

Memorandum

Date: 12-8-06

To: File 67-540B and 67-522A

Re: NOE

Frank Stirm called. We went through his water rights and he wanted a greater diversion rate than what was claimed and decreed so he had more headwater... I think. I explained that I couldn't change the decree but it did look like we didn't recommend 45 acres worth of water (we only recommended 41) so we did recommend less than claimed.

Need to revisit the recommendations and see if we can bring him up to 45 acres so not to reduce his decreed water.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-540B V1

WATER RIGHT NUMBER: 67-540B V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	FRANKLIN D STIRM 1373 MANN CREEK RD WEISER, ID 83672 (208)549-0938
Current Owner	JUNE Y STIRM 1373 MANN CREEK RD WEISER, ID 83672 (208)549-0938
Original Owner	JOHN WALKER , ID

Priority Date: 06/01/1881

Basis: Decreed

Status: Active

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

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	0.270 CFS	
	<u>Total Diversion:</u>	0.270 CFS	

Location of Point(s) of Diversion

MANNS CREEK	SE1/4SE1/4	Sec. 24, Twp 12N, Rge 05W, B.M.
WASHINGTON 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	
12N	04W	30							13.5										13.5
									L 2										

Total Acres: 13.5

Conditions of Approval:

1. 169 This right is a Primary Right, as established by the district court in Jefferson et al. v. Higgenbotham et al. (Washington County, June 3, 1921), and, as such, irrespective of priority, is senior to all Secondary Rights on Mann Creek.
2. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-540B V1

3. 167 This right shall receive 100% of its decreed amount until the natural flow of the waters of Mann Creek shall decrease so that all rights cannot receive 100%, at which time this right and other various decreed rights, as established by the district court in Jefferson et al. v. Higgenbotham et al. (Washington County, June 3, 1921), shall be cut to 70% of the said amounts, beginning with the latest right and proceeding to the earliest right in the order of priority.

Remarks:Comments:

1. dnarsavage 10/18/2005 POU

Comment: Per a conversation with Franklin Stirn, there is a pipe that carries water from the east side of the creek to the corner of his property on the west side of the creek. There are plenty of decreed acres to put there, and it appears that this pipe thing was a historical practice up and down the creek, so I see no reason not to recommend this chunk on the western side of the creek.

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	6/7/2004 1:29:35 PM	segbert			Active
Priority Date	6/7/2004 1:29:47 PM	segbert			Active
Source	6/7/2004 1:29:59 PM	segbert			Active
POU	6/7/2004 1:30:17 PM	segbert			Active
Use	6/7/2004 1:37:43 PM	segbert			Active
Season	6/7/2004 1:38:32 PM	segbert			Active
Quantity	6/7/2004 1:39:03 PM	segbert			Active
POD	6/7/2004 1:43:12 PM	segbert			Active
Season	6/10/2004 9:27:13 AM	segbert			Active
Contacts	11/21/2005 10:16:30 AM	dnarsavage			Active
Priority Date	11/21/2005 10:17:29 AM	dnarsavage			Active
POD	11/21/2005 10:28:49 AM	dnarsavage			Active

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-540B V1

Source	11/21/2005 10:29:01 AM	dnarsavage	Active
POU	11/21/2005 10:29:11 AM	dnarsavage	Active
POU	11/21/2005 10:29:31 AM	dnarsavage	Active
Quantity	11/21/2005 11:02:07 AM	dnarsavage	Active
Use	11/21/2005 11:03:04 AM	dnarsavage	Active
Season	11/21/2005 11:03:25 AM	dnarsavage	Active
Summary	11/21/2005	dnarsavage	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
POU	9/29/2005 10:33:36 AM	dnarsavage	Updated shape for Active POU
POU	9/29/2005 10:34:07 AM	dnarsavage	Edited Season Of Use
Quantity	11/21/2005 11:02:08 AM	dnarsavage	(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?
Season	11/21/2005 11:03:26 AM	dnarsavage	(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? (No) 18. Is a Period of Use remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-540B V1

Summary	11/21/2005 11:04:24 AM	dnarsavage	(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? (No) 5. Does this right have any combined use limits with other rights? (No) 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?
POU	9/29/2005 10:34:03 AM	dnarsavage	Updated PLS for Active POU
Season	6/10/2004 9:27:14 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?
POD	11/21/2005 10:28:49 AM	dnarsavage	(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?
POU	11/21/2005 10:29:11 AM	dnarsavage	(Yes) 1. Is the basis of this claim a Decree or License?
POU	11/21/2005 11:01:03 AM	dnarsavage	Updated shape for Active POU
Priority Date	6/7/2004 1:29:35 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 ?
POU	6/7/2004 1:37:16 PM	segbert	Edited shape boundary
POD	6/7/2004 1:43:13 PM	segbert	(Yes) 1. Is the basis of this claim a Decree or License?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-540B V1

Use	6/7/2004 1:37:43 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	6/7/2004 1:38:33 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? (Yes) 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) 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?
Priority Date	6/7/2004 1:29:48 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?
Source	6/7/2004 1:30:00 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	6/7/2004 1:30:17 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? (Yes) 6. Can the claimed POU be verified using the water right file?
Quantity	6/7/2004 1:39:03 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? (Yes) 5. Can the claimed diversion rate and/or volume be verified using the water right file?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-540B V1

Source	11/21/2005 10:29:02 AM	dnarsavage	(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	11/21/2005 10:29:31 AM	dnarsavage	(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?
Contacts	11/21/2005 10:16:30 AM	dnarsavage	(No) 1. Do you want to schedule an appointment? Comment for 1: No need
General	11/21/2005 10:17:29 AM	dnarsavage	(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?
POD	11/21/2005 10:33:42 AM	dnarsavage	Updated shape
Use	11/21/2005 11:03:04 AM	dnarsavage	(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?

Water Supply Bank:

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WESTERN REGION ADJUDICATION SECTION
CLAIM VERIFICATION FIELD EXAM SHEET
(Use with the ECVR)

CLAIM NO(s). 67-540 B

1. ☒ No Change NAME IS SAME
☐ NEW OWNER: _____
☐ No Change ADDRESS
☐ NEW ADDRESS: _____

2. ☒ No Change - DATE OF PRIORITY: Completed evidence submitted
☐ Incomplete - Claimant should be asked during the exam when was water first used and submit proof of date of priority.

Priority date, per claimant, is: AS DECREED
(If the priority date, based on your exam, seems questionable, explain below.)

3. ☒ No Change — SAME SOURCE
☐ Source is different than that claimed:

Source found: _____

4. ☒ No Change — POINT OF DIVERSION
☐ Point of diversion is different than the claim and/or new P/D's:

Township _____ Range _____ Section _____ 1/4 _____ 1/4 _____ 1/4 _____
Township _____ Range _____ Section _____ 1/4 _____ 1/4 _____ 1/4 _____

5. ☒ No Change - DESCRIPTION OF DIVERTING WORKS
☐ Incomplete description, list below:

WEBB DITCH

Idaho Department of Water Resources

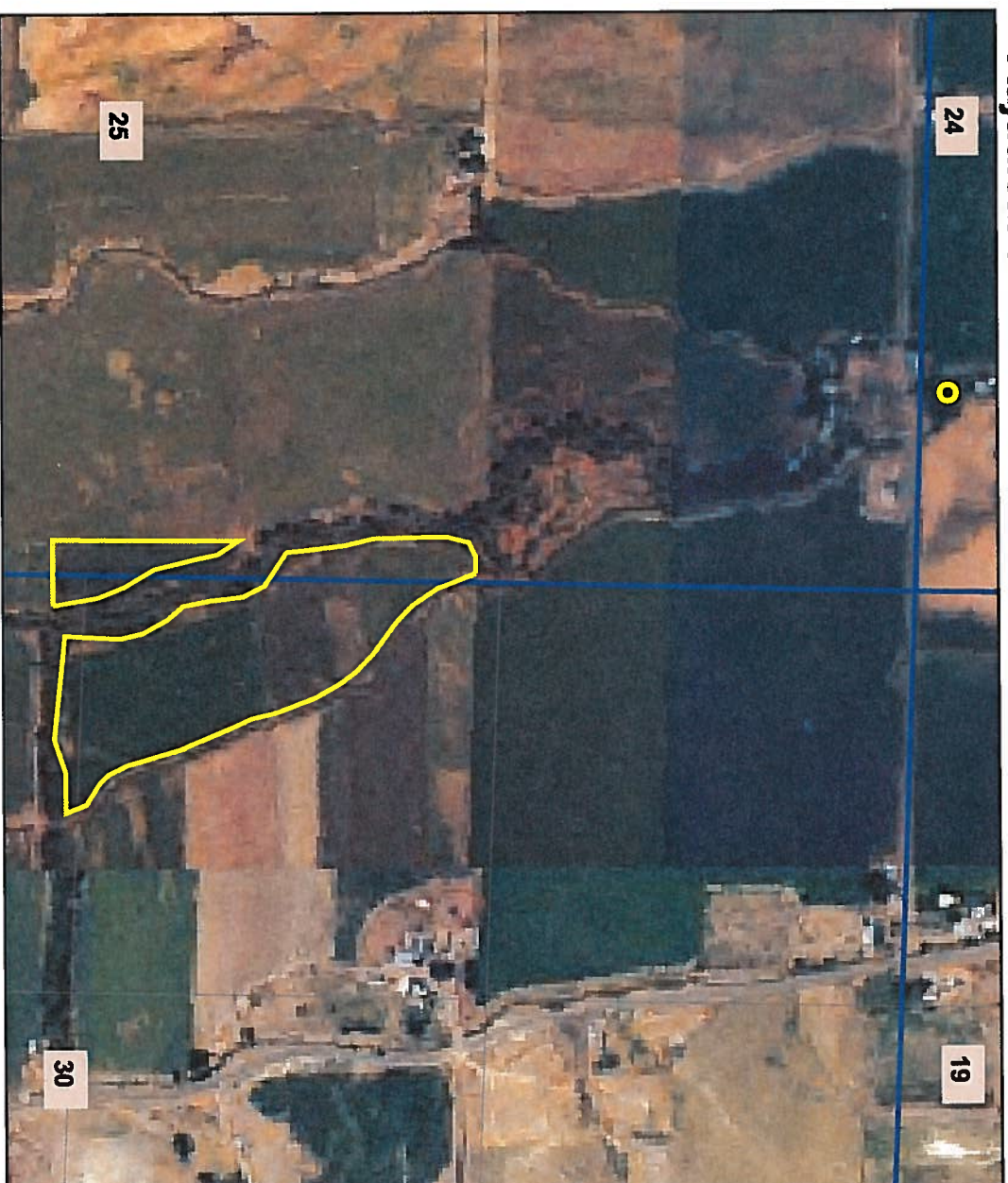
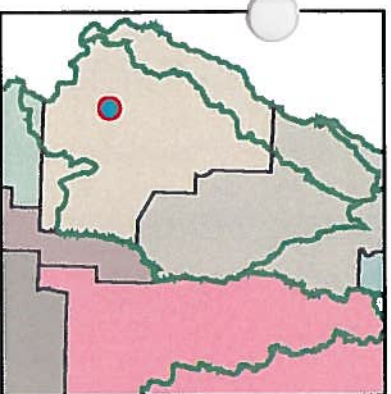


T12N R04W

Adjudication Claim Number: **67-540B**

Legend

- Point of Diversion
- Place of Use
- PLS Sections
- GCDBQuarter Quarters



Prepared by D. Narsavage
On Monday, December 5, 2005
1987/88 Aerial Photography

Conversational Memorandum

IDWR Agent: Dan Narsavage

Date: 10/18/2005

Conversation With: Franklin (Frank) Stirm

Re: Adjudication claim 67-540B

I called Mr. Stirm regarding the corner of his property that is on the west side of Mann Creek. The right that was decreed to his ground is out of Webb Ditch, which is on the east side of the creek, but the corner on the west side of the creek appears to be irrigated. There are several claims similar to this one. For instance, 67-10406 (Queen) claims irrigation on both sides of the creek and uses a pipe to get water to the side away from the ditch. Several claims to its north and south also claim rights from a ditch on one side of the creek to ground on both sides similarly.

Mr. Stirm confirmed that he does indeed irrigate on the western bank of the creek. He indicated that a pipe crosses the creek to deliver water from Webb Ditch. There is also enough water included in the decreed right to cover all of the irrigated ground at 0.02cfs/acre.

There are now at least two confirmed instances of irrigation water being moved across the creek using pipes. While the evidence is anything but overwhelming at this point, I am becoming increasingly convinced that using pipes to get irrigation water from one side of the creek to the other has been used since before the Mann Creek Decree.

Memo regarding the history of 67-540 and all children

In Shannon v Higgenbotham (Shannon), it appears that Mary Sater owned most of the land described for 67-540 in the Jefferson v. Higgenbotham decree (Jefferson)— all except the western 3/4 of 12N 4W S30 NESW, which, along with 120 other acres, was owned by Al Carlson. Sater was decreed 15 miners' inches (MI) out of Webb Ditch and Carlson was decreed none. Out of Manns Creek Ditch, Sater was decreed 30.037 MI and Carlson was granted 42.476 MI.

It also appears that, between the Shannon and Jefferson decrees, Sater sold all of this land and Carlson sold some (at least his 30 acres in 12N 4W S30 NESW) to Johnnie Walker, who in turn claimed it in Jefferson.

Carlson originally owned the portion of 12N 4W S30 NESW that is below Webb Ditch (~1.5 acres) was originally owned by, and he was given no water out of Webb Ditch in Shannon. Consequently, none of the primary water decreed by Jefferson to 67-540 belongs in 12N 4W S30 NESW. This leaves only the approximately 12.1 acres in 12N 4W S30 SWNW as reasonably irrigable from the Webb Ditch under this water right. However, Jefferson granted this right 21.4285 acres. Perhaps this was a typo in the Jefferson decree, and this should have read 12.4285 but the '1' and '2' in '12' were transposed. It's a long shot, but what the hell?

DLN - 7/?/05

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: A67-00540B
Date Received: 10/10/1989
Receipt No: W6380
Received By: LW

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: FRANKLIN D. STIRM 208-549-0938
Address: 1373 MANN CREEK RD.
WEISER, ID 83672
OR
Name: JUNE Y. STIRM 208-549-0938
Address: 1373 MANN CREEK RD.
WEISER, ID 83672
2. Date of Priority: JUN 01, 1881
3. Source: MANNS CREEK Trib. to: WEISER RIVER
4. Point of Diversion:
- | Township | Range | Section | 1/4 of | 1/4 of | 1/4 of | Lot | County |
|----------|-------|---------|--------|--------|--------|-----|------------|
| 12N | 05W | 24 | SE | SE | SE | | WASHINGTON |
5. Description of diverting works:
HEADGATE, DAM, DITCH
6. Water is used for the following purposes:
- | Purpose | From | To | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| IRRIGATION | 04/01 | 10/15 | 0.300 | | |
7. Total Quantity Appropriated is:
0.300 C.F.S. (and/or) A.F.A.
8. Total consumptive use is Acre Feet Per Annum.
9. Non-irrigation uses:

SCANNED
APR 06 2004

A67-00540B

Page 1

Date: 10/10/89

MICROFILMED
OCT 01 1992

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
12N	04W	30	SW	NW		IRR	14.0
Section Acres							14.0
Total Acres							14.0

11. Place of use in counties: WASHINGTON

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

13. Other Water Rights Used:
A67-00522

14. Remarks:

WATER CARRIED IN THE WEBB DITCH.
THIS IS PRIMARY RIGHT.
FLOOD WATER .428570.
LOW WATER .2999999 CFS.
AC. IRR.=21.4285.
THIS CLAIM HAS BEEN SPLIT
A67-00540A = 0.11 CFS B.A.S.
A67-00540B = 0.30 CFS

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

E. V. JEFFERSON ET. AL.
Decree Plaintiff

vs

THOMAS HIGGENBOTHAM ET. AL.
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 _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): Franklin A. Stirm Date: 10-10-89

Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 10 day
of October 19 89

Linda Werner
Notary Public

Seal

Linda A. Werner
Residing at Boise, Idaho
My Commission Expires December 8, 1994
My Commission Expires _____

19-20

30 / 29

2nd STREET
BEGINS - MAIN CR. DITCH
NORSEMAN

IN STREAM flow END
MANN CR. DITCH
NW NESW

30 OCT 29 1942

31 32