

06/01/2001

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report

WATER RIGHT NO. 43-2377A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	GARY B HARPER 2040 E 850 S DECLO, ID 83323 (208)645-2227
Original Owner	ARDEL W WICKEL 1084 E 300 N DECLO, ID 83323 (208)654-2341
Original Owner	LESTER V TANNEHILL STAR RT DECLO, ID 83323

Priority Date: 03/30/1952
Basis: License
Status: Active

<u>Source</u>	<u>Tributary to</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	3/01	11/01	1.45 CFS		
Total Diversion			1.45 CFS		

Location of Point(s) of Diversion:

GROUND WATER	SWSW	Sec. 02	Township 12S	Range 26E	CASSIA County
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IRRIGATION Use:
Acre Limit: 240

Place(s) of use:

Place of Use	Legal Description:	IRRIGATION	CASSIA County
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<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Tract</u>	<u>Acres</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
12S	26E	2	SWSW	10	SESW	40						
			SWSE	40	SESE	40						
		11	NENE	40	NWNE	40						
			NENW	30								

Total Acres: 240

Remarks:

1. General

THE PURPOSE OF THIS AMENDED CLAIM IS TO ADD 10 ACRES OF IRRIGATED LAND LOCATED IN THE NENW, SEC. 11. THE ORIGINAL PORTION OF THIS RIGHT (43-02337A) WHICH I CLAIMED DID NOT IDENTIFY ALL THE IRRIGATED LAND WHICH I BELIEVE IS APPURTENANT TO MY PROPERTY.
R# S007521 & S010295.

Dates:

Licensed Date: 07/25/1979
Claim Received Date:
Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:

Other Information:

Receipt Number(s): S010295
State or Federal: S
Owner Name Connector:
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
43-2377H	43-2377	4			
43-2398	43-2398				

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).
OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Ardel Wickel
1084 E. 300 N. Declo ID 83323
4. New Owner/Claimant(s) ~~Declo ID 83323~~ Gary Harp
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address 2040 E. 850 S.
- City, State and ZIP Code Declo, Idaho 83323
- New Telephone Number 208 645 2227
5. Date you acquired the property April 27, 1994

RECEIVED

MAY 30 2001

Department of Water Resources
Southern Region

RECEIVED

MAY 29 2001

Department of Water Resources
Southern Region

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s) Gary B. Harper
(include title if applicable) _____

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____ Date _____ Fee _____
 Received by _____ Date _____ Receipt No. _____
 Processed by _____ AJ Date _____ WR _____ Date _____

For Value

ARDEL W. WICKEL and JUDY M. WICKEL, husband and wife

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto
GARY B. HARPER and SUSAN C. HARPER, husband and wife
Address: HC66 Box 16
Declo, Idaho 83323

Hereinafter called the Grantee, the following described premises situated in Cassia County, Idaho,
to-wit:

TOWNSHIP 12 SOUTH, RANGE 26 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 2: That part of the S $\frac{1}{2}$ S $\frac{1}{2}$ that lies East of State Highway
No. 81. (formerly Highway No. 30 South)

Section 11: That part of the N $\frac{1}{2}$ N $\frac{1}{2}$ that lies East of State Highway
No. 81. (formerly Highway No. 30 South)

TOGETHER WITH all water and water rights, ditches and ditch rights
used thereon or appurtenant thereto, including but not limited to
Adjudication No. 43-02398 and 43-02377A.

SUBJECT TO:

See attached Exhibit "A" for exceptions

TO HAVE AND TO HOLD, the said premises with their appurtenances unto the said Grantee
and to the successors heirs and assigns of the Grantee forever. The Grantor does hereby covenant to
and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are
free from all incumbrances except as above described and that Grantor will warrant and defend the
same from all lawful claims whatsoever.

Dated: April 27, 1994

Ardel W. Wickel

Ardel W. Wickel

Judy M. Wickel

Judy M. Wickel

STATE OF IDAHO, COUNTY OF Cassia

On this 27th day of April, 1994
before me, a Notary Public in and for said State, per-
sonally appeared

Ardel W. Wickel and
Judy M. Wickel

known to me to be the persons whose names are
subscribed to the within instrument, and acknowledged
to me that they executed the same.

GARY ROBERTS
Notary Public
STATE OF IDAHO

Residing at Burey, Idaho
Notary Public Expires

Residing at
Commission expires: 6-30-97

Idaho.

EXHIBIT "A"

All reservations in patents or deeds in the chain of title.

Taxes for 1994 and subsequent years.

Easement contained in Right-of-Way Deed from Milo L. Tannehill and Lucy Jane Tannehill, his wife, to the State of Idaho, dated October 2, 1933 and recorded November 3, 1933 as Instrument No. 110490 in Book 42 of Deeds, Page 573, records of Cassia County, Idaho, which reads as follows: "There is also granted hereby an easement adjacent to the above described highway right-of-way for relocation of all irrigation and/or drainage ditches and structures now located on such right-of-way and such surface drain ditches as may be necessary to the proper construction of the highway." (N½NW¼ of Section 11, Township 12 South, Range 26 East of the Boise Meridian.)

Agreement for Easement and Right-of-Way from County Commissioners of Cassia Co., of Burley, State of Idaho, to the United States of America, recorded April 22, 1942 as Instrument No. 141701 in Book 7 of Bills of Sale and Agreements on Page 13, records of Cassia County, Idaho, over and across a strip of land 100 feet wide being 50 feet on each side of the center line of the Salt Lake and Idaho Railroad. (N½NW¼ of Section 11, Township 12 South, Range 26 East of the Boise Meridian.)

Certification by Paul A. Shepard, Manager of the U.S. Land and Survey Office at Boise, as to portions of land acquired by State of Idaho, Department of Highways for right-of-way for highway purposes, recorded June 6, 1950 as Instrument No. 169469 in Book 14 of Miscellaneous, on Page 169, records of Cassia County, Idaho. (S½SW¼ of Section 2, Township 12 South, Range 26 East of the Boise Meridian.)

Right of Way and Easement as contained in Deed from Lester V. Tannehill and Gladys Tannehill, his wife; Milo S. Tannehill and Grace Tannehill, his wife; and Lurella Stevens and Sam Stevens, her husband, to Raft River Rural Electric Co-operative Inc., a corporation, dated May 26, 1951 and recorded May 31, 1951 as Instrument No. 172518 in Book 54 of Deeds, Page 389, records of Cassia County, Idaho, over and across a strip of land 20 feet wide being 10 feet on each side of the center line, said centerline being parallel with and 10 feet distance from the Southwest boundary line of U.S. Highway No. 30 South, over and across the N½NW¼ of Section 11, Township 12 South, Range 26 East of the Boise Meridian.

Agreement for Purchase of Power between Raft River Rural Electric Cooperative, Inc., as Seller and L. V. Tannehill, as Consumer, dated September 14, 1957 and recorded September 12, 1958 as Instrument No. 198541 in Book 10 of Bills of Sale and Agreements, records of Cassia County, Idaho, covering the SW¼SW¼ of Section 2, Township 12 South, Range 26 East of the Boise Meridian.

Agreement for Electric Service (Irrigation), between Raft River Rural Electric Cooperative, Inc., an Idaho rural electric Cooperative and Ardel Wickel, dated April 4, 1989 and recorded May 23, 1989 as Instrument No. 202034 on Film No. 207, records of Cassia County, Idaho, covering the S½SW¼ 2-12-26.

LAND
RECORD
1994
FEE
LAND

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: A43-02377A
Date Received: 10/25/89
Receipt No: 5007521 & 501026
Received By: *lw*

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: ARDEL W. WICKEL
Address: RT. 1, BOX 37A
DECLO, ID 83323
208-654-2341

2. Date of Priority: MAR 30, 1952

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
12S	26E	2		SW	SW		CASSIA

5. Description of diverting works:
WELL AND PUMP

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/01	11/01	1.450		

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

8. Total consumptive use is 720.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
12S	26E	2	SW	SW		IRR	10.0
			SE	SW		IRR	40.0
			SW	SE		IRR	40.0

A43-02377A

Page 1

Date: 06/21/89

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MAR 03 1993

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
12S	26E	2	SE	SE		IRR	40.0
						Section Acres	130.0
		11	NE	NE		IRR	40.0
			NW	NE		IRR	40.0
			NE	NW		IRR	30.0
						Section Acres	110.0
						Total Acres	240.0

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:
43-2398.

14. Remarks:

THE PURPOSE OF THIS AMENDED CLAIM IS TO ADD 10 ACRES OF IRRIGATED LAND LOCATED IN THE NENW, SEC. 11. THE ORIGINAL PORTION OF THIS RIGHT (43-02337A) WHICH I CLAIMED DID NOT IDENTIFY ALL THE IRRIGATED LAND WHICH I BELIEVE IS APPURTENANT TO MY PROPERTY.

15. Basis of Claim: LICENSE
Water Right Number: 22664

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): Ardel H. Hinkel Date: 10-25-89
Date:

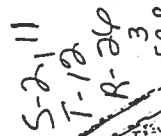
State of Idaho)
County of TF) SS.

Subscribed and sworn (or affirmed) before me this 25 day
of Oct 19 89 Lon. White
Notary Public

Seal

Residing at TF
My Commission Expires 5/94

Acres
add
orig
2m



MICROFILMED
MAR 03 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

July 11, 1989

Mr. Ardel Wickel
Route 1, Box 37A
Declo, Idaho 83323

Re: Snake River Basin Adjudication SRBA
Cassia County

Dear Mr. Wickel:

I apologize for the delay in sending you the enclosed information.

I checked the original file on water right 43-02377. A transfer was filed in 1969. (A copy is enclosed.)

As you can see in Item 10c, the purpose of the transfer was to make that portion of the original license appurtenant to all of Mr. Tannehill's 230 acres. The transfer applies to 20 acres in the NE1/4 of the NW1/4 of Section 11, Township 12 South, Range 26 East, Boise Meridian (as well as other lands). The transfer created a water right numbered 43-02377A, which you used as a basis of claim during your appointment.

The other 20-acre portion of that quarter-quarter, identified as 43-02377B, the portion of the original license which remained unchanged and was used as a basis of claim for an adjudication claim filed by Sidney and Ruth Anderson. However, they claimed only 10 acres in that quarter-quarter. I am unable to locate a transfer for the other 10 acres. It, therefore, appears that 10 acres within the NE1/4NW1/4 have not been claimed.

If you wish to claim these 10 acres, you may amend the claim which you previously submitted. I have developed an amended claim for your possible use. In addition to adding those 10 acres, I have also amended the amount of water. I have also added some information in the "Remarks" section to explain the purpose of the amended claim. Please do not hesitate to change these remarks to your satisfaction.

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MAR 03 1993

Mr. Ardel Wickel
Page 2
July 11, 1989

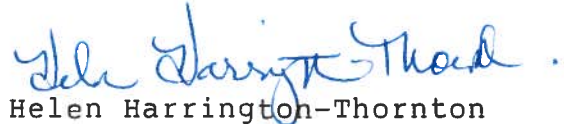
Since you would be claiming 10 additional acres, there is a fee of \$10.00. You may send this amended claim to the address on the letterhead. Please attach a copy of this letter.

I have also enclosed a copy of a portion of the Idaho Code dealing with the non-forfeiture of a water right while contracted in a federal cropland set-aside program.

Also enclosed is a copy of a well log on file which was drilled for Mr. Tannehill in Section 2. I did not locate any well logs for Mr. Tannehill in Section 11, Township 12 South, Range 26, B.M.

Please let me know if you need any additional information or have any questions.

Sincerely,



Helen Harrington-Thornton
Water Rights Agent

HHT:mcc:state

Enclosures:

Claim #A43-02377A

Copy Map

Idaho Code §42-222(2)

Well Log & Report

Application For Transfer of Water Right

MICROFILMED

MAR 03 1993

Ard Wickel (6-5-89)
Rt. Box 37A
Declo, 83323

A43-02377

check transfers
for more acres in
Sec. 11 NENW

find write-up on non-forfeiture
when land is set aside

well logs for wells in
T12S R26E Sec. 2 & 11

2398

MICROFILMED
MAR 03 1993

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: A43-02377A
Date Received: 6/05/1989
Receipt No: 5007521
Received By: RWT

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ARDEL W. WICKEL 208-654-2341
Address: RT. 1, BOX 37A
DECLO, ID 83323
2. Date of Priority: MAR 30, 1952
3. Source: GROUNDWATER Trib. to:
4. Point of Diversion:
- | Township | Range | Section | 1/4 of | 1/4 of | 1/4 | Lot | County |
|----------|-------|---------|--------|--------|-----|-----|--------|
| 12S | 26E | 2 | SW | SW | SW | | CASSIA |
5. Description of diverting works:
WELL AND PUMP
6. Water is used for the following purposes:
- | Purpose | From | To | C.F.S | (or) | A.F.A. |
|------------|-------|-------|-------|------|--------|
| IRRIGATION | 03/01 | 11/01 | 1.320 | | |
7. Total Quantity Appropriated is:
1.320 C.F.S. (and/or) A.F.A.
8. Total consumptive use is 690.0 Acre Feet Per Annum.
9. Non-irrigation uses:
NONE
10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
12S	26E	2	SW	SW		IRR	10.0
			SE	SW		IRR	40.0
			SW	SE		IRR	40.0

A43-02377A

Page 1

Date: 06/05/89

MICROFILMED
MAR 03 1993

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
12S	26E	2	SE	SE		IRR	40.0
						Section Acres	130.0
		11	NE	NE		IRR	40.0
			NW	NE		IRR	40.0
			NE	NW		IRR	20.0
						Section Acres	100.0
						Total Acres	230.0

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:
43-2398.

14. Remarks:
TRANS. 1662.

15. Basis of Claim: LICENSE
Water Right Number: 22664

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 X 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): Andel St. Shickel Date: 6-5-89

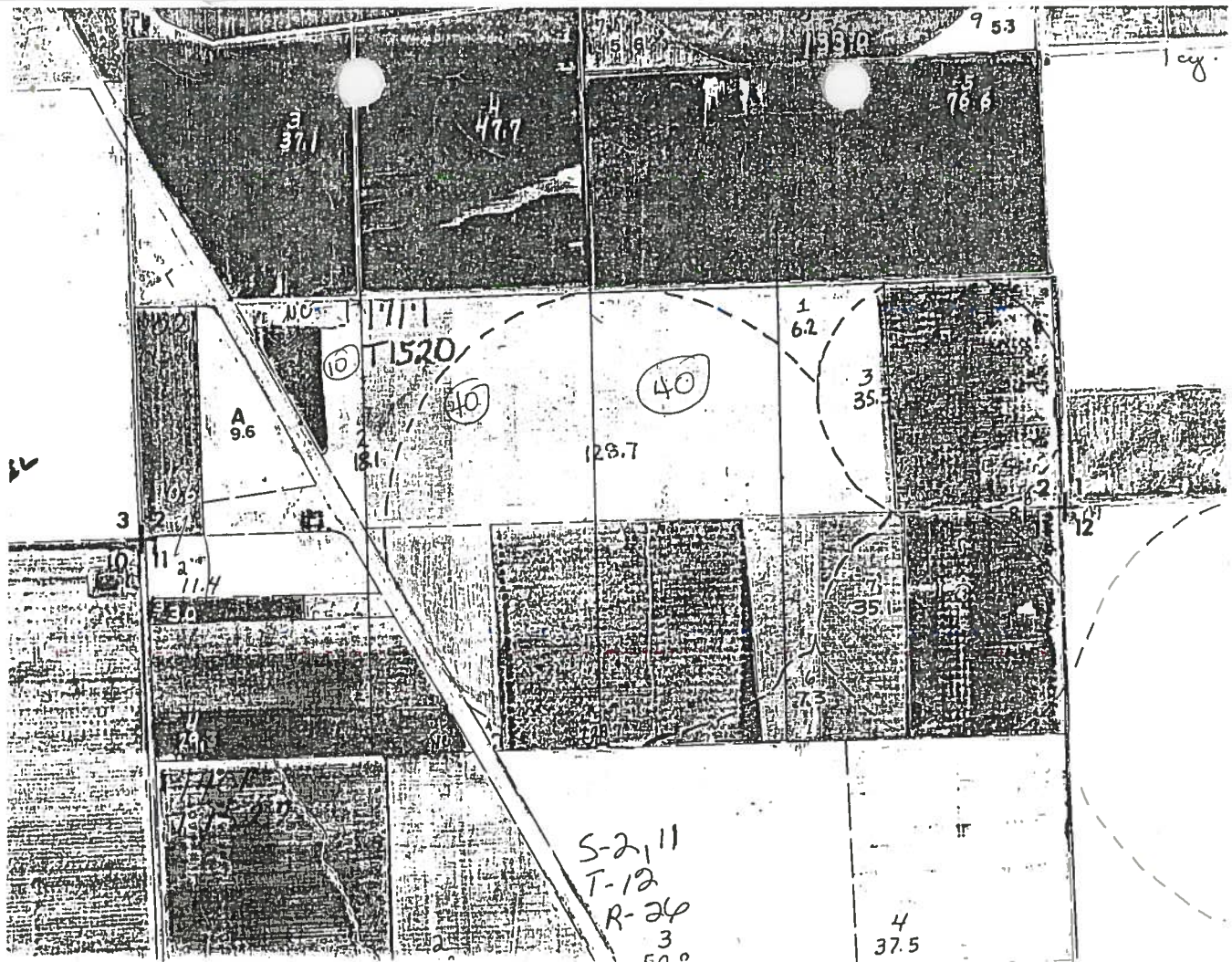
Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 5th day
of June 19 89
Helen Harrington
Notary Public

Seal

Residing at Helen Harrington, Notary Public
Residing at Boise, Idaho
My Commission Expires December 1, 1994



MICROFILMED
MAR 03 1993

06/01/2001

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: June 15, 2001

Water right number: 43-2377A

GARY B HARPER

2040 E 850 S

DECLO ID 83323

Telephone Number: (208) 645-2227

RECEIVED

JUN 12 2001

Department of Water Resources
Bozeman, Montana

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:

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

DATE: 10 June 01

SIGNATURE:

Gary B. Harper

Please print your name:

GARY B. HARPER

IDWR Regional Office, 1341 Fillmore St, Suite 200, Twin Falls, ID 83301, 2087363033

06/01/2001

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

RIGHT NUMBER: 43-2377A
NAME AND ADDRESS: GARY B HARPER
2040 E 850 S
DECLO ID 83323

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 1.250 CFS
400.00 AFY

USE OF THIS RIGHT WITH RIGHT NO. 43-2398 IS LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 3.55 CFS.

PRIORITY DATE: 03/30/1952

POINT OF DIVERSION:

T12S R26E S2 NWSWSW Within CASSIA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF

IRRIGATION

03/01 1

THE USE OF WATER FOR IRRIGATION UNDER THIS
LATE AS NOVEMBER 15, PROVIDED OTHER ELEMENT
EXCEEDED. THE USE OF WATER AFTER NOVEMBER
SUBORDINATE TO ALL WATER RIGHTS HAVING NO
LATE IRRIGATION USE AND A PRIORITY DATE EA
DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE: IRRIGATION Within CASSIA County

T12S R26E S11	NENE	38.0	T12S R2
T12S R26E S11	NENW	30.0	T12S R2
T12S R26E S02	SESW	38.0	T12S R2
T12S R26E S02	SESE	37.0	

230 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 43-2398 IS LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 230 ACRES IN A SINGLE IRRIGATION SEASON.

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 - License

Prelim Rept
& NOE sent to
Gary Harper
6-1-01
DH

03/01/2001

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

RIGHT NUMBER: 43-2377A

NAME AND ADDRESS: ARDEL W WICKEL
RT 1 BOX 37A
DECLO, ID 83323

SOURCE: GROUND WATER

QUANTITY: 1.25 CFS
400 AFY

USE OF THIS RIGHT WITH RIGHT NO. 43-2398 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 3.55 CFS.

PRIORITY DATE: 03/30/1952

POINT OF DIVERSION: T12S R26E S2 NWSWSW Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03-01 11-01	1.25 CFS
		400.00 AFY

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY
CONTINUE TO AS LATE AS NOVEMBER 15, PROVIDED OTHER ELEMENTS OF
THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER AFTER NOVEMBER 1
UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO
SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE
EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS
RIGHT.

PLACE OF USE:

<u>IRRIGATION Within CASSIA County</u>			
T12S R26E S11	NENE	38	T12S R26E S11 NWNE 39
T12S R26E S11	NENW	30	T12S R26E S2 SWSW 10
T12S R26E S2	SESW	38	T12S R26E S2 SWSE 38
T12S R26E S2	SESE	37	

230 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 43-2398 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 230 ACRES IN A SINGLE
IRRIGATION SEASON.

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

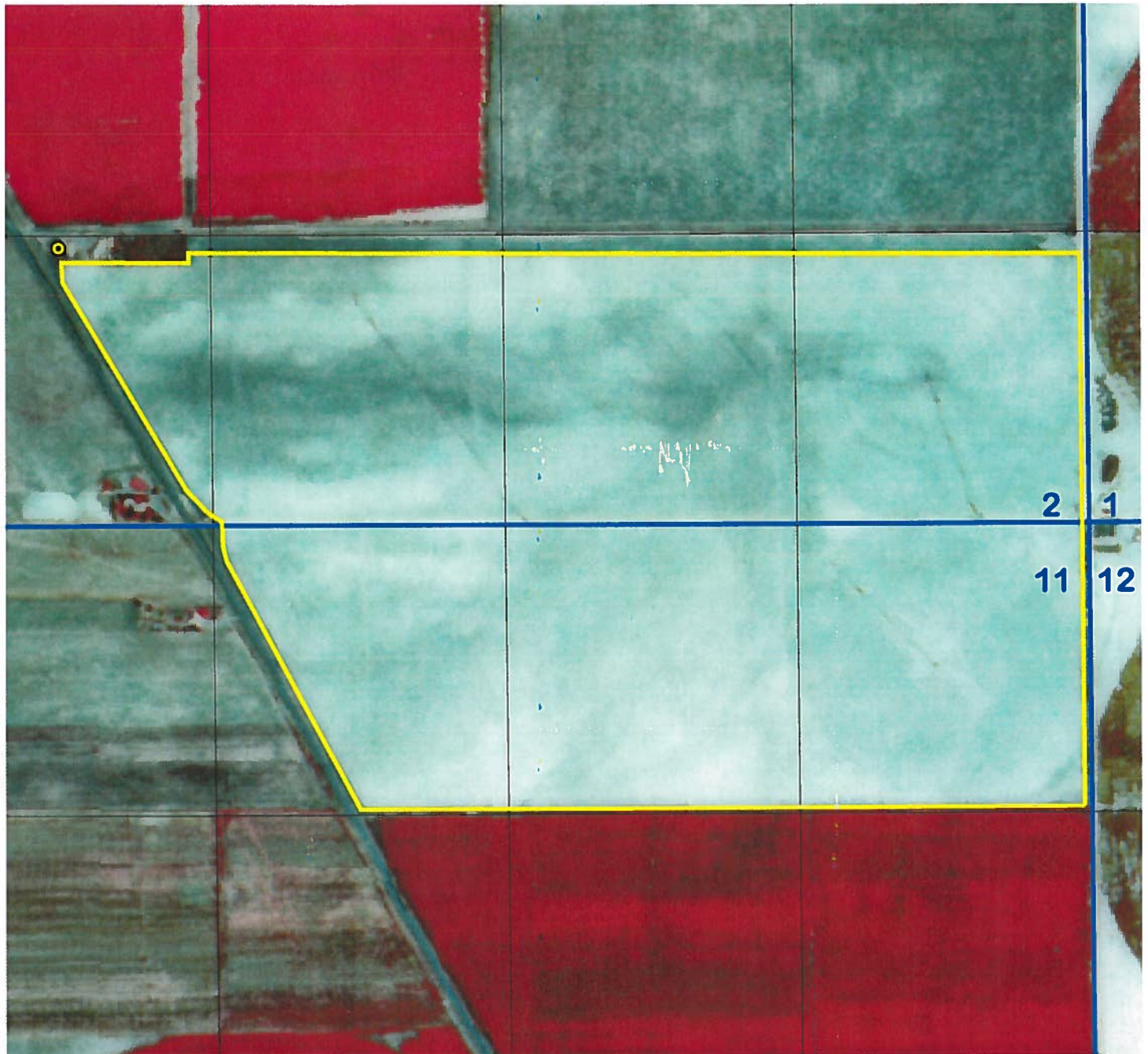
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE
EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE
ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER
THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6),
IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Idaho Department of Water Resources

RIGHTS: 43-2377A, 43-2398

RECOMMENDED PLACE OF USE
TWP 12S, RNG 26E,
Data entry on February 28, 2001



0 1320 2640 3960 Feet

○ RECOMMENDED POINT OF DIVERSION

RECOMMENDED PLACE OF USE

SECTION LINES

QUARTER/QUARTER LINES



GIS PLACE OF USE PRESENTATION
1987/1988 NAPP AERIAL PHOTOGRAPHY
DATA ENTRY BY VIKIE HANCOCK

AJ5809NP
No. A43-02377A

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 06/17/99
PAGE: 1

OWNER
CODE NAME & ADDRESS

C ARDEL W WICKEL

RT 1 BOX 37A
DEALO ID 83323
(208) 654-2341

PRIORITY
DATE WATER USE

03/30/1992 IRRIGATION

USE PERIOD
FROM TO

03-01 11-01

DIVERSION
RATE DIVERSION
VOLUME

1.45 CFS

1.45 CFS

TOTAL DIVERSION:
CONSUMPTIVE USE:

1.45 CFS

720.90 AFA

Water Source: GROUNDWATER

Tributary to:

Stage: LICENSE

Point(s) of Diversion:

T12S R26E S02

SMS

CASSIA County

Place of use legal Description for: IRRIGATION

	NE				NW				SW				SE				SUM
	T	R	S	NE	NE	SE	SE	NE	NW	NW	SW	SW	NE	NE	SE	SE	
12S 26E 2	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	130.0
12S 26E 11	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	110.0
TOTAL ACRES																	240.0

POU County: CASSIA

Non-Irrigation Uses: NONE

Other Rights: 43-2398.

SEE conditions T1622

Remarks: GEN

THE PURPOSE OF THIS AMENDED CLAIM IS TO ADD 10 ACRES OF IRRIGATED LAND LOCATED IN THE NEW, SEC. 11, THE ORIGINAL PORTION OF THIS RIGHT (43-02337A) WHICH I CLAIMED DID NOT IDENTIFY ALL THE IRRIGATED LAND WHICH I BELIEVE IS APPURTENANT TO MY PROPERTY.
R# S007521 & S010295.

*com b limits } 3.55 ac
w/ 43-2348 } 230 ac*

Dates: Exam Made Date:

Verified Date:

Objection Filed Date:

Misc: Water District Number:

Field Inspection Flag:
Presumption Flag:

Audit:

06/05/89 SSRBA 06/21/89 HARRINGT 06/30/89 HARRINGT 10/25/89 WHITE
01/03/92 BAUMHOFF 03/30/95 POST-STD

COMMUNICATION DOCUMENTATION

From: Vikie Hancock
2001

February 28,

Regarding:

43-2377A & 43-2398

Customer:

Gary Harper / Ardel Wickel

[illegible]

Per information that Ardel Wickel had sold the above claims to Gary Harper, I called the Harper residence. Mrs. Harper confirmed that they had purchased property along the highway south of Idahome. I told her that I would send an ownership change form and that if they completed it and sent it back along with the deed of conveyance I could change the ownership of the water rights into their name.

Gary Harper
2040 E 850 S
Malta, Idaho

645-2227

RECOMMENDATION NOTES

From: Vikie Hancock

3/1/01

Regarding: 43-2377A

The claim, based upon the B portion of licensed right 43-2377, is for a total of 230 acres - 100 acres in the N $\frac{1}{2}$ N $\frac{1}{2}$ Section 11, and 130 acres in the S $\frac{1}{2}$ S $\frac{1}{2}$ Section 02 T12S, R26E. The history of this claim is as follows:

- In 1956 a license for 2 cfs on 160 acres in the N $\frac{1}{2}$ NW and N $\frac{1}{2}$ NE section 11 was issued in the name of Stephens and Tannehill, priority date 1952. This allocated .0125 cfs per acre.
- In 1965, T#281 was approved which allowed the licensees to drill a replacement well 600 feet north of the existing well. Both wells were located in the NWNW Sec 11.
- In 1968 T1622 split the diversion rate between two parcels and changed the place of use. Tannehill proposed to combine 1.32 cfs from 43-2377 and 2.3 cfs from 43-2398 and use it upon a 230 ac PPU, which included 100 ac from 43-2377 and 130 ac from 43-2398. The point of diversion for the 1.32 cfs would be changed to the SWSW Sec 02.
- The transfer stated that 0.68 cfs would continue to be diverted from the well in NWNW Sec 11 and used upon the balance of the 160 acres originally licensed to 43-2377. It was inferred that the balance of the acres remaining to be used by the new owner, which was apparently Stephens, totaled 60. There was no ambiguity that Tannehill's portion of the license was to be appurtenant to 100 acres.
- By reviewing 1962, 1968 and 1976 aerial photos, it can be determined with reasonable accuracy that the entire 160 acre place of use was irrigated in 1962 and 1968. In 1976 it appears that irrigation in the NENW of Sec 11 stops at the N/S center line of the 40 acre tract. All of the acreage in the NWNW and NENW west of the highway is irrigated in 1976, as is approximately 10 acres in the W $\frac{1}{2}$ W $\frac{1}{2}$ SW $\frac{1}{4}$ Sec 02. This 10 acres in section 02 had not been irrigated in 1962 or 1968.
- Claims are filed in the SRBA by Sid Anderson - successor to Stephens - and Wickel - successor to Tannehill. Wickel originally files on 43-2377A exactly as transferred - 230 ppu acres in Sec 11 and 2 for 1.32 cfs. Anderson files on 50 acres in Sec 11 and 10 acres in Sec 2, for .68 cfs, identified as 43-2377B.
- 1989 letter from IDWR to Wickel states that 10 acres in NENW Sec 11 are unclaimed and that he may want to amend his claim to add both acres and diversion rate, which he did. This letter may not have been representative of the actual situation.

- During a 1994 field exam, Andersons tell Jeanie Robertson that the 10 acres in section 2 have been irrigated since before they purchased the property in 1982. They believed that the transfer that gave their predecessor 20 acres in the NENW was in error, but that the extra acres were irrigated in section 2 through some sort of trade.
- In September 2000 Andersons file for extension of time to avoid forfeiture, stating that illness has kept them from irrigating their land for several years. It is determined at this time that Andersons own 7 acres in Sec 2 and 45.5 acres in Sec 11.

Analysis: It seems certain that Tannehill and Stephens intended to split the licensed acreage 100 / 60 and the diversion rate 1.32 / 0.68, which gave Tannehill a greater proportion of the water on his acres. It is not known where the boundary of property ownership lay at the time, but the highway was a natural diagonal boundary between fields. At any rate, it appears that by 1976, irrigation had ceased on the approximately 10 acre triangular piece of property lying on the east side of the highway in the $W\frac{1}{2}NE\frac{1}{4}NW\frac{1}{4}$ Sec 11, and had begun on approximately 10 acres in the $W\frac{1}{2}$ of Sec 2. It would seem that this had been done by an accomplished transfer according to IC 42-1425.

Andersons are the current owners of 52.5 acres, and all but the 1 acre farmyard were being irrigated, albeit marginally, in 1987 under right 43-2377B. They should receive a recommendation equal to the original licensed diversion rate per acre, which would be $.0125 \times 52$ acres or 0.65 cfs. (Note that three acres of the 10 irrigated in section 2 are not owned by them).

Wickel now has an amended claim for 240 acres and 1.45 cfs under right 43-2377A. Apparently he is the owner of all the land east of the highway in the NENW Sec 11 and, because of our letter, believes that the ten acres are irrigated under his water right. If it is proven that the water appurtenant to that 10 acres was not transferred to the $W\frac{1}{2}$ of section 2, but remained appurtenant to the original place of use, then Wickel's right to it would be as a portion of license 43-2377B, not -2377A.

Since neither of the original right holders are available to ask about the original intent and eventual place of use of the remaining portion of the transferred right, I am recommending 43-2377A as transferred and 43-2377B as found irrigated and owned by the claimant. Farmsteads and roadways reduce the number of allowable acres, but admittedly there has been a loss of acreage and diversion rate from the original license in my proposed recommendation for 43-2377B. GIS calculations using 1987 NAPP aerial photography indicate that there are, indeed, 230 acres being irrigated under rights 43-2377A and 43-2398.

25 26E

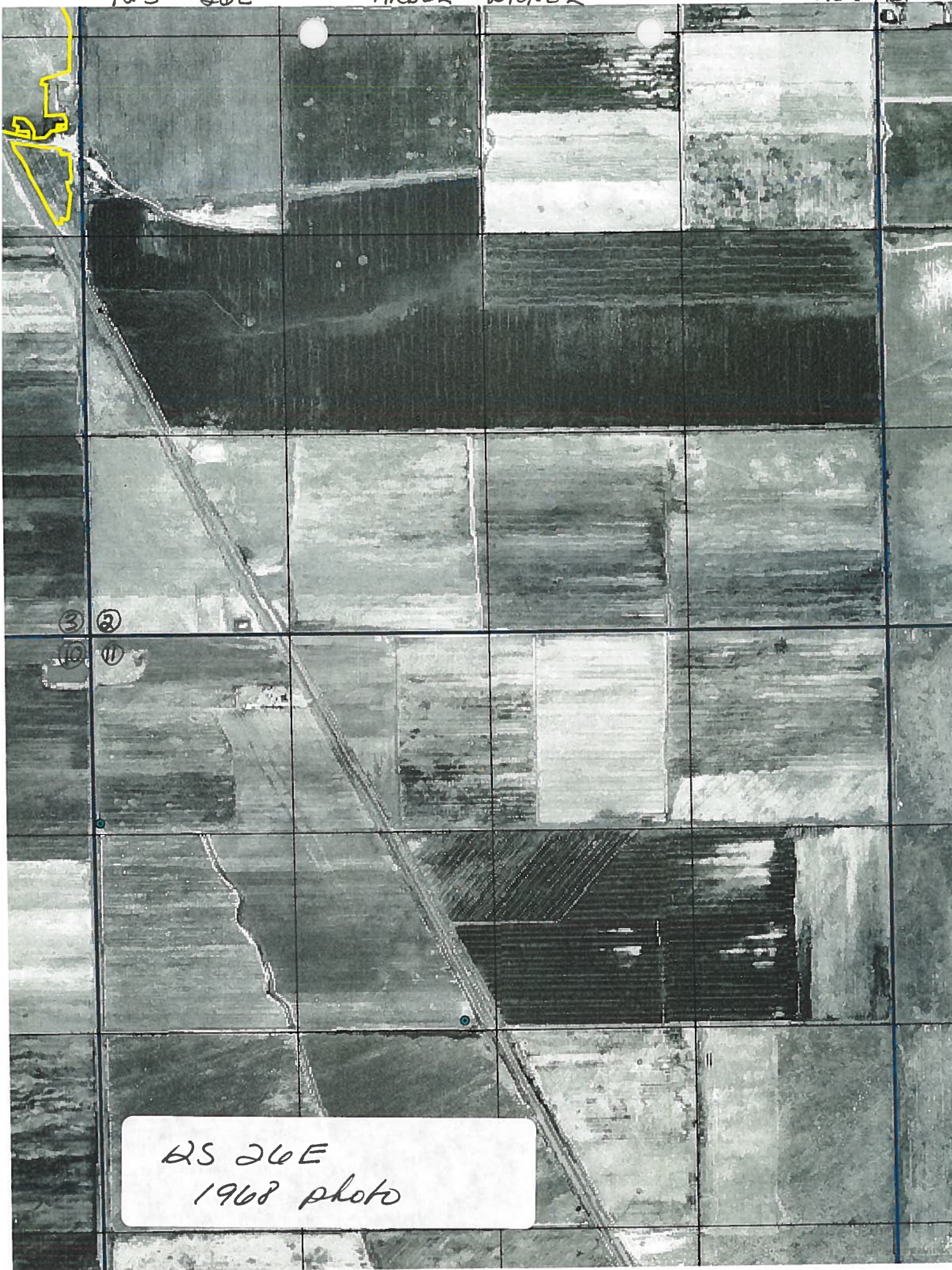


25 26E
1976 OPQ

12S 26E

ARDEL WICKEL

1968 photo



12S 26E
1968 photo

12S 26E

ARDEL WICKEL

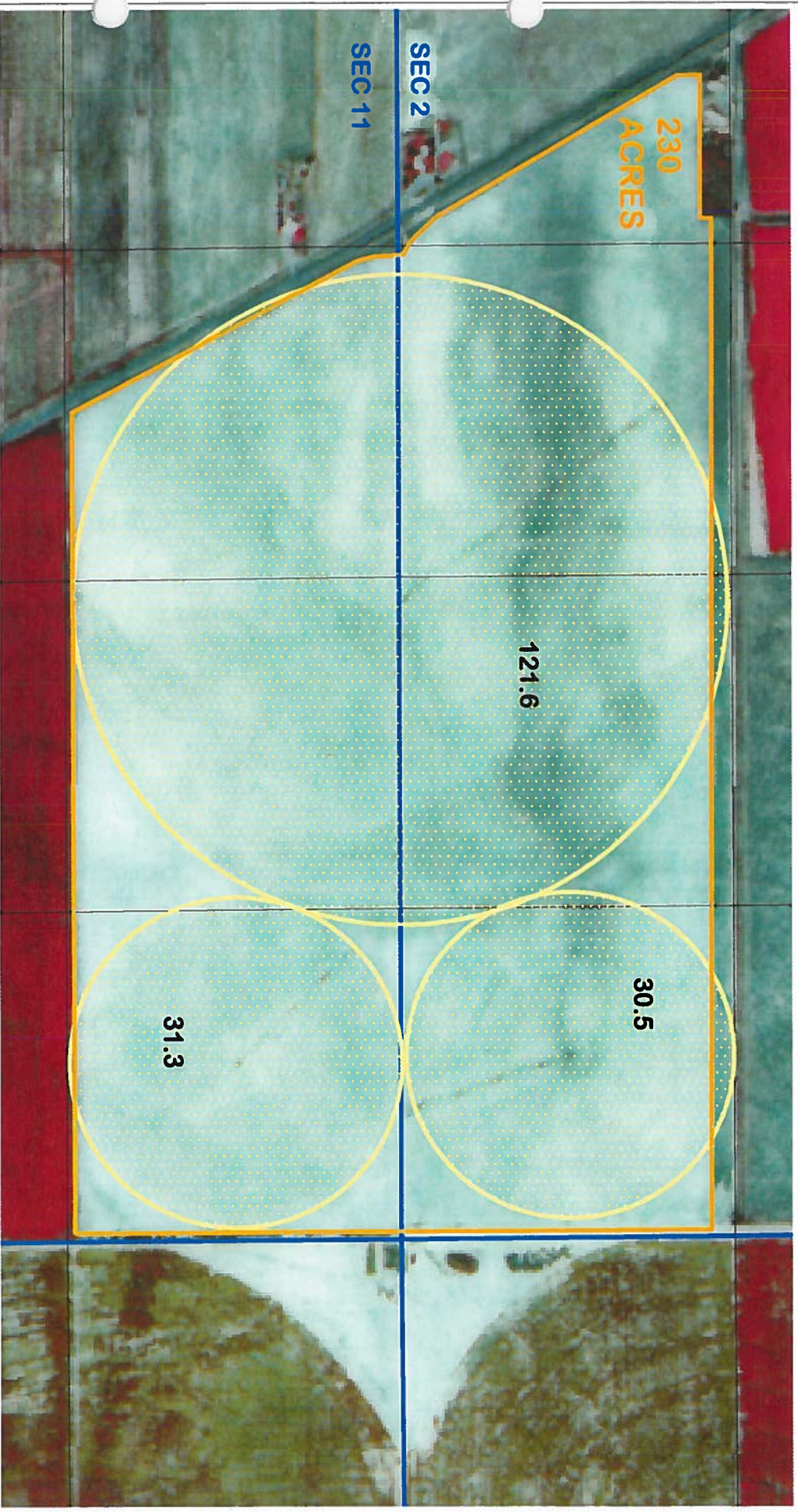
1962 photo



12S 26E

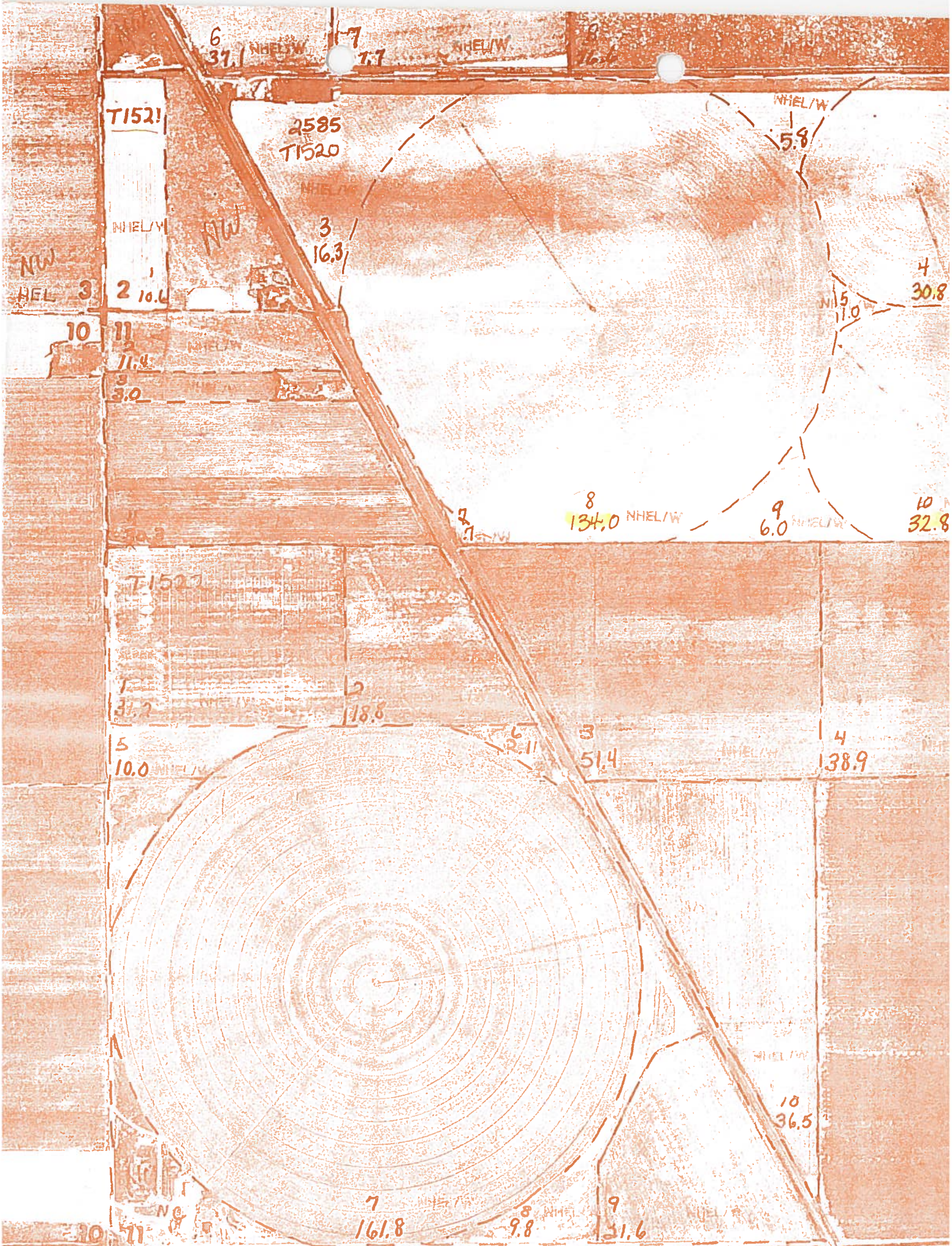
1962 photo

ACRES CALCULATED BY GIS



1987 NAPP AERIAL PHOTO



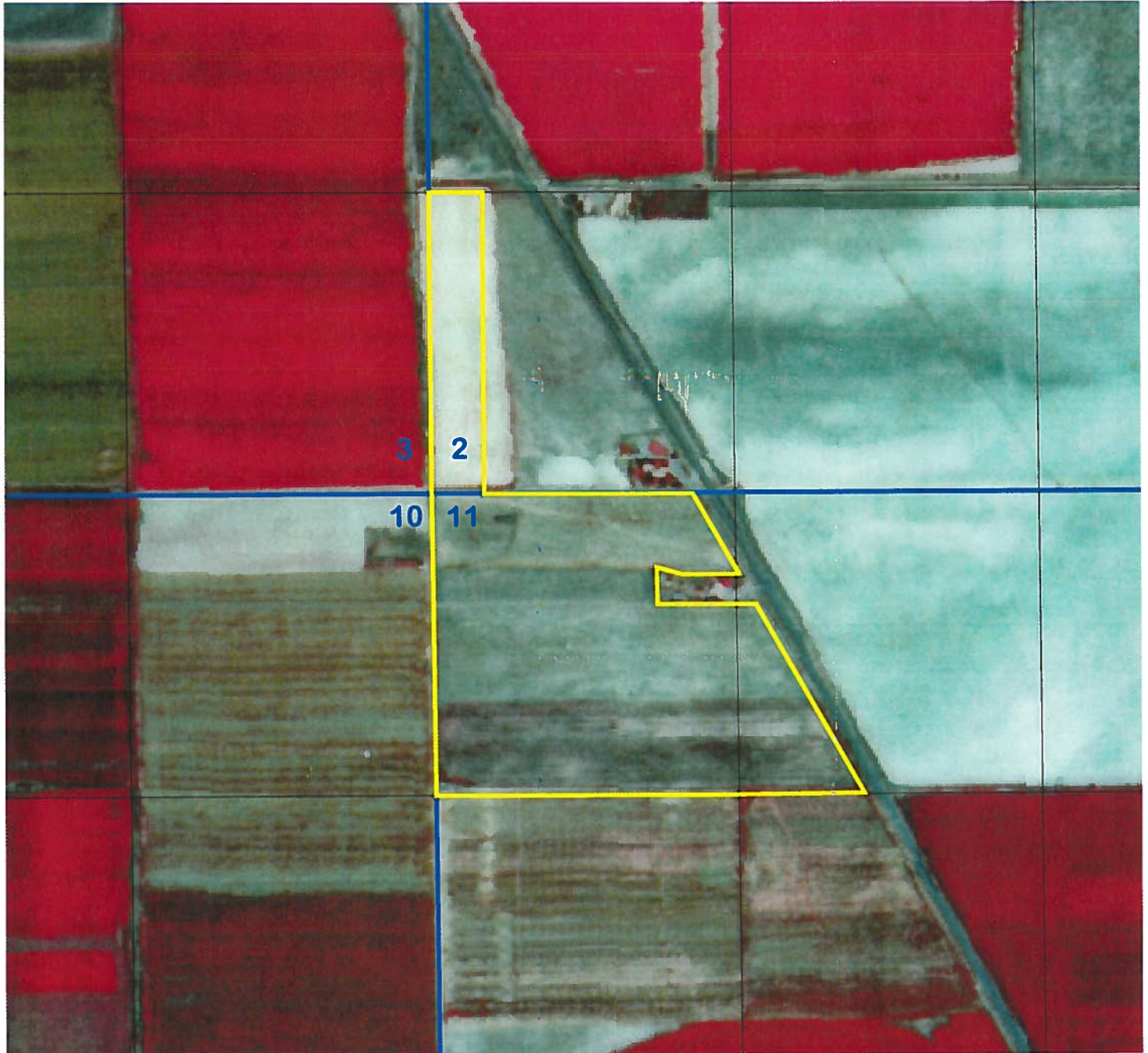


AXS WITH 1994 ANALYSIS - ANDERSON

Idaho Department of Water Resources

RIGHT: 43-2377B

RECOMMENDED PLACE OF USE
TWP 12S, RNG 26E,
Data entry on February 28, 2001



0 1320 2640 3960 Feet

● RECOMMENDED POINT OF DIVERSION

RECOMMENDED PLACE OF USE

SECTION LINES

QUARTER/QUARTER LINES



GIS PLACE OF USE PRESENTATION
1987/1988 NAPP AERIAL PHOTOGRAPHY
DATA ENTRY BY VIKIE HANCOCK

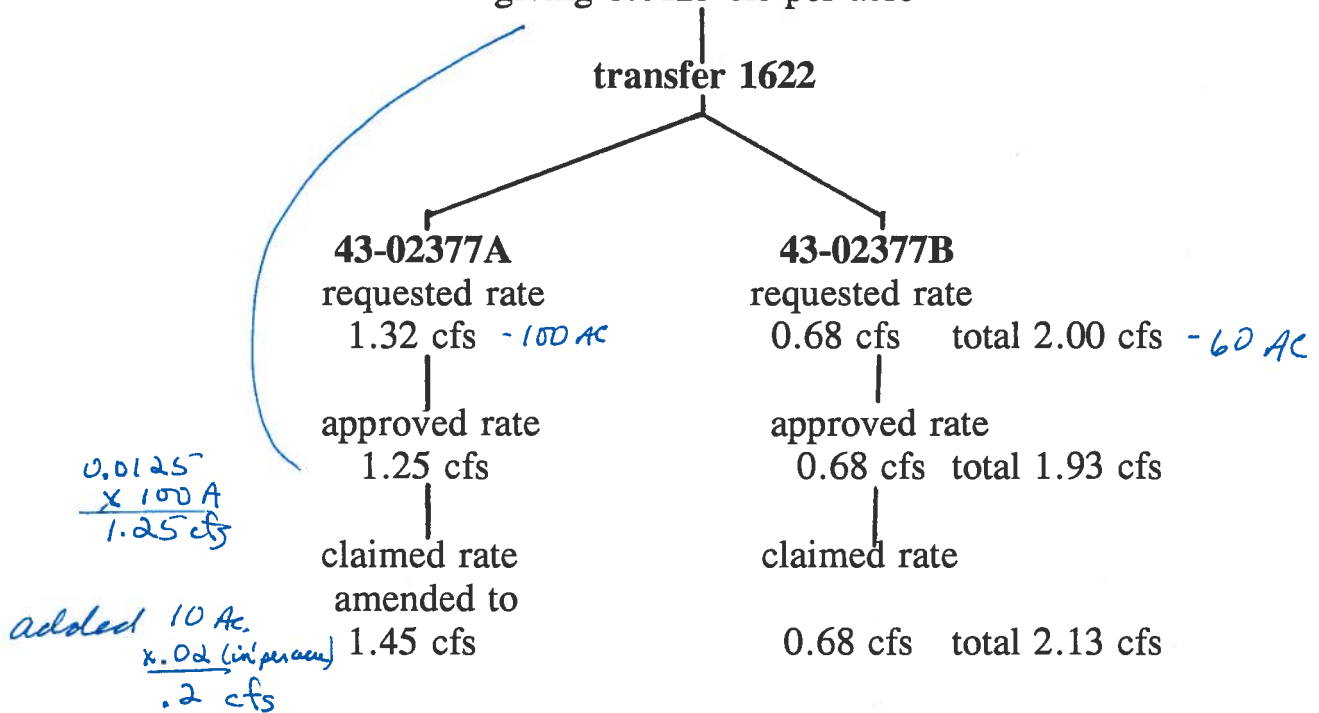
N 4

②
⑪

10th 11th 12th

transfer 1621
no change in diversion rate

transfer 1622



didn't amend-02398

The transfer states in part, when 43-02377A and 43-02398 rights are combined they are limited to 3.55 cfs on 230 acres and when all three rights are combined that they are limited to a combined total of 290 acres.

۷

IO

4439

2

14

6417

29

Licensed 130A
-02398

1/16/22

Licensed
160 AC

150 Ac

BEFORE THE STATE RECLAMATION ENGINEER
OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR
TRANSFER OF WATER RIGHT NO. 43-2377
in the name of LESTER TANNEHILL

ORDER

WHEREAS, on December 12, 1969, Lester Tannehill, Star Route, Declo, Idaho, filed with the Department of Reclamation an application for transfer of water right in connection with Water License No. 43-2377, and;

WHEREAS, Water License No. 43-2377 has a priority date of March 30, 1952 and was issued confirming the use of 2.0 c.f.s. of water diverted from a well within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 11, T. 12 S., R. 26 E., B.M., Cassia County, for the irrigation of 160 acres within Sec. 11, T. 12 S., R. 26 E., B.M., and;

WHEREAS, the applicant proposes to change the place of use of part of the right to allow for irrigation of 100 acres of land within Sec. 11 and 130 acres of land within Sec. 2, T. 12 S., R. 26 E., B.M., making a total of 230 acres together with water diverted under Water License No. 43-2398, and;

WHEREAS, the applicant proposes to change the point of diversion of 1.32 c.f.s. of the water right to be diverted from a well in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 2, T. 12 S., R. 26 E., B.M., and to retain the right to irrigate 60 acres of land with the original well, and;

WHEREAS, the Department of Reclamation, on December 18th and 24th, 1969, published the required notices advising the public of the proposed transfer, and;

WHEREAS, no protests were received against approval of this transfer, and;

WHEREAS, the use of water under Water License No. 43-2377 on 230 acres of land instead of the original 100 acres of land will not constitute an enlargement of the original right provided such use is in conjunction with the application to transfer licensed right 43-2398 and provided further that the rate of diversion does not exceed 3.55 c.f.s. under both transferred rights and the applicant will not divert more water nor irrigate more land than originally allowed under both licenses combined,

NOW THEREFORE IT IS ORDERED and Transfer No. 43-2377 is hereby APPROVED
Subject to the following conditions:

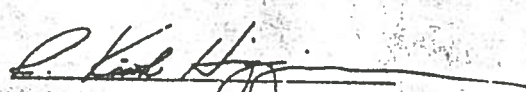
43 2377

1. That a totalizing measuring device of a type approved by the Department of Reclamation be installed and maintained as part of the diversion works on the well located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 2, T. 12 S., R. 26 E., B.M. Reports shall be made to the Department of Reclamation on at least monthly intervals giving the accumulated quantity of water diverted each irrigation season until such time as this requirement is removed by the department.

2. That no more water be diverted from the well under this license than the quantity originally required to irrigate 100 acres of land. Subject to confirmation by the District Court this quantity is hereby set at 4 acre feet per acre or a total of 400 acre feet of water per year.

3. The rate of diversion of water under that part of license 43-2377 transferred shall be limited to 1.25 c.f.s.

Dated this 9TH day of MARCH, 1970.


R. KEITH HIGGINSON
State Reclamation Engineer

43 2377

Transfer No. 1622

APPLICATION FOR TRANSFER OF WATER RIGHT

To Change the Point of Diversion and/or the Place of Use

U'S APPROVED

8. Lands presently irrigated or place of use:

[illegible]

Total number of acres presently irrigated 100

43.2398

192 1925-1926

a. Quantity to be diverted at new point: 1.32 c.f.s. and/or _____ acre feet

b. New point of diversion: RW 1/4 SW 1/4, Section 2, Township 12 S,
Range 26 E, B.M.

c. Description of method of diversion and conveyance from new points of diversion: pump and
concrete ditch

a. Describe the reasons for applying for a change in the point of diversion:
Eliminate $\frac{1}{2}$ mile open ditch and be able to apply to other lands

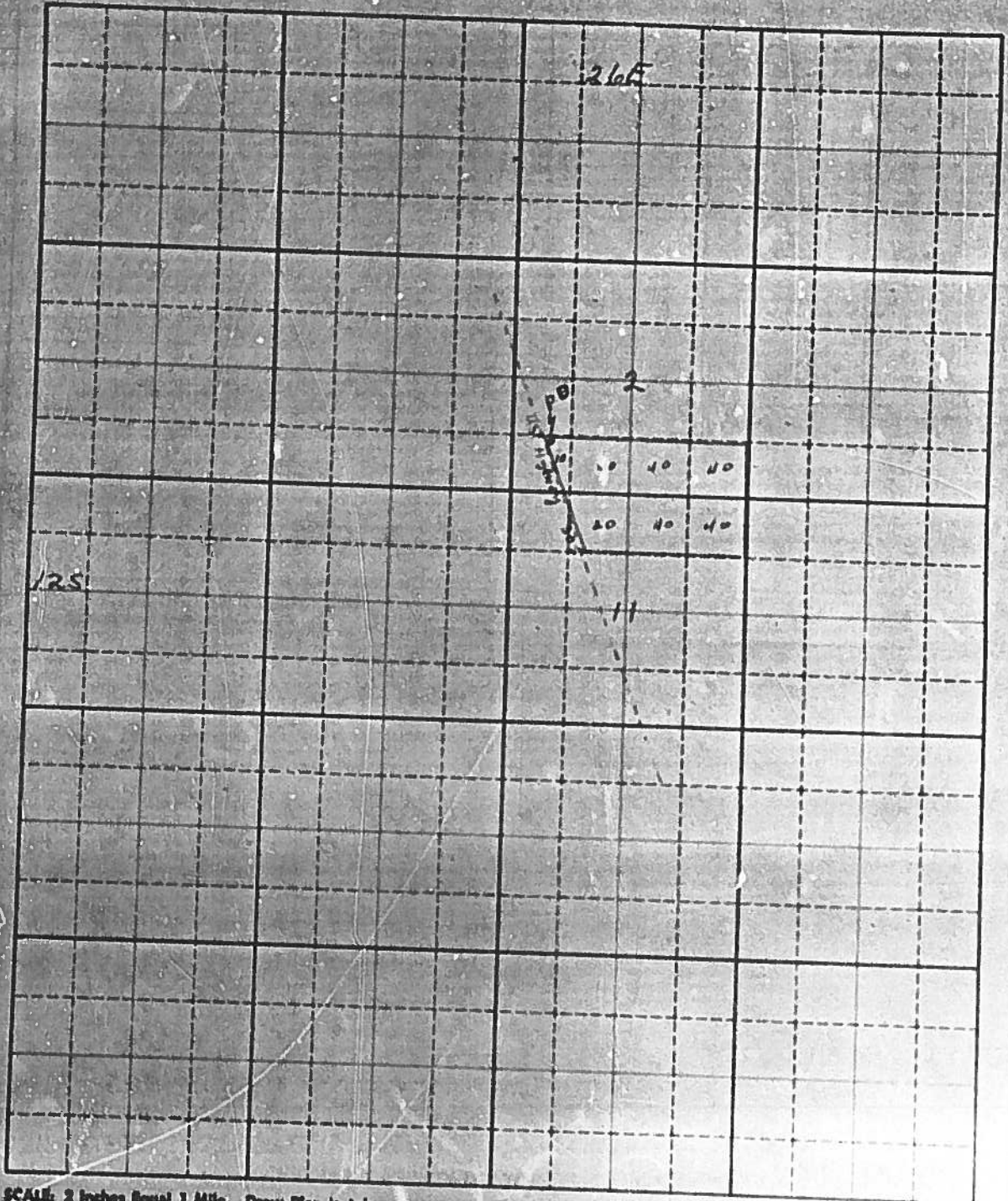
11. CHANGE IN PLACE OF USE

a. Describe the new lands on which you wish to use your right.

[illegible]

Total number of acres to be irrigated: 23

43 2377



SCALE: 2 inches Equal 1 Mile. Draw Plan in Ink.

43 2377

- b. Do you intend to make the transfer permanent? yes
- c. Are you completely abandoning the lands previously irrigated by this right? If not, explain your plans:

No. I want to make water under Licenses 43-2377 and 43-2398 appurtenant to all my land.

- d. Describe any other water rights that you claim for the new ground upon which you wish to transfer this right: 43-2398

- e. Indicate on the above plat the new land to be irrigated and the point of diversion.

I hereby assert that no one will be injured by such transfer and that the change will be made at my own risk. The information contained in this application is true to the best of my knowledge.

Leuter V. DeMott
(signature of applicant)

Subscribed and sworn to before me this 12 day of December, 1969

Stephen R. Alford
(notary public)

My commission expires May 1, 1972

APPROVED

ACTION OF STATE RECLAMATION ENGINEER
AND CERTIFICATE OF TRANSFER

This is to certify that I have examined Application for Transfer of Water Rights No. 43-2377 and said application is hereby APPROVED

1. Approval of said application is subject to the following limitations and conditions:

Subject to the conditions as set forth in Order dated March 9, 1970.

2. Denial of said application is for the following reasons:

Witness my hand this 9th day of March, 1970

P. David Hays
State Reclamation Engineer

Application For Transfer of Water Right

Transfer #281

P/d chg only

STATE OF IDAHO

County of _____

Lester Y. Tonnellill and Samuel Stephens

being first duly sworn, deposes and says:
That his name is Samuel Stephens, partner; that he is of lawful age, a citizen
of the United States and of the State of Idaho, and that his postoffice address is Star Rt. Bode
Idaho

That he is the owner and using a certain water right, bearing date of priority of 3-30, 1952,
for 2.0 cubic feet per second of the waters of subterranean flow
County of Cassia, State of Idaho, decreed to

by decree of Judge _____ of the _____ Judicial District of the State of
Idaho, in and for the county of _____, in the case of _____

_____ said decree bearing date of _____
obtained by virtue of License No. 67-22664, issued by the State Department of Reclamation of
the State of Idaho, dated Dec. 17, 1956, bearing date of March 30, 1952,
for the purpose of irrigating the following described lands situate, lying and being in Water District
No. _____ in the County of Cassia and State of Idaho, to-wit:

N¹/₂ NW¹/₄, N¹/₂ NE¹/₄ Sec. 11 T12S R26E BM

_____ and is the person (or representative of
the corporation) to whom such right so issued, or has become the owner thereof in the following man-
ner, i.e. _____

as per abstract of title of said water right hereto attached and made a part of this statement;

That said waters are now diverted from said stream in the NW¹/₄ NW¹/₄ of
Section 11, Township 12S, Range 26E, R. M., and con-
ducted to the above described lands through private ditches
as per map herewith and of this affidavit made a part.

CHANGE IN PLACE OF USE

That affiant and petitioner desires to abandon the use of _____ cubic feet per second
of said water upon the above described land, and to convey and use same upon the following tract,
situate, lying and being in the County of _____ and State of Idaho, to-wit:

That reasons for desiring to make such transfer are as follows:

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

REPORT OF ENGINEER

Permit No. C-22664

This proof is for Completion of Works & Beneficial Use In Water District No. _____

1. Name of applicant Lester V. and Milla S. Tannehill & Samuel Stephens
2. Source of water supply: Subterranean flow from a well
50 Ft. East & 50 Ft. North of the SW corner of the
3. Location of point of diversion: Is in the NW 1/4 of Section 11
T. 12 S., R. 26 E., B.M. County of Cassia
4. Describe works as they exist, giving dimensions and capacities of same: 220' by 18" diameter
well cased to the bottom 442', lift is 100'. 50 hp U. S. Motor serial No. 955591.
U. S. Pump serial No. 17512. This pump is pumping considerable sand and is not quite
pumping the amount of water it should be delivering.

5. Water is used for: Irrigation and Domestic
6. State whether or not water has been turned into works of diversion: Yes
7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if other than irrigation):

N 1/4 and N 1/4 of Sec. 11., Twp. 12 S., Rge. 26 E., B.M.
See the Map

(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach?

Remarks:

This examination was made on the

16

day of

Aug1938

(Signed)

E. H. Humphrey

R-26 E.

T.
12
S.



Subdivisions = 4

Area = 160 acres

Q = 100 inches

State of Idaho License and Certificate of Water Right

Water License No. G-22664

Amount 2.0 c.f.s.

Water District No. _____

Priority March 30, 1952

change in P

THIS IS TO CERTIFY that LESTER V. TAMMILL
(Malta)
of Star Route, Declo, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated March 21, 1952; that Permit No. G-22664 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 2.0 second feet, was issued thereunder on December 17, 1956, showing that said works were completed on the 6th day of April, 1956; and that on the 6th day of April, 1956, LESTER V. TAMMILL, NILO S. TAMMILL, AND SAMUEL STEPHENS, assignees

of Star Route, Declo, State of Idaho, made proof to the satisfaction of the State Reclamation Engineer of Idaho, of the right to use the waters of subter-
anean flow, a tributary of a well, for the purpose of irrigation and
domestic, under Use Permit No. G-22664 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 9 of Licenses at page 5885, on the 17 day of December, 1956;
The right hereby confirmed dates from March 30, 1952;

The Point of Diversion is located
in the NW 1/4 NW 1/4, Sec. 11, Tp. 12 S., R. 26 E., E. M. County Cassia

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 2.0 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
12 S.	26 E.	11	NW 1/4	40	40
			N 1/2	40	40
			SE 1/4	40	40
			SW 1/4	40	40
					160
				No. of Acres Irrigated	160

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
17th day of December, 1956.

43 232

(SEAL)

/s/ MARK E. HARRIS

State Reclamation Engineer