

09/24/2010

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

RIGHT NUMBER: 1-139

NAME AND ADDRESS: BANNOCK JIM SLOUGH CANAL CO
C/O TIM MC GARRY
6505 W 3800 S
REXBURG ID 83440

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 12.000 CFS

PRIORITY DATE: 06/01/1889

POINT OF
DIVERSION:

T05N R39E S35 SENW Within MADISON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/01 10/31

12.000 CFS

PLACE OF USE:

494 ACRES TOTAL

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

Place of use is within the area served by Bannock Jim Slough Canal Company.

Place of use does not include federal public lands.

This right is limited to the irrigation of 452.5 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 494 acres in a single irrigation season. Combined Right Nos.: 1-139, 1-140, and 1-10545.

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

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

Water is delivered through Bannock Jim Canal.

This right is old Right No. 22-654.

11/14/2006

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

RIGHT NUMBER: 1-139

NAME AND ADDRESS: BANNOCK JIM SLOUGH
C/O TIM MC GARRY
6505 W 3800 S
REXBURG ID 83440

Disallowed

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 12.000 CFS

PRIORITY DATE: 06/01/1889

POINT OF DIVERSION:

T05N R39E S35 SESENW Within MADISON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
04/01 10/31

QUANTITY
12.000 CFS

PLACE OF USE:

IRRIGATION in MADISON County

T05N R38E S13	NENE	35.00	T05N R38E S13	NWNE	39.00
T05N R38E S13 Lot 5	SWNE	5.90	T05N R38E S13 Lot 4	NESE	4.50
T05N R39E S17	SWSW	15.00	T05N R39E S17	SESW	20.00
T05N R39E S18	NWNE	0.40	T05N R39E S18	NENW	34.00
T05N R39E S18 Lot 1	NWNW	39.00	T05N R39E S18 Lot 2	SWNW	35.00
T05N R39E S18	SENW	33.00	T05N R39E S18 Lot 4	NESW	14.00
T05N R39E S18 Lot 3	NWSW	4.40	T05N R39E S18	NESE	32.00
T05N R39E S18	NWSE	17.00	T05N R39E S18	SESE	1.10
T05N R39E S20	SENE	37.00	T05N R39E S20	NENW	23.00
T05N R39E S20	NESE	31.00	T05N R39E S20 Lot 6	SESE	0.30
T05N R39E S21	NWSW	29.00	T05N R39E S21 Lot 1	SWSW	1.80
T05N R39E S21	SESW	25.00			

476.4 ACRES TOTAL

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

No lawful appropriation shown.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

No lawful appropriation shown: There are a number of circumstances in which a claim is proposed to be disallowed on this basis. This is most commonly included for a claim based on beneficial use or posted notice that is proposed to be disallowed because the right claimed is not within an exception to the mandatory permit statute, and beneficial use of water prior to the mandatory permit statute was not confirmed. This is also included where a claim is proposed to be disallowed because the claim is to water that is not public water subject to appropriation. This is also included where a right was determined not to exist in a prior adjudication.

10/03/2005

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

RIGHT NUMBER: 22-654

NAME AND ADDRESS: BANNOCK JIM SLOUGH
C/O TIM MC GARRY
6505 W 3800 S
REXBURG ID 83440

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 12.000 CFS

Right Nos. 22-654 and 22-655 are limited to a total combined diversion rate of 12.0 cfs.

PRIORITY DATE: 06/01/1889

POINT OF DIVERSION:

T05N R39E S35 SESENW Within MADISON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	12.000 CFS

PLACE OF USE: IRRIGATION Within MADISON County

T05N R38E S13	NENE	35.0	T05N R38E S13	NWNE	39.0
T05N R38E S13 Lot 5	SWNE	5.9	T05N R38E S13 Lot 4	NESE	4.5
T05N R39E S17	SWSW	15.0	T05N R39E S17	SESW	20.0
T05N R39E S18	NWNE	0.4	T05N R39E S18	NENW	34.0
T05N R39E S18 Lot 1	NWNW	39.0	T05N R39E S18 Lot 2	SWNW	35.0
T05N R39E S18	SENW	33.0	T05N R39E S18 Lot 4	NESW	14.0
T05N R39E S18 Lot 3	NWSW	4.4	T05N R39E S18	NESE	32.0
T05N R39E S18	NWSE	17.0	T05N R39E S18	SESE	1.1
T05N R39E S20	SENE	37.0	T05N R39E S20	NENW	23.0
T05N R39E S20	NESE	31.0	T05N R39E S20 Lot 6	SESE	0.3
T05N R39E S21	NWSW	29.0	T05N R39E S21 Lot 1	SWSW	1.8
T05N R39E S21	SESW	25.0			

476.4 ACRES TOTAL

Right Nos. 22-654 and 22-655 are limited to the irrigation of a combined total of 476.4 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.

10/03/2005

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Water is delivered to Bannock Jim Slough

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

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

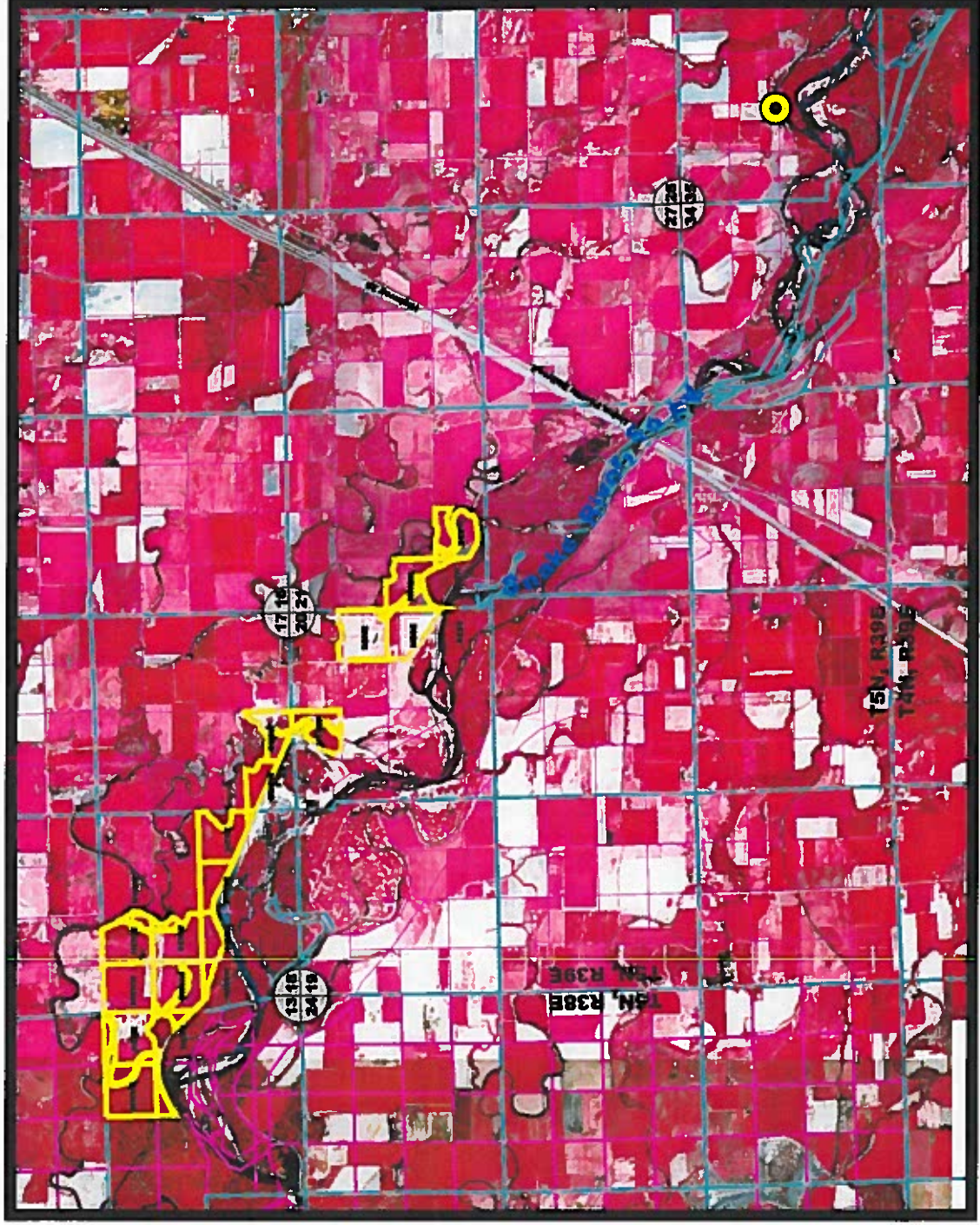
Right No. 22-655 is also diverted through point of diversion described above.



State of Idaho

Department of Water Resources

Eastern Region



Water Right(s):
22-654,
22-655

Point(s) of Diversion:
T5N, R39E
Sec. 35 SESENW

Place of Use: (parts of)
T5N, R38E Sec. 13 NE,
T5N, R39E
Sec. 13 NW, N2S2, Sec. 17 S2SW,
Sec. 20 NENW, E2E2, Sec. 21 SW

LEGEND

- Point of Diversion
- SESE
- Place of Use
- Section
- Quarter-Quarter

GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by A. Ruberry
Date: October 2005



2000 0 2000 4000 6000 8000 10000 12000 14000 16000 18000 20000 22000 24000 Feet

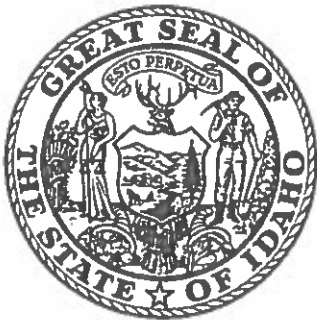
State of Idaho

Office of the Secretary of State

I, BEN YSURSA, Secretary of State of the State of Idaho, hereby certify that I am the custodian of the corporation records of this State.

I FURTHER CERTIFY That the annexed is a full, true and complete duplicate of articles of incorporation of **BANNOCK JIM SLOUGH CANAL COMPANY**, an Idaho non-profit corporation, received and filed in this office on December 17, 2009, under file number C 185514 , including all amendments filed thereto, as appears of record in this office as of this date.

Dated: December 21, 2009



Ben Yursa
SECRETARY OF STATE

By *Jinda McNary*

FILED EFFECTIVE

ARTICLES OF INCORPORATION

09 DEC 17 AM 8:20

of

BANNOCK JIM SLOUGH CANAL COMPANY

SECRETARY OF STATE
STATE OF IDAHO

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned citizens of the United States of America, of the age of twenty-one years or more, by these presents voluntarily associate ourselves together in behalf of ourselves and all of the present stock holders of originally decreed Idaho Department of Water Resources Water Right Number 1-00139 with a priority date of 06-01-1889 for 12.000 c.f.s., Water Right Number: 1-00140 with a priority date of 05-01-1905 for 3.2 c.f.s., and 22-4137 with a priority date of 06-01-1898 for 12.000 c.f.s which have as their place of use the lands of the shareholders located within Sections 12, 13, 17, 18, 20 & 21, Twp. 05 N., Rge. 38 & 39 E.B.M., Madison County, Idaho, by forming a non-profit corporation, pursuant to the provisions of Chapter 3 of Title 30 of the Idaho Code, and receiving all of the assets and assuming all of the liabilities and responsibilities of said de facto corporation, do hereby certify:

ARTICLE I

NAME

The name of this corporation is BANNOCK JIM SLOUGH CANAL COMPANY, and is formed as a non-profit corporation.

ARTICLE II

PURPOSES AND POWERS

A. The purposes for which the corporation is formed are to own, acquire, lease, hold, manage, control, operate and maintain an irrigation system, and water and water rights, all for the benefit of the corporation and its stockholders, upon certain lands lying along and in the vicinity of Bannock Jim Slough Canal, which diverts from the Snake River, in the County of Madison, State of Idaho, for irrigation, domestic use, watering livestock, and all other beneficial uses of water, and to conduct any business, and to do all and every thing necessary, suitable, and proper for the accomplishment of any of the purposes or the attainment of any benefits for the corporation and its stockholders, not inconsistent with the laws under which the corporation is organized.

B. This corporation existed heretofore under the name of Bannock Jim Slough.

IDAHO SECRETARY OF STATE
12/17/2009 05:00
CR: 28697 CT: 64469 BH: 1199366
1 0 38.00 = 38.00 INC NOW 1 2

C185514

ARTICLE III

REGISTERED OFFICE AND REGISTERED AGENT

The address of the initial registered office of BANNOCK JIM SLOUGH CANAL COMPANY is at 6505 West 3800 South, Rexburg, Idaho 83440, and the name of its initial registered agent is Tim McGarry, who's address is 6505 West 3800 South, Rexburg, Idaho 83440.

ARTICLE IV

DURATION

The term for which the corporation is to exist shall be perpetual from and after the date of its incorporation, unless sooner dissolved or discontinued pursuant to law.

ARTICLE V

INITIAL BOARD OF DIRECTORS AND OFFICERS

A. The number of directors of this corporation shall be fixed by the By-laws. The number of directors constituting the initial board of directors of the corporation is five (5) and the names and residences of the persons who are to serve as directors and officers of the corporation until the first annual meeting of stockholders or until their successors are elected and shall qualify are:

<u>Name</u>	<u>Address</u>
• Tim R. McGarry	6505 W. 3800 S. Rexburg, ID 83440
• Lance Rydalch	7549 W. 4000 S. Rexburg, ID 83440
• Jack Lee Koon	P.O. Box 425 Ucon, ID 83454
• Boyd E. Smith	4371 S. 5500 W. Rexburg, ID 83440
• Lionel Koon	7554 W 4000 S. Rexburg, ID 83440

B. The directors shall be elected at the annual meeting of the stockholders in Madison County, Idaho, to be held at the place, and on the date and at the time specified in the By-Laws of the corporation.

ARTICLE VI

CAPITAL STOCK

A. This corporation shall not have members but shall have stockholders.

B. The amount of capital stock of this corporation shall be \$960.00, divided into 960 shares with a par value of \$1.00 each, 960 shares of which has been subscribed for by the subscribers and shareholders set forth below.

C. All stock shall be common stock and when fully paid shall not be subject to call. Each share of stock shall be entitled to one vote and all stock shall have equal rights.

D. The capital stock of the corporation may not be transferred except in connection with a transaction involving title to the real property to which that proportion of the water and conveyance rights of the corporation represented by such stock is appurtenant, or as otherwise provided by the By-Laws of the corporation, and only to the extent and in the manner provided in the said By-Laws and as the same may from time to time be amended.

E. The ownership of said stock shall be further limited and shall be held and transferred as provided for in the By-Laws. No share shall have pre-emptive rights, and each stockholder may vote by written proxy pursuant to any limitations contained in the By-Laws. All stock shall be subject to assessment for use in paying all of the expenses of the corporation, including the expenses of maintenance and operation of the irrigation system.

F. The names of the persons or entities, their mailing addresses, and the number of shares this corporation recognizes and acknowledges as being owned in this corporation shall be set forth in the initial By-Laws of this corporation.

G. Said stock shall be divided into three (3) classes with each class representing a priority in the use of the water rights owned by the corporation, as follows:

<u>Class</u>	<u>No. of Shares</u>	<u>Water Priority Date</u>
A	600	June 1, 1889
B	200	June 1, 1898
C	160	May 1, 1905
Total	960	

ARTICLE VII

SUPPLEMENTAL POWERS AND PURPOSES

A. In carrying out the purposes of this Corporation to furnish for its stockholders water for irrigation, domestic use, watering livestock, and all other beneficial uses of water, the Corporation will issue stock to its stockholders in unequal numbers of shares, issuing to each stockholder the number of shares deemed sufficient to equal their present percentage of ownership of the water rights now owned by the corporation in the manner set forth in the bylaws. The funds necessary for the accomplishment of said purposes can be raised by assessments on those shares.

B. This Corporation shall at all times be operated on a non-profit basis for the benefit of its stockholders. No interest or dividends shall be paid or payable to the stockholders by the Corporation.

C. In the payment of assessments, which shall be uniform on each share of stock, the business of the Corporation shall be so conducted that only sufficient funds shall be levied and collected from the stockholders as are necessary for the payment of its reasonable and necessary expenses in carrying out the purposes of the Corporation. Should an excess of funds be collected, by said assessments or by the rental or sale of surplus water in times of plenty, which shall exceed a reasonable sum to be retained in a reserve fund for the acquisition of water by lease, purchase or otherwise, in times of shortage, and after taking into account the Corporation's reasonable needs for normal business purposes, retiring indebtedness, expansion, or maintaining reserves for other necessary purposes, the same shall, at the discretion of the board of directors of the Corporation, be returned to the stockholders on a per share basis, or the Corporation shall reduce the amount of the next assessment on said stock, or both. The books and records of the Corporation shall be set up and kept in such a manner that at the end of each fiscal year, a record of the amount of surplus funds collected by the Corporation shall be made.

All such amounts received by the Corporation from its operations in excess of costs and expenses shall, insofar as permitted by law, be used to offset any losses incurred during the current or any prior fiscal year.

D. In the event of dissolution or liquidation of the Corporation, after all outstanding taxes and indebtedness of the Corporation shall have been paid, together with all costs of dissolution or liquidation, all gains from the sale of an appreciated asset, as well as all other assets, including funds of the Corporation, shall be returned to the stockholders on a per share basis.

ARTICLE VIII

LIMITATIONS OF LIABILITY

All present or past directors, officers, employees or agents of the corporation and

the heirs or personal representatives of such person, shall be indemnified and may be advanced expenses by the corporation if said person was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than action by or in the right of the corporation) by reason of the fact that he is or was a director, officer, employee, or agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action proceeding, had no reasonable cause to believe his conduct was unlawful and is so determined in accordance with Idaho Code § 30-1-5(d), and if so determined such person shall be entitled to all the other benefits as set out in Idaho Code § 30-1-5 and shall have no personal liability to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, officer, employee or agent; provided that this provision shall not eliminate or limit the liability of such person (i) for any breach of the duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 30-1-48, Idaho Code, or (iv) for any transaction from which such person derived an improper personal benefit. This section shall not eliminate or limit the liability of such person for any act or omission occurring prior to the date when this section becomes effective.

ARTICLE IX

BY-LAWS

The initial By-Laws shall be adopted by the Board of Directors. The power to amend or repeal the By-Laws of the corporation shall thereafter be pursuant to the By-Laws.

ARTICLE X

INCORPORATORS

The name and address of each incorporator is:

✓ • Tim R. McGarry
6505 W. 3800 S.
Rexburg, ID 83440
35.61 Shares Class A
10.195 Shares Class C

✓ Theron R. McGarry
6140 W. 5000 S.
Rexburg, ID 83440
131.92 Shares Class A
34.865 Shares Class C

✓ • Boyd E. Smith
4371 S. 5500 W.
Rexburg, ID 83440
18.94 Shares Class A
200 Shares Class B
6.39 Shares Class C

✓ • Robert B. Smith
5313 S. 5700 W.
Rexburg, ID 83440
5 Shares Class A

✓ • C. LeRoy Wilcox
5555 S. 5700 W.
Rexburg, ID 83440
64.74 Shares Class A
17.26 Shares Class C

✓ • Joyce Randklev
1300 N. Sunshine Lane
Southlake, TX 76092
31.58 Shares Class A
8.42 Shares Class C

• Jack E. Koon
4172 S. 7067 W.
✓ Rexburg, ID 83440
39.38 Shares Class A
10.70 Shares Class C

✓ Jack Lee Koon
P.O. Box 425
Ucon, ID 83454-0425
65.47 Shares Class A
16.72 Shares Class C

✓ • Carol A. Koon
P.O. Box 646
Naturita, CO 81422
49.39 Shares Class A
13.41 Shares Class C

✓ • Doris Hansen
4171 S. 7067 W.
Rexburg, ID 83440
3.22 Shares Class A

✓ • Larry M. Koon
6231 W. 3800 S.
Rexburg, ID 83440
7.18 Shares Class A
3.92 Shares Class C

✓ • Koon Trust
C/O Lionel Koon
7544 W. 4000 S.
Rexburg, ID 83440
5.7 Shares Class A
.74 Shares Class C

✓ **Jerry Kirk**

P.O. Box 4779

Jackson, WY 83001

138.11 Shares Class A

35.38 Shares Class C

✓ **Lance Rydalch**

7549 W. 4000 S.

Rexburg, ID 83440

3.00 Shares Class A

2.00 Shares Class C

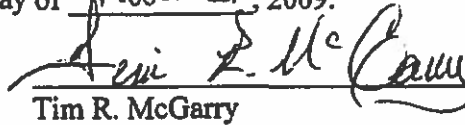
✓ **Anita Clark**

7255 W. 4000 S.

Rexburg, ID 83440

.76 Shares Class A

DATED This 17th day of November, 2009.

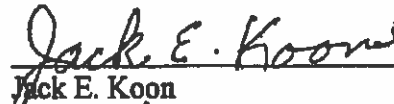

Tim R. McGarry


Theron R. McGarry

Boyd E. Smith


Robert B. Smith

Lee Roy Wilcox


Jack E. Koon

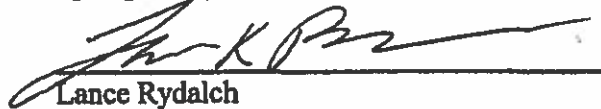

Jack Lee Koon

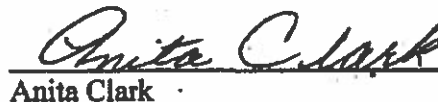

Doris Hansen

Larry M. Koon

Koon Trust
C/O Lionel Koon

Spring Slough, LLC


Lance Rydalch

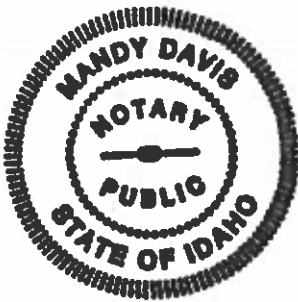

Anita Clark

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On this 17th day of November, 2009, before me, the undersigned a notary Public in and for said State, personally appeared Tim R. McGarry, Theron R. McGarry, Robert B. Smith, Jack E. Koon, Jack Lee Koon, Doris Hansen, Lance Rydalph and Anita Clark known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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

Mandy Davis
Notary Public for Idaho
Residing at: St. Anthony
My Commission Expires: 6/24/2011



DATED this 4th day of March, 2009.

Boyd E. Smith
Boyd E. Smith

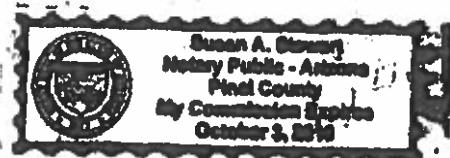
STATE OF ARIZONA,)

County of Pinal ^{SS.})

On this 4th day of March, 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared **Boyd E. Smith**, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

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

Susan A. Stewart
Notary Public for Arizona
Residing at: 945 E. Queen Valley Dr.
My Commission Expires:
10.3.2010



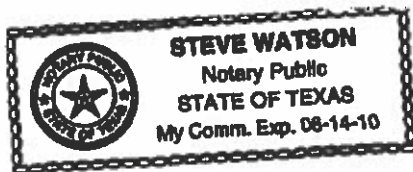
DATED this 16 day of March, 2009.

Joyce Randklev
Joyce Randklev

STATE OF Texas)
County of Tarrant)
ss.

On this 16 day of March, 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared Joyce Randklev, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

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



[Signature]
Notary Public for _____
Residing at: _____
My Commission Expires: _____

DATED this 3 day of March, 2009.

C. LeRoy Wilcox
C. LeRoy Wilcox

STATE OF Utah)
County of Washington)
SS.

On this 3 day of March, 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared C. LeRoy Wilcox, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

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



Elizabeth M. Mayfield
Notary Public for Utah
Residing at St. George, Utah
My Commission Expires: 7/18/2010

DATED this 11 day of December, 2009.

Carol A. Koon
Carol A. Koon

STATE OF Colorado)
County of Montrose)
ss.

On this 11th day of December, 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared **Carol A. Koon**, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

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

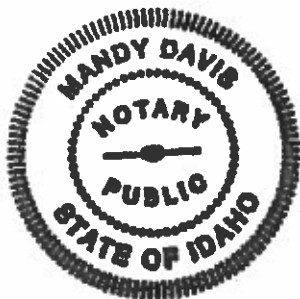


Glenna J. Nix
Notary Public for Colorado
Residing at: 111 Hwy 97, Natavite Co.
My Commission Expires: 10-13-2013

 Koon Trust
 By: Lionel Koon, Trustee

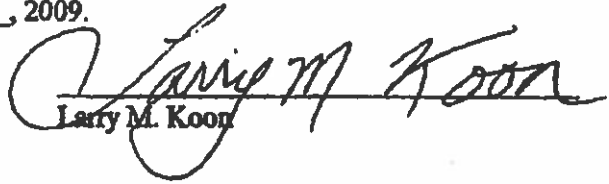
STATE OF Idaho,)
)
) ss.
County of Madison.)

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



Mandy Davis
Notary Public for IDAHO
Residing: St. Anthony
My Commission expires: 6-24-2011

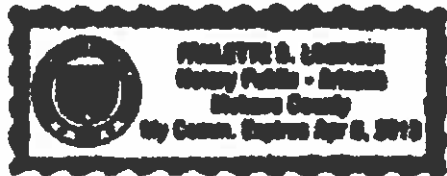
DATED this 23 day of November, 2009.

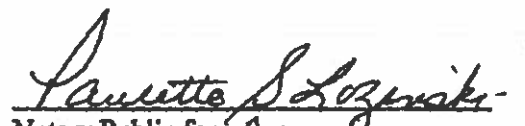

Larry M. Koon

STATE OF Arizona)
)
County of Moave)

On this 23 day of November, 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared Larry M. Koon, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

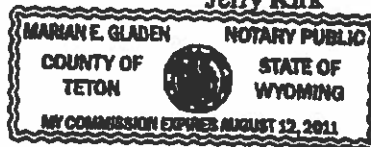
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.




Notary Public for Arizona
Residing at: Fort Mohave, AZ
My Commission Expires: 4/6/2013

DATED this 25 day of November, 2009.

STATE OF Wyoming,
County of Teton)
ss.



Jerry Kirk
Jerry Kirk

On this 25 day of November, in the year of 2009, before me, the undersigned, a Notary Public, personally appeared Jerry Kirk, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

Marian E. Gladen
Wells Fargo Bank
Notary Public for:
Residing at: 50 Buffalo Way
My Commission Expires: August 12 2011

QUITCLAIM DEED

FOR VALUE RECEIVED, Tim R. McGarry and Kathleen McGarry, husband and wife, of 6505 W. 3800 S., Rexburg, ID 83440; Theron R. McGarry and Jean McGarry, husband and wife, of 6140 W. 5000 S., Rexburg, ID 83440; Boyd E. Smith, a single man, of 4371 S. 5500 W., Rexburg, ID 83440; Robert B. Smith and Ranae Smith, husband and wife, of 5313 S. 5700 W., Rexburg, ID 83440; C. LeRoy Wilcox and Lorna R. Wilcox, husband and wife, of 5555 S. 5700 W., Rexburg, ID 83440; Joyce Randklev and George David Olson, husband and wife, of 1300 N. Sunshine Lane, Southlake, Texas, 76092; Jack E. Koon, a widower, of 4172 S. 7067 W., Rexburg, ID 83440; Jack Lee Koon, a single man, of P.O. Box 425, Ucon, ID 83454; Carol A. Koon, a widow, of P.O. Box 646, Naturita, CO 81422; Doris Hansen and Gus Hansen, husband and wife, of 4171 S. 7067 W., Rexburg, ID 83440; Larry M. Koon and Gaylene Koon, husband and wife, of 6231 W. 3800 S., Rexburg, ID 83440; Koon Trust, C/O Lionel Koon, of 7544 W. 4000 S., Rexburg, ID 83440; Jerry Kirk and Viesia Kirk, husband and wife, of P.O. Box 4779, Jackson, WY 83001, and Lance Rydalch and Pia H. Rydalch, husband and wife, of 7549 W. 4000 S., Rexburg, ID 83440, Jack Clark and Anita Clark, husband and wife, of 7255 W. 4000 S., Rexburg, ID 83440, "Grantors" do hereby remise, release and forever QUITCLAIM unto, Bannock Jim Slough Canal Company, an Idaho Non-profit Corporation, of 6505 W. 3800 S., Rexburg, ID 83440, all of their interest held, in and to the following described originally decreed water rights and any subsequent rights therefrom:

Water Right Number 1-00139 with a priority date of 06-01-1889 for 12.000 c.f.s.
Water Right Number 1-00140 with a priority date of 05-01-1905 for 3.200 c.f.s.
Water Right Number: 22-4137 with a priority date of 06-01-1898 for 12.000 c.f.s.

Place of use of the above described water rights is located on the lands of the grantor's located within Sections 12, 13, 17, 18, 20 & 21, Twp. 5 N., Rge. 38 & 39 E.B.M, Madison County, Idaho

Together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in any wise appertaining.

DATED This ____ day of _____, 2009.



Tim R. McGarry



Theron R. McGarry

Boyd E. Smith



Robert B. Smith

Leo Roy Wilcox



Jack E. Koon



Jack Lee Koon

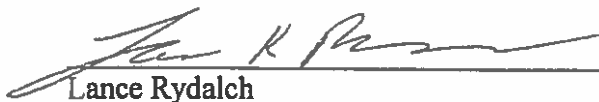


Doris Hansen

Larry M. Koon

Koon Trust

C/O Lionel Koon



Lance Rydalch

Ranae Smith
Ranae Smith

Pia H. Rydalen
Pia H. Rydalen

Gus Hansen
Gus Hansen

Kathleen McGarry
Kathleen McGarry

Jean McGarry
Jean McGarry

Anita Clark

Jack Clark

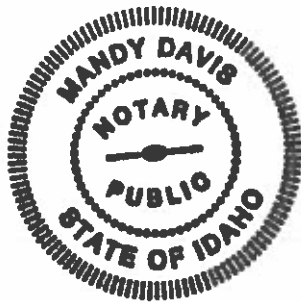
STATE OF IDAHO,)

ss.

County of Madison.)

On this 17th day of November, 2009, before me, the undersigned a notary Public in and for said State, personally appeared Tim R. McGarry, Kathleen McGarry, Theron R. McGarry, Jean McGarry, Robert B. Smith, Ranae Smith, Jack E. Koon, Jack Lee Koon, Doris Hansen, Gus Hansen, Lance Rydalch and Pia H. Rydalch known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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



Mandy Davis

Notary Public for Idaho

Residing at: St. Anthony

My Commission Expires: 6/24/2011

DATED this 4th day of March, 2009.

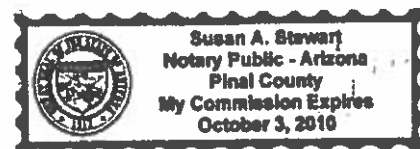
Boyd E. Smith

STATE OF Arizona)
County of Pinal)
SS.

On this 4th day of March, 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared **Boyd E. Smith**, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

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

Susan A. Stewart
Notary Public for Arizona
Residing at: 945 E. Queen Valley Dr.
My Commission Expires:
10.3.2010



DATED this 16 day of March, 2009.

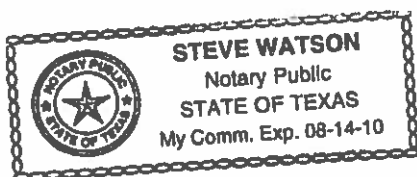
Joyce Randklev
Joyce Randklev

George David Olson
George David Olson

STATE OF Texas)
County of Tarrant)
ss.

On this 16 day of March, 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared **Joyce Randklev and George David Olson**, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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



[Signature]
Notary Public for _____
Residing at: _____
My Commission Expires: _____

DATED this 3 day of March, 2009.

C. LeRoy Wilcox
C. LeRoy Wilcox

Lorna R. Wilcox
Lorna R. Wilcox

STATE OF Utah)
County of Washington)
SS.

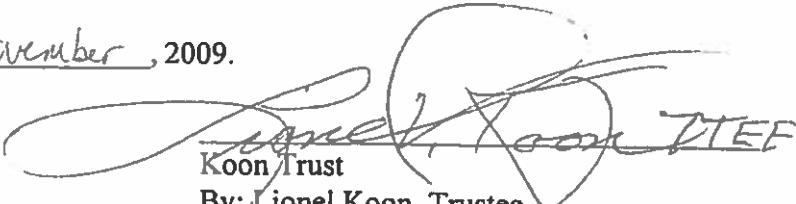
On this 3 day of March, 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared **C. LeRoy Wilcox and Lorna R. Wilcox**, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same.

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



Elizabeth Mayfield
Notary Public for Utah
Residing at: 87 George, Utah
My Commission Expires: 7/12/2010

DATED this 17th day of November, 2009.


Koon Trust

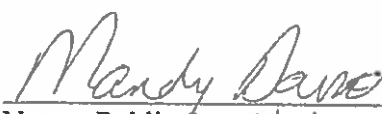
By: Lionel Koon, Trustee

Acknowledgment by Trustee

STATE OF Idaho,)
 ss.
County of Madison.)

On this 17th day of November, 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared **Lionel Koon**, known to me to be person whose name is subscribed to the within instrument as the Trustee of the **Koon Trust**, and acknowledged to me that he executed the same as such Trustee.

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



Notary Public for Idaho

Residing: St. Anthony

My Commission expires: 6-24-2011

DATED this 23 day of November, 2009.

Larry M. Koon
Larry M. Koon

Gaylene Koon
Gaylene Koon

STATE OF Arizona,)
ss.
County of Mohave.)

On this 23 day of November, 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared **Larry M. Koon and Gaylene Koon**, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same.

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



Paulette S. Lozinski
Notary Public for Arizona
Residing at: Fort, Mohave, AZ
My Commission Expires: 4/6/2013

DATED this 4 day of Dec., 2009.

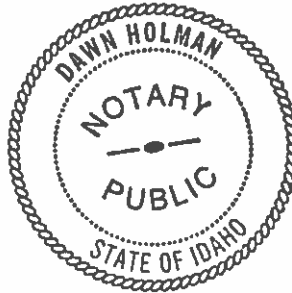
Jack Clark
Jack Clark

Anita Clark
Anita Clark

STATE OF IDAHO,)
 ss.
County of Madison.)

On this 4 day of December, 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared **Jack Clark and Anita Clark**, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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



Dawn Holman
Notary Public for Idaho
Residing at: Rigby ID
My Commission Expires: 9-1-2012

DATED this 11 day of December, 2009.

Carol A. Koon
Carol A. Koon

STATE OF Colorado,)
)
) ss.
County of Montrose)

On this 11th day of December, 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared **Carol A. Koon**, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

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



Glenn D. Nix
Notary Public for Colorado
Residing at: 111 Hwy 97 Natuvila
My Commission Expires:
10-13-2013

DATED this 25 day of November, 2009.

Robert Jerry Kirk
Jerry Kirk


Vicki Kirk

STATE OF Wyoming)
) ss.
County of Teton)

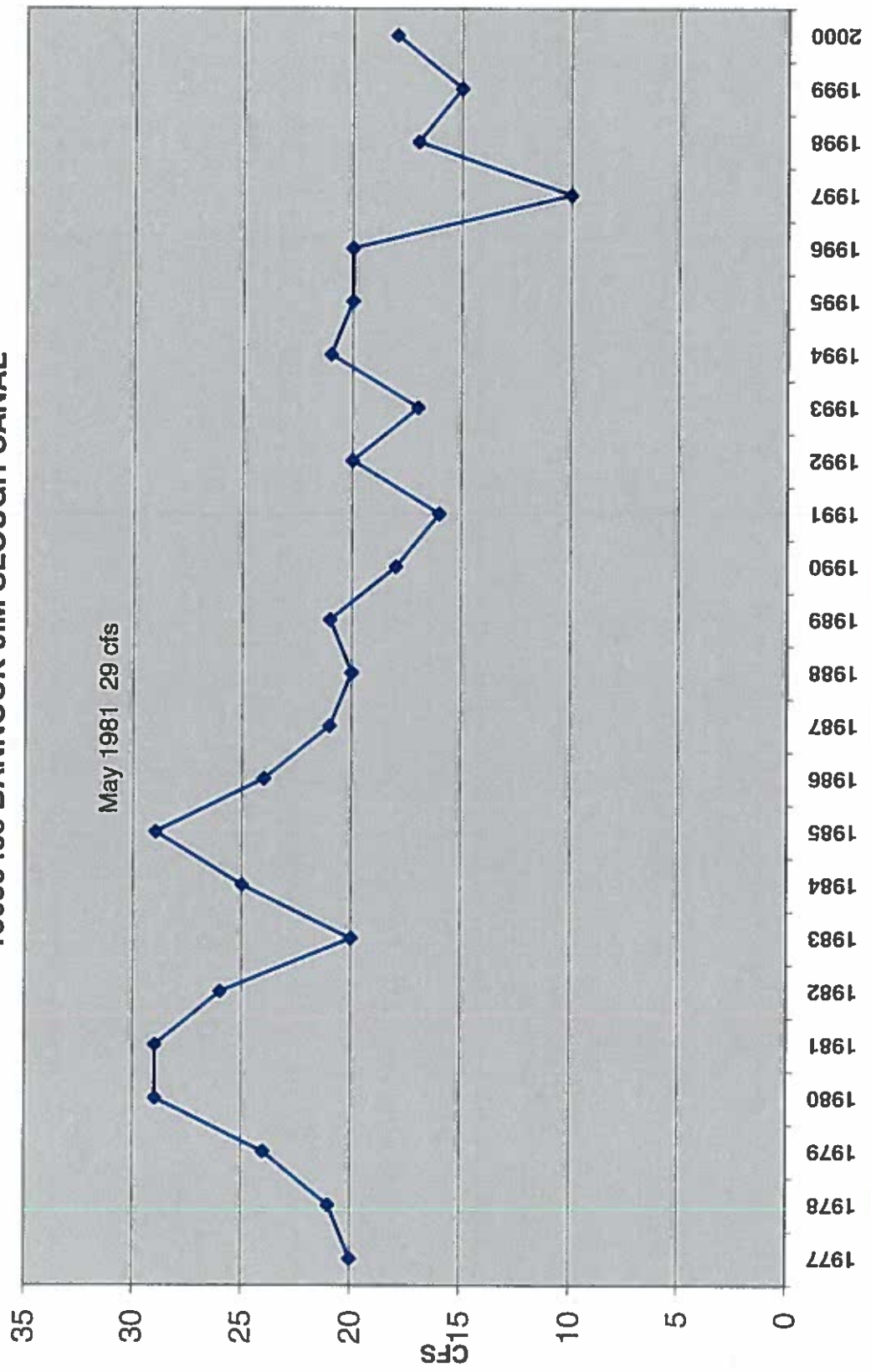


On this 25 day of November, 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared **Jerry Kirk and Viesla Kirk**, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

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

Marian S. Gloden
Notary Public for Wells Fargo Bank
Residing at: 50 Buffalo Way
My Commission Expires: August 12, 2011

MAXIMUM MONTHLY DIVERSION 1950-2000
13038435 BANNOCK JIM SLOUGH CANAL



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT



Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that Bannock Jim Slough Water Users c/o Theron McGarry
(Name of Claimant)
Rt. 1, Box 340 Rexburg, ID 83440 Telephone No. 356-6531
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use) June 1, 1889

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Bannock Jim Slough tributary to Snake River

- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs, af)		(Domestic, Irrigation, Stock, Etc.)		(Both dates inclusive) (Mo., Day)	
Quantity	<u>12cfs</u>	Use	<u>Irrigation</u>	Period of Use From	<u>4-1</u> To <u>10-15</u>
Quantity	_____	Use	_____	Period of Use From	_____ To _____
Quantity	_____	Use	_____	Period of Use From	_____ To _____
Quantity	_____	Use	_____	Period of Use From	_____ To _____
Quantity	_____	Use	_____	Period of Use From	_____ To _____

- (4) 12cfs TOTAL QUANTITY USED.
(cfs, af)
- (5) A) Point of diversion: (Location of point where water is diverted from its source) * See attached sheet
% % Sec. Twp. Rge. B.M., County of Madison

Additional points of diversion:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Series of 14 check dams to facilitate flood irrigation and occasional sprinkler irrigation.

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

No. of acres 695.5.

- B) If water is used for other than irrigation, fully describe that use, being as specific as possible: _____

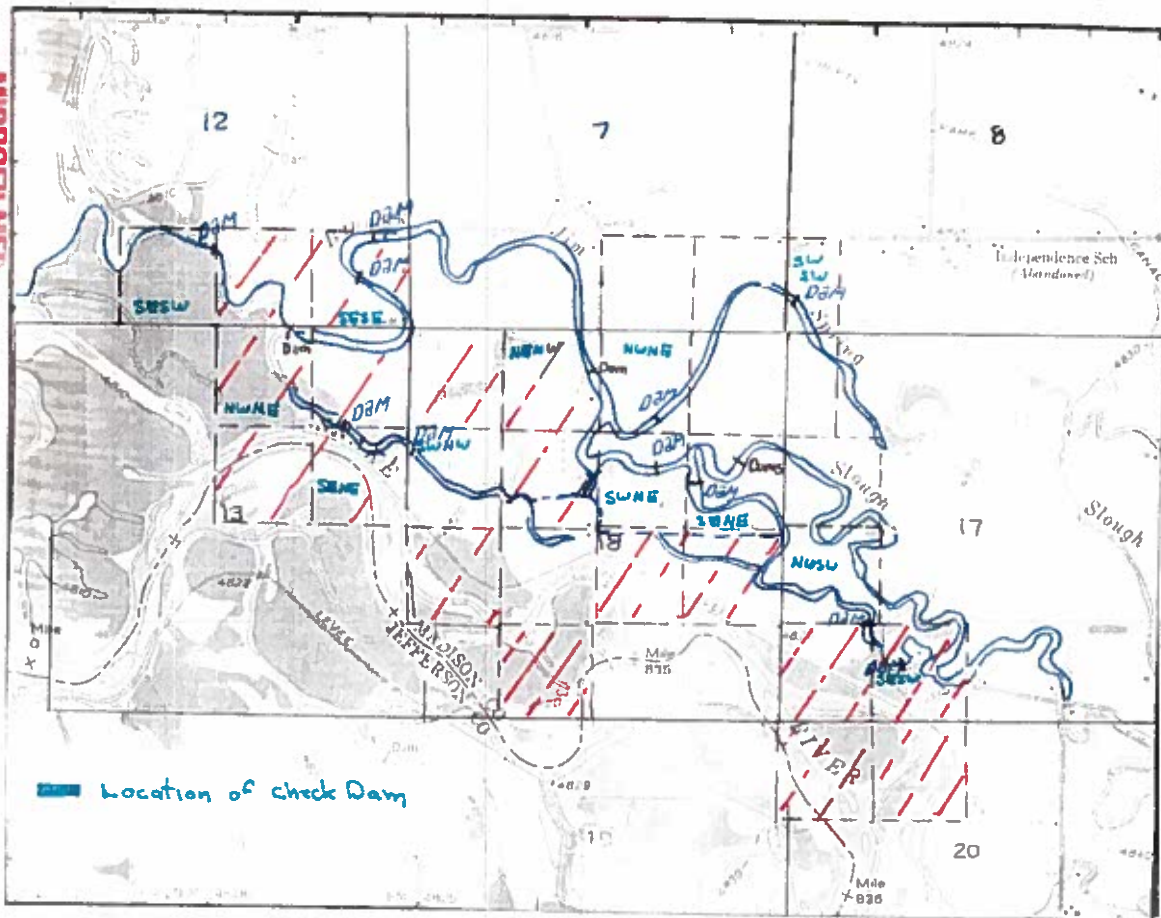
NOTE: Include here the type and number of stock watered:

- (7) If you are claiming water as a member of an organization, list name of organization: _____

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(B) Remarks Check dams were added between 1918 and 1945. Original right decreed to O.H. Olive in the Rexburg decree.
The method of irrigation was not defined in decree. This claim is to clarify irrigation practices over the years.

MICROFILMED



Scale 2 inches equal 1 mile

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho }
 County of Madison }

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 16th day of December

Sharon R. McQuay
 (Claimant)

19 83

Margie S. Chantill
 Notary Public

Residing at Rexburg, Idaho

My commission expires Life

FOR DEPARTMENT USE ONLY

Received by <u>CW</u>	Date <u>6-29-83</u>	Exception filed by	Forwarded to	Date
Prelim. check by <u>HWS</u>	Date <u>12-27-83</u>		claimant by	
\$30.00 fee received by <u>CW</u>	Date <u>6-29-83</u>			
Published in <u>Standard Journal</u>	# <u>25649</u>			
Dates <u>1/5 - 1/12/84</u>				

Points of Diversion

TWP	RANGE	SEC.	NE%				NW%				SW%				SE%				TOTALS
			NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	
5N	38E	12												X				X	
		13		X		X													
5N	39E	18		X	X	X	X		X										
		17									X		X						
		8											X						

CURRENT LIST OF WATER USERS

1. Theron McGary
2. Tim McGary
3. Frank D. Koon
4. Jack E. Koon
5. William N. Koon
6. Bob M. Koon
7. Larry M. Koon

MICROFILMED

MEMORANDUM

FROM: Ernest Carlsen *ENC*

DATE: 2/15/84

TO: File No. 22-4137

The beneficial use of water described by the above captioned claim is almost identical to Right No. 01-0139 decreed to O.H. Olive in the case of Rexburg Irr. Co. vs. Teton Irrigation Canal Co. The only difference between them concerns the number of irrigated acres. The decree specifies that Right No. 01-0139 is appurtenant to 604.83 acres while there are 685.5 acres listed on the claim. Since the claimed use and the decreed right have the same priority date and quantity of water it appears the intent of the claim is to include lands under the O.H. Olive right that were probably developed subsequent to the decree. These lands probably should be listed under a new water right with a priority later than June 1, 1889.

RECEIVED

COMES NOW

O. H. Olive,

made defendant in said above entitled cause, by an order of said court, and answering said plaintiff's complaint herein on file, denies each and every material allegation in said plaintiff's complaint contained.

CROSS-COMPLAINT.

Exhibit B

And for a cross complaint herein this answering defendant alleges

-I-

That the said defendant, O. H. Olive,
and ~~his~~ grantors and predecessors in interest, are now and since the ^{monday} 14 day of April 1943 have continuously been, the owners, in the possession and entitled to the possession, of that certain tract of land situate, lying and being in the county of Fremont, and State of Idaho, and particularly designated and described as follows, to-wit:

The southeast quarter of the northeast quarter, the northeast quarter of the southeast quarter of sec. 20, and the northwest quarter of the southeast quarter and 4.00 One of sec. 21, in Township Five N. R. 3 E. and being One Hundred Fifty-two and $\frac{33}{100}$ acres in area.

-II-

That said above described land is arid agricultural land and requires the artificial application of water thereon before crops can be profitably or successfully raised thereon.

-III-

That said above described land is riparian to Bannock Jim Slough and the south fork of Snake River

and the only available water supply for use thereon is from the said Bannock Jim Slough and its tributaries.

-IV-

That on the ^{about} 10th day of May 1944, the cross-complainant, his grantors and predecessors in interest appropriated five hundred

inches of the flow of the waters of Bannock Jim Slough a tributary of the south fork of Snake River

and by means of dams and ditches appropriated and diverted said water from said stream, and conducted the same to and upon the said hereinbefore described lands for use thereon in irrigating the same, and for domestic purposes and use of stock, and since said time, and continuously during the irrigating season of each and every year, except when prevented from so doing by the unlawful acts of the plaintiffs and co-defendants herein, this defendant and cross-complainant has used said waters upon said land in said amount, for the purpose of irrigating and cultivating said lands, and for stock and domestic purposes, and that the use of said water in said amount was and is necessary for said purposes.

-V-

That this cross-complainant has placed said land hereinbefore described during all the times herein mentioned, in a state of cultivation, as fast as his means and ability so to do would permit, and that there is now under cultivation of said lands

One Hundred acres. That One Hundred Fifty-two and $\frac{33}{100}$ acres of said land are susceptible of irrigation and cultivation.

WHEREFORE, this answering defendant, and cross-complainant prays the judgement and decree of this court:

-1-

Quietting the title to the waters of the said Bannock Jim Slough and quietting the title to the waters of the north and south forks of Snake River and their tributaries, mentioned in the complaint, cross-complaint and complaints in intervention herein, and determining the rights of all the parties herein and hereto, in and to the waters and the use of the waters of said streams.

MICROFILMED

- 1205 Q. And there is under Sheridan Creek 110 acres of land that has been irrigated? A. Yes sir.
- Q. And under the Grassy Springs? A. Forty acres.
- Q. Forty acres--has this water been used continuously since the appropriation of the water in 1900 and 1901? A. Yes sir.
- Q. This tract of land I think you mentioned requires about an inch to the acre? A. 110 acres?
- Q. 110 acres? A. Yes sir.
- Q. Is that all that can be cultivated from this tract that you have mentioned? A. Yes sir.
- Q. Or from the canal, rather, you have mentioned?
- A. Yes sir.
- Q. The other cannot be watered from any source at the present time? A. No sir.
- Q. Are there any other ^{users} ~~appropriations~~ of the waters of Sheridan Creek do you know? A. Yes sir.
- Q. Who are the other users? A. Harwood Spencer and Company. J. C. Rowe. Bishop Brothers, J. D. Baker.
- Q. Do you know who, in point of time are the prior appropriators of the waters of this stream? A. I think Spencer Harwood and Company.
- Jones--That is all, I think that is all Mr. Trudo.
- W. H. Holden--Call O. H. Olive.

I will ask the privilege to withdraw the answer and cross complaint of O. H. Olive, containing two causes of action, and have substituted one with three causes of action.

O. H. OLIVE, being first duly sworn, on behalf of his own claim, testified as follows:-

DIRECT EXAMINATION BY HOLDEN.

- Q. State your name, age, residence and occupation Mr. Olive?
- A. O. H. Olive, forty years old, farmer.

Cal: b Jones--I offer in evidence statement #12, together with the maps accompanying it.

Holden--We will offer testimony of O. H. Olive on his first cause of action touching the claim of water for the North half of the Southeast quarter, and the Southeast quarter of the Southeast quarter, lot five of section nineteen, and the South

MICROFILMED

half of the Southwest quarter of section seventeen, and lot two, part of the Northeast quarter of the Northwest quarter of section twenty, described as follows: beginning at the West corner of the said Northeast quarter of the Northwest quarter of section twenty, thence east twenty rods, thence south eighty rods, thence west twenty rods, thence north eighty rods, to the place of beginning, said land being in township five, north of range thirty-nine; and also the East half of the Northwest quarter and lots one and two of section eighteen, township five, north of range thirty-nine west, being 452 acres in area. The claim is for six hundred inches of water of the Bannock Jim Slough, from the 19th day of December, 1893.

- Q. You are the owner of the land described in the first cause of action? A. Yes sir.
- Q. Who did you purchase the land off? A. John W. Hurd.
- Q. Known as the Bandon ranch is it? A. Yes sir.
- Q. How many acres under cultivation at the present time? A. About 120.
- Q. How many are susceptible of irrigation from the Bannock Jim Slough? A. All of it.
- Q. Is there a ditch, or dam in the Bannock Slough by which you, running from the slough to the land through which you carry water to irrigate this land? A. Yes sir.
- Q. How many inches of water will that ditch carry? A. 1000 inches. 1200 inches.
- Q. 1200 inches, how long have you been the owner of this tract of land? A. About three years.
- Q. And have you farmed this land each and every year? A. Yes sir.
- Q. Raised crops on it? A. Yes sir.
- Q. What kind of crops? A. Barley.
- Q. Any other crop? A. Peas.
- Q. Any hay land on that land? A. Yes sir.
- Q. You raise hay there? A. Wild hay.
- Q. And this water has been used on the land for that purpose? A. It has.
- Q. What is the nature of the soil? A. It is clay.

MICROFILMED

1287 Q. Any gravel in it? A. Very little.

Q. How many inches of water to the acre does it require?

A. Between three and four.

Q. Is the land arid, and does it require the application of water to make it productive? A. It does.

Helden—I will offer proof by Mr. Olive now upon the second case of action, relative to the water supply for the Southeast quarter of the Northeast quarter, and the Northeast quarter of the Southeast quarter, section twenty, and the Northwest quarter of the Southwest quarter, lot one of section twenty-one in township five, north of range thirty-nine east, ^{not 29} containing 152.33 acres—you are the owner of that land are you?

A. Yes sir.

Q. Is that part of what is known as the Brandon tract of land?

A. No sir.

Q. It is not—how long have you known that tract of land?

A. About two years.

Q. From whom did you purchase that land? A. Fred Garroison.

Q. Gave a warranty deed to you for the land? A. Yes sir.

Q. We claim for this land 150 inches of water of the Bannock Jim Slough, dating from the 18th day of April, 1882—

what is the character of this land, is it arid? A. It is.

Q. Requires the application of water to make it productive?

A. Yes sir.

Q. What kind of crops if any do you raise on there?

A. Hay and grain.

Q. How many acres of that land are in cultivation?

A. About ninety.

Q. And how many acres can be cultivated and irrigated from this Bannock Jim Slough? A. All of it.

Q. Have you a ditch leading from the Bannock Jim Slough to this tract of land from which you carry water to irrigate the land? A. Yes sir.

Q. What is the carrying capacity?

A. Could not tell you—never measured it.

Q. Well, just about? A. I should judge 200 inches.

Q. In Bannock Jim Slough tributary of the South Fork of Snake

RECORDED

1286

River? A. Yes sir, it is.

Q. And you have used this water upon that tract of land?

A. Yes sir.

Helden--We offer Mr. Olive's testimony now upon the third cause of action, relative to the claim of water to irrigate the Northeast quarter of section thirteen, township ^{five} (five), north of range thirty-eight, the same being 160 acres of land, the claiming from the 28th of October, 1902. Calls for two hundred inches of the waters of Bannock Jim Slough--you are the owner of that tract? A. It is a claim--it has not been proved up on.

Q. You are in possession of it and have filed on it? A. Yes sir.

Q. What was the nature of your filing? A. Desert.

Q. This land is desert in character is it? A. It is.

Q. Have you a ditch leading from the Bannock Jim slough to and upon this tract of land? A. Not to it yet.

Q. You are constructing it now? A. Yes sir.

Q. When did you begin the construction of the ditch?

A. About two years ago.

Q. And where does it head? A. At the Bannock Jim slough.

Q. Are you pushing the completion of the ditch as rapidly as possible? A. As fast as I can.

Q. What is the carrying capacity of the ditch so far as you have constructed it? A. About four hundred inches.

Q. And you are now engaged in the construction of the ditch?

A. Yes sir.

Q. How long will it take you to complete the construction of this ditch? A. I don't know.

Q. About how long? A. Oh, a month probably.

Q. And as soon as you can get to it in warm weather you can complete it in a month? A. Yes sir.

Q. It is your intention to complete it for the purpose of irrigating this tract of land? A. Yes sir.

Q. How many acres of land is there under cultivation on this tract? A. None at all.

Q. And how many acres can be irrigated from the Bannock Jim Slough?

MICROFILMED

Water Resources Field Services
1571 N. 1100 E.
Terreton, ID 83450
208-~~663-4667~~ 681-9100

SN 398

MEMORANDUM

To: Adjudication file A22-650
Fr: Bryce Contor *Bae*
Date: 8/28/2004

Re: New Adjudication Claim

On August 27, 2004 I met with Tim McGarry, representative of the Bannock Jim Slough Canal. *Tim* provided me with documents that are copied and included in paper claim file A22-00654. On the paper titled "Minor *Tributaries* Heise to Milner, Listed in Downstream Order, Corrected to April 1, 1975" is an entry under the Bannock Jim Slough, Boyd Smith, for a 4 cfs right with priority June 1, 1898. He states this paper came from Lyle Swank at IDWR. It appears to correspond to the entry under 22-00650 from the 1999 Water District 01 water-right summary book, as shown on the page copied in paper file A22-00654. McGarry says Ray Rigby's office is working on a late adjudication claim for this water right. Ray's office may or may not associate it with the number 22-650. This memo summarizes the field exam for this claim, should it be filed.

Contact: This is an unincorporated company, but Tim McGarry serves as the contact. See address and phone on A22-00654.

Priority Date: June 1, 1989 per WD 01 summary book. *⇒ Mandatory Permit State for Seabrook Source 1.*

GPS data: Tag number A0000229, nailed to the planking at the headgate. This tag was probably placed by WD01.

POD: Use GPS location to clarify. This appears to be 05N 39E 35 SWSENW. The POD is shared with A22-00654, A22-00655, the Hill-Pettinger Ditch, and perhaps others. Water is delivered to the Bannock Jim Slough which is used as a conveyance. Figure 1 illustrates the POD:

GPS location is waypoint 66

2674317E 1393411N IOTM83

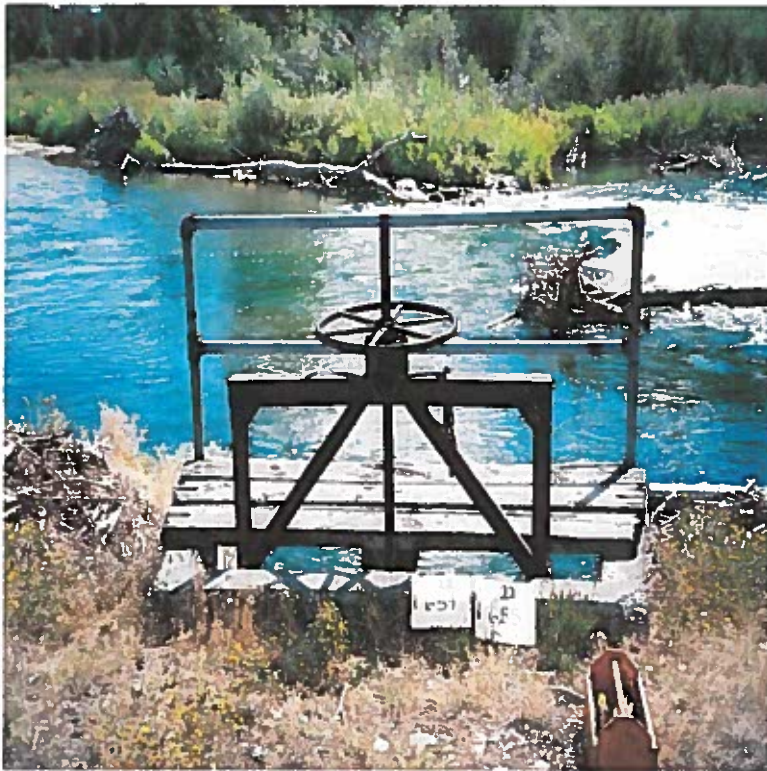


Figure 1. Point of Diversion.

Place of Use: Please see paper file A22-00654. The place of use is 100% overlapped with 22-654 and 22-655. About 30 acres on the west are overlapped by license 22-2209 which also will probably have a late claim submitted.

Season and Quantity: WD 01 record shows 4.0 cfs. The conveyance is long and the high diversion rate per acre is probably justified to satisfy leakage. Claimant states the water takes two weeks in the spring to progress from the river to the railroad bridge, which is about 1/3 the distance to the POU. It is likely that the diversion recharges ground water early in the season and the ditch intercepts stored ground water late in the season.

Tony said they are regulated as OI rights and should stay that way. If POD is changed they will not be allowed any water from Snake and it may harm them. Tony said it would be best to keep it as Snake river diversion and renumber rights to OI.

What about the ownership issue?

Claim no. A22-654

Claimant Contact Log

Date Remarks Agent initials

8/24/04 7:56 am 356-7721 RF raining Friday,
came down 3800 S, straight west to 6495 E.
Office / shop, big white single - # on shop.
351-5683. Also runs (Bancroft. Bowers land.

8/27/04 Met w/ Mr McGarry.

→ List from Kyle Swank - Boyd Smith June 1 1898
WR was not claimed. Ray Rigby's office is
preparing claim. Per Kyle's list for Brunner Ferry:

Koon & McGarry (D. H. Olive)	June 1, 1899	12 cfs
Boyd Smith (D. Anderson)	June 1, 1898	4 cfs
Ray Rigby & Co (D. H. Olive)	May 1, 1905	3.2 cfs

- see copies of shareholder list & page for Kyle Swank
- From WA 01 1999 Summary the new claim will probably
be A22-650. This exam will also apply to A22-650.
- Tim McGarry will be sending in a late overlapping
claim for license 22-2209. It overlaps the west side.
He will submit a field report in a separate folder. Box 8/27/0

10/03/05

→ No claim for 22-2209 in Data Base.

Contacts Data Entry Form

Claim Number: A22-654

Owner Type	Full Name	Address	City	State	Zip
------------	-----------	---------	------	-------	-----

Current Owner: _____ Phone No.: _____

Current Owner: _____ Phone No.: _____

Current Owner: _____ Phone No.: _____

Name connector: and _____, or _____, and/or _____.

Representing Attorney: _____ Phone No.: _____

Accompanied By: _____ Phone No.: _____

Relationship to Claimant: _____ Date of Field Exam: _____

Discussion of right origin and split history. Questions and problems.

Banner Film Slough Co. is represented by Tim McGarry.
It has two current claims, A22-654 and A22-655.
Ray Rigg is working on a third claim that appears to
be based on deceased right 22-650. This field
exam applies to all three. BAC 8/27/04

Reviewer: _____ Date: _____

Priority Date Data Entry Form

Claim Number: A22-654

Water Right Priority Date: _____ Water Right Basis: _____

Claimed Priority Date: _____ Claimed Basis: _____

Recommended Priority Date: _____ Recommended Basis: _____

Document the evidence submitted/reviewed for the priority date claimed, include your analysis of the evidence:

1999 WD 2-1 work indicate historical delivery @
June 1 1899 priority. Attached copy fr. Rexburg
Decree is a little unclear, I've pencilled a
mark next to the most likely origin of this right.
Bac 8/27/04

Reviewer: _____

Date: _____

Water Right No(s). A22-654



A22-650,
A22-654
A22-655
Hill-Pettinger
POD
looking SE
from top
of dike

site
tag

GPS DATA:

Tag # A0000229 Location: plank on headgate
platform

Diversion Data:

Source: _____ Trib to: _____

MOTOR

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

PUMP

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

NOTES:

Tag was probably placed by WDOI. This headgate
is shared w/ Hill Pettinger Ditch, A22-655 and
pending new claim A22-650. Bac 8/27/04

Field Exam Date: _____ Agent: _____

10/3/05 NO CLAIM

Point of Diversion and Source Data Entry Form

Claim Number: A22-654Water Right Point(s) of diversion and Source.

Water Right Point of Diversion: T _____, R _____, Sec. _____, _____, _____, _____ County: _____

Source: _____ Tributary to: _____

Water Right Point of Diversion: T _____, R _____, Sec. _____, _____, _____, _____ County: _____

Source: _____ Tributary to: _____

Claimed Point(s) of Diversion and Source.

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source	Tributary to

Recommended Point(s) of Diversion and Source.

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source	Tributary to

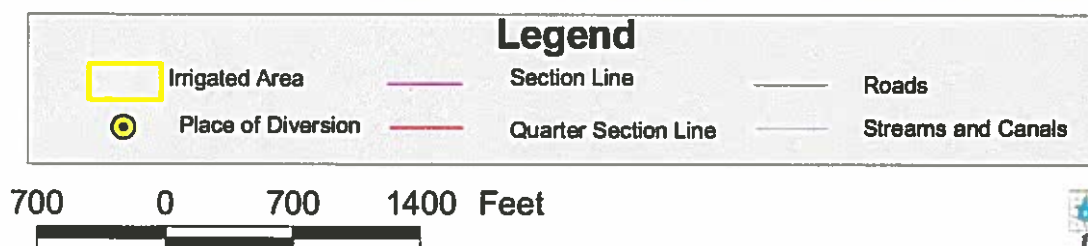
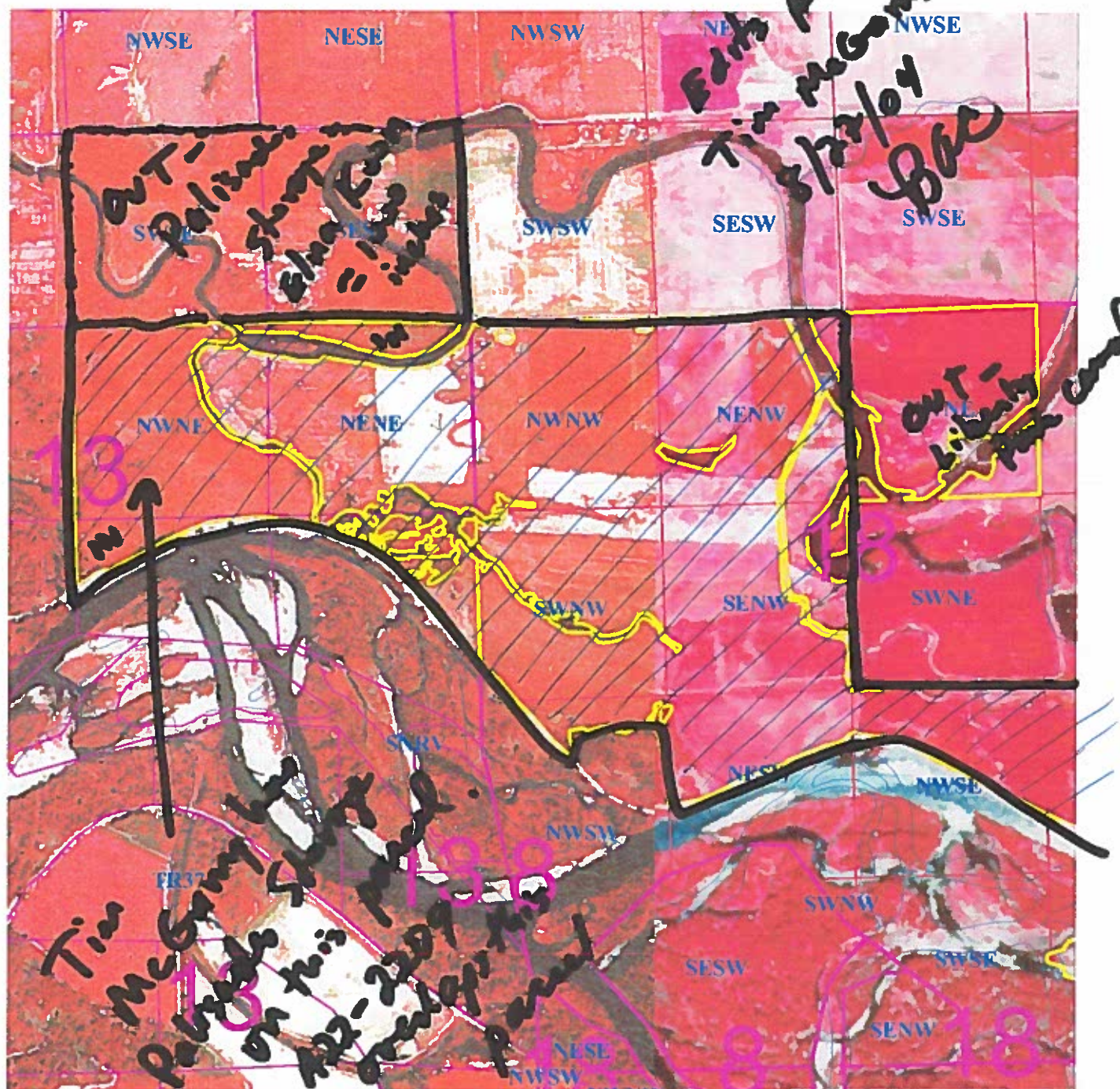
Other rights from this POD? _____

Transfers Pending or approved: _____

Document how the POD and Source were verified:GRS 66 2674317E 1393411N INTX2Same headgate as Hill-Pettinger, maybe others. Bar 8/27/0410/3/05 claimed POD is NOT on River

Reviewer: _____ Date: _____

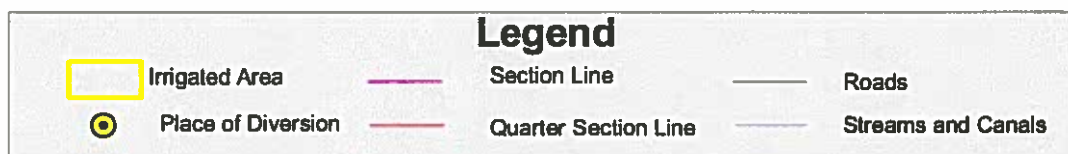
06/22/2001

 Δ 

SPATIAL
DYNAMICS

Water Right Claim Number 22-00654
Townships , 5N38E, 5N39E, 5N38E, 5N39E

06/22/2001



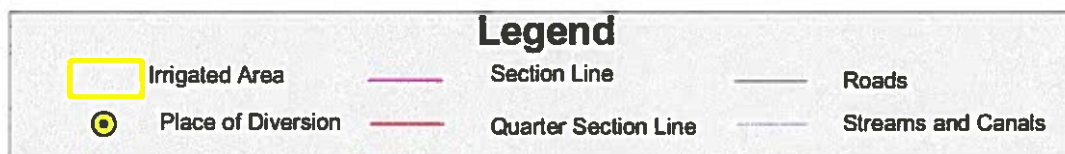
600 0 600 1200 Feet



 SPATIAL
DYNAMICS

Water Right Claim Number 22-00654
 Townships , 5N38E, 5N39E, 5N38E, 5N39E

06/22/2001



600 0 600 1200 Feet



SPATIAL DYNAMICS

Place Of Use Data Entry Form

Claim Number: A22-654

Claimed Place Of Use			QQ	Q	County	Lot Num	Acres	Purpose of Use
Twp	Rge	Sec						

Total acres _____

Recommended Place of Use			QQ	Q	County	Lot Num	Acres	Purpose of Use
Twp	Rge	Sec						

Total acres _____

Pending or approved Transfers: _____

Overlapping rights: _____

Document how the POU was verified:

Please see sketch on layout. Note overlap of Palisades storage and A22-2209 on west end. BAC 8/27/0

CLAMUS (GDU) AC - GPS shows 4.77³ ac

Reviewer: _____ Date: _____

Season of Use and Quantity Data Entry Form

Claim Number: A22-654Water Right Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume

Overall Diversion Rate _____

Overall Diversion Volume _____

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume

Overall Diversion Rate _____

Overall Diversion Volume _____

Recommended Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume

Overall Diversion Rate _____

Overall Diversion Volume _____

Document how the Period of Use and/or Diversion Rate were verified:

12 cfs per WD 21 summary. Bae 8/27/04
Note very long conveyance (ditch to slough to
farms) justifying high cfs/acre

Reviewer: _____

Date: _____

EE OF THE SOUTH FORK OF SNAKE RIVER AND ITS TRIBU-

TARIES.

(Arranged According to Priority of Rights.)

ong Island Irrigation Co.; June 11, 1880; South Fork of Snake River	2,000
ong Island Irrigation Co.; June 1, 1881; South Fork of Snake River	3,000
ong Island Irrigation Co.; June 1, 1882; South Fork of Snake River	3,000
ong Island Irrigation Co.; June 1, 1882; South Fork of Snake River	25
ingham, Charles R.; June 1, 1882; Garden Creek	100
heaton, Charles; July 1, 1882; Burns Creek	3,000
ong Island Irrigation Co.; June 1, 1883; South Fork Snake River	1,000
arks & Lewisville Canal Co.; June 1, 1883; South Fork of Snake River	2,500
orth Rigby Irrigation Co.; June 10, 1883; South Fork of Snake River	210
law, C. B.; May 1, 1884; 3-5 of the flow of Elkhorn Hawley Springs up to 210 inches	140
John D.; May 1, 1884; Elkhorn Springs and 2-5 of Hawley Springs up to 140 inches	3,000
ong Island Irrigation Co.; June 1, 1884; South Fork of Snake River	450
enroot Canal Co.; June 1, 1884; South Fork of Snake River	400
uxton, William; June 1, 1884; Spring Creek, near Menan	160
allantyne, Z.; June 1, 1884; Spring Creek, near Menan	250
unham, W. W.; June 1, 1884; Spring Creek, near Menan	1,000
arks & Lewisville Canal Co.; June 1, 1884; South Fork of Snake River	1,700
ndependent Irrigation Co., Ltd.; June 4, 1884; South Fork of Snake River	3,500
Clark & Edwards Irrigation Co., Ltd.; Feb. 27, 1885; South Fork of Snake River	3,500
utler Island Canal Co.; June 1, 1885; South Fork of Snake River	1,500
eid Canal Co.; June 1, 1885; South Fork of Snake River	3,000
Land Irrigation Co.; June 1, 1885; South Fork of Snake River	6,000
West Labelle Irrigating Co.; June 1, 1885; South Fork of Snake River	450
Lenroot Canal Co.; June 1, 1885; South Fork of Snake River	2,400
Labelle Irrigation Co.; June 1, 1885; South Fork of Snake River	5,000
Parks & Lewisville Canal Co.; June 1, 1885; South Fork of Snake River	2,000
Texas Slough Irrigating Canal Co.; June 1, 1885; Texas Slough and Bannock Jim Slough	400
Liberty Park Irrigation Co.; June 1, 1885; Bannock Jim Slough	670
Summers, Stephen J., and William and Sorren Nelson; June 10, 1885; South Fork of Snake River	670
Nelson, Sorren, and Stephen J., and William Summers; June 10, 1885; dry bed channel of South Fork of Snake River	670
Rigby Canal & Irrigating Co.; June 15, 1885; South	

This was in the file but does not seem to apply. Bac F/27/04

Port of Snake River	500
33 Jones, John F.; May 1, 1886; Fall Creek	200
33 Morgan, Joshua B.; May 1, 1886; South Fork of Snake River	100
35 Rostan, C. E.; June 1, 1886; South Fork of Snake River	100
35 Reid Canal Co.; June 1, 1886; South Fork of Snake River	2,000
35 Liberty Park Irrigation Co.; June 1, 1886; Bannock Jim Slough	1,900
35 Texas Slough Irrigating Canal Co.; June 1, 1886; Texas Slough and Bannock Jim Slough	600
35 Matson, John; June 1, 1886; South Fork of Snake River	40
35 Martin, Oscar; June 1, 1886; South Fork of Snake River	240
35 Long Island Irrigation Co.; June 1, 1886; South Fork of Snake River	3,000
35 Island Irrigation Co.; June 1, 1886; South Fork of Snake River	750
36 Burgess Canal & Irrigation Co.; June 10, 1886; South Fork of Snake River	500
37 Rigby Canal & Irrigating Co.; June 15, 1886; South Fork of Snake River	500
38 Wakeman, Herman; July 1, 1886; Myers Creek	240
40 Taylor, John; Oct. 16, 1886; Lyndon or Lyons Creek	175
42 Island Irrigation Co.; June 1, 1887; South Fork of Snake River	1,500
42 Long Island Irrigation Co.; June 1, 1887; South Fork of Snake River	3,000
42 Craig, R. A.; June 1, 1887; South Fork of Snake River	240
42 Nelson, James D.; June 1, 1887; Bannock Jim Slough	300
42 Liberty Park Irrigation Co.; June 1, 1887; Bannock Jim Slough	1,900
42 Corey, George L., and Lester S.; June 1, 1887; South Fork of Snake River	300
44 Rigby Canal & Irrigation Co.; June 15, 1887; South Fork of Snake River	1,000
43 Burgess Canal & Irrigation Co.; June 10, 1887; South Fork of Snake River	500
46 Farmers Friend Canal Co. (an unincorporated association); Jan. 18, 1888; South Fork of Snake River	15,000
47 Jones, John F.; May 1, 1888; Indian Creek	150
47 Morgan, Joshua B.; May 1, 1888; South Fork of Snake River	50
49 Higham, Charles R.; June 1, 1888; Garden Creek	300
49 Rostan, C. E.; June 1, 1888; South Fork of Snake River	100
49 Matson, John; June 1, 1888; South Fork of Snake River	40
49 Long Island Irrigation Co.; June 1, 1888; South Fork of Snake River	3,000
49 Parks & Lewisville Canal Co.; June 1, 1888; South Fork of Snake River	12,000
49 Liberty Park Irrigation Co.; June 1, 1888; Bannock Jim Slough	1,900
49 Labelle Irrigation Co.; June 1, 1888; South Fork of Snake River	4,600
50 Burgess Canal & Irrigation Co.; June 10, 1888; South Fork of Snake River	19,000
51 Rigby Canal & Irrigating Co.; June 15, 1888; South Fork of Snake River	6,000
54 Idaho Canal & Improvement Co.; Aug. 13, 1888; Snake River; Boones Canal, from South Fork	15,000
54 Ruddy Irrigation Canal Co., Ltd.; Aug. 13, 1888; South	

INTER-DEPARTMENT MEMO

TO: Jim JohnsonSUBJECT: Data EntryFROM: Eric - EastonDATE: 22 Feb 94

Given I am aware you are passing this matter off to another
it may be to some research in. After right to ~~document~~ find
the Records Tim Spach I found a visit that does not
appear to have been entered in the ~~attention~~ data base.

The visit is 22-00654 previously numbered 01-20139.

The visit is based on a letter to Oliver H. Stone (June 1, 1987)
and subsequently referred to F.L. Kinn in the case
of F.L. Kinn vs. Enghy (22A). Thanks

() For your information

() Response required

Easton

signature

MICROFILMED

APR 08 1994

POOR ORIGINAL

rom: DWR70::CARLSEN 23-JAN-1989 13:25
o: CARLSEN, DWR03::STAFF
ubj:

1# 89-109
@ 3/22/89

SUBJECT: Notice of Claim numbers on Receipt E001741 need to be changed from A01-00140 and A01-00139 to A22-00655 and A22-00654.

PROBLEM: On August 25, 1988, Bannock Jim Slough filed two notices on long forms. The company had identified right numbers 01-0140 and 01-0139 for each of its rights. Receipt E001741 was prepared listing the water rights as A01-00140 and A01-00139. During staff review of the notices it was discovered that the Department had renumbered the rights as follows:
01-00139 to 22-00654
01-00140 to 22-00655

The notices for Bannock Jim Slough were data entered with the newer numbers. However, since those numbers are not on Receipt E001741, the notices will not update to the Master Host.

SOLUTION: Changes the right numbers on Receipt E001741 will allow notices A22-00654 and A22-00655 to update to Master Host.

FOLLOWUP: A copy of corrected receipt E001741 should be sent to:

Bannock Jim Slough
c/o Tim McGarry
6505 W. 3800 S.
Rexburg, ID 83440

8-25-88

MICROFILMED

NOV 06 1989

From: DWR70::CARLSEN 23-JAN-1989 13:27
To: CARLSEN, DWR03::SHA
Subj:

SUBJECT: Notice of Claim numbers on Receipt E001741 need to be change from A01-00140 and A01-00139 to A22-00655 and A22-00654.

PROBLEM: On August 25,1988, Bannock Jim Slough filed two notices on long forms. The company had identified right numbers 01-0140 and 01-0139 for each of its rights. Receipt E001741 was prepared listing the water rights as A01-00140 and A01-00139. During staff review of the notices it was discovered that the Department had renumbered the rights as follows: 01-00139 to 22-00654
01-00140 to 22-00655

The notices for Bannock Jim Slough were data entered with the newer numbers. However, since those numbers are not on Receipt E001741, the notices will not update to the Master Host.

SOLUTION: Changes the right numbers on Receipt E001741 will allow notices A22-00654 and A22-00655 to update to Master Host.

FOLLOWUP: A copy of corrected receipt E001741 should be sent to:
Bannock Jim Slough
c/o Tim McGarry
6505 W. 3800 S.
Rexburg, ID 83440

MICROFILMED

OCT 28 1992

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

Receipt No: E001741

Date: 08/25/88
Time: 10:29:32

Received

From: MCGARRY, TIM R.

Type of Payment	Program Acct Class	Amount
ADJUDICATION FEE	0410162 9337 6490	\$704.83
Total		\$704.83

CHECK 6129

A22-00655 A22-00654

WR/NO: ~~A01-00140~~ ~~A01-00139~~

Idaho Department of Water Resources

Region: EASTERN

Signature: _____

MICROFILMED
OCT 28 1992

QUITCLAIM DEED TO A WATER RIGHT

THIS INDENTURE, Made this 8th day of September, 1983, between STATE OF IDAHO DEPARTMENT OF FISH & GAME, an executive department of the State of Idaho, with its mailing address at POB 25, Boise, Idaho 83707, the party of the first part, and TIM R. McGARRY: ROBERT M. KOON; FRANK D. KOON, WILLIAM N. KOON and JACK E. KOON, dba KOON BROTHERS: THERON R. McGARRY; LARRY M. KOON; LEEROY WILCOX; G. HAROLD WARD and BOYD SMITH, all of Route 1, Rexburg, Idaho 83440, the parties of the second part,

WITNESSETH:

WHEREAS, The party of the first part owns the Southeast Quarter Northeast Quarter and Northeast Quarter Southeast Quarter of Section 20, and the Northwest Quarter Southwest Quarter and Lot 1 of Section 21, all in Township 5 North, Range 37 East, Boise Meridian in Jefferson County, Idaho, to which was decreed a portion of 600 miners inches of the waters of Bannock Jim Slough, a tributary of Snake River, with a priority date of May 1, 1905, as decreed in the case of Rexburg, Irrigation Company et al., Plaintiffs, v. Teton Irrigation Canal Company, et al., Defendants, dated December 16, 1910, and said

MICROFILMED

OCT 28 1992

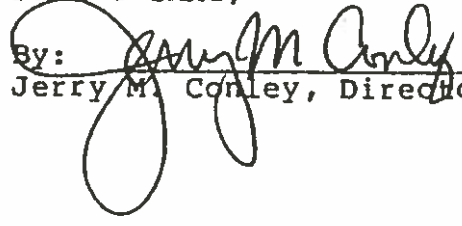
remise and quitclaim unto the said parties of the second part,
and to their heirs and assigns, forever, the following water
rights, to-wit:

The right to 600 miners inches of the waters of Bannock Jim Slough, tributary to the Snake River, with a priority date of June 1, 1889, and the right to 160 miners inches of the waters of Bannock Jim Slough, tributary to the Snake River, with a priority date of May 1, 1905 as decreed to O. H. Olive in the case of Rexburg, Irrigation Company et al., Plaintiffs, vs. Teton Irrigation Canal Company, et al., Defendants, dated December 16, 1910, insofar as these rights are appurtenant to these lands in Sections 20 and 21, Township 5 North, Range 39 East, Boise Meridian, Madison County, Idaho, now owned by some of the parties of the second part.

TO HAVE AND TO HOLD, The same unto the said parties of the second part, their heirs and assigns forever.

IN WITNESS WHEREOF, The party of the first part has caused its departmental name to be hereunto subscribed by its Director the day and year first above written.

STATE OF IDAHO DEPARTMENT OF
FISH & GAME,

By: 

Jerry M. Conley, Director

STATE OF IDAHO,

County of Ada.

)
ss.
)

MICROFILMED

OCT 28 1992

QUITCLAIM DEED TO A WATER RIGHT

THIS INDENTURE, Made this 29th day of June, 1983, by and between PUMICE, INC., an Idaho corporation, with the mailing address of its principal place of business in care of William R. Hoopes, P. O. Box H, Twin Falls, Idaho 83301, the party of the first part, and TIM R. McGARRY; ROBERT M. KOON; FRANK D. KOON, WILLIAM N. KOON and JACK E. KOON, dba KOON BROTHERS; THERON R. McGARRY; LARRY M. KOON; LEEROY WILCOX; G. HAROLD WARD and BOYD SMITH, all of Route 1, Rexburg, Idaho 83440, the parties of the second part,

WITNESSETH:

WHEREAS, The party of the first part owns the East Half Northeast Quarter of Section 13, Township 1 North, Range 38 East, Boise Meridian, in Bonneville County, Idaho, to which was decreed a portion of 600 miners inches of the waters of Bannock Jim Slough, a tributary of Snake River, with a priority date of June 1, 1889, and 160 miners inches of the waters of Bannock Jim Slough, a tributary of Snake River, with a priority date of May 1, 1905, as decreed in the case of Rexburg Irrigation Company et al, Plaintiffs, vs. Teton Irrigation Canal Company, et al, Defendants, dated December 16, 1910, and said

MICROFILMED
OCT 28 1992

Attachment to Notice of Claim to a Water Right
 Bannock Jim Slough
 August 24, 1988

<u>Name</u>	<u>Acres</u>	<u>Within the Following Described Property</u>	<u>Right 01-0139 (miners inches)</u>	<u>Right 01-0140 (miners inches)</u>
Tim R. McGarry	33.0	NW1/4NE1/4, within S13, T5N, R38EBM	71.22	20.39
	28.0	NE1/4NE1/4, within S13, T5N, R38EBM		
	$\frac{4.0}{65.0}$	NW1/4NW1/4, within S18, T5N, R39EBM		
Robert M. Koon	1.0	NE1/4NE1/4, within S18, T5N, R39EBM	3.30	.60
	$\frac{4.0}{5.0}$	NW1/4NW1/4, within S18, T5N, R39EBM		
Frank D. Koon, William N. Koon and Jack E. Koon, dba Koon Bros.	5.0	SW1/4NE1/4, within S13, T5N, R38EBM	159.62	40.83
	5.0	SE1/4NE1/4, within S13, T5N, R38EBM		
	26.0	NW1/4NW1/4, within S18, T5N, R39EBM		
	30.9	NE1/4NW1/4, within S18, T5N, R39EBM		
	35.0	SW1/4NW1/4, within S18, T5N, R39EBM		
	32.0	SE1/4NW1/4, within S18, T5N, R39EBM		

MICROFILMED

OCT 28 1992

<u>Name</u>	<u>Acres</u>	<u>Within the Following Described Property</u>	<u>Right 01-0139 (miners inches)</u>	<u>Right 01-0140 (miners inches)</u>
Theron R. McGarry	7.5	NW1/4SW1/4, within S18, T5N, R39EBM		
	$\frac{5.0}{146.4}$	NE1/4SW1/4, within S18, T5N, R39EBM		
	38.0	SW1/4SW1/4, within S17, T5N, R39EBM	234.42	60.05
	32.0	SE1/4SW1/4, within S17, T5N, R39EBM		
	38.0	NW1/4SE1/4, within S18, T5N, R39EBM		
	38.0	NE1/4SE1/4, within S18, T5N, R39EBM		
	5.0	SW1/4SE1/4, within S18, T5N, R39EBM		
	20.0	SE1/4SE1/4, within S18, T5N, R39EBM		
	16.0	NW1/4NW1/4, within S20, T5N, R39EBM		
	$\frac{30.0}{217.0}$	NE1/4NW1/4, within S20, T5N, R39EBM		
Larry M. Koon	3.0	SE1/4SW1/4, within S17, T5N, R39EBM	6.18	3.92
	6.0	NE1/4NW1/4, within S20, T5N, R39EBM		
	$\frac{1.7}{10.7}$	NW1/4NW1/4, within S18, T5N, R39EBM		

<u>Name</u>	<u>Acres</u>	<u>Within the Following Described Property</u>	<u>Right 01-0139 (miners inches)</u>	<u>Right 01-0140 (miners inches)</u>
LeeRoy Wilcox	10.0	NE1/4SE1/4, within S20, T5N, R39EBM	64.74	17.26
	35.0	NW1/4SW1/4, within S21, T5N, R39EBM		
	7.0	SW1/4SW1/4, within S21, T5N, R39EBM		
	<u>30.0</u> 82.0	SE1/4SW1/4, within S21, T5N, R39EBM		
G. Harold Ward	40.0	SE1/4NE1/4, within S20, T5N, R39EBM	31.58	8.42
Boyd Smith	28.0	NE1/4SE1/4, within S20, T5N, R39EBM	23.94	6.39
	<u>2.33</u> 30.33	NW1/4SW1/4, within S21, T5N, R39EBM		
Anita Koon	5.0	NE1/4NE1/4, within S13, T5N, R38EBM	3.00	2.00
Gordon Koon	1.7	NW1/4NW1/4, within S18, T5N, R39EBM	1.00	.07
Kathy Koon	<u>1.7</u>	NW1/4NW1/4, within S18, T5N, R39EBM	<u>1.00</u>	<u>.07</u>
GRAND TOTAL	604.83		600.00	160.00

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OCT 28 1992

22-14
File 390

IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR BONNEVILLE COUNTY.

F. L. KOON,

PLAINTIFF.

VS.

JOHN EMPEY, Watermaster of
District Number 36, O. H.
Olive, C. H. DECAMP and the
HARRISON CANAL COMPANY, a
corporation.

DEFENDANTS.

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND DECREE.

JAN 18 1994

Department of Water Resources
Eastern District Office

This cause having been called regularly for trial before the Court, such trial having been held at the Court room in Idaho Falls, Idaho, on the 27th day of January, 1922, O. A. Johnsen appeared as attorney for the plaintiff, and E. M. Holden appeared as attorney for the defendants. And the Court having heard the proof of the respective parties and considered the same, and the records and papers in the cause, and the arguments of the respective attorneys thereon, such arguments having been submitted by written brief of the respective attorneys, and the cause having been submitted to the Court for its decision,

THE COURT NOW FINDS THE FOLLOWING FACTS:

I.

That on or about the 20th day of December, 1905, the defendant O. H. Olive, whose full name is Oliver H. Olive, executed a certain Warranty Deed bearing date of that day by which said Warranty Deed, the said-named defendant conveyed to the plaintiff, F. L. Koon, whose full name is Frank L. Koon, the following described real property, situated in what was then known as Fremont County,

The South half of the Southwest Quarter (S $\frac{1}{2}$ -SW $\frac{1}{4}$) or Section Seventeen (17); the North half of the Southeast Quarter (N $\frac{1}{2}$ -SE $\frac{1}{4}$) and the Southeast quarter of the Southeast Quarter (SE $\frac{1}{4}$ -SE $\frac{1}{4}$) and lot five (5), Section eighteen (18); the Northeast quarter of the Northwest quarter (NE $\frac{1}{4}$ -NW $\frac{1}{4}$) and lot two (2) of Section Twenty (20), all being in Township five (5) North, Range Thirty-nine (39) East Boise Meridian, and containing, according to the Government survey, 320 acres, more or less.

Together with the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining, which said Deed was thereafter duly recorded in the Records of said Fremont County, in Book "R" of Deeds, at page 223, and which said Deed has been admitted as plaintiff's exhibit "B" in this cause; that by a series of mesne conveyances the said described premises has passed into the possession and ownership of the said plaintiff, and that for a period of more than five years last past, the said plaintiff has been in open and exclusive possession of the said described premises, and that during the entire period of his ownership and possession, he has paid the taxes that have been levied against the said property.

III.

That on the said 20th day of December, 1905, there had become appurtenant to the lands described in the preceding paragraphs, which said lands are now owned by the plaintiff, 600 miners inches of water, claimed from the South Fork of Snake River, and what is known as the "Bannock Jim Slough", and which said water is required in the irrigation of the said described premises, and was at the date of the said conveyances the property of the defendant O. H. Olive; that on or about the 16th day of December, 1910, in the case of the Rexburg Irrigation Company, et al., plaintiffs, vs. Teton Irrigation Canal Company, et al., defendants, a Decree was made by the District Court of the Sixth Judicial District of the State of Idaho, wherein the aforesaid 600 miners inches of water, with a priority date of June 1st, 1889, was decreed for use upon the premises herein-before described, being the premises now owned by the plaintiff.

in and to the said 600 miners inches of water, by reason of an alleged conveyance, made some time subsequent to the 9th day of December, 1918, that the alleged claim, title or interest of the said defendant C. H. DeCamp, in and to the said 600 miners inches of water, was and is dependent upon the defendant O. H. Olive, having an interest or having title in and to the said described water; that the defendant C. H. De Camp has no right, title or interest whatsoever in and to the herein-before described 600 miners inches of water;

That the defendant the Harrison Canal Company is an Idaho corporation, and that the said-named defendant corporation is an alleged transferee of the defendants O. H. Olive and C. H. DeCamp, of the said 600 miner's inches of water, by reason of an alleged certificate of transfer made by the State Engineer of Idaho, on or about the 9th day of December, 1918, and another certificate made by the Commissioner of Reclamation of said State on or about the 8th day of May, 1919; that the rights, interests and claims of the said defendant Harrison Canal Company, a corporation, are dependent upon the alleged title, interest and claim of the defendant O. H. Olive; that the defendant Harrison Canal Company, a corporation, has no right, title or interest whatsoever in and to the waters herein-before described, being the aforesaid 600 miners inches of water claimed by the plaintiff.

VI.

That the lands herein-before described, and which said lands are now owned by the plaintiff, and are situated in what is now known as Madison County, State of Idaho, are arid in character and require water by means of irrigation in order to produce crops thereon; that for many years prior to December 20, 1905, and at all times subsequent to said date, crops have annually been grown on the said lands by means of irrigation; that the plaintiff maintains at the present time, a system of irrigation which is adequate to irrigate the lands herein-before described, so as to produce crops on said lands; that the water for the irrigation of said lands is diverted from what is commonly known as the "Bannock Jim Slough"; that the said lands will not grow crops unless they are irrigated.

VII.

That all the allegations and averments of the plaintiff's

corded in Book "R" of Deeds, at pages 222 and 223, Records of Fremont County, State of Idaho, and herein-before described.

II.

That as between the plaintiff and the defendants, the plaintiff is the holder of the legal title to the aforesaid 600 miners inches of water, and is entitled to the possession of the same as against the said defendants, all and severally, and all persons claiming or to claim the same, or any part thereof, under them, the said defendants, or either of them, and that neither one of the said defendants has any right, title or interest in and to the said aforesaid 600 miners inches of water, or any part thereof.

III.

That the plaintiff is entitled to a decree of this court as prayed for in his complaint, enjoining the said defendants, and each and all of them, and all persons claiming or to claim the same, or any part thereof, under or through the said defendants, or either of them, from diverting or permitting to be diverted, except as ordered by the plaintiff, the said 600 miners inches of water herein-before described.

IV.

That the plaintiff is entitled to a judgment for costs to be taxed herein against only the defendants O. H. Olive and C. H. DeCamp.

D E C R E E.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

I.

That the plaintiff have judgment as prayed for in his complaint.

II.

~~01-0285~~ decreed in *Rexburg decree R.W.M.*
~~01-0569~~ That as between the plaintiff and the defendants and each and all of them, the plaintiff is the legal and lawful owner and possessor and use of that certain water right con-

all being in Township five (5) North, Range thirty-nine (39) East Boise Meridian, and containing, according to the Government survey, 320 acres, more or less.

III.

That the defendant John Empey, watermaster of water district number 36 of the State of Idaho, his agents and employees and his successor or successors in office, and all agents and employees having to do with the distribution of the waters of Snake River in district number 36 be, and they are hereby perpetually enjoined and restrained from diverting or permitting to be diverted, the aforesaid 600 miners inches of water, except as may be ordered by the said plaintiff, to the full intent and purpose that the aforesaid and described waters shall be permitted to flow and be used in the same manner as they did and were prior to the diversion complained of, unless otherwise ordered by the plaintiff or his successors.

IV.

That the defendants O. H. Olive, C. H. DeCamp, and the Harrison Canal Company, a corporation, each and all of them, as well as all and any person or persons claiming by, through, or under the said named defendants, or any one of them, have no right, title, interest or equity in and to the aforesaid 600 miners inches of water, or any part or portion thereof, and that they be, and they are hereby perpetually enjoined and restrained from diverting and using, or by perpetually enjoining and restraining from diverting and using, or causing to be diverted or used, or causing to be diverted or used, the said 600 miners inches of water, hereinbefore more particularly and fully described, or any part thereof, and also from in any manner interfering with the regular flow and use of the said waters, as the same flowed and were used prior to the diversion complained of by the plaintiff; that the said-named defendants, each and all of them be, and they are hereby perpetually enjoined and restrained from in any manner or in any wise doing, or causing to be done, any act or thing which shall in any manner becloud or otherwise cause plaintiff's title to the aforesaid 600 miners inches of water to be questioned.

V.

That the plaintiff have judgment against the defendants O. H. Olive and C. H. DeCamp for his costs herein.

Dated this 10th day of August, 1922.

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

Renumbered: 01-139

Ident. Number: ~~A22-00654~~

Date Received: 8/25/1988

Receipt No: E001741

Received By: *JK*

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: BANNOCK JIM SLOUGH (AN UNINCORPORATED 208-356-7721
Address: COMPANY-SEE NAMES AND LAND
LIST ATT.) C/O TIM MC GARRY
6505 W. 3800 S.
REXBURG, ID 83440

2. Date of Priority: JUN 01, 1889

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	SW	SE	NW		MADISON

5. Description of diverting works:
HEADGATE TO BANNOCK JIM SLOUGH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	12.000		

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

8. Total consumptive use is 1512.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05N	38E	13	NE	NE		IRR	33.0

A22-00654

Page 1

Date: 01/18/89

A2200654



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10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05N	38E	13	NW	NE		IRR	33.0
			SW	NE		IRR	5.0
			SE	NE		IRR	5.0
			Section Acres				76.0
	39E	17	SW	SW		IRR	38.0
			SE	SW		IRR	35.0
			Section Acres				73.0
		18	NW	NE		IRR	4.0
			NE	NW		IRR	31.9
			NW	NW		IRR	35.1
			SW	NW		IRR	35.0
			SE	NW		IRR	32.0
			NE	SW		IRR	5.0
			NW	SW		IRR	7.5
			NE	SE		IRR	38.0
			NW	SE		IRR	38.0
			SW	SE		IRR	5.0
			SE	SE		IRR	20.0
			Section Acres				251.5
		20	SE	NE		IRR	40.0
			NE	NW		IRR	36.0
			NW	NW		IRR	16.0
			NE	SE		IRR	38.0
			Section Acres				130.0
		21	NW	SW		IRR	37.3
			SW	SW		IRR	7.0
			SE	SW		IRR	30.0
			Section Acres				74.3
			Total Acres				604.8

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:

3.2 CFS PD OF 5-1-1905 (IDENT. NO. 01-0140)

14. Remarks:

THE REXBURG DECREE ERRED IN THE DESCRIPTION OF SOME OF THE LANDS WATERED. ATTACHED HERETO ARE COPIES OF TWO DEEDS, ONE FROM THE STATE OF IDAHO DEPARTMENT OF FISH & GAME, AND ONE FROM PUMICE, INC., THE TWO OWNERS OF THE PROPERTY MISTAKENLY INCLUDED WITHIN THE LANDS IRRIGATED BY BANNOCK JIM SLOUGH.

15. Basis of Claim: DECREED

Water Right Number: 010139

Case Number:

Court : 6TH

Decree date: 12/16/1910

REXBURG IRRIG. CO., ET AL

Decree Plaintiff

vs

TETON IRRIG. 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 _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

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

Notary Public

Seal

Residing at _____

My Commission Expires _____

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER:

39356

Ident. Number

01-0139

~~A01-00139~~

Date Received

8/25/88

Receipt Number

E 001741

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Bannock Jim Slough (an unincorporated company—see names and land list att.)
c/o Tim McGarry Phone (208) 356-7721

Mailing Address 6505 W. 3800 S., Rexburg, Idaho Zip 83440

2. Date of Priority (Only one (1) per claim) June 1, 1889

3. Source of water supply (a) Bannock Jim Slough
which is tributary to (b) Snake River

4. a. Location of existing point of diversion is: Township 5N Range 39E Section 18

1/4 of NW 1/4 of NE 1/4 Govt Lot 2 pts. in NE1/4SE1/4 of S18, T5N, R39E; 1 pt. in NE1/4NW1/4 of S18, T5N, R39E; 1 pt. in NW1/4NW1/4 of S18, T5N, R39E; 1 pt. in SE1/4SW1/4 of S17, T5N, R39E; 1 pt. in SE1/4NE1/4 of S17, T5N, R39E; 1 pt. in NE1/4SE1/4 of S20, T5N, R39E; 1 pt. in SE1/4SW1/4 of S21, T5N, R39E; 1 pt. in NW1/4SW1/4 of S21, T5N, R39E; 1 pt. in NW1/4SW1/4 of S17, T5N, R39E; 2 pts. in SW1/4NW1/4 of S21, T5N, R39E; 1 pt. in SW1/4SE1/4 of S21, T5N, R39E; 1 pt. in NE1/4NW1/4 of S20, T5N, R39E; & 1 pt. in NE1/4NE1/4 of S13, T5N, R38E

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

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

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

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

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. The Bannock Jim Slough Water Users have their water turned into the Bannock Jim Slough, which mingles with subwaters. The users have installed a series of dams and spillways through the course of the slough as it traverses the Bannock Jim Slough Water users' lands. The water is impounded for diversionary purposes, with each water user maintaining, either singly or with others, diversionary gates or pumps to take the water from the ponds created by the dams to their respective lands. Down stream users, in succession, impound the water that comes over the spillways of the upstream dams, and, with the water raising in the slough from the sub, make their own ponds by means of their own dams, to raise the water high enough that it will run out their lateral ditches to their places of use.

Copies: White-State, Yellow-Claimant

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6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from 4-1 to 11-1 amount 12.00 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 12.00 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 1,512 acre feet per annum, including that used by Claimant pursuant to a second claim, filed herewith, with a different priority date.

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

10. Description of place of use:

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

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

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
5N	39E	20				40	36	16							38				130
5N	39E	21										37.38	7	30					74.33
5N	39E	17											38	35					73
5N	39E	18		4			31.9	35.1	35	32	5	7.5			38	38	5	20	251.5
5N	38E	13	33	33	5	5													76

Total number of acres irrigated 604.83

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

12. Do you own the property listed above as place of use? Yes X* No _____

If your answer is No, describe in Remarks below the authority you have to claim this water right.

*Since this is an unincorporated company, a list of the names of the owners of the land and the lands they own is attached.

13. Describe any other water rights used at the same place and for the same purposes as described above.

3.2 c.f.s., priority date of May 1, 1905 (Ident. No. 01-0140) or None ()

14. Remarks:

The Rexburg Decree erred in the description of some of the lands watered. Attached hereto are copies of two deeds, one from the State of Idaho Department of Fish & Game, and one from Pumice, Inc., the two owners of the property mistakenly included within the lands irrigated by Bannock Jim Slough.

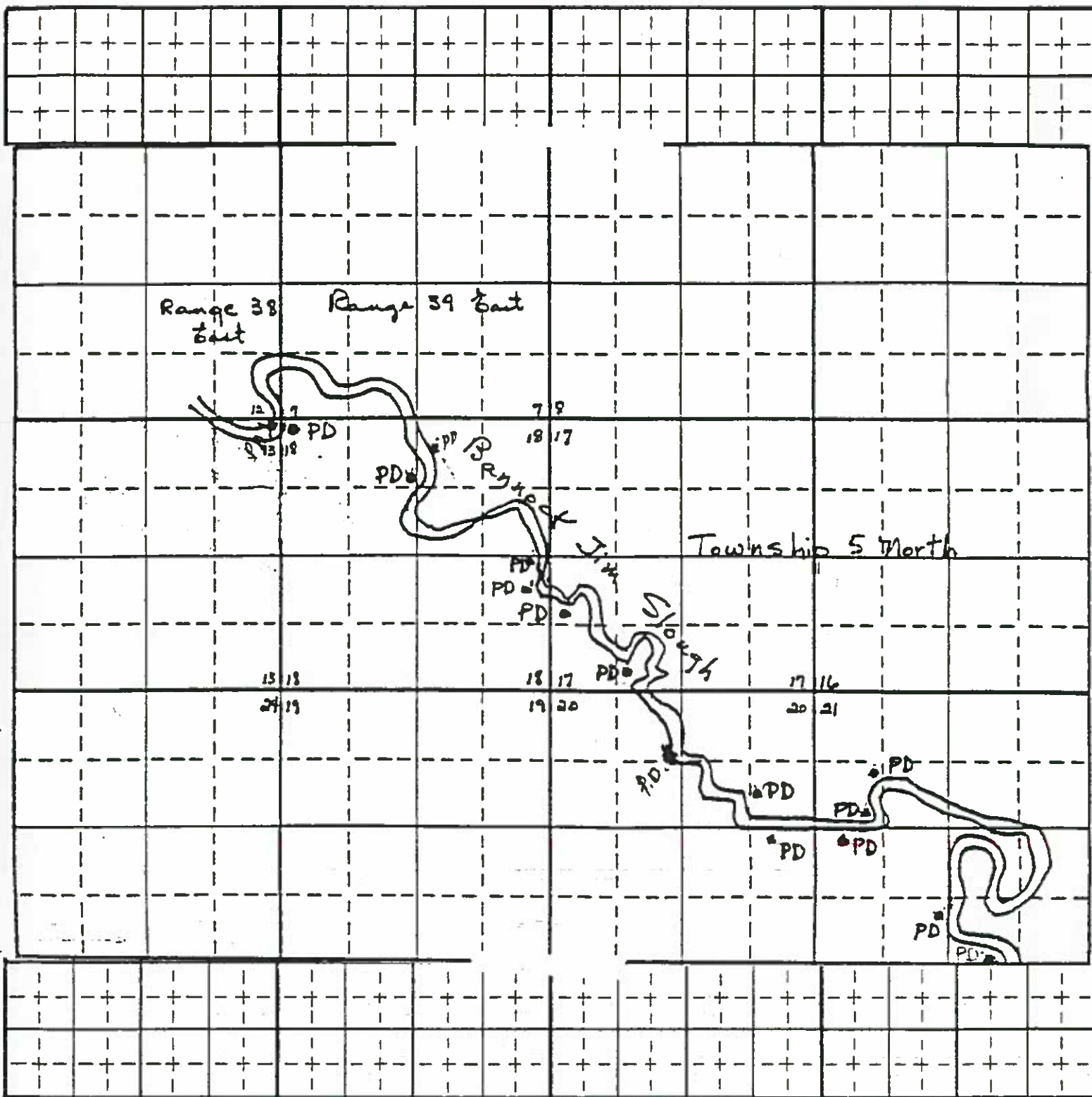
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Last Name Bannock Jim Slough Ident. No. 01-0139

Copies: White -State, Yellow-Claimant

Scale: 2 inches equals 1 mile



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Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____

Decree X

If applicable provide IDWR Water Right Number 01-0139

Court 6th Judicial Dist. (now 7th) Case Number _____ Decree Date 12-16-1910

Plaintiff vs Defendant Rexburg Irrigation Co., et al. v. Teton Irrigation Canal Co., et al.

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments 3

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

Signature of Claimant (s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am Tim McGarry, President

Title

of Bannock Jim Slough, that I have signed the foregoing

Organization

document in the space below as President of Bannock Jim Slough

Title

Organization

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

Signature of Authorized Agent Tim A. McGarry

Title and Organization President of Bannock Jim Slough Date 8/24/88

ATTEST:

Frank D. Koon
Frank Koon, Secretary

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

Subscribed and sworn (or affirmed) before me this 24th day of August 19 88

SEAL

Notary Public Debra A. Keller

Residing at Rexburg, Idaho

My Commission Expires 11-15-93

Please Print Name

17. Notice of Appearance:

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

Signature Ray W. Rigby

Address P.O. Box 250, Rexburg, ID 83440

Date 8-24-88

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Last Name Bannock Jim Slough Ident. Number 01-0139

Copies White-State, Yellow-Claimant