

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: **A72-00134B**
Date Received: 12/19/1989
Receipt No: X777777
Received By: _____

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

1. Name: FRANK R BERLAGE 619-459-1200
Address: PO BOX 1771
LA JOLLA CA 92038

AND/OR

Name: FRANK R BERLAGE LIVING TRUST 619-459-1200
Address: PO BOX 1771
LA JOLLA CA 92038

2. Date of Priority: AUG 24, 1886

3. Source: SQUAW CREEK Trib. to: SALMON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
11N	17E	28	SE	NE	NE		CUSTER

5. Description of diverting works:
DITCHES WITH FLOOD IRR.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	1.500		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

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ACQUIRED UNDER STATE LAW**

1. Name: FRANK R BERLAGE 619-459-1200
Address: PO BOX 1771
LA JOLLE CA 92037

AND/OR

Name: FRANK R BERLAGE LIVING TRUST 619-459-1200
Address: PO BOX 1771
LA JOLLE CA 92037

2. Date of Priority: AUG 24, 1886

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1.500 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
11N	17E	28	SW	NE		IRR	4.9
			SE	NE		IRR	8.0
			NE	SE		IRR	17.0
			NW	SE		IRR	2.6
			SE	SE		IRR	2.5
						Section Acres	35.0
						Total Acres	35.0

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:
A72-16497B

14. Remarks:
OWNERSHIP CHANGE 3/11/92 BY JG.
OWNERSHIP CHANGE & SPLIT CLAIM 10/22/98 SCC.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

WILLIAM MC CLURE, ET. AL.
Decree Plaintiff

ROBERT CAMPBELL, ET. AL.
vs Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____
My Commission Expires _____



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

October 26, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

FRANK R BERLAGE
FRANK R BERLAGE LIVING TRUST
PO BOX 1771
LA JOLLE CA 92037

RE: CHANGE OF OWNERSHIP SRBA CLAIM NOS. A72-00134B & A72-16497B

Dear Mr. Berlage,

Pursuant to your request for a change in ownership and/or the notification that you presently own the property in which the above-referenced adjudication claim(s) is appurtenant, the department has changed the record of the current owners as you requested for rights A72-00134B & A72-16497B.

Please find enclosed a copy of your adjudication claim, as it now appears in our records.

If you have any further corrections or questions please contact our office.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Steve Clelland'.

STEVE CLELLAND
Sr. Water Resource Agent

ENC:

cc: Murray D. Feldman, Holland & Hart



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

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

RECEIVED

AUG 21 1996

DATE OF CLOSING: 5/30/96

Department of Water Resources

LEGAL DESCRIPTION OF PROPERTY: Township 11N Range 17E
 Section 28, portions of SW 1/4 of NE 1/4, Contak xx BM, SE1/4 NE1/4,
 Lot _____, Block _____, Subdivision/Townsite _____ NW1/4 SE1/4 (Gov't Lot 4)
 If you have additional legal descriptions, please attach separate sheet. NE1/4 SE1/4 and
 see attached sheet for complete legal description SE1/4 SE1/4 (Gov't Lot 8)

[] 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: 72-00134

* also applies to
Claims: ~~72-04157~~
72-16497

[] Name and Address of Former Owner/Claimant(s)(Seller): Gerald D. and Kathryn S. Herrick

2170 E. Gossamer Lane

Boise, ID 83706

[] New Owner/Claimant (Purchaser):

Frank R. Berlage or Frank R. Berlage Living Trust

✓ New Mailing Address:

PO 1771

La Jolla CA 92037

[] New Telephone Number: (619) 459-1200

[] 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:

That portion of water right 72-00134 appurtenant to the lands described
in the attached legal description, approximately 1.8 cfs of the total
6.0 cfs decreed for this right no. 72-00134 from Squaw Creek.

[] 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.)

X Signature of New Owner/Claimant(s)

[Signature]

Date 5/28/96

Date

[] Signature of Former Owner/Claimant(s):

[Signature]

Date 5/30/96

Date 5/30/96

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:

Initial Review and Data Entry

Date: 10/21/98 By: sa

Further Action Needed:

SPLIT CLAIMS

Further Action Taken

Date: 10/22/98 By: sa

Final Review and Data Entry

Date: By:

Claim Numbers of Split, if any:

RECEIVED

AUG 29 1996

Department of Water Resources

Southern Region

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

72-00134 A & B

72-16497 A & B

HOLLAND & HART LLP
ATTORNEYS AT LAW

DENVER • ASPEN
BOULDER • COLORADO SPRINGS
DENVER TECH CENTER
BILLINGS • BOISE
CHEYENNE • JACKSON HOLE
SALT LAKE CITY

SUITE 1400
101 SOUTH CAPITOL BOULEVARD
BOISE, IDAHO 83702-7714
MAILING ADDRESS
P.O. BOX 2527
BOISE, IDAHO 83701-2527

TELEPHONE (208) 342-5000
FACSIMILE (208) 343-8869

Murray D. Feldman

August 20, 1996

RECEIVED

AUG 21 1996

Department of Water Resources

Idaho Department of Water Resources
Statehouse Mail
Boise, ID 83720-9000

Attention: Adjudication Bureau

RECEIVED

AUG 29 1996

Department of Water Resources
Southern Region

Re: Notice of Change of Water Right Ownership
Water Right No. 72-00134

Dear Adjudication Bureau:

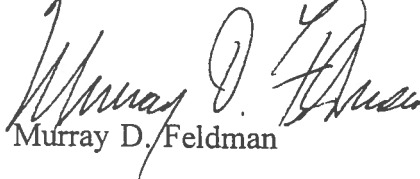
I enclose a fully executed Notice of Change of Water Right Ownership and attached legal description for a change of water right ownership for a portion of water right no. 72-00134.

Please note, as indicated on the enclosed form, that this change in ownership results in a splitting of water right no. 72-00134. The portion of water right no. 72-00134 appurtenant to the lands described in the enclosed legal description are now owned by the new owner (Mr. Frank Berlage or the Frank R. Berlage Living Trust), while the remainder of water right no. 72-00134 remains in the ownership of Gerald and Kathryn Herrick.

If you have any questions about this notice of change of water right ownership, please let me know.

Sincerely,

HOLLAND & HART LLP


Murray D. Feldman

MDF:cd

Enclosure

cc: Gerald Herrick
Frank Berlage
(both w/encl.)

68717/29727.5003

EXHIBIT "A"

A PARCEL OF LAND LYING IN SECTION 28, TOWNSHIP 11 NORTH, RANGE 17 EAST, BOISE MERIDIAN, CUSTER COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SECTION CORNER COMMON TO SECTIONS 21, 22, 27 AND 28, T. 11 N., R. 17 E., B.M., THENCE S. 00 DEGREES 05' 32" W., 1321.88 FEET TO THE NORTH 1/16 CORNER COMMON TO SECTIONS 28 AND 27;

THENCE N. 89 DEGREES 55' 15" W., 1319.69 FEET TO THE NE 1/16 CORNER OF SAID SECTION 28 AND 27, THE REAL POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE S. 00 DEGREES 04' 51" W., 99.25 FEET ALONG THE EAST LINE OF THE SW1/4 OF THE NE1/4 TO A POINT;

THENCE S. 89 DEGREES 42' 15" E., 93.15 FEET TO A POINT;

THENCE S. 19 DEGREES 12' 15" E., 464.70 FEET TO A POINT;

THENCE S. 15 DEGREES 22' 15" E., 814.99 FEET TO A POINT;

THENCE S. 31 DEGREES 45' 15" E., 632.10 FEET TO A POINT;

THENCE S. 10 DEGREES 27' 45" W., 439.10 FEET TO A POINT;

THENCE S. 26 DEGREES 36' 15" E., 260.00 FEET TO A POINT;

THENCE S. 06 DEGREES 38' 45" W., 496.96 FEET TO A POINT ON THE NORTH BANK OF THE SALMON RIVER;

THENCE S. 46 DEGREES 30' 00" W., 299.23 FEET ALONG THE NORTH BANK OF THE SALMON RIVER TO A POINT ON A CURVE, SAID POINT BEING ON THE CENTERLINE OF SQUAW CREEK ROAD;

THENCE NORTHERLY ALONG THE CENTERLINE OF SQUAW CREEK ROAD THE FOLLOWING COURSES AND DISTANCES;

THENCE ALONG A CURVE TO THE RIGHT 218.26 FEET, HAVING A RADIUS OF 500.00 FEET, A CENTRAL ANGLE OF 25 DEGREES 00' 40", TANGENTS OF 110.90 FEET AND A CHORD WHICH BEARS N. 32 DEGREES 10' 22" W., 216.53 FEET TO A POINT;

THENCE N. 19 DEGREES 40' 00" W., 393.39 FEET TO A POINT OF CURVATURE;

THENCE ALONG A CURVE TO THE LEFT 229.80 FEET, HAVING A RADIUS OF 500.00 FEET, A CENTRAL ANGLE OF 26 DEGREES 20' 00", TANGENTS OF 116.97 FEET AND A CHORD WHICH BEARS N. 32 DEGREES 50' 00" W., 227.78 FEET TO A POINT;

THENCE N. 46 DEGREES 00' 00" W., 38.92 FEET TO A POINT OF CURVATURE;

THENCE ALONG A CURVE TO THE RIGHT 226.89 FEET, HAVING A RADIUS OF 500.00 FEET, A CENTRAL ANGLE OF 26 DEGREES 00' 00", TANGENTS OF 115.43 FEET AND A CHORD WHICH BEARS N. 33 DEGREES 00' 00" W., 224.95 FEET TO A POINT;

THENCE N. 20 DEGREES 00' 00" W. 224.17 FEET TO A POINT OF CURVATURE;

THENCE ALONG A CURVE TO THE LEFT 56.73 FEET, HAVING A RADIUS OF 500.00 FEET, A CENTRAL ANGLE OF 06 DEGREES 30' 00", TANGENTS OF 28.39 FEET AND A CHORD WHICH BEARS N. 23 DEGREES 15' 00" W., 56.69 FEET TO A POINT;

THENCE N. 26 DEGREES 30' 00" W., 493.86 FEET TO A POINT OF CURVATURE;

THENCE ALONG A CURVE TO THE RIGHT 238.53 FEET, HAVING A RADIUS OF 500.00 FEET, A CENTRAL ANGLE OF 27 DEGREES 20' 00", TANGENTS OF 121.58 FEET AND A CHORD WHICH BEARS N. 12 DEGREES 50' 00" W., 236.27 FEET TO A POINT;

THENCE N. 00 DEGREES 50' 00" E., 390.81 FEET TO A POINT OF CURVATURE;

THENCE ALONG A CURVE TO THE RIGHT 152.72 FEET, HAVING A RADIUS OF 500.00 FEET, A CENTRAL ANGLE OF 17 DEGREES 30' 00", TANGENTS OF 79.96 FEET AND A CHORD WHICH BEARS N. 09 DEGREES 35' 00" E., 152.12 FEET TO A POINT;

THENCE N. 18 DEGREES 20' 00" E., 831.35 FEET TO A POINT ON THE NORTH LINE OF THE SW1/4 OF THE NE1/4;

THENCE S. 89 DEGREES 55' 15" E., 44.41 FEET ALONG THE NORTH LINE OF THE SW1/4 OF THE NE1/4 TO THE REAL POINT OF BEGINNING OF THIS DESCRIPTION.

SAID PARCEL OF LAND INCLUDES THE EASTERLY 25.00 FEET OF RIGHT OF WAY OF SQUAW CREEK ROAD RECORDED IN THE PLAT OF OSPREY BEND SUBDIVISION.

SUBJECT TO THE RIGHT OF WAY FOR SQUAW CREEK ROAD RUNNING ALONG THE WESTERLY BOUNDARY OF THE ABOVE DESCRIBED REAL PROPERTY AS SHOWN ON RECORD OF SURVEY RECORDED FEBRUARY 6, 1996 AS INSTRUMENT NO. 210435, RECORDS OF CUSTER COUNTY, IDAHO.

RESERVING THEREFROM AN IRRIGATION EASEMENT DESCRIBED AS FOLLOWS:

AN EASEMENT BEING 15 FEET IN WIDTH AND CENTERED ON THE FOLLOWING DESCRIBED CENTERLINE, LYING IN SECTION 28, TOWNSHIP 11 NORTH, RANGE 17 EAST, BOISE MERIDIAN, CUSTER COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING- AT THE SECTION CORNER COMMON TO SECTIONS 21, 22, 27 AND 28, T. 11 N., R. 17 E., B.M., THENCE S. 00 DEGREES 05' 32" W., 1321.88 FEET TO THE NORTH 1/16 CORNER COMMON TO SECTIONS 28 AND 27;

THENCE N. 89 DEGREES 55' 15" W., 1319.69 FEET TO THE NE1/16 CORNER OF SAID SECTION 28;

THENCE S. 00 DEGREES 04' 51" W., 90.00 FEET ALONG THE EAST LINE OF THE SW1/4 OF THE NE1/4 TO THE POINT OF BEGINNING OF THIS EASEMENT CENTERLINE;

THENCE S. 00 DEGREES 04' 51" W., 13.57 FEET TO A POINT;

THENCE S. 40 DEGREES 10' 44" W., 142.95 FEET TO A POINT;

THENCE S. 13 DEGREES 03' 02" W., 94.49 FEET TO A POINT;

THENCE S. 01 DEGREES 30' 27" W., 88.71 FEET TO A POINT;

THENCE S. 46 DEGREES 31' 07" W., 60.12 FEET TO A POINT;

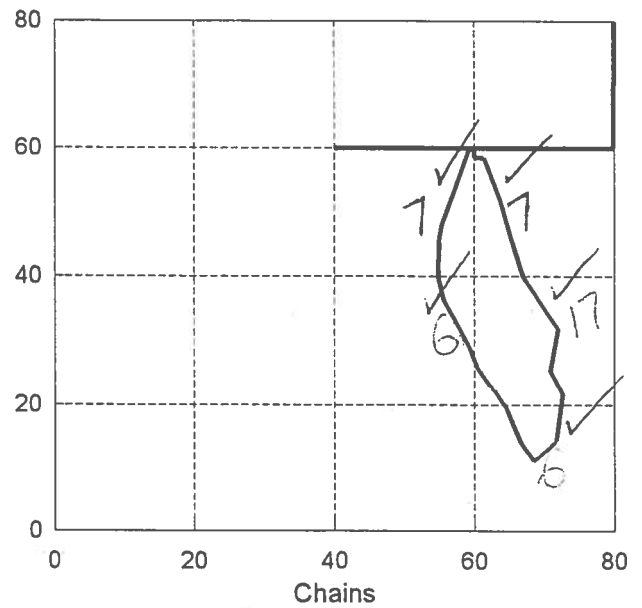
THENCE S. 19 DEGREES 34' 52" W., 347.73 FEET TO A POINT;

THENCE S. 88 DEGREES 24' 12" W., 21.10 FEET TO A POINT ON THE CENTERLINE OF SQUAW CREEK ROAD WHICH IS THE WESTERLY BOUNDARY OF PARCEL 1 AND THE END POINT OF THIS EASEMENT.

Right No: _____

39.98	60.03
39.98	60.03
39.98	60.03
39.98	60.03
39.98	60.03
39.98	60.03

Section Breakdown
Sec _____, T _____, R _____



DW
GE

Right No: _____

DIST (FT) QUAD X QUAD Y ANGLE RAD

=====

1321.88	-1.00	-1.00	0.00
1319.69	-1.00	1.00	1.57
99.25	-1.00	-1.00	0.00
93.15	1.00	-1.00	1.57
464.70	1.00	-1.00	0.34
814.99	1.00	-1.00	0.27
632.10	1.00	-1.00	0.55
439.10	-1.00	-1.00	0.18
260.00	1.00	-1.00	0.46
496.96	-1.00	-1.00	0.12
299.23	-1.00	-1.00	0.81
216.53	-1.00	1.00	0.56
393.39	-1.00	1.00	0.34
227.78	-1.00	1.00	0.57
38.92	-1.00	1.00	0.80
224.95	-1.00	1.00	0.58
224.17	-1.00	1.00	0.35
56.69	-1.00	1.00	0.41
493.86	-1.00	1.00	0.46
236.27	-1.00	1.00	0.22
390.81	1.00	1.00	0.01
152.12	1.00	1.00	0.17
831.35	1.00	1.00	0.32
44.41	1.00	-1.00	1.57
1319.69	-1.00	1.00	1.57
	1.00	-1.00	0.00
	1.00	-1.00	0.00
	1.00	-1.00	0.00
	1.00	-1.00	0.00
	1.00	-1.00	0.00
	1.00	-1.00	0.00
	1.00	-1.00	0.00
	1.00	-1.00	0.00
	1.00	-1.00	0.00
	1.00	-1.00	0.00
	1.00	-1.00	0.00
	1.00	-1.00	0.00
	1.00	-1.00	0.00
	1.00	-1.00	0.00



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

DIRK KEMPTHORNE
GOVERNOR

KARL J DREHER
DIRECTOR

January 8, 1999

FRANK R BERLAGE
FRANK R BERLAGE LIVING TRUST
PO BOX 1771
LA JOLLA CA 92038

RE: Notice of Error for SRBA claim 72-00134B

Dear Mr. Berlage,

This letter is in response to the Notice(s) of Error (NOE) you recently filed with IDWR regarding the Director's preliminary recommendation of the claim(s) listed above. Your NOE requests and address correction and increase flow rate of water. The address will be changed as you have indicated.

Under Idaho law, a water right is limited to the amount of water beneficially used for the purposes for which the water right was established. The amount of water beneficially used and previously decreed under this right limits the amount available to the amount presently recommended; 1.50 cfs.

If you still disagree with IDWR's recommendations, you will have an opportunity to file an objection to the Director's Report with the court. When the Director's Report is filed with the court, you will be mailed a notice that will contain more information about the objection process.

Please feel free to contact this office or me if you have further questions or need additional assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Steve Clelland'.

STEVE CLELLAND
Sr. Water Resource Agent

November 20, 1998

NOTICE OF ERROR
REPLY

RECEIVED
DEC 21 1998
Department of Water Resources
Southern Region

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: December 18, 1998

Water right number: 72-00134B

FRANK R BERLAGE
FRANK R BERLAGE LIVING TRUST
PO BOX 1771
LA JOLLA CA 92038

← La Jolla, CA 92038

Daytime Telephone Number: 619-459-7812
Evening Telephone Number:

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

allocation

2. Describe the changes you wish to make in the proposed recommendation:

increase to 3.1 CFS

3. Give a brief explanation as to why you disagree with these portions:

property requires
additional water
for irrigation

 I AGREE with this proposed recommendation; no changes need to be made.

DATE: 12-4-98

SIGNATURE:

Please print your name:


Frank Berlage

IDWR Southern Regional Office, 1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380, (208) 736-3033

Please note address change

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 11/17/98
PAGE: 1

2

USE PERIOD DIVERSION DIVERSION
FROM TO RATE VOLUME

TOTAL DIVERSION: 1.50 CFS

Stage: DECREED

CUSTER County

NE NW

TOTAL ACRES	35.0
-------------	------

RIGHT NO. 72-16497B IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.
0.34 CFS OF RIGHT NO. 72-16497B IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT.

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

CLAIM NUMBER A72-00134B DATE 10/26/98 TRANSFER NUMBER _____
A72-16497B AGENT SCC CLAIMED ACRE TOTAL 35
 _____ GIS ACRE TOTAL 35

	TWP	RNG	SEC	NE				NW				SW				SE			
				NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
CLAIM	<u>11N</u>	<u>17E</u>	<u>28</u>			<u>4.9</u>	<u>8</u>									<u>17</u>	<u>2.6</u>		<u>2.5</u>
GIS						<u>4.9</u>	<u>8.0</u>									<u>17</u>	<u>2.6</u>		<u>2.5</u>
RECOM																			
CLAIM																			
GIS																			
RECOM																			
CLAIM																			
GIS																			
RECOM																			

B72-DBPOU.SHP

SHAPE NOS.

460

B72-DBPOD.SHP

NOS. DESCRIPTION

302 SWNENE

301 NE NW NE

DBF TABLES UPDATED

B72-DBPOU.DBF

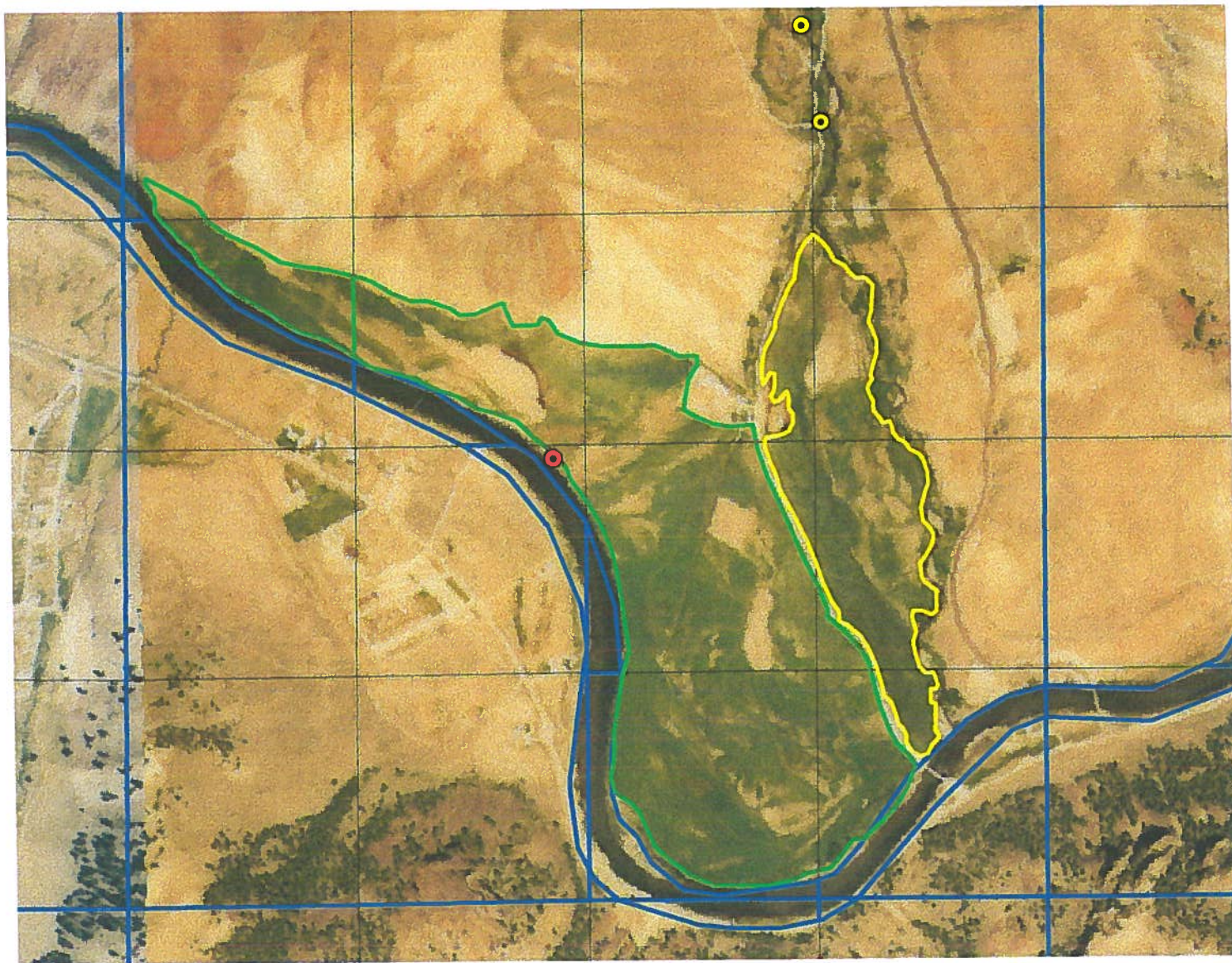
B72-DBPOD.DBF

Jpeg ✓ 72-00134B.jpg

✓ 11/17/98
su

IDAHO DEPARTMENT OF WATER RESOURCES

72-00134B & 72-16497B



660 0 660 1320 Feet

-  RECOMMENDED PLACE OF USE
-  RECOMMENDED POINT OF DIVERSION
-  SECTION LINES
-  QUARTER-QUARTER LINES
-  STREAMS & DITCH CHANNELS

TWN: 11N
RNG: 17E
SEC: 28



GIS PLACE OF USE PRESENTATION
USFS AERIAL PHOTOGRAPHY, 1988
BY STEVE CLELLAND

DATE: OCT. 26, 1998