

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 63-32589
Date Received: 9/7/1989
Receipt No: X777777
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

GARY DAVIS Phone: (208)938-6189
2452 E BEACON LIGHT RD
EAGLE ID USA 83616

DEE DAVIS Phone: (208)938-6189
2452 E BEACON LIGHT RD
EAGLE ID USA 83616

2. Date of Priority: 07/31/1905

3. Source: DRY CREEK Trib. to: BOISE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot			County	Type
05N	01E	34	SW	NE	SE	ADA	
05N	01E	34	SE	SE	SW	ADA	

5. Description of diverting works:

SMALL DIV.W/PUMP, PIPELINE, & SPRINKLER SYSTEM.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	0.1	

7. Total Quantity Appropriated is:
0.1 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	01E	34	SE	SW	IRRIGATION	5
					Section Acres	5
					Total Acres	5

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:

14. Remarks:

THIS RIGHT IS BEING CLAIMED IN LIEU OF LICENSE 63-2284, COPY OF WHICH IS ATTACHED. THE PRIORITY DATE FOR THE CLAIM IS BASED UPON THE INFORMATION CONTAINED IN THE COURT DOCUMENTS, COPIES OF WHICH ARE ATTACHED, REGARDING A RIGHT FROM DRY CREEK WHICH PRE- CEDED THE PRIORITY OF THE LICENSE. CLAIMANT IS OBTAINING A COPY OF THE RIGHT FROM THE COURTHOUSE, FROM BOOK 1, PAGE 178 OF WATER RIGHTS, WHEN AND IF AVAILABLE.

This right is a split from former right 63-18591 .

15. Basis of Claim: Beneficial Use

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

RECEIVED

DEC 18 2006

WATER RESOURCES
WESTERN REGION

**STATE OF IDAHO
 DEPARTMENT OF WATER RESOURCES
 NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP**

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
63-2963	_____	☒	_____	_____	_____
63-18591	_____	☒	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

2. The following **REQUIRED** information must be submitted with this form:
- A. The appropriate **FILING FEE**. See instructions for fee amounts.
 - B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
 - C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions): **PLAT OF PROPERTY** or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The AERIAL PHOTO should be submitted in place of the PLAT OF PROPERTY or SURVEY MAP.

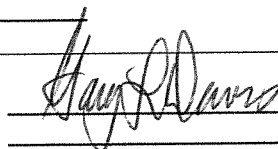
3. Name and Address of Former Owner/Claimant(s) Robert and Elsie Hanson
4151 N Hartley Rd, Eagle, ID 83616
4. New Owner/Claimant(s) Gary and/or Dee Davis
 Name Connector (Check one): [] and, [] or, [X] and/or
- New Mailing Address 2452 E. Beacon Light Rd
- City, State and ZIP Code Eagle, ID 83616
- New Telephone Number (208) 938-6189
5. Date you acquired the property July 28, 2004

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7.** If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number <u>63-2963</u>		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc.)
Irrigation	<u>0.1 cfs/22.5 afa</u>	<u>5 acres of the licensed 50 acres.</u>
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number <u>63-18591</u>		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc.)
Irrigation	<u>0.1 cfs</u>	<u>5 acres of the licensed 40 acres.</u>
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s)
(include title if applicable)

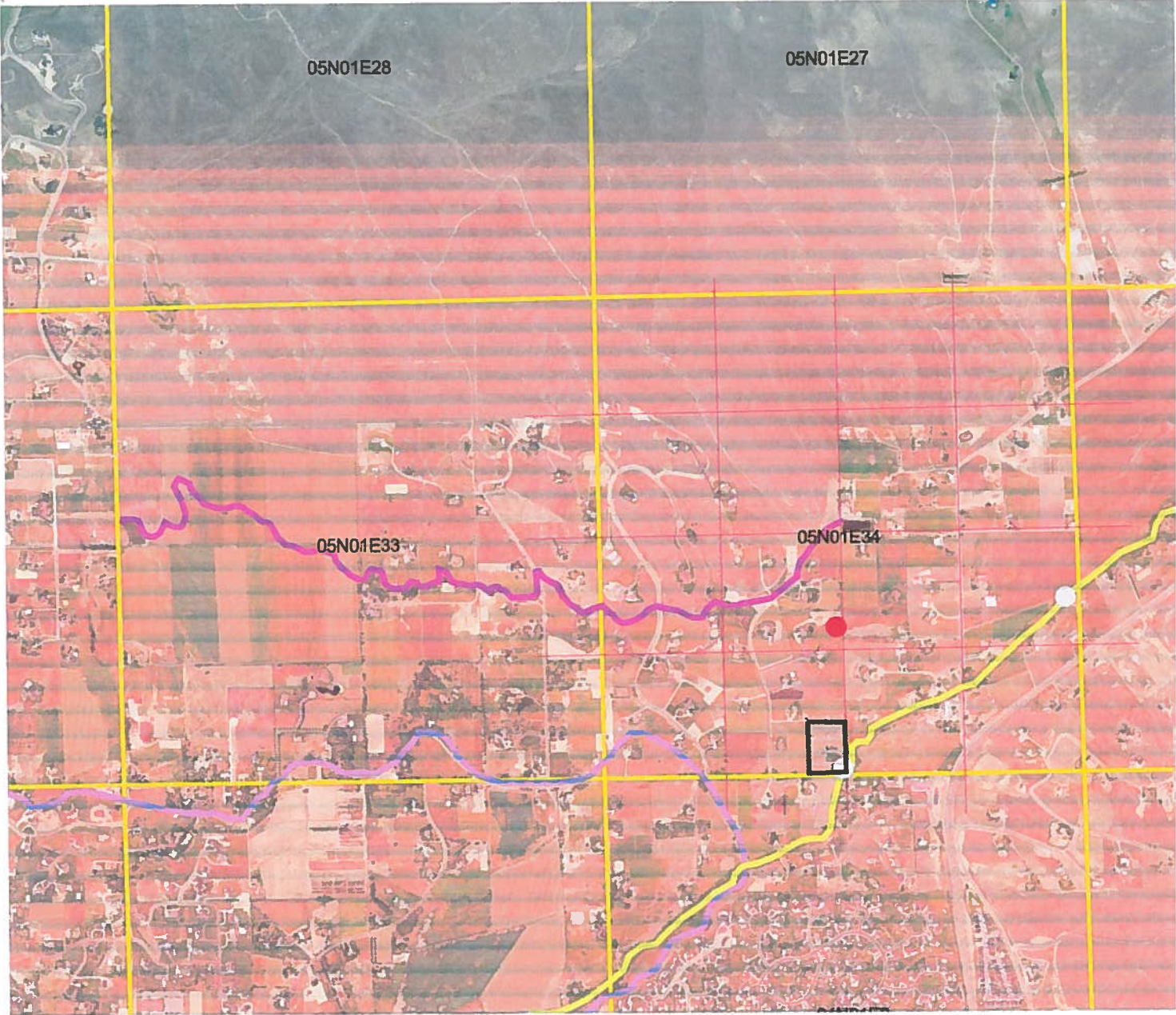


For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by [Signature] Date 12-18-06 Fee N/A
 Receipted by _____ Date _____ Receipt No. _____
 Processed by [Signature] AJ Date 12-30-06 WR _____ Date _____

Gary Davis Property in Buckskin Subdivision (T5N, R1E section 34, Ada Cou





PIONEER TITLE COMPANY
OF ADA COUNTY

661 S. Rivershore Lane, Suite 110 / Eagle, Idaho 83616
(208) 938-8075

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 07/29/04 04:06 PM
DEPUTY Bonnie Oberbillig
RECORDED - REQUEST OF
Pioneer
AMOUNT 3.00



RECEIVED
DEC 15 2006
WATER RESOURCES
WESTERN REGION

244699 SAB

WARRANTY DEED

READ AND APPROVED: *[Signature]*

For Value Received

ROBERT J. HANSON and ELSIE V. HANSON, Husband and Wife

hereinafter referred to as Grantor, does hereby grant, bargain, sell, warrant and convey unto

GARY L. DAVIS and DEE S. DAVIS, Husband and Wife

hereinafter referred to as Grantee, whose current address is 2452 E. Beacon Light Road, Eagle, Idaho 83616

the following described premises, to-wit:

Lot 1 in Block 1 of Buckskin Subdivision according to the plat thereof filed in Book 58 of Plats at pages 5484 and 5485, records of Ada County, Idaho.

To HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

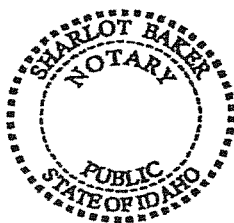
Dated: July 28, 2004

[Signature of Robert J. Hanson]
Robert J. Hanson

[Signature of Elsie V. Hanson]
Elsie V. Hanson

STATE OF IDAHO. County of Ada, ss.

On this 28th day of July, in the year of 2004, before me the undersigned, notary public personally appeared Robert J. Hanson and Elsie V. Hanson known or identified to me to be the person/persons whose name is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.



[Signature of Sharlot Baker]
Sharlot Baker
Notary Public of Idaho
Residing at Boise, Idaho
Commission expires: July 31, 2007

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: A63-18591
Date Received: 9/07/1989
Receipt No: CO11144
Received By: DS

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ROBERT J. HANSON 208-939-6341
Address: 2452 EAST BEACON LIGHT ROAD
EAGLE, ID 83616

OR

Name: ELSIE V. HANSON 208-939-6341
Address: 2452 EAST BEACON LIGHT ROAD
EAGLE, ID 83616

2. Date of Priority: JUL 31, 1905

3. Source: DRY CREEK Trib. to: BOISE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
05N	01E	34	SE	SE	SW		ADA
			SW	NE	SE		ADA

5. Description of diverting works:
SMALL DIV.W/PUMP, PIPELINE, & SPRINKLER SYSTEM.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.800		

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

8. Total consumptive use is 140.0 Acre Feet Per Annum.

9. Non-irrigation uses:
N/A

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
05N	01E	34	SE SW		IRR	40.0
Section Acres						40.0
Total Acres						40.0

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:

A63-02963 G.W.RIGHT CLAIMED.DITCH RIGHTS-CAPITOL VIEW IRR.DIST.

14. Remarks:

THIS RIGHT IS BEING CLAIMED IN LIEU OF LICENSE 63-2284, COPY OF WHICH IS ATTACHED. THE PRIORITY DATE FOR THE CLAIM IS BASED UPON THE INFORMATION CONTAINED IN THE COURT DOCUMENTS, COPIES OF WHICH ARE ATTACHED, REGARDING A RIGHT FROM DRY CREEK WHICH PRECEDED THE PRIORITY OF THE LICENSE. CLAIMANT IS OBTAINING A COPY OF THE RIGHT FROM THE COURTHOUSE, FROM BOOK 1, PAGE 178 OF WATER RIGHTS, WHEN AND IF AVAILABLE.

15. Basis of Claim: BENEFICIAL USE

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

Number of attachments: 34

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): Elsie V. Danson Date: 9-7-89

Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 7th day
of SEPTEMBER 19 89
[Signature]
Notary Public

Seal

Residing at Boise, ID
My Commission Expires 11/08/1994

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A 7.5

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P.O.

P.O.

State of Idaho
License and Certificate of Water Right

Water License No. 12032

Amount 0.8 sec. ft.

Water District No. 12a

Priority 3-25-16

THIS IS TO CERTIFY that Herman Andregg and Frank Roark
of Boise, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated March 25, 19 16; that Permit No. 12032
was issued under said application; that Certificate of Completion of works, with a carrying capacity of 1.6
second feet, was issued thereunder on April 22, 19 18, showing that said works
were completed on the 5th day of April, 19 18; and that on the 29th
day of March, 19 20,

Herman Andregg

of Boise, State of Idaho, made proof to the satisfaction of the
~~Commissioner of Reclamation~~ State Engineer of Idaho, of a right to the use of the waters of Dry Creek
a tributary of Boise River, for the purpose of irrigation and domestic use,
under Use Permit No. 12032 of the Commissioner of Reclamation
waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the State
~~Commissioner of Reclamation~~ Engineer of Idaho and entered of record in Volume 5 of Licenses, at page 2565, on the 26th
day of May, 19 20;

The right hereby confirmed dates from March 25, 19 16;

The Point of Diversion is located
in the NE ¼ of SE ¼, Sec. 34, Tp. 5 N, R. 1 E, B. M. County of Ada

That the amount of water to which such right is entitled and hereby confirmed, for the purposes
aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not
exceed 0.8 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
<u>5 N</u>	<u>1 E</u>	<u>34</u>	<u>SE ¼ SW ¼</u>	<u>40</u>	<u>40</u>

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of
use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation
State Engineer, affixed at Boise, Idaho, this 26th
day of May, 19 20

W. G. SWENDESEN

Commissioner of Reclamation

State Engineer.

(SEAL)

63 2234

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

APPROVED

APPLICATION FOR TRANSFER OF WATER RIGHT
To Change the Point of Diversion and/or the Place of Use

1. Name of Right Holder ROBERT J. HANSON
Post office address Route #1 Boise, Idaho
2. Right obtained by:
 - a. Decree to _____ in Case of _____
(Name)
vs. _____, Dated _____ in _____
Court. County of _____ (Name of Court)
 - b. License No. 63-2284 issued by the State of Idaho, Department of Reclamation.
3. Source of water Dry Creek tributary to Boise River
(Name of stream or source)
4. Date of Priority 3/25/16
5. Amount of water a. .8 c.f.s. and/or
b. _____ acre feet/annum
6. Water is used for Crops from 3/15 to 11/1
(Month, Day) (Month, Day)
7. Original location of point of diversion is NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34,
Township 5N, Range 1E, B.M., in Ada County;
Additional points of diversion, if any _____

8. Lands presently irrigated or place of use:

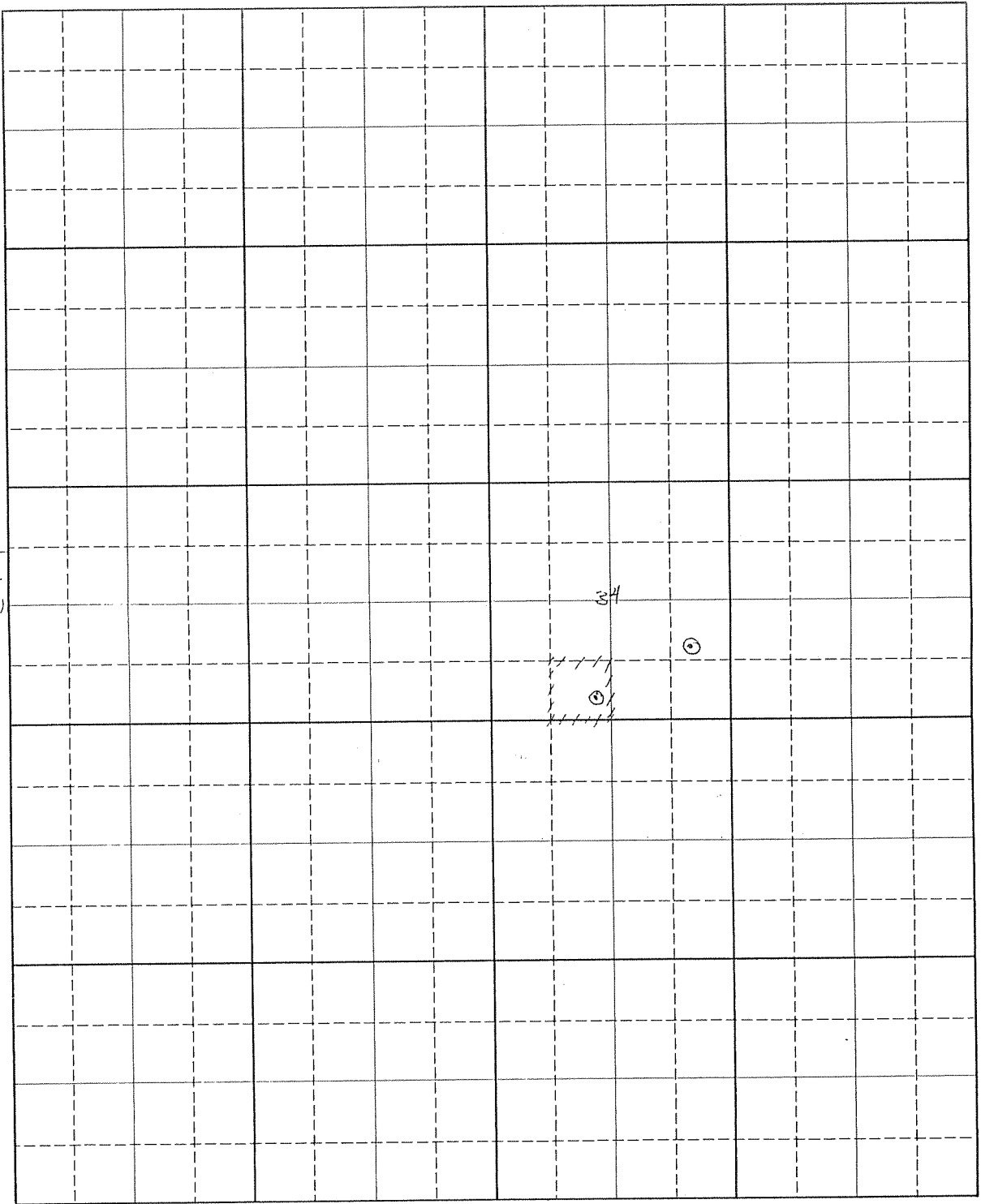
TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
5N	1E	34												40					40

Total number of acres presently irrigated 40

63 2281

R 1 E

T 5 N



SCALE: 2 Inches Equal 1 Mile. Draw Plan in Ink.

10. CHANGE IN POINT OF DIVERSION

- a. Quantity to be diverted at new point: .8 c.f.s. and/or _____ acre feet
NE SE
- b. New point of diversion: SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 34, Township 5N
_____, Range 1E, B.M.
- c. Description of method of diversion and conveyance from new points of diversion: pump

- d. Is water to be conveyed to the lands previously irrigated? Yes X No _____
If not, the place of use should be changed below.
- e. Describe the reasons for applying for a change in the point of diversion:
During periods of low water (after april 1) the applicant uses a pump at the
new point of diversion to divert the water. At other times the water is diverted
at the original point of diversion.

- f. Do you intend to make the transfer permanent? YES
- g. Do you intend to abandon completely the old point of diversion? NO

- h. Indicate on the above plat the new point of diversion and lands to be irrigated.

11. CHANGE IN PLACE OF USE

- a. Describe the new lands on which you wish to use your right.

[illegible]

Total number of acres to be irrigated_____

b. Do you intend to make the transfer permanent? _____

c. Are you completely abandoning the lands previously irrigated by this right? If not, explain your plans:

d. Describe any other water rights that you claim for the new ground upon which you wish to transfer this right: _____

e. Indicate on the above plat the new land to be irrigated and the point of diversion.

I hereby assert that no one will be injured by such transfer and that the change will be made at my own risk. The information contained in this application is true to the best of my knowledge.

x Robert J. Ammon
 (signature of applicant)

Subscribed and sworn to before me this 1 day of June, 19 73

Larry J. Page
 (notary public)

My commission expires 7/29/1975

ACTION OF STATE RECLAMATION ENGINEER AND CERTIFICATE OF TRANSFER

This is to certify that I have examined Application for Transfer of Water Rights No. 63-2284,
and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

A measuring device of a type approved by this Department shall be
permanently installed and maintained as part of the diverting works.

2. Denial of said application is for the following reasons: _____

Witness my hand this 6th day of June, 19 73.

L. Kirk Higin
 Director

FOR DEPARTMENT USE ONLY

Received by FEB Date 1 May 73

Protest filed by: _____ Date _____

Prelim. check by FEB Date 1 May 73
121# 10447

Fee received by KSS Date 5-1-73 Fee \$ 30.00

Approved for publication by _____

Published in His Statement Dates 5-10 & 5-17-73

No. Case *6489*

CIVIL

Motion No. *Judge Redick* Trial No.

IN THE
DISTRICT COURT
Third Judicial District
ADA COUNTY, IDAHO

Henry Erdelbrook

Plaintiff

Norman Anderson

Defendant

Action for

Register *16* Page *459*

S. J. Dwyer

Attorney for Plaintiff

J. E. Carney

Attorney for Defendant

Dismissed

See file 31918

STATE OF IDAHO IN AND FOR ADA COUNTY

COMPLAINT

The plaintiff complains and alleges.

Int

That he is the owner and in the possession of the following described real property situate and being in Ada County Idaho, to wit, the West 1/4 of the South East Quarter of Section 34 Township 5 North, Range 12 East of the Boise Meridian, together with a three fourths interest and to that certain later Right, hereinafter described.

2nd.

At or prior to February 28, 1911 the plaintiff was the owner of the following described real property to wit, the South East Quarter of the South West Quarter of Section 34 Township 6 North Range one East of the Boise Meridian and all of the Water Right hereinafter described.

3rd,

That all of the above described lands are arid in character and will not produce agricultural crops without water being conducted thereon by artificial means.

4th

That on or about the 10th day of February 1911, the plaintiff sold and conveyed by deed of conveyance, all of the last above described lands together with a one fourth interest in and to the Water Right herein ascribed to A. F. McDonnell.

5th

just prior to and at the time of the conveyance of the said one fourth interest in and to the Water Right, to A.C. Nelson, the plaintiff was the owner of the certain Water Right, being the right to use the waters

X
of Dry Creek to the extent of 200 inches of water, which said Water Right is recorded in Book one of page 175 of Water Rights, of the records of Ada County Idaho, and at all the times herein mentioned of Dry Creek said waters appropriated under said Water Right, have been by the plaintiff, diverted by means of a ditch, of sufficient capacity, to carry 200 or more inches of water to the lands herein described and that said waters are now used for the past 11 years on said lands for the irrigation, cultivation and growing agricultural crops and that said Water Right is appurtenant to said lands.

6th,

That the defendant is now the owner of the South East Quarter of the South East Quarter of said Section 34 Township 5 North Range one East of the Boise Meridian, together with the said one fourth interest in and to the said Water Right herein described, being the successor in interest of the said J. J. Macdonald.

7th,

That Dry Creek, the source from which the plaintiff and the defendant have the waters under the herein described Water Right, is a mountain stream, and it varies in the flow of water flowing therein during the different seasons of each year.

8th,

That at some of each irrigating season, the plaintiff, defendant and ~~the said defendant~~ predecessor in interest, diverted by means of the ditch said ditch the said 200 inches of water or more and used the waters so diverted, under the said Water Right, upon the lands herein described, in irrigating and cultivating the same.

9th,

That beginning with the month of June, and continuing throughout the balance of the irrigating season of each year, the flow of water flowing in said Dry Creek, diminishes in volume to twenty or less inches of water and during that period of the irrigating season the, the plaintiff and the defendant can obtain at times at twenty inches of water under the said Water Right, to use upon their said lands for domestic and agricultural purposes,

10th

That during the said low water season of said Dry Creek, the plaintiff defendant and defendants predecessor in interest, [^]rotated the use of said waters appropriated under the said water right and used the waters as so related in the cultivation of their said lands and for domestic uses.

11th,

That at the time the plaintiff sold and conveyed, the property herein described to A.F. McConnell, they employed one Wm. Messersmith, a real estate agent and a Notary Public, to draw a deed of conveyance, therein conveying to the said A.F. McConnell the South East Quarter of the South West Quarter of Section 34 Township 6 North Range one East Boise Meridian, together with a one fourth interest in and to the aforesaid water right and they at that time explained to the said Messersmith, that said water right was subject to a great variation in the amount of water available during the irrigation seasons and desired the deed read and describe said water right so as to convey to the said A.F. McConnell a one fourth of said water right, subject to the variation of the flow of the waters of said Dry Creek during the ~~ix~~ irrigating seasons.

12th

That the said Wm. Messersmith drew the said deed of conveyance and described the ~~water right~~ the interest in the water right as follows "40/160 of 200 inches of water out of Dry Creek, same which is of record in the Office of the recorder's office of Ada County Idaho.

13th

That after the said Messersmith had drawn said deed of conveyance and prior to the execution and delivery thereof to the said A.F. McConnell the plaintiff and the said A.F. McConnell asked the said Messersmith, what her the description of said water right as so described in said deed conveyed a one fourth interest in and to said water right and that said one fourth interest would be a one fourth ~~interest~~ of whatever waters of said water right ~~that~~ might be available during the irrigating seasons

14th

That the said Messersmith informed the plaintiff and the said A.F. McConnell

that under the description of said water right as written in said deed
that a one fourth interest was conveyed of said water right, and as the
waters ran low the said McConnell would have one fourth of the waters
of said water right whenever they might be during the irrigating seasons

16th

That the plaintiff believed said statement so made to him by the said
Messersmith, that by said conveyance plaintiff was conveying a one fourth
interest in said water right, and relying on said statement the
plaintiff executed and delivered the said deed of conveyance as so drawn
by the said Messersmith, to said A.F. McConnell.

16th,

That thereafter the said A.F. McConnell entered into possession of said
lands and water right so conveyed to her and used the waters on said lands
lands in the manner hereinafter described.

17th

That the plaintiff and said A.F. McConnell rotated with each other the
use of the waters of said water right during the low waters in each ir-
rigation season, while the said A.F. McConnell owned the said lands and inter-
est in said water right.

17th

That the defendant at the time and prior to his purchase of the said
property from the said A.F. McConnell well knew that the said water
right as described aforesaid in said deed, were rotated in their use, on said
lands by the plaintiff and the said McConnell, when the waters of Dry Creek
were low during the irrigating seasons, and the defendant then well knew
that the said A.F. McConnell owned but a one fourth interest in said water
right.

18th

That the said A.F. McConnell in her deed of conveyance to the defendant
conveyed to the defendant the South East Quarter of the South East quar-
ter of Section 34 Township 5 North Range one East Boise Meridian
"together with 40/160 inches of water out of Dry Creek the same as is
now used to water said lands".

18th

19th

That the defendant now claims under his said deed of conveyance from the said A. J. McConnell that he is the owner and as such owner entitled to the prior right to use the of 50 inches of water of said water right regardless of the flow of the waters in Dry Creek during the irrigating seasons

20th,

That of the waters now flowing in the said Dry Creek that can be obtained and diverted under said water right do not exceed 50 inches of water as the waters now flowing in the said Dry Creek, past the point where the plaintiff and defendant diverts said waters do not exceed 50 inches of water

21st,

That the defendant has appropriated and is now appropriating and threatens to continue to appropriate to his own use all of the waters of said water right, when the same are 50 inches or less of water, and will continue to do so unless enjoined, by this court.

22nd

That the plaintiff has planted and is now growing on his said lands a garden comprising of vegetables, berries, fruit trees and other agricultural crops, which are wholly dependent upon said water right to irrigate and cultivate the same to maturity, and for other domestic purposes.

23rd,

That the plaintiff has no other source of water supply from which to secure water to cultivate his said lands and to deprive the plaintiff of the aforesaid waters his said garden and agricultural crops will be a total loss to plaintiff and will cause plaintiff great and irreparable damage and injury.

Therefore the plaintiff prays that the defendant be enjoined from taking away all of the waters of the said water right and that it be adjudged and decreed that the plaintiff is the owner of a three fourths interest in and to said water right diverted from Dry Creek through the ditch of the plaintiff for costs of suit and for such other and further relief as to this court may seem equitable.

L. Liston
Attorney for the plaintiff residing at
Boise Idaho.

State of Idaho ()
County of Ada () SS

Henry Erdelbrock being first duly sworn deposes and says that he is the plaintiff in the above entitled action that he has read the foregoing complaint and knows the contents thereof and believes that the facts stated in said complaint to be true.

Henry Erdelbrock
Subscribed and sworn to before me this 7th day of July 1916

M. E. Grod
Notary Public

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA.

Henry Erdelbrock,

Plaintiff,

vs

Herman Andregg,

Defendant.

ANSWER.

Comes now the defendant in the above entitled cause of action, and in answer to plaintiff's complaint on file herein, admits, denies and alleges:

I

Defendant does not have sufficient knowledge of the facts alleged in paragraph one of plaintiff's complaint upon which to deny the same, but upon information and belief, and basing the denial upon that ground, denies that said plaintiff is the owner and in possession of the following described real property situated and being in Ada County, Idaho, to-wit: The West Half of the South-East Quarter of Section 34, Township 5 North, Range 1 East Boise Meridian, and said defendant specifically denies that said plaintiff is the owner of, or has any right whatever or at all in and to a three-fourths interest, or any interest whatever or at all to any water right whatever or at all in Dry Creek as in said complaint described, or otherwise or at all.

II

Admits that plaintiff was prior to February, 1911, the owner of the real property described in paragraph Two of said complaint, and any and all water or water rights used upon the said property and appurtenant thereto.

III

Admits the allegations in Paragraph Three of said complaint.

IV

In answer to paragraph Four of said complaint, defendant denies that on or about the 10th day of February, 1911, the said plaintiff sold by deed of conveyance the Southeast Quarter of the Southwest Quarter of Section 34, Township 5 North, Range 1 East Boise Meridian to one A. F. McConnell, and denies that said plaintiff sold a one-fourth interest, or any interest whatever or at all, in and to the water right therein described, or to any water right whatever or at all, save and except 40/160's of 200 inches, or 50 inches of water out of Dry Creek.

V

In answer to Paragraph Five of said complaint, defendant denies that prior to or at the time of the conveyance of the said one-fourth interest, or at any other time or at all, or of any interest whatever or at all, in and to the water right, or any water right whatever or at all, to the said A. F. McConnell the plaintiff was the owner of the certain water right, being the right to use the water of Dry Creek to the extent of 200 inches of water, which said water right is recorded in Book 1 at page 178 of Water Rights of the records of Ada County, Idaho, or any water right whatever or at all. Defendant denies that at all of the times mentioned in said complaint, or at any other time whatever or at all, said waters of Dry Creek appropriated under said water right, or any right whatever or at all, have been by plaintiff, or any other person whatever or at all, diverted by means of a ditch, or any ditch whatever or at all, of sufficient capacity to carry 200 or more inches of water to the land described in the said complaint, or any other amount whatever or at all. Defendant denies that said water is now used and has been used continuously for the

past eleven years, or any other time or at all, on the said lands, or any lands whatever or at all, for the irrigation, cultivation and growing of agricultural crops, save and except as in this answer all red, and said defendant denies that said water right or any water right whatever or at all is appurtenant to said land, save and except as in this answer set out.

VI

In answer to paragraph Six of said complaint, said defendant admits the allegations therein contained, save and except that defendant denies that he received only a one-fourth interest in and to the said water right described in said complaint as the successor in interest of the said A. F. McConnell, but alleges the facts to be that by reason of a certain deed of conveyance made, executed and delivered by the said A. F. McConnell and Elmer McConnell, her husband, on the 7th day of February, 1914, to the defendant herein, the said defendant is now and has been ever since said time, the owner and in possession and entitled to the possession and use of fifty miners' inches of water from said Dry Creek for use upon the lands of the said defendant hereinafter described.

VII

In answer to paragraph Seven of said complaint, defendant admits that Dry Creek, the source from which plaintiff and defendant obtain the waters in controversy in this action is a mountain stream and varies in the flow of water flowing therein during the irrigation season of each year.

VIII

In answer to paragraph Eight of said complaint, defendant denies that up to June of each irrigating season, or any other time or at all, the said plaintiff and defendant and defendant's predecessors in interest or predecessors in interest, diverted by means of the aforesaid ditch, or any other ditch or at all, the said 200 inches, or any other number of inches, or at all, of water.

Defendant denies that they used the water so diverted, or any other water whatever or at all under the said water right, or any other water right whatever or at all save and except as in this answer alleged, upon the lands herein described, or any other lands whatever or at all in irrigating and cultivating the same.

IX

In answer to paragraph Nine of said complaint, defendant denies that beginning with the month of June and continuing throughout the balance of the irrigating season of each year the flow of water flowing in said Dry Creek diminishes in volume to twenty or less inches of water. Defendant denies that during that period, or any other period or at all, of the irrigating season plaintiff and defendant can obtain at times but twenty inches of water under the said water right, or any other water right whatever or at all, to use upon their said land for domestic or agricultural purposes.

X

In answer to paragraph Ten of said complaint, defendant denies that during the said low water season of said Dry Creek, or at any other time whatever or at all, the said plaintiff and defendant and defendant's predecessors in interest rotated the use of said waters, or any waters whatever or at all, appropriated under said water right, or any water right whatever or at all. Defendant denies that they used the waters, or any other waters whatever or at all as so rotated, or rotated in any other manner whatever or at all, in the cultivation of said lands, or any lands whatever or at all, and for domestic use, or any other use whatever or at all.

XI

In answer to paragraph Eleven, of said complaint, defendant denies that at the time plaintiff sold and conveyed, or at any other time or at all, the property herein described to A. F. McConnel, they employed one William Messersmith, a real estate agent and

Notary Public, to draw a deed of conveyance therein conveying to the said A. F. McConnell the Southeast Quarter of the Southwest Quarter of Section 34, Township 5 North, Range 1 East Boise Meridian, together with a one-fourth interest, or any interest whatever or at all, in and to the aforesaid water right, or any other water right whatever or at all, save and except as in this answer alleged, and the said defendant denies that the said plaintiff and the said A. F. McConnell at that time, or any other time or at all, explained to the said William Messersmith, or any other person or at all, that the said water right, or any other water right whatever or at all was subject to a great variation in amount of water available during the irrigation season. Defendant denies that the said plaintiff and said A. F. McConnell desired the deed to read and describe said water right so as to convey to the said A. F. McConnell a one-fourth of the said water right, or any water right whatever or at all, subject to the variations of the flow of the waters of said Dry Creek during the irrigating season, or at any other time or at all.

XII

In answer to paragraph Twelve of said complaint, defendant denies that said William Messersmith drew the said deed of conveyance and described the interest in the water right, or any water right or at all, as follows: "40/160's of 200 inches of water out of Dry Creek, same which is of record in the office of the Recorder's Office of Ada County, Idaho."

XIII

In answer to paragraph Thirteen, defendant denies that after the said Messersmith had drawn said deed of conveyance, and prior to the execution and delivery thereof to the said A. F. McConnell, and plaintiff and the said A. F. McConnell asked the said Messersmith whether the description of the said water right as so described in said deed conveyed a one-fourth interest in and to

said water right, and that the said one-fourth interest would be one-fourth of whatever waters of said water right that might be available during the irrigating season.

XIV

In answer to paragraph Fourteen of said complaint, defendant denies that the said Messersmith, or any other person, informed the plaintiff and the said A. F. McConnell that under the description of the said water right as written in said deed but a one-fourth interest of the said water right was conveyed, and as the water got low, the said McConnell would have one-fourth of the waters of said water right whatever they might be during the irrigation season.

XV

In answer to paragraph Fifteen of said complaint, defendant denies that plaintiff believed the said statements, or any statements whatever or at all, made to the said plaintiff by the said Messersmith that by the said conveyance plaintiff was conveying a one-fourth interest in the said water right and no more. Defendant denies that plaintiff relying on said statements, the said plaintiff executed and delivered the said deed of conveyance as so drawn by the said Messersmith to the said A. F. McConnell.

XVI

In answer to paragraph Sixteen, of said complaint, defendant admits that the said A. F. McConnell entered into possession on the 15th day of December, 1911, of the Southeast Quarter of the Southwest Quarter of Section 34, Township 5 North, Range 1 East Boise Meridian, and Fifty miners inches of water out of Dry Creek for the irrigation of the said land, and that the said A. F. McConnell and her grantees have ever since said date continued to use and are now using the said fifty miners inches of water for the cultivation of the said lands.

XVII

In answer to paragraph Seventeen of said complaint, said defendant denies that the said plaintiff and the said A. F. McConnell rotated with each other, or with any other person or at all, the use

of the waters, or any waters whatever or at all, of the said water right or any water right or at all during the low waters in each irrigation season, or any irrigation season or at all, while the said A. F. McConnell owned the said land and interest in said water right.

Further answering paragraph Seventeen, defendant denies that defendant at the time, or any time or at all, prior to his purchase of the said property from the said A. F. McConnell, then well knew, or knew at any other time or at all, that the said water right as described in said deed, or any water right whatever or at all, was rotated in its use on said lands, or any lands whatever or at all, by plaintiff and the said McConnell, or any other person or persons whatever or at all, when the waters of Dry Creek were low during the irrigating season, or at any other time or at all. Defendant denies that defendant when well knew, or knew at any other time or at all that the said A. F. McConnell owned by a one-fourth interest in said water right, but alleges the facts to be that at all of the times herein mentioned, and that at all of the times mentioned in said paragraph Seventeen, said defendant was led to believe and did believe that the said A. F. McConnell owned a water right to fifty miners inches of water out of Dry Creek for use upon said land.

XVIII

In answer to paragraph eighteen of said complaint, said defendant admits that said A. F. McConnell conveyed to the said defendant by warranty deed, the southeast Quarter of the Southwest Quarter of Section 34, Township 5 North, Range 1 East Boise Meridian together with the said fifty ^{miners} inches of water out of Dry Creek.

XIX

In answer to paragraph Nineteen of said complaint, defendant admits that defendant now claims under the said deed of conveyance from the said A. F. McConnell that he is the owner of, and as such owner is entitled to the prior right to the use of fifty miners inches

of water out of the said Dry Creek for use upon his said lands hereinbefore described, regardless of the flow of waters in said Dry Creek during the irrigating seasons.

XX

In answer to paragraph Twenty of said complaint, said defendant alleges the facts to be that at all of the times during the irrigating season of each year the flow of water in said Dry Creek is in excess of fifty miners inches of water at the points where the said plaintiff and said defendant divert water for use upon their respective lands.

XXI

In answer to paragraph Twenty-one of plaintiff's complaint, defendant alleges that he is now appropriating and will continue to appropriate to his own use and benefit, fifty miners inches of water from the said Dry Creek during the irrigating season for the irrigating of his said land hereinbefore described, and that said amount of water is necessary to produce beneficial crops upon the said premises.

XXII

In answer to paragraph Twenty-two of said complaint, defendant denies that plaintiff has planted and is now growing on his said lands, or any other lands or at all, a garden comprising vegetables, berries, fruit trees, and other agricultural crops which are wholly dependent upon the said water right, or any water right or at all to irrigate and cultivate the same to maturity, and for other domestic purposes, or other purposes or at all.

XXIII

In answer to paragraph Twenty-three of said complaint, defendant alleges that plaintiff has ample means to procure water from other sources and can by the expenditure of a nominal sum of money procure water by other means for the purpose of irrigating said garden and said premises, and plaintiff has not and will not suffer any damage whatever or at all by reason of said defendant appropriating and using the said fifty miners inches of water out of said Dry Creek.

Further answering the said plaintiff's complaint on file herein, and by way of separate defense thereto, said defendant admits and alleges:

I

Admits that said plaintiff claims title to and the right to the use of water and water right claimed by said defendant herein referred to, but alleges that said claim is without any right whatever or at all, and that the same is barred by Sections 4036 and 4037 of the Idaho Revised Codes.

II

That on or about the 7th day of February, 1914, said defendant Herman F. Andregg and Violet H. Andregg, his wife, entered into possession of the Southeast Quarter of the Southwest Quarter of Section 34, Township 5 North, Range 1 East Boise Meridian containing forty acres, together with the right to the use of 50 miners inches of water out of Dry Creek for the irrigating of the said premises under and by virtue of a certain warranty deed, then and there executed and delivered to the said Herman F. Andregg and wife by one A. F. McConnell and Elmer McConnell, her husband, and said defendant and wife ever since have been and now are in possession of and entitled to the possession of the above described premises and to the water right for the use of 50 miners inches of water out of Dry Creek adverse to the said plaintiff, and to all other persons.

III

That said plaintiff, his grantors or predecessors are not, nor were any of them seized or possessed of the said water or water right at any time within five years immediately preceding the commencement of this action.

IV

That said defendant and wife claim title to the said water right hereinbefore mentioned by reason of that certain warranty deed made and delivered by the said A. F. McConnell and Elmer McConnell

on or about the 7th day of February, 1914, to the said defendants herein, and that said defendants every since said date have been and now are in possession and occupation of the said water right and have ever since said date cultivated and improved the premises described in the said deed, and used the water and water right therein described upon the said premises and appropriated the said to a beneficial use, and that said defendants have cultivated the said premises and grown crops thereon each and every year from and after about the 7th day of February 1914, up to the present time, and have fenced and enclosed the said premises upon which the water has been so used, and said defendants have every since said date paid all the taxes both county and state levied and assessed upon the said premises and water and water right up to and including the date hereof.

Further answering plaintiff's said complaint on file herein and by way of cross complaint, said defendant Herman F. Andregg ^{et al} alleges.

I

That on or about the 14th day of December, 1911, said plaintiff Henry Erdelbrock and Mary M. Erdelbrock, his wife, executed and delivered to one A. F. McConnell a warranty deed for the Southeast Quarter of the Southwest Quarter of Section 24, Township Five North, Range One East, Sixth Meridian, together with 50 miners inches of water out of Dry Creek which had been appropriated for use upon the said land.

II

That on or about the 7th day of February, 1914, the said A. F. McConnell and Elmer McConnell, her husband, executed and delivered to the said Herman F. Andregg and Violet M. Andregg, a warranty deed to the said property described in Paragraph 2 hereof, together with 50 miners inches of water out of Dry Creek.

III

That said Herman F. Andregg and Violet M. Andregg, ever since said last above mentioned date have been and now are in

possession of and entitled to the possession of the hereinbefore described lands and the hereinbefore described water right, and to the use of 50 miners inches of water out of Dry Creek diverted from and out of the said Dry Creek by means of a ditch of sufficient capacity to hold the said water and to convey the same to and upon the lands hereinbefore described at a point situated _____

for the irrigating of the above described lands and for domestic purposes.

IV

That said plaintiff herein ~~claims~~ the right to the use of the said water right hereinbefore described, but that said claim is without any right.

Wherefore defendants pray that plaintiff take nothing by said cause of action and that title to Fifty miners inches of water out of said Dry Creek ^{be} ~~by~~ quieted in said defendants Herman F. Andregg and Violet M. Andregg, and that this court decree that said plaintiff has no right, title or interest in or to the said water right, and that said defendants have and recover their costs in this action, and for such other and further relief as to the Court shall seem just.

H. F. Andregg
Attorneys for Defendants.
Residing at Boise, Idaho.

State of Idaho)

County of _____) ss

Herman F. Andregg, being first duly sworn, upon his oath deposes and says that he is the defendant in the above entitled case and that he has read the above and foregoing answer and cross complaint, and that he believes the facts therein alleged to be true.

Herman F. Andregg
Subscribed and sworn to before me this 3rd day of May, 1918.

[Signature]
Notary Public in and for the State

No. Case 4948

CIVIL

Motion No. ✓ Trial No. ✓

IN THE
DISTRICT COURT

Third Judicial District
ADA COUNTY, IDAHO

Herman F. Andress

Plaintiff

VS.

*Henry Edelbrock + A. J.
McConnell*

Defendant

Action for

Register 15 Page 466

J. E. Cavanaugh

Attorney for Plaintiff

*Barker + Davison
D. L. Tipton*

Attorney for Defendant

March 24/1916 Mordick 1916

IN THE DISTRICT COURT OF THE JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA.

Elmer F. Androff,

Plaintiff,

vs

Henry Ardelbrock and

A. F. McConnell,

Defendants.

COMPLAINT.

Come now the plaintiff in the above entitled
cause of action and complains of the defendants, and alleges:

I

That the defendant A. F. McConnell is and was at
all times herein mentioned, the wife of Elmer McConnell.

II

That on or about the 14th day of December, 1911,
at Boise, Ada County, Idaho, the said defendant Henry
Ardelbrock was seized and possessed of a certain lot, piece,
parcel of land situate in the said Ada County and described
as follows, to-wit: The South-east quarter (S.E. $\frac{1}{4}$) of the
South-west quarter (S.W. $\frac{1}{4}$) of Section Thirty-four (34) in
Township Five (5) North, Range One (1) East of Boise Meridian,
containing Forty (40) acres more or less, according to
the Government Survey thereof, together with a water right for
four minors inches of water out of Dry Creek in Ada County,
Idaho, the same being necessary for the irrigation of said
land, and that on the said date

the said defendant, Henry Ardelbrock, for the sum of Four thousand (\$4000.00) Dollars, to him in hand paid by the said A. F. McConnell, conveyed to the said A. F. McConnell, as her sole and separate property, by then and there executing and delivering to the said A. F. McConnell a warranty deed to the said land hereinbefore mentioned, and to the said water right.

III

That on or about the 7th day of February, 1914, at Boise, Ada County, Idaho, the said defendant, A. F. McConnell being then and there seized and possessed of the said real property hereinbefore mentioned, and the said water right hereinbefore described in paragraph two of this complaint, for the sum of Ten (\$10.00) Dollars and other valuable consideration to her in hand paid by the said plaintiff, conveyed to the said plaintiff herein by then and there executing and delivering to the said plaintiff, a warranty deed to said land mentioned in said paragraph two hereof, and the said water right.

IV

That in and by said deeds hereinbefore mentioned, and as part thereof, said defendants covenanted and warranted, among other things, to grant, bargain, and sell, and did then and there by the said deeds, grant, bargain, sell, convey, and confirm unto said plaintiff herein the said land mentioned therein, together with said water right hereinbefore mentioned, and did then and there agree to warrant and forever defend the title to said land and to the said water right.

V

That the said plaintiff, upon the execution and delivery of the said deed to the said land aforesaid on the said 7th day of February, 1914, entered into and was in sole possession thereof up to the present time, and is now in

consentation thereof and has cultivated said land and made valuable improvements thereon with the assurance and belief, and relying upon the said warranty in the said deed that the said water right was available for the irrigation of said land heretofore mentioned.

VI

That said plaintiff performed all of the conditions which he was to be performed, and has at diverse times paid to the defendants of this suit, demanded of the said defendants, and each of them, to furnish the said water heretofore mentioned to said plaintiff, and has requested said defendants to perform their covenants and warranty heretofore mentioned, and to furnish said plaintiff with the said water to irrigate the said land heretofore mentioned, but that said defendants have failed and refused, and ever since have refused and still refuse so to do.

VII

That said plaintiff, in reliance upon the said warranty made of the said defendants to the said land and the said water right heretofore mentioned, and the covenants herein contained, said plaintiff prepared and cultivated said land and planted crops thereon in the seasons of 1914 and 1915, but on account of the failure, neglect, and refusal of the said defendants to furnish said water and said water right to said plaintiff to irrigate said crops in the seasons of 1914 and 1915, said crops were destroyed by drought and did not mature, to plaintiff's damage in the sum of ten thousand (\$10000.00) dollars.

VIII

Plaintiff further avers that by reason of the breach of the covenants and warranty contained in said deeds heretofore mentioned, to furnish and convey the said water right to plaintiff, and by the failure to specifically

perform the Bill of exchange on the part of the said defendants,
said plaintiff has suffered damages in the sum of Ten thousand
(10,000.00) dollars.

Wherefore said plaintiff demands judgment against the
said defendants, jointly and severally, for the sum of Twelve
thousand (12,000.00) dollars damages, together with costs of
suit.

J. E. Cavanoy

Attorney for plaintiff
residing at Boise, Idaho.

ATTEST:)
) ss
)

Herman F. Andregg, being first duly sworn, deposes
and says: That he is the plaintiff in the above entitled action,
and that the facts hereinbefore stated are true to the best of his
knowledge and belief.

Herman F. Andregg

Subscribed and sworn to before me this 29th day

of April, 1915.

J. E. Cavanoy

Notary Public.

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA.

Norman F. Andregg,	)	
	)	
Plaintiff.	)	
	)	
vs	)	AMENDED COMPLAINT.
	)	
Henry Erdelbrock,	)	
A. F. McConnell, and	)	
Elmer McConnell,	)	
Defendants.	)	

Comes now the plaintiff in the above entitled cause of
action and complains of the defendants, and alleges:

I

That the defendants Elmer McConnell and A. F. McConnell
are and were at all times herein mentioned, husband and wife.

II

That on the 14th day of December, 1911, at Boise, Ada
County, Idaho, the defendant Henry Erdelbrock by deed and in
deed of said date, duly executed in consideration of \$4000.00,
sold and conveyed in fee simple to the said defendant, A. F.
McConnell and her assigns, a certain lot, piece, or parcel of
land, together with 40/160 of 200 inches of water out of Dry
Creek situate in Ada County, State of Idaho, and more particularly
described as follows, to-wit:

The South-east quarter (S.E. 1/4) of the South-west quarter
(S.W. 1/4) of Section Thirty-four (34) in Township Five (5) North,
Range One (1) East of Boise Meridian, Idaho, containing Forty (40)
acres more or less according to the Government Survey thereof.

Together with 40/160 of 200 inches of water out of Dry
Creek, same which is of record in the office of the County
recorders office of Ada County, Idaho.

III

That the said defendant, Henry Erdelbrook, by said deed covenanted and warranted as follows, to-wit:

"All and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate right, title and interest in and to the said property, as well in law as in equity, of the said parties of the first part.

To have and to hold, All and singular, the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to her heirs and assigns forever. And the said parties of the first part, and their heirs the said premises in the quiet and peaceful possession of the said party of the second part, her heirs and assigns, against the said parties of the first part, and their heirs and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever BIND."

IV

That the said defendant, A. F. McConnel, and the said A. F. McConnel, her husband, on the 7th day of February, 1914, at Boise, Ada County, Idaho, by their warranty deed duly executed in consideration of the sum of \$10.00 and other valuable consideration, sold and conveyed in fee simple the said above described premises, together with the said above described 40/160 of 200 inches of water in the above described creek, to the said plaintiff herein, and said plaintiff is now and has been ever since said date, the lawful owner and holder of the title in fee simple to said property.

V

That said plaintiff herein on the 7th day of February, 1914, entered into and was possessed of the said above described

premises and water.

IV

That Bernard Lemp, David Clemmens, and David S. Potter and divers other persons situated on or near the said Dry Creek on the said 14th day of December, 1911, and prior thereto, and at all times mentioned in this amended complaint, had lawful right and paramount title to the said above described water and the said water right and to the use of same for irrigation and domestic purposes; and that by virtue thereof, after the execution of the said deed by the said defendant, Henry Erdelbrock, and after plaintiff had been possessed of the said above described premises and water and water right, entered upon the possession of the said water and water right and ousted and dispossessed the said plaintiff of same, and rightfully and lawfully kept and still keeps the plaintiff from the possession of same, and that by reason thereof plaintiff has suffered damages in this; that plaintiff has expended large sums of money, many months of his time in tilling and cultivating the above described land and preparing the same for the planting of crops in the years 1914 and 1915, and in constructing and repairing irrigating ditches, and in making valuable improvements thereon during the time that said plaintiff has been possessed of said land, but by reason of the breach of the covenants in said deeds hereinbefore mentioned by the said defendants, said crops did not mature in said seasons, and the said money expended, and the improvements made thereon and the labor done has been a total loss to the said plaintiff to his damage in the sum of Two Thousand (\$2000.00) Dollars.

VII

That by reason of the breach of the covenants of the warranty deeds hereinbefore alleged, plaintiff has been compelled

to lay out and expend large sums of money in litigation affecting the above described premises and has been compelled to employ an attorney to protect his rights in the above described premises and has agreed to pay for said services the sum of Five Hundred (\$500.00) Dollars, which is a reasonable attorney's fee in said proceeding.

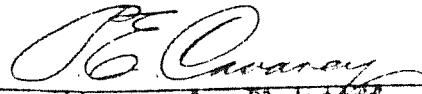
VIII

That by reason of the breach of the covenants of the defendants as hereinbefore alleged, plaintiff has been damaged in the sum of Eight Thousand (\$8000.00) Dollars.

Wherefore plaintiff demands judgment against the said defendants:

First: For the sum of Ten Thousand (\$10,000.00) Dollars damages, together with interest thereon from the 7th day of February, 1914, to date.

Second: For Five Hundred (\$500.00) Dollars attorney's fees and costs of suit.



Attorney for Plaintiff
residing at Boise, Idaho.

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA.

Herman F. Andregg,
Plaintiff,

vs.

A. F. McConnel and
Elmer McConnel, husband
and wife, and Henry
Erdelbrock,
Defendants,

J U D G M E N T.

This cause having heretofore come on for trial and the plaintiff appearing in proper person and by Messrs. P. E. Cavaney and John Jackson, his attorneys, and the defendants appearing in proper person and by Messrs. S. L. Tipton and Barber & Davison, their attorneys, and a jury of eight good and lawful men having been impaneled from the body of Ada County, pursuant to a stipulation of the parties hereto to try said cause to a jury of eight qualified men; and the issues all and singular having been to said jury submitted, and the jury having heard the evidence and the instructions of the court and having retired to consider their verdict and having returned into the court their verdict in words and figures the following:

"We the jury in the above entitled cause find for the defendant"

It is therefore considered and adjudged that plaintiff take nothing by his said action and that the defendants be discharged and permitted to go hence without day, and that the defendants have and recover from the plaintiff their costs and disbursements in this behalf laid out and expended, and taxed in the sum of \$3/00.

This the 30th day of March, 1916.

Barber & Davison
Judge of said court.

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05N	01E	34	SE	SW		IRR	40.0
Section Acres							40.0
Total Acres							40.0

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:

A63-02963 G.W.RIGHT CLAIMED.DITCH RIGHTS-CAPITOL VIEW IRR.DIST.

14. Remarks:

THIS RIGHT IS BEING CLAIMED IN LIEU OF LICENSE 63-2284, COPY OF WHICH IS ATTACHED. THE PRIORITY DATE FOR THE CLAIM IS BASED UPON THE INFORMATION CONTAINED IN THE COURT DOCUMENTS, COPIES OF WHICH ARE ATTACHED, REGARDING A RIGHT FROM DRY CREEK WHICH PRECEDED THE PRIORITY OF THE LICENSE. CLAIMANT IS OBTAINING A COPY OF THE RIGHT FROM THE COURTHOUSE, FROM BOOK 1, PAGE 178 OF WATER RIGHTS, WHEN AND IF AVAILABLE.

15. Basis of Claim: BENEFICIAL USE

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): Elsie V. Hanson Date: 9-7-89

Date: _____

State of Idaho)
County of POA) SS.

Subscribed and sworn (or affirmed) before me this 7th day
of SEPTEMBER 19 89
Donna E. Sully
Notary Public

Seal

Residing at BOISE, ID
My Commission Expires 11/08/1994

Receipt Details for ID C011144

Status	Adjustment Type	Version
	Adjusted Receipt	1

General Information:

Date Received	Date Deposited	Region	Total Amount	Payment Type
9/7/1989 12:12:16 PM	9/7/1989	State	\$50.00	Check
Payer	HANSON,ROBERT OR ELSIE			

Account Information:

Check #	Account #	Credit Card Name	Authorization #
5435			
Card Expiration Date	Credit Card Transaction #		

Comment ADJUDICATION FEE**Fee Detail:**

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$50.00	ADJUDICATION FEE	410162	9337	0	0	6490

Refund(s):

Amount	Payee	Date	Document Number
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Water Right Information:

Basin Number	Sequence Number	Split Suffix	Amount	Type
63	18591		\$50.00	Claim

[Print Report](#)

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

RIGHT NUMBER: 63-32589

NAME AND ADDRESS: GARY DAVIS
2452 E BEACON LIGHT RD
EAGLE ID 83616

DEE DAVIS
2452 E BEACON LIGHT RD
EAGLE ID 83616

SOURCE: DRY CREEK

TRIBUTARY: BOISE RIVER

QUANTITY: 0.100 CFS

Use of this right with Right No. 63-32587 is limited to a total combined diversion rate of .1 cfs.

PRIORITY DATE: 07/31/1905

POINT OF DIVERSION:

T05N R01E S34 SESW Within ADA County

T05N R01E S34 NESE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.100 CFS

PLACE OF USE: IRRIGATION in ADA County

T05N R01E S34 SESW 5.00

5 ACRES TOTAL

Use of this right with Right No. 63-32587 is limited to the irrigation of a combined total of 5 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

Property is also known as Lot 1, Blk 1, Buckskin Subdivision.

This right is a split from former right 63-18591 .

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 Rights: 63-18591 (Split)
	)	63-32588, 63-32589
Case No. 39576	)	NOTICE OF COMPLETED
	)	ADMINISTRATIVE
_____	)	PROCEEDING

IDWR has completed the following administrative proceeding:

- ☐ Address change
- XX Substitution of Party
- ☐ IC § 42-222 transfer
- | | |
|---|--|
| ☐ Point of diversion | ☐ Place of use |
| ☐ Period of use | ☐ Nature of use |
| ☐ Split of water right | ☐ Change in ownership |
| ☐ Other | |
- ☐ IC § 42-219 license

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Report(s)* for said water right(s). No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: December 21, 2006



Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on December 21, 2006, I delivered the original and copies of this form, including all attachments, to the following persons, postage prepaid if required and addressed as follows:

1. Original to:

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

☐ overnight mail
☒ regular mail
☐ hand-delivered
☐ facsimile

2. Copies to:

Clive Strong
Off ice of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

☐ overnight mail
☒ regular mail
☐ hand-delivered
☐ facsimile

United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724

☐ overnight mail
☒ regular mail
☐ hand-delivered
☐ facsimile

3. Copies to all parties to the subcase:

Buckskin Subdivision Homeowners Assoc.
3300 N Saddleman Pl
Eagle ID 83616

☐ overnight mail
☒ regular mail
☐ hand-delivered
☐ facsimile

Gary Davis
Dee Davis
2452 E Beacon Light Rd
Eagle ID 83616

☐ overnight mail
☒ regular mail
☐ hand-delivered
☐ facsimile



Signature of person mailing this document



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

December 21, 2006

JAMES E. RISCH
Governor

KARL J. DREHER
Director

GARY DAVIS
DEE DAVIS
2452 E BEACON LIGHT RD
EAGLE ID 83616

Re: Original Notice of Claim to a Water Right No. 63-2963, 63-18591
Renumbered to Notice of Claim to a Water Right No. 63-32587, 63-32589

Dear Mr. & Mrs. Davis:

We have received and processed a Change of Ownership for a portion of your Claim to a Water Right Number as referenced above. This change of ownership resulted in a split of the original claim.

When a portion of the original water right claim has been conveyed to another and the original right has been split, then the original claim number is renumbered by issuing a new water right number to represent each split. Each split contains only the portion of the original right for each separate owner. The above referenced new claim number reflects your remaining portion of the original claim after the change of ownership. Enclosed is a copy of this new water right for your records. Please refer to your new claim number when corresponding with our office.

Also enclosed is a copy of the Notice of Completed Administrative Proceedings, which has been sent to the Snake River Basin Court as notification of the change.

If you have any questions concerning this ownership change, or the enclosed information, please feel free to contact this office.

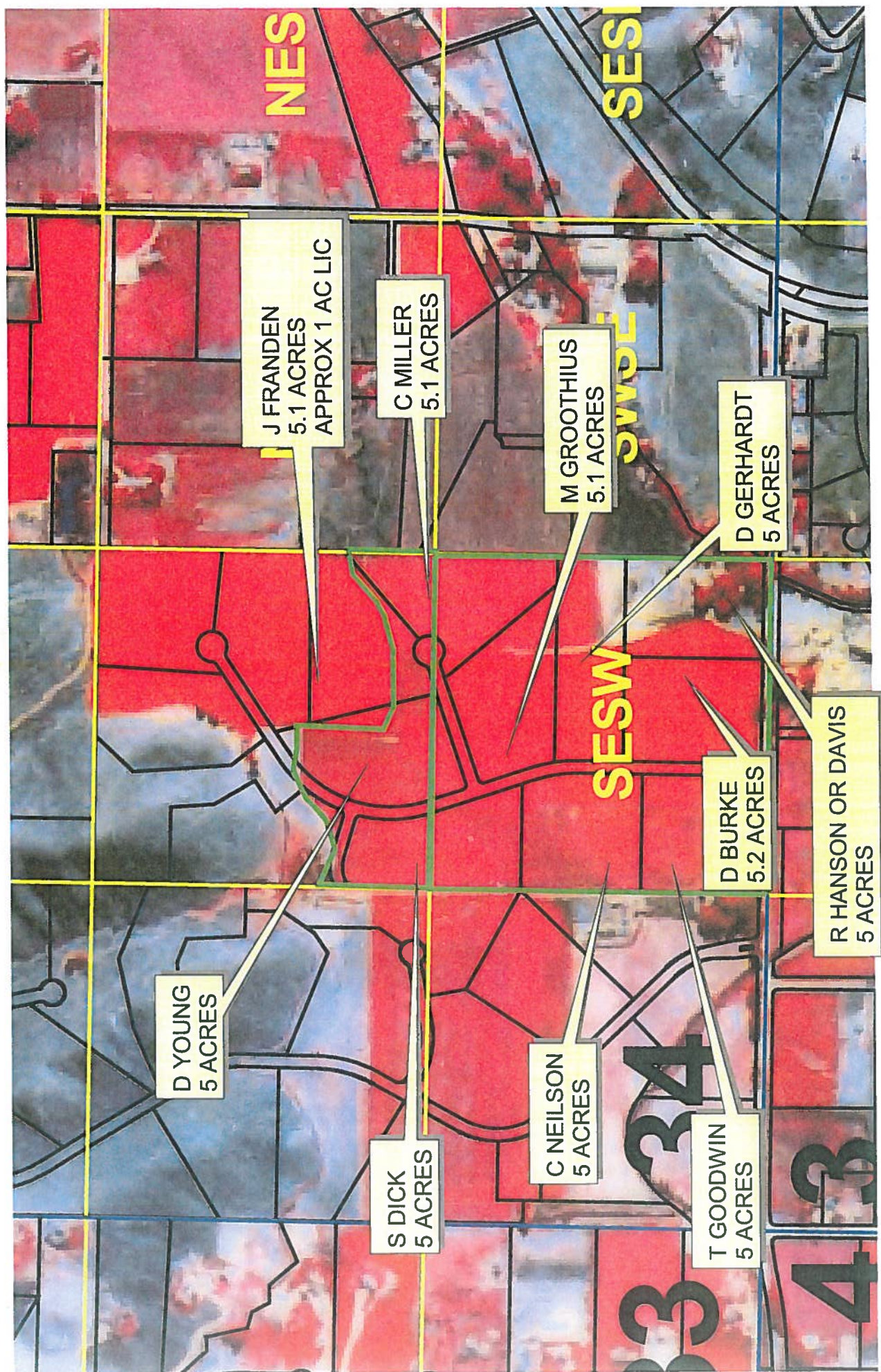
Sincerely,

A handwritten signature in cursive script that reads "Lori Harris". The signature is written in dark ink and is positioned above the typed name and title.

Lori Harris
Technical Records Specialist
Adjudication Section
Western Region Office

LH: lh
Enclosures

cc: Steve Hannula-ERO Resources



63-2963 license [groundwater] and 63-18591 [b/u based on license from Dry Creek].

Idaho Department of Water Resources



SRBA Recommendation:
63-32589
(Irrigation)

Legend

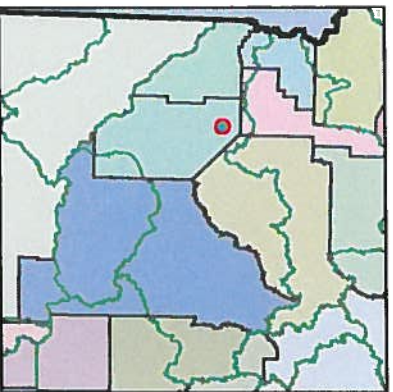
 Point of Diversion

 Place of Use

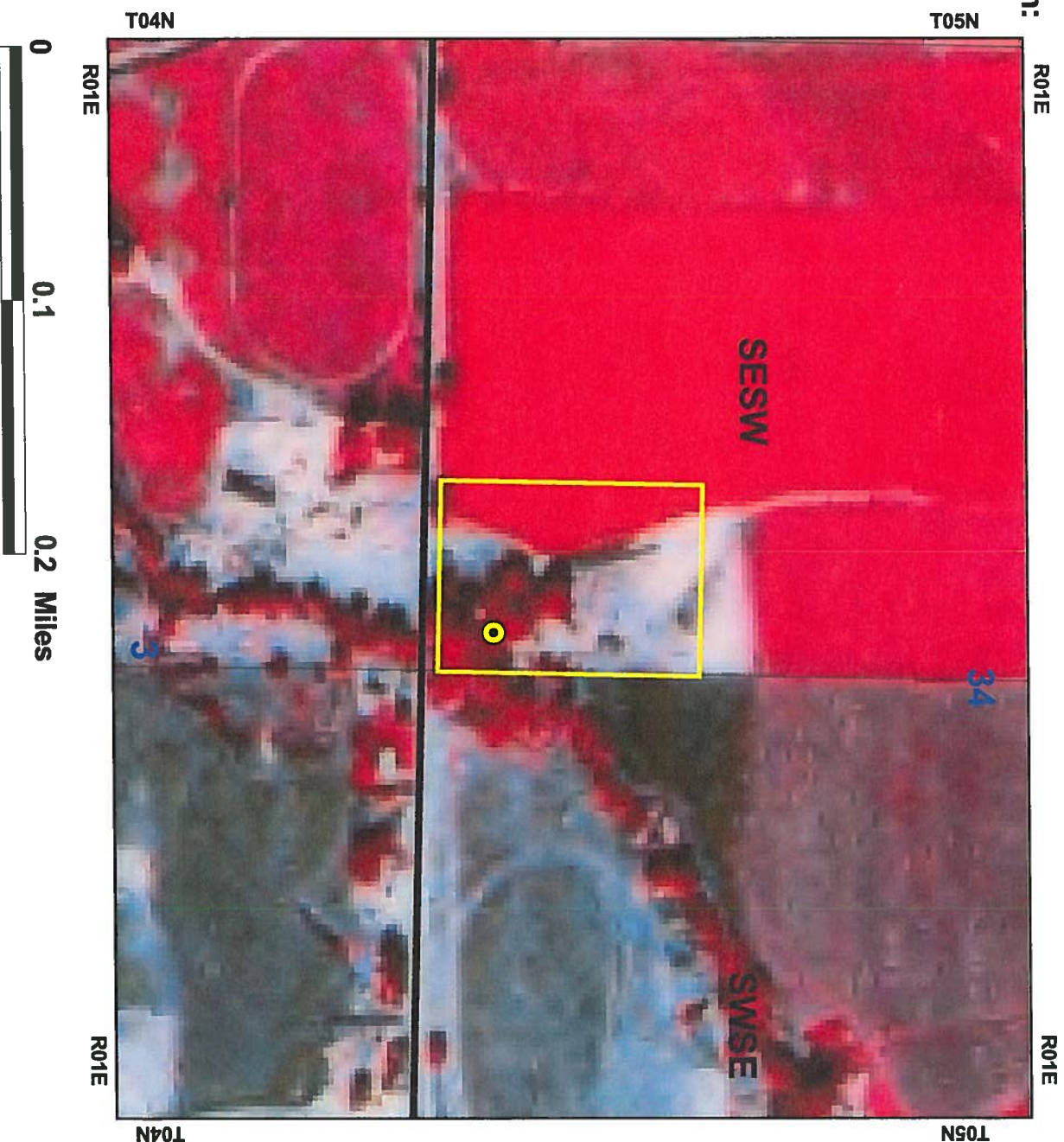
 Townships

 PLS Sections

 Quarter Quarters



Ada County
IDWR Basin 63



Prepared by V. Music
On Friday, March 23, 2007
1987/88 Aerial Photography