

RECEIVED

SEP 17 2012

DEPARTMENT OF  
WATER RESOURCES

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

In Re SRBA

Case No. 39576

A. Subcase 63-07533

(Insert water right number)

**STANDARD FORM 1  
OBJECTION**

Please fill in the following information:

**B. NAME AND ADDRESS OF PERSON OBJECTING**

Name: United States of America acting through the Department of Interior,  
Bureau of Land Management, Idaho State Office

Address: 1387 South Vinnell Way  
Boise, Idaho 83709-1657

Daytime Phone: (208) 373-3831 (Fred Price)

Name & Address of Attorney, if any:

David L. Negri (208) 334-1936 phone, (208) 334-1414 fax  
United States Department of Justice  
Environment and Natural Resource Division  
General Litigation Section  
550 West Fort Street, MSC 033  
Boise, Idaho 83724

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

Name: Basin and Range Resource Company, LLC

Address: 3480 GS Richards Blvd #101  
Carson City, NV 89703

**D.** I object to the following elements as recommended in the Amended Director's Report.

(Please check the appropriate box(es)).

1. ☐ **Name and Address**  
Should be: \_\_\_\_\_
2. ☐ **Source**  
Should be: \_\_\_\_\_
3. ☐ **Quantity**  
Should be: \_\_\_\_\_
4. ☐ **Priority Date**  
Should be: \_\_\_\_\_
5. ☐ **Point(s) of Diversion**  
Should be: \_\_\_\_\_
6. ☐ **Instream Flow Description**  
Should be: \_\_\_\_\_
7. ☐ **Purpose(s) of Use**  
Should be: \_\_\_\_\_
8. ☐ **Period of Year**  
Should be: \_\_\_\_\_
9. ☒ **Place of Use**  
Should be: See attached

11. **I object because:**

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

**E. REASONS SUPPORTING OBJECTION(S):**

The ADR contains a typographical error in the POU legal descriptions: R06W should be R05W. The correction of this typo creates a POU which contains both private and federal public land (T06N, R05W, S24, NWSW). The description should be specific enough to exclude federal public land (i.e. a remark should be added to ensure only private land is being claimed).

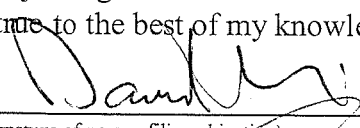
**F.**

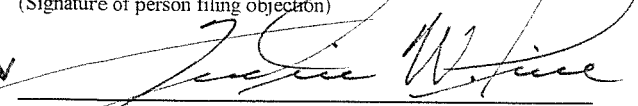
**VERIFICATION** (Must be Completed)

State of Idaho )  
                              ) ss.  
County of Ada )

Fredric W. Price, Water Rights Specialist, duly sworn, upon oath, deposes and says:  
(Name of person filing objection)

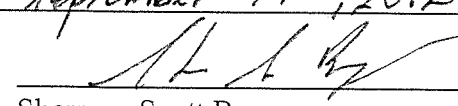
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

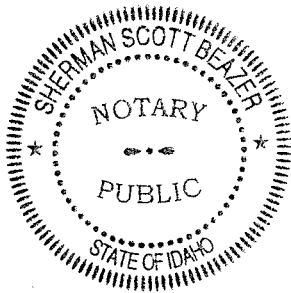
  
(Signature of person filing objection)

  
(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

September 14<sup>th</sup>, 2012

  
Sherman Scott Beazer



Notary Public for Idaho  
Residing at: Boise, ID  
My Commission Expires: 12-10-2015

## 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 Sept. 14, 2012, 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  
P.O. Box 2707  
Twin Falls, ID 83303-2707

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

Basin and Range Resource Company, LLC  
3480 GS Richards Blvd #101  
Carson City, NV 89703

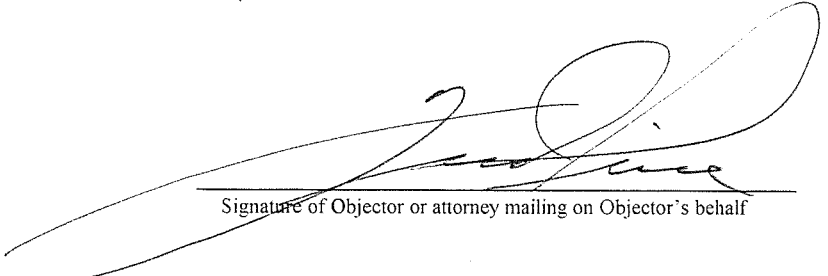
Dana L. Hofstetter, ISB #3867  
Hofstetter Law Office, LLC  
608 W. Franklin St.  
Boise, ID 83702

3. Copies to:

IDWR Document Depository  
P.O. Box 83720  
Boise, ID 83720-0098

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

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



Signature of Objector or attorney mailing on Objector's behalf

08-23-2012

RIGHT NUMBER: 63-7533

BASIN AND RANGE RESOURCE  
COMPANY LLC  
C/O DOROTHY TIMIAN PALMER  
3480 G S RICHARDS BLVD #101  
CARSON CITY NV 89703

Source:  
GROUND WATER

0.450 CFS  
27.000 AFY

~~The total instantaneous diversion of water from all points of diversion under Rights 63-3182, 63-3583, 63-7177, 63-7523, 63-31839, 63-31840, 63-31841, 63-31842 63-31854 and 63-31855 shall not exceed 20.8 cfs, nor a total combined annual volume of 5105.5 af for the irrigation of 920 acres and dairy uses.~~

POINT OF DIVERSION:

T06N R05W S23 NESE  
Within PAYETTE County  
T06N R05W S23 NENE  
Within PAYETTE County  
T06N R05W S23 NNNE  
Within PAYETTE County  
T06N R05W S23 EWSN  
Within PAYETTE County  
T06N R05W S23 NENW  
Within PAYETTE County  
T06N R05W S23 ESEN  
Within PAYETTE County  
T06N R05W S23 NENS  
Within PAYETTE County  
T06N R05W S23 NNESE  
Within PAYETTE County  
T06N R05W S23 EWSN  
Within PAYETTE County  
T06N R05W S23 NENW  
Within PAYETTE County  
T06N R05W S23 ESEN  
Within PAYETTE County  
T06N R05W S23 NENE  
Within PAYETTE County  
T06N R05W S23 ESEN  
Within PAYETTE County  
T06N R05W S24 NENW  
Within PAYETTE County

~~Rights 63-3182, 63-3583, 63-7177, 63-31839, 63-31840, 63-31841, 63-31842, 63-31854 and 63-31855 are also diverted through the points of diversion described above.~~

Purpose of use  
STOCKWATER

Period of use:  
01/01 12/31

Quantity:

- Typographical error in POU.
- Fix of typo creates a new mixed ownership POU (NWSW, S24) (BLM and private).
- Claimant is not authorized to graze federal public land.
- Place of use should be clarified. Such that it is clear only private land is intended.

# ADR

## 08-23-2012

**PLACE OF USE:**

STOCKWATER

within PAYETTE County

The remark underlined below under the place of use element would resolve BLM's objection as was used in Amended Approval of Transfer # 77052.

~~T06N R05W S14 SESE~~  
~~T06N R05W S14 SWSE~~  
~~T06N R05W S14 SSESE~~  
~~T06N R06W S23 NENE~~  
~~T06N R05W S23 NWNE~~  
~~T06N R05W S23 SWNE~~  
~~T06N R05W S23 SENE~~  
~~T06N R05W S23 NENW~~  
~~T06N R05W S24 NWNW~~  
~~T06N R05W S24 SWNW~~  
~~T06N R06W S23 NESE~~  
~~T06N R06W S24 NWSW~~

Should be R05W for these POUs as licensed.

The place of use within the NWSW of S24, T06N, R05W is limited to the west half of that quarter-quarter.

**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.

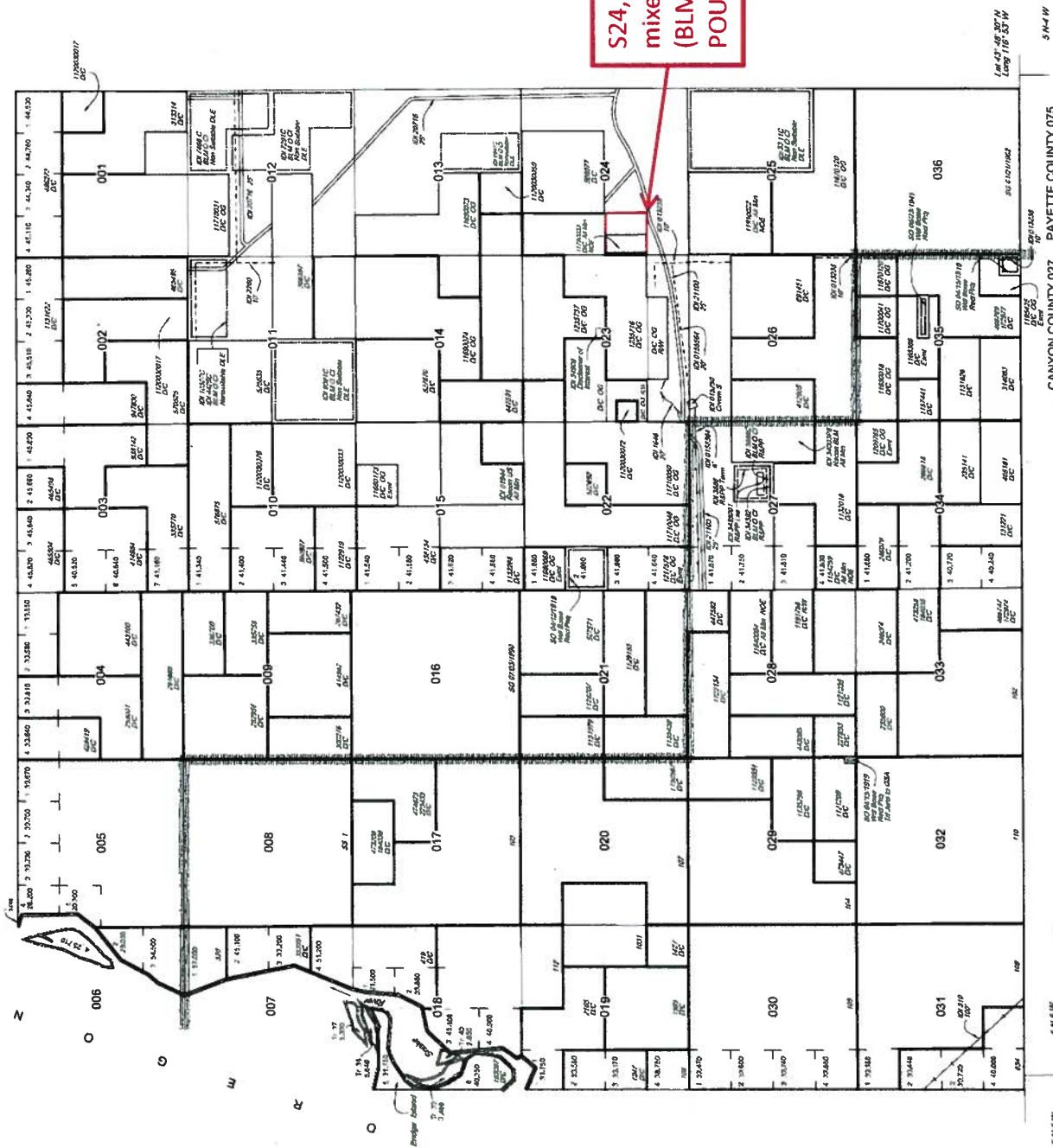
**EXPLANATORY MATERIAL:** BASIS OF CLAIM - License

Stockwater use is for 2,000 head cattle.

~~Stockwater use is for 16,698 dairy cattle.~~

# TOWNSHIP 6 NORTH RANGE 5 WEST OF THE BOISE MERIDIAN, IDAHO

BOISE DISTRICT SEC-3



S24, NWSW is a mixed ownership (BLM and private) POU.

STATUS OF PUBLIC DOMAIN LAND AND MINERAL TITLES

## MT PLAT

| INDEX TO SEGREGATED TRACTS |     |     |     |
|----------------------------|-----|-----|-----|
| TRACT NO.                  | 1   | 2   | 3   |
| 1                          | 1   | 2   | 3   |
| 2                          | 4   | 5   | 6   |
| 3                          | 7   | 8   | 9   |
| 4                          | 10  | 11  | 12  |
| 5                          | 13  | 14  | 15  |
| 6                          | 16  | 17  | 18  |
| 7                          | 19  | 20  | 21  |
| 8                          | 22  | 23  | 24  |
| 9                          | 25  | 26  | 27  |
| 10                         | 28  | 29  | 30  |
| 11                         | 31  | 32  | 33  |
| 12                         | 34  | 35  | 36  |
| 13                         | 37  | 38  | 39  |
| 14                         | 40  | 41  | 42  |
| 15                         | 43  | 44  | 45  |
| 16                         | 46  | 47  | 48  |
| 17                         | 49  | 50  | 51  |
| 18                         | 52  | 53  | 54  |
| 19                         | 55  | 56  | 57  |
| 20                         | 58  | 59  | 60  |
| 21                         | 61  | 62  | 63  |
| 22                         | 64  | 65  | 66  |
| 23                         | 67  | 68  | 69  |
| 24                         | 70  | 71  | 72  |
| 25                         | 73  | 74  | 75  |
| 26                         | 76  | 77  | 78  |
| 27                         | 79  | 80  | 81  |
| 28                         | 82  | 83  | 84  |
| 29                         | 85  | 86  | 87  |
| 30                         | 88  | 89  | 90  |
| 31                         | 91  | 92  | 93  |
| 32                         | 94  | 95  | 96  |
| 33                         | 97  | 98  | 99  |
| 34                         | 100 | 101 | 102 |
| 35                         | 103 | 104 | 105 |
| 36                         | 106 | 107 | 108 |
| 37                         | 109 | 110 | 111 |
| 38                         | 112 | 113 | 114 |
| 39                         | 115 | 116 | 117 |
| 40                         | 118 | 119 | 120 |
| 41                         | 121 | 122 | 123 |
| 42                         | 124 | 125 | 126 |
| 43                         | 127 | 128 | 129 |
| 44                         | 130 | 131 | 132 |
| 45                         | 133 | 134 | 135 |
| 46                         | 136 | 137 | 138 |
| 47                         | 139 | 140 | 141 |
| 48                         | 142 | 143 | 144 |
| 49                         | 145 | 146 | 147 |
| 50                         | 148 | 149 | 150 |
| 51                         | 151 | 152 | 153 |
| 52                         | 154 | 155 | 156 |
| 53                         | 157 | 158 | 159 |
| 54                         | 160 | 161 | 162 |
| 55                         | 163 | 164 | 165 |
| 56                         | 166 | 167 | 168 |
| 57                         | 169 | 170 | 171 |
| 58                         | 172 | 173 | 174 |
| 59                         | 175 | 176 | 177 |
| 60                         | 178 | 179 | 180 |
| 61                         | 181 | 182 | 183 |
| 62                         | 184 | 185 | 186 |
| 63                         | 187 | 188 | 189 |
| 64                         | 190 | 191 | 192 |
| 65                         | 193 | 194 | 195 |
| 66                         | 196 | 197 | 198 |
| 67                         | 199 | 200 | 201 |
| 68                         | 202 | 203 | 204 |
| 69                         | 205 | 206 | 207 |
| 70                         | 208 | 209 | 210 |
| 71                         | 211 | 212 | 213 |
| 72                         | 214 | 215 | 216 |
| 73                         | 217 | 218 | 219 |
| 74                         | 220 | 221 | 222 |
| 75                         | 223 | 224 | 225 |
| 76                         | 226 | 227 | 228 |
| 77                         | 229 | 230 | 231 |
| 78                         | 232 | 233 | 234 |
| 79                         | 235 | 236 | 237 |
| 80                         | 238 | 239 | 240 |
| 81                         | 241 | 242 | 243 |
| 82                         | 244 | 245 | 246 |
| 83                         | 247 | 248 | 249 |
| 84                         | 250 | 251 | 252 |
| 85                         | 253 | 254 | 255 |
| 86                         | 256 | 257 | 258 |
| 87                         | 259 | 260 | 261 |
| 88                         | 262 | 263 | 264 |
| 89                         | 265 | 266 | 267 |
| 90                         | 268 | 269 | 270 |
| 91                         | 271 | 272 | 273 |
| 92                         | 274 | 275 | 276 |
| 93                         | 277 | 278 | 279 |
| 94                         | 280 | 281 | 282 |
| 95                         | 283 | 284 | 285 |
| 96                         | 286 | 287 | 288 |
| 97                         | 289 | 290 | 291 |
| 98                         | 292 | 293 | 294 |
| 99                         | 295 | 296 | 297 |
| 100                        | 298 | 299 | 300 |

B 07560 Black Canyon Irrigation Dam (Act of Congress 1917)  
 Secs 1, 2, 10, 11, 13, 20, 21, 22, 27, 28, 29, 34, 35  
 PLO 2016 04/02/1963 Wild Deer Trail NWR, et al. owned  
 in Snake River owned by the US  
 Secs 6, 7, 18  
 ID 3885 RUPPI Landfill Use Term 02/01/1994  
 Sec 27, SWNE  
 ID 3884 Snake Act 02/04/1999  
 Sec 27, SESE, NESE  
 See Cadastral Survey dated 01/23/2013 to identify Snake River lands, awarded to the State of Idaho by election CIV 97-0424-S-BLW  
 Sec 18, 21, Cable Group No 1, 2, 3, Cable Group No 2, 23a, 1, 23a, 2, 23a, 3, 23a, 4, 23a, 5

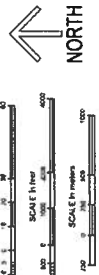
FOR ORDERS EFFECTING DISPOSAL OR USE OF UNIDENTIFIED LAND REFER TO INDEX OF MISCELLANEOUS DOCUMENTS

|                                  |                       |          |        |
|----------------------------------|-----------------------|----------|--------|
| FILE REF:                        | CONV-0000000000000000 | BY:      | 1/1/19 |
| CONVERTED TO:                    | 1/1/19                | BY:      | 1/1/19 |
| LAST UPDATED:                    | 02/02/2012            | BY:      | 1/1/19 |
| DAVID P:                         | DAVID P:              | DAVID P: | 1/1/19 |
| PORTED TO PUBLIC RECORD:         | JAN 2, 2012           | BY:      | 1/1/19 |
| PUBLIC LAND SURVEY SYSTEM (PLS): | BY:                   | 1/1/19   | 1/1/19 |
| BLM ORDER ACQUIRED:              | 04/07/2005            | BY:      | 1/1/19 |
| OTHER:                           | N/A                   | BY:      | 1/1/19 |
| PROJECTED COORDINATE SYSTEM:     | UTM ZONE 18N WAD 383  | BY:      | 1/1/19 |
| NOTES:                           |                       | BY:      | 1/1/19 |
| USE PLATS:                       |                       | BY:      | 1/1/19 |

Scale bar  
 T. 6 N  
 R. 5 W

DISCLAIMER: CANYON COUNTY 027 PAYETTE COUNTY 075

This plat is only a graphic display of the Bureau of Land Management's (BLM) records of this and its underlying survey data. Records herein do not reflect the changes which may have been effected by field measurements of one or more bodies of water. Refer to cadastral surveys for official boundaries.  
 The BLM does not warrant the accuracy of the data shown on this plat. The accuracy, reliability, or completeness of the data shown on this plat is not guaranteed.  
 No warranty is made by the Bureau of Land Management. The accuracy, reliability, or completeness of the data shown on this plat is not guaranteed.



U.S. Bureau of Land Management - Idaho State Office  
 1301 S. 9th Street, Boise, Idaho 83725  
 (208) 373-4000

# License

## State of Idaho Department of Water Resources

### WATER RIGHT LICENSE

License of Water Right No. 63-7533 Priority December 17, 1971 Amount 1.0 cfs <sup>0.45 cfs</sup>

THIS IS TO CERTIFY, that RAY OBENDORF  
of Parma, Idaho, has complied with the terms and conditions of Permit  
No. 63-7533 issued pursuant to Application for Permit dated December 17, 1971,  
and has submitted proof to the Department of Water Resources on November 4, 1976,  
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a  
capacity for the diversion of 1.0 cfs of water from a groundwater source,  
tributary to \_\_\_\_\_, and that the permit holder has applied to a beneficial use and  
established a right to use water as follows:

| Beneficial Use | Period of Use                               | Rate of Diversion      | Annual Volume       |
|----------------|---------------------------------------------|------------------------|---------------------|
| Stockwater     | from <u>January 1</u> to <u>December 31</u> | at <u>0.45</u> cfs and | <u>27</u> acre feet |
|                | from _____ to _____                         | at _____ cfs and       |                     |
|                | from _____ to _____                         | at _____ cfs and       |                     |

(both dates inclusive)

Subject, however, to the condition that no more than 0.45 cfs of water be diverted at any one time, and  
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose  
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed  
27 acre feet per year, said waters to be diverted within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 23,  
Twp. 6N, Rge. 5W, B.M. in the County of Payette

Description and location of place of use:

| Twp. | Range | Sec. | NE $\frac{1}{4}$ |                  |                  |                  | NW $\frac{1}{4}$ |                  |                  |                  | SW $\frac{1}{4}$ |                  |                  |                  | SE $\frac{1}{4}$ |                  |                  |                  | Totals |
|------|-------|------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|--------|
|      |       |      | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ |        |
| 6N   | 5W    | 23   |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  | X                |                  |                  |                  |        |
|      |       | 24   |                  |                  |                  |                  |                  |                  |                  |                  | X                |                  |                  |                  |                  |                  |                  |                  |        |
|      |       |      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |        |
|      |       |      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |        |
|      |       |      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |        |
|      |       |      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |        |
|      |       |      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |        |
|      |       |      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |        |
|      |       |      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |        |
|      |       |      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |        |

Total number of acres irrigated \_\_\_\_\_

The license for this claim  
describes the POUs in  
R05W.

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho  
Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

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

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 21 day of  
February, 19 78.

Director

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF TRANSFER NO.)  
71619 IN THE NAME OF BASIN AND )  
RANGE RESOURCE CO LLC )

2<sup>ND</sup> AMENDED PRELIMINARY ORDER

FINDINGS OF FACT

1. On February 25, 2005, the Department of Water Resources ("Department") approved Application for Transfer No. 71619 ("transfer") submitted in the name of Jim Scarrow. The transfer changed the nature of use of irrigation use to commercial and stockwater use for a dairy, added two new wells, and combined rights into a permissible place of use for irrigation.

2. The transfer approval included condition numbers 1 and 2 on all rights as follows:

1. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
2. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.

3. The Department has granted several extensions of time to complete transfer, from both the prior right holder and the current right holder, Basin and Range Resource Co., LLC, extending the completion date to February 25, 2013.

4. On November 5, 2010, the current right holder through its attorney Dana L. Hofstetter, asked the Department to rescind the transfer approval allowing the rights to revert back to irrigation use authorized before the transfer was approved. The request explained that the transfer changes have not been accomplished.

CONCLUSIONS OF LAW

1. The Department is authorized to issue Preliminary Orders changing a prior approval.
2. The current right holder having shown sufficient cause, the Department should issue a Preliminary Order rescinding the February 25, 2005 transfer approval.

ORDER

IT IS THEREFORE HEREBY ORDERED that Transfer No. 71619 approved on February 25, 2005 is **RESCINDED** and that the rights shall revert to the uses authorized prior to the transfer. This order does not preclude the opportunity for review and determination of the elements of these water rights in the ongoing Snake River Basin Adjudication.

Dated this 10<sup>th</sup> day of December, 2010.

SUPPORT DATA  
IN FILE # 63-3102

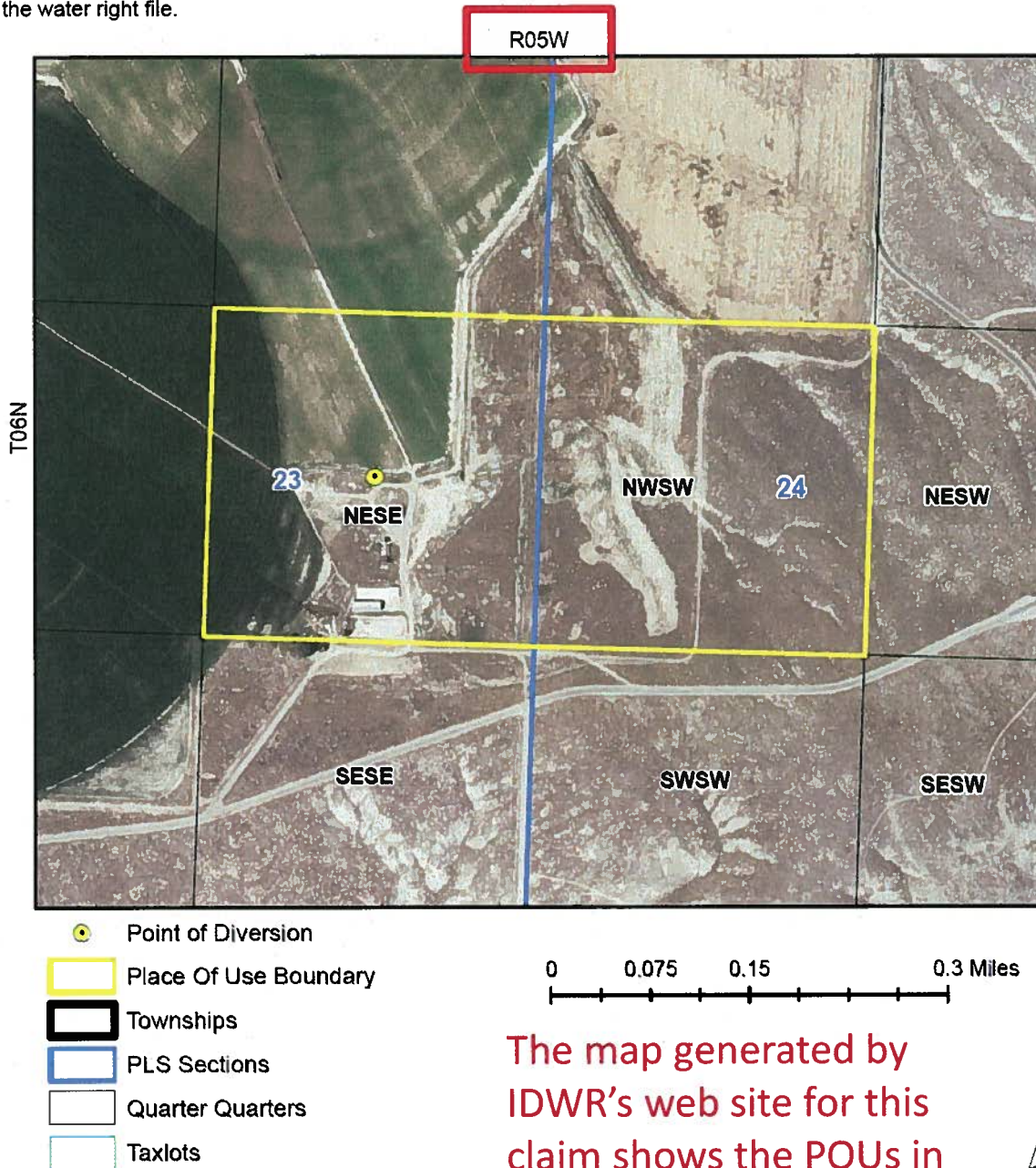
  
for Jeff Peppersack, Chief  
Water Allocation Bureau

State of Idaho  
Department of Water Resources

**Water Right**  
**63-7533**

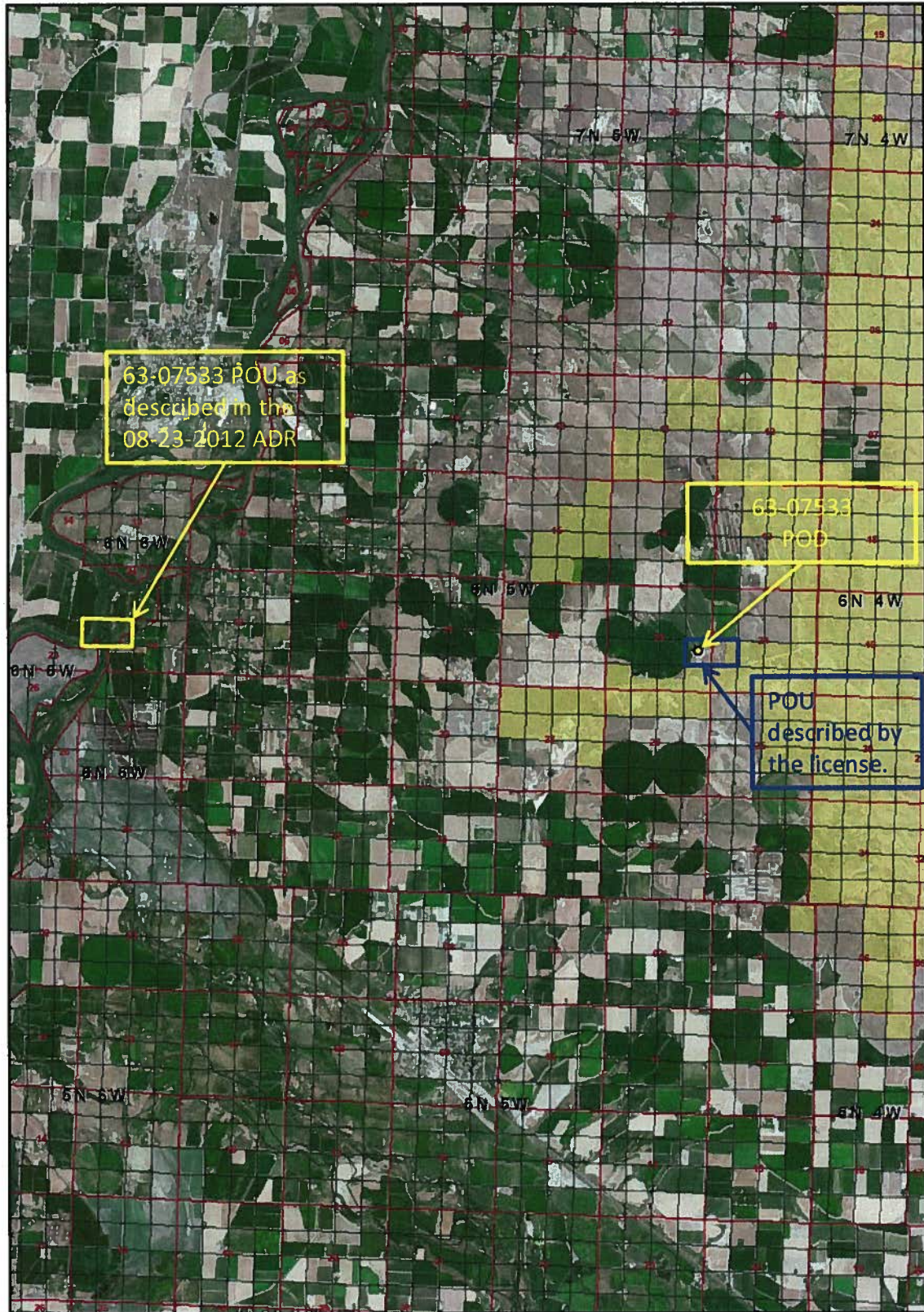
STOCKWATER

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



The map generated by  
IDWR's web site for this  
claim shows the POUs in  
R05W.





The POU described by the 08-23-2012 ADR is located approximately 6 miles from the POD encompassing parts of an island and the river. It appears there has been a typo in Range. R06W should be R05W as described in the license.

# Correct POUs

