

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 67-4091
Date Received: 11/28/1989
Receipt No: C013056
Received By:

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

1. Name of Claimant(s)

VERA E HARRINGTON Phone: (208)253-4876

2230 OLD HORNET RD
COUNCIL ID USA 83612

JOHNNIE H HARRINGTON Phone: (208)253-4876

2230 OLD HORNET RD
COUNCIL ID USA 83612

2. Date of Priority: 06/01/1900

3. Source: NORTH HORNET CREEK , NORTH HORNET CREEK Trib. to: WEISER RIVER , WEISER RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
18N	02W	33	SW NE NE	ADAMS	
18N	02W	33	NW NE NE	ADAMS	

5. Description of diverting works:

2 DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	10/31	0.84	

7. Total Quantity Appropriated is:
0.84 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
18N	02W	33	SE	NE	IRRIGATION	7
			NE	SE	IRRIGATION	15
			SE	SE	IRRIGATION	8
			Section Acres		30	
18N	02W	34	SW	SW	IRRIGATION	3
			Section Acres		3	
			Total Acres		33	

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:

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: A67-04091
Date Received: 11/28/1989
Receipt No: CO13056
Received By: RLT

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JOHNNIE H. HARRINGTON 208-253-4876
Address: HC 67, BOX 2295
COUNCIL, ID 83612

OR

Name: VERA E. HARRINGTON
Address: COUNCIL, ID 83612

2. Date of Priority: JUN 01, 1900

3. Source: NORTH HORNET CREEK Trib. to: WEISER RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
18N	02W	33	NW	NE	NE		ADAMS
			SW	NE	NE		ADAMS

5. Description of diverting works:
2 DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	10/31	0.840		

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

8. Total consumptive use is 99.0 Acre Feet Per Annum.

9. Non-irrigation uses:

SCANNED
APR 08 2004

A67-04091

Page 1

Date: 11/28/89

MICROFILMED
OCT 02 1992

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
18N	02W	33	SE		NE		IRR	7.0
			NE		SE		IRR	15.0
			SE		SE		IRR	8.0
							Section Acres	30.0
		34	SW		SW		IRR	3.0
							Section Acres	3.0
							Total Acres	33.0

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:
NONE

14. Remarks:

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: 1

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): *Helen Harrington* Date: 11-28-89

Date: _____

State of Idaho)
County of Ada) SS.

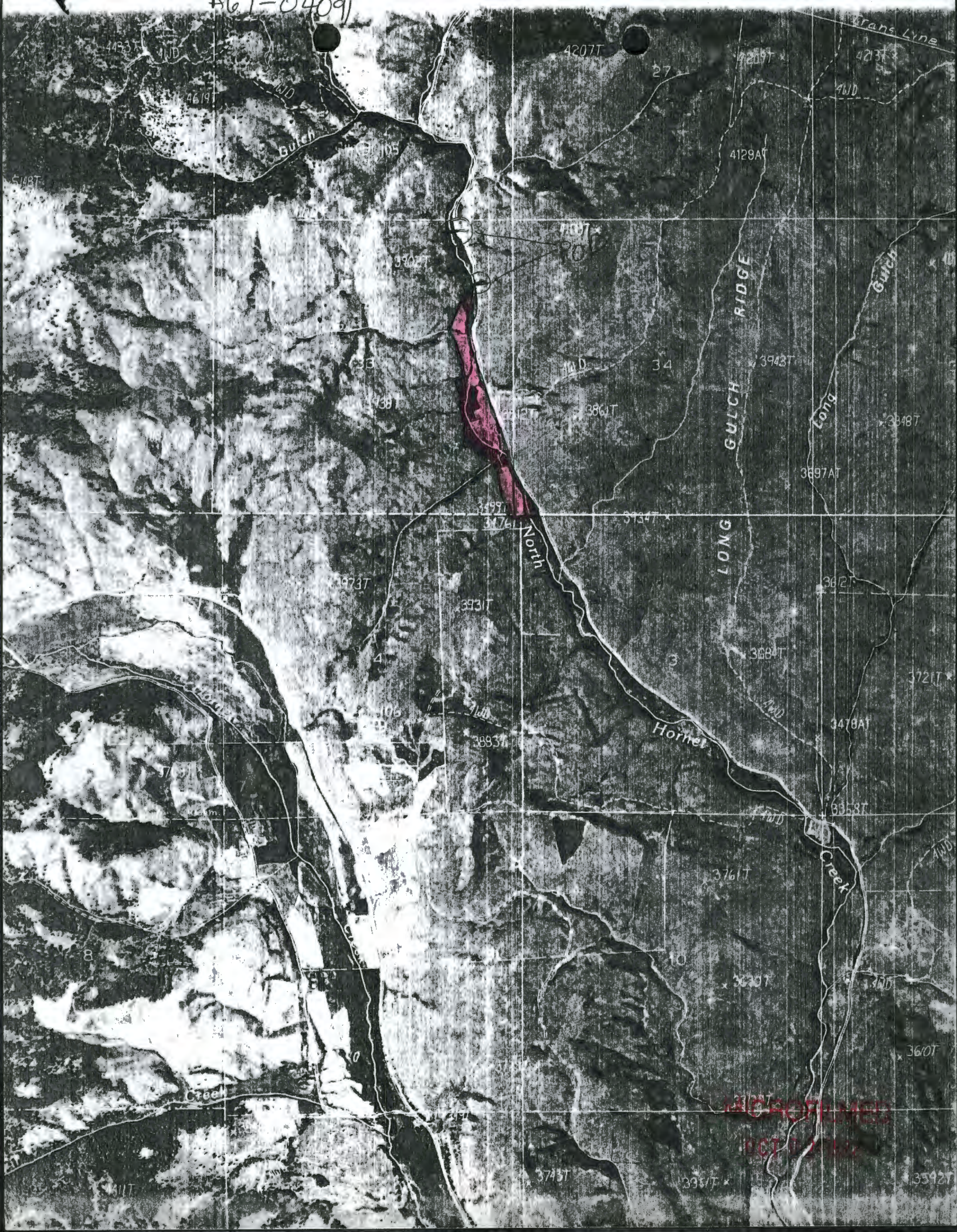
Subscribed and sworn (or affirmed) before me this 28th day
of November 19 89 *Helen Harrington*
Notary Public

Seal

Helen Harrington, Notary Public
Residing at Boise, Idaho
My Commission Expires December 1, 1994

MICROFILMED
OCT U 2 1992

46-0409



UNCLASSIFIED
OCT 7 1992

09/05/2006

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

RIGHT NUMBER: 67-4091

NAME AND ADDRESS: VERA E HARRINGTON
2230 OLD HORNET RD
COUNCIL ID 83612

JOHNNIE H HARRINGTON
2230 OLD HORNET RD
COUNCIL ID 83612

SOURCE: NORTH HORNET CREEK

TRIBUTARY: HORNET CREEK

QUANTITY: 0.500 CFS

PRIORITY DATE: 04/01/1930

POINT OF DIVERSION:

T18N R02W S33 NWNENE Within ADAMS County

T18N R02W S33 SWNE NE Within ADAMS County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/01 10/31

0.500 CFS

PLACE OF USE:

IRRIGATION Within ADAMS County

T18N R02W S33	SENE	7.00	T18N R02W S33	NESE	12.00
T18N R02W S33	SESE	4.10	T18N R02W S34	SWSW	2.00

25.1 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 - Beneficial Use

Jack Rubelt
2280 Old Hornet Rd
Council 83612
253-6963
1946 -
to deceased Harrington
Sent NOE & her to him
+ change of ownership
from
Joanne



Idaho Department of Water Resources

SRBA Recommendation:

67-4091

(Irrigation)

Legend

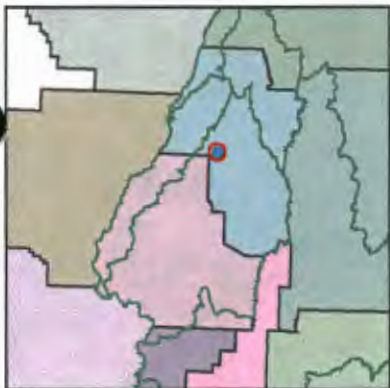
● Point of Diversion

Place of Use

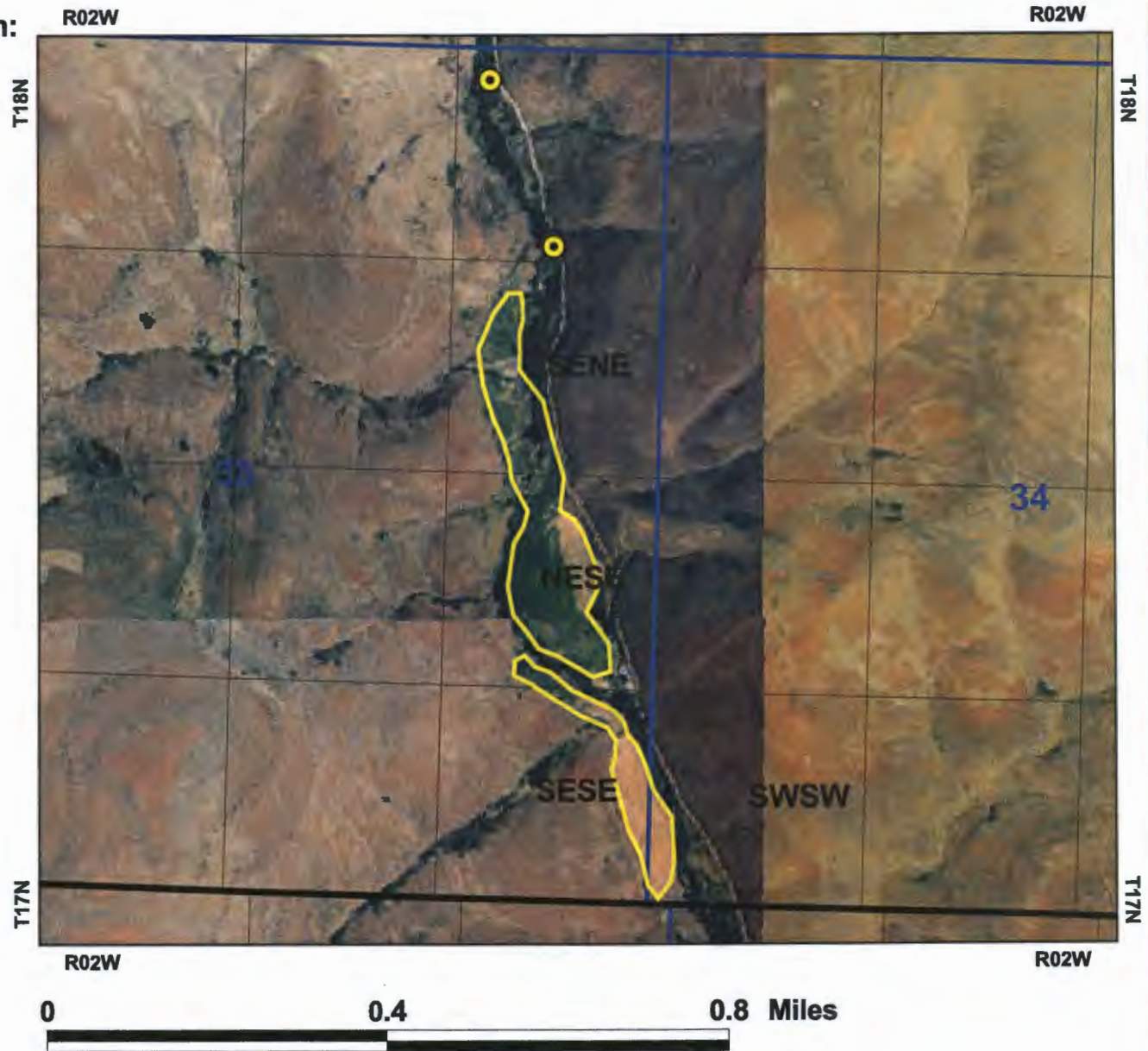
Townships

PLS Sections

Quarter Quarters



Adams County
IDWR Basin 67



Prepared by C. Saxton
On Tuesday, September 5, 2006
1987/88 Aerial Photography

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4091 V1

WATER RIGHT NUMBER: 67-4091 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	VERA E HARRINGTON 2230 OLD HORNET RD COUNCIL, ID 83612 (208)253-4876
Current Owner	JOHNNIE H HARRINGTON 2230 OLD HORNET RD COUNCIL, ID 83612 (208)253-4876

Priority Date: 04/01/1930

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
NORTH HORNET CREEK	HORNET CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01 to 10/31	0.500 CFS	
<u>Total Diversion:</u>		0.500 CFS	

Location of Point(s) of Diversion

NORTH HORNET CREEK	SW1/4NE1/4NE1/4	Sec. 33, Twp 18N, Rge 02W, B.M.
ADAMS County		
NORTH HORNET CREEK	NW1/4NE1/4NE1/4	Sec. 33, Twp 18N, Rge 02W, B.M.
ADAMS County		

Place of Use

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	
18N	02W	33				7.0									12.0			4.1	23.1
18N	02W	34											2.0						2.0

Total Acres: 25.1

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:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 67-4091 V1

Comments:

1. csaxton 9/1/2006 Diversion Rate

Comment: Diversion rate recommended based on pictures taken of both PODs.

2. csaxton 9/1/2006 Priority

Comment: Affidavit from claimant born in 1926 that can remember irrigation at 4 years old. Puts priority evidence at 1930.

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: OR

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 2:46:45 PM	mvining			Active
Priority Date	4/13/2005 2:47:45 PM	mvining			Active
POU	4/13/2005 3:02:15 PM	mvining			Active
POD	4/13/2005 3:10:11 PM	mvining			Active
Source	4/13/2005 3:14:25 PM	mvining			Active
Use	4/13/2005 3:14:56 PM	mvining			Active
Season	4/13/2005 3:15:39 PM	mvining			Active
Quantity	4/13/2005 3:16:40 PM	mvining			Active
Summary			04/13/2005	mvining	Active
Contacts	9/1/2006 4:07:50 PM	csaxton			Active
Priority Date	9/1/2006 4:09:04 PM	csaxton			Active
POD	9/1/2006 4:11:30 PM	csaxton			Active
POU	9/1/2006 4:24:11 PM	csaxton			Active
Source	9/1/2006 4:24:11 PM	csaxton			Active
Quantity	9/1/2006 4:24:12 PM	csaxton			Active
Season	9/1/2006 4:24:12 PM	csaxton			Active

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4091 V1

Use	9/1/2006 4:24:12 PM	csaxton	Active
POU	9/5/2006 8:32:04 AM	csaxton	Active
Use	9/5/2006 8:34:04 AM	csaxton	Active
Season	9/5/2006 8:34:46 AM	csaxton	Active
Quantity	9/5/2006 8:36:04 AM	csaxton	Active
Summary		09/05/2006 csaxton	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
Contacts	4/13/2005 2:46:46 PM	mvining	(No) 1. Do you want to schedule an appointment? Comment for 1: sufficient data in file
POU	4/13/2005 3:02:15 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 3:13:44 PM	mvining	Edited point location
Priority Date	4/13/2005 2:47:45 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

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4091 V1

Use	4/13/2005 3:14:57 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? Description for Question 10,11,12 - Map/photo in file
Quantity	4/13/2005 3:16:41 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 3:17:43 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	4/13/2005 3:02:00 PM	mvining	Edited shape boundary
POD	4/13/2005 3:10:11 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?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4091 V1

Source	4/13/2005 3:14:26 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? (Yes) 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 - Map in file
Season	4/13/2005 3:15:40 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?
POD	4/14/2005 8:20:34 AM	mvining	Edited point location
POU	9/5/2006 8:32:03 AM	csaxton	(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 - 1987 aerial photography.
Quantity	9/5/2006 8:36:04 AM	csaxton	(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? (No) 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 - Diversion capacity estimated to be greater than recommended diversion rate based on photographs taken during 5-19-05 field exam.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4091 V1

Summary	9/5/2006 8:36:58 AM	csaxton	(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?
POD	4/13/2005 3:13:27 PM	mvining	Edited point location
POD	9/1/2006 4:11:11 PM	csaxton	Updated PLS
POD	9/1/2006 4:10:13 PM	csaxton	Updated shape
POD	9/1/2006 4:10:42 PM	csaxton	Updated PLS
POD	9/1/2006 4:10:59 PM	csaxton	Updated shape
POU	9/1/2006 4:24:25 PM	csaxton	(No) 1. Is the basis of this claim a Decree or License?
Source	9/1/2006 4:24:25 PM	csaxton	(No) 1. Is the basis of claim Decree or License?
Use	9/1/2006 4:24:26 PM	csaxton	(No) 1. Is the basis of this claim a Decree or License?
Season	9/1/2006 4:24:26 PM	csaxton	(No) 1. Is the basis of claim Decree or License?
Quantity	9/1/2006 4:24:26 PM	csaxton	(No) 1. Is the basis of this claim a Decree or License?
Contacts	9/1/2006 4:08:02 PM	csaxton	(No) 1. Do you want to schedule an appointment? Comment for 1: Field Exam by Melanie Vining on 5-19-05.
General	9/1/2006 4:09:16 PM	csaxton	(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 claimant born in 1926 that can remember irrigation at 4 years old. Puts priority evidence at 1930.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4091 V1

POD	9/1/2006 4:11:42 PM	csaxton	(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	9/5/2006 8:32:25 AM	csaxton	Updated shape for Active POU
POU	9/5/2006 8:32:56 AM	csaxton	Updated PLS for Active POU
Use	9/5/2006 8:34:04 AM	csaxton	(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? Description for Question 10,11,12 - Field Exam by Melanie Vining on 5-19-05.
Season	9/5/2006 8:34:46 AM	csaxton	(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?

Water Supply Bank:

State of Idaho
Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, Idaho 83720-0098

RECEIVED
JUN 23 2005
Department of Water Resources

RECEIVED
JUN 30 2005
WATER RESOURCES
WESTERN REGION

June 22, 2005

Re: Irrigation on North Hornet Creek
Right number 67-4091.

RECEIVED
JUL 05 2005
DEPARTMENT OF
WATER RESOURCES

I June Ryals was born 1926. Robert Harrington was my Granddad. I can remember following him to irrigate when I was 4 or 5 years old. There were two ditches one on each side of North Hornet Creek. He was always telling me not to fall in and to watch for rattle snakes.

My father Harvey Harrington who was born 1902 was born and raised in North Hornet and he always talked about as a young boy working on the two ditches at that time they were cleaned by hand.

Sincerely;

June Ryals



Ava Rubelt and Jack Rubelt



SCANNED
JUN 27 2005

8-24-05: Review of Alving Field Exam.

: No GPS points taken for POD's. Map in file created before Melawick's field exam. But this will need a manning's measurement so we will GPS POD's at that time.

: Evidence of Priority - see memo on file

67-4091

Needs Flow measurement for "Quantity"

verify, GPS PODs if possible (Bosco^{already} GPS'd all headgates on Hornet Creek)
verify POI, size+location (see map)

- Sent evidence of priority letter 4/13/05 (see copies enclosed in file)

- talked to Jack ^{Robert} 4/20/05 -

he said he would write/mail affidavit as evide. of priority.
Johnnie Hamington is his father in law (deceased) - Vera is in nursing home.
Jack runs property.

5/19/05 field exam - see notes

photos: 67-4091-PODa
67-4091-PODa2
67-4091-POD-ditch photo

67-4091-PODb - 2nd headgate across creek - too deep to cross

67-4091-sidehill ditch

Priority Date Memorandum

Date: August 24, 2005

To: File

From: Craig L. Saxton

Re: Evidence of Priority 67-4091

Affidavit states that Glen Harrington bought the property in 1930 and that Glen sold to Johnnie. Johnnie is a brother of Glen. Field examiner Melanie Vining states in a conversation with Jack Rubelt, that his father-in-law, Johnnie, cleaned and worked the ditches when he was a kid. I think we can make the assumption that the ditches were in place in 1930.

- 1) Assuming that Johnnie is roughly the same age as Glen. For Glen to own the property in 1930 he would have to be an adult and even if Johnnie was younger than Glen, it would be safe to assume that his memories of maintaining the ditch would be around or before 1930.
- 2) The notes say that Johnnie "...helped work to clean ...". This indicates that the ditches were already in place. So if we agree that Johnnie has memories back to 1930 of maintaining the ditches, then we have evidence that they were in place prior to 1930.

Recommend a priority date of 1930. There is evidence that they were in place prior to that in my opinion, but we need additional evidence to support that.

MAY 05 2005

DEPARTMENT OF
WATER RESOURCES

May 3, 2005

R. E. Evidence of priority

No. 67-4098

~~67-4181~~ - 67-4111~~Right No.~~ North Harnet Creekdifferent POUs - m.v.
5/19/05

I am writing on behalf of Vera Harrington. Johnnie died in 2003.

I am Jack Rubelt son-in-law and full time partner for the last 33 years.

I am finding it difficult to find anyone that is still here when they first started irrigation.

History:

Robert Harrington homesteaded on North Harnet Creek in the early 1880's then sold it to Glenn Harrington a son in 1930 which in turn sold it to Johnnie Harrington a brother in 1962.

Johnnie Harrington received an award in 1989 for the North Harnet Creek Ranch being in the family for over one-hundred years.

North Harnet Creek goes dry every year in late July and August, all we have is statutory water (flood).

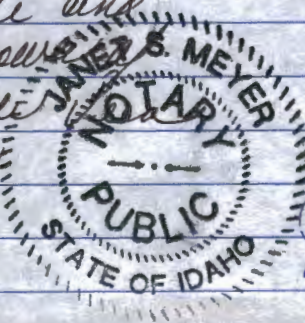
Sincerely

P.S. My wife and I have found attorney over Harrington

Jack Rubelt

SCANNED

MAY 15 2005



Janet S. Meyer
exp 11/3/10

RECEIVED

MAY 05 2005

DEPARTMENT OF
WATER RESOURCES

WAIVER TO ACT AS AGENT
UNDER GENERAL POWER OF ATTORNEY

I, Vera E. Harrington, of Council, Idaho, do hereby waive and declare that I refuse and decline to act as the designated and appointed attorney-in-fact and agent of John H. Harrington of Council, Idaho, pursuant to that certain General Power of Attorney, executed by him on the 11th day of May, 1995 in Washington County, State of Idaho.

I do hereby execute this document knowing that in part 5 of the said General Power of Attorney Ava E. Rubelt and Jack Rubelt, my daughter and son-in-law are duly appointed as successor co-agents and it is in the best interest for the conduct of the affairs of the said John H. Harrington, that they be able to qualify and act as successor co-agent of the General Power of Attorney.

I sign my name to this Waiver of General Power of Attorney on this 26th day of August, 1997, at Nampa, Idaho.

Vera E. Harrington
Vera E. Harrington

STATE OF IDAHO)

: ss.

County of Canyon)

On this 26 day of August, 1997, before me personally appeared Vera E. Harrington, to me known (or proved to me on basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that she executed it. I declare under penalty of perjury that the person whose name is subscribed to this instrument appears to be of sound mind and under no duress, fraud or undue influence.

(SEAL)

Karen Paulson
Notary Public for Idaho
Commission expires: 4-11-2000

SCANNED

MAY 15 2005

**WAIVER TO ACT AS AGENT
UNDER GENERAL POWER OF ATTORNEY**

I, John H. Harrington, of Council, Idaho, do hereby waive and declare that I refuse and decline to act as the designated and appointed attorney-in-fact and agent of Vera E. Harrington of Council, Idaho, pursuant to that certain General Power of Attorney, executed by her on the 11th day of May, 1995 in Washington County, State of Idaho.

I do hereby execute this document knowing that in part 5 of the said General Power of Attorney Ava E. Rubelt and Jack Rubelt, my daughter and son-in-law are duly appointed as successor co-agents and it is in the best interest for the conduct of the affairs of the said Vera E. Harrington, that they be able to qualify and act as successor co-agent of the General Power of Attorney.

I sign my name to this Waiver of General Power of Attorney on this 26th day of August, 1997, at Nampa, Idaho.

John Harrington
John E. Harrington

STATE OF IDAHO)

: ss.

County of Canyon)

On this 26 day of August, 1997, before me personally appeared John H. Harrington, to me known (or proved to me on basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he executed it. I declare under penalty of perjury that the person whose name is subscribed to this instrument appears to be of sound mind and under no duress, fraud or undue influence.

(SEAL)

Karen Poulsen
Notary Public for Idaho
Commission expires: 4-11-2000

SCANNED

MAY 05 2005

Contacts Data Entry Form

Owner Type	Full Name	Address	City	State	Zip	Phone
Current Owner	VERA E HARRINGTON	2230 OLD HORNET RD	COUNCIL	ID	83612	(208)253-4876
Current Owner	JOHNNIE H HARRINGTON	2230 OLD HORNET RD	COUNCIL	ID	83612	(208)253-4876

Comment for 1: sufficient data in file

Date of Field Exam: 5/19/05 Time: 9:00 amAccompanied By: Jack Rubert Phone Number: 253-6963Relationship to Claimant: son-in-law, power of attorney

Directions to Property (if different from above) and/or update owner information:

Reviewer: _____

Date: _____

Priority Date Data Entry Form

Claim Number 67-4111

Claimed Priority Date: 6/1/1900

Claimed Basis: Statutory Claim

☐ Use Claimed Priority Date and Basis as Recommended Priority Date and Basis

Water Right Priority Date: 6/1/1900

Water Right Basis: Statutory Claim

Recommended Priority Date Recommended Basis

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

Field Exam 5/19/05 - talked to Jack + Ava
about need for evidence of priority. They will write
an affidavit, gather evidence, and send it in. ~~on~~
While driving to GPS a headgate w/ Jack, he
pointed out old, hand-dug ditches along hillside
(horse-pulled equip)
that his father in law helped work to clear as
a kid - they plan to reference the age of these
ditches in their affidavit. ~~the~~

these particular
ditches ~~are~~
pertain to
67-4091 -

Reviewer: MVDate: 5/19/05

Priority Date Data Entry Form

Claim Number 67-4091

Claimed Priority Date: 6/1/1900

Claimed Basis: Statutory Claim

Use Claimed Priority Date and Basis as Recommended Priority Date and Basis

Water Right Priority Date: 6/1/1900

Water Right Basis: Statutory Claim

Recommended Priority Date _____ Recommended Basis _____

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

Jack Rubelt will submit written affidavit as additional evidence of priority

Reviewer: WVW

Date: 5/11/03

Point of Diversion and Source Data Entry Form

Claim Number 67-4091

Claimed Point of Diversion and Source

T18N R02W S33 NWNENE Within ADAMS County Source: NORTH HORNET CREEK WEISER RIVER

T18N R02W S33 SWNE NE Within ADAMS County Source: NORTH HORNET CREEK WEISER RIVER

☒ Use Claimed POD and Source as Recommended POD and Source

Water Right Point of Diversion and Source

T18N R02W S28 SESE Within ADAMS County

T18N R02W S33 SENE Within ADAMS County

Recommended Point of Diversion and Source

Source Information

Source

North Hornet Creek

Tributary To

Hornet Brook

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

Other rights from this POD? _____

Document how the POD and Source were verified:

field exam w/ Jack Rubert (son-in-law of claimant)
See photos - sound w/ 67-4091 PODa, PODb

Reviewer: MVDate: 5/19/05

67-4091 P00a



Taken By Melanie Urning 5-19-06

67-4091 PODa2



Melanie Vining 5-19-05 FE
Taken By: J

67-4091 POD Ditch Photo



Taken By Melanie Vining 5-19-05

67-4091- Sidehill Ditch



Taken By Melanie Vining 5-19-05

67-4091 P00-6 2nd Headgate across Creek



Taken By Melanie Uving 5-19-05

Place Of Use Data Entry Form

Claim Number 67-4091

Claimed Place Of Use

T18N R02W S33	SENE	7.0	T18N R02W S33	NESE	15.0
T18N R02W S33	SESE	8.0	T18N R02W S34	SWSW	3.0

Total Acres 33

☒ Use Claimed POU as Recommended POU

Water Right Place Of Use

T18N R02W S33	NENE	8.0	T18N R02W S33	SENE	10.0
T18N R02W S33	NESE	15.0	T18N R02W S33	SESE	9.0

Total Acres 42

Recommended Place of Use

_____ See corrections to claimed POU above

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

Total Acres _____

Document how the POU was verified:

field exam w/ Jack Rubelt

Purpose of Use Data Entry Form

Claim Number 67-4091

Claimed Purpose of Use

Water Use	Number of Homes	Number of Stock	Acre Limit
IRRIGATION			

☒ Use Claimed Purpose of Use as Recommended Purpose of Use

Water Right Purpose of Use

Water Use	Number of Homes	Number of Stock	Acre Limit
IRRIGATION			

Recommended Purpose of Use

Water Use	Number of Homes	Number of Stock	Acre Limit	Number of Other

Document how the Purpose of Use was verified:

field exam w/ Jack Rubelt

Reviewer: WJDate: 5/19/05

Period of Use and Quantity Data Entry Form

Claim Number 67-4091

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
IRRIGATION	4/01	10/31	0.84	

Overall Diversion Rate 0.84

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	4/01	10/31	0.84	

Overall Diversion Rate 0.84

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:

verify season of use when completing ECVR.
needs flow measurement when ditch is running.

Reviewer: MVDate: 5/19/05

Copy

April 13, 2005

67-04091
JOHNNIE HARRINGTON
VERA HARRINGTON
2230 OLD HORNET CREEK RD
COUNCIL ID 83612

RE: EVIDENCE OF PRIORITY

Dear Claimant (s):

Idaho Department of Water Resources (IDWR) is currently in the process of reviewing claims filed in the Snake River Basin Adjudication (SRBA). During IDWR's initial review of the Notice of Claim associated with the water right number listed above, it appears that no evidence of priority has been submitted. In this particular case, this filing claims a priority date that dates back into the Muir Vs. Allison decree signed May 9, 1918. Since the water use claimed was not defined in that decree, the court at the time did not recognize that this water right existed as of May 9, 1918.

Evidence of priority needs to be submitted for when this water was first put to beneficial use, and because the court did not recognize this right during the prior adjudication of 1918, the evidence indicates that this water right was established, and therefore the priority date of this water right would have to be, some date after May 9, 1918.

Note: You may have additional SRBA filings based on rights that were previously adjudicated in the Muir vs. Allison decree, however, this claim appears to be for additional water.

In order for you to establish a new priority date for this statutory claim, you must provide evidence of when this water was first put to beneficial use. Please read the enclosed letter and pamphlet regarding how to provide evidence of priority and respond by May 6, 2005 so that we can process your claim in a timely manner. If you have any questions, feel free to contact our office at (208) 287-4907.

Sincerely,

Melanie Vining
IDWR Contract Field Examiner
Adjudication Bureau

Enclosures: Notice of Claim 67-4091
Brochure on "Evidence of Priority"
Evidence of Priority letter

Copy

April 13, 2005

67-04091
JOHNNIE AND VERA HARRINGTON
2230 OLD HORNET CREEK RD
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

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 Johnnie H. &/or Vera E. Harrington
 (name of claimant)
 of Council, Idaho 83612, 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) North Hornet Creek
 _____, tributary to, _____
- (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>.84</u> | Use <u>Irrigation</u> | Period of Use: From <u>April 1</u> To <u>Oct. 31</u> |
| Amount _____ | Use _____ | Period of Use: From _____ To _____ |
| Amount _____ | Use _____ | Period of Use: From _____ To _____ |
| (cfs, gpm or s/f) | (dom., irri., stock, etc.) | (both dates inclusive) |
- (3) Total quantity of water claimed: .84 cubic feet per second, or _____ acre feet per annum, and/or _____ gallons per minute.
- (4) Priority claimed: (the date water was first applied to beneficial use) 1900

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)
SE ¼ SE ¼, Sec. 28 Twp. 18 N Rge. 2 W B.M. County of Adams
 Additional points of diversion: SE ¼ NE ¼, Sec. 33, T. 18N, R. 2W, B.M.

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. Ditch #1 - Length approx. ¼ mile,
Ditch #2 - Length approx. ¼ mile

- (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.

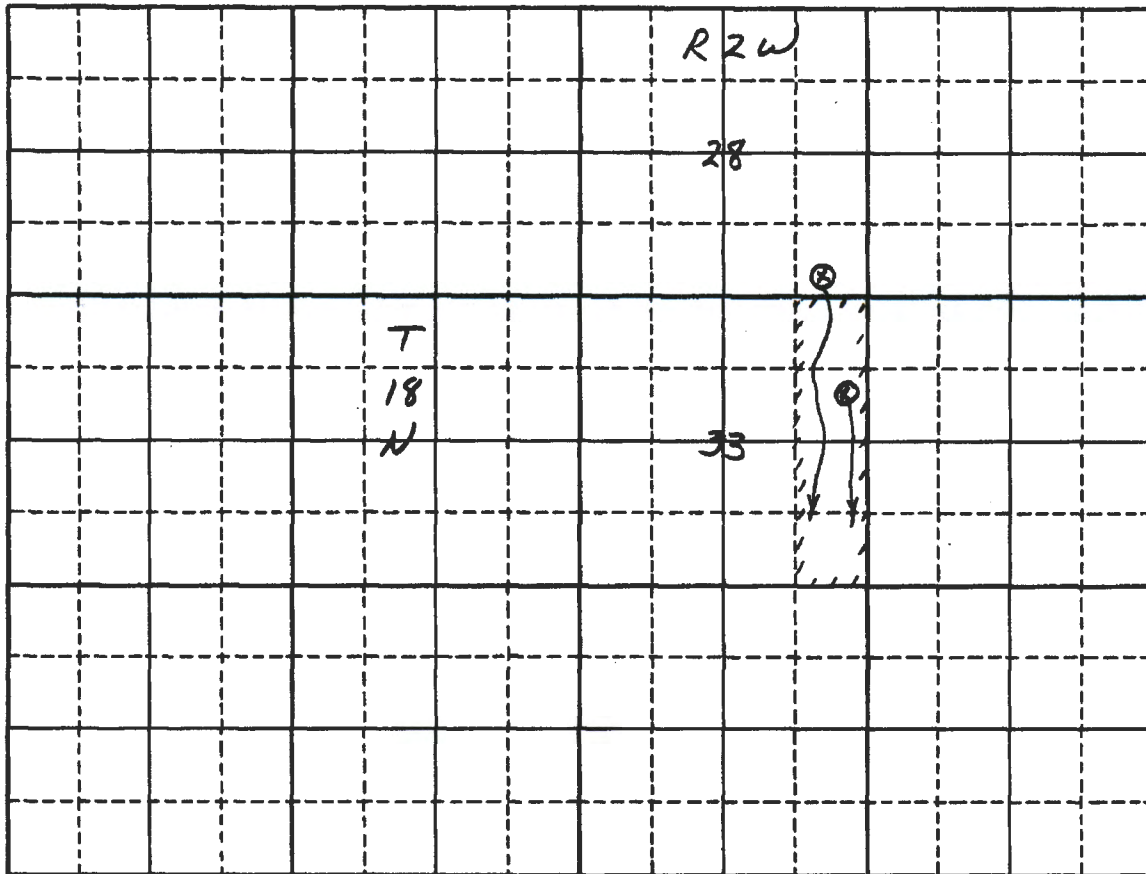
T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
18N	2W	33	8			10								15			9		42

Total No. of acres 42

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

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

(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 18th day of October, 1974.

Vera E. Harrington
(Claimant)

Jessie A. Whaley
Notary Public

Residing at Boise, Idaho

My commission expires 8-6-78

For Department Use Only

Received by <u>CS</u>	Date <u>10-18-1974</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>CS</u>	Date <u>10-18-1974</u>		claimant by:	
\$10.00 fee received by <u>SW</u>	Date <u>10-11-74</u>	*15-202		
Approved for publication by <u>OK 11-15-74</u>				
Published in <u>Adams County, Idaho</u>				
Dates <u>Oct. 31</u>	<u>Nov. 7</u>			