

03/09/2006

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

RIGHT NUMBER: 67-597A

NAME AND ADDRESS: EARL L CANADA JR
37200 N PENSTOCK DR
SAUGUS CA 91390

SOURCE: MANN CREEK

TRIBUTARY: WEISER RIVER

QUANTITY: 0.780 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: 04/01/1894

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.

POINT OF DIVERSION:

T11N R04W S30 NWNWNE 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	0.780 CFS

PLACE OF USE: IRRIGATION Within WASHINGTON County

T11N R04W S31	SENW	18.00	T11N R04W S31	NESW	21.00
---------------	------	-------	---------------	------	-------

39 ACRES TOTAL

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



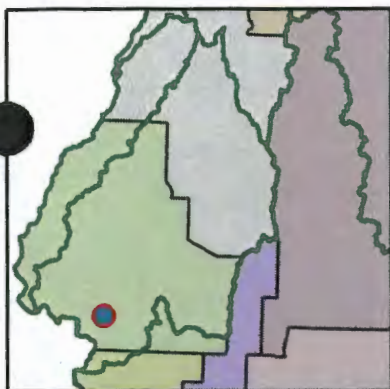
Idaho Department of Water Resources

Adjudication Claim:

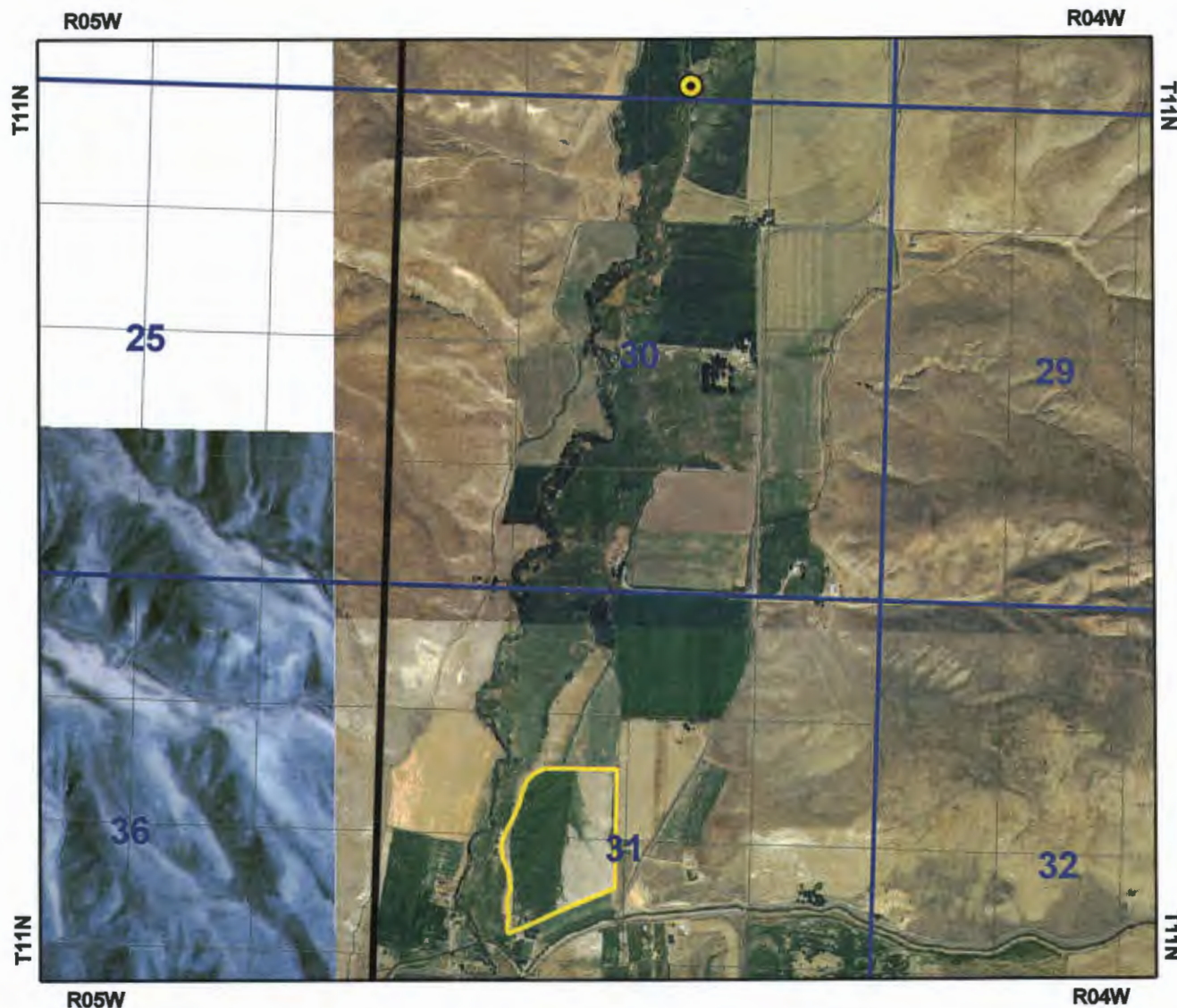
67-597A

Legend

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



Washington County
IDWR Basin 67



0 0.7 1.4 Miles



Prepared by D. Narsavage
On Tuesday, February 7, 2006
1987/88 Aerial Photography

67-597A



IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-597A V1

WATER RIGHT NUMBER: 67-597A V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	GARY D BROWN 1814 WEISER RIVER RD WEISER, ID 83672 (208)549-2599
Original Owner	T W BARTON WEISER, ID

Priority Date: 04/01/1894

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	0.780 CFS	
	<u>Total Diversion:</u>	0.780 CFS	

Location of Point(s) of Diversion

MANNS CREEK	NW1/4NW1/4NE1/4	Sec. 30, Twp 11N, Rge 04W, 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	
11N	04W	31									18.0	21.0							39.0

Total Acres: 39

Conditions of Approval:

1. 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.
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.
3. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-597A V1

Remarks:Comments:

1. segbert 6/10/2004 POU

Comment: Land in the NW quarter is not mentioned in the decree

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	6/10/2004 10:36:49 AM	segbert			Active
Source	6/10/2004 10:37:40 AM	segbert			Active
POU	6/10/2004 10:41:15 AM	segbert			Active
Use	6/10/2004 10:52:09 AM	segbert			Active
Season	6/10/2004 10:52:29 AM	segbert			Active
Quantity	6/10/2004 10:53:21 AM	segbert			Active
POD	6/10/2004 10:55:16 AM	segbert			Active
Priority Date	12/2/2005 11:29:56 AM	dnarsavage			Active
POD	12/2/2005 11:30:32 AM	dnarsavage			Active
Source	12/2/2005 11:32:22 AM	dnarsavage			Active
POU	12/2/2005 11:32:46 AM	dnarsavage			Active
Season	12/2/2005 11:34:31 AM	dnarsavage			Active
Quantity	12/2/2005 11:34:51 AM	dnarsavage			Active
Summary			12/02/2005	dnarsavage	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
----------------	------------------------	-----------------	-----------------

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-597A V1

POD	12/2/2005 11:32:05 AM	dnarsavage	Updated shape
POU	12/2/2005 11:33:15 AM	dnarsavage	Updated shape for Active POU
Source	12/2/2005 11:32:21 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	12/2/2005 11:32:47 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?
Season	12/2/2005 11:34:31 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?
Quantity	12/2/2005 11:34:52 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?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-597A V1

Summary	12/2/2005 11:37:08 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?
General	12/2/2005 11:29:56 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	12/2/2005 11:30:33 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	12/2/2005 11:33:23 AM	dnarsavage	Updated PLS for Active POU
POU	6/10/2004 10:41:16 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?
POU	6/10/2004 10:51:38 AM	segbert	Edited shape boundary
Use	6/10/2004 10:52:09 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?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-597A V1

Season	6/10/2004 10:52:30 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	6/10/2004 10:55:17 AM	segbert	(Yes) 1. Is the basis of this claim a Decree or License?
Priority Date	6/10/2004 10:36:50 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?
Source	6/10/2004 10:37:40 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?
Quantity	6/10/2004 10:53:21 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? (Yes) 5. Can the claimed diversion rate and/or volume be verified using the water right file?
POU	10/6/2005 11:24:33 AM	dnarsavage	Updated shape for Active POU

Water Supply Bank:

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

RECEIVED

OCT 14 2005

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
	67-597A				
	67-10994				

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts. *NO FEE*
- 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)

4. New Owner/Claimant(s)

EARL L. CANADA JR.

Name Connector (Check one): [] and, [] or, [] and/or

New Mailing Address

37200 N. Penstock Dr

City, State and ZIP Code

Sanger, CA 91390

New Telephone Number

(661) 297-7377

5. Date you acquired the property

OK TO CHANGE IN ENTIRETY

DLN

02/10/06

SCANNED

OCT 14 2005

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s) Earl J. Casada Jr.
(include title if applicable) _____

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____ Date _____ Fee _____
 Receipted by _____ Date _____ Receipt No. _____
 Processed by _____ AJ Date _____ WR _____ Date _____

SCANNED
OCT 14 2005



WASHINGTON COUNTY, IDAHO

BASED ON GOVERNMENT SURVEYS & OFFICIAL RECORDS
ON FILE AT THE OFFICE OF THE COUNTY RECORDER OF
WASHINGTON COUNTY, IDAHO.
FOR ASSESSMENT PURPOSES ONLY
DOES NOT GUARANTEE BOUNDARIES



1 inch equals 0.051926 miles

0 120 240 480 720 960 Feet

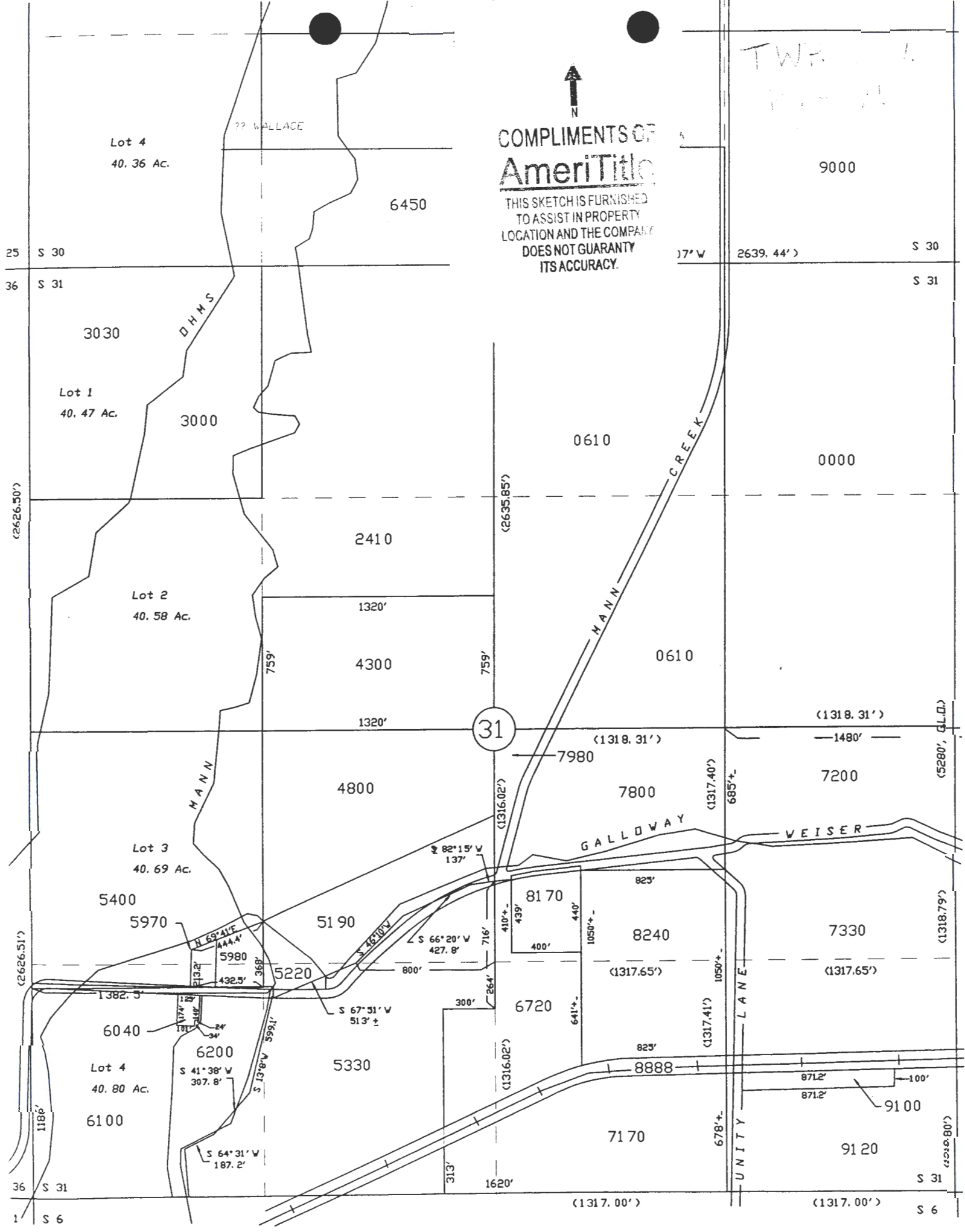
Legend

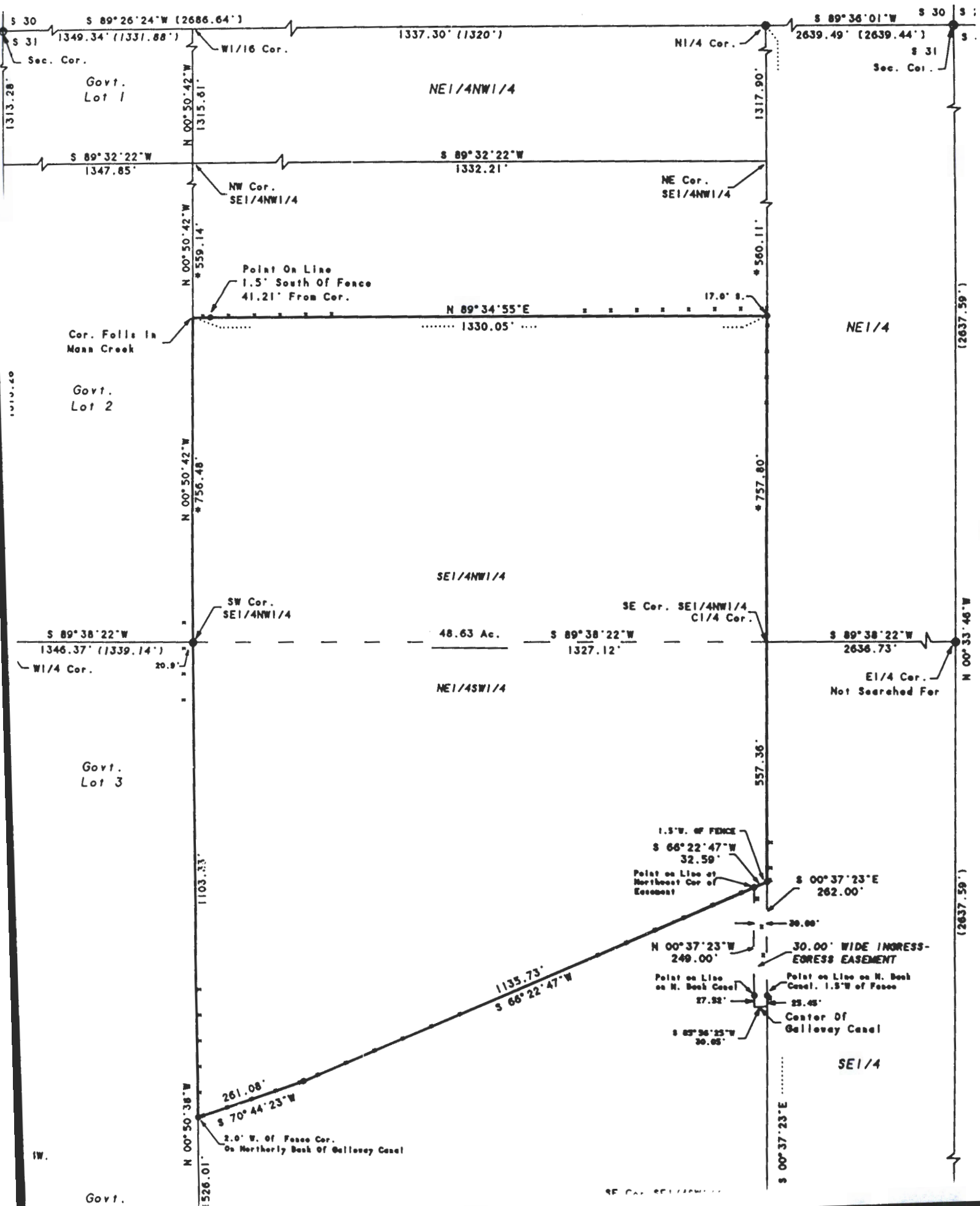
- PAVED ROAD
- GRAVEL ROAD
- TOWNSHIP LINES
- SECTION LINES
- PARCEL LINES
- RIVERS
- QUARTER SECTION LINES
- added road layer

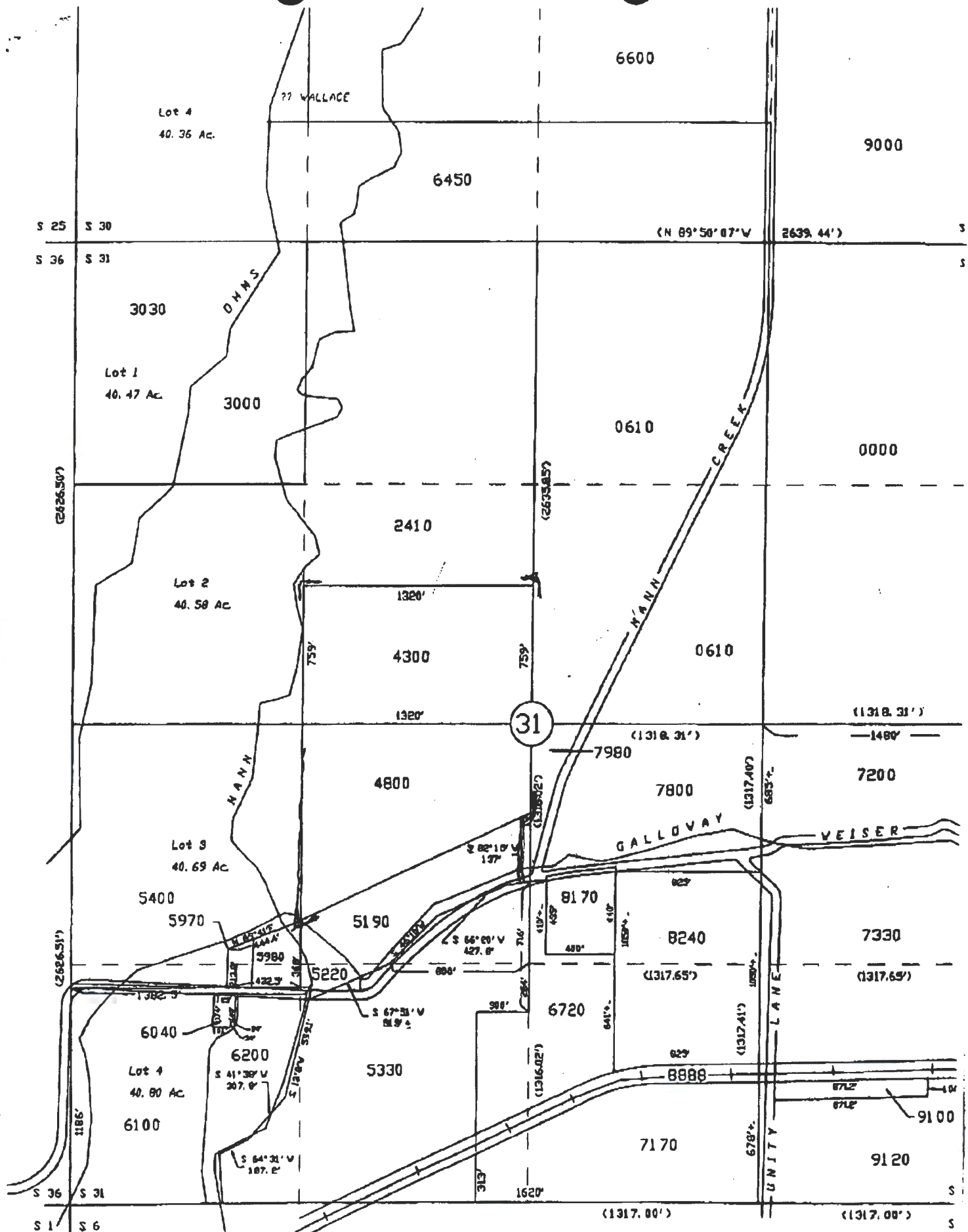
TWR 1
P. 1

COMPLIMENTS OF
AmeriTitle

THIS SKETCH IS FURNISHED
TO ASSIST IN PROPERTY
LOCATION AND THE COMPANY
DOES NOT GUARANTY
ITS ACCURACY.









State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 8, 2005

JEANNE W WALLACE
PO BOX 711
WEISER ID 83672

RE: SRBA claims 67-597A, 67-00598, 67-00604, 67-00611A, 67-10994 and 67-11636

Dear Mrs. Wallace,

Per our phone conversation this morning, I am sending you a change of ownership form for the above-listed claims. Please complete the change of ownership form and send it back to me, including the warranty deeds we talked about.

Please feel free to contact me at (208) 287-4907 with any questions.

Respectfully submitted,

Monica P. Van Bussum
Water Resource Agent/GIS Technician
Adjudication Bureau

CONVERSATIONAL MEMORANDUM

TO: File

FROM: Monica Van Bussum

DATE: 7 Sep 2005

RE: Phone conversation with Jeanne Wallace re: SRBA claims 67-597A, 67-598, 67-10994 and 67-11636

Jeanne Wallace phoned to explain a little of the history of the property involved and to see if she would even need to file ownership on the property.

The property they own (purchased from Gary Brown) is approximately 142 acres at the mouth of Mann Creek and was originally farmed by Gary Brown. This is an old property and was apparently homesteaded. Gary Brown was in arrears with FHA for 11 years.

The Wallaces were interested in an easement on the backside of the property, but Brown couldn't sell it because he wasn't in good standing with the FHA. Brown eventually filed for bankruptcy and came to them to borrow money to pay off the bank and he was supposed to pay them in full in one year's time. He failed to do so, and they eventually got the property after paying his bankruptcy debts. When the Wallaces acquired the property, they had the water done through Mann Creek Irrigation and have been paying Mann Creek Irrigation for 111 acres of irrigation since 1999/2000. They have spent the last five years trying to make the ditches usable and the land farmable. They have had stock on it all this time. They have been irrigating some on the backside of the property with gravity flow, but they can not pump out of the Ohms Ditch without replacing the pump, which they mean to do. They do not know how long Brown let the property lay dormant while he was having financial trouble.

I told Ms. Wallace I would check to see if their property is being claimed by Mann Creek Irrigation and, if it is, she won't need to do anything further. I told her if Mann Creek Irrigation is not claiming it, we will need to talk further and have some documentation of ownership, priority, etc.

Also received two messages from Earl Canada today, but he left no return number.



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

August 26, 2005

EARL L CANADA JR
37200 N PENSTOCK DR
SAUGUS CA 91390

GLEN N WALLACE
PO BOX 711
WEISER ID 83672

LEONA WILSON
CLIFFORD E WILSON
1855 WEISER RIVER RD
WEISER ID 83672

RE: SRBA claims 67-597A, 67-00598, 67-10994 and 67-11636

Dear Claimants,

The Idaho Department of Water Resources is currently in the process of reviewing Snake River Basin Adjudication (SRBA) claims filed in basin 67. In my review, it appears that you now own property in Washington County that was previously owned by Gary D. Brown. The legal description is as follows:

T11N R04W S31 SE1/4 NW1/4
 NE1/4 NW1/4
 NE1/4 SW1/4
 NW1/4 NE1/4
 SW1/4 NE1/4

Several claims to a water right have been filed on that property (enclosed).

If you use the water claimed for beneficial use, you need to file a change of ownership form in order to allow IDWR to change the name on the claims and ensure that you receive future correspondence (form enclosed).

In my initial review, despite needing a change of ownership, I have come across several issues that need to be addressed regarding the water right claims.

- 1) Looking at 1987 and 1998 aerial photography, the ground does not appear to be irrigated. Has water been put to beneficial use? If so, to what extent and how long has it been used? I have enclosed a map of the general area of irrigation

stated in your claim. Please outline the location of lands irrigated based on your claim, as well as the location of any points of diversion, if possible.

- 2) 67-597A claims 47 acres within what appeared to be approximately 128 acres originally owned by Gary D. Brown. What 47 acres are irrigated with water from 67-597A? Is it co-mingled with water from 67-10994 or 67-11636?
- 3) It appears the place of use for 67-11636 was claimed in error. The legal description on the claim is T11N R04W S31 SE1/4NW1/4. Instead, it looks like it should be T11N R04W S31 NW1/4SE1/4. Please confirm the place of use for this claim.
- 4) 67-10994 and 67-11636 are beneficial use claims. 67-10994 claims a priority date of March 15, 1945. 67-11636 claims a priority date of May 1, 1868. Evidence needs to be submitted supporting that water was put to beneficial use on those dates to the extent claimed. For your convenience, I am enclosing a pamphlet titled *Evidence Of Priority*, which describes what documents can be used to support the claimed priority date.
- 5) Because 67-10994 and 67-11636 are claimed based on beneficial use, all elements of the water rights need to be verified. IDWR personnel may need to conduct a field exam to verify the elements of the water right.

Please submit response to the items above and the required evidence supporting the priority date by September 14, 2005. PLEASE NOTE: Without the requested information, IDWR will recommend the SRBA Court decree the claim be disallowed.

I realize that this is a lot of information all at once. Please feel free to contact me at (208) 287-4907 with any questions.

Respectfully submitted,



Monica P. Van Bussum
Water Resource Agent/GIS Technician
Adjudication Bureau

Enclosure(s)

Cc: GARY D BROWN
1814 WEISER RIVER ROAD
WEISER ID 83672



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 1, 2006

EARL L CANADA JR
37200 N PENSTOCK DR
SAUGUS CA 91390

RE: Snake River Basin Adjudication (SRBA) preliminary recommendation 67-597A and claim 67-10994

Dear Mr. Canada Jr.,

Per our conversation today, I am enclosing copies of a couple of different water right records for your files.

67-597A is a copy of the preliminary recommendation. This is what we plan to recommend as your water right to the SRBA court in a couple of months. If you disagree with the recommendation, give me a call and we can talk about your concerns.

67-10994 is a copy of a claim to a ground water irrigation right. We spoke about this and you were going to contact Gary to find out what he knows. I fear that I might have talked you out of pursuing this as a valid water right. I apologize if I came across that way because if there is a valid water right there, it could very well be in your best interest to pursue it. I do not know if I directly answered your question about property value, but in general, water rights on your property increase the value of your property.

So let us look at it from a different perspective. At this time, I need some additional information to make a positive recommendation on claim 67-10994.

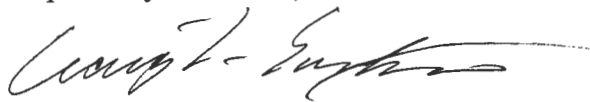
- 1) I need evidence of priority. This is some sort of evidence that supports when the water claimed was first put to beneficial use. Mr. Brown claimed a priority date of 3-15-1945. You do not need to prove that date, but you will probably want to get as close as you can and at least before March 25, 1963 as that is the date you were required to file a permit for groundwater use for any purpose other than domestic. Generally proof provided is in the form of an affidavit from someone with first hand knowledge of the use. The affidavit should include: 1) date, 2) extent of use (irrigation of 39 acres in the SENW of section 31), and 3) how the affidavit writer knows (I lived next door since I was a child).

- I am enclosing a pamphlet that talks about Evidence of Priority
- 2) Date of last use. Since I was told that this right has not been used for "a while", I need some evidence that it has been used at least once since 1984. We spoke a little about forfeiture and how the SRBA court has said the forfeiture clock stops when the claim was filed. Since this claim was originally filed in 1989, we can go back to 1984.
- 3) We will need to know the capacity of the well. How much water it can divert. This can be done using theoretical calculations based on HP, Lift, and discharge or other methods. We can talk about this if we get to that point.

So, at this time, if I do not hear back from you about gather this information, I will have to recommend the claim as disallowed. But if you feel there is a valid water right on the property, we will get to work on gathering the information we need.

Please feel free to contact me with any questions,

Respectfully submitted,



Craig L. Saxton
Sr. Water Resource Agent
Adjudication Bureau

Enclosure(s):



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

August 26, 2005

EARL L CANADA JR
37200 N PENSTOCK DR
SAUGUS CA 91390

GLEN N WALLACE
PO BOX 711
WEISER ID 83672

LEONA WILSON
CLIFFORD E WILSON
1855 WEISER RIVER RD
WEISER ID 83672

RE: SRBA claims **67-597A**, 67-00598, 67-10994 and 67-11636

Dear Claimants,

The Idaho Department of Water Resources is currently in the process of reviewing Snake River Basin Adjudication (SRBA) claims filed in basin 67. In my review, it appears that you now own property in Washington County that was previously owned by Gary D. Brown. The legal description is as follows:

T11N R04W S31 SE1/4 NW1/4
 NE1/4NW1/4
 NE1/4 SW1/4
 NW1/4NE1/4
 SW1/4NE1/4

Several claims to a water right have been filed on that property (enclosed).

If you use the water claimed for beneficial use, you need to file a change of ownership form in order to allow IDWR to change the name on the claims and ensure that you receive future correspondence (form enclosed).

In my initial review, despite needing a change of ownership, I have come across several issues that need to be addressed regarding the water right claims.

- 1) Looking at 1987 and 1998 aerial photography, the ground does not appear to be irrigated. Has water been put to beneficial use? If so, to what extent and how long has it been used? I have enclosed a map of the general area of irrigation

Sent 08/26 MVR

stated in your claim. Please outline the location of lands irrigated based on your claim, as well as the location of any points of diversion, if possible.

- 2) 67-597A claims 47 acres within what appeared to be approximately 128 acres originally owned by Gary D. Brown. What 47 acres are irrigated with water from 67-597A? Is it co-mingled with water from 67-10994 or 67-11636?
- 3) It appears the place of use for 67-11636 was claimed in error. The legal description on the claim is T11N R04W S31 SE1/4NW1/4. Instead, it looks like it should be T11N R04W S31 NW1/4SE1/4. Please confirm the place of use for this claim.
- 4) 67-10994 and 67-11636 are beneficial use claims. 67-10994 claims a priority date of March 15, 1945. 67-11636 claims a priority date of May 1, 1868. Evidence needs to be submitted supporting that water was put to beneficial use on those dates to the extent claimed. For your convenience, I am enclosing a pamphlet titled *Evidence Of Priority*, which describes what documents can be used to support the claimed priority date.
- 5) Because 67-10994 and 67-11636 are claimed based on beneficial use, all elements of the water rights need to be verified. IDWR personnel may need to conduct a field exam to verify the elements of the water right.

Please submit response to the items above and the required evidence supporting the priority date by September 14, 2005. PLEASE NOTE: Without the requested information, IDWR will recommend the SRBA Court decree the claim be disallowed.

I realize that this is a lot of information all at once. Please feel free to contact me at (208) 287-4907 with any questions.

Respectfully submitted,

Monica P. Van Bussum
Water Resource Agent/GIS Technician
Adjudication Bureau

Enclosure(s)

Cc: GARY D BROWN
1814 WEISER RIVER ROAD
WEISER ID 83672

WARRANTY DEED

181048

For Value Received

MARTIN SMITH AND PHYLLIS SMITH, husband and wife

does hereby GRANT, BARGAIN, SELL AND CONVEY unto

EARL L. CANADA JR., a single person

whose current address is 36810 N. TURBINE WAY
SAUGUS, CA 91350

the following described premises, to-wit:

IN WASHINGTON COUNTY, IDAHO:

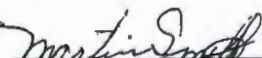
SEE ATTACHED EXHIBIT "A"

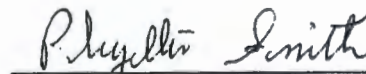
Together with all water, water rights, ditches and ditch rights appurtenant thereto and in anywise belonging.

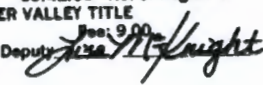
Subject to all valid outstanding reservations, easements, rights-of-way, restrictions, dedications, mineral leases, mineral reservations and mineral conveyances of record.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said grantee, heirs 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 they are free from all encumbrances, excepting reservations, easements, encumbrances, restrictions and rights of way appearing of record and/or existing and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: OCTOBER 26, 2000

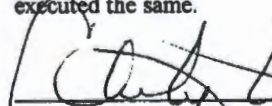

MARTIN SMITH


PHYLLIS SMITH

Instrument # 181048
WEISER, WASHINGTON, IDAHO
2000-10-26 03:41:00 No. of Pages: 3
Recorded for : WEISER VALLEY TITLE
SHARON WIDNER Fee: 9.00
Ex-Officio Recorder Deputy 
Index to: DEED

STATE OF IDAHO, COUNTY OF WASHINGTON

On this 26th day of OCTOBER, 2000, before me, a notary public in and for the said State, personally appeared MARTIN SMITH AND PHYLLIS SMITH known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.


CHRISTY L. WAITE
Notary Public
Residing at Weiser, Idaho
Comm. Expires 11/4/2003

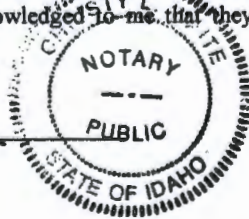


EXHIBIT "A"

FILE NO.:100-00-7762

A parcel of land situated within the SE1/4NW1/4 and the NE1/4SW1/4 of Section 31, Township 11 North, Range 4 West, Boise Meridian, Washington County, Idaho, more particularly described as follows:

Beginning at the southwest corner of the SE1/4NW1/4 of Section 31, T.11N., R.4W., B.M.;

Thence N 0°50'42" W, a distance of 756.48 feet (formerly 46 rods) along the west line of said SE1/4NW1/4;

Thence N 89°34'55" E, a distance of 1330.05 feet (formerly 80 rods) to a point on the east line of said SE1/4NW1/4;

Thence S 0°37'23" E, a distance of 757.80 feet (formerly 46 rods) along the east line of said SE1/4NW1/4 to the southeast corner of SE1/4NW1/4;

Thence continuing S 0°37'23" E along the east line of the NE1/4SW1/4 of said Section 31, a distance of 557.36 feet, to a point which bears N 0°37'23" W, a distance of 287.45 feet, more or less (formerly 296 feet), along the east line of said NE1/4SW1/4 from the center of the Weiser Irrigation District Canal (Galloway Ditch);

Thence S 66°22'47" W, a distance of 1168.32 feet;

Thence S 70°44'23" W, a distance of 261.08 feet to a point on the west line of said NE1/4SW1/4, which point is on the northerly bank of said Weiser Irrigation District Canal;

Thence N 0°50'38" W, a distance of 1103.33 feet along the west line of said NE1/4SW1/4 to the point of beginning.

TOGETHER WITH a 30.00 foot wide easement for the construction, installation, and maintenance of a road access right of way within the NE1/4SW1/4 of Section 31, T.11N., R.4W., B.M., more particularly described as follows:

Beginning at the northeast corner of the NE1/4SW1/4 of Section 31, T.11N., R.4W., B.M.;

Thence S 0°37'23" E, a distance of 557.36 feet along the east line of said NE1/4SW1/4 to the TRUE POINT OF BEGINNING, which point is the southeast corner of the above described parcel of land;

Thence continuing S 0°37'23" E along the east line of said NE1/4SW1/4, a distance of 287.45 feet, more or less (formerly 296 feet) to the center of the Weiser Irrigation District Canal;

Thence S 85°56'25" W, a distance of 30.05 feet along the center of said Canal;

CONTINUED

EXHIBIT "A" CONTINUED

FILE NO.:100-00-7762

Thence N 0°37'23" W, parallel to the east line of said NE1/4SW1/4, a distance of 276.52 feet to a point on the southerly boundary of the above described parcel of land;

Thence N 66°22'47" E, a distance of 32.59 feet along the southerly boundary of the above described parcel of land to the TRUE POINT OF BEGINNING.

TOGETHER WITH Access easement recorded July 30, 1999 as Instrument No. 177169, official records.

AND TOGETHER with underground powerline easement recorded May 16, 2000 as Instrument No. 179677, official records.

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 67-597A
Date Received: 10/20/1989
Receipt No: C012421
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

EARL L CANADA JR Phone: (661) 297-7377

37200 N PENSTOCK DR
SAUGUS CA USA 91390

2. Date of Priority: 04/01/1894

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	Type
11N	04W	30	NW NW NE	WASHINGTON	

5. Description of diverting works:

HEADGATE IN STREAM WITH GRAVITY DITCH TO IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/15	0.94	

7. Total Quantity Appropriated is:
0.94 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
11N	04W	31	SE	NW	IRRIGATION	24
			NE	SW	IRRIGATION	23
					Section Acres	47
					Total Acres	47

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:

WATER CARRIED IN TIM BARTON DITCH.

THIS IS A SECONDARY RIGHT. CLAIMANT IS CLAIMING THIS PORTION OF THE ORIGINAL 56 ACRE LANDS WHICH HE OWNS. THE OTHER 9 REMAINING ACRES OF THE ORIGINAL 56 INCH RIGHT WILL HAVE TO BE CLAIMED BY THE OWNER OF THAT LAND.

P/U ALSO DESCRIBED BY METES AND BOUNDS IN DECREE.

15. Basis of Claim: Decreed

16. Signature(s)

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: A67-00597A
Date Received: 10/20/1989
Receipt No: C012421
Received By: SSR

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: GARY D. BROWN 208-549-2599
Address: 1814 WEISER RIVER RD.
WEISER, ID 83672

2. Date of Priority: APR 01, 1894

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
11N	04W	30	NW	NW	NE		WASHINGTON

5. Description of diverting works:
HEADGATE IN STREAM WITH GRAVITY DITCH TO IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.940		

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

8. Total consumptive use is 164.5 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER INCIDENTAL TO IRRIGATION

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
11N	04W	31	SE	NW		IRR	24.0
			NE	SW		IRR	23.0
						Section Acres	47.0

A67-00597A

Page 1

Date: 10/24/89

SCANNED
APR 06 2004

MICROFILMED
OCT 01 1992

10. Place of Use: Continued

Total Acres 47.0

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:

A67-10994 GROUNDWATER IRRIG, STORED WATER , DEPT. INT 67-02386

14. Remarks:

WATER CARRIED IN TIM BARTON DITCH.

THIS IS A SECONDARY RIGHT. CLAIMANT IS CLAIMING THIS PORTION OF THE ORIGINAL 56 ACRE LANDS WHICH HE OWNS. THE OTHER 9 REMAINING ACRES OF THE ORIGINAL 56 INCH RIGHT WILL HAVE TO BE CLAIMED BY THE OWNER OF THAT LAND.

P/U ALSO DESCRIBED BY METES AND BOUNDS IN DECREE.

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: 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): Larry D. Brown Date: 10-19-1989
Date:

State of Idaho)
County of Ada) ss.

Subscribed and sworn (or affirmed) before me this 19th day
of Oct. 1989

Herbert C. Rulley
Notary Public

Seal

Residing at Boise, ID
My Commission Expires 11/08/1994

FEET

48 99000m.N.

R04W
Sec 31

ION



2266
MICROFILMED

OCT 01 1992

Split History of 67-597

Water Right History

Decreed

67-597	Barton
1.12	cfs
56	ac
0	af

Claim History

67-597	Barton
@70% =	0.78
	56

67-597A	Canada
	0.94
	47
67-597B	Hickey
	0.1
	5

Sum CFS =	0.94
Sum Acre =	52

Extra CFS =	0.18
Extra Acre =	4

Recommendation

67-597A	Canada
	0.78
	39

67-597B	Hickey
	0.1
	5

Sum CFS =	0.78
Sum Acre =	44

Extra CFS =	0.34
Extra Acre =	12

This right is under recommended (csaxton 2-29-06)