

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 72-16653
Date Received: 10/15/2004
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

SHOSHONE BANNOCK TRIBES Phone:

PO BOX 306
FORT HALL ID USA 83203

2. Date of Priority: 05/01/1936

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	31	SW SW SW 4	CUSTER	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	0.2	
STOCKWATER	03/15	11/15	0.02	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
09N	18E	5	NW NW 4	IRRIGATION	3.8
			NW NW 4	STOCKWATER	
Section Acres					3.8

09N	18E	6	NE	NE	1	STOCKWATER	
			NE	NW	3	STOCKWATER	
			NE	NE	1	IRRIGATION	6.2
			NE	NW	3	IRRIGATION	0.1
						Section Acres	6.3
10N	18E	31	SE	SW		IRRIGATION	1
			SE	SE		IRRIGATION	1.8
			SE	SW		STOCKWATER	
			SE	SE		STOCKWATER	
						Section Acres	2.8
						Total Acres	12.9

1. Place of use in counties: CUSTER

2. Do you own the property listed above as place of use? Yes

3. Other Water Rights Used:

4. Remarks:

72-16653 IS A PORTION OF FORMER RIGHT 72-202 SPLIT BY OWNERSHIP.

5. Basis of Claim: Decreed

16. Signature(s)

For Organizations:

I do solemnly swear or affirm that I am Jeanette Wolfley, Attorney of
Title
Shoshone-Bannock Tribes, that I have signed the foregoing
Organization

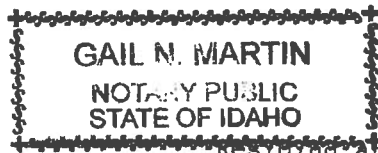
document in the space below as Attorney of
Title

Shoshone-Bannock Tribes and that the statements contained in the
Organization

Foregoing document are true and correct.

Jeanette Wolfley
Signature of Authorized Agent
Attorney, Shoshone-Bannock Tribes
Title and Organization
10/15/04
Date

State of Idaho)

County of Burham) SS.Subscribed and sworn (or affirmed) before me this 15th day of October 2004

residing at

[Signature]

Notary Public

Burham Co.My commission Expires 3/22/05

JEANETTE WOLFLEY**ATTORNEY AT LAW**

202 N. Arthur
Pocatello, ID 83204
Telephone: (208) 232-1922
Fax: (208) 232-7472
E-Mail: wolfleyj@nicoh.com

October 15, 2004

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

Re: SRBA Late Notice of Claim 72-16653

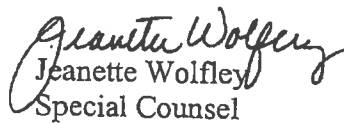
Dear Clerk of Court:

Please find attached a Standard Form 4: Motion to File Late Notice of Claim. On September 21, 2004, a hearing was held with the Court and the Shoshone-Bannock Tribes were advised by the Court that we had designated an incorrect identification number on our claim (72-201B). The Court requested the Shoshone-Bannock Tribes to meet with the Idaho Department of Water Resources to correct the number and secure a new water right number. Today, we filed with the Court a required Amended Notice of Claim.

In addition, we were advised by the IDWR that a late claim would have to be filed for 72-16653, a new water right number. This new water rights is a split from water right 72-202, which was not originally filed by the Shoshone-Bannock Tribes. A Late Notice of Claim is filed for the water rights, attached hereto.

If you should have any questions please do not hesitate to call me.

Sincerely,


Jeanette Wolfley
Special Counsel

Cc: IDWR
Attorney General, State of Idaho
United States of America
Wayne and Melodie Baker

**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 72-16653

(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 Jeanette Wolfley

My address is 202 North Arthur
Pocatello, ID 83204

My phone number is: Work 208-232-1922 Home _____

I am an attorney representing Shoshone-Bannock Tribes

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:

The Shoshone-Bannock Tribes recently purchased the
land, and a new water right number has been
assigned to this claim because there are two
separate water rights, as it occurred at some time
prior to the Tribes purchasing the land

☐ 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 \$ _____.

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 _____
(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 IdahoCounty of Bingham

Jeanette Wolfley, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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.

Signature of person filing motion

Jeanette Wolfley
Attorney signing in representative capacity

Subscribed and sworn to before me on 10/15/04
(Insert Date)

Notary Public for _____
Residing at: _____
My Commission expires: _____

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 October 15, 20004, 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 72-16653
Date Received: 10/15/2004
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

SHOSHONE BANNOCK TRIBES Phone:

PO BOX 306
FORT HALL ID USA 83203

2. Date of Priority: 05/01/1936

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	31	SW	SW	SW 4	CUSTER	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	0.2	
STOCKWATER	03/15	11/15	0.02	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of	1/4 Lot	Use	Acres
09N	18E	5	NW	NW 4	IRRIGATION	3.8
			NW	NW 4	STOCKWATER	
Section Acres						3.8

COPY
DRAFT

09N	18E	6	NE	NE	1	STOCKWATER	
			NE	NW	3	STOCKWATER	
			NE	NE	1	IRRIGATION	6.2
			NE	NW	3	IRRIGATION	0.1

Section Acres 6.3

10N	18E	31	SE	SW		IRRIGATION	1
			SE	SE		IRRIGATION	1.8
			SE	SW		STOCKWATER	
			SE	SE		STOCKWATER	

Section Acres 2.8

Total Acres 12.9

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:

72-16653 IS A PORTION OF FORMER RIGHT 72-202 SPLIT BY OWNERSHIP.

15. Basis of Claim: Decreed

16. Signature(s)

For Organizations:

I do solemnly swear or affirm that I am _____ of
_____, that I have signed the foregoing
Organization

document in the space below as _____ of
Title

_____ and that the statements contained in the
Organization

foregoing document are true and correct. _____
Signature of Authorized Agent

Title and Organization

Date

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this ____ day of _____ 20__

Notary Public

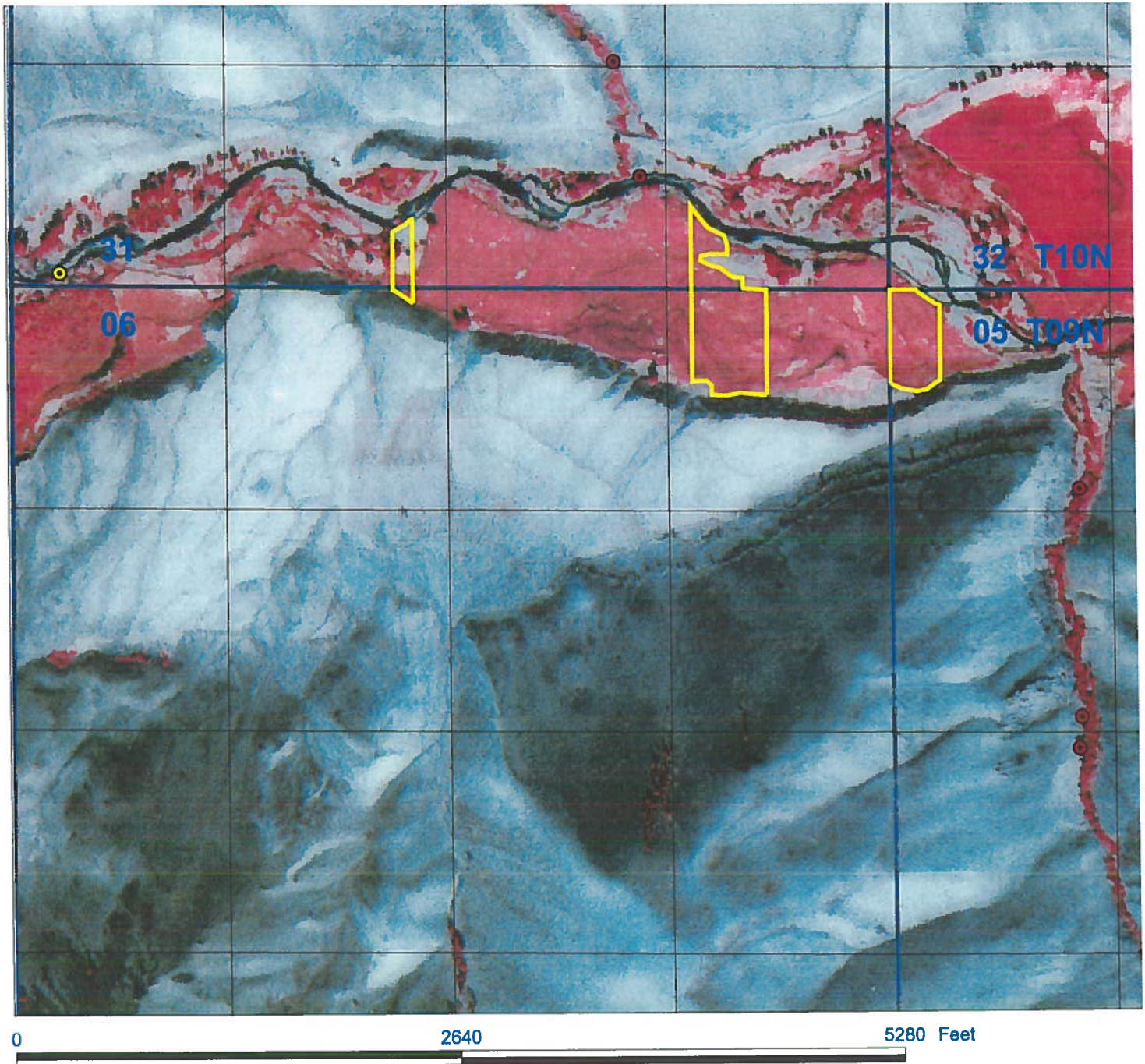
Residing at _____

My commission Expires _____

Idaho Department of Water Resources

RIGHT: 72-16653

RECOMMENDED PLACE OF USE
TWP 09N, RNG 18E
TWP 10N, RNG 18E,
PREPARED JANUARY 21, 2005



-  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

01/21/2005

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

RIGHT NUMBER: 72-16653
NAME AND ADDRESS: SHOSHONE BANNOCK TRIBES
PO BOX 306
FORT HALL ID 83203
SOURCE: EAST FORK SALMON RIVER TRIBUTARY: SALMON RIVER
QUANTITY: 0.200 CFS
PRIORITY DATE: 05/01/1936
POINT OF DIVERSION:

T10N R18E S31 SWSWSW Lot 4 Within CUSTER County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.200 CFS
STOCKWATER	03/15 11/15	0.020 CFS

PLACE OF USE: IRRIGATION Within CUSTER County

T09N R18E S05 Lot 4 NWNW	3.8	T09N R18E S06 Lot 1 NENE	6.2
T09N R18E S06 Lot 3 NENW	0.1	T10N R18E S31	SESW 1.0
T10N R18E S31	SESE 1.8		

STOCKWATER Within CUSTER County

T09N R18E S05 Lot 4 NWNW	T09N R18E S06 Lot 1 NENE
T09N R18E S06 Lot 3 NENW	T10N R18E S31
T10N R18E S31	SESE

12.9 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 72-16652 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 21.8 ACRES IN A SINGLE
IRRIGATION SEASON.

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

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

EXPLANATORY MATERIAL: Decreed

THE PLACE OF USE IS ALSO KNOWN AS LOT 4 [PART], LOT 14 [PART],
LOTS 22 & 23 BLOCK 1 OF PINE CREEK SUBDIVISION.

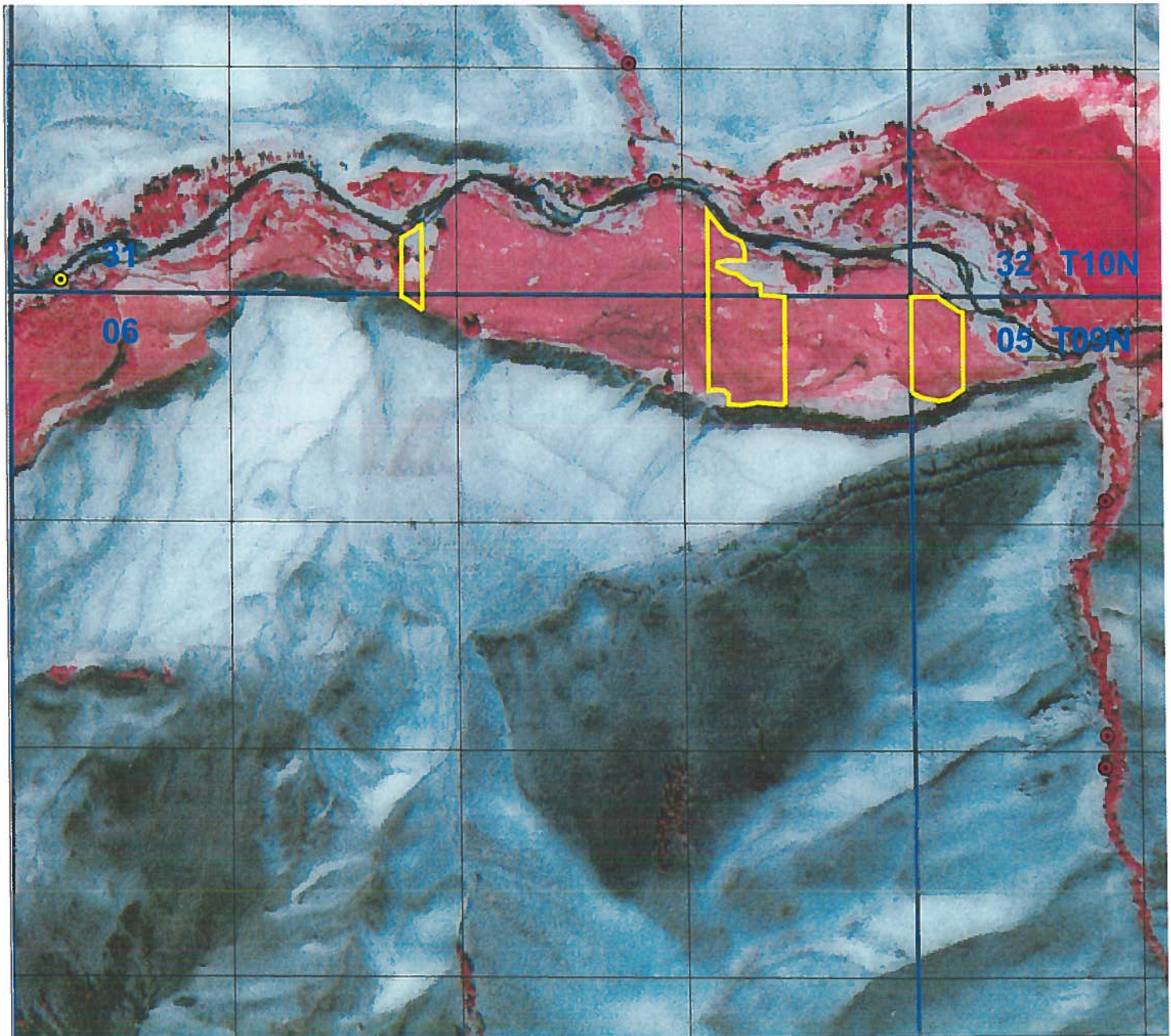
Right includes accomplished change in point of diversion pursuant to Section
42-1425, Idaho Code.

This right is a portion of former right 72-202.

Idaho Department of Water Resources

RIGHT: 72-16653

RECOMMENDED PLACE OF USE
TWP 09N, RNG 18E
TWP 10N, RNG 18E,
PREPARED JANUARY 21, 2005



0 2640 5280 Feet

-  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 72-16653 V1

09N 18E 6	X L 1	X L 3			
10N 18E 31				X	X

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 THE PLACE OF USE IS ALSO KNOWN AS LOT 4 [PART], LOT 14 [PART], LOTS 22 & 23 BLOCK 1 OF PINE CREEK SUBDIVISION.
2. Place of Use - Irrigation USE OF THIS RIGHT WITH RIGHT NO. 72-16652 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 21.8 ACRES IN A SINGLE IRRIGATION SEASON.
3. Explanatory This right is a portion of former right 72-202.

Comments:

1. vhancock 1/21/2005 BASIS

Comment: THIS CLAIM IS BASED UPON DECREED RIGHT 72-202 THAT ENCOMPASSED THE ENTIRE PEDRINI FARM. THE FARM WAS DIVIDED INTO THE PINE CREEK SUBDIVISION.

Proposed late claim #3

1936

Priority S-1-1936

Source E Fk Salmon

POD 10 N 18 E ~~(1000)~~ S 31 SWSWSW (Lt 4)

USE IRR (13 Ac)
4-1 to 10-31
.20 cgs

POU from GIS lower lots 4, 14, 22 & 23

Remarks

- This is a portion of 72-202
- C03
- Property also known as lots 4, 14, 22 & 23 Pine Creek Subdiv.

Decreed
Temp

Claim 1
1888
Pine Creek
.27 cfs
9 AC

Upper lots IRRIGATED from Pine Creek
parts 4 & 14 1888

Acres from P.C. Lot 4 = 8 AC
Lot 14 = 1 AC

.03 cfs/AC 9 AC

Claim 2
1888

Lower lots IRR. from E Fork 1888

E Fork
.39 cfs
13 AC

Acres from EFK Lot 4 = 1
Lot 14 = 4
Lots 22 & 23 = 8

.66
TOTAL

.03 cfs/AC 13 AC

Claim 3
1936
E Fork
.20 cfs
13 AC

Lower lots from EFK 1936

Acres from Lot 4 = 1

Lot 14 = 4

Lots 22 & 23 = 8

13

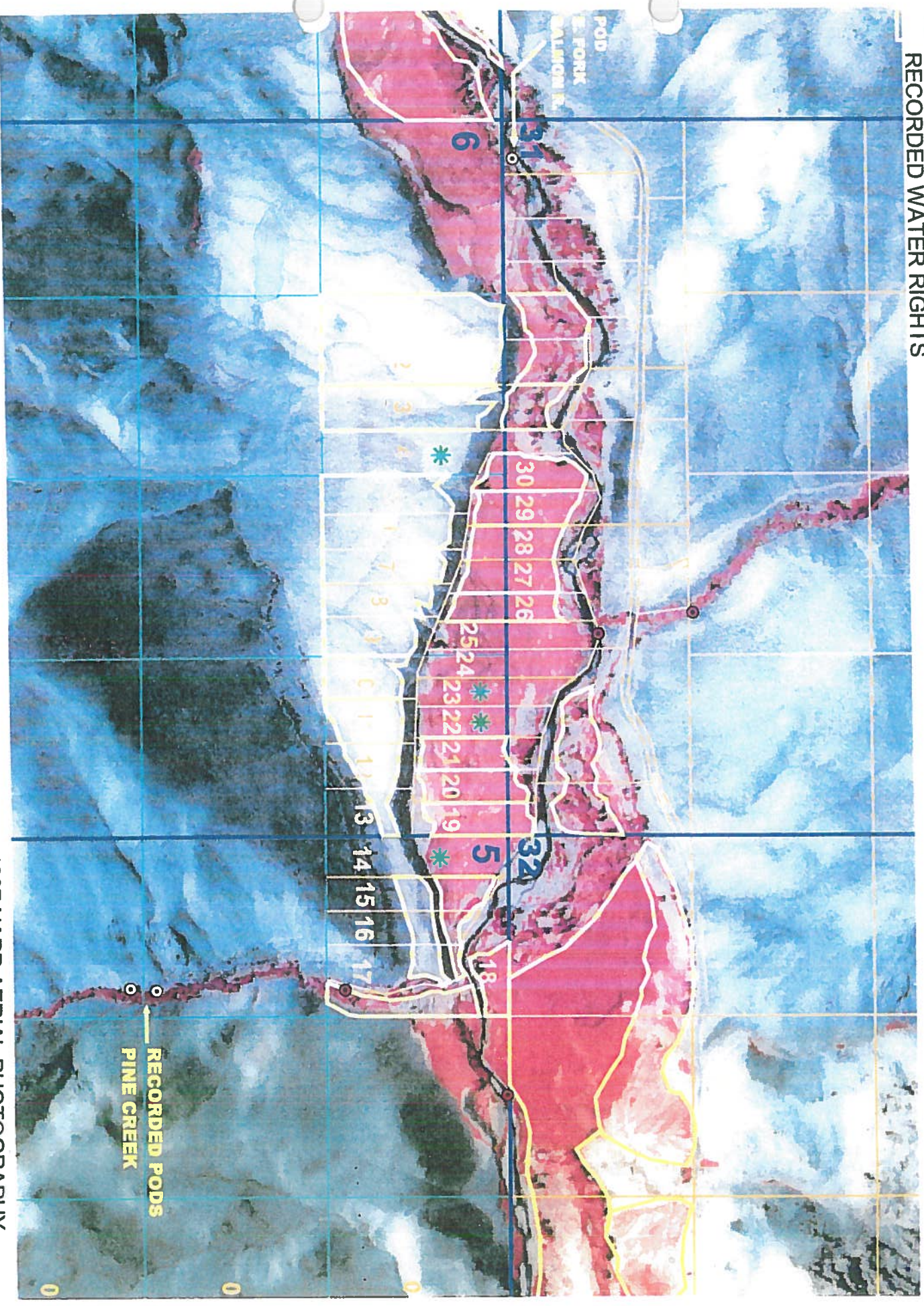
.20 cfs Available

Balance 1936 water

PINE CREEK SUBDIVISION

* LOTS OWNED BY SHOSHONE / BANNOCK TRIBE
RECORDED WATER RIGHTS

TWP 09N RNG 18E SEC 5, 6
TWP 10N RNG 18E SEC 31



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 August, 1933 and of record in Book 3 of Judgments at page 350, records of Custer County,

DECREE 2-14-1938

Gossi, et al - v - Giampedraglia, et al

1.5" / AC

That GEORGE M., MARY C., and NEPTA C. VACOMELLA are the owners of Lot 4, Section 4, Township 9 North, Range 18, E. B. M.; S₁SE₁, S₁SW₁, Section 32, Lot 1, Section 33, all in Township 10 North, Range 18, E. B. M.; and appurtenant to said land they are entitled to 1.5 cubic feet per second of time of the waters of Lake Creek with date of priority May 1, 1895 and with point of diversion in the S₁NE₁, Section 32, Township 10 North, Range 18, E. B. M.; and are entitled to 1.5 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority May 1, 1895 with point of diversion in the S₁SE₁, Section 31, Township 10 North, Range 18, E. B. M.; and 1.3 cubic feet per second of time of the waters of the East Fork of Salmon River with date of priority May 1, 1936, with point of diversion in the S₁SE₁, Section 31, Township 10 North, Range 18, E. B. M.

That CATERINA PEDRINI is the owner of Lot 4, Section 5; Lots 1, 2 and 3, Section 6, Township 9 North, Range 18, E. B. M.; Lot 4, S₁SW₁, S₁SE₁, Section 31, Township 10 North, Range 18, E. B. M.; and appurtenant to said land she is entitled to 4.5 cubic feet per second of time of the waters of the East Fork of Salmon River and Pine Creek, with date of priority May 1, 1888 and 1.5 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority May 1, 1936, and with points of diversion in Lot 4, Section 31, Township 10 North, Range 18, E. B. M.; and S₁NE₁, Section 6, Township 9 North, Range 18, E. B. M.

That ELLIS M. BAKER and MARY BAKER are the owners of Lot 4, Section 6, Township 9 North, Range 18, E. B. M.; Lots 1 and 2, S₁SW₁, Section 1, Township 9 North, Range 17, E. B. M.; and appurtenant to said land they are entitled to 2.0 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority May 1, 1885 with points of diversion in S₁NE₁, S₁SW₁, Section 1, Township 9 North, Range 17, E. B. M.

That ELLIS M. BAKER and MARY BAKER are the owners of S₁NE₁, Section 14; Lots 1, 5, 6 and 7, Section 15, Township 9 North, Range 17, E. B. M.; and appurtenant to said land they are entitled to 1.3 cubic feet per second of time of the waters of the East Fork of the Salmon River and Boulder Creek with date of priority May 1, 1911; and .6 cubic feet per second of time of the waters of the East Fork of the Salmon River and Boulder Creek with date of priority May 1, 1936 and with points of diversion in the S₁SE₁, Section 10, S₁SE₁, Section 15, all in Township 9 North, Range 17, E. B. M.

That JOE SCIUCCHETTI, ANTONIO VACOMELLA and MRS. ANTONIO VACOMELLA are the owners of S₁NE₁, S₁SW₁, S₁SE₁, Section 11, Township 9 North, Range 17, E. B. M. and appurtenant to said land they are entitled to .3 cubic feet per second of time of the waters of Boulder Creek; .1 cubic feet per second of time of the waters from Baker Basin Creek; .1

cubic feet per second of time of the waters of Bluff Creek; and 2.3 cubic feet per second of time of the waters of East Fork of the Salmon River, all with date of priority May 1, 1896 and .8 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority May 1, 1936 and with points of diversion in the S₁SE₁, Section 15, S₁SE₁, Section 10, S₁NE₁, Section 14, and S₁SW₁ in Section 11, all in Township 9 North,