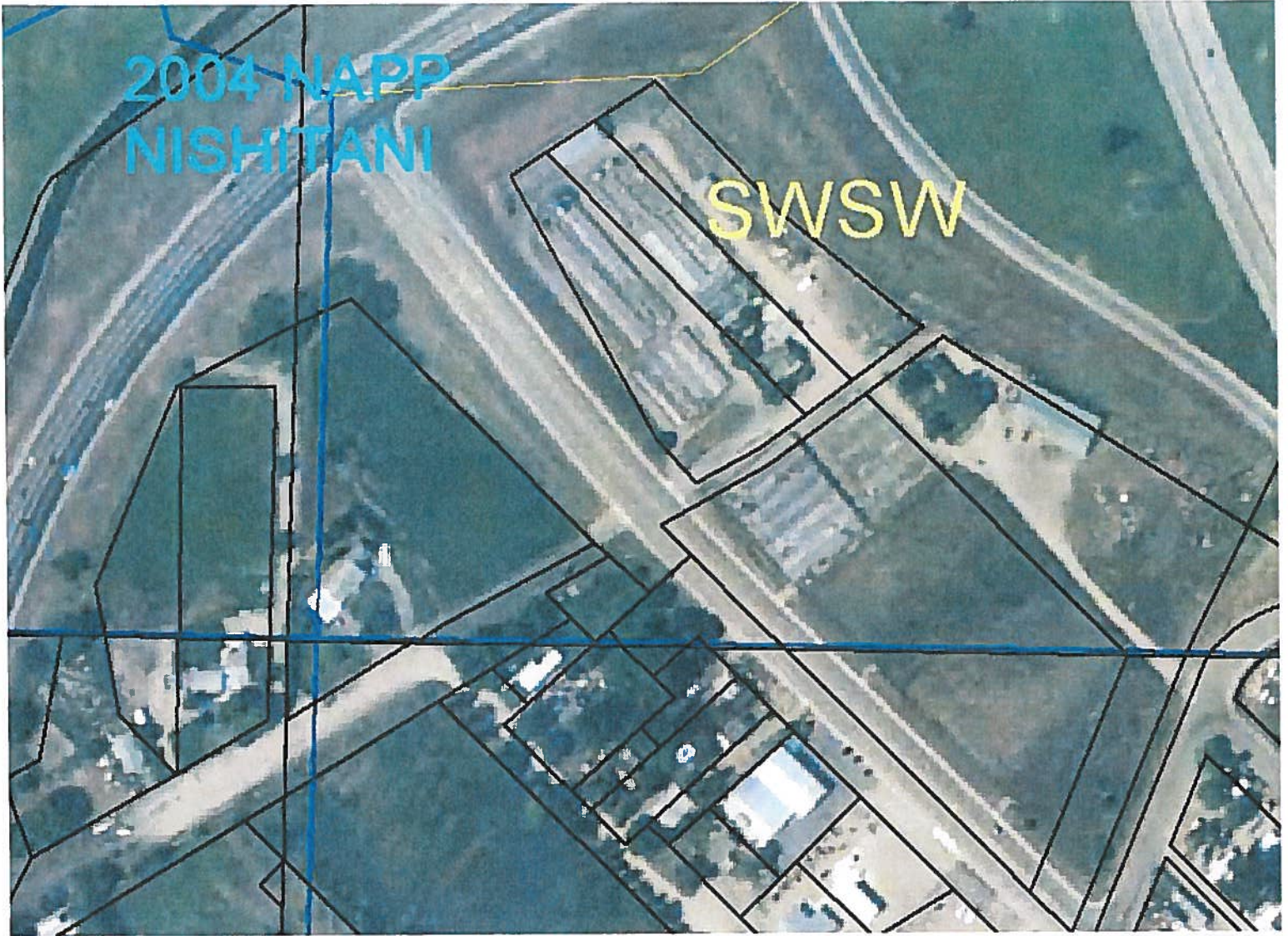
Kimberly Brown  
Senior Water Resource Agent  
Western Region



nishitani.jpg

2004 NAPP  
NISHITANI

SWSW



\* \* \* Memory TX Result Report ( May. 24. 2006 12:19PM ) \* \* \*

1) Idaho Dept. of Water Resources  
2)

Date/Time: May. 24. 2006 12:17PM

| File           | No. Mode | Destination | Pg(s) | Result | Page Not Sent |
|----------------|----------|-------------|-------|--------|---------------|
| 4694 Memory TX |          | 93620907    | P. 3  | OK     |               |

## Reason for error

E. 1) Hang up or line fail  
E. 3) No answer  
E. 5) Exceeded max. E-mail size

E. 2) Busy  
E. 4) No facsimile connection

The above entitled matter came on regularly for hearing before a local ground water board consisting of Earl E. Gappan, P. C. Robinson and Mark R. Kulp, established according to statute at 10 o'clock A.M. on June 21, 1954, at Caldwell, County of Canyon, State of Idaho.

Claimants Ed Wagner, J. E. Breneman, J. A. Bradford and George Nishitant were represented by Peter Boyd, Attorney at Law, Caldwell, Idaho, and the Respondent Elwood Grimes was represented by Robert B. Dunlap, Attorney at Law of Caldwell, Idaho.

Findings

1. The board finds that: The claimants Ed Wagner, R. E. Wagner, J. E. Breneman, J. A. Bradford and George Nishitant and the respondent, Elwood Grimes, are appropriators of ground waters underlying lands including the lands of the said claimants and the said respondent in Sections 15 and 16 in Township 4 North, Range 3 East of the Boise Meridian.

2. That the said ground waters are under artesian pressure or artesian pressure with piezometric surface above the local ground surface. That neither the wells of the claimants or the well of the respondent are equipped with control or capping devices approved by the State Department of Reclamation.

3. That the artesian pressure or pressures of the underground water supply or supplies, tapped by the wells of the claimants and the respondent and others unknown or unlisted, is a potential or potential water supply or supplies, common to the claimants and to others who have common and who are drawing from the said supply or supplies and is not a necessary condition to the use of water appropriated from the underground water supply or supplies.

4. That the claimants have made no provision for the conservation or maintenance or improvements of the common artesian potential or potential water supply or supplies for their wells, or by periodic cleaning out of old wells.

5. That the evidence does not show that the wells of the claimants and the respondent tap or take water from the same or common source independent of other sources, nor that the decrease in the artesian pressure on claimants' wells has been caused solely by the operation of the well.

6. That Ed Wagner appropriated and put to beneficial use for domestic, irrigation and stock watering purposes by means of a well, in of subterranean water dating from 1933.

Local Ground Water Board  
of the  
Canyon County, Idaho  
FINDING, DECISION AND ORDER

In the Matter of Ed Wagner,  
J. E. Wagner, J. A. Bradford,  
J. P. Breneman and George  
Nishitant,  
vs  
Elwood Grimes,  
Respondent.

RECEIVED

APR 03 2006

WATER RESOURCES  
WESTERN REGION

STATE OF IDAHO  
DEPARTMENT OF RECLAMATION

In the Matter of Ed Wagner,  
R. E. Wagner, J.A. Bradford,  
J.F. Brenneman and George  
Nishitani,

vs

Elwood Grimes,

Respondent.

FINDING, DECISION and ORDER  
of the  
Local Ground Water Board  
for  
Canyon County, Idaho

This was  
submitted as  
evidence for  
#63-19763,  
-1936-

The above entitled matter came on regular session before a local ground water board consisting of Carl E. Bohlson and Mark R. Kulp, established according to Statute, at 10 o'clock A.M. on June 21, 1954, at Caldwell, County of Canyon, State of Idaho.

Claimants Ed Wagner, R. E. Wagner, J. E. Brenneman, J. A. Bradford and George Nishitani were represented by Peter Boyd, Attorney at Law, Caldwell, Idaho, and the Respondent Elwood Grimes was represented by Robert B. Dunlap, Attorney at Law of Caldwell, Idaho.

Findings

1. The board finds that: The claimants Ed Wagner, R.E. Warner, J.F. Brenneman, J.A. Bradford and George Nishitani and the respondent, Elwood Grimes and others unknown are appropriators of ground waters underlying lands including the lands of the said claimants and the said respondent in Sections 15 and 16 in Township 4 North, Range 3 West of the Boise Meridian.
2. That the said ground waters are under artesian pressure or artesian pressures with piezometric surface above the local ground surface elevation. That neither the wells of the claimants or the well of the respondent are equipped with control or capping devices approved by the State Department of Reclamation.
3. That the artesian pressure or pressures of the underground water supply or supplies, tapped by the wells of the claimants and the respondent and others unknown or unlisted, is a potential or potential common to the claimants and the respondent and to others who have tapped and who are drawing from the said supply or supplies and is not a necessary condition to the use of water appropriated from the underground water supply or supplies.
4. That the claimants have made no provisions for the conservation or maintenance or improvements of the common artesian potential or potential by providing suitable capping devices for their wells, or by periodic cleaning out of old wells.
5. That the evidence does not show that the wells of the claimants and the respondent tap or take water from the same or common source independent of other sources, nor that the decrease in the artesian pressure on claimants' wells has been caused solely by the operation of the well of the respondent.
6. That Ed Wagner appropriated and put to beneficial use for domestic, irrigation and stock watering purposes by means of a well, (2) miner's inches (.04 cubic foot per second, or 18 gallons per minute) of subterranean water dating from 1933.

7. That R. E. Wagner appropriated and put to beneficial use for domestic and stock watering purposes by means of a well, one (1) miner's inch (.02 cubic foot per second, or 9 gallons per minute) of subterranean water dating from 1930.

8. That J. F. Brenneman or his predecessors appropriated and put to beneficial use for domestic, irrigation and stock watering purposes by means of a well, one (1) miner's inch (.02 cubic foot per second or 9 gallons per minute) of subterranean water dating from 1929.

9. That C. A. Bradford or his predecessors appropriated and put to beneficial use for domestic and stock watering purposes by means of a well, one (1) miner's inch (.02 cubic foot per second, or 9 gallons per minute) of subterranean water dating from 1936.

10. That George Nishitani appropriated and put to beneficial use for industrial purposes by means of a well on leased land, four (4) miner's inches (.08 cubic foot per second, or 36 gallons per minute) of subterranean water dating from 1937.

11. That the Respondent Elwood Grimes is the holder of Permit No. G-24608 issued by the State Department of Reclamation of the State of Idaho for the appropriation of 3 cubic feet per second of subterranean waters for fish propagation with a priority date of December 11, 1953, and has diverted by means of a pumped well and put to beneficial use one (1) miner's inch (.02 cubic foot per second) for domestic and culinary purposes and 15 miner's inches (.3 cubic foot per second) for commercial purposes in the recreational merchandising of live trout.

#### Declaration and Order

1. That the right of the Claimant Ed Wagner to two (2) miner's inches (or .04 cubic foot per second) of subterranean water for domestic, irrigation and stock watering purposes is confirmed. The said right is for use on and is appurtenant to the following described property, to-wit: Commencing at the Northeast Corner of Lot 8 of Section 16 in Township 4 North and Range 3 West of the Boise Meridian and bearing South 0°17' West 96 feet along the East boundary line of the aforesaid Lot 8 to the real point of beginning;

Thence continuing South 0°17' West 5.4 feet, along the East boundary line of the aforesaid Lot 8; thence South 78°0' East 51.1 feet, thence North 27°15' West 240 feet; thence meandering along the Southeast boundary line of a right of way occupied by a private road North 45°45' East 102 feet, Northeast 83.5 feet along a curve to the right with a radius of 114.6 feet, North 87°30' East 110 feet, Northeast 223.4 feet along a curve to the left with a radius of 262 feet and North 38°20' East 271 feet to the real point of beginning.

The said water right to date from 1930.

2. It is further ordered that the right of the Claimant R. E. Wagner to one (1) miner's inch (.02 cubic foot per second) of subterranean water for domestic, dairy and stock watering purposes is confirmed.

The said right is for use on and is appurtenant to the following described property, to-wit:

Lots 8 and 9, Section 16, Township 4 North, Range 3 West of the Boise Meridian. The said right to date from 1930.

3. It is further ordered that the right of the Claimant J. F. Brenneman to one (1) miner's inch (.02 cubic foot per second) of subterranean water for domestic, irrigation and stock watering purposes is confirmed.

The said right is for use on and is appurtenant to the following described property, to-wit:

Lot 2 and a 25 foot road along the north side of the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$ ) Section 16, Township 4 North, Range 3 West of the Boise Meridian.

Said right to date from 1929.

4. It is further ordered that the right of the Claimant J. A. Bradford to one (1) miner's inch (.02 cubic foot per second) of subterranean water for domestic and stock watering purposes is confirmed.

The said right is for use on and is appurtenant to the following described property, to-wit:

All of Lot 1 and the Southeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$ ) all in Section 16, Township 4 North, Range 3 West of the Boise Meridian.

The said right to date from 1936.

5. It is further ordered that the right of the claimant George Nishitani to four (4) miner's inches of subterranean water for industrial purposes is confirmed.

The said right is for use on and is appurtenant to the following described property, to-wit:

Blocks 1, 2, 4 and 7 of Golden Gate Subdivision as shown on the Plat ther of now on file in the office of the Recorder of Canyon County, Idaho.

The said right dates from 1937.

6. It is further ordered that the right of the respondent Elwood Grimes to one (1) miner's inch of subterranean water for domestic purposes and 15 miner's inches of subterranean water for commercial purposes is confirmed.

The said right is for use on and is appurtenant to the following described property, to-wit: Three acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$  and SW $\frac{1}{4}$ SW $\frac{1}{4}$  Section 15, Township 4 North, Range 3 West of the Boise Meridian.

The said right to date from December 11, 1953.

7. It is the decision of the board that the water rights of each and every one of the claimants are senior to the water right of the Respondent.

8. It is the decision of the board that the use of the junior right of the respondent does not affect, contrary to the declare policy expressed in Section 42-226 Idaho Code, the use of the senior rights of the Claimant.

9. It is the decision of the board that the water rights confirmed do not have an exclusive right to artesian pressures or pressure potential as a part of their respective water rights.

Signed at Boise, Idaho, this 28th day of July, A.D. 1954.

LOCAL GROUND WATER BOARD FOR CANYON  
COUNTY, IDAHO

(Signed) MARK R. KULP  
MARK R. KULP  
Chairman

(Signed) CARL E. TAPPAN  
Carl E. Tappan

(Signed) F. C. BOHLSON  
F. C. Bohlson

**CYNTHIA NISHITANI MOSELEY  
FOR NISHITANI CONSERVATORSHIP & ESTATE  
P. O. BOX 325 ♦ CALDWELL, ID 83606  
PHONE & FAX: 208-362-0907**

---

April 26, 2006

**VIA FACSIMILE #334-2348**

Kimberly Brown  
Water Resources Agent  
Adjudication Bureau  
Department of Water Resources – Western Region  
2735 Airport Way  
Boise, ID 83705-5082

**RE: EVIDENCE OF PRIORITY**  
**Snake River Basin Claim No(s): A63-20836 & A63-20837**

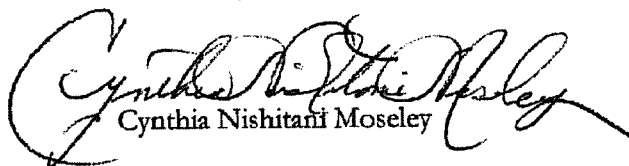
Dear Kimberly:

I would appreciate additional time within which to submit the evidence for the above claims.  
The original submission date according to our March 28<sup>th</sup> letter was for today.

I request an extension to May 26<sup>th</sup>. Please let me know if this is acceptable.

Thank you in advance for your courtesies.

Yours truly,

  
Cynthia Nishitani Moseley

# **CONVERSATION MEMORANDUM**

**RE: Snake River Basin Adjudication Water Right Nos. A63-20536, -20836, & -20837  
Evidence of Priority and Commercial Use Volume**

April 4, 2006

Cynthia Nishitani Moseley called in response to the evidence of priority letters she recently received in the mail. Mrs. Moseley is calling on behalf of her grandfather, George Nishitani. When I discussed who could fill-out an affidavit based their personal knowledge of the use of the water, Mrs. Moseley informed me that her grandfather, George Nishitani, has Alzheimer's/dementia and that her grandmother and her father have passed away. Therefore, she foresees some difficulty in obtaining any evidence. Regarding the commercial use volume, Mrs. Moseley was aware that "there used to be a farm and a greenhouse business, but they haven't been used commercially since December 2002." Mrs. Moseley asked for additional time to provide evidence, since her father is deceased and her grandfather would not remember.

April 26, 2006

Mrs. Moseley requested an extension to May 26, 2006; which I granted.

May 24, 2006

Mrs. Moseley (#362-0907) called and requested another 30 days to supply evidence. I said that I would give her until June 23<sup>rd</sup> (30 more days), but I informed her that I would not be able to continue extending the due date after today.

June 27, 2006

Ms. Moseley called to inform me that her grandfather passed away on June 3, 2006 and that she was able to talk to some of his old friends at the funeral in order to gather affidavit information. We also spoke at length about each claim (greenhouses, packing sheds, houses, location of wells, etc.). I emailed her a 2004 NAPP image of the SWSW, S15 so that she could depict the POD locations and the POUs; since two of the claim files do not have any project maps. She will get the evidence to me within the next few days.

Kimberly Brown  
Senior Water Resource Agent  
Western Region



State of Idaho

## DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

March 28, 2006

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

GEORGE NISHITANI  
PO BOX 325  
CALDWELL ID 83605

RE: EVIDENCE OF PRIORITY

Snake River Basin Claim No(s): A63-20836 & A63-20837

Dear Claimants,

In the past, you submitted the above referenced claim(s) during the Snake River Basin Adjudication (SRBA) claims taking. Enclosed is a computer generated print-out of the claim(s) for your reference only, it is not necessary to return this print-out. You indicated, when this claim was filed, that the water right(s) was based on either a "Statutory Claim" or "Beneficial Use" of the water. Water rights of this type are established by historical use of the water for a beneficial use purpose, dating back to the time the water was first used; this date being the "Priority Date" as shown on the enclosed print-out. Your claim(s) has not been confirmed by a previous filing with the Department of Water Resources since there is no decree, license, or permit on file to verify the use of this water. For this reason, the Department is required to gather evidence from claimants supporting the date of priority for claims based on historical beneficial use of water.

Enclosed is a pamphlet entitled "Evidence of Priority" which describes why evidence of the priority date is necessary, along with examples of types of evidence that can be submitted to fulfill this requirement. While I encourage you to read the entire pamphlet, I direct your attention to the two sections entitled. **"What Kind of Evidence is Required"** and **"Some Examples of Documents Which May Be Evidence of the Priority Date."**

It is important that each element of the Notice of Claim be substantiated. For instance, regarding claims for irrigation, the evidence should tend to show that diversion works were in place, that they were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place of use on or before the claimed priority date.

If no evidence is submitted, or we do not hear from you within the time limit below, your priority date, as claimed, may not be recommended to the SRBA court for decree. This could jeopardize your water use under this right(s) if water availability problems arise in the future.

The required evidence supporting the priority date(s) requested needs to be submitted by April 26, 2006. Please let me know if you may not be able to submit proof of priority or have any questions not covered by this letter and the enclosed pamphlet, by the date indicated above.

In addition, since it is our goal to decree the historical water right within the Snake River Basin as accurately as possible, field exams are now being conducted by Department water resource agents to verify claims in this area. In the near future, you may be receiving a call from us in order to set-up an appointment for a field exam.



State of Idaho

## DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190  
FAX (208) 334-2348

Respectfully Submitted,

*Kimberly Brown*

Kimberly Brown  
Water Resource Agent  
Adjudication Bureau

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

Enclosure: "Evidence of Priority" pamphlet  
Notice of Claim A63-20836 & A63-20837

**NOTE:** If you no longer own the property upon which this claim was filed, please contact this office immediately. Idaho State law requires that the Department be notified of a change of owner or address on a water right.



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

March 28, 2006

GEORGE NISHITANI  
PO BOX 325  
CALDWELL ID 83605

**RE: Commercial use for Snake River Basin Adjudication claims 63-20836 &  
63-20837**

To Whom It May Concern,

The Idaho Department of Water Resources is currently reviewing the claim to a water right you filed during claims taking in the Snake River Basin Adjudication (SRBA). During the initial review of this claim, we found that you claimed a commercial use that requires a volume amount be included in our recommendation to the SRBA Court (please refer to the enclosed copy of your adjudication claim report: under **Annual Volume**). In order for us to calculate your annual volume, it is necessary that we ask for additional information not gathered when you, or the original claimant, filed this water right.

Please refer to the **Commercial Use Volume** sheet (enclosed), answer the appropriate questions as specifically as possible, and return it to this office by April 26, 2006 so that we are able to calculate the annual volume associated with your water right; as required by the SRBA Court.

This review of your claim, in addition to the submittal of our recommendation to the SRBA Court, will result in a decreed right for your property. This water right then remains with the land as long as it is being used. We will give you the opportunity to review our recommendation and provide feedback, if necessary, prior to its submittal to the SRBA Court.

Please feel free to contact me at 334-2190 if you have any questions.

Respectfully submitted,

A handwritten signature in cursive script that reads 'Kimberly Brown'.

Kimberly Brown  
Water Resource Agent

Enclosures