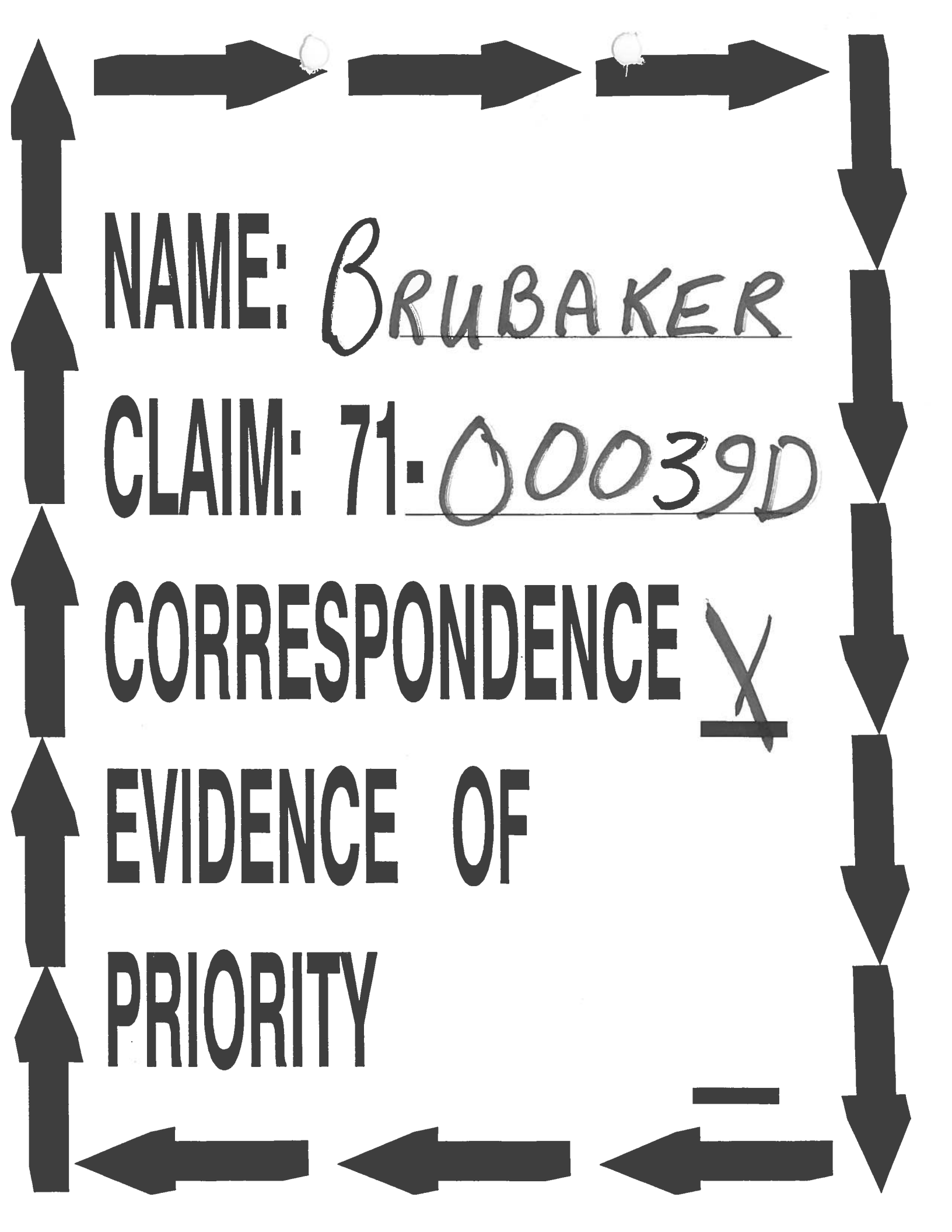




NAME: BRUBAKER

CLAIM: 71-00039D

CORRESPONDENCE



EVIDENCE OF

PRIORITY

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: **A71-00039D**
Date Received: 1/11/1990
Receipt No: X777777
Received By: _____

**COPY FOR
YOUR FILES**

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

**COPY FOR
YOUR FILES**

1. Name: FRED HAROLD BRUBAKER 208-774-2254
Address: PO BOX 97
STANLEY ID 83278

AND

Name: DELA DEVLIN BRUBAKER 208-774-2254
Address: PO BOX 97
STANLEY ID 83278

2. Date of Priority: JUN 1, 1904

3. Source: MC GOWAN CREEK Trib. to: VALLEY CREEK
HANNA CREEK VALLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
11N	12E	2	SW	SW	SE		CUSTER
		3	NW	NE	SW		CUSTER

5. Description of diverting works:
COLLECTION DITCH, ROCK DIVERSIONS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.160		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
11N	12E	11	NE	NE		IRR	2.1
			NW	NE		IRR	5.0
			SW	NE		IRR	7.9
						Section Acres	15.0
						Total Acres	15.0

11. Place of use in counties: CUSTER

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

13. Other Water Rights Used:
A71-00040B & A71-10136

14. Remarks:

P/U IS H.E.S. 109.

THIS IS A 2/3 PORTION OF THE WR 71-00039.

*A71-00039B WAS SPLIT BASED UPON A FORMER OWNER
SIGNATURE ON FORM 42-1409(7). THE SPLIT IS AS FOLLOWS:

PART C TO BERMAN FOR .64CFS

PART D TO BRUBAKER FOR .16CFS FOR LOT 6 OF THE THOMPSON CREEK
RANCH SUBDIVISION. KKC 5-8-95

AN ADMINISTRATIVE MODIFICATION WAS MADE TO THE PLACE OF USE TO
REFLECT THE PLACE OF USE AS IDENTIFIED THROUGH THE GIS PROCESS.
THIS IS CONSIDERED A MODIFICATION OF THE SPLIT DURING THE CHANGE
OF OWNERSHIP PROCESS. KKC 3-27-98

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

DAN J. CAVANAGH

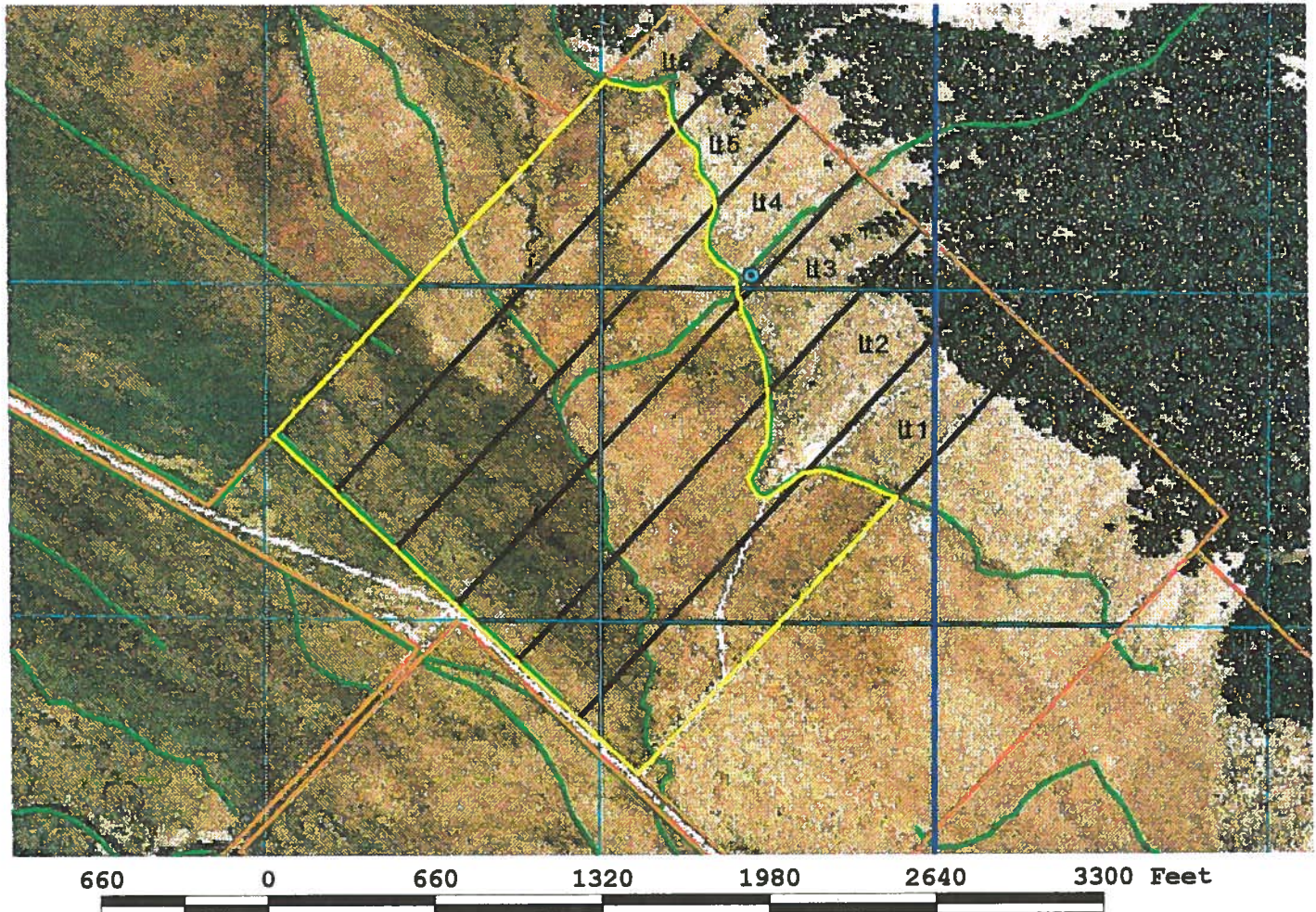
Decree Plaintiff

WM. MERRITT, ET AL.

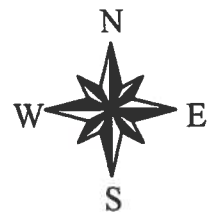
vs Decree Defendant

IDAHO DEPARTMENT OF WATER RESOURCES

FOR SPLITS RELATING TO,
71-00039, 71-00040, & 71-10136
HES- 109 (part)
THOMPSON CREEK SUBDIVISION



RECOMMENDED PLACE OF USE
VALLEY AND MC GOWAN CR = 76.5 ACRES
THOMPSON CR = 24 ACRES
DATA ENTRY ON MARCH 5, 1998
TWP 11N, RNG 12E,
SEC 11 NE1/4, & N1/2SE1/4



- RECOMMENDED PLACE OF USE
- ⊙ RECOMMENDED POINT OF DIVERSION
- ▬ SECTION LINES
- ▬ QUARTER QUARTER LINES
- ▬ THOMPSON CREEK SUBDIVISION
- ▬ HOMESTEAD ENTRY BOUNDARY
- ~ STREAM AND DITCH CHANNELS

GIS PLACE OF USE PRESENTATION
1992 USFS PHOTOGRAPHY
DATA ENTRY BY KELLY K CHRISTENSEN



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

March 31, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

FRED BRUBAKER
PO BOX 97
STANLEY ID 83278

RE: CHANGE OF OWNERSHIP AND MODIFICATION TO ADJUDICATION CLAIMS
A71-00039B, A71-00040B, AND A71-10136 AND SUBSEQUENT SPLITS

Dear Mr Brubaker

I have enclosed documents that cover the history of the original adjudication claims filed by Mr Berman, as modified through the GIS process, for all ownership changes including your purchase of lot 6 of the Thompson Creek Subdivision. Normally, I do not provide a history of ownership changes prior to the current change, but as most all claims have been modified and I have to notify other owners as well, I created a packet to allow each individual to review those changes to see the effect on their portion of the original claims.

This project became complex only in that the subdivision was created with boundaries that lay approximately 42° to the quarter/quarter (QQ) lines. As water rights have historically been recorded by irrigated ground per QQ the diagonal lots create QQs with small acreage that was difficult to calculate using equipment previously available. The GIS program allows for more accurate identification of small acreage per QQ therefore the driving factor for the modifications.

I have included a chart, a split tree, a reevaluation analysis, and a GIS layout showing the subdivision to assist you in the review of the packet.

If you have any questions please contact this office and I will assist you.

Sincerely

Kelly K Christensen
Sr Water Resource Agent

Enclosures



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

March 31, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

DANIEL L BERMAN
50 S MAIN ST STE 1250
SALT LAKE CITY UT 84144

RE: CHANGE OF OWNERSHIP AND MODIFICATION TO ADJUDICATION CLAIMS
A71-00039B, A71-00040B, AND A71-10136 AND SUBSEQUENT SPLITS

Dear Mr Berman

I have enclosed documents that cover the history of the original adjudication claims you filed and as modified through the GIS process, for all ownership changes of the Thompson Creek Subdivision. Normally, I do not provide a history of ownership changes prior to the current change, but as most all claims have been modified and I have to notify other owners as well, I created a packet to allow each individual to review those changes to see the effect on their portion of the original claims.

This project became complex only in that the subdivision was created with boundaries that lay approximately 42° to the quarter/quarter (QQ) lines. As water rights have historically been recorded by irrigated ground per QQ the diagonal lots create QQs with small acreage that was difficult to calculate using equipment previously available. The GIS program allows for more accurate identification of small acreage per QQ therefore the driving factor for the modifications.

I have included a chart, a split tree, a reevaluation analysis, and a GIS layout showing the subdivision to assist you in the review of the packet.

If you have any questions please contact this office and I will assist you.

Sincerely

Kelly K Christensen
Sr Water Resource Agent

Enclosures

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: A71-00039D
Date Received: 1/11/1990
Receipt No: X777777
Received By: _____

**COPY FOR
YOUR FILES**

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

**COPY FOR
YOUR FILES**

1. Name: FRED HAROLD BRUBAKER 208-774-2254
Address: PO BOX 97
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AND

Name: DELA DEVLIN BRUBAKER 208-774-2254
Address: PO BOX 97
STANLEY ID 83278

2. Date of Priority: JUN 1, 1904

3. Source: MC GOWAN CREEK Trib. to: VALLEY CREEK
HANNA CREEK VALLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
11N	12E	2	SW	SW	SE		CUSTER
		3	NW	NE	SW		CUSTER

5. Description of diverting works:
COLLECTION DITCH, ROCK DIVERSIONS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.160		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
11N	12E	11	NE	NE		IRR	2.0
			NW	NE		IRR	5.0
			SW	NE		IRR	7.5
						Section Acres	14.5
						Total Acres	14.5

11. Place of use in counties: CUSTER

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

13. Other Water Rights Used:
A71-00040B & A71-10136

14. Remarks:

P/U IS H.E.S. 109.
THIS IS A 2/3 PORTION OF THE WR 71-00039.
*A71-00039B WAS SPLIT BASED UPON A FORMER OWNER
SIGNATURE ON FORM 42-1409(7). THE SPLIT IS AS FOLLOWS:
PART C TO BERMAN FOR .64CFS
PART D TO BRUBAKER FOR .16CFS FOR LOT 6 OF THE THOMPSON CREEK
RANCH SUBDIVISION. KKC 5-8-95

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

DAN J. CAVANAGH

Decree Plaintiff

WM. MERRITT, ET AL.

vs Decree Defendant



BASIS FOR RECOMMENDATION FOR: A71-00039B, A71-00040B, AND A71-10136

At the time I conducted a field verification exam for HES-109 the property was split into two segments and irrigated as such. Part A, the southwest portion was and currently is owned by Mr Mahoney. Part B, subsequent to my field verification was subdivided into the Thompson Creek Subdivision consisting of 6 lots. It was and currently is irrigated as a unit. The irrigation practices have not changed based upon the subdivision lot ownership. Currently three different owners exist for the three lots and are claimed as follows;

A71-00039D, and A71-00040D,	for lot 6	owner = Brubaker
A71-00039E, A71-00040E, & A71-10136A	for lots 1, 2, and 3	owner = Hill
A71-00039F, A71-00040F, & A71-10136B	for lots 4 and 5	owner = Berman

As the Thompson Creek Subdivision was and is operated as a unit, for irrigation purposes, my analysis and recommendation is based upon that system. That recommendation has subsequently been split based upon ownership for the individual ownership of the subdivision lots.

LISTING OF ADDITIONAL ATTACHMENTS FOR BASIS OF RECOMMENDATION:

TITLE	DATE	PREPARER
1. P/D SYSTEM FOR 11N, 12E, SEC 4 NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$	6-2-94	KKC
2. ANALYSIS OF THE SYSTEM (Thompson Creek Subdivision table of lot acres)	12-14-94	KKC
3. SPLIT TREE FOR: (claim # listing)	7-25-96	KKC

BASIS FOR SPLITS OF A71-00039B, A71-00040B, AND A71-10136

The splits of these rights were based upon the recommended irrigated acres as shown in the table of attachment 2. I developed the table from the overlay of the subdivision lots on an orthophotographic quad map that outlined the found irrigated place of use. This information was submitted to the claimants for their review prior to splitting the claims. Documentation common to the related rights was developed and filed in the following base rights; A71-00039B, A71-00040B, and A71-10136. The common information consists of field verification information, completed CVRs, assorted maps, and other related documents. Place of use photos are in file A71-00039B.

*Superseded
2-30-98
KKC*

SPLIT TREE FOR:
A71-00039 for 1.20cfs
A71-00040 for 3.60 cfs
and A71-10136 for 0.40cfs

BERMAN
A71-00039B for 0.80 cfs
A71-00040B for 2.40 cfs
A71-10136 for 0.40 cfs

MAHONEY
A71-00039A for 0.43 cfs
A71-00040A for 1.20 cfs

Includes 0.03 cfs
for stockwater

OWNERSHIP CHG

CLAIM TOTALS BELOW

EACH LOTS PORTION

**BERMAN
LOT 1**
A71-00039C for 0.11 cfs
A71-00040C for 0.33 cfs
A71-10136 for 0.16 cfs

**BERMAN
LOT 2**
A71-00039C for 0.11 cfs
A71-00040C for 0.33 cfs
A71-10136 for 0.10 cfs

**BERMAN
LOT 3**
A71-00039C for 0.13 cfs
A71-00040C for .38 cfs
A71-10136 for 0.10 cfs

**BERMAN
LOT 4**
A71-00039C for 0.14 cfs
A71-00040C for 0.43 cfs
A71-10136 for 0.04 cfs

**BERMAN
LOT 5**
A71-00039C for 0.15 cfs
A71-00040C for 0.46 cfs

EACH BOX REPRESENTS ONE
LOT'S PORTION OF OF THE
TOTAL RIGHT.

A71-00039C for 0.64cfs
A71-00040C for 1.93 cfs
A71-10136 for 0.40 cfs

**BRUBAKER
LOT 6**
A71-00039D for 0.16 cfs
A71-00040D for 0.47 cfs

**HILL
LOTS 1, 2, & 3**
A71-00039E for 0.35 cfs
A71-00040E for 1.04 cfs
A71-10136A for 0.36 cfs

**BERMAN
LOTS 4 & 5**
A71-00039F for 0.29 cfs
A71-00040F for 0.89 cfs
A71-10136B for 0.04 cfs

OWNERSHIP CHG

*Superseded
3-30-98
KKC*

Prepared by KKC on 7-25-1996
reformatted and expanded from
File C:\data\kelly\bberman2.kkc
this file is:
C:\data\kelly\71-00039.edg

OWNER = PAUL & ANN HILL
 CLAIM NUMBER A71-00039E A71-10136A DATE 7-25-96
 A71-00040E AGENT KKC

A71-00039E AND 00040E

CLAIM NUMBER				NE				NW				SW				SE				TOTAL ACRES
	T N S	R N G	S E C	N E	N W	S W	S E	N E	N W	S W	S E	N E	N W	S W	S E	N E	N W	S W	S E	
LOT 1	A71-					.045										5.5				10
LOT 2						.565										1	2			10
LOT 3						3	8										.5			11.5
TOTAL						3.5	19									6	3			31.5

A71-10136A

CLAIM NUMBER				NE				NW				SW				SE				TOTAL ACRES
	T N S	R N G	S E C	N E	N W	S W	S E	N E	N W	S W	S E	N E	N W	S W	S E	N E	N W	S W	S E	
LOT 1							6									2				8
LOT 2							5.5													5.5
LOT 3							5.5													5.5
TOTAL							17									2				19

Berman sold to Hill (lots 1, 2, & 3). This compilation is from the ANALYSIS OF THE SYSTEM FOR A71-00039E A71-00040E AND A71-10136 TO DETERMINE BASIS OF SPLIT created Dec 14, 1994.

The total line for each section represents the applicable irrigated acres within each quarter quarter.

The total acres identified as appurtenant to Hill's lots are to be subtracted from A71-00039C, A71-00040C and A71-10136 (as applicable) to determine the P/A for the Berman Claims.

Supplemented
 3-30-98
 KKC

**ANALYSIS OF THE SYSTEM FOR
A71-00039B, A71-00040B AND A71-10136
TO DETERMINE BASIS OF SPLIT**

The irrigated ground covered by the the above claims is within the Thompson Creek Subdivision and is identified by subdivision lot and quarter/quarter by system. This split identifies lot 6 as now owned by Fred and Della Brubaker and lots 1 through 5 as still belonging to Daniel L Berman.

The main ditch delivers both Valley Creek and McGowan Creek water to the entire found 73 acres of irrigation. I also found that 21 of those same acres are also irrigated from Thompson Creek (see map for physical relationship).

The recommended acres per segment has been rounded to the nearest $\frac{1}{2}$ acre with smaller acreages per quarter/quarter per lot ignored.

SUBDIVISION LOT NUMBER	ACRES IRRIGATED FROM VALLEY CR AND MC GOWAN CREEK							ACRES IRRIGATED FROM THOMPSON CR			
	NE¼NE¼	NW¼NE¼	SW¼NE¼	SE¼NE¼	NE¼SE¼	NW¼SE¼	LOT TOTAL	SW¼NE¼	SE¼NE¼	NE¼SE¼	LOT TOTAL
1				4.5	5	.5	10.00		6	2	8.00
2			.5	6.5	1	2	10.00		5.5		5.50
3			3	8		.5	11.50		5.5		5.50
4	2		6	5			13.00	1	1		2.00
5	3	1	10				14.00	0			0.00
6	2	5	7.5				14.50	0			0.00
QUARTER/QUARTER TOTAL	7.00	6.00	27.00	24.00	6.00	3.00	73.00	1.00	18.00	2.00	21.00

*Suppended
9-30-98
KLC*

*Created
Dec 14, 1994*

Basis of Split resulting in Rights; 7-25-96
A71-00039 E & F; A71-00040 E & F; & A71-10136 A & B

the rights were split based upon the recommended P/U acre table that list the Quarter/Quarters (q/q) irrigated by source and further broken down within each q/q by the applicable subdivision lot.

See ANALYSIS OF SYSTEM created Dec 14, 1994 and the orthophoto (enlarged 200%) that shows the recommended P/U Broken down by subdivision lots.

Berman's claims were reduced by the acreage determined to be applicable to lots 1, 2, & 3. Berman's claims are A71-00039 F

A71-00040 F

A71-10136 B

See also, split tree attachment dated 7-25-96

File C:\data\kelly\71-00039.edg

Superceded
3-30-98
KRC

Post-it Fax Note 7671		Date 4/11/95	# of pages 1
To Kelly A. Sisson	From Noel Sisson		
Co./Dept.	Co. McGowan Creek Feat		
Phone #	Phone # 774-2205		
Fax # 736-3037	Fax # 774-3582		

RECEIVED

APR 11 1995

Department of Water Resources
Southern Region

SUGGESTED DISTRIBUTION OF WATER RIGHTS
FOR THOMPSON CREEK RANCH SUBDIVISION.
CLUSTER COUNTY, IDAHO.

THOMPSON CREEK

VALLEY/McGOWAN/HANNAH
CREEKS

LOT 1 -	.14 C.F.S.	.46 C.F.S.
LOT 2 -	.11 C.F.S.	.49 C.F.S.
LOT 3 -	.11 C.F.S.	.49 C.F.S.
LOT 4 -	.04 C.F.S.	.56 C.F.S.
LOT 5 -	NONE	.60 C.F.S.
LOT 6 -	NONE	.60 C.F.S.
TOTAL	0.400 C.F.S.	3.200 C.F.S.

TOTAL C.F.S. -

LOT 1 - .60 C.F.S.
LOT 2 - .60 C.F.S.
LOT 3 - .60 C.F.S.
LOT 4 - .60 C.F.S.
LOT 5 - .60 C.F.S.
LOT 6 - .60 C.F.S.

CONTRACT REGARDING
FUTURE RIGHTS AND RESPONSIBILITIES
WITH RESPECT TO IMPROVEMENTS
ON REAL PROPERTY

WHEREAS, Daniel L. Berman, an individual ("Seller") whose residence is 50 South Main Street, Suite 1250, Salt Lake City, Utah, and Paul D. and Ann P. Hill ("Buyers") whose residence is 2635 Habersham Road, Atlanta, Georgia, have entered into a contract for the sale of certain real property located in Custer County, Idaho from Seller to Buyers; and

WHEREAS, the subject property of such sale constitutes Lots 1, 2 and 3 of a larger tract of real property (which is described more specifically below and hereinafter referred to as the "Property") and such Lots and tract are shown on a certain recorded plat of survey more specifically described below and hereinafter referred to as the "Plat", and

WHEREAS, Seller and Buyers wish to protect and preserve the scenic beauty and economic value of the respective pieces of real property which each of them will own following such sale and to insure, to the extent it is reasonable and feasible, that the future development and use of any part of such real property shall be consistent with the foregoing;

NOW, THEREFORE, in consideration of the mutual rights and responsibilities created and granted hereunder and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by both Seller and Buyers, the parties agree as follows:

1. Definitions.

"Lot" means any of the separately numbered and individually described parcels of land shown on the Plat and intended for private use and ownership, as well as any future subdivided portion of any such parcel as permitted under the terms of this Contract, as it may be amended from time to time. (The Plat, as initially recorded in conjunction with this Contract, and prior to any modification or amendment, contains six (6) such Lots.)

"Mortgage" means a mortgage or a deed of trust recorded in the Official records.

"Mortgagee" means the mortgagee under a mortgage, or the beneficiary under a deed of trust, recorded in the Official records.

"Mortgagor" means the mortgagor under a mortgage, or the trustee under a deed of trust, recorded in the Official records.

"Official records" means the Official records of the Custer County Recorder, State of Idaho.

"Owner" means the person who is the owner of record (in the official records) of a fee or an undivided fee interest in any Lot. If one person owns more than one Lot at any time such person shall be considered an Owner, and shall have the rights and responsibilities of an Owner, with respect to each Lot owned; similarly if more than one person owns any given Lot all such persons shall be considered an Owner, and shall have the rights and responsibilities of an Owner, with respect to such Lot. Accordingly, at the time of closing of the sale transaction described above, Seller shall be the Owner of Lots 4, 5 and 6 and Buyers shall be the Owners of Lots 1, 2 and 3 as shown on the Plat. Notwithstanding any applicable theory relating to a mortgage, deed of trust or like instrument, the term "Owner" shall not mean or include a Mortgagee unless and until such Mortgagee has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu of foreclosure.

"Plat" means the plat recorded _____, 1992 in the Official records as Instrument No. _____, entitled Thompson Creek Ranch subdivision, executed and acknowledged by Seller, prepared and certified to by Richard D. Fosbury, a duly licensed Idaho land surveyor, holding Certificate No. _____, and consisting of two sheets.

"Property" means the tract of real property located in Custer County, Idaho, shown on the Plat and described as follows:

A parcel of land located with H.E.S. 109, Sections 11 & 12, Township 11 North, Range 12 East, B.M., Custer County, Idaho, more particularly described as follows: commencing at the Northeast corner of Section 11, thence South 00°03'00" East 1130.58 feet to a brass cap which marks the true point of beginning; thence South 46°50'34" East 576.09 feet; thence South 43°03'21" West 2348.88 feet; thence North 47°18'09" West 1951.31 feet; thence North 42°51'36" East 2353.13 feet; thence South 47°19'00" East 1383.26 feet to the true point of beginning.

TOGETHER WITH a right-of-way and easement for vehicular ingress and egress over and across Thompson Creek Road.

2. Easements.

2.1 Roads. Seller grants to Buyers and Buyers grant to Seller, for the benefit of the Lots served, mutual nonexclusive easements and rights-of-way for vehicular and pedestrian ingress and egress over and across the private roads (except any roads developed and maintained exclusively by an Owner on such Owner's

Lot) on the Property, as shown on the Plat, as such roads may be relocated on an Owner's Lot by such Owner; provided, however, that any Owner may use the private roads on the Property only to the extent reasonably necessary for such Owner to have adequate ingress and egress to and from such Owner's Lot. Such easements and rights-of-way shall be evidenced only by this Contract and shall be prior and superior to any other instrument recorded after this Contract is recorded in the Official records.

2.2 Utilities. Seller also grants to Buyers and Buyers also grant to Seller, for the benefit of the Lots served, the right of an Owner to grant additional nonexclusive easements and rights-of-way to utility companies and public agencies for underground utility services such as electricity and telephone over and across the Property as may be necessary for the proper development of the Property, including, without limitation, necessary "backbone" electrical distribution systems and transformers; provided, however, that to the extent feasible such utility easements shall follow and be adjacent to the private road or roads on the Property and further provided that any Owner shall use the installations, equipment and lines serving more than one Lot with utility services only to the extent of service to such Owner's Lot. Such easements and rights-of-way shall be evidenced by an instrument executed by the Owner or Owners and recorded in the official records (with no other signature being necessary), and shall be prior and superior to any other instrument recorded after this Contract is recorded in the official records.

2.3 Other Common Facilities. Seller also grants to Buyers and Buyers also grant to Seller, for the benefit of the Lots served, nonexclusive easements and rights-of-way for the maintenance and repair of any log fence and entry gate constructed on the perimeter of the Property or the perimeter of the Lots owned by Seller or the perimeter of Lots owned by Buyers. Such easements and rights-of-way shall be evidenced only by this Contract and shall be prior and superior to any other instrument recorded after this Contract is recorded in the official records.

2.4 Exercise. The exercise of such easements and rights-of-way shall not unreasonably interfere with the free and unrestricted use of the Lot(s) over which the same are granted. Any Owner benefitted by such easements and rights-of-way (and their agents and assigns) may enter on any portion of the Property only to such extent as may be reasonably necessary or appropriate in order to accomplish the construction, installation, inspection, maintenance, repair and replacement of the utilities and facilities concerned, and in connection with such utilities and facilities, excavate or conduct construction activities on the Property only so long as such excavation or construction activities are performed in a good and workmanlike manner and are otherwise performed and completed in accordance with the provisions of this Contract. Any party exercising any rights under any easement or right-of-way

granted in this Contract shall: Exercise due care to minimize, to the fullest extent possible, any adverse impact on the scenic beauty and economic value of the Lots affected; Be responsible for all damages caused to any Lot as a result of such exercise of rights; and Promptly, upon completion of any installation, maintenance, or repair, restore any Lot or Lots so affected to their condition existing immediately prior to such exercise of rights.

2.5 Appurtenances. All such easements and rights-of-way shall constitute covenants running with the land, and may not be transferred, mortgaged or otherwise encumbered except as an appurtenance to the benefitted Lot.

3. Restrictions.

3.1 Further Subdivision Limited. The land included in Lots 1, 2 and 3 as shown on the Plat may be subdivided into not more than a total of four (4) Lots at any time; similarly, the land included in Lots 4, 5 and 6 as shown on the Plat may be subdivided into not more than a total of four (4) Lots at any time. Except for this limited subdivision, however, no Lot may be further subdivided beyond the Lots shown on the Plat. Notwithstanding the foregoing, the Owners of two (2) adjacent Lots may mutually agree to relocate the boundary line between such Lots so long as such action does not increase the total number of Lots beyond that specified above.

3.2 General Restrictions on Development. Except for that required for structures, ponds, roads and utilities, there shall be no excavation or topographic change that would be detrimental to the scenic beauty of the Property as now existing. Removal of live trees and other vegetation shall be limited to that necessary to accommodate structures, roads and other improvements and to allow the installation of utilities. Roads shall be designed, located and constructed to minimize aesthetic impact and soil erosion. All structures shall be architecturally compatible with the Property and its environment, shall be rustic in nature and shall be constructed using logs, shakes, rough lumber, rough wood, native stone or other similar material with nonreflective sidings and roofs. Paints and stains shall be of earth tones typical of the Property. No portion of any improvement shall be more than thirty-five (35) feet measured vertically at any point above natural grade; provided, however, that this limitation shall not apply to chimneys, lightening rods and weather vanes. It is hereby agreed and acknowledged that existing structures on Lot 1 of the Property shall be considered in full compliance with the foregoing conditions and requirements so long as such structures are maintained in their present condition. All utilities shall be underground. All fencing shall be of a rustic nature, and all parts thereof normally visible from a distance of one hundred (100) feet or more shall be constructed of log (and no other) materials.

3.3 Lot Improvements.

(a) Each Lot may be improved and used solely for residential or agricultural use, and for no other purpose.

(b) No Lot shall be improved except by (i) a single-family residential structure designed to accommodate no more than a single family, domestic help and occasional guests, plus an attached garage or garages and fencing and such other improvements as are necessary or customarily incident to a single-family residence; and (ii) not more than two (2) additional unattached structures designed to serve as a garage, guest housing or domestic help quarters, barn, stable or corral or any combination thereof. In no event may any Lot be improved with more than three (3) structures. No structure may be closer than twenty-five (25) feet to any boundary line between two Lots (except with respect to the boundary line between said Lots 3 and 4 where such restriction shall cover seventy-five (75) feet on each side of such boundary line), without the prior written approval of the Owners of both Lots adjacent to such Lot line.

(c) All single family residences constructed on any Lot shall have a floor area of not less than 1,800 square feet, exclusive of garages, patios, decks, breeze-ways, storage rooms, porches, overhangs and similar areas.

(d) Construction of all improvements on any Lot shall be pursued diligently and continuously from the time of commencement until all structures are fully completed inside and out, including finished painting, landscaping and any other planned improvements. All of the foregoing shall be completed within twelve (12) months after commencement of construction unless prevented by any cause beyond the control of the Owner or builder, but then only for the period such cause continues.

(e) No residence shall be used for any purpose other than single-family residential purposes. No automobile garage shall be used as living quarters at any time unless it is part of a combination structure designed to be used as both a garage and guest housing or domestic help living quarters. No business, profession, trade or other non-residential or non-agricultural use shall be conducted on any Lot.

(f) All residential structures on any Lot shall be provided with adequate sewage treatment facilities, including a septic tank and drain field of a capacity and design in conformance with the sanitary restrictions noted on the Plat and approved by such governmental authorities as may be required, and at least one well for domestic use. All such facilities shall be adequately maintained so as to cause no offensive odors or above-ground discharge.

(g) All improvements within any Lot shall be maintained in good condition and repair.

3.4 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate on the Property so as to render any portion of the Property unsanitary, unsightly, offensive or detrimental to any Lot. No noise or other audible nuisance shall be permitted which is offensive or detrimental to any Lot.

3.5 No Hazardous or Offensive Activities. No activities shall be conducted, and no improvements shall be constructed, on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged on the Property, and no open fires shall be lighted or permitted on any portion of the Property except while attended and in conformance with all applicable governmental ordinances, rules or regulations.

3.6 Unsightly Articles. No unsightly articles on a Lot shall be visible from an adjoining Lot. Without limiting the generality of the foregoing, trailers, motor homes, trucks (other than pickups), boats, tractors, vehicles (other than automobiles), campers (on or off vehicle), snowmobiles, snow removal equipment, garden and maintenance equipment, camping and recreational equipment and similar equipment shall be kept at all times when not in use in an enclosed structure or screened from view, except for trailers, mobile homes and campers in actual use by non-residents for a period not to exceed seven (7) days in any thirty (30) day period. All vehicles must be operational and must have current licenses. No dilapidated or unrepaired vehicles shall be permitted on the Property.

3.7 Refuse and Garbage. Refuse, garbage and trash shall be kept at all times in a covered container within an enclosed structure or appropriately screened from view. Service areas, and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view.

3.8 No Mining or Drilling. The Property shall not be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing water, oil, gas or other hydrocarbons, minerals, rocks, stones, gravel, or earth for sale; provided, however, that an Owner may, after obtaining an appropriate permit from the Idaho Department of Water Resources, drill one or more wells on such Owner's Lot for the extraction of water for domestic use and landscape irrigation.

3.9 Motorized Vehicles. Except when operated by or with the permission of an Owner on such Owner's Lot, all motorized vehicles are to be operated only on established roads and parking areas and are prohibited from all other portions of the Property.

4. Mortgagee Protection.

4.1 Notice and Cure. The Mortgagee with respect to any Mortgage covering any Lot, on filing a written request for notification with the Seller or the Buyers (whichever party is not the Mortgagor on such Lots), shall be entitled to written notification from the notified party of any default by the Mortgagor of such Lot in the performance of such Mortgagor's obligations under this Contract to the extent not cured within thirty (30) days after the date on which such obligations were to be performed. Such Mortgagee shall be entitled (but not obligated) to cure such default within an additional thirty (30) days after receipt of such notice.

4.2 Liability. Unless and until it enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu of foreclosure, any Mortgagee interested under any Mortgage affecting any portion of the Property shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, any of the covenants, restrictions or other provisions of this Contract (other than those, if any, concerning a consent or approval to be given by a Mortgagee, if a Mortgagee's failure to give same is wrongful).

5. Form of Conveyancing. Any instrument conveying or encumbering title to any Lot shall describe the interest or estate involved substantially as follows:

Lot No. _____ contained within Thompson Creek Ranch Subdivision, as said Lot is identified on the Plat recorded _____, 1992 in the official records of Custer County, Idaho as Instrument No. _____, together with a nonexclusive right and easement of use and enjoyment in certain roads, utilities and other common facilities, as defined in the Contract Regarding Future Rights and Responsibilities with Respect to Improvements on Real Property dated _____, 1992 and (assuming such Contract is recorded) recorded _____, 1992 in the official records of Custer County, Idaho as Instrument No. _____.

6. Amendment. This Contract may be amended or terminated by an instrument in writing executed and acknowledged by the Owners of the Lots affected by such amendment or termination and any such amendment or termination shall be effective upon its execution and, if this Contract has been recorded, such instrument of amendment or termination shall also be recorded. Notwithstanding the immediately preceding sentence, no amendment or termination of this Contract shall in any way affect the rights of any Mortgagee interested under a first Mortgage which is in effect at the time of the amendment or termination concerned, unless such Mortgagee has

consented in writing to such amendment or termination. No such amendment or termination shall require the consent of any other person.

7. Covenants to Run with Land. The rights and responsibilities in the specified provisions of this Contract shall constitute covenants running with the land, and shall be binding on, and shall inure to the benefit of, each Owner and any other person holding any interest in or occupying any portion of the Property and their respective heirs, successors, assigns and legal representatives. The foregoing notwithstanding, this Contract is intended to create and grant such rights only for the benefit of the Seller, the Buyers, future Owners, and such other persons specified above, and the respective heirs, successors, assigns and legal representatives of the foregoing, and no other party or parties shall have any legal or beneficial interest in, or right to enforce or claim damages for, any rights or obligations specified herein.

8. Attorneys' Fees. If any person so entitled brings suit to enforce or interpret this Contract or with respect to any other issue related to this Contract, the prevailing party shall be entitled to recover from the other party the prevailing party's reasonable attorney's fees and costs incurred in any such action or in any appeal from such action, in addition to the other relief to which the prevailing party is entitled.

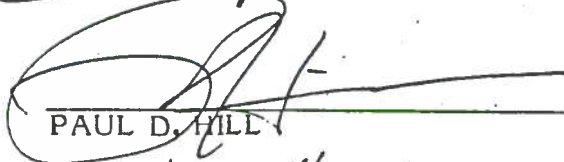
9. Notices. Any notice or demand to be given under this Contract shall be given in writing by personal service, telegram, express mail, Federal Express, DHL or any other similar form of courier or delivery service, or mailing in the United States mail, postage prepaid, certified, return receipt requested. Any such notice shall be deemed to have been given, and shall be effective, on delivery to the notice address then applicable for the party to which the notice is directed; provided, however, that refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated shall not defeat or delay the giving of a notice.

10. General Provisions. This Contract shall be governed by, and construed and interpreted in accordance with, the laws (excluding the choice of laws rules) of the State of Idaho. Titles and headings of Paragraphs of this Contract are for convenience of reference only and shall not affect the construction of any provision of this Contract. Either Seller or Buyers may assign, transfer or delegate some or all of their respective rights and responsibilities under this Contract to any other person, as may their assigns; provided any such assignee, transferee or delegatee shall also be bound by all applicable provisions of this Contract. In the event, at any time, Seller or Buyers are advised by qualified legal counsel that this Contract or any portion hereof should be recorded in the Official records, or that any provisions

hereof should be evidenced in a separate document or documents which should be recorded in the Official records, in order to insure the enforceability of the rights and obligations provided herein with respect to present or future Owners of any Lots (or their respective heirs, successors, assigns or legal representatives), then upon the request of Seller or Buyers the other party executing this Contract (or their respective assignee, transferee or delegatee whether an Owner or otherwise) shall promptly execute any necessary documents and take any and all other actions necessary to enable this Contract to be so recorded or to enable such other document or documents to be created, duly executed and recorded.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year first above written.


DANIEL L. BERMAN

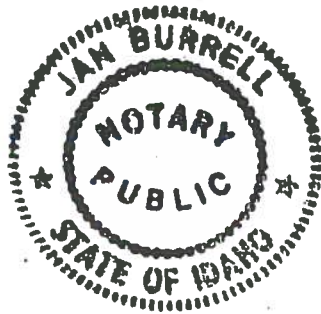

PAUL D. HILL

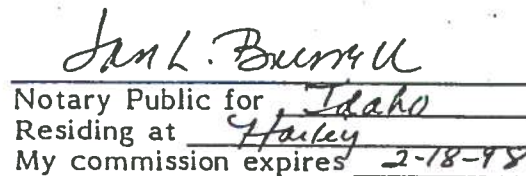

ANN P. HILL

STATE OF Idaho)
County of Blaine) ss.

On this 5th day of October, 1992, before me, the undersigned, a Notary Public in and for said State, personally appeared DANIEL L. BERMAN, known or identified to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.




Notary Public for Idaho
Residing at Hailey
My commission expires 2-18-98

MAY 20 1995

Form 42-1409(7)



**NEW PROPERTY OWNER
NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP**

Please print or type
(see instructions on back of page)

RECEIVED

DATE OF CLOSING: _____

MAY 25 1995

LEGAL DESCRIPTION OF PROPERTY: Township 11 North Range 12 East Department of Water Resources
Section 11 & 12, 1/4 of 1/4 of 1/4 Govt. Lot HES 1098M Southern Region
Lot 1, 2 & 3, Block, _____, Subdivision/Townsite Thompson Creek Ranch Sub.
If you have additional legal descriptions, please attach separate sheet.

- ☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)
- ☐ Water Right Number(s) Assigned by IDWR: A71-00039B, A71-00040B and A71-10136
- ☐ Name and Address of Former Owner/Claimant(s)(Seller): Daniel L. Berman
Suite 1250, 50 South Main St.
Salt Lake City, UT 84144
- ☐ New Owner/Claimant (Purchaser): Paul and Ann Hill
2635 Habersham Road, NW
Atlanta, GA 30305
- ☐ New Mailing Address: _____
- ☐ New Telephone Number: (404) 351 - 2307
- ☐ Does the change in ownership result in a splitting of the water right owned/claimed? X yes no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:
Refer to attached "EXHIBIT A", Lots 1, 2, 3, as provided
by Idaho Department of Water Resources

- ☐ Attach proof of ownership, describe proof attached: _____
(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

- ☐ Signature of New Owner/Claimant(s) [Signature] Date 5/18/95
- ☐ Signature of Former Owner/Claimant(s) [Signature] Date 5/18/95
[Signature] Date 5/22/95
[Signature] Date 5/22/95
- (Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:
Initial Review and Data-Entry
Date: _____ By: _____
Further Action Needed:
Further Action Taken
Date: _____ By: _____
Final Review and Data-Entry
Date: _____ By: _____
Claim Numbers of Split, if any:

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner



DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

April 12, 1995

"Exhibit A"

R. KEITH HIGGINSON
Director

NOEL SITTON
PO BOX 200
STANLEY ID 83278

RE: DATA RELATING TO THOMPSON CREEK RANCH SUBDIVISION LOTS AS
RELATED TO ADJUDICATION CLAIMS A71-00039B, A71-00040B AND
A71-10136.

Dear Noel

The split calculations were made on a proportionate basis based upon irrigated acres per lot verses total irrigated acres. The recommended amounts are rounded to the nearest one hundredth of a cfs. I did not list the proportionate acre factors for the Thompson creek water. Please refer to the 'Analysis of System' table that was mailed earlier for the acreage breakdown.

As long as specific lots are still within a single ownership the allotted amounts can just be added together to determine the total share for that ownership. The lots appurtenant to that ownership can be listed in the remarks of the claim.

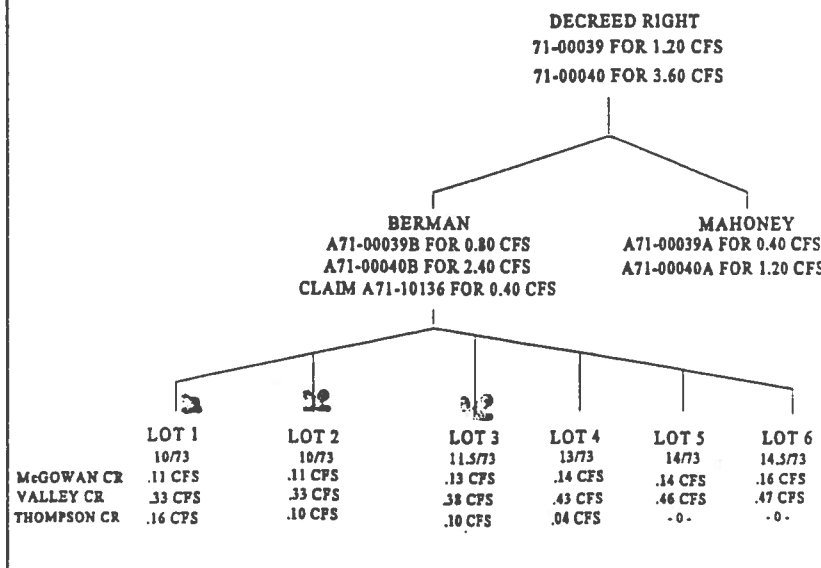
If you have any additional questions please give me a call.

Sincerely

Kelly K.

Kelly K Christensen
Sr Water Resource Agent

THOMPSON CR. RANCH SUBDIVISION POTENTIAL SPLITS OF HES-109



*Superseded
730-98
KKC*

Post-it Fax Note 7671		Date 4/11/95	# of pages 1
To Kelley Christensen	From Noel Sifton		
Co./Dept.	Co. McCam Truck Rent		
Phone #	Phone # 774-2205		
Fax # 736-3037	Fax # 774-3587		

RECEIVED

APR 11 1995

Department of Water Resources
Southern Region

SUGGESTED DISTRIBUTION OF WATER RIGHTS FOR THOMPSON CREEK RANCH SUBDIVISION, CUSTER COUNTY, IDAHO.

THOMPSON CREEK

VALLEY/McGOWAN/HANNAH
CREEKS

LOT 1 -	.14 C.F.S.	.46 C.F.S.
LOT 2 -	.11 C.F.S.	.49 C.F.S.
LOT 3 -	.11 C.F.S.	.49 C.F.S.
LOT 4 -	.04 C.F.S.	.56 C.F.S.
LOT 5 -	NONE	.60 C.F.S.
LOT 6 -	NONE	.60 C.F.S.
TOTAL	0.400 C.F.S.	3.200 C.F.S.

TOTAL C.F.S. -

LOT 1 - .60 C.F.S.
 LOT 2 - .60 C.F.S.
 LOT 3 - .60 C.F.S.
 LOT 4 - .60 C.F.S.
 LOT 5 - .60 C.F.S.
 LOT 6 - .60 C.F.S.

872
10281

Basis For Split
for A71-00039C & D and A71-00040C & D

The rights were split based upon the recommended P/U acre table that lists the quarter/quarters irrigated by source and further broken down within each q/q by the applicable subdivision lot.

See ANALYSIS OF SYSTEM

created Dec 14, 1994

and the orthophoto (enlarged 200%) that shows the recommended P/U broken down by subdivision lots.

Berman's claims were reduced by the acreage determined to be applicable to lot 6. Berman's claims are A71-00039C and A71-00040C

As Thompson Creek water cannot reach lot 6, A71-10136 was not split.

KKC

7-25-96

RECOMMENDED PLACE OF USE

CLAIM NO. SEE BELOW RIGHT
BASED UPON A FIELD EXAM ON

09-14-93

BY KKC

CLAIM T. R. S. Q/Q INIT KKC

P/D 14-68 ORITHS PHOTO

DT. & ID. 1971 Flight

200%



SOURCE

71-000408 VALLEY CR 73 ACRES

71-000398 HANNA/MCGOWAN CR 21 ACRES

71-10136 THOMPSON CR 21 ACRES

71-000408 VALLEY CR 38 ACRES

71-000398 HANNA/MCGOWAN CR 38 ACRES

Valid claims as of 8-23-96
A71-00039D A71-00040D
00039E 00040
00039F 00040F
A71-10136A
-10136B

SCALE: 1" = 1006

CA = (1006)^2 * .009699 = 22.53
43,560

LOT WEIRTHS

- Lot 6 - 325.22
- 5 - 325.22
- 4 - 325.22
- 3 - 325.22
- 2 - 325.21
- 1 - 325.22

RECOMMENDED P/U
BY QUARTER/QUARTER

IN ORDER OF SURV

DEVELOPMENT

also and

dated 10/14/1994

**RECOMMENDED
P/U AS OF 11-30-94**

CLAIM _____ INIT KKC
T. R. S. Q/Q _____
P/D _____
PHOTO 11-68 ORTHOPHOTO
DT. & ID. 1971 Flight

SOURCE

71-000408 VALLEY CR 73 ACRES
71-000398 HANNA/MCGOWAN CR

71-10136 THOMPSON CR 21 ACRES

71-000408 VALLEY CR

71-000398 HANNA/MCGOWAN CR 38 ACRES

SCALE: 1" = 1006

CA = $\frac{(1006)^2 \cdot 0.009699}{43,560}$ = .2253



RECOMMENDED PLACE OF USE

CLAIM NO. SEE BELOW, RIGHT
BASED UPON A FIELD EXAM ON

09-14-93
BY KKC

PREP DATE

8-23-96

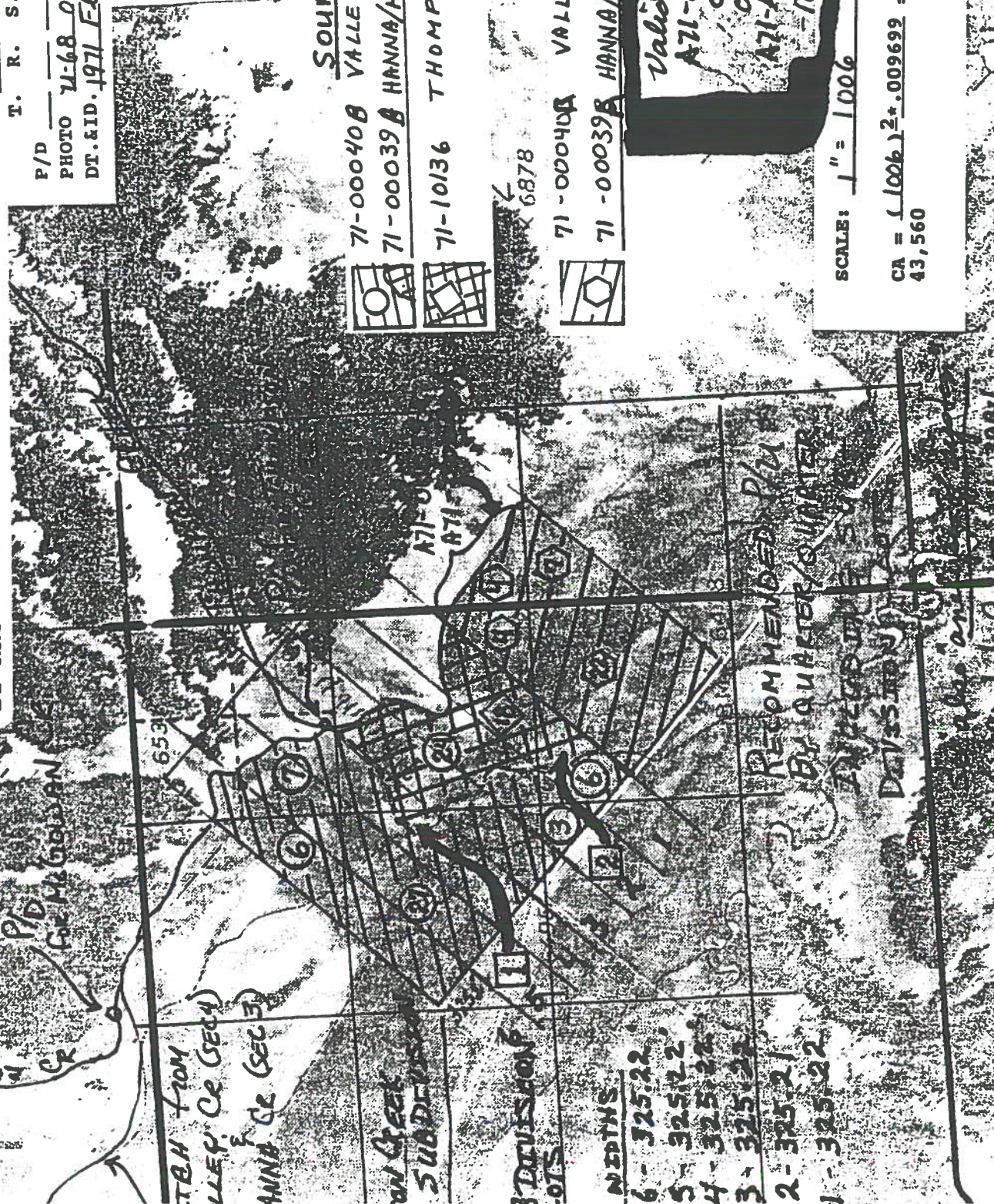
CLAIM _____ INIT KKC

T. R. S. Q/Q _____

P/D _____ unrevised

PHOTO U-68 ORTHOPHOTO

DT. & ID. 1971 Flight



SOURCE

71-00040B VALLEY CR 73 ACRES

71-00039B HANNA/MCGOWAN CR 21 ACRES

71-10136 THOMPSON CR 38 ACRES

71-00040B VALLEY CR

71-00039B HANNA/MCGOWAN CR

38 ACRES

Valid Claims as of 8-23-96
A71-00039D A71-00040D
00039E 00040E
00039F 00040F
A71-10136A
-10136B

SCALE: 1" = 1006'

CA = (1006)^2 * .009699 = .2253
43,560

RECOMMENDED P/U

BY QUARTER/QUARTER

INVESTIGATION

DATE 8-23-96

BY KKC

DATE 8-23-96

DATE 8-23-96

DATE 8-23-96

CLAIM INIT KKC

T. R. S. Q/Q

P/D

PHOTO ASCS DRE-3-167

DT. & ID. 8-22-52 FLIGHT

RECOMMENDED P/Ds

VALLEY CR. IIN 12E SEC 4 NESW NE
HANNA CR IIN 12E SEC 3 NW NE SW
MCGOWAN CR IIN 12E SEC 2 SW SW SE
THOMPSON CR IIN 12E SEC 11 SW NW NE

71-000398
71-000408
71-000436

71-00039A
71-00040A

PROT

WEEK

R PROOF

X

CVR

X

MAPS

X

PHOTOS

X

MISC

X

Water Right Number - R71-000390

Prefix Translation: RESEARCH

Old (D) Number -

*** C - CURRENT OWNER ***
BRUBAKER

FRED HAROLD

BRUBAKER

DELA DEVLIN

VERIFIED BY *[Signature]*

*** O - ORIGINAL OWNER ***
BERMAN

DANIEL L

1 - PO BOX 97
2 -
3 -
City- STANLEY
Phone - 208-774-2254
1 - PO BOX 97
2 -
3 -
City- STANLEY
Phone - 208-774-2254
State- ID Zip- 83278

1 - 50 S MAIN ST SUITE 1250
2 -
3 -
City- SALT LAKE CITY
Phone - 801-328-2200
State- UT Zip- 84144

Priority Date - +
06/01/1904

Region - +
17 SOUTHERN

Stage - +
D - DECREED

Status - +

Source - +
MC GOWAN CREEK

Tributary - +
VALLEY CREEK

Twn Rng Sec Tract Lot Rflg County
11N 12E 2 SW SW SE (37) CUSTER

Code Description Period From Period To Water Use Diversion Rate Diversion Volume

01 - IRRIGATION

05/01 09/30

0.160

+ - Total Div. Rate - + + - Total Div. Volume - +

+ - Total Consumptive Use - + + - KW Usage - +

Twn	Rng	Sec	Tract	Lot	Acres	Place of Use	Code	Description	County
11N	12E	11	NE NE		2.1	01	IRRIGATION	(37) CUSTER	
11N	12E	11	NW NE		5.0	01	IRRIGATION	(37) CUSTER	
11N	12E	11	SW NE		7.9	01	IRRIGATION	(37) CUSTER	

Total Acres: 15.0

+ - Diversion Means - COLLECTION DITCH, ROCK DIVERSIONS

+ - Non-Irrigation Use -

Prefix Translation: RESEARCH

Remarks

THE RIGHTS LISTED BELOW ARE LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 15 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 71-000390 & 71-00040D.

PROPERTY IS ALSO KNOWN AS A PORTION OF HOMESTEAD ENTRY SURVEY NO. 109.

THE FOLLOWING RIGHTS ARE DIVERTED THROUGH THE POINT OF DIVERSION DESCRIBED ABOVE: 71-000339A, 71-00039D, 71-00039E, 71-00039G, AND 71-00039H.

PROPERTY IS ALSO KNOWN AS A THOMPSON CREEK SUBDIVISION LOT 6.

7100039
A7100093B

Conditions of Approval - -
No Conditions of Approval found.

+ - - - Decree Plaintiff - - +
DAN J. CAVANAGH

+ - - - - -C
Date: 05/18/1998 User Id: KCHRISTE Subject: COPIED FROM REMARKS

08/01/1977
 P/U IS H.E.S. 109.
 *A71-000398 WAS SPLIT BASED UPON A FORMER OWNER
 PART C TO BERMAN FOR .66CFS
 RANCH SUBDIVISION. KKC 5-8-95
 AN ADMINISTRATIVE MODIFICATION WAS MADE TO THE PLACE OF USE TO
 THIS IS CONSIDERED A MODIFICATION OF THE SPLIT DURING THE CHANGE
 OF OWNERSHIP PROCESS. KKC 3-27-98

 THIS IS A 2/3 PORTION OF THE WR 71-000399.
 SIGNATURE ON FORM 42-140977). THE SPLIT IS AS FOLLOWS:
 PART D TO BRUBAKER FOR .16CFS FOR LOT 6 OF THE THOMPSON CREEK

 REFLECT THE PLACE OF USE AS IDENTIFIED THROUGH THE GIS PROCESS.

05/20/98 KCHRISTE

Count Report Filing	- 00/00/0000	Field Inspection Made	- 09/14/1993	Civil Case Number	-	39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-	
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000	Old Judicial District	-	
Claim Received Date	- 01/11/1990	Last Amended Date	- 00/00/0000	Temporary Right	- P	
		Receipt Number	- XXXXXXXX	Water District	-	
		POU Ownership Flag	- Y	Federal/State Indicator	- S	
		Name Connector	- AND	Presumption Flag	-	
				Notice of Error Flag	-	

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

10:19:35
05/15/98

PAGE: 18
QUICKLOOK INFORMATION

18
CLAIM NUMBER: A71-00039D

WR ELEMENT	DATA DISCREPANCY Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	ELEMENT DOCUMENTED WHOM/DATE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE			9-14-93 K K C	N	1,2-56	K K C 3-27-94	5-18-98 K K C	
POINT OF DIV	Y		9-16-93 K K C	Y	"	"		
SOURCE	Y		"	Y	"	"		
PLACE OF USE	Y		9-14-93 K K C	Y	"	"		
DIV. AMOUNT CFS/VOLUME	Y		9-16-93 K K C	N	1,5,6	"		
CONSUMPTIVE USE	-		-	-				
PURPOSES OF USE			3-27-94 K K C	N	6	"		
PERIOD OF USE	Y		5-15-98 K K C	Y	6	5-18-98 K K C		
BASIS OF CLAIM	Y		5-15-98 K K C	N	6	"		
REMARKS	Y		5-18-98 K K C	Y	6	"		

BARCODE UPDATED
WHOM/DATE

MAPS AND AERIAL PHOTOGRAPHS USED TO REVIEW THIS NOTICE OF CLAIM TO A WATER RIGHT

TYPE OF MAP OR PHOTOGRAPH (CHECK IF USED)	IF USED, SUPPLY APPROPRIATE DATE AND OTHER INFORMATION	COPY INCLUDED IN FILE?
☒ ORTHOPHOTOQUAD	DATE OF PHOTO <u>1971</u> IDWR ID NO. <u>4-68</u>	Y() N()
☐ TOPOGRAPHIC	DATE FIELD CHECKED _____ IDWR ID NO. _____	Y() N()
☐ NAPP	DATE OF PHOTO _____ IDWR ID NO. _____	Y() N()
☐ ASCS AERIAL PHOTO	DATE OF PHOTO _____	Y() N()
☐ ASCS COLOR SLIDE	DATE OF PHOTO _____	Y() N()
☐ BLM OR USFS AERIAL PHOTO	DATE OF PHOTO _____	Y() N()
☐ TOWNSHIP SURVEY (GOVERNMENT PLAT)	DATE OF SURVEY _____	Y() N()
☒ SCS SOIL SURVEY MAP	DATE ISSUED <u>245-110</u>	Y() N()
☐ SUBDIVISION PLAT MAP	DATE OF MAP _____	Y() N()
☒ OTHER <u>Casa Field note map</u>	DATE <u>USDA-F 173-11 8-28-92</u>	Y(☒) N()
☒ OTHER <u>GIS</u>	DATE <u>1992 USFS</u>	Y(☒) N()
☐ OTHER _____	DATE _____	Y() N()

LIST OF ATTACHMENTS (CHECK IF ATTACHED)	IF ATTACHED, SUPPLY APPROPRIATE INFORMATION	NO. OF PAGES	NOTES
☐ LICENSING FIELD EXAM	DATE OF FIELD EXAM _____	_____	_____
☐ WATER RIGHT LICENSE	DATE LICENSE SIGNED _____	_____	_____
☐ IDWR APPROVED TRANSFER	DATE TRANSFER APPROVED _____	_____	_____
☒ SYSTEM DESCRIPTION	DATE ~~DRAWN~~ <u>6-2-94</u>	<u>3</u>	<u>general Valley overview</u>
☐ PHOTOGAPHS	DATE(S) PHOTOS TAKEN _____	_____	_____
☐ SPLIT RIGHT REVIEW	DATE REVIEW COMPLETED _____	_____	_____
☒ HUBBLE ANALYSIS	DATE ANALYSIS COMPLETED <u>Revised 5-8-98 (1pg)</u>	_____	_____
☐ CONVEYANCE LOSS ANALYSIS	DATE ANALYSIS COMPLETED _____	_____	_____
☒ FLOW MEASUREMENT CALCULATIONS	DATE SYSTEM MEASURED <u>9-21-93</u>	<u>2</u>	_____
☐ OTHER <u>See Attached sheet</u>	DATE _____	_____	_____
☐ OTHER _____	DATE _____	_____	_____



IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION
1341 FILLMORE ST STE 200
TWIN FALLS ID 83301-3380
(208) 736-3033

PHILIP E BATT
GOVERNOR

KARL J DREHER
DIRECTOR

**ATTACHMENTS TO FIELD REPORT (PG 17) FOR RIGHTS RELATING TO:
71-00039B (SPLIT), 71-00040B (SPLIT) & 71-10136 (SPLIT)**

<u>attachment</u>	<u>date</u>	<u>pages</u>	<u>comments</u>
SUBDIVISION SPLIT TABLE	3-16-98	1	Basis of recom. Developed using GIS
REEVALUATION ANALYSIS OF TABLE & SUBDIV SPLITS	Not dated	3	Completed with subdivision table
BASIS OF RECOMMENDATION @ 00039B, 00040B, & 10136	5-13-98	1	
GIS ACRE LISTING & COMPARISON TABLE	3-16-98	1	
SPLIT TREE	3-26-98	1	

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

10:19:35
05/15/98

PAGE: 1
GENERAL INFORMATION

1
CLAIM NUMBER: A71-00D39D

LAST: BRUBAKER FIRST: FRED HAROLD
ADDRESS: PO BOX 97
CITY: STANLEY STATE: ID ZIP: 83278
PHONE NUMBER: 208-774-2254

OWNER CODE: C

LAST: BRUBAKER FIRST: DELA DEVLIN
ADDRESS: PO BOX 97
CITY: STANLEY STATE: ID ZIP: 83278
PHONE NUMBER: 208-774-2254

OWNER CODE: C

LAST: BERMAN FIRST: DANIEL L
ADDRESS: 5D S MAIN ST SUITE 1250
CITY: SALT LAKE CITY STATE: UT ZIP: 84144
PHONE NUMBER: 801-328-2200

OWNER CODE: O

FIELD EXAM REQUIRED? FIELD
VERIFICATION REQUIRED DUE TO REMARKS? DATABASE EXAMINER
Y Y() N()

CLAIM REMARKS: GEN P/U IS H.E.S. 109.
THIS IS A 2/3 PORTION OF THE WR 71-00039.
*A71-00039B WAS SPLIT BASED UPON A FORMER OWNER
SIGNATURE ON FORM 42-1409(7). THE SPLIT IS AS FOLLOWS:
PART C TO BERMAN FOR .64CFS
PART D TO BRUBAKER FOR .16CFS FOR LOT 6 OF THE THOMPSON CREEK
RANCH SUBDIVISION. KKC 5-8-95

AN ADMINISTRATIVE MODIFICATION WAS MADE TO THE PLACE OF USE TO
REFLECT THE PLACE OF USE AS IDENTIFIED THROUGH THE GIS PROCESS.
THIS IS CONSIDERED A MODIFICATION OF THE SPLIT DURING THE CHANGE
OF OWNERSHIP PROCESS. KKC 3-27-98

CONTACT PERSON: Noel Howard

PHONE NUMBER: () -

DATE OF FIELD EXAM: 9/14/93

APPOINTMENT MADE: Y() N()

TIME: : A() P()

ACCOMPANIED BY: no one in field

PHONE NUMBER: () -

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / NOTES:

A. AJ CLAIM: # A71-00039D PRIORITY DATE: 06-01-1904 STAGE: D

B. WR RECORD: # 71-00039 PRIORITY DATE: 06-01-1904 STAGE: D

C. CAN THE PRIORITY DATE CLAIMED BE CONFIRMED BY A DECREE OR LICENSE? Y(☒) N(☐)

D. HAS THERE BEEN A LATER COURT DECREE OF THE WATER RIGHT(S) FROM THIS WATER SOURCE? Y(☐) N(☒)

E. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE?
(IF YES, DESCRIBE BELOW) Y(☐) N(☒)

F. IF THIS CLAIM IS BASED ON A PERMIT, WHERE IS THE PERMIT IN THE LICENSING PROCESS?

PROOF OF BENEFICIAL USE SUBMITTED

N/A(☒) Y(☐) N(☐)

FIELD EXAM COMPLETED

N/A(☒) Y(☐) N(☐)

FIELD EXAM SENT TO STATE OFFICE

N/A(☒) Y(☐) N(☐)

LICENSE ISSUED

N/A(☒) Y(☐) N(☐)

* IF THE PERMIT WILL NOT BE LICENSED PRIOR TO THE DIRECTOR'S REPORT,
USE CONDITION CODE A01 AND RECOMMEND AS PERMITTED.

G. IF THIS CLAIM IS BASED ON BENEFICIAL USE, IS ADDITIONAL EVIDENCE
OF THE PRIORITY DATE REQUIRED? N/A(☒) Y(☐) N(☐)

* FOR CLAIMS BASED ON BENEFICIAL USE, DESCRIBE THE EVIDENCE OF PRIORITY SUBMITTED,
INCLUDING THE ANALYSIS OF THE EVIDENCE.

H. IS THE STAGE OF THE CLAIM CODED CORRECTLY? Y(☒) N(☐)

NOTES: the claimed priority date matches the decree
date and the P/U found matches the decreed P/U
Therefore I accept the date as claimed.

RECOMMENDED PRIORITY DATE:

06-01-1904

REVIEWED BY KKC

DATE 8-30-98

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	POD FLAG	COUNTY	DIVERSION NAME	DIVERSION NUMBER
A71-00039D	11N	12E	2	SW	SW	SE			CUSTER		
A71-00039D	11N	12E	3	NW	NE	SW			CUSTER		

OTHER AJ CLAIMS WITH SAME AJ POD

A PREFIX	R PREFIX
A71-00039A	R71-00039A
A71-00039E	R71-00039E
A71-00039G	
A71-00039H	

WR RECORDS IN SAME 40 ACRE TRACT

NONE

*not part of decree but
does match the found
P/D for Hanna Cr.*

SOURCE: MC GOWAN CREEK
HANNA CREEK

TRIB: VALLEY CREEK
VALLEY CREEK

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	POD FLAG	COUNTY	DIVERSION NAME	DIVERSION NUMBER
71-00039	11N	12E	2	SW	SE				CUSTER		

OTHER WR RECORDS WITH SAME WR POD

NONE

AJ CLAIMS IN SAME 40 ACRE TRACT

A PREFIX	R PREFIX
A71-00039A	R71-00039A
A71-00039E	R71-00039E
A71-00039G	
A71-00039H	

SOURCE: MC GOWAN CREEK

TRIB: VALLEY CREEK

*OK
per ortho photo
u68*

OK

C. IS THE CLAIMED POD WITHIN THE SAME 40 ACRE TRACT THAT IS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y(☒) N()

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN POD, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

D. CAN THE CLAIMED POD BE VERIFIED USING THE WATER RIGHT FILE OR GPS DATA? N/A() Y() N(☒)

E. SHOULD THE CLAIMED POD BE VERIFIED BY FIELD EXAM? Y(☒) N()

F. IS THE CLAIMED SOURCE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y() N(☒)

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN SOURCE, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

G. CAN THE CLAIMED SOURCE BE VERIFIED USING THE WATER RIGHT FILE? Y() N(☒)

H. SHOULD THE CLAIMED SOURCE BE VERIFIED BY FIELD EXAM? Y(☒) N()

I. HOW WAS THE POD AND SOURCE VERIFIED?

LICENSING FIELD EXAM (DATE OF FIELD EXAM _____) Y() N()

AJ FIELD EXAM (DATE OF FIELD EXAM 9-14-93) NAME OF EXAMINER KKC Y() N()

OTHER (DESCRIBE IN NOTES BELOW)

The decreed right only lists Mc Gowan Creek as the source & therefore I am recommending only Mc Gowan Cr. The Found P/D legal desc. for Mc Gowan Cr
NOTES: division agrees with the claimed & decreed legal desc. Mc Gowan's channel is now the
delivery system for all the claims under the Gowan Cr source. The Ditch system normally
carries all the stream flow and as such, no physical diversion structure is now
required to direct water into the main ditch, therefore, the P/D legal desc is
somewhat ambiguous. ^{the} P/D was determined to be that point where the current
channel leaves the Forest Service boundary & is diverted to the Main ditch that

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE: CHECK HERE IF RECOMMENDED AS CLAIMED ()

(Cont. below)

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	POD FLAG	COUNTY CUSTER	DIVERSION NAME	DIVERSION NBR
11N	12E	2	SW	SW	SE			CUSTER	OK	
~~11N~~	~~12E~~	~~3~~	~~NW~~	~~NE~~	~~SW~~			CUSTER	disallow.	

SOURCE: Mc Gowan Cr TRIB: Valley Cr

REVIEWED BY: KKC DATE: 3-30-98

SYSTEM DESCRIPTION: DESCRIBED BELOW (), SEE LICENSE FILE (), OR SEE ATTACHMENT (X)

(CONT.) parallels the tree line and runs east so. east. Legal determined from
field exam comparison to ortho photo U-68 & GSS analysis.

FIELD EXAM ATTACHMENT

DATE: 6-2-94

PAGE: 1/3

AGENT: KKC

FILES: _____

ATTACHMENT SUBJECT: P/D SYSTEM FOR 11N 12E Sec 4 NE SW NE *

F06::71-00040A, 71-00040B, 71-00042A, 71-00042B, 71-00045,
71-00047, & 71-00050. Related Fish Screen VC-6.

The Forest Service reconstructed the disstructure at a location
other than decreed. Date of change unknown at this time.

The ditch leaves the P/D and runs south east along the eastern
border of the Valley. The ditch intercepts Hanna Creek in
11N, 12E Sec 3 NW NE SW with the first major control structure
at this point. The water can be split with one channel roughly
using the old Hanna Cr channel to carry water to the north end
of the Mahoney/Kennedy Property that lays west of the Cow camp road
and is the northern most P/D between Valley Cr & the Cow camp road.
the other Channel continues southeast along the eastern border
of the Valley to the North end of the northern most P/D east
of the Cow camp road. The ditch again divides with
one main ditch paralleling the Cow Camp road on the east and
the other again forming the eastern boundary of the irrigated
portion of the Valley. This portion of the ditch intercepts
McGowan Creek in 11N 12E Sec 2 SW SW SE The main ditch
does not actually join with the McGowan Creek ditch but appears
that it may have at one time. The P/D in this general area
running south & east is a series of drainage channels
and this area appears to be naturally swampy. Valley Creek
water flows across this property and into HES 109 all

* Decreed right 71-00043 on HES 274 is also diverted from the same P/D but is physically removed from the common overlapping system of the other rights. It is claimed in part under A71-00043 Forest Service.

FIELD EXAM ATTACHMENT

DATE: 6-2-94PAGE: 2/3AGENT: KKC

FILES: _____

ATTACHMENT SUBJECT: _____

along the NE $\frac{1}{2}$ of the border the McGowan Creek Ditch (and Valley Cr from Sec 4 somewhat) forms the eastern boundary for the HES 109 & into HES-133. This ditch system runs to HES 421 where it ends. For the HES's (portions of that lay east of the cow camp road (excluding HES-274) are in general irrigated concurrently in that as one HES is irrigated the tail water is either spread directly onto the next HES or is accumulated into a drain or ditch to be respread. Although this could be considered waste water no one has claimed it as such. There are also swampy areas that may or may not be created by the Valley Cr, Hanna Cr, and/or McGowan Cr diversions. This interrelationship runs from HES 271 (the eastern $\frac{1}{2}$) thru HES 270, thru HES 109, thru HES 133, thru HES 421, and HES 319. All east of the Cow camp road. Water flows in general east & south from the cow camp road to the center of the irrigated meadows and south & east from the ditch system that forms the eastern boundary of the irrigated ground. This pattern is clearly visible on USDA F 173-13, 173-11 & others of the 8-28-72 flight similar USDA-F aerial photos 677-193 9-9-77 flight ASCS Aerial flight ~~271~~ 8-22-52 # DRF-3-167. On the photo U68 to a certain extent also shows this relationship.

Irrigation practices for the fields west of the cow camp road

FIELD EXAM ATTACHMENT

DATE: 6-2-94PAGE: 3/3AGENT: KKC

FILES: _____

ATTACHMENT SUBJECT: _____

and east of Valley Creek is also irrigated in a similar manner. From the SW 1/2 of HES 271 thru HES 272, thru HES 420 and into HES 577

The channel running South from the Hanna diversion that enters the northern portion of the Mahoney/Keamdy property west of the cow camp road & part of the HES 274 is either spread across the meadow and/or allowed to stay in a ditch that roughly divides that pasture in half running straight southeast to HES 272 when it is again either spread across the northern portion of the HES or continues in the same ditch & straight thru the middle of HES 272 to HES-420. A ditch follows the cow camp road (on the west side) thru HES-271, 272 420 and into 577. These HES.s also share the water similar to the system east of the cow camp road.

Control of water diverted from section four ends roughly in the NW NW of sec. 13. HES 577 & HES 421 receive some water from the Sec 4 diversion but primarily receive water from other diversions and/or sources.

A small acreage west of Valley creek and within HES 272 is irrigated from Elk Creek. The western portion of HES 420 is also irrigated from Elk Creek but from a diff P/O. This P/O is shared with the deeded right that has been split for two parcels in HES 577. The irrigated ground west of Valley Cr in HES 422 is irrigated from Elk Cr. No other ground west of Valley Cr was found to be currently irrigated (this includes HES 273)

A. ROOT WATER RIGHT NUMBERS: A71-00039A
A71-00039G

A71-00039H

R71-00039A

A71-00039D

A71-00039E

R71-00039E

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
11N	12E	11	NE	NE		BRUBAKER, FRED HAROLD	A71-00039D / 2.1	- /			33.0
			NE	NE		US DEPT OF AGRICULTURE	A71-10202 /	- /			
			NE	NE		US DEPT OF AGRICULTURE	71-10202 /	- /			
			NE	NE		MAHONEY, J MICHAEL	A71-00039G / 1.2	- /			
			NE	NE		PETERS, JAMES R	A71-00039H / 14.7	- /			
			NE	NE		BRUBAKER, FRED HAROLD	A71-00040D / 2.1	- /			
			NE	NE		MAHONEY, J MICHAEL	A71-00040G / 1.2	- /			
			NE	NE		PETERS, JAMES R	A71-00040H / 14.7	- /			
			NE	NE		HILL, PAUL	A71-10136A / 7.0	- /			
			NE	NE		MAHONEY, J MICHAEL	A71-10136B / 1.0	- /			
			NE	NE		US DEPT OF AGRICULTURE	F71-10202 /	- /			
			NE	NE		THOMPSON, JOHN H.		71-00039 /			
			NE	NE		THOMPSON, JOHN H.		71-00040 /			
11N	12E	11	NW	NE		BRUBAKER, FRED HAROLD	A71-00039D / 5.0	- /			38.0
			NW	NE		US DEPT OF AGRICULTURE	A71-00041 /	71-00041 /			
			NW	NE		BRUBAKER, FRED HAROLD	A71-00040D / 5.0	- /			
			NW	NE		US DEPT OF AGRICULTURE	71-10203 /	- /			
			NW	NE		THOMPSON, JOHN H.		71-00039 /			
			NW	NE		THOMPSON, JOHN H.		71-00040 /			
11N	12E	11	SW	NE		BRUBAKER, FRED HAROLD	A71-00039D / 7.9	- /			40.0
			SW	NE		US DEPT OF AGRICULTURE	A71-00041 /	71-00041 /			
			SW	NE		GROOM, BRIT	R71-10136B / 1.0	- /			
			SW	NE		MAHONEY JR LIFETIME TRUST II,	A71-00047 / 3.0	71-00047 /			
			SW	NE		HILL, PAUL	A71-00039E / 4.8	- /			
			SW	NE		MAHONEY, J MICHAEL	A71-00039G / 7.7	- /			
			SW	NE		PETERS, JAMES R	A71-00039H / 8.6	- /			
			SW	NE		BRUBAKER, FRED HAROLD	A71-00040D / 7.9	- /			
			SW	NE		HILL, PAUL	A71-00040E / 4.8	- /			
			SW	NE		MAHONEY, J MICHAEL	A71-00040G / 7.7	- /			
			SW	NE		PETERS, JAMES R	A71-00040H / 8.6	- /			

See
GIS
Land listing
3-16-98

See also
split table based
upon GIS
3-16-98

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
			SW	NE		MAHONEY JR LIFETIME TRUST II, R71-00047 / 3.0	-	/			
			SW	NE		HILL, PAUL R71-00039E / 4.8	-	/			
			SW	NE		THOMPSON, JOHN H.		71-00039	/		
			SW	NE		THOMPSON, JOHN H.		71-00040	/		
			SW	NE		M BAR M INC.		71-00048	/		

ADDITIONAL POU FOUND

15 15

TOTAL ACRES A71-00039D 15.00 111.00

POU COUNTY: CUSTER

C. IS WATER USAGE FOUND IN TRACTS OTHER THAN THOSE CLAIMED?

Y() N(☒)

* IF YES, ARE THESE TRACTS LISTED ABOVE (), OR ARE THEY LISTED ON AN ATTACHED SHEET ()

LIST OF ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE

CLAIM NO.	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A71-00039D	MC GOWAN CREEK	BRUBAKER, FRED HAROLD	0.160	0.010		
	HANNA CREEK					
R71-00039E	MC GOWAN CREEK	HILL, PAUL	0.360	0.011		
A71-00039E	MC GOWAN CREEK	HILL, PAUL	0.360	0.011		
	HANNA CREEK					
A71-00039G	MC GOWAN CREEK	MAHONEY, J MICHAEL	0.140	0.010		
	HANNA CREEK					
A71-00039H	MC GOWAN CREEK	PETERS, JAMES R	0.140	0.003		
	HANNA CREEK					
A71-00040D	VALLEY CREEK	BRUBAKER, FRED HAROLD	0.480	0.032		
A71-00040E	VALLEY CREEK	HILL, PAUL	1.080	0.033		
A71-00040G	VALLEY CREEK	MAHONEY, J MICHAEL	0.410	0.031		
A71-00040H	VALLEY CREEK	PETERS, JAMES R	0.430	0.010		
A71-00041	VALLEY CREEK	US DEPT OF AGRICULTURE	4.800	0.030		
R71-00047	VALLEY CREEK	MAHONEY JR LIFETIME TRUST II,	3.600	0.033		
A71-00047	VALLEY CREEK	MAHONEY JR LIFETIME TRUST II,	3.630	0.023		
A71-10136A	THOMPSON CREEK	HILL, PAUL	0.350	0.019		

CLAIM NO.	SOURCE	NAME	DIV.		DIV.	
			DIV. RATE	RATE/ACRE	DIV. VOL.	VOL./ACRE
A71-10136B	THOMPSON CREEK	MAHONEY, J MICHAEL	0.050	0.017		
R71-10136B	THOMPSON CREEK	GROOM, BRIT	0.040	0.020		

LIST ALL RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION.

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A71-10202	STOCKWATER	US DEPT OF AGRICULTURE	FROM 06-01 TO 10-31	0.030 CFS	
71-10202	STOCKWATER	US DEPT OF AGRICULTURE	FROM 06-01 TO 10-31	0.020 CFS	
F71-10202	STOCKWATER	US DEPT OF AGRICULTURE	FROM 06-01 TO 10-31	0.020 CFS	
71-10203	STOCKWATER	US DEPT OF AGRICULTURE	FROM 06-01 TO 10-31	0.020 CFS	

D. ARE OTHER WATER RIGHTS USED FOR THE SAME PURPOSE?

Y(~~X~~) N()

* IF YES, COMPLETE OVERLAP REVIEW:

OTHER RIGHTS LISTED IN CLAIM: A71-00040B & A71-10136

see analysis

E. IS THE CLAIMED POU THE SAME AS DESCRIBED IN THE WATER RIGHT FILE?

N/A() Y(~~X~~) N()

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN POU, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

F. CAN THE CLAIMED POU BE VERIFIED USING THE WATER RIGHT FILE AND AVAILABLE AERIAL PHOTOS?

N/A() Y() N(~~X~~)

G. SHOULD THE CLAIMED POU BE VERIFIED BY FIELD EXAM?

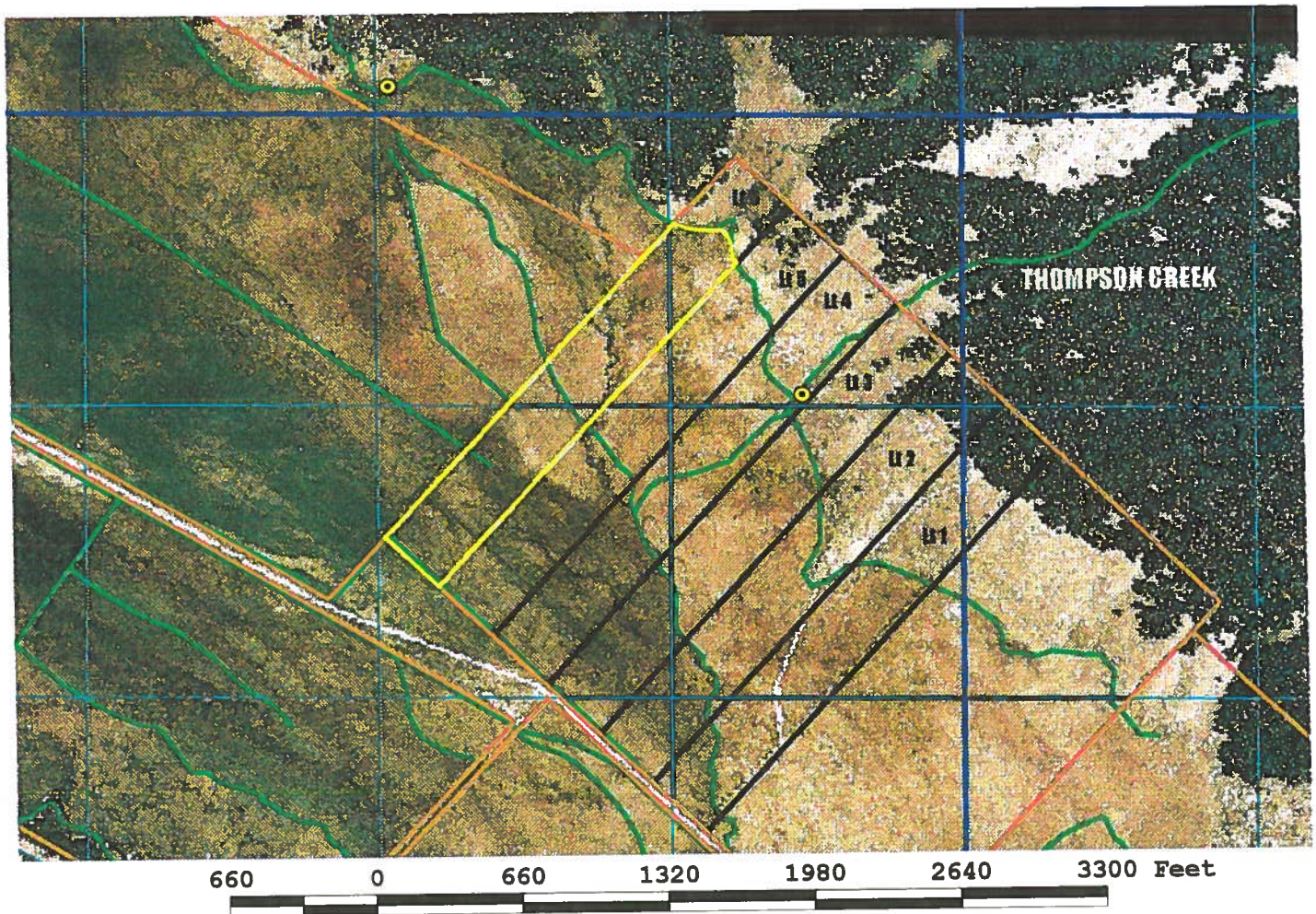
Y(~~X~~) N()

H. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE OF THIS RIGHT, OR ANY PORTION OF THIS RIGHT?

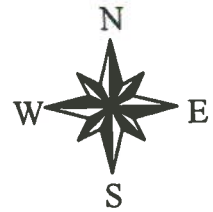
Y() N(~~X~~)

IDAHO DEPARTMENT OF WATER RESOURCES

71-00039D, & 71-00040D
HES- 109 (part)
THOMPSON CREEK SUBDIVISION
LOT 6



RECOMMENDED PLACE OF USE
VALLEY AND MC GOWAN CR = 15 ACRES
DATA ENTRY ON MAY 15, 1998
TWP 11N, RNG 12E,
SEC 11 NE1/4, & N1/2SE1/4



- ▭ RECOMMENDED PLACE OF USE
- RECOMMENDED POINT OF DIVERSION
- ▭ SECTION LINES
- ▭ QUARTER QUARTER LINES
- ▭ THOMPSON CREEK SUBDIVISION
- ▭ HOMESTEAD ENTRY BOUNDARY
- ▭ STREAM AND DITCH CHANNELS

GIS PLACE OF USE PRESENTATION
1992 USFS PHOTOGRAPHY
DATA ENTRY BY KELLY K CHRISTENSEN

CLAIM NUMBERS A71-00039D
A71-00040D

DATE 3-26-98
AGENT KKC

TRANSFER NUMBER _____
HOMESTEAD ENTRY NO. 109part
CLAIMED ACRE TOTAL _____
GEOGRAPHIC INFO ACRES _____

RIGHT NO				NE				NW				SW				SE			
	TNS	RNG	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
CLAIM	<u>11N</u>	<u>12E</u>	<u>11</u>	<u>2</u>	<u>5</u>	<u>7.5</u>													<u>14.5</u>
GIS				<u>2.1</u>	<u>5.7</u>	<u>7.2</u>													<u>15.0</u>
RECOM																			
CLAIM																			
GIS																			
RECOM																			
CLAIM																			
GIS																			
RECOM																			
CLAIM																			
GIS																			
RECOM																			

B71-DBPOD.SHP

NOS DESCRIPTION

32 Sec 4 NESWNE
Valley Cr P/D
for A71-00040D

34 Sec 2 SWSW SE
McGowan Cr for
A71-00039D

B71-DBPOU.SHP

SHAPE NOS

119 Sub Div lot 6

DBF TABLES UPDATED

B71-DBPOD.DBF

B71-DBPOU.DBF

the claim was modified 3-30-98 to
adjust the P/A to the GIS Standards.
this change is considered an administrative
action and not an amendment. Alternative
data is available through GIS to
identify the irrigated P/A for this lot.
KKC-3-30-98

Place of use is Lot 6 Thompson Creek Subdivision

**VALLEY CREEK SUBDIVISION ANALYSIS OF THE PLACE OF USE
BY SUBDIVISION LOT AND WATER RIGHT SOURCE FOR ADJUDICATION
CLAIMS A71-00039B, A71-00040B, AND A71-10316
AND ANY SUBSEQUENT SPLITS THEREOF**

ACRES IRRIGATED FROM VALLEY CREEK AND MC GOWAN CREEK										ACRES IRRIGATED FROM THOMPSON CREEK				
lot #	NE $\frac{1}{4}$ NE $\frac{1}{4}$	NW $\frac{1}{4}$ NE $\frac{1}{4}$	SW $\frac{1}{4}$ NE $\frac{1}{4}$	SE $\frac{1}{4}$ NE $\frac{1}{4}$	NE $\frac{1}{4}$ SE $\frac{1}{4}$	NW $\frac{1}{4}$ SE $\frac{1}{4}$	LOT TOTAL	% OF TOTAL	SW $\frac{1}{4}$ NE $\frac{1}{4}$	SE $\frac{1}{4}$ NE $\frac{1}{4}$	NE $\frac{1}{4}$ SE $\frac{1}{4}$	LOT TOTAL	% OF TOTAL	
1				5.7	4.9	.2	11.0	0.14		5.7	3.3	9.0	0.38	
2			.4	6.3	.8	1.9	11.3	0.15		5.4	.1	5.5	0.23	
3			4.4	6.8		.6	12.4	0.16	.1	6.6		6.7	0.28	
4	1.2		7.7	4.1			13.0	0.17	1	1.8		2.8	0.12	
5	3.2	1.1	9.2	.3			13.8	0.18				0.0	0.00	
6	2.1	5.7	7.2				15.0	0.20				0.0	0.00	
Q/Q TOTAL	6.50	6.8	28.9	23.2	5.7	2.7	76.5	1.00	1.1	19.5	3.4	24.0	1.01	

The acreage by lot and quarter/quarter have been calculated through the GIS system on 3-16-1998. This data superceeds the previous lot acre calculations completed using a planimeter on 12-14-1994.



IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION
1341 FILLMORE STREET STE 200
TWIN FALLS ID 83301-3380
(208) 736-3033

PHILIP E BATT
GOVERNOR

KARL J DREHER
DIRECTOR

May 13, 1998 *KKC*

**BASIS OF RECOMMENDATION FOR:
RIGHTS SPLIT FROM A71-00039B, A71-00040B, AND A71-10136**

The irrigated P/U for subdivision lots 1 through 6 of the Thompson Creek Subdivision are identified and operated as a common area (see Thompson Creek Subdivision plat submitted with the change of ownership, Berman-to-Hill). As the irrigation of the subdivision lots is operated as a system, the analysis is also based upon that system and then 'broken down' per lot owner.

The A71-00039 series rights have McGowan creek as a source and this system covers all 76.5 found irrigated acres within the subdivision. The portion appurtenant to the subdivision is 0.80 cfs which is ≈ 0.01 cfs/acre.

The A71-00040 series rights have Valley creek as a source and this system covers the same 76.5 found irrigated acres. The portion appurtenant to the subdivision is 2.40 cfs or ≈ 0.03 cfs/acre.

The A71-10136 series rights have Thompson creek as a source and only cover 24 acres of the subdivision (all within lots 1 through 4). This right was claimed at 0.40 cfs or ≈ 0.017 cfs/acre.

The revised Hubble analysis calculations for the 76.5 acres indicate a maximum requirement of 5.60 cfs. the three rights when combined are for 3.60 cfs which is less than the Hubble analysis requirement, therefore, the recommendation is for the claimed rates and subsequently split through the ownership changes on a proportional rate per acre basis.



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KARL J DREHER
DIRECTOR

**REEVALUATION OF THOMPSON CREEK SUBDIVISION LOTS
AS IT AFFECTS ADJUDICATION CLAIMS BASED ON
71-00039, 71-00040, AND A71-10136**

The department has adopted the computerized Geographic Information System (GIS) as the tool of the future for water rights recording and analysis. This tool provides a greater degree of accuracy, a visual representation of the place of use, and is less prone to error.

The initial claims filed by Mr Berman have currently been proportionately split three different times based upon ownership changes for specific subdivision lots. The original splits of these rights were based upon orthophotography and planimeter acre calculations. The GIS process has calculated the place of use by both overall acreage and acreage by quarter/quarters within each lot (GIS maps attached.) Through GIS there has been a slight acre shift for the irrigated ground within the subdivision and this shift is the basis for the modification of the splits of the original claims.

As a unit GIS calculated an additional 3.5 acres irrigated under adjudication claims A71-00039B and A71-00040B. More acres were claimed under those two rights than was found irrigated. All non-irrigated acres stayed with the split portion that was under Mr Berman's name. As the splits were made, only actually irrigated acres were split from the base right for (A71-00039D & A71-00040D the Brubaker sale), (A71-00039E & A71-00040E the Hill sale), and (A71-00039G & A71-00040G the Mahoney sale). The place of use for (A71-00039H & A71-00040H the Peters sale) includes the recognized 13.8 irrigated acres and the balance of 29.2 non-irrigated acres. The recommendation to the SRBA court will not reflect non-irrigated acres.

Again using GIS, an additional 6 acres irrigated were identified under claim A71-10136. They bring the total irrigated place of use under A71-10136 to three acres more than claimed. That shortage is currently identified under A71-10136B and will be addressed specifically with the Hills.

Because of the increase in acres and the shift within each lot, the proportional rate that is appurtenant to each lot also changed in most cases. See the attached table showing the place of use segregated by lot and quarter/quarter. See also, the attached split tree that identifies the appurtenant diversion rates per lot.

SALE TO BRUBAKER (lot 6)

The required modifications begin with the first change of ownership where lot 6 was sold to Mr Brubaker.

PLACE OF USE COMPARISON			
lot	original	gis lot	proportionate
<u>no.</u>	<u>lot acres</u>	<u>acres</u>	<u>share of P/U</u>
6	14.5	15	20%

MODIFICATION SUMMARY

claim	original	gis div	original	gis
<u>number</u>	<u>div rate</u>	<u>rate</u>	<u>acres</u>	<u>acres</u>
A71-00039D	.16 cfs	.16 cfs	14.5	15.0
A71-00040D	.48 cfs	.48 cfs	14.5	15.0
A71-00039C	.64 cfs	.64 cfs	88.5	88.0
A71-00040C	.48 cfs	.48 cfs	88.5	88.0

The found irrigated acreage increased $\frac{1}{2}$ acre and the place of use by quarter/quarter (QQ) has also changed. This, however, did not change the proportionate diversion rate for either right. All four rights have been modified to reflect the $\frac{1}{2}$ acre and QQ change. This data reflects irrigated ground only.

SALE TO HILL (lots 1, 2, and 3)

This sale includes a change in acres and also the proportionate rate per acre, therefore, the six rights (post split) have been modified as follows:

PLACE OF USE COMPARISON						
for A71-00039E & A71-00040E				for A71-10136A		
lot	original	gis lot	proportionate	original	gis lot	proportionate
<u>no.</u>	<u>lot acres</u>	<u>acres</u>	<u>share of P/U</u>	<u>lot acres</u>	<u>acres</u>	<u>share of P/U</u>
1	10	11	14%	8.0	9.0	38%
2	10	11.3	15%	5.5	5.5	23%
3	11.5	12.4	16%	5.5	6.7	28%
total	31.5	34.7		total	19.0	21.2

MODIFICATION SUMMARY

claim	original	gis div	original	gis
<u>number</u>	<u>div rate</u>	<u>rate</u>	<u>acres</u>	<u>acres</u>
A71-00039E	.35 cfs	.36 cfs	31.5	34.7
A71-00040E	1.04 cfs	1.08 cfs	31.5	34.7
A71-10136A	.36 cfs	.35 cfs	19.0	21.2
A71-00039F	.29 cfs	.28 cfs	57.0	53.3

A71-00040F	.89 cfs	.84 cfs	57.0	53.3
A71-10136B	.04 cfs	.05 cfs	19.0	21.2

SALE TO HILL (continued)

For Valley Creek and McGowan Creek water GIS calculated an additional 3.2 acres and for Thompson Creek Gis calculated 2.1 additional acres. Based upon a proportionate acre calculation the diversion rates for each right also has to be adjusted. All 6 rights involved in the splits have been modified based upon the GIS calculations. This data reflects irrigated ground only.

SALE TO MICHAEL MAHONEY

As the split rights were not generated using the original planimeter data, no modification of the rights is required. They reflect GIS information only. However, the original planimeter data can be compared to the GIS data through the use of the enclosed charts and tables.

<u>claim number</u>	<u>gis div rate</u>	<u>gis acres</u>
A71-00039G	.14 cfs	13.0
A71-00040G	.41 cfs	13.0
A71-10136B	.05 cfs	2.8

This data reflects irrigated ground only.

SALE TO PETERS (lot 5)

The balance of the place of use remains with the claim portions now in Mr Peter's name. Unlike the previous claims these rights include the originally claimed ground that was found to be outside the irrigated ground.

<u>claim number</u>	<u>gis div rate</u>	<u>gis acres</u>
A71-00039H	.14 cfs	13.8
A71-00040H	.43 cfs	13.8

() NAPP, IDWR NO. USDA-F 173-11 8-28-72; () ASCS PHOTO; (X) OTHER GLS 1992
USFS

RECOMMENDATIONS:

TOTAL ACRES: 15 N/A()

REVIEWED BY: KKL

DATE: 3-30-98

A. AJ CLAIMED USES:

PURPOSE OF USE	PERIOD OF USE (MONTH/DAY)	DIV. RATE FOR EACH USE	DIV. VOL. FOR EACH USE
A71-00039D IRRIGATION	FROM 04-01 TO 11-01 ⁵⁻¹⁷ 9-31 <i>dept standard</i>	0.160 CFS	
TOTAL DIVERSION RATE/VOLUME		0.160 CFS	

B. WR RECORDED USES:

PURPOSE OF USE	PERIOD OF USE (MONTH/DAY)	DIV. RATE FOR EACH USE	DIV. VOL. FOR EACH USE
71-00039 IRRIGATION	FROM TO	1.200 CFS ✓	
TOTAL DIVERSION RATE/VOLUME		1.200 CFS ✓	

C. DOES THE CLAIMED PURPOSE OF USE CORRECTLY DESCRIBE THE WATER USE?

Y(☒) N(☐)

D. IS THE CLAIMED PURPOSE OF USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE?

N/A(☐) Y(☒) N(☐)

* IF NO, AND IF THE ACTUAL WATER USE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN PURPOSE OF USE, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

E. SHOULD THE CLAIMED PURPOSE OF USE BE VERIFIED BY FIELD EXAM?

Y(☐) N(☒)

F. DOES THE CLAIMED PERIOD OF USE CONFORM TO IDWR STANDARDS?

Y(☐) N(☒)

G. SHOULD THE PERIOD OF USE BE RECOMMENDED TO IDWR STANDARDS?

Y(☒) N(☐)

* IF THE RECOMMENDED PERIOD OF USE IS DIFFERENT THAN IDWR STANDARDS, EXPLAIN IN NOTES BELOW.

H. IS THE CLAIMED DIVERSION RATE FOR EACH USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE?

N/A(☐) Y(☐) N(☒)

* IF NO, DESCRIBE IN NOTES BELOW HOW THE RECOMMENDED DIVERSION RATE FOR EACH USE WAS DETERMINED.

I. SHOULD THE CLAIMED DIVERSION RATE FOR EACH USE BE VERIFIED BY FIELD EXAM?

N/A(☐) Y(☒) N(☐)

J. IS THE CLAIMED DIVERSION VOLUME FOR EACH USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE?

N/A(☒) Y(☐) N(☐)

* IF NO, DESCRIBE IN NOTES BELOW HOW THE RECOMMENDED DIVERSION VOLUME FOR EACH USE WAS DETERMINED.

K. SHOULD THE CLAIMED DIVERSION VOLUME FOR EACH USE BE VERIFIED BY FIELD EXAM?

N/A(☒) Y(☐) N(☐)

no period described in decree.
see split analysis

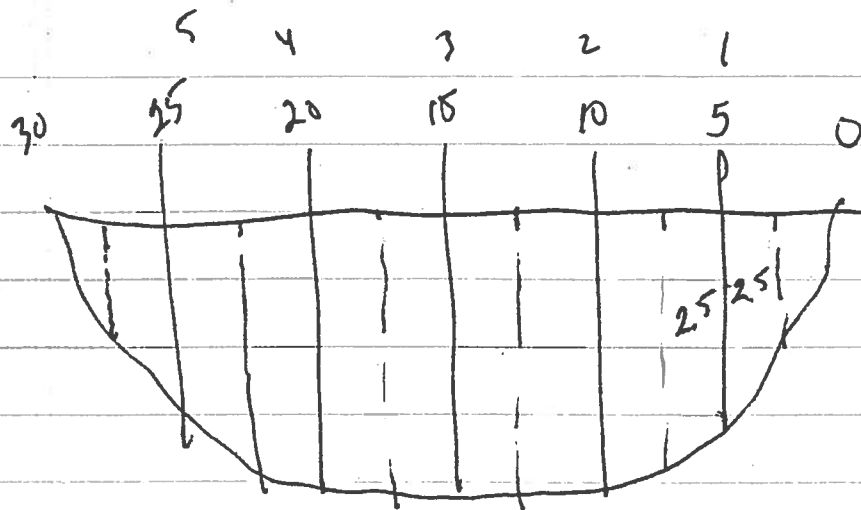
NOTES:

see analysis sheets. Thomp. Cr Sub (3pgs)

R.H.

The stream was measured at 0.80 CFS on 9-21-93 but this did not identify the system capacity. Mc Gowan Cr was not flowing enough to fill the channel this late in the season. I estimated the flow to be approx 50% of the system capacity based upon the channel physical characteristics. The 'High water' mark was approximately double the current flow level, therefore the normal flow would be closer to 1.60 CFS. This is 133% greater than the decreed rate from Mc Gowan Creek ~~from~~ under 71-00039.

9-21-93

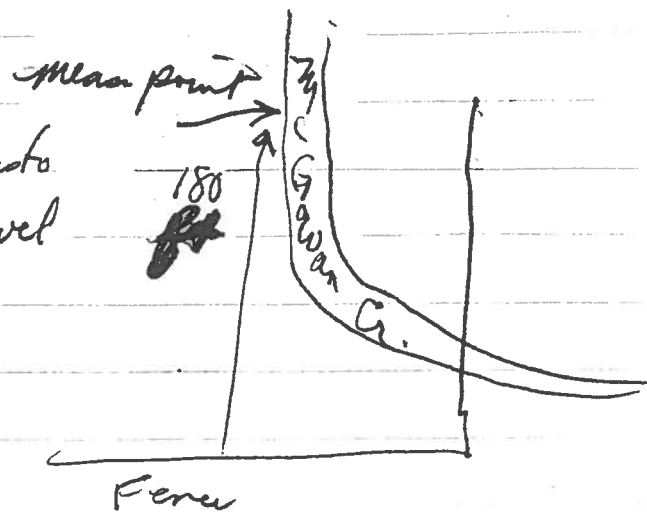


Mc Gowan Cr
Apex 180 ft
from fence line

stat	Depth	Rw	Sec
1	4	60	1.10.13 116.85
2	5	60	54.87 55.75
3	5	60	36.88 36.28
4	4.5	60	105.48 107.69
5	4	30*	122.27
		30	120.33

water clear
sandy gravelly bottom
sides curve up no significant
vegetation in stream channel
water very cold. measurement
considered good

normal high water mark appears to
be approx 6' above ^{current} water level



Original
document in
71-00039A.
KRC

NAME OF STREAM OR DITCH ----- MCGOWAN CREEK
 LOCATION ----- 180 FT NORTH WEST OF FOREST SERVICE FENCE
 PURPOSE OF MEASUREMENT -- ADJUDICATION REVIEW
 BASIS OF VELOCITY CALCULATIONS
 IF YOU ARE USING A PYGMY METER ENTER ----- 1
 IF YOU ARE USING A AA METER ENTER ----- 2
 ENTRY ---- = 1
 FOLLOWING THE LAST ENTRY IN:
 "DISTANCE FROM INIT PT" ENTRY MUST = "END"
 WATER RIGHT NUMBER IF APPLICABLE ----- A71-00039A & A71-000398
 AGENT CONDUCTING MEASUREMENT & DATE -- KKC - 9/21/93
 ACCOMPANIED BY ----- NO ONE
 PREMEASUREMENT SPIN TEST (MIN/SEC) ---
 POST MEASUREMENT SPIN TEST (MIN/SEC) -
 DATE REPORT PREPARED ----- 31-May-94

ANGLE OF COEFFICIENT	DISTANCE FROM INIT PT	DEPTH IN FEET	CALC DEPTH END PTS	VELOCITY DATA			CALC WIDTH	AREA IN SQ FT	1ST POINT VELOCITY		CALCULATED VELOCITY		DISCHARGE IN CFS
				1ST MEASUREMENT REVS	TIME/SEC	2ND MEASUREMENT REVS			TIME/SEC	1ST POINT VELOCITY	2ND POINT VELOCITY	MEAN VELOCITY	
=====													
INITIAL POINT	0.00		0.17					0.21	0.035			0.41	0.01
	0.42	0.33			60	73.5		0.42	0.139	0.82		0.82	0.11
	0.83	0.42			60	55.3		0.42	0.174	1.08		1.08	0.19
	1.25	0.42			60	36.6		0.42	0.174	1.64		1.64	0.28
	1.67	0.38			60	66.6		0.42	0.156	0.90		0.90	0.14
	2.08	0.33			30	81.3		0.42	0.139	0.37		0.37	0.05
	2.50		0.17					0.21	0.035			0.18	0.01
=====													
END													0.80

END

original
 document in
 71-00039A

AJ CLAIM TOTAL DIVERSION RATE: 0.160 CFS

WR ROOT RIGHT TOTAL DIVERSION RATE: 1.200 CFS

A. IS THE CLAIMED TOTAL DIVERSION RATE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE?

See split analysis
N/A() Y() N()

B. CAN THE CLAIMED TOTAL DIVERSION RATE BE VERIFIED USING THE WATER RIGHT FILE?

N/A() Y() N()

* ALL CLAIMS BASED ON BENEFICIAL USE (INCLUDING POSTED NOTICES AND STATUTORY CLAIMS) REQUIRE A FLOW MEASUREMENT.

C. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE OF THIS RIGHT, OR ANY PORTION OF THE DIVERSION RATE?

Y() N(☒)

* IF AN AMOUNT SMALLER THAN THE ORIGINAL DIVERSION RATE IS CLAIMED AND A FIELD EXAM IS NOT REQUIRED, EXPLAIN IN NOTES.

D. SHOULD THE CLAIMED DIVERSION RATE BE VERIFIED BY FIELD EXAM?

Y(☒) N()

E.

Pigmy meter
MEASUREMENT METHOD *Measured 9-21-93 estimated 1.60 cfs*, SEE ATTACHED CALCULATIONS.
FLOW MEASUREMENT *Measured 0.80 cfs*

F.

RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

ACRES 15 x 0.02 CFS/ACRE = 30 CFS
(Taken from pou review)

1b. CALCULATIONS

IS A DIVERSION RATE PER ACRE GREATER THAN 0.02 CFS/ACRE CLAIMED? Y() N(☒)

IF YES, IS AN ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y(☒) N()

*Hubble analysis
(revised 5-8-98)
attached.*

2. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES _____ x DIVERSION VOL. AF/A FOR AREA _____ =

TOTAL DIVERSION VOLUME _____ AF/A

3. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = AF/A

ACRES _____ x CONSUMPTIVE VOL. AF/A FOR AREA _____ =

TOTAL CONSUMPTIVE USE _____ AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION: SEE BELOW () OR SEE ATTACHMENT ()

**REEVALUATION OF IRRIGATION RATES
BASED UPON 1997 REVISED HUBBLE ANALYSIS PROCEDURES**

Fov
CLAIM NUMBERS *based/split From: A71-00039B*
A71-00040B A71-10136

DATE: May 8, 1998

REVIEWED BY **RC*

STANLEY BASIN SOIL REVIEW								
SOIL TYPE	OPTIMUM ROTATION	BORDER EFF	BORDER CFS/AC	FURROW EFF	FURROW CFS/AC	MAD	PF	BORDER / FURROW
AM1	4.00	3.5	0.30	22.3	0.05	1.00	1.14	6.09
BG1	5.00	5.8	0.19	34.3	0.03	1.32	1.13	5.99
CNB	7.00	7.8	0.14	47.3	0.02	1.82	1.11	6.20
GO1	14.66	25.5	0.04	24.6	0.04	3.65	1.07	0.96
LA4	4.00	3.7	0.30	23.6	0.05	1.06	1.14	6.46
PY1	5.66	6.3	0.17	37.9	0.03	1.46	1.12	5.98
RD1	5.66	6.3	0.17	37.9	0.03	1.46	1.12	5.98
RP1	4.33	6.9	0.16	35.2	0.03	1.13	1.13	5.18
SN1	2.66	2.47	0.45	15.4	0.07	0.69	1.14	6.30
ST1	3.33	3.2	0.36	20.3	0.05	0.91	1.14	6.65
TN1	4.66	4.2	0.26	26.9	0.04	1.21	1.13	6.44
TP1	9.33	9.5	0.11	60.0	0.02	2.31	1.10	6.24
WG1	2.66	2.4	0.45	14.9	0.07	0.67	1.14	6.12
WV1	13.00	17.4	0.06	50.3	0.02	3.24	1.08	2.91

The rate per acre calculations are based upon a 300 foot run at a 2% slope. An 8 hour set time was also used. Individual graded border evaluations, soil characteristics work sheets, and peak irrigation diversion requirement work sheets have been created and archived separately for each soil type.

Where actual rotation is shorter than the optimal rotation, optimal rotation is the criteria to be used for the recommendation analysis and, therefore, the rotation percentage adjustment is not necessary. The rate becomes the acres per soil type times the rate per acre from the above chart.

SOIL TYPE	OPTIMAL / ROTATION (chart)	ACTUAL / ROTATION (field)	* ACRES PER SOIL TYPE (field)	* RATE PER ACRE (chart)	= TOTAL DIVERSION RATE
AM1	4	10	6	.30	.72 CFS
RP1	4.33	10	70.5	.16	4.88 CFS
					CFS
					CFS

5.60 CFS total
 LICENSED/DECREED RATE(S) = *3.20 cfs (2 Rights)*
 CLAIMED DIVERSION RATES = *3.60 cfs (all 3 rights)*
 ORIGINAL HUBBLE RATE = *—*
 MEASURED DIVERSION RATE = *1.60 CFS McGowan*
Thompson not measured.

NOTES: See Attached measurement
sheets.
XKC

WR RECORD CONDITIONS/REMARKS:

RECOMMENDATIONS: CHECK HERE IF RECOMMENDED AS CLAIMED (___)

REC. PURPOSE OF USE	REC. PERIOD		REC. DIV		REC. DIV		REC. CONS.	
	FROM	TO	RATE	CFS	VOL.	AF/A	USE	
IRRIGATION	04-01	11-01	0.160	_____	_____	_____	0.0	_____
<u>irr</u>	<u>5-1</u>	<u>9-30</u>		<u>.16</u>				
_____	_____	_____		_____				_____
_____	_____	_____		_____				_____
_____	_____	_____		_____				_____
TOTAL FOR THIS RIGHT			0.160	<u>.16</u>			0.0	_____

NON-IRRIGATION USES CLAIMED: N/A

NON-IRRIGATION USES RECOMMENDED: CHECK HERE IF RECOMMENDED AS CLAIMED (___)

REVIEWED BY: KKC

DATE: 5-18-98

FLAG: 0

STANDARD CONDITIONS (CODE):

STANDARD REMARKS (CODE):
JØ1 Thomp Cr Sub. (5 claims) H6.
E10 FØ6 71-00039A, 39D, 39E, 39G, & 39H
GEN JØ2 a portion of HES 109
POU1 E14 15A & 39D & 40D

EXPLANATORY CONDITIONS (CODE):

EXPLANATORY REMARKS (CODE):

A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP _____	ACCEPTED AS CLAIMED ()	NEEDS REVIEW ()
FORFEIT/ABANDON _____	()	()
ADDITIONAL DIV. AMOUNT _____	()	()

*See attached
Split fee*

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 71-00039

TOTAL DIVERSION RATE OF WR SPLITS

DATABASE
1.200

EXAMINER _____

*see split fee and
analysis
CFS*

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
71-00039	A71-00039A	0.430	R71-00039A	0.430	71-00039	1.200
A71-00039C	A71-00039D	0.160	R71-00039E	0.360	-	-
-	A71-00039E	0.360	-	-	-	-
-	A71-00039G	0.140	-	-	-	-
-	A71-00039H	0.140	-	-	-	-
TOTAL CFS		1.230		0.790		1.200

DIVERSION RATE REVIEW

DO THE SUM CFS RATE OF THE SPLITS EQUAL THE ROOT RIGHT CFS RATE? (Y/N)
IF NO, IS THE WRITTEN REVIEW DESCRIBED BELOW (X) OR SEE ATTACHMENT ()?

DATABASE N FIELD EXAMINER Y() N()

NOTES:

*A71-00039A & A71-00039B claimed & split the decreed
1.20 CFS. A71-00039A added 0.03 CFS to the rate for stockwater
that use was not part of the decree & therefore was
excluded from the recommendation.*

SPLIT TREE FOR:

71-00039 for 1.20 cfs McGowan Cr
71-00040 for 3.60 cfs Valley Cr
A71-10136 for 0.40 cfs Thompson Cr

BERMAN

A71-00039B for 0.80 cfs
A71-00040B for 2.40 cfs
A71-10136 for 0.40 cfs

MAHONEY

A71-00039A for 0.43 cfs
A71-00040A for 1.20 cfs

OWNERSHIP CHANGE

BERMAN

A71-00039C for 0.64 cfs
A71-00040C for 1.92 cfs
A71-10136 for 0.40 cfs

**BERMAN'S CLAIMS AS APPURTENANT
TO EACH IRRIGATED PORTION OF THE
REMAINING LOTS UNDER HIS OWNERSHIP**

LOT 1

A71-00039C for 0.11 cfs
A71-00040C for 0.34 cfs
A71-10136 for 0.15 cfs

LOT 4

A71-00039C for 0.14 cfs
A71-00040C for 0.41 cfs
A71-10136 for 0.05 cfs

LOT 2

A71-00039C for 0.12 cfs
A71-00040C for 0.36 cfs
A71-10136 for 0.09 cfs

LOT 5

A71-00039C for 0.14 cfs
A71-00040C for 0.43 cfs

LOT 3

A71-00039C for 0.13 cfs
A71-00040C for 0.38 cfs
A71-10136 for 0.11 cfs

OWNERSHIP CHANGE

HILL

A71-00039E for 0.36 cfs
A71-00040E for 1.08 cfs
A71-10136A for 0.35 cfs

BERMAN

A71-00039F for 0.28 cfs
A71-00040F for 0.84 cfs
A71-10136B for 0.05 cfs

LOT 1

A71-00039E for 0.11 cfs
A71-00040E for 0.34 cfs
A71-10136A for 0.15 cfs

LOT 4

A71-00039F for 0.14 cfs
A71-00040F for 0.41 cfs
A71-10136B for 0.05 cfs

LOT 2

A71-00039E for 0.12 cfs
A71-00040E for 0.36 cfs
A71-10136A for 0.09 cfs

LOT 5

A71-00039F for 0.14 cfs
A71-00040F for 0.43 cfs

LOT 3

A71-00039E for 0.13 cfs
A71-00040E for 0.38 cfs
A71-10136A for 0.11 cfs

OWNERSHIP CHANGE

MAHONEY

LOT 4
A71-00039G for 0.14 cfs
A71-00040G for 0.41 cfs
A71-10136B for 0.05 cfs

PETERS

LOT 5
A71-00039H for 0.14 cfs
A71-00040H for 0.43 cfs

*as of 3-30-98
field data
data is in
this file
Photos
& originals also.*

signature Kelly K. Christensen
date 5-18-1998
examiner: KELLY K CHRISTENSEN
title: SR WATER RESOURCE AGENT

DATE: _____

TITLE: _____

3

Sec 2

271

N 89° 34' W

N 89° 55' E

E S

Lot 1

Lot 3

270

272

Sec 11

1958.46

109

1381.8

1576

1581.1

3999

Sec 12

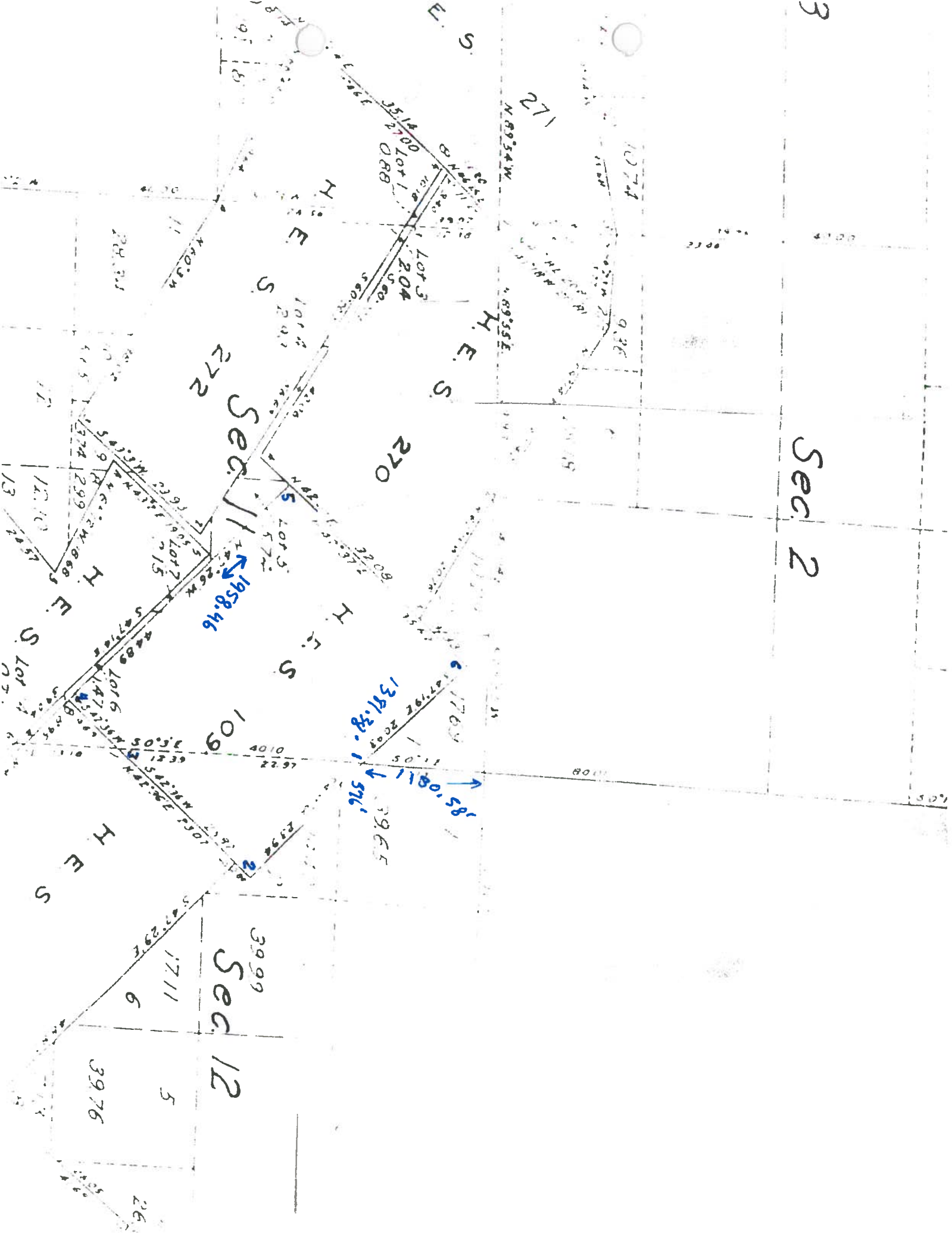
1711

6

5

3976

26





160

091

10-11-60
10-11-60
10-11-60

CLAIM	Multiple	INIT	KAC
T. R. S. Q/Q			
P/D	U-68		
PHOTO	U-68		
DI. LID.	1971		

PHOTO LOCATIONS
TAKEN 9-11-82



CLAIM # A71-00039B
DATE PHOTOS TAKEN; 9-14-93
PICTURE SET # 1

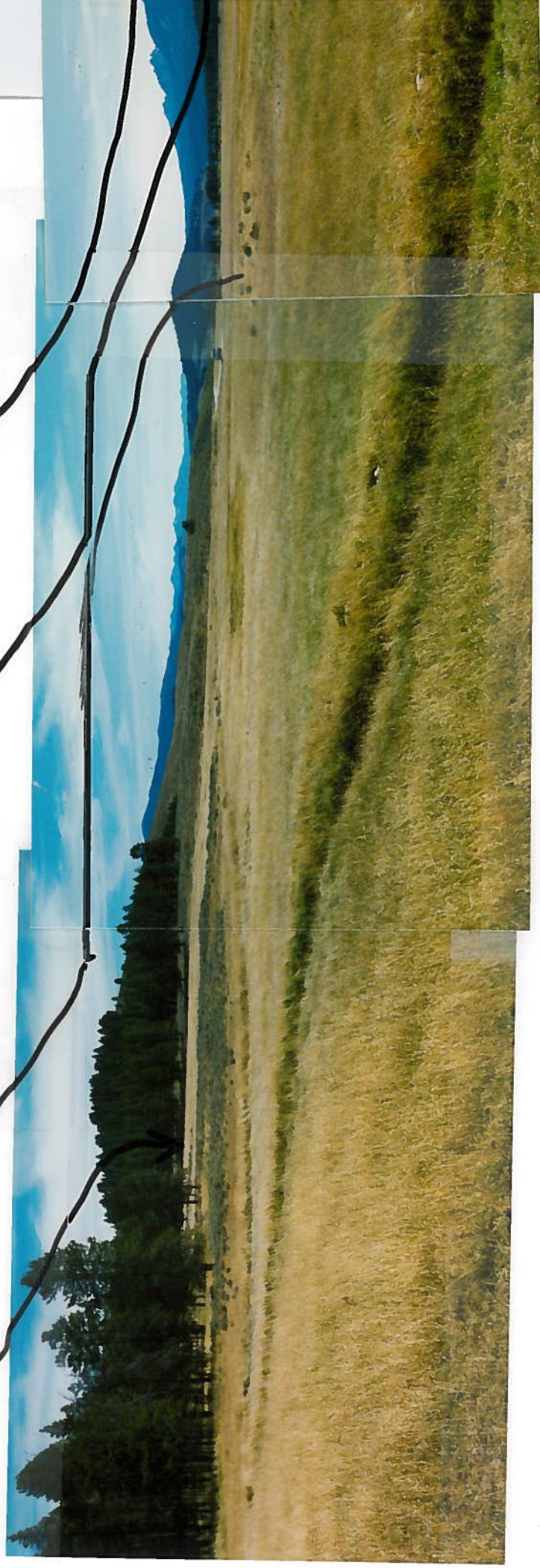
This picture set was taken from the northeast corner of the P/U and is looking southwest on the right to southeast on the left. The buckfence on the right is the northern boundary of the P/U and the ditch shown in the foreground carries the combined water of Valley Creek, Hanna Creek, and/or McGowan Creek. Thompson Creek enters the P/U on the left as marked.

THOMPSON CREEK

DRY KNOB

COW CAMP ROAD

VALLEY CREEK



CLAIM # A71-00039B
DATE PHOTO TAKEN; 9-14-93
PICTURE # 2

This photo was taken just across the Forest Service fence shown in picture # 3 and is looking north at McGowan Creek. Note the bend in the stream channel along the left side of this photo. The stream swings to the right and eventually runs along the trees on the right shown in the distance.



CLAIM # A71-00039B
DATE PHOTOS TAKEN; 9-14-93
PICTURE SET # 3

This shows the continuation of McGowan Creek water as it leaves the Forest Service ground. This location is approximately 30 to 40 feet southeast from the picture # 2 location and you are looking east on the left to southeast on the right. The P/U for A71-00039B is just beyond the cattle and the P/U for A71-00039A is just beyond that ground. This photo does not cover the P/U for A71-00039A.

FOREST SERVICE FENCE

THOMPSON CREEK



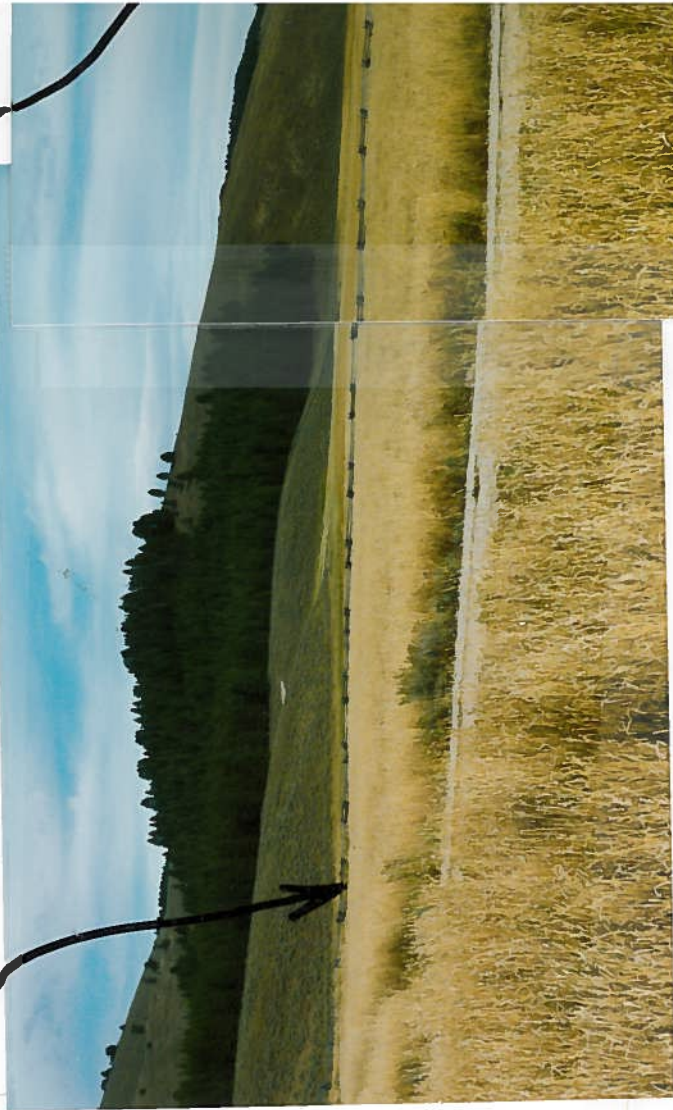
P/U FOR A71-00039B

CLAIM # A71-00039B
DATE PHOTOS TAKEN; 9-14-93
PICTURE SET # 4

This photo shows the southern portion of the P/U for A71-00039B (in the foreground) and the bulk of the P/U for A71-00039A. You are looking east on the left to southeast on the right. I found seven culverts going under the road shown in the foreground that allows water to reach the P/U for A71-00039A.

BOUNDARY FENCE BETWEEN
A71-00039A AND A71-00039B

SOUTH BOUNDARY FOR
A71-00039A



CLAIM # A71-00039B
DATE PHOTO TAKEN; 9-14-93
PICTURE # 5

This photo set is looking across the diversion structure built to divide Valley Creek water with the left channel delivering water to claims 72-00042A, 72-00042B, & 72-00047 and the right arm delivering water to 72-00040A, & 72-00040B. The looping ditch in the left photo is a lateral that parallels the main ditch that is not visible because of the grass. Hanna Creek comes in from the right but also is not visible. See # 6.



PICTURE # 6

This photo just catches the diversion structure but shows the main ditch, the sub lateral, and Hanna Creek coming in from the right. You are looking northwest, up the ditch.

MAIN DITCH

HANNA CREEK



CLAIM # A71-00039B

DATE PHOTOS TAKEN; 9-14-93

PICTURE SET # 7

This photo set shows the combined main ditch coming from Valley Creek, McGowan Creek and Hanna Creek on the left and Thompson Creek coming in from the right. No irrigation practices right of the main ditch were found. You are looking northwest on the left to northeast on the right.

PICTURE SET # 1 MAIN DITCH
LOCATION

THOMPSON
CREEK

PICTURE SET # 8
LOCATION



CLAIM # A71-00039B
DATE PHOTOS TAKEN; 9-14-93
PICTURE SET # 8

This set was taken northeast of the pasture division fence and is looking southeast on the right to northeast on the left. Shown is two channels entering the P/U at this point with the channel on the left naturally splitting at this point. No evidence of an effort to control the water within this general area was observed. The channels eventually reach the main ditch shown in picture set # 7 and that area is considered the diversion point for Thompson Creek. The main ditch is larger than the natural stream channels and therefore could carry all of the normal Thompson Creek flow. The two main channels within this picture set carry water from slightly different drainages with the left channel corresponding to the Thompson Creek channel as outlined on the Ortho photo U-68.

