

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 43-13244
Date Received: 7/23/2002
Receipt No:
Received By:

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

STATE OF IDAHO
DEPT OF LANDS
954 WEST JEFFERSON STR
PO BOX 83720
BOISE, IDAHO 83720-0050

2. Date of Priority: 03/02/1914

3. Source: SPRINGS

Trib. to: RAFT RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot			County	Type
16S	25E	24	SE	SE	SW	CASSIA	
16S	25E	36	SW	SW	SW	CASSIA	
16S	25E	25	NW	SW	SW	CASSIA	
16S	25E	35	SE	SW	SE	CASSIA	
16S	25E	24	SE	NE	SW	CASSIA	R
16S	25E	36	NE	NE	NW	CASSIA	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.
IRRIGATION	04/01	10/31	0.35

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
16S	25E	24	SW	NE		IRRIGATION	1.3
			SE	NW		IRRIGATION	12
			NW	SE		IRRIGATION	38
			NE	NW		IRRIGATION	10
			SE	SE		IRRIGATION	5
			NE	SE		IRRIGATION	5
						Section Acres	71.3
16S	25E	25	NW	NW		IRRIGATION	18
			SW	NW		IRRIGATION	0.7
			NW	NE		IRRIGATION	3
						Section Acres	21.7
						Total Acres	93

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:

14. Remarks:

43-13244 IS A PORTION OF 43-10056 WHICH WAS SPLIT TO RESOLVE OBJECTION TO SRBA RECOMMENDATION BY IDAHO STATE DEPT OF LANDS. HAROLD TRACY RETAINED 239 ACRES OF PRIVATE LAND AND 1.05 CFS REPRESENTED BY 43-13243. - VH

THIS PORTION OF THE ORIGINAL CLAIM 43-10056 IS LIMITED TO THE IRRIGATION OF 81 ACRES WITHIN THE PLACE OF USE IN ANY ONE IRRIGATION SEASON.

15. Basis of Claim: Beneficial Use

Idaho Department of Water Resources

RECOMMENDED PLACE OF USE
TWP 16S, RNG 25E, SEC 24, 25
PREPARED JULY 31, 2002

RIGHT: 43-13244



○ RECOMMENDED POINT OF DIVERSION



RECOMMENDED PLACE OF USE



SECTION LINES



QUARTER SECTION LINES

GIS PLACE OF USE PRESENTATION
1987 NAPP AERIAL PHOTOGRAPHY

PREPARED BY VIKIE HANCOCK

07/31/2002

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

RIGHT NUMBER: 43-13244

NAME AND ADDRESS: STATE OF IDAHO
DEPT OF LANDS
954 WEST JEFFERSON STR
PO BOX 83720
BOISE ID 83720-0050

SOURCE: SPRINGS

TRIBUTARY: RAFT RIVER

QUANTITY: 0.34 CFS

PRIORITY DATE: 03/02/1914

POINT OF DIVERSION:

T16S R25E S24 SENESW Rediversion Within CASSIA County
T16S R25E S24 SESESW Within CASSIA County
T16S R25E S25 SENWSW Within CASSIA County
T16S R25E S35 SESWSE Within CASSIA County
T16S R25E S36 NWSW Within CASSIA County
T16S R25E S36 SWSW 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	0.340 CFS

PLACE OF USE: IRRIGATION Within CASSIA County

T16S R25E S24	SWNE	1.3	T16S R25E S24	NENW	9.8
T16S R25E S24	SENE	12.0	T16S R25E S24	NESE	4.9
T16S R25E S24	NWSE	38.0	T16S R25E S24	SESE	5.1
T16S R25E S25	NWNW	19.0			

90.1 ACRES TOTAL

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 78 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

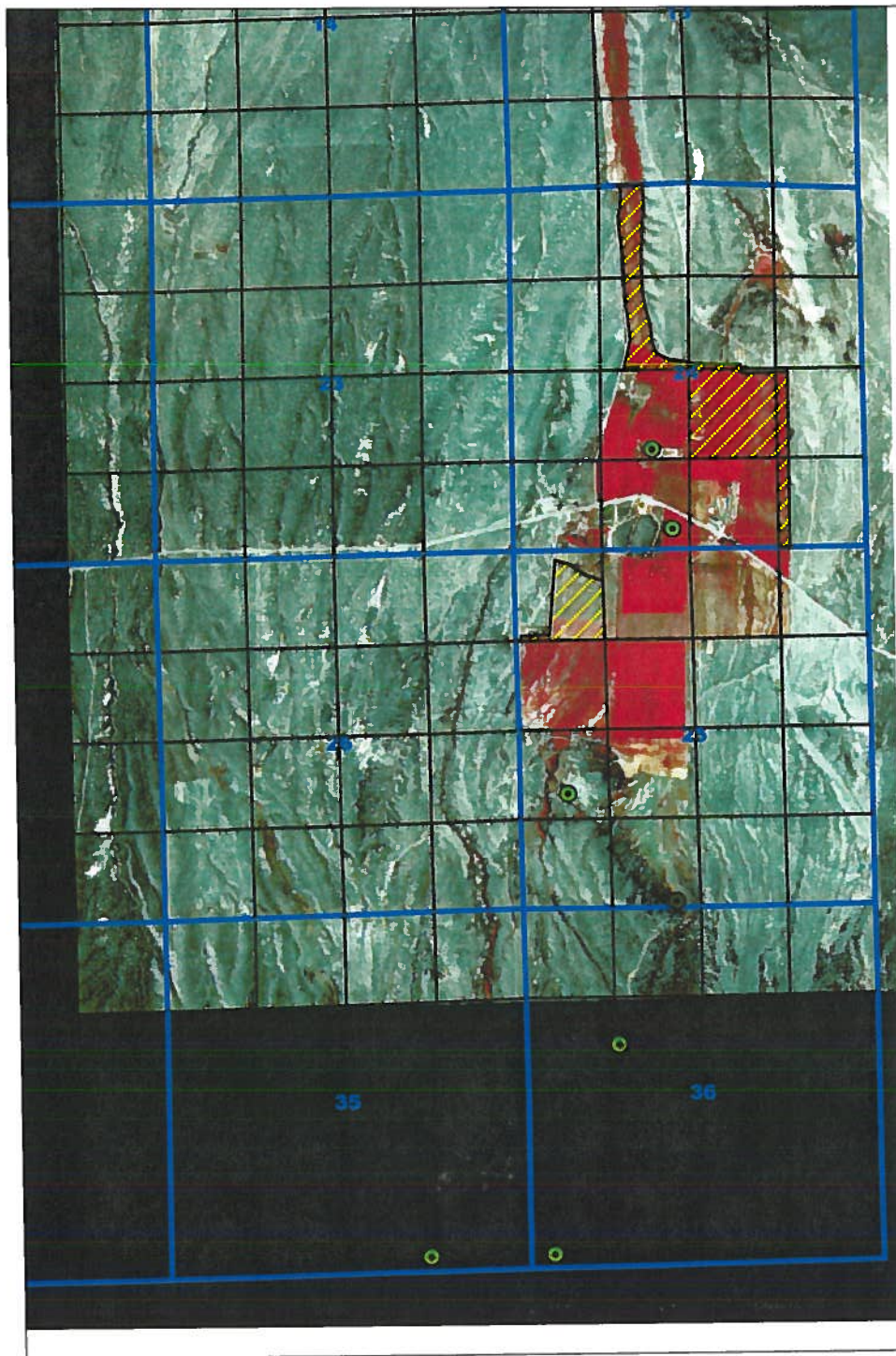
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: Beneficial Use

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 43-10056.

Idaho Department of Water Resources

RECOMMENDED PLACE OF USE
TWP 16S, RNG 25E, SEC 24, 25
PREPARED JULY 31, 2002



RIGHT: 43-13244



-  **RECOMMENDED POINT OF DIVERSION**
-  **RECOMMENDED PLACE OF USE**
-  **SECTION LINES**
-  **QUARTER SECTION LINES**

**GIS PLACE OF USE PRESENTATION
1987 NAPP AERIAL PHOTOGRAPHY**

PREPARED BY VIKIE HANCOCK

OBJECTOR:

Steven J. Schuster 7/2/02
Steven J. Schuster,
Attorney for Dept. of Lands Date

RESPONDENT:

David L. Negri, US DOJ
Attorney for USFS

IDWR CONCURRENCE:

Chuck Hancock 8/8/02
Sr. Water Resource Agent Date

Candace McHugh 8/8/02
Approved as to form Date
Attorney for IDWR

07/23/2002

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

RIGHT NUMBER: 43-13244

NAME AND ADDRESS: STATE OF IDAHO
DEPT OF LANDS
954 WEST JEFFERSON STR
PO BOX 83720
BOISE ID 83720-0050

SOURCE: SPRINGS TRIBUTARY: RAFT RIVER

QUANTITY: 0.34 CFS

PRIORITY DATE: 03/02/1914

POINT OF DIVERSION:

T16S R25E S24 SESESW Rediversion Within CASSIA County
T16S R25E S24 SESESW Within CASSIA County
T16S R25E S25 SENWSW Within CASSIA County
T16S R25E S35 SESWSE Within CASSIA County
T16S R25E S36 NWSWNW Within CASSIA County
T16S R25E S36 SWSWSW 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	0.340 CFS

PLACE OF USE:

IRRIGATION Within CASSIA County

T16S R25E S24	SWNE	1.3	T16S R25E S24	NENW	9.8
T16S R25E S24	SENE	12.0	T16S R25E S24	NESE	4.9
T16S R25E S24	NWSE	38.0	T16S R25E S24	SESE	5.1
T16S R25E S25	NWNW	19.0			

90.1 ACRES TOTAL

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 78 ACRES WITHIN THE PLACE OF USE
DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

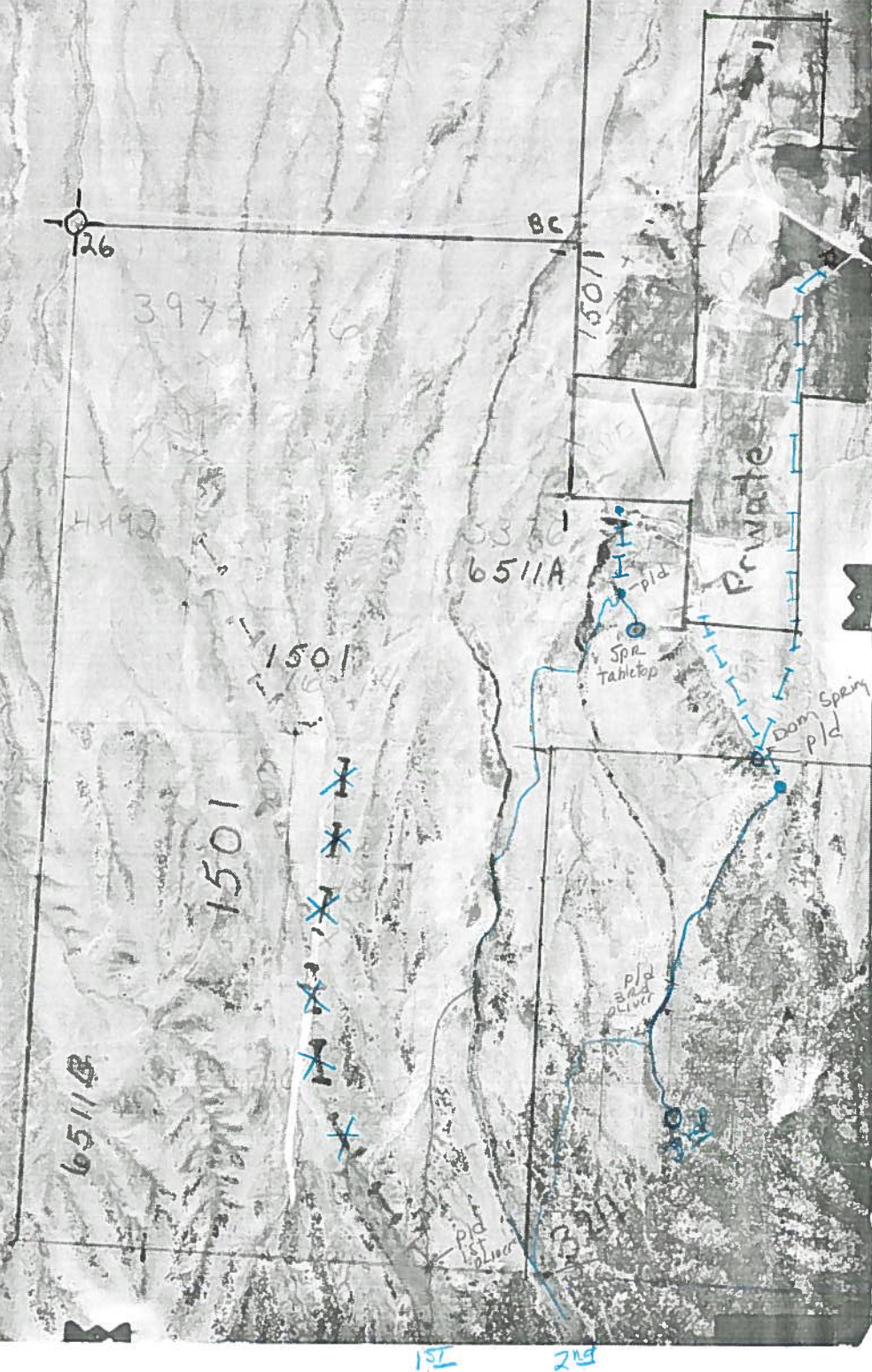
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: Beneficial Use

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 43-10056.

Water Right 43-13244

245
CJ
SJS
8m
VH



3rd Oliver spring: N 41° 59' 87"
 W 113° 29' 201"
 Headgate: N 42° 00' 430"
 W 113° 28' 996"

Notes per
 Bryce Taylor
 7-30-02



FAX COVER SHEET

OFFICE OF THE ATTORNEY GENERAL

Idaho Department of Lands

PO Box 83720

Boise, ID 83720-0050

TO:	FROM:	
Vikie Hancock FAX: 208-736-3037	Steven J. Schuster Deputy Attorney General Idaho Department of Lands	Date: 07-29-02 Number of Pages: 2 Phone: (208) 334-0200 Fax: (208) 334-2297 sschuster@idl.state.id.us

REMARKS:

Re: Tracy Water Rights

This is the IDL plat for the area in question. I have drawn a few lines on 1/4 1/4 's, but should still be readable.

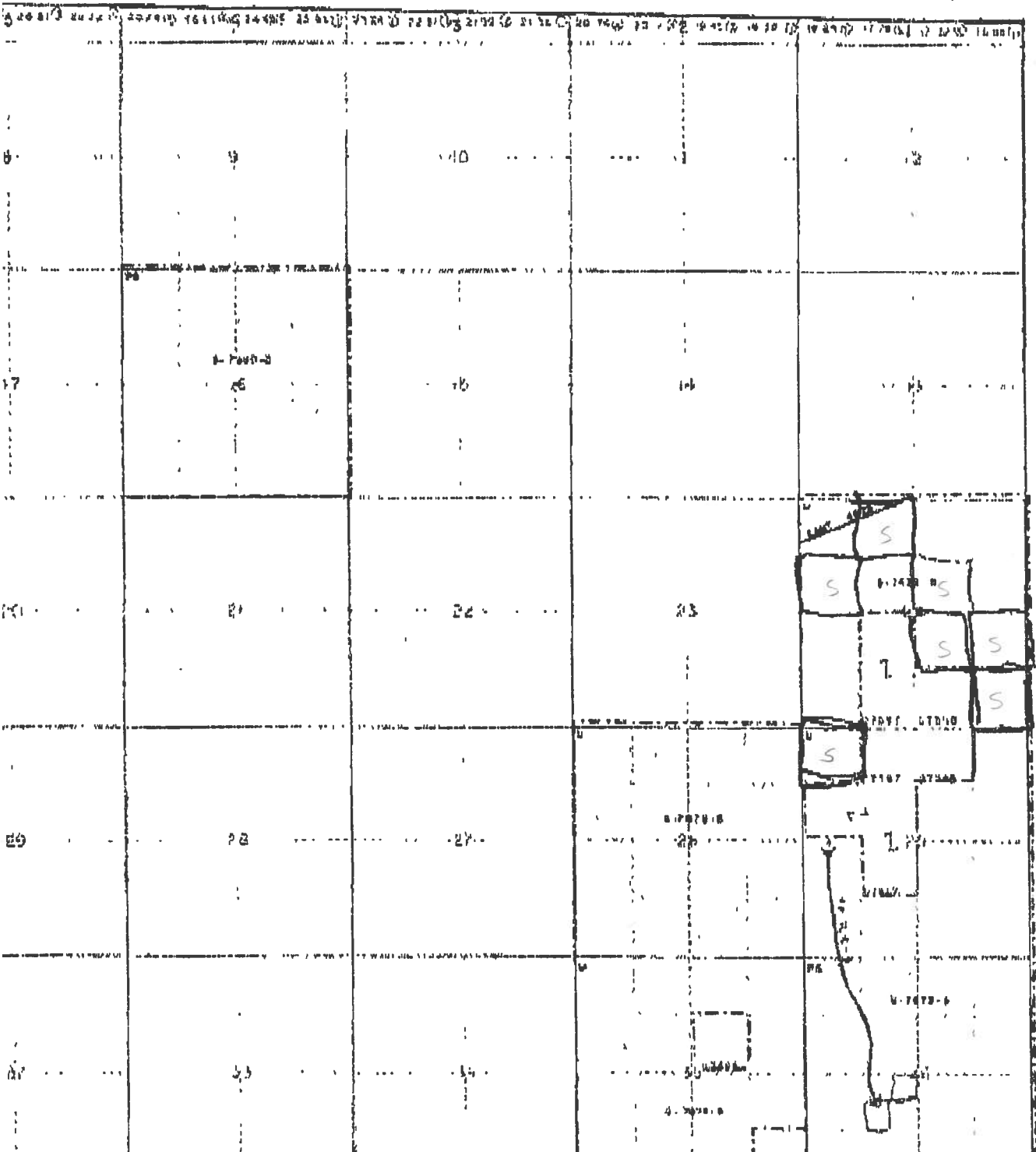
Let me know if there is a problem.

Thanks. SJS

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DEPARTMENT OF LANDS
STATE OF IDAHO

SOUTH RANGE 25 EAST
CASSIA COUNTY



Hancock, Vikie

From: Hancock, Vikie
Sent: Tuesday, July 16, 2002 12:19 PM
To: McHugh, Candice
Subject: 43-2155 & 43-10056

Candice,

I've spoken with the claimant, Charlotte Tracy by phone. She told me her impression was that Mr. Schuster would like to split right 43-10056, which is only for irrigation, and not 43-2155 which is for irrigation of 30 acres, stock and domestic use. This would be a very fair solution, as the original license for 43-2155 was entirely on private land located in section 13. I would change my recommendation for 43-2155 so that no State land was included in the POU.

Regarding 43-10056: Tracy's claimed 320 acres in Section 24. I found 332 acres irrigated in Section 24. Of the recommended 332 acre PPU, 239 irrigated acres were on private ground and 93 on State. I would support an assumption that the 12 unclaimed acres were all State land, however Tracy's did make educated guesses as to the number of acres in each tract they listed, and under claimed what I actually found irrigated in both State and private tracts. If this assumption is accepted, the Tracy's would be able to irrigate 81 acres of State land and could choose which 12 of the 93 acres to leave dry in any irrigation season. They would retain the right to irrigate all of the private land they are currently irrigating each year.

As currently recommended, 43-10056 is limited to 320 acres and a diversion rate of 1.4 cfs. The number of acres of State land represented in that 320 acres is 81.

Proposed split of 43-2155: 10056

239 acres to Tracy
81 acres within a PPU of 93 acres to State Dept of Lands

$1.4 \text{ cfs} / 320 \text{ ac} \times 239 \text{ ac} = 1.05 \text{ cfs}$ to Tracy
 $1.4 \text{ cfs} / 320 \text{ ac} \times 81 \text{ ac} = 0.35 \text{ cfs}$ to State Dept of Lands

IF this sounds acceptable to you, would you pass this on to Mr. Schuster at Dept of Lands? I would be glad to answer any questions he might have about my calculations, etc.

Vikie

Hancock, Vikie

Subject: SF5s 31-2155, 43-10056 (Tracy)
Due Date: Friday, July 19, 2002

Status: Not Started
Percent Complete: 0%

Total Work: 0 hours
Actual Work: 0 hours

Owner: Hancock, Vikie
Requested By: McHugh, Candice

Below is an email from Steve Schusters with the Idaho Department of Lands. He wants to split the water rights. I'm not sure whether his email gives you enough information. It might be helpful to talk with the claimants. Thanks

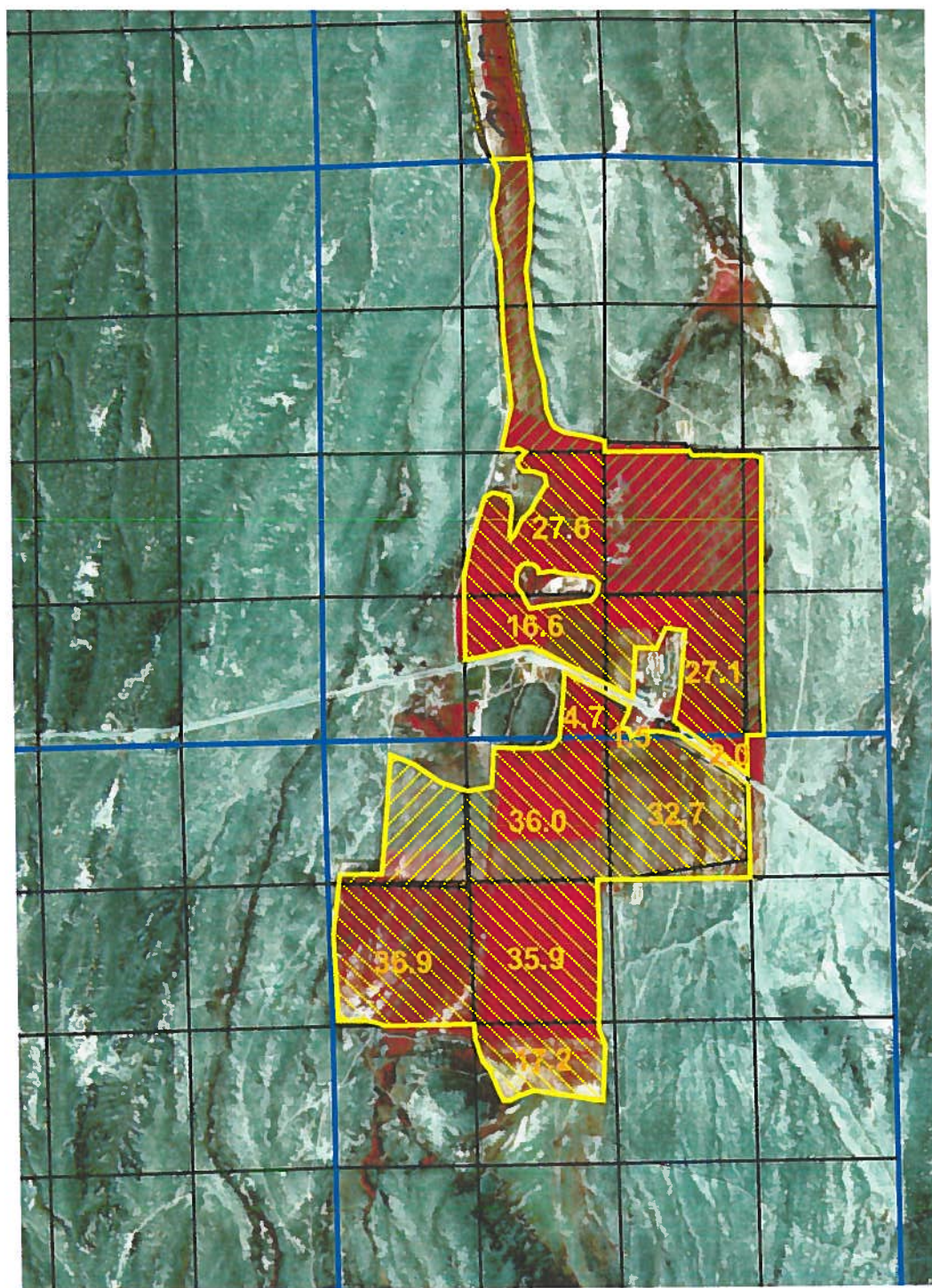
Well, I have a concept of what we need to do here, but not sure which one of you is handling this basin. In general, what we would like to do is split the ownership of each of these two so that the irrigation on State is in the name of the State, and that the stockwater, irrigation and domestic on private land in 43-2155 is in the name of Tracys. There are also corrections needed on legal descriptions.

The legal for State irrigation and acreage is the same on both rights, so perhaps we could get that into one State right for a certain amount?

Is there a way to allocate the amount of water to split for the irrigation by some rule of thumb, i.e. we have X acres of irrigation, at Y amount of water/acre, so we can calculate what we should put in the State right?

This could be a bit complicated, but there is no disagreement with the parties, so its jusdt a matter of figuring what to do.

I have a strong motive to get this done now since I have to be up north to work on our ESA case on 8/14, in conflict with the hearing on this



TWP 16S RNG 25E SECTIONS 24, 25

- TOTAL RECOMMENDED PLACE OF USE
- TRACY PRIVATE LAND
- IDAHO STATE LAND
- SECTION LINE
- QUARTER SECTION LINE



*modifications
made to
private / state
boundary per
state plat
7-29-02*

V HANCOCK
IDWR
7/23/2002

CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Harold and Charlotte Tracy
Address: 1591 E. 3600 S.
Malta, Idaho 83342

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

1. ☒ **Name and Address**
Should be: Idaho Department of Lands
954 West Jefferson Street
PO Box 83720
Boise, Idaho 83720-0050
2. ☐ **Source**
Should be: As claimed
3. ☐ **Quantity**
Should be: As claimed
4. ☐ **Priority Date**
Should be: As claimed
5. ☐ **Point(s) of Diversion**
Should be: As claimed
6. ☐ **Instream Flow Description**
Should be: As claimed
7. ☐ **Purpose(s) of Use**
Should be: As claimed
8. ☐ **Period of Year**
Should be: As claimed
9. ☐ **Place of Use**
Should be: As claimed
10. **I object because:**
 - ☐ This water right should not exist.
 - ☒ This water right was not recommended, but should be recommended with the elements described above.

CERTIFICATE OF MAILING

I certify that on this 22nd day of January, 2002, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

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

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

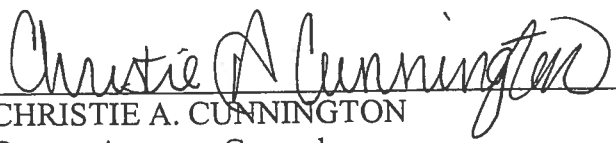
Name: Harold and Charlotte Tracy
Address: 1591 E. 3600 S
Malta, Idaho 83342

3. Copies to:

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

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

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


CHRISTIE A. CUNNINGTON
Deputy Attorney General
Idaho Department of Lands

11/30/2000

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

RIGHT NUMBER: 43-10056

NAME AND ADDRESS: CHARLOTTE TRACY
HAROLD TRACY
HC 72 BOX 2396
MALTA, ID 83342

SOURCE: SPRINGS TRIBUTARY: RAFT RIVER

QUANTITY: 1.4 CFS

PRIORITY DATE: 03/02/1914

POINT OF DIVERSION:	T16S R25E S24 (2)	point	SESESW	Rediversion	Within CASSIA County
	T16S R25E S24 (1)	point	SESESW	10056	Within CASSIA County
	T16S R25E S25 (2)		NWSWSW		Within CASSIA County
	T16S R25E S35 (4)		SESWSE		Within CASSIA County
	T16S R25E S36 (3)		NENENW		Within CASSIA County
	T16S R25E S36 (5)		SWSWSW		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	1.40 CFS

PLACE OF USE:

<u>IRRIGATION Within CASSIA County</u>					
T16S R25E S13	SESW	10	T16S R25E S13	NESW	13
T16S R25E S13	SESW	12	T16S R25E S24	NENW	9.4
T16S R25E S24	SESW	12	T16S R25E S24	NESW	28
T16S R25E S24	SESW	22	T16S R25E S24	NESE	4.8
T16S R25E S24	NWSE	39	T16S R25E S24	SWSE	30
T16S R25E S24	SESE	4.7	T16S R25E S25	NWNE	38
T16S R25E S25	NENW	36	T16S R25E S25	NWNW	19
T16S R25E S25	SWNW	38	T16S R25E S25	SENW	36
T16S R25E S25	NESW	17			

368.9 ACRES TOTAL

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 320 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

SUPERCEDED BY STIPULATION