

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

RIGHT NUMBER: 21-13102

NAME AND ADDRESS: NATURAL GUARDIAN LTD PARTNERSHIP
2880 N 55 W
IDAHO FALLS ID 83402

SOURCE: TAYLOR CREEK

TRIBUTARY: SINKS

QUANTITY: 5.000 CFS

PRIORITY DATE: 09/24/1912

POINT OF
DIVERSION: ~~T13N R41E S8 NWSNW Within CLARK County~~
~~T13N R41E S8 SESWNW Within CLARK County~~
~~T13N R41E S8 SESWNW Within CLARK County~~

PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	04/15 10/15	5.000 CFS
PLACE OF USE:	<u>IRRIGATION in CLARK County</u>		
	T13N R41E S08 SWNE 25.00	T13N R41E S08 NESW	21.00
	T13N R41E S08 NWSW 30.00	T13N R41E S08 SWSW	14.00
	T13N R41E S08 SESW 19.00	T13N R41E S08 NESE	40.00
	T13N R41E S08 NWSE 37.00	T13N R41E S08 SWSE	26.00
	T13N R41E S08 SESE 36.00		

248 ACRES TOTAL

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

The exercise of this right is subject to the water right holder obtaining and maintaining a state land use easement and/or access permit for access and maintenance of the diversion and conveyance works located on State lands.

As of the date of the partial decree of this water right, temporary authorization for maintenance and diversion of the conveyance works located on State lands is evidenced by land use permit No. 80-0557 which expires on December 31, 2012.

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 - Beneficial Use

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

RIGHT NUMBER: 21-2054D

NAME AND ADDRESS: STATE OF IDAHO
DEPT OF LANDS
300 N 6TH ST, STE 103
PO BOX 83720
BOISE ID 83720-0050

NATURAL GUARDIAN LTD PARTNERSHIP
2880 N 55 W
IDAHO FALLS ID 83402

SOURCE: SHERIDAN CREEK

TRIBUTARY: HENRYS FORK

QUANTITY: 0.660 CFS

PRIORITY DATE: 09/24/1912

POINT OF
DIVERSION:

T13N R41E S7 NWSEW Within CLARK County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/15	0.660 CFS

PLACE OF USE:

IRRIGATION in CLARK County

T13N R40E S12	SWNE	15.00	T13N R40E S12	SENE	15.00
T13N R40E S12	SENE	2.80			
32.8 ACRES TOTAL					

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

Access to the place of this water right is governed by a settlement agreement executed by the Idaho Department of Lands and Natural Guardian Limited Partnership dated _____.

The ownership of this water right is governed by a settlement agreement executed by the Idaho Department of Lands and Natural Guardian Limited Partnership dated _____.

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 - License

**SETTLEMENT AGREEMENT BETWEEN THE STATE OF IDAHO,
DEPARTMENT OF LANDS, AND NATURAL GUARDIAN LIMITED PARTNERSHIP**

THIS AGREEMENT is entered into between the State of Idaho, Department of Lands, and Natural Guardian Limited Partnership.

IN CONSIDERATION OF THE PROMISES STATED IN THIS AGREEMENT, THE PARTIES AGREE AS FOLLOWS:

I. DEFINITIONS

A. The term "IDL" means the State of Idaho, Department of Lands, 300 N 6th Street, P.O. Box 83720, Boise, Idaho 83720-0050, by and through its authorized representatives.

B. The term "Lessee" means Natural Guardian Limited Partnership, 2880 N 55 W, Idaho Falls, Idaho 83402.

C. The term "Lease" means State of Idaho Land Lease No. G-8623 executed on May 15, 2005 with a term from January 1, 2005 to December 31, 2014; in the event a successor lease(s) is entered into between the State of Idaho and the Lessee, the term "Lease" shall mean such successor lease(s).

D. The term "expiration" or "expire(s)(d)" means that the right of the Lessee to occupy and use the leased premises has ended because the term expiration date of the Lease has passed.

E. The term "termination" or "terminate(s)(d)" means that the right of the Lessee to occupy and use the leased premises has ended because IDL has exercised its rights to forfeit or cancel the Lease.

RECEIVED

OCT 01 2010

Department of Water Resources
Eastern Region

II. RECITALS AND PURPOSE OF AGREEMENT

A. IDL acquired the following lands from the United States as follows:

Acquisition Document	Date	Legal Description	Acres
Clear List No. 10	Oct. 18, 1912	T13N R41E S9 S2SE	80
Clear List No. 5	June 9, 1908	T13N R40E S12 S2NE	640
Clear List No. 24	Sept. 14, 1920	T13N R40E S12 S2NW	80

B. Lessee has claimed the lands described above as including the place of use for water right nos. 21-00030C, 21-10011A, and 21-12483C.

C. Water right nos. 21-00030C, 21-10011A, and 21-12483C are attached herewith as Attachments I, II, and III to this Agreement.

D. IDL currently leases the lands described above to Lessee in accordance with State of Idaho Land Lease No. G-8623.

E. The purpose of this agreement is to describe what happens upon the expiration, termination, or otherwise ending of the Lease.

III. EXPIRATION, TERMINATION, OR OTHERWISE ENDING OF THE LEASE

A. In the event of the expiration, termination, or otherwise ending of the Lease, Lessee shall have ninety (90) days from the date of expiration, termination, or otherwise ending of the Lease to file with IDWR or any successor agency an application to transfer water right nos. 21-00030C, 21-10011A, and 21-12483C to lands not owned by the State of Idaho.

B. If within the prescribed ninety (90) day time limit Lessee fails or refuses to file with IDWR or any successor agency an application to transfer water right nos. 21-00030C, 21-10011A, and 21-12483C to lands not owned by the State of Idaho, any ownership interest held by Lessee in water right nos. 21-00030C, 21-10011A, and 21-12483C shall automatically cease and IDL shall become the sole owner of water right nos. 21-00030C, 21-10011A, and 21-

12483C. In such event, Lessee waives any right to object to the transfer of water right nos. 21-00030C, 21-10011A, and 21-12483C to the name of IDL exclusively.

C. If within the prescribed ninety (90) day time limit Lessee files an application to transfer water right nos. 21-00030C, 21-10011A, and 21-12483C to lands not owned by the State of Idaho, Lessee shall then have three (3) years from the date of filing to accomplish said transfer. If Lessee fails or refuses to accomplish said transfer within the prescribed three (3) year time limit, any ownership interest held by Lessee in water right nos. 21-00030C, 21-10011A, and 21-12483C shall automatically cease and IDL shall become the sole owner of water right nos. 21-00030C, 21-10011A, and 21-12483C. In such event, Lessee waives any right to object to the transfer of water right nos. 21-00030C, 21-10011A, and 21-12483C to the name of IDL exclusively. The parties agree to make reasonable accommodations to extend the three (3) year time limit where the accomplishment of the transfer is delayed due to government delays beyond the Lessee's control.

D. In the event of the expiration, termination, or otherwise ending of the Lease, Lessee shall have no right or privilege to access the lands described above in Paragraph II.A for use of water right nos. 21-00030C, 21-10011A, and 21-12483C.

IV. TERM

A. This Agreement shall take effect when executed by both parties hereto.

B. This Agreement shall continue in effect until a period of five years from the date of the expiration, termination, or otherwise ending of the Lease.

C. These term limits are in no way to be interpreted as extinguishing, limiting, or otherwise affecting the provisions and agreements of Paragraph III of this Agreement.

V. ALTERATION

Any change in this Agreement shall be in writing signed by an authorized representative of both parties.

VI. GOVERNING LAW

Both parties agree that this Agreement shall be governed by, and construed in accordance with, the laws of the State of Idaho.

VII. ASSIGNMENT OF RIGHTS AND DELEGATION OF DUTIES

No party shall assign a right under this Agreement or delegate a duty under this Agreement without the prior written consent of the other. This Agreement shall inure to the benefit of and be binding upon the parties and their permitted successors and assigns.

VIII. ENTIRE AGREEMENT

This Agreement sets forth all the covenants, promises, provisions, agreements, conditions, and understandings between the parties and there are no covenants, provisions, promises, agreements, conditions, or understandings, either oral or written between them other than are herein set forth.

IX. EFFECT OF SECTION HEADINGS

The section headings appearing in this contract are not to be construed as interpretations of the text but are inserted for convenience and reference only.

X. DUPLICATE ORIGINALS

This Agreement is executed in duplicate. Each of the two (2) Agreements with an original signature of each party shall be an original.

IN WITNESS WHEREOF the parties executed this contract on the date following their respective signatures.

IDAHO DEPARTMENT OF LANDS


George Bacon

STATE OF IDAHO)
COUNTY OF ADA)

On this 24th day of September in the year 2010, before me a Notary Public in and for said State, personally appeared George Bacon, known to me to be the Director, that executed the within instrument, and acknowledged to me that the State of Idaho Department of Lands executed the same.

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




Notary Public for Idaho
Residing at Middletown
My commission expires: 03/18/16

LESSEE

Sign:

Frank L. Vandersloot

Date: 9/10/2010

Print:

FRANK L VANDERSLOOT

Position:

President of Tesamen Enterprises, Inc.
GENERAL PARTNER OF Natural Guardian, LP

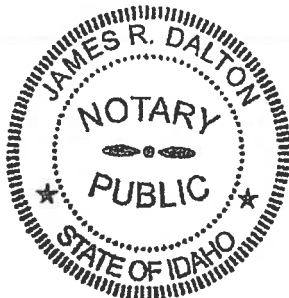
STATE OF IDAHO)

:S

COUNTY OF BONNEVILLE

On this 10th day of September in the year 2010, before me a Notary Public in and for said State, personally appeared FRANK L VANDERSLOOT known to me to be The President of Tesamen Enterprises, Inc., General Partner, that executed the within instrument and acknowledged to me that Natural Guardian Limited Partnership executed the same.

IN WITNESS THEREOF, I have hereunto set my hand and seal on the day and year last above written.



James R. Dalton
Notary Public for Idaho
Residing at Idaho Falls, ID
My commission expires: 9/2/2016

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Attachment I

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

RIGHT NUMBER: 21-30C

NAME AND ADDRESS: STATE OF IDAHO
DEPT OF LANDS
300 N 6TH ST, STE 103
PO BOX 83720
BOISE ID 83720-0050

NATURAL GUARDIAN LTD PARTNERSHIP
2880 N 55 W
IDAHO FALLS ID 83402

SOURCE: WILLOW CREEK

TRIBUTARY: SHERIDAN CREEK

QUANTITY: 0.390 CFS

PRIORITY DATE: 09/15/1898

POINT OF
DIVERSION:

T13N R41E S10 NWSESW Within FREMONT County

PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	05/01 10/31	0.390 CFS
PLACE OF USE:	<u>IRRIGATION in CLARK County</u>		
	T13N R41E S09 SWSE 29.00	T13N R41E S09 SESE	29.00
	58 ACRES TOTAL		

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

The ownership of this water right is governed by a settlement agreement executed by the Idaho Department of Lands and Natural Guardian Limited Partnership dated _____.

Access to the place of this water right is governed by a settlement agreement executed by the Idaho Department of Lands and Natural Guardian Limited Partnership dated _____.

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

Attachment II

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

RIGHT NUMBER: 21-10011A

NAME AND ADDRESS: STATE OF IDAHO
DEPT OF LANDS
300 N 6TH ST, STE 103
PO BOX 83720
BOISE ID 83720-0050

NATURAL GUARDIAN LTD PARTNERSHIP
2880 N 55 W
IDAHO FALLS ID 83402

SOURCE: WILLOW CREEK

TRIBUTARY: SHERIDAN CREEK

QUANTITY: 1.000 CFS

PRIORITY DATE: 01/19/1906

POINT OF
DIVERSION:

T13N R41E S10 NWSESW Within FREMONT County

PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	05/01 10/31	1.000 CFS
PLACE OF USE:	<u>IRRIGATION in CLARK County</u>		
	T13N R41E S09 SWSE 29.00	T13N R41E S09 SESE	29.00

58 ACRES TOTAL

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

The ownership of this water right is governed by a settlement agreement executed by the Idaho Department of Lands and Natural Guardian Limited Partnership dated _____.

Access to the place of this water right is governed by a settlement agreement executed by the Idaho Department of Lands and Natural Guardian Limited Partnership dated _____.

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 - License

Attachment III

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

RIGHT NUMBER: 21-12843C

NAME AND ADDRESS: STATE OF IDAHO
DEPT OF LAND
300 N 6TH ST STE 103
PO BOX 83720
BOISE ID 83720-0050

NATURAL GUARDIAN LTD PARTNERSHIP
2880 N 55 W
IDAHO FALLS ID 83402

SOURCE: MYERS CREEK

TRIBUTARY: WILLOW CREEK

QUANTITY: 0.170 CFS

PRIORITY DATE: 10/31/1965

POINT OF
DIVERSION:

T13N R41E S3 SESENW Within FREMONT County
T13N R41E S3 NWNWSW Lot 6 Injection Within FREMONT County
T13N R41E S3 SWNWSW Lot 6 Rediversion Within FREMONT County
T13N R41E S10 NWSESW Rediversion Within FREMONT County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 10/31	0.170 CFS

PLACE OF USE: IRRIGATION in CLARK County

T13N R41E S09	SWSE	29.00	T13N R41E S09	SESE	29.00
58 ACRES TOTAL					

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

The ownership of this water right is governed by a settlement agreement executed by the Idaho Department of Lands and Natural Guardian Limited Partnership dated _____.

Access to the place of this water right is governed by a settlement agreement executed by the Idaho Department of Lands and Natural Guardian Limited Partnership dated _____.

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 - Beneficial Use

Rob Harris

From: Stanish, David [david.stanish@ag.idaho.gov]
Sent: Wednesday, June 08, 2011 8:09 AM
To: Rob Harris
Subject: 21-13102 - Easement Application Attached

This communication and its attachments are confidential and/or privileged. If you have received this communication in error, please immediately read the "NOTICE" appended below.

Rob:

Easements can take awhile to process. Access permits on the other hand are quicker.

Since the trial is fast approaching, it may make sense to have your client apply contemporaneously for both a temporary access permit as well as a more "permanent" easement. That way we can reference the permit (and any successor authorization—i.e., the forthcoming easement) in the explanatory remarks and the subcase can be resolved. We have done this in other cases where time is of the essence.

Does this make sense?

Sincerely,

David I. Stanish
Deputy Attorney General

Natural Resources Division
Office of Attorney General
700 West State Street
Joe R. Williams Building, Second Floor
P.O. Box 83720
Boise, Idaho 83720-0010

Phone: (208) 334-4549
Facsimile: (208) 854-8072
Email: david.stanish@ag.idaho.gov

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From: Stanish, David
Sent: Wednesday, June 08, 2011 8:00 AM
To: 'rharris@holdenlegal.com'
Subject: 21-13102 - Easement Application Attached

This communication and its attachments are confidential and/or privileged. If you have received this communication in error, please immediately read the "NOTICE" appended below.

Rob:

Attached is a copy of IDL's easement application. Contact Pat Brown, Region Manager, at:

Eastern Idaho Supervisory Area
Idaho Department of Lands

3563 Ririe Highway
Idaho Falls, ID 83401
(208) 525-7167
Fax (208) 525-7178

Sincerely,

David I. Stanish
Deputy Attorney General

Natural Resources Division
Office of Attorney General
700 West State Street
Joe R. Williams Building, Second Floor
P.O. Box 83720
Boise, Idaho 83720
Phone: (208) 334-4549
Facsimile: (208) 854-8072
david.stanish@ag.idaho.gov

NOTICE: This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this notice is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return these papers to us at the address shown above via first class mail.

--- Original Message---

To: Stanish, David

From: rharris@holdenlegal.com

Sent: 5/24/2011 2:51PM

Subject: 21-13102 - Proposed Settlement Approach (privileged and confidential settlement communication)

>> Dave:

>>

>> Thanks for your email. I think this approach will work just fine. I will run it by my clients, but can't think why it would not work.

>>

>> Can you email the forms and contact information for the person who I could contact about obtaining the necessary permits? This will give me some idea of what the process is.

>>

>> Thanks,

>>

>> Robert L. Harris

>> HOLDEN, KIDWELL, HAHN & CRAPO, PLLC

>> 1000 Riverwalk Drive, Suite 200

>> P.O. Box 50130

>> Idaho Falls, ID 83405-0130

>> Phone: (208) 523-0620

>> Fax: (208) 523-9518

>> E-Mail: rharris@holdenlegal.com

>> Confidentiality Notice: The information contained in this electronic e-mail and any accompanying attachments, all of which may be confidential and/or privileged, is intended only for use by the person or entity to whom it is addressed. If you are not the intended recipient, any unauthorized use, disclosure or copying of this e-mail and its contents is strictly prohibited and may be unlawful. If you are not the intended recipient, please immediately notify the sender by return e-mail and delete the original message

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

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

CIVIL CASE NUMBER: 39576

Ident. Number 21-13102

Date Received _____

Receipt Number _____

NOTICE OF CLAIM
TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s) Natural Guardian Ltd. Partnership Phone (208) 528-6635

Mailing Address 2880 N. 55 W, Idaho Falls, ID Zip 83402

2. Date of Priority (Only (1) per claim) September 24, 1912

3. Source of water supply (a) Taylor Creek

which is tributary to (b) Sinks

4.a. Location of existing point of diversion is:

Township 13N., Range 41E., Section 8, NW $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$, Govt. Lot _____

Township 13N., Range 41E., Section 8, SE $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$, Govt. Lot _____

Township 13N., Range 41E., Section 8, SE $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$, Govt. Lot _____

County of Clark

Additional points of diversion if any: _____

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

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

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4 Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. Headgates into ditches for flood irrigation.

6. Water is claimed for the following purposes: _____ (Both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 04/15 to 10/15 amount 7 cfs or _____

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

8. Non-Irrigation uses; describe fully (eg. Domestic: give number of households served; stockwater: type and number of livestock, etc.) None

9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the table below.
 - If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

SEE ATTACHED SPREADSHEET FOR PLACE OF USE

10. In which county(ies) are lands listed above as place of use located? Clark
11. Do you own the property listed above as place of use? Yes ☒ No ☐
If your answer is No, describe in Remarks below the authority you have to claim this water right.
12. Describe any other water rights used at the same place and for the same purposes as described above.
None or None ()

13. Remarks:

Water from Willow Creek, Schneider Creek, Myers Creek, and Sheridan Creek is also used on the property. The points of diversion claimed under this water right are located on property owned by the State of Idaho. The evidence of priority for this water right is found in the water rights file for Permit No. 8990, which was eventually claimed as Water Right No. 21-2054. Enclosed are maps submitted in connection with Permit No. 8990, both of which clearly show the "Taylor Creek Canal," even though there is no license or decree for this right. The priority date for this water right is the same as Permit No. 8990.

14. Basis of Claim (Check one) Beneficial Use ☒ Posted Notice ☐ Permit ☐ Decree ☐ License ☐
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

15. For Organizations: I do solemnly swear or affirm that I am the attorney of Natural Guardian Ltd. Partnership, that I have signed the foregoing document in the space below as attorney of Natural Guardian Ltd. Partnership and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Robert L. Jauris

Title and Organization: Attorney, Natural Guardian Ltd. Partnership Date: March 27, 2009

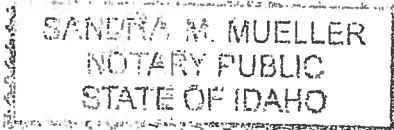
Last Name Natural Guardian Ltd. Partnership Ident. Number _____

State of Idaho

) SS.

County of Bonneville

Subscribed and sworn (or affirmed) before me this 27th day of March, 2009.



Sandra M. Mueller
Notary Public for Idaho
Residing at: Idaho Falls, Idaho
My Commission Expires: ~~July 7, 2009~~
June 7, 2010

17. Notice of Appearance:

Notice is hereby given that I, Robert L. Harris, 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

Robert L. Harris

Address: PO Box 50130, Idaho Falls, ID 83405-0130

Date: ~~April~~ 27, 2007

March

Last Name Natural Guardian Ltd. Partnership Ident. Number _____

NATURAL GUARDIAN WATER RIGHTS PLACE OF USE DESCRIPTION: TAYLOR CREEK WATER RIGHT

[illegible]

NAME OF APPLICANT *F. H. Hagenbach*

SHEET 1

LEGEND

*Land under permit
of irrigation*



SCALE 1 INCHES = 1 MILE DRAWN PLAN BY

TERRACE TOWN

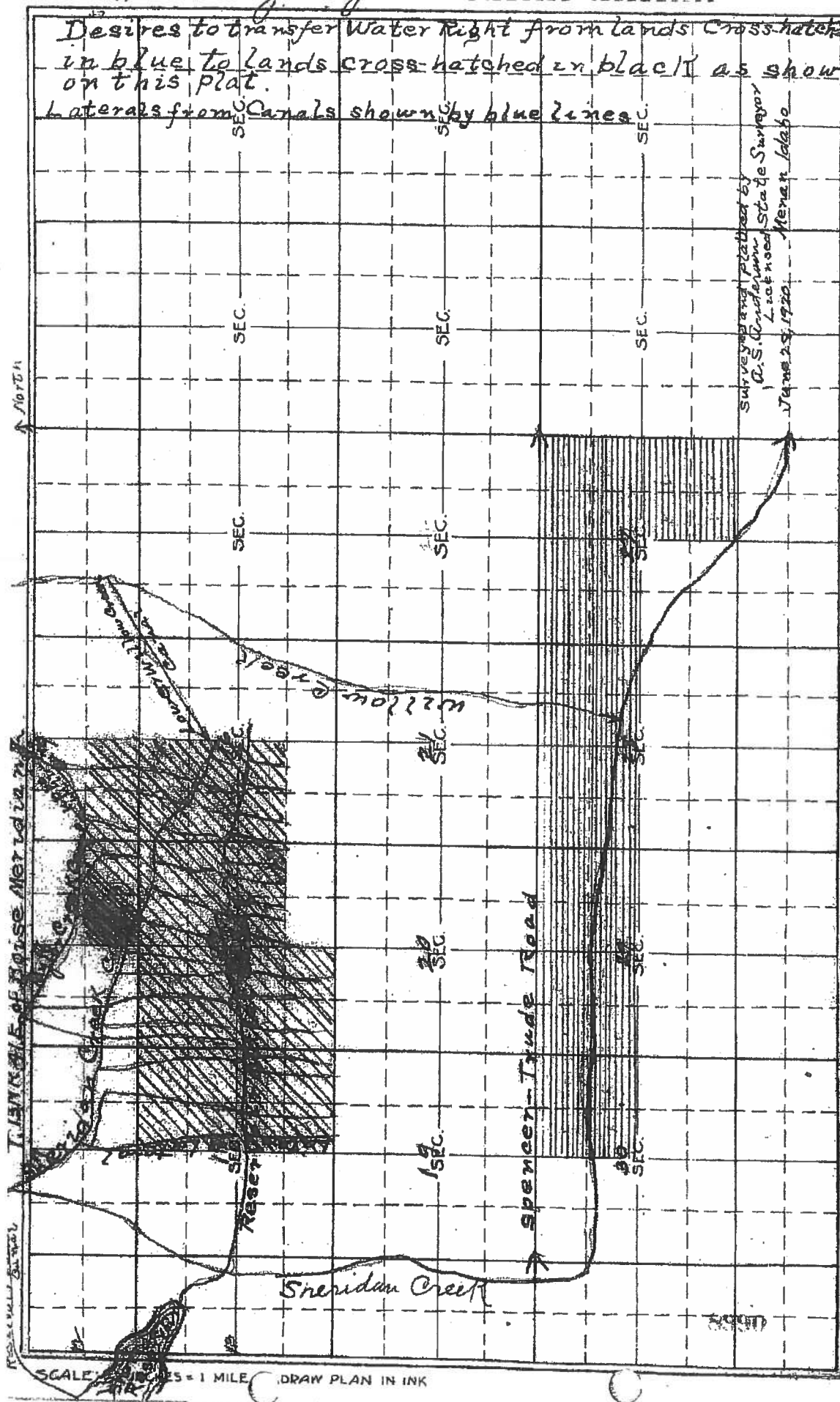
SHEET 1

Name of Applicant: F. J. Hagendarff Permit # 8990 Wood L. S. Co.

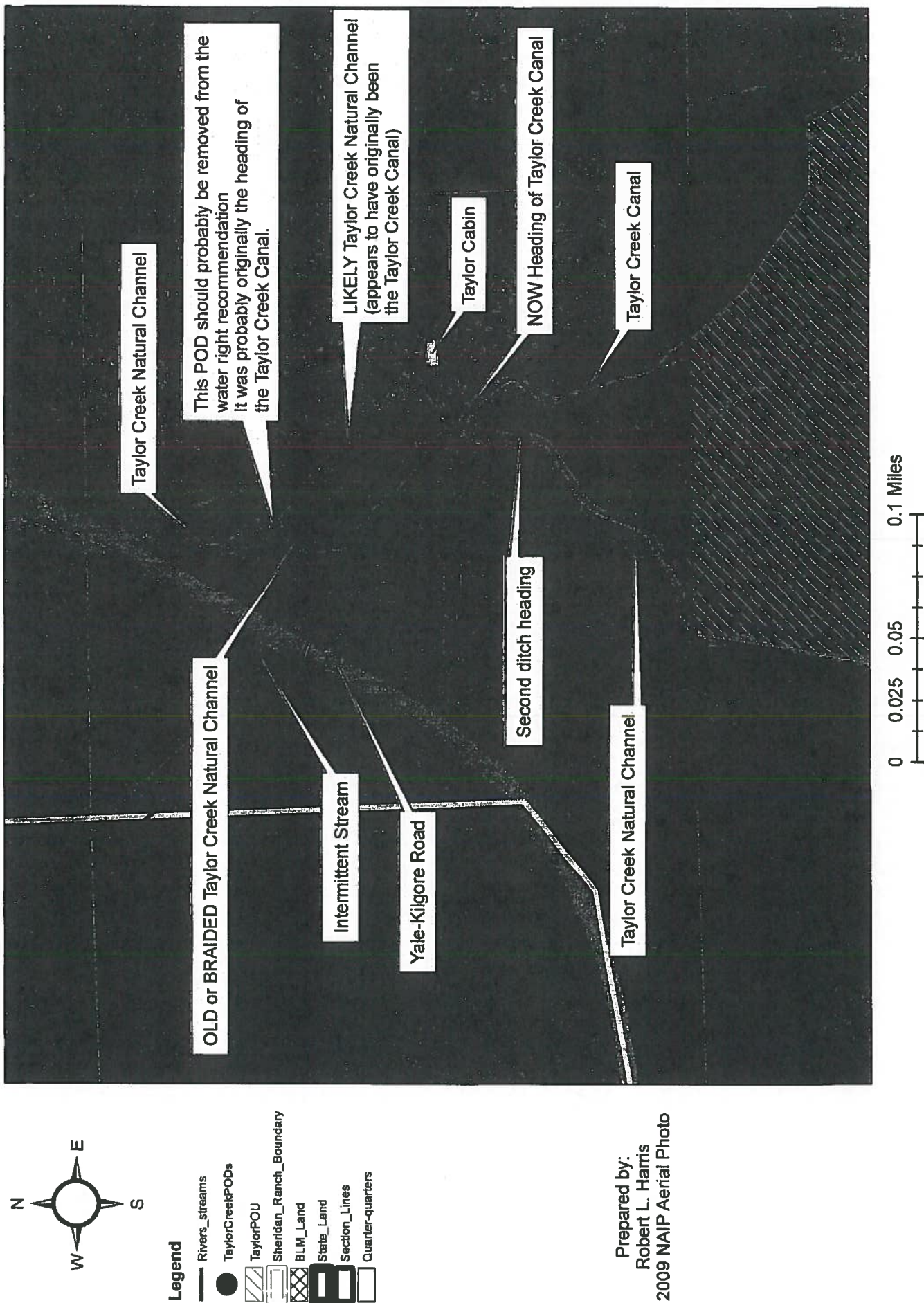
Desires to transfer Water Right from lands cross-hatched in blue to lands cross-hatched in black as shown on this plat.

Laterals from Canals shown by blue lines

Surveyed and platbed by
A. S. Conderman
Lickwood
June 25, 1926
Menard Idaho



NATURAL GUARDIAN TAYLOR CREEK WATER RIGHT NO. 21-13102



Prepared by:
Robert L. Harris
2009 NAIP Aerial Photo

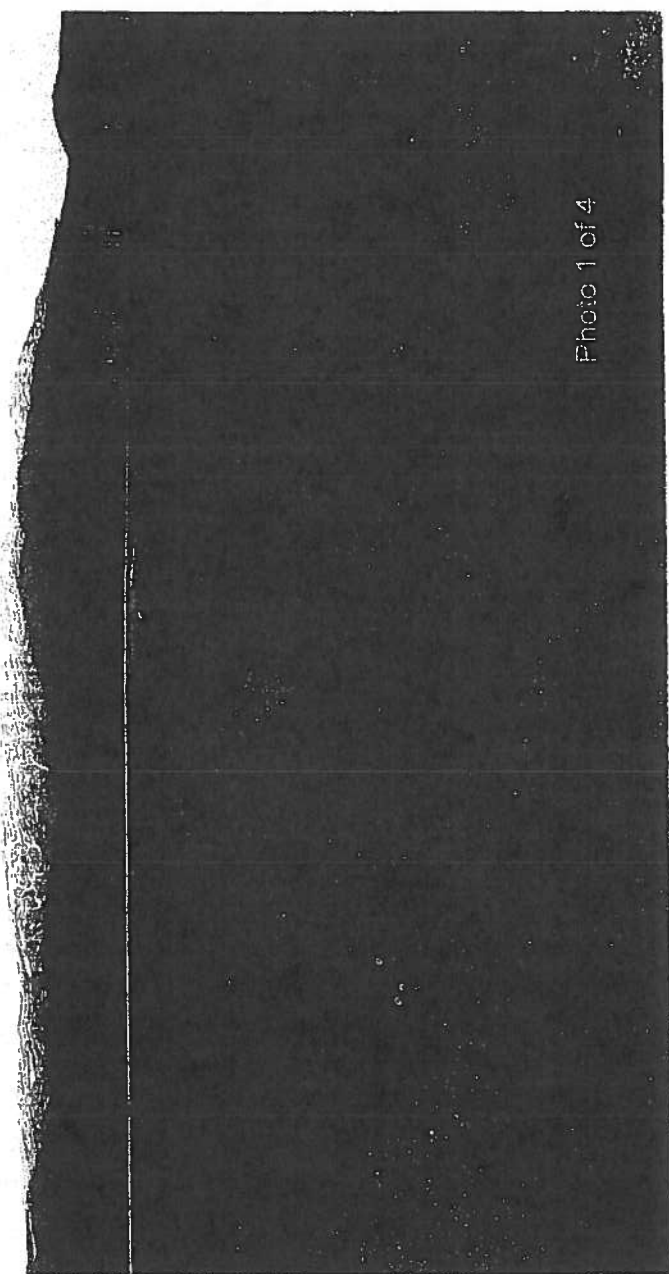


Photo 1 of 4

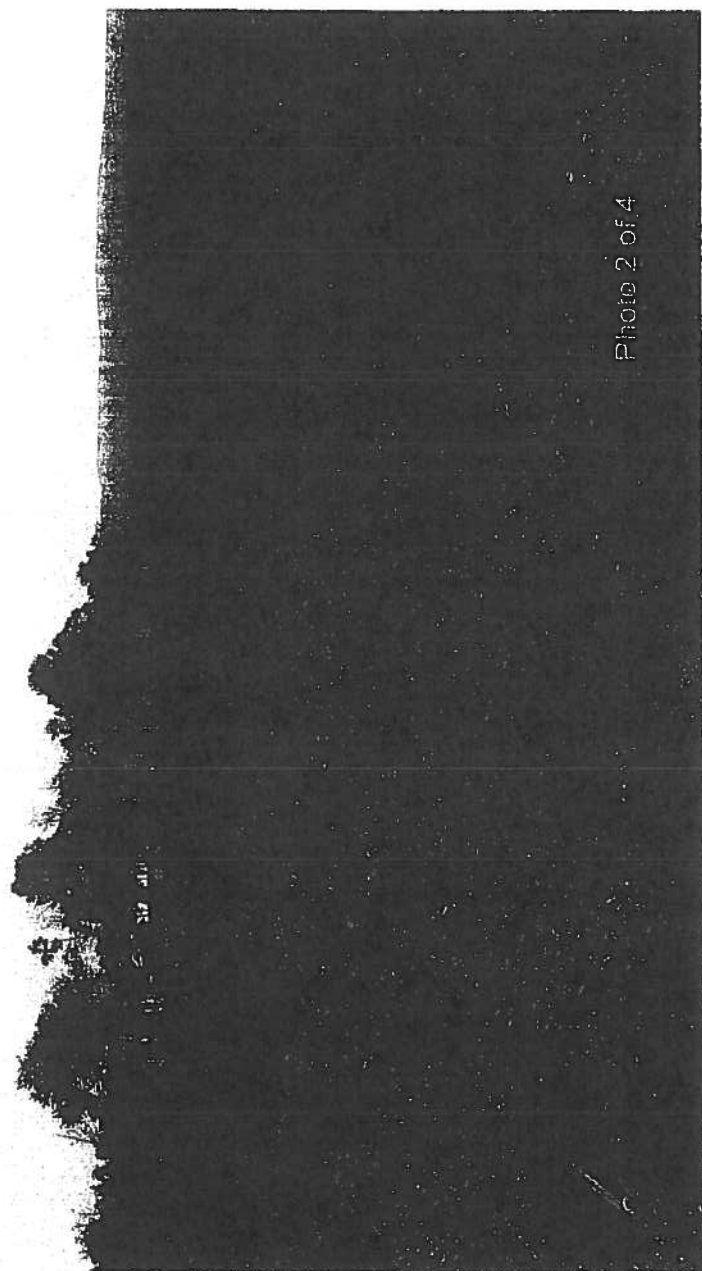


Photo 2 of 4

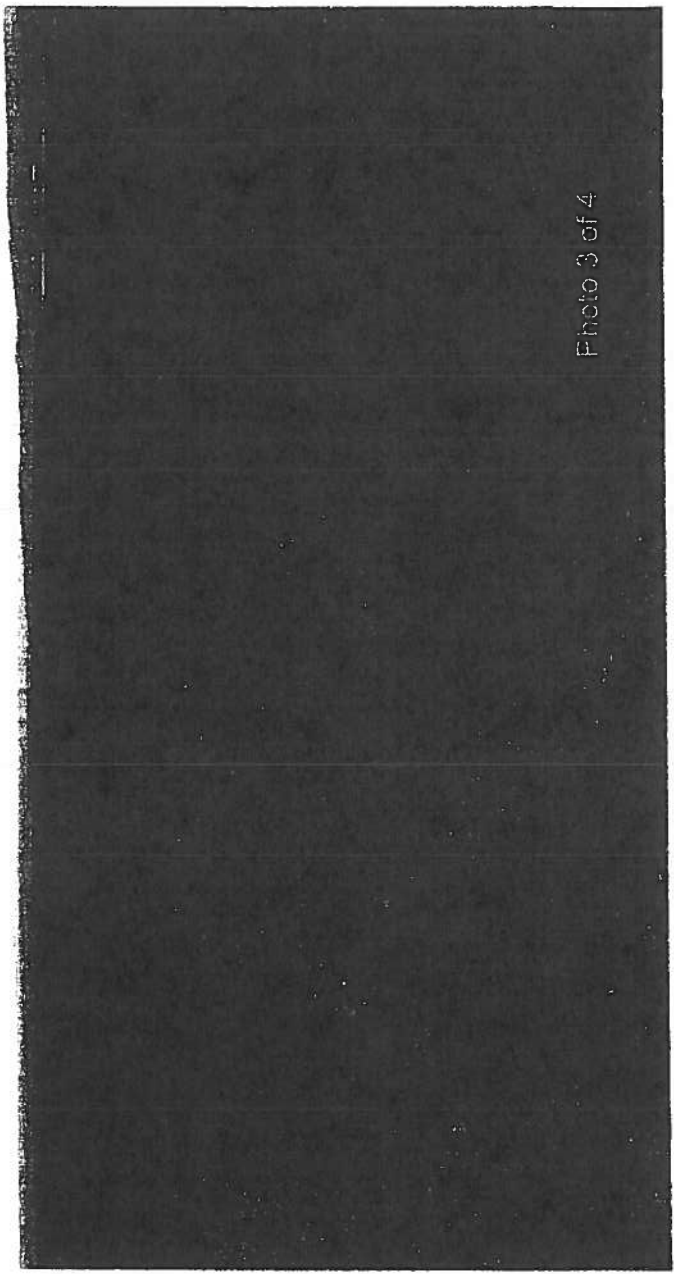


Photo 3 of 4

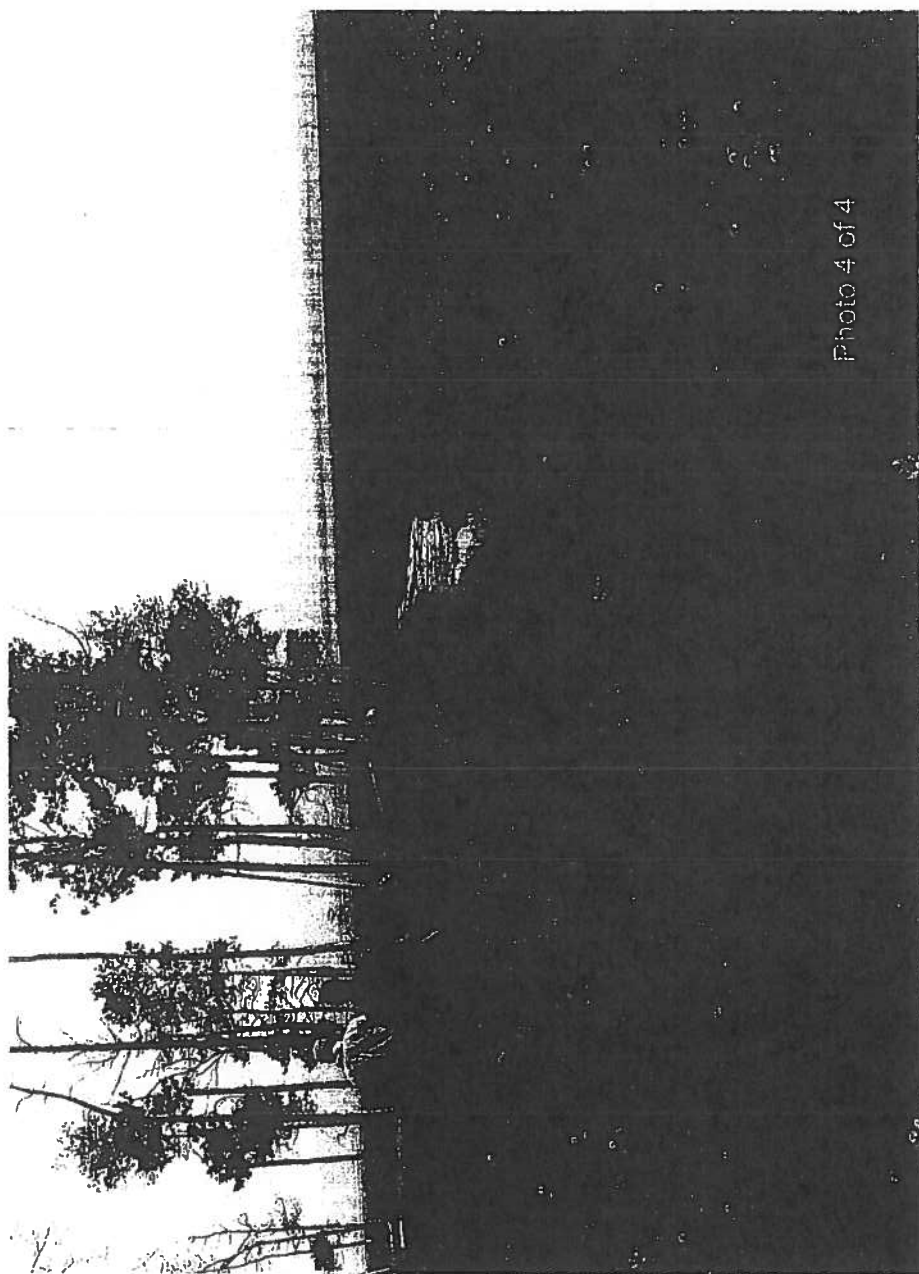


Photo 4 of 4

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

RIGHT NUMBER: 21-13102

NAME AND ADDRESS: NATURAL GUARDIAN LTD PARTNERSHIP
2880 N 55 W
IDAHO FALLS ID 83402

SOURCE: TAYLOR CREEK

TRIBUTARY: SINKS

QUANTITY: 5.000 CFS

PRIORITY DATE: 09/24/1912

POINT OF
DIVERSION: ~~T13N R41E S8 NWSNW Within CLARK County~~
~~T13N R41E S8 SESWNW Within CLARK County~~
~~T13N R41E S8 SESWNW Within CLARK County~~

PURPOSE AND
PERIOD OF USE:

	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	04/15 10/15	5.000 CFS
PLACE OF USE:	<u>IRRIGATION in CLARK County</u>		
	T13N R41E S08 SWNE	25.00 T13N R41E S08	NESW 21.00
	T13N R41E S08 NWSW	30.00 T13N R41E S08	SWSW 14.00
	T13N R41E S08 SESW	19.00 T13N R41E S08	NESE 40.00
	T13N R41E S08 NWSE	37.00 T13N R41E S08	SWSE 26.00
	T13N R41E S08 SESE	36.00	

248 ACRES TOTAL

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

The exercise of this right is subject to the water right holder obtaining and maintaining a state land use easement and/or access permit for access and maintenance of the diversion and conveyance works located on State lands.

As of the date of the partial decree of this water right, temporary authorization for maintenance and diversion of the conveyance works located on State lands is evidenced by land use permit No. 80-0557 which expires on December 31, 2012.

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 - Beneficial Use

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

RIGHT NUMBER: 21-13102

NAME AND ADDRESS: NATURAL GUARDIAN LTD PARTNERSHIP
2880 N 55 W
IDAHO FALLS ID 83402

SOURCE: TAYLOR CREEK

TRIBUTARY: SINKS

QUANTITY: 5.000 CFS

PRIORITY DATE: 09/24/1912

POINT OF
DIVERSION:

T13N R41E S8 NWSWN Within CLARK County

T13N R41E S8 SESWNW Within CLARK County

T13N R41E S8 SESWNW Within CLARK County

PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>		<u>PERIOD OF USE</u>		<u>QUANTITY</u>
	IRRIGATION		04/15 10/15		5.000 CFS
PLACE OF USE:	<u>IRRIGATION in CLARK County</u>				
	T13N R41E S08	SWNE	25.00	T13N R41E S08	NESW 21.00
	T13N R41E S08	NWSW	30.00	T13N R41E S08	SWSW 14.00
	T13N R41E S08	SESW	19.00	T13N R41E S08	NESE 40.00
	T13N R41E S08	NWSE	37.00	T13N R41E S08	SWSE 26.00
	T13N R41E S08	SESE	36.00		

248 ACRES TOTAL

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

The exercise of this right is subject to the water right holder obtaining and maintaining a state land use easement and/or access permit for access and maintenance of the diversion and conveyance works located on State lands.

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 - Beneficial Use



Holden Kidwell
Hahn & Crapo P.L.L.C.
L A W O F F I C E S

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405

Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com
Email: rharris@holdenlegal.com

August 18, 2011

Pat Brown
Area Supervisor
Idaho Department of Lands Eastern Idaho Area Office
3563 Ririe Highway
Idaho Falls, ID 83401

RE: Request for Access Permit for Continued Location of Diversion Headings and Canal Located on State of Idaho Land in Township 13N, Range 41E, Section 8, SW1/4NW1/4 in Order to Finalize the Adjudication of Water Right No. 21-13102 in the Name of Natural Guardian Limited Partnership.

Dear Mr. Brown:

I was referred to you by David Stanish, who was for a number of years a deputy attorney general for the State of Idaho, but he recently left the Attorney General's office to go into private practice at the end of June. His replacement, Tyson Nelson, is now handling this particular matter, and I am copying him by this letter.

Enclosed is an email exchange I had with Mr. Stanish regarding his view that we could resolve the water right objections of the State of Idaho for Water Right No. 21-13102 if we obtained a permanent easement for the location of diversion structures and a canal located in the SW1/4NW1/4 of Township 13 N, Range 41 E, Section 8 which is on land owned by the State of Idaho. Mr. Stanish emailed to me a copy of the Department of Lands' easement application and its instructions. In reviewing those instructions, we see that it is a requirement to obtain a surveyed legal description of the structures in order for the easement application to be submitted. Since these structures have existed for a long time, we do not anticipate any problem in obtaining the easement, but in the meantime would like to obtain an access permit that would temporarily authorize the existence of the diversion headings and the canal on the property with an Idaho Department of Lands reference number. With that number in hand, we could then reference it in the settlement documents for the adjudication of Water Right No. 21-13102, with the understanding that we would pursue obtaining a permanent easement for location of these structures. I have visited with Heath Hancock, and he indicated that there is no actual form for an access permit, but that we would simply make the request in writing. This letter is therefore our request to obtain such an access permit.

The enclosed documents have been provided for your information and assistance in

Established in 1896

understanding the scope and extent of these diversion structures. The first enclosure is the email correspondence between myself and Mr. Stanish. Secondly, we have attached maps that were obtained from old water right back files that clearly show the existence of the Taylor Creek Canal. One of the maps that is very interesting is a survey map from June 28, 1920 from an A.S. Anderson, licensed state surveyor from Menan, Idaho. Both maps show the existence of the Taylor Creek Canal. We have additionally enclosed a copy of our claim for this particular water right in the Snake River Basin Adjudication. Additionally, we have enclosed a GIS map prepared by myself that is on top of a 2009 aerial photo. I have tried to label significant features on the property, including the Taylor cabin that exists on the property site. I visited this site two years ago, and have also attached some photographs as well. Based upon my site tour, and review of the aerial photography, it appears that part of what I would consider the natural channel of Taylor Creek was formerly the upper portion of the Taylor Creek Canal, which was directed close to the Taylor cabin, which I presume was done to provide domestic or drinking water to the owner of that property. At the heading of the upper diversion point, you can see the start of what appears to be the old or braided channel of the creek. Therefore, as noted on the GIS map, the upper diversion point probably needs to be removed from the water right recommendation. We included it in our claim because it was unclear at the time whether that was the diversion heading or not. Based upon our review of this recent aerial photography, it is clear that the natural channel would likely be considered the former upper portions of the canal. This is further evidenced by the fact that at the upper point of diversion location, there were no actual diversion structures, but only a pile of material that appears to have been put in place many, many years ago to divert the water. Without any solid diversion structure, I do not think it would be appropriate to consider this a point of diversion.

Therefore, the diversion structures which we seek authorization for would consist of the bottom two points of diversion, which would include the heading of the Taylor Creek Canal, as well as a second ditch heading that is located a little further downstream. We would also survey the Taylor Creek Canal as it exists on the property until it exits the property at the beginning of the NW1/4SW1/4 of 13N., 41E., Section 8.

We appreciate your attention to this matter and based upon my conversation with Mr. Hancock, would hope to have the access permit issued by the end of September. We have a status conference with the Snake River Basin Adjudication Court on October 6, and would like to report then that we have obtained the access permit and its associated number, and can resolve the case through settlement documents.

If you have any questions, or need more information, please do not hesitate to contact me.

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

RIGHT NUMBER: 21-13102

NAME AND ADDRESS: NATURAL GUARDIAN LTD PARTNERSHIP
2880 N 55 W
IDAHO FALLS ID 83402

SOURCE: TAYLOR CREEK

TRIBUTARY: SINKS

QUANTITY: 5.000 CFS

PRIORITY DATE: 09/24/1912

POINT OF
DIVERSION:

~~SECTION 36 T13N R41E S08 CLARK COUNTY~~
T13N R41E S8 SESWNW Within CLARK County

PURPOSE AND
PERIOD OF USE:

	PURPOSE OF USE		PERIOD OF USE		QUANTITY
	IRRIGATION		04/15 10/15		5.000 CFS
PLACE OF USE:	IRRIGATION in CLARK County				
	T13N R41E S08	SWNE	25.00	T13N R41E S08	NESW 21.00
	T13N R41E S08	NWSW	30.00	T13N R41E S08	SWSW 14.00
	T13N R41E S08	SESW	19.00	T13N R41E S08	NESE 40.00
	T13N R41E S08	NNSE	37.00	T13N R41E S08	SWSE 26.00
	T13N R41E S08	SESE	36.00		

248 ACRES TOTAL

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

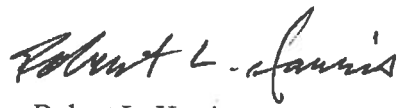
The exercise of this right is subject to the water right holder obtaining and maintaining a state land use easement and/or access permit for access and maintenance of the diversion and conveyance works located on State lands.

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 - Beneficial Use

AS OF THE DATE OF THE PARTIAL DECREE OF THIS WATER RIGHT, TEMPORARY AUTHORIZATION FOR THE MAINTENANCE AND DIVERSION OF THE CONVEYANCE WORKS LOCATED ON STATE LANDS IS EVIDENCED BY LAND USE PERMIT NO. 80-0557 WHICH EXPIRES ON DECEMBER 31, 2012.

Best Regards,

A handwritten signature in black ink, appearing to read "Robert L. Harris". The signature is fluid and cursive, with the first name "Robert" and last name "Harris" clearly legible.

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures

cc: Tyson Nelson
Natural Guardian

G:\WPDATA\IRL\H\1692 Natural Guardian\08 Spencer, Kilgore, Sheridan\pat brown ltr 2011.08.18.docx\MD

STATE OF IDAHO

LAND USE PERMIT NO. 80 0557

Permission is hereby granted to Natural Guardian LP, 2880 North 55 West, Idaho Falls, ID 83402, to maintain a point of water diversion and irrigation ditch on and across the following described lands as shown on the map attached and made a part thereof.

(Legal Description)

<u>Twn</u>	<u>Rng</u>	<u>Sec</u>	<u>Description</u> (to the quarter-quarter) (include name of lake or riverbed, if applicable)	<u>County</u>	<u>Acres</u>	<u>(IDL Fund)</u>	<u>AUMs (If Needed)</u>
13N	41E	08	PT SWNW	Clark	+/- 1.0	PS	NA

This permit is subject to the following terms and conditions:

1. This authorization is effective upon signature by the Area Manager and upon payment of the required fee by the Permittee.
2. This permit is granted in consideration of the receipt of Two-hundred and fifty dollars (\$250.00) and the Permittee's diligent effort to obtain a permanent easement for the diversion and ditch. The \$250.00 permit fee will be applied to fees associated with a permanent easement for the diversion and ditch being sought by the Permittee.
3. The Permittee shall indemnify and hold harmless the State of Idaho and its representatives against and from any and all demands, claims or liabilities of every nature whatsoever, arising directly or indirectly from or in any way connected with the use authorized under this permit.
4. This permit may be cancelled after written notice to the Permittee of non-compliance with the terms herein and failure of the Permittee to correct noted non-compliance.
5. This permit is non-exclusive to the Permittee, except that other uses will not be designed to restrict the Permittee in the exercise of this permit.
6. This permit may be assigned with the approval of the area supervisor. If approved, the Permittee will give written notice of the name and address of the assignee to the supervisor of the Area Office, Department of Lands.
7. The Permittee shall exercise every reasonable effort to protect the forage and watershed resources.

8. The Permittee will comply with all federal, state, and local laws and with all rules and regulations of the State Board of Land Commissioners pertaining to forest and watershed protection, and with the Stream Channel Protection Act as designated in Chapter 38, Title 42 of the Idaho Code as administered by the Department of Water Resources.
9. The Permittee will be required to maintain and leave the permitted area in a clean and tidy condition.
10. It is understood and agreed that the permittee shall take measures to control noxious weeds within the permitted area in accordance with Title 22, Chapter 24, Idaho Code. The Permittee shall cooperate with any state or other agency authorized to undertake programs for control or eradication of noxious weeds. Failure to comply would be justification for the State to terminate the permit.
11. Payments must be received on or before the due date to avoid late fees. Payments received after the due date will be assessed late fees as follows: 1% of the unpaid balance or \$25 whichever is greater. Late fees will continue to accrue on your account until all rent and fees are paid in full.
12. This permit shall expire on December 31, 2012, but may be extended upon request of the Permittee and at the discretion of the Area Manager.

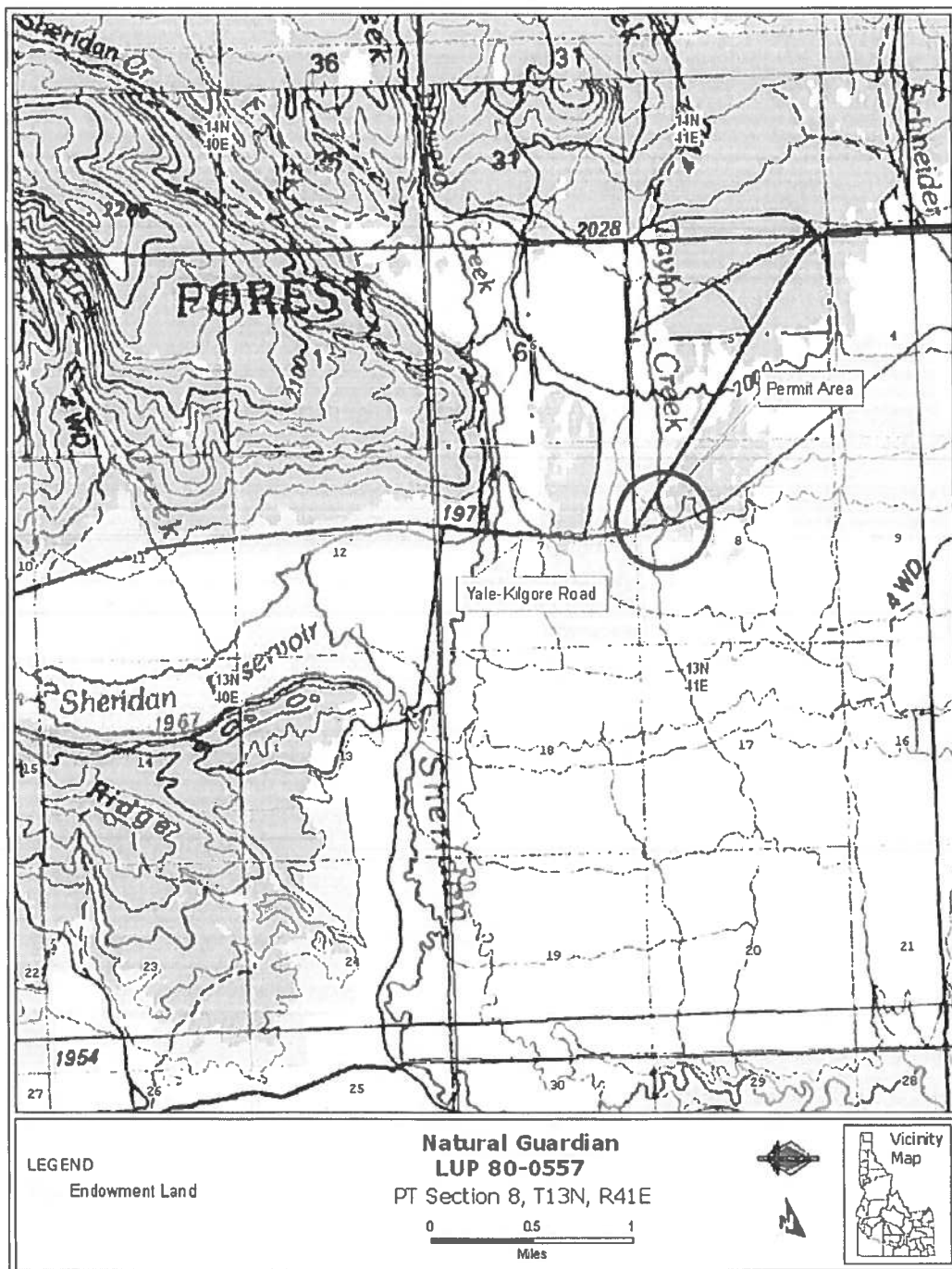
ISSUED this day of , 20 .

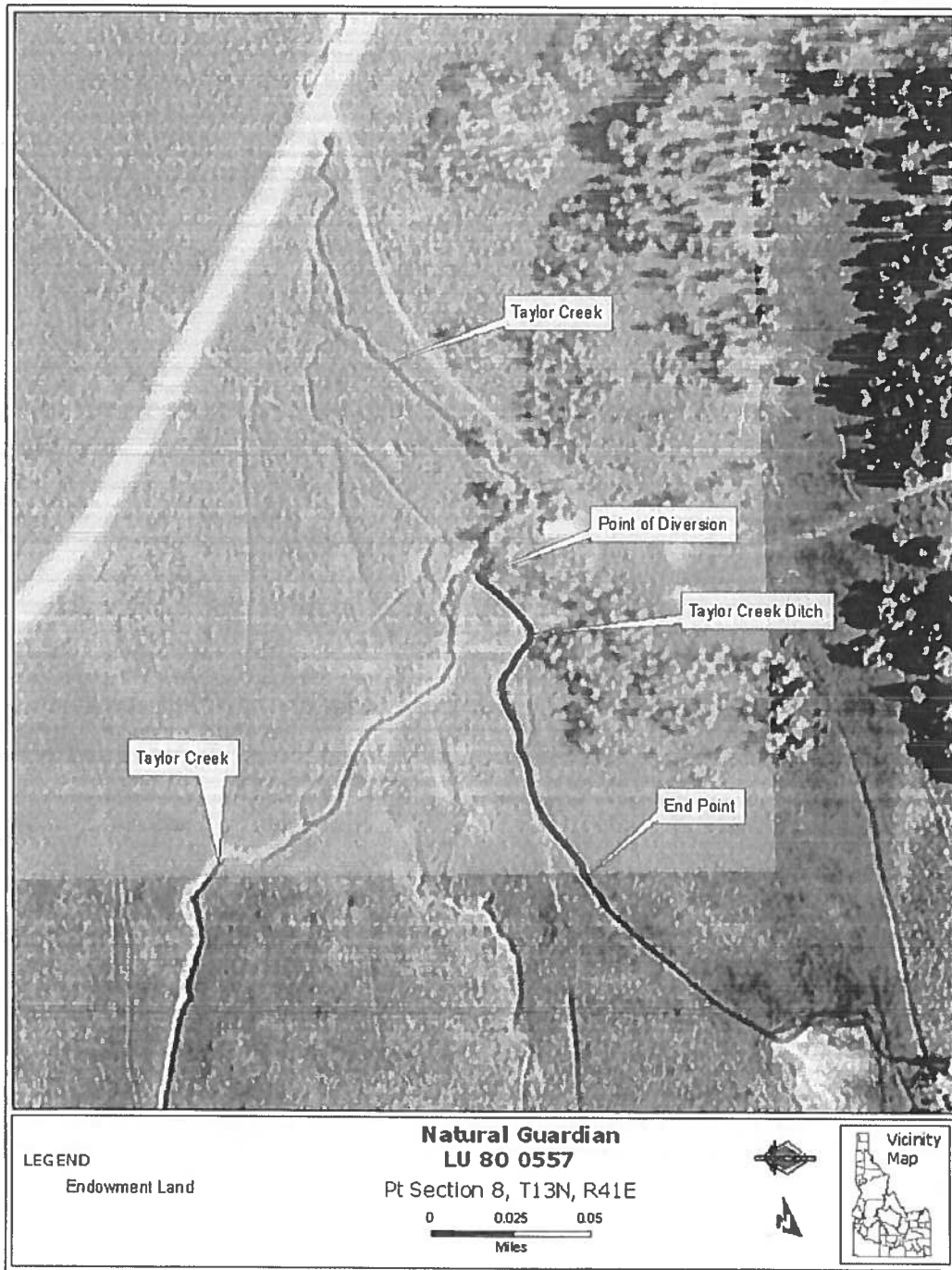
Patrick Brown, Area Manager

Permittee

Date

Date





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

In Re SRBA	)	Subcase No. 21-13102
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
_____	)	WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT:

Natural Guardian, Ltd.

OBJECTOR

State of Idaho

Department of Lands

Robert L. Harris, Attorney Date
Date

Tyson Nelson
Deputy Attorney General

IDWR Concurrence:

Denise Kidman 8-17-11
Denise Kidman Date
Agent, IDWR

Nicholas Spencer Date
Deputy Attorney General

CERTIFICATE OF MAILING

I certify that on _____, 2011, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

NATURAL GUARDIAN LTD
Represented by:
ROBERT L HARRIS
1000 RIVERWALK DR, STE 200
PO BOX 50130
IDAHO FALLS, ID 83405

STATE OF IDAHO DEPT OF LANDS
Represented by:
STATE OF IDAHO
JRW BUILDING, SECOND FLOOR
700 W STATE ST, PO BOX 44449
BOISE, ID 83711-4449

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

Signature of person mailing the form

COPY

RECEIVED

JAN 29 2010

DEPARTMENT OF
WATER RESOURCES

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

In Re SRBA

Case No. 39576

A. Subcase Number: 21-13102

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: State of Idaho,
Department of Lands
Address: 300 N. 6th Street, Suite 103
P. O. Box 83720
Boise, Idaho 83720-0050
Daytime Phone: (208) 334-0200

Name and Address of Attorney, if any:

Attorney Name: LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID I. STANISH (ISB # 7310)
Deputy Attorney General
Attorney Address: Office of the Attorney General
Joe R. Williams Bldg.
700 W. State St., 2nd Floor
P.O. Box 44449
Boise, ID 83711-4449
Attorney Phone No. (208) 334-2400

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

Name: Natural Guardian Ltd Partnership
Address: 2880 N 55 W
Idaho Falls, ID 83402

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

1. ☒ Name and Address
Should be: State of Idaho, Department of Lands, 300 N. 6th Street, Suite 103, P. O. Box 83720, Boise, ID 83720-0050 should be added as a joint owner of the water right where the three points of diversion are located on State-owned lands.
2. ☐ Source
Should be: _____
3. ☐ Quantity
Should be: _____
4. ☐ Priority Date
Should be: _____
5. ☒ Point of Diversion
Should be: IDL owns the T013N R41E S08 NWSWNW, SESWNW, SESWNW.
6. ☐ Instream Flow Description
Should be: _____
7. ☐ Purpose(s) of Use
Should be: _____
8. ☐ Period of Year
Should be: _____
9. ☐ Place of Use
Should be: _____
11. I object because:
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.



Idaho Department of Water Resources

MEMORANDUM

File: 21-13102 Natural Guardian
Date: July 14, 2009
Subject: Proof of Priority

Claimant filed a late claim with a priority date of 9-24-1912 and 7 cfs. The claim referenced Permit 8990 (21-2054) and map was proof of priority. Permit 8990 included Taylor Creek as one of the sources but doesn't reference it anywhere else in the permit.

Further research resulted in a letter from A.S. Anderson, Licensed State Engineer, on August 5, 1915. The letter explains the "Hagenbarth" map which provides the POD bearings he surveyed for permit 8990. Based on this evidence, the claimed priority date of 9-24-1912 will be recommended.

I checked the rates for all N.G. water rights and all except for 21-30B, 21-10011, and 21-12843 were issued at the standard rate. Those three rights were decreed or licensed at a reduced rate. If I calculate 21-13102 at IDWR standard rate, the rate would be 5 cfs (248 acres X 0.02 cfs = 4.96).

PROFILED

SCANNED

JUL 23 2009

From the desk of Denise Kidman

Spencer, Idaho, August 5, 1915

State Engineer,
Boise, Idaho

Dear Sir:

Under authority conferred by you and in accordance with your instructions, I herewith submit report on Sheridan Reservoir under amended Permit No. 3143.

This irrigation system irrigates lands located in Sheridan Valley about thirty-six miles easterly from Spencer, Idaho, and in the northern part of Fremont County, Idaho, in Township 13, North, Ranges 40 and 41, E. B. M.

This survey was made with a W. & L. E. Gurley transit, having 5-1/2 inch horizontal plate, with double verniers, reading to single minutes; also fitted with solar attachment, which I checked with observations on Polaris and the Sun and found correct and the levels were run with a Gurley 20 inch wye level.

The line of said canals as represented by the field notes is down the right bank of said canals and the survey of reservoir was made by deflecting angles on level line and measuring same. The survey of canals and laterals represents a grade line best adapted to fit the ground and economic construction.

All bearings are true bearings. The magnetic declination varies from 10° to 20° east on account of the presence of magnetic mineral in the ground. Wherever a line of the public survey is crossed by survey line of canal or reservoir, the bearing and distance of the nearest public corner from the point of intersection is given.

The survey was begun on June 19, 1915, and ended August 15, 1915.

I made four cross sections in soundings of the reservoir in addition to the one made at the dam itself and found the average depth to be 14 feet.

I found the dam to be constructed strictly in accordance with the specifications with a properly rip-rapped water surface.

It is equipped with two spillways:

Spillway No. 1 is 12 feet wide and 3 feet deep, with a grade of 5 feet to the mile, and its level at the head is five feet below the top of the dam.

Spillway No. 2 is 10 feet wide through solid rock, with a fall of 25 feet in 100 yards and the intake is located three feet below the top of the dam. This Spillway No. 2 was put in as a safety factor in case of cloud bursts and will carry a tremendous amount of water.

The main distributing canal is 10 feet wide, with 7 laterals, and affords ample avenue for distribution of water.

PROFILED

SCANNED
JUL 23 2009

The bed of reservoir is ideally located and consists of a loam and silt bottom, practically impervious to percolation, as has been demonstrated by fifteen years of use. The evaporation is taken care of by the inflow of constant springs which are owned by the owners of the reservoir.

The total area of the reservoir as at present constructed is 233.5774 acres and it has a capacity of 4,628.08 acre feet.

There are two feeder canals:

No. 1 From Dry Creek, which is 10 ft. wide and 2 ft. deep, with a fall of 20 ft. plus per mile.

Feeder canal No. 2 from Sheridan Creek is 6 ft. wide by 2 ft. deep with a fall of 32 feet plus per mile.

There is sufficient run-off in spring floods and winter storage from Dry Creek and Sheridan Creek to fill a reservoir twice the size of the one under consideration.

I have carefully examined the permit under which this reservoir is constructed and find that there are ample facilities for applying water to beneficial use for all the lands applied for thereunder.

All work has been conscientiously and thoroughly done and I unhesitatingly approve the same.

Yours truly,

A. S. Anderson

Licensed State Engineer.

Home P. O. Address, Menan, Idaho.

FILED

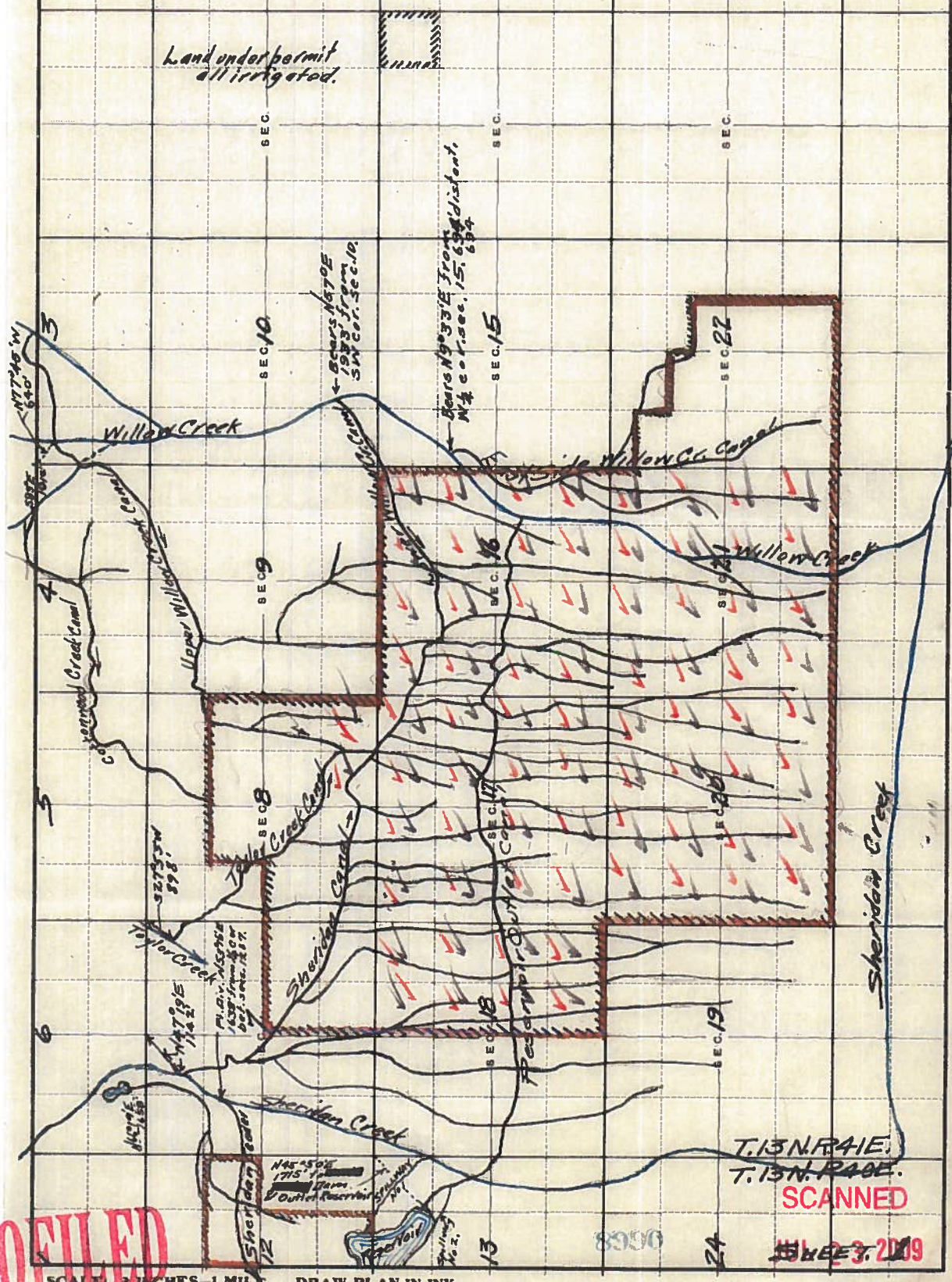
SCANNED

JUL 23 2009

SHEET 1

LEGEND

Land under permit
all irrigated.



Prepared by A.S. Anderson

Claim No(s). 201-13102

Claim No(s). 201-13102

[illegible]

Kidman, Denise

From: Rob Harris [rharris@holdenlegal.com]
Sent: Tuesday, July 07, 2009 1:57 PM
To: Kidman, Denise
Cc: Carlsen, Ernie; 'Troy Peterson'
Subject: RE: 21-13102 Natural Guardian Late Claim
Attachments: DOC070709.pdf

Denise:

I had a few minutes during lunch, so I took a look at the backfile you referenced, and want to provide additional information.

The first document is the map I submitted. However, in the backfile you referenced, there is another map that also shows the Taylor Creek Canal. It is the second map that is scanned that related to the transfer that moved all water from the south of the Spencer-Trude Road to the north portion of the property. There is also a note that a survey was made on June 28, 1920. This would put the priority date in the early 1900s. I picked the priority date that I did because it was after the Rexburg decree date.

I have also included a Report of Engineer showing beneficial use for Permit No. 8990. The source of water supply is listed as "Taylor Creek." This appears to be a reference that Taylor Creek was tributary to Sheridan, and was therefore listed as a source (the POD on Taylor Creek was not listed in the description on this document). In my view, it is also a reference to the fact that Taylor Creek water had been developed. I think the presence of the clearly labeled Taylor Creek Canal on both maps, in addition to this document, show that water was being put to beneficial use. Otherwise, there would be no need for the canal. I believe the date the first map was submitted was prior to the priority date we claimed, so these maps appear to be adequate evidence of priority.

I have also included a water right report for 21-2105, which is a water right out of Taylor Creek that was not claimed, and which IDWR's records say was "withdrawn." I'm not quite sure what this means, but no one filed a claim for it in the SRBA. Incidentally, the POU is on ground now owned by Natural Guardian, and therefore, it appears to be good evidence of water development in that time period. The actual license is also included, and the priority date is in 1905. This shows the general time period that water was developed in this area, and is consistent with other water right priorities from Sheridan Creek and elsewhere.

One final note is that the canal goes right next to a cabin that is on ground owned by the State of Idaho. It is ground that was homesteaded, and I suspect domestic water for the cabin was obtained from the canal. I'm not sure how to find out when the cabin was constructed, but I believe it was in the early 1900s. If you have access to that type of information from the State, it may prove to be useful to further demonstrate the need for water and time period the water right was developed.

Luke is looking through the file again to see if we can find other references to Taylor Creek. I'll let you know what I find.

As to the 7 cfs, it was my best guess of what could be diverted into the canal based upon the size of the canal. When we were there, there was a lot of runoff, and based on my best guess, it appears that about this much was flowing from the creek.

Let me know if you have additional questions.

T13N R4E Sec 8 SESE

7/7/2009

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC
1000 Riverwalk Drive, Suite 200
P.O. Box 50130
Idaho Falls, ID 83405-0130
Phone: (208) 523-0620
Fax: (208) 523-9518
E-Mail: rharris@holdenlegal.com

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From: Kidman, Denise [<mailto:Denise.Kidman@idwr.idaho.gov>]
Sent: Tuesday, July 07, 2009 11:47 AM
To: Rob Harris
Subject: 21-13102 Natural Guardian Late Claim

Rob,

I have been working on the recommendation for this late claim. I do have some concerns about the reference to Permit #8990, WR 21-2054. I have searched over 200 pages of documents for 21-2054 and have not found any reference to Taylor Creek. Permit 8990 specifically states Dry Creek and Sheridan Creek but nothing about Taylor Creek. I found read letters and affidavits about how the water was used and no mention of Taylor Creek. I agree that the "map" shows Taylor Creek but that will not be sufficient proof of priority. Had some of the documentation, letters, or affidavits mentioned Taylor Creek the map might be enough. Can you provide some other type of proof of priority?

You also claimed 7 cfs, do you have a specific reason for that? I checked the rates of all N.G. water rights and all except for 21-30B, 21-10011, and 21-12843 were issued at the standard rate. The three rights were decreed or licensed at a reduced rate. If I calculate 21-13102 at IDWR standard rate, the rate would be 5 cfs (248 acres X 0.02 cfs = 4.96). If you have any other information to support the request of 7 cfs, please send me a copy.

Look into this and let me know.

Thanks,

Denise Kidman

Water Resource Agent

Department of Water Resources

(208) 525-7161

(208) 525-7177 fax

!DSPAM:1090,4a538a5c51378180528467!

7/7/2009

NAME OF APPLICANT F. U. Hagenbach

Permit 0220

SHEET 1

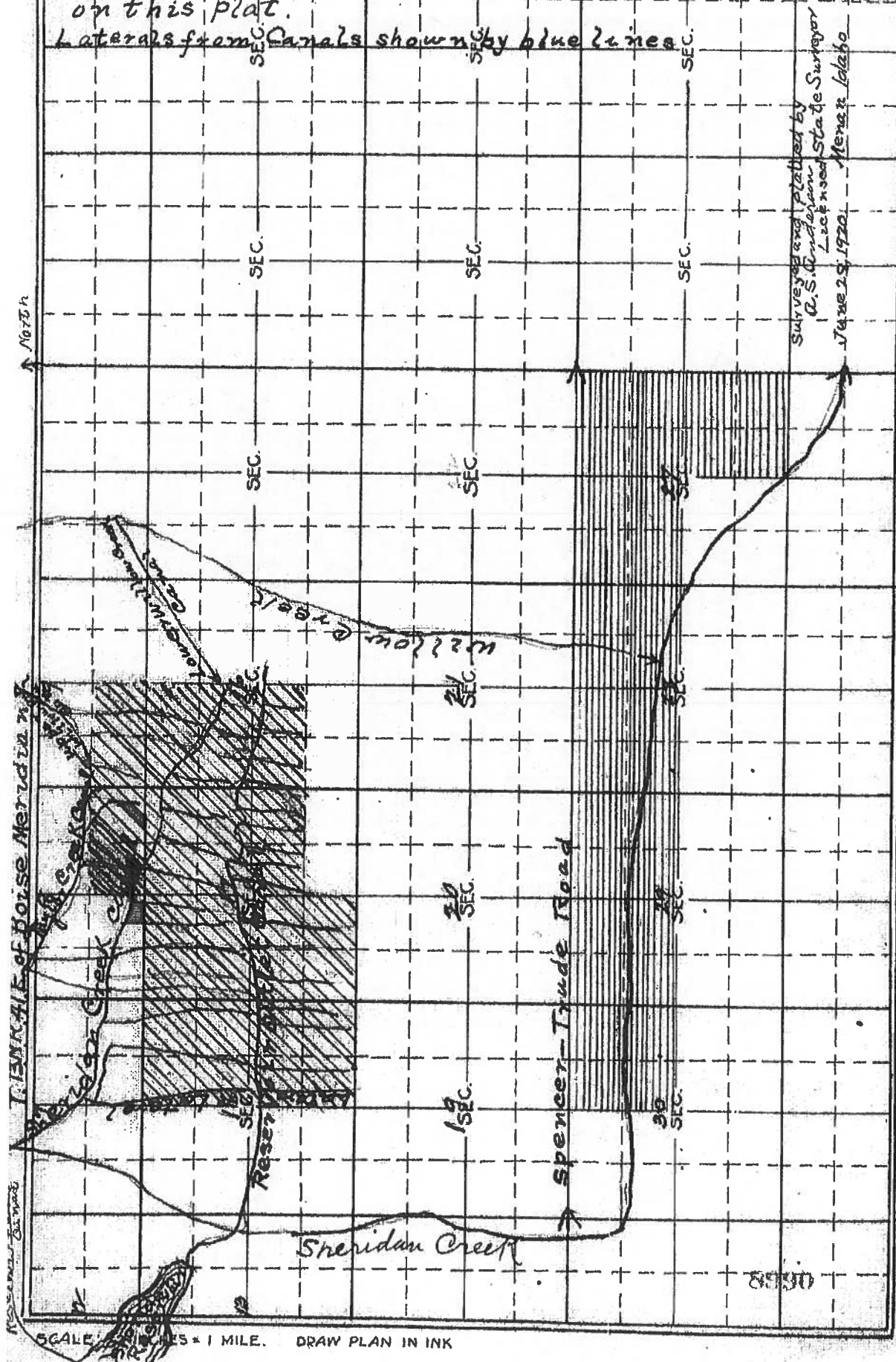
LEGEND

Land under permit
all irrigated



Name of Applicant. F. J. Hagenbarth Permit No. 8990 Wood L. S. Co.

Desires to transfer Water Right from lands cross-hatched in blue to lands cross-hatched in black as shown on this plat.
Laterals from Canals shown by blue lines.

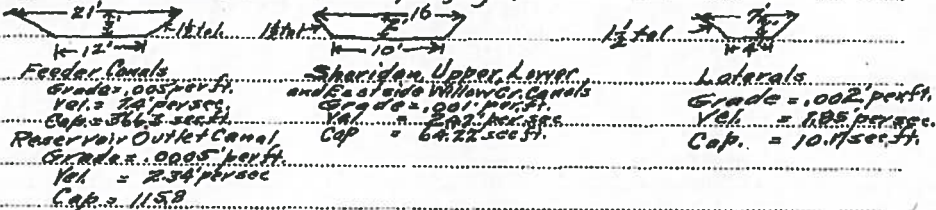


REPORT OF ENGINEER

This proof is for Beneficial use

In Water District No. _____

1. State name of applicant and number of permit: F. J. Hagenbarth #8990
2. State source of water supply: Sheridan Creek, Dry Creek, Willow Creek, Taylor Cr.
3. Location of point of diversion Feeder
Sheridan Feeder Canal bears N 50° 16' E 16.38' from corner of Sec. 16, T. 14 N. R. 4 E. Upper Willow Creek, bears S 77° 58' E 16.38' from W. corner Sec. 37, T. 14 N. R. 4 E. Sheridan Outlet Canal pt. div. from Reservoir, bears S 50° 16' E 16.38' from N. corner Sec. 16, T. 14 N. R. 4 E. Willow Creek, bears N 69° 50' E 16.38' from W. corner Sec. 16, T. 14 N. R. 4 E. Pt. Div. Sheridan Canal to W. corner Sec. 16, T. 14 N. R. 4 E. bears N 50° 16' E 16.38' from W. corner Sec. 37, T. 14 N. R. 4 E.
4. Describe works as they exist, giving dimensions and capacities of same: Two Feeder Canals from Dry Cr. and Sheridan Cr. respectively. Reservoir - 350.57 acres. Capacity 115.5 acre feet. Head 30' high and 600' long. Earth and rock dam. Timber Headgate. Timber head gates at head of Feeder Canals. All Willow Creek Canals & Crib dam filled with rock. Timber Headgates. For location see accompanying plat.



5. State whether or not water has been turned into works of diversion: Yes.
All land is irrigated and principal crop is hay.
6. Give exact location of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation): _____
7. Submit map on enclosed plat, showing location and details of above description.
8. How many parties conduct water in this system? Sheridan Ranch.
9. Give names and amount of each right: F. J. Hagenbarth. See paragraph 6.

10. What large stream would the water here appropriated finally reach? Snake River.
11. Describe the various tributaries en route, from point of diversion to the principal drainage stream: Sheridan Creek, Called Shotgun Creek farther down, empties into North Fork of Snake River. Dry Creek is tributary to Camas Creek which terminates in Mud Lake, also tributary to Sheridan Creek and empties into North Fork of Snake River.
- Remarks: Flood water is generally used for the 1st irrigation without resort to the storage water in the Reservoir which is used later in the season.

This examination was made on the 18-24 day of July 19 20

(Signed)

A. S. Anderson

Examiner.

(This report must be sworn to when not made by an attache of the office.)

STATE OF IDAHO,

County of Clark } ss.

A. J. Anderson, being first duly sworn, deposes and says that the statements contained in the within report are correct to the best of his knowledge and belief.

Subscribed and sworn to before me this 7 day of Sept 1920

My commission expires 1924 C. W. Hardy Notary Public.

Instructions to Examiners

1. Examiners will not be permitted to examine any of the records in the office pertaining to this permit. They are to furnish a report of the facts and conditions as they exist, from their own observations and inquiries.
2. Always carefully note the location of the point of diversion, and accurately plot same.
3. Find out how many parties own right in the ditch or canal and give their names and amount of right.
4. When proof is for beneficial use, carefully check up the number of acres actually irrigated in each forty and accurately plot same.
5. Make a map showing the correct location of streams and ditches, and the irrigated lands, and any adjacent permanent landmarks, such as towns, lakes, large streams and public roads.
6. If any unusual conditions are discovered, make a plain statement of them under remarks.
7. Always see the holder, if possible, and go over the whole ground with him, and make your report only upon actual existing facts and conditions.

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

7/7/2009

WATER RIGHT NO. 21-2015

Owner Type	Name and Address
Current Owner	JOHN POAD KILGORE, ID

Priority Date: 09/22/1905

Basis: License

Status: Active

Source	Tributary
TAYLOR CREEK	SINKS

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	/	/	1.6 CFS	
DOMESTIC	/	/		
Total Diversion			1.6 CFS	

Location of Point(s) of Diversion:

TAYLOR CREEK	SESE	Sec. 18	Township 13N	Range 41E	CLARK County
--------------	------	---------	--------------	-----------	--------------

Place(s) of use:

Place of Use Legal Description: IRRIGATION CLARK County

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
13N	41E	19		NESE	40		SESE	40						

Place of Use Legal Description: DOMESTIC same as IRRIGATION

Total Acres: 80

Dates:

Licensed Date: 08/29/1983

Decreed Date:

Permit Proof Due Date:

Permit Proof Made Date:

Permit Approved Date:

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 01

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

No Color
Documents
In File

Fremont County
1 3/5 sec. ft.
Taylor Creek
Irrigation
Priority 9-22-05

S T A T E O F I D A H O

- Water License No. 1576 -

WHEREAS, On the twenty-eighth day of September, A. D. 1905, JOHN POAD of Kilgore, County of Fremont, and state of Idaho duly made application (No. 2184) to me for a permit to use 1 3/5 cubic feet per second of the waters of Taylor Creek, County of Fremont, State of Idaho, for irrigation and domestic purposes; and

WHEREAS, On the thirtieth day of September, A. D. 1905 Permit No. 1576 was issued to said applicant for the diversion of said water, and providing for the completion of the works of diversion therein described on or before the thirtieth day of September, A. D. 1906, and for the application to beneficial use of said water on or before the thirtieth day of September, A. D. 1906, and,

WHEREAS, On the twenty-sixth day of January, A. D. 1906 the holder of said permit duly made proof of the completion of adequate works for the diversion of 1 3/5 cubic feet per second of said waters, as evidenced by my Certificate No. 1576, dated September 6, 1906, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use 1 3/5 cubic feet per second of water, with date of priority of September 28, 1905, and,

WHEREAS, On the twenty-sixth day of January, A. D. 1906, proof was duly made of the application to beneficial use of 1 3/5 cubic feet per second of said water;

NOW, THEREFORE, By virtue of the authority vested in me by the laws of the State of Idaho, I hereby grant and confirm to JOHN POAD of Kilgore, the holder and owner of said Permit No. 1576, a perpetual right, dating from September 28, 1905, to the use of 1 3/5 cubic feet per second of the waters of Taylor Creek, in the County of Fremont, and State of Idaho, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at SE 1/4 of SE 1/4 of section 18, Tp. 13 N., R. 41 E. B. M., and conducted to and upon (E 1/4 of SE 1/4 of Section 19, Tp. 13 N., R. 41 E. B. M. for the purpose of irrigation and domestic use, subject, however, to the laws of the State of Idaho applicable to a license for the use of the waters of the State, and subject, also, to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS, My hand and the seal of my office at Boise, Idaho, this sixth day of September, A. D. Nineteen Hundred and six.

Jas. Stephenson, Jr.

(Seal)

State Engineer.

recorded Sept. 7, 1906.

21 2015

No. 2184

APPLICATION FOR PERMIT

To Appropriate the Public Waters of the State of Idaho.

1. Name of applicant - JOHN POAD
Postoffice address: P. O. - Kilgore
County Fremont, Idaho.
2. The quantity of water claimed is $1 \frac{3}{5}$ cubic feet per second.
3. Source of water supply - Taylor Creek, Fremont County, Idaho.
4. Location of point of diversion - SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18, Tp. 13 N., R. 41 E.
5. To be used for:
 - I. Irrigation and domestic use:
 - (a) Number of acres to be irrigated eighty acres.
 - (b) In the following legal subdivisions - E $\frac{1}{2}$ SE $\frac{1}{4}$ Section 19, Tp. 13 N., R. 41 E.
6. Estimated cost of works - \$150.00
7. Description of works for diversion:
 - I. Kinds of works - Dam and ditch.
 - II. Dimensions of Works:
 - (a) Height of dam 2 feet, length of dam at top 4 feet, length of dam at bottom 4 feet, material used in construction stone and brush.
 - (c) Size of headgate, width 4 feet, height 2 feet.
 - (d) Ditch (flume or pipe) width at bottom 4 feet, width at water line 4 feet, depth of water 2 feet. Average grade per mile is 20 inches. Length of ditch is 1 mile, and it crosses the following quarter sections - NE $\frac{1}{4}$ Section 19, Tp. 13 N., R. 41 E., to E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 19, Tp. 13 N., R. 41 E., which is the point of intended use.
8. Time required for the completion of the construction of such work is now complete.
9. Time required for the complete application of the water to the proposed use is 1 additional year.

Remarks:

Would prefer to make final proof of complete application of the use of the water in the summer of 1906.

Approval of State Engineer.

The number of this permit is 1576.

Date of first receipt of application 9 a. m. September 28, 1905.

Recorded in Book 5, page 1576. Approved September 30, 1905.

This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho and hereby grant the same, subject to the following limitations and conditions:

Work to begin on or before November 29, 1905, and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.

One-fifth of the work above specified to be completed on or before March 30, 1906.

The whole of said work to be completed on or before September 30, 1906.

The time for the proof of beneficial use of water appropriated in accordance herewith, to extend to September 30, 1906.

Witness my hand this 30 day of September, 1905.

Jas. Stephenson, Jr.

State Engineer.

Notice of Proof of Completion of Works and Notice of Proof of Application of Water to Beneficial Use received December 16, 1905,

Notice for publication mailed Fremont County News, St. Anthony, Idaho, December 16, 1906, with date for proof fixed as January 26th, 1906, and St. Anthony as the place. Deposition blanks mailed applicant same date.

Affidavit of publication of notice and depositions for both proofs received February 15, 1906. Fee of \$22.00 for both proofs, permits 1576 and 1609 rec'd 2-15-06.

Mr. Brig Nelson, reas. Idaho, authorized February 15, 1906 to make examination and report to the State Engineer.

Report of Mr. Nelson received May 21st, 1906, and returned same date for additional information. Corrected report received June 14th, 1906, but unsatisfactory.

Mr. John W. Hart, Spencer, Idaho, authorized August 22, 1906 to make an examination of works.

Report of Mr. Hart received September 4, 1906.

Report and depositions show that works have been completed of a capacity to divert and convey to the place of intended use the amount of water for which application was made, and that the full amount has been applied to beneficial use.

Certificate of Completion of works and license issued September 6, 1906.

Permit No. 1576

C E R T I F I C A T E O F C O M P L E T I O N O F W O R K S

To All Whom It May Concern:

This is to certify that JOHN ROAD of Kilgore, County of Fremont, and State of Idaho, the holder of Permit No. 1576, issued upon Application No. 2184, bearing date of priority of September 28, 1905, authorizing the diversion of one and three-fifths second feet of the waters of Taylor Creek, County of Fremont, State of Idaho, at SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 18, Tp. 13 N., R. 41 E. B. M., for irrigation and domestic purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said Permit; that said work are adequate for diverting and conveying to the place of intended use one and three-fifths second-feet of water; and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: (SE $\frac{1}{4}$ of SE $\frac{1}{4}$) East Half of Southeast Quarter of Section Nineteen (19), Township Thirteen (13) North, Range Forty-one (41) East of Boise Meridian.

Witness my hand this sixth day of September, A. D. 1906.

Jas. Stephenson, Jr.

State Engineer of the State of Idaho.

License issued for 16 second feet
P. 91

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

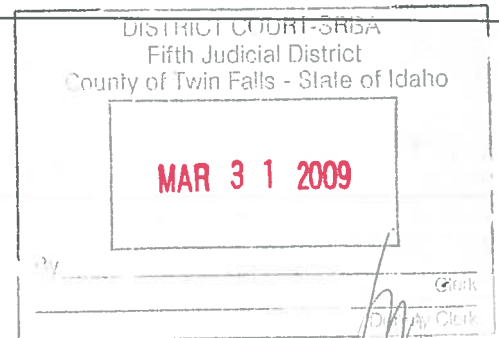
CIVIL CASE NUMBER: 39576

Ident. Number 21-13102Date Received C088862

Receipt Number _____

NOTICE OF CLAIM
TO A WATER RIGHT
ACQUIRED UNDER STATE LAW1. Name of Claimant(s) Natural Guardian Ltd. Partnership Phone (208) 528-6635Mailing Address 2880 N. 55 W, Idaho Falls, ID Zip 834022. Date of Priority (Only (1) per claim) September 24, 19123. Source of water supply (a) Taylor Creekwhich is tributary to (b) Sinks

4.a. Location of existing point of diversion is:

Township 13N., Range 41E., Section 8, NW $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$, Govt. Lot _____Township 13N., Range 41E., Section 8, SE $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$, Govt. Lot _____Township 13N., Range 41E., Section 8, SE $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$, Govt. Lot _____County of Clark

Additional points of diversion if any: _____

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

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

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4 Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. Headgates into ditches for flood irrigation.

6. Water is claimed for the following purposes: _____ (Both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 04/15 to 10/15 amount 7 cfs or _____7. Total quantity claimed (a) 7 (cfs) and/or (b) _____ (acre feet)8. Non-Irrigation uses; describe fully (eg. Domestic: give number of households served; stockwater: type and number of livestock, etc.) None

SCANNED

JUN 22 2009

9. Description of place of use:
- If water is for irrigation, state acreage in each subdivision in the table below.
 - If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

SEE ATTACHED SPREADSHEET FOR PLACE OF USE

10. In which county(ies) are lands listed above as place of use located? Clark
11. Do you own the property listed above as place of use? Yes ☒ No ☐
If your answer is No, describe in Remarks below the authority you have to claim this water right.
12. Describe any other water rights used at the same place and for the same purposes as described above.
None or None ()

13. Remarks:

Water from Willow Creek, Schneider Creek, Myers Creek, and Sheridan Creek is also used on the property. The points of diversion claimed under this water right are located on property owned by the State of Idaho. The evidence of priority for this water right is found in the water rights file for Permit No. 8990, which was eventually claimed as Water Right No. 21-2054. Enclosed are maps submitted in connection with Permit No. 8990, both of which clearly show the "Taylor Creek Canal," even though there is no license or decree for this right. The priority date for this water right is the same as Permit No. 8990.

14. Basis of Claim (Check one) Beneficial Use ☒ Posted Notice ☐ Permit ☐ Decree ☐ License ☐
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

15. For Organizations: I do solemnly swear or affirm that I am the attorney of Natural Guardian Ltd. Partnership, that I have signed the foregoing document in the space below as attorney of Natural Guardian Ltd. Partnership and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Robert L. Harris

Title and Organization: Attorney, Natural Guardian Ltd. Partnership Date: March 27, 2009

SCANNED

JUN 22 2009

Last Name Natural Guardian Ltd. Partnership Ident. Number _____

State of Idaho

) SS.

County of Bonneville

)

Subscribed and sworn (or affirmed) before me this 27th day of March, 2009.



Sandra M. Mueller
Notary Public for Idaho
Residing at: Idaho Falls, Idaho
My Commission Expires: ~~July 7, 2009~~
June 7, 2010

17. Notice of Appearance:

Notice is hereby given that I, Robert L. Harris, 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

Robert L. Harris

Address: PO Box 50130, Idaho Falls, ID 83405-0130

Date: ~~April~~ 27, 2007

March

G:\WPDATA\RLH\11692 Natural Guardian\08 Spencer, Kilgore, Sheridan\2009 Amended Claims\Taylor template.wpd/cdv

SCANNED

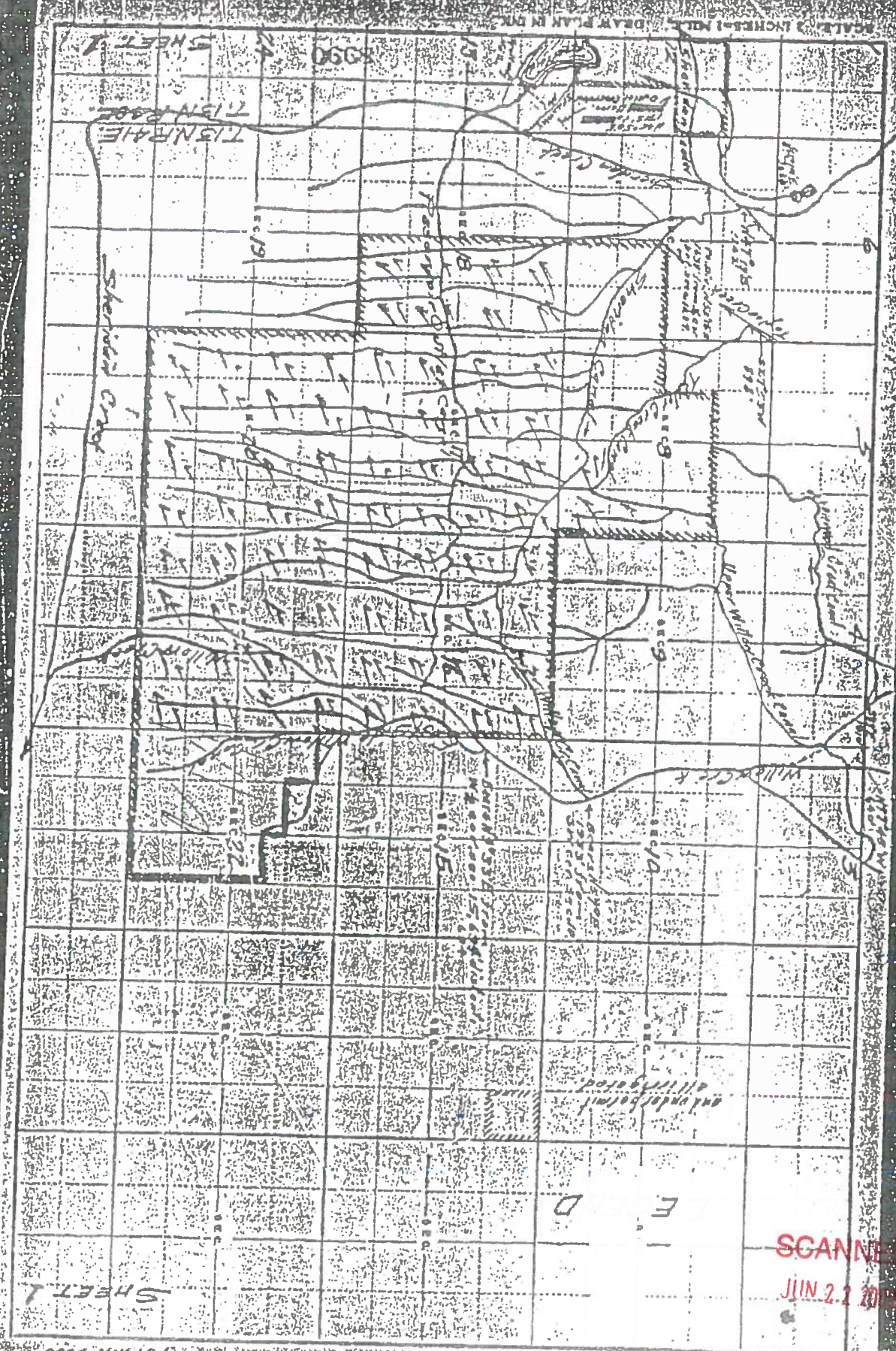
JUN 22 2009

Last Name Natural Guardian Ltd. Partnership Ident. Number _____

NATURAL GUARDIAN WATER RIGHTS PLACE OF USE DESCRIPTION: TAYLOR CREEK WATER RIGHT

TWP	RGE	SEC	NE 1/4			NW 1/4			SW 1/4			SE 1/4			TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13N	41E	8			25						21	30	14	19	248
		17	4												4
TOTAL															252

SCANNED
JUN 22 2009

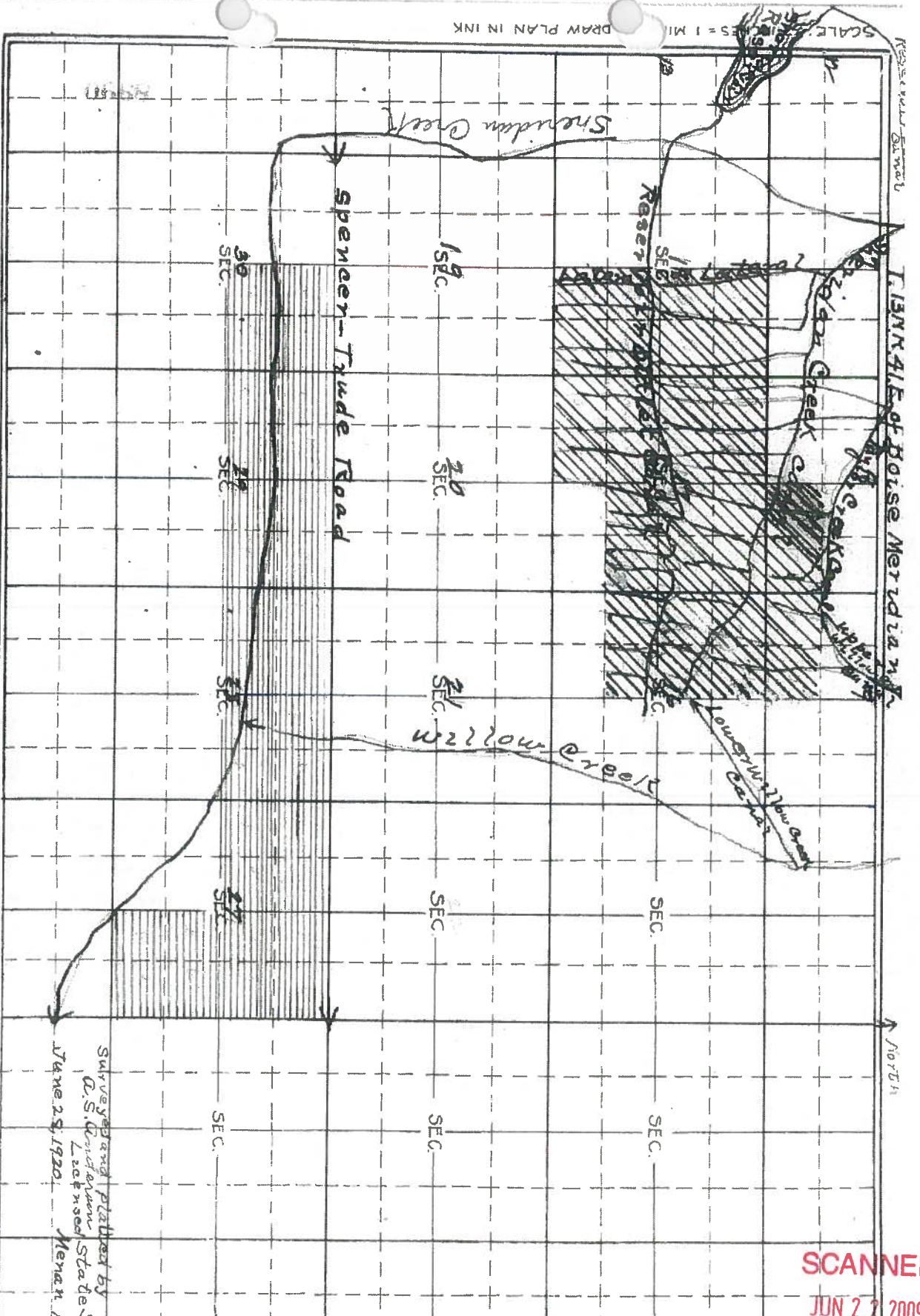


SCANNED
JUN 22 2008

Name of Applicant: J. V. Agent ~~Walter~~ Term No 8990 W.O.U.L. - U.S.

Desires to transfer Water Right from lands cross-hatched in blue to lands cross-hatched in black as shown on this plat.
 Laterals from Canals shown by blue lines.

SCANNED
 JUN 22 2009



SCALE: 1 INCH = 1 MILE
 DRAW PLAN IN INK

RECEIVED

JUN 19 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUN 18 2009	
by _____	Clerk
_____	Deputy Clerk

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

In Re SRBA

) Subcase: 21-13102

Case No. 39576

)
) ORDER GRANTING MOTION TO FILE
) LATE NOTICE OF CLAIM
)
)
)

On March 31, 2009, Natural Guardian Limited Partnership, by and through counsel, Robert L. Harris, filed a *Motion to File Late Notice of Claim* for the above-captioned water right. Hearing was held on the *Motion* on June 16, 2009. This *Motion* complied with all procedural requirements under *SRBA Administrative Order 1*, and no objections were made to this late Notice of Claim.

THEREFORE, IT IS ORDERED, that the *Motion to File a Late Notice of Claim* for the above-captioned water right is **granted**.

The original Notice of Claim, as well as any attached filing fees, and a copy of this **Order** will be forwarded to the Idaho Department of Water Resources for further action. Following investigation by the Idaho Department of Water Resources, recommendation for the claim will be reported in the next *Late Claims Director's Report* which is issued on an annual basis. This modifies the provisions of *SRBA Administrative Order 1* 4d(2)(h).

IT IS SO ORDERED.

Dated June 18, 2009.


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

SCANNED

JUN 22 2009

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTIONS TO FILE LATE NOTICE OF CLAIM was mailed on June 18, 2009, with sufficient first-class postage to the following:

NATURAL GUARDIAN LIMITED

Represented by:

ROBERT L HARRIS

1000 RIVERWALK DR, STE 200

PO BOX 50130

IDAHO FALLS, ID 83405

Phone: 208-523-0620

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

SCANNED

JUN 22 2009

ORDER

Page 1 6/18/09

FILE COPY FOR 00492

Deputy Clerk

Julie Murphy

RECEIVED

MAR 31 2009

Department of Water Resources
Eastern Region

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

In Re SRBA

Case No. 39576

A. Subcase 21-13102

(Insert water right number
From the Objection Form)

STANDARD FORM 4

MOTION TO FILE:

☒ LATE NOTICE OF CLAIM

☐ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

- ☐ I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is _____

My address is _____

My phone number is: Work _____ Home _____

I am an attorney representing _____ Natural Guardian Limited Partnership

My name is _____ Robert L. Harris

My address is _____ 1000 Riverwalk Dr., Ste. 200, PO Box 50130, Idaho Falls, ID 83405-0130

My phone number is _____ 208-523-0620

MOTION TO FILE A LATE NOTICE OF CLAIM

A Motion to File a Late Notice of Claim will require a hearing before the Presiding Judge.

- ☒ I did not file a Notice of Claim to the use of water in the SRBA because:

It was discovered during the course of investigating objections to Water Right Nos. 21-30B, 21-59, 21-108, 21-108A, 21-116, 21-2017, 21-2054A, 21-2158, 21-10011, and 21-12843, which are appurtenant to the Sheridan Ranch in Clark and Fremont Counties, that water has been diverted from a small stream known as "Taylor Creek," but that no claim had been filed for a water right from this source.

- ☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

- ☒ I am providing a legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

The water was clearly used based on maps from Permit No. 8990, which was renumbered 21-2054. The maps show the "Taylor Creek Canal," and water has historically been diverted and used from Taylor Creek. The claim is based on beneficial use. The maps are attached to the Notice of Claim.

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.
- ☒ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ 352.00.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on July 21, 2009 @ 1:30 p.m.
(Insert Date and Time)
at the SRBA Court courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File an Amended Notice of Claim may require a hearing before the presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

- ☐ I must amend my Notice of Claim to the use of water in the SRBA because:

- ☐ I am providing legal and factual documentation to support my amended Notice of Claim.
You must describe these documents and attach a readable copy.

I have attached:

- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION

State of Idaho

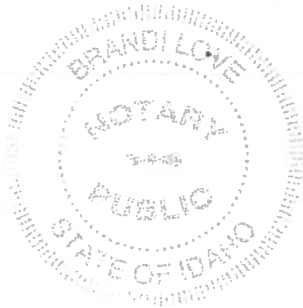
County of Bonneville

Robert L. Harris, being first duly sworn, upon oath, deposes and says:

That I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Robert L. Harris
Robert L. Harris, Attorney

Subscribed and sworn to before me this 2nd day of March, 2009.



Brandi Love
Notary Public for Idaho
Residing at: Idaho Falls, Idaho
My Commission expires: 4-12-2011, 2009

CERTIFICATE OF MAILING

I certify that on this 30th day of March, 2009, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

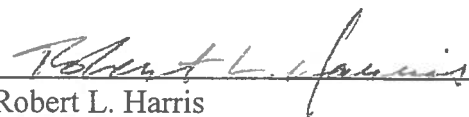
2. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

3. If you are filing an amend Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.


Robert L. Harris

G:\WPDATA\RLH\1692 Natural Guardian\08 Spencer, Kilgore, Sheridan\Motion to File Late Notice.wpd

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

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

CIVIL CASE NUMBER: 39576

Ident. Number 21-13102

Date Received _____

Receipt Number _____

**NOTICE OF CLAIM
TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s) Natural Guardian Ltd. Partnership Phone (208) 528-6635

Mailing Address 2880 N. 55 W, Idaho Falls, ID Zip 83402

2. Date of Priority (Only (1) per claim) September 24, 1912

3. Source of water supply (a) Taylor Creek

which is tributary to (b) Sinks

4.a. Location of existing point of diversion is:

Township 13N., Range 41E., Section 8, NW $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$, Govt. Lot _____,

Township 13N., Range 41E., Section 8, SE $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$, Govt. Lot _____,

Township 13N., Range 41E., Section 8, SE $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$, Govt. Lot _____,

County of Clark

Additional points of diversion if any: _____

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

Township _____ Range _____ Section _____, $\frac{1}{4}$ of $\frac{1}{4}$ of $\frac{1}{4}$, Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, $\frac{1}{4}$ of $\frac{1}{4}$ of $\frac{1}{4}$ 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. Headgates into ditches for flood irrigation.

6. Water is claimed for the following purposes: _____ (Both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 04/15 to 10/15 amount 7 cfs or _____

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

8. Non-Irrigation uses; describe fully (eg. Domestic: give number of households served; stockwater: type and number of livestock, etc.) None

9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

SEE ATTACHED SPREADSHEET FOR PLACE OF USE

10. In which county(ies) are lands listed above as place of use located? Clark
11. Do you own the property listed above as place of use? Yes ☒ No ☐
If your answer is No, describe in Remarks below the authority you have to claim this water right.
12. Describe any other water rights used at the same place and for the same purposes as described above.
None or None ()

13. Remarks:

Water from Willow Creek, Schneider Creek, Myers Creek, and Sheridan Creek is also used on the property. The points of diversion claimed under this water right are located on property owned by the State of Idaho. The evidence of priority for this water right is found in the water rights file for Permit No. 8990, which was eventually claimed as Water Right No. 21-2054. Enclosed are maps submitted in connection with Permit No. 8990, both of which clearly show the "Taylor Creek Canal," even though there is no license or decree for this right. The priority date for this water right is the same as Permit No. 8990.

14. Basis of Claim (Check one) Beneficial Use ☒ Posted Notice ☐ Permit ☐ Decree ☐ License ☐
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

15. For Organizations: I do solemnly swear or affirm that I am the attorney of Natural Guardian Ltd. Partnership, that I have signed the foregoing document in the space below as attorney of Natural Guardian Ltd. Partnership and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Robert L. Jauris

Title and Organization: Attorney, Natural Guardian Ltd. Partnership Date: March 27, 2009

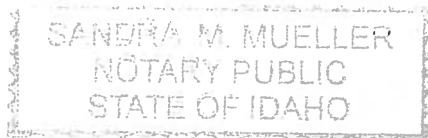
Last Name Natural Guardian Ltd. Partnership Ident. Number _____

State of Idaho)

) SS.

County of Bonneville)

Subscribed and sworn (or affirmed) before me this 27th day of March, 2009.



Sandra M. Mueller

Notary Public for Idaho

Residing at: Idaho Falls, Idaho

My Commission Expires: ~~July 7, 2009~~

June 7, 2010

17. Notice of Appearance:

Notice is hereby given that I, Robert L. Harris, 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.

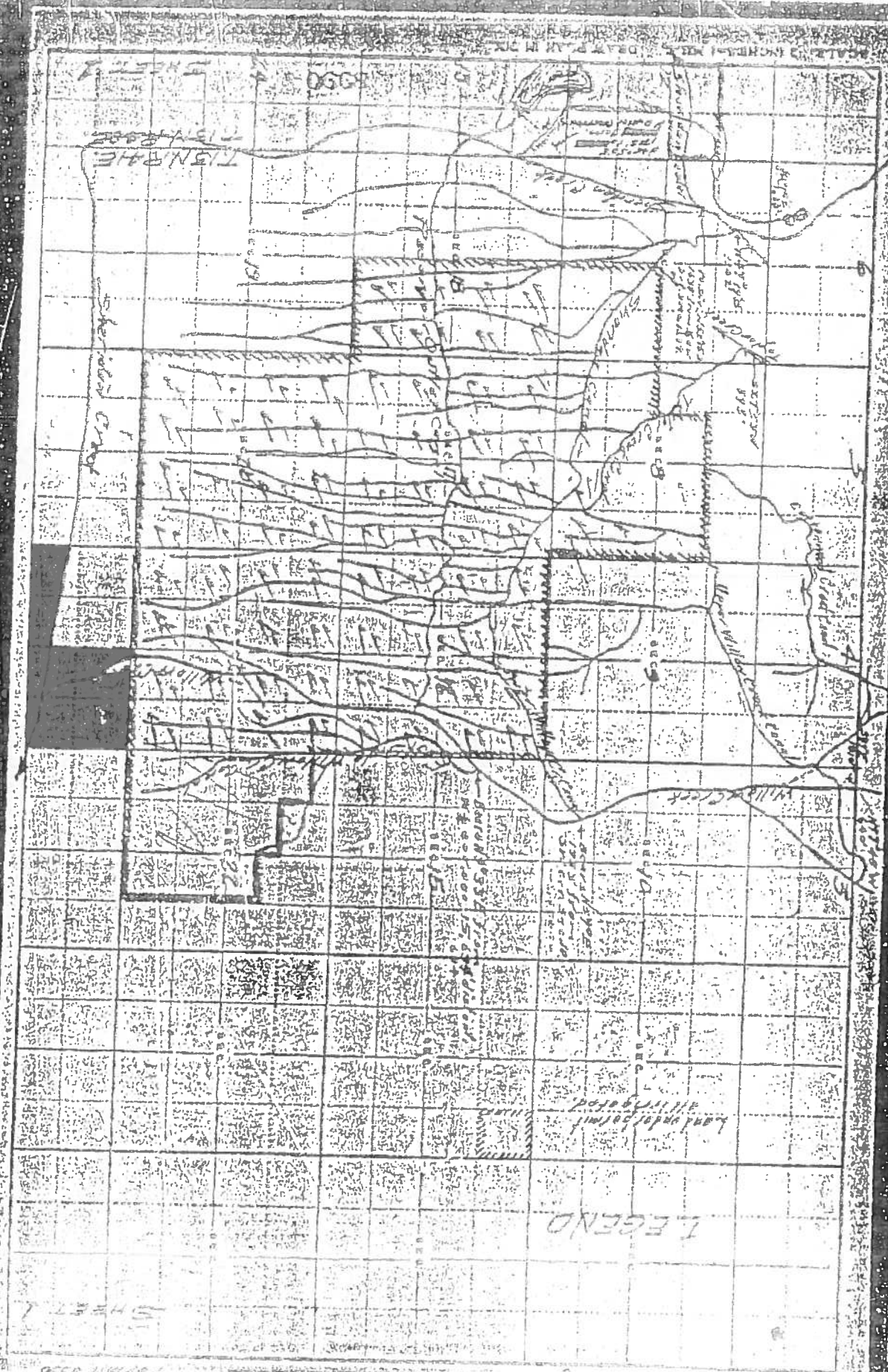
Signature

Robert L. Harris

Address: PO Box 50130, Idaho Falls, ID 83405-0130

Date: ~~April~~ 27, 2007

March

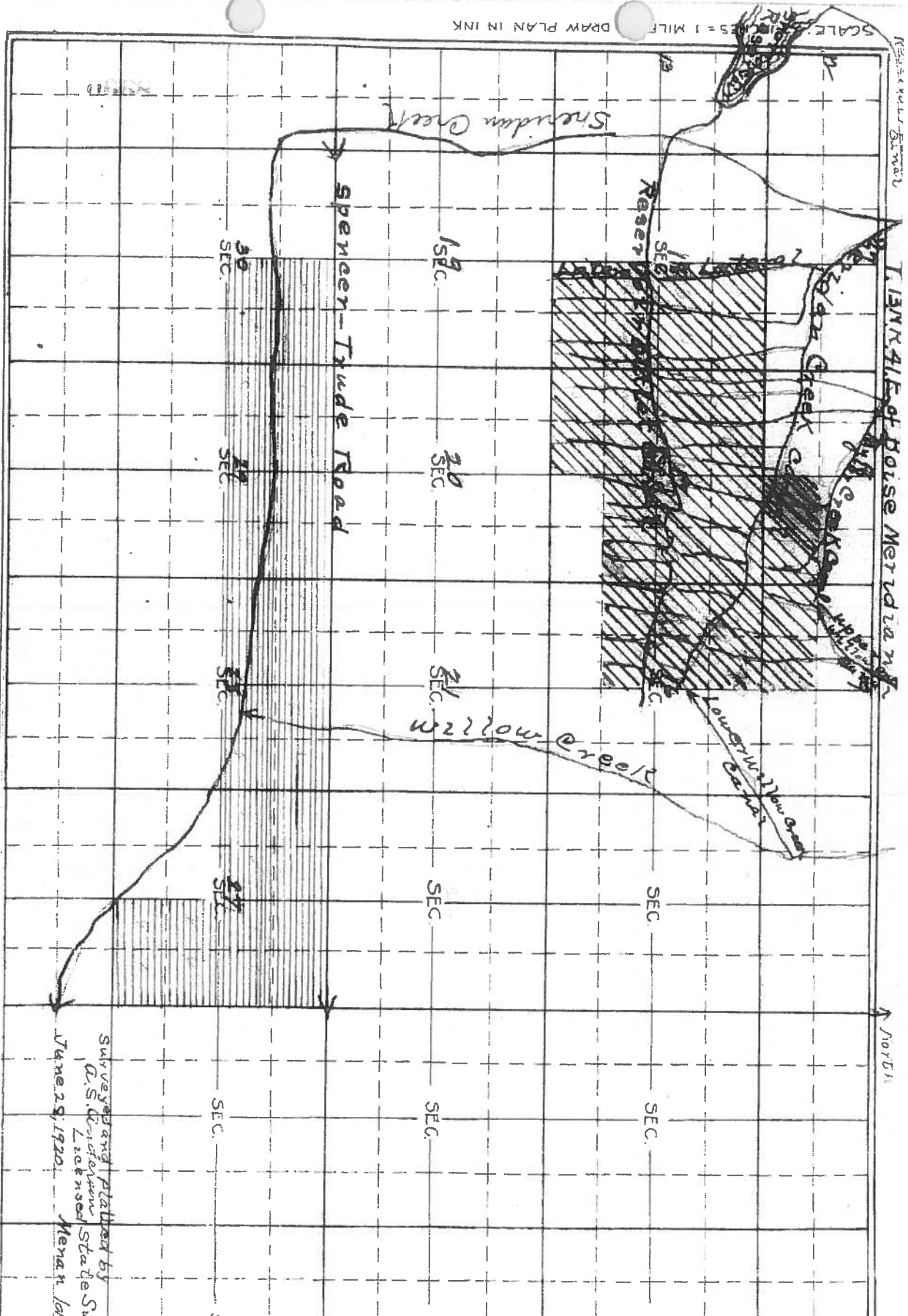


LEGEND

SHEET 1

Name of Applicant: *F. J. Haglund* No 8990 Wood L. S. Co.

Desires to transfer water right from lands cross-hatched in blue to lands cross-hatched in black as shown on this plat.
 Laterals from canals shown by blue lines.



Surveyed and plotted by
 A. S. W. Anderson
 Licensed State Surveyor
 June 29, 1920
 Menan, Idaho

RECEIVED

APR 01 2009

DEPARTMENT OF
WATER RESOURCES

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

In Re SRBA

Case No. 39576

A. Subcase 21-13102

(Insert water right number
From the Objection Form)

STANDARD FORM 4

MOTION TO FILE:

☒ LATE NOTICE OF CLAIM

☐ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By file a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

The water was clearly used based on maps from Permit No. 8990, which was renumbered 21-2054. The maps show the "Taylor Creek Canal," and water has historically been diverted and used from Taylor Creek. The claim is based on beneficial use. The maps are attached to the Notice of Claim.

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.
- ☒ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ 352.00.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on July 21, 2009 @ 1:30 p.m.
(Insert Date and Time)
at the SRBA Court courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File an Amended Notice of Claim may require a hearing before the presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

- ☐ I must amend my Notice of Claim to the use of water in the SRBA because:

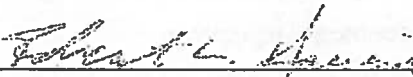
VERIFICATION

State of Idaho

County of Bonneville

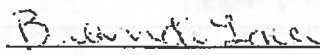
Robert L. Harris, being first duly sworn, upon oath, deposes and says:

That I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.


Robert L. Harris, Attorney

Subscribed and sworn to before me this 2nd day of March, 2009.




Notary Public for Idaho
Residing at: Idaho Falls, Idaho
My Commission expires: 4-12-2010, 2009

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

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

CIVIL CASE NUMBER: 39576

Ident. Number 21-13102

Date Received _____

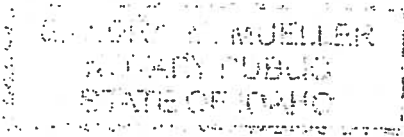
Receipt Number _____

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Township 13N., Range 41E., Section 8, SE $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$, Govt. Lot _____
Township 13N., Range 41E., Section 8, SE $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$, Govt. Lot _____
County of Clark
Additional points of diversion if any: _____
b. If instream flow, beginning point of claimed instream flow is:
Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4, Govt. Lot _____ B.M., County of _____
ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4 Govt. Lot _____ B.M., County of _____
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. Headgates into ditches for flood irrigation.
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For Irrigation purposes from 04/15 to 10/15 amount 7 cfs or _____
7. Total quantity claimed (a) 7 (cfs) and/or (b) _____ (acre feet)
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State of Idaho)
) SS.
County of Bonneville)

Subscribed and sworn (or affirmed) before me this 27th day of March, 2009.



Sandra M. Mueller
Notary Public for Idaho
Residing at: Idaho Falls, Idaho
My Commission Expires: July 7, 2009
June 7, 2010

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Signature Robert L. Harris
Address: PO Box 50130, Idaho Falls, ID 83405-0130
Date: April 27, 2007

G:\WPDATA\RLH\11692 Natural Guardian\08 Spencer, Kilgore, Sheridan\2009 Amended Claims\Taylor template.wpd:cdv

Last Name Natural Guardian Ltd. Partnership Ident. Number _____

