

11/14/2006

RECEIVED
DEC 05 2006
DEPARTMENT OF
WATER RESOURCES

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: 67-554A

MARION F FAUSETT
1772 JACKSON RD
WEISER ID 83672
Telephone Number: (208)549-2282

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: Marion F. Fausett

Please print your name: Marion F. Fausett

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

SCANNED

DEC - 6 2006

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-554A V1

WATER RIGHT NUMBER: 67-554A V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	MARION F FAUSETT 1772 JACKSON RD WEISER, ID 83672 (208)549-2282
Original Owner	RUSS JACKSON
Original Owner	, ID MABEL JACKSON
	, ID

Priority Date: 04/01/1877

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	0.300 CFS	
	<u>Total Diversion:</u>	0.300 CFS	

Location of Point(s) of Diversion

MANNS CREEK	SE1/4SE1/4	Sec. 13, 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	05W	24															5.5	11.0	16.5

Total Acres: 16.5

Conditions of Approval:

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. 168 This right is a Secondary Right, as established by the district court in Jefferson et al. v. Higgenbotham et al. (Washington County, June 3, 1921), and, as such, is subordinate to all Primary Rights on Mann Creek.

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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. mcase 5/26/2004 Quantity

Comment: Recommended flow and volume could not be determined because of split.

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:

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	5/26/2004 10:19:00 AM	mcase			Active
Source	5/26/2004 10:24:46 AM	mcase			Active
Use	5/26/2004 10:25:11 AM	mcase			Active
Season	5/26/2004 10:25:46 AM	mcase			Active
POU	5/26/2004 10:40:24 AM	mcase			Active
POD	5/26/2004 10:43:10 AM	mcase			Active
Season	5/26/2004 11:44:06 AM	mcase			Active
Priority Date	11/17/2005 12:57:29 PM	dnarsavage			Active
POD	11/17/2005 12:58:14 PM	dnarsavage			Active
Source	11/17/2005 12:59:02 PM	dnarsavage			Active
POU	11/17/2005 1:03:12 PM	dnarsavage			Active
Use	11/17/2005 1:03:37 PM	dnarsavage			Active
Season	11/17/2005 1:03:57 PM	dnarsavage			Active
Quantity	11/17/2005 1:05:16 PM	dnarsavage			Active

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-554A V1

Summary 11/17/2005 dnarsavage Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
POD	11/17/2005 12:58:42 PM	dnarsavage	Updated shape
POU	11/17/2005 1:01:48 PM	dnarsavage	Updated shape for Active POU
POU	11/17/2005 1:02:23 PM	dnarsavage	Updated PLS for Active POU
POU	11/17/2005 1:03:13 PM	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?
Use	11/17/2005 1:03:37 PM	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?
General	11/17/2005 12:57:30 PM	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	11/17/2005 12:58:15 PM	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?
Source	11/17/2005 12:59:02 PM	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?

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Season	11/17/2005 1:03:58 PM	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?
Quantity	11/17/2005 1:05:16 PM	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?
Summary	11/17/2005 1:11:05 PM	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?
POD	5/26/2004 10:31:35 AM	mcase	Edited point location
POU	5/26/2004 10:34:33 AM	mcase	Edited shape boundary

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Priority Date	5/26/2004 10:19:00 AM	mcase	(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?
Season	5/26/2004 10:25:46 AM	mcase	(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? (No) 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?
POU	5/26/2004 10:40:24 AM	mcase	(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?
POD	5/26/2004 10:43:09 AM	mcase	(Yes) 1. Is the basis of this claim a Decree or License? (No) 4. Does the Decree or License have a POD? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD?
Source	5/26/2004 10:24:46 AM	mcase	(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?
Use	5/26/2004 10:25:11 AM	mcase	(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?

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Season 5/26/2004 11:44:05 AM mcase

(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?Water Supply Bank:



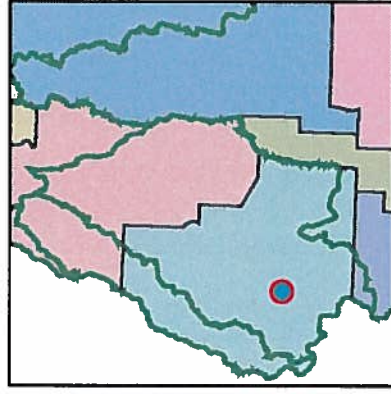
Idaho Department of Water Resources

Adjudication Claim Number: **67-554A**

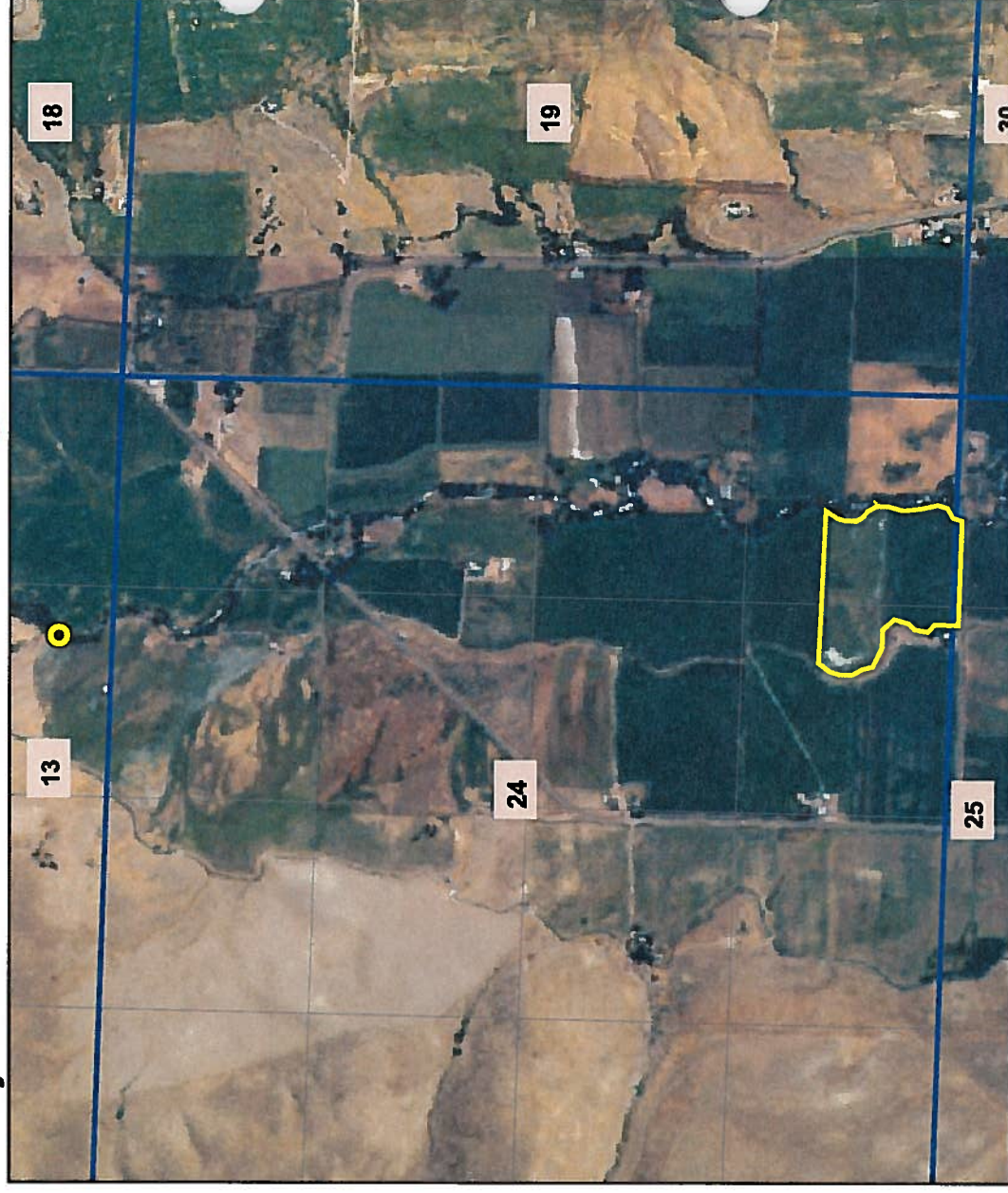
T12N R05W

Legend

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



Washington County
IDWR Basin 67

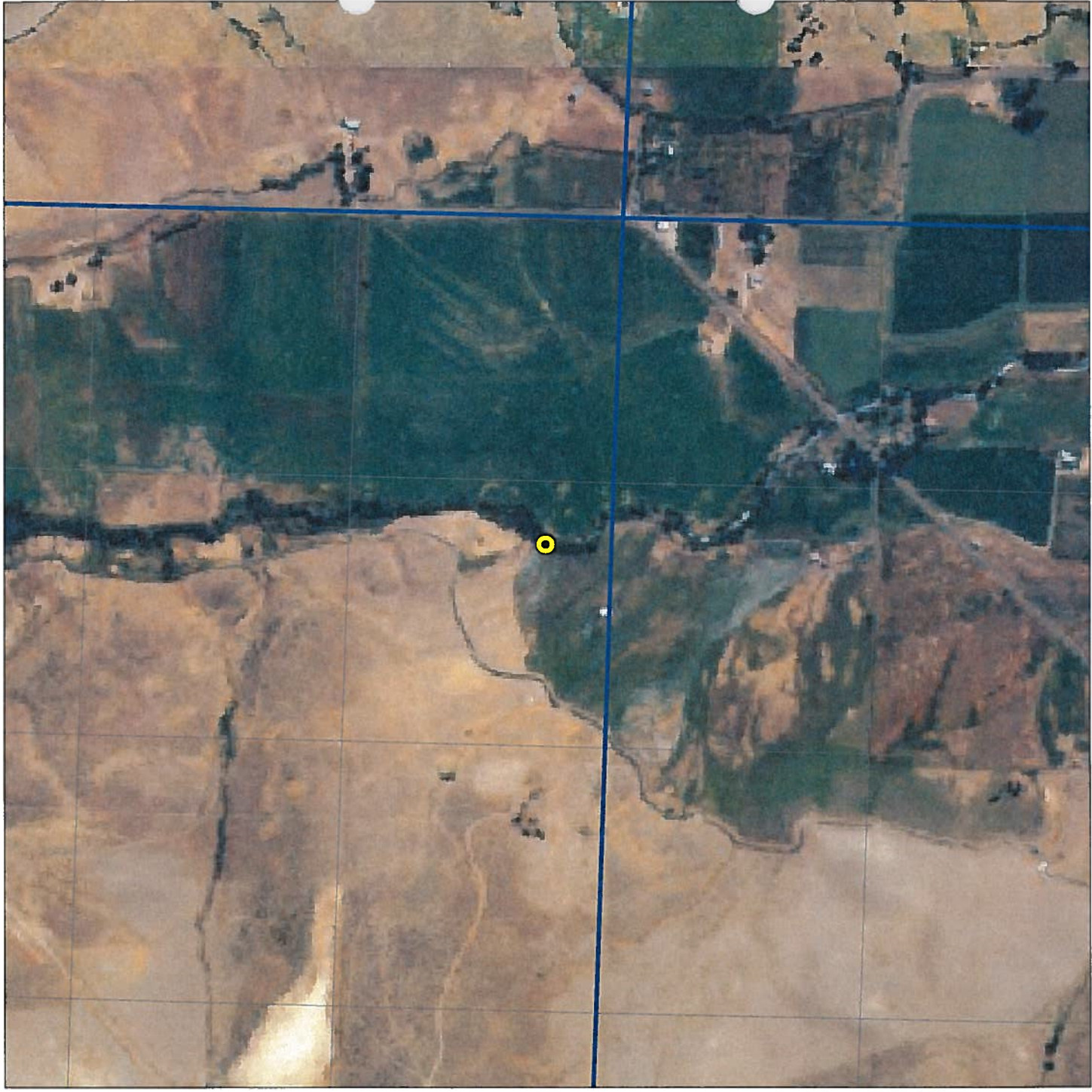


Prepared by D. Narsavage
On Monday, January 9, 2006
1987/88 Aerial Photography

Rec67-554A



Rec67-554A





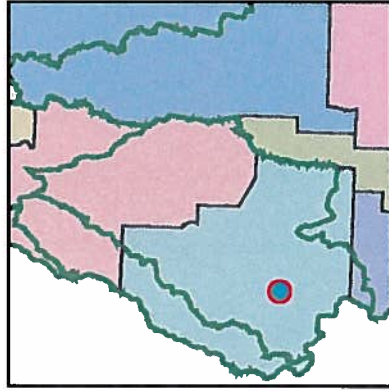
Idaho Department of Water Resources

Adjudication Claim Number: **67-554A**

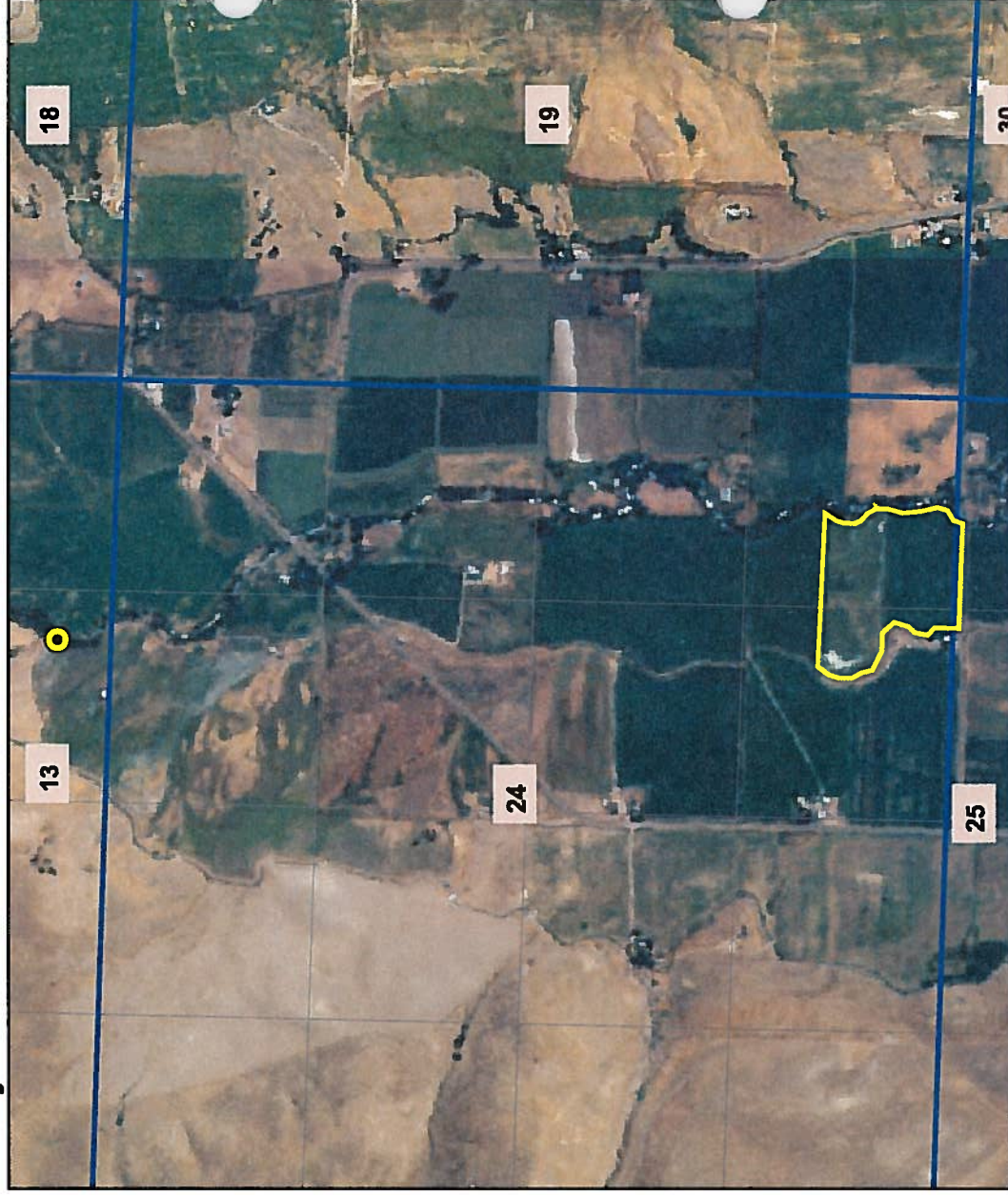
T12N R05W

Legend

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



Washington County
IDWR Basin 67



0 0.5 1 Miles

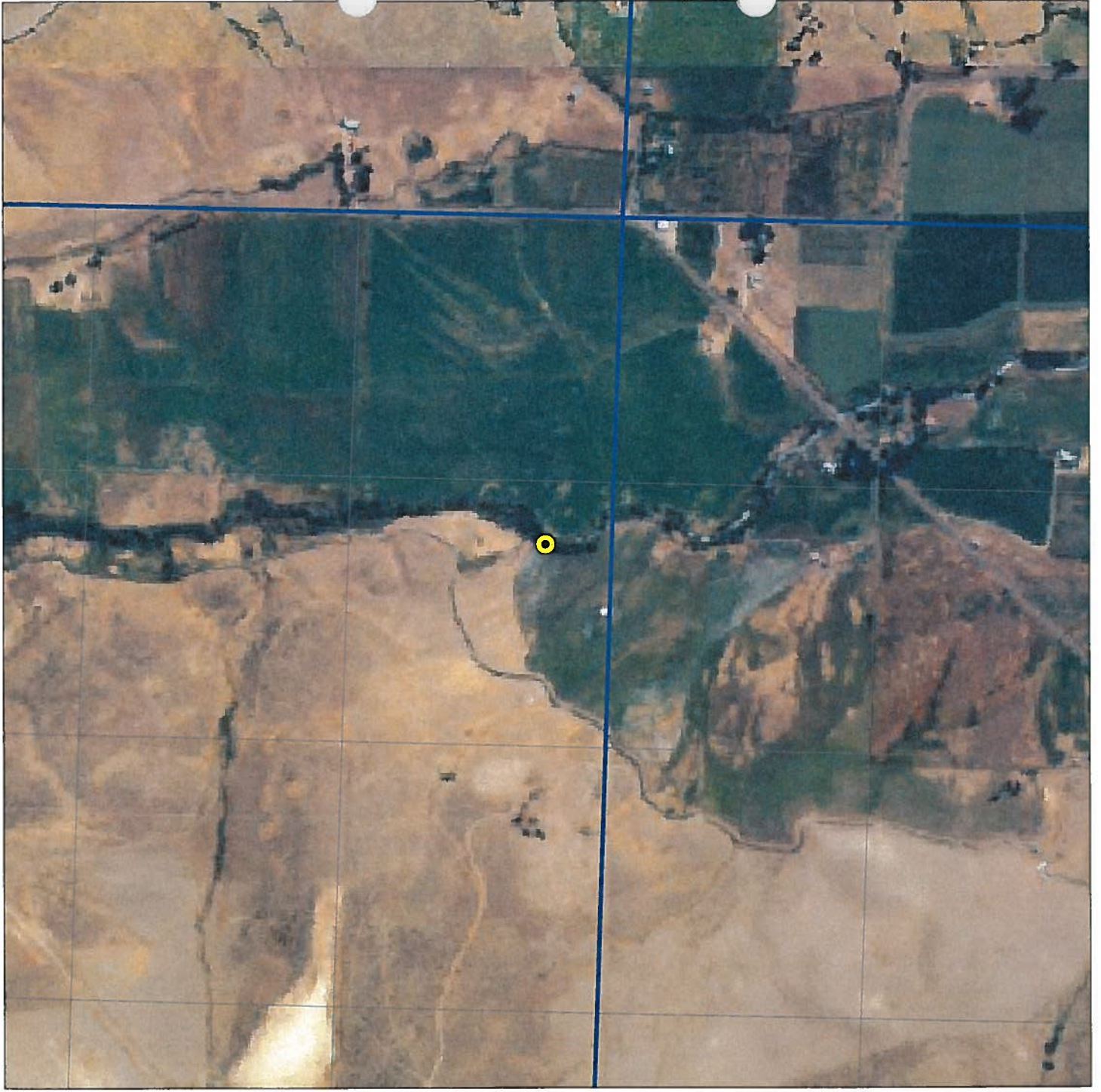


Prepared by D. Narsavage
On Monday, January 9, 2006
1987/88 Aerial Photography

Rec67-554A



Rec67-554A

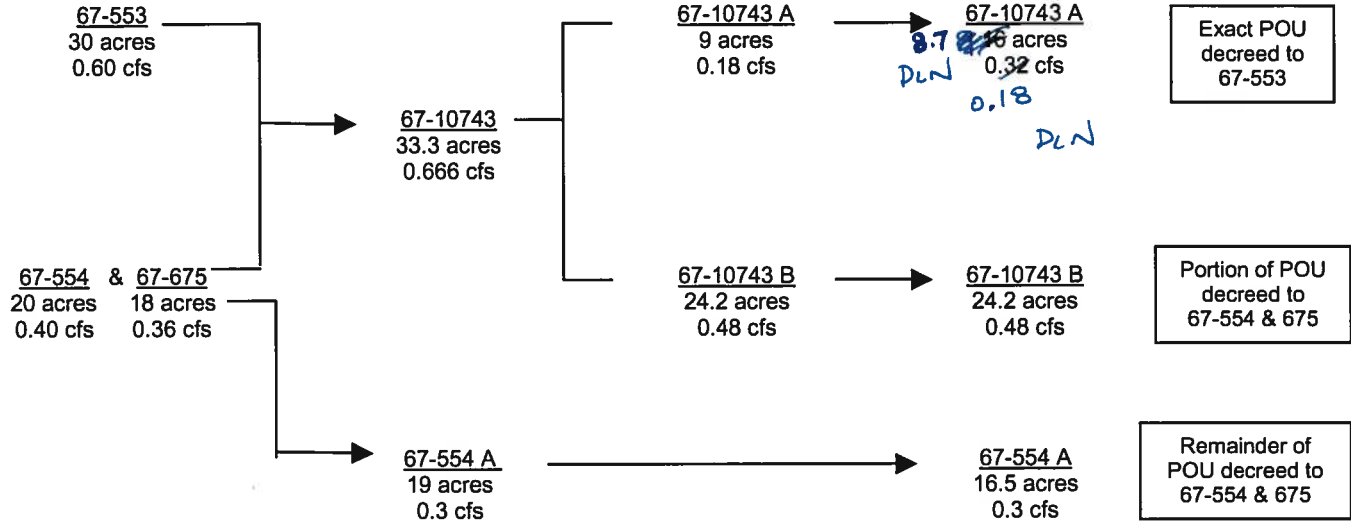


Decreed in
Jefferson v. Higgenbotham

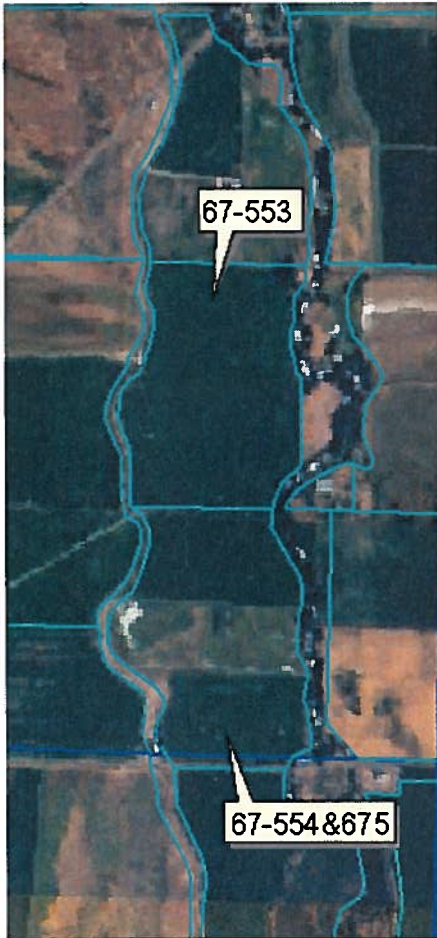
Claimed in
SRBA

Split in
SRBA

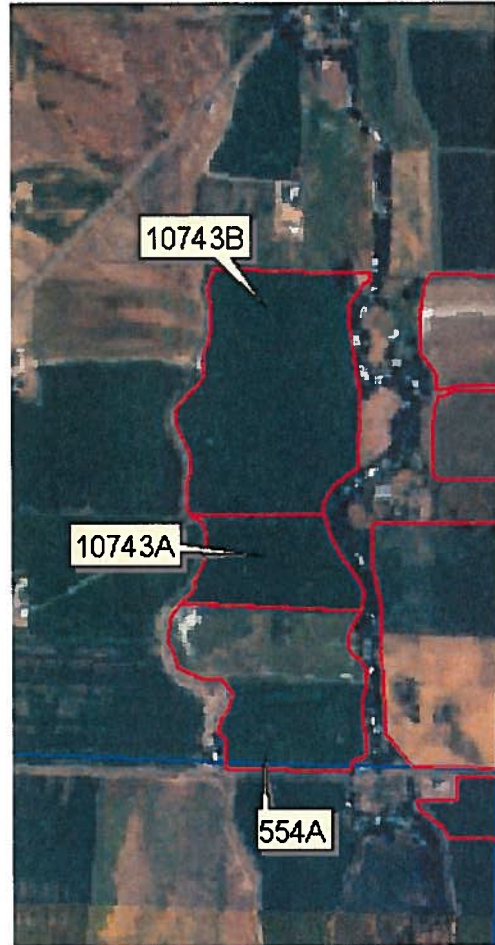
Recommended in
SRBA



AS DECREED
IN 1921



AS RECOMMENDED



DAN NARIANAGE 1/9/06

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: A67-00554A
Date Received: 10/06/1989
Receipt No: M004840
Received By: EW

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MARION F. FAUSETT 208-549-2282
Address: 1772 JACKSON RD.
WEISER, ID 83672

2. Date of Priority: APR 01, 1877

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

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
12N	05W	13	SE	SE			WASHINGTON

5. Description of diverting works:
DAM & SPILLGATE AT MAIN DIVERSION, HEADGATE ON DITCH TO PROPERTY.

6. Water is used for the following purposes:

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

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
12N	05W	24	SW	SE		IRR	9.0
			SE	SE		IRR	10.0
						Section Acres	19.0

A67-00554A

Page 1

Date: 10/06/89

SCANNED
APR 06 2004

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10. Place of Use: Continued

Total Acres 19.0

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:
A67-00675

14. Remarks:

THIS RIGHT IS A SECONDARY RIGHT.
WATER CARRIED IN THE ADAMS-SAILING DITCH.
P/U DESCRIBED BY METES AND BOUNDS IN DECREE.
FLOODWATER RIGHT IS .4 CFS. AC. IRR.=20.

THIS IS A SPLIT OFF OF A67-00554. THIS WATER RIGHT, WHEN
BROUGHT OVER TO THE ADJUDICATION BASE SHOWED 0.28 CFS OF WATER.
THE DECREE INDICATES THAT THE AMOUNT IS 0.40 CFS. THEREFORE,
THIS CLAIM IS FILED AT 0.016 CFS PER ACRE WHICH IF PRORATED AT
25 ACRES (AS INDICATED IN DECREE) WOULD COME OUT TO 0.16 CFS FOR
A TOTAL OF 0.30 CFS FOR 19 ACRES.

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: 3

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): Marion J. Paussett Date: 10-6-89
_____ Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 6 day
of October 19 89

Linda Werner
Notary Public

Seal

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

✓ water right of .7 that amount, for use upon 5.5 acres of the $\frac{31}{4}$ of the $\frac{1}{4}$ and the $\frac{1}{4}$ of the $\frac{31}{4}$ of Sec 22, in Twp 13 N of R 5 West of the Boise Meridian.

MARSHALL BROWN DITCH, date of priority 1908.

Flood water 7 miners inches, .14 cu ft.

Low water right, 4.9 miners inches, .098 cu ft.

For use as follows,

✓ 67 551 Marshall Brown, flood water right 7 miners inches, .14 cu ft and a low water right of .7 that amount, for use upon 7 acres of the $\frac{31}{4}$ of the $\frac{31}{4}$ of Sec 27, Twp 17 N of R 5 West of the Boise Meridian in Idaho.

X

That the following named persons to this action by reason of the appropriation either in person or through their respective predecessors in interest, of the amount of water set opposite their respective names, for use upon their respective lands herein described, are entitled to the use of water from said Mann Creek and to a water right thereon for the irrigation of their said respective tracts of land, and for domestic use as follows, and in the following order of priority, as among themselves, but as against the use of water by any of the parties named in the last preceding paragraph, or upon their various tracts of land, the parties named in this paragraph are entitled to assert no prior right, irrespective of date of priority, the said parties in this paragraph named having lost their priority, and a prior water right for their respective tracts of land over each and every party named in the last preceding paragraph, and over their respective tracts of land, by reason either of their neglect of diligence in the prosecution of their right to the water of Mann Creek to a decree in said former action hereinabove referred to, or by reason of their appropriation having been made since the date of said former decree, and as to all water rights described in this paragraph same are, and each of them are

SECONDARY RIGHTS.

ADAMS-SALING DITCH, date of priority April 1st, 1877:

Flood water right 164 miners inches, 3.28 cu ft.

Low water right, 114.8 miners inches, 2.296 cu ft.

For use upon lands in severalty with no priority within the ditch as among the following named users;

67 552 Wm Adams and here Adams, flood water right 26 miners inches, .52 cu ft and low water right of .7 that amount, for use upon 26 acres of the $\frac{31}{4}$ of the $\frac{31}{4}$, Sec 24 in Twp 12 N, R 5 W B M, and Lot 2 in Sec 19 in Twp 12 N R 4 W B M, and also a strip of land described

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as follows: Commencing at the SW corner of the NW $\frac{1}{4}$ of Sec 24 in Twp 12 N, R 5 W B M and running thence W about 80 rods to the SW corner of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec 24, thence N 2 rods; thence E 80 rods to the Township line; thence S 2 rods to the place beginning, containing about 1 acre.

Also a strip of land described as follows: Beginning at the SW corner of the NE $\frac{1}{4}$ of Sec 19 in Twp 12 N, R 4 W B M and running thence N along the E line of said tract 3 rods; thence W Parallel with the S line of said tract to the W line thereof 8 more or less, thence S along the W line 3 rods to the S line of said tract; thence E the said line 80 rods more or less to the place of beginning containing about $1\frac{1}{2}$ acre

67 0553 Elmer L Galing, flood water right 30 miners inches, .60 cu ft and low water right of .7 that amount, for use upon 30 acres described as: East 10 acres of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the S $\frac{1}{2}$ and the W 19 acres off of the E side of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ all in Sec 24, Twp 12 N, R 5 W B M.

67-0675 flood water right 18 miners inches, .36 cu ft and low water right of .7 the amount, for use upon 18 acres of land described as: Commencing at the NE corner of SW $\frac{1}{4}$, Sec 24 in Twp 12 N, R 5 W B M, thence running E 46 rods, thence S 80 rods; thence W 46 rods; thence N 80 rods to the place of beginning, containing 23 acres; excepting to from a tract of land described as follows: Commencing at the SW corner of the SW $\frac{1}{4}$ Sec 24 in Twp 12 N, R 5 W B M and from thence run N 126 rods and North 40 rods to the place beginning and from thence run W 50 rods; thence N 16 rods, thence E 50 rods, thence S 16 rods to the place of beginning.

Russ Jackson and

67 0554 Mabel Jackson, flood water right 20 miners inches, .40 cu ft and low water right of .7 that amount, for use upon 20 acres of land described as: Commencing at the SW corner of SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec 24 in Twp 12 N, R 5 W B M, and running thence E 46 rods thence S 80 rods, thence W 46 rods; thence N 80 rods to the place of beginning. Also tract of land described as follows: Commencing at the SW corner of SW $\frac{1}{4}$ of Sec 24 in Twp 12 N, R 5 W B M, and from thence run N 126 rods and N 40 rods, thence W 126 rods, thence S 40 rods to the place of beginning, and from thence run W 50 rods, thence N 16 rods, thence E 16 rods, thence S 16 rods to the place of beginning, containing 5 acres.

67 0555 Mary A Sater, Flood water right 70 miners inches, 1.40 cu ft and low water right of .7 that amount, for use upon 70 acres of the NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ in Sec 25 in Twp 12 N, R 5 W B M.

HANNAH DITCH, Date of priority April 1st, 1880;

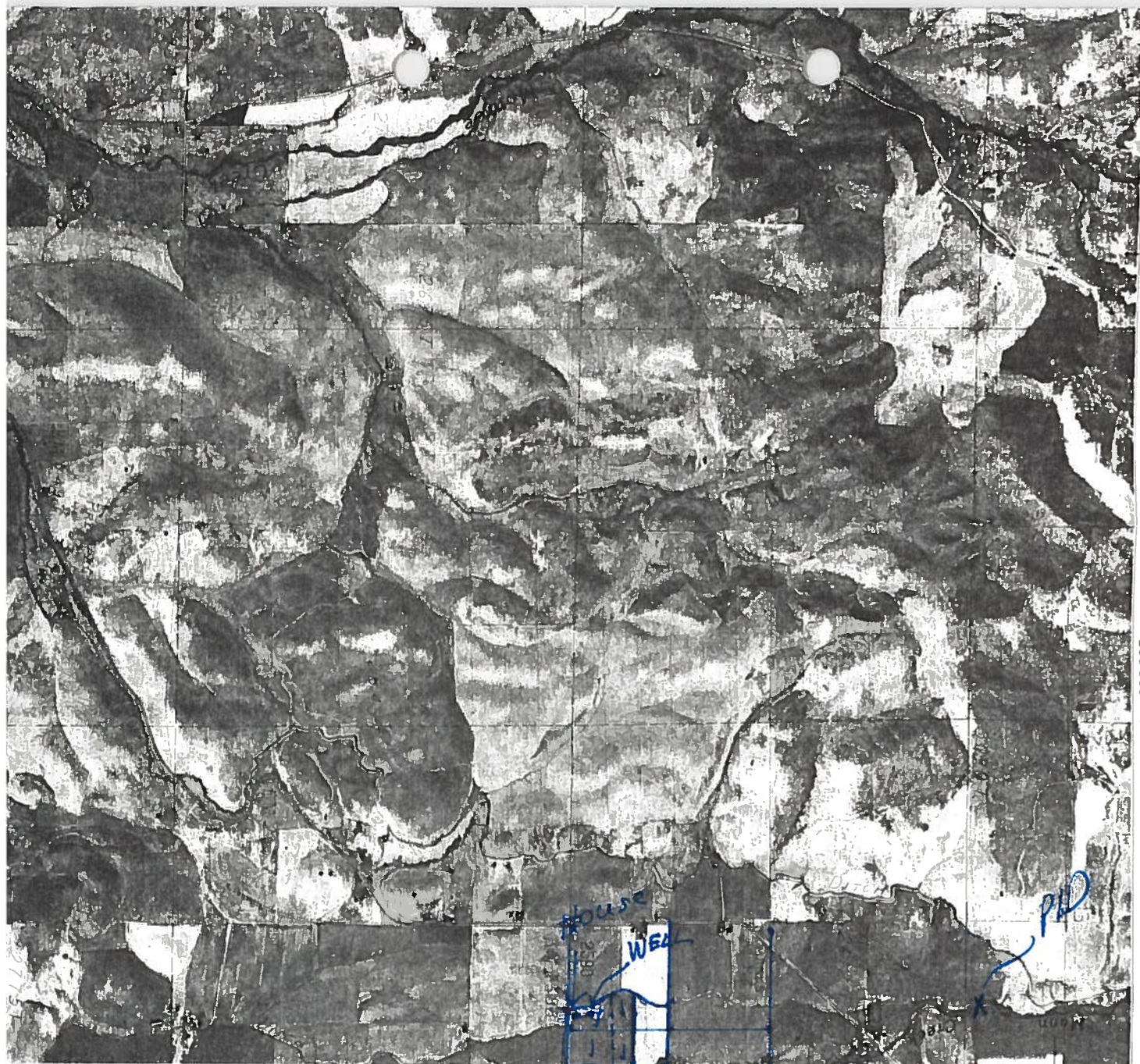
Flood water right 150 miners inches, 3 cu ft.

Low water right 105 miners inches, 2.1 cu ft.

For use upon lands in severalty with no priority within the ditch as follows:

67 0556 W J Laddington, flood water right 15 miners inches, .3 cu ft and low water right of .7 that amount for use upon 15 acres of land as follows: Lot 5 in the NE $\frac{1}{4}$ of

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AG7-00554A

AG7-00625

AG7-10623

SW, SE = 189
 SE, SE = N 10
 21 Ac
 19

T 12 N
 R 5 W
 Sec. 24

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