

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 72-16646
Date Received: 11/18/2003
Receipt No:
Received By:

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

1. Name of Claimant(s)

STEVEN P GARMAN Phone: (208)726-2475

PO BOX 4029
KETCHUM ID USA 83340

BONNIE LYNN GARMAN Phone: (208)726-2475

PO BOX 4029
KETCHUM ID USA 83340

2. Date of Priority: 05/01/1880

3. Source: SALMON RIVER EAST FORK Trib. to: SALMON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
10N	18E	24	SW NW SW	CUSTER	

5. Description of diverting works:

Existing ditch runs across Lot 13 from Lot 10 through Lot 13 to Lot 14. Both adjoining lots have water rights that we own. Original construction. headgate and ditches to place of use.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	10/31	0.15	

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

8. Total consumptive use:

9. Non-irrigation uses:

COPY

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
10N	18E	13	SW	SE	IRRIGATION	5
					Section Acres	5
					Total Acres	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:

14. Remarks:

This claim is a portion of old right 72-230 - VH. This claim is for Lot 13, Block 2 of the East Fork Subdivision of Custer Co., Idaho. See attached letter (SPG).
2 attachments to claim.

15. Basis of Claim: Decreed

COPY



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

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 1, 2004

STEVEN AND BONNIE GARMAN
PO BOX 4029
KETCHUM ID 83340

RE: Snake River Basin Adjudication (SRBA)
Late Notice of Claim to a Water Right #72-16646

Dear Claimants:

Your Notice of Claim to a Water Right referenced above was received from the SRBA Court recently. I have enclosed your receipt #C072799 for the filing fees. Please keep the receipt for your records.

Your Notice of Claim will be investigated and reported to the Court in a future supplemental Director's Report. Please contact me at 208/327-7932 if you have any questions.

Please notify us in writing if your address changes or if there is a change in ownership of your property and water rights.

Sincerely,

Donald V. Shaff, Manager
Adjudication Technical Section

DVS:ss:region

Enclosure:

Receipt #C072799

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Subcase <u>72-16646</u>
	)	(Insert water right number)
	)	
Case 39576	)	STANDARD FORM 4
	)	
	)	MOTION TO FILE:
	)	☒ LATE NOTICE OF CLAIM
	)	☐ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in ***SRBA Administrative Order 1, Rules of Procedure*** (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

☒ I have read **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996).

My name is Steven P. Garman

My address is P.O. Box 4029 Ketchum, Id. 83340

My phone number is: Work 208-720-1128 Home 208-726-2475

I am an attorney representing _____

My name is _____

My address is _____

My phone number is _____

MOTION TO FILE A LATE NOTICE OF CLAIM

A Motion to File a Late Notice of Claim will require a hearing before the Presiding Judge.

☒ I did not file a Notice of claim to the use of water in the SRBA because:

We were told by seller that water rights were already recorded
See attached letter.

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☐ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.
- ☒ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ 105.81.
(\$50 for claim, \$50 for late fee, \$5.81 for acreage fee)

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on Feb. 18, 2004 1:30 pm
(Insert Date and Time)
at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A *Motion to File an Amended Notice of Claim* may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

- ☐ I must amend my Notice of Claim to the use of water in the SRBA because:

- ☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

I have attached:

- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION (Must be completed)

State of Idaho

County of Blaine

Steven P. Garman

(Insert name of person filing form)

, being first duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

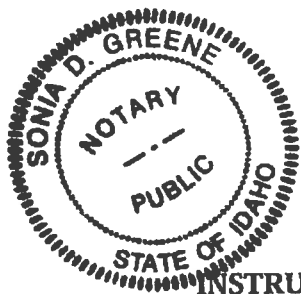
Steven P. Garman

Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on 11-11-03

(Insert Date)



Sonia D. Greene

Notary Public for BCSD

Residing at: Jerome, Idaho

My Commission expires: 02-10-09

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on _____, 200__, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

2. Copies to:

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

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

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

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.

(Insert Names/address of parties)



Signature of person or attorney mailing the form

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

72-16646

Date Received

2/24/04

Receipt Number

C072799

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Steven & Bonnie Garman Phone (208) 726-2475
Mailing Address P.O. Box 4029 Zip 83340

2. Date of Priority (Only one (1) per claim) 05/01/1980

3. Source of water supply (a) Salmon River, East Fork
which is tributary to (b) Salmon River

4. a. Location of existing point of diversion is: Township 10N Range 18E Section 24,
SW 1/4 of NE 1/4 of SW 1/4, Govt. Lot, _____ B.M., County of Custer

Additional points of diversion if any: Lot #13

b. If instream flow, beginning point of claimed instream flow is:

Township 10N Range 18E Section 24, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of Custer (SE/2SW)

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.

Existing ditch runs across lot 13,
From Lot 10, through 13, to lot 14. Both adjoining lots have water
rights that we own. Original construction. Headgate and ditches to
place of use.

SCANNED

FEB 25 2004

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from 04-01 to 10-31 amount .15 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .15 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 12.5 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) None

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
10N	18E	13											5						5

Total number of acres irrigated 5

11. In which county (ies) are lands listed above as place of use located? Custer

12. Do you own the property listed above as place of use? Yes ☒ No ☐

If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

or None (X)

14. Remarks:

This claim is a portion of old Right
72-230. - UAT. This claim is for lot 13, block 2 of the East Fork
subdivision of Custer, Co. ID. See attached letter. (SPG)

Last Name Garman Ident No. 72-16646

SCANNED

FFR 7 5 2004

Copies: White -State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____

Decree X

If applicable provide IDWR Water Right Number 72-16646

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant Gossi, ET. AL vs GIAMPABRAGLIA, ET. AL ?

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 X do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments 2

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) St. D. G. Date November 11, 03

Bonnie J. Garman Date 11-11-03

For Organizations: I do solemnly swear or affirm that I am _____

Title

of _____, that I have signed the foregoing

Organization

document in the space below as _____ of _____

Title

Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

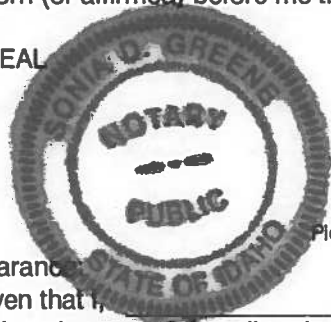
Title and Organization _____ Date _____

State of Idaho/or _____)

County of Blaine) SS.

Subscribed and sworn (or affirmed) before me this 13th day of November 2003

SEAL



Notary Public Sonia D. Greene

Residing at Gilmore, Idaho

My Commission Expires 02-10-09

Please Print Name

17. Notice of Appearance

Notice is hereby given that _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name Garman Ident. Number 72-16646

SCANNED

Copies White-State, Yellow-Claimant

FEB 25 2004

The District Court of the 5th Judicial District
Of the State of Idaho, for the County of Twin Falls

November 11, 2003
P.O. Box 4029
Ketchum, Id 83340
208-726-2475

To Whom It May Concern:

We purchased this lot in July of 1999 from a private individual. He told us that water rights were included and recorded. We believed this to be true as lot 13, the lot in question, has always been irrigated. The lots contiguous to this property have recorded water rights.

As we purchased this property from an individual with no Realtor involved, we had no recourse. We recently realized that we have no recorded rights on this property and would like to pursue the water rights at this time.

We would appreciate your consideration.

Thank you,



Steven P. Garman

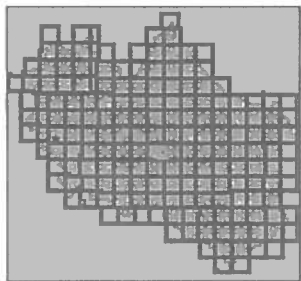
blv/spg water rights document

SCANNED

FEB 25 2004

GARMAN, STEVEN P

Lot 13



T.10N R.18E
Sec.13



- Selected Parcel
- Tax lots
- City Streets and no parcel available
- Roads
- Railroads

1:36000

One Inch = 3000 Feet
Feet 2000 4000 6000

THIS DRAWING IS TO BE USED FOR
REFERENCE PURPOSES ONLY. THE COUNTY
IS NOT RESPONSIBLE FOR ANY
INACCURACIES CONTAINED HEREIN.

Paula Patecky + Stony B. Harris

Sold 1978 To: Jack Pieper

Sold 1994 To: Fred + Robert Bowen (brothers)

Sold 2001 Steven + Bonnie Garman

SCANNED

FEB 25 2004

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED
2004 FEB 19 PM 12 06

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Water right claim 72-16646
	)	
Case No. 39576	)	ORDER GRANTING MOTION TO FILE
_____	)	LATE NOTICE OF CLAIM

On November 14, 2003, Claimants Steven and Bonnie Garman, filed a *Motion to File Late Notice of Claim*. A hearing was held on the *Motion* February 17, 2004. The *Motion* complied with all procedural requirements under *SRBA Administrative Order 1*, no objections were filed, and good cause for filing the late claim was shown.

THEREFORE, IT IS ORDERED, that the *Motion to File a Late Notice of Claim* for water right 72-16646 is **granted**.

The original Notice of Claim, as well as any attached filing fees, and a copy of this **Order** will be forwarded to the Idaho Department of Water Resources for further action.

IT IS SO ORDERED.

Dated February 19, 2004.



JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

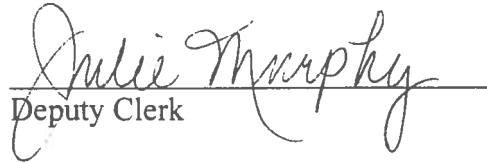
I certify that a true and correct copy of the **ORDER GRANTING MOTION TO FILE LATE NOTICE OF CLAIM** was mailed on February 19, 2004, with sufficient first-class postage to the following:

STEVEN GARMAN
BONNIE GARMAN
PO BOX 4029
KETCHUM, ID 83340

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

CHIEF, NATURAL RESOURCES DIVISON
OFFICE OF ATTORNEY GENERAL
STATE OF IDAHO
PO BOX 44449
BOISE, ID 83711-4449

U.S. DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCES DIV.
550 WEST FORT STREET, MSC 033
BOISE, ID 83724


Deputy Clerk

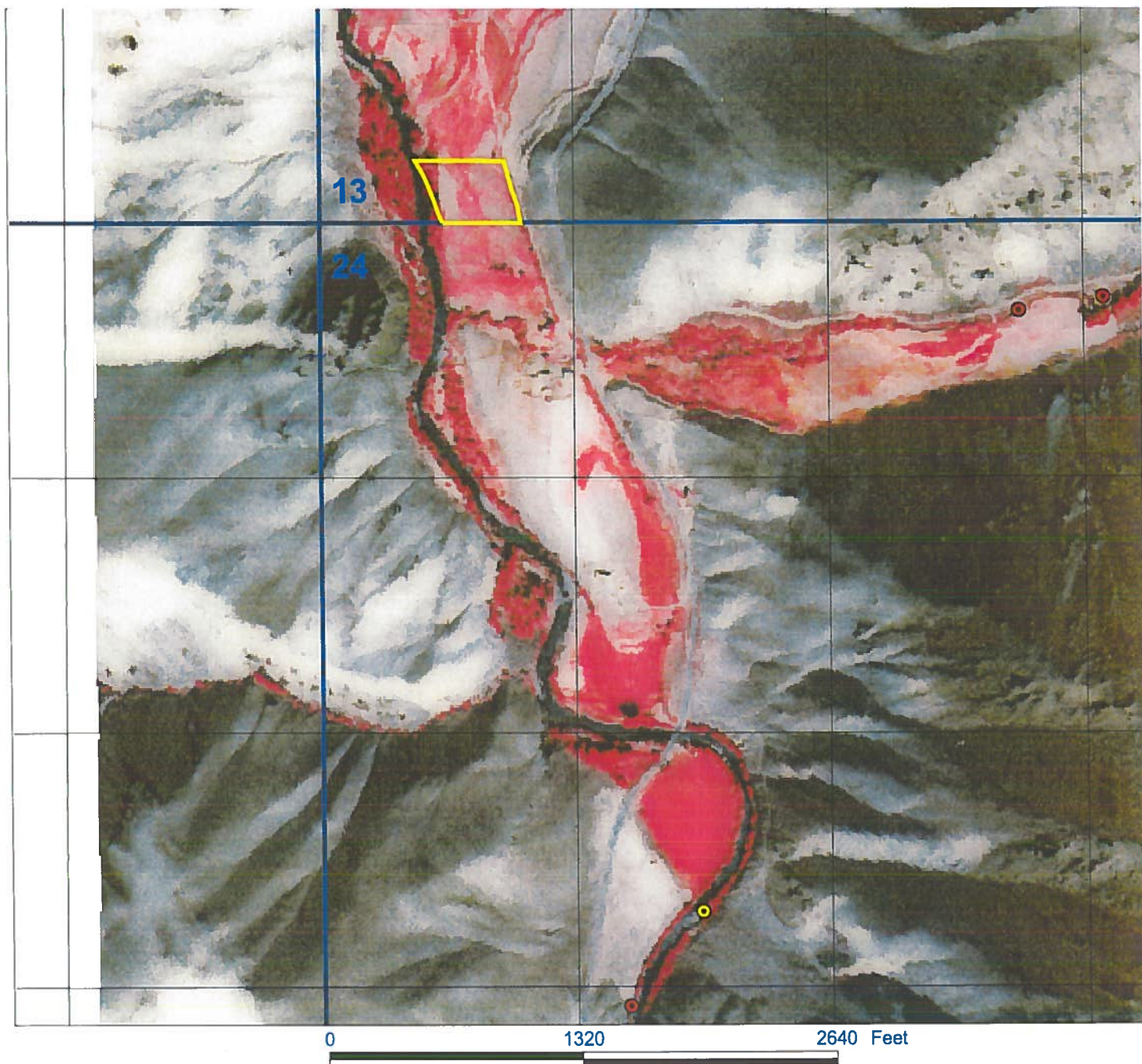
SCANNED

FEB 25 2004

Idaho Department of Water Resources

RIGHT: 72-16646

RECOMMENDED PLACE OF USE
TWP 10N, RNG 18E,
PREPARED SEPTEMBER 24, 2004



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



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

PREPARED BY VIKIE HANCOCK

09/24/2004

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

RIGHT NUMBER: 72-16646

NAME AND ADDRESS: STEVEN P GARMAN
PO BOX 4029
KETCHUM ID 83340

BONNIE LYNN GARMAN
PO BOX 4029
KETCHUM ID 83340

SOURCE: EAST FORK SALMON RIVER

TRIBUTARY: SALMON RIVER

QUANTITY: 0.150 CFS

PRIORITY DATE: 05/01/1880

POINT OF DIVERSION:

T10N R18E S24 SENESW Within CUSTER County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.150 CFS

PLACE OF USE: IRRIGATION Within CUSTER County

T10N R18E S13 SWSW 3.2

3.2 ACRES TOTAL

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: Decreed

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE.

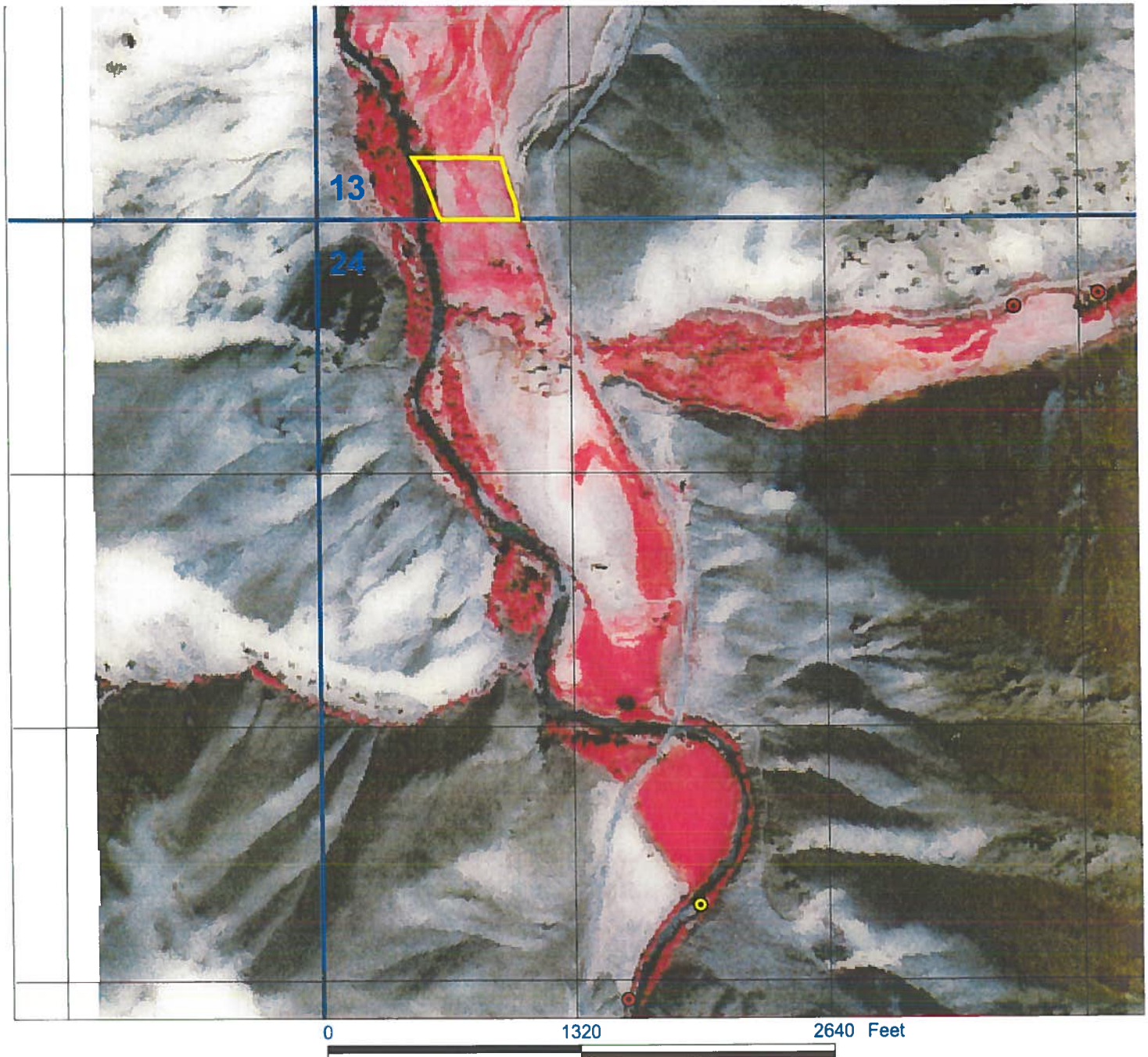
PROPERTY IS ALSO KNOWN AS LOT 13, BLK 2, EAST FORK SUBDIVISION.

This right is a split from former right 72-230.

Idaho Department of Water Resources

RIGHT: 72-16646

RECOMMENDED PLACE OF USE
TWP 10N, RNG 18E,
PREPARED SEPTEMBER 24, 2004



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



GIS PLACE OF USE PRESENTATION
1987 NAPP AERIAL PHOTOGRAPHY

PREPARED BY VIKIE HANCOCK

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 72-16646 V1

WATER RIGHT NUMBER: 72-16646 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	STEVEN P GARMAN PO BOX 4029 KETCHUM, ID 83340 (208)726-2475
Current Owner	BONNIE LYNN GARMAN PO BOX 4029 KETCHUM, ID 83340 (208)726-2475

Priority Date: 05/01/1880

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
EAST FORK SALMON RIVER	SALMON RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01 to 10/31	0.150 CFS	
	<u>Total Diversion:</u>	0.150 CFS	

Location of Point(s) of Diversion

EAST FORK SALMON RIVER	SE1/4NE1/4SW1/4	Sec. 24, Twp 10N, Rge 18E, B.M.
CUSTER County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10N	18E	13											3.2						3.2

Total Acres: 3.2

Conditions of Approval:

1. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Remarks:

1. Explanatory PROPERTY IS ALSO KNOWN AS LOT 13, BLK 2, EAST FORK SUBDIVISION.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 72-16646 V1

2. Explanatory This right is a split from former right 72-230.

Comments:

1. vhancock 9/24/2004 RECOMMENDATION

Comment: 72-16646 IS A PORTION OF OLD RIGHT 72-230. PLACE OF USE IS LOT 13 BLK 2 EAST FORK SUBDIVISION. POINT OF DIVERSION IS KNOWN AS IDF&G FISH SCREEN EF-5

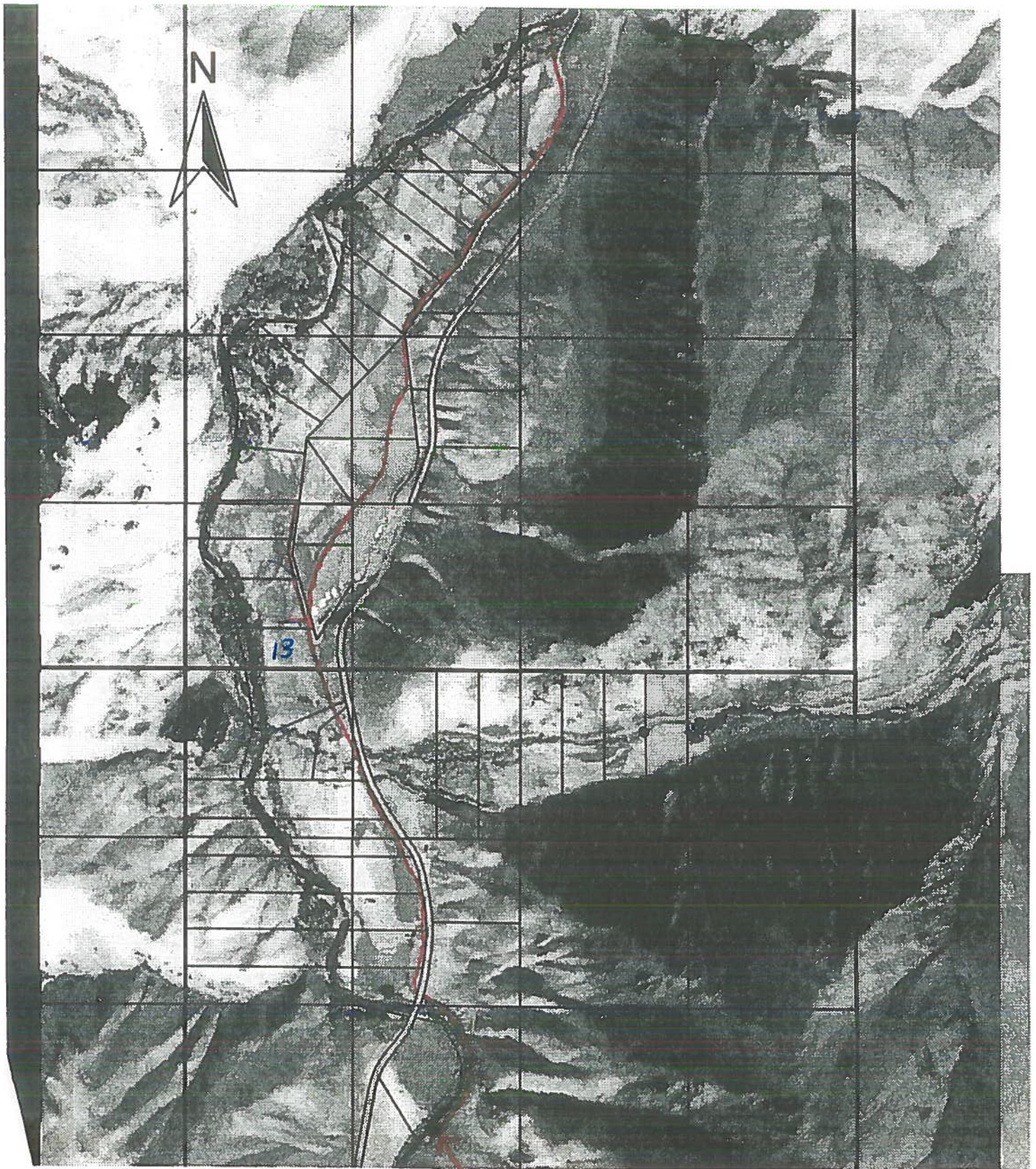
2. vhancock 9/24/2004 QUANTITY

Comment: DUTY OF WATER NOTED IN 1938 DECREE IS 1.5 INCHES PER ACRE. EXCESS WATER CLAIMED IS RECOMMENDED PER HUBBLE ANALYSIS.

FIELD NOTES: **MAIN EAST FORK SUBDIVISION DITCH**

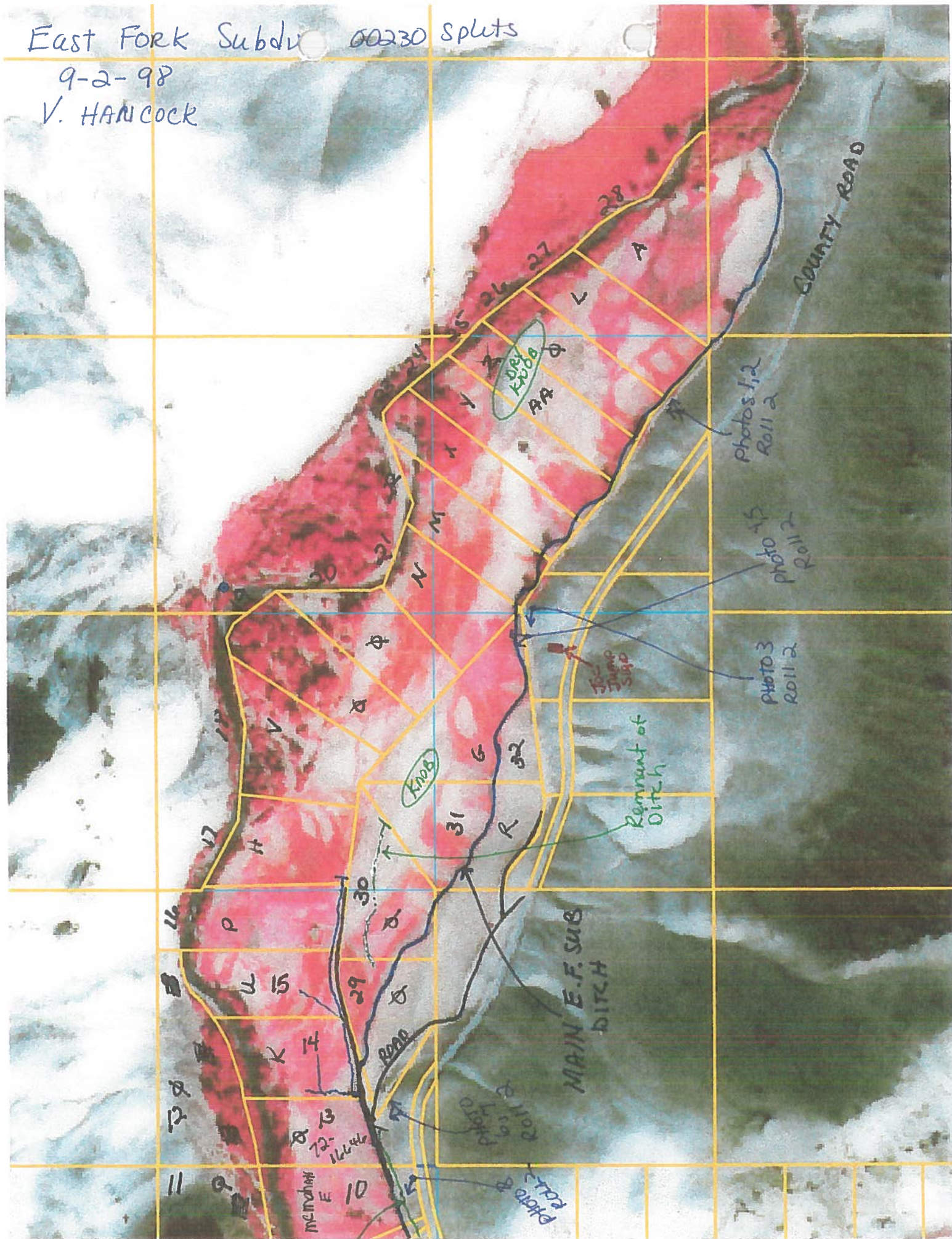
DATE: **9-2-98**

BY: VIKIE HANCOCK



POINT OF DIVERSION
SE NE SW Section 24

9-2-98
V. HANCOCK



WATER RIGHT NO: 72-16646



0 1320 2640 3960 Feet

T10N, R18E, SECTION 24
PART OF EAST FORK SUBDIVISION
BASE RIGHT - 72.-230

V HANCOCK
IDWR

are arid in character and will not successfully raise any crops without the artificial application of water thereon by irrigation thereof, and that all of said lands are

capable of irrigation from the East Fork of the Salmon River and its tributaries.

3. That 1 1/2 inches of water per acre, or its equivalent in cubic feet per second

of time, is necessary and ample for the proper irrigation of said land.

4. That the dams and diverting works of the several parties to this action were at the time of the several appropriations, and are now, of sufficient size and capacity to carry and convey water so appropriated to and upon the several tracts of land of the several parties for the irrigation thereof, and that each and every of said ^{several} tracts of land are situated in Custer County, State of Idaho.

5. That each of the parties to this action, plaintiffs and defendants hereinafter named, or their predecessors in interest, were at the time of the several appropriations of water, made as hereinafter set forth, the owners respectively of the several tracts of land set forth and described in the complaint, answer and cross-complaint and stipulation on file herein, and that for the irrigation of the same, the said parties, or their predecessors in interest, did respectively appropriate the quantities of water hereinafter stated, and the dates and from the streams respectively hereinafter stated, and set opposite the names of each of said parties, such water being an estimate under a four inch pressure or its equivalent in cubic feet per second of time, and ever since said dates of the said several appropriations, said waters have been so diverted and used on said lands in the irrigation thereof.

6. That the certain decree of this Court made and entered on the third day of