

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: A72-00118
Date Received: 11/16/1989
Receipt No: 11005229
Received By: SW

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: RUBY SWIGERT 208-879-4449
Address: P.O. BOX 284
CHALLIS, ID 83226

2. Date of Priority: MAY 15, 1882

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

4. Point of Diversion:

Township	Range	Section	1/4	of 1/4	of 1/4	Lot	County
14N	19E	32	NW	NE	NE		CUSTER

5. Description of diverting works:
.5HP PUMP INTO SPRINKLERS TO WATER LAWN AND GARDEN

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
DOMESTIC	03/01	12/01	0.100		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
DOMESTIC IRRIGATION USE FOR .33 ACRES INCONJUNCTION WITH HOME

10. Place of Use:

Township	Range	Section	1/4	of	/4	Lot	Use	Acres
14N	19E	32	NE		NE		DOMEST	0.3
Section Acres								0.3

A72-00118

Page 1

Date: 11/16/89

MICROFILMED

MAR 19 1993

10. Place of Use: Continued

Total Acres 0.3

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:

DOMESTIC WELL ON PROPERTY FOR CULINARY WATER (A72-10071)

14. Remarks:

P/U LOT 8,6 AND TRACT 1024 OF LOT 4 BLK 13 CHALLIS ORIGINAL.
SINCE ACRES IRRIGATED ARE LESS THAN 1/2 ACRE AND THE USE IS
IN CONJUNCTION WITH A SINGLE DOMESTIC RESIDENCE, NATURE OF USE
IS CLAIMED AS DOMESTIC RATHER THAN IRRIGATION.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

ADAMS, ET. AL.

Decree Plaintiff

vs

VANDERVOORT, ET. AL.

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 Y wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

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): Lucky Smeigut Date: 11/16/89
Date: _____

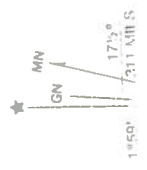
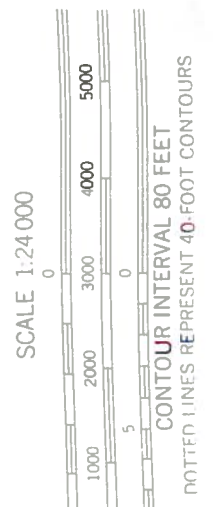
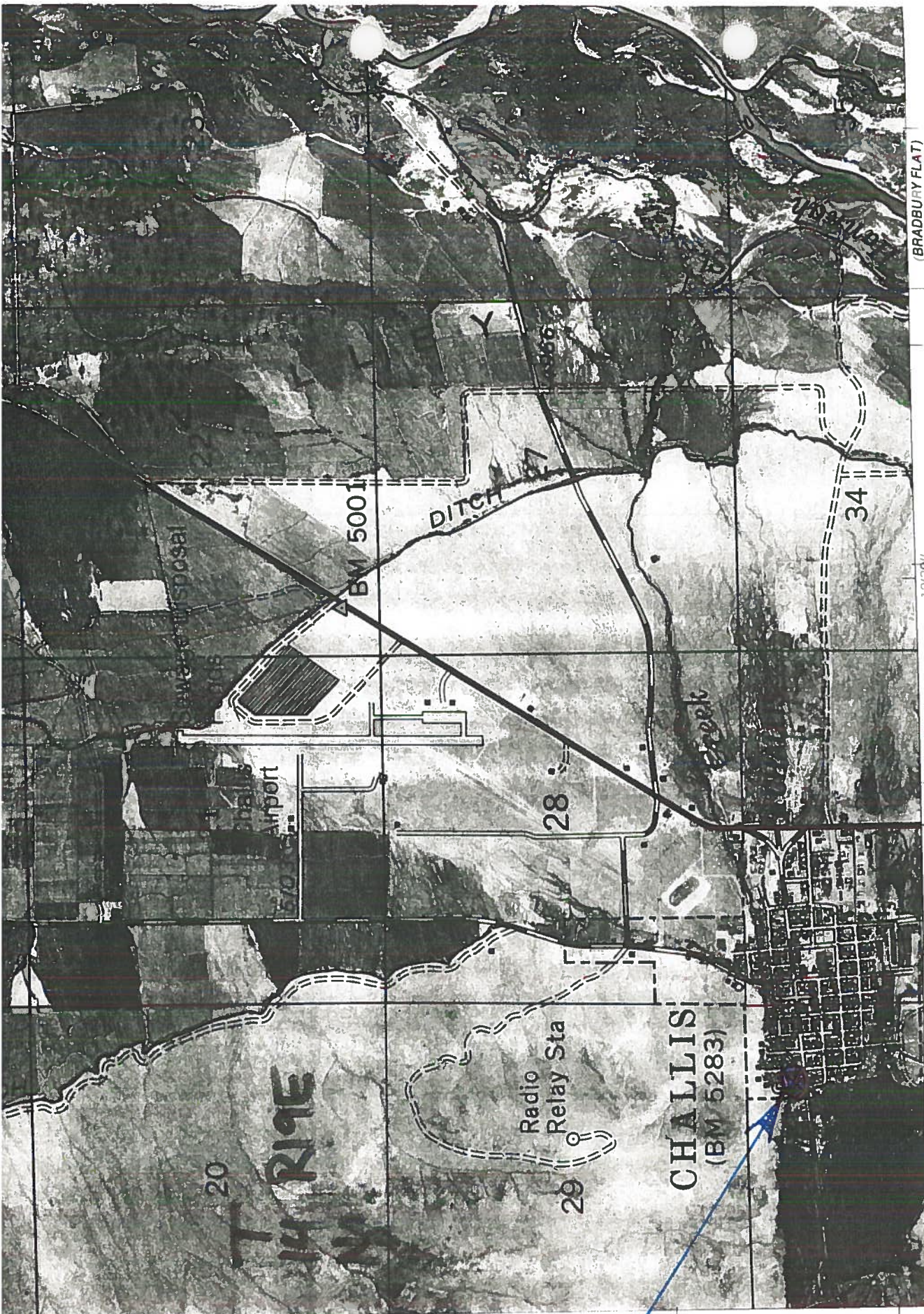
State of Idaho)
County of Custer) SS.

Subscribed and sworn (or affirmed) before me this 16 day
of November 19 89

[Signature]
Notary Public

Seal

Residing at Salida Falls, CO.
My Commission Expires 22 Aug 1994



Base Map Prepared by the U.S. Geological Survey
 Control by USGS and USC&GS
 Topography from aerial photographs by photogrammetric methods
 Aerial photographs taken 1954, Advance field check 1956
 Polyconic projection, 1927 North American datum
 10 000-foot grid based on Idaho coordinate system, central zone

POINT OF
 DIVERSION
 PLACE OF
 USE
 72-00118

MICROFILMED
 MAR 19 1993

CLAIM NO A72-00118

DATE _____

CITY OF CHALLIS DESCRIPTION:

DECREED TO BLOCK 13 LOT(S) NORTH 1/2 CFS RATE 0.10

BLOCK	LOT(S)	AKA	2	4	6	8	PRIORITY	DATE
-------	--------	-----	---	---	---	---	----------	------

BLOCK _____ LOT(S) _____ MAY 15, 1882

CLAIMED ON BLOCK 13 LOT(S) 4 6 8 CFS RATE 0.10

BLOCK _____ LOT(S) AND TRACT 1024

FOUND ON BLOCK	LOT(S)	CFS RATE

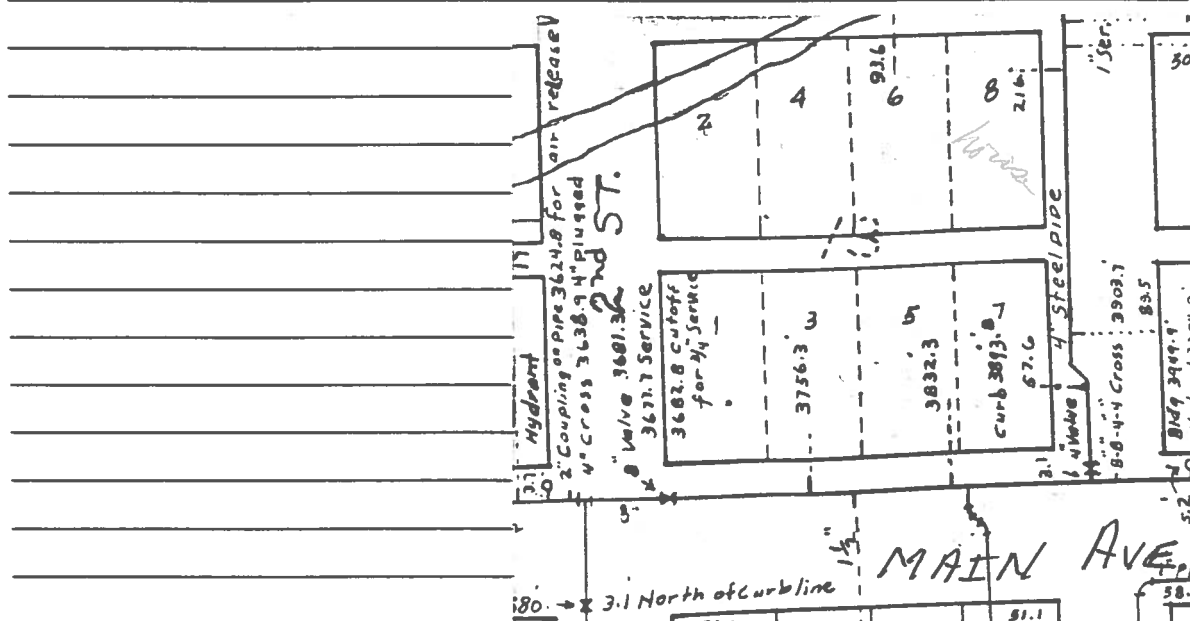
BLOCK	LOT (S)
-------	---------

PLACE OF USE LEGAL DESCRIPTION:

TNS 14N RNG 19E SEC 32 Q/Q NE NE:

DIVERSION WORKS DESCRIPTION:

PUMP HP: LIFT: SPRINKLERS USED: _____





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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 17, 1997

RUBY SWIGERT
PO BOX 284
CHALLIS ID 83326

RE: ISSUES RELATING TO A72-00118

Dear Ms Swigert

As I have not been successful reaching you by phone yet, I decided to mail you a set of forms for your potential use. The proper application of those forms can be confusing so please call if (when) you have any questions.

It is difficult to adequately address all aspects concerning the basis for the recommendation and the related issues surrounding the recommendation but I will attempt to provide you with sufficient information to allow you to make a decision.

ISSUES CONCERNING THE RECOMMENDATION OF YOUR CLAIM

The recommendation for your claim was based upon what you initially claimed, which was a domestic right for lawn irrigation of approximately 0.3 acres.

When I did a field verification of your system I found a pumping system installed and a delivery system that appeared capable of delivering water to your property. Also, as the system was not in operation at that time, I did not measure the capacity of your system. I did, however, do a theoretical calculation on the pump capacity and found that it was 0.094 cfs. This rate is less than one percent of your claimed rate and therefore I recommended your claimed rate. As the claim was for domestic use and for less than the $\frac{1}{2}$ acre domestic limitation, I did not calculate the exact acreage being irrigated.

Again as your claim was based on domestic use, I also did not confirm your water use through the local watermaster to see if you were

June 17, 1997
SWIGERT
PAGE 2

included in the delivery regulation of irrigation rights from Garden Creek. You may wish to contact the current watermaster or president of your water district to discuss your right and its use with them.

DOMESTIC RIGHTS VS IRRIGATION RIGHTS

Per Idaho Code, domestic claims have a 13,000 gal/day limitation but no diversion rate limitation. However, irrigation rights do have specific limitations for diversion rates and for uses under 5 acres the limitation is 0.03 cfs per acre. The department will recommend rates greater than 0.03 cfs per if you can provide information demonstrating a need for excess flows. Under normal circumstances the department has not found a demonstratable need for excess flows through sprinkler application for lawn use.

Therefore based upon the information currently available, I would be required to limit the diversion rate recommendation to 0.03 cfs for the irrigation of 0.30 acres. This would represent that portion of the original right that you have maintained a beneficial use. The original right was a ditch and flood irrigation system where a portion of the right would likely be for conveyance losses in the delivery system and excess flows to 'push' water across the property.

GENERAL ADJUDICATION ISSUES

The Snake River Basin Adjudication (SRBA) court has ruled that partial forfeiture of a water right is not constitutional. This ruling has been appealed to the State Supreme Court and the decision is still pending. This may have a significant bearing upon the final recommendation of your claim as an irrigation right. It is referred to as Basin-Wide Issue No. 10.

CLAIM AMENDMENT ISSUES

Assuming that you do wish to amend your claim to irrigation, you would be required to submit standard form 4 to the SRBA along with appropriate attachments as described on the form (form enclosed). Again assuming that the amendment is accepted by the court (and I

June 17, 1997
SWIGERT
PAGE 3

know of very few that the court has not accepted), your claim would then be changed on the department's records to an irrigation claim.

I would expect that the SRBA court would then remand that claim back to the department to review and process with other irrigation claims in basin 72. There is no definitive date set for reporting basin 72 irrigation claims yet. I would expect that the reporting date would not be earlier than next summer, and it is quite possible that it could be even longer than that. Until the court accepts the irrigation claim recommendations for basin 72, I do not believe that they would accept an objection to the irrigation recommendation at this time.

Even working with these issues on a daily basis, I find that it is difficult to keep abreast of all the little nuances relating to the procedures to follow and I feel that this letter will probably be inadequate to fully inform you as to the best action that you should take. You may wish to seek additional advice from legal counsel or other knowledgeable sources.

As I previously stated, I will attempt to answer any additional questions that you may have, but I cannot advise you as to the probable outcome or even what would be the best approach to resolve all the issues to your satisfaction.

Sincerely

Kelly K Christensen
Sr Water Resource Agent

Enclosures

FEB-05-1997
001

RIGHT NUMBER: 72-00118

NAME AND ADDRESS:

RUBY SWIGERT
PO BOX 284
CHALLIS ID 83226

SOURCE:

GARDEN CREEK
TRIBUTARY: SALMON RIVER

QUANTITY:

0.1 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE:

05/15/1882

POINT OF DIVERSION:

T14N R19E S32

MANENE

Within CUSTER County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
DOMESTIC 1 LAMN
DOMESTIC DOMESTIC IRRIGATION USE P
PERIOD OF USE
Irrigation Season
03/01 12/01

QUANTITY
0.1 CFS
0.17 CFS

PLACE OF USE:

DOMESTIC
T14N R19E S32
DOMESTIC
T14N R19E S32
Within CUSTER County
NENE
Within CUSTER County
NENE /0.13

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL:

BASIS OF CLAIM - DECREE
PARCEL NO. RP A0001013004A

DATE: 01/17/97
PAGE: 11

Stage: DECREED

CUSTER County

SE

Other Rights: 72-10071, GROUNDWATER FOR IN-HOME USE.

N11 - THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

N13 - THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.

EXD
↓

Field Inspection Flag: D
Presumption Flag: D

P/U LOT 8,6 AND TRACT 1024 OF U1 4 BLS IS CHALLIS ORIGINAL. SINCE ACRES IRRIGATED ARE LESS THAN 1/2 ACRE AND THE USE IS IN CONJUNCTION WITH A SINGLE DOMESTIC RESIDENCE, NATURE OF USE IS CLAIMED AS DOMESTIC RATHER THAN IRRIGATION.

Audit:	11/06/92 CHRISTEN 01/14/97 D&S-DSA	08/03/93 SMITH	11/01/93 CHRISTEN	03/30/95 POST-STD
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2/4/91

~~0.3~~

added to comments.

R PROOF

CVR

MAPS

PHOTOS

MISC

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NOV 01 1994

Water Right Number - R72-00118

Prefix Translation: RESEARCH

Old (D) Number -

*** C - CURRENT OWNER ***
SMIGERT

RUBY

1 - PO BOX 284
2 -
3 -
City- CHALLIS
Phone - 208-879-4449

State- ID Zip- 83226

VERIFIED BY: KKC

Priority Date - 05/15/1882

Region - 17 SOUTHERN

Stage - D - DECREED

Status -

Source - GARDEN CREEK

Tributary - SALMON RIVER

Twn Rng Sec Tract Lot Rflg County

14N 19E 32 NW NE NE (37) CUSTER

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

43 - DOMESTIC

04/15 10/15

0.100

+ - Total Div. Rate - + - Total Div. Volume - + 0.100

+ - Total Consumptive Use - + - KW Usage - + 0.0

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
-----	-----	-----	-------	-----	-------	------	-------------	--------

14N 19E 32 NE NE 43 DOMESTIC (37) CUSTER

Total Acres: 0.3

+ - - Diversion Means - 1.5HP PUMP INTO SPRINKLERS TO WATER LAWN AND GARDEN

+ - - Non-Irrigation Use - DOMESTIC, LAWN IRRIGATION ONLY

+ - - Other Rights for Same Use - 72-10071, GROUNDWATER FOR IN-HOME USE.

PARCEL NO. RP A0001013004A

+ - - No Old Water Right Numbers Found

+ - - No Conditions of Approval found.

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Prefix Translation: RESEARCH

+ - Decree Date - +
05/19/1914

	Comments
Date: 08/03/1993 User Id: SMITH Subject: COPIED FROM REMARKS P/U LOT 8,6 AND TRACT 1024 OF LOT 4 BLK 13 CHALLIS ORIGINAL. IN CONJUNCTION WITH A SINGLE DOMESTIC RESIDENCE, NATURE OF USE	SINCE ACRES IRRIGATED ARE LESS THAN 1/2 ACRE AND THE USE IS IS CLAIMED AS DOMESTIC RATHER THAN IRRIGATION.

+ + + + + Adjudication Rights Dates and Flags Area + + + + +

Court Report Filing	- 00/00/0000	Field Inspection Made	- 07/08/1993	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 11/01/1993	Old Judicial District	-
Claim Received Date	- 11/16/1989	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- M005229	Water District	- 72B
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- OR	Presumption Flag	- D
				Notice of Error Flag	-

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CLAIM NO. A72-00118

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
CLAIM VERIFICATION EXAM SHEET

(use in place of the CVR for small Domestic/Stock exams)

1. ☒ No Change NAME
NEW OWNER: _____
☐ No Change ADDRESS
NEW ADDRESS: _____
2. ☒ No Change - DATE OF PRIORITY: Completed - No Field Verification Needed.
☐ Incomplete - Claim shows no priority date, claimant should be asked during the exam when was water first used.
Priority date, per claimant, is _____.
(if the priority date, based on your exam, seems questionable, explain in remarks.)
3. ☒ No Change - SOURCE
☐ Source is different than that claimed:
Source found: _____
4. ☒ No Change - POINT OF DIVERSION
☐ Point of diversion is different than the claim
New P/D: Twp. _____, Rge. _____, Sec. _____, _____ 1/4 _____ 1/4 _____ 1/4
5. ☐ No Change - DESCRIPTION OF DIVERTING WORKS
☐ Incomplete desc., complete items missing, IF KNOWN.
☐ Additional comments in remarks.
HP of pump 1.5 Pump Ser. # _____ Pumping water level _____
well depth 6' 2 1/4" Motor Ser. # 1E89 Static water level _____
Casing size NA Method of irr. sprinkler system (Buried) 1 1/4" mainline
6. ☒ No Change - WATER USES
☐ Different uses, (list uses found).
change season of use
Use _____ From 4-15 To 10-15 Amount _____ cfs _____ af
as to match in season
Use _____ From _____ To _____ Amount _____ cfs _____ af
as original decree was for irr.
7. ☒ No Change - TOTAL VOLUME
☐ Incomplete on claim, the total is, -- -- -- cfs -- af
☐ Change found, the new total is, -- -- -- cfs -- af
8. N/A
9. ☐ No Change - NON-IRRIGATION USES: Completed on claim
☐ Incomplete on claim - Exam found:

Domestic - No. of homes 0 Stockwater - No. of head _____

Other: lawn irrigation only

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10. ☒ No Change - PLACE OF USE: (If changed, list below.)
Use Twp. Rge. Sec. 1/4, 1/4,

Remarks: (Comments pertinent to field examination)

see attached notes

ATTACHMENTS:

Attached to
This Form.

Attachments are
in Permit File.

PHOTOS (optional) ☒
MAP ☒
SYSTEM DIAGRAM ☐

☐
☐
☐
☐

☐ Changes found during exam or additional information in the permit file, see permit file.

DATE EXAM CONDUCTED: 7-8-93

FIELD EXAMINER:

Signature

Kelly K. Christensen
So Water Resource Agent

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POOR ORIGINAL

For A72-00118
7-8-93

Sears pump 1 1/4 dis charge

SER 1E89

HP = 1.5

Approx 6' lift.

Buried mainline 1 1/4 white plastic

All ground not covered by home or drive irrigated
P/H is All three lots as claimed.

theoretical

$$\frac{1.5 \text{ HP} \times 8.8 \times .7}{6' + (40 \times 2.3)} = 0.094 \text{ CFS}$$

≈ 0.10 as claimed

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CLAIM # A72-00118
PHOTO TAKEN ON 7-8-93
PICTURE # 1

POOR ORIGINAL

This picture is looking north at the pump lifting water out of Garden Creek. Note the white plastic discharge line going underground to a buried delivery system. Garden Creek is within the vegetation just beyond the pump.



PICTURE # 2

This picture was south of the property and is looking northeast. Lawn behind the dog run on the left is a part of the P/U.



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CLAIM # A72-00118
DATE PHOTOS TAKEN; 7-8-93
PICTURE SET # 3

POOR ORIGINAL

This picture set is looking south on the left to southwest on the right and shows that all the property is well irrigated.

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WATER RIGHT NUMBER - A72-00113

PREFIX TRANSLATION: ADJUDICATION CLAIM

OLD (O) NUMBER -

+ - - - - LAST NAME - - - - + + - - - - FIRST NAME - - - - + + - - - - ADDRESS - - - - - +

*** C - CURRENT OWNER ***

SWIGERT

RUBY

1 - P.O. BOX 284

2 -

3 -

CITY- CHALLIS

PHONE - 209-879-4449

STATE- ID ZIP- 83226

*** D - ORIGINAL OWNER ***

JOSE

MAGGIE

1 -

2 -

3 -

CITY- N/A

PHONE - 208-000-0000

STATE- ID ZIP- 00000

+ - - - PRIORITY DATE - - - +

05/15/1882

+ - - - REGION - - - +

17 SOUTHERN

+ - - - STAGE - - - +

D - DECREED

+ - - - STATUS - - - - +

+ - - - SOURCE - - - - +

GARDEN CREEK

+ - - - TRIBUTARY - - - - +

SALMON RIVER

+ - - - - +

+ - - - - +

TWN RNG SEC TRACT LOT RFLG COUNTY

POINT OF DIVERSION - - - - -

STREAM INDEX (BLANK IF NO INDEX CODE)

14N 19E 32 NW NE NE

(37) CUSTER

+ - - - - +

CODE DESCRIPTION

PERIOD FROM PERIOD TO

WATER USE - - - - -

DIVERSION RATE DIVERSION VOLUME

43 - DOMESTIC

03/01 12/01 0.100

+ - - - TOTAL DIV. RATE - + + - - TOTAL DIV. VOLUME - + + - - TOTAL DIV. CAPACITY - + + - - TOTAL CONSUMPTIVE USE - + + - - KW USAGE - +

0.100

+ - - - - +

TWN RNG SEC TRACT LOT ACRES

PLACE OF USE - - - - -

DESCRIPTION

COUNTY

14N 19E 32 NE NE

0.3 43 DOMESTIC

(37) CUSTER

TOTAL ACRES: 0.3

+ - - - DIVERSION MEANS - .5HP PUMP INTO SPRINKLERS TO WATER LAWN AND GARDEN

+ - - - NON-IRRIGATION USE - DOMESTIC IRRIGATION USE FOR .33 ACRES INCONJUNCTION WITH HOME

+ - - - OTHER RIGHTS FOR SAME USE - DOMESTIC WELL ON PROPERTY FOR CULINARY WATER (A72-10071)

+ - - - - +

REMARKS

P/U LOT 8.6 AND TRACT 1024 OF LOT 4 BLK 13 CHALLIS ORIGINAL.

SINCE ACRES IRRIGATED ARE LESS THAN 1/2 ACRE AND THE USE IS

IN CONJUNCTION WITH A SINGLE DOMESTIC RESIDENCE, NATURE OF USE

IS CLAIMED AS DOMESTIC RATHER THAN IRRIGATION.

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