

11/14/2006

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

RIGHT NUMBER: 1-34B

NAME AND ADDRESS: HORACE E HILL
4263 W 6800 S
REXBURG ID 83440

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 2.500 CFS

PRIORITY DATE: 06/01/1903

POINT OF DIVERSION:

T05N R39E S35 SESENW Within MADISON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/01 10/31

2.500 CFS

PLACE OF USE:

IRRIGATION in MADISON County

T05N R39E S27	SWSW	28.00	T05N R39E S27	SESW	16.00
T05N R39E S28	SESW	1.60	T05N R39E S34		1.00
T05N R39E S34	SWNE	1.40	T05N R39E S34 Lot 7	NENW	15.00
T05N R39E S34 Lot 8	NWNW	7.10	T05N R39E S34 Lot 6	SENW	1.20

71.3 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 71.3 acres in a single irrigation season. Combined Right Nos.: 1-34B, 1-10110, 1-10111, 1-10115, 1-10116, and 1-10113.

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

Water is delivered through Bannock Jim Canal to Hill Petinger Ditch.

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

May 9, 2008

Gregory W. Moeller, Esquire
Rigby, Andrus & Moeller
P.O. Box 250
Rexburg, Idaho 83440

COPY

RECEIVED

MAY 14 2008

Department of Water Resources
Eastern Region

Re: Snake River Basin Adjudication

Horace Hill water rights 1-34B, 1-10110, 1-10111, 1-10113, 1-10115, 1-10116

Dear Mr. Moeller,

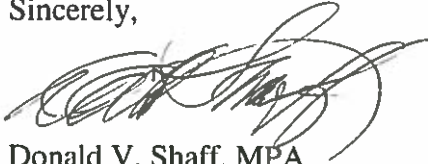
Thank you for your letter requesting explanation of the settlement documents sent to Mr. Horace Hill. Mr. Tuthill asked for me to reply to your request for a letter explaining the factors behind the proposed settlement agreement (SF-5s). The staff in Idaho Falls assures me, and I concur, the proposed changes from the Director's Report add more specificity and clarity to the place of use and do not diminish the water rights in any way.

Mr. Hill filed six water right claims in the Snake River Basin Adjudication (SRBA) in August 1989. The Idaho Department of Water Resources (IDWR) reviewed his claims and made recommendations to the SRBA court as to how these water rights should be described. The descriptions of the rights were presented to the SRBA court in what is known as the Director's Report at the end of 2006. After this report was filed with the SRBA court, the United States Bureau of Land Management (BLM) objected to IDWR's recommendations for Mr. Hill's water right claims. The United States objected because they did not believe IDWR's description of the place of use of these rights was specifically clear.

BLM proposed that IDWR add lot numbers and tract numbers to the property legal description, thereby eliminating the possibility of any misunderstanding that federal land was not being irrigated. After lot numbers and tract numbers were added to the legal descriptions of the place of use for Mr. Hill's water rights, BLM was satisfied and was ready to enter into the proposed agreements as reflected in the SF-5s.

You may view the objections from IDWR's public web site by a query of the water right numbers, if you do not have copies. An Acrobat copy of the Director's Report is probably in your office. Please feel free to contact Michael Holliday in Idaho Falls, if you need additional information or if you have additional questions regarding these water rights.

Sincerely,

A handwritten signature in black ink, appearing to read 'Donald V. Shaff', written over a horizontal line.

Donald V. Shaff, MPA
Adjudication Bureau Chief

Cc: F. Price
M. Holliday
L. Brown

RECEIVED

MAY 02 2008

DEPARTMENT OF
WATER RESOURCES

Law Offices

RIGBY, ANDRUS & MOELLER
Chartered

Ray W. Rigby
G. Rich Andrus
Jerry R. Rigby
Michael S. Kam (1954-2001)
Gregory W. Moeller
Reed E. Andrus

P.O. Box 250
25 North Second East
Rexburg, ID 83440

Telephone: (208) 356-3633
Fax: (208) 356-0768

April 30, 2008

Fredric Price
United States Department of Interior
Bureau of Land Management
1387 South Vinnell Way
Boise, Idaho 83709

Larry A. Brown
United States Department of Justice
Environment and Natl' Resources
550 West Fort Street, MSC 033
Boise, Idaho 83724

Director of IDWR
P.O. Box 83720
Boise, Idaho 83720-0098

Re: Water Right Claim Numbers: 01-00034B, 01-10110, 01-10111, 01-10113, 01-10115 & 01-10116

Gentlemen:

I am writing on behalf of Horace E. Hill and his water right claims to the above referenced water rights. I am in receipt of a letter dated April 3, 2008, which encloses six Standard Form 5 documents (SF-5s). The letter also indicates that these SF-5s "conform to the settlement discussions on January 15, 2008 between [Mr. Hill], and Larry Brown of the Department of Justice."

I represent Mr. Hill and his family. You may not be aware, but Mr. Hill is 82 years old and suffers from dementia. Because of his dementia, he has serious short term memory problems. As a result of this, he has no recollection of the January 15, 2008 discussion, nor does his family feel comfortable in allowing him to sign these documents.

My understanding is that this is probably just routine and represents a correction made to some water claims. However, before I can advise my client to sign this document, I would appreciate it if you could provide me a letter with detailed explanation for why these changes are being made. I am assuming there is a good reason, but in the interest of due diligence, I believe this is a necessary step to take.

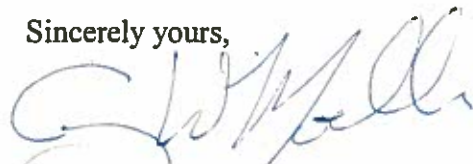
SCANNED

MAY - 8 2008

Please do not interpret this letter as an indication of our intention to back out of any agreement that was made. We are merely seeking to understand exactly why these changes are necessary, so that we can confirm that they conform to and restore Mr. Hill's water rights to the correct status.

Inasmuch as there are concerns about Mr. Hill's competency, it would probably be best to have these documents signed by his daughter, Kathy Westfall, who has a current power of attorney to act on her father's behalf (enclosed). In the alternative, these could be signed by me, as counsel for Mr. Hill.

Sincerely yours,



Gregory W. Moeller

GWM/md

Enclosure - Durable Power of Attorney

Cc: Mr. Hill

Kathy Westfall

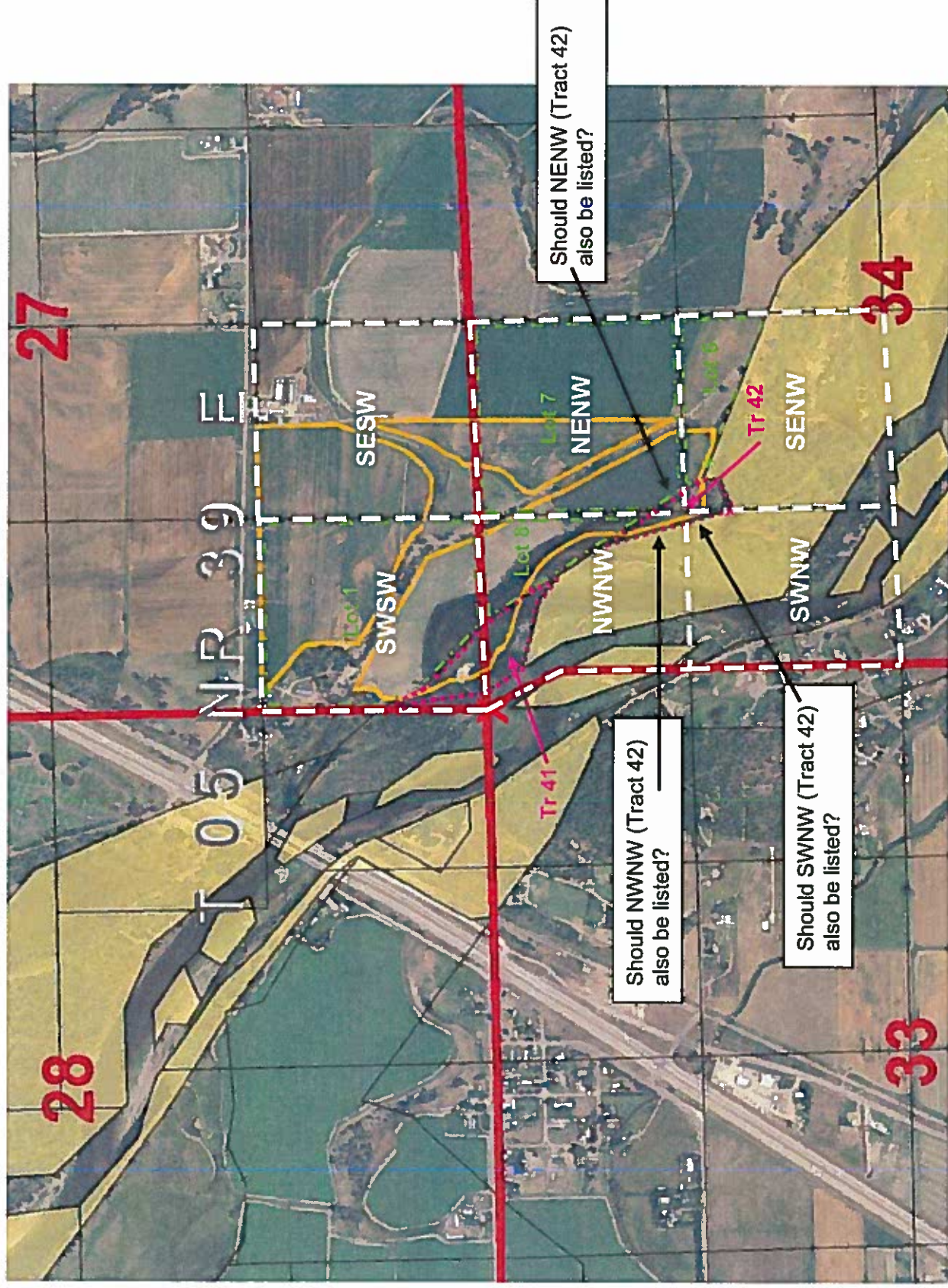
F:\WP6\GMHILLH.LTR

SCANNED

MAY - 8 2008

01-00034B, 01-10110, 01-10111, 01-10113, 01-10115, 01-10116

Horace E. Hill



The draft SF-5 created by Holliday and sent to BLM on 01-28-08 describes the claim such that it does not describe BLM land anymore. Should a few more POUs be described (see above)?

01-00034B, 01-10110, 01-10111, 01-10113, 01-10115, 01-10116
Horace E. Hill



Mixed POU:

-This recommendation describes both private and public lands. The unlotted portions of Place of Use descriptions T05N R39E S27 SESW and T05N R39E S34 NWNW, SWNW, and SENW could be described further under Place of Use as Tracts 41 and 42, which would satisfy BLM's objection. The POUs described as SESW, S28 and SWNE, S34 appear to be typographical errors.

12/16/2006

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 1-34B
NAME AND ADDRESS: MORACE R HILL
4263 W 6800 E
REXBURG ID 83440
Missing QQ description:
-T05N R39E S34 1.00 acre is missing legal description.

SOURCE: SNAKE RIVER
QUANTITY: 2.500 CFS
PRIORITY DATE: 06/01/1903
POINT OF DIVERSION: T05N R39E S35 SESENE Within MADISON County
PURPOSE AND PERIOD OF USE: Mixed POU: TRIBUTARY: COLUMBIA RIVER
-Places of Use Identified below contain both public and private land.
-Please clarify such that only private land is intended by describing either Lots or clarifying the nominal aliquot by including Tract numbers.

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/01 10/31	2.500 CFS

PLACE OF USE: IRRIGATION in MADISON County

Tract	Area (Acres)	Area (Acres)	Area (Acres)
T05N R39E S27 LOT 1 ENEW	20.00	T05N R39E S27 SESE	16.00
T05N R39E S27 T41 SESE	1.60	T05N R39E S34 T41 NWNW	1.00
T05N R39E S34 T42 SESE	1.40	T05N R39E S34 Lot 7 NWNW	15.00
T05N R39E S34 Lot 8 NWNW	7.10	T05N R39E S34 Lot 6 SESE	1.20

Mixed QQ missing

71.3 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 71.3 acres in a single irrigation season. Combined Right Nos.: 1-34B, 1-10110, 1-10111, 1-10115, 1-10116, and 1-10113.

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

Water is delivered through Bannock Jim Canal to Mill Petingier Ditch.

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.



Idaho Department of Water Resources

SRBA Recommendation:

**1-34B, 1-10110,
1-10111, 1-10113,
1-10115, and
1-10116**

Legend

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

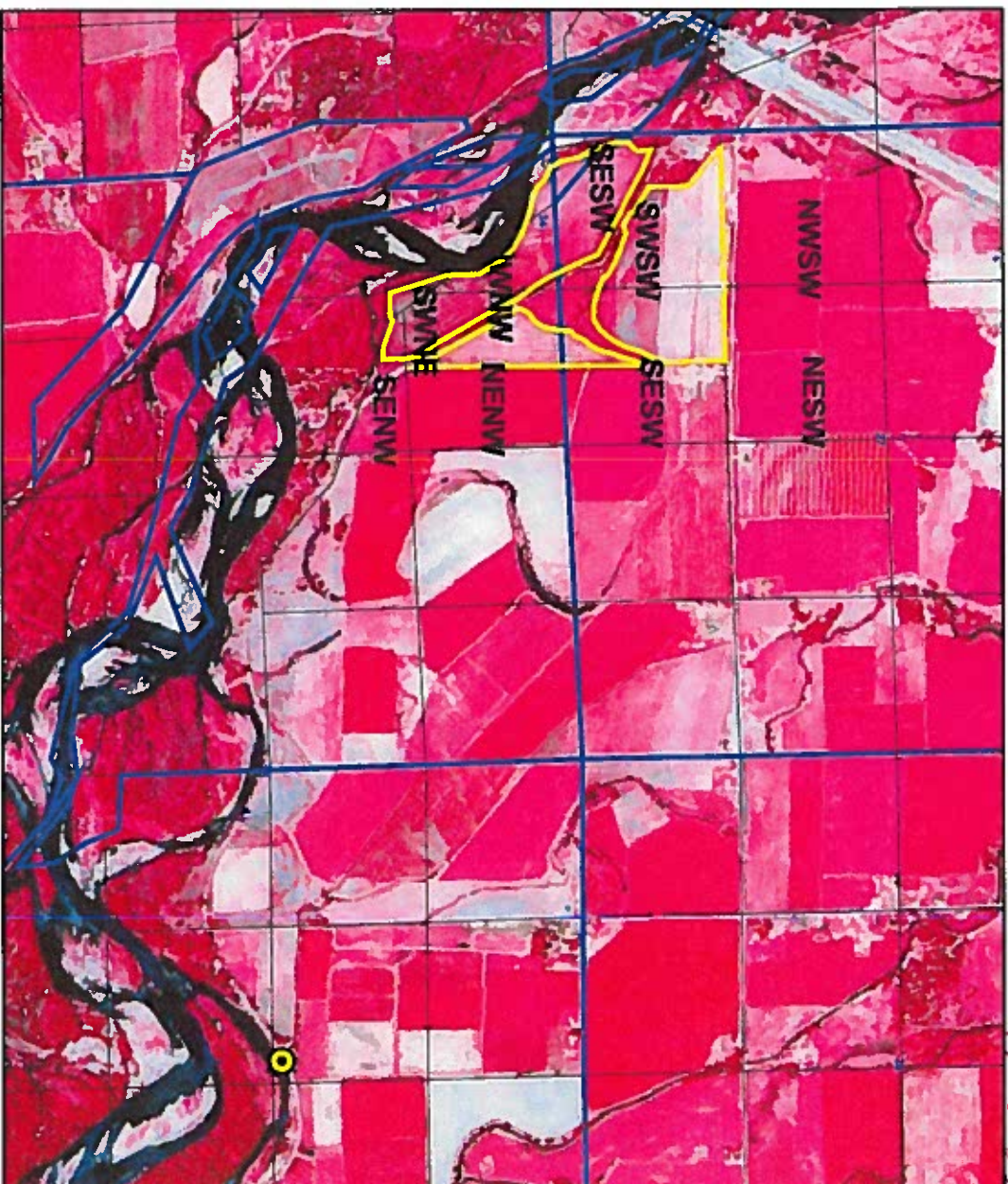


Jefferson, Madison Counties
IDWR Basin 1



T05N

R39E



Prepared by A. Golart
On Thursday, October 19, 2006
1987/88 Aerial Photography

RECEIVED
APR 19 2007
PROFILED

5 cts decreed

Notes

154.25 acres decreed

$$= \frac{\phi. \phi 324 \text{ cts}}{\text{acre}} \times 71.3 \text{ acres} = 2.31$$

Recommend as decreed and claimed @ 2.5 cts.

1-34A and 1-34B = 154.25 acres as decreed.
5. ϕ cts split between 1-34A and 1-34B.

PROCESSED
SCANNED
APR 19 2007

~~022~~ 22-0244

Ellis, A. J.

160 inches. June 1, 1894.

Ellis, Willis

Darby Creek.

~~022~~ 21 0042

Enget, Lillie M. 120 inches. June 1, 1899.

Enterprise Canal Company.

~~022~~ 21 0043

Enget, Lillie M. 200 inches. June 1, 1900.

Meadow Creek.

~~022~~ 21 0044

Enget, Peter 100 inches. June 1, 1900.

Cooley Spring.

~~022~~ 21 0045

Enget, Peter 45 inches. June 1, 1900.

Pine Creek.

~~022~~ 23 0037

Englis, Charles, and Mrs. L. M. 150 inches. June 1, 1889.

Meadow Creek.

~~022~~ 23 0038

Englis, Charles, and Mrs. L. M. 150 inches. June 1, 1890.

Rainey Creek.

~~022~~ 1 059

Enterprise Canal Company. 6,000 inches. Mch. 22, 1895.

Rainey Creek.-439

~~022~~ 1 060

Enterprise Canal Company 3,400 inches. Apr. 15, 1898.

South Fork of Snake River.

Erickson, Carl

South Fork of Snake River.

Erickson, Herman

The Sunny Dell Irrigation Canal Company.

~~022~~ 22 0245

The Sunny Dell Irrigation Canal Company.

~~022~~ 22 0246

Eynon, John 80 inches. Apr. 1, 1890.

Trail Creek.

~~022~~ 22 0247

Eynon, L. L. 40 inches. June 15, 1894.

Spring Creek, a tributary of Pine Creek.

~~022~~ 22 0248

Eynon, Rufus 120 inches. June 15, 1902.

Spring Creek, a tributary of Pine Creek.

~~022~~ 22 0249

Eynon, Rufus 80 inches. Apr. 1, 1890.

Trail Creek.

0034

F.

Fagerstrom, Axel 250 inches.

~~022~~ 22 0249

June 1, 1903.

Pannock Jim Gloom.

Fairbanks, D. M. 160 inches.

~~022~~ 21 0046

June 1, 1899.

Teton Creek.

Fall River T. #2351/2834

Irrigation Company. 23,000 inches. June 1, 1889.

Fall River, as a high water right. until 1st of each year.

~~022~~ 21 0047

Fall River T. #2351/2834

Irrigation

SCANNED
APR 19 2007

PROFILE

Williams,
Thomas E.

Lot 5, and SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sec. 6 T. 3 N.,
R 40 E., B. M.

Woolfley,
Rudolph

SE $\frac{1}{4}$ of SW $\frac{1}{4}$ and lot 7, Sec. 6, T. 3 N., R.
40 E. B. M.

Young Andrew

NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec. 29 and NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of
Sec. 28, T. 4 N., R. 40 E. B. M.

Everett, Edward

(See page 103)

Eynon, John

E $\frac{1}{2}$ of SW $\frac{1}{4}$ of Sec. 13, T. 3 N. R. 45 E., B. M.
containing 80 acres.

Eynon, L. L.

NE $\frac{1}{4}$ of NW $\frac{1}{4}$, W $\frac{1}{2}$ of NW $\frac{1}{4}$ and SE $\frac{1}{4}$ of NE $\frac{1}{4}$
of Sec. 21, T. 3 N. R., 45 E. B. M., con-
taining 160 acres.

Eynon, Rufus

W $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec. 13, T. 3 N., R. 45 E., B. M.
containing 80 acres.

F.

Fackler, Mary J.

W $\frac{1}{2}$ of SE $\frac{1}{4}$ and Lots 3 and 4 of Sec. 10, T. 1
N., R. 37 E., B. M. containing 131.50 acres

Fagerstrom,
Axel

154.25
120.00

34.25

lot 1

40 40 34.25
SE $\frac{1}{4}$ of SW $\frac{1}{4}$, SW $\frac{1}{4}$ of SE $\frac{1}{4}$, and Lot 1 of
Sec. 27, T. 5 N., R. 39 E., B. M., and Lot
7, of Sec. 34, T. 5 N., R. 39 E., B. M.
containing 154.25 acres.

3425acct

SC 77

PROFILED
SCANNED
APR 19 2007

Water Right No(s). A01-00034B

Bannock-Jim Slough
GPS Data- 2674328
1393421

GPS File #
22653C

GPS DATA:

Tag # Existing A0000229 Location: on headgate floor

Diversion Data:

Source: Snake River Trib to: Columbia River

MOTOR

Make: _____ Model: _____ Hp: _____
SN: _____

PUMP

Make: _____ Model: _____ Disch: _____
SN: _____

NOTES:

Harce Hill verified P.O. & phone # & address.

Field Exam Date: 3-13-06 Agent: H. L. Jones

PROFILED

SCANNED
APR 19 2007



GPS
tag

Bannock-Tim Slough diversion off Snake River

PROFILED

SCANNED
APR 19 2007

05N39E35

NW1/4

NE1/4

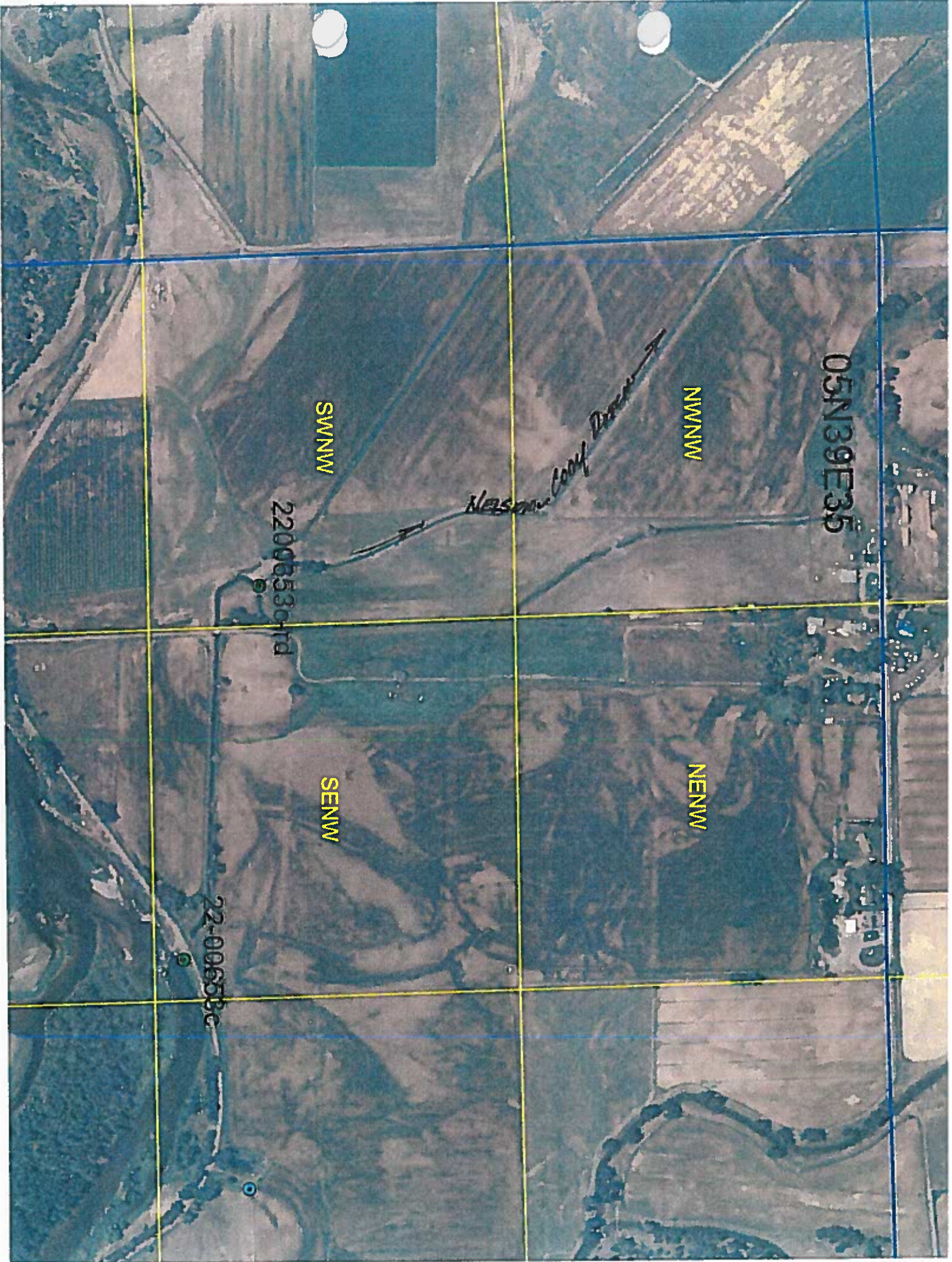
SW1/4

SE1/4

Nelson Creek Drain

22-006530-1rd

22-006530-2c



01-00034B



SCANNED

AUG 17 2001

126

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: A01-00034B
Date Received: 8/04/1989
Receipt No: 409804
Received By: ES

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: HORACE E. HILL 208-356-6485
Address: 4263 W. 6800 S.
REXBURG, ID 83440

2. Date of Priority: JUN 01, 1903

3. Source: SNAKE RIVER, SOUTH FORK Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
05N	39E	35	SE	SE	NW		MADISON

5. Description of diverting works:
CONCRETE HEADGATE INTO BANNOCK-JIM SLOUGH, HILL-PETINGER DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	2.500		

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

8. Total consumptive use is 190.0 Acre Feet Per Annum.

9. Non-irrigation uses:
INCIDENTAL STOCKWATERING

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05N	39E	27	SW	SW		IRR	30.0
			SE	SW		IRR	15.0
Section Acres							45.0

A01-00034B

Page 1

Date: 08/04/89

COPY

MICROFILMED
OCT 16 1992

A0100034B



10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05N	39E	34	NE	NW		IRR	15.0
			NW	NW		IRR	12.0
			SE	NW		IRR	4.0
						Section Acres	31.0
						Total Acres	76.0

11. Place of use in counties: MADISON

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

13. Other Water Rights Used:

PALISADES STORAGE, 01-0081B, 0082B, 0083B, 0117AB, 0118V

14. Remarks:

RIGHT SPLIT INTO A & B PORTIONS BY DIVISION OF PROPERTY OWNERSHIP.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 12/16/1910

REXBURG IRRIGATION CO. ET AL
Decree Plaintiff

vs

TETON IRR. CANAL CO. 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 x 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): Thomas E. Hill Date: 8-10-89

Date: _____

State of Idaho)
County of Bonneville) SS.

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

Seal

[Signature]
Notary Public

Residing at Salvo Falls, B.
My Commission Expires 22 Aug 1994

18 Horse Hill

D176

R39E

35 TOTAL

LARRY M. HILL

A22-00653C

LORRAINE HILL

ACI-00034B

A01-00034B

T
S
N

28 27
33 31

D 21.3

A 19.3

B 10.9

C 3.0

20

15

20

12

15

4

8

E 11.0

F 10.5

B 5.4

A 8.9

D 7.6

E 10.0

F 11.3

220

LARRY M. / WILLIAM HILL

ACI-00034A

A01-00034A

26

A 27.3

28.9

E 24.7

MICROFILMED

DEC 16 1982