

12/13/2006

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

RIGHT NUMBER: 67-580B

NAME AND ADDRESS: MEL R CUNNINGHAM
1820 JACKSON RD
WEISER ID 83672

SOURCE: MANN CREEK

TRIBUTARY: WEISER RIVER

QUANTITY: 0.120 CFS

Right Nos. 67-580B and 67-10929 are limited to a total combined diversion rate of 0.90 cfs.

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.

PRIORITY DATE: 04/01/1886

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 only to all rights identified as Primary Rights on Mann Creek.

POINT OF DIVERSION:

T12N R05W S11 SESENE Within WASHINGTON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.120 CFS

PLACE OF USE: IRRIGATION in WASHINGTON County

T12N R04W S19 Lot 4 SWSW	27.00	T12N R05W S24	SESE	18.00
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45 ACRES TOTAL

This right is limited to the irrigation of 6.0 acres within the place of use described above in a single irrigation season.

Right Nos. 67-580B and 67-10929 are limited to the irrigation of a combined total of 45.0 acres in a single irrigation season.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

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 67-580B
Date Received: 10/17/1989
Receipt No: W006340
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

MEL R CUNNINGHAM Phone: (208)549-1729
1820 JACKSON RD
WEISER ID USA 83672

2. Date of Priority: 04/01/1886

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

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
12N	05W	11	SE SE NE	WASHINGTON	

5. Description of diverting works:

DIVERSION VIA JOSLINDITCH W/HEADGATE, GRAVITY FLOW, FLOOD IRRIG.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/15	0.12	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
12N	04W	19	SW	SW 4	IRRIGATION	6
					Section Acres	6
					Total Acres	6

11. Place of use in counties: WASHINGTON

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

THE POINT OF DIVERSION FOR THIS RIGHT WAS CHANGED FROM THE LOLLEY DITCH TO THE DITCH NOW USED - JOSLIN EXT. DITCH.

15. Basis of Claim: Decreed

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-580B V1

WATER RIGHT NUMBER: 67-580B V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	BARBARA J CUNNINGHAM 1820 JACKSON RD WEISER, ID 83672 (208)549-1729
Current Owner	B C CUNNINGHAM 1820 JACKSON RD WEISER, ID 83672 (208)549-1729

Priority Date: 04/01/1886

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
MANN 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	0.120 CFS	
<u>Total Diversion:</u>		0.120 CFS	

Location of Point(s) of Diversion

MANN CREEK	SE1/4SE1/4NE1/4	Sec. 11, 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	19											27.0						27.0
													L 4						
12N	05W	24															18.0		18.0

Total Acres: 45

Conditions of Approval:

1. 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 only to all rights identified as Primary Rights on Mann Creek.
2. E51 Right Nos. 67-580B and 67-10929 are limited to a total combined diversion rate of 0.90 cfs.
3. K06 This right is limited to the irrigation of 6.0 acres within the place of use described above in a single irrigation season.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-580B V1

4. E55 Right Nos. 67-580B and 67-10929 are limited to the irrigation of a combined total of 45.0 acres in a single irrigation season.
5. 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.
6. 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 6/2/2004 POU
Comment: Updated Shape

2. mcase 6/2/2004 Quantity
Comment: Could not determine annual diversion.

3. mcase 6/4/2004 POD
Comment: Updated shape

4. dnarsavage 1/9/2006 Disallowal
Comment: This claim is on a POU that does not appear to have any decreed right on it at all. The claimed POU is on the wrong side of the creek to have been used under the decreed right. See memo in file for more details.

5. csaxton 12/10/2006 POU
Comment: Met with claimant and the POU drawn in on map was incorrect. Should be recommended below ditch. Water co-mingles with 67-10939

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	6/2/2004 4:35:27 PM	mcase			Active
Source	6/2/2004 4:36:32 PM	mcase			Active

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-580B V1

POU	6/2/2004 4:45:44 PM	mcase	Active
Use	6/2/2004 4:45:53 PM	mcase	Active
Season	6/2/2004 4:48:16 PM	mcase	Active
Quantity	6/2/2004 4:48:26 PM	mcase	Active
POD	6/4/2004 9:10:23 AM	mcase	Active
POD	1/9/2006 11:31:41 AM	dnarsavage	Active
Summary		01/09/2006 dnarsavage	Active
Summary		12/10/2006 csaxton	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
POU	12/10/2006 3:40:21 PM	csaxton	Updated PLS for Active POU
POD	12/10/2006 3:42:51 PM	csaxton	Updated shape
POU	12/10/2006 3:43:35 PM	csaxton	Edited Season Of Use
POU	12/10/2006 3:40:12 PM	csaxton	Updated shape for Active POU
POD	12/10/2006 3:43:01 PM	csaxton	Updated PLS
Summary	12/10/2006 3:46:45 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? (No) 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	1/9/2006 11:31:42 AM	dnarsavage	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a POD? (No) 5. Can the claimed POD be verified using the water right file? (No) 6. Is there evidence that there has been a change in the POD? (No) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-580B V1

Summary	1/9/2006 11:35:43 AM	dnarsavage	(Yes) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture? (No) 4. Is any portion of the claim be recommended? (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	6/4/2004 9:10:23 AM	mcase	(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?
Source	6/2/2004 4:36:23 PM	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?
Priority Date	6/2/2004 4:35:03 PM	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?
POU	6/2/2004 4:45:45 PM	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?
Use	6/2/2004 4:45:53 PM	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?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-580B V1

Season	6/2/2004 4:48:16 PM	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?
Quantity	6/2/2004 4:48:26 PM	mcase	(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?

Water Supply Bank:

12/10/2006

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

RIGHT NUMBER: 67-580B

NAME AND ADDRESS: BARBARA J CUNNINGHAM
1820 JACKSON RD
WEISER ID 83672

B C CUNNINGHAM
1820 JACKSON RD
WEISER ID 83672

SOURCE: MANN CREEK

TRIBUTARY: WEISER RIVER

QUANTITY: 0.120 CFS

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T12N R05W S11 SESENE Within WASHINGTON County

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PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.120 CFS

PLACE OF USE: IRRIGATION in WASHINGTON County

T12N R04W S19 Lot 4 SWSW	27.00	T12N R05W S24	SESE	18.00
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45 ACRES TOTAL

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EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed



Idaho Department of Water Resources

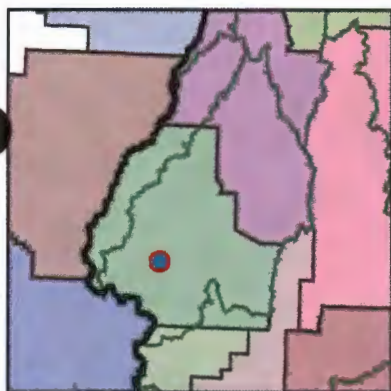
SRBA Recommendation:

67-580B

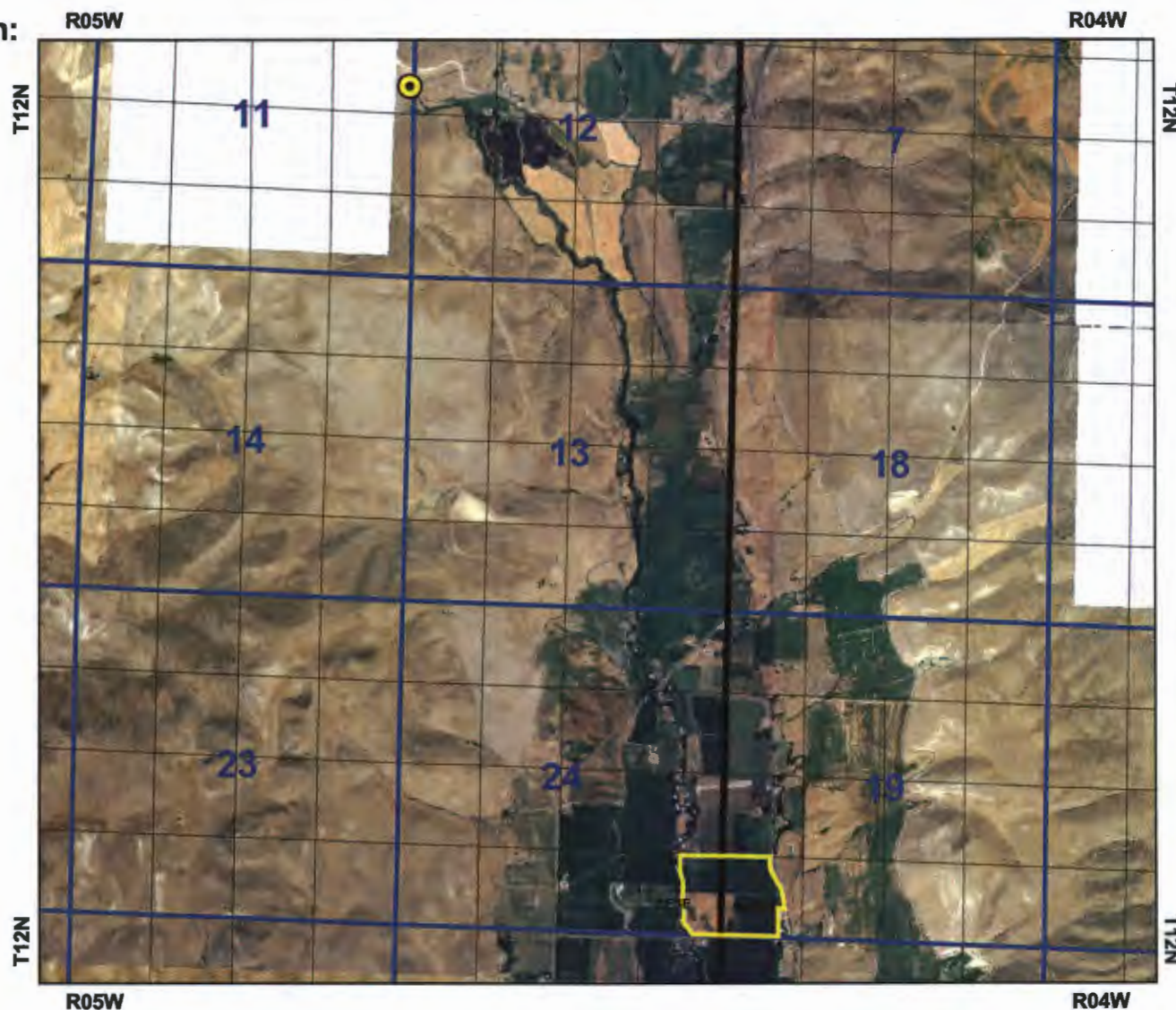
(Irrigation)

Legend

-  **Point of Diversion**
-  **Place of Use**
-  **Townships**
-  **PLS Sections**
-  **Quarter Quarters**

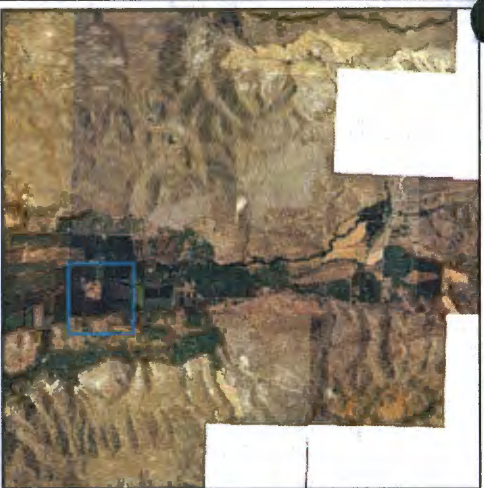


Washington County
IDWR Basin 67



Prepared by IDWR State Office
On Sunday, December 10, 2006
1987/88 Aerial Photography

67-580B



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

RECEIVED

DEC 07 2006

DEPARTMENT OF
WATER RESOURCES

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
<u>A67-00580B</u>		☐			☐
<u>A67-10929</u>		☐			☐
PD <u>A67-10927</u>		☐			☐
PD <u>A67-10654</u>		☐			☐
		☐			☐

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)

B.C. or Barbara J. CUNNINGHAM
P.O. Box 1202, Cascade, ID. 83611

4. New Owner/Claimant(s)

Mel R. CUNNINGHAM
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or

New Mailing Address

1820 Jackson Rd.

City, State and ZIP Code

Weiser, ID. 83672

New Telephone Number

208 549-1729

5. Date you acquired the property

December 28 1998

SCANNED

DEC 09 2006

Approved by: [Signature]
Initials MC

WARRANTY DEED

FOR VALUE RECEIVED, **BILLY C. CUNNINGHAM** and **BARBARA J. CUNNINGHAM**, husband and wife, the Grantors, do hereby, grant, bargain, sell and convey unto **MEL R. CUNNINGHAM**, an unmarried person, the Grantee, whose address is **1820 JACKSON RD. WEISER, ID 83672**, the following described real estate situated in Washington County, State of Idaho, to-wit:

SEE ATTACHED EXHIBIT

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his successors and assigns forever. And the said Grantors do hereby covenant to and with the said Grantee, that they are the owners in fee simple of said premises; that said premises are free from all incumbrances, and that they will warrant and defend the same from all lawful claims whatsoever.

DATED this 22nd day of December, 1998.

[Signature: Billy C. Cunningham]
Billy C. Cunningham

[Signature: Barbara J. Cunningham]
Barbara J. Cunningham

STATE OF IDAHO)
County of Valley) : ss

On this 22 day of December, 1998, before me, the undersigned, a Notary Public in and for said State, personally appeared **Billy C. Cunningham and Barbara J. Cunningham**, known to me to be the persons who signed the foregoing instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

[Signature: Marilyn Marsh]
Notary Public for Idaho
Residing at Cascadia Idaho
Commission expires 5-26-00



Commission Expires 5-26-2000

SCANNED
DEC 9 8 2006

Exhibit A
Cunningham/Cunningham
Warranty Deed

IN WASHINGTON COUNTY, IDAHO:

TOWNSHIP 12 NORTH, RANGE 4 WEST OF THE BOISE MERIDIAN:

Section 19: Lot 4; and a tract in Lot 3 described as:
Beginning at the southeast corner of Lot 3,
Thence North 2 rods,
Thence westerly to the southwest corner of said Lot 3,
Thence East to the place of beginning;

TOWNSHIP 12 NORTH, RANGE 5 WEST OF THE BOISE MERIDIAN:

Section 24: Beginning at the northeast corner of the SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Thence West 34 rods;
Thence South 24 rods;
Thence West 39 feet, more or less, to the West bank of Mann
Creek;
Thence southerly along the West bank of Mann Creek to the
South line of the said SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Thence East to the southeast corner of the said SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Thence North to the POINT OF BEGINNING.

INSTRUMENT NO. 174990

STATE OF IDAHO, COUNTY OF WASHINGTON ss,

Filed for record at the request of

WASHINGTON COUNTY TITLE

04 Min. past FIFTEEN o'clock P. M

This 28TH day of DECEMBER 19 98

Index to: DEEDS

SHARON WIDNER, Recorder Fee: \$6.00

By Lisa McKnight Deputy

WASHINGTON COUNTY TITLE

Cmp. index
Cmp. Rel.
Film
Compare
Card Rel.
Bk. Rel.
Up-date
Return
Copy

19-12-4 & 24-12-5

DEED OF RECONVEYANCE

WASHINGTON COUNTY TITLE CO., an Idaho corporation, as Trustee in the Deed of Trust executed by MEL R. CUNNINGHAM, an unmarried person, which Deed of Trust was recorded in the office of the County Recorder of Washington County, State of Idaho on December 28, 1998 as Instrument No. 174991, does hereby reconvey without warranty to the person or persons legally entitled thereto all the estate now held by it under said Deed of Trust.

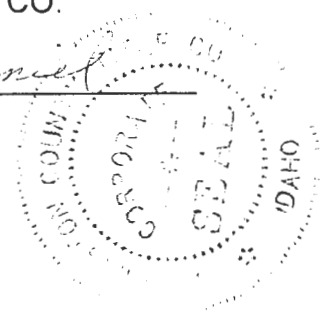
IN WITNESS WHEREOF, WASHINGTON COUNTY TITLE CO. has caused these presents to be executed by its duly authorized officer.

Original Beneficiary: Billy C. and Barbara J. Cunningham

Dated: November 7, 2000

WASHINGTON COUNTY TITLE CO.

By G. Frances McDaniel
G. Frances McDaniel

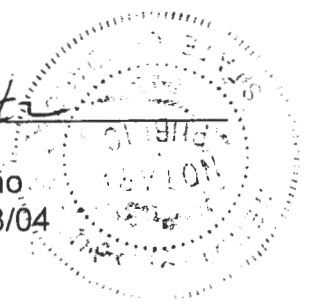


STATE OF IDAHO)
(ss.
County of Washington)

On November 7, 2000, before me the undersigned, a Notary Public in and for said State, personally appeared G. Frances McDaniel, known or identified to me to be the Secretary of WASHINGTON COUNTY TITLE CO., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

Instrument # 181156
WEISER, WASHINGTON, IDAHO
2000-11-07 03:05:00 No. of Pages: 1
Recorded for : WASHINGTON COUNTY TITLE
SHARON WIDNER Fee: 3.00
Ex-Officio Recorder Deputy Sharon Widner
Index to: MORTGAGE - RELEASE OF

Wendy S. Kautz
Notary Public for Idaho
Residing at Weiser, Idaho
Commission expires: 4/3/04



BARBARA J. BERRY
P.O. BOX 117
119 CARLOCK
FORT JONES, CA 96032
E-mail: rbberry@sisqtel.net
Home: 530-468-2694

December 6, 2006

To Whom It May Concern,

I Barbara Cunningham Berry have used the water out of the Mann Creek Ditch and paid the taxes on it from the Mann Creek Dam since the early 1970's when we bought the property with the original house on the east side of Mann Creek when the property on the west side of the creek was split off of the original farm. I believe that we have a water right for 48.1 Acres.

The adjudicated water right from Mann Creek Ditch came with the property we purchased in the early 1970"s.

Barbara Cunningham Berry

Barbara Cunningham Berry

Barbara J. Berry

From: "Cindy Loos" <toadilycreative@msn.com>
To: "Berry Mom & Dick" <RBBerry@sisQtel.net>
Sent: Wednesday, December 06, 2006 4:35 PM

Concerning Water Adjudication in basin # 67. Mann Creek

I, Barbara J. Cunningham Berry, confirm the use of irrigation water from Mann Creek

ditch since the early 1970's on said property lying on EAST side of Mann Creek, containing

the original home site of the property which was split near Mann Creek in the early 1970's.

The water right number was originally sent to us as #A67-580A and through some correspondence with the Idaho Dept. of Water Resources was changed to #A67-580B.

signed Barbara J. Cunningham Berry date 12/6/06

P.O. Box 117
Fort Jones, Ca 96032
1-530-468-2694

12/6/2006

11/14/2006

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: 67-580B

BARBARA J CUNNINGHAM
1820 JACKSON RD
WEISER ID 83672
Telephone Number: (208)549-1729

B C CUNNINGHAM
1820 JACKSON RD
WEISER ID 83672
Telephone Number: (208)549-1729

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

Place of USE should be SAME as 67-10929

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

Claimed P.O.D. IS Correct

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: 12-7-06

SIGNATURE:

Mel R. Cunningham

Please print your name:

Mel R. Cunningham

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

Memo

Re: Disallowal of SRBA claim 67-580B

From: Dan Narsavage

Date: 01/09/2006

Refer to the map below, which illustrates my interpretation of the Mann Creek Decree's Places of Use (POUs). The area labeled "Claimed POU" was taken from the map included with the claim. From what I can tell, there is no decreed right on this POU, and certainly it's not 67-580. That right is on the other side of Mann Creek, decreed out of Lolley Ditch, and by the looks of the 1987 (shown) and 2004 aerial photography is fully utilized as decreed.

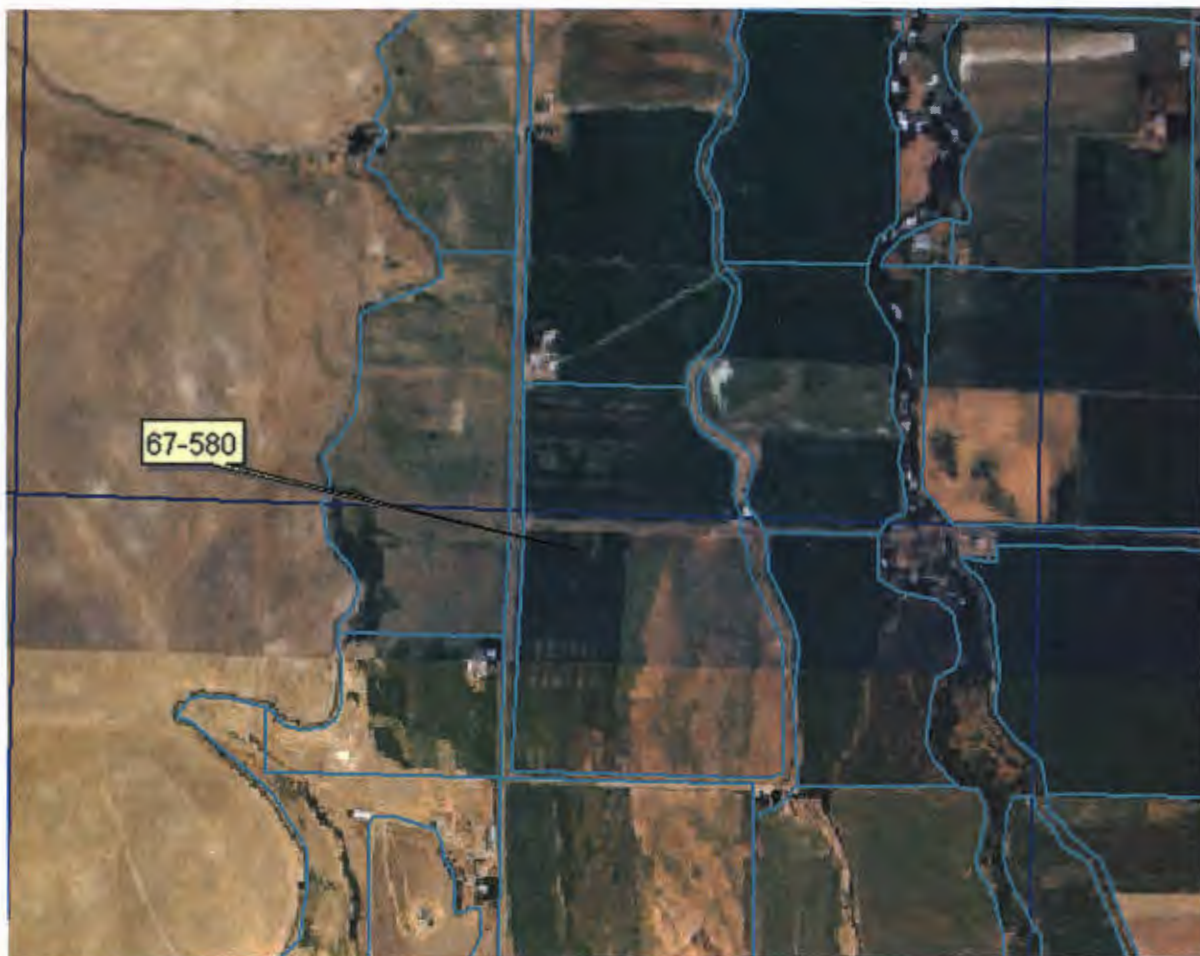
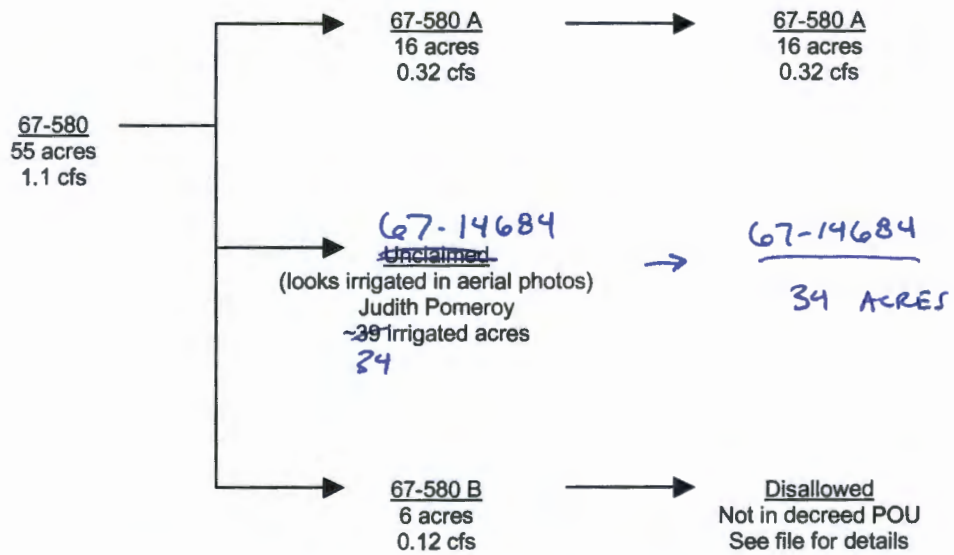


NO TRANSFER FOUND - DLN 1/9/06

Decreed in
Jefferson v. Higgenbotham

Claimed in
SRBA

Recommended in
SRBA



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

CLAIM NO(s). 67-580 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: _____
(If the priority date, based on your exam, seems questionable, explain below.)

THIS SHOULD BE DISALLOWED. 67-580 WAS DECREED
OUT OF LOLEY DITCH AND, ~~BE~~ ALTHOUGH IT HAIN'T BEEN FULLY
CLAIMED, HAS BEEN FULLY USED AS DECREED

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:

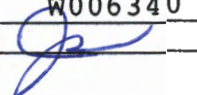
Township _____ Range _____ Section _____ 1/4 _____ 1/4 _____ 1/4 _____
Township _____ Range _____ Section _____ 1/4 _____ 1/4 _____ 1/4 _____

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

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: A67-00580B
Date Received: 10/17/1989
Receipt No: W006340
Received By: 

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: B. C. CUNNINGHAM 208-549-1729
Address: 1820 JACKSON RD.
WEISER, ID 83672

OR

Name: BARBARA J. CUNNINGHAM 208-549-1729
Address: 1820 JACKSON RD.
WEISER, ID 83672

2. Date of Priority: APR 01, 1886

3. Source: MANN 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	11	SE	SE	NE		WASHINGTON

5. Description of diverting works:
DIVERSION VIA JOSLINDITCH W/HEADGATE, GRAVITY FLOW, FLOOD IRRIG.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.120		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
NONE.

A67-00580B

Page 1

Date: 01/12/90

SCANNED
APR 06 2004

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10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
12N	04W	19	SW SW	4	IRR	6.0
Section Acres						6.0
Total Acres						6.0

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:
NONE.

14. Remarks:

THE POINT OF DIVERSION FOR THIS RIGHT WAS CHANGED FROM THE LOLLEY
DITCH TO THE DITCH NOW USED - JOSLIN EXT. DITCH.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

Decree Plaintiff

vs

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): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____
My Commission Expires _____

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

A67-005808

Date Received

10-17-89

Receipt Number

W006340

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) B.C. OR BARBARA J. CUNNINGHAM Phone (208) 549-1729Mailing Address 1820 JACKSON RD., WEISER, ID Zip 836722. Date of Priority (Only one (1) per claim) 4-1-18863. Source of water supply (a) MANN CK
which is tributary to (b) WEISER RIVER4. a. Location of existing point of diversion is: Township 12N Range 5W Section 11,
SE 1/4 of SE 1/4 of NE 1/4, Govt. Lot, _____ B.M., County of WASHINGTON

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.DIVERSION VIA JOHNS DITCH
WITH HEADGATE IN DITCH, GRAVITY FLOW, FLOOD IRRIGA-
TION.

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6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from 8-15 to 11-15 amount .12 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .12 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 18 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) NONE

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
<u>12N</u>	<u>4W</u>	<u>19</u>											<u>.12</u>	<u>6</u>					<u>6</u>

Total number of acres irrigated 6

11. In which county (ies) are lands listed above as place of use located? WASHINGTON

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above. _____ or None X

14. Remarks: THE POINT OF DIVERSION FOR THIS RIGHT WAS
CHANGED FROM THE HOLLEY DITCH TO THE
DITCH NOW USED - JOSLIN EXTENSION DITCH.

Last Name CUNNINGHAM Ident No. A67-00580A

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Copies: White -State, Yellow-Claimant

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15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree X
If applicable provide IDWR Water Right Number 67-00580A
Court _____ Case Number _____ Decree Date _____
Plaintiff vs 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 2

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) B.C. Cunningham Date 10/17/89

Date _____

For Organizations: I do solemnly swear or affirm that I am _____

Title

of _____, that I have signed the foregoing

Organization

document in the space below as _____ of _____

Title

Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho/or _____)
County of ADA) SS.

Subscribed and sworn (or affirmed) before me this 17th day of October 19 89

Notary Public Jan Thurtell

Residing at Meridian ID

My Commission Expires 9-14-94

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

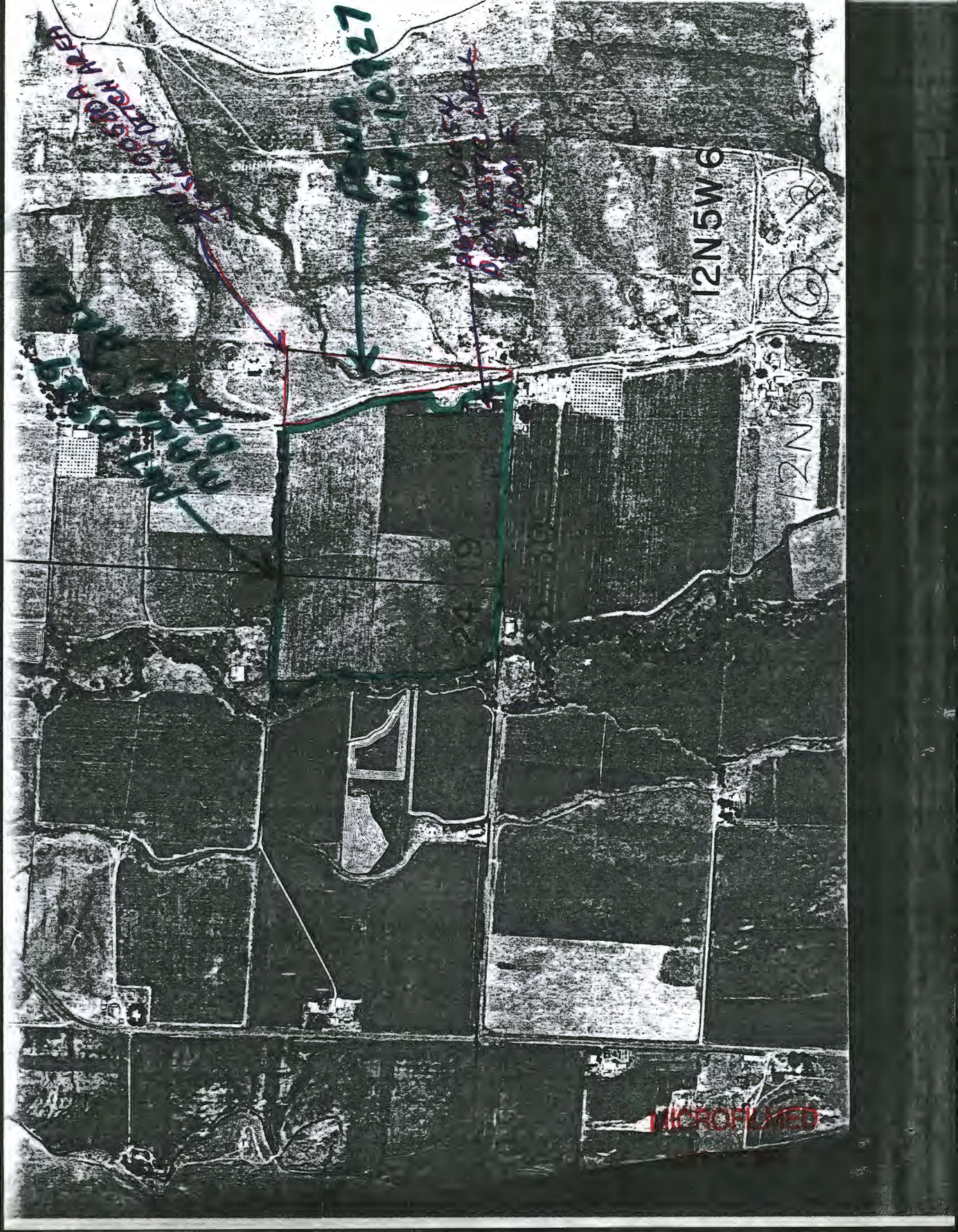
Last Name CUNNINGHAM Ident. Number A67-00580A

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Copies White-State, Yellow-Claimant

OCT 01 1992



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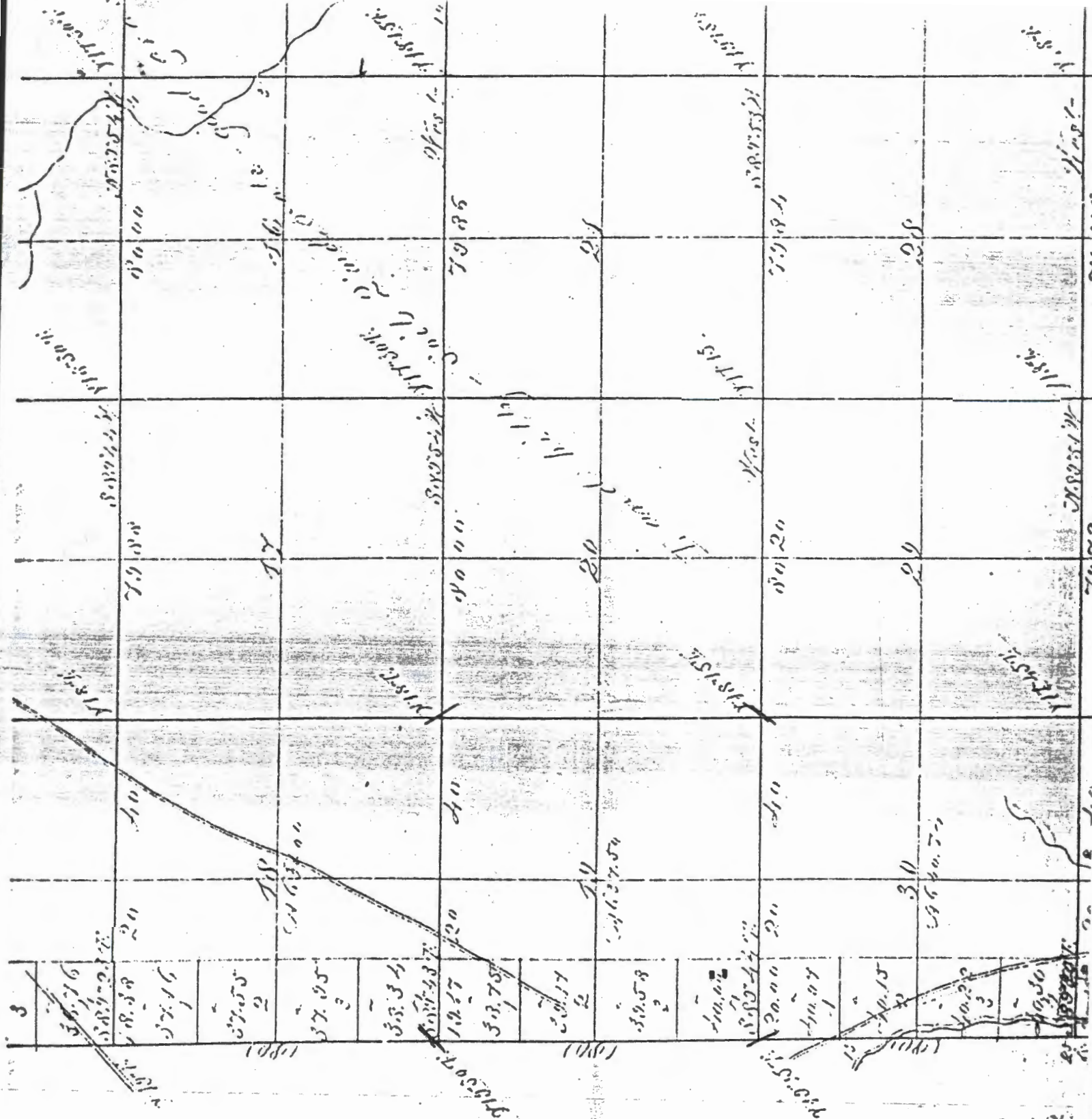
100-10927

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100-10927

12N5W6

12N5

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U. S. Land Office at Boise, Idaho. Idaho Territory.
 per Register's receipt.

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 OCT 01 1992