

07/17/2006

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

RIGHT NUMBER: 79-4104

NAME AND ADDRESS: RACHEL A RUPP
HC 01 BOX 1
LUCILE ID 83542

JIM RUPP
HC 01 BOX 1
LUCILE ID 83542

SOURCE: CARVER CREEK

TRIBUTARY: SALMON RIVER

QUANTITY: 0.060 CFS

PRIORITY DATE: 01/01/1880

POINT OF DIVERSION:

T25N R01E S14 SENE Within IDAHO County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

4/01 10/31

0.060 CFS

PLACE OF USE: IRRIGATION Within IDAHO County

T25N R01E S14

SENE 1.00

T25N R01E S14

NESE 3.00

4 ACRES TOTAL

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

No beneficial use found.

EXPLANATORY MATERIAL: BASIS OF CLAIM -

01/24/2008

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

RIGHT NUMBER: 79-4104

NAME AND ADDRESS: RACHEL A RUPP
10649 HWY 95 S
LUCILE ID 83542

JIM RUPP
10649 HWY 95 S
LUCILE ID 83542

SOURCE: CARVER CREEK

TRIBUTARY: SALMON RIVER

QUANTITY: 0.060 CFS

PRIORITY DATE: 02/15/1880

POINT OF DIVERSION:

T25N R01E S14 SENE Lot 4 Within IDAHO County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	2/15 11/30	0.060 CFS

PLACE OF USE: IRRIGATION in IDAHO County

T25N R01E S14 Lot 4 SENE	2.30	T25N R01E S14 Lot 5 NESE	1.70
--------------------------	------	--------------------------	------

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: BASIS OF CLAIM - Beneficial Use

RECEIVED

JAN 4 - 08

JAN 23 2008

RECEIVED

DEPARTMENT OF
WATER RESOURCES

JAN 22 2008

WATER RESOURCES
WESTERN REGION

DEAR CARTER

Sorry to be so long getting information
on Carver Creek back to you

Billy Walters was on Christmas
vacation, but when I finally got
him on phone, He said the north
& South he mentioned was North of Carver
Creek & South of Carver Creek, not
thinking of using Hiway. But if you
still would like another letter he would
write it if you let him or I let
him know.

His phone # is 541 490 0350

Also I am sending Photo map of Carver
Creek Points of Diversion & Locations
to be watered, I hope this clears
up things if not let me know

Phone 208 628 3712 628 3704

There is lots of water in Carver Creek
A very steady flow Summer & winter
the flat across the Hiway uses only
A 2" Pipe there is Excess water Year Around

Thank you

Sincerely

Jim Rupp

P.S. I will call you after you have received
this letter thanks Jim

SCANNED

JAN 24 2008

2

RECEIVED

1-4-08

Jim Rupp

JAN 22 2008

WATER RESOURCES
WESTERN REGION

DEAR CARTER

TO like to mention my views on the
past protests to our having water
rights on Carver Creek 1st we have
the largest flat to be watered & also
residential site compared to at
least right now 1 residential home
in existence & we have had no problems
with this owner CARL IRMINER

The JACK GRACE is a different story
we got along with Jack until we put a
trailer house in across highway from him
& he thought we weren't fancy enough for him
so I understand his exception except the
wooden flume he was talking about was not what
was being used that was in years past & for his
side of road not ours we have always used
a pipe & ditch he didn't seem to know about
and he was wrong in saying water wasn't
used or diverted from Carver Creek because
it has been. AS far as GRACE & EDMUND
NICHOLAS they are now deceased & I have
no idea why they would protest, we always
got along with them very good ~~we~~ visited them
we thought they were good ~~neighbors~~ neighbors.

that is the place CARL IRMINER now lives in
AND the GERALDINE & MICHAEL McCOYS
never have owned or lived near here (OVER)

SCANNED

JAN 24 2008

RECEIVED
JAN 25 2003
WESTERN WATER RESOURCES
AT least we have never Run into them.

Possibly friends of Gruels ??

They seemingly were from New Meadows.

Tack Cornel has sold to Kelly Chamberlain

& Kelly has sold ALL his ground

Except for 1 small space on the South

End of Flat.

I hope this helps

Sincerely

Jim Rust

RECEIVED

JAN 22 2003

WATER RESOURCES
WESTERN REGION

14

High
Residential
to water

High
Residential
to water

Point of
Discharge
to
ours

ours
to water

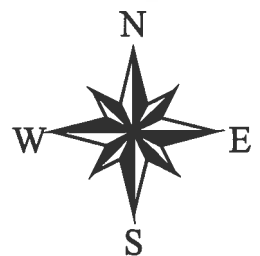
79-4104



700 0 700 1400 2100 Feet

T25N R01E S14

Map prepared by: Carter Fritschle
Date prepared: 01/24/08
2004 NAIP Photography
Idaho Department of Water Resources



79-4104

To Whom It May Concern:

We moved to Carver Creek in 1946, when I was 6 years old. At that time Dad was using water from Carver Creek to irrigate both sides of the creek. We lived and had an orchard on the north side.

Dad watered and grew hay on the small patch on the south side of the creek. When the new highway was built it cut the size of the flat considerable, but we continued to use the water to keep it green and the grass growing for some years. I don't remember if we were still using the water on that side of the creek when I sold it to Jim Rupp. I considered that the water rights were included in the property.



W. H. Walters
321 Hidden Valley Road
Florence, MT 59833
(406) 273-6251

RECEIVED

DEC 14 2007

Department of Water Resources
Adjudication Bureau

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 79-4104 V1

WATER RIGHT NUMBER: 79-4104 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	RACHEL A RUPP HC 01 BOX 1 LUCILE, ID 83542 (208)628-3712
Current Owner	JIM RUPP HC 01 BOX 1 LUCILE, ID 83542 (208)628-3712

Priority Date: 01/01/1880

Basis:

Status: Disallowed

<u>Source</u>	<u>Tributary</u>
CARVER CREEK	SALMON RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 10/31	0.060 CFS	
	<u>Total Diversion:</u>	0.060 CFS	

Location of Point(s) of Diversion

CARVER CREEK	SE1/4NE1/4	Sec. 14, Twp 25N, Rge 01E, B.M.
IDAHO County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
25N	01E	14				1.0									3.0				4.0

Total Acres: 4

Conditions of Approval:

1. P03 No beneficial use found.
2. P13 No beneficial use found: This is included for a claim based on beneficial use that is proposed to be disallowed because beneficial use of water was not confirmed by IDWRs field examination or by other evidence submitted by the claimant.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 79-4104 V1

Comments:

1. gtaylor 7/17/2006 Disallowed

Comment: This claim was recommended as disallowed because we have no evidence of priority, no irrigation based on aerial photography and affidavits from neighbors saying there was no use.

Dates and Other Information:

Decreed Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Defendant:
 Plaintiff:
 Civil Case Number:
 Judicial District:
 Notice of Error Flag:
 State or Federal: S
 Owner Name Connector: AND
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Priority Date	7/17/2006 9:55:22 AM	gtaylor			Disallowed
Summary			07/17/2006	gtaylor	Disallowed

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
General	7/17/2006 10:55:23 AM	gtaylor	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (No) 9. Is the Priority Date of this water use after the date a permit is required for the source and the water use? (No) 12. Does the claim file contain sufficient evidence of Priority Date? (No) 13. Has additional evidence of priority date been submitted? (No) 14. Can any portion of the claim be recommended as a valid water right?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 79-4104 V1

Summary 7/17/2006 10:57:20 AM gtaylor

(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice?
(No) 3. Is the water being used for all of the purposes claimed and to the extent claimed?
(No) 4. Is any portion of the claim be recommended?
(No) 6. Is an additional remark and/or condition required?
(Yes) 7. Would you like to view the recommended right?
(No) 8. Is this a split or combined right?
(No) 9. Do you have documents you would like to attach or link to the file?
(Yes) 10. Would you like to set the verification date?

SubCase:

SubCase Number: 79-4104
Class: 1
SF5 Filed Date:
Special Master Recom Signed Date:
Attorney Assigned:
Adjudication Agent: Gregory Taylor
Basis of Claim: Statute
Date Filed: 8/3/2007 Objection Status: Active

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 79-10064 V1

WATER RIGHT NUMBER: 79-10064 V1

<u>Owner Type</u>	<u>Name and Address</u>
Attorney	BARKER RSHOLT & SIMPSON LLP ATTN TRAVIS L THOMPSON 113 MAIN AVE W STE 303 PO BOX 485 TWIN FALLS, ID 83303-0485 (208)733-0700
Original Owner	SUE ANNE GRUELL PO BOX 1161 RIGGINS, ID 83549 (208)628-3402
Original Owner	JACK GRUELL PO BOX 1161 RIGGINS, ID 83549 (208)628-3402
Current Owner	CHAMBERLAND INC 13694 HWY 95 S WHITEBIRD, ID 83554 208-839-2401

Priority Date: 07/01/1877

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
CARVER CREEK	SALMON RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	02/15 to 11/30	0.060 CFS	
DOMESTIC	01/01 to 12/31	0.060 CFS	
<u>Total Diversion:</u>		0.060 CFS	

Location of Point(s) of Diversion

CARVER CREEK	L4 (SE1/4NE1/4)	Sec. 14, Twp 25N, Rge 01E, B.M.
IDAHO County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
25N	01E	14				2.0													2.0
						L 4													

Total Acres: 2

DOMESTIC

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 79-10064 V1

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
25N	01E	14				X													L 4

Conditions of Approval:

1. N10 The quantity of water decreed for this water right for domestic use is not a determination of historical beneficial use.
2. N12 The quantity of water under this right for domestic use shall not exceed 13,000 gallons per day.
3. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Remarks:Comments:Dates and Other Information:

Decreed Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Defendant:
 Plaintiff:
 Civil Case Number:
 Judicial District:
 Notice of Error Flag:
 State or Federal: S
 Owner Name Connector:
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

Element	Last Reviewed Date	Reviewer	Last Verified Date	Verifier	Status
Priority Date	4/3/2006 8:04:43 AM	gtaylor			Active
POD	4/3/2006 9:00:01 AM	gtaylor			Active
Source	4/3/2006 9:00:51 AM	gtaylor			Active
Use	4/3/2006 9:01:12 AM	gtaylor			Active
Quantity	4/3/2006 9:01:34 AM	gtaylor			Active
Summary			04/03/2006	gtaylor	Active

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 79-10064 V1

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
POD	4/3/2006 10:00:01 AM	gtaylor	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?
POU	1/27/2005 11:27:58 AM	GTaylor	Edited shape boundary
General	4/3/2006 9:04:43 AM	gtaylor	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (No) 9. Is the Priority Date of this water use after the date a permit is required for the source and the water use? (Yes) 12. Does the claim file contain sufficient evidence of Priority Date? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required? Description for Question 12/13 - Newspaper article from 1911 shows that Amos Carver moved to area and began ranching in 1877
POD	4/3/2006 9:59:15 AM	gtaylor	Updated shape
Source	4/3/2006 10:00:51 AM	gtaylor	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim an Application or Permit? (No) 6. Is the basis of claim a Posted Notice? (No) 7. Is there evidence that there has been a change in the source? (Yes) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required?
Use	4/3/2006 10:01:12 AM	gtaylor	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Purpose of Use? (Yes) 11. Does the file contain all the necessary information to verify the Water Use? (No) 13. Is a Purpose of Use remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 79-10064 V1

Quantity	4/3/2006 10:01:34 AM	gtaylor	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is the basis of claim a posted notice? (No) 7. Is a flow measurement required? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (No) 12. Is a Quantity remark or condition required? Description for Question 7 - 2 acres
Summary	4/3/2006 10:04:37 AM	gtaylor	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (No) 5. Does this right have any combined use limits with other rights? (Yes) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?

Water Supply Bank:

The United States of America,

To all to whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Register of the Land Office at **LEWISTON, IDAHO,** has been deposited in the General Land Office, whereby it appears that, pursuant to the Act of Congress of May 20, 1862, "To Secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of **AMOS CARVER** has been established and duly consummated, in conformity to law, for the **SOUTHWEST QUARTER OF THE NORTHWEST QUARTER AND THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION THIRTEEN AND THE LOTS FOUR AND FIVE OF SECTION FOURTEEN IN TOWNSHIP TWENTY-FIVE NORTH OF RANGE ONE EAST OF THE BOISE MERIDIAN, IDAHO, CONTAINING ONE HUNDRED FIFTY-ONE AND SIXTY-HUNDREDTHS ACRES,**

according to the Official Plat of the Survey of the said Land, returned to the GENERAL LAND OFFICE by the Surveyor-General:

NOW KNOW YE, That there is, therefore, granted by the UNITED STATES unto the said claimant the tract of Land above described; TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I,

WILLIAM H. TAFT

President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the **SEVENTEENTH**

(SEAL)

day of **JULY** In the year of our Lord one thousand
nine hundred and **ELEVEN** and of the Independence of the
United States the one hundred and **THIRTY-SIXTH**

By the President:

By

Wm. H. Taft
W. P. Le Roy
John O. Connell
Acting

Secretary,

Recorder of the General Land Office.

RECORD OF PATENTS: Patent Number **217375**

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: A79-04104
Date Received: 6/01/1988
Receipt No: W000276

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JIM RUPP 208-628-3712
Address: HC 01, BOX 1
LUCILLE, ID 83542

AND/OR

Name: RACHEL A. RUPP 208-628-3712
Address: HC 01, BOX 1
LUCILLE, ID 83542

2. Date of Priority: JAN 01, 1880

3. Source: CARVER CREEK Trib. to: SALMON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
25N	01E	14	SE	NE			IDAHO

5. Description of diverting works:
DIVERSION DAM & DITCH.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	10/31	0.060		

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

8. Total consumptive use is 8.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE, EXCEPT INSTREAM STOCKWATERING.

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
25N	01E	14	SE	NE		IRR	1.0
			NE	SE		IRR	3.0
					Section Acres		4.0
					Total Acres		4.0

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:
NONE

14. Remarks:

15. Basis of Claim: STATUTORY CLAIM
Water Right Number:

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):

Jim E. Rupp
Rachel A. Rupp

Date: 6/1/88

Date: 6/1/88

State of Idaho)

County of Ada)

SS.

Subscribed and sworn (or affirmed) before me this 1st day

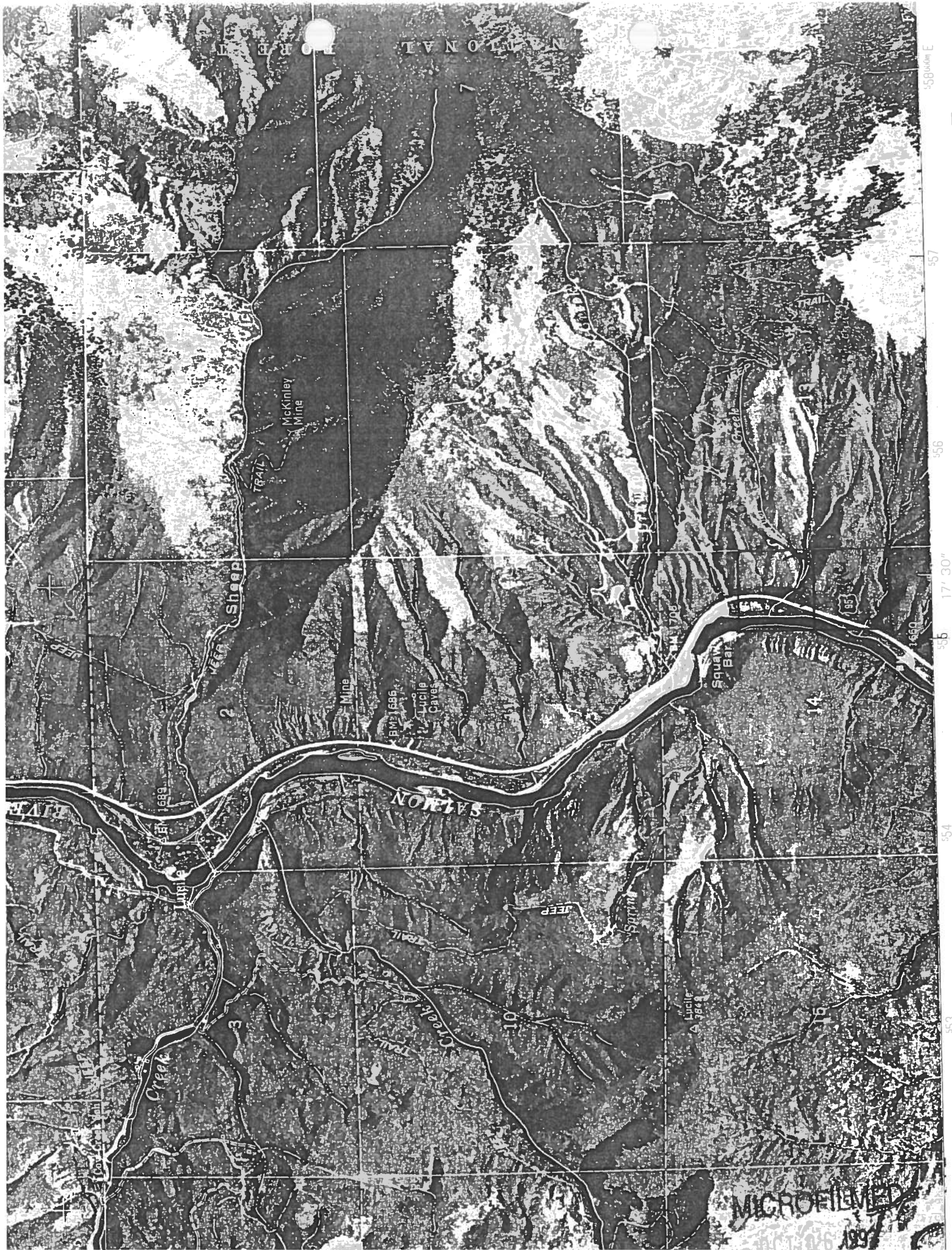
of June 19 88

Nancy M. Lindgren
Notary Public

Seal

Residing at Boise

My Commission Expires 1-19-1994



3 exceptions to original
stat. Claim

• 79-7063

4089

7069





→ N

Feb. 18, 1981

C. Stephen Allred, Director
Idaho Department of Water Resources
92 S Cole Road
Boise, Idaho 83709

Dear Mr. Allred:

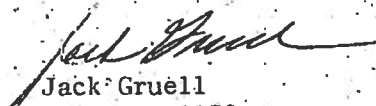
I take exception to water right claim #79-4104 as published in the Idaho County Free Press on 2/4 and 2/11/81, because I do not feel the water has been used in the manner required by law to establish water rights.

The properties covered by claims No. 79-7063 (McCoy), No 79-1081 (Nicholas) and No. 79-7069 (Gruell) are adjoining pieces of property that were originally part of the same ranch covered by the above-mentioned claim No. 79-7069. These three parcels were sold and divided in 1978 or 1979. The water from Carver Creek, which in reality is a spring, has been used on this property at Carver Creek bar for approximately 100 years. If any water from Carver Creek has been diverted to other property, it probably has not been in the last 50 years, as rotten lumber from the wooden flumes is barely visible at the bottom of the arroyos they crossed.

Assuming that the whole ranch would have the same priority water right from the same spring, the properties owned by McCoy, Nicholas and Gruell would all have rights dating back to 1880. I therefore request that an application for amending the date on my water rights be sent to me.

I would appreciate receiving written confirmation of the receipt of this protest, and request that I be notified in the event of any hearings scheduled on this matter. Thank you.

Sincerely,


Jack Gruell
P.O. Box 1159
Riggins, Idaho 83549

* Edmund O. Nicholas and Grace Nicholas, Lucille, Idaho 83542, published 1/23 and 1/30/80. I can't make out the number on the application clearly, it might be 79-4089.

MICROFILMED

FEB 15 1989

RECEIVED

FEB 23 1981

Department of Water Resources
Western Regional Office