

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: A43-04041
Date Received: 3/15/1989
Receipt No: 5007109
Received By: See

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: GARY B. HARPER
Address: STAR RT. BOX 16
DECLO, ID 83323 208-645-2227

2. Date of Priority: MAY 15, 1955

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
12S	28E	30	SE	NE	SW		CASSIA
			SE	SW	SW	4	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	10/31	2.000		

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

8. Total consumptive use is 984.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
12S	28E	30	NE	NW		IRR	40.0
			NW	NW		IRR	52.0
			SW	NW		IRR	52.0

A43-04041

Page 1

Date: 03/15/89

MICROFILMED
MAR 05 1993

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
12S	28E	30	SE	NW		IRR	40.0
			NE	SW		IRR	40.0
			NW	SW		IRR	52.0
			SW	SW		IRR	52.0
						Section Acres	328.0
						Total Acres	328.0

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:
SEE A43-04040

14. Remarks:
AC. IRR.=328.6.
ALL WR ARE PART OF THE SAME SYSTEM.

15. Basis of Claim: STATUTORY CLAIM

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): Gary B. Harper Date: 15 Mar 89

Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 15th day

of March 19 89

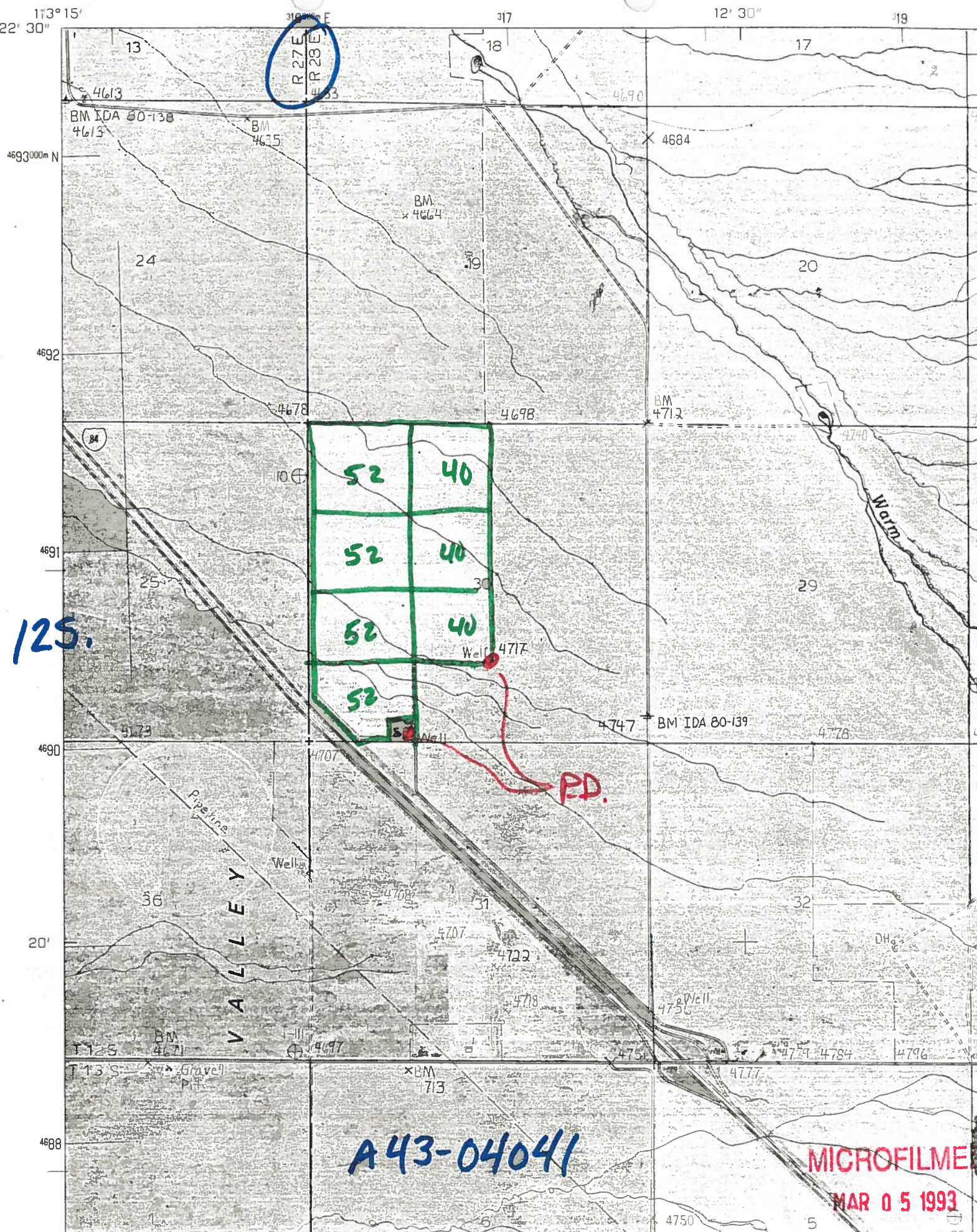
Steve O'Connell
Notary Public

Seal

Residing at Twin Falls

My Commission Expires Dec 7, 1994

DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

December 5, 1991

R. KEITH HIGGINSON
Director

A43-04041
GARY B. HARPER
STAR RT. BOX 16

DECLO

ID 83323

RE: Evidence of Priority

RESPONSE DEADLINE
FEBRUARY 3, 1992

Dear Claimant:

The Notice(s) of Claim identified with the number shown above your name on the mailing label has been filed in the Snake River Basin Adjudication (SRBA). The Notice(s) indicate your water usage is based on "Beneficial Use" or a "Statutory Claim". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed. **The date of first use, known as the priority date, has not been confirmed by a License, Decree or Permit.** The Department will soon conduct reviews &/or field exams for the claims in your area. Since the priority date of a beneficial use water right can not be confirmed by field examination, **proof must be provided supporting the priority date you have claimed.**

The Department will not recommend the Notice(s) be decreed by the court as claimed if no evidence of a priority date is submitted.

Please find enclosed a computer printout of your Notice(s) and the pamphlet entitled "Evidence of Priority". The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement. 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".

Please submit the required evidence supporting the priority date(s) by **February 3, 1992**, referencing all documents with the corresponding Notice number(s). If you have any questions not covered by this letter or the enclosed pamphlet, please contact this office.

Respectfully submitted,

Allen Merritt, P.E.
Water Rights Supervisor

Enclosures

MICROFILMED
MAR 05 1993

**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: 43-4041

GARY B HARPER

2040 E 850 S

DECLO ID 83323

Telephone Number: (208)645-2227

RECEIVED

JUN 12 2001

Department of Water Resources
Southern Region

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: 29 May 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

VERIFIED BY *gf 1/3/01*

01/31/2001

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

RIGHT NUMBER: 43-4041
NAME AND ADDRESS: GARY B HARPER
STAR RT BOX 16
DECLO, ID 83323

SOURCE: GROUND WATER

QUANTITY: 2 CFS
1284 AFY

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 1284 AF. COMBINED
RIGHT NOS.: 43-04040, 43-04041, 43-04053, & 43-04054.

PRIORITY DATE: 05/15/1955

POINT OF DIVERSION: T12S R28E S30 SENESW Within CASSIA County
T12S R28E S30 LOT 4 SESWSW Within CASSIA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03-15 11-15	2.00 CFS 1,284.00 AFY

PLACE OF USE:

IRRIGATION Within CASSIA County							
T12S R28E S30		NENW	40	T12S R28E S30	LOT 1	NWNW	52
T12S R28E S30	LOT 2	SWNW	53	T12S R28E S30		SENW	40
T12S R28E S30		NESW	40	T12S R28E S30	LOT 3	NWSW	53
T12S R28E S30	LOT 4	SWSW	43				

321 ACRES TOTAL

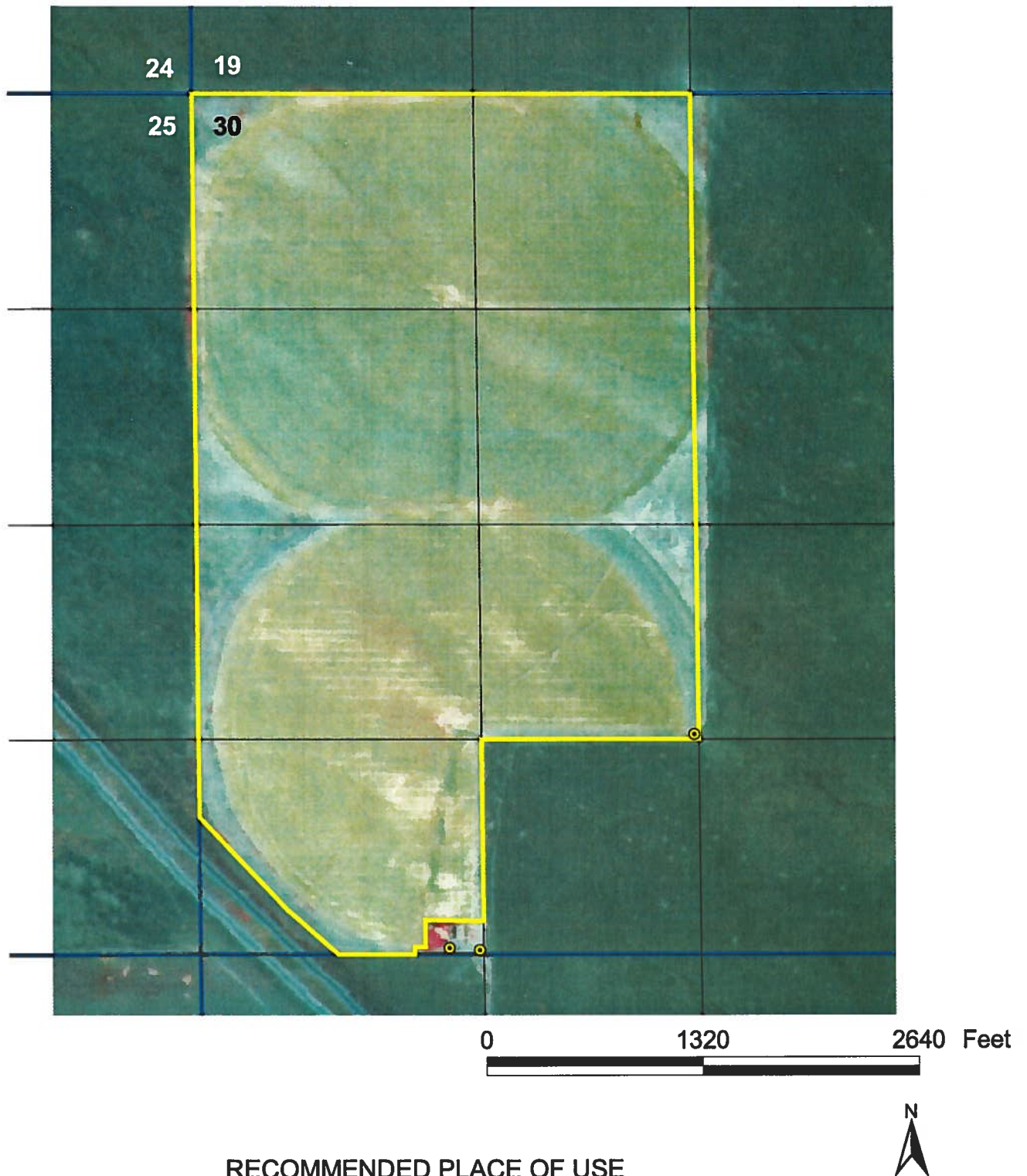
USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION
OF A COMBINED TOTAL OF 321 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 43-04040, 43-04041, 43-04053, & 43-04054.

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

43-04040, 43-04041, 43-04053, & 43-04054



RECOMMENDED PLACE OF USE
DATA ENTRY ON JAN. 31, 2001
TWP 12S, RNG 28E, SEC. 30

- Point of diversion
- Place of use
- Quarter-quarter lines
- Section lines

Gis Place of Use Presentation
1987/1988 Napp Photography
Prepared by Jeanie Robertson

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

14:56:56
01/30/01
18

PAGE: 3
PROFILE REPORT

CLAIM NUMBER: A43-04041

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	GARY B HARPER	05/15/1955	IRRIGATION	03-01 10-31 3/15-11/15	2.000 CFS	1284 AF (321K4)
TOTAL DIVERSION:					2.000 CFS	
~~CONSUMPTIVE USE:~~						~~984.00 AFA~~

Water Source: GROUNDWATER

Tributary to:

Stage: ~~STATUTORY CLAIM~~
B.U.

Point(s) of Diversion: T12S R28E S30 SENESW Lot04(SESWSW) CASSIA County

Place of use Legal Description for: IRRIGATION

NE				NW				SW				SE																				
NENE		NWNE		SWNE		SENE		NENW		NWNW		SWNW		SENW		NESW		NWSW		SWSW		SESW		NESE		NWSE		SWSE		SESE		
T	R	S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	SUM	

12S 28E 30 :																																
: 40 52 52 40 : 40 52 52 :																																
TOTAL ACRES 328.0																																

POU County: CASSIA

Other Rights: SEE A43-04040

Remarks: GEN AC. IRR.=328.6.
ALL WR ARE PART OF THE SAME SYSTEM.

Dates: Exam Made Date: Verified Date: 06/24/1985 Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

Cond. Code C18
Remarks:
POU1 E14 321 Ac.
w/all
QNT E08 1284 AF
w/all

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

14:56:29
01/30/01

PAGE: 2
QUICKLOOK INFORMATION

17
CLAIM NUMBER: A43-04041

WR ELEMENT	DATA DISCREPANCY Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	ELEMENT DOCUMENTED WHOM/DATE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE	- N							
POINT OF DIV	- N							
SOURCE	- N							
PLACE OF USE	Y -							
DIV. AMOUNT CFS/VOLUME	Y -							
CONSUMPTIVE USE	/							
PURPOSES OF USE	- N							
PERIOD OF USE	Y -							
BASIS OF CLAIM	Y -							
REMARKS	Y -							

BARCODE UPDATED
WHOM/DATE

R PROOF

CVR

MAPS

PHOTOS

MISC

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—

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—

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475-04040 7 475-04041

30

30

Identification No. 43-4041

Claim No. _____

Map No. _____

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

CLAIM TO A WATER RIGHT

Established by Diversion and Application to Beneficial Use

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. The filing of this claim does not confirm the water right but will serve for information purposes only. It may, however, become the basis for future adjudication of the water right by the Court.

(Please refer to the instructions on the back of this form.)

1. Name of claimant Ivan M. Harris
post office address 2007 Warm Springs Avenue, Boise, Idaho
2. The point of diversion is in NE 1/4 of SW 1/4 Section 30 Township 12 South
Range 28 East B.M. located on underground water-bearing strata
(name of source)
tributary to _____ in Cassia County.

3. Dates of priority claimed: list the priority for each separate quantity that you claim. Priority dates should be based upon the earliest diversion of the water which has resulted in continued beneficial use since that time. If there has been an interval of five years or greater when the water was not beneficially used for the same purpose as originally appropriated, the priority that you claim should date from the time that the water was again beneficially applied following the period of non-use.

a. Date of priority claimed:

May 15, 1955 amount 2.0 c.f.s. or _____ acre feet
amount _____ c.f.s. or _____ acre feet
amount _____ c.f.s. or _____ acre feet
Total claimed _____ c.f.s. or _____ acre feet

b. Explain the purpose for which the water has been used and the time during the year when you have used

the right claimed:

use irrigation period of use from March 1 to October 31 (both dates inclusive)
use domestic period of use from January 1 to December 31 (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive)

4. Description of diverting works:

- a. Surface water diversion dam and/or headgate: material it composed of _____
length is _____ feet; height is _____ feet;
width at bottom is _____ feet; width at top is _____ feet; explain any increase in diversion capacity since structure was first built, giving dates and estimated capacities if known: _____

- b. Underground water diverting works: Is well flowing or pumped pumped; depth of well is 485 feet; diameter of well is 14 to 16 inches; type of pump is Fairbanks-Morse Pemona; capacity of pump is 900 g.p.m.; name and address of well driller is Frank P. Conley
Star Route, Declo, Idaho

43-4041

attach well logs if available; has there been any change in pump or motor since well was first completed _____: if so, give dates and explain.

Please explain any changes or increase in size of conveying system since water was first appropriated, giving date and dimensions if possible.

If feeder canal is used give maximum carrying capacity _____ c.f.s. If reservoir is off stream, describe location of reservoir by 40-acre subdivisions _____

has there been any enlargement of the reservoir since it was first built_____ If so, give dates and describe_____

5. a. Where water is used for irrigation, describe area irrigated by 40-acre subdivisions and give total acres.

[illegible]

Total number of acres to be irrigated 328.60

Explain any significant increase in area irrigated since first use, give dates and acreages if known _____

b. Do you get water through a ditch owned by several users? NO If yes, give the name of the ditch
The other users and their respective
interests in the ditch are (if known) _____

6. When water is used for stock watering, give number of each kind of stock watered Cattle - up to
300 head

7. Where water is used for domestic or municipal purposes give number of families served 2 families
name of town supplied _____

8. Where water is used for other purposes not above enumerated, give the nature of use, the extent of use,
and any details regarding the initiation of the right or subsequent later expansion. Be as specific as possible,
giving dates and quantities. _____

9. Remarks: please explain any details of your claim which you feel need clarification or additional explanation
This well was drilled under Permit No. 22034 issued by the Department
of Reclamation of the State of Idaho. An Order of Cancellation of
Permit No. 22034 was entered by the State Reclamation Engineer on
October 5, 1967. This claim is made without prejudice to any rights
existing under Permit No. 22034.
The land to which the claimed water rights are appurtenant is owned
by Ivan M. Harris and Golda Harris, husband and wife, Ivan M. Harris,
Jr. and Lallah Harris, husband and wife, and Lawrence Hettinger and
Edna Hettinger, husband and wife, subject to the contract purchasers'
interest of Ben S. Paxton and Maxine C. Paxton, husband and wife,
under Real Estate Agreement made the 3rd day of November, 1965, and
this claim is made for the benefit of both the contract sellers and
the contract purchasers of said land.

State of Idaho

County of Ada

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the
foregoing claim to a water right, together with all attached information, and that the matters and facts therein are
true to the best of the affiant's knowledge.

Sworn to before me this 8th

Ivan M. Harris
Ivan M. Harris, Clerk

day of July, 19 71

William J. Ruyant
Notary Public
Residing at Boise, Idaho

My commission expires 7-17-75

Fee # 6913

For Department Use Only

Received by gj Date 7-13-71

Exception filed by: _____

Forwarded to
claimant by: _____

Date _____

Prelim. check by gj Date 7-13-71

Fee received by gj Date 7/13/71 Fee \$ 11.00

Approved for publication by _____

Published in South Idaho Press Date 8-3-71

43-4091

IN THE MATTER OF:)

CLAIM TO A WATER RIGHT BY)
IVAN M. HARRIS UNDER IDAHO)
CODE SECTION 42-225a.)

A F F I D A V I T

STATE OF IDAHO)

COUNTY OF ADA)

ss.

IVAN M. HARRIS, being first duly sworn, on oath deposes and says:

I made Desert Land Entry on April 9, 1954 on Lots 1, 2, 3 and 4 (W $\frac{1}{2}$ W $\frac{1}{2}$), the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and the E $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 30, Township 12 South, Range 28 East, B. M., in Cassia County, Idaho, under Desert Land Entry No. Idaho 01986. I reclaimed the lands in that Desert Entry and was granted a patent for those lands by the United States of America on January 2, 1957.

In order to obtain water for the irrigation of said described lands, I had two wells drilled by Frank P. Conley, a licensed well driller (License No. 76) whose residence at that time was at Declo, Idaho. One such well was drilled in Lot 4 (SW $\frac{1}{4}$ SW $\frac{1}{4}$) of said Section 30 at a point approximately 20 feet north and 900 feet east from the southwest corner of said Section 30. The diameter of this well was 16 inches and it was drilled to a total depth of 540 feet. This well was cased to a depth of 185 feet with 16-inch casing and from 185 feet to a depth of 346 feet with 14-inch casing. A Fairbanks-Morse Pamona pump with a U. S. Motor (100 horsepower) was installed

43-4041

in this well. This well produced a flow of 120 miners inches or more from the time it was first placed in operation in May of 1956 until I sold my interest in the property in 1965.

The other well was drilled in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 30 at a point approximately 40 feet north and 30 feet west from the southeast corner of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 30. The diameter of this well was 14 inches to a depth of 292 feet and 12 inches from 292 feet to 357 feet and 10 inches from 357 feet to 485 feet, the latter being the total depth of the well. A Fairbanks-Morse Pamona pump with a U. S. Motor (75 horsepower) was installed in this well. This well produced a flow of 100 miners inches or more from the time it was first placed in operation in May of 1955 until I contracted to sell my interest in the property in 1965.

Water is distributed from the well in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 30 by means of a main ditch extending north a distance of 3,960 feet, more or less, having a depth of 2 feet, a bottom width of 3 feet and a top width of 6 feet. Smaller ditches extend westerly from this main ditch.

Water from the well in Lot 4 of said Section 30 is distributed by means of a main ditch extending north from the well a distance of approximately 5,280 feet, having a depth of 2 feet, a bottom width of 3 feet and a top width of 6 feet. Smaller ditches extend easterly and westerly from this main ditch.

Irrigation of the lands in the Desert Entry commenced on or before May 15, 1955 using water from the well in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 30. The full 100 miners inch flow of the well was used for irrigation commencing on or before May 15, 1955, and since that date has been used for the irrigation of Lots 1, 2 and 3, the E $\frac{1}{2}$ NW $\frac{1}{4}$ and the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 30.

Irrigation of the lands in the Desert Entry commenced on or before May 15, 1956 using water from the well in Lot 4 of said Section 30. The full 120 miners inch flow of the well was used for irrigation commencing on or before May 15, 1956, and since that date has been used for the irrigation of Lots 1, 2, 3 and 4, the E $\frac{1}{2}$ NW $\frac{1}{4}$ and the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 30.

Ivan M. Harris
Ivan M. Harris

SUBSCRIBED AND SWORN to before me this 8th day of July, 1971.

William J. Ringert
Notary Public for the State of Idaho
Residing at Boise, Idaho.

43 4041

43-4041

February 17, 1972

Mr. Ben Paxton
Malta, Idaho 83342

Dear Mr. Paxton:

Following your telephone call today, I have checked the files of this office concerning the two wells apparently drilled by Ivan M. Harris in 1935 and 1936 on lands in Section 30; Twp. 12S, Rge. 28E, S.M. Our records show that Permit No. 22034 was issued to Mr. Harris and he had until 1967 within which to drill the wells and apply the water to beneficial use. The Proof of Completion of Works was submitted, but it was indicated at that time, that there had been a failure of some of the pumping equipment and that he was not then using the water.

On August 10, 1967, we notified him by certified mail at his home address in Boise that the permit would be cancelled unless Proof of Beneficial Use was received before September 19, 1967. The return receipt card was signed by Mr. Harris. No further information was received from him, and therefore, on October 3, 1967, the permit was permanently cancelled. This office has no authority to reinstate a permit, except upon the finding of an error on the part of the department. You are probably aware that Mr. Harris has filed Claim Nos. 43-4040 and 43-4041 covering these two wells in which he has claimed the right to 2.4 cfs of water from the well in Lot 4 and 2.0 cfs of water from the well in the NE1/4SW1/4, Section 30; Twp. 12 Rge. 28E, S.M.

If you desire further information concerning these wells, please let me know.

Very truly yours,

R. KEITH HIGGINSON
Director

RKH:mjl

43-4041