

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

RIGHT NUMBER: 77-2124

NAME AND ADDRESS: STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 25
BOISE ID 83707

SOURCE: TENNESSEE CREEK TRIBUTARY: ELK CREEK

QUANTITY: 0.310 CFS
~~30.000 AFY~~

PRIORITY DATE: 01/27/1956

POINT OF DIVERSION:

T13N R09E S33 NWNE Within VALLEY County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	0.010 CFS
STOCKWATER	01/01 12/31	0.020 CFS
IRRIGATION	05/01 10/31	0.310 CFS

PLACE OF USE: IRRIGATION in VALLEY County

T13N R09E S33 SWNE 5.00 T13N R09E S33 SENE 10.00

DOMESTIC in VALLEY County

T13N R09E S33 SWNE

STOCKWATER same as IRRIGATION

15 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.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN SEASON OF USE
PURSUANT TO SECTION 42-1425, IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

**COPY
RECEIVED**

JUL 31 2003

DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
)
)
Case No. 39576)
)
)
)
)
_____)

A. Subcase Number: 77-02124
(Insert water right number)

**STANDARD FORM 1
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: State of Idaho,
Department of Fish and Game
Address: 600 S. Walnut St.
P. O. Box 25
Boise, Idaho 83707
Daytime Phone: (208) 334-3700

Name and Address of Attorney, if any:

Attorney Name: LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID J. BARBER (ISB # 2597)
Deputy Attorney General
Attorney Address: Office of the Attorney General
700 W. Jefferson, Room 210
P.O. Box 44449
Boise, ID 83711-4449
Attorney Phone No. (208) 334-2400

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: STATE OF IDAHO
DEPT OF FISH & GAME
Address: PO Box 25
Boise, ID 836707

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity**
Should be: The quantity should be changed to add amounts for domestic and stock watering purposes. See Attachment I.
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Points of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: Not applicable.
7. ☒ **Purpose(s) of Use**
Should be: Domestic and stock watering should be added as purposes of use. See Attachment I.
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: The irrigated acreage should also be described as the place of use for stock watering. A place of use for the domestic use should be added. See Attachment I.
10. ☐ **Other Provisions**
Should be: _____

11. I object because:

- ☐ This water right should not exist.
☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

The State of Idaho, Department of Fish and Game, hereinafter "IDFG," is the owner of the land at the place of use. The original license included domestic use as a purpose of use. In addition, stock watering use has occurred at the property since IDFG acquired the land.

F. VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

DAVID J. BARBER, Deputy Attorney General, duly sworn, upon oath, deposes and says:

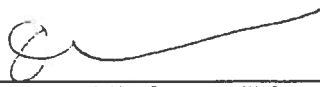
That the State of Idaho, Department of Fish and Game, in its proprietary capacity is filing this objection and that I am a Deputy Attorney General authorized to represent the State of Idaho, Department of Fish and Game, which is a party/claimant in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID J. BARBER
Deputy Attorney General


By Attorney signing in representative capacity

Subscribed and sworn to before me on: July 28, 2006
(Insert Date)




Notary Public for IDAHO
Residing at: BOISE, ID
My commission expires: 2/8/2012

INSTRUCTIONS FOR MAILING

You must mail the objection to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on July 28, 2006, I caused the original and the copies of this objection, including all attachments, to be served on the following persons by the method designated:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
Twin Falls, Idaho 83303

HAND DELIVERY

2. One copy to the owner of the water right at the following address:

State of Idaho,
Department of Fish and Game
600 S. Walnut St.
P. O. Box 25
Boise, Idaho 83707

STATEHOUSE MAIL

3. Copies to:

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

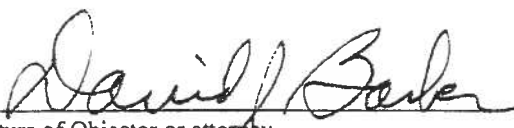
STATEHOUSE MAIL

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

U.S. MAIL

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

(not applicable)



Signature of Objector or attorney
Mailing on Objector's behalf

ATTACHMENT I

RIGHT NUMBER: 77-2124

NAME AND ADDRESS: STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 25
BOISE ID 83707

SOURCE: TENNESSEE CREEK

TRIBUTARY: ELK CREEK

QUANTITY: 0.310 CFS
46.68 AFY 20.00 afy

PRIORITY DATE: 01/27/1956

POINT OF DIVERSION: T33N R09E S33 NWNE Within VALLEY County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
DOMESTIC	01/01 12/31	0.010 CFS
IRRIGATION	05/01 10/31	0.310 CFS 45 AFY
STOCK WATERING	01/01 12/31	0.02 CFS 1.68 AFY

Domestic use is for 1 cabin.

PLACE OF USE: IRRIGATION Within VALLEY County

T13N R09E S33 SWNE 5.00 T13N R09E S33 SENE 10.00

STOCK WATERING Within VALLEY County

The place of use is the same as for IRRIGATION.

DOMESTIC Within VALLEY County

T13N R09E S33 SWNE

15 ACRES TOTAL

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

RIGHT INCLUDES ACCOMPLISHED CHANGE IN SEASON OF USE
PURSUANT TO SECTION 42-1425, IDAHO CODE.

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 - License

12/07/2004

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

RIGHT NUMBER: 77-2124

NAME AND ADDRESS: STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 25
BOISE ID 83707

SOURCE: TENNESSEE CREEK

TRIBUTARY: ELK CREEK

QUANTITY: 0.310 CFS
30.000 AFY

PRIORITY DATE: 01/27/1956

POINT OF DIVERSION:

T13N R09E S33 NWNE Within VALLEY County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
05/01 10/31

QUANTITY
0.310 CFS

PLACE OF USE: IRRIGATION Within VALLEY County

T13N R09E S33 SWNE 5.0 T13N R09E S33 SENE 10.0

15 ACRES TOTAL

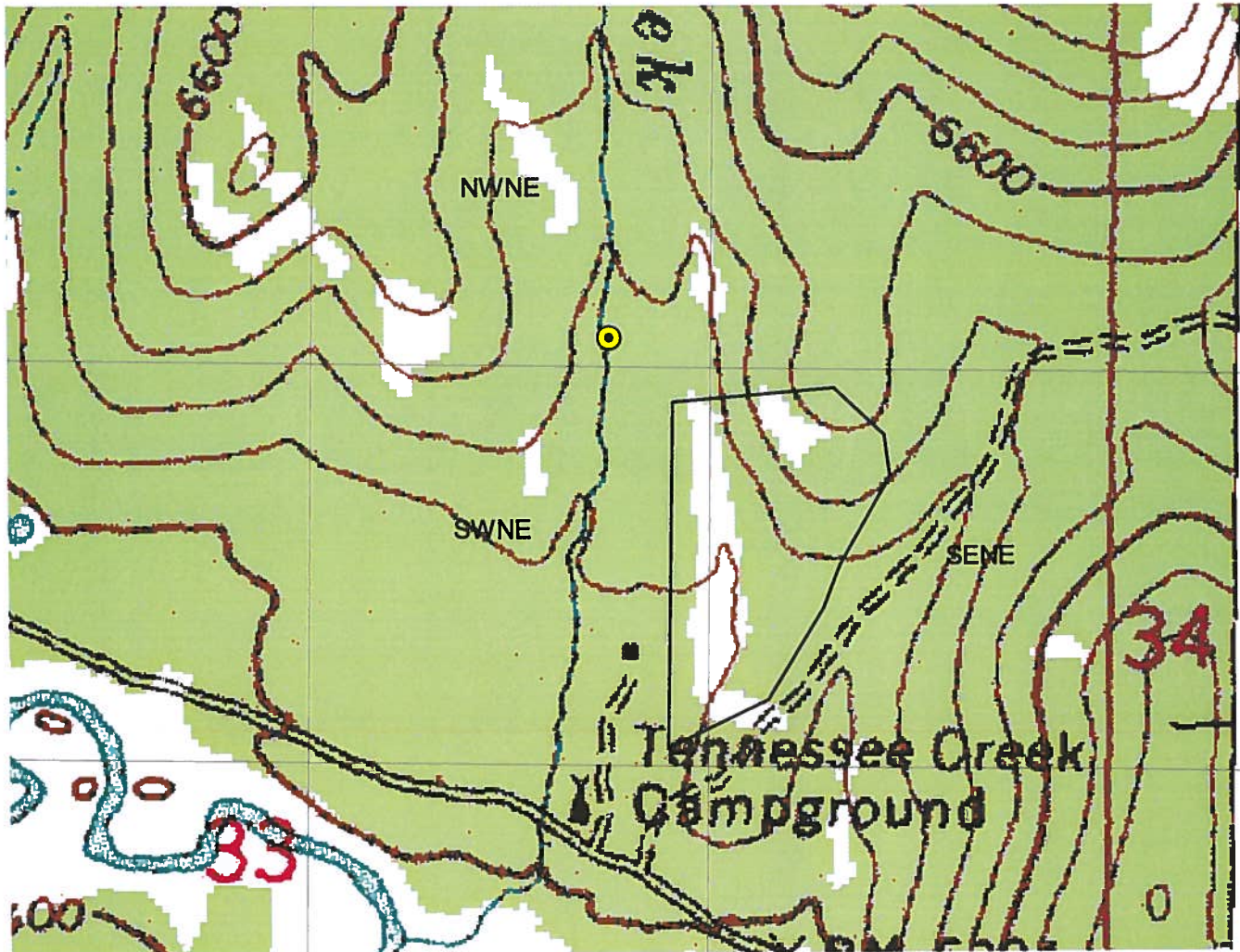
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

RIGHT INCLUDES ACCOMPLISHED CHANGE IN SEASON OF USE
PURSUANT TO SECTION 42-1425, IDAHO CODE.

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: License

77-2124



0 500 1000 Feet

Section 33
T13N R9E



● Point of Diversion

□ Place of Use

Map prepared on December 7, 2004
By Kenneth Knoblock
Idaho Department of Water Resources

01/05/2006

**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: March 3, 2006

Water right number: 77-2124

STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 25
BOISE ID 83707
Telephone Number: (208)334-3700

**RECEIVED
MAR 02 2006
IDWR/North**

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: 2 February 2006

SIGNATURE:

Cynthia Robertson, Staff Biologist

Please print your name: Cynthia Robertson

IDWR State Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, (208) 287-4800

**SCANNED
FEB 22 2006**

+ 8652
x.0.

77-2124

State of Idaho License and Certificate of Water Right

Water License No. 26166 77-2124 Amount 0.31 c.f.s.
Water District No. Priority January 27, 1956

THIS IS TO CERTIFY that IDAHO DEPARTMENT OF FISH AND GAME
of Boise, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated January 27, 1956; that Permit No. 26166
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
0.8 second feet, was issued thereunder on December 8, 1958, showing that said works
were completed on the 3rd day of December, 1958; and that on the 12th
day of December, 1960, IDAHO DEPARTMENT OF FISH AND GAME

of Boise, State of Idaho, made proof to the satisfaction of the
State Reclamation Engineer of Idaho, of the right to use the waters of Tennessee
Creek, a tributary of Elk Creek, for the purpose of domestic use and
irrigation, under Use Permit No. 26166 of the Department of Reclamation
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho,
and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume

14 of Licenses at page 8652, on the 30 day of January, 1967;

The right hereby confirmed dates from January 27, 1956;

The Point of Diversion is located

in the NW 1/4 NE 1/4, Sec. 33, Tp. 13 N, R. 9 E., B. M. Valley County

That the amount of water to which such right is entitled and hereby confirmed, for the purposes
aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall
not exceed 0.31 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
13 N	9 E	33	SE 1/4 NE 1/4	20	15
			Total number of acres to be irrigated:		15
			(also domestic use)		

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place
of use herein described, as provided by the laws of Idaho.

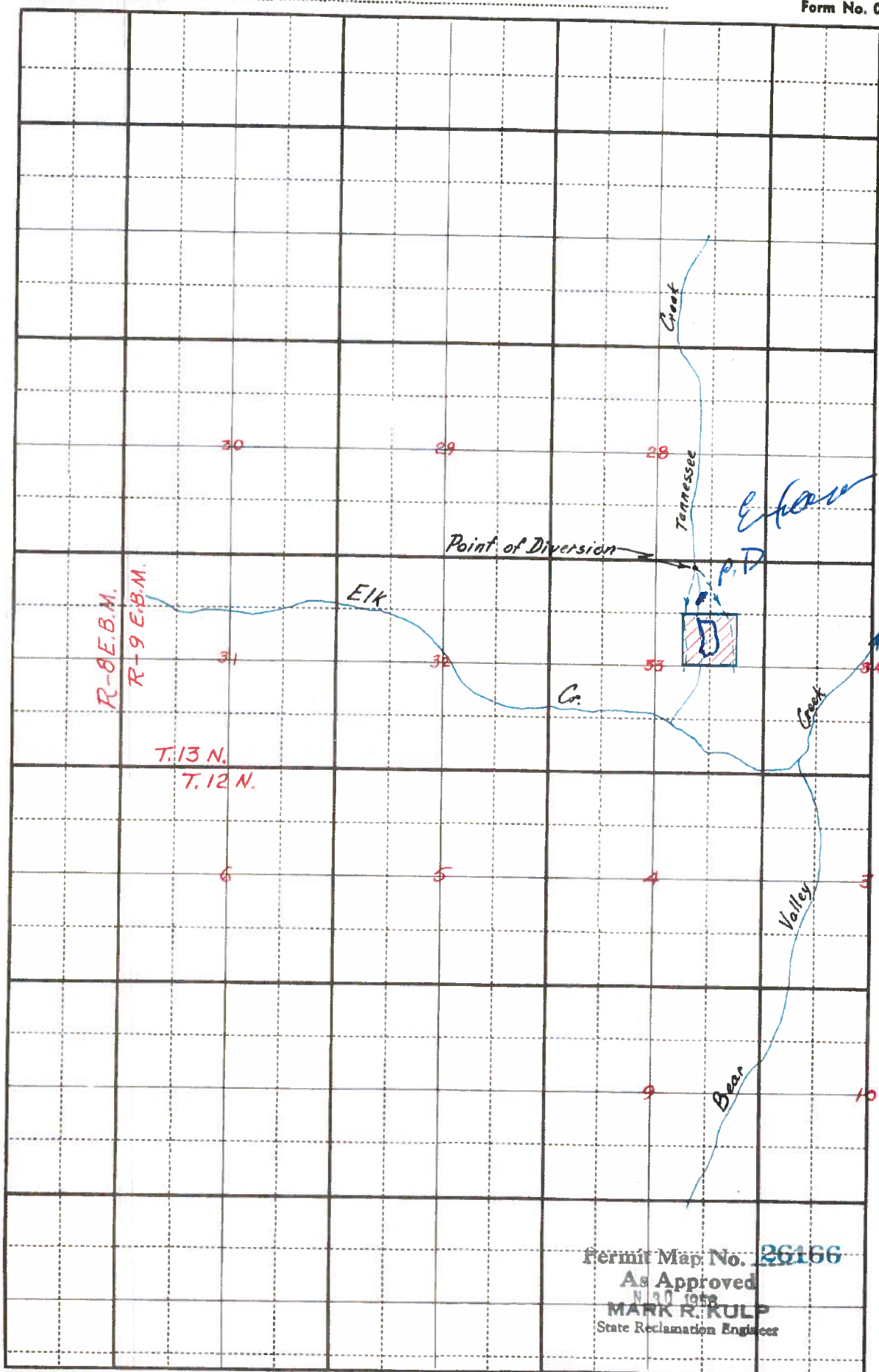
WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this
30th day of January, 1957.

/s/ R. KEITH HIGGINSON
State Reclamation Engineer.

(SEAL)

77 2124

Don Mc Eldowney Sep 15, 1966
mentions temporary pasture



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: A77-02124
Date Received: 9-28-90
Receipt No: C018457
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: STATE OF IDAHO
Address: DEPT. OF FISH & GAME
P.O. BOX 25
BOISE, ID

83707

2. Date of Priority: JAN 27, 1956

3. Source: TENNESSEE CREEK Trib. to: ELK CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
13N	09E	33	NW	NE			VALLEY

5. Description of diverting works:
TEMPORARY CHECK DAM INSTALLED AS NEEDED

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	06/01	09/30	0.310		

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

8. Total consumptive use is 30.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13N	09E	33	SE	NE		IRR	15.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	15.0
					Total Acres	15.0

11. Place of use in counties: VALLEY

12. Do you own the property listed above as place of use? NO

13. Other Water Rights Used:
DOMESTIC WELL

14. Remarks:
SPECIAL USE PERMIT

15. Basis of Claim: LICENSE

Water Right Number: 26166

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 Organizations:

I do solemnly swear or affirm that I am _____ of
_____, Title
_____, that I have signed the foregoing
Organization
document in the space below as _____ of
_____, Title
_____ and that the statements contained in the
Organization
foregoing document are true and correct.

Signature of Authorized Agent

Title and Organization

Date

State of Idaho)
) SS.
County of _____)

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: 39576

Ident. Number: A77-02124
Date Received: 2/16/1989
Receipt No: _____
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: STATE OF IDAHO
Address: DEPT. OF FISH & GAME
BOISE, ID 83707
2. Date of Priority: JAN 27, 1956
3. Source: TENNESSEE CREEK Trib. to: ELK CREEK
4. Point of Diversion:
- | Township | Range | Section | 1/4 of | 1/4 of | 1/4 | Lot | County |
|----------|-------|---------|--------|--------|-----|-----|--------|
| 13N | 09E | 33 | NW | NE | | | VALLEY |
5. Description of diverting works: Temporary check dam installed as needed
6. Water is used for the following purposes:
- | Purpose | From | To | C.F.S. | (or) | A.F.A. |
|---------------------|-----------------|------|----------------------|------|--------|
| IRRIGATION | 6-1 | 9-30 | 0.310 | | |
| ~~DOMESTIC~~ | ~~None~~ | | (? AM ⁴) | | |
7. Total Quantity Appropriated is: 0.310 C.F.S. (and/or) A.F.A.
8. Total consumptive use is 0.310 cfs Acre Feet Per Annum.
9. Non-irrigation uses: ~~None~~
10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13N	09E	33	SE	NE		IRR	15.0
Section Acres							15.0

MICROFILMED
OCT 05 1992

10. Place of Use: Continued

Total Acres 15.0

11. Place of use in counties: VALLEY

12. Do you own the property listed above as place of use? ~~YES~~ NO, special use permit

13. Other Water Rights Used: Domestic well

14. Remarks:

15. Basis of Claim: LICENSE
Water Right Number: 26166

16. Signature(s)

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

Number of attachments: 1

For Individuals:

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

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

For Organizations:

I do solemnly swear or affirm that I am Regional Conservation Officer of
Title
Idaho Dept. of Fish & Game, that I have signed the foregoing
Organization
document in the space below as Reg. Cons. Officer of
Title

Id. Dept. of Fish & Game and that the statements contained in the
Organization
foregoing document are true and correct.

Ray B. Lyon
Signature of Authorized Agent

Idaho Dept. of Fish & Game
Title and Organization

May 19, 1989
Date

State of Idaho)
County of Ada) SS.

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

of May 19 89

Eva M. Roberts
Notary Public

Seal

Residing at Meridian ID

My Commission Expires Jan 9, 1991
Date: 02/16/89

A77-02124

Page

3

MICROFILMED

OCT 05 1992