

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication **Recommendation** Report 67-355D V1

WATER RIGHT NUMBER: 67-355D V1

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	WILLIAM H SPAHR COUNCIL, ID 83612
Directors Report Owner	ED E ENGEL 2483 ORCHARD RD COUNCIL, ID 83612-5219 (208)253-4830
Original Owner	DIANE SMITH 11877 GOLDENROD AVE BOISE, ID 83713
Original Owner	DESERT SHEEP CO , ID
Directors Report Owner	SHIRLEY A ENGEL 2483 ORCHARD RD COUNCIL, ID 83612-5219 (208)253-4830
Current Owner	KURT SMITH 2483 ORCHARD COUNCIL, ID 83612 (208) 368-2980

Priority Date: 05/01/1884

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
MILL CREEK	WEISER RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	07/01 to 11/15	0.110 CFS	
	<u>Total Diversion:</u>	0.110 CFS	

Location of Point(s) of Diversion

MILL CREEK	NE1/4SW1/4	Sec. 36, Twp 17N, Rge 01W, B.M.
ADAMS County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N	01W	36																	26.0
																			26.0

Total Acres: 26

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 67-355D V1

Conditions of Approval:

1. E52 The rights listed below are limited to a total combined diversion rate of 0.52 cfs. Combined Right Nos.: 67-348D, 67-355D, 67-363F, and 67-4158.
2. E56 The rights listed below are limited to the irrigation of a combined total of 26.0 acres in a single irrigation season. Combined Right Nos.: 67-348D, 67-355D, 67-363F, and 67-4158.
3. 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.
4. K06 This right is limited to the irrigation of 8.8 acres within the place of use described above in a single irrigation season.

Remarks:

Comments:

1. csaxton 11/25/2005 TR 884
Comment: Recommend per TR 884.

2. csaxton 11/25/2005 POD
Comment: TR 884 puts POD in SENW of Section 36. Recommend POD in NESW of Section 35. I do not think this was an actual change in POD as Mill Creek does not flow through the SENW of Section 36. No accomplished change in POD.

Water Supply Bank:

11/25/2005

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

RIGHT NUMBER: 67-355D

NAME AND ADDRESS: DIANE SMITH
11877 GOLDENROD AVE
BOISE ID 83713

KURT SMITH
11877 GOLDENROD AVE
BOISE ID 83713

SOURCE: MILL CREEK

TRIBUTARY: WEISER RIVER

QUANTITY: 0.110 CFS

The rights listed below are limited to a total combined diversion rate of 0.52 cfs. Combined Right Nos.: 67-348D, 67-355D, 67-363F, and 67-4158.

PRIORITY DATE: 05/01/1884

POINT OF DIVERSION:

T17N R01W S36 NESW Within ADAMS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	07/01 11/15	0.110 CFS

PLACE OF USE: IRRIGATION Within ADAMS County

T17N R01W S36 NWSW 26.0

26 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 26.0 acres in a single irrigation season. Combined Right Nos.: 67-348D, 67-355D, 67-363F, and 67-4158.

This right is limited to the irrigation of 8.8 acres within the place of use described above 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 - Decreed



Idaho Department of Water Resources

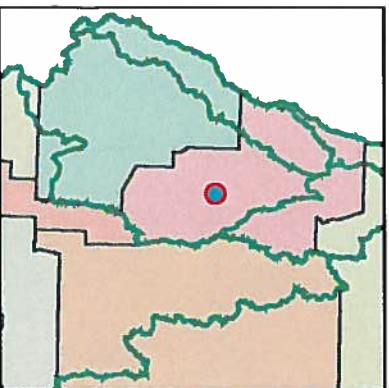
Adjudication Claim Number:

67-348D, 67-355D, 67-363F, 67-4158

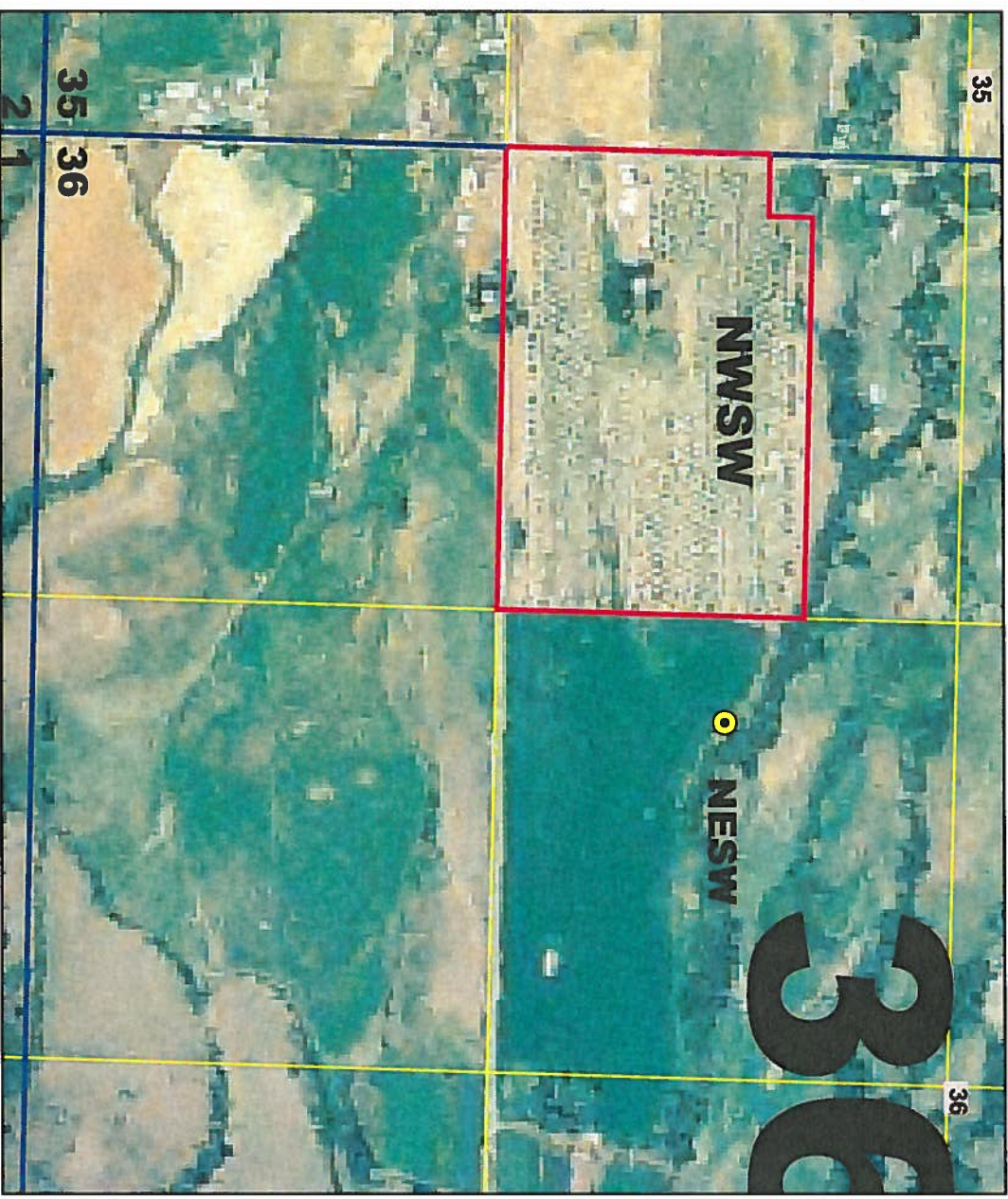
**T16N R01W
T17N R01W**

Legend

- Point of Diversion
- Place of Use
- B67 sections.shp
- T16n01w.shp
- T17n01w.shp



Adams County
IDWR Basin 67



Prepared by C. Saxton
On Friday, November 25, 2005
1987 Aerial Photography

IDAHO DEPARTMENT OF WATER RESOURCES

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	, ID
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Priority Date: 05/01/1884

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
MILL CREEK	WEISER RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
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Location of Point(s) of Diversion

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ADAMS County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N	01W	36																	26.0

Total Acres: 26

IDAHO DEPARTMENT OF WATER RESOURCES
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Remarks:Comments:

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Comment: Recommend per TR 884.

2. csaxton 11/25/2005 POD
Comment: TR 884 puts POD in SENW of Section 36. Recommend POD in NESW of Section 35. I do not think this was an actual change in POD as Mill Creek does not flow through the SENW of Section 36. No accomplished change in POD.

Dates and Other Information:

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag:
State or Federal: S
Owner Name Connector: OR
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Priority Date	7/30/2004 12:59:33 PM	segbert			Active
POD	7/30/2004 1:01:47 PM	segbert			Active
Source	7/30/2004 1:02:11 PM	segbert			Active
POU	7/30/2004 1:02:24 PM	segbert			Active
Use	7/30/2004 1:05:19 PM	segbert			Active
Season	7/30/2004 1:05:39 PM	segbert			Active

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-355D V1

Quantity	7/30/2004 1:05:56 PM	segbert	Active
Contacts	11/25/2005 3:06:56 PM	csaxton	Active
Priority Date	11/25/2005 3:07:20 PM	csaxton	Active
POD	11/25/2005 3:12:34 PM	csaxton	Active
Source	11/25/2005 3:13:24 PM	csaxton	Active
POU	11/25/2005 3:13:44 PM	csaxton	Active
Use	11/25/2005 3:16:32 PM	csaxton	Active
Season	11/25/2005 3:16:59 PM	csaxton	Active
Quantity	11/25/2005 3:17:52 PM	csaxton	Active
Summary	11/25/2005	csaxton	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
Priority Date	7/30/2004 12:59:33 PM	segbert	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (Yes) 4. Is the basis of claim decree or license? (Yes) 5. Does the decree or license have a Priority Date? (Yes) 6. Did the Claimant claim the decreed or licensed Priority Date ? (Yes) 15. Is the basis of claim coded correctly?
POU	7/30/2004 1:03:52 PM	segbert	Edited shape boundary
Use	7/30/2004 1:05:19 PM	segbert	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a Purpose of Use? (Yes) 5. Can the claimed Purpose of Use be verified using the water right file?
Season	7/30/2004 1:05:38 PM	segbert	(Yes) 1. Is the basis of claim Decree or License? (No) 4. Does the Decree or License have a Period of Use? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined? (Yes) 15. Is irrigation claimed as a Purpose of Use?
Quantity	7/30/2004 1:05:55 PM	segbert	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a diversion rate and/or volume?
POD	7/30/2004 1:01:47 PM	segbert	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a POD?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-355D V1

Source	7/30/2004 1:02:11 PM	segbert	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a source? (Yes) 5. Can the claimed source be verified using the water right file?
POU	7/30/2004 1:02:24 PM	segbert	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 2a. Is the POU required? (Yes) 5. Does the Decree or License have a POU?
POU	11/25/2005 3:15:28 PM	csaxton	Updated shape for 0
Contacts	11/25/2005 3:07:09 PM	csaxton	(No) 1. Do you want to schedule an appointment? Comment for 1: Desktop Review
General	11/25/2005 3:07:33 PM	csaxton	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (Yes) 4. Is the basis of claim decree or license? (Yes) 5. Does the decree or license have a Priority Date? (Yes) 6. Did the Claimant claim the decreed or licensed Priority Date ? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required?
POU	11/25/2005 3:15:07 PM	csaxton	Updated shape for Active POU
POU	11/25/2005 3:15:24 PM	csaxton	Updated shape for 0
POU	11/25/2005 3:15:25 PM	csaxton	Updated shape for 0
POU	11/25/2005 3:15:25 PM	csaxton	Updated shape for 0
POU	11/25/2005 3:15:26 PM	csaxton	Updated shape for 0
Use	11/25/2005 3:16:47 PM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a Purpose of Use? (Yes) 5. Can the claimed Purpose of Use be verified using the water right file? (No) 13. Is a Purpose of Use remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-355D V1

Season	11/25/2005 3:17:14 PM	csaxton	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a Period of Use? (Yes) 5. Can the claimed Period of Use be verified using the water right file? (Yes) 14. Is irrigation claimed as a Purpose of Use? (Yes) 16. Is the Period of Use on the decree, license or transfer shorter on either the start date or end date than allowable under current IDWR standards? (Yes) 17. Was the Period of Use shortened by a Transfer to a standard Period of Use that is shorter than the current standard Period of Use? (No) 18. Is a Period of Use remark and/or condition required?
POU	11/25/2005 3:15:13 PM	csaxton	Updated shape for 67 348 d
POD	11/25/2005 3:12:48 PM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a POD? (Yes) 5. Can the claimed POD be verified using the water right file? (No) 10. Is a POD remark and/or condition required?
Source	11/25/2005 3:13:38 PM	csaxton	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a source? (Yes) 5. Can the claimed source be verified using the water right file? (No) 11. Is a Source remark and/or condition required?
POU	11/25/2005 3:13:59 PM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 2a. Is the POU required? (Yes) 5. Does the Decree or License have a POU? (Yes) 6. Can the claimed POU be verified using the water right file? (Yes) 14. Is a POU remark and/or condition required?
POU	11/25/2005 3:15:18 PM	csaxton	Updated shape for 67 363 f
POU	11/25/2005 3:15:22 PM	csaxton	Updated shape for 67 4158
POU	11/25/2005 3:15:22 PM	csaxton	Updated shape for 0
POU	11/25/2005 3:15:23 PM	csaxton	Updated shape for 0
POU	11/25/2005 3:15:23 PM	csaxton	Updated shape for 0
POU	11/25/2005 3:15:24 PM	csaxton	Updated shape for 0
POU	11/25/2005 3:15:25 PM	csaxton	Updated shape for 0
POU	11/25/2005 3:15:26 PM	csaxton	Updated shape for 0
POU	11/25/2005 3:15:26 PM	csaxton	Updated shape for 0

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-355D V1

POU	11/25/2005 3:15:27 PM	csaxton	Updated shape for 0
POU	11/25/2005 3:15:27 PM	csaxton	Updated shape for 0
POU	11/25/2005 3:15:28 PM	csaxton	Updated shape for 0
POU	11/25/2005 3:15:29 PM	csaxton	Updated shape for 0
POU	11/25/2005 3:16:27 PM	csaxton	Updated PLS for Active POU
POU	11/25/2005 3:16:29 PM	csaxton	Updated PLS for 67 348 d
POU	11/25/2005 3:16:31 PM	csaxton	Updated PLS for 67 363 f
POU	11/25/2005 3:16:32 PM	csaxton	Updated PLS for 67 4158
POD	11/25/2005 3:13:04 PM	csaxton	Updated shape
POD	11/25/2005 3:13:18 PM	csaxton	Updated PLS
Quantity	11/25/2005 3:18:07 PM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a diversion rate and/or volume? (Yes) 5. Can the claimed diversion rate and/or volume be verified using the water right file? (No) 8. Does the parent right have an annual diversion volume limit? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (Yes) 12. Is a Quantity remark or condition required?
Summary	11/25/2005 3:22:39 PM	csaxton	(Yes) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture? (Yes) 5. Does this right have any combined use limits with other rights? (Yes) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (Yes) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?

Water Supply Bank:

Priority Date Data Entry Form

Claim Number 67-355D

Claimed Priority Date: 5/1/1884

Claimed Basis: Decreed

 X Use Claimed Priority Date and Basis as Recommended Priority Date and Basis

Water Right Priority Date: 5/1/1884

Water Right Basis: Decreed

Recommended Priority Date __ __ __ Recommended Basis _____

Document the evidence submitted/reviewed for the priority date claimed, include your analysis of the evidence:

Point of Diversion and Source Data Entry Form

Claim Number **67-355D**

Claimed Point of Diversion and Source

T17N R01W S36 NWSEW Within ADAMS County Source: MILL CREEK WEISER RIVER

☐ Use Claimed POD and Source as Recommended POD and Source

Water Right Point of Diversion and Source

T17N R01W S36 SENW Within ADAMS County

Recommended Point of Diversion and Source

Source Information

Source

Mill Creek _____

Tributary To

Weiser River _____

_____	_____
_____	_____

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source
17N	1W	36		NESW	Adams	Mill Creek

Other rights from this POD? **67-348D, 67-355D, 67-363F, and 67-4158** _____

Document how the POD and Source were verified:

GPS point taken by Bosco Bosler on 8/2/04: A0014038

Reviewer: **Craig L. Saxton**Date: **11/25/05**

Place Of Use Data Entry Form

Claim Number **67-355D**

Claimed Place Of Use

T17N R01W S36 NWSW 27.0

Total Acres 27

☐ Use Claimed POU as Recommended POU

Water Right Place Of Use

T17N R01W S36 NWSW

Total Acres

Recommended Place of Use

____ See corrections to claimed POU above

Twp	Rge	Sec	QQ	Q	County	Lot Num	Acres	Purpose of Use
17N	1W	36	NWSW		Adams		26.0	Irrigation

Total Acres **26.0**

Document how the POU was verified:

1987 NAPP photography, Adams Co Tax Lot Data, and claimant map_____

Reviewer: **Craig L. Saxton**Date: **11/25/05**

Purpose of Use Data Entry Form

Claim Number 67-355D

Claimed Purpose of Use

Water Use	Number of Homes	Number of Stock	Acre Limit
IRRIGATION			

☒ Use Claimed Purpose of Use as Recommended Purpose of Use

Water Right Purpose of Use

Water Use	Number of Homes	Number of Stock	Acre Limit
IRRIGATION			

Recommended Purpose of Use

Water Use	Number of Homes	Number of Stock	Acre Limit	Number of Other

Document how the Purpose of Use was verified:

Reviewer: Craig L. Saxton

Date: 11/25/05

Period of Use and Quantity Data Entry Form

Claim Number **67-355D**

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
IRRIGATION	3/15	11/15	0.13	

Overall Diversion Rate 0.13 Overall Diversion Volume

 Use Claimed Period of Use and Quantity as Recommended Period of Use and Quantity

Water Right Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
IRRIGATION	7/01	11/15	0.11	

Overall Diversion Rate 0.11 Overall Diversion Volume

Recommended Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
Irrigation	7/01	11/15	0.11	N/A

Overall Diversion Rate **0.11** Overall Diversion Volume **N/A**

Document how the Period of Use and/or Diversion Rate were verified:

Diversion rate recommended per TR 884.

Season of use recommended per TR 884 which splits rights 67-355 and 67-363 into two different seasons of use for two different parcels of Irrigated ground.

Contacts Data Entry Form

Claim Number: 67-355D

Owner Type	Full Name	Address	City	State	Zip	Phone
Original Owner	WILLIAM H SPAHR		COUNCIL	ID	83612	
Original Owner	ED E ENGEL	2483 ORCHARD RD	COUNCIL	ID	83612-521	(208)253-4830
Current Owner	DIANE SMITH	11877 GOLDENROD AVE	BOISE	ID	83713	
Original Owner	DESERT SHEEP CO			ID		
Original Owner	SHIRLEY A ENGEL	2483 ORCHARD RD	COUNCIL	ID	83612-521	(208)253-4830
Current Owner	KURT SMITH	11877 GOLDENROD AVE	BOISE	ID	83713	

Date of Field Exam: Desktop Review Time: _____

Accompanied By: _____ Phone Number: _____

Relationship to Claimant: _____

Directions to Property (if different from above) and/or update owner information:

Ownership information looks accurate _____

Reviewer: **Craig L. Saxton**Date: **11/25/05**

MEMORANDUM

Date: October 14, 2005

To: File 67-355A, 355C, 355D, 67-363C, 67-336E, 67-363F

From: Craig L. Saxton

Subject: Meeting to discuss the validity of TR 884

Claimant of 67-355A, Larry and June Derie, argue that TR 884 did not move 5.5 inches of decreed right from their property. They argued that the full diversion rate defined by decreed right 67-355 (41.6 inches) is applicable to the property they currently own and was never transferred.

Evidence provided from claimant can be summarized by:

- Water Master Records showing delivery of 41.6 of 1884 water to Derie.
- 1980 deed to a portion of the Derie property listing 41.6 inches on the deed.
- Portions of a deed trail evidencing that 67-355, when decreed to the property owned by Mr. Derie now, and was never originally applicable to the 20 acres that TR 884 moved it from and to.
- 1918 deed for the 20 acres now owned by Rice – showing 6.5” of water from Mill creek.

After reviewing the evidence, it was concluded that despite documentation provided by Mr. Derie, **the intent of the transfer was, among other things, to take 5.5 inches from decreed right 67-355 and move that water as defined by TR 884.** The water master delivery records appear to be in violation of TR 884, and the deed provided by Mr. Derie showing 41.6 inches on his property does not out-weigh the administrative action of the transfer.

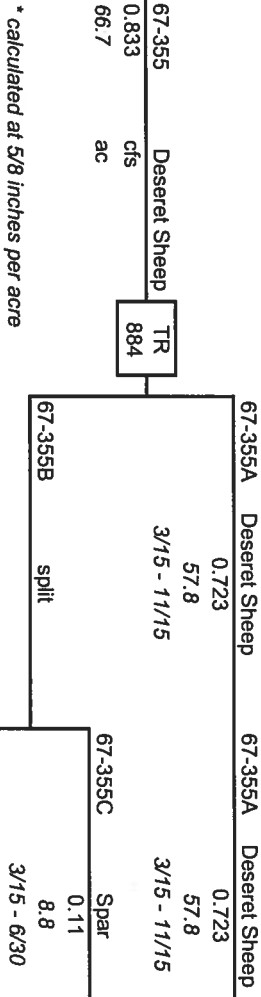
The 6.5 inches applicable to the 20 acres now owned by Rice are not related to the water that was described in TR 884 and therefore does not affect the validity of TR 884 in anyway.

In addition, the owner of the property in which water right 67-355 was applicable to, had no objections to TR 884 and was signed by himself as well as the water master at the time.

My guidance is to recommend SRBA claims associated with TR 884, as defined by TR 884.

Split history for Decreed Right 67-355

WR History



* calculated at 5/8 inches per acre

Claim History

67-355A	Deirie	0.83	67	3/15 - 11/15
67-355C	Rice	0.11	18	3/15 - 6/30
67-355D	Smith	0.13	27	3/15 - 11/15
67-11421	Nelson	0.42	21	3/15 - 11/15

Recommendation

67-355A	Danié	0.723	57.8	3/15 - 11/15
67-355C	Rice	0.11	8.8	3/15 - 6/30
67-355D	Smith	0.11	8.8	3/15 - 11/15
67-11421	Nelson	0.00	0	

*Last updated 11-25-05 (csaxton)

For digital copy of Excel spreadsheet file: See Craig L. Saxton

Desalrow
Ready to go

*ac and cfs for 67-355C and 67-355D are only counted for once in sum calculations due to the split season of use.

Sum CFS =	1.490
Sum Acre=	133
Sum AF =	n/a
Extra CFS =	-0.657
Extra Acre =	-66.3
Extra AFA =	n/a

Sum CFS =	0.833
Sum Acre=	67
Sum AF =	n/a
Extra CFS =	0.000
Extra Acre =	0.1
Extra AFA =	n/a

Claim

Basin	Sequence	Suffix	Basis	Priority Date	Rate(cfs)	Acres	Source	Water Use(s)	Owner(s)	Source Table
67	348	D	Decreed	1878-05-01	0.13	27	MILL CREEK	IRRIGATION	SMITH, DIANE (Cur	wrAdjudicationClaim
67	355	D	Decreed	1884-05-01	0.13	27	MILL CREEK	IRRIGATION	SMITH, DIANE (Cur	wrAdjudicationClaim
67	363	F	Decreed	1889-05-01	0.1	27	MILL CREEK	IRRIGATION	SMITH, DIANE (Cur	wrAdjudicationClaim
67	4158		Statutory	1878-06-01	0.2		MILL CREEK	IRRIGATION	SMITH, DIANE (Cur	wrAdjudicationClaim
67	11430		Decreed	1889-05-01	0.095	27	MILL CREEK	IRRIGATION	SMITH, DIANE (Cur	wrAdjudicationClaim

67 359 Decreed 1889-05-01 0.43 MILL CREEK IRRIGATION POYNER, J D (Cur wrWaterRight

Not claimed but applicable to the claimants property. However, looking at water master delivery records, it appears that 67-359 is delivered to Balderson in full and "in the field" is not applicable to Smiths property

Water master records	Inches	Priority
22 P17N01W3612BALDERSON, G	\$ 17.20 \$15.06 21.5	359 POYNER 5/1/89

Recommendation

Basin	Sequence	Suffix	Basis	Priority Date	Rate(cfs)	Acres	Source	Water Use(s)	Owner(s)	Source Table
67	348	D	Decreed	1878-05-01	0.13	26	MILL CREEK	IRRIGATION	SMITH, DIANE (Cur	wrAdjudicationClaim
67	355	D	Decreed	1884-05-01	0.11	8.8	MILL CREEK	IRRIGATION	SMITH, DIANE (Cur	wrAdjudicationClaim
67	363	F	Decreed	1889-05-01	0.095	7.6	MILL CREEK	IRRIGATION	SMITH, DIANE (Cur	wrAdjudicationClaim
67	11430		Decreed	1889-05-01	0	0	MILL CREEK	IRRIGATION	SMITH, DIANE (Cur	wrAdjudicationClaim
					Sum CFS:	0.335				

Inches = 16.75
@ 5/8" = 26.8 Acres

Recommend Stat water to bring flood water in combination with decreed water up to 1" per acre for the full irrigation season - no EOP needed.

0.80

Disallow: Re-claims 67-363 which is covered and claims portion of 67-359 which is not applicable to this ground.

Water master records	Inches	Priority
21 P17N01W3654SMITH, KURT	\$ 5.20 \$4.56 6.5	348-448 TRANS 5/1/78
21 P17N01W3654SMITH, KURT	\$ 4.40 \$3.86 5.5	449 WH SPAHR 5/1/84

This should be 67-355
This is only 67-348
*Water master doesn't show delivery of 67-355 per TR 884

MEMORANDUM

Date: July 15, 2005

To: File

From: Monica Van Bussum

RE: SRBA claims 67-355A, 67-355C, 67-355D, 67-363C, 67-363E, 67-363F, 67-14097, and 67-11421

Attached: Spreadsheet of water history and copy of Transfer 884

This note is being put in all files to explain allocation of water after Transfer 884, and to aid the reviewer in doing the final recommendations for these claims.

The Muir v. Allison Decree and Transfer 884

67-355

Basic decree facts:

Users: Deseret Sheep Company sub for CA Martin, Grantee of Margaret Krigbaum

Source: Mill Creek

Quantity: 41 2/3 inches = 0.83 cfs

POU: 66.7 acres at 5/8 inch to the acre

NWSE, NESE, SWSE, SESE (or, southeast quarter) of Section 34 T17N R01W

67-363

Basic decree facts:

Users: James A Huston Jr and William Spahr, Grantees of John and JD Poyner

Source: Mill Creek

Quantity: 16 inches = 0.32 cfs

POU: 25.6 acres at 5/8 inch to the acre

NWNW, SWNW, NWSW of Section 36, T17N R01W

Transfer 884

Transfer 884 was signed 29 May 1957. This transfer pertains to decreed rights 67-355 and 67-363. William Spahr was the owner of two tracts of land, one tract overlain by 355 water and another overlain by 363 water.

Spahr wanted to change the place of use for his 355 and 363 water, but only during a certain part of the season. He wanted to combine the 355 and 363 water onto 355 POU from 03/15 to 06/30 and then he wanted to combine the use of 355 and 363 water onto the 363 POU from 07/01 to 11/15. In essence, he wanted more water on the 355 POU early in the year, and then stop watering the 355 POU on 07/01 to put all the water on the 363 POU.

Since Spahr only owned part of the decreed POU for 355 and 363, when the transfer was approved and signed, decreed rights 355 and 363 were essentially split into three parts. One part of each, the larger portion, remained as it had been with the water/acreage going to parties holding the land not owned by Spahr. Two parts were dedicated to Spahr's new rights (one with a designated irrigation season 03/15 to 06/30 for the 355 POU and the other with a designated irrigation season 07/01 to 11/15 for the 363 POU). Hence, there are two splits of 355 with Spahr's name, each with a different POU and season of irrigation and the same for 363. For more information, see the left-hand tables in the attached spreadsheet.

5.5 (=0.11 cfs) inches of 355 water were allotted for this task, as were 4.75 (=0.095 cfs) inches of 363 water.

SRBA claims

For more information on the claims, see the right hand side of attached spreadsheet.

67-355

355C

Quantity: 0.11 cfs (= 5.5 inches)

Acreage: 18

Season: 03/15 to 06/30

The claimant is claiming Spahr's split of 355 (355C) for the first part of the irrigation. This complies with what we know about the outcome of Transfer 884 and appears good to go, perhaps with moderate acreage modification. This is also on the same POU as Spahr's 355 land, also making us good to go.

355D

Quantity: 0.13 cfs (= 6.5 inches)

Acreage: 27

Season : 03/15 to 11/15

This claim will have to be modified in order to be recommended. It claims a POU on Spahr's 355D property (part of the original 363 POU), but includes the entire irrigation season. We can recommend the acreage, but will have to modify season of use to 07/01

to 11/15 and quantity to 0.11 cfs to comply with Transfer 884. Spahr was not allowed to use 355 water on this POU from 03/15 to 06/30.

355A

Quantity: 0.83 cfs

Acreage: 67

Season: 03/15 to 11/15

This claim will have to be modified in order to be recommended. It appears to claim all of the original Muir v. Allison decreed quantity and acreage. Since a transfer was approved in 1959, the claim will have to be modified to comply with the transfer. The quantity will have to be modified to 0.723 cfs (0.83 was the original decreed amount and Transfer 884 appropriated 0.11 cfs as noted above, so $0.83 - 0.11 = 0.723$). The acreage may have to be modified as well. The season of use will not have to be modified.

11421

Quantity: 0.42 cfs

Acreage: 21

Season: 03/15 to 11/15

There is a long remark on 11421 that is probably worth reading. In short, it suggests 11421 may need to have its basis amended to decreed and related to 67-355. We do not believe this is the case, as all 355 water has already been appropriated, and properly so.

67-363

363C

Quantity: 0.1 cfs

Acreage: 18

Season: 03/15 – 06/30

The same claimant claiming 355C is claiming 363C. This is appropriate, as it follows Spahr's 363C water right. This claim can be recommended as is, with maybe some slight acreage modifications depending on the lay of the land. The quantity also would be more appropriately recommended as 0.095 to comply with the 4.75 inches of 363 water mentioned in the transfer.

363E

Quantity: 0.32

Acreage: 38

Season: 03/15 – 11/05

There is documentation in the 363 backfile of this claimant writing to determine when their water right was reduced. They have claimed the full water right, but this will have

to be modified in accordance with Transfer 884. Probably they should have claimed the 363A allotment of 0.225 cfs (the flow left over after Spahr's transfer with $0.32 - 0.095 = 0.225$), and that is how we should recommend it.

363F

Quantity: 0.1

Acreage: 27

Season: 07/01-11/15

The same claimant claiming 355D is claiming 363F. This is appropriate, as it follows Spahr's 363D water right. This claim can be recommended as is, with maybe some slight acreage modifications depending on the lay of the land. The quantity also would be more appropriately recommended as 0.095 to comply with the 4.75 inches of 363 water mentioned in the transfer.

14097

Quantity: 0.530 cfs

Acreage: 40 (see note below)

Season: 07/01 – 11/15

The notes in this file say it is a combination of 363D and 67-359. The full 14097 claim is for 0.530 cfs. 363D was originally claimed for 07/01 to 11/15, but when it was combined with 359, the irrigation season was changed to 03/15 to 11/15. It appears this claim should not be recommended for 363 water, but we should recommend it as 359 water. All of the 363 water has apparently been appropriated by the other 363 claims, and properly so.

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

(Desert Sheep Co. sub. for
C.A. Martin, Grantee for
Margaret Krigbaum.

Certificate of Water Right
Transferred Right No. 884

THIS IS TO CERTIFY That W. H. Spahr, of Council, Idaho, is the owner of, and using a certain water right for 5.50 miner's inches with priority of May 1, 1884, and 4.75 miner's inches with priority of May 1, 1889 from the waters of Mill Creek, a tributary of Weiser River, decreed in the name of Desert Sheep Co., sub. for C.A. Martin, Grantee for Margaret Krigbaum, and Huston and Spahr, respectively, By Decree of District Court of the seventh judicial District, in the case of:

MUIR BROS., Plaintiffs

-vs-

William Allison et al,
Defendants

That said decree has been entered in the records of the State Department of Reclamation, in volume 4 of Decrees, beginning at page 354 and bearing date of June 20, 1921.

That said 5.50 miner inches, with date of priority of May 1, 1884, is made appurtenant by said decree to the following described lands to-wit:

- (1) All that part of the SE $\frac{1}{4}$ of Section 34 in Township 17 North, Range 1 West Boise Meridian, particularly described as follows:

Commencing at the Northeast corner of the Southeast Quarter of said Section 34, said Township and Range, and running thence South along the East line of said Section 34, a distance of 507 feet; thence West, at right angles, 1781 feet, more or less, to the East line of the right of way of the Pacific and Idaho Northern Railway Company (now Union Pacific Railroad Company) right of way; thence northerly on and along the easterly line of said railway right of way, 521.5 feet, more or less, to a point on the North line of the Southeast Quarter of said Section 34; thence East, on and along the North line of the Southeast Quarter of said Section 34, a distance of 1659 feet, more or less, to the point and place of beginning, and containing approximately 20.8 acres.

That said 4.75 inches, with date of priority of May 1, 1889 is made appurtenant by said decree to the following described lands to-wit:

- (2) The South 27 acres of the Northwest Quarter of the Southwest Quarter of Section 36, in Township 17 North, Range 1 West, Boise Meridian, in Adams County, Idaho.

That said water is to be limited at any given time to an amount actually needed and beneficially used for such purposes, and shall not exceed the following amount, to-wit:

5.5 miner inches with priority of May 1, 1884, and
4.75 miner inches with priority of May 1, 1889

RECORDED

And that now, upon the application of W. H. Spahr of Council, Idaho, for the transfer of 5.50 miner inches of the waters of Mill Creek, with priority of May 1, 1884, made before the State Reclamation Engineer of the State of Idaho, and said application having been granted, by this certificate, the right to the use of said water shall remain appurtenant to the following described lands, to-wit:

- (1) All that part of the SE¹ of Section 34, in Township 17 North, Range 1 West Boise, Meridian, particularly described as follows:

Commencing at the Northeast corner of the Southeast Quarter of said Section 34, said Township and Range, and running thence South along the East line of said Section 34, a distance of 507 feet; thence West, at right angles, 1781 feet, more or less, to the East line of the right of way of the Pacific and Idaho Northern Railway Company (now Union Pacific Railroad Company) right of way; thence northerly on and along the easterly line of said railway right of way, 521.5 feet, more or less, to a point on the North line of the Southeast Quarter of said Section 34; thence East, on and along the North line of the Southeast Quarter of said Section 34, a distance of 1659 feet, more or less, to the point and place of beginning, and containing approximately 20.8 acres,

Said 5.50 miner inches of water to be used on the above described lands From the beginning of the irrigation season until July 1, of each year.

By this certificate, the right of use of the said 5.50 miner inches, is hereby transferred and made appurtenant to the following described lands, to-wit:

- (2) The South 27 acres of the Northwest Quarter of the Southwest Quarter of Section 36, in Township 17 North, Range 1 West, Boise Meridian, in Adams County, Idaho,

and to be used on the last above described lands from July 1, to the end of the irrigation season of each year.

And that now, upon the application of W. H. Spahr of Council, Idaho, for the transfer of 4.75 miner inches of the waters of Mill Creek, with priority of May 1, 1889, made before the State Reclamation Engineer, of the State of Idaho, and said application having been granted, by this certificate, the right to the use of said water, shall remain appurtenant to the following described lands, to-wit:

- (2) The South 27 acres of the Northwest Quarter of the Southwest Quarter of Section 36, in Township 17 North, Range 1 West, Boise Meridian, in Adams County, Idaho.

Said 4.75 miner inches to be used on the above described lands from July 1, to the end of the irrigation season of each year, and by said certificate of transfer, the right is hereby granted to transfer the use of 4.75 miner inches to the following described lands, to-wit:

(1) All that part of the SE $\frac{1}{4}$ of Section 34 in Township 17 North, Range 1 West Boise Meridian, particularly described as follows:

Commencing at the Northeast corner of the Southeast Quarter of said Section 34, said Township and Range, and running thence South along the East line of said Section 34, a distance of 507 feet; thence West, at right angles, 1781 feet, more or less, to the East line of the right of way of the Pacific and Idaho Northern Railway Company (now Union Pacific Railroad Company) right of way; thence northerly on and along the easterly line of said railway right of way, 521.5 feet, more or less, to a point on the North line of the Southeast Quarter of said Section 34; thence East, on and along the North line of the Southeast Quarter of said Section 34, a distance of 1659 feet, more or less, to the point and place of beginning, and containing approximately 20.8 acres,

and to be used on the last above described lands from the beginning of the irrigation season until July 1, of each year.

That the water right hereby transferred has heretofore been diverted from Mill Creek as follows:

That the 5.50 miner inches appurtenant to lands in Section 34 in Township 17 North, Range 1 West B.M. through a private ditch with point of diversion in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 35, Township 17 North, Range 1 West, B.M.

That the 4.75 miner inches of water appurtenant to lands in Section 36, Township 17 North, Range 1 West, B.M. through a private ditch with point of diversion in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 36, Township 17 North, Range 1 West, B.M.

That the water right hereby transferred will hereafter be diverted from Mill Creek, with point of diversion described as being in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 35, Township 17 North, Range 1 West, B.M. from the beginning of the irrigation season to July 1, of each year, and from a point of diversion from Mill Creek described as being in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 36, Township 17 North, Range 1 West, B.M., From July 1, to the end of the irrigation season of each year.

That the right to the use of the water aforesaid, hereby confirmed is restricted to and according to the above stated provisions, as provided by the Laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto-affixed, at Boise, Idaho, this 29th day of May, 1957.

Mark R. Kulp
MARK R. KULP

State Reclamation Engineer



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 31, 2003

KURT SMITH
DIANE SMITH
11877 GOLDENROD AVE
BOISE ID 83713

Re: Notice of Claim to a Water Right No. 67-348D, 67-363F, 67-355D, 67-4158 & 67-11430

Dear Claimant(s):

Enclosed is a copy of the above referenced claim(s), which reflects the change in ownership of the land and appurtenant water rights, covered under the original filing.

Please note that the enclosed Notice of Claim to a Water Right is not a determination of your water right. This claim was filed during claims taking in the Snake River Basin Adjudication (SRBA) and has not yet been verified by this Department. Water rights are established and maintained by beneficial use of water for the uses designated on this claim form dating back to the priority date listed. This claim will be investigated, verified and recommended to the SRBA Court for court decree sometime in the near future. You will be notified prior to the beginning of any verification of this water right.

Thank you for your patience and cooperation, as we have had several water right changes to process. If you have any questions concerning the enclosed claim(s), please feel free to contact this office.

Sincerely,

Denise Hatfield
Office Specialist 1
Adjudication Section
Western Region Office

DH: dh

Enclosure

CLAIMANT'S NAME: Ed EngelDATE: 1/4/90EMPLOYEE: Helen Harrington-ThornumRE: Variation of diversion rate of adjudication claim and
Decreed Rt.

I assisted Mr. Engel today; he did not have an appointment. He had a list of three priority dates with #s of inches. He said he had 6.5" of water with an 1884 priority. I researched in the computer and found 67-00355D appurtenant to the property but told him it was for only 5½". I explained to him that there certainly could be other water but if the basis of his claim was this decreed rt, it was only for 5½".

He said he didn't have any time before the filing deadline to find out any information (deadline was next day).

I explained to him that he should file claims based on what he believed his water rights were, although there discrepancies if the decreed water was 5½".

He is fully aware that his claim does not coincide with the decreed right, and he was presented with options of filing a separate claim, using some other basis of claim, or doing what he did - to claim his 6.5" on the ~~de~~ claim regardless of the basis of claim.

MICROFILMED

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 67-355D

WATER RIGHT NUMBER: 67-355D

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	WILLIAM H SPAHR
	COUNCIL, ID 83612
Directors Report Owner	ED E ENGEL 2483 ORCHARD RD COUNCIL, ID 83612-5219 (208)253-4830
Original Owner	DIANE SMITH 11877 GOLDENROD AVE BOISE, ID 83713
Original Owner	DESERT SHEEP CO
	, ID
Directors Report Owner	SHIRLEY A ENGEL 2483 ORCHARD RD COUNCIL, ID 83612-5219 (208)253-4830
Current Owner	KURT SMITH 2483 ORCHARD COUNCIL, ID 83612 (208) 368-2980

Priority Date: 05/01/1884

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
MILL CREEK	WEISER RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/15 to 11/15	0.130 CFS	
	<u>Total Diversion:</u>	0.130 CFS	

Location of Point(s) of Diversion

MILL CREEK	NW1/4SE1/4NW1/4	Sec. 36, Twp 17N, Rge 01W, B.M.
ADAMS County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N	01W	36																	27.0

Total Acres: 27

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report 67-355D

Conditions of Approval:

1. Ownership changed by DH 7/31/2003

Remarks:

Comments:

Water Supply Bank:

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 67-355D
Date Received: 1/4/1990
Receipt No: C013818
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

KURT SMITH
11877 GOLDENROD AVE
BOISE ID USA 83713

Phone: (208) 377-9319

DIANE SMITH
11877 GOLDENROD AVE
BOISE ID USA 83713

Phone: (208) 377-9319

2. Date of Priority: 05/01/1884

3. Source: MILL CREEK Trib. to: WEISER RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
17N	01W	36	NW SE NW	ADAMS	

5. Description of diverting works:

PIPE, UNDERGROUND STANDPIPE SYSTEM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/15	0.13	

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

8. Total consumptive use:

SCANNED
APR 02 2004

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
17N	01W	36	NW	SW	IRRIGATION	27
					Section Acres	27
					Total Acres	27

11. Place of use in counties: ADAMS

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

13. Other Water Rights Used:

14. Remarks:

Ownership changed by DH 7/31/2003

15. Basis of Claim: Decreed

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

RECEIVED**JUL 25 2003****WATER RESOURCES
WESTERN REGION**

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
67-363 F	67-363 E	—	_____	_____	—
67-00348 D	_____	—	_____	_____	—
A67-04158	_____	—	_____	_____	—
A67-00355 D	_____	—	_____	_____	—
A67-11430	_____	—	_____	_____	—

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) ED & SHIRLEY ENGEL
4. New Owner/Claimant(s) HC 62 BOX 1310, COUNCIL, ID, 83612
~~COUNCIL ID 83612~~ KURT & DIANE SMITH
 Name Connector (Check one): ☐ and, ☐ or, ☒ and/or
- New Mailing Address 11877 GOLDENROD AVENUE
- City, State and ZIP Code BOISE ID 83713
- New Telephone Number (208) 377-9319
5. Date you acquired the property 5/19/03

INSTRUMENT NO. **103767**
PAGE 1 OF 2

Instrument # **103767**

COUNCIL, ADAMS, IDAHO

2003-05-19

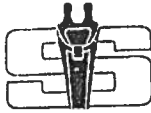
03:09:18 No. of Pages: 2

Recorded for : TIMBERLINE TITLE & ESCROW

MICHAEL FISK

Fee: \$600

Ex-Officio Recorder Deputy *Sarah J. Wilken*
Index to DEED



WARRANTY DEED

For Value Received ED ENGEL, AN UNMARRIED MAN AND SHIRLEY ENGEL, AN UNMARRIED WOMAN, WHO ACQUIRED TITLE AS ED ENGEL AND SHIRLEY ENGEL, HUSBAND AND WIFE

the Grantor hereby grants, bargains, sells, conveys and warrants unto KURT B. SMITH & DIANE E. SMITH, husband and wife

the Grantee whose current address is: 11877 Goldenrod Ave., Boise, ID 83713
the following described premises, to-wit:

AS PER LEGAL DESCRIPTION ATTACHED HERETO

Parcel Number: RP17N01W365400A

SUBJECT TO: Current General Taxes, a lien in the process of assessment, not yet due or payable. Easements, restrictions, reservations, provisions of record, and assessments, if any.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, their heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that it is the owner in fee simple of said premises; that said premises are free from all encumbrances and that he will warrant and defend the same from all lawful claims whatsoever.

Dated: May 14, 2003

ED ENGEL

Shirley Engel
SHIRLEY ENGEL

State of California

County of Tulare ss.

On this 15TH day of May, 2003, before me, the undersigned, a Notary Public, in and for said State, personally appeared

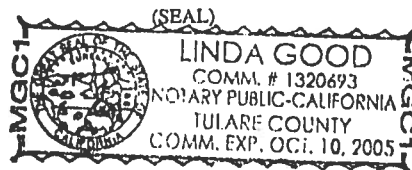
Shirley Engel, known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that she executed the same.

WITNESS MY HAND AND OFFICIAL SEAL.

Linda Good
Notary Public

Residing at: Visalia, Ca

Commission Expires: 10/10/05



Cathy Springer

From: Angie Bumgarner [abumgarner@timberlinetitle.com]
Sent: Wednesday, April 16, 2003 9:11 AM
To: Cathy Springer
Subject: 03-282

Township 17 North, Range 1 West, Boise Meridian, Adams County, Idaho
Section 36: A parcel of land situated in the NW1/4SW1/4 of said
section, Township and Range, more particularly described as follows:
Commencing at the Southwest corner of said NW1/4SW1/4 of said
Section, Township and Range;

Thence East on and along the South line of said NW1/4SW1/4 80^{1320'} rods to
the Southeast corner of said NW1/4SW1/4;

Thence North on and along the East line of said NW1/4SW1/4 a distance
of 54 rods; 891'

Thence West parallel to the South line of said NW1/4SW1/4 80^{1320'} rods to
a point on the West line of said NW1/4SW1/4;

891' Thence South on and along the West line of said NW1/4SW1/4 a distance
of 54 rods to the Real Point of Beginning;

EXCEPTING THEREFROM two tracts of land more particularly described as
follows:

Parcel 1: A strip of land 15 feet wide off of and along the entire
West end of the tract hereinbefore first described.

Parcel 2: Commencing at a point that is 54^{891'} rods North and 15 feet
East of the Southwest corner of said NW1/4SW1/4; said Section,
Township and Range; Thence East 177.44 feet; Thence South 125 feet;
Thence West 177.44 feet; Thence North 125 feet to the point of
beginning of this excepted tract.

SUBJECT TO the MILL CREEK COUNTY ROAD right of way as now
established.

1 rod =
16.5 ft.

INSTRUMENT NO. 103766
PAGE 1 OF 2

Instrument # 103766

COUNCIL, ADAMS, IDAHO

2003-05-19

03:09:18 No. of Pages: 2

Recorded for: TIMBERLINE TIT: E & ESCROW,

MICHAEL FISK

Fees: \$6.00

Ex-Officio Recorder Deputy

Index to: DEED



WARRANTY DEED

For Value Received ED ENGEL, AN UNMARRIED MAN AND SHIRLEY ENGEL, AN UNMARRIED WOMAN, WHO ACQUIRED TITLE AS ED ENGEL AND SHIRLEY ENGEL, HUSBAND AND WIFE

1. Grantor hereby grants, bargains, sells, conveys and warrants unto KURT B. SMITH & DIANE E. SMITH, husband and wife

the Grantee whose current address is: 11877 Goldenrod Ave., Boise, ID 83713

the following described premises, to-wit:

AS PER LEGAL DESCRIPTION ATTACHED HERETO

Parcel Number: RP17N01W3E5400A

SUBJECT TO: Current General Taxes, a lien in the process of assessment, not yet due or payable. Easements, restrictions, reservations, provisions of record, and assessments, if any.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, their heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that it is the owner in fee simple of said premises; that said premises are free from all encumbrances and that he will warrant and defend the same from all lawful claims whatsoever.

Dated: May 14, 2003

ED ENGEL

SHIRLEY ENGEL

State of Idaho

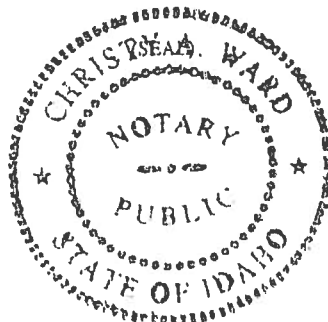
County of Adams ss.

On this 16th day of May, 2003, before me, the undersigned, a Notary Public, in and for said State, personally appeared Ed Engel

known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that she he executed the same.

WITNESS MY HAND AND OFFICIAL SEAL.

Christy A. Ward
Notary Public
Residing at: Indian Valley, ID
Commission Expires: 9-17-04



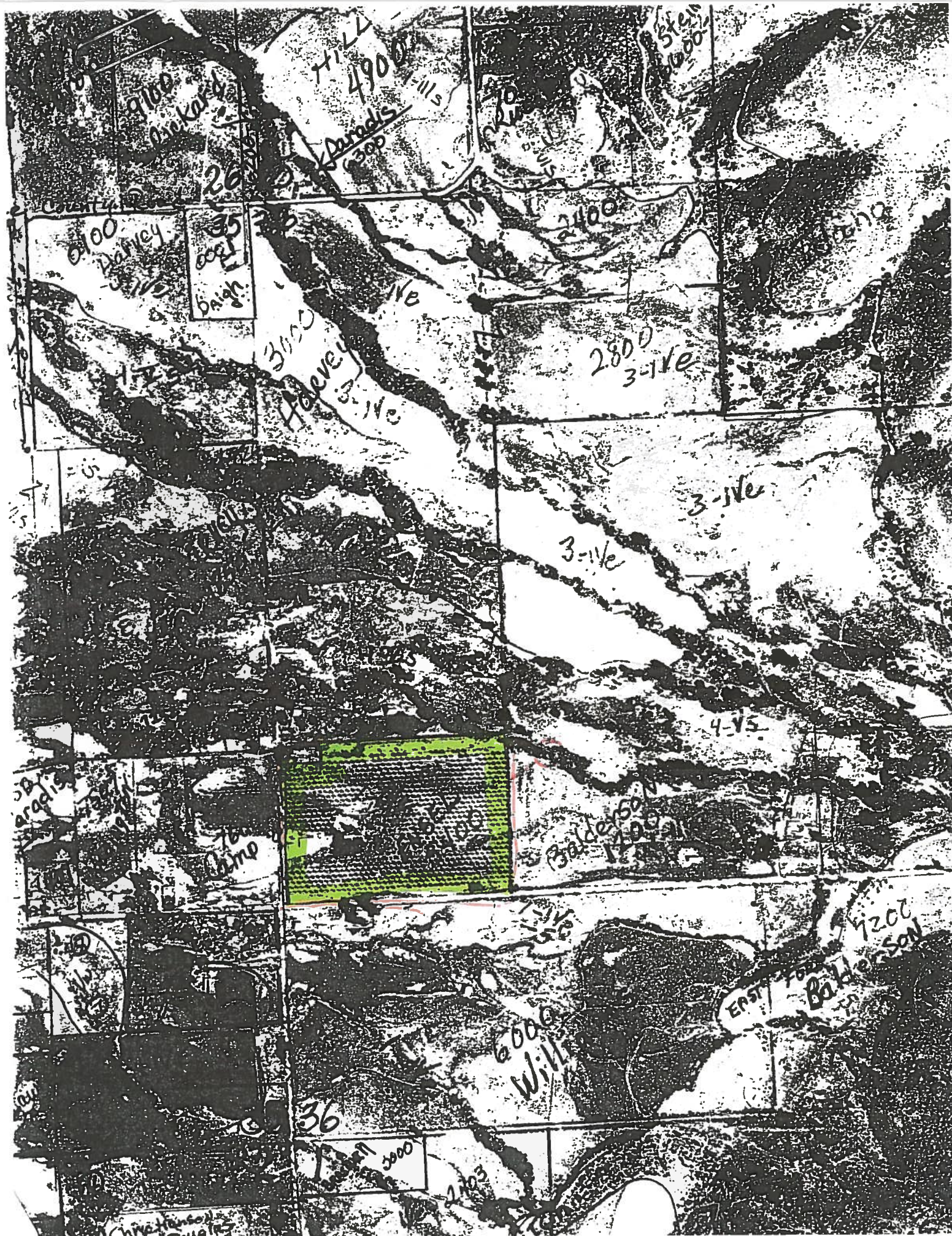
Cathy Springer

From: Angle Bumgarner [abumgarner@timberlinetitle.com]
Sent: Wednesday, April 16, 2003 9:11 AM
To: Cathy Springer
Subject: 03-282

Township 17 North, Range 1 West, Boise Meridian, Adams County, Idaho
Section 36: A parcel of land situated in the NW1/4SW1/4 of said
section, Township and Range, more particularly described as follows:
Commencing at the Southwest corner of said NW1/4SW1/4 of said
Section, Township and Range;
Thence East on and along the South line of said NW1/4SW1/4 80 rods to
the Southeast corner of said NW1/4SW1/4;
Thence North on and along the East line of said NW1/4SW1/4 a distance
of 54 rods;
Thence West parallel to the South line of said NW1/4SW1/4 80 rods to
a point on the West line of said NW1/4SW1/4;
Thence South on and along the West line of said NW1/4SW1/4 a distance
of 54 rods to the Real Point of Beginning;
EXCEPTING THEREFROM two tracts of land more particularly described as
follows:
Parcel 1: A strip of land 15 feet wide off of and along the entire
West end of the tract hereinbefore first described.
Parcel 2: Commencing at a point that is 54 rods North and 15 feet
East of the Southwest corner of said NW1/4SW1/4, said Section,
Township and Range; Thence East 177.44 feet; Thence South 125 feet;
Thence West 177.44 feet; Thence North 125 feet to the point of
beginning of this excepted tract.
SUBJECT TO the MILL CREEK COUNTY ROAD right of way as now
established.

INITIAL

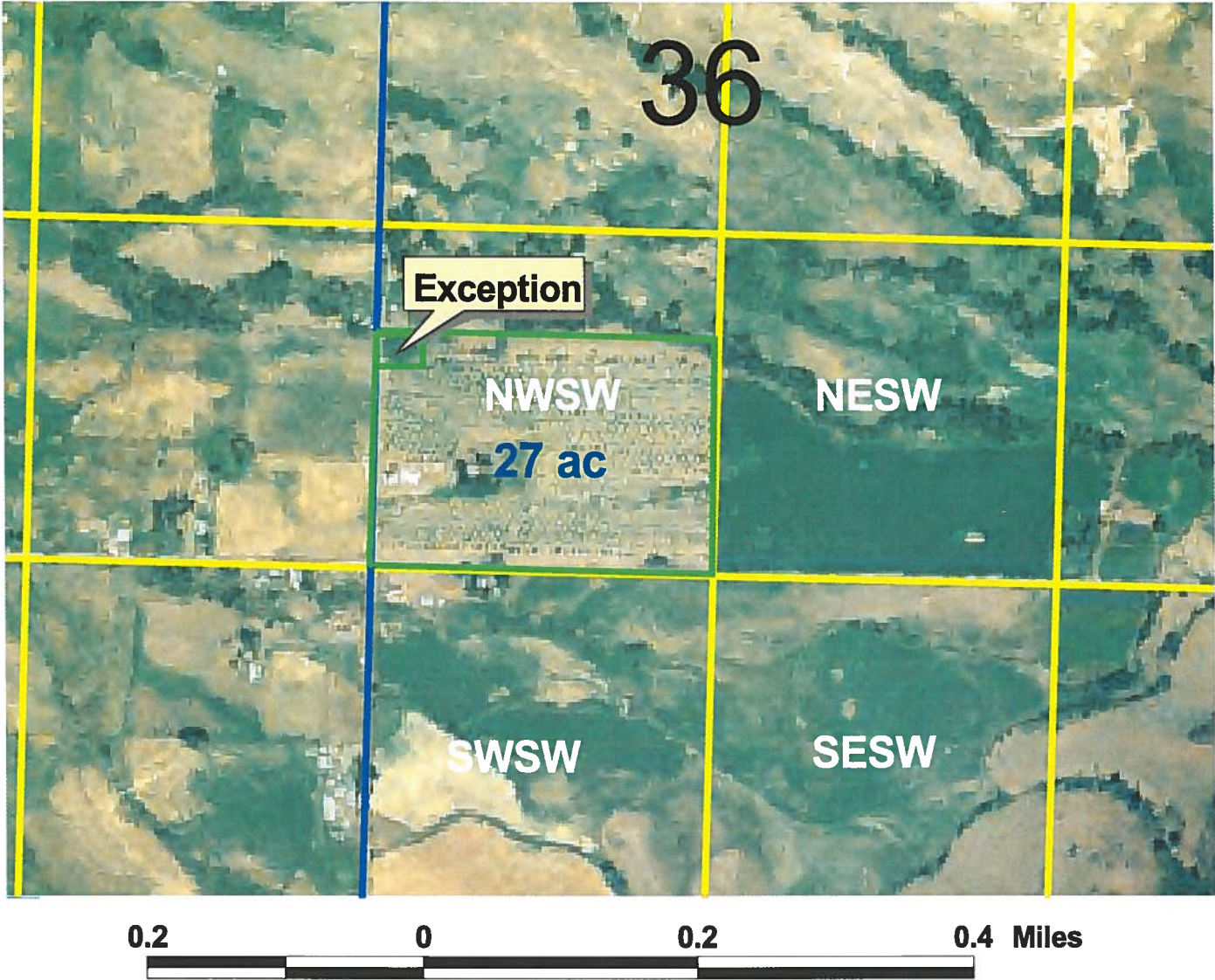

4/16/2003



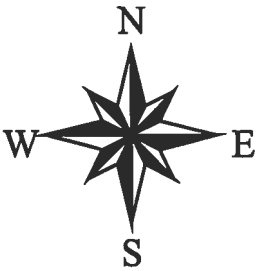
Smith

17N 1W

67-348D, 67-355D,
67-363F, 67-4158
and 67-11430



-  Property Lines w/ Exception
-  Section Line
-  QQ Lines



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: A67-00355D
Date Received: 1/04/1990
Receipt No: CO13818
Received By: RAJ

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ED E. ENGEL
Address: HC 62, BOX 1310 208-253-4830
COUNCIL, ID 83612
OR
Name: SHIRLEY A. ENGEL
Address: HC 62, BOX 1310 208-253-4830
COUNCIL, ID 83612
2. Date of Priority: MAY 01, 1884
3. Source: MILL CREEK Trib. to: WEISER RIVER
4. Point of Diversion:
- | Township | Range | Section | 1/4 of | 1/4 of | 1/4 of | Lot | County |
|----------|-------|---------|--------|--------|--------|-----|--------|
| 17N | 01W | 36 | NW | SE | NW | | ADAMS |
5. Description of diverting works:
PIPE, UNDERGROUND STANDPIPE SYSTEM
6. Water is used for the following purposes:
- | Purpose | From | To | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|------------------|------|--------|
| IRRIGATION | 03/15 | 11/15 | ~~0.110~~ | | |
7. Total Quantity Appropriated is:
~~0.110~~ C.F.S. (and/or) .13 A.F.A.
8. Total consumptive use is 81.0 Acre Feet Per Annum.
9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
17N	01W	36	NW SW		IRR	27.0
Section Acres						27.0
Total Acres						27.0

11. Place of use in counties: ADAMS

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

13. Other Water Rights Used:

A67-00348D, COMBINED 67-00359 & 67-00363A.

14. Remarks:

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

JOHN T. MUIR

Decree Plaintiff

vs

WILLIAM ALLISON

Decree Defendant

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): [Signature] Date: 1-4-90

Date: _____

State of Idaho)
County of Ada) SS.

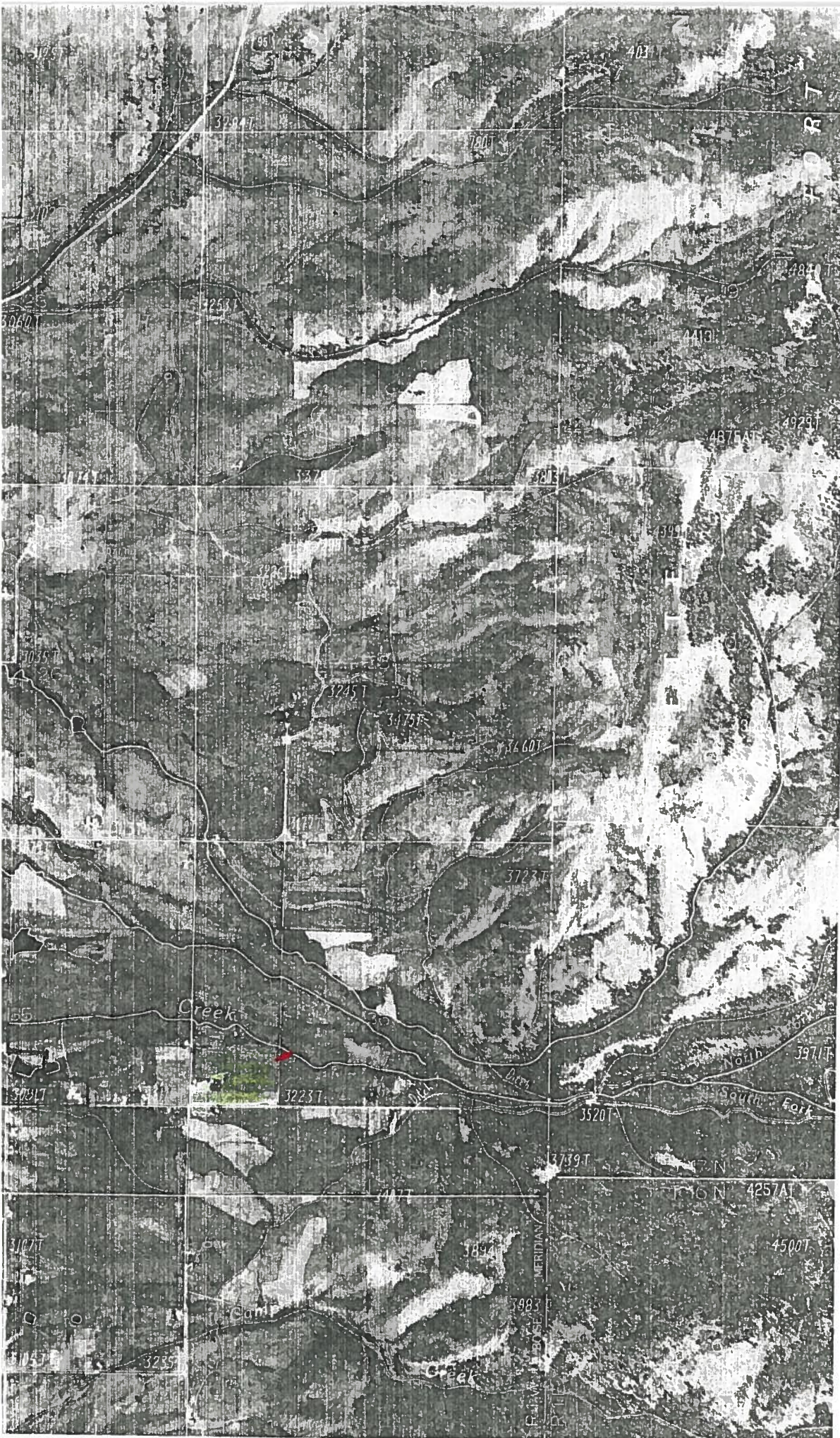
Subscribed and sworn (or affirmed) before me this 4th day

of January 19 9

Seal

[Signature]
Notary Public

Helen Harrington, Notary Public
Residing at Boise, Idaho
My Commission Expires December 1, 1994



4961

4960

47' 30"

4959

4958

4957

4956 000m N

T17N
T16N

MICROFILMED
OCT 01 1992

46 25'

47

48

49 000m E

44° 45'