

11/14/2006

RECEIVED

DEC 05 2006

WATSE - CES

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: December 8, 2006

Water right number: 67-363C

WARREN N RICE
PO BOX 536
COUNCIL ID 83612
Telephone Number: (208)253-4784

HELEN L RICE
PO BOX 536
COUNCIL ID 83612
Telephone Number: (208)253-4784

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

☒ I AGREE with this proposed recommendation: no changes need to be made.

DATE: 11-30-06 SIGNATURE: Helen Rice

Please print your name: Helen Rice

IDWR Regional Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, 2082874800

SCANNED

DEC - 6 2006

11/25/2005

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

RIGHT NUMBER: 67-363C

NAME AND ADDRESS: WARREN N RICE
PO BOX 536
COUNCIL ID 83612

HELEN L RICE
PO BOX 536
COUNCIL ID 83612

SOURCE: MILL CREEK

TRIBUTARY: WEISER RIVER

QUANTITY: 0.095 CFS

The rights listed below are limited to a total combined diversion rate of 0.328 cfs. Combined Right Nos.: 67-355C, 67-363C, and 67-4127

PRIORITY DATE: 05/01/1889

POINT OF DIVERSION:

T17N R01W S35 NWSW Within ADAMS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 06/30	- 0.095 CFS

PLACE OF USE: IRRIGATION Within ADAMS County

T17N R01W S34	NESE	13.0	T17N R01W S34	NWSE	3.4
---------------	------	------	---------------	------	-----

16.4 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 16.4 acres in a single irrigation season. Combined Right Nos.: 67-355C, 67-363C, and 67-4127.

This right is limited to the irrigation of 7.6 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

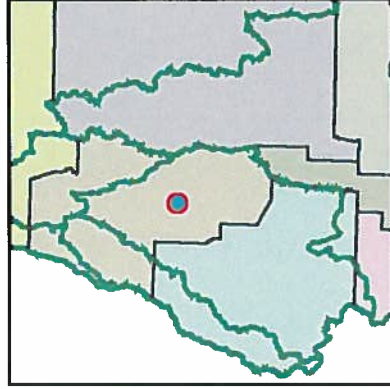
Adjudication Claim Number:

67-355C, 67-363C, and 67-4127

T16N R01W
T17N R01W

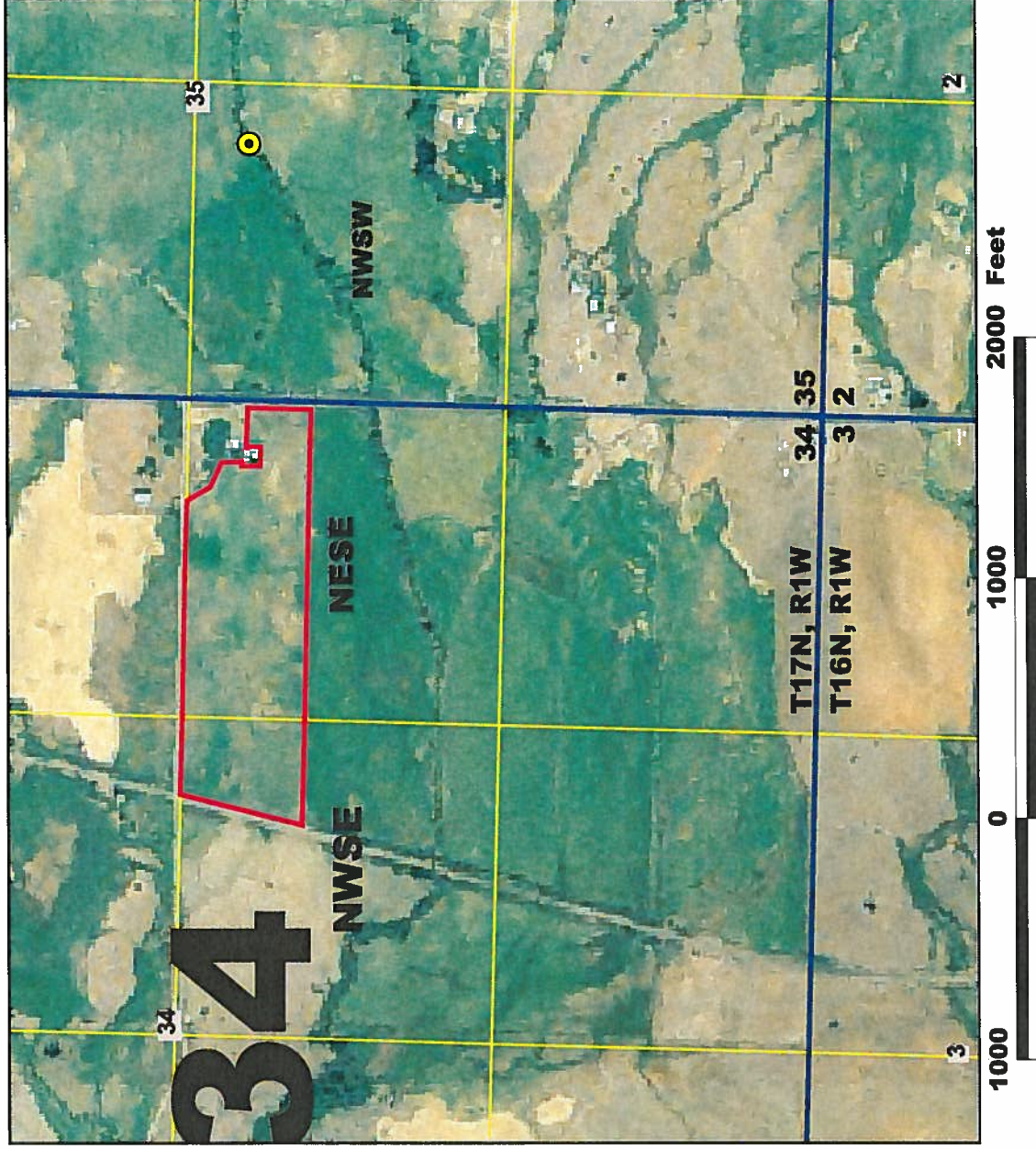
Legend

- 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

Adjudication Recommendation Report 67-363C V1

WATER RIGHT NUMBER: 67-363C V1

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	WILLIAM SPAHR
	, ID
Current Owner	WARREN N RICE PO BOX 536 COUNCIL, ID 83612 (208)253-4784
Original Owner	WILLIAM H SPAHR
	COUNCIL, ID 83612
Original Owner	JAMES A HOUSTON JR HC 62 BOX 1310 COUNX, ID
Current Owner	HELEN L RICE PO BOX 536 COUNCIL, ID 83612 (208)253-4784

Priority Date: 05/01/1889

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	03/15 to 06/30	0.095 CFS	
	<u>Total Diversion:</u>	0.095 CFS	

Location of Point(s) of Diversion

MILL CREEK	NW1/4SW1/4	Sec. 35, 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	34													13.0	3.4			16.4

Total Acres: 16.4

Conditions of Approval:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-363C V1

1. 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.
2. E52 The rights listed below are limited to a total combined diversion rate of 0.328 cfs. Combined Right Nos.: 67-355C, 67-363C, and 67-4127
3. E56 The rights listed below are limited to the irrigation of a combined total of 16.4 acres in a single irrigation season. Combined Right Nos.: 67-355C, 67-363C, and 67-4127.
4. K06 This right is limited to the irrigation of 7.6 acres within the place of use described above in a single irrigation season.

Remarks:Comments:

1. segbert 8/4/2004 POD
Comment: Correlated PODID 624914 from SpatialDataID 342990.0000000 to SpatialDataID 342990
2. csaxton 11/25/2005 TR 884
Comment: Recommended per TR 884

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: 67
 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	8/2/2004 9:44:30 AM	segbert			Active
POD	8/2/2004 9:45:00 AM	segbert			Active
Source	8/2/2004 9:48:30 AM	segbert			Active
POU	8/2/2004 9:49:37 AM	segbert			Active
Use	8/2/2004 9:58:28 AM	segbert			Active
Season	8/2/2004 9:58:49 AM	segbert			Active
Quantity	8/2/2004 9:59:46 AM	segbert			Active
Contacts	11/25/2005 11:19:03 AM	csaxton			Active
Priority Date	11/25/2005 12:59:56 PM	csaxton			Active

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-363C V1

POD	11/25/2005 1:01:56 PM	csaxton	Active
Source	11/25/2005 1:02:25 PM	csaxton	Active
POU	11/25/2005 1:02:44 PM	csaxton	Active
Use	11/25/2005 1:03:05 PM	csaxton	Active
Season	11/25/2005 1:04:14 PM	csaxton	Active
Quantity	11/25/2005 1:04:43 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	8/2/2004 9:44:30 AM	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?
POD	8/2/2004 9:45:00 AM	segbert	(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?
POD	8/2/2004 9:48:02 AM	segbert	Edited point location
Use	8/2/2004 9:58:28 AM	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	8/2/2004 9:58:48 AM	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?
POU	8/2/2004 9:49:36 AM	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? (No) 6. Can the claimed POU be verified using the water right file? (No) 7. Is there evidence that there has been a change in the POU?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-363C V1

Source	8/2/2004 9:48:29 AM	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	8/2/2004 9:58:02 AM	segbert	Edited shape boundary
Quantity	8/2/2004 9:59:45 AM	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?
Contacts	11/25/2005 11:19:21 AM	csaxton	(No) 1. Do you want to schedule an appointment? Comment for 1: Desktop Review
POD	11/25/2005 1:02:39 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 1:03:08 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 1:03:27 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? (No) 14. Is a POU remark and/or condition required?
Use	11/25/2005 1:03:48 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?
POD	11/25/2005 1:02:55 PM	csaxton	Updated shape

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-363C V1

Season	11/25/2005 1:04:57 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? (No) 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?
Quantity	11/25/2005 1:05:26 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?
General	11/25/2005 1:00:39 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? (Yes) 16. Is a Priority Date remark and/or condition required?
Summary	11/25/2005 1:08:32 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?

Contacts Data Entry Form

Claim Number: 67-363C

Owner Type	Full Name	Address	City	State	Zip	Phone
Original Owner	WILLIAM SPAHR			ID		
Current Owner	WARREN N RICE	PO BOX 536	COUNCIL	ID	83612	(208)253-4784
Original Owner	WILLIAM H SPAHR		COUNCIL	ID	83612	
Original Owner	JAMES A HOUSTON JR	HC 62 BOX 1310	COUNX	ID		
Current Owner	HELEN L RICE	PO BOX 536	COUNCIL	ID	83612	(208)253-4784

Comment for 1: Desktop Review

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

Claim Number 67-363C

Claimed Basis: Decreed

Water Right Basis: Decreed

[illegible]

Point of Diversion and Source Data Entry Form

Claim Number 67-363C

Claimed Point of Diversion and Source

T17N R01W S35 NWSW 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 S35 NWSW Within ADAMS County

Recommended Point of Diversion and Source

Source Information

Source

Tributary To

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source

Other rights from this POD? 67-355C, 67-363C, and 67-4127.

Document how the POD and Source were verified:

GPS point taken by Bosco Bosler on 8/2/04: A0014044

TR 884 puts POD in SWSW of Section 35. Recommend POD in NWSW of Section 35. I do not think this was an actual change in POD as Mill Creek does not flow through the SWSW of Section 35. No accomplished change in POD.

Place Of Use Data Entry Form

Claim Number **67-363C**

Claimed Place Of Use

T17N R01W S34	NESE	14.0	T17N R01W S34	NWSE	4.0
Total Acres 18					

Use Claimed POU as Recommended POU

Water Right Place Of Use

T17N R01W S34	NESE	T17N R01W S34	NWSE
T17N R01W S34	SWSE	T17N R01W S34	SESE
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	34	NWSE		Adams		13.0	Irrigation
17N	1W	34	NESE		Adams		3.4	Irrigation

Total Acres **16.4**

Document how the POU was verified:

1987 NAPP photography_____

Purpose of Use Data Entry Form

Claim Number 67-363C

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:

Period of Use and Quantity Data Entry Form

Claim Number **67-363C**

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
IRRIGATION	3/15	6/31	0.1	

Overall Diversion Rate 0.1 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	3/15	6/31	0.1	

Overall Diversion Rate 0.1 Overall Diversion Volume

Recommended Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
Irrigation	3/15	6/30	0.095	N/A

Overall Diversion Rate **0.095** 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.

The following rights used in combination are limited to .328 cfs: 67-355C, 67-363C, and 67-4127.

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.

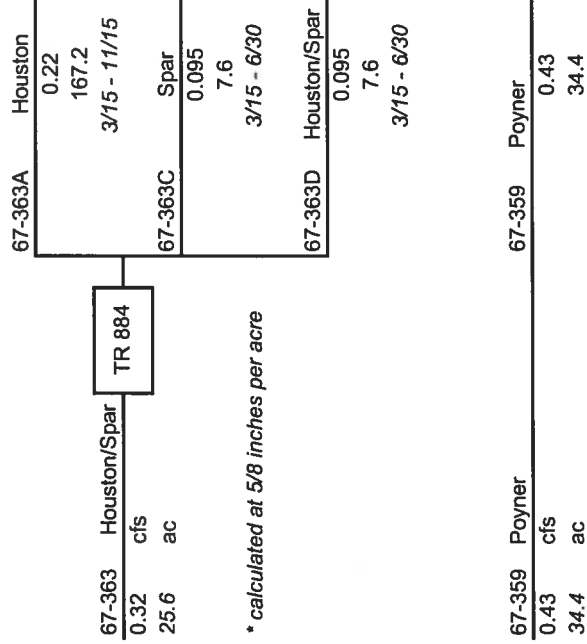
The 6.5 inches applicable to the 20 acres now owned by Rice are not related to the water that was described in TR 884 and therefore does not affect the validity of TR 884 in anyway.

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 67-363

WR History



* calculated at 5/8 inches per acre

*Last updated 11-25-05 (csaxton)

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

Disallow
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.

Claim History

67-363C	Rice
	0.1
	18
	3/15 - 6/31
67-363E	Harvey
	0.32
	38
	3/15 - 11/05
67-363F	Smith
	0.1
	27
	7/1 - 11/15
67-14097	Balderson
	0.53
	40
	7/1 - 11/15

Sum CFS =	1.050
Sum Acre=	123
Sum AF =	n/a

Extra CFS =	-0.730
Extra Acre =	-97.4
Extra AFA =	n/a

Recommendation

67-363C	Rice
	0.095
	7.6
	3/15 - 6/30

67-363E	Harvey
	0.225
	18
	3/15 - 11/15

67-363F	Smith
	0.095
	7.6
	7/1 - 11/15

67-14097	Balderson
	0.00
	0
	0.000

Sum CFS =	0.320
Sum Acre=	26
Sum AF =	n/a

Extra CFS =	0.000
Extra Acre =	0.0
Extra AFA =	n/a

Claim:

Basin	Sequence	Suffix	Basis	Priority Date	Rate(cfs)	Acres	Source	Water Use(s)	Owner(s)	Source Table
67	355	C	Decreed	1884-05-01	0.11	18	MILL CREEK	IRRIGATION	RICE, HELEN L (Current)	wrAdjudicationClaim
67	363	C	Decreed	1889-05-01	0.1	18	MILL CREEK	IRRIGATION	RICE, HELEN L (Current)	wrAdjudicationClaim
67	4127		Statutory Q	1889-05-01	0.6	18	MILL CREEK	IRRIGATION	RICE, HELEN L (Current)	wrAdjudicationClaim

Recommendation

Basin	Sequence	Suffix	Basis	Priority Date	Rate(cfs)	Acres	Source	Water Use(s)	Owner(s)	Source Table
67	355	C	Decreed	1884-05-01	0.11	8.8	MILL CREEK	IRRIGATION	RICE, HELEN L (Current)	wrAdjudicationClaim
67	363	C	Decreed	1889-05-01	0.095	7.6	MILL CREEK	IRRIGATION	RICE, HELEN L (Current)	wrAdjudicationClaim

Total CFS

0.205

Inches =

10.25

@ 5/8 " =

16.4

Use of these rights is only from 3/15 to 6/30. Unless it is a real wet summer, this property doesn't have water in the late summer.

This right recommended at one inch per acre as the overlap decree rights have a limited SOU.

67	4127	Statutory Q	1889-05-01	0.328	16.4	MILL CREEK	IRRIGATION	RICE, HELEN L (Current)	wrAdjudicationClaim
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Watermaster records do not show delivery to Rice.

Other Water Rights:

					Vol					
67	7152	Decreed	7/16/1973	0.04	1.2	GROUND WA	DOMESTIC	JENKINS, NELLO A (Current)	wrWaterRight	
67	7233	License	11/20/1974	0.02	1.2	GROUND WA	DOMESTIC	RICE, WARREN N (Current)	wrWaterRight	
67	7491	License	3/18/1980	0.04	1.2	GROUND WA	DOMESTIC	RICE, HELEN L (Current)	wrWaterRight	
67	11294	Decreed	1/1/1959	0.04		GROUND WA	DOMESTIC	RICE, HELEN L (Current)	wrWaterRight	

Partially Decreed

Not filed on in the SRBA and it should have been. This will be lost, but appears to be covered with other Dom claims

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 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,

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

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: A67-00363C
Date Received: 12/11/1989
Receipt No: 4007072
Received By: [Signature]

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: WARREN N. RICE 208-253-4784
Address: HC 62, BOX 1455
COUNCIL, ID 83612

OR

Name: HELEN L. RICE 208-253-4784
Address: HC 62, BOX 1455
COUNCIL, ID 83612

2. Date of Priority: MAY 01, 1889

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
17N	01W	35	NW	SW			ADAMS

5. Description of diverting works:
GRAVITY DIVERSION FROM MILL CK. FOR FLOOD IRRIGATION.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	06/30	0.100		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
NONE.

SCANNED
APR 02 2004

MICROFILMED
OCT 01 1992

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
17N	01W	34	NE	SE		IRR	14.0
			NW	SE		IRR	4.0
						Section Acres	18.0
						Total Acres	18.0

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:

CLAIM NO. A67-04127 & CLAIM NO. A67-00355C.

14. Remarks:

SEE CLAIM NO. A67-00355C CONCERNING CHANGE IN P.D.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

JOHN T. MUIR

Decree Plaintiff

vs

VILLIAM 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): Nelson Rice Date: 12-11-89

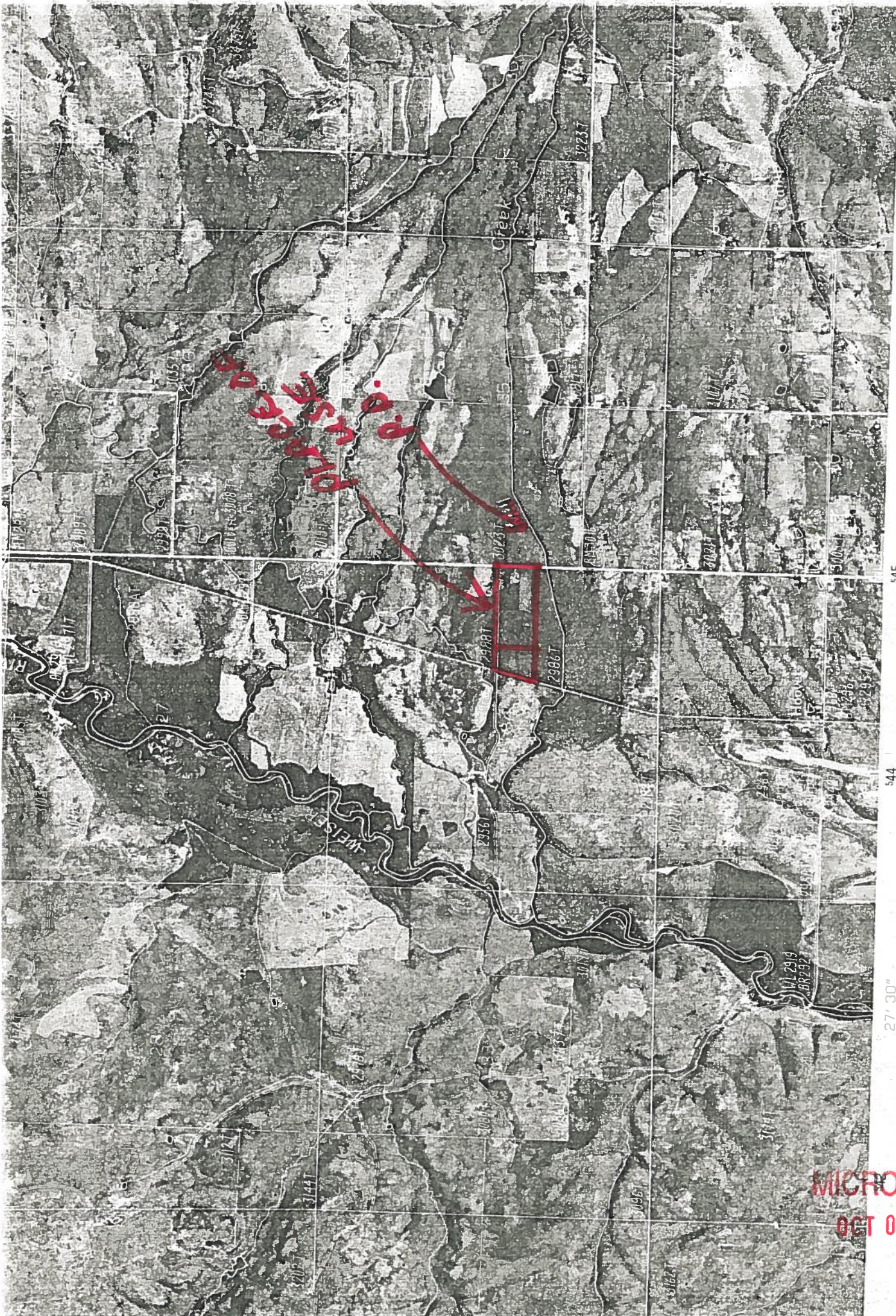
Date: _____

State of Idaho)
County of ADA) SS.

Subscribed and sworn (or affirmed) before me this 11th day
of December 19 89
Jan Spurte
Notary Public

Seal

Residing at Meridian ID
My Commission Expires 9-14-94



547

46 25'

545

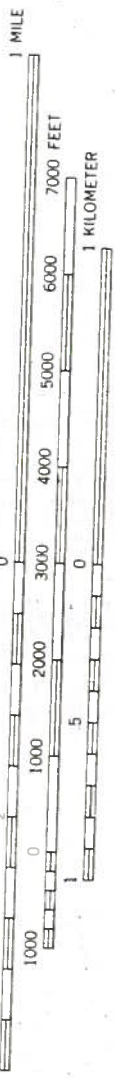
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SCALE 1:24,000



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OCT 01 1992