

12/01/2006

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

RIGHT NUMBER: 22-535
NAME AND ADDRESS: TRUDY LINN
PO BOX 255
VICTOR ID 83455

PETER LINN
PO BOX 255
VICTOR ID 83455

SOURCE: UNNAMED STREAM TRIBUTARY: SINKS
QUANTITY: 0.300 CFS
PRIORITY DATE: 05/15/1896
POINT OF DIVERSION: T04N R46E S32 NENENW 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	0.300 CFS
PLACE OF USE:	<u>IRRIGATION in TETON County</u>		
	T04N R46E S30 Lot 4 SWSW 1.00	T04N R46E S30 SESW	16.00
	17 ACRES TOTAL		

Use of this right with Right No. 22-535 is limited to the irrigation of a combined total of 17 acres in a single irrigation season.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

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

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

Right no(s). 22-535, 22-2095, and 22-4002 are also diverted through point of diversion described above.

Source is also known as Juanita Creek.



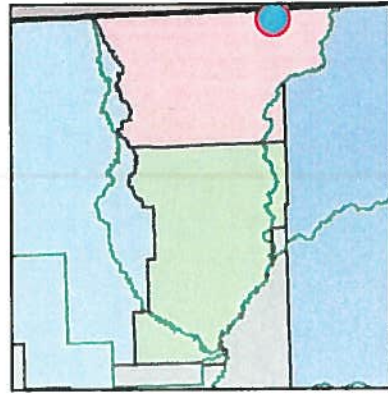
Idaho Department of Water Resources

SRBA Recommendation:

22-535
22-2095
 (Irrigation)

Legend

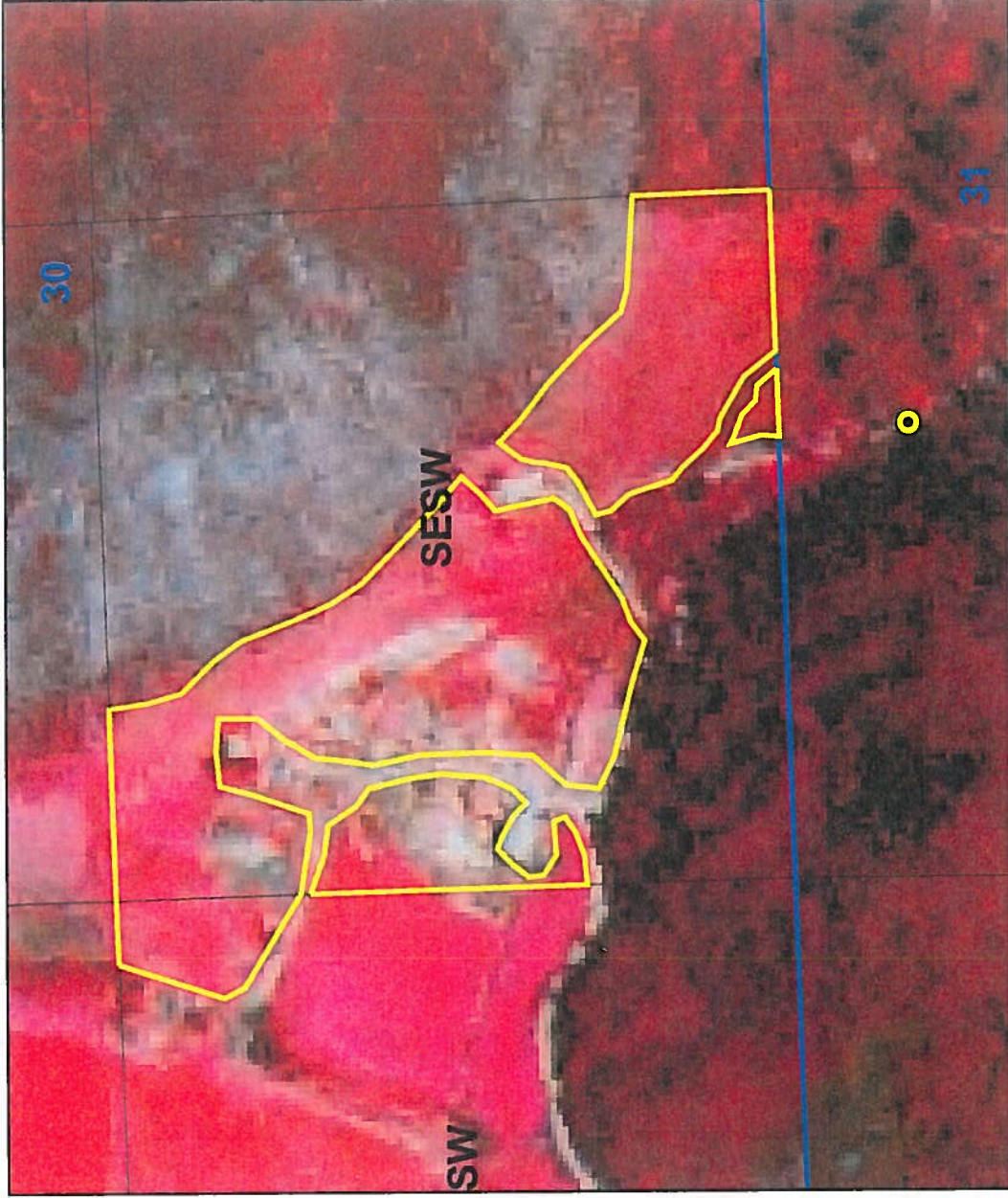
- Point of Diversion
- Place of Use
- Townships
- PLS Sections
- Quarter Quarters



Teton County
 IDWR Basin 22



R46E



0 0.1 0.2 Miles

Prepared by K. Moore
 On Friday, December 1, 2006
 1987/88 Aerial Photography

12/01/2006

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: 22-535

TRUDY LINN
PO BOX 255
VICTOR ID 83455
Telephone Number: (208) 787-2213

PETER LINN
PO BOX 255
VICTOR ID 83455
Telephone Number: (208) 787-2213

RECEIVED
JAN 04 2007
Department of Water Resources
Eastern Region

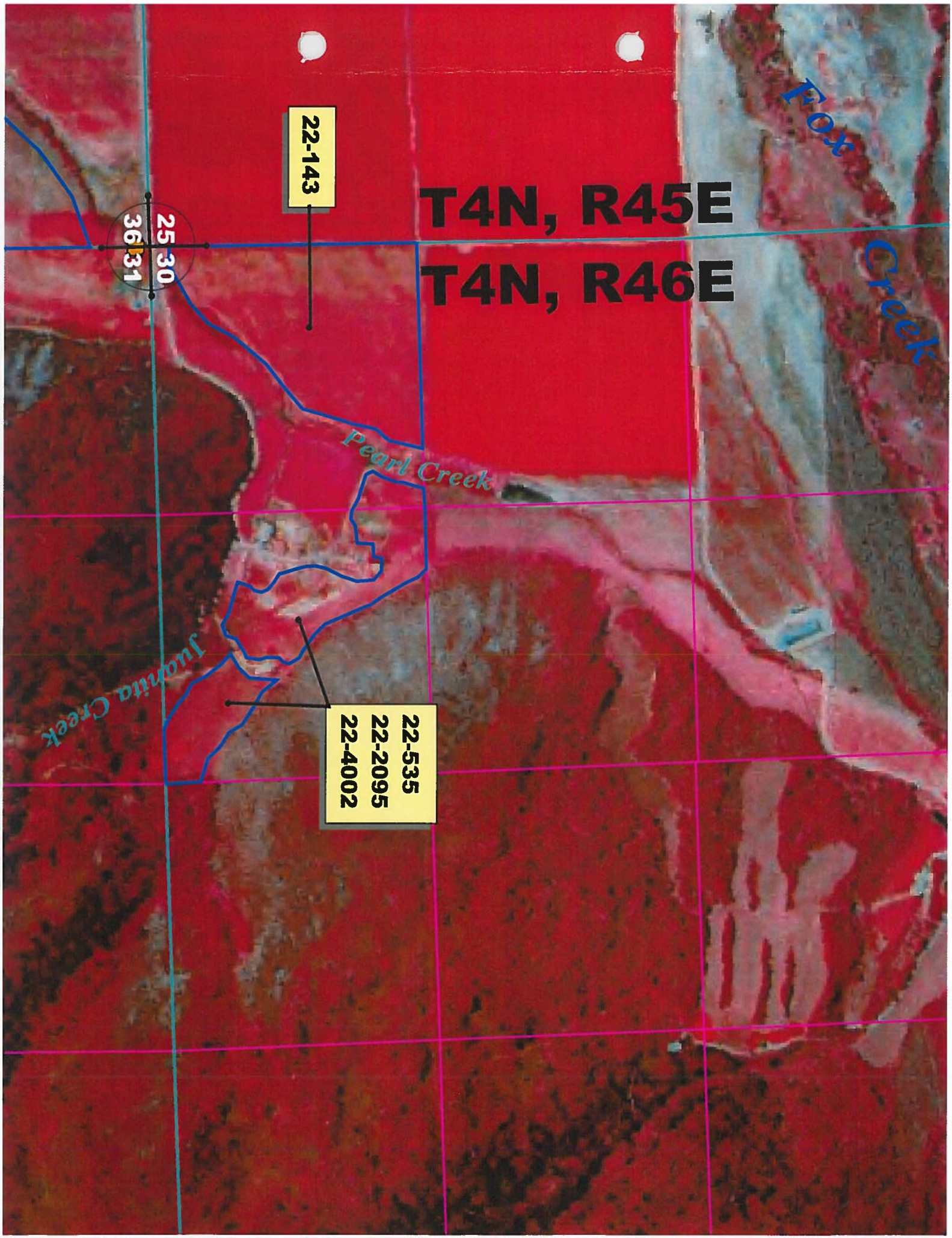
1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):
2. Describe the changes you wish to make in the proposed recommendation:
3. Give a brief explanation as to why you disagree with these portions:

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

DATE: 12-29-2006 SIGNATURE: Peter V. Linn Trudy Linn
Please print your name: PETER V. LINN Trudy Linn

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

OC



T4N, R45E
T4N, R46E

Fox Creek

Pearl Creek

Juanita Creek

22-143

22-535
22-2095
22-4002

25 30
36 31



Instrument #48169 ✓

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

L. N. Ballard,
Plaintiff,
vs.
Lynn Crandall, Watermaster, Water
District 36, Idaho,
Defendant

J U D G M E N T

COPY

* * * * *

This cause coming on to be heard by the court this 16th day of December, 1940, the plaintiff appearing in person and by his attorney, or A. Miller, and the defendant not appearing, either in person or by attorney, and it appearing to the satisfaction of the court that the defendant was regularly served with summons, that he failed to plead to plaintiff's complaint within the time allowed by law and that the default of the defendant has been entered for his failure to so appear and plead. The plaintiff offered oral and documentary evidence in support of his complaint and from said testimony it satisfactorily appears to the court that L. Lynn Crandall is the duly elected and acting watermaster of water district 36, Idaho, and charged with the duties of distributing the waters of Fox Creek a tributary of Teton River, which is a tributary of Snake River, which said Fox Creek is situated in Teton County, Idaho; that the plaintiff is the owner of the following real property, situate in Teton County, Idaho, and described as follows, to wit:

POU

The SE 1/4 of section 25 in township 4 north of range 45 east of the Boise meridian, and lot 4 and the SW 1/4 of section 30 in township 4 north of range 46 east of the Boise meridian;

POO

that he and his predecessors in interest have diverted 130 inches of the waters of said Fox Creek, with a priority of May 15, 1896, through what is known as the Moulton Ditch; that Emil A. Stahn, his predecessor in interest in that certain action filed and determined in this court, wherein Rexburg Irrigation Company, et al, were plaintiffs and Teton Irrigation Canal Company, et al, were defendants filed a cross-complaint alleging that he was the owner of the above described lands and alleged that he had diverted 200 inches of the waters of Spring Creek and 100 inches of the waters of Juanita Spring for the irrigation of the above described lands; that upon the hearing of said cause the said Emil A. Stahn testified that he was the owner of the above described lands, that he and his predecessor in interest had diverted and conveyed through what is known as the Moulton Ditch 200 inches of the waters of Fox Creek and 100 inches of the waters of Juanita Spring for the irrigation of the above described lands; that the said Moulton ditch had its point of diversion off Fox Creek and diverted water from said creek; that at the time of said hearing, there was introduced an engineers' map, which showed the location of Fox Creek, the point of diversion of the so-called Moulton ditch; that the said point of diversion of said Moulton ditch was on Fox Creek and said ditch ran to and upon the above described lands which were then owned by said Emil A. Stahn; that all of the testimony submitted in the said Rexburg Irrigation Company case, on behalf of said Emil A. Stahn was that Emil A. Stahn and his predecessor in interest had and were diverting water from Fox Creek and Juanita Spring

1.

and from no other source; that there is a stream leading from the said Juanita Spring, sometimes referred to as Spring Creek; that there is a Spring Creek shown on the said engineers' map, but that there is no diversion shown from the same to the lands of the said Emil A. Stahn; that the testimony offered in the cause shows that it would be a physical impossibility to divert water from Spring Creek in Teton County to the lands of the plaintiff by gravity; that the decree made and entered in the said Rexburg, Irrigation Company v. Teton Irrigation Canal Company case, awarded and decreed to Emil A. Stahn 130 inches of the waters of Spring Creek and 15 inches of the waters of Juanita Spring with a priority dating May 15, 1896; that the watermaster of water district 36, Idaho, has threatened to refuse to permit the plaintiff to divert the waters of Fox Creek for the irrigation of the lands above described, under said decree.

The court further finds that the material allegations of the plaintiff's complaint are true and that he is entitled to the relief demanded.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED That the cross-complaint filed in the above action of Rexburg, Irrigation Company Vs. Teton Irrigation Canal Company, by Emil A. Stahn be amended to conform to the proof, to wit, that in said cross-complaint where it states and refers to Spring Creek, that the same be so amended to state and read Fox Creek; that the said decree be amended in that it award to Emil A. Stahn the plaintiff's predecessor in interest, the right to divert 130 inches of the waters of Fox Creek with date of priority of May 15, 1896, and,-

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED THAT the water master of water district 36, Idaho, in the distribution of the waters of Teton River and its tributaries, distribute to the plaintiff herein, 130 inches, of the waters of Fox Creek, with date of priority of May 15, 1896.

Dated this 16th day of December, 1940.

C. J. TAYLOR
District Judge.

STATE OF IDAHO) ss.
COUNTY OF TETON)

Filed for Record at the Request of L. N. Ballard at 50 Minutes past 3 O'clock P.M. this 25 day of Oct. 1950

L.50

Dwight C. Stone, Recorder
By Louise Drake, Deputy

Instrument # 48171 ✓

ORDER:
x CK-1896
ONLY

Reverse L I N Ranch
140 E., 600 S.
Victor, Idaho 83455

Allen Ruberry
Sr. Water Resource Agent
Adjudication Bureau

June 10, 2004

RECEIVED
JUN 14 2004

Department of Water Resources
Eastern Region

Re: Priority Date for Water Right # 22-534 and Water Right # 22-535

Dear Mr. Ruberry,

Greetings from Teton Basin. I would like to thank you for promptly reviewing the information I submitted on 5/28/04, contacting me by phone to discuss the information, scheduling and completing a site and diversion inspection on June 7, 2004. I feel we both have a better understanding of this claim.

After our discussion of the contents of the 9 th District Court Judgement #48169 I have gone back and re-read the document . Several times. I will attempt to summarize my interpretation of what the judgement actually says.

1. Lynn Crandall, Watermaster, Water District 36 threatened to refuse to permit L.N. Ballard to divert water from Fox Creek. Crandall's reasoning was that the water right awarded to Ballard's predecessor, Emil A. Stahn lists Spring Creek as the water source.
2. L.N. Ballard filed a complaint against Lynn Crandall to clarify his water right claim. As part of his evidence to support his claim he submitted to the court an earlier 9 th District Court judgement on an action between Rexburg Irrigation Company (plaintiffs) and Teton Irrigation Canal Company (defendants).
3. In the earlier court action Emil A. Stahn testified that he and his predecessor (homesteader James Elliot) were diverting 200 in. of water from Fox / Spring Creek and 100 inches from Juanita Springs to irrigate his 160 acres of land. In the judgement he was awarded 130 inches of Spring Creek and 15 inches of the waters of Juanita Springs with a priority dating of 5-15-1896. These two decrees correspond with Water Right #22-534, and #22-535.
4. The Court found the evidence submitted by L.N. Ballard to be true and ordered that the reference to Spring Creek in the previous Judgement be amended to read Fox Creek.

It is my interpretation that Water Right # 22-534 be amended to read Fox Creek as the source. This water right has been consolidated with the Rock Road Irrigation Co. pipe-line. Parrish Lane Ranch has 80 of the original 130 inches of Fox Creek Water. We have 40 of the original 130 inches of Fox Creek Water. I do not know where the other 10 inches of water have gone.

It is also my interpretation that a priority date of 5-15-1896 be added to Water Right #22-535 as directed by the court. *Done - per WR Data Base*

Please let me know your attorney's thought's on this matter. Thanks again.

Peter B. Linn

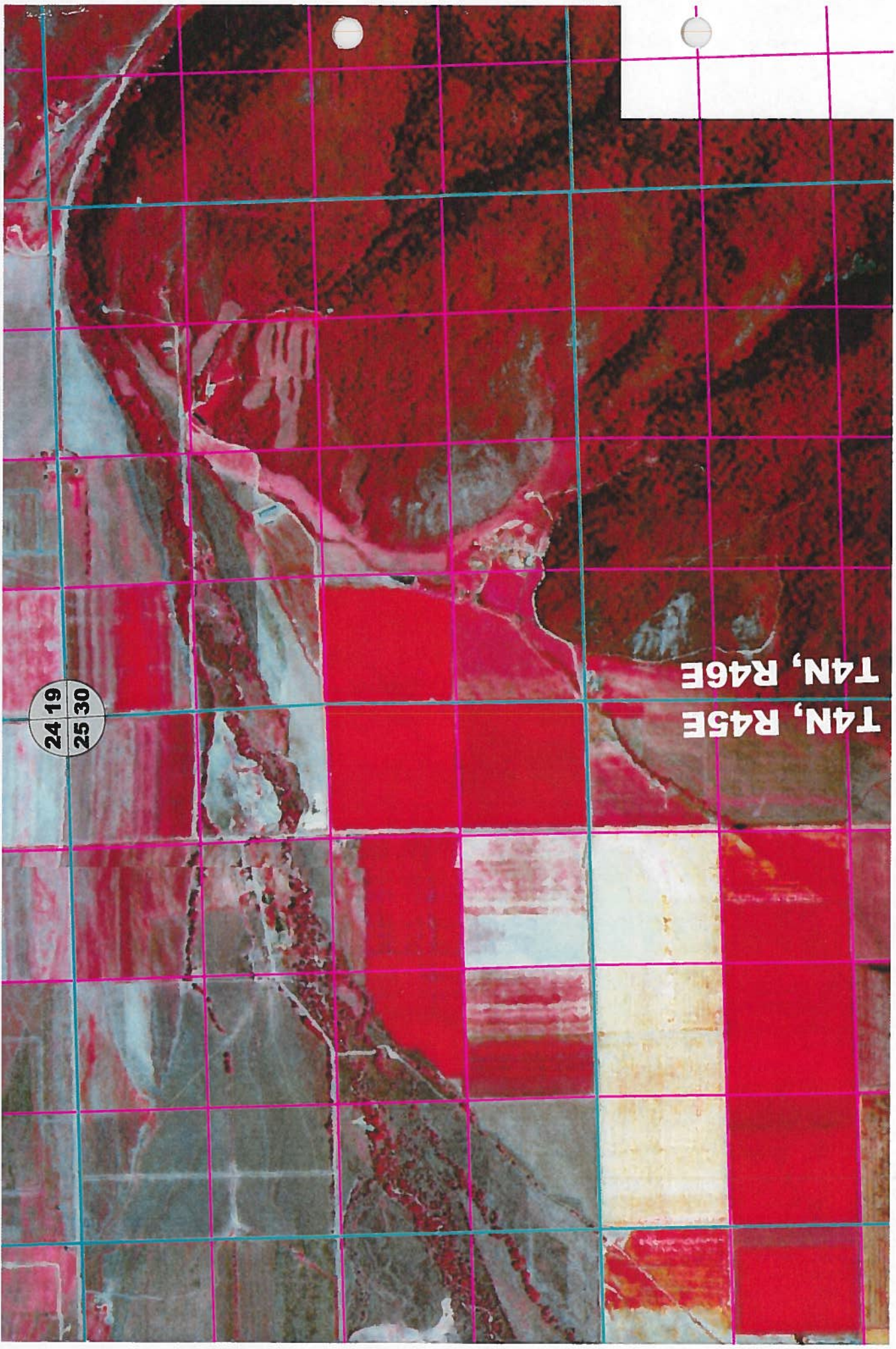
Rights on Upper Teton River and Tributaries (continued)
Listed in Downstream Order

<u>Party or Canal</u>	<u>Orig. Canal</u>		<u>Decreed Amount in Sec.-ft.</u>	<u>Accumulated Total</u>
<u>FOX CREEK</u>				
<u>NW Fox Creek Pipeline</u>				
<u>Dwight Stone</u> (E.&J. Beezley)		June 1, 1889	1.6	1.6
<u>J. Rasmussen</u> (E.&J. Beezley)		June 1, 1890	1.6	
<u>L. Burnside</u> (William Jenkins)		June 1, 1890	1.6	4.8
<u>H. C. Beesley</u> (Permit 17156)		Aug. 30, 1929	1.6	<u>6.4</u>
<u>Rock Road Pipeline</u>				
<u>Garden Water Co.</u> (Geo M. Tonks)		July 15, 1889	1.1	1.1
<u>J. Rasmussen</u> (E.&J. Beezley)		June 1, 1890	1.6	
<u>L. Burnside</u> (WM. Jenkins)		June 1, 1890	1.6	4.3
<u>L.&J. Duke, B. Moulton</u> (N.C. Christensen)		June 1, 1894	3.2	7.5
<u>L.&J. Duke</u> , (B.F. Parker)		June 1, 1895	0.3	7.8
<u>Hal Rasmussen</u> (Charles Moulton)		May 15, 1896	2.0	
<u>Hal Rasmussen</u> (G.F. Moulton)		May 15, 1896	2.0	
<u>L.N. Ballard</u> (E.A. Stahn)		May 15, 1896	2.6	
<u>W.C.&L.F. Wanless</u> -Supp.		May 15, 1896	1.6	
<u>Hal Rasmussen</u> (Wanless Canal) (Supp.)		May 15, 1896	1.6	17.6
<u>C. Mangum</u> (G.W. Bush)		June 1, 1896	.8-2.0?	
<u>B. Moulton</u> (R.C. & A.L. Kimball)		June 1, 1896	1.6	
<u>W. Atkinson</u> (F. Penfold)		June 1, 1896	0.4	20.4
<u>G. Nethercott</u> (B.F. Parker)		June 1, 1897	2.4	
<u>G. Nethercott</u> (C. Cluff)		June 1, 1897	0.2	
<u>E. Nelson</u> (F. Penfold)		June 1, 1897	2.0	
<u>G. Nethercott</u> (C. Cluff)		June 1, 1897	0.2	25.2
<u>G. E. Bowerman</u> (A. Allen)		June 1, 1898	1.0	
<u>L.&J. Duke</u> (C. Cluff)		June 1, 1898	3.0	
<u>G. Nethercott</u> (B.F. Parker)		June 1, 1898	1.5	30.7
<u>Cecil Mangum</u> (G.W. Bush)		June 1, 1900	2.4	33.1
<u>William Nickell</u> (Lisc. 3192)		Oct. 11, 1907	2.0	<u>35.1</u>
<u>FOX CREEK MISCELLANEOUS</u>				
<u>Floyd Moulton</u> (M. Byrne)		June 1, 1890	2.4	
<u>W. Kirkham</u> (R.C. & A.L. Kimbell)		June 1, 1890	2.2	
<u>B. Moulton</u> (G.A. Dewey)		June 1, 1891	3.2	
<u>R. Foster & J. Kay</u> (H. J. Stone)		June 1, 1896	3.2	
<u>H. Rasmussen</u> (J.R. Vail)		June 1, 1896	3.2	
<u>E. Stone, N. Hibbert, H. Rasmussen</u> (A. Penfold)		June 1, 1897	2.0	
<u>H. Rasmussen</u> (W.C. Vail)		June 1, 1897	4.4	
<u>F. Moulton</u> (lisc. 3933)		July 20, 1908	1.17	
<u>M. Kunz</u> (B. Woolstenhulme)		Jan. 22, 1916	3.2	
<u>Fox Creek Irrigation Co.</u>		Jan. 22, 1916	83.2	
<u>R. Garden, D. Brown, F. Moulton</u> (Permit 13004)		June 9, 1917	3.5	<u>111.67</u>
<u>Total Rights on Fox Creek</u>				<u>153.17</u>

Miscellaneous Rights in Teton Basin (continued)

<u>Owner (Orig. Owner)</u>	<u>Approx. Location</u>	<u>Stream</u>	<u>Date</u>	<u>Amount</u>
<u>J. Zohner, J&M Kunz, R.</u>				
<u>Kunz, L. Miller (S. Kunz, Jr)</u>	Sec 20-4N-45E	Pine Creek	July 31, 1903	5.6
<u>Miller (J.J. Miller)</u>	Sec 30-4N-45E	Paradise Spg	June 1, 1904	2.0
<u>R. Kunz (C. Withrick)</u>	Sec 30-4N-45E	Paradise Spg	June 1, 1904	½ of Spgs.
<u>(S.S. Sinclair)</u>	Sec 22-3N-45E	Pole & Pine Crks	June 1, 1904	1.2
<u>F. Kirksen, B.F. Blodgett</u>				
<u>(M.H. Coyle)</u>	Sec 5-3N-45E	Coyle Spg	June 15, 1904	1.2
<u>A. Winger, B.E. Baron</u>				
<u>(H.L. Crandall)</u>	Sec 3-4N-45E	Crandall Spgs	No date	1.6
<u>E. Kunz, M. McDonald</u>				
<u>(L.W. Andrews)</u>	Sec 6-3N-45E	Springs	No date	0.8
<u>(E.A. Stahn)</u>	Sec 30-4N-46E	Juanita Spgs	No date 5/15/1896	0.3
<u>D.C. Buxton (Supp)</u>	Sec 32-5N-45E	Woods Creek	Mar. 19, 1908	1.6
<u>W.F. Jamison (Permit 4083)</u>	Sec 17-7N-45E	Tepee Creek	Oct. 15, 1908	6.4
<u>Calderwood (Permit 4106)</u>	Sec 17-7N-45E	Tepee & Little Bitch Crks.	Oct. 23, 1908	6.4
<u>Sanford Forbush</u>				
<u>(Permit 5937)</u>	Sec 30-4N-45E	Drake Creek	Apr. 5, 1910	1.5
<u>Kunz (Lic. 7257)</u>	Sec 19 & 20 4N-45E	Pine Creek	Mar. 27, 1911	3.6
<u>Ulrich Schiers</u>				
<u>(Lic. 7281)</u>	Sec 31-4N-45E	Patterson Creek	Apr. 15, 1911	1.5
<u>Hal Rasmussen (Supp)</u>	Sec 36-4N-45E	Pearl Creek	June 1, 1914	3.2
<u>L.N. Ballard (Supp)</u>	Sec 30-4N-46E	Pearl Creek	June 1, 1914	3.2
<u>Lorin Murdock</u>	Sec 15-4N-45E	Price Springs	Jan. 22, 1916	0.8
<u>V.A. Price</u>	Sec 34-5N-45E	Crandall Spgs	Jan. 22, 1916	0.8
<u>F. Dirksen</u>	Sec 5-3N-45E	Blodgett, Trail & Clear Creek	Jan. 22, 1916	8.0
<u>G.P. Bagley</u>	Sec 8-3N-45E	Clear Creek	Jan. 22, 1916	1.6
<u>B.F. Bodgett</u>	Sec 5-3N-45E	Blodgett Creek	Jan. 22, 1916	8.0
<u>Mary L. Kearsley</u>	Sec 17-3N-45E	Pine Creek	Jan. 22, 1916	1.6?
<u>First Security Bank, Ogden</u>	Sec 33-4N-45E	Tonk Spgs	Jan. 22, 1916	2.4
<u>J.M. Ingram</u>	Sec 12-3N-45E	Ingram Creek	Jan. 22, 1916	0.8
<u>F.C. Gillette</u>	Sec 17-3N-45E	Pine Creek	Jan. 22, 1916	1.6?
<u>D.K. Bowen</u>	Sec 2-4N-44E	Mid-Twin Creek	Jan. 22, 1916	1.6
<u>F. Bowen</u>	Sec 2-4N-44E	Twin Creek	Jan. 22, 1916	0.4
<u>State of Idaho (A.</u>				
<u>(A.F. Murdock)</u>	Sec 36-5N-44E	Twin Creek	Jan. 22, 1916	1.6
<u>State of Idaho</u>				
<u>(S. Murdock)</u>	Sec 36-5N-44E	Twin Creek	Jan. 22, 1916	1.6
<u>Bank of Teton Valley</u>	Sec 35-5N-44E	---	Jan. 22, 1916	0.8
<u>Ed Riggan (A. Murdock)</u>	Sec 10-4N-45E	Smith Creek	Jan. 22, 1916	3.2

Miscellaneous rights in Teton Basin continued next page -



24 19
25 30

T4N, R45E
T4N, R46E

Water Right(s):

NOTES:

EXAM MAP
Basin 22 Project

Examiner: _____

Date: _____

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

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

CIVIL CASE NUMBER: 39576

Ident. Number 22-535
Date Received: 6/3/2004
Receipt No: E030805
Received By: ABR

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

TRUDY LINN Phone: (208) 787-2704
PO BOX 255
VICTOR ID USA 83455

PETER LINN Phone: (208) 787-2704
PO BOX 255
VICTOR ID USA 83455

2. Date of Priority: 05/15/1896

3. Source: JUANITA SPRINGS Trib. to: SPRING CREEK

4. Point of Diversion:
Township Range Section 1/4 of 1/4 of 1/4 Lot County Type
04N 46E 30 SE SW TETON

5. Description of diverting works:
PIPELINE OFF CREEK TO SPRINKLER SYSTEM.

6. Water is used for the following purposes:
Purpose From To C.F.S. (or) A.F.A
IRRIGATION 04/15 10/31 0.3

7. Total Quantity Appropriated is:
0.3 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres	
04N	46E	30	SW	SW	4	IRRIGATION	1
			SE	SW		IRRIGATION	16

Section Acres 17

Total Acres 17

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:

14. Remarks:

POD/POU REQUIRE ADJUSTMENT TO CONFORM TO ACTUAL USE.
RECEIPT NO. E030805

15. Basis of Claim: Decreed

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): Peter V. Lavin Date: 4-19-05

Date: _____

State of Idaho)
County of BONNEVILLE) SS.

Subscribed and sworn (or affirmed) before me this 19th
of April 2005

Allen B. Ruberry
Notary Public

Residing at Donna Kaus Donna

My commission Expires 9/23/09

