

12/15/2008

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

RIGHT NUMBER: 22-180B

NAME AND ADDRESS: DUANE & JEAN KUNZ FAMILY TRUST
C/O CRAIG KUNZ
480 W 575 S
VICTOR ID 83455

SOURCE: UNNAMED STREAM

TRIBUTARY: TRAIL CREEK

QUANTITY: 2.000 CFS

PRIORITY DATE: 06/01/1889

POINT OF
DIVERSION:

T04N R45E S32 SENE Within TETON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	2.000 CFS

PLACE OF USE: IRRIGATION in TETON County

T04N R45E S29	SESW	11.00	T04N R45E S29	SWSE	40.00
T04N R45E S32	NWNE	38.00	T04N R45E S32	SWNE	9.50

98.5 ACRES TOTAL

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

EASTERN REGION

December 18, 2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

DUANE AND JEAN KUNZ FAMILY TRUST
C/O CRAIG KUNZ
480 W 575 S
VICTOR ID 83455

RE: Notice of Change of Water Right Ownership (NCO) for 22-180B, 22-230B & 22-13511 and Notice of Completed Administrative Proceeding (NCAP)

Dear Sir/Madam:

The Idaho Department of Water Resources (IDWR) acknowledges receipt of an NCO changing the right holder for the above referenced water right(s). Based on this NCO, IDWR water right records for the Snake River Basin Adjudication (SRBA) have been updated.

Furthermore, as directed by the SRBA Court, this office mailed a copy of the updated water right record(s) to each party listed on the enclosed NCAP. The intent of this mailing is to ensure each party has a current record of water right(s) as recorded in the SRBA.

Please feel free to contact me if you have any questions concerning this matter.

Respectfully,

Bobby Kern

Bobby Kern
Office Specialist II

Enclosure

cc Jean Kunz

SCANNED
JAN 13 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 SRBA)

Water Rights: 22-180B, 22-230B
& 22-13511

Case No. 39576)

**NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING**

IDWR has completed the following Administrative proceeding:

- ☐ Address change
- ☒ Substitution of Party Kunz - Kunz
- ☐ I.C. § 42-222 transfer
 - ☐ point of diversion ☐ place of use
 - ☐ period of use ☐ nature of use
 - ☐ split of water right ☐ change in ownership

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: Dec 28, 2008

Ernest Carlson

Signature of IDWR Representative

SCANNED
JAN 13 2009

CERTIFICATE OF MAILING

I certify that on December 29, 2008, I mailed the original and copies of this form to the following persons, postage prepaid by regular mail and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707

2. One copy to:

Claimant/Seller for Substitution of Party or attorney of record:

Duane Kunz

466 W 575 S

Victor ID 83455

Jean Kunz

466 W 575 S

Victor ID 83455

Craig Kunz

480 W 575 S

Victor ID 83455

3. One copy to:

Claimant/Purchaser for Substitution of Party, or attorney of record:

Duane and Jean Kunz Family Trust

c/o Craig Kunz

480 W 575 S

Victor ID 83455

4. One copy to:

Each party in the subcase, or attorney of record

5. One copy each to:

Chief Natural Resources Division

Office of the Attorney General

PO Box 44449

Boise ID 83711-4449

6. One Copy to:

United States Dept of Justice

Environment & Natural Resource Div

550 West Fort Street MSC 033

Boise ID 83724

Bobby Kern

Signature of person or attorney mailing the form

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12/18/2008

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

RIGHT NUMBER: 22-180B

NAME AND ADDRESS: DUANE & JEAN KUNZ FAMILY TRUST
C/O CRAIG KUNZ
480 W 575 S
VICTOR ID 83455

SOURCE: UNNAMED STREAM

TRIBUTARY: TRAIL CREEK

QUANTITY: 2.000 CFS

PRIORITY DATE: 06/01/1889

POINT OF
DIVERSION:

T04N R45E S32 SENE Within TETON County

PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	04/15 10/31	2.000 CFS
PLACE OF USE:	<u>IRRIGATION in TETON County</u>		
	T04N R45E S29 SESW 11.00	T04N R45E S29 SWSE	40.00
	T04N R45E S32 NWNE 38.00	T04N R45E S32 SWNE	9.50
	98.5 ACRES TOTAL		

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

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

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JAN 13 2009

12/18/2008

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

RIGHT NUMBER: 22-230B

NAME AND ADDRESS: DUANE & JEAN KUNZ FAMILY TRUST
C/O CRAIG KUNZ
480 W 575 S
VICTOR ID 83455

SOURCE: BOQUET CREEK

TRIBUTARY: TETON RIVER

QUANTITY: 1.540 CFS

PRIORITY DATE: 06/01/1890

POINT OF
DIVERSION:

T04N R45E S29 NWSESW Rediversion Within TETON County
T04N R45E S31 NWNE Within TETON County
T04N R45E S32 SWNENW Injection Within TETON County

PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	04/15 10/31	1.540 CFS
PLACE OF USE:	<u>IRRIGATION in TETON County</u>		
	T04N R45E S30 NESW 33.00	T04N R45E S30 Lot 3 NWSW	7.00
	T04N R45E S30 SESE 37.00		
	77 ACRES TOTAL		

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

SCANNED
JAN 13 2009

12/18/2008

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

RIGHT NUMBER: 22-13511

NAME AND ADDRESS: DUANE & JEAN KUNZ FAMILY TRUST
C/O CRAIG KUNZ
480 W 575 S
VICTOR ID 83455

SOURCE: TETON RIVER

TRIBUTARY: HENRYS FORK

QUANTITY: 1.600 CFS

PRIORITY DATE: 06/01/1904

POINT OF
DIVERSION:

T04N R45E S29 NWSESW Within TETON County

PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	3/01 12/01	1.600 CFS
PLACE OF USE:	<u>IRRIGATION in TETON County</u>		
	T04N R45E S30	NESW 33.00	T04N R45E S30 Lot 3 NWSW 7.80
	40.8 ACRES TOTAL		

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

Change in use; insufficient evidence of date of change.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Change in use, insufficient evidence of date of change: This is included for a claim that is proposed to be disallowed because use of the water right was changed without prior IDWR approval and the claimant did not submit sufficient evidence from which the date of the change could be determined. The date of change is necessary to determine if the right may be claimed as changed without prior IDWR approval, and if the change will result in injury to other water right holders.

SCANNED
JAN 13 2009

DEV ✓

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form. Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case IDWR will produce new water right number(s) for the split(s).

Water Right No(s)	Adjudication Claim No(s)	Split(s)	Water Right No(s)	Adjudication Claim No(s)	Split(s)
	22-230B	ADJ			
	22-13511	Dis ADJ - recommended as Disallowed			
	22-180B				

RECEIVED

DEC 12 2008

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

A. The appropriate **FILING FEE**. See instructions for fee amounts.

Department of Water Resources
Eastern Region

B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.

C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are on file with the county Planning and Zoning or Recorder's Office).

OR

D. If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency or equivalent **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s)

DUANE H. KUNZ
JEAN C. KUNZ

4. New Owner/Claimant(s)

DUANE and JEAN KUNZ Family Trust

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

New Mailing Address

460 W. 575 SO

City, State and ZIP Code

Victor ID. 83451

New Telephone Number

(208) 354-8865

SCANNED RECEIVED
JAN 13 2009 DEC 12 2008

Department of Water Resources
Eastern Region

5. Date you acquired the property _____

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

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right will not be split, skip this area and proceed to line 7)		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		

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

7. Signature(s) of New Owner(s) or Claimant(s) _____

Executive of Trust
(title if applicable)

(title if applicable)

IT IS IMPORTANT TO FILE THIS COMPLETED FORM AT THE APPROPRIATE IDWR OFFICE, WITH PAYMENT OF THE FILING FEE AND THE OWNERSHIP DOCUMENT(S), AS REFERRED TO IN LINE 2.

For IDWR Office Use Only:

Received by _____

Date _____

Receipt Amt. _____

Received by _____

Date _____

Receipt No. _____

Processed by _____ AJ

Date _____

WR _____

Date _____

SCANNED**JAN 13 2009**

RECEIVED

JUL 6 1995

TETON Co. Id.
Clerk Recorder

"SCHEDULE A"
120483
WARRANTY DEED

Warranty deed made this ____ day of July, 1995, between DUANE H. KUNZ and JEAN C. KUNZ, husband and wife, of 470 West 575 South, Victor, Idaho 83455, referred to as Grantors, and The DUANE and JEAN KUNZ FAMILY TRUST, Duane H. Kunz and Jean C. Kunz, Trustees, referred to as Grantee.

Grantors in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, have granted, bargained, and sold, and do hereby grant, bargain, sell, convey, and confirm unto Grantee and its heirs and assigns forever, all the following described real estate situated in Teton County, Idaho:

PARCEL I

The SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29, Township 4 North, Range 45 East, Boise Meridian, Teton County, Idaho.

Less Road
North

PARCEL II

The SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30, Township 4 North, Range 45 East, Boise Meridian, Teton County, Idaho.

PARCEL III

Lots 2 and 3 of Section 30, Township 4 North, Range 45 East, Boise Meridian, Teton County, Idaho.

Less Tax No. 2065, more specifically described as beginning at a point 400 feet West of the SE corner of Lot 3, and running thence West 209 feet, thence North 209 feet, thence East 209 feet, thence South 209 feet to the place of beginning.

Less Tax No. 2419, more specifically described as commencing at a point 360 feet North and 30 feet East of the SW corner of Lot 3, and running thence North 330 feet, thence East 132 feet, thence South 330 feet, thence West 132 feet to the place of beginning.

WARRANTY DEED-1

SCANNED

JAN 13 2009

Also less Tax No. 2997, more specifically described as: commencing at the SW Corner of Lot 3, thence North 60 feet along the section line; thence East 30 feet to the true point of beginning; and running thence North 300 feet; thence East 200 feet; thence South 300 feet; thence West 200 feet. Contains 1.38 acres more or less. Bearing is based on West Section line bearing North.

Also Less Tax No. 3054, being more specifically described as: Beginning at the W $\frac{1}{4}$ Corner of said Section 30 and running thence North 1308.94 feet along the Section line to the NW Corner of Lot 2 of said Section; thence East 250.0 feet along the North line of Lot 2; thence South 2630.38 feet more or less to the South line of Lot 3; thence West 250 feet to the Section line; thence North 1321.44 feet to the point of beginning LESS the following: From the SW Corner of Lot 3 of said Section 30 North 60.0 feet; thence East 30 feet to a point of beginning; thence North 630 feet; thence East 132 feet; thence South 330 feet; thence East 68 feet; thence South 300 feet; thence West 200 feet to the point of beginning.

Also Less Tax No. 3124, being more specifically described as: Beginning at the NW Corner of Lot 2 and running thence East 250 feet to the true point of beginning; thence South 435 feet; thence East 700 feet; thence North 435 feet; thence West 700 feet to the true point of beginning. Contains 7 acres more or less. TOGETHER with a 60 foot nonexclusive easement beginning from the SE Corner of the above described property meandering southerly along the West boundary of the tillable ground to a point where it intersects the county road to Henderson Canyon (575 S) East of the Craig Kunz property.

PARCEL IV

The NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 30, Township 4 North, Range 45 East, Boise Meridian, Teton County, Idaho.

Less Tax No. 3234, being more specifically described as: Beginning 1582.45 feet East of the SW Corner of Lot 3, thence East 150 feet; thence North 175 feet; thence West 150 feet; thence South 175 feet to the point of beginning.

WARRANTY DEED-2

SCANNED

JAN 13 2009

PARCEL V

Tax No. 3404, being more specifically described as: Beginning at a point 540 feet West of the NE Corner of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, Township 4 North, Range 45 East, Boise Meridian, Teton County, Idaho, and running thence West 209 feet, thence South 209 feet, thence East 209 feet, thence North 209 feet to the point of beginning.

PARCEL VI

The W $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 32, Township 4 North, Range 45 East, Boise Meridian, Teton County, Idaho.

To have and to hold, all and singular the above-described premises together with the appurtenances unto Grantee and its heirs and assigns forever.

And Grantors and their heirs shall and will warrant and by these presents forever defend the premises in the quiet and peaceable possession of Grantee, its heirs, and assigns against Grantors and their heirs and against all and every person and persons whomsoever, lawfully claiming the same.

Grantors have hereunto set their hand on the day and year first above written.

Duane H. Kunz
DUANE H. KUNZ, Grantor

Jean C. Kunz
JEAN C. KUNZ, Grantor

RECEIVED

ROY C. MOULTON
Attorney at Law
60 East Wallace Ave.
P.O. Box 634
Driggs, Idaho 83422
(208) 354-2345
(208) 354-2346 [facsimile]

JUL 06 1995

TETON Co.
Clerk Recd.

120482

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

In the matter of the)
)
) Case No. _____
)
The DUANE and JEAN KUNZ)
FAMILY TRUST) REGISTRATION OF TRUST
) Under I.C. § 15-7-101
) and 15-7-102
)
_____)

It is the desire of the undersigned to register this Trust in the Teton County
Courthouse, State of Idaho.

1. Name. The name of the Trust to be registered is THE DUANE and JEAN
KUNZ FAMILY TRUST.
2. Trustees. The name and address of each Trustee and successor Trustee is as
follows:

DUANE H. KUNZ Original Trustee.
470 West 575 South
Victor, Idaho 83455

JEAN C. KUNZ Original Trustee.
470 West 575 South
Victor, Idaho 83455

CRAIG D. KUNZ Successor Trustee.
466 West 575 South
Victor, Idaho 83455

REGISTRATION OF TRUST-1

SCANNED
JAN 13 2009

120482

FILED

AT THE REQUEST OF

Roy Moulton
ATTESTED: *July 6, 1995*
Ada J. Drake
Nora Rigby

120482

Grantors, CRAIG D. KUNZ, whose current address is 466 West 5 1/2 South, Victor, Idaho 83455, is appointed to be the sole Trustee. If CRAIG D. KUNZ is not available to serve as Trustee, then DEAN H. KUNZ, whose current address is 161 South 2000 West, Rexburg, Idaho 83440, shall be appointed as successor Trustee.

Duane H. Kunz
DUANE H. KUNZ, Grantor

Jean C. Kunz
JEAN C. KUNZ, Grantor

STATE OF IDAHO)

: ss.

County of Teton)

On this 5th day of July, 1995, before me personally appeared DUANE H. KUNZ and JEAN C. KUNZ, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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



Pauline Bagley
Notary Public for Idaho
Residing at: Victor
My Commission expires: 1999

REGISTRATION OF TRUST-3

SCANNED
JAN 13 2009

DURABLE GENERAL POWER OF ATTORNEY
(Effective Upon Incapacity)

I, Jean C. Kunz, of 470 West 575 South, Victor, Idaho 83455, appoint Craig D. Kunz, of 480 West 575 South, Victor, Idaho 83445, as my attorney-in-fact (hereinafter "my attorney-in-fact"). My attorney-in-fact, by an instrument in writing signed by my attorney-in-fact, may appoint any individual or corporation as substitute attorney-in-fact under this power of attorney with any or all of the powers and authority granted my attorney-in-fact. Any substitute attorney-in-fact shall have all of the authorities and powers granted under this instrument.

ARTICLE 1
Durability

This power of attorney is a "durable" power of attorney as that term is defined in Section 15-5-501, Idaho Code, and shall not terminate on my disability, incompetency or incapacity, and my attorney-in-fact shall continue to be able to exercise any power or authority I have given my attorney-in-fact, regardless of my later disability, incompetency or incapacity. All acts done by my attorney-in-fact during any period of my disability, incompetency or incapacity shall have the same effect and inure to the benefit of and bind me and my successors in interest as if I were competent and not disabled or incapacitated and acting for myself.

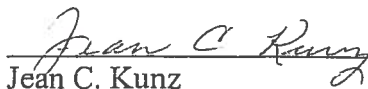
ARTICLE 2
Authorities Granted

I authorize my attorney-in-fact to do the following on my behalf.

A. Financial Accounts. My attorney-in-fact may maintain any financial accounts, including checking, savings, or credit union accounts presently in my name, establish new financial accounts in my name, and deposit money into, withdraw money from, and draw checks on these accounts.

B. Commercial Paper. My attorney-in-fact may receive, endorse, and collect any currency or commercial paper, including, but not limited to, any checks or drafts payable to me.

C. Investments. My attorney-in-fact may invest and reinvest my funds in any type of investment, including corporate obligations of every kind, preferred or common stocks, securities of any regulated investment trust, partnership interests, limited liability company interests, and every other type of investment.


Jean C. Kunz

D. Location of Assets. My attorney-in-fact may move any of my property to any place, whether or not within the United States.

E. Sale of Assets. My attorney-in-fact may sell or otherwise transfer any of my property, real, personal, or mixed, tangible or intangible, on such terms and conditions as my attorney-in-fact may deem advisable, and to execute any instruments and give any warranties or indemnifications that my attorney-in-fact may deem useful in effecting such sale or transfer.

F. Businesses. My attorney-in-fact may participate in the operation of any business or other enterprise, including voting any stock, and may incorporate, dissolve, or otherwise change the form of such business.

G. Stock. My attorney-in-fact may vote in person or by proxy, sell or otherwise dispose of, cause to be registered in the name of a nominee selected by my attorney-in-fact, transfer, redeem, convert, or exchange any stock or other security that now belongs to me or may belong to me in the future or in which I may have an interest, and make, execute, and deliver any endorsement, assignment, certification, or other document in connection with any security.

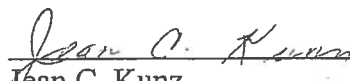
H. Loans. My attorney-in-fact may borrow and lend money on such terms, including, but not limited to, interest rates, security, and loan duration, as my attorney-in-fact may deem advisable.

I. Insurance Policies. My attorney-in-fact may apply for and own any policies of insurance on my life, on any of my property, and against any liabilities or damages my attorney-in-fact may deem advisable; pay any premiums or other charges required to maintain such policies; and exercise any incident of ownership over such policies, including, but not limited to, any right to change beneficiaries, cancel any policy, borrow against any cash values, or make any elections with respect to the policies.

J. Property Management. My attorney-in-fact may improve, develop, manage, lease, or abandon any of my property.

K. Nominees. My attorney-in-fact may hold any of my property in the name of any trustee, custodian, or nominee, without disclosing this relationship.

L. Motor Vehicles. My attorney-in-fact may apply for or transfer any certificate of title on any motor vehicle and may represent that such vehicle is free and clear of all liens and encumbrances not otherwise noted in the transfer documents.


Jean C. Kunz

M. Legal Actions. My attorney-in-fact may prosecute or defend any action to protect me or my property, or to protect my attorney-in-fact in the performance of the duties under this instrument, and may pay, contest, or settle any claim by or against me or my attorney-in-fact in the performance of the duties under this instrument.

N. Employees. My attorney-in-fact may employ persons, even if they are associated with my attorney-in-fact, to advise or assist in the performance of the duties under this instrument.

O. Tax Returns. My attorney-in-fact may prepare, sign, and file any returns of tax, refund claims, requests for extension of time to file or pay; petition to any court with respect to any tax, offers, waivers, consents, powers of attorney, and other documents relating to any type of federal, state, local, or foreign tax; and execute any elections I may have under any such tax laws. I waive any privileges I may have against disclosure of any confidential tax information to my attorney-in-fact.

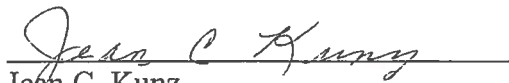
P. Revocable Trust. My attorney-in-fact may transfer any of my assets to any revocable trust I have created to be administered under the terms of such trust, and may withdraw assets from any such trust for any proper purpose, even if my attorney-in-fact is a trustee.

Q. Disclaimer. My attorney-in-fact may disclaim all or part of any transfers to me if my attorney-in-fact deems it probable that no gift taxes will be imposed on me on account of such disclaimer.

R. Safe Deposit Boxes. My attorney-in-fact may enter my existing safe deposit boxes, close them out, and open any new safe deposit boxes in my name.

S. Retirement Benefits. My attorney-in-fact may select the method and time of payments from and the beneficiaries of any of my pension, profit sharing, stock ownership, or other retirement plans; elect to participate in and make investment selections and give investment directions under such plans; amend or terminate any of my individual retirement accounts or other retirement or deferred income arrangements; and make selections of optional benefits offered by my employer and exercise continuation rights as to any benefits.

T. Government Benefits. My attorney-in-fact may act for me in all matters which affect my right to government benefits and assistance, including without limitation Social Security, Medicare, Medicaid, qualified state tuition programs, and other governmental benefits and benefits relating to civil or military service; to file, prosecute, submit to arbitration or settle any claim for benefits or assistance; to establish new residency and domicile; and to receive the proceeds of claims and conserve, invest, disburse and use them on my behalf.


Jean C. Kunz

U. **Other.** My attorney-in-fact may do any other thing that my attorney-in-fact may deem advisable, necessary, or desirable for the management of my affairs or for my health, comfort, or welfare. My attorney-in-fact may do, exercise or perform any act, power, duty, right or obligation whatsoever that I now have, or may subsequently acquire the legal right, power or capacity to exercise or perform, in connection with, arising from or relating to any person, item, transaction, business, real or personal property, tangible or intangible thing or any matter whatsoever.

ARTICLE 3 Gifts

A. **To My Spouse.** My attorney-in-fact may make gifts to my spouse of any of my assets.

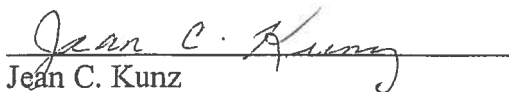
B. **To My Descendants.** My attorney-in-fact may make gifts annually to each of my descendants in amounts equal to the annual federal gift tax exclusion (presently \$11,000 per donee, under Section 2503(b) of the Internal Revenue Code of 1986, as amended). My attorney-in-fact may also make gifts to my descendants by the direct payment of their medical and tuition expenses, to the extent that these gifts qualify for the unlimited gift tax annual exclusion under Section 2503(e) of the Internal Revenue Code of 1986, as amended.

C. **To Charities.** My attorney-in-fact may make gifts on my behalf to any charitable organization and pay my charitable pledges and dues.

D. **Trusts and Custodial Accounts.** All such gifts may be made outright, in trust, or to any legal guardian or custodian under any applicable Uniform Transfers (or Gifts) to Minors Act, as my attorney-in-fact may deem appropriate, even if my attorney-in-fact is the trustee, guardian, or custodian.

E. **Limitations.** In no event may any gift be made from my assets to my attorney-in-fact except as is appropriate for my attorney-in-fact's health, education, support, or maintenance, as these terms are defined for federal estate and gift tax purposes. My attorney-in-fact may not use any of my assets in a manner that would discharge my attorney-in-fact's legal obligation personally to support any of my descendants.

F. **Basis for Gifts.** My attorney-in-fact shall make gifts from my assets in a manner that gives due regard to my history of family and charitable giving, my personal financial condition, my estate plan (including my will and any trusts I have created), and my desire to minimize federal and state estate, gift, generation-skipping, and other wealth transfer taxes.


Jean C. Kunz

ARTICLE 4
Condition to Exercise of This Power

This power of attorney shall be exercisable by my attorney-in-fact only if accompanied by a written certification of my inability to manage my own financial affairs. This certification must be signed by at least two (2) physicians, and must state that each of them has personally examined me and that I am physically or mentally incapacitated, regardless of cause.

ARTICLE 5
Miscellaneous

A. Real Property. This power of attorney specifically gives my attorney-in-fact the power to manage, deal with, lease, and/or sell any real property now owned or hereafter acquired by me and any fixtures attached to my real property, any personal property used in connection with my real property, and any policies of casualty insurance on my real property.

B. Revocation of Power. I may revoke this power of attorney by a written instrument. All persons shall recognize the authority of my attorney-in-fact to manage my affairs and transact my business under this instrument until receipt of a written notice of revocation. No one shall be liable to me or my estate for losses resulting from the good faith recognition of the authority of my attorney-in-fact prior to receipt of a written notice of revocation.

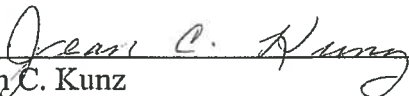
C. Counterparts. Anyone may rely fully, completely, and equally on the following: (1) the original of this power of attorney; (2) a duly executed counterpart; or (3) a copy certified by my attorney-in-fact to be a true copy of the original power of attorney.

D. Purchasers. Anyone who purchases any of my property from my attorney-in-fact is not obligated to see to the application of the purchase money or other consideration paid for such property.

E. State Law. This power of attorney shall be governed by and construed according to the laws of Idaho.

F. Number. Whenever the context of this power of attorney requires, the singular number includes the plural and vice versa.

G. General Power. This power of attorney is to be construed and interpreted as a general power of attorney. The enumeration of specific items, rights, acts or powers is not intended to, nor does it, limit or restrict, and is not to be construed or interpreted as limiting or restricting, the general powers granted to my attorney-in-fact. My attorney-in-fact shall have full power and

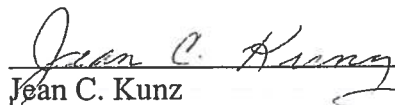


Jean C. Kunz

authority to do, take and perform all and every act and thing whatsoever necessary, advisable, convenient or proper to be done, in the exercise of any of the rights and powers granted, as fully to all intents and purposes as I might or could do if personally present, whether the same are in this instrument particularly specified or not, hereby ratifying and confirming all that my attorney-in-fact shall lawfully do or cause to be done by virtue of this power of attorney.

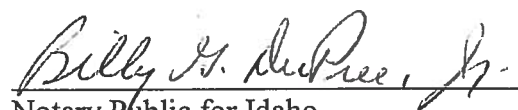
H. Guardians/Conservators. It is my desire and request that no guardian or conservator of my person or property be appointed in the event of my disability or incapacity. If, however, a guardian or conservator of my person or property is to be appointed for me, I hereby nominate and appoint my attorney-in-fact hereunder to serve as guardian and conservator without bond.

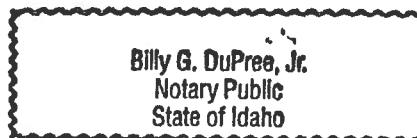
29th IN WITNESS WHEREOF, I have executed this Durable General Power of Attorney this day of December, 2005.

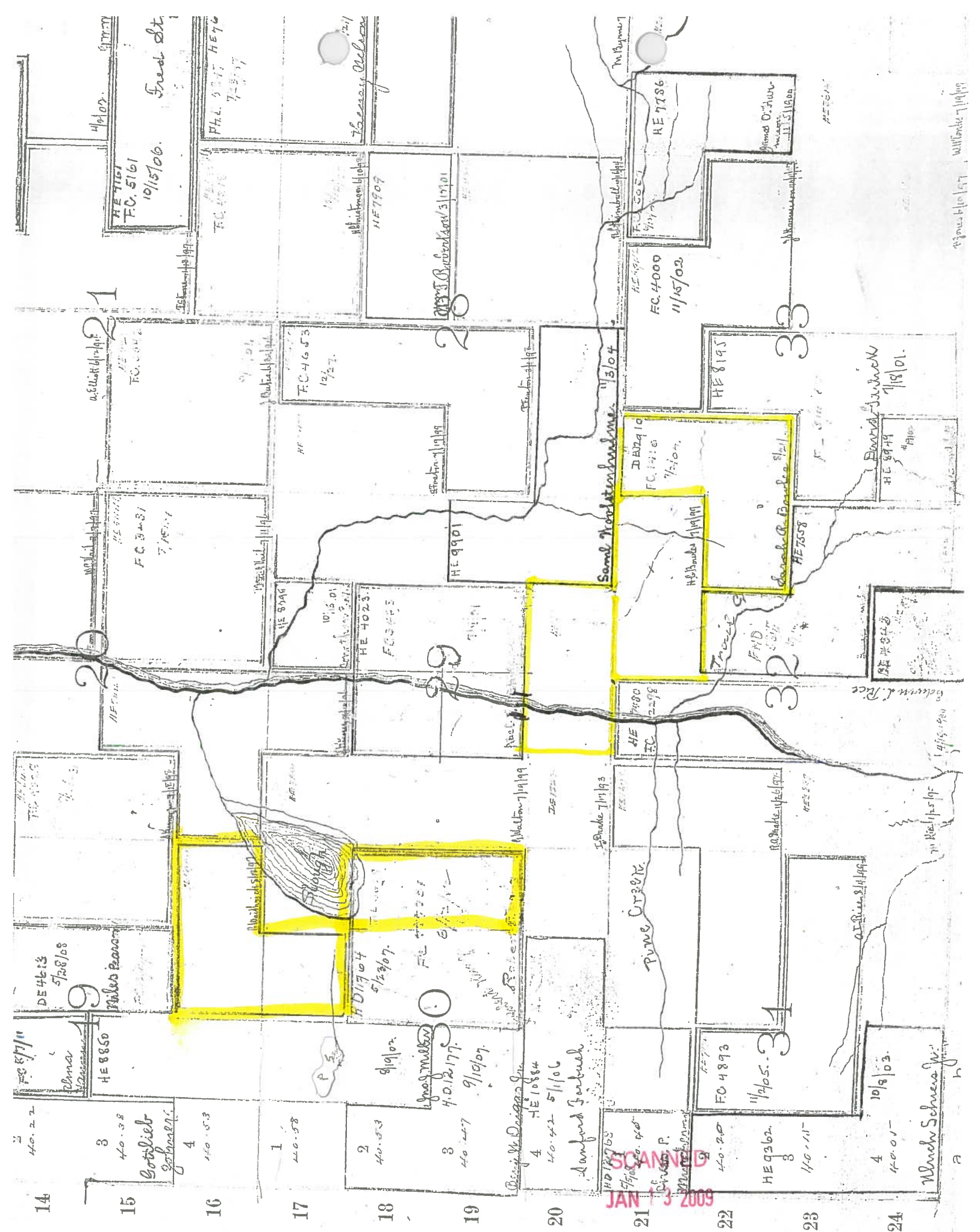

Jean C. Kunz

STATE OF IDAHO)
 :SS
County of Madison)

On this 29th day of December, in the year 2005, before me, a Notary Public in and for said State, personally appeared Jean C. Kunz, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.


Notary Public for Idaho
Residing at: Rexburg, Idaho
My Commission Expires: 12/04/10





RECEIVED

JUL 06 1995

TETON Co. Id.
Clerk Recorder

"SCHEDULE A"
120483
WARRANTY DEED

Warranty deed made this ____ day of July, 1995, between DUANE H. KUNZ and JEAN C. KUNZ, husband and wife, of 470 West 575 South, Victor, Idaho 83455, referred to as Grantors, and The DUANE and JEAN KUNZ FAMILY TRUST, Duane H. Kunz and Jean C. Kunz, Trustees, referred to as Grantee.

Grantors in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, have granted, bargained, and sold, and do hereby grant, bargain, sell, convey, and confirm unto Grantee and its heirs and assigns forever, all the following described real estate situated in Teton County, Idaho:

PARCEL I

The SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29, Township 4 North, Range 45 East, Boise Meridian, Teton County, Idaho.

Less Road
North

PARCEL II

The SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30, Township 4 North, Range 45 East, Boise Meridian, Teton County, Idaho.

PARCEL III

Lots 2 and 3 of Section 30, Township 4 North, Range 45 East, Boise Meridian, Teton County, Idaho.

Less Tax No. 2065, more specifically described as beginning at a point 400 feet West of the SE corner of Lot 3, and running thence West 209 feet, thence North 209 feet, thence East 209 feet, thence South 209 feet to the place of beginning.

Less Tax No. 2419, more specifically described as commencing at a point 360 feet North and 30 feet East of the SW corner of Lot 3, and running thence North 330 feet, thence East 132 feet, thence South 330 feet, thence West 132 feet to the place of beginning.

WARRANTY DEED-I

SCANNED
JAN 13 2009

Also less Tax No. 2997, more specifically described as: commencing at the SW Corner of Lot 3, thence North 60 feet along the section line; thence East 30 feet to the true point of beginning; and running thence North 300 feet; thence East 200 feet; thence South 300 feet; thence West 200 feet. Contains 1.38 acres more or less. Bearing s based on West Section line bearing North.

Also Less Tax No. 3054, being more specifically described as: Beginning at the W $\frac{1}{4}$ Corner of said Section 30 and running thence North 1308.94 feet along the Section line to the NW Corner of Lot 2 of said Section; thence East 250.0 feet along the North line of Lot 2; thence South 2630.38 feet more or less to the South line of Lot 3; thence West 250 feet to the Section line; thence North 1321.44 feet to the point of beginning LESS the following: From the SW Corner of Lot 3 of said Section 30 North 60.0 feet; thence East 30 feet to a point of beginning; thence North 630 feet; thence East 132 feet; thence South 330 feet; thence East 68 feet; thence South 300 feet; thence West 200 feet to the point of beginning.

Also Less Tax No. 3124, being more specifically described as: Beginning at the NW Corner of Lot 2 and running thence East 250 feet to the true point of beginning; thence South 435 feet; thence East 700 feet; thence North 435 feet; thence West 700 feet to the true point of beginning. Contains 7 acres more or less. TOGETHER with a 60 foot nonexclusive easement beginning from the SE Corner of the above described property meandering southerly along the West boundary of the tillable ground to a point where it intersects the county road to Henderson Canyon (575 S) East of the Craig Kunz property.

PARCEL IV

The NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 30, Township 4 North, Range 45 East, Boise Meridian, Teton County, Idaho.

Less Tax No. 3234, being more specifically described as: Beginning 1582.45 feet East of the SW Corner of Lot 3, thence East 150 feet; thence North 175 feet; thence West 150 feet; thence South 175 feet to the point of beginning.

MISSY # 3503
→
WARRANTY DEED-2

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JAN 13 2009

PARCEL V

Tax No. 3404, being more specifically described as: Beginning at a point 540 feet West of the NE Corner of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, Township 4 North, Range 45 East, Boise Meridian, Teton County, Idaho, and running thence West 209 feet, thence South 209 feet, thence East 209 feet, thence North 209 feet to the point of beginning.

PARCEL VI

The W $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 32, Township 4 North, Range 45 East, Boise Meridian, Teton County, Idaho.

To have and to hold, all and singular the above-described premises together with the appurtenances unto Grantee and its heirs and assigns forever.

And Grantors and their heirs shall and will warrant and by these presents forever defend the premises in the quiet and peaceable possession of Grantee, its heirs, and assigns against Grantors and their heirs and against all and every person and persons whomsoever, lawfully claiming the same.

Grantors have hereunto set their hand on the day and year first above written.

Duane H. Kunz
DUANE H. KUNZ, Grantor

Jean C. Kunz
JEAN C. KUNZ, Grantor

WARRANTY DEED-3

SCANNED

JAN 13 2009

RECEIVED

ROY C. MOULTON
Attorney at Law
60 East Wallace Ave.
P.O. Box 634
Driggs, Idaho 83422
(208) 354-2345
(208) 354-2346 [facsimile]

JUL 6 1995

TETON Co.
Clerk Recd.

120482

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

In the matter of the)

) Case No. _____

)
)
)
) The DUANE and JEAN KUNZ)
) FAMILY TRUST)

REGISTRATION OF TRUST
Under I.C. § 15-7-101
and 15-7-102
)
)
)

It is the desire of the undersigned to register this Trust in the Teton County
Courthouse, State of Idaho.

1. Name. The name of the Trust to be registered is THE DUANE and JEAN
KUNZ FAMILY TRUST.
2. Trustees. The name and address of each Trustee and successor Trustee is as
follows:

DUANE H. KUNZ Original Trustee.
470 West 575 South
Victor, Idaho 83455

JEAN C. KUNZ Original Trustee.
470 West 575 South
Victor, Idaho 83455

CRAIG D. KUNZ Successor Trustee.
466 West 575 South
Victor, Idaho 83455

REGISTRATION OF TRUST-I

SCANNED
JAN 13 2009

120482

FILED

AT THE REQUEST OF

Roy Moulton
ATTESTED BY *4*
DATE *July 6, 1995*
Dea J. Drake
Nora Rigby

120482

Grantors, CRAIG D. KUNZ, whose current address is 466 West 5th South, Victor, Idaho 83455, is appointed to be the sole Trustee. If CRAIG D. KUNZ is not available to serve as Trustee, then DEAN H. KUNZ, whose current address is 161 South 2000 West, Rexburg, Idaho 83440, shall be appointed as successor Trustee.

Duane H. Kunz
DUANE H. KUNZ, Grantor

Jean C. Kunz
JEAN C. KUNZ, Grantor

STATE OF IDAHO)
 : ss.
County of Teton)

On this 5th day of July, 1995, before me personally appeared DUANE H. KUNZ and JEAN C. KUNZ, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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



Pauline Bagley
Notary Public for Idaho
Residing at: Victor
My Commission expires: 1999

SCANNED
JAN 13 2009

September 18, 2007

To whom it may concern:

Earlier this year, Craig Kunz and I were talking about the SRBA process when he told me that a right he uses on the east side of the Teton River, which we call the Bowles right, had been claimed on Paradise Springs instead of the correct point of diversion on the other side of the Teton River. I told him I was aware of this mistake, and told him that I had recently acquired testimony from the Rexburg decree which would prove that Henry Bowles never used water from Paradise Springs. Craig went on to tell me that the researchers at IDWR did not believe him and instead believed the Bowles right to be associated with Paradise Springs and Paradise Creek.

I told him that I would go to Idaho Falls with him and meet with Mr. Trent Galbraith to discuss this matter. After I presented some of the testimony to Mr. Galbraith, he explained that the decree itself described land which could not be irrigated from the east side of the river. After carefully examining the decreed place of use, I suggested that the decree also included lands which were too high in elevation (up a large hill) to have been irrigated from Paradise Springs. At that point, the decree obviously being indeterminate, Mr. Galbraith encouraged us to file protests against the persons who claimed Bowles water came from Paradise Springs as well as a protest against Craigs' recommended claim. After discussing this further with Craig after the meeting, I encouraged him to file a protest against the rights of Ryan (Merle) Kunz which originate and are used in the same area. At this point neither Craig nor I was aware that there are 2 Bowles rights: one for H C Bowles, and one for Sarah Bowles. After filing the protests, we were informed by the court that the protest against Ryan (Merle) Kunz's right was not processable because that right was not on the computer. In fact, it was later found and the protest is active. However, the protest is incorrect in that we suggested that the quantity of water should be 1.2 cfs of the HC Bowles right. In fact, Merle Kunz, and heirs, own the Sarah Bowles right (2.0 cfs) and 0.3 cfs of the H C Bowles right.

The original claim made by Duane Kunz on the H C Bowles right shows it split between he and his brother, Merle Kunz: 1.6 cfs apiece. This half split reflects that Duane and Merle thought of the Bowles right as one right, not 2 distinct rights, and they split the one right they thought they owned equally in the original claims. From the outset, Craig told me that he believed that he was using more than 1.6 cfs and he believed that Ryan Kunz also was using more than 1.6 cfs.

About July 27th, 2007, I became aware that there were 2 Bowles water decrees and at that time everything we are in court to discuss fit together like a puzzle. When Craig took me to look at the point of diversions and places of use, H C Bowles testimony came alive. The spring creek that irrigates the Sarah Bowles place was diverted on to the land now owned by John Block and the heirs of Merle Kunz, and there was another spring that was diverted into a ditch to irrigate the land belonging to the Duane and Jean Kunz trust. I estimated that that ditch which was flowing onto the Duane and Jean Kunz trust land at approximately 2.5 cfs based on a basic water speed/volume equation. The ditch carrying water to the Sarah Bowles place appeared to be flowing at about the same rate although no specific test was done.

There is one forty on the original H C Bowles homestead that could not be and was not watered out of the Spring, it would have been watered from the Sarah Bowles spring creek—this is the NE of the NE of section 32, T4N R45E. This land belongs to Neil Kunz. Neil Kunz should have the remaining 0.3 cfs of the H C Bowles right applied to

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JAN 13 2009

his land, and the excess Sarah Bowles water should be equally distributed between the other Sarah Bowles claimants.

There are 15 acres irrigated outside of HC Bowles homestead. The way the ditches are set up, I believe this land was irrigated by H C Bowles when he was irrigating the rest of his place more or less by accident; however, the water use to this land is beneficial and continues to this day and should be considered an accomplished transfer.

In general, the amount of water needed to irrigate 115 acres would be 2.3 cfs; however, the seepage from the canals in this specific area is extremely high. It takes weeks for the canals to fill all the way down to the lower fields because of this extreme seepage, and over the course of the almost 3/4 mile ditch it is certain that more than the extra 0.2 cfs claimed is lost to seepage on the way to the lower fields. Since the spring ditch is very close to 2.5 cfs, we assume HC Bowles knew it took a little more water to get the lower fields irrigated and he designed the canals to be as they are because of this.

I certify that the above statements are true.


Michael L Reid

SCANNED

JAN 13 2009

To Whom It May Concern:

I have tried for several years to get the IDWR to look at the H.C Bowles water right that they had assigned to Paradise Springs. On more than one occasion, I invited staff out to the sight so that they could observe the demographics of the issues of my disagreement with their interpretations of the H.C Bowels rights. After many futile trips to Idaho Falls, I had almost given up on the issue. Then earlier this year I was discussing my frustration about the issue with my neighbor Mike Reid, he told me he had been doing research on Paradise Springs from the Fremont County court records and that he had come across evidence that clarifies the H.C Bowels right and that Mr. Bowels had never lived in the area of Paradise Springs and clearly had filed for the water that I had been trying help the IDWR understand was decreed to the Duane Kunz Family Trust, and the land that the water has been being used on for the past one hundred years.

By the time I could set up a meeting with Trent Galbraith to present the information there were only three weeks prior to the protest deadline, so I have needed additional time to collect all of the information that is pertinent to resolving this mistake.

As I have further investigated this matter the picture has become very clear that there was not just one Bowels right but two, the second right was filed in behalf of Henry's wife Sara. I have always known that there were two different sources that my Father Duane and his brother Merle got there water from to irrigate the property, after looking at the evidence it's clear that there is a Sara Bowels right and a H.C. Bowels right that come from two different spring sources in the section of the original Bowels property. The two families of Merle and Duane have used the water with canal systems that flood out over the land that H.C. Bowels originally owned.

There is one forty that borders the Bowels property that was not in the decreed land originally that was later purchased by Duane Kunz, (twn4n-rng45e-sec32) but Bowels irrigated approximately

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fifteen acres of that forty where the canal crosses through the property to reach the balance of his ground. The original claim was for 2.8 cubic feet for HC.Bowels, they (Merle and Duane) thought that there was only the one right so they split it 1.6 for each of them, but we now have evidence that they were two separate claims.

It requires at least 2.5 cubic feet to water the acres of the Duane Kunz property with as much leeching that occurs on this land, most of it eventually flows back into the river, it is clear from the Henry Bowels testimony that he knew it took all of that amount to adequately irrigate the property. I believe that Neil Kunz is entitled to the other .03cfs of the original 2.8cfs for the portion that the canal irrigates into his field.

This has long been a complex frustrating issue not only for us but also for the IDWR, in more than one meeting when I have said I'm here to talk about Paradise Springs I was shuttled off into a corner and no one really had any answers. It should be satisfying to all to finally have clear concise evidence and answers for all involved.

My intentions are not hurt anyone with administration of this matter but to finally clarify and make right the misunderstandings of this issue are important. I have presented as much factual evidence as is available at this time, please review it carefully and thoroughly.

I certify that the above statements are true, to the best of my knowledge.

Sincerely Craig Kunz Exce. Duane Kunz Family Trust



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JAN 13 2009

his own claim, a complaint in writing:-

DEBUT EXAMINATION BY HARRY.

- Q. Now, would you not be a defendant in this action?
- A. Yes sir.
- Q. Are you the owner of the land described in your cross-complaint?
- A. Yes sir.
- Q. As being the Southeast quarter of the Southwest quarter and other subdivisions of section thirty, township four?
- A. Yes sir.
- Q. How long have you been acquainted with that land, Mr. Bowles?
- A. Ever since 1889.
- Q. Who occupied the land in 1889?
- A. A man by the name of Heneger.
- Q. Bought Green out, did you say to Green and Green sold to Heneger?
- A. In 1889 I bought him out.
- Q. Had you known the land until 1889?
- A. Not until the spring of 1889.
- Q. At the time you bought in the spring of 1889, had the land been irrigated before that?
- A. No sir.
- Q. Had not been irrigated by any one before that?
- A. It was got out that summer, Heneger got the water out in 1889.
- Q. Where was the water taken out from?
- A. Out of Spring Creek.
- Q. That is a tributary of the Teton River?
- A. Tributary of Trail Creek.
- Q. Which is a tributary?
- A. Yes sir.
- Q. How much of the land was covered by this ditch taken from Jones Spring Creek?
- A. All with the exception of part of one forty.
- Q. About how many acres?
- A. Something over 100 acres.
- Q. You may state whether or not the ditch the carrying capacity of that ditch is sufficient to irrigate this 100 acres, or over 100 acres under the ditch?
- A. Yes sir.
- Q. How much of that land has actually been irrigated from that ditch?
- A. Well, there has been a hundred acres or more.
- Q. Is there any water for the balance of that land?
- A. Yes sir.

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JAN 13 2009

Q. From what source do you get water for the other sixty acres?
From what source do you get water for the other sixty acres?

A. There is a part of one forty that comes in out of Spring

Creek, another part of one forty that comes in out of Spring

Creek, another part of one forty that comes in out of Spring

Q. Is the land actually irrigated now? A. Yes sir.

Q. How much of it is irrigated, all of it?
How much of it altogether is irrigated, all of it?

A. Yes sir.

A. There is about—it is all irrigated with the exception of
the part across the river. I guess about twenty acres across
the river, or twenty-five.

Q. Then there is about one hundred and forty acres is irrigated at
the present time? A. Yes sir.

Q. You have gradually irrigated that land from 1889 up to the
present time until all but about twenty acres have been
irrigated? A. Yes sir.

Q. Is there any one else interested in this ditch? A. No sir.

Q. Just yourself? A. Just myself.

Q. Is there any other water supply outside of these creeks
you have named? Available for use on this land?

A. No sir.

Q. Is that land desert land? A. Yes sir.

Q. How much does it require to the acre to successfully irrigate
and cultivate it? A. About an inch I would suppose.

Q. About like the rest of the land in the country? A. Yes sir.

Q. You think an inch down there would be enough for it?

A. Yes sir.

Q. That is a continuous flow—and this ditch is of sufficient
carrying capacity to be able to irrigate all of the land in it?

A. Yes sir, I have had it since and since it was first made, you
know.

Nowley—Is there any dispute in regard to this, gentlemen?

That is all Mr. Nowley. I want to call your attention to the
fact that Mr. Bowles—I want to call your attention to the
fact that Mr. Bowles—I want to call your attention to the

Sarah Bowles claim now.

Q. Do you know the defendant Sarah Bowles? A. Yes sir.

Do you know the defendant Sarah Bowles? A. Yes sir.

- Q. Who is your wife? A. Yes sir.
She is your wife is she? A. Yes sir.
- Q. Do you know the tract of land described in your cross complaint
describing the Northeast quarter of the Northwest quarter
and being the Southeast quarter of the Northeast quarter
of Section 33, and other lands therein described? A. Yes sir.
That land belongs to her? A. Yes sir.
That land belongs to her? A. Yes sir.
- Q. How long has she been the owner of that land?
A. I could not say until I had the papers—
I could not say until I had the papers—
- Q. You may look at the papers? A. First of August, 1900, is it not.
You may look at the papers? 31st of August, 1900, is it not.
- Q. Fourteenth of August that is? A. Yes sir.
Fourteenth of August that is? Yes sir.
- Q. She located under the desert act? A. Yes sir.
(She) located under the desert act? Yes sir.
- Q. Where did she procure water for use on the land?
Where did she procure water for use on the land?
- A. Called Spring Creek.
Called Spring Creek.
- Q. When did she first put the water on the land?
When did she first put the water on the land?
- A. The next spring after this.
The next spring after this.
- Q. That is August, 1900? A. Yes sir, the next spring.
That is August, 1900? Yes sir, the next spring.
- Q. Spring of 1901? A. Yes sir.
Spring of 1901? A. Yes sir.
- Q. What time in the spring? A. About May.
What time in the spring? About May.
- Q. About the first of May? A. Yes sir, not the first, either,
About the first of May? Yes sir, not the first, either,
along about the last.
along about the last.
- Q. How much of that land of hers was covered by the ditch you
took out then? A. One forty.
How much of that land of hers was covered by the ditch you
took out then? A. One forty.
- Q. Only one forty that could be irrigated from it or been
irrigated since? A. I don't know what was irrigated.
Only one forty that could be irrigated from it or been
irrigated since? A. I don't know what was irrigated.
- Q. I want to know how much could have been irrigated from
that canal that you took out in 1901?
I want to know how much could have been irrigated from
that canal that you took out in 1901?
- A. There could have been close on to two fortys.
There could have been close on to two fortys.
- Q. Did that ditch have a sufficient carrying capacity to
irrigate the two forties? A. Yes sir.
Did that ditch have a sufficient carrying capacity to
irrigate the two forties? Yes sir.
- Q. Any water taken out on the land since then from other sources?
Any water taken out on the land since then from other sources?
- A. No sir.
No sir.
- Q. About eighty acres can be irrigated? A. All can be.
About eighty acres can be irrigated? All can be.
- Q. From these ditches? A. Yes sir, from these ditches, it all
From these ditches? Yes sir, from these ditches, it all
has been irrigated.
- Q. Please pay attention—I asked you specifically how much of
Please pay attention—I asked you specifically how much of

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Q. How long is it, Sam?

A. It varies from ten to thirty feet long.

Q. How deep? A. Ten feet.

Q. Is that ditch sometimes or generally known as the party ditch?
A. No.

Q. This is known as the party ditch? A. That is known as the
party ditch.

Q. This was the ditch you have testified to as having been enlarged
by the plaintiff? A. Yes sir.

Q. And it was not intended solely for the irrigation of your
land and the others having interest in the same? A. I think so.

Q. When was this ditch constructed after making this
water location? A. It was started, the construction was
not completed that winter was completed in the spring of
1901-1902.

Q. And finished when? A. It was finished I believe within two
years.

Q. You have been diligent? A. Yes sir.

Q. How much of your land is now owned by Mr. Plattner and
owned by the ditch? A. 100 acres, but about fifty acres
are cultivated.

Q. That is under cultivation? A. Yes sir.

Q. But it all can be cultivated? A. Yes sir.

Q. And it was your intention to bring it all under cultivation?
A. Yes sir.

Q. That is Mr. Plattner's intention now, is it not? A. Yes sir.

Q. Is there any other water supply for this land? A. No sir.

Q. About how much per acre is needed? A. An inch or two.

Hawley: That is all. Call Mr. Koontz on the stand of

Caroline Withrich.

Caroline Withrich.

JAN KOONTZ, being first duly sworn, on behalf of the
above claim, testified as follows:-

DIRECT EXAMINATION BY HAWLEY.

Direct examination by Hawley

Q. What is your name? A. Sam Koontz.

What is your name sir? A. Sam Koontz.

Q. Do you know the land described in the cross-complaint of the
Do you know the land described in the cross-complaint of the

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- Q. Did you see Caroline Withrich? Yes sir.
- Q. You saw her in 1895? Yes sir.
- Q. You know this land do you Mr. Koontz? Yes sir.
- Q. When did you first know this land? When was it, or how long have you known this land?
- A. For the last ten years.
- Q. Who was settled on it when you first knew it?
- A. Mrs. Withrich.
- Q. Exactly what year was it when she went on there? Exactly, what year was it when she went on there?
- A. She went on there ten years ago. Only filed seven years ago.
- Q. When did she go on, settle on that land? 10 years ago.
- Q. 1895? A. Yes sir, 1895.
- Q. She afterwards identified herself with the government title to the land, did she not? A. Yes sir.
- Q. Located it under the desert act? A. Under the homestead act.
- Q. And is now holding it under the homestead act? A. Yes sir.
- Q. Did she continue to live there after taking possession before she entered it? Yes sir.
- Q. What, if anything, did she do towards procuring water, and settling on that land Mr. Koontz?
- A. In connection with Mr. Geo. Walton, and J. J. Miller helped build a dam.
- Q. In what creek?
- A. Known as Paradise or Anderson Spring. Raised the dam, the dam is now about eighteen feet high.
- Q. Is it a creek that you spoke of as Paradise Springs?
- A. It is a spring that comes out of the hill on the J. J. Miller homestead.
- Q. How much water is furnished by these springs?
- A. Well, they have got a headgate 26 by 16 inches and under four inch pressure it never, the water is never over six inches deep and twenty-six inches wide.
- Q. How much of this water was owned by Mrs. Withrich?
- A. One-fourth.
- Q. When was this water put on her land first?
- A. Well, the first water she could use, it could be raised in the dam—the dam broke once, and it was reconstructed raised in the dam—the dam broke once, and it was reconstructed

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ready, and last season she used the first water and raised the crops, and last season she used the first water and raised the first crops.

- Q. Was it built so as to put the water upon the land? A. Yes, Walton had a ditch there long before it came into the Basin. Had not been used by Mrs. Withrich until last season.
- Q. That was 1903? A. 1904.
- Q. That was 1903? A. 1904.
- Q. Has she irrigated any of the land prior to 1904? A. No, she could not, the ditch was too low.
- Q. How much of that land of hers is covered by this water? A. Of the homestead? Yes sir.
- Q. I think about 100 acres can be irrigated. A. Yes sir.
- Q. About 100 acres? A. Yes sir.
- Q. Is there any other water supply except this water supply from Paradise Springs? A. Not from, only from Paradise Springs.
- Q. Has Mrs. Withrich another piece of land besides this land that has been mentioned? A. Yes, got an eighty acre tract under desert entry.
- Q. This eighty acre tract is in the Northwest quarter of the Southeast quarter and the Southeast quarter of the Northeast quarter, section thirty, town four, north of range forty-five east. How long has she had that land? A. About two years.
- Q. Did she locate it first? A. Yes sir.
- Q. And where does she procure water for use on that land? A. From Paradise Springs.
- Q. From the same springs? A. Yes sir.
- Q. Does she have a sufficient supply of water to irrigate both of these tracts from these springs? A. Yes sir.
- Q. Well, last season the water has commenced raising in the ground and showing up, and I think by a proper use she will have enough.
- Q. You think she will? A. Yes sir.
- Q. When did she first put it on this last piece of ground? A. Has not put it there yet. Got to raise the dam yet, about four feet.
- Q. She is intending to put it there, and claim a water right? A. As quick as possible.

- Q. That is the only water supply for this piece of land? A. Yes sir.
- Q. That is the only water supply for this piece of land? A. Yes.
- Q. Is it necessary for the successful cultivation of this land and the other place? A. Yes sir.
- Q. Are you an old resident here Mr. Koontz?
- A. Been here in the basin ten years.
- Q. Have you noticed the effect of the use of water for irrigation purposes as far as extending the water supply is concerned?
- A. My son Joseph has got a homestead, and he has—if he wants to get any hay at all, he has got to cut it in June for it will flood over on the lands in July and August.
- Q. How long has this state of affairs existed?
- A. When we first came to the basin he could cut it nearly every year, and now lately, last year, did not cut but fifteen ton.
- Q. Where is his land situated with reference to the creek?
- A. It is just north and east of Mr. Walton on the Teton River.
- Q. You are satisfied that it is the increase in the use of the water that has caused this increase in the wetness of the land? A. Absolutely.
- Q. Could not be attributed to any other source could it? As a man of experience in irrigating, what is your opinion as to the use of water in Teton Basin, does it interfere with the water supply in the low water season with the people below or increase it?
- A. Increases it. Last year Mrs. Withrich's land, for instance, in sage brush land, the biggest part of it, and last season there was over a dozen of springs sprung up right in among the sage brush.
- Q. I will ask you—I will ask you in regard to the claim of J. J. Miller—you know him? A. Yes sir.
- Q. You know the land he claims, described in his cross-complaint?
- A. Yes sir.
- Q. When did Mr. Miller settle on that land?
- A. About four years ago.
- Q. Mr. Miller is one of the parties that claim water from

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Paradise Springs? A. Yes sir.
Paradise Springs? A. Yes sir.

Q. When did he first take the water from Paradise Springs?

A. When he first took the water from Paradise Springs.

Q. Upon this land of his? A. This last season.

Q. In 1907? A. Yes sir.

Q. How did he bring it by the (means) of a ditch?

A. By means of a ditch.

Q. How much of that land of his is covered by this water?

A. In the neighborhood of 100 acres, I think.

Q. Is there any other water supply except this water from Paradise Springs?

A. No sir.

Q. It is necessary to use the water on his land to raise crops on it? A. Yes sir.

Q. How much of it has he actually watered up to this time?

A. About nine acres.

Q. About nine acres--is it his intention to increase the amount?

A. Yes sir.

Q. Yes sir. Directly--in the opinion of the court, in this case.

Q. Are you personally informed Mr. Knight to testify in regard to the title of Susan Knight, Mrs. Knight, in a position to do so--will have him here in the morning.

Q. Mr. Geo. Walton was one of the owners in 1907 in Paradise Springs?

A. Yes sir.

Q. That is all Mr. Knight. Call George Walton.

Q. This is on the claim of George Walton.

Q. George Walton, being first duly sworn, on behalf of his own claim, testified as follows:

Q. Directly--in the opinion of the court, in this case.

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A. Yes sir.

Q. That is all Mr. Knight. Call George Walton.

Q. This is on the claim of George Walton.

Q. George Walton, being first duly sworn, on behalf of his own claim, testified as follows:

Q. Directly--in the opinion of the court, in this case.

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Q. How long have you lived upon that land?

How long have you lived on that land?

A. I took possession of it in 1891.

I took possession of it in 1891.

Q. Who did you buy it from Mr. Walton? A. Mr. Hodgins.

Who did you buy it from Mr. Walton? Mr. Hodgins.

Q. How long had Mr. Hodgins lived upon that land before you went

there? A. I could not say, was not personally acquainted with

him. A. I could not say, was not personally acquainted with him.

him.

Q. Had Mr. Hodgins, when you bought it, any water upon the land?

Had Mr. Hodgins, when you bought it, any water upon the land?

A. I purchased his water right and his improvements.

I purchased his water right and his improvements.

Q. Where had he taken the water from? A. Paradise Springs.

Where had he taken the water from?

Paradise Springs.

Q. That is the springs mentioned by Mr. Koontz in giving his

testimony? A. Yes sir.

testimony? A. Yes sir.

Q. How much of this 160 was covered by the waters of Paradise

Springs? A. About twenty acres.

Springs? A. About twenty acres.

Q. And do you mean that that had been watered from it or could

be? A. Had not been up until 1892. I enlarged the ditch and

irrigated about twenty acres in 1892.

irrigated about twenty acres in 1892.

Q. You mean 1902? A. 1892, yes sir, 1892.

You mean 1902?

1892, yes sir, 1892.

Q. How long did Mr. Hodgins live upon that land?

How long did Mr. Hodgins live upon that land?

A. I could not say, I just got here in the spring and I was

working for Mr. Pratt.

working for Mr. Pratt.

Q. Did you buy it by bill of sale or deed or simply take

possession? A. I got a deed of the water and of the

improvements. But I have not now—they are lost.

improvements. But I have not now—they are lost.

Q. You have had them? A. I have had them.

You have had them? A. I have had them.

Q. Is there any one here that can testify to Mr. Hodgins?

Is there any one here that can testify to Mr. Hodgins?

A. Mr. Ray Kimball, I think he is here.

Mr. Ray Kimball, I think he is here.

Q. After you went on your improvement the size of the ditch did you?

After you went on you increased the size of the ditch did you?

A. Yes sir.

Yes sir.

Q. How much—what carrying capacity did you give it?

How much—what carrying capacity did you give it?

A. I finished the ditch sufficiently large to irrigate the land

I finished the ditch sufficiently large to irrigate the land

in 1892 about twenty acres, and the land lies this way and

this way and the creek comes down, it is very low, consequently

this way and the creek comes down, it is very low, consequently

we had to build a large dam, to dam it to the south end, and we

have not got it completed.

have not got it completed.

Q. How much of that land can be irrigated from that ditch?

How much of that land can be irrigated from that ditch?

A. When the ditch is all completed on the place, about 120 acres.

When the ditch is all completed on the place, about 120 acres.

When the ditch is all completed on the place, about 120 acres.

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When the ditch is all completed on the place, about 120 acres.

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- Q. These Paradise Springs, how much water flows from it?
 A. I don't know—I don't understand measuring water.
 Q. Is there enough to irrigate all of the lands you claim, and
 is there enough to irrigate all of the lands you claim, and
 for the other lands besides? A. I believe there will be water—
 there will be sufficient, to irrigate the claims of Miller,
 there will be sufficient, to irrigate the claims of Miller
 and Koontz and myself.
 Q. That is all that claim from it? A. Yes sir.
 That is all that claim from it? A. Yes sir.
 Q. You think there is sufficient water there for it?
 You think there is sufficient water there for it?
 A. I think there would be, yes.
 I think there would be, yes.
 Q. How much water do you need per acre on your land?
 How much water do you need per acre on your land?
 A. In an irrigating stream, an inch to the acre would be sufficient.
 In an irrigating stream, an inch to the acre would be sufficient.
 Q. It is necessary to have water there for this, and this is the
 only available water supply? A. Yes sir.
 It is necessary to have water there for this, and this is the
 only available water supply? A. Yes sir.
 Hawley—That is all—is Mr. Ray Kimball here, Mr. Brooknridge.

E. BROOKNIDGE, being recalled, on behalf of the above
 claim, testified as follows:—

- Q. Do you know the Geo. Walton claim? A. No sir.
 Q. When did Higgins settle up there, what year?
 A. I could not say that, 1888 or 1889, somewhere along there.
 He came up there, and left.
 Q. You have just rode by there.

THOMAS HAYES, being recalled, on behalf of the above
 claim, testified as follows:—

DIRECT EXAMINATION BY HAWLEY.

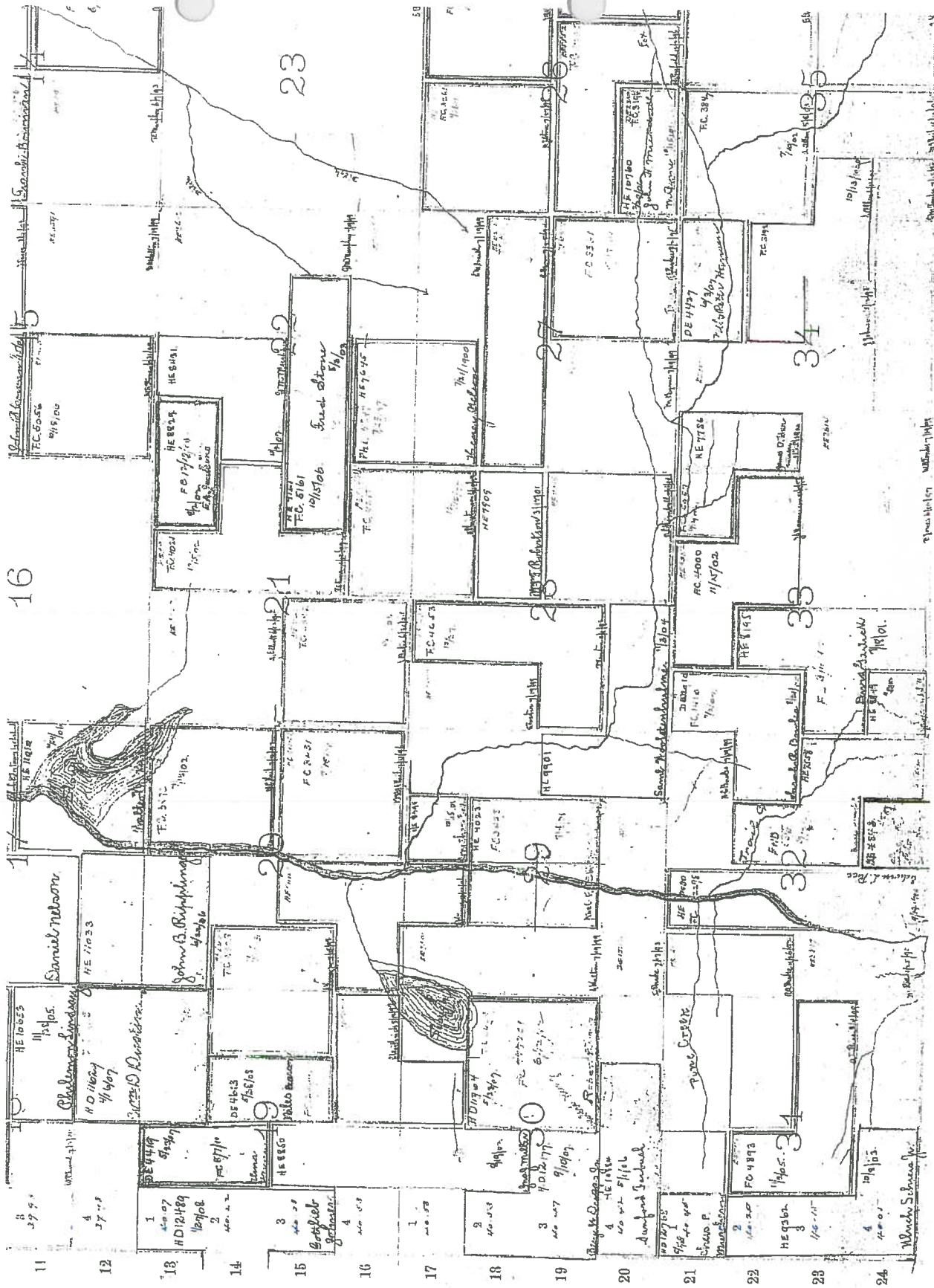
- Q. Mr. Batesman did Mr. Higgins go on this land?
 A. I believe it was about 1891 or 1892.
 Q. 1891 or 1892, somewhere about that time.
 Hawley—That is all—that will do. Call Mr. B. O. Walton.

B. O. WALTON, being first duly sworn, on behalf of the
 above claim, testified as follows:—

DIRECT EXAMINATION BY HAWLEY.

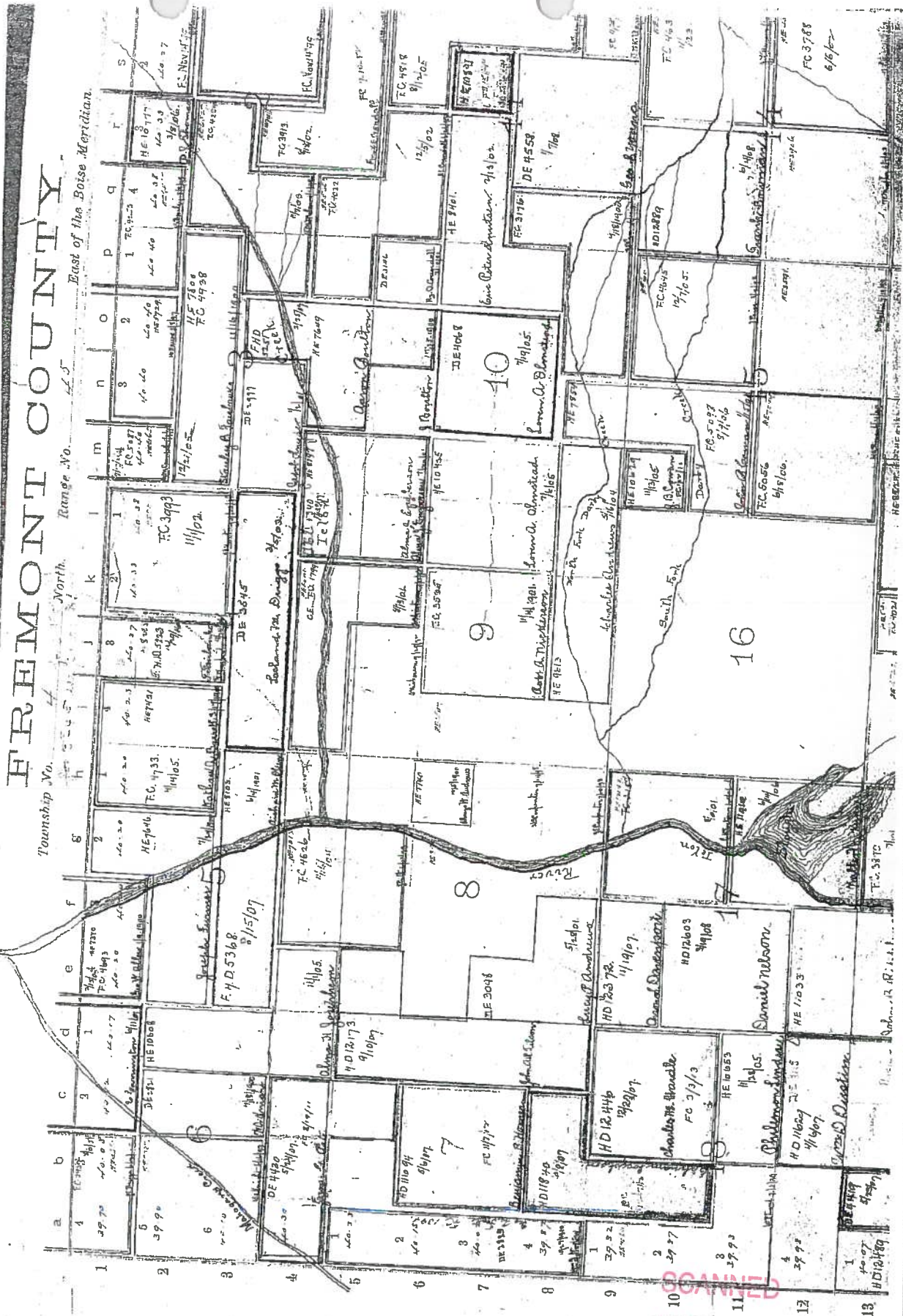
- Hawley—First I will ask you Mr. Kimball, when Mr. Higgins
 first settled on the land was owned by George Walton, 1891?
 A. Yes, 1891, the summer of 1891.
 Q. The summer of 1891? A. Yes sir.
 Q. Used the water for the first time in 1891? A. Yes sir.

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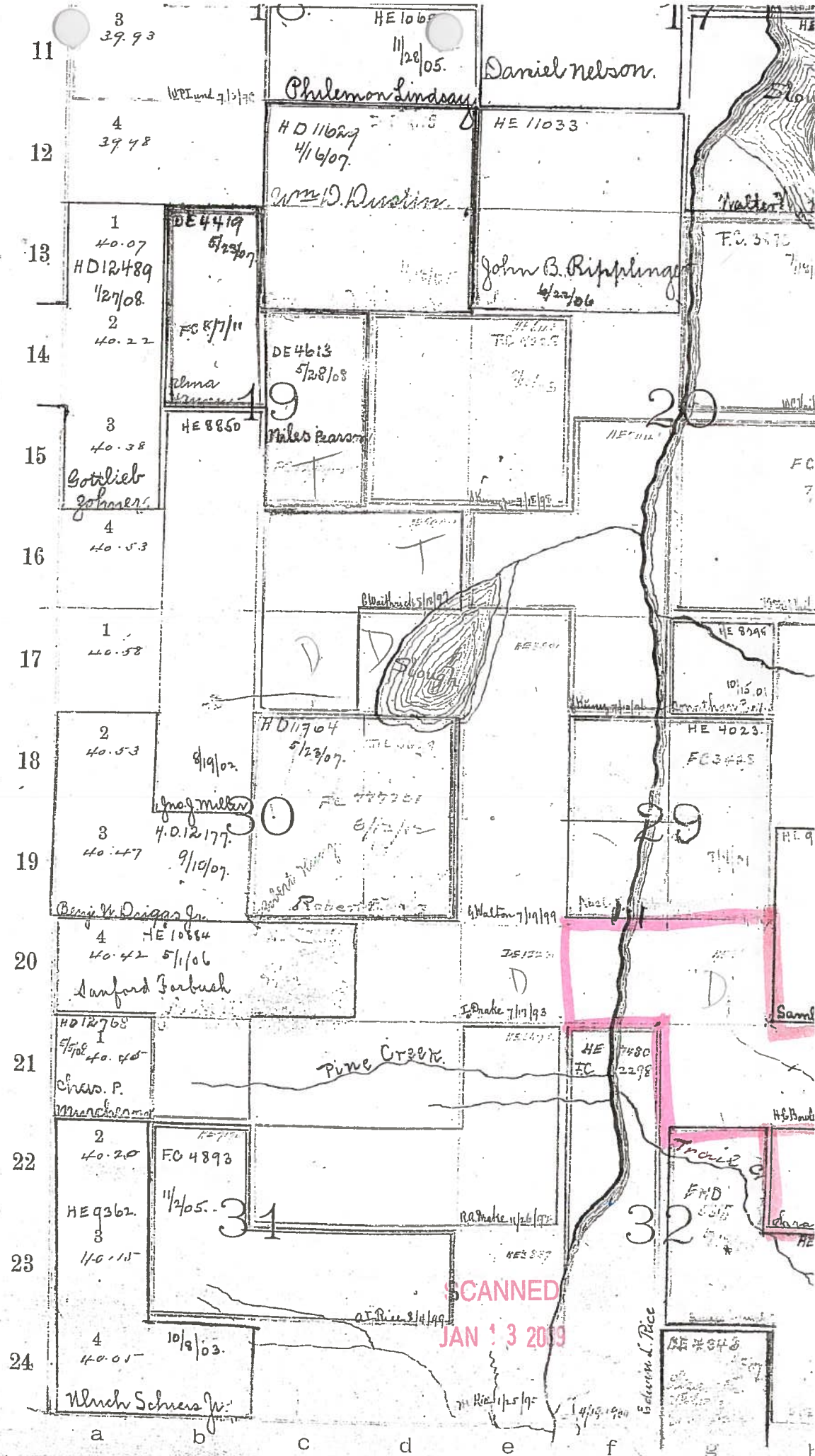


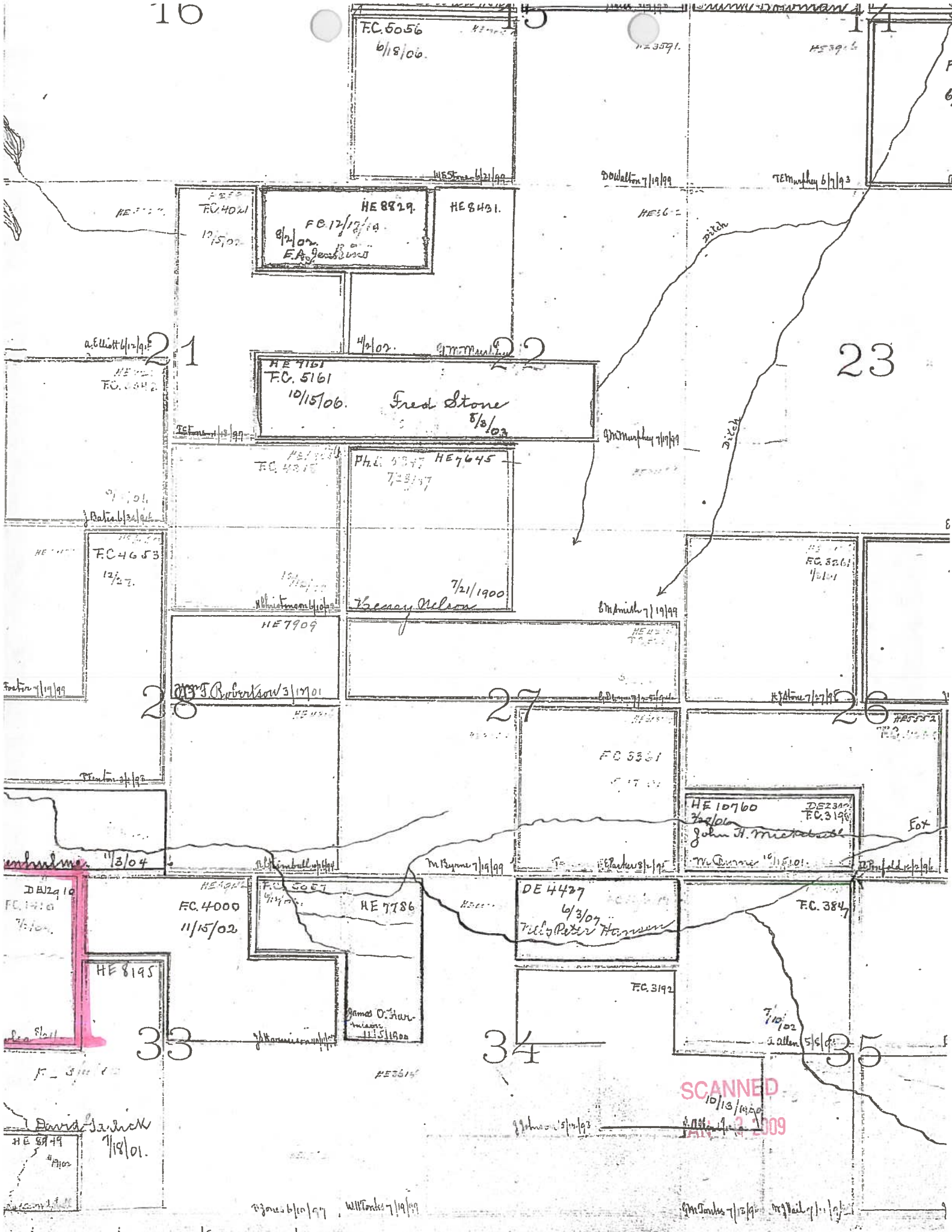
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his own claim, testified as follows:-

DIRECT EXAMINATION BY HARTLEY.

- Q. Mr. Bowles you are a defendant in this action?
Mr. Bowles you are a defendant in this action?
- A. Yes sir.
- Q. Are you the owner of the land described in your cross-complaint
Are you the owner of the land described in your cross-complaint
as being the Southeast quarter of the Southwest quarter and
other subdivisions of section thirty, township four?
- A. Yes sir.
- Q. Yes sir.
- Q. How long have you been acquainted with that land Mr. Bowles?
How long have you been acquainted with that land, Mr. Bowles?
- A. Ever since 1889.
- Q. Who occupied the land in 1889? A. A man by the name of Heneger
Who occupied the land in 1889? A. A man by the name of Heneger
bought Green out, Hokey sold to Green and Green sold to Heneger.
bought Green out, Hokey sold to Green and Green sold to Heneger.
In 1889 I bought him out.
In 1889 I bought him out.
- Q. Had you known the land until 1889? A. Not until the spring of
Had you known the land until 1889? A. Not until the spring of
1889.
- Q. At the time you bought in the spring of 1889, had the land
At the time you bought in the spring of 1889, had the land
been irrigated before that? A. No sir.
- Q. Had not been irrigated by any one before that?
Had not been irrigated by any one before that?
- A. It was not out that summer, Heneger got the water out in 1889.
It was got out that summer, Heneger got the water out in 1889.
- Q. Where was the water taken out from? A. Out of Spring Creek—
Where was the water taken out from? A. Out of Spring Creek—
Jones Spring Creek.
- Q. That is a tributary of Teton River? A. Tributary of Trail
That is a tributary of the Teton River? A. Tributary of Trail
Creek.
- Q. Which is a tributary? A. Yes sir.
- Q. How much of the land was covered by this ditch taken from Jones
How much of the land was covered by this ditch taken from Jones
Spring Creek? A. All with the exception of part of one forty.
- Q. About how many acres? A. Something over 100 acres.
- Q. You may state whether or not the ditch the carrying capacity
You may state whether or not the ditch the carrying capacity
of that ditch is sufficient to irrigate this 100 acres, or
of that ditch is sufficient to irrigate this 100 acres, or
over a hundred acres under the ditch? A. Yes sir.

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- Q. Now, Mr. Bowles you are a defendant in this action?
- A. Yes sir.
- Q. Are you the owner of the land described in your cross-complaint?
- Are you the owner of the land described in your cross-complaint as being the Southeast quarter of the Southwest quarter and other subdivisions of section thirty, township four?
- A. Yes sir.
- Q. How long have you been acquainted with that land, Mr. Bowles?
- How long have you been acquainted with that land, Mr. Bowles?
- A. Ever since 1889.
- Q. Who occupied the land in 1889?
- A. A man by the name of Heneger.
- Who occupied the land in 1889? A. A man by the name of Heneger bought Green out, Hokey sold to Green and Green sold to Heneger. In 1889 I bought him out.
- Q. Had you known the land until 1889?
- A. Not until the spring of 1889.
- Q. At the time you bought in the spring of 1889, had the land been irrigated before that?
- A. No sir.
- Q. Had not been irrigated by any one before that?
- A. It was not out that summer, Heneger got the water out in 1889.
- Q. Where was the water taken out from?
- A. Out of Spring Creek— Jones Spring Creek.
- Q. That is a tributary of Teton River?
- A. Tributary of Trail Creek.
- Q. Which is a tributary?
- A. Yes sir.
- Q. How much of the land was covered by this ditch taken from Jones Spring Creek?
- A. All with the exception of part of one forty.
- Q. About how many acres?
- A. Something over 100 acres.
- Q. You say it is sufficient or not the ditch the carrying capacity of that ditch is sufficient to irrigate this 100 acres, or over a hundred acres under the ditch?
- A. Yes sir.
- Q. How much of that land has actually been irrigated from that ditch?
- A. Well, there has been a hundred acres or more.
- Q. Is there any water for the balance of that land?
- A. Yes sir.

- Can all of it be irrigated? Yes sir.
- Q. How much of it? A. All but a very little. About maybe ten or fifteen acres ten or fifteen.
- Q. All of it can be? A. Yes sir.
- Q. The first season there was forty or fifty acres irrigated? The first season there was forty or fifty acres irrigated?
- A. Yes sir.
- Q. How much water to the acre does that land require? How much water to the acre does that land require?
- A. I should judge about an inch.
- Q. About an inch? A. Yes sir.
- Q. That is all—any questions, gentlemen—any disputes on this claim? All Mr. Fred J. Drake.

FRED J. DRAKE, being first duly sworn, testified as follows:-

PERCUT EXAMINATION BY HAKLEY.

- Q. I will first ask you Mr. Drake a question in regard to Mr. Bowles land. Do you know when the water was first taken on the claim owned by Mr. Bowles? A. I don't know positively, but I know that he was in there and at his place in the year 1908.
- Q. 1908? A. Yes sir.
- Q. Do you know how much—whether the land had been cultivated prior to that time?
- A. I don't know, that was the first year I was in there.
- Q. You know he did have the place at that time?
- A. I know he has watered it ever since.
- Q. It is all practically under irrigation now? A. Yes sir.
- Q. I will now ask you in regard to the claim of Fred J. Drake. You are one of the defendants in this action? A. Yes sir.
- Q. And the water of land being the land half of the southeast quarter of section seven, and other pieces of land?
- A. Yes sir.
- Q. That is your land is it? A. Yes sir. Section 7 and 8 my land is

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- and being the southeast quarter of the Northeast quarter of Section 32, and other lands therein described?
- Q. That land belongs to her? A. Yes sir.
- Q. How long has she been the owner of that land?
- A. I could not say until I had the papers—
- Q. You may look at the papers? A. First of August, 1900, is it not.
- Q. Fourteenth of August that is? A. Yes sir.
- Q. Is located under the desert act? A. Yes sir.
- Q. Where did she procure water for use on the land?
- A. Called Spring Creek.
- Q. When did she first put the water on the land?
- A. The next spring after this.
- Q. That is August, 1900? A. Yes sir, the next spring.
- Q. Spring of 1901? A. Yes sir.
- Q. What time in the spring? A. About May.
- Q. About the first of May? A. Yes sir, not the first, either, along about the last.
- Q. How much of that land of hers was covered by the ditch you took out then? A. One forty.
- Q. Only one forty that could be irrigated from it or been irrigated since? A. I don't know what was irrigated.
- Q. I want to know how much could have been irrigated from that canal that you took out in 1901?
- A. There could have been close to two fortys.
- Q. Did that ditch have a sufficient carrying capacity to irrigate the two forties? A. Yes sir.
- Q. Any water taken out on the land since then from other sources?
- A. No sir.
- Q. About eighty acres can be irrigated? A. All can be.
- Q. From these ditches? A. Yes sir, from these ditches, it all has been irrigated.
- Q. Please pay attention—I asked you specifically how much of

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- Creek, another or called spring creek.
- Q. Is the land actually irrigated now? A. Yes sir.
- Q. How much of it altogether is irrigated, all of it?
- A. Yes sir.
- Q. There is about—it is all irrigated with the exception of the part across the river, I guess about twenty acres across there, or twenty-five.
- Q. Then there is about one hundred and forty acres irrigated at the present time? A. Yes sir.
- Q. You have gradually irrigated that land from 1889 up to the present time until all but about twenty acres have been irrigated? A. Yes sir.
- Q. Is there any one else interested in this ditch? A. No sir.
- Q. Just yourself? A. Just myself.
- Q. Is there any other water supply outside of these creeks you have named? Available for use on this land?
- A. No sir.
- Q. Is that land desert land? A. Yes sir.
- Q. How much does it require to the acre to successfully irrigate and cultivate it? A. About an inch I should suppose.
- Q. About like the rest of the land in the country? A. Yes sir.
- Q. You think an inch down there would be enough for it?
- A. Yes sir.
- Q. That is, a continuous flow—and this ditch is of sufficient carrying capacity to irrigate all of the land in it?
- A. Yes sir, I have had it widened since it was first made, you know.
- Q. Now—Is there any dispute in regard to this, gentlemen?
- that is all Mr. Bowles. I want to call your attention to the Sarah Bowles claim now.
- Q. Do you know the defendant Sarah Bowles? A. Yes sir.
- Do you know the defendant Sarah Bowles?

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Paradise Springs Water Rights, Basin 22, Teton County Idaho

Paradise Springs, located near Driggs Idaho in Basin 22 is the subject of much contention. The recommendations have been reported to the court for all Basin 22 claims as well as these Paradise Springs and those water rights related to Paradise Springs. Objections are now being filed with the court regarding these rights. This report is to document the reasoning behind the recommendations made on the water rights for Paradise Springs and those water rights relating.

Water Right Referenced in This Report

22-180A, 22-180B, 22-180D, 22-575A, 22-11537, 22-11639, 22-12714B, 22-13134, 22-13135, 22-13211, 22-13212, 22-13503, 22-13509, 22-13511, 22-13585, 22-13586.

Water Right 22-405

Water right 22-405 was decreed to J. J. Miller in "Rexburg Irrigation Company et al. vs. Teton Irrigation Canal Company et al.", commonly known as the Rexburg Decree. Water right 22-405 was decreed to lands located on SWSE and S½ SW Section 30, and NENW of Section 21, Township 4 North, Range 45 East, for a total of 160 acres. The decree entitled Mr. Miller to a total of 2.0 cfs from Paradise Springs. The decree stated a priority date of 6-1-1904.

Mike Reid, Don Leroy Miller and Rex Miller are the original claimants for 22-405. Rex Miller has since sold a portion of his land to John Collins, Andrew Richardson and some of his land if not all is now being subdivided. All of the original claimants claim the water had never been used on the decreed place of use. Don is J.J. Miller's son. He states along with the rest of the original claimants that J. J. Miller never owned any of the land described in the Rexburg decree, and that the land that the water was intended to be used on is located in the SESW and NESW Section 19 as well as NENW and SENW Section 30, Township 4 North, Range 45 East. After looking at the USGS topographic map, it was found that Paradise Springs' water could never have been used on the land described in the Rexburg Decree because it is up hill.

Don Miller brought in J. J. Millers Homestead description as well as a Notice Of Water Right submitted by J. J. Miller. The Homestead Entry for J. J. Miller and the land listed on his Notice of Water right are described as follows: E½ NW Section 30 and E½ SW Section 19, Township 4 North, Range 45 East.

Given this information it is believed that water right 22-405 had always been used on the land described by the claimants. It is also believed that the Rexburg Decree was in error.

Because of this error and the fact that the Rexburg Decree is an indeterminate decree in regard to exact acreage, Idaho Department of Water Resources' "Adjudication Memo #57" was used as a guide for these recommendations. "Adjudication Memo #57" states

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- John Collins 7.2 acres and 0.08 cfs. Portion of 22-587 reflected in claim number 22-12714B.

Water Right 22-13509

Later in time the NESW of Section 19, Township 4 North, Range 45 East started being irrigated by water that came from a ditch along the Western hillside. There was an affidavit submitted by Chester Miller, one of J. J. Miller's sons. This affidavit went through some history about the water from Paradise springs but the only concrete date that can be taken from that affidavit was 1960. Because of this information the priority date that was given to water right 22-13509 for the irrigation of the NESW of Section 19, Township 4 North, Range 45 East.

Water Right 22-4104

According to the claimants in 1969 a pump went in on the East side of the spring and pumped water through a pipe for sprinkler irrigation. This pump not only irrigated all of the homesteaded land, but also began irrigating a small piece of land owned by Don Miller in the NWNW of Section 30 Township 4 North, Range 45 East. The affidavit provided by Chester Miller supports this beneficial use water right 22-4104. This right was split between Don Miller and Mike Reid.

Recommendations for 22-4104:

- Mike Reid receives 0.59 cfs reflected in claim number 22-11639.
- Don Miller receives 0.14 cfs reflected in claim number 22-11537.

Water Right 22-587

This water right was decreed in the Rexburg Decree to Caroline Withrick for an "undivided ¼ of Paradise Springs" with a priority of 6-1-1904. The land in the decree is stated as follows:

"NE1/4SE1/4, and SE1/4 of NE1/4 of Section 30, T. 4 N., R., 45 E., B. M. also, Homestead not described in pleadings."

The Homestead for Caroline Withrick was found on the BLM website (www.glorerecords.blm.gov) but her name was spelled slightly different. The homestead was issued to Carolina Wuthrick dated May 20th 1862. The land was listed as follows:

"S1/2SE Section 19 and NWNE Section 30 of T 4N R 45E"

The land listed on the decree and on the Homestead Entry total 200 acres.

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Water Right 22-180

Water right 22-180 was decreed in the Rexburg Decree to H. C. Bowles for 140 inches (2.8 cfs) from Spring Creek, with a priority of 6-1-1889. The land describe in the decree is as follows:

“SW1/4 of SW1/4 and SW1/4 of SE1/4 of Section. 29, N1/2 of NE1/4 of Section. 30, T. 4 N., R. 45 E., B. M., containing 160 acres”.

After transfer # 3555 mentioned above the lands to which water right 22-180 was pertinent is as follows.

NWSE and SESE Section 19, SWSW and SWSE Section 29, and NWNE Section 30, Township 4 North, Range 45 East.

Though 22-180 was decreed the source of “Spring Creek”, no one knows exactly where Spring Creek is. Some of the local names for Paradise Springs are Sulfur Creek and Spring Creek. In my analysis Paradise Springs, springs up into a pond and when water is high it will flow down and add to the water down stream in what is locally known as Miller Slough or Paradise Creek. Paradise Creek is a gaining reach and water can be found in it even after water is too low for Paradise Springs to feed it. It is possible that at the time of the Rexburg decree, Paradise Springs and Paradise Creek were referred to as separate sources. It is my opinion that the Rexburg Decree decreed rights to Paradise Springs and also Paradise Creek but named it Spring Creek because it was connected to Paradise Springs at times. For lack of other evidence and the fact that for years, it has been accepted that 22-180 is part of Paradise Springs my recommendation is that 22-180 be decreed, at least in part, to Paradise Creek. A transfer was even approved by the Department for this right and no protests were received to my knowledge. The Rexburg Decree did however decree 40 acres of land to this water right on the East side of the River. This is the portion of the right that Duane Kunz is claiming. That is why I recommended Unnamed Stream to this right. Why that land was decreed is unknown to me. It may be an error, or the land on the West side of the river may be in error. It could also be that H. C. Bowles allowed the water to flow into the Teton River and then he took it out upstream in an exchange fashion, otherwise I don’t understand why 80 acres would be decreed right on Paradise Creek and 80 acres decreed ½ mile upstream and 40 acres of it on the East side of the river. It may be that we want to recommend 22-180A and 22-180D as Paradise Creek to differentiate between Paradise Springs and Paradise Creek, and then have a point of injection and a point of re-diversion.

Based on that information the recommendations for 22-180 are as follows.

Recommendations for 22-180:

- Gary Zohner receives 0.7 cfs for 80 acres reflected in claim number 22-180A (Paradise Springs)

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his own mind, testified as follows:-

DIRECT EXAMINATION BY HANLEY.

Q. Mr. Howlan you are a defendant in this action?

A. Yes sir.

Q. Are you the owner of the land described in your cross-complaint as being the Southern quarter of the Southeast quarter and other subdivisions of section thirty, township four?

A. Yes sir.

Q. How long have you been acquainted with that land Mr. Howlan?

A. Ever since 1888.

Q. Who occupied the land in 1888? A. A man by the name of Henegar bought Green out, Henegar sold to Green and Green sold to Henegar. In 1888 I bought him out.

Q. Had you known the land until 1888? A. Not until the spring of 1888.

Q. At the time you bought in the spring of 1888, had the land been irrigated before that? A. No sir.

Q. Had not been irrigated by any one before that?

A. It was got out that summer, Henegar got the water out in 1888.

Q. Where was the water taken out from? A. Out of Spring Creek—Jones Spring Creek.

Q. That is a tributary of Paton River? A. Tributary of Trail Creek.

Q. Which is a tributary? A. Yes sir.

Q. How much of the land was covered by this ditch taken from Jones Spring Creek? A. All with the exception of part of one forty.

Q. About how many acres? A. Something over 100 acres.

Q. You may state whether or not the ditch the carrying capacity of that ditch is sufficient to irrigate this 100 acres, or over a hundred acres under the ditch? A. Yes sir.

Q. How much of that land has actually been irrigated from that ditch? A. Well, there has been a hundred acres or more.

Q. Is there any water for the balance of that land? A. Yes sir.

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Q. From what source do you get water for the other sixty acres?

A. There is a part of an early ditch which is out of Spring Creek, another creek called Spring Creek.

Q. Is the land actually irrigated now? A. Yes sir.

Q. How much of it altogether is irrigated, all of it?

A. Yes sir.

A. There is about—it is all irrigated with the exception of the part across the river, I guess about twenty acres across there, or twenty-five.

Q. Then there is about one hundred and forty acres irrigated at the present time? A. Yes sir.

Q. You have gradually irrigated that land from 1889 up to the present time until all the water for the acres have now been started? A. Yes sir.

Q. Is there any other water introduced in this ditch? A. No sir.

Q. Just yourself? A. Just myself.

Q. Is there any other water supply outside of these creeks you have found? Available for use on this land?

A. No sir.

Q. Is that land desert land? A. Yes sir.

Q. How much does it require to the acre to successfully irrigate and cultivate it? A. About an inch I would suppose.

Q. About like the rest of the land in the country? A. Yes sir.

Q. You think an inch down there would be enough for it?

A. Yes sir.

Q. That is, a continuous flow—and this ditch is of sufficient carrying capacity to irrigate all of the land in it?

A. Yes sir; I have had it filled since it was first made, you know.

Nowley—Is there any dispute in regard to this, gentlemen? That is all Mr. Barker. I want to call your attention to the Sarah Barker claim now.

Q. Do you know the defendant Sarah Barker? A. Yes sir.

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- Q. Who is your wife? A. Yes sir.
- Q. Do you know the tract of land described in your original complaint and being the southeast quarter of the northeast quarter of section 33, and other lands therein described? A. Yes sir.
- Q. That land belongs to her? A. Yes sir.
- Q. How long has she been the owner of that land?
- A. I could not say until I had the papers--
- Q. You may look at the papers? A. First of August, 1900, is it not.
- Q. Fourteenth of August that is? A. Yes sir.
- Q. Is located under the desert belt? A. Yes sir.
- Q. Where did she procure water for use on the land?
- A. Called Spring Creek.
- Q. When did she first put the water on the land?
- A. The next spring after that.
- Q. That is August, 1900? A. Yes sir, the next spring.
- Q. Spring of 1901? A. Yes sir.
- Q. That is in the spring? A. About May.
- Q. About the first of May? A. Yes sir, not the first, either, along about the last.
- Q. How much of that land of hers was covered by the ditch you look out there? A. One forty.
- Q. Only one forty that could be irrigated from it or been irrigated since? A. I don't know that was irrigated.
- Q. I want to know how much could have been irrigated from that equal that you look out in 1901?
- A. There could have been close on to two fortyn.
- Q. Did that ditch have a sufficient capacity to irrigate the two forties? A. Yes sir.
- Q. Any water taken out on the land since then from other sources?
- A. No sir.
- Q. About eighty acres can be irrigated? A. All can be.
- Q. From those ditches? A. Yes sir, from those ditches, it all has been irrigated.
- Q. Please pay attention—I asked you specifically how much of

last land could be irrigated from these ditches?

A. I thought you meant the first spring.

Q. Can all of it be irrigated? A. Yes sir.

Q. How much of it? A. All but a very little. Just maybe ten or fifteen acres ten or fifteen.

Q. All of it can be? A. Yes sir.

Q. The first season there was forty or fifty acres irrigated?

A. Yes sir.

Q. How much water is there now over that land require?

A. I should judge about an inch.

Q. About an inch? A. Yes sir.

Now--that is all--any questions, gentlemen--any doubts on this claim? All Mr. Fred J. Drake.

FRED J. DRAKE, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY HADLEY.

Q. I will first ask you Mr. Drake a question in regard to Mr. Bowles' land. Do you know when the water was first taken off the claim owned by Mr. Bowles? A. I don't know positively, but I know that he was in there and at his place in the year 1888.

Q. 1888? A. Yes sir.

Q. Do you know how much--whether the land had been cultivated prior to that time?

A. I don't know, that was the first year I was in there.

Q. You know he did have the place at that time?

A. I know he had watered it ever since.

Q. It is all permanently under irrigation now? A. Yes sir.

Q. I will now ask you in regard to the claim of Fred J. Drake.

You are one of the defendants in this action? A. Yes sir.

Q. And the order of land being the East half of the Southeast quarter of section seven, and other pieces of land?

A. Yes sir.

Q. That is your land is it? A. Yes sir. Section 7 and my land is

Q. How deep is, can it?

A. It varies from two to three feet deep.

Q. Good night? A. Yes sir.

Q. Is that ditch sometimes or generally known as the Happy Creek ditch? A. No.

Q. This is known as the Canyon ditch? A. There is a known as the Canyon ditch.

Q. This was the ditch you have to travel in a river can be enlarged by the treatment? A. Yes sir.

Q. Would it carry any latent water for the irrigation of your land and the others having interest therein? A. I think so.

Q. When did you get this ditch constructed after making this water location? A. It was started, the construction was all paid before that notice was recorded in the spring of 1905-1906.

Q. And finished when? A. It was finished I believe within two years.

Q. You used reasonable diligence? A. Yes sir.

Q. How much of your land is now owned by Mr. Plattner and was covered by the ditch? A. 100 acres, but about fifty acres under cultivation.

Q. That is under cultivation? A. Yes sir.

Q. But is all now be cultivated? A. Yes sir.

Q. And it was your intention to bring it all under cultivation?

A. Yes sir.

Q. That is Mr. Plattner's intention now, if you understand it, is it not? A. Yes sir.

Q. Is there any other water supply for this land? A. No sir.

Q. About how much per acre is needed? A. An inch to the acre.

Nowly--That is all. Call Mr. Kuntz on the plain of Carolina withrich.

DAN KOONTZ, being first duly sworn, on behalf of the above plain, testified as follows:-

DIRECT EXAMINATION BY KATLEY.

Q. What is your name sir? A. Dan Koontz.

Q. Do you know the land described in the above complaint of the

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Q. Now, about the dam, is it correct that it was built by the U.S. Army?

A. Yes, sir.

Q. And it was built in 1915, is that correct?

A. Yes, sir.

Q. And it was built on the site of the old dam, is that correct?

A. Yes, sir.

Q. And it was built by the U.S. Army, is that correct?

A. Yes, sir. Only built about twenty years ago last August.

Q. And it was built on the site of the old dam, is that correct?

A. Yes, sir, 1915.

Q. And it was built by the U.S. Army, is that correct?

A. Yes, sir. The old dam was built by the U.S. Army.

Q. And it was built on the site of the old dam, is that correct?

A. Yes, sir. The old dam was built by the U.S. Army.

Q. And it was built by the U.S. Army, is that correct?

A. Yes, sir. The old dam was built by the U.S. Army.

Q. In connection with the dam, is it correct that it was built by the U.S. Army?

A. Yes, sir.

Q. Known as Paradise or Anderson Spring, is that correct?

A. Yes, sir. It is a creek that runs out of the hill on the J. J. Miller homestead.

Q. Is it a creek that runs out of the hill on the J. J. Miller homestead?

A. Yes, sir. It is a creek that runs out of the hill on the J. J. Miller homestead.

Q. Now, when was this water put on by the U.S. Army?

A. Well, they have not a dam on it. It is a creek that runs out of the hill on the J. J. Miller homestead.

Q. When was this water put on by the U.S. Army?

A. Well, they have not a dam on it. It is a creek that runs out of the hill on the J. J. Miller homestead.

Q. Now, when was this water put on by the U.S. Army?

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again, and that person she knew the first water and raised the
first crop.

Q. When was it first that she started to go to put the
water upon the land? A. Oh, I think she started long
before I came into the basin. She had been used by her, with-
out until that season.

Q. That was 1902? A. 1904.

Q. Has she or is it or was it prior to 1904?

A. No she could not, she didn't see the law.

Q. For much of that time or was it covered by this or that?

A. Of the government? A. Yes sir.

Q. I think about 100 acres was so irrigated.

Q. About 100 acres? A. Yes sir.

Q. Is there any other water supply except this water supply

from Paradise Springs? A. Not from, only from Paradise Springs.

Q. Did Mrs. Witham mention place or lands bordering this land

that was irrigated? A. Yes, got an eighty acre tract

and a hundred acre.

Q. This eighty acre tract is the northern quarter of the southeast
quarter and the southeast quarter of the northeast quarter,

section thirty, township four, north of range forty-five west.

How long has she had that land? A. About two years.

Q. Did she locate it first? A. Yes sir.

Q. And where does she produce water for use on that land?

A. From Paradise Springs.

Q. From the same springs? A. Yes sir.

Q. Has she a sufficient supply of water to irrigate both of those
tracts from those springs?

A. Well, last season the water was somewhat scarce in the ground
and showing up, and I think by a proper use she will have enough.

Q. You think she will? A. Yes sir.

Q. When did she first put it on this last piece of ground?

A. Has not put it there yet. Not to within two days yet, about
four feet.

Q. She is intending to put it there, and obtain a water right?

A. As quick as possible.

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Q. For this place? A. Yes, sir.

Q. That is the only water supply for this place or land? A. Yes.

Q. It is necessary for the successful cultivation of grain land and the other place? A. Yes, sir.

Q. Are you an old settler here Mr. Adams?

A. Been here in the country for years.

Q. Have you noticed a change or the use of water for irrigation purposes on the land extending the water supply is concerned?

A. If you Joseph has got a bottom, but he has--if he wants to get any hay at all, he has got to wait at least for it will flood over on the land in July and August.

Q. How long has this state of affairs existed?

A. There has been a flood over to the bottom, but it nearly every year, and now lately, last year, it did not last for long.

Q. Where is his land situated with reference to the creek?

A. It is just north and east of Mr. Fulton on the Cotton River.

Q. You are satisfied that it is the increase in the volume of the water that has caused this increase in the volume of the land? A. Absolutely.

Q. Could not be attributed to any other cause would it? As a man of experience in irrigation, what is your opinion as to the use of water in Cotton River, does it interfere with the water supply in the lower section with the people below or increase it?

A. From what I know of your Mr. Fulton's land, for instance, in some brush land, the biggest part of it, and last season it was over a dozen of springs coming up right in among the brush.

Q. I will ask you—I will ask you in regard to the land of

J. J. Miller—you know him? A. Yes, sir.

Q. You know the land he is talking, described in his cross-complaint in court? A. Yes, sir.

Q. When did Mr. Miller settle on that land?

A. About three years ago.

Q. Mr. Miller is one of the parties that produce water from

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Paradise Springs? A. Yes sir.

Q. When did he first take the water from Paradise Springs when taken from the well? A. Well, he is not sure.

Q. About? A. Yes sir.

Q. How did he bring it to the house of the victim?

A. By means of a pail.

Q. Was any of that water of his ever used by the victim, and he testified that it? A. It is very difficult to say, I think.

Q. Is there any other water from the well at this water tank?

Paradise Springs? A. Yes sir.

Q. It is necessary to use the water of this tank to a large amount on it? A. Yes sir.

Q. How much of it was he actually using up to that time?

A. About nine acres.

Q. About nine acres--is it in intention to irrigate the amount?

A. Yes sir.

Barley--No dispute went down, I believe, on this point.

And you said he had informed Mr. Keontz to be they in regard to the claim of George Keontz, Jr.? You are hardly in a position to do so--as will have him been in the country.

Q. Mr. Geo. Walton was one of the owners of the Paradise Springs?

A. Yes sir.

Barley--That is all Mr. Keontz. Will George Walton.

This is on the claim of George Walton.

GEORGE WALTON, being first duly sworn, deposes that his own name, testified as follows:-

SWORN TO AND SUBSCRIBED BY BARLEY.

Q. You are the defendant for this in the cross-complaint now?

A. Yes sir.

Q. Where do you reside? A. Yonkers, New York, State Postoffice.

Q. And you are aware of that certain land described in the cross-complaint being the North-east quarter of the Southwest quarter and other parts of section twenty-nine and section thirty,

Township Four, North of Range Forty-four east? A. Yes sir.

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Q. How long have you lived upon that land?

A. I took possession of it in 1891.

Q. Who did you buy it from Mr. Fulton? A. Mr. Hodgins.

Q. How long had Mr. Hodgins lived upon that land before you went there? A. I could not say, was not personally acquainted with him.

Q. Had Mr. Hodgins, when you bought it, any water upon the land?

A. I purchased his water right and his improvements.

Q. Where had he taken the water from? A. Paradise Springs.

Q. That is the springs mentioned by Mr. Keatts in giving his testimony? A. Yes sir.

Q. How much of this 180 was covered by the waters of Paradise Springs? A. About twenty acres.

Q. And do you mean that that had been watered from it or could be? A. Had not been up until 1892. I enlarged the ditch and irrigated about twenty acres in 1892.

Q. You mean 1892? A. 1892, yes sir, 1892.

Q. How long did Mr. Hodgins live upon that land?

A. I could not say, I just got here in the spring and I was working for Mr. Pratt.

Q. Did you buy it by bill of sale or deed or simply take possession? A. I got a deed of the water and of the improvements. But I have not now—they are lost.

Q. You have had them? A. I have had them.

Q. Is there any one here that can testify to Mr. Hodgins?

A. Mr. Ray Kimball, I think he is here.

Q. After you went on you increased the size of the ditch did you?

A. Yes sir.

Q. How much—what carrying capacity did you give it?

A. I finished the ditch sufficiently large to irrigate the land in 1892 about twenty acres, and the land lies this way and this way and the creek comes down, it is very low, consequently had to build a large dam, to dam it to the south end, and we have not got it completed.

Q. How much of that land can be irrigated from that ditch?

A. When the ditch is all completed on the place, about 180 acres.

Q. These Paradise Springs, how much water flows from it?

A. I don't know—I don't undertake measuring water.

Q. Is there enough to irrigate all of the lands you claim, and for the other lands bounded? A. I believe there will be water—there will be sufficient, to irrigate the claims of Miller and Keonix and myself.

Q. That is all that claim from it? A. Yes sir.

Q. You think there is sufficient water there for it?

A. I think there would be, you.

Q. How much water do you need per acre on your land?

A. In an irrigating stream, an inch to the acre would be sufficient.

Q. It is necessary to have water there for this, and this is the only available water supply? A. Yes sir.

Hawley—That is all—in Mr. Ray Kimball here. Mr. Breckenridge.

E. BRECKENRIDGE, being recalled, on behalf of the above claim, testified as follows:—

Q. Do you know the Geo. Walton claim? A. No sir.

Q. When did Hodgins settle up there, what year?

A. I could not say that, 1888 or 1889, somewhere along there. He farmed up there, and left.

Q. You have just come by there.

THOMAS BATES, being recalled, on behalf of the above claim, testified as follows:—

DIRECT EXAMINATION BY HAWLEY.

Q. Mr. Bates when did Mr. Hodgins go on this land?

A. I believe it was about 1881 or 1882.

Q. 1881? A. Somewhere about that time.

Hawley—That is all—that will do. Call Mr. D. O. Walton.

D. O. WALTON, being first duly sworn, on behalf of the above claim, testified as follows:—

DIRECT EXAMINATION BY HAWLEY.

Hawley—First I will ask you Mr. Kimball, when Mr. Hodgins first settled on the land now owned by George Walton, 1881?

A. Yes, 1881, the summer of 1881.

Q. The summer of 1881? A. Yes sir.

Q. Used the water for the first time in 1881? A. Yes sir.

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Idaho Department of Water Resources

SRBA Recommendation:

22-180B

(Irrigation)

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Legend

Point of Diversion



Place of Use



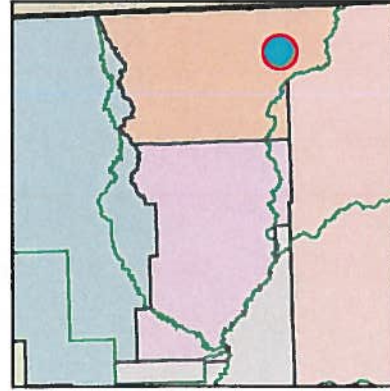
Townships



PLS Sections



Quarter Quarters

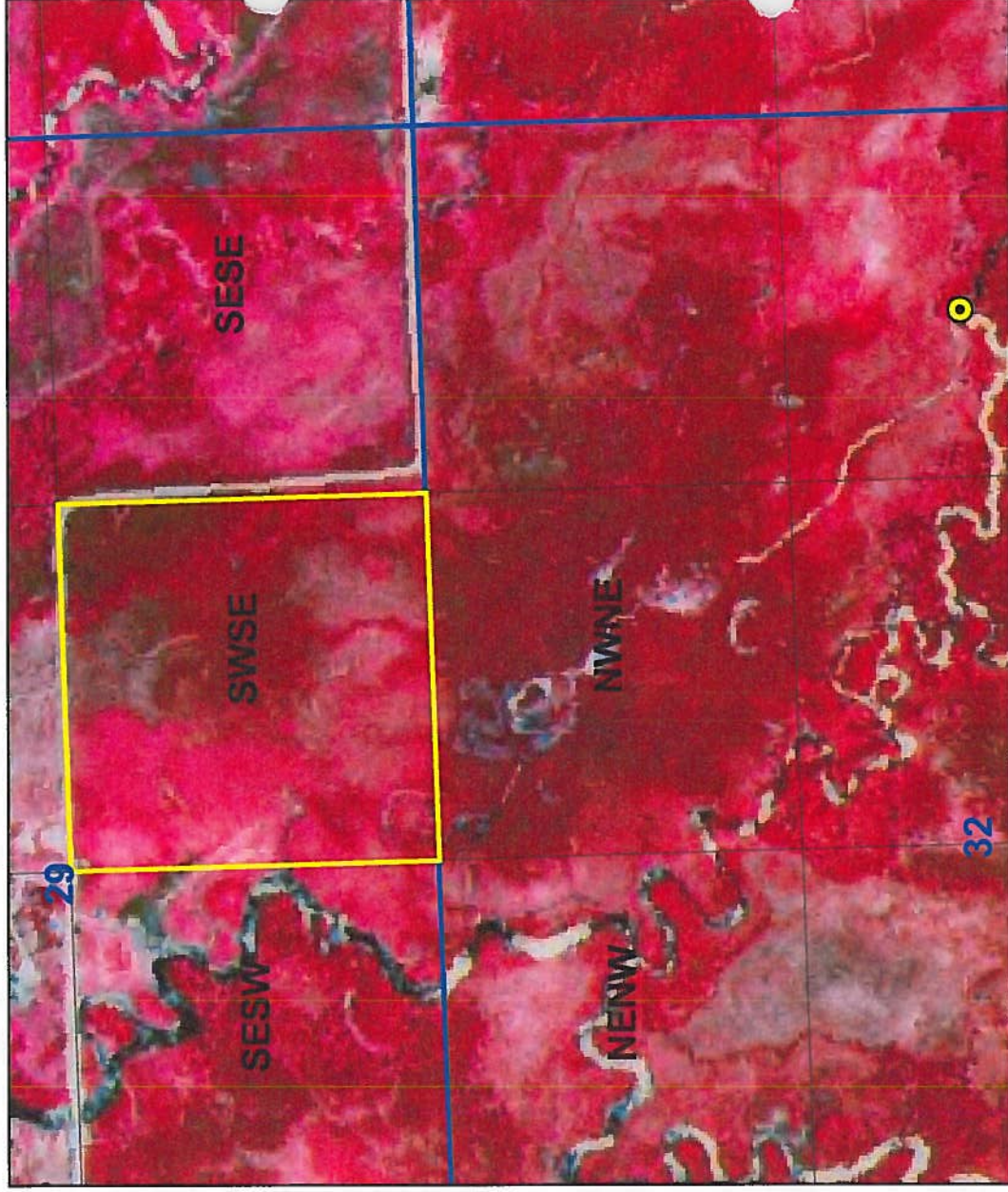


Teton County
IDWR Basin 22



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32

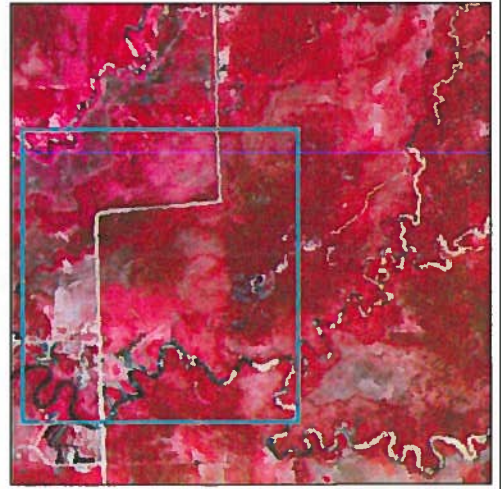
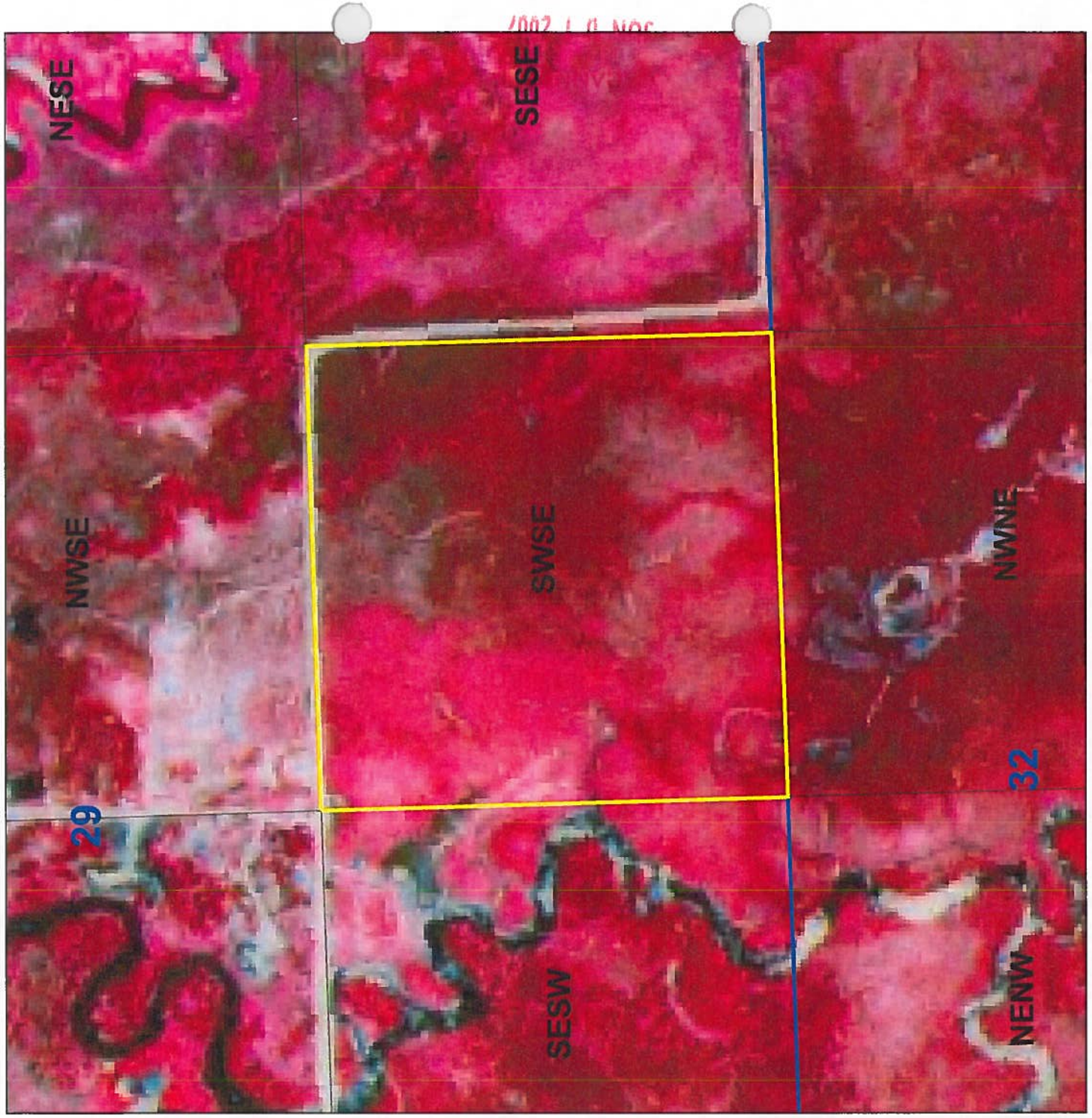
0.6 Miles

0.3

0

Prepared by T. Galbraith
On Friday, December 15, 2006
1987/88 Aerial Photography

22-180B





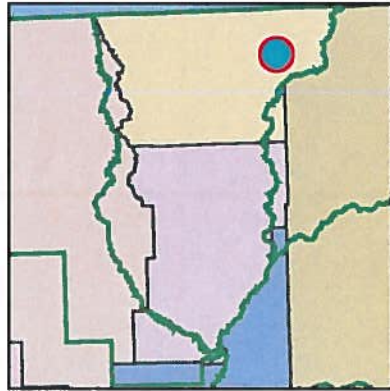
Idaho Department of Water Resources

SRBA Recommendation:

22-180B

Legend

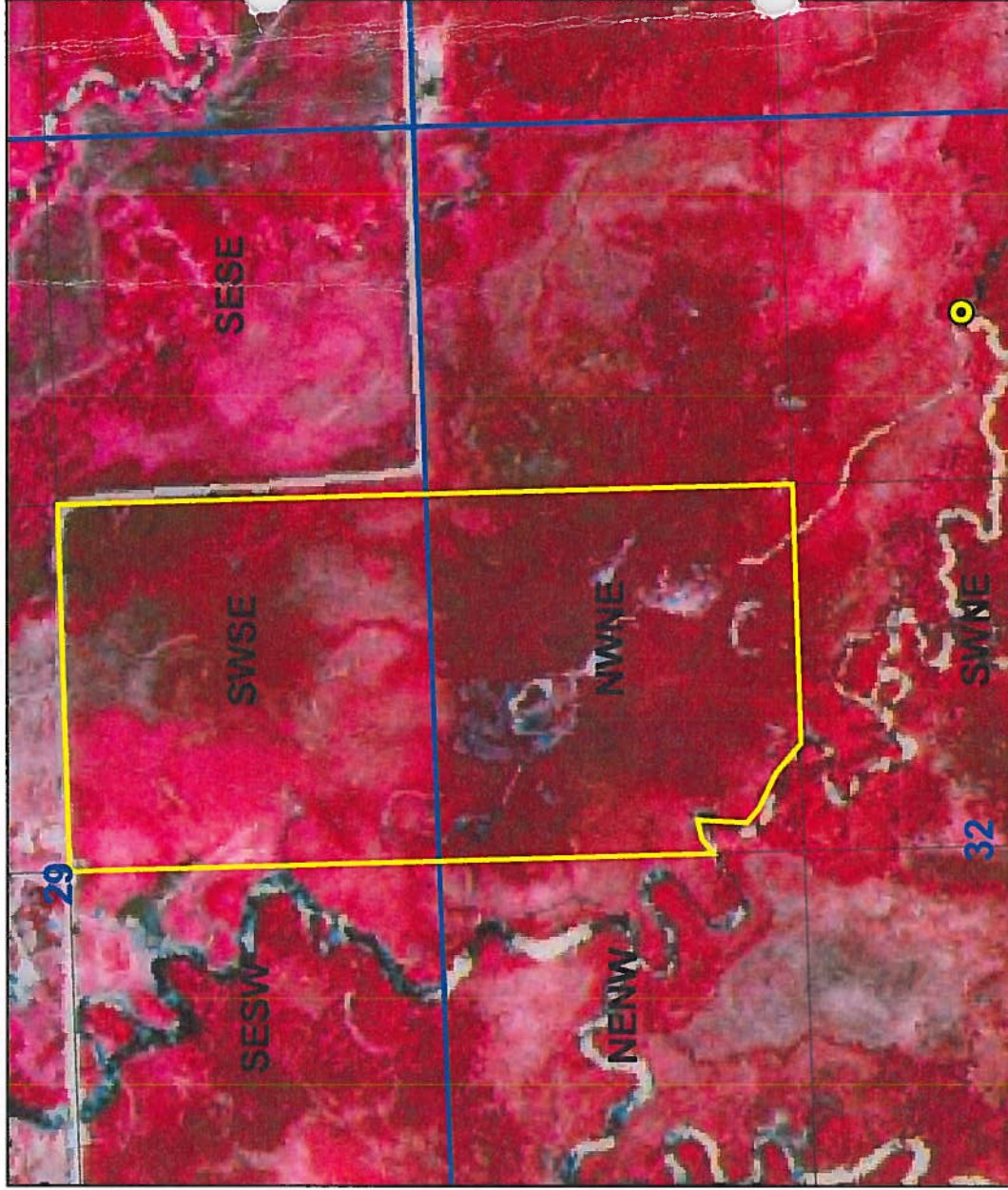
- Point of Diversion
- Place of Use
- Townships
- PLS Sections
- Quarter Quarters



Teton County
IDWR Basin 22



R45E



0.6 Miles

0.3

0

Prepared by T. Galbraith
On Friday, May 5, 2006
1987/88 Aerial Photography

05/05/2006

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS:

Water right number: 22-180B

JEAN C KUNZ
1618 CAPITOL ST
OGDEN UT 84401

DUANE KUNZ
466 W 575 S
VICTOR ID 83455
Telephone Number: (208)354-2441

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source): *The decreed amount is for 2.8 CFS*

2. Describe the changes you wish to make in the proposed recommendation:
*It should remain at the decreed amount of 2.8 CFS
not reduced to 1.4 CFS*

3. Give a brief explanation as to why you disagree with these portions:
Change in CFS from decree

☐ I AGREE with this proposed recommendation: no changes need to be made.

DATE: 12/5/06 SIGNATURE: *Craig Duane Kunz*
Please print your name: Craig Duane Kunz

IDWR Regional Office, 900 N Skyline Dr Ste A, Idaho Falls, ID 83402, 2085257161

*No change. See TX 3555. Kunz does not own more than
half. Also, tax lot shows there are two other owners.*

*only owns 40
acres of POV
receives .7 cfs*

RECEIVED

DEC 05 2006

Department of Water Resources
Eastern Region

SCANNED

JUN 01 2007

TB

*Kunz
12/06*



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

EASTERN REGION

APRIL 10, 2007

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Interim Director

JEAN C & DUANE KUNZ
466 W 575 S
VICTOR ID 83455

RE: Notice of Change of Address for 22-180B, 22-230B, 22-13511
and Notice of Completed Administrative Proceeding (NCAP)

Dear Claimants:

On April 10, 2007, the Idaho Department of Water Resources (IDWR) received a change of address for the above referenced water right(s). Based on this change, IDWR water right records for the Snake River Basin Adjudication (SRBA) have been updated.

Furthermore, as directed by the SRBA Court, this office mailed a copy of the updated water right record(s) to each party listed on the enclosed NCAP. The intent of this mailing is to ensure each party has a current record of water right(s) as recorded in the SRBA.

Please feel free to contact me if you have any questions concerning this matter.

Respectfully,

Jennifer Crabtree
Technical Records Specialist

Enclosure

SCANNED

JUN 01 2007

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	)	Water Rights: 22-180B
	)	22-230B, 22-13511
Case No. 39576	)	NOTICE OF COMPLETED
		ADMINISTRATIVE
		PROCEEDING

IDWR has completed the following Administrative proceeding:

- ☒ Address change
- ☐ Substitution of Party
- ☐ I.C. § 42-222 transfer
- | | |
|---|--|
| ☐ point of diversion | ☐ place of use |
| ☐ period of use | ☐ nature of use |
| ☐ split of water right | ☐ change in ownership |

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: 4-11-07

Ernest Carlson
Signature of IDWR Representative

SCANNED
JUN 01 2007

CERTIFICATE OF MAILING

I certify that on April 13, 2007, I mailed the original and copies of this form to the following persons, postage prepaid by regular mail and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707

2. One copy to:

Claimant/Seller for Substitution of Party or attorney of record:
JEAN C & DUANE KUNZ
466 W 575 S
VICTOR ID 83455

3. One copy to:

Claimant/Purchaser for Substitution of Party, or attorney of record:
N/A

4. One copy to:

Each party in the subcase, or attorney of record

5. One copy each to:

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

6. One Copy to:

United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724


Signature of person or attorney mailing the form

SOANNED

JUN 01 2007

1. SKYLINE DR.
LLS, IDAHO 83402

ESS SERVICE
REQUESTED

Return to
Sender

Please send to:
Deane Kunz wife
Sean C. Kunz
Victor, Idaho

Sean T. Kunz is
a different person
this is not ours -

change address
Jean C. Kunz
husband
+ Duane.

JEAN C KUNZ

NO OFFICE OR ZIP CODE
FOR PROPER HANDLING

wrong address

22-13511
22-230B
22-180B
~~22-1~~

Department of Water Resources
Eastern Region

RECEIVED
JAN 18 2007

SCANNED
JUN 01 2007

★ ★
U.S. POSTAGE
1401
PB3523907
8982\$00.870 JAN 05 2007
8033 MAILED FROM ZIP CODE 83402



Paradise Springs

22-405

22-405 was decreed to J. J. Miller in the Rexburg Decree to lands located on SWSE and S1/2SW Sec 30, and NENW of Sec 21 T 4 N 45 E for a total of 160 acres. The source of the decree is 2 CFS from Paradise Springs. The decree stated a priority date of 6/1/1904.

Mike Reid, Don Leroy Miller and Rex Miller are the original claimants for 22-405. Rex Miller has since sold a portion of his land to John Collins, Andrew Richardson and some of his land if not all is now being subdivided. All of the original claimants claim the water has never been used on the decreed POU. Don is J.J. Miller's son. He states as well as the rest of the claimants that J. J. Miller never owned any of the land described in the Rexburg decree, and that the land that the water was intended to be used on is SESW and NESW Sec 19 as well as NENW and SENW Sec 30 in T 4 N 45 E. Paradise Springs' water could never have been used on the land described in the Rexburg Decree because it is up hill and too far away.

Don Miller brought in J. J. Millers Homestead description as well as a Notice Of Water Right. The Homestead Entry for J. J. Miller and the land listed on his Notice of Water right are described as follows: E1/2NW Sec 30 and E1/2SW Sec 19 T 4 N 45 E.

Given this information it is believed that water right 22-405 had always been used on the land described by the claimants. It is also believed that the Rexburg Decree was in error.

Because of this error and the fact that the Rexburg Decree is and indeterminate decree when it comes to exact acreage, memo #57 was used as a guide for these recommendation. Memo #57 states that if the water right was part of an indeterminate decree, then we use the acres irrigated in 1987 as the decreed POU. In 1987 all of the E1/2NW Sec 30 and E1/2SW Sec 19 was irrigated. This information was found by looking at aerial photos of 1987 or by statements from the original claimants including signed statements from Rex Miller and Craig Kunz. Though this is true the claimants state that the NESW of Sec 19 was not irrigated until later (Affidavit supplied).

Rex Miller and Don Miller are brothers and each of them owned part of the land that was homesteaded. Even though the land was not split half and half between Don and Rex, the water right was. This information was obtained by a conversation with Don and a signed statement from Rex. Rex Miller initially had 1 CFS of 22-405 and Don had the same.

Mike Reid bought some land from Don Miller so a portion of Don's 1 CFS goes to him. Because of some issues with well users drying up Paradise Springs, Mike Reid filed a transfer to officially move the water from the decreed POU to the land that it has always been used on. This transfer was lost in the system and by the time it was found it was decided that because the Adjudication recommendations would accomplish the same thing the transfer was trying to accomplish, the transfer would be withdrawn. Rex's 1

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JUN 04 2007

CFS was also split. The recommendations for 22-405 have been created based on the above information.

Recommendations

Mike Reid owns 35.6 acres of the Homesteaded land and receives 0.7 CFS and is reflected in the following claim files: 22-13212 (0.5 CFS), 22-13503 (0.2 CFS).

Don Miller owns 9.6 acres and receives 0.3 CFS reflected in claim number 22-13211

Rex Miller at one time irrigated 93.8 acres using water right 22-405 and 22-587. He owns 1.0 CFS of 22-405 and did not claim any additional water from 22-587 although he owned land covered by that right. He sold 7.2 acres and 0.08 CFS to Russel Bourne who then sold it to John Collins. That land was decreed as 22-587 so that is how it was recommended. Rex Then split off another piece of his land to Andrew Richardson who then got a right for 0.34 CFS for 31 acres on land decreed to 22-405. Rex was left with 55.6 acres and 0.61 CFS on land covered by both 22-405 and 22-587.

Rex Miller 55.6 acres 0.61 CFS combination of 22-405 and 22-587 reflected in claim number 22-13585.

Andrew Richardson 31 acres 0.34 CFS portion of 22-405 reflected in claim number 22-13586.

John Collins 7.2 acrs .08 CFS portion of 22-587 reflected in claim number 22-12714B.

22-13509

Later in time the NESW of Sec 19 started being irrigated by water that came from a ditch along the Western Hillside. There was an affidavit submitted by Chester Miller, one of J. J. Miller's sons. This affidavit went through a lot of history about the water from Paradise springs but the only date that can be pulled from that affidavit was 1960. This is the priority date I gave 22-13509 for the irrigation of the NESW of Sec 19.

22-4104

According to the claimants in 1969 a pump went in on the east side of the spring and pumped water through a pipe for sprinkler irrigation. This pump besides irrigating all of the Homesteaded land also began irrigating a small piece of land owned by Don Miller in the NWNW of Sec 30. The affidavit provided by Chester Miller supports this beneficial use water right 22-4104. This right was split between Don Miller and Mike Reid.

Recommendations

Mike Reid receives 0.59 CFS reflected in 22-11639.

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Don Miller receives 0.14 CFS reflected in 22-11537.

22-587

This water right was decreed in the Rexburg Decree to Caroline Withrick for an "undivided $\frac{1}{4}$ of Paradise Springs" with a priority of 6/1/1904. The land stated in the decree is stated as follows:

"NE1/4SE1/4, and SE1/4 of NE1/4 of Sec 30, T. 4 N., R., 45 E., B. M. also, Homestead not described in pleadings."

The Homestead for Caroline Withrick was found on the BLM website (www.glorerecords.blm.gov) but her name was spelled a little different. The homestead was made by Carolina Wuthrick dated May 20th 1862. The land was listed as follows:

S1/2SE Sec 19 and NWN Sec 30 of T 4N R 45E

The land listed on the decree and on the Homestead Entry totals 200 acres.

22-1351 7.2 acres of SWSE Sec 19 T 4N R 45E has been recommended to John Collins. The remainder of SWSE has been recommended to Rex Miller. Duane Kunz claims 1.6 CFS of 22-587. He claims the water has been used on NESW and NWSW Sec 30 T 4N R 45E which is not the decreed POU so it has been disallowed.

22-575

22-575 was decreed in the Rexburg Decree to George Walton for 100 inches (2 CFS) from Paradise Springs with a priority of 6/1/1892. The land it was decreed to is described as follows:

"NW1/4 of SW1/4 and W1/2 of NW1/4 of Sec. 29, and NE1/4 of NE1/4 of Sec. 30, T. 4 N. R., 45 E., B. M., Containing 160 Acres."

In transfer number 3555 Gary Zohner Transferred 1 CFS of 22-575 from NWNW Sec 29 and NENE Sec 30 4N 45E to NWSE and SESE Sec 19 4N 45E. Also in the same transfer he moved .7 CFS of 22-180 from NENE Sec 30 4N 45E to the same POU in Sec 19.

After the transfer, the land pertinent to 22-575 is as follows:

NWSW and SESE Sec 19, SWNW and NWSW Sec 29 all in 4N 45E.

Teton Rainbow Ranch at one time prior to 1987 owned SWNW and NWSW Sec 29. They sold that land to Peter Shields and reserved the water as stated in a warrantee deed in 22-13134. Teton Rainbow Ranch then moved the water to SENE and NESE Sec 30. Based on this information the recommendations follow.

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Recommendations

Gary Zohner receives 1.0 CFS reflected in claim number 22-575A limited to 80 acres.

Wally Rothgeb receives, as an accomplished change in POU, 0.13 CFS for 8.9 acres reflected in claim number 22-13135.

Teton Rainbow Ranch receives, as an accomplished change in POU, 0.86 CFS for 54 acres reflected in claim number 22-13134.

22-180

22-180 was decreed in the Rexburg Decree to H. C. Bowles for 140 inches (2.8 CFS) from Spring Creek, with a priority of 6-1-1889. The land describe in the decree is as follows:

“SW1/4 of SW1/4 and SW1/4 of SE1/4 of Sec. 29, N1/2 of NE1/4 of Sec. 30, T. 4 N., R. 45 E., B. M., containing 160 acres”.

After transfer 3555 mentioned above the lands to which this water water was pertinent is as follows.

NWSE and SESE Sec 19, SWSW and SWSE Sec 29, and NWNE Sec 30.

Based on that information the recommendations for 22-180 are as follows.

Recommendations

Gary Zohner receives 0.7 CFS for 80 acres reflected in claim number 22-180A

Duane Kunz receives 0.7 for 40 acres reflected in claim number 22-180B

Larell Kunz receives .44 CFS for 25 acres reflected in claim number 22-180D

Report by Trent Galbraith 12-15-06

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JUN 04 2007

5-5-06

2.1 cfs left on 160 acres after transfer

$$2.1 / \frac{160}{120} \cdot 78 \text{ acres} = \cancel{1.025} 1.1 \text{ cfs}$$

TB

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JUN 01 2007

r 41 E. E. M., containing 640 acres.

Bond, Mary A.

^{41?}
S $\frac{1}{2}$ of Sec. 4, T. 13 N., R. 31 E., B. M.
containing 320 acres.

Boom Creek
Canal Company.

Lands of stockholders of said Company
lying under canals of said Company, the description
of said lands and the names of the owners thereof
not being given in the pleadings of said company.

P/D
SENE 4
TEN
R45E

Bosrowmann John

E $\frac{1}{2}$ of SW $\frac{1}{4}$ and W $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec. 32,
T. 5 N. R. 45 E., B. M., containing 160 acres.

Bowles, H. O.

SW $\frac{1}{4}$ of SW $\frac{1}{4}$ and SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec.
29, N $\frac{1}{2}$ of NE $\frac{1}{4}$ of Sec. 30, T. 4 N.,
R. 45 E., B. M., containing 160 acres.

Bowles, Sarah

SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Sec. 32, W $\frac{1}{2}$ of NW $\frac{1}{4}$ of
Sec. 33, T. 4 N., R. 45 E., B. M., containing
120 acres.

Bowles, William

S $\frac{1}{2}$ of NW $\frac{1}{4}$ and Lots 3 and 4 of Sec. 2, T.
3 N., R. 45 E., B. M.

Breeding, Thomas O.

S $\frac{1}{2}$ of NE $\frac{1}{4}$ and NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Sec. 9,
and NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sec. 10, T. 1 N., R.
44 E., B. M.

Breckenridge,
David

SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec. 26, E $\frac{1}{2}$ of NE $\frac{1}{4}$ of
Sec. 35, NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec. 35, S $\frac{1}{2}$
of SE $\frac{1}{4}$ and SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 36
T. 6 N., R. 44 E., B. M.

Breannon, D. J.

S $\frac{1}{2}$ of SW $\frac{1}{4}$, S $\frac{1}{2}$ of NW $\frac{1}{4}$ of NE $\frac{1}{4}$, and
Lots 3, 4 and 6, Sec. 22, T. 3 S., R. 34 E.,
B. M., containing 160 acres. (owned jointly with
Evan Williams.)

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JUN 01 2007

Claim No. 22-180B

Document Checklist

☐ Copy License/Decree

Re Xberg V TRON
couldn't find decree

☐ Copy Transfer

☐ Copy Licensing Field Exam

☒ Check if Ownership/Address Change is Required

☐ Generate, mail and file "Evidence of Priority" letter

☒ Generate Arcview Map

Mailing
Address:

Craig Kunz
480 W 575 So
Victor, ID
83455

NO CHANGE OF OWNERSHIP FOUND OR DISCUSSED.

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JUN 01 2007

1	Nave, Martin L.; June 1, 1886; Teton River	50	8,000
2	Breckenridge, David; June 1, 1887; North Leigh Creek; also Swamp Creek for a late right	25	300
2	Borrowman, John; June 1, 1887; Wood Creek and Springs	25	
2	Jeppson, Hans J.; June 1, 1887; Bigler Slough	260	
5	Hegsted, Victor; Sept. 1, 1887; Horse Shoe Creek	60	
9	Hegsted, Victor; June 1, 1888; Horse Shoe Creek	80	
9	North Salem Agricultural & Milling Canal Co.; Teton River	30	
1	As a high water right until July 1st of each year	290	
8	Walters, William; June 1, 1888; Teton River. (Stewart & Walters Ditch.) Joint appropriation with Mons H. Anderson	1,325	
9	Woods, William S.; June 1, 1888; Twin Creeks	160	
16	Woodmansee, Charles H.; Mar. 15, 1889; Moody Creek		
	To be reduced to 80 inches after June 20th of each year		
17	Curtis, Owen; Apr. 1, 1889; Trail Creek	80	
17	Littie, Zina W.; Apr. 1, 1889; South Leigh Creek	160	
18	Hill, William; Apr. 5, 1889; Pack Saddle Creek	120	
12	Mortensen, Christian; May 1, 1889; Teton River. (Through the Nelson-Jacobs Ditch)	280	
13	Bates, Thomas; May 3, 1889; Mahogany Creek	112	
17	Beezley, Ebenezer, and J.; June 1, 1889; Fox Creek	140	
17	Drake, Fred J.; June 1, 1889; John Creek	80	
17	Blanchard, John; June 1, 1889; Warm Creek	150	
17	Bowles, H. C.; June 1, 1889; Spring Creek	140	
17	Drake, William; June 1, 1889; Mahogany Creek	10	
17	Lund, William P.; June 1, 1889; Mahogany Creek	160	
17	Hubbard, Frank, and wife; June 1, 1889; North Leigh Creek	150	
17	Swanner, Samuel; June 1, 1889; South Leigh Creek	40	
17	Walton, D. O.; June 1, 1889; Darby Creek	20	
17	Jones, Benjamin; June 1, 1889; Trail Creek	20	
69	McPherson, Abner; June 10, 1889; North Leigh Creek	160	
71	Parsons, F. W.; June 15, 1889; Trail Creek	95	
74	Tonks, George M.; July 5, 1889; Trail Creek	55	
74	Tonks, George M.; July 15, 1889; Fox Creek		
76	Kirsley, Mary E.; Sept. 1, 1889; Warm Creek, Spring Creek and Deep Creek	80	
78	Woodmansee-Johnson Ditch; Oct. 1, 1889; Teton River	620	
78	Bexburg Milling Co.; Oct. 1, 1889; Teton River. (Woodmansee-Johnson Ditch.) For power purposes only, and subject to rights of users for agricultural purposes of water through same ditch	3,000	
79	Union Irrigation & Manufacturing Co.; Oct. 2, 1889; Teton River. (To be diverted at the Bird head-gate near the Teton Mill)	500	
82	Kirsley, Mary E.; Apr. 1, 1890; Warm Creek; Spring Creek and Deep Creek	80	
82	Sinclair, D. R., Adminr. Estate of Fred Sinclair (deceased); April 1, 1890; Trail Creek	115	
82	Wolf Ditch Co.; Apr. 1, 1890; Teton River	2,335	
82	Robertson, A. I.; Apr. 1, 1890; Trail Creek	87	

82	Rice, Ed.; Apr. 1, 1890; Trail Creek	160	
82	Curtis, Nahum; Apr. 1, 1890; Trail Creek	160	
82	Blanchard, John; Apr. 1, 1890; Trail Creek	120	
82	Eynon, John; Apr. 1, 1890; Trail Creek	80	
85	Paul, John; June 1, 1890; Springs on land	15	
85	Paul, William H.; June 1, 1890; Little Springs and Deep Creek	60	
85	Jenkins, William; June 1, 1890; Fox Creek	80	
85	Kimball, R. C., and A. L.; June 1, 1890; Fox Creek	110	
85	Lawson, B. G.; June 1, 1890; Spring Creek	240	
85	Murphy, G. M.; June 1, 1890; Darby Creek	160	
85	Smith, C. M.; Jan. 1, 1890; Darby Creek	160	
85	Walton, D. O.; June 1, 1890; Darby Creek	140	
85	Shaw, O. W.; June 1, 1890; North Leigh Creek or Spring Creek	135	
85	Yearsley, H. C.; June 1, 1890; Spring Creek	240	
85	Drake, Richard; June 1, 1890; Patterson Creek	160	
85	Chelsey, John P.; June 1, 1890; Paul Spring Creek, Grove Creek, Deep Creep and Little Spring Creek	200	
85	Byrne, Michael; June 1, 1890; Fox Creek	100	
85	Buxton, Mary A.; June 1, 1890; Sloughs from Twin Creeks	80	
85	Beezley, Ebenezer, and J.; June 1, 1890; Fox Creek	120	
85	Andrews, L. W.; June 1, 1890; Grove Creek	15	
85	Durney, P. S.; June 1, 1900; Trail Creek	145	
85	Footo, Arthur L.; June 1, 1890; Mahogany Creek	100	
85	Ferguson, John; June 1, 1890; Grove Creek and Willow Spring Creek	240	
85	Eames, William; June 1, 1890; Spring Creek	155	
85	Edlefson, E. B.; June 1, 1890; Leigh Creek	160	
85	Drake, Lavina; June 1, 1890; Boquat Creek and Drake Creek	150	
88	Drake, William; July 1, 1890; Mahogany Creek	135	
90	Tonks, William H.; July 15, 1890; Trail Creek	160	
92	Curtis, Clarissa A.; Sept. 1, 1890; Trail Creek	160	
96	Rice, A. L.; Jan. 1, 1891; Patterson Creek	100	
98	O'Brien, James A.; June 1, 1891; North Leigh Creek	2,600	
98	Siddoway-Briggs Co.; June 1, 1891; Teton River. (For power purposes)	20	
98	Sinclair, D. R.; Adminr. Estate of Fred Sinclair (deceased); June 1, 1891; Eynon Ditch	0	
98	Smith, Ellington; June 1, 1891; Spring Creek, Darby Creek and Crandall Springs	400	
98	Shaw, L. C.; June 1, 1891; Ragder Creek and water from springs on T. A. Phillips' land	120	
98	Swanner, Samuel; June 1, 1891; South Leigh Creek	150	
98	Hubbard, Susan; June 1, 1891; North Leigh Creek and Middle Leigh Creek	200	
98	Harrop, Samuel; June 1, 1891; Leigh Creek	120	
98	Hill, Mary Ann; June 1, 1891; Pack Saddle Creek	160	
98	Clark & Houghton; June 1, 1891; Teton River	160	
98	Dewey, George A.; June 1, 1891; Fox Creek	160	
98	Barney, Walter; June 1, 1891; South Leigh Creek	100	
98	Bowles, Sarah; June 1, 1891; Spring Creek		
98	Blamires, Robert, and C. J. Burton, W. S. Burton and Thomas H. Phillips; June 1, 1891; Badger Creek and springs on land of T. A. Phillips	640	
98	Edlefson, Noah C.; June 1, 1891; Leigh Creek	40	
100	Siddoway Irrigation & Manufacturing Co.; July 1, 1891; Teton River	300	

Water Right No(s). _____

GPS DATA:

Tag # AD016017 Location: fence post 30 yds south of P00

Diversion Data:

Source: unnamed stream Trib to: Trail Creek

MOTOR

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

PUMP

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

NOTES:

Nothing to place GPS Tag on by P00 so placed tag
on a fence post near the P00.

Field Exam Date: 10/27/05 Agent: DD

SCANNED
JUN 01 2007

Point of Diversion and Source Data Entry Form

Claim Number: _____

Water Right Point(s) of diversion and Source.

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

Source: _____ Tributary to: _____

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

Source: _____ Tributary to: _____

Claimed Point(s) of Diversion and Source.

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

Recommended Point(s) of Diversion and Source.

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

Other rights from this POD? _____

Transfers Pending or approved: _____

Document how the POD and Source were verified:

01/27/05
DO
POD is a culvert placed in the channel of an unnamed stream. A piece of plywood is used to dam the culvert and to channel the water into a ditch that convey the water to a POD.

Reviewer: _____ Date: _____

SCANNED

JUN 01 2007

Place Of Use Data Entry Form

Claim Number: _____

Claimed Place Of Use

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

Total acres _____

Recommended Place of Use

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

Total acres _____

Pending or approved Transfers: _____

Overlapping rights: _____

Document how the POU was verified:

10/27/05
 20
 Field exam showed the POU is a pasture that is irrigated with a series of ditches and dams.

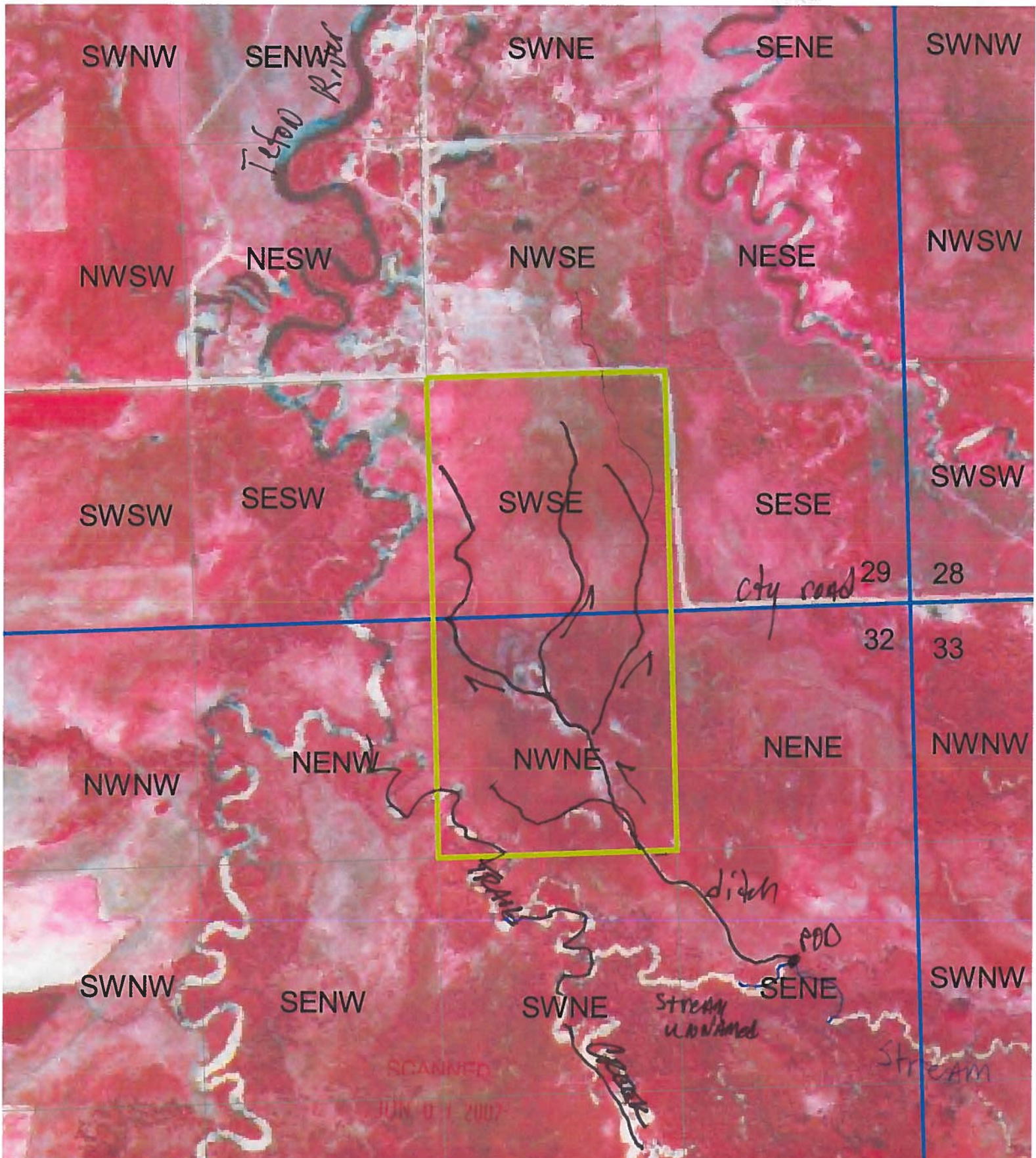
Reviewer: _____ Date: _____

SCANNED

JUN 01 2007

22-180B

10/27/05
00





**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

Transfer No. 3555

AUG 21 1990

Department of Water Resources
Eastern District Office

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1**

APPROVED

Name of applicant Gary or Sherry Zohner Phone 354-2537
Post Office address 401 W. 475 S., Victor, ID 83455

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes Moving pump to Miller Slough to pick up these rights. This same pump will be used on previous transfer for Pine Creek rights (22-02057 & 22-00365) just filed. This will allow me to pump all my rights from one pump station.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>22-00180 B</u>	<u>6-01-1889</u>	<u>0.70 cfs</u>	<u>Irrig.</u>	<u>4-15</u> to <u>10-15</u>
<u>22-00575 B</u>	<u>6-01-1892</u>	<u>1.00 cfs</u>	<u>Irrig.</u>	<u>4-15</u> to <u>10-15</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 1.70 cfs cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Paradise Creek tributary to Teton River
4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	NW	SW	20	4N	45E	Teton	

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
4N	45E	19														40		40	80

SCANNED

JUN 01 2007

PART 1

6. General Information:

a. Description of diversion system pump station on Miller Slough to sprinkler lines. Ditch
also brings other rights from Pine Creek source to this same pump station.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? X Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
Land is farmed with existing high sub water (pasture).

d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 22-0180B/0575B

And said application is hereby APPROVED, subject to the following limitations and conditions:
SEE ATTACHED SHEET FOR CONDITIONS OF APPROVAL.

Witness my hand this 16th day of August, 19 90

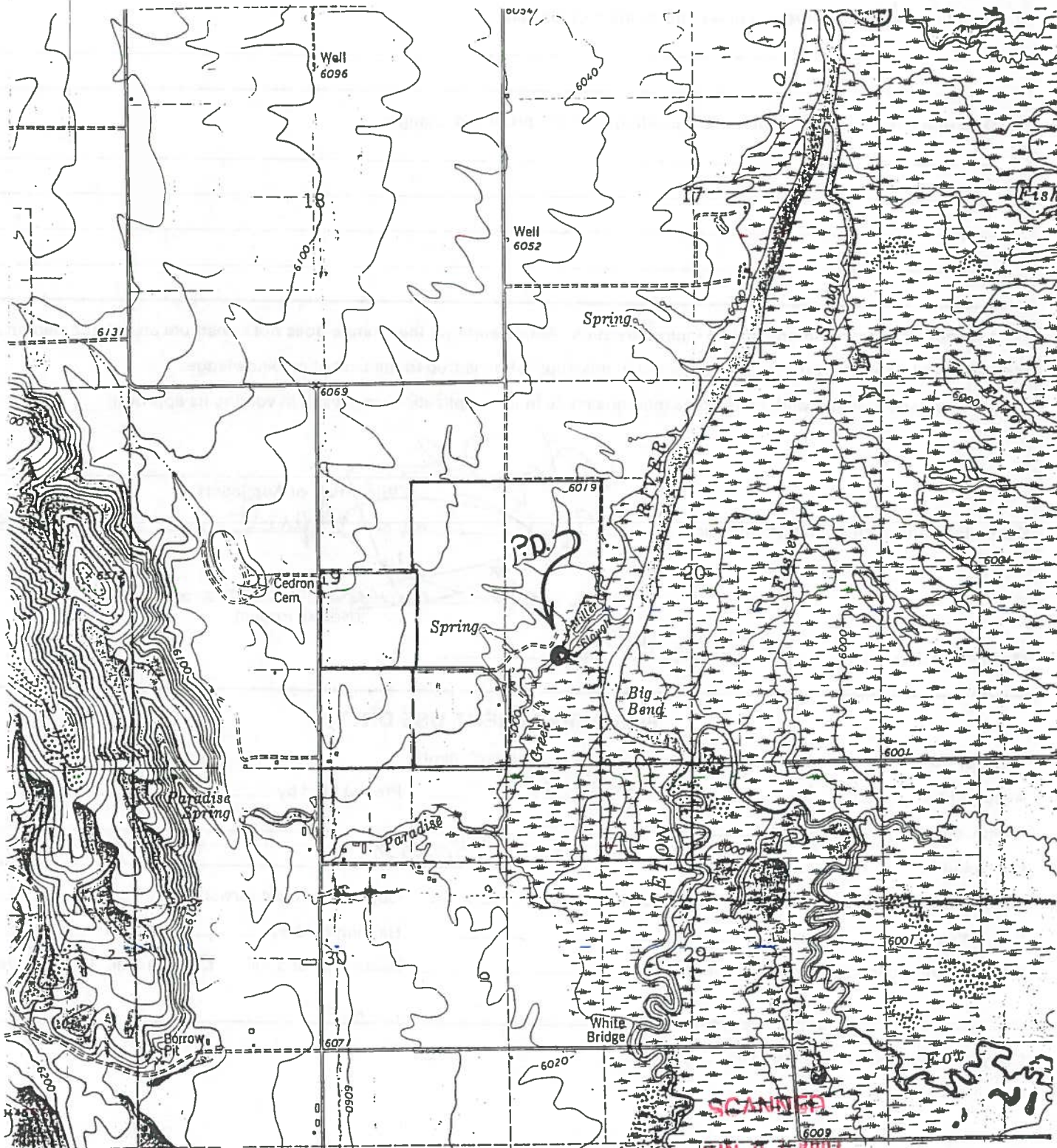
J. Shw Saylor
 Chief, Water Alloc. Bureau

SCANNED

JUN 01 2007

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



PART 3**B. CHANGES IN NATURE OF USE**

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Subscribed and sworn to before me this 19 day of April, 19 89.

(Signature of Applicant)

(Notary Public)

My commission expires 22 Aug 1994.

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by HWS Date 4-19-89 Protest filed by _____Prelim. check by DMD Fee \$ 50.00Receipted by HWS Date 4-19-89 # E006938

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☒ approval ☐ denial_____ rec'd. _____ by RDC

Copy of transfer sent to lien holder _____

SCANNED**JUN 6 1 2007**

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. 22-0180 Decreed to H. C. Bowles
in case of Rexburg Irrig. Co. vs. Teton Irrig. Canal Co.
dated 12-16-1910 in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☒ Tax Notice

☐ Warranty Deed

☐ Other _____

3. Source of water Spring Creek (Paradise Springs) tributary to Teton Creek

4. Date or priority 6-01-1889

5. Water is used for the following purpose:

amount 2.80 cfs for Irrig. purposes from Not listed to _____
(cfs/ac-ft) _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____

6. Total amount of water under right 2.80 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: Not listed

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
4N	45E	29											A				A		
		30	A	A															

SCANNED

Total acres 160

9. Describe any other water rights used for the same purpose as described above 22-02057

JUN 11 2007

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 0.70 cfs for Irrig. purposes from 4-15 to 10-15
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	NE	30	4N	45E	Teton	

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
4N	45E	30	40																40

Total acres 40**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)**

1. amount 2.10 cfs for Irrig. purposes from 4-15 to 10-15
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
2. Point(s) of Diversion: Not listed

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
4N	45E	29											A				A		
		30		A															

SCANNED

JUN 01 2007

Total acres 120

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. 22-0575 Decreed to George Walton
in case of Rexburg Irrig. Co. vs. Teton Irrig. Canal Co.
dated 12-16-1910 in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☒ Tax Notice

☐ Warranty Deed

☐ Other _____

3. Source of water Paradise Springs tributary to _____

4. Date or priority 6-01-1892

5. Water is used for the following purpose:

amount 2.00 cfs for Irrig. purposes from Not listed to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right 2.00 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: Not listed

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
4N	45E	30	A																
		29						A	A			A							

SCANNED

JUN 01 2007

Total acres 160

9. Describe any other water rights used for the same purpose as described above 22-02057

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
 No _____ If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 1.0 for Irrig. purposes from 4-15 to 10-15
 (cfs/ac-ft) _____
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) _____
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	NE	30	4N	45E	Teton	

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
4N	45E	29						40											40
		30	40																40

Total acres 80

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount 1.00 cfs for Irrig. purposes from 4-15 to 10-15
 (cfs/ac-ft) _____
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) _____
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) _____

2. Point(s) of Diversion: Not listed

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
4N	45E	29							A				A						

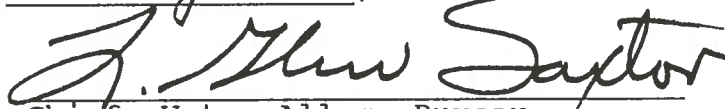
SCANNED
 JUN 01 2007

Total acres 80

CONDITIONS OF APPROVAL
Transfer of Water Right Nos. 22-0180B/0575B

1. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works.
2. These rights when combined with all other rights shall provide no more than 3.0 afa per acre for the lands above.
3. Approval of this transfer when combined with all other rights, does not validate a diversion rate of more than .02 cfs per acre.
4. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
5. Use of water under these rights is subject to control by the watermaster of State Water District No. 01, Snake River.

Dated this 16th day of August, 1990.


Chief, Water Alloc. Bureau

COANNED

JUN 01 2007

22-230B

~~456~~

587

180B

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Eastern District Office
900 N. Skyline Dr., Suite A
Idaho Falls, ID 83402-1718

RETURN SERVICE REQUESTED

NOT DELIVERABLE
AS ADDRESSED -
UNABLE TO FORWARD



JEAN C KUNZ
PO BOX 600
VICTOR ID 83455

***** 8010

★ ★ ★ ★ ★
PINEY BOWES
U.S. POSTAGE
1530 PB3523907
8976 \$00.370 MAR 02 2004
0738 MAILED FROM ZIP CODE 83402

1618 Capital St
Ogden UT
84401

UNANNOUNCED

JUN 01 2007

claim A22-1800
Jean Kunz's claim



Photo shows culvert headgate that is
dammed off, to divert unnamed stream
to PO4 in Sec. 29 and 32.

8
130

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: A22-00180B
Date Received: 9/19/1988
Receipt No: EC02456
Received By: Hert

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DUANE KUNZ 208-354-2441
Address: 466 W. 575 S.
VICTOR, ID 83445
OR
Name: JEAN KUNZ
Address: VICTOR, ID 83445

2. Date of Priority: JUN 01, 1889

3. Source: UNNAMED STREAM Trib. to: TRAIL CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04N	45E	32	SE	NE			TETON

5. Description of diverting works:
CULVERT FROM STREAM TO DITCH AND FLOOD IRRIG.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/01	12/01	1.600		

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

8. Total consumptive use is 160.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

A22-00180B

Page

1

Date: 09/19/88

SCANNED
JUN 01 2007

MICROFILMED
NOV 04 1992

A2200180B



10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	45E	29	SW	SE		IRR	40.0
						Section Acres	40.0
		32	NW	NE		IRR	40.0
						Section Acres	40.0
						Total Acres	80.0

11. Place of use in counties: TETON

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

13. Other Water Rights Used:
NONE

14. Remarks:
APPLICANT FEELS THIS IS THE INTENDED SOURCE OF THE ORIGINAL
H.C. BOWLES RT.

15. Basis of Claim: DECREED
Water Right Number: 220180
Case Number:
Court :
Decree date: 12/16/1910

<u>REXBURG IRRIG.</u>		<u>TETON IRRIG. CANAL</u>
Decree Plaintiff	vs	Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): X Duane Young Date: 9-19-88
_____ Date: _____

State of Idaho)
County of Bonneville) SS.

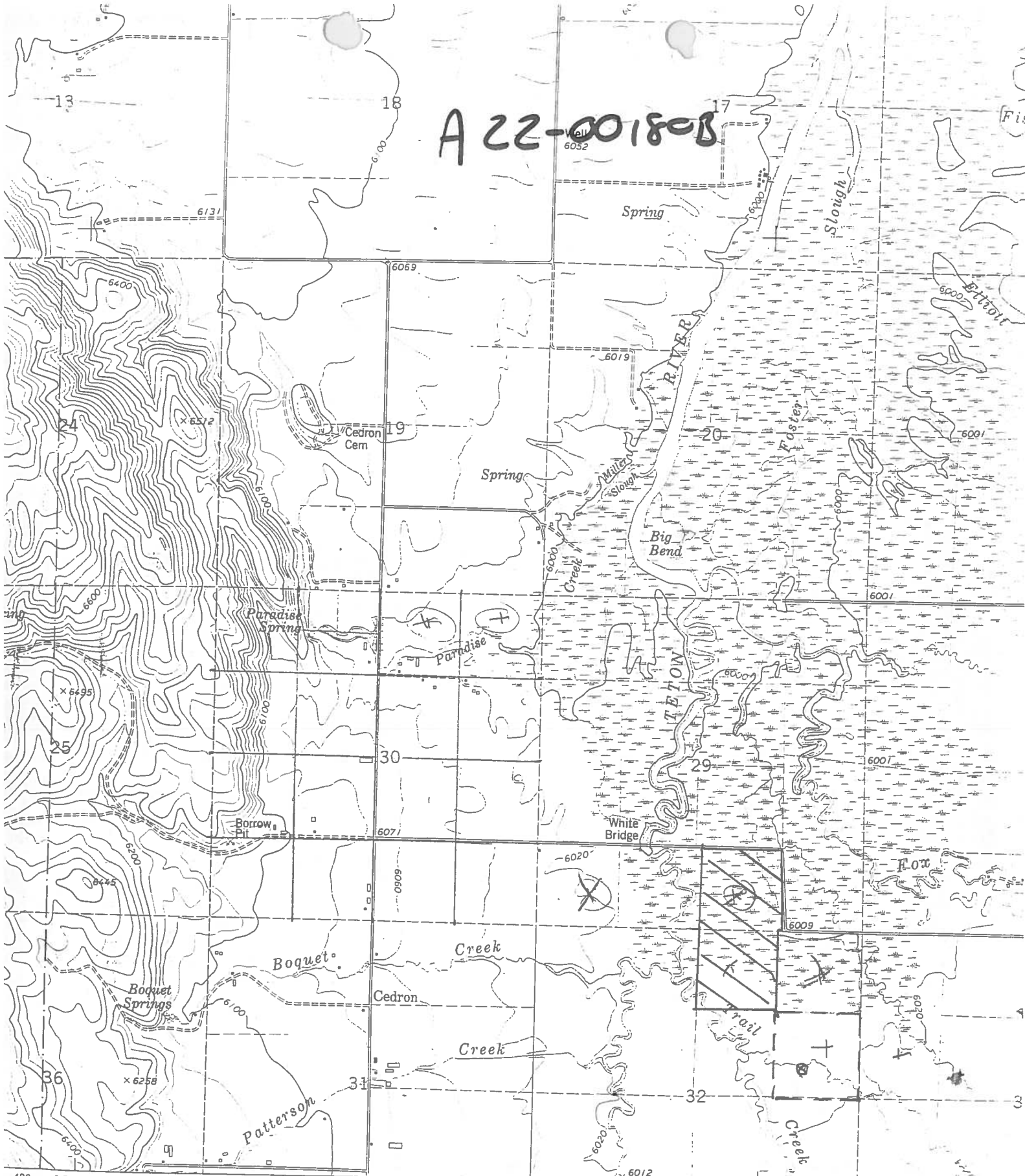
Subscribed and sworn (or affirmed) before me this 19th day
of September 19 88

Betty J. Thompson
Notary Public

Seal

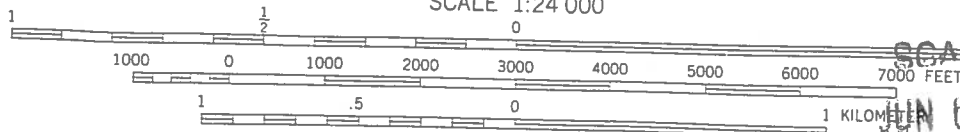
Residing at Idaho Falls
My Commission Expires 6-94

A 22-001808



(FOURTH OF JULY PEAK)
VICTOR 5 MI. 3771 II SW

SCALE 1:24 000



CONTOUR INTERVAL 20 AND 40 FEET
NATIONAL GEODETIC VERTICAL DATUM OF 1929

SCANNED

MICROFILMED

JUN 01 2007

NOV 04 1992