

09/17/2009

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

RIGHT NUMBER: 73-167

NAME AND ADDRESS: JUDI A WHITTIER
HC 62 BOX 2161
MAY ID 83253

LARRY D WHITTIER
HC 62 BOX 2161
MAY ID 83253

SOURCE: PAHSIMEROI RIVER

TRIBUTARY: SALMON RIVER

QUANTITY: 3.200 CFS

PRIORITY DATE: 01/04/1904

POINT OF DIVERSION:

T12N R24E S32 SWNW Within CUSTER County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	3.200 CFS

PLACE OF USE:

IRRIGATION in CUSTER County

T12N R24E S21	NENE	3.30	T12N R24E S21	NWNE	33.00
T12N R24E S21	SWNE	40.00	T12N R24E S21	SENE	26.00
T12N R24E S21	NENW	40.00	T12N R24E S21	SENW	37.00

179.3 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 357.3 acres in a single irrigation season. Combined Right Nos.: 73-167, 73-2058, 73-2169, & 73-10003

The rights listed below are limited to the irrigation of a combined total of 179.3 acres in a single irrigation season. Combined Right Nos.: 73-167 & 73-2058.

This right is limited to the irrigation of 160.0 acres within the place of use described above 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 - Decreed

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

Idaho Department of Water Resources



Adjudication Recommendation

73-167

(IRRIGATION)

Legend

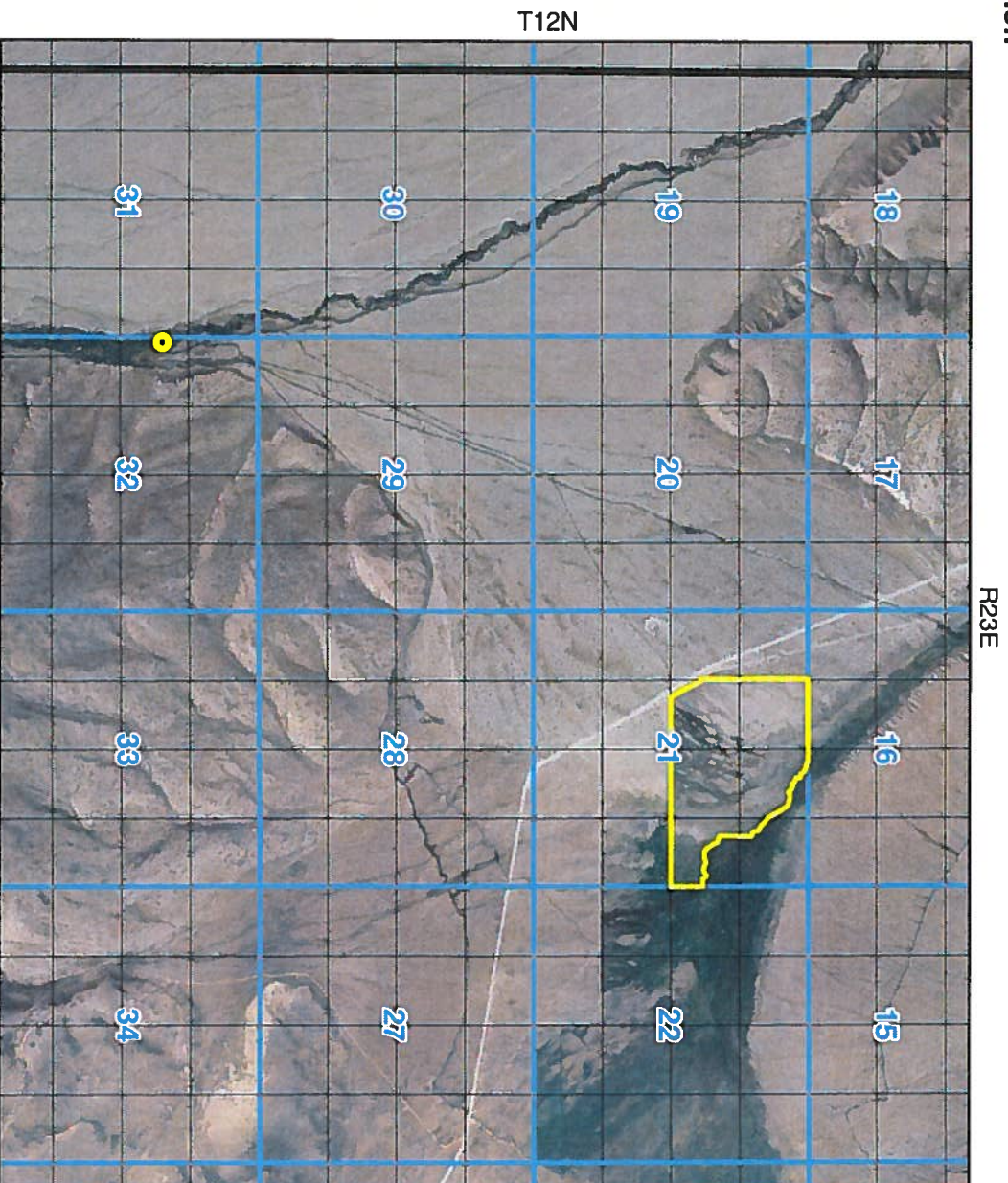
- Point of Diversion
- Place of Use
- State Outline
- Townships
- PLS Sections
- Quarter Quarters



Custer County
IDWR Basin 73

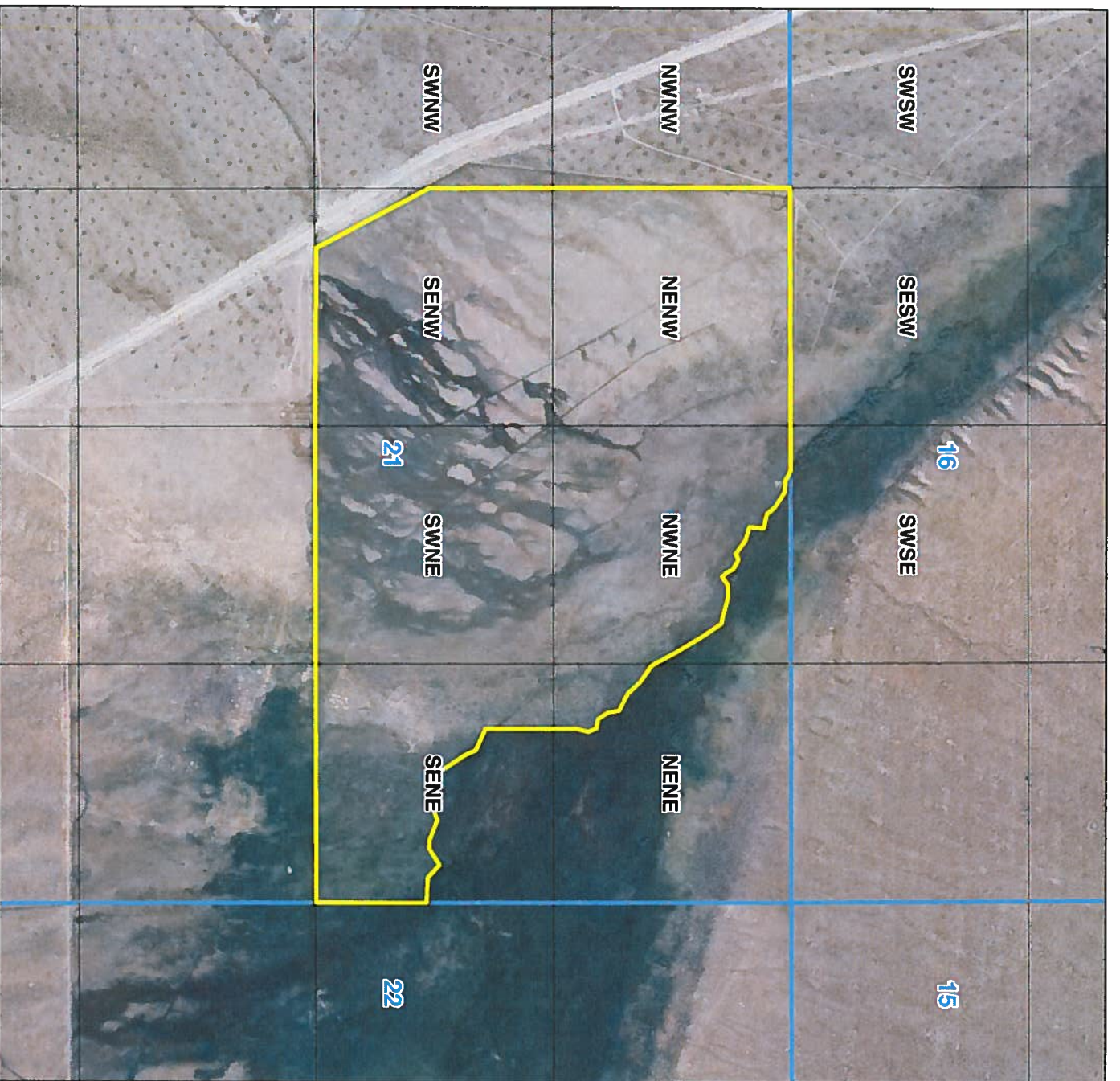


0 0.5 1 2 Miles





73-167



8/12/2009 MVB initial hearing

75-167 et al (Whittier)

Larry said he mailed original amended claims on 8-1-2009. I asked him to sign these just in case.

Please send maps of new recommendations with ADRs to Judi & Larry, especially 73-10003.

ADR deadline 9/30/09

8-31-09:

Called 876-4474 8:50 am. No answering machine

9-1-09:

Called @ 11:12 am No answer or answering machine

9-2-09:

called and got someone on phone & left message w/ her

- lower PDD is downstream from Whitworth
- upper headgate is concrete (serves upper field)



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

July 21, 2009

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

LARRY D WHITTIER
JUDI A WHITTIER
HC 62 BOX 2161
MAY ID 83253

RE: Objection to Snake River Basin Adjudication (SRBA) recommendation 73-167

Dear Mr. and Ms. Whittier,

I have recently been asked to review the objection you filed to the recommendation to water right 73-167.

After reviewing the claim file and your objection, I feel that I can support changing the recommendation to reflect the requested diversion rate of 3.2 cfs.

However, I have not changed the recommended place of use. Your objection states that the place of use description is wrong but I am not sure what additional acreage is currently and has been historically irrigated.

I am enclosing a copy of the updated recommendation for your review. If it looks ok to you, then let me know and I will send out the appropriate settlement documents for signature. If we get the documentation submitted to the court before the initial hearing date, we can have the initial hearing canceled.

If you still disagree with the recommendation, I will be happy to discuss the place of use issues with you at the initial hearing.

Please feel free to contact me if you have any questions.

Sincerely,

Craig L. Saxton
Water Right Supervisor
Adjudication Bureau
208.287.4916

08/07/2009

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

RIGHT NUMBER: 73-167

NAME AND ADDRESS: JUDI A WHITTIER
HC 62 BOX 2161
MAY ID 83253

LARRY D WHITTIER
HC 62 BOX 2161
MAY ID 83253

SOURCE: PAHSIMEROI RIVER

TRIBUTARY: SALMON RIVER

QUANTITY: 3.200 CFS

PRIORITY DATE: 01/04/1904

POINT OF DIVERSION:

T12N R24E S32 SWNW Within CUSTER County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	3.200 CFS

PLACE OF USE: IRRIGATION in CUSTER County

T12N R24E S21	NENE	27.00	T12N R24E S21	NWNE	37.00
T12N R24E S21	SENE	38.00	T12N R24E S21	NENW	18.00

120 ACRES TOTAL

Right Nos. 73-167 and 73-10003 are limited to the irrigation of a combined total of 364 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 - Decreed

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

a
RECEIVED

MAR 21 2007

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)

A. Subcase 73-167
(Insert water right number)

Case No. 39576)
_____)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Larry D Whittier

Address: HC 62 Box 2161

May Id. 83253

Daytime Phone: 208 876 4174

Name & Address of Attorney, if any:

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

Name: Larry D Whittier & Judi A. Whittier

Address: HC 62 Box 2161

May Id. 83253

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 Mar 17, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

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

Name: Larry D Whitten
Address: HCG 2 Box 2161
May Id. 83253

3. Copies to:

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

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of Attorney General
PO Box 44449
Boise, ID 83711-4449

Signature of objector or attorney
mailing on Objector's behalf

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: 3.20 CFS
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point of Diversion**
Should be: _____
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: description is wrong
10. ☐ **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 OBJECTIONS(S): description is wrong

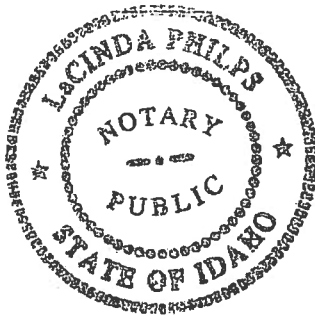
F.

VERIFICATION (must be completed)

State of Idaho)
)ss.
County of Custer)

Larry D. Whittier, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.



Larry D Whittier
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

March 19, 2007

Linda Philips

Notary Public for Idaho

Residing at: Challis, Idaho

My Commission Expires: 3-19-07

2009 JUL 08 PM 03:44
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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	)	NOTICE SETTING SUBCASE(S)	
	)	FOR INITIAL HEARING	
Case No. 39576	)		
		SUBCASE NOS: 73-00167	73-02058
		73-02169	73-10003

The Initial Hearing for this subcase will be held before
Special Master TERRENCE A. DOLAN

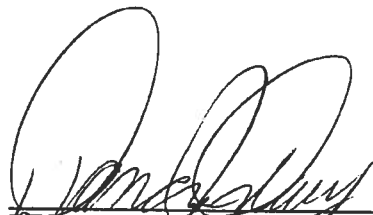
WEDNESDAY, AUGUST 12, 2009 at 09:00 AM (M)
CUSTER COUNTY COURTHOUSE
801 MAIN
CHALLIS, ID

ATTENDANCE IS MANDATORY. All parties are required to
attend and must have full settlement authority.

At the Initial Hearing you will have an opportunity
to meet with a representative of the Idaho Department of
Water Resources (IDWR) and/or the objector in an attempt
to reconcile any difference between the claim and the
Director's Report. Bring any and all information you
believe is relevant to your claim and/or objection. If
the claim cannot be reconciled at the Initial Hearing,
the court will set the subcase(s) for trial within 45
days of the Initial Hearing. IF YOU INTEND TO AMEND YOUR
CLAIM, YOU MUST DO SO AT OR BEFORE THE INITIAL HEARING.

Settlement documents must be filed with the court by
AUGUST 07, 2009 or hearing will not be vacated.

Dated: JULY 08, 2009



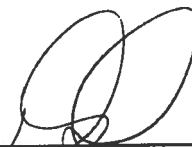
DIANA R DELANEY
Deputy Clerk
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the NOTICE SETTING
SUBCASE(S) FOR INITIAL HEARING was mailed on JULY 08, 2009,
with sufficient first-class postage to the following:

JUDI A WHITTIER
LARRY D WHITTIER
HC 62 BOX 2161
MAY, ID 83253
Phone: 208-876-4474

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098



Deputy Clerk

05/08/2006

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

RIGHT NUMBER: 73-167

NAME AND ADDRESS: JUDI A WHITTIER
HC 62 BOX 2161
MAY ID 83253

LARRY D WHITTIER
HC 62 BOX 2161
MAY ID 83253

SOURCE: PAHSIMEROI RIVER

TRIBUTARY: SALMON RIVER

QUANTITY: 2.400 CFS

PRIORITY DATE: 01/04/1904

POINT OF DIVERSION:

T12N R24E S32 SWNW Within CUSTER County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/01 10/31

2.400 CFS

PLACE OF USE: IRRIGATION Within CUSTER County

T12N R24E S21	NENE	27.00	T12N R24E S21	NWNE	37.00
T12N R24E S21	SENE	38.00	T12N R24E S21	NENW	18.00

120 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 - Decreed

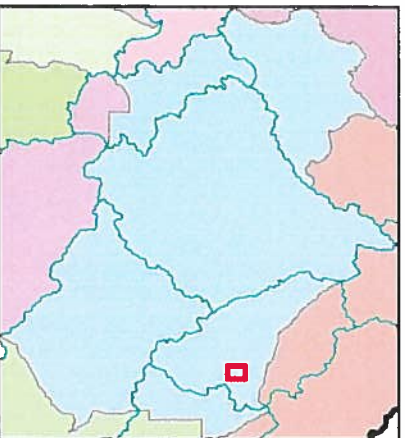
Idaho Department of Water Resources



Adjudication Recommendation
73-167
(IRRIGATION)

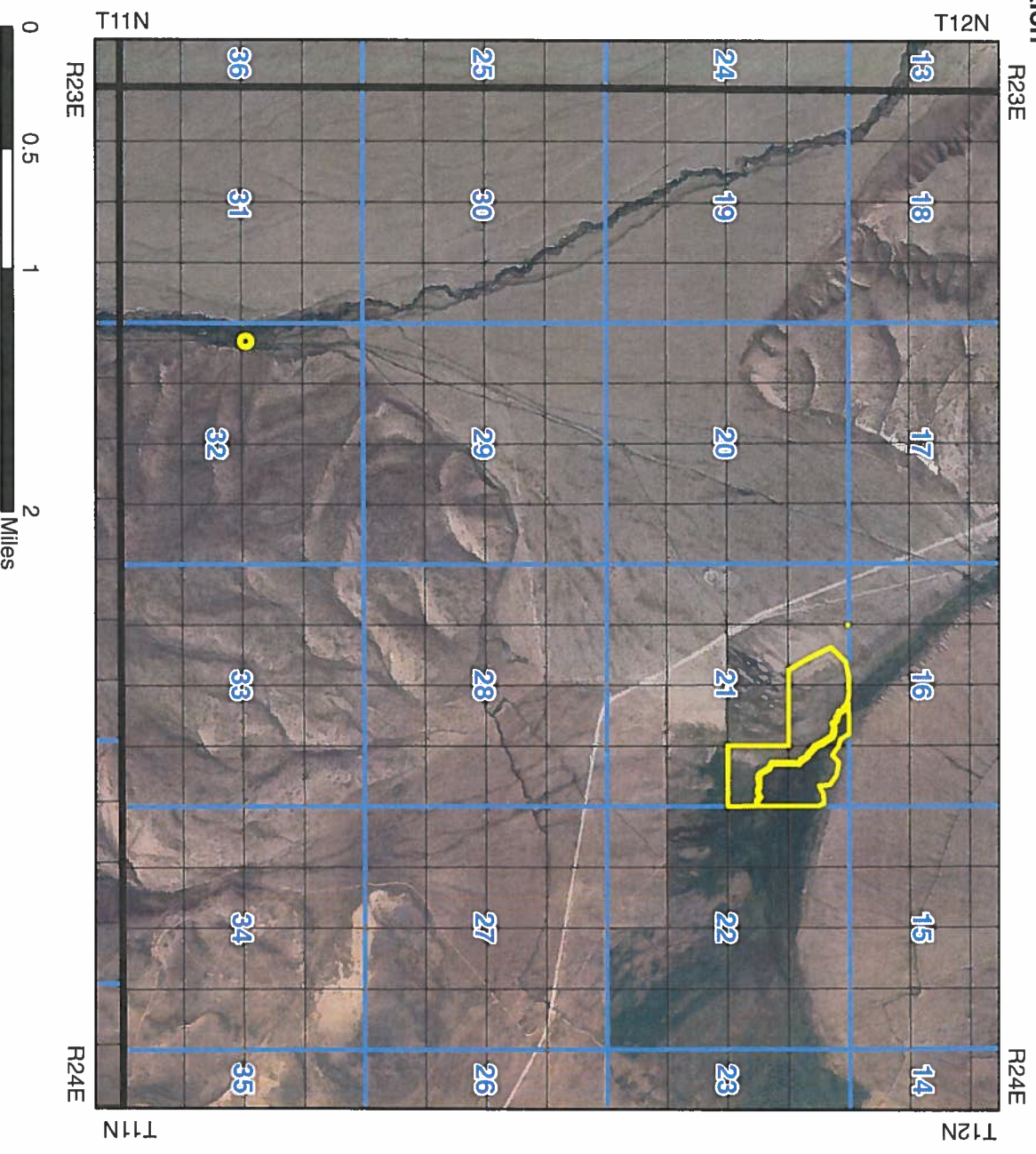
Legend

- Point of Diversion
- Place of Use
- State Outline
- Townships
- PLS Sections
- Quarter Quarters



Custer County
IDWR Basin 73

Prepared by Craig Saxton
On July 21, 2009
2004 Aerial Photography



Split Analysis

Water Right Number: 73-167

Division Rate: 3.2 CFS

Reviewer Name: R. Brown

Date: 5/8/2006

Acreage Analysis

[illegible]

Date: 38845

	(120.0 ac & 2.40 cfs)
	Other (40.0 ac & 0.80 cfs)
73-167	(160.0 ac & 3.20 cfs)

[illegible]

GPS FIELD DATA FORM - IDWR, Water Distribution

Water District No.: 73 Water Dist. Div. No.: _____
(if applicable)

Date: 9-20-01 Examiner: Bob Foster

Stream / Source: Patsimeroi River

Diversion Type: ☒ diversion ☐ exchange ☐ flow station ☐ reservoir

Diversion Name: (Alger headgate) Whittier

Point of Diversion: _____

Access: _____

USGS Map: _____
(name) A0000768? (number)

GPS Site Tag No.: A000768 GPS File Name: P092015A

GPS Tag Location: headgate

GPS Offset: _____

Watermaster Control: ☒ YES ☐ NO

Diversion Description lockable headgate, three foot rectangular weir
washed out, needs replaced

Measurement: NONE

Water Right Owner: Hatch, Whitworth

Current Water Rights: _____

BLM A000768?

The said water to be diverted on the southwest quarter of southwest quarter of Section 32, Township 12 North, Range 24 East Boise Meridian.

73 0167 ✓ John C. Ross from Pahsimeroi River 160 inches or 3 2/10 cubic feet per second of time from JANUARY 4, 1904, appurtenant to the east half of the northeast quarter, and the northeast quarter of the northwest quarter of Section 21, Township 12 North, Range 24 East Boise Meridian; the northwest quarter of the northwest quarter of Section 22, Township 12 North, Range 24 East Boise Meridian, in the State of Idaho.

The same to be diverted on the southwest quarter of southwest quarter of Section 32, township 12 North, Range 24 East Boise Meridian.

73 0168 ✓ Mason Allen from Pahsimeroi River 160 inches or 3 2/10 cubic feet per second of time from AUGUST 31, 1907, appurtenant to the south half of the southeast quarter of Section 20, and the southeast quarter of the southeast quarter of Section 19, and the northeast quarter of the northeast quarter of Section 30, Township 11 North, Range 24 East Boise Meridian, in the State of Idaho.

The same to be diverted on the northeast quarter of northeast quarter of Section 11, Township 10 North, Range 24 East of Boise Meridian.

73 0169 ✓ Eugene E. McJilton from Pahsimeroi River 160 inches or 3 2/10 cubic feet per second of time from JULY 27, 1907, appurtenant to the northeast quarter of the northwest quarter, and the west half of the northwest quarter of Section 29, and the southeast quarter of the northeast quarter of Section 30, Township 11 North, Range 24 East Boise Meridian, in the State of Idaho.

The same to be diverted on the northeast quarter of northeast quarter of Section 11, Township 10 North, Range 23 East Boise Meridian.

73 0170 ✓ William J. Sharp from Pahsimeroi River 160 inches or 3 2/10 cubic feet per second of time from MAY 22, 1905, appurtenant to the south half of the southeast quarter of Section 32, Township 11 North, Range 24 East Boise Meridian, and Lots 1 and 2 Section 5, Township 10 North, Range 24 East Boise Meridian, in the State of Idaho.

JUL 30 1996