

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 63-32410
Date Received: 8/29/2006
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

TERESA J BURKHART Phone: (208) 375-3296
10925 NETHERLAND ST
BOISE ID USA 83709

W G BURKHART Phone: (208) 375-3296
10925 NETHERLAND ST
BOISE ID USA 83709

2. Date of Priority: 06/01/1945

3. Source: SPRING Trib. to: WILLOW CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
06N	01E	15	NE SE SE	GEM	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
STOCKWATER	01/01	12/31	0.02	

7. Total Quantity Appropriated is:
0.02 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:
Number of other uses: 50 Range Cattle

SCANNED
APR 22 2008

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
06N	01E	15	SE	SE	STOCKWATER	

11. Place of use in counties: GEM

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

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Beneficial Use

RECEIVED

AUG 29 2006

WATER RESOURCES
WESTERN REGION

Form No. 42-1409 (2) b 7/06

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 A63-32410

Date Received: 8-29-06

Receipt No: W034623

Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT

ACQUIRED UNDER STATE LAW

For Domestic and/or Stockwater Purposes

Where Daily Use is less than 13,000 gallons per day

1. Name of Claimant(s) TERESA J. BURKHART, WIFE OF BURKHART Phone ⁽²⁰⁸⁾ 375-3296

Mailing Address 10925 Netherland Boise, Id Zip 83709

2. Date of Priority: (Only one per claim) 06/01/1945 Month/Day/Year

3. Source of water supply (Check one) Ground Water () or Other () (a) SPRING
which is tributary to (b) WILLOW CREEK

4. Location of Point of Diversion is: Township 06N, Range 01E, Section 15,
NE, 1/4 of SE, 1/4 of SE, 1/4 Govt. Lot _____, BM., County of GEM

Additional points of diversion if any: _____

5. Description of diverting works (Wells, Pumps, Spring boxes, Pipelines, Etc.) including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well.

6. Water is claimed for the following: (limited to Domestic and/or Stockwater uses. See page 1 of the instructions.)

For STOCK WATER purposes from ^{Month/Day} 01/01 to ^{Month/Day} 12/31 amount ^(cfs) 0.02 cfs

For _____ purposes from _____ to _____ amount _____

7. Total Quantity claimed 0.02 (cfs)

8. Total consumptive use claimed is de minimus

9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership;

Stockwater and Number of livestock) 50 Head of Range cattle

10. Location of Place of Use is: Township 06 N, Range 01 E, Section 15,
SE, 1/4 of SE, 1/4, Govt. Lot _____, BM.

for (Circle One) Domestic (Stock) Domestic and Stock
 Additional places of use, if any _____

11. Which county (ies) are lands listed above as place of use located? GEM

12. Do you own the property listed above as place of use? Yes (☒) No ()

If the answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

None (☒) _____

14. Remarks: _____

15. Basis of Claim (Circle One) Beneficial Use Posted Notice License Permit Decree
 Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals: I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) W. S. Buckhart Date: 8/29/2006
 _____ Date: _____

For Organizations: I do solemnly swear or affirm that I am _____ Title

of _____, that I have signed the foregoing document in the space below as
 _____ Organization

_____ of _____
 Title Organization

And that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Title and Organization _____

State of Idaho)
) SS.
 County of Ada

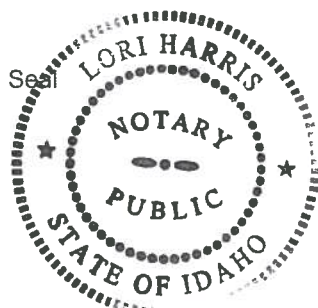
NOTARIZATION REQUIRED FOR EACH CLAIM

Subscribed and sworn (or affirmed) before me this 29 day of August 20 06

Notary Public Lori Harris

Residing at Boise, Id

My commission Expires 12-8-06



Last Name _____ Identification No. _____

SF5 Right No. 63-32410

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

RIGHT NUMBER: 63-32410

NAME AND ADDRESS: TERESA J BURKHART
10925 NETHERLAND ST
BOISE ID 83709

W G BURKHART
10925 NETHERLAND ST
BOISE ID 83709

SOURCE: SPRING

TRIBUTARY: WILLOW CREEK

QUANTITY: 0.020 CFS

PRIORITY DATE: 06/01/1945

POINT OF DIVERSION:

T06N R01E S15 NESESE Within GEM County
Point of diversion is within MS 1274.

kw NBS

*W. & B.
J. & B.*

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: STOCKWATER in GEM County

T06N R01E S15 SESE

fas

Place of use does not include federal public lands. *kw NBS*

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

The quantity of water decreed for this water right is not a determination of historical beneficial use.

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

Stockwater use is for 50 range cattle.

SF5 Right No. 63-32410

CERTIFICATE OF MAILING

I certify that on Apr. 14, 2008, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

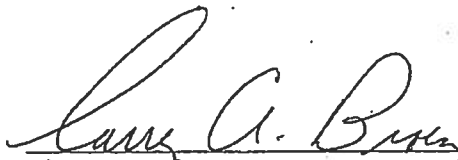
CLERK OF THE DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
253 THIRD AVENUE NORTH
P. O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

2. Copies to:

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

TERESA J. BURKHART
W.G. BURKHART
10925 NETHERLAND ST
BOISE, ID 83709

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098



Signature of person or attorney mailing the form

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-32410 V1

WATER RIGHT NUMBER: 63-32410 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	TERESA J BURKHART 10925 NETHERLAND ST BOISE, ID 83709 (208)375-3296
Current Owner	W G BURKHART 10925 NETHERLAND ST BOISE, ID 83709 (208)375-3296

Priority Date: 06/01/1945

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
SPRING	WILLOW CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	01/01 to 12/31	0.020 CFS	
<u>Total Diversion:</u>		0.020 CFS	

Location of Point(s) of Diversion

SPRING	NE1/4SE1/4SE1/4	Sec. 15, Twp 06N, Rge 01E, B.M.
GEM County		

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	01E	15																X	

Conditions of Approval:

1. X02 Stockwater use is for 50 range cattle.
2. Point of diversion is within MS 1274.
3. N11 The quantity of water decreed for this water right is not a determination of historical beneficial use.
4. U42 Place of use does not include federal public lands.
5. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

see comments *KW* *2/7/08*

see comments.

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-32410 V1

Remarks:

Comments:

1. kwalker 1/10/2008 OBJ resolution

Comment: We received an e-mail from Larry Brown, USDOJ, requesting we add remark stating no federal land in place of use to resolve objection. Mr. Brown stated BLM will pursue signatures on the SF5 once we have prepared it.

2. kwalker 2/4/2008 POD Location

Comment: We received updated pod location from Sherman Beazer at BLM this day. Have updated the shape to location identified. No change to 10 acre tract description.

3. kwalker 2/7/2008 Mineral Survey

Comment: After receipt of the request to add remark concerning pod I looked at Gem Co tax lot information and the mineral survey numbers were not consistent with information provided by BLM. The BLM sent in copies of the mineral survey information from their records and we discovered that Gem County tax lot information was not correct. Have added remark to this recommendation per BLMs request and information provided.

Dates and Other Information:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Defendant:

Plaintiff:

Civil Case Number:

Judicial District:

Notice of Error Flag:

State or Federal:

Owner Name Connector: OR

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits:

SubCase:

SubCase Number: 63-32410

Class: 1

SF5 Filed Date:

Special Master Recom Signed Date:

Attorney Assigned:

Adjudication Agent: kbrown

Basis of Claim: Beneficial Use

Date Filed: 6/13/2007 Objection Status: Active

Water Supply Bank:

63-32410

IDWR
POD
Location

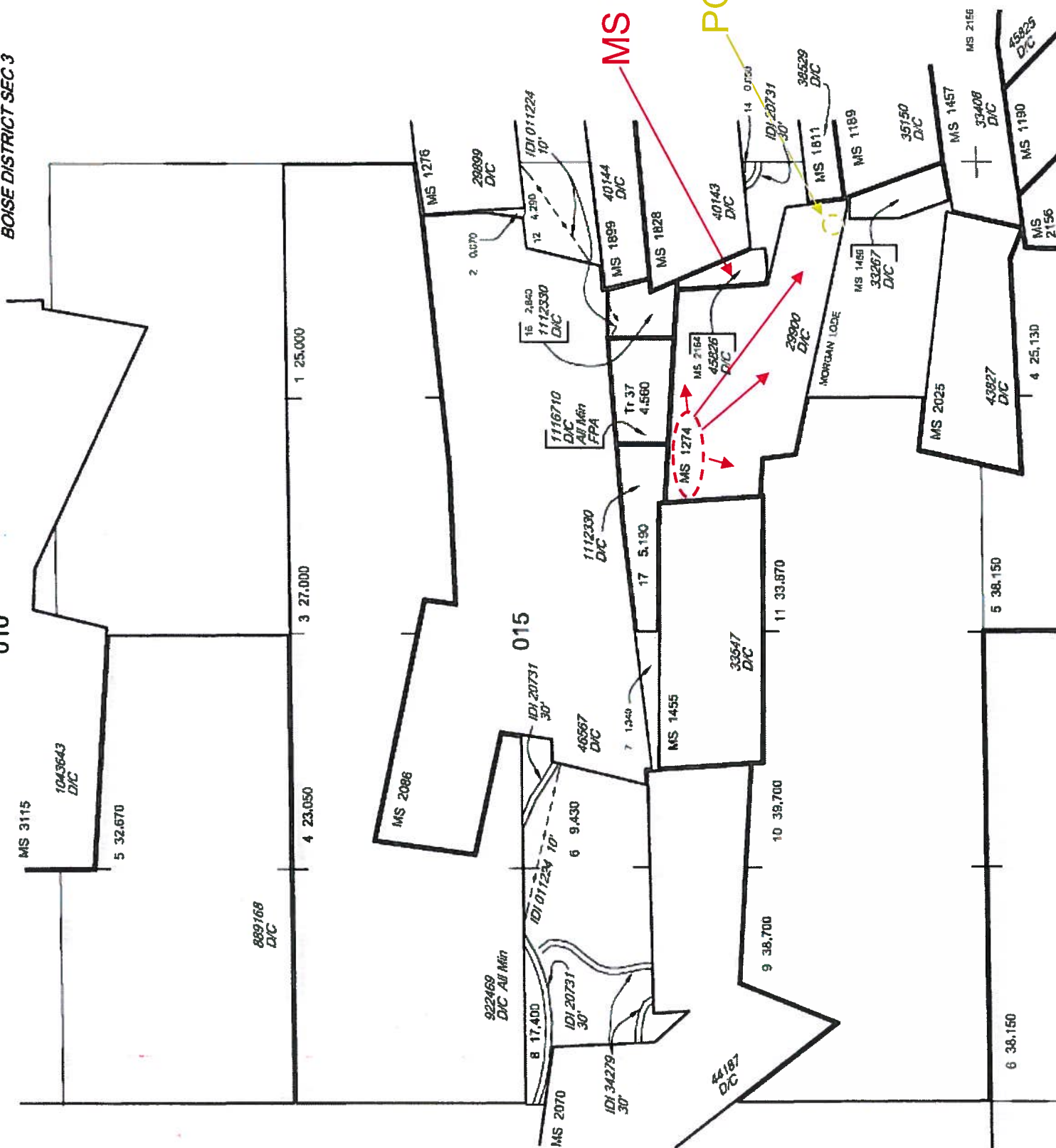
T06N R01E S15 SESE

NESESE
Actual POD location
on PVT in MS 1274

SESE



010



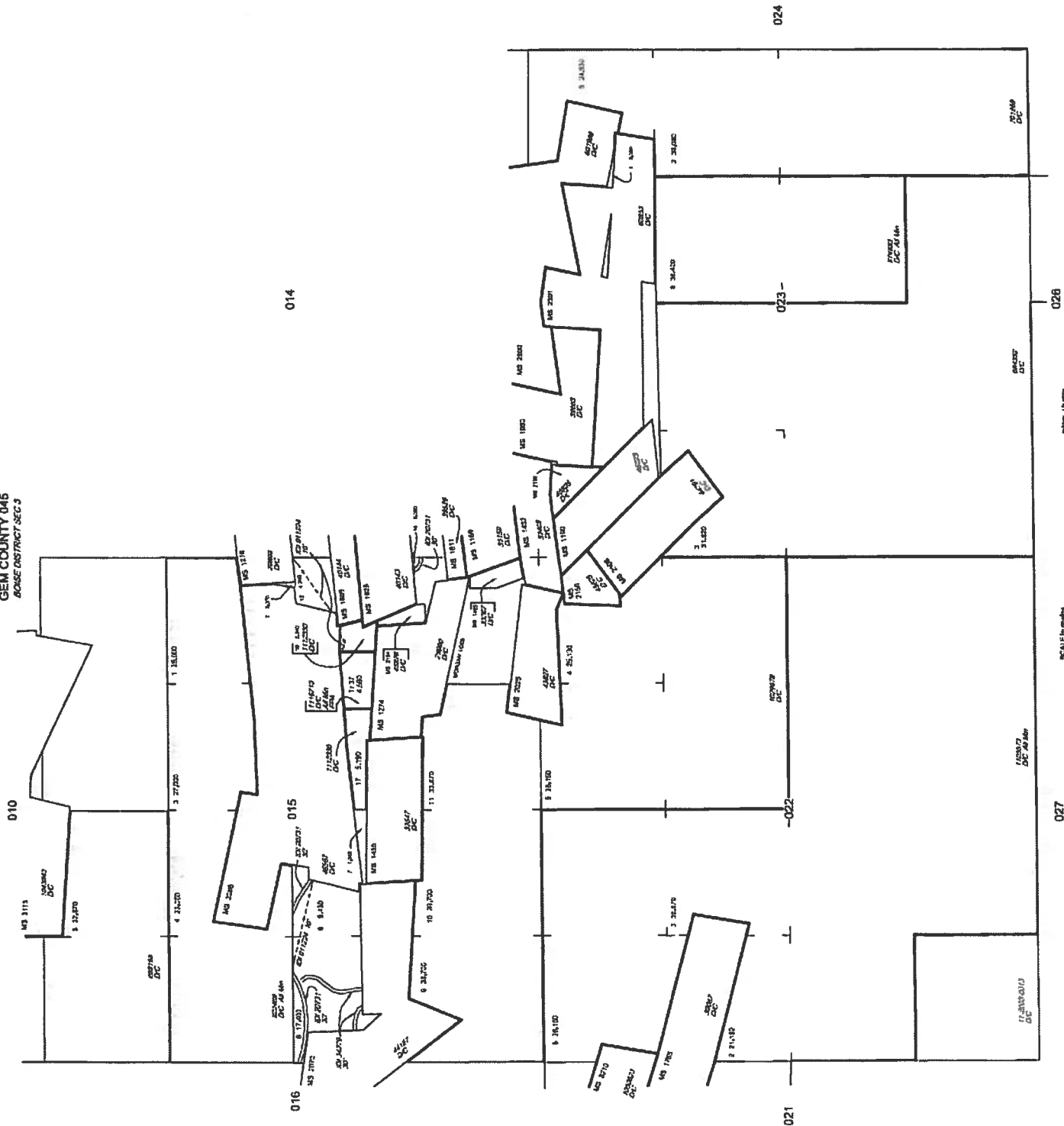
GEM COUNTY 046
BOISE DISTRICT SEC 3

No. 2
 STATUS OF PUBLIC DOMAIN
 LAND AND MINERAL TITLES
 MT PLAT
 SUPPL Sec 15,22,23

[illegible]

(The following pages are blank)

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

[illegible]



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Survey Details


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Supplemental Plat

• Twp 6N-1E, ID, Boise (Subdiv. Lines)



Survey Details



Plat Details

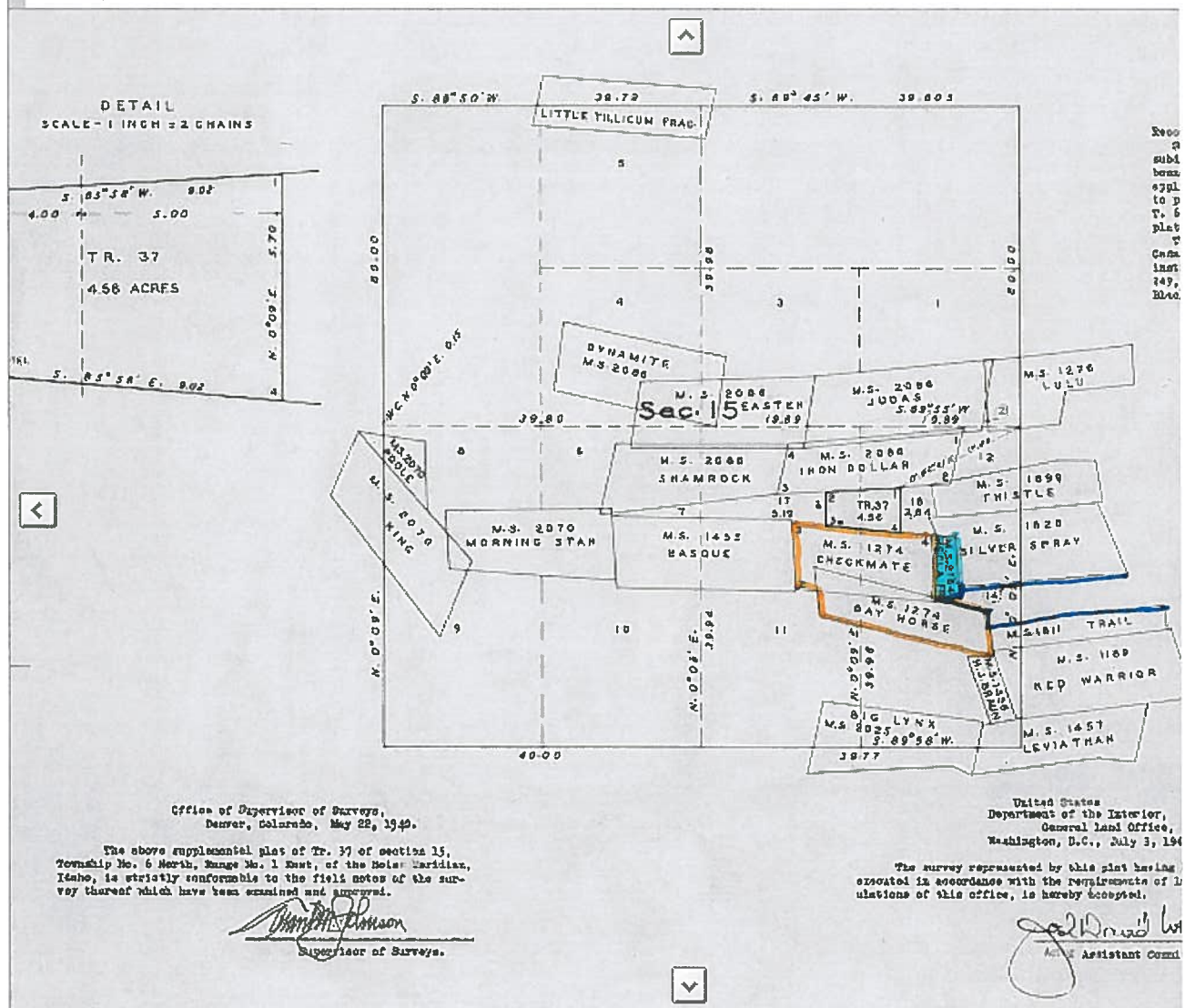


Plat Image



Field Note Images

Description: ---



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Survey Details


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Mineral Survey
• Twp 6N-1E, ID, Boise

Survey Details
Plat Details
Plat Image
Field Note Images

Description: —

new Hecla Fraction Lode	2 410 Acs
cont. certified with	
1274 Bay Horse Lode	0.01
1825 Silver Spray Lode	0.714 0.725
to Sur. N 2104 Hecla Fraction Lode	1.625 Acs.

Basic Viewer
JavaScript Viewer
Plug-In Viewer
Download Image File

Mineral

Boise

J.T.

HEC

IN West Boise containing a

MINERAL

George

The Original

J.T.E.

known as the

from which have been and thereby a town of said town fully de in made ther as will perpet if further can been expand shown by the and improve a former

that the ben upon this p improvements I have upon a mind of further claim make a survey there

W.S. Simpson

Boise

October

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FAQ

Survey Details

[Home](#) > [Survey Search](#) > [Results List](#) > Survey Details

Mineral Survey

• Twp 6N-1E, ID, Boise

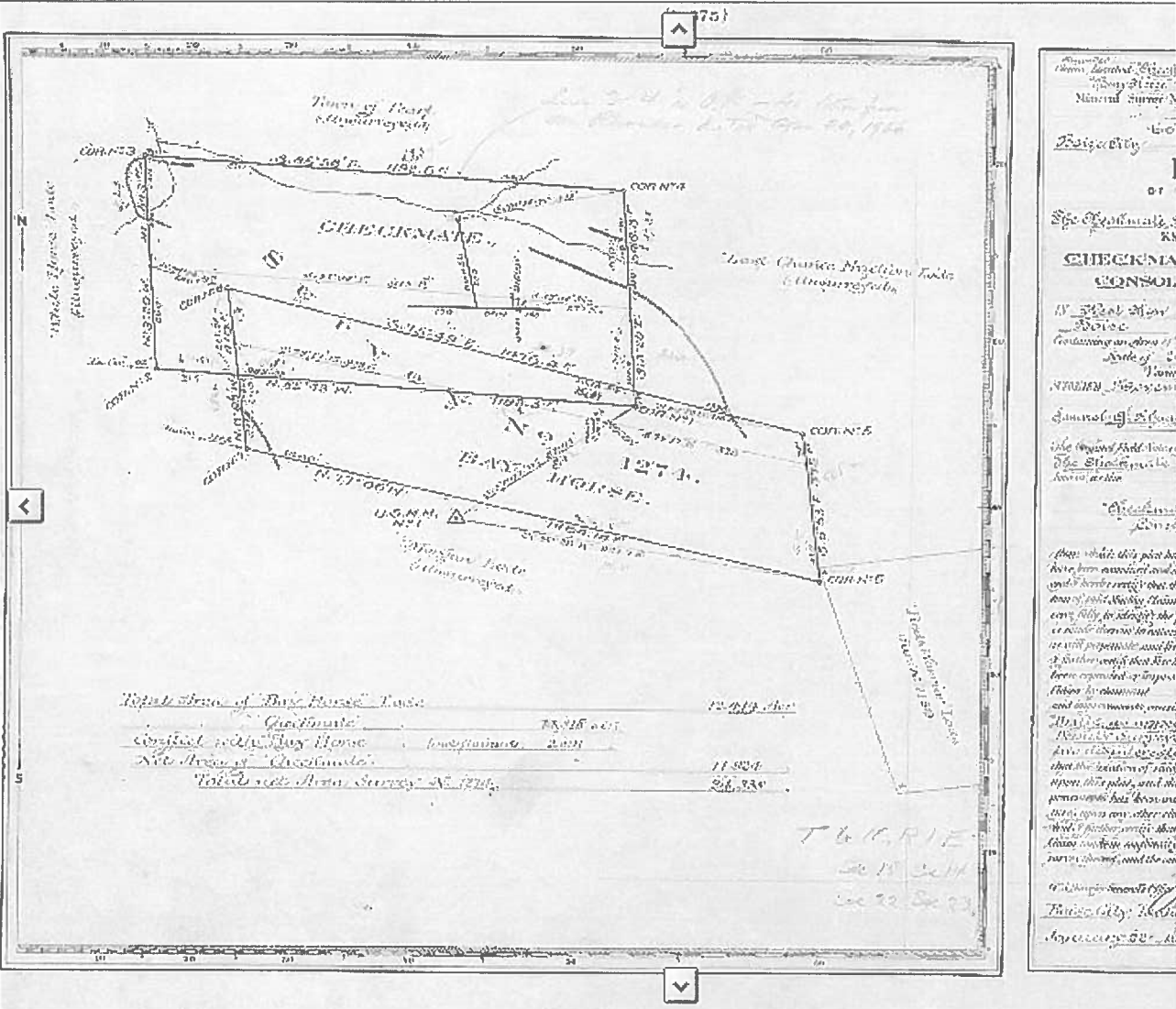
Survey Details

Plat Details

Plat Image

Field Note Images

Description: ---



Basic Viewer

JavaScript Viewer

Plug-In Viewer

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- Want to try one of our more powerful viewers? Please check our [Browser Compatibility Guide for Viewers](#).

Walker, Kay

From: Spencer, Nick
Sent: Tuesday, February 05, 2008 1:52 PM
To: Shurte, Jan; Walker, Kay
Cc: Williams, Ray; Ridgeway, Renea
Subject: FW: 63-04266, 63-0460, and 63-31410; Claimant: Burkhart

-----Original Message-----

From: Brown, Larry (ENRD) [mailto:Larry.Brown@usdoj.gov]
Sent: Tuesday, February 05, 2008 7:30 AM
To: Spencer, Nick
Cc: Williams, Ray
Subject: RE: 63-04266, 63-0460, and 63-31410; Claimant: Burkhart

To fix the POU objection on all, just add the "no fed land" remark. To fix the POD for 63-32410, add the remark "~~Point of diversion is within MS 1274.~~" We did not object to the POD because it was pre-FLPMA priority date, but discussions with the Claimant led to the POD being actually located within the mineral survey.

ENRD=Environment and Natural Resources Division. There are three employees named "Larry Brown" in DOJ. One is a deputy U.S. Marshall, one is the First Assistant U.S. Attorney in the United States Attorney's Office, Eastern District of California, and there is me, in the Environment and Natural Resources Division. We try to keep employee e-mail addresses separate by identifying the division where they work in the addresses.

I do not remember any past discussion on not putting the "no fed land" remark under the POD element. In 63-32410 it, is appropriate to confine it to the mineral survey because the 10 acre tract (NESESE) is mostly public land and only a small part of MS 1274 is within the NESESE (as I recall without looking at Scott's zoom of the aerial photo shapefile of 63-32410). We do prefer having the mineral survey identified, but Fred failed to put that in my file, probably because we did not originally object to the POD (pre-FLPMA priority date). If I had known the mineral survey ID, I would certainly have suggested its use, but it also seems to me that the "no fed land" remark would work just as well. BLM is satisfied with the POD being confined to the mineral survey, so please do it that way when the information is presented.

The POD for 63-04266 and 63-04603 do not need any remarks, and the "no fed land" remark under the POU element resolves BLM's objection to each claim.

Yes I was going so fast on these that I didn't even slow down long enough to look for typos in the subject line. I note that two of the water right numbers are, sadly, incorrect. However, I hope they are properly typed in at least this part of the e-mail.

Cheers,

Larry

-----Original Message-----

From: Spencer, Nick [mailto:Nick.Spencer@idwr.idaho.gov]
Sent: Monday, February 04, 2008 6:16 PM
To: Brown, Larry (ENRD)
Cc: Williams, Ray
Subject: RE: 63-04266, 63-0460, and 63-31410; Claimant: Burkhart

Hi Larry. You guys are going so fast on these that we are playing catch-up. My understanding is that Scott Beezer first told Kay Walker that fixing the POU would fix the objection, so she prepared SF-5s doing that and mailed them to Ray Williams on Friday. I will tell Ray to hold onto them until we now get this latest thing figured out. Now do I understand correctly that you have decided that to fix the objection you ALSO need the POD fixed? If so we can prepare new SF-5s doing that.

But before we do I need your input on two things. (1) Jan isn't opposed to putting the "no fed'l land" remark under the POD; she simply has a recollection that we had a reason for not doing that in the past--that the remark only went onto POU. I have no recollection of that. I seem to remember in Basin 63 Part 1, and especially in USFS objections up in Basin 72 that we did put the remark under POD. Do you remember any past discussions we have had where we identified any potential problems with putting the remark onto PODs as well as POUs?

(2) My recollection is that when we have a mineral survey describing the location of the POU or POD, you prefer having a remark noting that the POD and/or POU is located in mineral survey number such and such, because the mineral survey is the true legal description; the PLS descriptor is not. I know we have in several prior cases put on remarks like "The place of use is located in Mineral Survey 452." If that is what you want here, we can do it. But if we do it that way, do you also want the no fed'l land remark? That is kind of a belt and suspenders situation, is it not, because if the POD/POU is located within the mineral survey, perforce it cannot be located on federal land can it, and the no fed'l land remark is redundant? So, would you prefer the no fed'l land remark, the mineral survey remark, or both? Please let me know your thoughts, and we'll figure out how to accommodate you. By the way, in your e-mails I see that your name is always followed by "(ENRD)." What is an ENRD? And is it pronounced "ee-nerd"? If so, how do I join? NBS

-----Original Message-----

From: Brown, Larry (ENRD) [mailto:Larry.Brown@usdoj.gov]
Sent: Monday, February 04, 2008 11:43 AM
To: Spencer, Nick; Bromley, Chris
Subject: FW: 63-04266, 63-0460, and 63-31410; Claimant: Burkhardt

Hi guys. We want the "no fed land" remark under the POD element please. Ms. Shurte doesn't seem to think it is necessary. It is, or the BLM's objection is not fully resolved.

-----Original Message-----

From: Sherman_Beazer@blm.gov [mailto:Sherman_Beazer@blm.gov]
Sent: Monday, February 04, 2008 1:40 PM
To: Shurte, Jan
Cc: Brown, Larry (ENRD); Walker, Kay; Fredric_Price@blm.gov; Casey_O'Brien@blm.gov; Spencer, Nick; Bromley, Chris; Kelly, Vicki
Subject: RE: 63-04266, 63-0460, and 63-31410; Claimant: Burkhardt

Attached is a map showing the point of diversion on private land within Mineral Survey 1274. Is there any way we could include a remark in the SF-5

under point of diversion to clarify the location? Either "Point of diversion does not include federal public lands." or "Point of diversion is within MS 1274."

(See attached file: 63-32410 blow up to IDWR.pdf)

Thanks,
Scott Beazer
Water Rights Specialist
Phone: (208) 373-4022
Fax: (208) 373-3839

"Shurte, Jan"

<Jan.Shurte@idwr.

idaho.gov>

To

<Larry.Brown@usdoj.gov>, "Walker,
Kay" <Kay.Walker@idwr.idaho.gov>

02/04/2008 10:31

AM

cc

<Fredric_Price@blm.gov>,
<Sherman_Beazer@blm.gov>,
<Casey_O'Brien@blm.gov>, "Spencer,
Nick"
<Nick.Spencer@idwr.idaho.gov>,
"Bromley, Chris"
<Chris.Bromley@idwr.idaho.gov>,
"Kelly, Vicki"
<Vicki.Kelly@idwr.idaho.gov>

Subject

RE: 63-04266, 63-0460, and
63-31410; Claimant: Burkhart

Larry,

The SF5's have already been sent out for signatures on these. If Scott could contact Kay Walker (208-334-2190) with the location of the point of diversion we can update our pod shapefile database. The SF5's should go on without a change needed as long as the spring location ends up being in the same 10-acre parcel.

Thanks,
Jan

-----Original Message-----

From: Jones, Doug
Sent: Monday, February 04, 2008 10:04 AM
To: Shurte, Jan
Cc: Fredric_Price@blm.gov; Sherman_Beazer@blm.gov; Casey_O'Brien@blm.gov; 'Brown, Larry (ENRD)'; Spencer, Nick; Bromley, Chris; Kelly, Vicki
Subject: RE: 63-04266, 63-0460, and 63-31410; Claimant: Burkhart

Jan,

These are in your area.

Doug

-----Original Message-----

From: Brown, Larry (ENRD) [mailto:Larry.Brown@usdoj.gov]

Sent: Monday, February 04, 2008 9:26 AM
To: Spencer, Nick; Bromley, Chris; Kelly, Vicki; Jones, Doug
Cc: Fredric_Price@blm.gov; Sherman_Beazer@blm.gov; Casey_O'Brien@blm.gov
Subject: FW: 63-04266, 63-0460, and 63-31410; Claimant: Burkhart

Bill Burkhart and I spoke again a few minutes ago. The Point of Diversion and Place of Use for 37-32410 is within the mineral survey - private land - within the SESE, Section 15. Scott zoomed in on the NESESE. Bill was able to identify a spring in the SE portion of the mineral survey as the point of diversion. To resolve BLM's objection, add the "no fed land" remark to the place of use and point of diversion element and adjust the shapefile to show the POD at the spring in the NESESE at the SE part of that 10 acre tract. Scott will send you guys an e-mail with the location of the POD circled - right Scott? Thanks,

Larry

>
> _____
> From: Brown, Larry (ENRD)
> Sent: Tuesday, January 08, 2008 5:17 PM
> To: Spencer, Nick; 'Bromley, Chris'; 'Kelly, Vicki';
> 'Doug.Jones@idwr.idaho.gov'
> Cc: 'Fredric_Price@blm.gov'; 'Sherman_Beazer@blm.gov';
> 'Casey_O'Brien@blm.gov'
> Subject: 63-04266, 63-0460, and 63-31410; Claimant: Burkhart
>
> I just spoke with Bill Burkhart. We agreed to resolve BLM's
> objections to the above-referenced claims by adding the "no fed land"
> remark to the place of use element. He is checking on the legal
> description of the Point of Diversion for 63-32410 to make sure it
> reflects reality and will call me back. BLM is not aware of a POD on
> public land at the legal description, although BLM did not object to
> the POD and did not do a field investigation. We are only concerned
> that the water right have a correctly described POD.
>
> Please prepare SF-5s and let Fred know when they are done. He will
> send them to Mr. Burkhart. Thanks,
>
>
> Larry

Walker, Kay

From: Sherman_Beazer@blm.gov
Sent: Monday, February 04, 2008 11:40 AM
To: Shurte, Jan
Cc: Larry.Brown@usdoj.gov; Walker, Kay; Fredric_Price@blm.gov; Casey_O'Brien@blm.gov; Spencer, Nick; Bromley, Chris; Kelly, Vicki
Subject: RE: 63-04266, 63-0460, and 63-31410; Claimant: Burkhart
Attachments: 63-32410 blow up to IDWR.pdf



63-32410 blow up
to IDWR.pdf (...)

Attached is a map showing the point of diversion on private land within Mineral Survey 1274. Is there any way we could include a remark in the SF-5 under point of diversion to clarify the location? Either "Point of diversion does not include federal public lands." or "Point of diversion is within MS 1274."

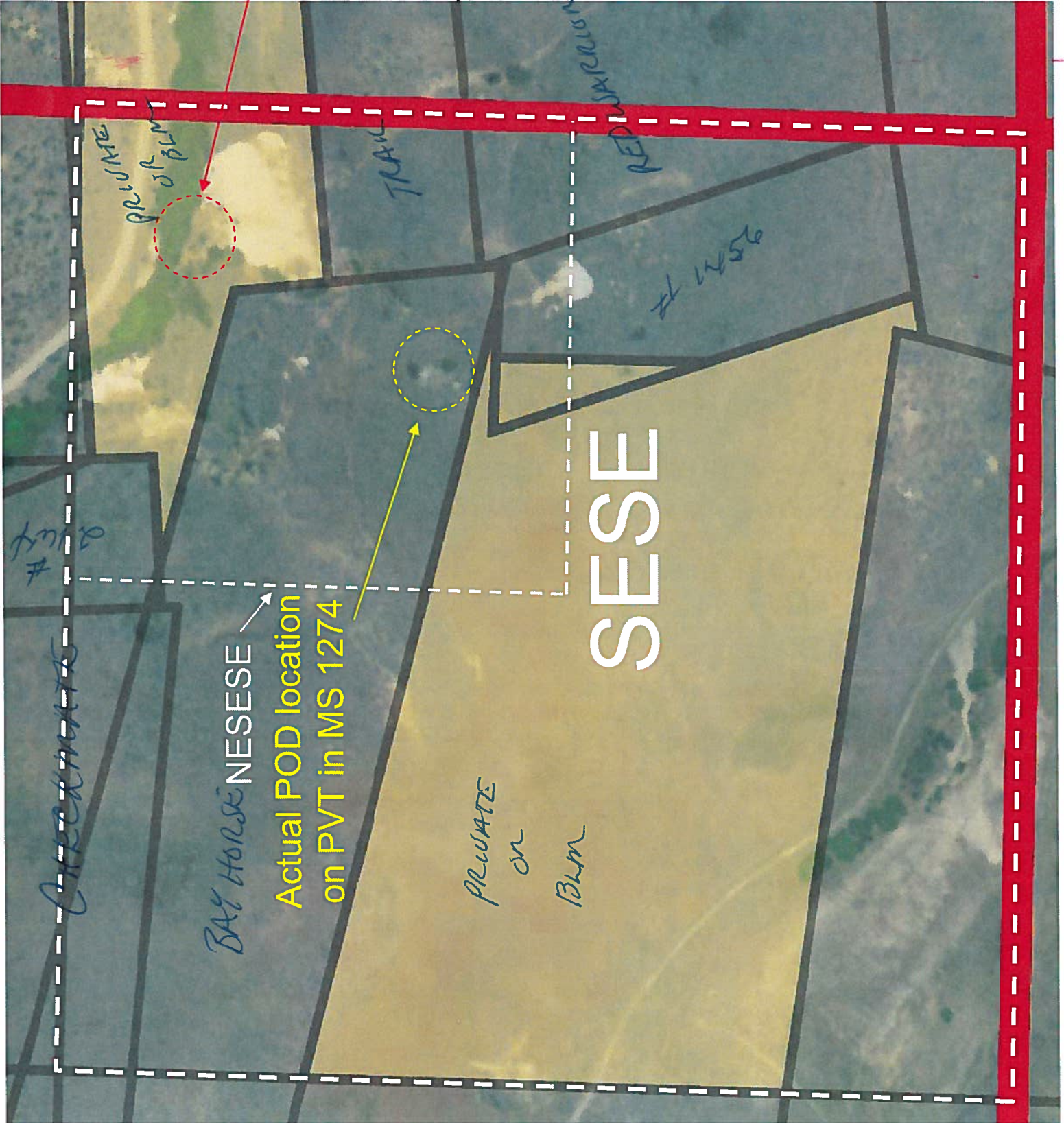
(See attached file: 63-32410 blow up to IDWR.pdf)

Thanks,
Scott Beazer
Water Rights Specialist
Phone: (208) 373-4022
Fax: (208) 373-3839

63-32410

IDWR
POD
Location

T06N R01E S15 SESE



SESE

Actual POD location
on PVT in MS 1274

BAY HORSE
NESESE

PRIVATE
on
Burn

PRIVATE

TRAIL

RED WARRIOR

#1256

#1256

Walker, Kay

From: Shurte, Jan
Sent: Monday, February 04, 2008 10:31 AM
To: Larry Brown (Larry.Brown@usdoj.gov); Walker, Kay
Cc: 'Fredric_Price@blm.gov'; 'Sherman_Beazer@blm.gov'; 'Casey_O'Brien@blm.gov'; Spencer, Nick; Bromley, Chris; Kelly, Vicki
Subject: RE: 63-04266, 63-0460, and 63-31410; Claimant: Burkhart

Larry,

The SF5's have already been sent out for signatures on these. If Scott could contact Kay Walker (208-334-2190) with the location of the point of diversion we can update our pod shapefile database. The SF5's should go on without a change needed as long as the spring location ends up being in the same 10-acre parcel.

Thanks,
Jan

-----Original Message-----

From: Jones, Doug
Sent: Monday, February 04, 2008 10:04 AM
To: Shurte, Jan
Cc: Fredric_Price@blm.gov; Sherman_Beazer@blm.gov; Casey_O'Brien@blm.gov; 'Brown, Larry (ENRD)'; Spencer, Nick; Bromley, Chris; Kelly, Vicki
Subject: RE: 63-04266, 63-0460, and 63-31410; Claimant: Burkhart

Jan,

These are in your area.

Doug

-----Original Message-----

From: Brown, Larry (ENRD) [mailto:Larry.Brown@usdoj.gov]
Sent: Monday, February 04, 2008 9:26 AM
To: Spencer, Nick; Bromley, Chris; Kelly, Vicki; Jones, Doug
Cc: Fredric_Price@blm.gov; Sherman_Beazer@blm.gov; Casey_O'Brien@blm.gov
Subject: FW: 63-04266, 63-0460, and 63-31410; Claimant: Burkhart

Bill Burkhart and I spoke again a few minutes ago. The Point of Diversion and Place of Use for 37-32410 is within the mineral survey - private land - within the SESE, Section 15. Scott zoomed in on the NESESE. Bill was able to identify a spring in the SE portion of the mineral survey as the point of diversion. To resolve BLM's objection, add the "no fed land" remark to the place of use and point of diversion element and adjust the shapefile to show the POD at the spring in the NESESE at the SE part of that 10 acre tract. Scott will send you guys an e-mail with the location of the POD circled - right Scott? Thanks,

Larry

>
>

From: Brown, Larry (ENRD)
> Sent: Tuesday, January 08, 2008 5:17 PM
> To: Spencer, Nick; 'Bromley, Chris'; 'Kelly, Vicki';
> 'Doug.Jones@idwr.idaho.gov'
> Cc: 'Fredric_Price@blm.gov'; 'Sherman_Beazer@blm.gov';
> 'Casey_O'Brien@blm.gov'
> Subject: 63-04266, 63-0460, and 63-31410; Claimant: Burkhart
>
> I just spoke with Bill Burkhart. We agreed to resolve BLM's
> objections to the above-referenced claims by adding the "no fed land"
> remark to the place of use element. He is checking on the legal
> description of the Point of Diversion for 63-32410 to make sure it

> reflects reality and will call me back. BLM is not aware of a POD on
> public land at the legal description, although BLM did not object to
> the POD and did not do a field investigation. We are only concerned
> that the water right have a correctly described POD.
>
> Please prepare SF-5s and let Fred know when they are done. He will
> send them to Mr. Burkhart. Thanks,
>
>
> Larry



Idaho Department of Water Resources

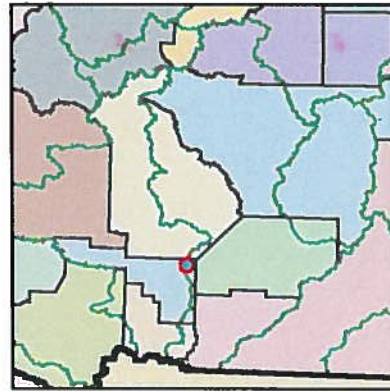
SRBA Recommendation:

63-32410

(Stockwater)

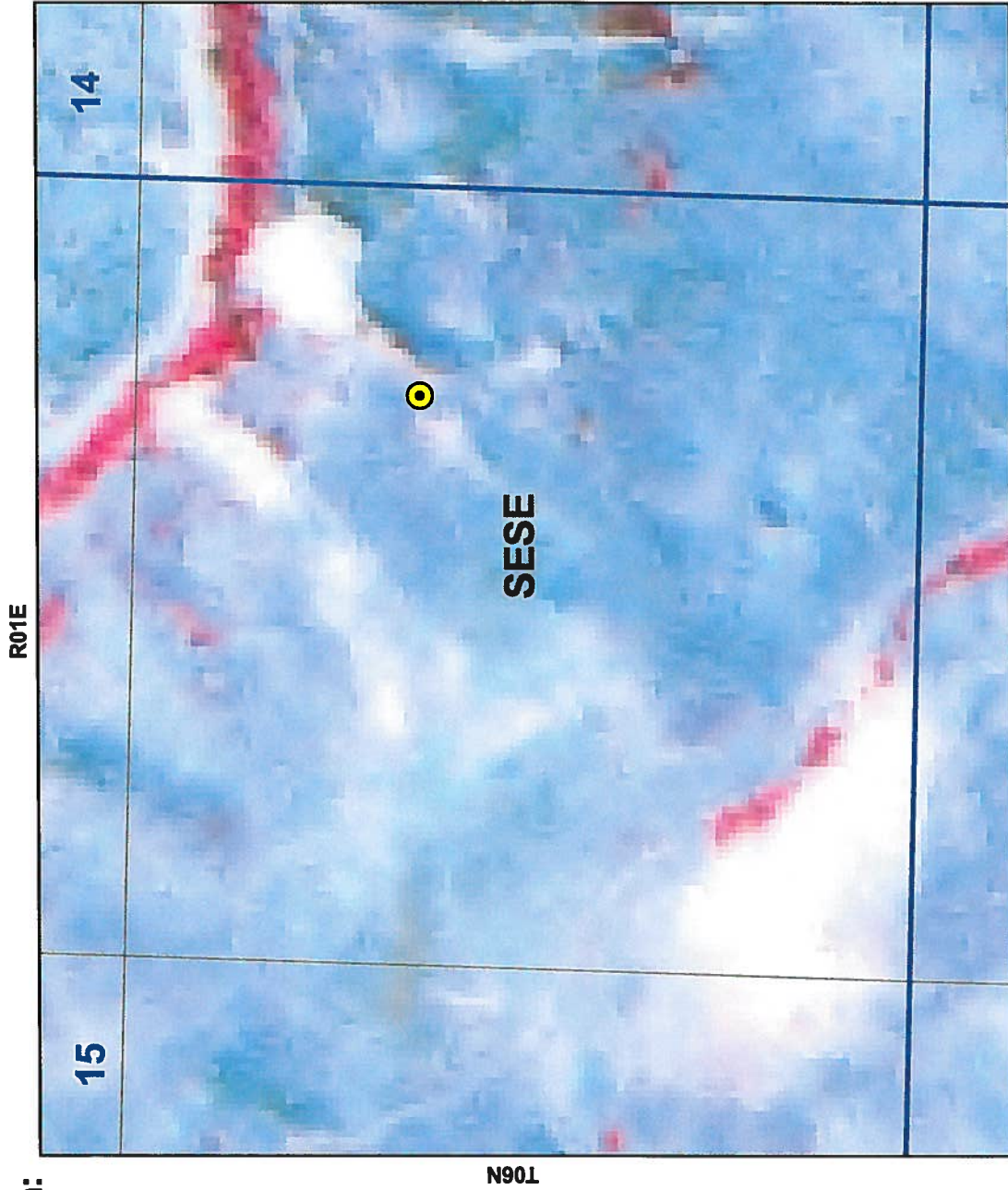
Legend

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



Gem County
IDWR Basin 63

Prepared by K. Walker
On Monday, February 4, 2008
1987/88 Aerial Photography

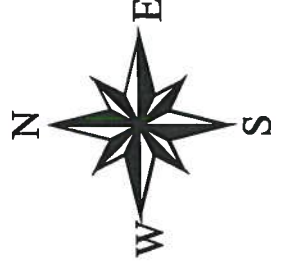


0 0.1 0.2 Miles

Updated POD 2/4/2008 -kw



63-32410 pod.shp
Sections
QQ
Gem taxlots



0.2 0 0.2 Miles

Harris, Lori

From: Williams, Ray
Sent: Wednesday, January 09, 2008 6:45 AM
To: Harris, Lori
Cc: Spencer, Nick
Subject: FW: 63-04266, 63-0460, and 63-31410; Claimant: Burkhart

Lori,

I think these used to be Kimberly's. I'm not sure who is handling them now, but it looks like are ready for Sf5s. Could you please forward this to the appropriate person?

Thanks!

Ray

-----Original Message-----

From: Spencer, Nick
Sent: Tuesday, January 08, 2008 3:57 PM
To: Williams, Ray
Cc: Kelly, Vicki
Subject: FW: 63-04266, 63-0460^{Kay} and 63-32410^{Kay}; Claimant: Burkhart

Looks like Larry is getting confused as to whom to send things to in any particular basin. Ray, could you send this to the appropriate agent at Western? Thanks. NBS

-----Original Message-----

From: Brown, Larry (ENRD) [mailto:Larry.Brown@usdoj.gov]
Sent: Tuesday, January 08, 2008 3:17 PM
To: Spencer, Nick; Bromley, Chris; Kelly, Vicki; Jones, Doug
Cc: Fredric_Price@blm.gov; Sherman_Beazer@blm.gov; Casey_O'Brien@blm.gov
Subject: 63-04266, 63-0460, and 63-31410; Claimant: Burkhart

I just spoke with Bill Burkhart. We agreed to resolve BLM's objections to the above-referenced claims by adding the "no fed land" remark to the place of use element. He is checking on the legal description of the Point of Diversion for 63-32410 to make sure it reflects reality and will call me back. BLM is not aware of a POD on public land at the legal description, although BLM did not object to the POD and did not do a field investigation. We are only concerned that the water right have a correctly described POD.

Please prepare SF-5s and let Fred know when they are done. He will send them to Mr. Burkhart. Thanks,

Larry

✓ done 1/10/08
xw

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 63-32410
(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: see below

Name & Address of Attorney, if any:

Larry A. Brown (202) 305-0435 phone, (202) 305-0274 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: W.G. & Teresa J. Burkhart
Address: 10925 Netherland St.; Boise, Idaho 83709
Name:
Address: ;
Name:
Address: ;
Name:
Address: ;

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:
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 legal description for element nine (POU) above may include Federal land. The description should be specific enough to exclude Federal land.

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)

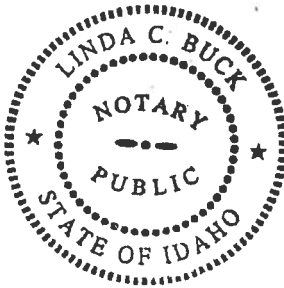
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Fredric W. Price
(Signature of person filing objection)

Larry A. Brown
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: June 13, 2007

Linda C. Buck
Linda C. Buck



Notary Public for State of Idaho

Residing at: Mountain Home, ID.

My Commission Expires: 12-21-2011

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 6-13, 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
P.O. Box 2707
Twin Falls, ID 83303-2707

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

Name: W.G. & Teresa J. Burkhart
Address: 10925 Netherland St.; Boise, Idaho 83709
Name:
Address: ;
Name:
Address: ;
Name:
Address: ;

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

12/14/2006

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

RIGHT NUMBER: 63-32410
NAME AND ADDRESS: TERESA J BURKHART
10925 NETHERLAND ST
BOISE ID 83709
W G BURKHART
10925 NETHERLAND ST
BOISE ID 83709

POD on BLM:

-Claimant is not authorized to graze public land at this location.

Mixed POU:

-The place of use identified below contains both private and public lands.

-Please clarify such that only private land is intended.

SOURCE: SPRING
QUANTITY: 0.020 CFS
PRIORITY DATE: 06/01/1945

TRIBUTARY: WILLOW CREEK

POINT OF DIVERSION: T66N R01E S15 NESESE Within GEM County

BLM

PURPOSE AND PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: STOCKWATER in GEM County

T66N R01E S15 SESE Mixed

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

The quantity of water decreed for this water right is not a determination of historical beneficial use.

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

Stockwater use is for 50 range cattle.

63-32410

Burkhart



Mixed POU:

-The places of use T06N R01E S15 SESE contains both private and public lands.

-Please clarify such that only private land is intended by inserting the following remark under place of use:

"The place of use does not include federal public land."

GEM COUNTY DAS
BOISE DAS TRACT SEC 9

STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES

MT PLAT

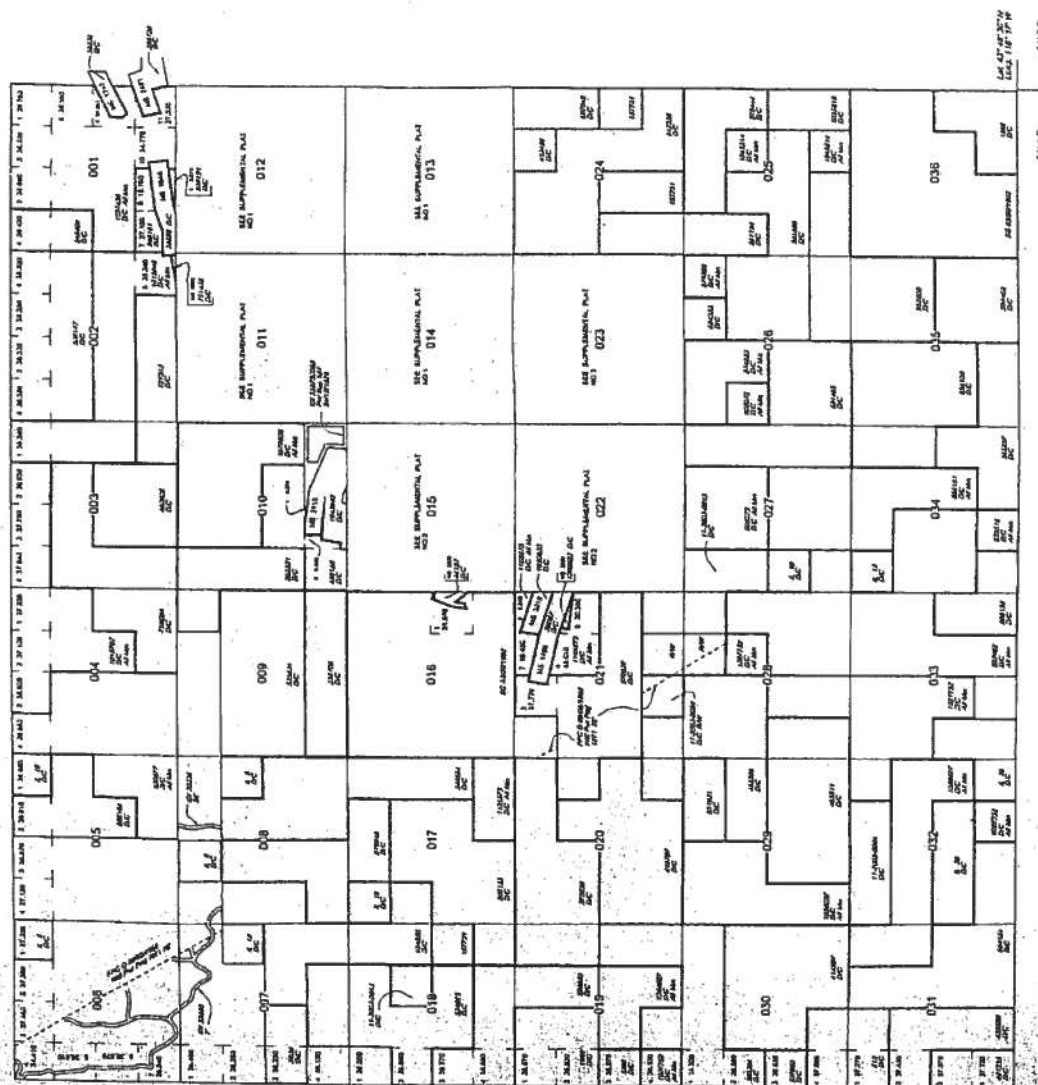
INDEX TO SEGREGATED TRACTS			
SL. NO.	TRACT NO.	1	2
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CU 25373, PW A45 147, RD 047/1926 WINDRONS Public Land
containing a spring or watercourse from the surface,
under, and or over, 125 sq. miles, 125 acres, 125
33 445/19061

FOR ORDERS EFFECTING DISPOSAL OR USE OF
IDENTIFIED LAND REFER TO INDEX OF
SCIENTIFIC DOCUMENTS

[illegible]

1990

[illegible]

J. B. Bureau of Land Management • Maine State Office
1267 S. Vermont Valley Blvd., Watso 03708
(207) 377-4000



TOWNSHIP 6 NORTH RANGE 1 EAST OF THE BOISE MERIDIAN, IDAHO

GEN COUNTY 845
ADVERSE INT/SECT 2

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DEM COUNTY 045
20056 DISTRICT SEC 3

No. 3
 STATUS OF PUBLIC DOMAIN
 LAND AND MINERAL TITLES
 MT PLAT
 SUPPL Sec 15,22,23

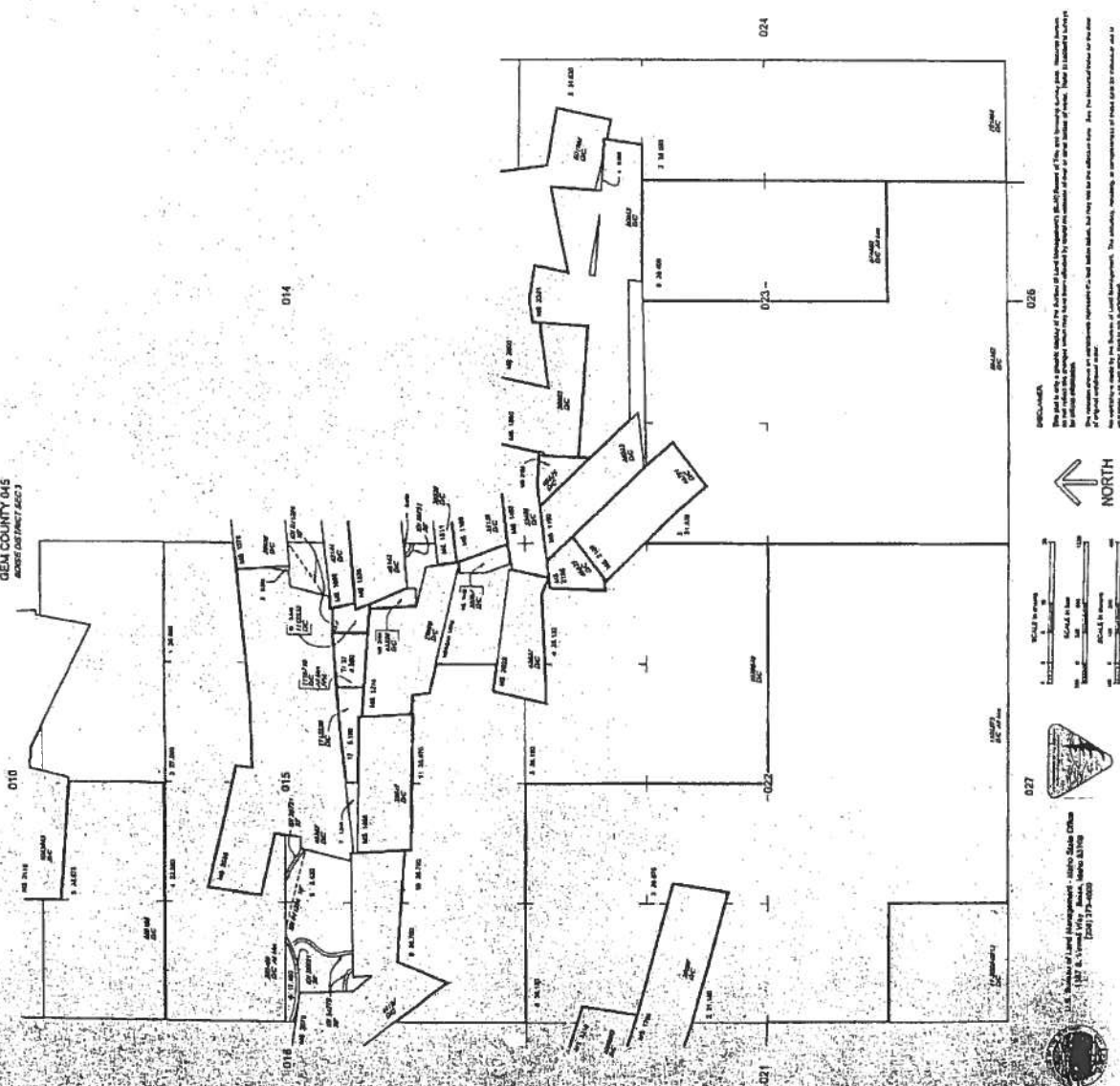
[illegible]

ON CHECKS EFFECTING PAYMENT ON USE OF
CREDITED LAND REFER TO PAGE 10
OF THE 1995-96 FISCAL YEAR

ON ORDERS EFFECTING DISPOSAL OR USE OF
IDENTIFIED LAND REFER TO INDEX OF
SELECTED AGENCIES

[illegible]

T. 0.00
 R. 1.00



08/30/2006

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

RIGHT NUMBER: 63-32410

NAME AND ADDRESS: TERESA J BURKHART
10925 NETHERLAND ST
BOISE ID 83709

W G BURKHART
10925 NETHERLAND ST
BOISE ID 83709

SOURCE: SPRING

TRIBUTARY: WILLOW CREEK

QUANTITY: 0.020 CFS

PRIORITY DATE: 06/01/1945

POINT OF DIVERSION:

T06N R01E S15 NESESE Within GEM County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
STOCKWATER

PERIOD OF USE
01/01 12/31

QUANTITY
0.020 CFS

PLACE OF USE: STOCKWATER Within GEM County

T06N R01E S15 SESE

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

The quantity of water decreed for this water right is not a determination of historical beneficial use.

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

Stockwater use is for 50 range cattle.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-32410

WATER RIGHT NUMBER: 63-32410 ✓

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	TERESA J BURKHART ✓ 10925 NETHERLAND ST BOISE, ID 83709 (208)375-3296
Current Owner	W G BURKHART ✓ 10925 NETHERLAND ST BOISE, ID 83709 (208)375-3296

Priority Date: 06/01/1945 ✓

Basis: Beneficial Use ✓

Status: Active

Source ✓
SPRING ✓

Tributary ✓
WILLOW CREEK ✓

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER ✓	01/01 to 12/31 ✓	0.020 CFS ✓	
	<u>Total Diversion:</u>	0.020 CFS ✓	

Location of Point(s) of Diversion

SPRING NE1/4SE1/4SE1/4 ✓ Sec. 15, Twp 06N, Rge 01E, B.M. ✓
GEM County ✓

Place of Use ✓
STOCKWATER ✓

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	01E	15																	X

Conditions of Approval:

ADD X02 - Stockwater use is for 50 range cattle.

Remarks:Comments:

ADD N11 & N -

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM POU REVIEW REPORT
ADJUDICATION CLAIM NUMBER: 63-32410

08/30/2006

1

Right #	Type	Twp	Rge	Sec	QQ	Q	Lot	Purpose of Use	Acres/Total	Name
32410	Claim	06N	01E	15	SE	SE		STOCKWATER		TERESA J BURKHART
29341	Water Right	06N	01E	15	SE	SE	14	STOCKWATER		UNITED STATES OF AMERICA ACTING THROUGH

CONVERSATION MEMORANDUM

**RE: Snake River Basin Adjudication Water Right Nos. A63-4266 & A63-4603
Evidence of Priority and Amended Claims**

August 18, 2006

William Burkhart called in response to the evidence of priority request for claim #63-4266. Mr. Burkhart began the conversation by stating that he didn't understand why I was requesting this information because he "submitted all the information a long time ago." He said that everybody's dead and that I should have everything that I need. "What's this all about?!" he said. What I eventually realized is that some affidavits could be found in the 63-4603 back file (however, I had not received the 63-4603 file yet, so there is no way I could have known this until Mr. Burkhart mentioned that there were more than just one right.) Mr. Burkhart said that he would call me on Monday, August 21st, 2006 to set up a time to come into the office.

August 23, 2006

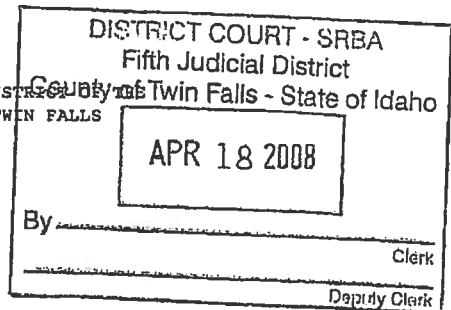
William Burkhart came in to the office to show me where the PODs and POUs are located for 63-4266 and 63-4603 on a 2000 NAPP; which I am glad he did because what we eventually found regarding the locations of the PODs, etc. was very different than what was claimed. Therefore, Mr. Burkhart will come back to the office some time next week to file the Amended Claims for 63-4266 and 63-4603 and file a stockwater claim for springs in SESE, Section 15.

August 29, 2006

William Burkhart made a few more changes to the work we did on the 23rd and then signed the Amended Claims. He also filed A63-32410.

Kimberly Brown
Senior Water Resource Agent
Western Region

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



In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 63-32410

NAME AND ADDRESS: TERESA J BURKHART
W G BURKHART
10925 NETHERLAND ST
BOISE, ID 83709

SOURCE: SPRING TRIBUTARY: WILLOW CREEK

QUANTITY: 0.02 CFS

PRIORITY DATE: 06/01/1945

POINT OF DIVERSION: T06N R01E S15 NESESE Within Gem County
Point of diversion is within MS 1274.

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Stockwater Within Gem County
T06N R01E S15 SESE
Place of use does not include federal public lands.

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

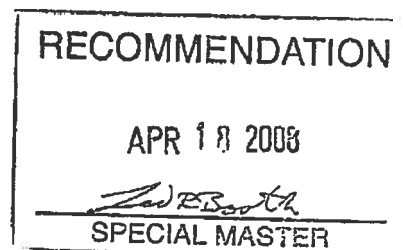
The quantity of water decreed for this water right is not a determination of historical beneficial use.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



RECEIVED

APR 22 2008

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
APR 18 2008
By _____ Clerk
Deputy Clerk

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

) SPECIAL MASTER'S REPORT
)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) FOR WATER RIGHTS 63-04266,
) 63-04603, and 63-32410

I. FINDINGS OF FACT

Notices of claim were filed for the above-captioned water rights pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of these water rights.

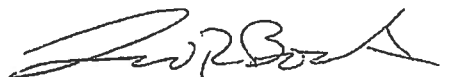
On June 14, 2007, the United States of America, Department of Interior, Bureau of Land Management, filed objections to the *Director's Report*, asserting that the legal descriptions of the places of use should exclude federal public land. On April 15, 2008, the parties filed a *Standard Form 5 - Stipulated Elements of a Water Right* in each of the subcases, which resolved the objections. The Idaho Department of Water Resources concurred with the stipulations.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Forms 5*, IT IS RECOMMENDED that water rights 63-04266, 63-04603, and 63-32410 be decreed with the elements as set forth in the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

Dated

April 18, 2008



Theodore R. Booth
Special Master
Snake River Basin Adjudication

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)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

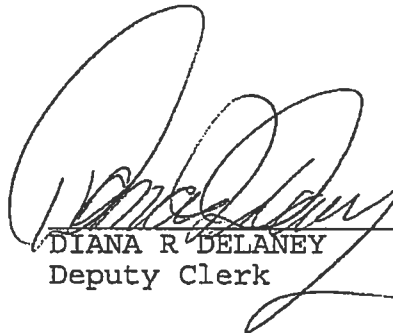
Water Right(s): 63-04266
63-04603 63-32410

On April 18, 2008, Special Master THEODORE R. BOOTH issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED April 18, 2008.



DIANA R. DELANEY
Deputy Clerk

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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 63-04266
63-04603 63-32410

CERTIFICATE OF MAILING

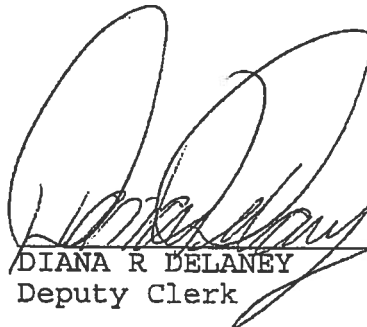
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on April 18, 2008, with sufficient first-class postage prepaid to the following:

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

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

TERESA J BURKHART
W G BURKHART
10925 NETHERLAND ST
BOISE, ID 83709
Phone: 208-375-3296

CERTIFICATE OF MAILING

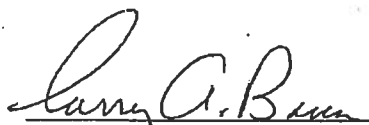


DIANA R DELANEY
Deputy Clerk

PAGE 1
04/18/08

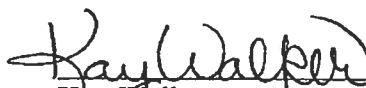
OBJECTOR:

United States of America
Bureau of Land Management

 4/18/2008

Larry A. Brown, USDOJ  Date
Attorney for BLM

DWR Concurrence:

 2-1-08

Kay Walker Date
Senior Water Resource Agent

 1-31-08

Nicholas B. Spencer Date
Deputy Attorney General
Attorney for IDWR