

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)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 63-32082

2006 DEC 19 PM 12: 49

RECEIVED DISTRICT COURT SRBA
TWIN FALLS CO., IDAHO
DEC 20 2006 FILED

DEPARTMENT OF
WATER RESOURCES

NAME AND ADDRESS: DALE M FRAZELL
KATHLEEN KEYS
15205 N MC FARLAND CREEK RD
BOISE, ID 83714

SOURCE: SPRING TRIBUTARY: MC FARLAND CREEK

QUANTITY: 0.14 CFS

USE OF THIS RIGHT WITH RIGHT NOS. 63-31247, 63-31585, AND
63-31586 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF
.22 CFS AND TO A TOTAL STORED VOLUME OF .4 AF PER ANNUM.

PRIORITY DATE: 03/01/1959

POINT OF DIVERSION: T05N R02E S29 SESWNW Within Ada County
SESWNW

Two points of diversion are located within SWNW, S29, T05N,
R02E.

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	0.14 CFS
	Irrigation Storage	01-01 TO 12-31	0.40 AFY
	Irrigation from Storage	03-01 TO 11-15	0.40 AFY

PLACE OF USE:	Irrigation	Within Ada County
	T05N R02E S29	SWNW 5.1 SESW 1.2 NWSW 0.1
	7.1 Acres Total	

Irrigation from Storage Within Ada County
Same as Irrigation

Use of this right with Right No. 63-31585 is limited to the
irrigation of a combined total of 11 acres in a single
irrigation season.

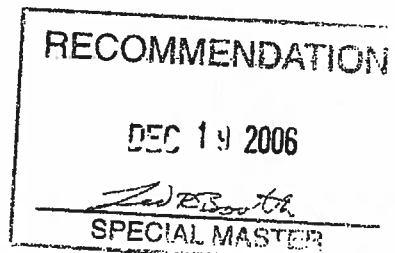
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



See 63-31247 for notes.

10/22/2005

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

RIGHT NUMBER: 63-32082

NAME AND ADDRESS: KATHLEEN KEYS
15205 N MC FARLAND CREEK RD
BOISE ID 83714

DALE M FRAZELL
15205 N MC FARLAND CREEK RD
BOISE ID 83714

SOURCE: SPRING TRIBUTARY: MC FARLAND CREEK

QUANTITY: 0.140 CFS

Use of this right with Right Nos. 63-31247, 63-31585 & 63-31586 is limited to a total combined diversion rate of .22 cfs and to a total STORED volume of .4 af per annum.

PRIORITY DATE: 03/01/1959

POINT OF DIVERSION:

T05N R02E S29 SESWNW Within ADA County
T05N R02E S29 SESWNW Within ADA County

Two points of diversion are located within SWNW, S29, T05N, R02E.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.140 CFS
IRRIGATION STORAGE	01/01 12/31	0.40 AFY
IRRIGATION FROM STORAGE	03/01 11/15	0.40 AFY

PLACE OF USE: IRRIGATION Within ADA County

T05N R02E S29	SWNW	5.1	T05N R02E S29	SESW	1.2
T05N R02E S29	NESW	0.7	T05N R02E S29	NWSW	0.1

IRRIGATION FROM STORAGE same as IRRIGATION

7.1 ACRES TOTAL

Use of this right with Right No. 63-31585 is limited to the irrigation of a combined total of 11 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: BASIS OF CLAIM - Beneficial Use

Right No. 63-31586 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-32082 V1

WATER RIGHT NUMBER: 63-32082 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	KATHLEEN KEYS 15205 N MC FARLAND CREEK RD BOISE, ID 83714 (208) 433-9282
Current Owner	DALE M FRAZELL 15205 N MC FARLAND CREEK RD BOISE, ID 83714 (208) 433-9282

Priority Date: 03/01/1959

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
SPRING	MC FARLAND CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	0.140 CFS	
IRRIGATION STORAGE	01/01 to 12/31		0.40 AF
IRRIGATION FROM STORAGE	03/01 to 11/15		0.40 AF
<u>Total Diversion:</u>		0.140 CFS	

Location of Point(s) of Diversion

SPRING	SE1/4SW1/4NW1/4	Sec. 29, Twp 05N, Rge 02E, B.M.
ADA County		
SPRING	SE1/4SW1/4NW1/4	Sec. 29, Twp 05N, Rge 02E, B.M.
ADA County		

Place of UseIRRIGATION Within ADA County

T05N R02E S29	SWNW	5.1	T05N R02E S29	SENE	1.2
T05N R02E S29	NESW	0.7	T05N R02E S29	NWSW	0.1

Total Acres: 7.1

IRRIGATION FROM STORAGE same as IRRIGATIONConditions of Approval:

1. Use of this right with Right No. 63-31585 is limited to the irrigation of a combined total of 11 acres in a single irrigation season.
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.
3. X32 Two points of diversion are located within SWNW, S29, T05N, R02E.
4. K01 Right No. 63-31586 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-32082 V1

5. Use of this right with Right Nos. 63-31247, 63-31585 & 63-31586 is limited to a total combined diversion rate of .22 cfs and to a total STORED volume of .4 af per annum.

Remarks:

Comments:

1. jshurte 10/22/2005 Recommendation

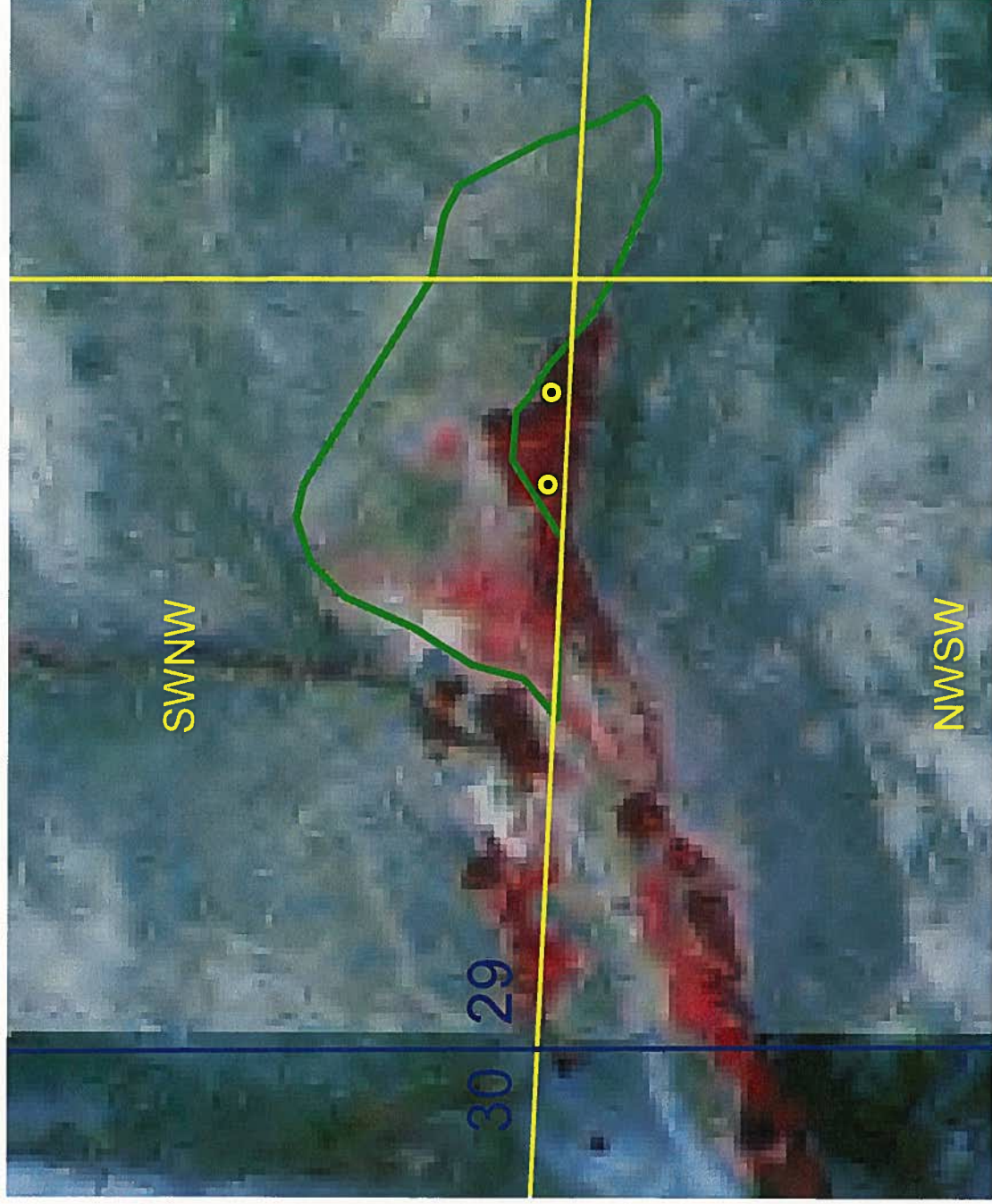
Comment: See notes in this file and in file #63-31247 for recommendaiton review.

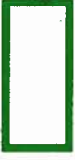
Water Supply Bank:

IDAHO DEPT OF WATER RESOURCES

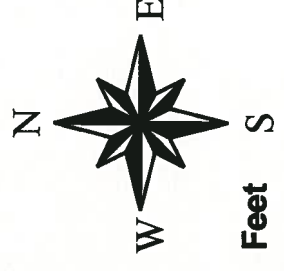
Claim No. 63-32082

Twp. 5N, Rge. 2E
Sec. 29



-  Place of Use
-  1/41/4 Lines
-  Section Lines
-  Pt. of Diversion

Prepared by: Jan Shurt
10-22-2005



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 63-32082
Date Received: 3/21/2005
Receipt No: W032701
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

KATHLEEN KEYS Phone: (208) 433-9282
15205 N MC FARLAND CREEK RD
BOISE ID USA 83714

DALE M FRAZELL Phone: (208) 433-9282
15205 N MC FARLAND CREEK RD
BOISE ID USA 83714

2. Date of Priority: 03/01/1959

3. Source: SPRING Trib. to: MC FARLAND CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
05N	02E	29	SE SW NW	ADA	

5. Description of diverting works:

A small pond created by excavation in the spring area with an earthen embankment across the spring channel. Water is diverted from the spring and storage in the pond using a 6 hp gas powered pump and a portable mainline and sprinklers.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/01	11/15	0.14	
IRRIGATION STORAGE	01/01	12/31		0.4
IRRIGATION FROM STORAGE	03/01	11/15		0.4

7. Total Quantity Appropriated is:
0.14 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
05N	02E	29	SW	NW	IRRIGATION	5.1
			SE	NW	IRRIGATION	1.2
			NE	SW	IRRIGATION	0.7
			NW	SW	IRRIGATION	0.1
Section Acres						7.1
Total Acres						7.1

11. Place of use in counties: ADA

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

13. Other Water Rights Used: 63-31585 (McFarland Creek)

14. Remarks:

This is an additional use of the pond and spring claimed and recommended under 63-31247.

Two points of diversion are located within SWNW, S29, T05N, R02E.

15. Basis of Claim: Beneficial Use

RECEIVED

Should questions arise during the processing of this application please contact:
Norm Young - ERO Resources Corp. (208) 373-7983

MAR 21 2005

WATER RESOURCES
WESTERN REGION

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

Date Received

Receipt Number

AL3-32082

3-21-05

W032701

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant(s) Dale M. Frazell and Kathleen Keys Phone (208) 433-9282
Mailing Address 15205 N. McFarland Creek Rd., Boise, Idaho Zip 83714
2. Date of Priority (Only one (1) per claim) March 1, 1959
3. Source of water supply (a) spring
Which is tributary to (b) McFarland Creek
4. a. Location of point of diversion is: Township 5N Range 2E Section 29, SE ¼ of SW ¼ of NW ¼, Govt. Lot _____, B.M., County of Ada

Additional points of diversion if any: (2 points in the above listed subdivision)

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

Township _____ Range _____ Section _____, _____ ¼ of _____ ¼ of _____ ¼, 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. A small pond created by excavation in the spring area with an earthen embankment across the spring channel. Water is diverted from the spring and storage in the pond using a 6 hp gas powered pump and a portable mainline and sprinklers.

6. Water is claimed for the following purposes:

(both dates are inclusive) (cfs) (acre feet)
For Irrigation purposes from 3/1 to 11/15 amount 0.14 cfs or _____

For Irrigation storage purposes from 1/1 to 12/31 amount _____ or 0.4 AF

For Irrigation from storage purposes from 3/1 to 11/15 amount _____ or 0.4 AF

7. Total quantity claimed (a) 0.14 (cfs) and/or (b) _____ (acre feet)

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

9. Non-irrigation uses; describe fully. (Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) N/A

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 ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	
5N	2E	29							5.1	1.2	0.7	0.1							7.1

Total number of acres irrigated 7.1

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

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

63-31585 (McFarland Creek)

or None ()

14. Remarks:

This is an additional use of the pond and spring claimed and recommended under no. 63-31247.

NEWS

S29

MINIS

SENN

MANMANS

Manning

SEMINAR

Pond

TAX LOT LINES



MSMWSW

NEWSW

NESWNN

Manning

Pond

OVERVIEW MAP ORTHO QUADS X8 & X9 FRAZELL/KEYS & BRUSH

T05N, R02E

Manning

15. Basis of Claim (Check One) Beneficial Use XX Posted Notice _____ License _____ Permit _____

Decree _____

If applicable provide IDWR Water Right Number _____

Court _____ Case Number _____ Decree Date _____

Plaintiff vs 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 received notice in the Snake River Basin Adjudication." I/We do _____ do not XX wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of Attachments 1 page aerial photo; 2 page affidavit

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

Signature of Claimant(s) Dale M. Frazell Date 3/18/05

Kathleen Keys

Date 3-18-05

Kathleen Keys

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

of _____ Title _____, that I have signed the foregoing

document in the space below as _____ 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 Idaho)

County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 18th day of March 20 05



Notary Public Shasta M. Brown

Residing at Eagle ID.

My Commission Expires April 9, 2010

17. Notice of Appearance:

Please Print Name

Notice is hereby given that I, _____ 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 Dale M. Frazell and Kathleen Keys

Ident. Number _____

AFFIDAVIT

STATE OF IDAHO)
)ss.
County of Valley)

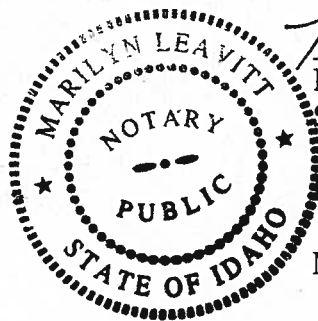
HAROLD R. BRUSH, being first duly sworn upon oath, deposes and says:

1. I make the following statements based upon my personal knowledge.
2. I am familiar with a 20-acre parcel of land located within the S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 29 and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30, all in Township 5 North, Range 2 East, Boise Meridian, which lands are currently owned by Dale Frazell and Kathy Keys (the Frazell-Keys parcel).
3. From 1958 until 2001, my wife and I owned the Frazell-Keys parcel.
4. There is a small pond located on the Frazell-Keys parcel that I maintained and used for irrigation and fire protection purposes (hereinafter "the pond"). The pond was in existence when I bought the property, and had been used by the previous owner for these purposes. The pond is fed by a spring or springs located in the bottom of the pond.
5. ^{54 HP} From 1961 to 1987, I used the water from the pond to irrigate portions of the Frazell-Keys parcel located both above and below the pond elevation. In order to irrigate the ground up gradient from the pond, I used a 5-hp (or it could have been a 6-hp) gasoline powered pump to divert water from the pond. I ran approximately four to five Rainbird-brand sprinklers from the pump and spaced the sprinklers approximately 30 to 40 feet apart. I operated the sprinklers in one area for about four hours, and then shut off the sprinklers to allow the pond to refill. I would then move the sprinklers to another area and repeat the process. On average, the sprinklers were moved approximately once per week, sometimes more or less depending upon the availability of water, weather conditions, and the need to use the water from the pond on land below the pond by gravity flow using either or both of the two ditches that diverted downstream of the pond. I have five children, who are all adults now, who used to help me move the sprinklers around.
6. I used the water from the pond to grow alfalfa.

Further your affiant sayeth naught.

Harold R. Brush
HAROLD R. BRUSH

SUBSCRIBED AND SWORN to before me on this 2nd day of August, 2004



Marilyn Leavitt
NOTARY PUBLIC FOR THE
STATE OF IDAHO

Residing at: McCall

My Commission Expires: 7-28-09