

Shelley M. Davis, ISB # 6788
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson St., Ste. 102
P.O. Box 2139
Boise, ID 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034

Attorneys for Boise-Kuna Irrigation District, Objector

RECEIVED

JUL 16 2007

DEPARTMENT OF
WATER RESOURCES

RECEIVED

JUL 18 2007

DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Subcase Nos. 63-356, 63-357, 63-358,
	)	63-2663, and 63-21608
	)	
Case No. 39576	)	MOTION TO WITHDRAW
	)	OBJECTIONS
	)	
	)	
	)	

COMES NOW, the Objector, Boise-Kuna Irrigation District, by and through its counsel, Shelley M. Davis of the law firm, Barker Rosholt & Simpson, LLP, and hereby moves this Court for leave to withdraw the Objections filed by the Boise-Kuna Irrigation District in sub-case numbers 63-356, 63-357, 63-358, 63-2663, and 63-21608.

The objections were filed in an effort to protect the legal status of waste waters belonging to the Boise-Kuna Irrigation District. In recommendations to this Court from the Idaho Department of Water Resources, one source of water listed in the above-referenced recommendations was listed as "drains." This reference to drains as a source for the right appears to have been included as the result of language used in the June 11, 1956 decree in *Nicholson v. Reynolds Irrigation District and Sproat*. However, after touring the property where the points of diversion are located, it is clear that the reference to 'drains' in the decree does not reference drains or waste ways belonging to the

CERTIFICATE OF MAILING

I certify that on July 12, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: TFI Limited Partnership
Address: PO Box 690
Meridian, ID 83680-0690

Name: Scott and Sherri Nicholson
Address: P.O. Box 690
Meridian, ID 83680

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of Attorney General
PO Box 44449
Boise, ID 83711-4449



Shelley M. Davis
Attorney for Boise-Kuna Irrigation District

RECEIVED

JUN 22 2007

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

DEPARTMENT OF
WATER RESOURCES

In Re SRBA) A. Subcase 63-21608
(Insert water right number)
)
Case No. 39576) STANDARD FORM 1
) OBJECTION
_____)

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Boise-Kuna Irrigation District
Address: 129 North School Avenue
Kuna, ID 83634
Daytime Phone: 208-922-5608

Name & Address of Attorney, if any:

Shelley M. Davis
Barker Rosholt & Simpson, LLP
1010 W. Jefferson, Ste. 102, Boise ID 83702

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Scott and Sherri Nicholson
Address: PO Box 690
Meridian, ID 83680

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**

Should be: _____

2. ☒ **Source**

Should be: The source should be described as waste waters, and waste waters belong to the Boise-Kuna Irrigation District.

3. ☐ **Quantity** ☐

Should be: _____

4. ☐ **Priority Date**

Should be: _____

5. ☐ **Point of Diversion**

Should be: _____

6. ☐ **Instream Flow Beginning and Ending Point**

Should be: _____

7. ☐ **Purpose(s) of Use**

Should be: _____

8. ☐ **Period of Year**

Should be: _____

9. ☐ **Place of Use**

Should be: _____

10 ☐ **I object because:**

☒ This water right Should not exist.

☐ This water right was not recommended, but Should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTIONS(S): There has been no lawful appropriation of this right. The description of the source should have been waste water. The waste waters belong to the Boise-Kuna Irrigation District and are not available for private development and appropriation. Further, any attempted development of this right constitutes a trespass against the drains of the Boise-Kuna Irrigation District.

F. VERIFICATION (must be completed)

State of Idaho)
County of Ada)ss.

Shelley M. Davis, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and(6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

[Signature]
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: 6/18/07



Notary Public for Idaho
Residing at: Boise, Idaho
My Commission Expires: 8/2/2012

Karen Joy Edwards

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on August 18, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

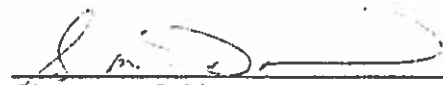
Name: Scott and Sherri Nicholson
Address: PO Box 690
Meridian, ID 83680

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of Attorney General
PO Box 44449
Boise, ID 83711-4449



Signature of objector or attorney
mailing on Objector's behalf

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

RECEIVED

OCT 23 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
63-21609					

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) Alan J. Sproat
5251 Chayenne Boise ID 83705
4. New Owner/Claimant(s) Scott R. Nicholson Sherris C. Nicholson
 Name Connector (Check one): ☐ and, ☐ or, ☒ and/or
- New Mailing Address PO Box 690
- City, State and ZIP Code Meridian ID 83680-0690
- New Telephone Number (208) 888-1593
5. Date you acquired the property 12/13/01

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OCT 30 2006

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) Scott R. Nicholas
(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 _____
 Received by _____ Date _____ Receipt No. _____
 Processed by _____ AJ Date _____ WR _____ Date _____

SCANNED
OCT 30 2008

WARRANTY DEED

S.R.N.

SW

FOR VALUE RECEIVED Allen Ranch Limited Partnership

the Grantor, does hereby grant, bargain, sell and convey unto Scott R. Nicholson and Sherri Nicholson, husband and wife

the Grantees, whose address is 700 W. Overland Rd., Meridian, ID 83680

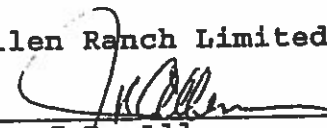
the following described premises, to-wit:

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantor do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises; that said premises are free from all encumbrances, except for general taxes and assessments for the year 2001 and subsequent years, covenants, conditions, restrictions and easements of record; and that they will warrant and defend the same from all lawful claims whatsoever.

DATED: December 13, 2001

Allen Ranch Limited Partnership

 General Partner
By: J.R. Allen

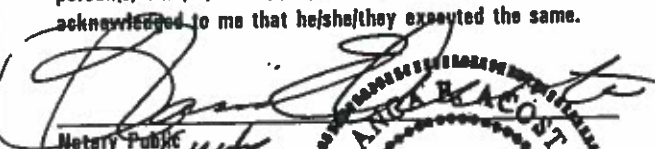
PIONEER TITLE COMPANY OF CANYON COUNTY

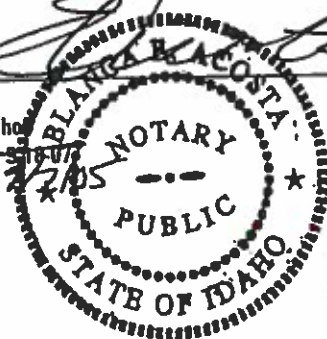
100 10TH AVE SOUTH
NAMPA, IDAHO 83651

423 SOUTH KIMBALL
CALDWELL, ID 83605

STATE OF IDAHO
COUNTY OF CANYON

On this 27 day of December, 2001, before me, a notary public, personally appeared J. R. Allen, known or identified to me to be the person(s) who(se) name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same.


Notary Public
Residing at Meridian, Idaho
My commission expires: 11/18/07



SCANNED
OCT 30 2008

EXHIBIT "A"

PARCEL I

The Southeast Quarter of the Northeast Quarter in Section 8 and the Southwest Quarter of the Northwest Quarter in Section 9, both in Township 1 South, Range 2 West, Boise Meridian, Canyon County, Idaho;

EXCEPTING THEREFROM

That part of the Northeast Quarter of Section 8 and the Northwest Quarter of Section 9, Township 1 South, Range 2 West, Boise Meridian, Canyon County, Idaho, described as follows:

BEGINNING at a brass cap at the intersection of Map Rock Road and 12th Avenue, Canyon County, Idaho, bearing the legend "NE 1/16 corner 8, T 1 S, R 2 W, B.M."; running thence

East 2,640 feet; thence

South 292 feet; thence

West to the right of way of 12th Avenue; thence

North and East along 12th Avenue to the POINT OF BEGINNING.

PARCEL II

The Northeast Quarter of the Southeast Quarter in Section 8, Township 1 South, Range 2 West, Boise Meridian, Canyon County, Idaho;

EXCEPTING THEREFROM

A part of the Northeast Quarter of the Southeast Quarter of Section 8, Township 1 South, Range 2 West, Boise Meridian, Canyon County, Idaho, more particularly described to-wit:

BEGINNING at the Southwest corner of the Northeast Quarter of the Southeast Quarter of Section 8, Township 1 South, Range 2 West, Boise Meridian; thence

North 0° 30' 59" West 424.13 feet along the West line of the said Northeast Quarter of the Southeast Quarter to the INITIAL POINT OF THIS DESCRIPTION; thence continue

North 0° 30' 59" West 172.52 feet to a point on the centerline of an irrigation ditch; thence meandering along said centerline

South 43° 44' 10" East 245.03 feet; thence

South 75° 34' 07" East 52.69 feet; thence leaving said centerline

South 14° 25' 53" West 30.00 feet; thence

North 77° 32' 22" West 216.50 feet to the INITIAL POINT OF THIS DESCRIPTION.

PARCEL III

A part of the West Half of the Southeast Quarter of Section 8, Township 1 South, Range 2 West, Boise Meridian, Canyon County, Idaho, more particularly described to-wit:

BEGINNING at the Northeast corner of the Northwest Quarter of the Southeast Quarter of Section 8, Township 1 South, Range 2 West, Boise Meridian, Canyon County, Idaho, the INITIAL POINT OF THIS DESCRIPTION; thence

South 0° 30' 59" East 1,319.77 feet along the East line of the said Northwest Quarter of the Southeast Quarter to the Southeast corner thereof; thence continue

South 0° 30' 59" East 176.33 feet along the East line of the said West Half; thence

North 47° 33' 39" West 1,301.44 feet to a point on the Easterly right of way line of a State highway; thence

North 23° 25' 00" East 665.41 feet along the said Easterly right of way line to a point on the North line of the said Northwest Quarter of the Southeast Quarter; thence

North 89° 23' 39" East 682.56 feet along the said North line to the INITIAL POINT OF THIS DESCRIPTION;

EXCEPTING THEREFROM

A part of the Southeast Quarter of Section 8, Township 1 South, Range 2 West, Boise Meridian, Canyon County, Idaho, more particularly described to-wit:

BEGINNING at the Northeast corner of the Southwest Quarter of the Southeast Quarter of Section 8, Township 1 South, Range 2 West, Boise Meridian, THE INITIAL POINT OF THIS DESCRIPTION; thence

South 0° 30' 59" East 176.33 feet along the East line of the said Southwest Quarter of the Southeast Quarter; thence

North 57° 33' 39" West 1,301.44 feet to a point on the Easterly right of way line of a State highway; thence

North 23° 25' 00" East 665.41 feet along the said Easterly right of way line to a point on the North line of the Northwest Quarter of the Southeast Quarter; thence

North 89° 23' 39" East 217.42 feet along the said North line to a point on the centerline of an irrigation ditch; thence meandering along said centerline

South 38° 22' 42" East 16.09 feet; thence

South 28° 32' 18" East 112.16 feet; thence

South 6° 23' 54" West 21.21 feet; thence

South 24° 48' 52" East 267.59 feet; thence

South 40° 59' 27" East 454.51 feet to a point on the East line of the said Northwest Quarter of the Southeast Quarter; thence

South 43° 44' 10" East 245.03 feet; thence

South 75° 34' 07" East 52.69 feet; thence leaving said centerline

South 14° 25' 53" West 30.00 feet; thence

North 77° 32' 22" West 216.50 feet to a point on the said East line; thence continue

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JCA
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North 77° 32' 22" West 110.44 feet; thence
South 30° 03' 22" East 218.29 feet to a point on the said East
line; thence
South 0° 30' 59" East 259.02 feet along the said East line to
the INITIAL POINT OF THIS DESCRIPTION.

PARCEL IV

The Northwest Quarter of the Southwest Quarter and that part of the North Half of the North Half of the Southwest Quarter of the Southwest Quarter, lying North and West of Reynolds Siphon in Section 9, Township 1 South, Range 2 West, Boise Meridian, Canyon County, Idaho.

PARCEL V

That part of the Northeast Quarter of the Southwest Quarter lying North and West of the right of way of Reynolds Siphon in Section 9, Township 1 South, Range 2 West, Boise Meridian, Canyon County, Idaho.

PARCEL VI

That part of the Southeast Quarter of the Southeast Quarter lying North and West of the right of way of Reynolds Siphon and connecting irrigation canal in Section 8, Township 1 South, Range 2 West, Boise Meridian, Canyon County, Idaho.

PARCEL VII

All that part of the Westerly 421.82 feet of the Southeast Quarter of the Southeast Quarter lying South and East of the right of way of Reynolds Siphon and connecting irrigation canal in Section 8, Township 1 South, Range 2 West, Boise Meridian, Canyon County, Idaho.

EXCEPTING THEREFROM the following:

A part of the Southeast Quarter of the Southeast Quarter of said Section 8, more particularly described to-wit:

COMMENCING at the Southwest corner of the said Southeast Quarter of the Southeast Quarter; thence

North 89° 22' 43" East 163.11 feet along the South line of the said Southeast Quarter of the Southeast Quarter to the INITIAL POINT of this description; thence

North 00° 37' 17" West 208.71 feet; thence
North 89° 22' 43" East 208.71 feet parallel with the said South line; thence

South 00° 37' 17" East 208.71 feet to a point on the said South line; thence

South 89° 22' 43" West 208.71 feet along the said South line to the INITIAL POINT of this description.

SCANNED

OCT 30 2006

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PARCEL VIII

That part of the Southeast Quarter of the Southeast Quarter, lying South and East of the right of way of the Reynolds Siphon Drain, Section 8, Township 1 South, Range 2 West, Boise Meridian, Canyon County, Idaho.

EXCEPTING THEREFROM the Westerly 421.82 feet.

PARCEL IX

The Southwest Quarter of the Southwest Quarter, Section 9, Township 1 South, Range 2 West, Boise Meridian, Canyon County, Idaho.

EXCEPTING THEREFROM the North Half of the North Half of the Southwest Quarter of the Southwest Quarter.

PARCEL X

That part of the North Half of the North Half of the Southwest Quarter of the Southwest Quarter lying South and East of Reynolds Siphon in Section 9, Township 1 South, Range 2 West, Boise Meridian, Canyon County, Idaho.



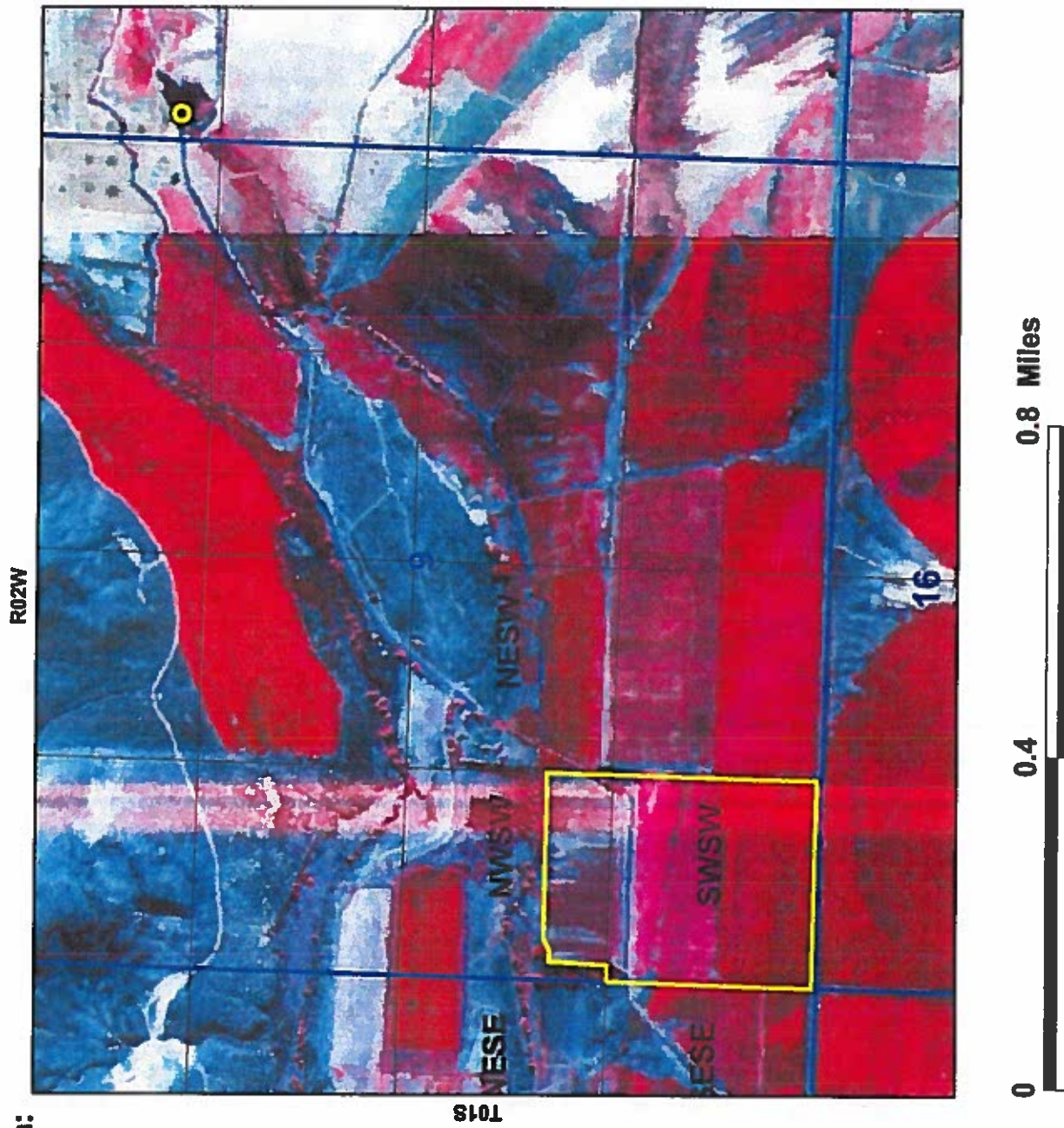
63-21608

Legend

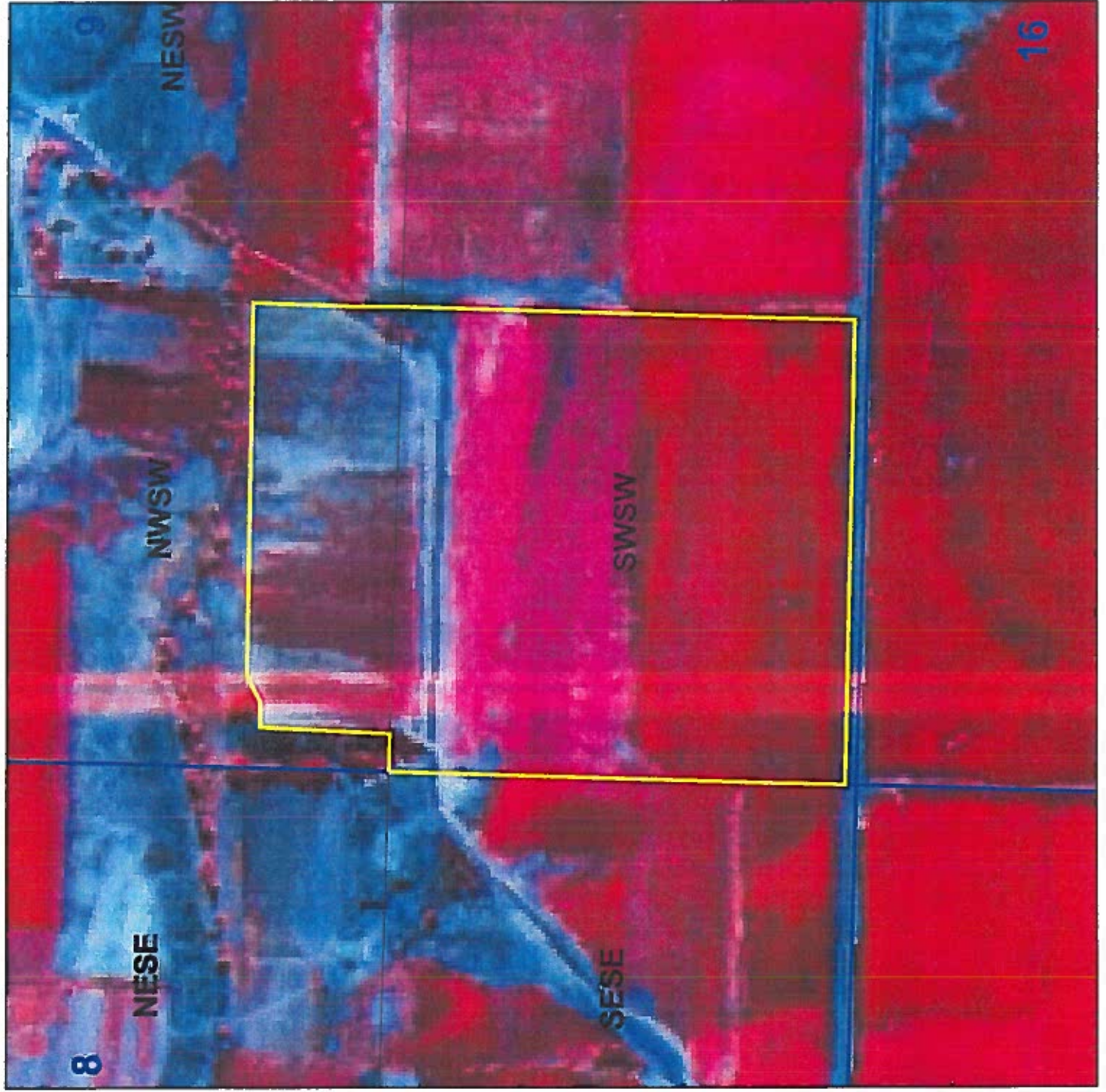
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**Prepared by M. Ciscell
On Monday, October 9, 2006
1987/88 Aerial Photography**



63-21608



10/17/2006

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

RIGHT NUMBER: 63-21608

NAME AND ADDRESS: ALAN J SPROAT
5251 CHEYENNE
BOISE ID 83705

SOURCE: WARM SPRINGS CREEK

TRIBUTARY: SNAKE RIVER

QUANTITY: 1.000 CFS

Right Nos. 63-353A, 63-360A, 63-7911, 63-7912, 63-21348A, 63-21348B
and 21608 are limited to a total combined diversion rate of 3.42 cfs.

PRIORITY DATE: 04/01/1947

POINT OF DIVERSION:
T01S R02W S10 NWNW Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.020 CFS
IRRIGATION	04/01 04/30	0.600 CFS
	05/01 06/30	0.880 CFS
	07/01 11/15	1.000 CFS

The use of water for irrigation under this right may begin as early as March 1, provided other elements of the right are not exceeded. The use of water before April 1 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION Within CANYON County

T01S R02W S09 NWSW 10.00 T01S R02W S09 SWSW 40.00

STOCKWATER same as IRRIGATION

50 ACRES TOTAL

Right Nos. 63-353A, 63-360A, 63-7911, 63-7912, 63-21348A, 63-21348B
and 21608 are limited to the irrigation of a combined total of 171 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



Idaho Department of Water Resources

SRBA Recommendation:

63-21608

(Irrigation)

Legend

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



Canyon County
IDWR Basin 63



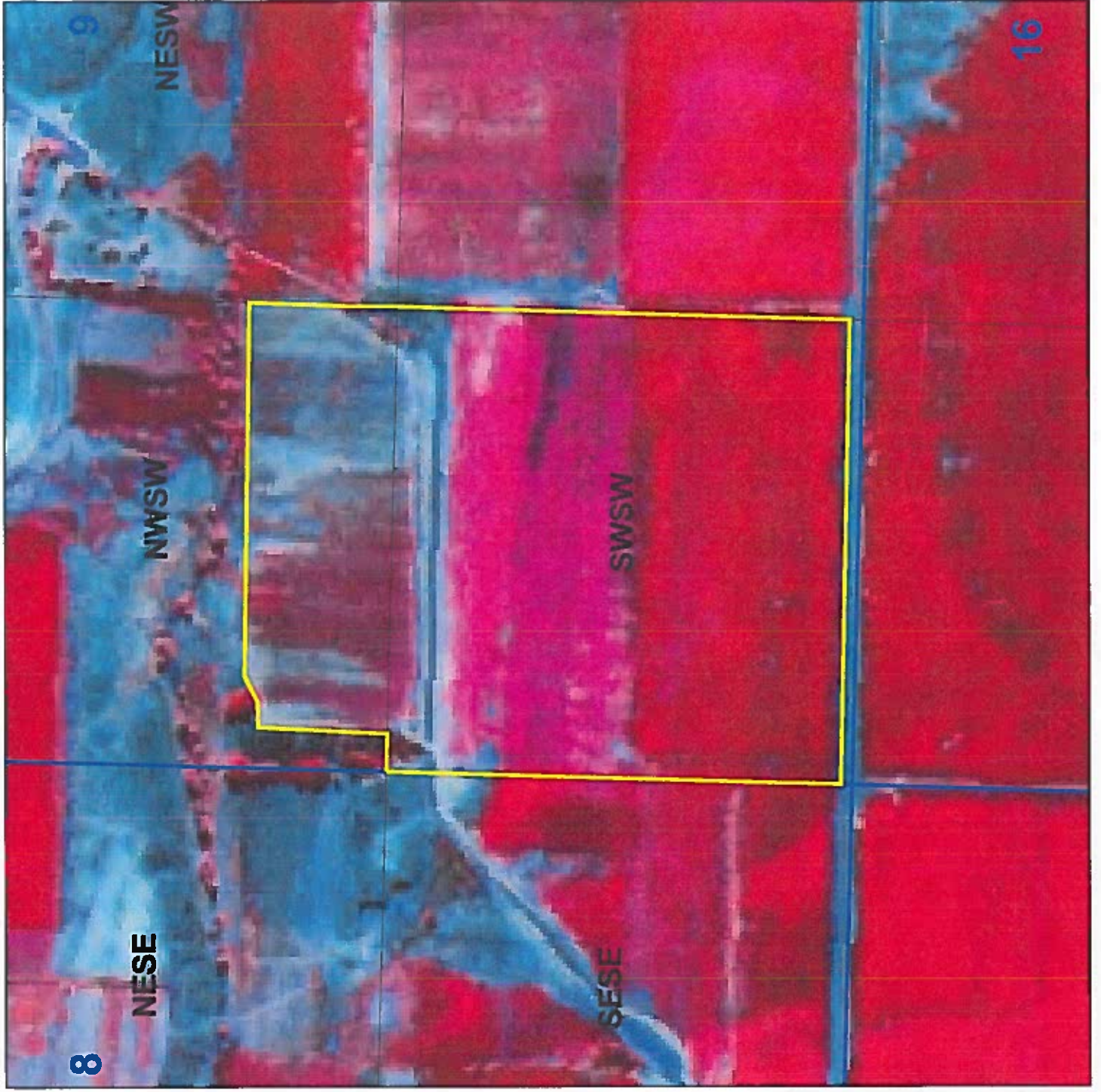
R02W



0 0.4 0.8 Miles

Prepared by M. Ciscell
On Tuesday, October 17, 2006
1987/88 Aerial Photography

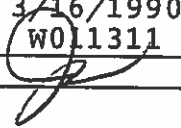
63-21608



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: A63-21608
Date Received: 3/16/1990
Receipt No: W011311
Received By: 

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: ALAN J. SPROAT
Address: 5251 CHEYENNE
BOISE, ID 83705
208-362-9679

2. Date of Priority: APR 01, 1947

3. Source: DRAINS Trib. to: WARM SPRINGS CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
01S	02W	8	SW	SE	SE		CANYON

5. Description of diverting works:
DITCH INTO LATERALS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/15	1.000		
STOCKWATER	01/01	12/31	0.020		

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

8. Total consumptive use is 175.0 Acre Feet Per Annum.

9. Non-irrigation uses:
S/50

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
01S	02W	9	NW	SW		IRR	10.0
			SW	SW		IRR	40.0

A63-21608

Page 1

Date: 09/07/90

MICROFILMED

SEP 03 1992

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	50.0
					Total Acres	50.0

11. Place of use in counties: CANYON

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

13. Other Water Rights Used:
NA

14. Remarks:

THIS CLAIM IS A SPLIT OF WATER RIGHTS 63-00353, 63-00354 AND
WATER RIGHT 63-00355 DECREED TO ELLEN T. SPROAT

NOTE: THIS CLAIM WAS AMENDED ON 9-7-90 AFTER SPEAKING WITH THE
CLAIMANT. THIS WATER HAS BEEN USED ON DIFFERENT LANDS SINCE 1982
AND THE CLAIMANT WAS NOT INFORMED AT THE TIME OF THE ORIGINAL
FILING OF THIS CLAIM THAT HE SHOULD SHOW THE LAND TO WHICH THE
WATER HAD BEEN LEASED OUT RATHER THAN HIS OWN PROPERTY WHERE THE
WATER WAS USED ORIGINALLY. THIS AMENDMENT REFLECTS THE WATER USE
AS IT HAS BEEN IN ORDER TO PREVENT LOSS OF THE WATER RIGHT SINCE
IT HAS NOT BEEN USED ON THE ORIGINAL POU, BUT HAS STILL BEEN
USED. 9-7-90 JS.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

CARL E. NICHOLSON

Decree Plaintiff

vs

REYNOLDS IRR. DIST.

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): *Al J. Spork* Date: 9-7-90
_____ Date: _____

State of Idaho)
County of ADA) SS.

Subscribed and sworn (or affirmed) before me this 7th day
of Sept. 19 90
Jan O. Hunt
Notary Public

Seal

Residing at Meridian ID
My Commission Expires 9-14-90



538 NAMPA 15 MI

32' 30"

536

536

534

532 NAMPA 16 MI

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: A63-21608
Date Received: 2/20/1990
Receipt No: W011311
Received By: BAS

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ALAN J. SPROAT 208-362-9679
Address: 5251 CHEYENNE
BOISE, ID 83705

2. Date of Priority: APR 01, 1947

3. Source: DRAINS Trib. to: WARM SPRINGS CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
01S	02W	8	SW	SE	SE		CANYON

5. Description of diverting works:
DITCH INTO LATERALS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	04/30	1.000		
STOCKWATER	04/01	04/30	0.020		

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

8. Total consumptive use is 175.0 Acre Feet Per Annum.

9. Non-irrigation uses:
S/50

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
01S	02W	8	SE	NW	3	IRR	40.0
			NE	SW	2	IRR	10.0
Section Acres							50.0

A63-21608

Page 1

Date: 03/16/90

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10. Place of Use: Continued

Total Acres 50.0

11. Place of use in counties: CANYON

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

13. Other Water Rights Used:
NA

14. Remarks:

THIS CLAIM IS A SPLIT OF WATER RIGHTS 63-00353, 63-00354 AND
WATER RIGHT 63-00355 DECREED TO ELLEN T. SPROAT

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

CARL E. NICHOLSON
Decree Plaintiff

vs

REYNOLDS IRR. DIST.
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): *[Signature]* Date: 1-3-16-90
_____ Date: _____

State of Idaho

County of *Ad*)

SS.

Subscribed and sworn (or affirmed) before me this 16 day

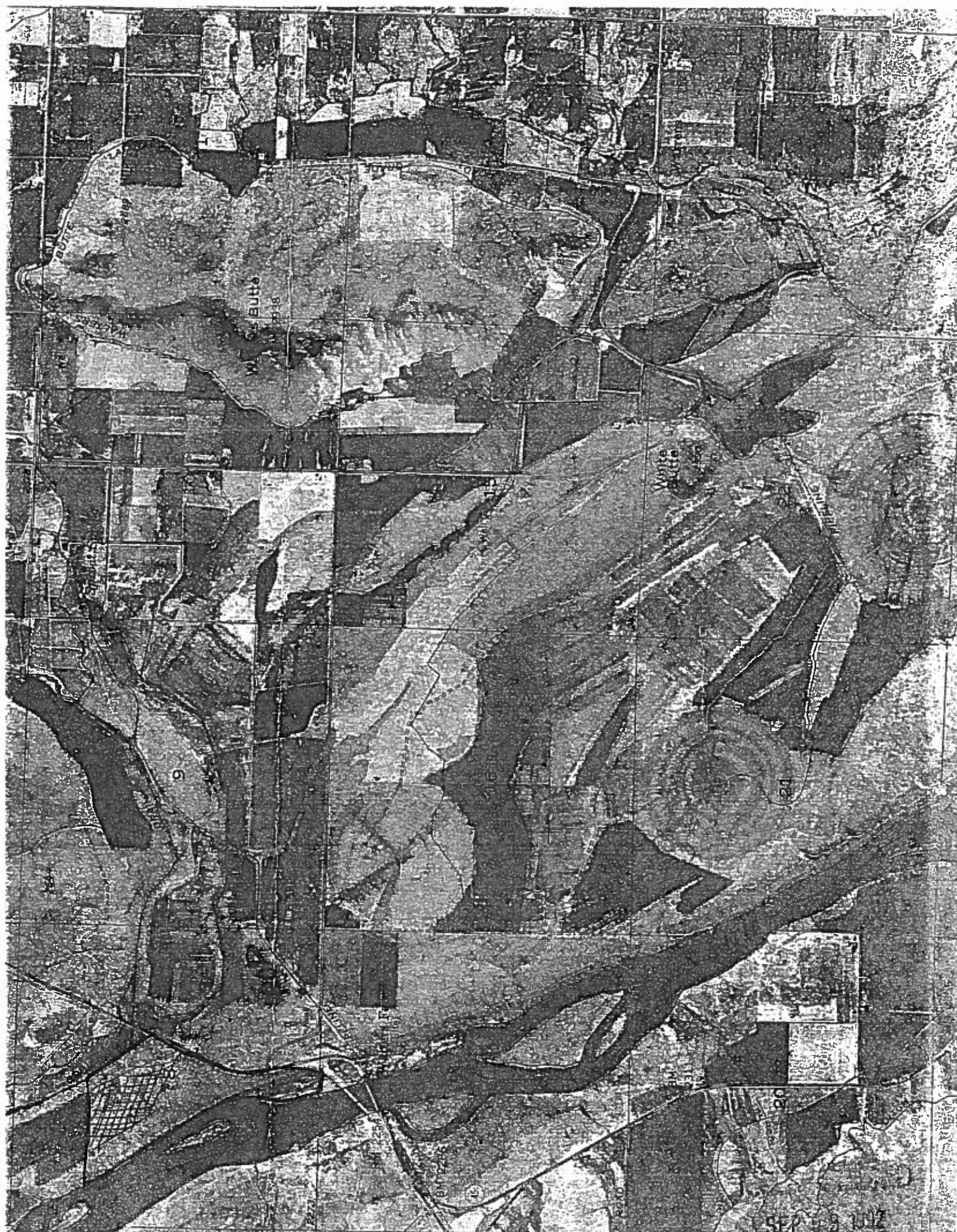
of March 19 90

[Signature]
Notary Public

Seal

Residing at *[Signature]*

My Commission Expires 7/11/91



SEP 8 1942

	Remarks
	No Remarks found.

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT CLAIMS PROOF READING REPORT

[illegible]

NOTES

SEP 03 1952

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT CLAIMS PROOF READING REPORT

WR0723NP
(OD-26)

Water Right Number - 63-00355 Adj. Flag Translation: Standard Water Right Number Old (D) Number -
+ - - - - Last Name - - - - + + - - - - First Name - - - - + + - - - - Address - - - - - + - - - - - +

*** C - CURRENT OWNER ***
SPROAT

ELLEN T.

- 1 -
- 2 -
- 3 -

State- Zip-

City-
Phone -

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
04/01/1947 14 D - DECREED

+ - - Source - - - - - + + - - Tributary - - - - - + + - - - - - +
DRAINS WARM SPRINGS CREEK

+ - - Point of Diversion - - - - - + Stream Index (Blank if no Index Code) + - - - - +

Twn Rng Sec Tract Lot Rflg County Point of Diversion Diversion Rate Diversion Volume + - - - - +

+ - - Code Description Period From Period To Water Use Diversion Rate Diversion Volume + - - - - +

01 - IRRIGATION 07/01 03/31
04 - STOCKWATER 07/01 03/31
43 - DOMESTIC 07/01 03/31

+ - - Total Div. Rate - + + - - Total Div. Volume - + + - - Total Div. Capacity - + + - - Total Consumptive Use - + + - - KW Usage - +
3.500

+ - - Twn Rng Sec Tract Lot Acres Place of Use Code Description County + - - - - +

01S	02W	08	NW NW	4		01	IRRIGATION	27	CANYON
01S	02W	8	SE NW	3		01	IRRIGATION	27	CANYON
01S	02W	8	NE SW	2		01	IRRIGATION	27	CANYON
01S	02W	8	NW SE	1		01	IRRIGATION	27	CANYON
01S	02W	8	SW SE	1		01	IRRIGATION	27	CANYON
01S	02W	8	SE SE			01	IRRIGATION	27	CANYON
01S	02W	9	NW SW			01	IRRIGATION	27	CANYON
01S	02W	9	SW SW			01	IRRIGATION	27	CANYON

Total Acres:

2.5
8

+ - - Diversion Means -
+ - - Non-Irrigation Use -
+ - - Other Rights for Same Use -
+ - - Remarks - - - - - + No Remarks found.

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Water Right Number - 63-00354 Adj. Flag Translation: Standard Water Right Number Old (D) Number -
+ - - - - Last Name - - - - + + - - - - - Address - - - - - + - - - - -

*** C - CURRENT OWNER *** ELLEN T.
SPROAT
1 -
2 -
3 -
City- State- Zip-
Phone -

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
04/01/1947 14 D - DECREED
+ - - - - Source - - - - + + - - - - - Tributary - - - - - + - - - - -
DRAINS WARM SPRINGS CREEK

+ - - - - - - - - - - - - - - - Point of Diversion - - - - - Stream Index (Blank if no Index Code) - - - - - +
Twn Rng Sec Tract Lot Rflg County

+ - - - - - - - - - - - - - - - Water Use - - - - - Diversion Rate Diversion Volume - - - - - +
Code Description Period From Period To
01 - IRRIGATION 05/01 06/30 2.800
04 - STOCKWATER 05/01 06/30
43 - DOMESTIC 05/01 06/30

+ - - Total Div. Rate - + + - - Total Div. Volume - + + - - Total Div. Capacity - + + - - Total Consumptive Use - + + - - KW Usage - +
2.800

| Twn | Rng | Sec | Tract | Lot | Acres | Place of Use | Code | Description | County |
|-----|-----|-----|-------|-----|-------|--------------|------------|-------------|-----------|
| 01S | 02W | 8 | NW NW | 4 | | 01 | IRRIGATION | IRRIGATION | 27 CANYON |
| 01S | 02W | 8 | SE NW | 3 | | 01 | IRRIGATION | IRRIGATION | 27 CANYON |
| 01S | 02W | 8 | NE SW | 2 | | 01 | IRRIGATION | IRRIGATION | 27 CANYON |
| 01S | 02W | 8 | NW SE | 1 | | 01 | IRRIGATION | IRRIGATION | 27 CANYON |
| 01S | 02W | 8 | SW SE | | | 01 | IRRIGATION | IRRIGATION | 27 CANYON |
| 01S | 02W | 8 | SE SE | | | 01 | IRRIGATION | IRRIGATION | 27 CANYON |
| 01S | 02W | 9 | NW SW | | | 01 | IRRIGATION | IRRIGATION | 27 CANYON |
| 01S | 02W | 9 | SW SW | | | 01 | IRRIGATION | IRRIGATION | 27 CANYON |

Total Acres:

+ - - Diversion Means -
+ - - Non-Irrigation Use -
+ - - Other Rights for Same Use -
+ - - - - - - - - - - - - - - - Remarks - - - - - No Remarks found.

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SEP 03 1992

INSTRUMENT NO. 434650

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON.

FILED

CARL E. NICHOLSON and
BLANCHE NICHOLSON,
husband and wife,

Plaintiffs

vs.

REYNOLDS IRRIGATION DISTRICT
a quasi-public corporation of
Owyhee County, Idaho; and

ELLEN T. SPROAT,

Defendants.

A.M. 3:30 P.M.
JUN 11 1956
S. S. FOOTE, CLERK
Lavona Sayre, DEPUTY

THIS CAUSE came regularly on for hearing and disposition before the Court without a jury, on the 11th day of June, 1956; Edwin Snow and Homer E. Martin, of Boise, Idaho, appearing as attorneys for plaintiffs; Maurice H. Greene and David Doane, of Boise, Idaho, appearing as attorneys for the defendant Reynolds Irrigation District; and Laurel E. Elam, of Boise, Idaho, appearing as attorney for the defendant Ellen T. Sproat.

The parties presented to the Court a stipulation in writing, signed by their respective attorneys of record, thereunto duly authorized, which stipulation had been duly filed herein; and wherein were set out and agreed upon the ultimate facts with respect to the beneficial use of the waters involved in the suit by the respective parties hereto, and also the amount and the date of priority of the water right to which each party was entitled based upon its said use; and the Court having examined and approved the said stipulation. And the parties having also presented to the Court this decree based upon such stipulation, upon which decree is endorsed the written consent and approval of the attorneys of record for the respective parties;

NOW, THEREFORE, in conformity with said stipulation and said consent, and all the parties having waived Findings of Fact and Conclusions of Law in connection with such decree, it is hereby ORDERED, ADJUDGED and DECREED as follows:

Decree # T

1.

The water supply, the rights to the use of which are hereby adjudicated, consists of the waters flowing in the drain ditch from which all the parties hereto divert their water; and the waters flowing in said drain and its branches, whether said waters are derived from surface waste, or percolation into the drain, or from any existing wells, including the well of plaintiffs, the wells of the defendant Reynolds Irrigation District, and a well known as the "Simpson Well", situated at the head of one branch of the main drain ditch from which the parties hereto divert their water, constitute a common and interdependent source of supply; and the withdrawal of water from said main drain, or any of its said contributing sources of supply, depletes the water rights and supply of each of the parties hereto.

11.

The defendant Ellen T. Sprout is hereby decreed the right to the use of the following amounts of waters of the drains and wells involved in this suit:

- 63 0353 (a) 120 miners inches of said waters during the month of April of each irrigation season; -2.4 cfs
- 63 0354 (b) 140 miners inches of said waters during the months of May and June of each irrigation season; -2.8 cfs
- 63 0355 (c) 175 miners inches at all times after July 1st of each irrigation season; -3.5 cfs

The priority of all of said defendant's rights dates from April 1, 1947.

Said water is decreed for irrigation, livestock, and domestic uses upon said defendant's lands, to-wit:

The $W\frac{1}{2}$ of the $SW\frac{1}{4}$, Section 9;
Lots 1, 2, 3 and 4;
The $SE\frac{1}{4}$, $SE\frac{1}{4}$, and the $NW\frac{1}{4}$, $SE\frac{1}{4}$, of Section 8;
All in Twp. 1 S., R 2, W. B. N.

The point of diversion of said water is, as it has been for a long time heretofore, at a point in Section 10, Twp. 1 S., R. 2, W. B. N., where an irrigation ditch belonging to said defendant and to plaintiffs has its heading in said drain.

copy for A63-21608

MEMORANDUM

TO: TRANSFER APPLICATION FOR 63-00353 THROUGH 63-00355
FROM: STEVE LESTER
DATE: DECEMBER 6, 1990 - REVISED 1/23/91
RE: CLARIFICATION OF DATABASE, ACRES, AND RATES

E.K. Allen filed a transfer application on SRBA Claim A63-21348, a claim filed by Frank and Frances Engle. Mr. Allen apparently bought 25 acres in Sec. 8 SESE and wants to relocate a diversion point for his acres. Claim A63-21348 is based on a combination of split portions of decreed rights 63-00353 through 00355. Decree file 63-T-1 covers these rights (see Attachment B).

DATABASE

The transfer serves to clarify database details for source, season of use, and point of diversion. The source (drains tributary to Warm Springs Creek) actually includes surface and ground water in a "...common and interdependent source..." and perhaps should be noted in the remarks section of the database. The tributary is a local name not recognized on a USGS quad.

The season of use in 63-00355 includes 7/1-11/15, not 7/1-3/31 as shown in the database. The original point of diversion is identified as T1S R2W Sec. 10 (tract not specified). See Part II of the decree for confirmation of season and P/D.

Although the decree does not explicitly state the duty of irrigation water, Part V of the decree can be interpreted to mean up to .02 cfs/acre: "...amount of water herein allotted...is required and necessary for the proper growing of crops...". Because all three decreed rights cover the same P/U, one can infer that the largest right, 63-00355 for 3.50 cfs, describes the maximum number of acres for all three rights. Assume that the rights cover no more than 175 acres based on a decree of .02 cfs/ac. Note that the rights cover different parts of the irrigation season and together include 4/1-11/15 (the latter interpreted from IDWR standards for the area).

COMPUTATION OF ACRES

Mr. Allen indicated per 1/23/91 telecon that he bought 25 acres located north of the pipeline/ditch that more or less bisects the tract. Note that in Sec. 8 SESE, irrigated land includes 14.5 acres north of the pipeline/ditch and 16.5 acres south of it. The transfer addresses a P/D change and will result in three split rights (63-00353 A & B etc.). The decree did not identify acres per tract. We can identify the acres/tract via the 1987 ASCS aerial photo (see Attachment A). To further interpret the photo, I met with Mike Anderson on 12/6/90 at the Canyon County ASCS office to discuss the photo and to look at other aerial information (slides of area offer better look at irrigated land). The acres listed on pages 4, 6, and 8 of the transfer derive from the meeting and photo interpretation and include 110.5 irrigated acres within the place of use of 63-00353 through 63-00355, which was determined from technical methods and 1987 data without visiting the P/U.

of
ASCS
staff

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SEP 03 1992

In the future, SRBA field work related to the P/U may reveal additional irrigated land in some of the tracts, e.g. pasture irrigation that does not appear to be irrigated on the photos. The following list outlines possible discrepancies that may occur between photo interpretation and site visits (approx. 49 acres).

1. Sec. 8 SENW - 29 acres not irrigated in the last five years (per Mike Johnson).
2. Sec. 8 Lot 2 (NESW) - 4 acres same as #1.
3. Sec. 8 NWNWSE - 4 acres same as #1 & 2. Nos. 1-3 are west of Hwy. 45.
4. Sec. 8 E 1/2 NWSE - approx. 10 acres conceivably could or did at one time include pasture or other low intensity irrigation.
5. Sec. 8 NE 1/4 Lot 1 (SWSE) - same as #3 but approx. 2 acres. Nos. 4 and 5 are east of the highway.

According to photos and Mike Johnson's records, the land in Sec. 8 NWSE and SWSE east of Hwy. 45 has not been irrigated for many years. Much of it is a cinder cone area used for cinder extraction in construction, landscaping, and so on.

Attachment A delineates cropland in the tracts identified in rights 63-00353 through 00355 as well as SRBA claims A63-00355A, 21608, and 21348. The claims relate to split and combined parts * of the decreed rights. The transfer file will be helpful in analyzing the SRBA claims. Copies of this memo were filed with the above claims. (* see page 3)

CONCLUSION

These rights became quite confusing after reviewing the SRBA files. Possibly, a partial transfer of one or more of the rights occurred prior to 1987 via a verbal agreement between landowners but without a transfer approved by IDWR. This raises an adjudication issue that is perhaps outside of the scope of the current transfer application. If so, the P/D transfer could be linked to 14.5 acres in Allen's portion of the decreed rights without consideration of the SRBA claims. On the other hand, the interests of the involved parties, including IDWR, may be served by solving the riddle of these rights during the processing of this transfer.

Based on the former choice, the confirmed irrigated acres and rate per acre for each right are shown on application pages 4, 6, and 8. Therefore, the P/D transfer includes the following instead of the rates and 25 acres on page 1 of the application:

| | | | |
|-----------|---------|-----------------|---------------------------|
| 63-00353B | .32 cfs | for 14.5 acres, | |
| 63-00354B | .37 cfs | for 14.5 acres, | |
| 63-00355B | .46 cfs | for 14.5 acres | (total equals 14.5 acrs). |

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Transfer 63-00353 through 63-00355, Page 3

* 63-00353 2.40 cfs irrig.

63-00354 2.80 " "

63-00355 3.40 " "

A63-00353A 0.88 cfs irrig. (from 63-00353)

A63-21608 1.00 " " (did not specify amount per right in split/combo)

A63-21348 1.52 " " (.5 from 00353, .5 from 00354, .52 from 355)

1.8
 .88

2.38

1.0
 .5

REFILMED

SEP 13 1992

CC: A63-00353A
A63-21608
A63-21348

See Transfer file
for 63-00353 -
00355

for Attachments
referred to

SL

MEMORANDUM

TO: TRANSFER APPLICATION FOR 63-000353 THROUGH 63-00355
FROM: STEVE LESTER
DATE: DECEMBER 6, 1990
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Although the decree does not explicitly state the duty of irrigation water, Part V can be interpreted to mean .02 cfs/acre: "...amount of water herein allotted...is required and necessary for the proper growing of crops...". Because all three decreed rights cover the same P/U, one can infer that the largest right, 63-00355 for 3.50 cfs, describes the maximum number of acres for all three rights. Assume that the rights cover no more than 175 acres. Note that the rights cover different parts of the irrigation season and together include 4/1-11/15 (the latter interpreted from IDWR standards for the area).

COMPUTATION OF ACRES

Note that in Sec. 8 SESE, irrigated land includes 14.5 acres northwest of the siphon pipeline and 16.5 acres southeast of same. The transfer addresses a P/D change and will result in three split rights (63-00353 A & B etc.). The decree did not identify acres per tract. We can identify the acres/tract via the 1987 ASCS aerial photo (see Attachment A). To further interpret the photo, I met with Mike Anderson on 12/6/90 at the Canyon County ASCS office to discuss the photo and to look at other aerial information (slides of area offer better look at irrigated land). The acres listed on pages 4, 6, and 8 of the transfer derive from the meeting and photo interpretation and include the maximum number of irrigated acres determined from technical methods without visiting the P/U.

RECORDED

SEP 03 1992

In the future, SRBA field work related to the P/U may reveal additional irrigated land in some of the tracts, e.g. pasture irrigation that does not appear to be irrigated on the photos. The following list outlines possible discrepancies that may occur between photo interpretation and site visits (approx. 49 acres).

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* 63-00353 2.40 cfs irrig.
63-00354 2.80 " "
63-00355 3.40 " "

A63-00353A 0.88 cfs irrig. (from 63-00353)
A63-21608 1.00 " " (did not specify amount per right in split/combo)
A63-21348 1.52 " " (.5 from 00353, .5 from 00354, .52 from 355)