

5500
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: A43-10304
Date Received: 5/31/1989
Receipt No: 1003787
Received By: JB

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: KENNETH S. BLACK 208-824-5593
Address: BOX 103
ALMO, ID 83312

OR

Name: JAY L. BLACK 208-824-5593
Address: BOX 103
ALMO, ID 83312

2. Date of Priority: APR 01, 1880

3. Source: SPRINGS Trib. to: GRAPE CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
15S	25E	6	NE	SW	SE		CASSIA

5. Description of diverting works:
TAPPED WITH PIPE, PUPMED TO MAINLINE, HANDLINES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.600		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

A43-10304

Page 1

Date: 05/31/89

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10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
15S	25E	6	SW		NE		IRR	25.0
			SE		NE		IRR	29.0
			NE		SE		IRR	40.0
			NW		SE		IRR	40.0
			SW		SE		IRR	30.0
							Section Acres	164.0
							Total Acres	164.0

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:
43-00402, A43-00403A,A43-02279

14. Remarks:

15. Basis of Claim: BENEFICIAL USE

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): Fenneth L. Black Date: 5/31/89

Date: _____

State of Idaho)
County of Boia) SS.

Subscribed and sworn (or affirmed) before me this 31 day

of may 19 89

John Dal Corle
Notary Public

Seal

Residing at Boia, ID

My Commission Expires 4/2/94

T. 14 S
R. 14 E

S

42° 7' 30"
113° 37' 30"

170000
FEET

468

469

467

ALMO 24 MI

285

R. 24 E

286

35

R. 25 E

287

288

289

NATIONAL

FOREST

Cave Creek

UPPER RAFFERTY RIVER VALLEY

BM 5381

BM 5368

BM 5461

25 29
40 40
30

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Produced by the Geological Survey
in cooperation with the Soil Conservation Service

Orthophotograph prepared from 1:78 000-scale
aerial photographs taken August 20, 1976

Projection and 10,000-foot grid ticks: Idaho coordinate
system, central zone (transverse Mercator)

1000-meter Universal Transverse Mercator grid ticks.

Zone 12, 1927 North American datum

AK3-10304

NORTH



Copies Of These Maps Can Be
At Bonville Blue Print, Boise

Produced by the Geological Survey
in cooperation with the Soil Conservation Service

AK3-10304



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

A43-10304
KENNETH S. BLACK
JAY L. BLACK
BOX 103
ALMO

ID 83312

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

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MAR 04 1993

CONVERSATION MEMORANDUM

EMPLOYEE: STEVE CLELLANOFILE A43-10304RE: PROOF OF PRIORITYDATE 2-3-92

NAME OF PARTY

JAY L. BLACK

They Come in to bring proof of priority.

We discussed these springs and he gave me the land patent as proof. He couldn't find any other evidence. It seems this water source is possible private waters and never reaches Grape Creek. Therefore, was not included in the decree and may still qualify for this 1880 date.

Earlier the water was used on a garden site and in 1976 he placed a pump at the spring to put the water in the mainline sprinkler system.

He will try to get an affidavit from his Mother also to support the use of the water.

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MAR 04 1993



THE UNITED STATES OF AMERICA,

Homestead Certificate No. 500
APPLICATION 899
of the LAND OFFICE at Oxford, Idaho Territory

To all to whom these presents shall come, Greeting:

Whereas There has been deposited in the GENERAL LAND OFFICE of the United States a CERTIFICATE OF THE REGISTER approved 20th May, 1862, "To secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of John Love

has been established and duly consummated, in conformity to law, for the south west quarter of the north east quarter, the north east quarter of the south west quarter and the west half of the south east quarter of section six, in Township fifteen south of Range twenty-five east of Boise Meridian, in Idaho Territory, containing one hundred and fifty acres,

according to the OFFICIAL PLAT of the Survey of the said Land, returned to the GENERAL LAND OFFICE by the SURVEYOR GENERAL:

Now know ye, That there is, therefore, granted by the United States unto the said John Love the tract of Land above described: To have and to hold the said tract of Land, with the appurtenances thereof, unto the said John Love and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law.



In testimony whereof I, Grover Cleveland, President of the United States of America, have caused these letters to be made Patent, and the seal of the GENERAL LAND OFFICE to be hereunto affixed.

Given under my hand, at the City of WASHINGTON, the eighteenth day of April, in the year of our Lord one thousand eight hundred and eighty-eight, and of the Independence of the United States the one hundred and twenty-sixth.

By the President: Grover Cleveland

By "Mr. M. H. Adams", Secretary,
Robert R. R.

A43-10304

Lowe

Filed for record at request
of John Lowe at 11:53 AM
November 22nd 1899. Recorded
in Book 6 of Deeds page
633 Cassia County Records

John Hansen
Recorder

MICROFILMED
MAR 4 1993

East

PD 6-28-02

06/05/2001

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

RIGHT NUMBER: 43-10304

NAME AND ADDRESS: JAY L BLACK
KENNETH S BLACK
PO BOX 103
ALMO, ID 83312

SOURCE: SPRINGS

TRIBUTARY: GRAPE CREEK

QUANTITY: 0.4 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 10.4 CFS. COMBINED RIGHT
NOS.: 43-402, 43-403, 43-404, 43-405, 43-2247, 43-2279 AND
43-13030.

PRIORITY DATE: 04/01/1880

POINT OF DIVERSION: T15S R25E S6 NESWSE Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04-01 10-31	0.40 CFS

PLACE OF USE:

<u>IRRIGATION Within CASSIA County</u>							
T15S R25E S6	LOT 1	NENE	31	T15S R25E S6	LOT 2	NWNE	15
T15S R25E S6		SWNE	23	T15S R25E S6		SENE	26
T15S R25E S6		NESW	7	T15S R25E S6		SESW	13
T15S R25E S6		NESE	23	T15S R25E S6		NWSE	38
T15S R25E S6		SWSE	30				

206 ACRES TOTAL

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 20 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION
SEASON.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED
TO THE IRRIGATION OF A COMBINED TOTAL OF 378 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 43-402, 43-403A, 43-
404, 43-405, 43-2247, 43-2279 AND 43-13030.

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

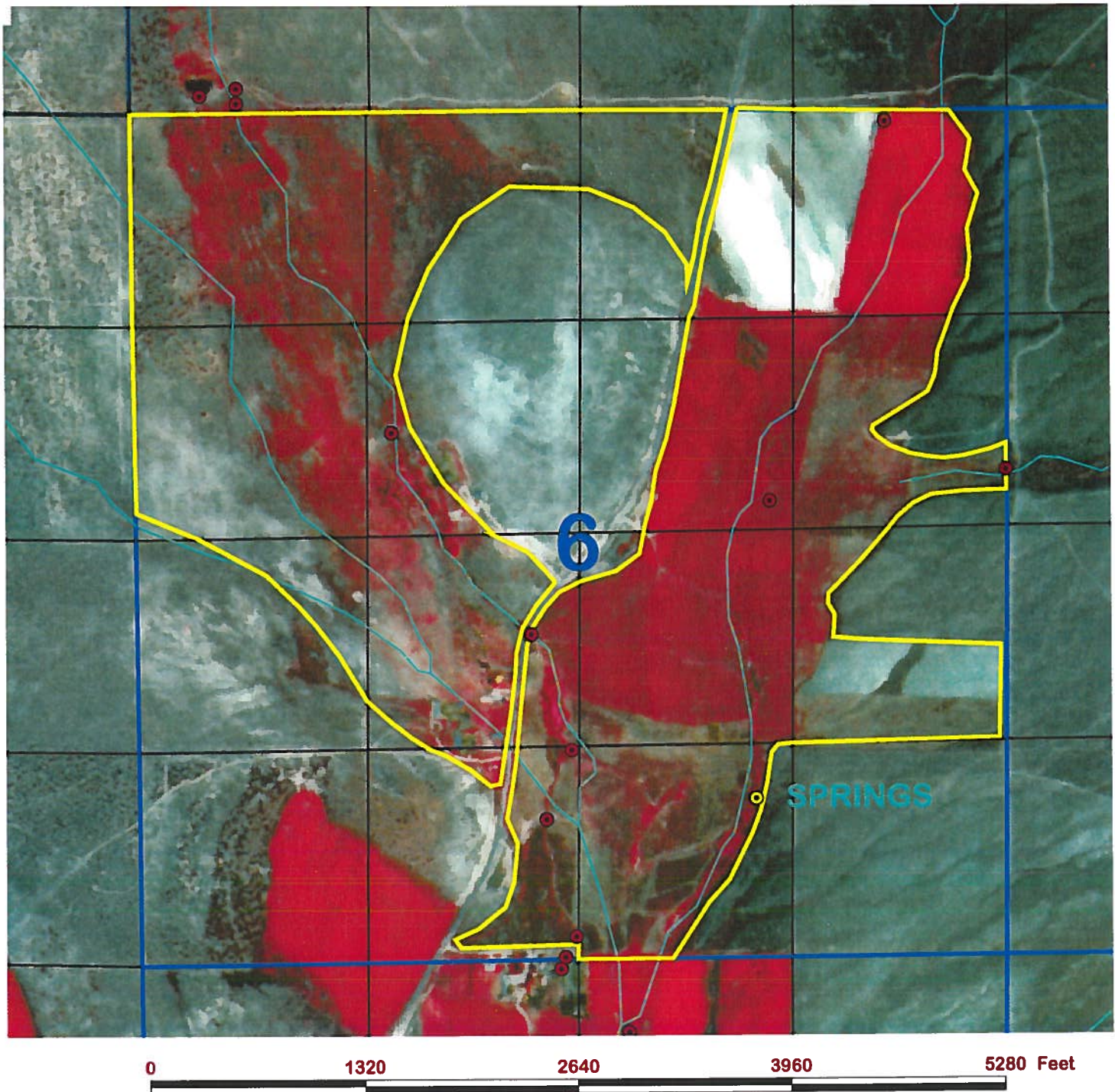
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE
EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE
ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER
THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6),
IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Idaho Department of Water Resources

RIGHTS: 43-402, 43-403A, 43-404, 43-405,
43-2247, 43-2279, 43-10304, 43-13030

RECOMMENDED PLACE OF USE
TWP 15S, RNG 25E, SEC 06
Data entry on June 5, 2001



● RECOMMENDED POINT OF DIVERSION

RECOMMENDED PLACE OF USE

SECTION LINES

QUARTER/QUARTER LINES



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

11/08/2000

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

RIGHT NUMBER: 43-10304

NAME AND ADDRESS: JAY L BLACK
KENNETH S BLACK
BOX 103
ALMO, ID 83312

SOURCE: SPRINGS TRIBUTARY: GRAPE CREEK

QUANTITY: 0.4 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 7.5 CFS. COMBINED RIGHT
NOS.: 43-402, 43-403, 43-404, 43-405, 43-2247 AND 43-2279.

PRIORITY DATE: 04/01/1880

POINT OF DIVERSION: T15S R25E S6 NESWSE Within CASSIA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
04-01 10-31

QUANTITY
0.40 CFS

PLACE OF USE:

IRRIGATION Within CASSIA County

T15S R25E S6	LOT 1	NENE	31	T15S R25E S6	LOT 2	NWNE	15
T15S R25E S6		SWNE	23	T15S R25E S6		SENE	22
T15S R25E S6		NESW	7	T15S R25E S6		SESW	13
T15S R25E S6		NESE	23	T15S R25E S6		NWSE	38
T15S R25E S6		SWSE	30				
202 ACRES TOTAL							

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED
TO THE IRRIGATION OF A COMBINED TOTAL OF 375 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 43-402, 43-403A, 43-
404, 43-405, 43-2247 AND 43-2279.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 20 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 - Beneficial Use

CLAIM NUMBER: A43-10304

USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
03-15 11-15	0.60 CFS	
41 10 31		4
TOTAL DIVERSION:	0.60 CFS	

Stage: BENEFICIAL USE
CASSIA County

	NE			NW			SW			SE					
T	R	S	NENE	NNNE	SHNE	SENE	NENW	NNNW	SNW	SEW	NESS	NWSW	SSW	SESE	SUM
---	---	---	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	---
---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
155	25E	6	:	:	25	29	:	:	:	:	:	40	30	:	164.0

Field Inspection Flag:
Presumption Flag:

706-2000

~~B09-43D~~
B09-43D

Comb limits are, of course

for go
ppl
at
202

RECOMMENDATION NOTES

From: Vikie Hancock

11/6/00

Regarding: Claim 43-10304

This is a beneficial use claim. Priority date is based upon date of homestead patent and decreed priority date for use of Grape Creek. Claimant states that the use of the spring began at the same time that use of the waters of Grape Creek began. Since many springs in use at the time were not included in the Jobe Adams Decree of 1928, and it is reasonable to assume that these springs were used when the land was first developed, I am recommending the claimed priority date.

Claimant stated that historical use was of a garden spot and irrigation around and below the springs. Current usage is irrigation. Waters from the spring are used almost exclusively to irrigate with sprinklers up a draw in the NESE Section 6. This field is approximately 20 acres. Claimant uses 1/4 mile of sprinkler line with mostly 5/32 sprinkler heads.

1/4 mile sprinkler line = 180 gpm

$180/448.8 = 0.40$ cfs

or

20 ac @ 0.02 cfs/acre = 0.4 cfs.

Claim was filed for 0.6 cfs for use on 160 acres. My recommendation is that this use be limited to 0.40 cfs and 20 acres of irrigation within a permissible place of use of 376 acres.

Field Exam Notes

Field Exam Date: 10-01-1999

Claim No: A43-00402, -00403A, -00404, -00405, -02279, -02247, 04069, A43-07144, -10304

Claimants: Jay L. Black, Kenneth Black, J. Spencer Black

Agent: Vikie Hancock

Mr. Jay L. Black and Agent Jeanne Robertson accompanied me on this field exam. In response to a question regarding any updates of address or ownership of these claims, Mr. Black said that J. Spencer Black should be removed from all the claims. I explained that some sort of deed of conveyance would be needed, and he said that could be provided.

This ranch has two irrigation systems. Both include both surface and groundwater, sprinkler and flood irrigation.

Claims **A43-00402, -00403A, -00404, and -00405** are based upon Jobe Adams decreed rights to Grape Creek. There were four original ranches that used all the water of Grape Creek, and Blacks own two of those ranches. It is agreed by the three current users of Grape Creek that the decrees on Grape Creek represent four total shares: Black has 2 shares, Ron Ward has 1 share and Clark ward has 1 share. Until the recent past, the water was used on a timed rotation. In the early 1980s a pond and two pipelines were constructed that convey Grape Creek water from a diversion point in the SWSW Section 31 T14S R25E. An 8 inch pipe goes to property irrigated by Clark Ward. A 12 inch pipe diverts water to property irrigated by Jay Black and Ron Ward. *(See claim files A43-00406 and A43-00407 for information about the other claimants' systems).*

The buried pipeline runs southeast through Jay Black's land until it intersects the $\frac{1}{4}$ section line between the SWNW and SENW of section 6. It then follows this line directly south. Approximately one quarter of the way south into the SW $\frac{1}{4}$ of section 6, there is a valve where claimant has a piped diversion that conveys the water east and into the main sprinkler line. It mixes with groundwater from the two wells licensed under 43-02279 and water from the spring claimed as A43-10304. Sprinkler irrigation from this source occurs in the NE $\frac{1}{4}$ section 6 and the N $\frac{1}{2}$ SE $\frac{1}{4}$ section 6.

Claimant also has a surface diversion from Grape Creek in the SWSWSW Section 31, T14S R25E. The ditch from this diversion runs west along the North section line of section 6 and south along the west section line of section 6 to flood irrigate the NW $\frac{1}{4}$ of section 6, excluding the hill. Another diversion from the Grape Creek channel is located on the southeastern edge of the hill in the SENW section 6. It is used to irrigate to the west of the creek and specifically the old orchard. Two surface diversions are located on the east side

of the highway. One is just after Grape Creek crosses under the highway. The ditch from this diversion runs southeasterly and then turns east to cross the south end of the NWSE. The difference in vegetation between the land sprinkled north and the land flooded south of this ditch can clearly be seen on the GIS layout. The last diversion from Grape Creek also goes out to the east and is located in the SE NE SW of the section.

Claim **A43-02279** is based upon a license for ground water issued in 1965. The first well in the SESWNE was supplemented by a second well in the NENENE in 1980. These two wells are interconnected and mingle with the water from the Grape Creek pipeline, and with the spring. The second well in the NENENE is powered by a diesel motor, and Mr. Black stated that it pumped 140 gpm, and that both wells were dependant on groundwater recharge that typically takes place in spring. He said he thinks that the irrigation Ron Ward does from Grape Creek on his pasture in section 31 prolongs the time that he can use his wells in section 6. Sprinkler irrigation from this source occurs in the NE $\frac{1}{4}$ and the N $\frac{1}{2}$ SE $\frac{1}{4}$ of section 6. The place of use claimed represents an accomplished transfer from the tracts licensed, and from the data on the 1980 transfer application.

Claim **43-10304** is on a spring that is located in the SWSE section 6. A 5 hp pump is used to pump the water from this spring into a reservoir built after 1987. From the reservoir the water is piped into the main sprinkler lines. Before the reservoir was constructed, the water from the spring was pumped directly into sprinkler lines. Claimant said that this water is mainly used to run sprinklers up a draw in the S $\frac{1}{2}$ of the NESE section 6. He runs one $\frac{1}{4}$ mile line with 5gpm sprinkler heads. He said that the spring was always a wet spot and that the farm garden was there in the old days. However, through the years the meadow was drained by using tiles and then perforated pipe, and the water was directed toward the spring, so that there is more water available now than when the place was first homesteaded.

Claimant also uses water from **Savage Hollow Creek**, although he has not filed a claim for it. It is used to flood irrigate a draw in the SENE section 6, and also out into the field below it when the water is sufficient. Savage Hollow Creek is tributary to Grape Creek. Clark Ward filed a claim on Savage Hollow Creek for irrigation use to protect his right to the water after it joins Grape Creek, even though he has no diversion on Savage Hollow Cr. Clark Ward is aware of Mr. Black's irrigation use of Savage Hollow, but Mr. Black is reluctant to file a claim on it. During my conversation with Clark Ward, I said that it may be good for me to meet jointly with him, Ron Ward and Jay Black to see what they wanted to do about Savage Creek so that all interests are protected.

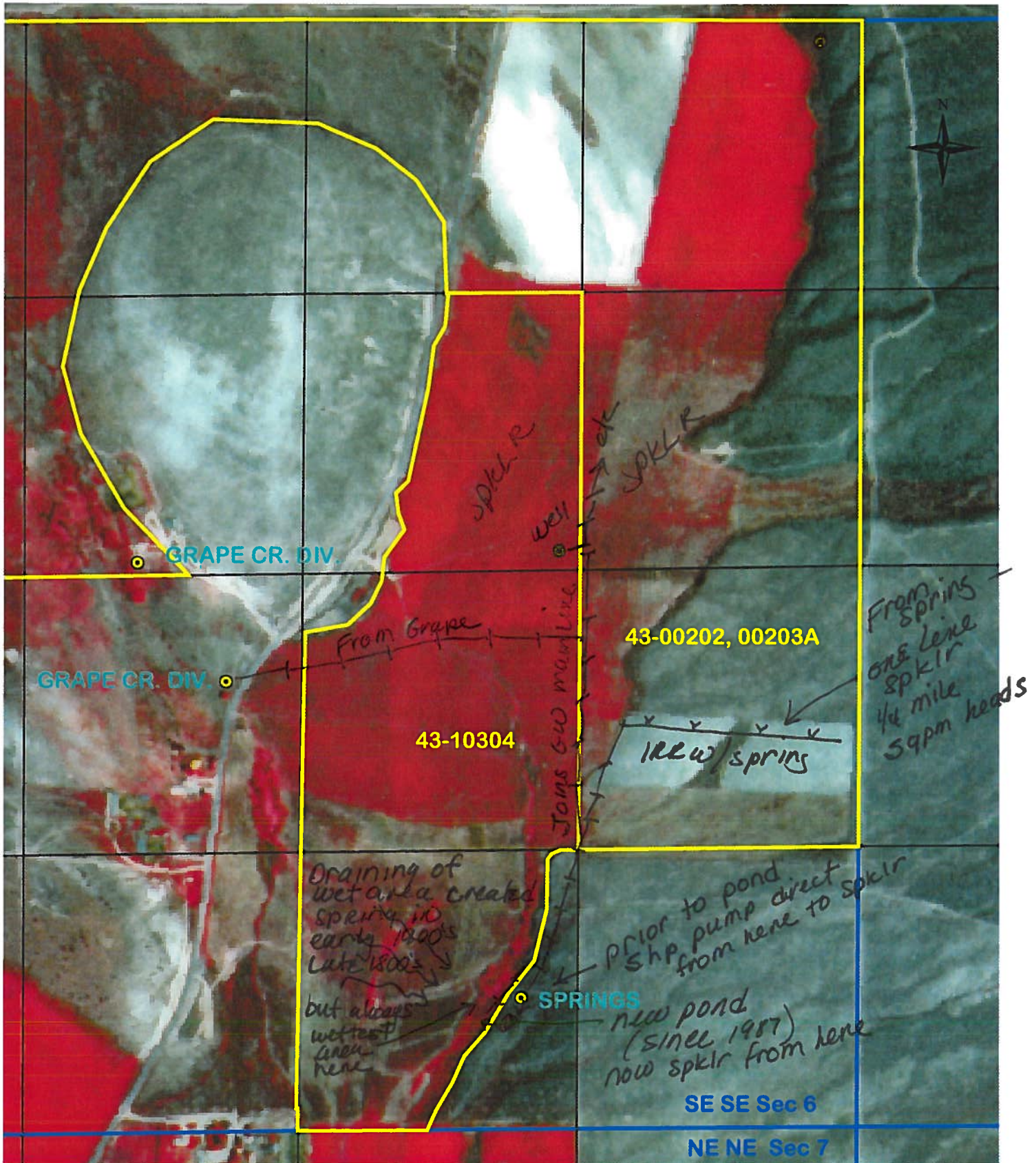
Claim **A43-02247** was brought to my attention by Agent Kelly Christensen after my field exam of the Black property. It is based upon a license for the water of Grape Creek. It seems to be of a date that would make it superceded by the Jobe Adams Decree, but further investigation is required due to the particulars of this license.

A second system is used by Mr. Black in sections 1 and 12 T15S R24E. This is a combination of groundwater and surface water from Tater Creek. *See claim file A43-04069 for additional information and photos.*

FIELD NOTES

CLAIM NO(S): A43-00402, 43,00403A,
43-10304

TWP 15S, RNG 25E, SEC 06



V HANCOCK

Date: 10-01-99

1987/1988 NAPP PHOTOGRAPHY



Diversion at springs claimed as 43-10304



*Spring water conveyed to pond (new since 1987 NAPP)
and then to sprinkler system.*

A43-10304

LAST: BLACK

ADDRESS: BOX 103

CITY: ALMO

PHONE NUMBER: 208-824-5593

OWNER CODE: C

STATE: ID ZIP: 83312

LAST: BLACK

ADDRESS: BOX 103

CITY: ALMO

PHONE NUMBER: 208-824-5593

OWNER CODE: C

FIRST: JAY L

STATE: ID ZIP: 83312

FIELD EXAM REQUIRED?

DATABASE

Y

FIELD

EXAMINER

Y() N()

VERIFICATION REQUIRED DUE TO REMARKS?

CLAIM REMARKS: THE PRIORITY IS BASED ON WHEN THE LAND WAS ORIGINALLY HOMESTEADED

FIELD EXAMINATION INFORMATION

CONTACT PERSON: _____

PHONE NUMBER: () - -

DATE OF FIELD EXAM: __/__/__

APPOINTMENT MADE: Y() N()

TIME: __: __ A() P()

ACCOMPANIED BY: _____

PHONE NUMBER: () - -

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / NOTES:

