

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 67-4089
Date Received: 10/13/1989
Receipt No: M004935
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

KENNETH F DOWNEY Phone: (208) 253-6124

2373 LAPPIN LN
COUNCIL ID USA 83612

DIANE E DOWNEY Phone: (208) 253-6124

2373 LAPPIN LN
COUNCIL ID USA 83612

-bought fa. Smith's

2. Date of Priority: 06/01/1960

3. Source: MILL CREEK Trib. to: WEISER RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
17N	01W	35	SE NW NE	ADAMS	

5. Description of diverting works:

SMALL DIV.DAM WITH EARTH DITCHES & BURIED PIPE FOR GRAV.IRRIG.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/15	0.8	
STOCKWATER	1/01	12/31	0.2	

7. Total Quantity Appropriated is:
0.82 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
17N	01W	35	NW	NE	STOCKWATER	
			NW	NE	IRRIGATION	40
					Section Acres	40
					Total Acres	40

11. Place of use in counties: ADAMS

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

13. Other Water Rights Used:

14. Remarks:

2 P/D IN NWNE, S35, T17N, R1W.

15. Basis of Claim: Statutory Claim

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): _____ Date: _____

_____ Date:

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this
of _____ 20__

Notary Public

Residing at _____

My commission Expires _____

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: **A67-04089**
Date Received: 10/13/1989
Receipt No: M004935
Received By: _____

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

1. Name: KENNETH F DOWNEY
Address: PO BOX 174
NEW MEADOWS ID 83654

AND

Name: DIANE E DOWNEY
Address: PO BOX 174
NEW MEADOWS ID 83654

2. Date of Priority: JUN 1, 1960

3. Source: MILL CREEK Trib. to: WEISER RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
17N	01W	35	SE	NW	NE		ADAMS

5. Description of diverting works:

SMALL DIV.DAM WITH EARTH DITCHES & BURIED PIPE FOR GRAV.IRRIG.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.800		
STOCKWATER	01/01	12/31	0.200		

7. Total Quantity Appropriated is:

0.820 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 120.0 Acre Feet Per Annum.

9. Non-irrigation uses:

S/25 RANGE.

MICROFILMED

AUG 05 1994

SCANNED

APR 08 2004

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
17N	01W	35	NW	NE		IRR	40.0
			NW	NE		STOCK	

Section Acres 40.0

Total Acres 40.0

11. Place of use in counties: ADAMS

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

13. Other Water Rights Used:

A67-04043 FOR DOMES., STOCK, & IRRIG. FROM GROUNDWATER.

14. Remarks:

2 P/D IN NWNE, S35, T17N, R1W.

15. Basis of Claim: STATUTORY CLAIM

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

MICROFILMED

AUG 05 1994

State of Idaho)
County of _____) SS.

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

Notary Public

Seal

Residing at _____

My Commission Expires _____

MICROFILMED
AUG 05 1994



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type

(see instructions on back of page)

RECEIVED

JUL 19 1993

Department of Water Resources

DATE OF CLOSING: 7/6/93

LEGAL DESCRIPTION OF PROPERTY: Township 17N Range 01W
 Section 35, NW 1/4 of NE 1/4 of 1/4, Govt. Lot , BM.
 Lot , Block , Subdivision/Townsite .
 If you have additional legal descriptions, please attach separate sheet.

- ☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)
- ☐ Water Right Number(s)
Assigned by IDWR: A67-04089 + A67-04043
- ☐ Name and Address of Former Owner/Claimant(s)(Seller): Zella M. Smith
Box 177
Council, ID 83612
- ☐ New Owner/Claimant (Purchaser): Kenneth F. Downey + Diane E. Downey
- ☐ New Mailing Address: P.O. Box 174
New Meadows, ID 83654
- ☐ New Telephone Number: () -
- ☐ Does the change in ownership result in a splitting of the water right owned/claimed? yes ☒ no
 If yes, then describe the portion of the water right that is now owned/claimed by the new owner:
- _____
- _____
- _____

- ☐ Attach proof of ownership, describe proof attached: copy of recorded Memorandum of Sales Contract

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

- ☐ Signature of New Owner/Claimant(s): + Kenneth F. Downey Date 7/6/93
+ Diane E. Downey Date 7/6/93
- ☐ Signature of Former Owner/Claimant(s): + Zella M. Smith Date 7/6/93
 Date

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: 7-20-93 By: ATN

Further Action Needed:

Further Action Taken

Date:

By:

Final Review and Data-Entry

Date: 7-20-93By: ATN

Claim Numbers of Split, if any:

MICROFILMED

AUG 05 1994

Original to be mailed to Idaho Department of Water Resources
 Copies to Former Owner and New Owner

MEMORANDUM OF SALES CONTRACT

SELLER: Zella M. Smith

BUYER: Kenneth F. Downey and Diane E. Downey, husband and wife

DATE OF SALES CONTRACT: July 6, 1993.

NOTICE IS HEREBY GIVEN that the above-named Seller has entered into a contract of sale of real property (Sales Contract) wherein the above-named Buyer agreed to buy, and the Seller agreed to sell, the following described real property situated in the County of Adams, State of Idaho, to-wit:

The NW 1/4 of the NE 1/4 of Section 35, Township 17 North, Range 1, W.B.M.

SUBJECT TO such rights, easements, covenants, restrictions, and zoning regulations as appear of record or by use upon the premises and LID assessments, if any.

Pursuant to the terms of said contract, title has been reserved in the Seller until the Buyer fully performs the contract, and a Warranty Deed has been placed in escrow for delivery to the Buyer upon completion of such performance. The recording of said Warranty Deed at a future date shall be conclusive proof, as against the Seller, and Seller's heirs, personal representatives, successors, and assigns, that Buyer has fully and completely performed all of the terms of said Sales Contract, and that Seller has no further right, title, or interest in and to the real property above described.

Also, pursuant to the terms of said Sales Contract, a Quitclaim Deed has been placed in escrow, to be delivered to the Seller in the event Buyer

shall default under the Sales Contract, and shall fail to cure said default within the time provided in the contract (the parties having agreed that time is of the essence of their agreement). The recording of such Quitclaim Deed conveying the right, title, and interest of Buyer in the above-described property to Seller shall be conclusive proof, as against the Buyer, and Buyer's heirs, personal representatives, successors, and assigns, that Buyer has defaulted in performance of said Sales Contract, and that procedures set forth in said contract for sending notice of default, recession of the contract, and termination of Buyer's right to continue the purchase and to continue in possession of the property, have been fully and completely complied with by the Seller, it being recognized and agreed that if Buyer claims any defect in such notice or procedures, or if Buyer claims any equitable interest in the property herein described, Buyer shall and must commence a legal action to assert such claims, if any, prior to the expiration of the time provided in the contract for correcting defaults and delivery of said Quitclaim Deed by the escrow holder to the Seller, and that unless such action is so commenced within said period of time, all such claims are waived by Buyer.

Said sales contract is held in escrow at Timberline Title and Escrow, Inc., Council, Idaho 83612.

DATED this 6 day of July, 1993.

SELLER

Zella M. Smith
Zella M. Smith

BUYER

Kenneth F. Downey
Kenneth F. Downey

Diane E. Downey
Diane E. Downey

STATE OF IDAHO)
) ss.
County of Adams)

On this 6th day of July, 1993, before me, the undersigned, a Notary Public in and for the said State, personally appeared Zella M. Smith known to me to be the person whose name is subscribed to the above and foregoing instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal the date last above written.

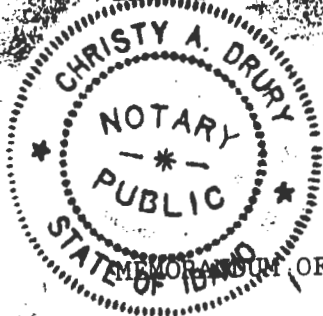


STATE OF IDAHO)
) ss.
County of Adams)

Christy A. Drury
NOTARY PUBLIC, in and for the
State of Idaho, residing at
Fruitvale Council, therein.
My Commission Expires: 8/4/96

On this 16th day of July, 1993, before me, the undersigned, a Notary Public in and for the said State, personally appeared Kenneth F. Downey and Diane E. Downey, husband and wife, known to me to be the persons whose names are subscribed to the above and foregoing instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal the date last above written.



MEMORANDUM OF SALES CONTRACT

Christy A. Drury
NOTARY PUBLIC, in and for the
State of Idaho, residing at

Fruitvale

Council, therein.

My Commission Expires:

8/4/98

INSTRUMENT NO. 84347
State of Idaho)
County of Adams) ss.

Filed for record at the request of
Timberline Title & Escrow
17 min. past 4 o'clock P.M.
this 12 day of July, 19 93

MICHAEL FISK, RECORDER
by Sarah Wilson
Deputy

Fee \$12.00

Indexed

MEMORANDUM OF SALES CONTRACT

Zella M. Smith

to

Kenneth F. & Diane E. Downey

Idaho Department of Water Resources



Adjudication Claim Number: **67-4089**



0 0.2 0.4 Miles



Legend

- Section Lines
- GCDB17N01W GCDB
- GCDB16N01W GCDB

Prepared by D. Narsavage
On Wednesday, April 13, 2005
1987/88 Adjudication True Color Imagery

Draft

04/13/2005

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

RIGHT NUMBER: 67-4089

NAME AND ADDRESS: KENNETH F DOWNEY
2373 LAPPIN LN
COUNCIL ID 83612

DIANE E DOWNEY
2373 LAPPIN LN
COUNCIL ID 83612

SOURCE: MILL CREEK

TRIBUTARY: WEISER RIVER

QUANTITY: 0.820 CFS

PRIORITY DATE: 06/01/1960

POINT OF DIVERSION:

T17N R01W S35 NENWNE Within ADAMS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	1/01 12/31	0.200 CFS
IRRIGATION	3/15 11/15	0.800 CFS

PLACE OF USE: STOCKWATER Within ADAMS County

T17N R01W S35 NWNE

IRRIGATION Within ADAMS County

T17N R01W S35 NWNE 40.0

40 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:

Water Right 67-4089 1

Draft

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4089 V1

WATER RIGHT NUMBER: 67-4089 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	KENNETH F DOWNEY 2373 LAPPIN LN COUNCIL, ID 83612 (208) 253-6124
Original Owner	WILLIAM H SMITH STAR RT COUNCIL, ID 83612
Current Owner	DIANE E DOWNEY 2373 LAPPIN LN COUNCIL, ID 83612 (208) 253-6124
Original Owner	ZELLA M SMITH BOX 177 COUNCIL, ID 83612 (208)253-4828

Priority Date: 06/01/1960

Basis:

Status: Active

<u>Source</u>	<u>Tributary</u>
MILL CREEK	WEISER RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	1/01 to 12/31	0.200 CFS	
IRRIGATION	3/15 to 11/15	0.800 CFS	
	<u>Total Diversion:</u>	0.820 CFS	

Location of Point(s) of Diversion

MILL CREEK	NE1/4NW1/4NE1/4	Sec. 35, Twp 17N, Rge 01W, B.M.
ADAMS County		

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N	01W	35		X															

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4089 V1

17N 01W 35		40.0					40.0
Total Acres: 40							

Conditions of Approval:

1. C18 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.

Remarks:Comments:

1. mvining 4/13/2005 priority date

Comment: needs further evidence of priority; sent request letter 4/13/05

2. mvining 4/13/2005 POD

Comment: 2 PODs listed in claim; neither location makes sense in relationship to location of source (Mill Creek). Field exam needed.

Dates and Other Information:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Defendant:

Plaintiff:

Civil Case Number:

Judicial District:

Notice of Error Flag:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Contacts	4/13/2005 3:43:45 PM	mvining			Active
Priority Date	4/13/2005 3:44:41 PM	mvining			Active
POU	4/13/2005 3:45:41 PM	mvining			Active
POD	4/13/2005 3:52:09 PM	mvining			Active
POD	4/13/2005 4:12:04 PM	mvining			Active
Source	4/13/2005 4:13:12 PM	mvining			Active
Use	4/13/2005 4:14:28 PM	mvining			Active
Season	4/13/2005 4:15:47 PM	mvining			Active

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4089 V1

Quantity	4/13/2005 4:32:13 PM	mvining	Active
Summary	04/13/2005	mvining	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
POU	4/13/2005 3:51:27 PM	mvining	Edited shape boundary
Contacts	4/13/2005 3:43:45 PM	mvining	(No) 1. Do you want to schedule an appointment? Comment for 1: sufficient info in file
Priority Date	4/13/2005 3:44:41 PM	mvining	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (No) 9. Is the Priority Date claimed after the date a permit is required for the source and the water use? (No) 12. Does the claim file contain sufficient evidence of Priority Date? (No) 13. Has additional evidence of priority date been submitted? (Yes) 14. Can any portion of the claim be recommended as a valid water right? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required? Description for Question 12/13 - Sent letter requesting evidence of priority 4/13/05.
POD	4/13/2005 3:52:10 PM	mvining	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?
POU	4/13/2005 3:45:42 PM	mvining	(No) 1. Is the basis of this claim a Decree or License? (Yes) 2b. Is the POU required? (No) 3. Is the basis of claim a Application or Permit? (No) 7. Is there evidence that there has been a change in the POU? (Yes) 13. Does the file contain all the necessary information to verify the POU? (No) 14. Is a POU remark and/or condition required? Description for Question 13 - Map in file
POD	4/13/2005 3:54:35 PM	mvining	Edited point location

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4089 V1

POD	4/13/2005 4:12:04 PM	mvining	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (No) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?
Source	4/13/2005 4:13:12 PM	mvining	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim an Application or Permit? (No) 6. Is the basis of claim a Posted Notice? (No) 7. Is there evidence that there has been a change in the source? (No) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required? Description for Question 10 - Needs field exam to verify location of source. Legal description in claim does not make sense relative to location of listed source (Mill Creek).
Use	4/13/2005 4:14:29 PM	mvining	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Purpose of Use? (Yes) 11. Does the file contain all the necessary information to verify the Water Use? (No) 13. Is a Purpose of Use remark and/or condition required?
POD	4/13/2005 3:54:15 PM	mvining	Edited point location
Season	4/13/2005 4:15:47 PM	mvining	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined? (Yes) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4089 V1

Quantity	4/13/2005 4:32:13 PM	mvining	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is the basis of claim a posted notice? (Yes) 7. Is a flow measurement required? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (No) 12. Is a Quantity remark or condition required? Description for Question 7 - Needs flow measurement via field exam summer 2005
Summary	4/13/2005 4:32:58 PM	mvining	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (No) 5. Does this right have any combined use limits with other rights? (No) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?

copy

April 13, 2005

67-04089
KENNETH DOWNEY
DIANE DOWNEY
2373 LAPPIN LN
COUNCIL ID 83612

RE: EVIDENCE OF PRIORITY

Dear Claimant (s):

The Idaho Department of Water Resources has begun its water right review in Basin 67. The Notice(s) of Claim identified with the number shown above in the "address" label and at the "end" of this letter has been filed in the Snake River Basin Adjudication (SRBA). The Notice indicates water usage is based on "Beneficial Use". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Notice. The date the water was first put to use, known as the priority date, has not been confirmed by a license, Decree, or Permit. For this reason, proof must be provided supporting the priority date. As the claimant, you are responsible for submitting the necessary proof to support the priority date.

It is important that each element of the Notice be substantiated. For instance, regarding claims for irrigation, the evidence should tend to show that diversion works were in place, that they were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place of use on or before the claimed priority date.

For your reference, I have provided a printout of your Notice and the pamphlet entitled **"Evidence of Priority"**. The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement. While I encourage you to read the entire pamphlet, I direct your attention to the two sections entitled **"What Kind of Evidence is Required"** and **"Some examples of Documents Which May Be Evidence of the Priority Date"**.

It is our goal to recommend historical water rights within the Snake River Basin as accurately as possible. Field exams to verify other items of the Notice have been or soon will be conducted by Department personnel.

.....
The Department cannot recommend the Notice be decreed by the court if no evidence of a priority date is submitted.
.....

Please submit the documentation supporting the priority date by **May 6, 2005** **referencing all documents with the corresponding Notice number.** If you have any questions not covered by this letter or the enclosed pamphlet, please feel free to contact me at (208) 287-4907.

In addition, a contractor employed by The Idaho Department of Water Resources may be contacting you to set up a field exam in order to verify the elements of your water right.

Respectfully submitted,

Melanie L. Vining
IDWR Contract Field Examiner
Adjudication Bureau

Enclosures: Evidence of Priority brochure
Copy of Notice of Claim 67-4089

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Section 42-225a, Idaho Code

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. The filing of this claim does not confirm the water right but will serve for information purposes only. It may, however, become the basis for future adjudication of the water right by the Court.

Notice is hereby given that William H. &/or Zella M. Smith
(name of claimant)
of Star Rt., Council, ID, claims a right to the diversion and beneficial use of
(mailing address)
the public water of the State of Idaho

The extent and nature of said claim is as follows:

- (1) Describe source of water: (name of stream, lake, spring, etc., or ground water) Mill Creek
_____, tributary to, Weiser River
- (2) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:
- | | | | | | | | |
|--------|----------------------|-----|-------------------------------|---------------------|-----------------|----|------------------------|
| Amount | <u>.80 c.f.s</u> | Use | <u>Irrigation</u> | Period of Use: From | <u>March 15</u> | To | <u>Nov. 15</u> |
| Amount | <u>.20 c.f.s.</u> | Use | <u>Stockwater</u> | Period of Use: From | <u>Jan. 1</u> | To | <u>Dec. 31</u> |
| Amount | _____ | Use | _____ | Period of Use: From | _____ | To | _____ |
| | (cfs, gpm
or a/f) | | (dom., irri.,
stock, etc.) | | | | (both dates inclusive) |
- (3) Total quantity of water claimed: .82 cubic feet per second, or _____ acre feet
per annum, and/or _____ gallons per minute.

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

- (5) A) Point of diversion: (give location of point where water is diverted from its source)
3 pps NW ¼ NE ¼, Sec. 35 Twp. 17 N Rge. 1 W B. M. County of Adams
Additional points of diversion:

B) Describe means of diversion of water: (pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.) Give sizes and capacities; be as specific as possible. Small diversion dam in stream into
earth ditches for gravity irrigation

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

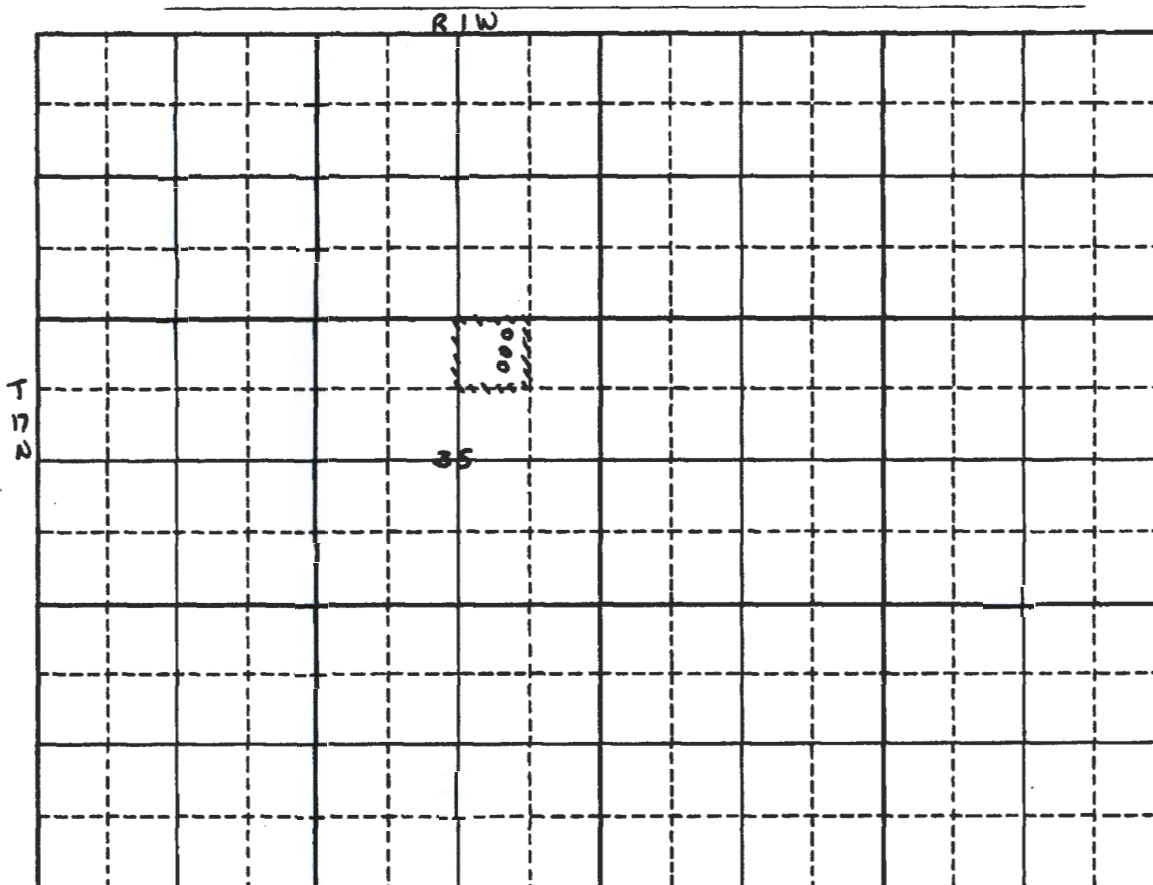
[illegible]

Total No. of acres 40

- B) If the water is used for other than irrigation, fully describe that use, being as specific as possible: Stockwater for 25 head of cattle & horses
- (7) If you are claiming water as a member of an organization, list name of organization: UNION MED

MicroMed

(8) Remarks _____



Scale: 2 inches equal 1 mile.

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

State of Idaho)
County of Ada) ss.

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

Sworn to before me this 16th day of October, 19 74.

Notary Public

Residing at

My commission expires 8-6-78

For Department Use Only

Received by <u>SEP</u>	Date <u>10/16/74</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>SEP</u>	Date <u>10/16/74</u>		claimant by:	
\$10.00 fee received by <u>SEP</u>	Date <u>10-16-74</u>			
Approved for publication by <u>SEP</u>	Date <u>11-13-74</u>			
Published in <u>Boise County Leader</u>	Date <u>10-18-74</u>			
Dates <u>Oct. 24 & Oct. 31</u>				



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

July 20, 1993

Re: Notices of Claim to a Water Right Nos. A67-04043, A67-04089

Kenneth F. Downey
Diane E. Downey
P.O. Box 174
New Meadows, ID 83654

Mr. & Mrs. Downey:

Enclosed are copies of the above referenced claims which reflect the change in ownership of the land and appurtenant water rights covered under the original filings.

The Department will contact you in the future concerning any requirements that may be needed in order to process these claims for final court decree.

If you have any questions concerning the enclosed claims, please feel free to contact this office.

Sincerely,

Adjudication Staff
Department of Water Resources
Western Region Office
(208) 334-2190

LH:l
Enclosure

MICROFILMED
AUG 05 1994

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: A67-04089
Date Received: 10/13/1989
Receipt No: MOO4935
Received By: SEA

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ZELLA M. SMITH 208-253-4828
Address: BOX 177.
COUNCIL, ID 83612

2. Date of Priority: JUN 01, 1960

3. Source: MILL CREEK Trib. to: WEISER RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
17N	01W	35	SE	NW	NE		ADAMS

5. Description of diverting works:
SMALL DIV.DAM WITH EARTH DITCHES & BURIED PIPE FOR GRAV.IRRIG.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.800		
STOCKWATER	01/01	12/31	0.200		

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

8. Total consumptive use is 120.0 Acre Feet Per Annum.

9. Non-irrigation uses:
S/25 RANGE.

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
17N	01W	35	NW	NE		IRR	40.0
			NW	NE		STOCK	

Section Acres 40.0

A67-04089

Page 1

Date: 10/13/89

MICROFILMED
OCT 02 1992

10. Place of Use: Continued

Total Acres 40.0

11. Place of use in counties: ADAMS

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

13. Other Water Rights Used:

A67-04043 FOR DOMES., STOCK, & IRRIG. FROM GROUNDWATER.

14. Remarks:

2 P/D IN NWNE, S35, T17N, R1W.

15. Basis of Claim: STATUTORY CLAIM

16. Signature(s)

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

Number of attachments: _____

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): Jella M Smith Date: Oct 13, 1989
Date: _____

State of Idaho)
County of WASHINGTON) SS.

Subscribed and sworn (or affirmed) before me this 13th day
of OCTOBER 1989
Donna E. Sully
Notary Public

Seal

Residing at Boise, ID
My Commission Expires 11/08/1994

09/30/2008

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

RIGHT NUMBER: 67-4089

NAME AND ADDRESS: KENNETH F DOWNEY
2373 LAPPIN LN
COUNCIL ID 83612

DIANE E DOWNEY
2373 LAPPIN LN
COUNCIL ID 83612

SOURCE: MILL CREEK

TRIBUTARY: WEISER RIVER

QUANTITY: 0.700 CFS

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

Right Nos. 67-4089 and 67-4043 are limited to a total combined diversion rate of 0.68 cfs for irrigation use.

PRIORITY DATE: 03/15/1969

POINT OF DIVERSION:

T17N R01W S36 SESE Within ADAMS County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
STOCKWATER	01/01 12/31	0.200 CFS
IRRIGATION	03/15 11/15	0.680 CFS

PLACE OF USE: IRRIGATION in ADAMS County

T17N R01W S35 NWNE 34.00

STOCKWATER in ADAMS County

T17N R01W S35 NWNE

34 ACRES TOTAL

Right Nos. 67-4089 and 67-4043 are limited to the irrigation of a combined total of 34 acres in a single irrigation season.

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

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

12/07/2006

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

RIGHT NUMBER: 67-4089

NAME AND ADDRESS: KENNETH F DOWNEY
2373 LAPPIN LN
COUNCIL ID 83612

DIANE E DOWNEY
2373 LAPPIN LN
COUNCIL ID 83612

SOURCE: MILL CREEK

TRIBUTARY: WEISER RIVER

QUANTITY: 0.700 CFS

Right Nos. 67-4089 and 67-4043 are limited to a total combined diversion rate of 0.68 cfs.

PRIORITY DATE: 06/01/1960

POINT OF DIVERSION:

T17N R01W S36 SESE Within ADAMS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.200 CFS
IRRIGATION	03/15 11/15	0.680 CFS

PLACE OF USE: IRRIGATION in ADAMS County

T17N R01W S35 NWNE 34.00

STOCKWATER in ADAMS County

T17N R01W S35 NWNE

34 ACRES TOTAL

Right Nos. 67-4089 and 67-4043 are limited to the irrigation of a combined total of 34 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 - Beneficial Use

Rec. changed
through NOE.
MUB
12-7-02



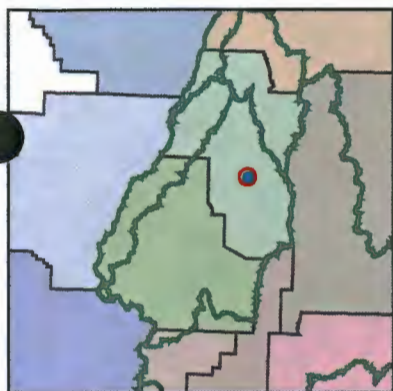
Idaho Department of Water Resources

SRBA Recommendation:

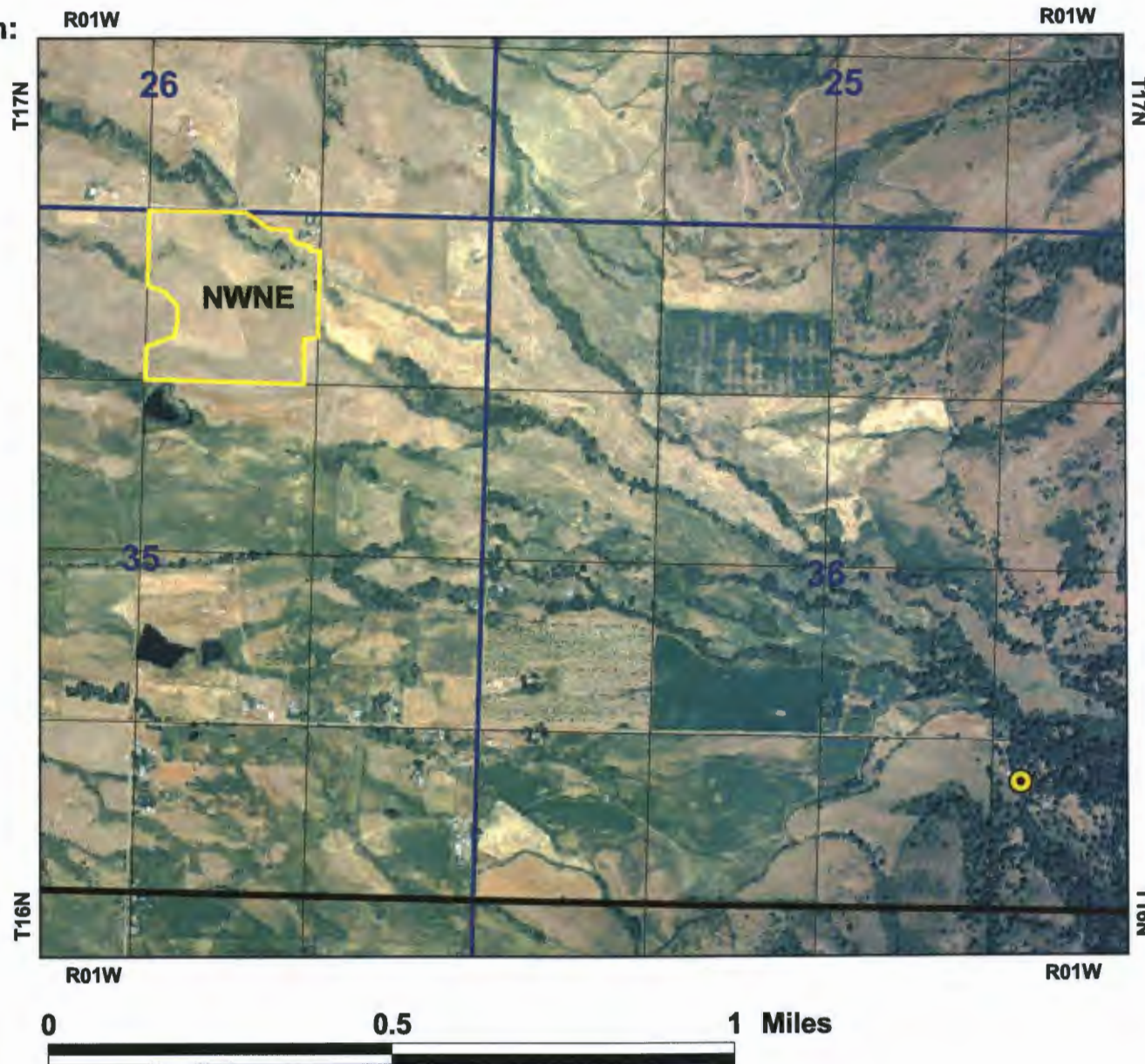
67-4089

Legend

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



Adams County
IDWR Basin 67



Prepared by M. Mount
On Friday, October 6, 2006
1987/88 Aerial Photography

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4089 V1

WATER RIGHT NUMBER: 67-4089 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	KENNETH F DOWNEY 2373 LAPPIN LN COUNCIL, ID 83612 (208) 253-6124
Original Owner	WILLIAM H SMITH STAR RT COUNCIL, ID 83612
Current Owner	DIANE E DOWNEY 2373 LAPPIN LN COUNCIL, ID 83612 (208) 253-6124
Original Owner	ZELLA M SMITH BOX 177 COUNCIL, ID 83612 (208)253-4828

Priority Date: 03/15/1969

Basis: Beneficial Use

Status: Active

Source

MILL CREEK

Tributary

WEISER RIVER

<u>Bereficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	01/01 to 12/31	0.200 CFS	
IRRIGATION	03/15 to 11/15	0.680 CFS	
	<u>Total Diversion:</u>	0.700 CFS	

Location of Point(s) of Diversion

MILL CREEK

SE1/4SE1/4

Sec. 36, Twp 17N, Rge 01W, B.M.

ADAMS County

Place of Use

STOCKWATER

Twp	Rge	Sec	NE	NW	SW	SE	Totals
17N	01W	35	NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE	Totals
			X				

IRRIGATION

Twp	Rge	Sec	NE	NW	SW	SE	Totals
			NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE	Totals

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4089 V1

	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
17N 01W 35			34.0														34.0

Total Acres: 34

Conditions of Approval:

1. E51 Right Nos. 67-4089 and 67-4043 are limited to a total combined diversion rate of 0.68 cfs.
2. C18 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.
3. E55 Right Nos. 67-4089 and 67-4043 are limited to the irrigation of a combined total of 34 acres in a single irrigation season.

Remarks:Comments:

1. mvining 4/13/2005 priority date
Comment: needs further evidence of priority; sent request letter 4/13/05
2. mvining 4/13/2005 POD
Comment: 2 PODs listed in claim; neither location makes sense in relationship to location of source (Mill Creek). Field exam needed.
3. mmount 10/6/2006 pod
Comment: updated cvr to gis - pod is rec d in the sese of section 36. The claimed pod was in the wrong place. Field exam conducted on 8/16/06.
4. mmount 10/6/2006 pou
Comment: updated pou. rec d 34 acres. adjusted diversion rate accordingly. Overlaps 67-4043 4 acres irri from gw. added e55 and e51 conditions.
5. mmount 10/6/2006 priority
Comment: Waiting on eop to be submitted. Sent a letter on 10/6/06.
6. jdean 11/16/2006 Condition for Rec
Comment: Right Nos. 67-4089 and 67-4043 are limited to a total combined diversion rate of 0.68 cfs.
7. jdean 11/16/2006 Condition for Rec2
Comment: Right Nos. 67-4089 and 67-4043 are limited to the irrigation of a combined total of 34 acres in a single irrigation season.
8. jdean 11/16/2006 Disallowed
Comment: Evidence of Priority requested 4/13/05, 10/6/06. No EOP received. Disallowed.
9. mvanbussum 12/6/2006 NOE
Comment: Ken Downey called regarding this claim on 11/30 at 3pm. I tried reaching him on 12/4 at 10:30am, 12/5 at 3pm and 12/6 at 11:15am and received no answer.

IDAHO DEPARTMENT OF WATER RESOURCES
 Adjudication Recommendation Report 67-4089 V1

Dates and Other Information:

Decreed Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Defendant:
 Plaintiff:
 Civil Case Number:
 Judicial District:
 Notice of Error Flag:
 State or Federal: S
 Owner Name Connector:
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Contacts	4/13/2005 3:43:45 PM	mvining			Active
Priority Date	4/13/2005 3:44:41 PM	mvining			Active
POU	4/13/2005 3:45:41 PM	mvining			Active
POD	4/13/2005 3:52:09 PM	mvining			Active
POD	4/13/2005 4:12:04 PM	mvining			Active
Source	4/13/2005 4:13:12 PM	mvining			Active
Use	4/13/2005 4:14:28 PM	mvining			Active
Season	4/13/2005 4:15:47 PM	mvining			Active
Quantity	4/13/2005 4:32:13 PM	mvining			Active
Summary			04/13/2005	mvining	Active
Summary			11/16/2006	jdean	Active
POU	12/7/2006 2:49:19 PM	mvanbussum			Active
Summary			12/07/2006	mvanbussum	Active
Priority Date	12/7/2006 2:52:31 PM	mvanbussum			Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
POU	4/13/2005 3:51:27 PM	mvining	Edited shape boundary
Contacts	4/13/2005 3:43:45 PM	mvining	(No) 1. Do you want to schedule an appointment? Comment for 1: sufficient info in file

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4089 V1

Priority Date	4/13/2005 3:44:41 PM	mvining	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (No) 9. Is the Priority Date claimed after the date a permit is required for the source and the water use? (No) 12. Does the claim file contain sufficient evidence of Priority Date? (No) 13. Has additional evidence of priority date been submitted? (Yes) 14. Can any portion of the claim be recommended as a valid water right? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required? Description for Question 12/13 - Sent letter requesting evidence of priority 4/13/05.
POD	4/13/2005 3:52:10 PM	mvining	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?
POU	4/13/2005 3:45:42 PM	mvining	(No) 1. Is the basis of this claim a Decree or License? (Yes) 2b. Is the POU required? (No) 3. Is the basis of claim a Application or Permit? (No) 7. Is there evidence that there has been a change in the POU? (Yes) 13. Does the file contain all the necessary information to verify the POU? (No) 14. Is a POU remark and/or condition required? Description for Question 13 - Map in file
POD	4/13/2005 3:54:35 PM	mvining	Edited point location
POD	4/13/2005 4:12:04 PM	mvining	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (No) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4089 V1

Source	4/13/2005 4:13:12 PM	mvining	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim an Application or Permit? (No) 6. Is the basis of claim a Posted Notice? (No) 7. Is there evidence that there has been a change in the source? (No) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required? Description for Question 10 - Needs field exam to verify location of source. Legal description in claim does not make sense relative to location of listed source (Mill Creek).
Use	4/13/2005 4:14:29 PM	mvining	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Purpose of Use? (Yes) 11. Does the file contain all the necessary information to verify the Water Use? (No) 13. Is a Purpose of Use remark and/or condition required?
POD	4/13/2005 3:54:15 PM	mvining	Edited point location
Season	4/13/2005 4:15:47 PM	mvining	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administrativly determined? (Yes) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?
Quantity	4/13/2005 4:32:13 PM	mvining	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is the basis of claim a posted notice? (Yes) 7. Is a flow measurement required? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (No) 12. Is a Quantity remark or condition required? Description for Question 7 - Needs flow measurement via field exam summer 2005

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4089 V1

Summary	4/13/2005 4:32:58 PM	mvining	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (No) 5. Does this right have any combined use limits with other rights? (No) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?
POU	12/7/2006 2:49:22 PM	mvanbussum	(No) 1. Is the basis of this claim a Decree or License? (Yes) 2b. Is the POU required? (No) 3. Is the basis of claim a Application or Permit? (No) 7. Is there evidence that there has been a change in the POU? (Yes) 13. Does the file contain all the necessary information to verify the POU? (No) 14. Is a POU remark and/or condition required?
Summary	12/7/2006 2:51:56 PM	mvanbussum	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (Yes) 5. Does this right have any combined use limits with other rights? (No) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?
General	12/7/2006 2:52:34 PM	mvanbussum	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (No) 9. Is the Priority Date of this water use after the date a permit is required for the source and the water use? (Yes) 12. Does the claim file contain sufficient evidence of Priority Date? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required? Description for Question 12/13 - Affidavit from Donald Harvey mentions the water was used in the 1960s. Recommend first day of irrigation

season 1969.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4089 V1

POU	10/5/2006 5:15:59 PM	mmount	Updated shape for Active POU
POU	10/5/2006 5:16:39 PM	mmount	Updated PLS for Active POU
Summary	11/16/2006 4:13:28 PM	jdean	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (No) 4. Is any portion of the claim be recommended? (No) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?
POD	10/6/2006 11:00:44 AM	mmount	Updated shape

Water Supply Bank:

RECEIVED

DEC 05 2006

DEPARTMENT OF
WATER RESOURCES

IN THE MATTER OF)
NOTICE OF CLAIM TO)
A WATER RIGHT NO.(S))
67-4089)
_____)
_____))

AFFIDAVIT

State of Idaho)
County of Adams)

I, Donald Harvey being first duly sworn,
deposes and says: During the 1960s Bill Smith
installed ~~the~~ facility and irrigated
on the property concerned with Kenneth
Downey. This was water from
Mill Creek into the Second Fork of Mill Creek
and onto the property.

This statement was made by Don Harvey,
He is my neighbor on the left. He was here
to witness water use in the 60's. Vicki
Music said this didn't need to be notarized
so I could get it in the mail right away.

Kenneth F. Downey

Donald E Harvey
(Signature)

Subscribed and sworn to before me this
day _____ of _____, 19____.

SEAL

(Notary Public)

Residing at _____.

My Commission Expires _____.

SCANNED

DEC - 6 2006

5980
578
119
837
47229
172
Trays



NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES



BUSINESS REPLY MAIL

FIRST-CLASS MAIL

PERMIT NO. 1148

BOISE ID

POSTAGE WILL BE PAID BY ADDRESSEE

SRBA

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES
PO BOX 83720
BOISE ID 83707-9815

SRBA WESTERN

Monica Van Bussan

83707-9815

Claim #67-4089





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 287-4800 FAX: (208) 287-6700 www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

October 6, 2006

Re: 67-4089
Kenneth and Diane Downey
2373 Lapping Ln.
Council, ID 83612

Dear Kenneth and Diane,

Your claim to a water right from Mill Creek, identified in our records as 67-4089, is based on beneficial use and is otherwise known as a "Statutory Claim." Water rights of this type are established by the historic use of water, dating back to when water was first used for the purpose claimed, and are termed beneficial use rights. The date of first use, known as the priority date, has not been confirmed by a License, Decree or Permit. Since the priority date and historic use of a beneficial use right cannot be confirmed by field examination, the claimant must provide us with evidence to support the priority date claimed and the historic use of the water. In your particular case a priority date of 1960 is being claimed on claim no. 67-4089. It is not required that you submit evidence that supports only 1960, however it is in your best interest to attempt to find evidence to support a date as early as possible.

There are several different types of evidence that our department can accept and they are outlined in the enclosed pamphlet titled "Evidence of Priority". Please take the time to read through the pamphlet, specifically the types of documents, which may be used as evidence of the priority date. As outlined in the pamphlet there are several different options that you may be able to use; those which may be appurtenant to your place include an affidavit(s), property tax documents showing the property was taxed as irrigated agriculture, or any type of records that the former owner's may have left with you including sales receipts of the equipment/materials used in the diversion system or records from the person or business who installed the diversion system.

Please be aware that if no evidence of the priority date is submitted we will have no choice but to recommend this claim to be disallowed. If you have any questions please feel free to contact me directly at 287-4940 for the next week, or my co-worker Jen Dean at 287-4918. If you cannot reach either one of use please call Craig Saxton, our supervisor, at 287-4916. Enclosed is a copy of your claim (67-4089), a standard affidavit form you may choose to use, Evidence of Priority pamphlet, and a postage paid return envelope for your use. Thank you sincerely for your efforts.

Respectfully,

Misty Mount
Water Right Agent/GIS Technician
IDWR- Adjudication

copy

State of Idaho
Department of Water Resources
Adjudication Section
Claim Verification Field Exam Sheet

CLAIM NO(s): 67-4089

1 ☒ No Change NAME IS SAME

☐ NEW OWNER _____

☒ No Change ADDRESS

☐ NEW ADDRESS _____

2 ☐ No Change - DATE OF PRIORITY: Completed evidence submitted

☒ Incomplete - Claimant should be asked during the exam when was water first used and submit proof of date of priority.

**Need EOP for 1960*

Priority date, per claimant is: _____

(If this date seems questionable, explain below)

3 ☒ No Change —SAME SOURCE

☐ Source is different than that claimed:

Source found: _____

4 ☐ No Change — POINT OF DIVERSION

☒ Point of diversion is different than the claim and/or new P/D's: is in the NW, SE, SE 17N, 1W S.36

GPS Site Tag No.: did not tag - no good place to put a tag

Township
Township

Range
Range

Section
Section

1/4's
1/4's

5 ☐ No Change - DESCRIPTION OF DIVERTING WORKS

☒ Incomplete description, list below:

The original description on the claim describes the diversion¹ off the main diversion from Mill Creek. The small diversion dam and buried pipes are still there in the NW NE - but it is the diversion ^{to their property} off the main diversion.

*look up
gg where
POD is -
+ write new
gg on fe
write-up.*

4089
*Downey claim
needs EOP for
1960 -
will prob. need to
contact the
Smiths for
an affidavit.
(Zella Smith)*

6 ☒ No Change - WATER USES

☐ Different uses, (list uses found):

Use _____ From _____ To _____ CFS _____ AFA _____

Use _____ From _____ To _____ CFS _____ AFA _____

Use _____ From _____ To _____ CFS _____ AFA _____

7 ☒ No Change - TOTAL VOLUME

☐ Incomplete on claim, the total is, Amount _____ CFS _____ AFA

☐ Changes found, the new total is, Amount _____ CFS _____ AFA

8 ☒ No Change - NON-IRRIGATION USES:

☐ Changes Exam found:

Domestic # of homes: _____ Stock # _____ List types: _____

Additional comments: quantity claimed is ok - see attached calculations

9 ☒ No Change --PLACE OF USE (If changed, list below)

Use:	Township	Range	Section	1/4's	
Use:	Township	Range	Section	1/4's	
Use:	Township	Range	Section	1/4's	
Use:	Township	Range	Section	1/4's	

Remarks: (Comments pertinent to field exam) ☐ See additional attachment

POD: actual diversion off Mill Creek is much further upstream. At the time of the exam the diversion was filled in completely with dirt and rocks due to the high water year - claimant commented that he needed to use a back-hoe to dig it out. * see attached photos

☐ SYSTEM DIAGRAM INCLUDED

☒ Shown on GIS layout

☐ IN OFFICE EXAM

DATE EXAM CONDUCTED 8/17/06

FIELD EXAMINER: MMOUNT, JLD

Period of Use and Quantity Data Entry Form

Claim Number 67-4089

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
IRRIGATION	3/15	11/15	0.8	
STOCKWATER	1/01	12/31	0.2	
Overall Diversion Rate	0.82	Overall Diversion Volume		

☐ Use Claimed Period of Use and Quantity as Recommended Period of Use and Quantity

Water Right Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
IRRIGATION	3/15	11/15	0.8	
STOCKWATER	1/01	12/31	0.2	
Overall Diversion Rate	0.82	Overall Diversion Volume		

Recommended Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume

Overall Diversion Rate _____ Overall Diversion Volume _____

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

A measurement below this property indicates
a ditch capacity of 2.528 cfs (see 67-11415)
Because the ditch capacity below this
property is sufficient for all claims below, it is okay.

The following are diverted from this ditch below/at this
 property: (All diversion rates as claimed).

67-361A	0.25	cfs
67-361B	0.50	cfs
67-4089	0.82	cfs
67-11415	0.77	cfs
	<u>2.34</u>	cfs

Reviewer: JLD

Date: 8/30/06

Idaho Department of Water Resources

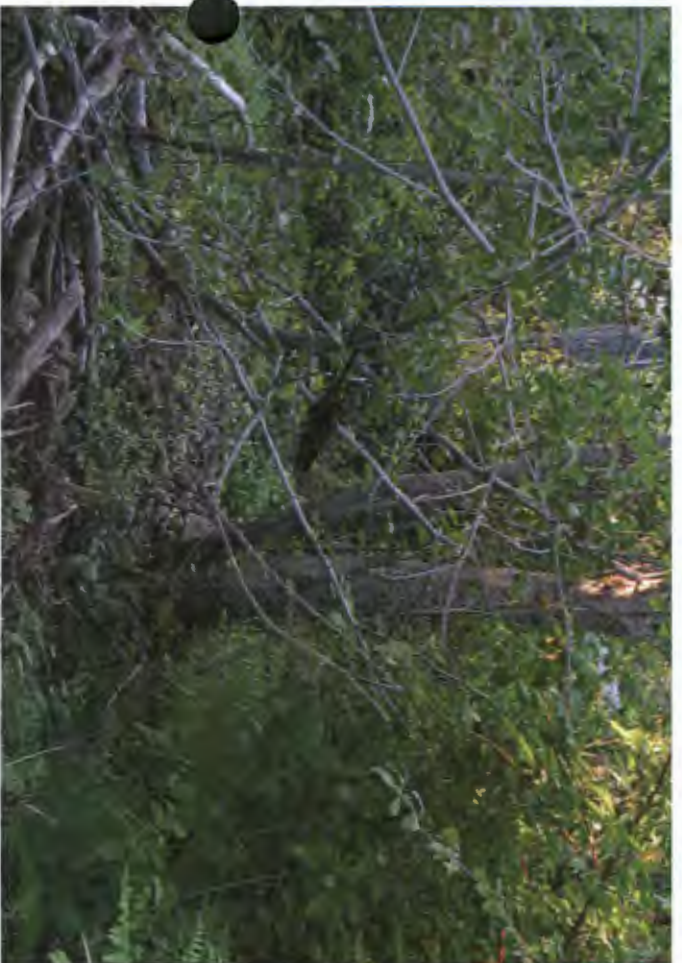
2004 Imagery



67-4089 Downey
verify pou and pod

- 67_4089_claim_pod.shp
- 67_4089_claim_pou.shp
- Adams taxlots
- GCDB17N01W GCDB
- 67_4110_claim_pod.shp
- 67_4110_claim_pou.shp
- ▲ B-67streams.shp





Mill Creek/looking upstream from
POD site.

Mill Cr. →

Clairmont mentioned
that he will need to use
a backhoe to re-dig the
diversion.



water pipes on property



POD - Due to the high water years the
diversion has been filled w/ rock + debris -



diversion to pen



diversion to pen off diversion
from mill creek.



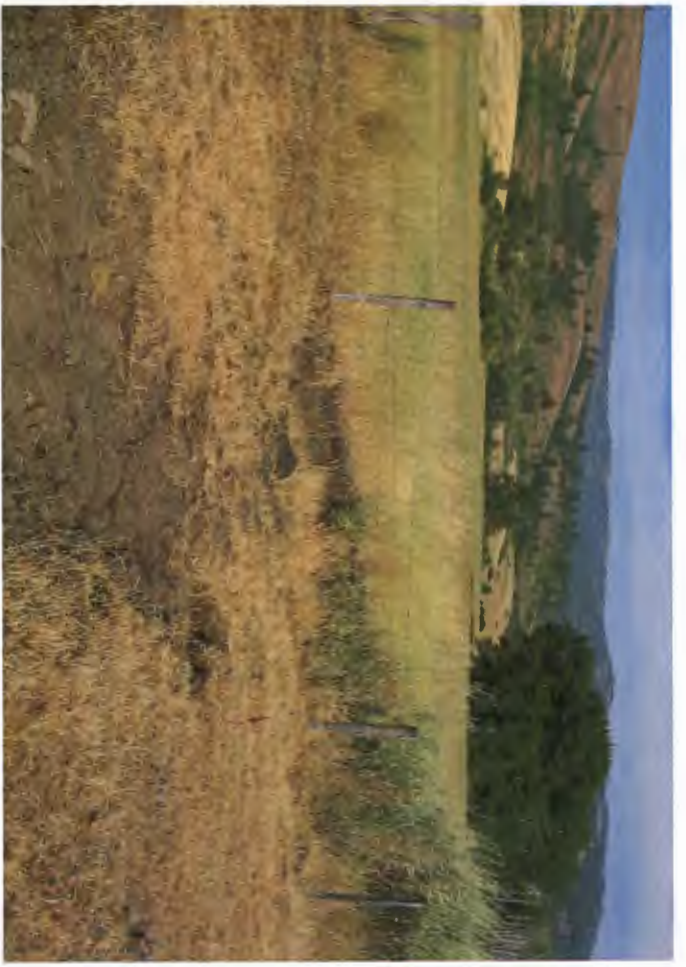
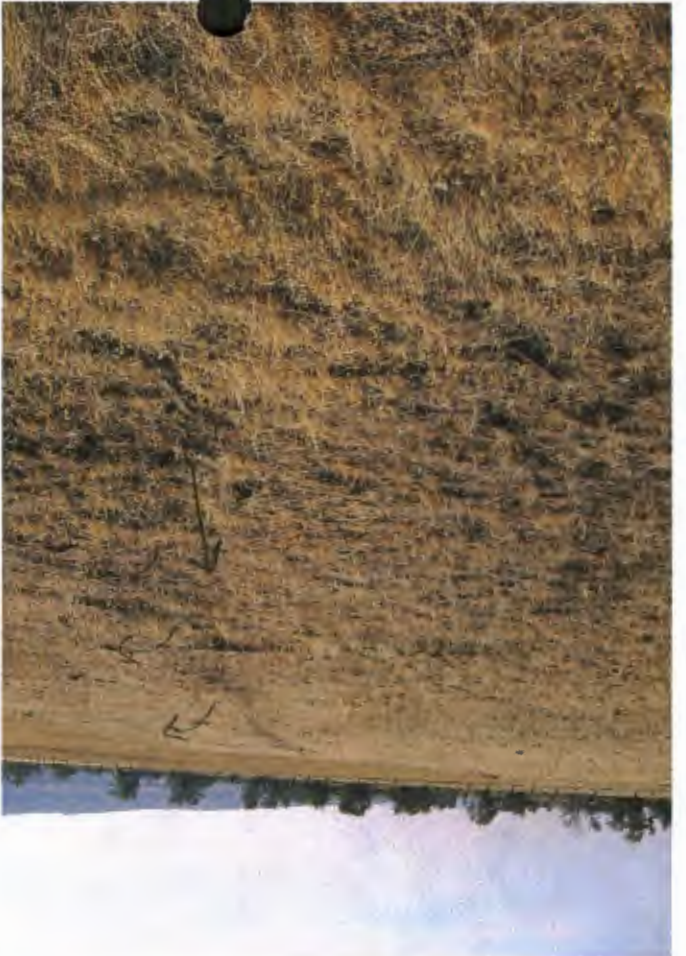
ditch



Creek bed through property - in

Stable!

old ditch - diverted water
across southern part of land



Dunroy's land

Notes

* Needs flow measurement

* Locate, GPS PODs

Stock? _____

Sent evidence of priority letter 4/13/05.

* Note updated address vs. previous copy of claim

← original claim clipped to file

* Still need EOP *

67-4043 - irr & stockwater uses + domestic
↳ 4 acres
* GW *

overlap ▶ 1.5" pipe for house & stockwater
would use sprinkler lines to irr.

1960 priority - same as this claim

* Verify the 4 ac irr by GW vs. the 40 irr by Mill Cr.

1993 - Downey's moved here

* Sent another EOP letter on 10/6/06