

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 A36-00003G
Date Received 9-19-88
Receipt Number 5002268

COPY
FOR YOUR FILES
DO NOT RETURN

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

Please type or print clearly

1. Name of Claimant (s) Cleave Lloyd Phone () None
Mailing Address Rt. 1 Box 14, Hagerman, Id Zip 83332

2. Date of Priority (Only one (1) per claim) Sept. 10, 1884

3. Source of water supply (a) Billingsley Creek
which is tributary to (b) Snake River

4. a. Location of existing point of diversion is: Township 7S. Range 13E. Section 11,
NE 1/4 of SE 1/4 of NE 1/4, Govt. Lot, _____ B.M., County of Gooding

Additional points of diversion if any: _____

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

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

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

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. Via Buckeye Ditch
to place of use,

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6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrig. purposes from 3/15 to 11/15 amount 0.40 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.40 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 60 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
			<u>E 1/2</u>																
<u>7S</u>	<u>13E</u>	<u>22</u>	<u>20</u>																<u>20</u>

Total number of acres irrigated 20

11. In which county (ies) are lands listed above as place of use located? Gooding

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
Shares in Big Bend Ditch or None ()

14. Remarks: This rt. was obtained when 10 shares of
Big Bend Irrig. Co. water was traded for this
20" of Decree thru the Buckeye Ditch.

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JAN 20 1995

Last Name Lloyde Ident No. _____

Copies: White -State, Yellow-Claimant

Scale: 2 inches equals 1 mile

A large grid of graph paper, similar to the one in the first image, but with a handwritten note "See Attached" and a diagonal line drawn across it. The text is written in a cursive, handwritten style. The diagonal line starts from the middle of the left edge and extends towards the top right corner.

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Last Name

Lloyd

Ident No.

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) ☐ Official Use ☐ Posted Notice ☐ License ☐ Permit

If applicable provide IDWR Water Right Number _____

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant New Internation Mortgage Co. vs. Idaho Power Co.

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 3

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) x *Clawel C. Lloyd* Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____

_____ Title _____ of _____, that I have signed the foregoing

document in the space below as _____

_____ Title _____ of _____ Organization _____

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho/or _____)
County of Twila Falls) SS.

Subscribed and sworn (or affirmed) before me this 18th day of Aug 19 88

SEAL

Notary Public *Ace D. Merrett*

Residing at Kilbuck Id.

My Commission Expires 6/30/92

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name _____ Ident. Number _____

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OCT 11 1993

Copies White-State, Yellow-Claimant

April 14, 1959

Mr. George Lemmon
Secretary, Buckeye Ditch Association
Hagerman, Idaho

Dear Mr. Lemmon:

Mr. Cleve Lloyd of Hagerman was decreed 20 inches of the waters of Billingsley Creek with dated priority of September 10, 1884. The point of diversion from said creek being in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 11, Twp. 7 S., R. 13 E.B.M., Gooding County, Idaho. Said water is a portion of the water decreed to the New International Mortgage Bank by decree of record in said Gooding County in book 6, page 331, of the records of decrees. Said water has heretofore been appurtenant to Tracts 126 and 127, Buckeye Ranch, according to the plat of said ranch of record in said Gooding County. Said water is being transferred to and shall hereafter be appurtenant to the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 22, Twp. 7 S., R. 13 E.B.M., Gooding County, Idaho.

Since Mr. Lloyd has this water he is entitled to take it out of the Buckeye ditch anywhere that the ditch goes through Mr. Lloyd's land. Since there are no measuring devices or no one else on the ditch measures water, Mr. Lloyd is entitled to put in any type of headgate he wishes. As you know, the point of diversion on this water has not been changed and the fact is that this 20 inches of water will be used up the ditch from its former use and will not affect any of the other ditch users. I am sending a copy of this letter to Mr. James Mason and a copy to Mr. Lloyd.

Will you please read this letter in the minutes of the next meeting of the Buckeye Ditch Association, so that all of the users may be advised of the proper transfer of the said water. Thank you.

Very truly yours,

H. F. LeMayne

HFL:ms

COPY

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OCT 14 1994

CONTRACT OF SALE

July 16, 1957

This contract made between Harry F. LeMoyné and Joy E. LeMoyné, husband and wife, Hagerman, Idaho, vendors and Cleve Lloyd (wife's name Betty Lloyd), Hagerman, Idaho, purchaser.

In consideration of the mutual covenants and agreements herein contained vendors sell and purchaser buys the following described land situate in the County of Wooding, State of Idaho: NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22, Twp. 7 S. R. 13 E., B. M.

The agreed purchase price of said property is the sum of \$1600.00 which is being and shall be paid in the following manner, to wit: the sum of \$25.00 has heretofore been paid receipt of which is hereby acknowledged; the sum of \$175.00 on or before August 15, 1957; the balance of the purchase price, to wit, \$1400.00 shall be paid in annual installments of \$300.00, or more; the first of such annual installments to be made on July 1, 1958 and on the 1st day of July of each and every year thereafter until the said purchase price has been paid in full. The deferred balance shall bear interest at the rate of five per cent per annum. The accrued interest shall be paid concurrently with the principal payment and shall be paid in addition to said principal payments. Additional payments may be made at any time and in multiples of \$10.00.

All taxes and legal assessments levied for the year 1956 and previous years have been or will be paid by vendors and all subsequent taxes and legal assessments shall be paid promptly by the purchaser as and when the same become due.

When as much as the sum of \$800.00 has been paid on the purchase price vendors will upon written request of the purchaser procure and submit to purchaser a policy of title insurance or, in vendor's discretion, an abstract of title recently continued to date showing marketable title to the property so being sold in vendors' names, subject only to current taxes, water charges, legal assessments, existing rights of way and any liens or encumbrances made or suffered by purchaser. In the event that vendors elect to obtain title insurance

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OCT 11 1994

the same will be a policy known as a purchaser's policy and will insure the purchaser to the full amount of the purchase price subject to the above qualifications.

In the event that an abstract is furnished then any and all reasonable defects of title which purchaser or his attorneys point out in writing to seller within thirty days time shall be remedied by seller within a reasonable time at their own expense and if such defects are not pointed out by purchaser within the period of thirty days then purchaser will be deemed to have waived such objections.

Until the said purchase price and all other sums secured hereby are fully paid purchaser agrees to keep the buildings and improvements on said land constantly insured against fire in companies satisfactory to seller for at least \$ and such policy shall bear the usual loss payable clause.

Vendors covenant and agree that there are four shares of the Big Bend Mining and Irrigation Co and twenty inches of water from Billingsley Creek which represent the water appurtenant to the property herein conveyed. Concurrently with the final payment vendors agree to execute and deliver a warranty deed conveying said property to purchaser subject only to existing rights of way and any liens or encumbrances made or suffered by purchaser. Concurrently with the final payment vendors will execute and deliver to purchaser water certificates and any and all other papers and documents necessary to transfer said water rights to purchaser.

Revenue stamps shall be affixed to the deed at the expense of vendors before final delivery.

POOR ORIGINAL

ession of the property being sold shall be given to purchaser not later than the 16th day of July, 1957, and henceforth during the life of this contract purchaser agrees to maintain and care for said property and all improvements thereon or to be placed in a good and husband-like manner, so that no waste shall be committed thereon, and no unlawful use made of any part thereof; and he agrees to maintain all buildings and other improvements in as good order and repair as the same now are, reasonable wear and use excepted, and to keep said property free and clear of all liens and encumbrances. Vendor may re-enter at reasonable times for the purpose of making necessary inspections or repairs.

Should purchaser fail or neglect to make timely payment of assessments, any taxes, insurance or other lawful charges against said property, vendor may pay the same, and such sums with interest thereon at the rate of seven per cent per annum shall become a part of and be secured by this contract, and such advancements and interest thereon will be due and payable on the first principal payment date thereafter.

Purchaser expressly agrees that he has personally carefully inspected said property and the whole thereof as to amount of land in cultivation, prevalence of rocks, noxious weeds and other objectionable features, and is exercising his own judgment as to the condition and value of the property he is purchasing, and has not been influenced by any representation by or for vendor other than those contained in this contract.

This contract shall not be recorded until at least fifty per cent of the total purchase price shall have been paid.

Any notice to be given to either party in connection herewith must be given in writing, which may be delivered by some third party or sent by certified mail directed to the above addresses, or such other addresses as may later be furnished in writing.

The provisions hereof shall be binding upon and inure to the benefit of the heirs, personal representatives and assigns of the contracting parties.

Vendor's waiver of any breach or delay on the part of purchaser shall not be a waiver of any subsequent or other breach or delay.

If suit be instituted for the collection of any part of said purchase price or the enforcement of any right hereunder, the successful party shall recover in addition to other relief, such sum as the court shall adjudge reasonable as an attorneys fee.

It is expressly understood and agreed that time is of the essence of this contract and should purchaser fail, neglect or refuse to comply with any of the covenants herein contained all his right, title and interest in and to said property and any and all improvements and additions placed thereon by purchaser shall, at the option of the vendor, be subject to termination and cancellation. Before purchaser's interest may be terminated or cancelled vendor shall give purchaser notice specifying the particulars in which purchaser is in default, and in the event purchaser complies with all the then-due terms and conditions of this contract within thirty days of said notice, then such notice shall become ineffective, but if purchaser fails to comply with the then-due terms of this contract as required by said notice within such thirty-day period, then this contract will be subject to final and complete termination and cancellation by vendor. In the event of such termination or cancellation of this contract all payments theretofore made by purchaser hereunder, together with all improvements placed upon said property by him, shall be considered as rental for said property during purchaser's occupation and use thereof and as liquidated damages, and immediately upon such termination or cancellation all purchaser's title and interest in or to said property and improvements, and the whole thereof, either in law or in equity, shall completely terminate and be cancelled, and vendor shall be entitled to and shall have immediate and absolute possession, control and ownership of said property, together with any and all improvements placed thereon by purchaser. Advice of cancellation may be given in the same manner as written notices.

IN WITNESS WHEREOF the parties have hereunto set their hands as of the day and year first above written.

Purchaser

Vendor

STATE OF IDAHO }
COUNTY OF GOODING } ss.

On this 22nd day of July, 1957, before the undersigned a notary public in and for

said county, personally appeared Harry F. LeMoine and Joy E. LeMoine known to me to be the persons whose names are subscribed to the foregoing contract and acknowledged to me that they executed the same.

In witness whereof I have hereunto set my hand and affixed my seal the day and year in this certificate first above written.

(SEAL)

Notary Public residing at Gooding, Idaho

STATE OF Idaho }
COUNTY OF Gooding } ss.

On this _____ day of July, 1957, before the undersigned a notary public in and for

said county, personally appeared Cleve Lloyd known to me to be the persons whose names are subscribed to the foregoing contract and acknowledged to me that they executed the same.

In witness whereof I have hereunto set my hand and affixed my seal the day and year in this certificate first above written.

(SEAL)

Notary Public residing at _____

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OCT 11 1994

AJ5811NP
SELECTION FILE: HHT-NOA-BROWN

IDAHO DEPARTMENT OF WATER RESOURCES
SELECTION FILE CONTENTS

DATE: 03/05/93
TIME: 12:06:19
PAGE: 1

A36-00003B	A36-00003C	A36-00003E	A36-00003F	A36-00003G	A36-00003J	A36-00006	A36-00007	A36-00008	A36-00021B
A36-00022	A36-00023	A36-00033F	A36-00034B	A36-00035J	A36-00039C	A36-00039D	A36-00039E	A36-00039J	A36-00039M
A36-00039N	A36-00041A	A36-00041C	A36-00042A	A36-00048A	A36-00049	A36-00050D	A36-00051D	A36-00055AF	A36-00055BC
A36-00060	A36-00061	A36-00062	A36-00063	A36-00064B	A36-00068	A36-00069	A36-00070	A36-00071A	A36-00075
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A36-00098	A36-00099	A36-00100	A36-00101	A36-00103C	A36-00103F	A36-00106	A36-00108A	A36-00108B	A36-00110A
A36-00110B	A36-00111A	A36-00111B	A36-00112A	A36-00112B	A36-00113H	A36-00113J	A36-00119	A36-00120	A36-00121
A36-00123A	A36-00123E	A36-00133	A36-00134A	A36-00134C	A36-00135B	A36-00135C	A36-00141	A36-00192	A36-02002
A36-02038	A36-02169	A36-04091	A36-04142	A36-04260	A36-07071	A36-07081	A36-07089	A36-07092A	A36-07142
A36-07142A	A36-07172	A36-07229	A36-07233	A36-07346	A36-07658	A36-07875	A36-08099	A36-08317	A36-10055
A36-10119	A36-10120	A36-10140	A36-10141	A36-10168	A36-10231	A36-10249	A36-10283	A36-10283B	A36-10405
A36-10520	A36-10906	A36-15166	A36-15168	A36-15240	A36-15463				

TOTAL RECORDS IN SELECTION FILE: 116

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OCT 11 1994

RECEIVED
FEB 10 1993
Department of Water Resources

1 HEPWORTH, NUNGESTER & LEZAMIZ,
2 CHARTERED
3 133 Shoshone St. North
4 P.O. Box 389
5 Twin Falls, ID 83303-0389
6 Telephone: (208)734-7510
7 Attorneys for Claimant
8 (PPK\HAGERMAN.NOA\lmr)

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

* * * * *

10 In Re the General Adjudication)
11 of Rights to the Use of Water)
12 from the Snake River Basin)
13 Water System)

Case No. 39576

14 The State of Idaho, ex rel.
15 R. Keith Higginson in his
16 official capacity as director
17 of the Idaho Department of
18 Water Resources,

NOTICE OF APPEARANCE

Petitioner,

vs.

17 United States; State of Idaho;
18 and all claimants to the use
19 of water from the Snake River
20 Basin Water System,

Respondents.

* * * * *

PLEASE BE NOTIFIED that the firm of Hepworth, Nungester
& Lezamiz, Chartered, hereby appears on behalf of Hagerman Water

NOTICE OF APPEARANCE - 1

MICROFILMED
OCT 11 1994

1 Users, Inc. and its individual members:

2	Anderson, Anita G.	A36-00050D
	Babington Lynn J. & Kathy	A36-00003C
3	Banbury Pipe Co., Inc.	A36-10906
	Banbury Pipe Co., Inc.	A36-02038
	Big Bend Irrigation & Mining Co.	A36-00192
4	Big Bend Irrigation & Mining Co.	A36-00133
	Big Spring Water User's Assoc.	A36-00022
5	Big Springs Water User's Assoc.	A36-00023
	Big Springs Water User's Assoc.	A36-15166
6	Blastock, Alma E.	A36-00108B
	Bolduc, Mark E.	A36-00103C
7	Boyer, Dale E. & Elaine M.	A36-00079
	Brailsford, Robert H.	A36-04260
	Brooks, Allen L. & Andree	A35-00060
8	Brooks, Allen L. & Andree	A36-07346
	Bybee, Gertrude B. Owsley	A36-00042A
9	Bybee, Gertrude B. Owsley	A36-00041C
	Candy, Walter W. & Margaret	A36-00135B
10	Candy, Walter W. & Margaret	A36-00134A
	Clouser, Doris H. & John F.	A36-00090A
11	Clouser, Doris H. & John F.	A36-00089A
	Crandlemire, Roger C. & George C.	A36-00113H
12	Crandlemire, Roger C. & George C.	A36-00112B
	Crandlemire, Roger C. & George C.	A36-00111B
	Crandlemire, Roger C. & George C.	A36-00113J
13	Crandlemire, Roger C. & George C.	A36-00110B
	Crandlemire, Roger C.	A36-00134C
14	Crandlemire, Roger C.	A36-00135C
	Crandlemire, Roger C.	A36-10140
15	Crandlemire, Roger C.	A36-10141
	DeVries, Abraham & Hermina	A36-00055AF
16	Dice, Philip F. & Judith A.	A36-00041A
	Dice, Philip F. & Judith A.	A36-10405
	Erwin, Frank C. & Peggy	A36-00092
17	Fleming, Michael J. & Paul F.	A36-00064B
	Flint, William E. and Vera C.	A36-00110A
18	Flint, William E. and Vera C.	A36-00111A
	Flint, William E. and Vera C.	A36-00112A
19	Flint, William E. and Vera C.	A36-10168
	Fuell, Keith L. & Jolene	A36-00086C
20	Gardner, Barbara & Robert B.	A36-00003B
	Gardner, Barbara	A36-00003J
21	Gisler, Harry R.	A36-00021B
	Gisler, Bradley	A36-00077C
	Glauner, Frank L. & Joan	A36-00039E
22	Grigg, Mattie P. & Golden T.	A36-10283B
	Gustafson Family Trust/Gustafson	A36-00033F
23	Ivan J. & Lucille co-trustees	
	Hagerman Gun Club	A36-00100

1	Hagerman Gun Club	A36-00099
	Hagerman Gun Club	A36-07233
2	Hagerman Gun Club	A36-07172
	Hagerman Gun Club	A36-10249
3	Hagerman Water Users Assoc.	A36-15168
	Jensen, Alice	A36-00055BC
	Johnson, Ira L. & Huguette M.	A36-07142
4	Joint Hagerman School Dist 233	A36-15463
	Jones, John W., Jr.	A36-00068
5	Jones, John W., Jr.	A36-00069
	Jones, John W., Jr.	A36-07071
6	Jones, John W., Jr.	A36-00070
	Kipp, Rudy B. & Elberta M.	A36-10119
7	Kipp, Rudy B. & Elberta M.	A36-10120
	Kipp, Rudy B. & Elberta M.	A36-07658
	Kiser, John & Karl Woodall & Sons, Inc	A36-00071A
8	Kiser, John & Karl Woodall & Sons, Inc	A36-00075
	Korbis, George J. & Nellie W.	A36-00039N
9	Laughlin, Craig J. & Rita D.	A36-7089
	Laughlin, Craig J. & Rita D.	A36-00051D
10	Littlefair, Larry & Tara	A36-0121
	Littlefair, Larry & Tara	A36-10055
11	Littlefair, Larry & Tara	A36-00119
	Littlefair, Larry & Tara	A36-00120
12	Lloyd, Cleave C.	A36-04142
	Lloyd, Cleave C.	A36-00003G
	McFaddan, Dan H. & Irma R.	A36-2169
13	McFaddan, Dan H. & Irma R.	A36-00048A
	McFaddan, Dan H. & Irma R.	A36-00049
14	Morris, Howard & Rhonda	A36-00063
	Morris, Howard & Rhonda	A36-00061
15	Morris, Howard & Rhonda	A36-00062
	Mueller, Manfred	A36-00035J
16	Norwood Subdivision/ Ruby Springs Water Company	A36-15240
	Potter, Mark B. & Susan H.	A36-07092A
17	Rawson, Frank S. & Carol A.	A36-00039J
	Reese, Bruce W. & LaRose A.	A36-00123A
18	Reese, Bruce W. & LaRose A.	A36-04091
	Rue, James O. & Beverly Jane	A36-10231
19	Shaffer, Roger	A36-07142A
	Simcoe, Doyt H. & Roxie J.	A36-00034B
20	Simpson, Michael, on behalf of Josephine Simpson Estate	A36-00003F
	Simpson, Michael, on behalf of Josephine Simpson Estate	A36-0123E
21	Strange, Wm. (Penelope Turner-remainder man)	A36-0096A
22	Strange, Wm. (Penelope Turner-remainder man)	A36-00006
	Strange, Wm. (Penelope Turner-remainder man)	A36-00007
	Strange, Wm. (Penelope Turner-remainder man)	A36-00008
23	Veenendaal, Dick J.	A36-00108A
	Veenendaal, Dick J.	A36-00039C

1	Vernon, Edith L.	A36-00003E
	Walmsley, Fred J. & Susan K.	A36-00039D
2	Ward, John P. & Rush, Ruth E.	A36-00094-A
	Ward, John P. & Rush, Ruth E.	A36-00090F
3	Watkins, Paul E. & Inez S.	A36-00106
	Watkins, Paul E. & Inez S.	A36-08099
4	Wiens, M.J., Jr.	A36-07229
	Wiens, M.J., Jr.	A36-07081
	Wiens, M.J., Jr.	A36-80317
5	Wiens, M.J., Jr.	A36-00098
	Wiens, M.J., Jr.	A36-00097
6	Wiens, M.J., Jr.	A36-02002
	Wiens, M.J., Jr.	A36-00101
7	Wiens, M.J., Jr.	A36-00141
	Wiens, M.J., Jr.	A36-10520
	Woolley, Max J. & Blanche	A36-00039M
8	Ya-Ta-Hay Investments, Inc.	A36-10283A
	Ya-Ta-Hay Investments, Inc.	A36-07875
9	Zink, Basil Lester & Myrle Hyde	A36-00103F

10 the respondents in the above-entitled action, as counsel of record
 11 for said Hagerman Water Users, Inc. and said individuals.

12 DATED This 9 day of February, 1993.

13 HEPWORTH, NUNGESTER & LEZAMIZ

14
 15 By 

PATRICK D. BROWN

16 Attorneys for Respondents

17
 18 CERTIFICATE OF MAILING

19 The undersigned, a resident attorney of the State of
 20 Idaho, with offices at 133 Shoshone St. North, P.O. Box 389, Twin
 21 Falls, Idaho 83303, and one of the attorneys for the respondents
 22 in this matter, certifies that she caused to be mailed a copy of
 23 the above and foregoing NOTICE OF APPEARANCE on the 9 day of

1 February, 1993, to:

2 Snake River Adjudication
3 District Court
4 P.O. Box 27070
5 Twin Falls, ID 83303-0126

6 Clive Strong
7 Chief Natural Resources Division
8 Office of Attorney General
9 Statehouse
10 Room 210
11 Boise, Idaho 83720

12 David Shaw
13 Adjudications Bureau Chief
14 Department of Water Resources
15 1301 North Orchard
16 Boise, Idaho 83706

17 United States Department of Justice
18 Environment and Natural Resources Division
19 550 West Fort Street, Box 33
20 Boise, ID 83734

21 
22 Patrick D. Brown



Hepworth,
Nungester,
& Lezamiz

MICROFILMED
OCT 11 1994

CA

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: A36-00003G
Date Received: 9/19/1988
Receipt No: S002268
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: CLEAVE LLOYD
Address: RT. 1, BOX 14
HAGERMAN, ID

83332

2. Date of Priority: SEP 10, 1884

3. Source: BILLINGSLEY CREEK Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
07S	13E	11	NE	SE	NE		GOODING

5. Description of diverting works:
VIA BUCKEYE DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.400		

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

8. Total consumptive use is 60.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
07S	13E	22	NE	NE		IRR	20.0

Section Acres 20.0

Total Acres 20.0

A36-00003G

Page 1

Date: 02/07/89

MICROFILMED
JAN 20 1993

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
SHARES IN BIG BEND DITCH

14. Remarks:
THIS RIGHT WAS OBTAINED WHEN 10 SHARES OF BIG BEND DITCH IRRIG.
CO. WATER WAS TRADED FOR THIS 20" OF DECREE THROUGH THE BUCKEYE
DITCH.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

vs

IDAHO POWER COMPANY
Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

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 _____

SEP 28 2001



State of Idaho

DEPARTMENT OF WATER RESOURCES

Department of Water Resources

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

September 11, 2001

DIRK KEMPTHORNE
GovernorKARL J. DREHER
Director

BETTY LLOYD
CLEAVE LLOYD
2715 S 900 E
HAGERMAN ID 83332

~~736-3033~~

RE: Snake River Basin Adjudication (SRBA)
Water Rights #36-3G and 36-4142

Records Modified 7-28-01

Dear Water Right Holders:

Mail sent to you by the SRBA Court was returned to the SRBA Court by the Postal Service. The Postal Service advised us your address has changed to the above address. We have enclosed the returned mail.

Although we have reached you at the address above, we need your written confirmation this is your correct mailing address before we can change our records.

Please sign your name at the bottom of this letter and return it to this office. Make corrections to your name and address if necessary before returning this letter, list any other water rights you have, and return this letter by October 28, 2001. Thank you for your help.

If your mail delivery address changes in any form, please contact us in writing so we can update our records. Be sure to list your water right numbers.

If there has been a change in ownership of the property connected with the water rights referenced above, please call this office toll-free at 1/800-451-4129 to obtain a form to make this required change to the water right records.

Sincerely,

Sally

Sally Sherman
Technical Records Specialist
Adjudication Bureau

SS:region
Enclosure:
Returned Mail

#####

The address is correct as shown above or as otherwise changed.

Water Right Holder's Signature

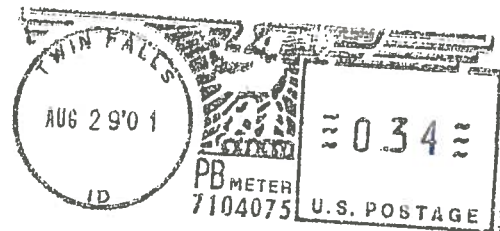
Telephone No.

Cleave Lloyd

STATE OF IDAHO
District Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, ID 83303-2707

- 
- ☐ RETURNED TO SENDER
 - ☐ RETURNED LEFT NO ADDRESS
 - ☐ NOT DELIVERABLE AS ADDRESSED
 - ☐ UNABLE TO FORWARD
 - ☐ ATTEMPTED TO FORWARD
 - ☐ UNCLAIMED ☐ NOT KNOWN
 - ☐ NO SUCH STREET - NUMBER
 - ☐ DO NOT REMAIN IN THIS ENVELOPE
 - ☐ INSUFFICIENT ADDRESS
 - ☐ NO MAIL RECEIPTABLE
 - ☐ MAY BE CLOSED IN ORDER

BETTY LLOYD
CLEAVE LLOYD
RT 1 BOX 14
HAGERMAN, ID 83332



2715 So. 900E

36-36
36-4142



STATE OF IDAHO
District Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, ID 83303-2707

RECEIVED

OCT 23 2000

Department of Water Resources

correct address

*2715 So. 900 E
83332 - 5617*

*← provided by USPS
10-20-00 to
SRBA Court.*



Cleve C. Lloyd
Route 1 Box 14
Hagerman, ID 83332

Correct spelling is Cleave

36-04142 P.D.

36-36 P.D.

36-07776 (WR)

W.A. ↑

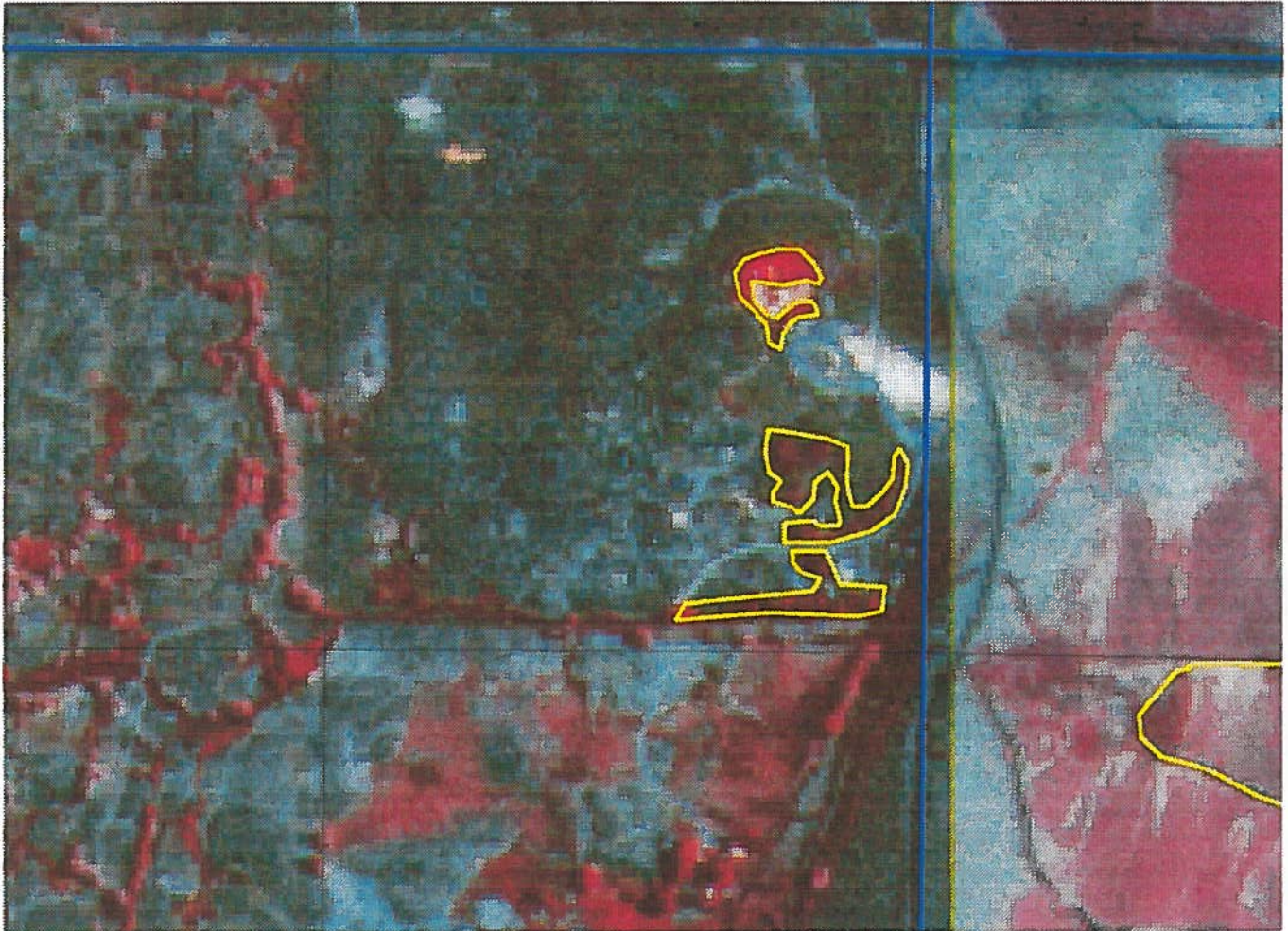
lapsed

*C0001
bx SRB
S. Clelland*

36-00036

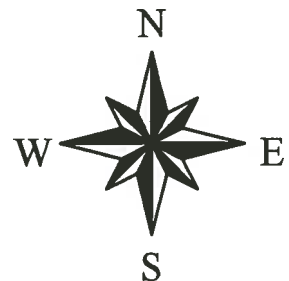
IDAHO DEPARTMENT OF WATER RESOURCES

36-00003G



660 0 660 Feet

TNS 7S, RNG 13E
SEC 22, NENE



● Recommended Point of Diversion

□ Recommended Place of use

— Section lines

□ Quarter/Quarter Lines

GIS PLACE OF USE PRESENTATION
1987 and/or 1988 NAPP PHOTOGRAPHY
DATA ENTRY NOVEMBER 5, 1997
BY STEVE CLELLAND

CLAIM NUMBERS 36-00003GDATE 11/16/97
AGENT SW

TRANSFER NUMBER _____

OBJECTION FILED YesTOTAL ACRES FROM RECOMMENDATION 3GEOGRAPHIC INFO SYSTEM 1.93

RIGHT NO				NE				NW				SW				SE			
	TNS	RNG	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
RECOM	<u>7s</u>	<u>13E</u>	<u>22</u>	<u>30</u>															<u>30</u>
GIS				<u>1.93</u>															
RECOM																			
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			

UPDATED

POLYGON #

UPDATED

B36-DBPOU.DBF _____

POLYGON CREATED ON 604 () _____

ATTRIBUTES OF B36-POU.SHP (750) SW 11/16/97

B36-DBPOD.DBF _____

ATTRIBUTES OF B36-POD.SHP (454) Buckeye DitchClaim was for 20 Acres.CASE RESOLVED IN TRIAL.

P/U CONFLICT yes () no (X)

P/D CONFLICT yes () no (X)

READY FOR DECREE yes (X) no ()

SENT FOR DECREE yes (X) no ()

KRC: 8/13/97

Preliminary Special Master Report.

SPLIT REVIEW ANALYSIS - 36-00003

A Review of the SRBA Claims and Recommendations of 36-00003 Portions.

November 14, 1997 by Steve Clelland

CLAIM PART 36-00003	NAME	"A" RECORD		DIRECTOR'S REPORT		"R" RECORD OR DECREE		COMMENTS OR REMARKS
		CFS	ACRE	CFS	ACRE	CFS	ACRE	
A	Rea	1.60	13.0	0.41	13.0	0.45	13.0	Stock use.
B	Kingston	7.16	129.0	5.00	129.0	5.00	129.0	Stock use. Fish use. ¹
C	Babington	0.30	10.0	0.30	10.0	0.30	10.0	Trial set: 12/17/97
D	Harbison	0.24	10.0	0.24	2.0	0.24	2.0	Late Obj. filed
E	Vernon	0.20	10.0	0.20	5.0	0.20	6.0	SF5 - 10/21/97
F	Simcoe	0.80	40.0	0.80	40.0	0.80	40.0	
G	Lloyd	0.40	20.0	0.12	3.0	0.19	3.0	Special Mstr. Rec.
H	Buckeye Farms	12.0	455.0	11.9	290.0	11.9	290.0	Partial Decree ²
J	<B. Gardner> <Split>	0	0	0.46	15.0	0	0	Split into K-L-M by Ownership Change
K	B. Gardner	0.71	10.0	0	0	0.03	1.0	
L	Babington	1.97	27.5	0	0	0.43	14.0	Stock use. Fish use. ³
M	Simcoe	1.32	18.5	0	0	0	0	This Claim Disallowed. ⁴
Totals		26.70	743	19.43	507	19.54	508	See Footnote ⁵

* Listings for Diversion Rates reflect the irrigation flow rates only; No Stockwater rates are listed.

¹ Commercial fish production did not begin as a use until the early 1970's. Not a decreed use, Not recommended.

² Partial Decree issued for this right on March 6, 1997.

³ Commercial fish production did not begin as a use until the early 1970's. Not a decreed use, Not recommended.

⁴ 36-00003M if reinstated as a valid right would apply to 18.5 acres.

⁵ Total Acres would increase to 526.5 acres if right 36-00003M is reinstated. Based on rates shown, remaining flow portion of this right is 0.46 cfs; some or all of this amount may be associated with the disallowed right 36-00003M.

MAPS & INFORMATION

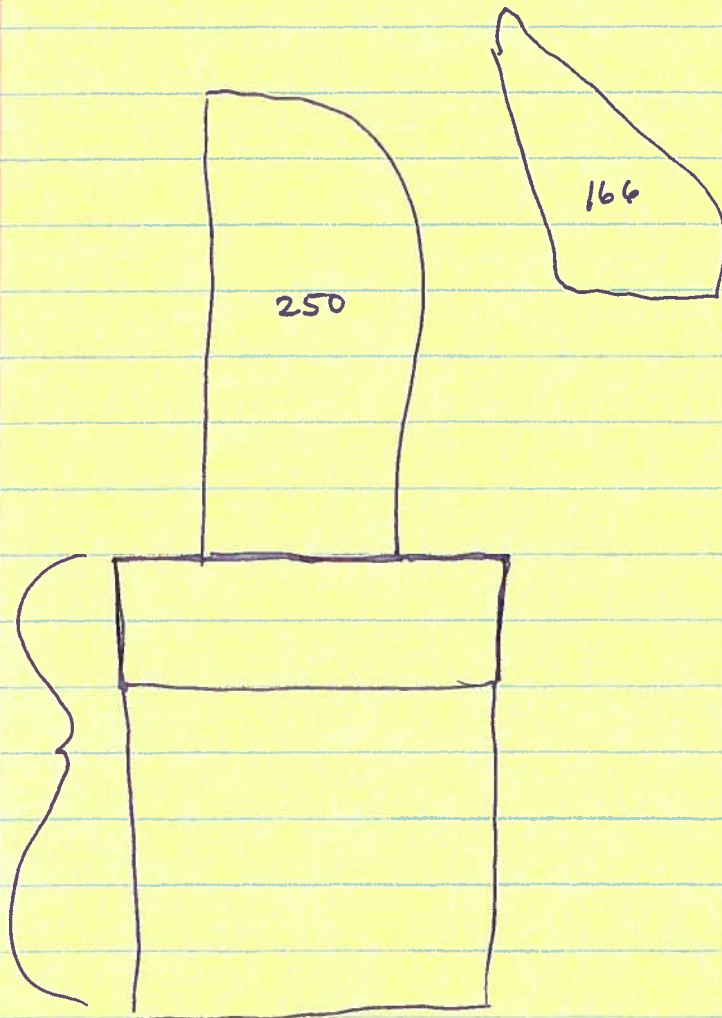
RELATED TO

36-00003 SPLITS

Buckeye TRANSFER

4/25/00

$$\text{Duty of water} - 004 \\ = 0.036 \text{ cfs/Ac}$$



$$\frac{36-00004}{416 \text{ Ac}} \\ 15 \text{ cfs}$$

P. Decree: 36-00018

$$20 \text{ cfs} / 264 \text{ Ac (South)}$$

$$= 0.076 \text{ cfs/Ac}$$

$$/ 219 \text{ Ac (North)}$$

$$483 \text{ Ac}$$

$$= 0.041 \text{ cfs/Ac}$$

BUCKEYE TRANS.

36-03 splits

M

Clelland, Steve

From: Clelland, Steve
Sent: Tuesday, April 13, 1999 2:20 PM
To: Spencer, Nick
Cc: Clelland, Steve; Merritt, Allen; Tuthill, Dave
Subject: Buckeye acres and settlement

Nick,

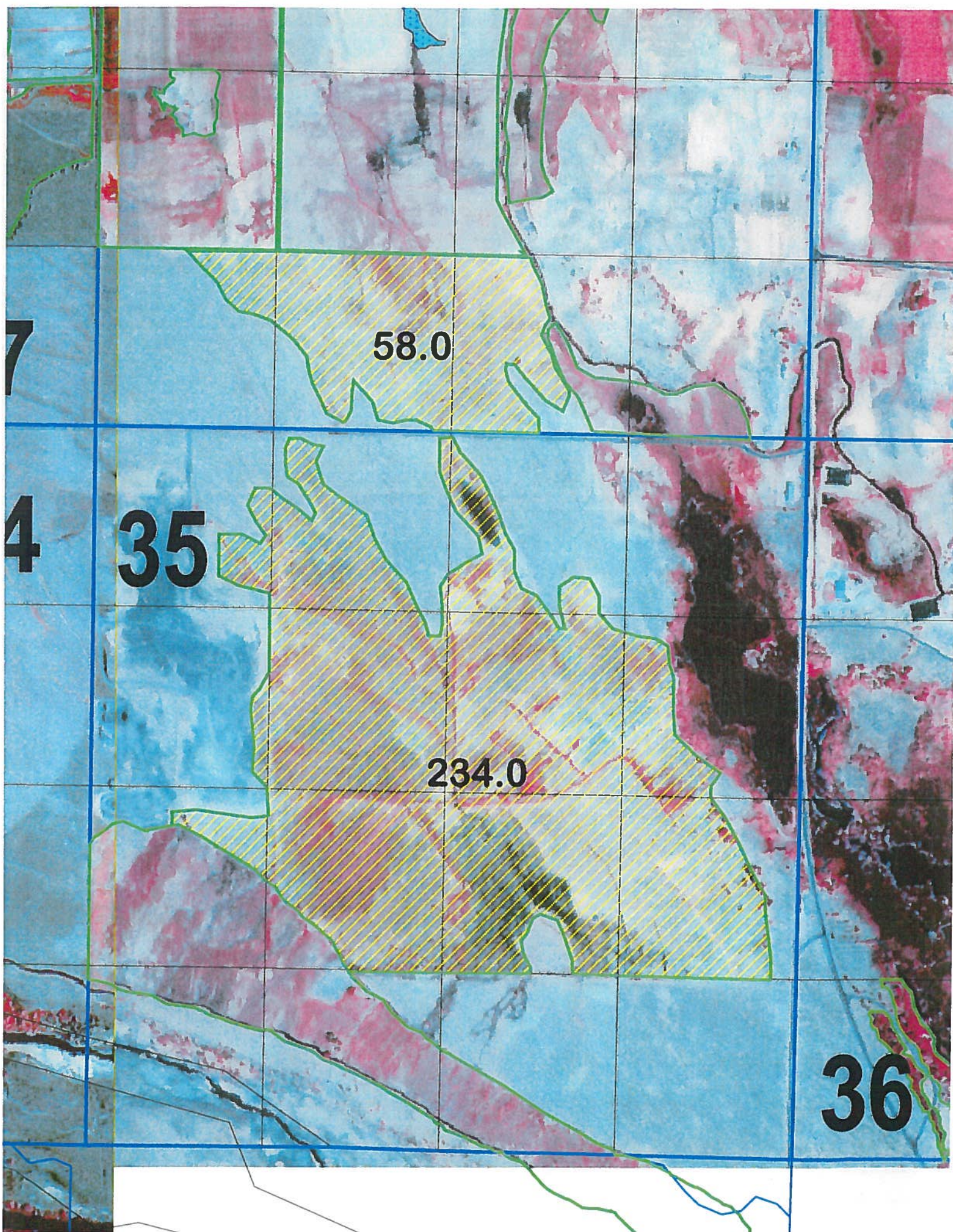
I Just spoke with John Simpson about the acres and issues... He seemed to agree the acres were close to a resolution (320-350 ac.) and I told him my latest GIS edits show about 320 acres. He thought we were trying to come to an agreeable acreage PLUS a duty of water for the full 20 cfs. I told him you and I had discussed this earlier today and concluded the same. He has been trying to call you to confirm this idea. He will contact Brockway to see how the duty numbers work with the 320 acres and I offered to forward these numbers along with this email to see if our staff can live with the duty of water.

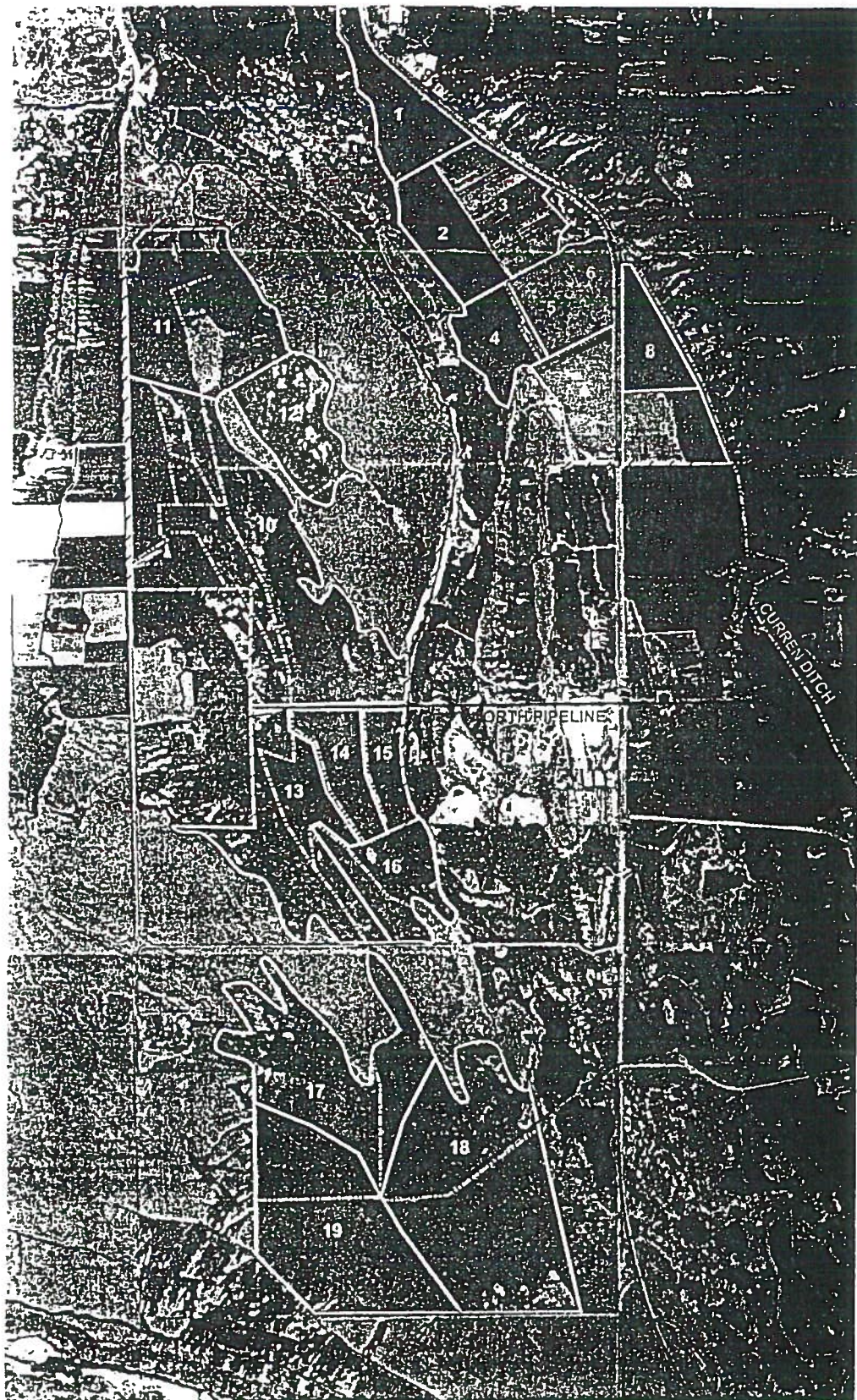
If you get a chance maybe you can give John S. a call...

Steve

.036 cfs/Ac

X 318 Ac = 11.45





27

35

40

58

40

30

34

30

35

37

40

17

40

234

40

25

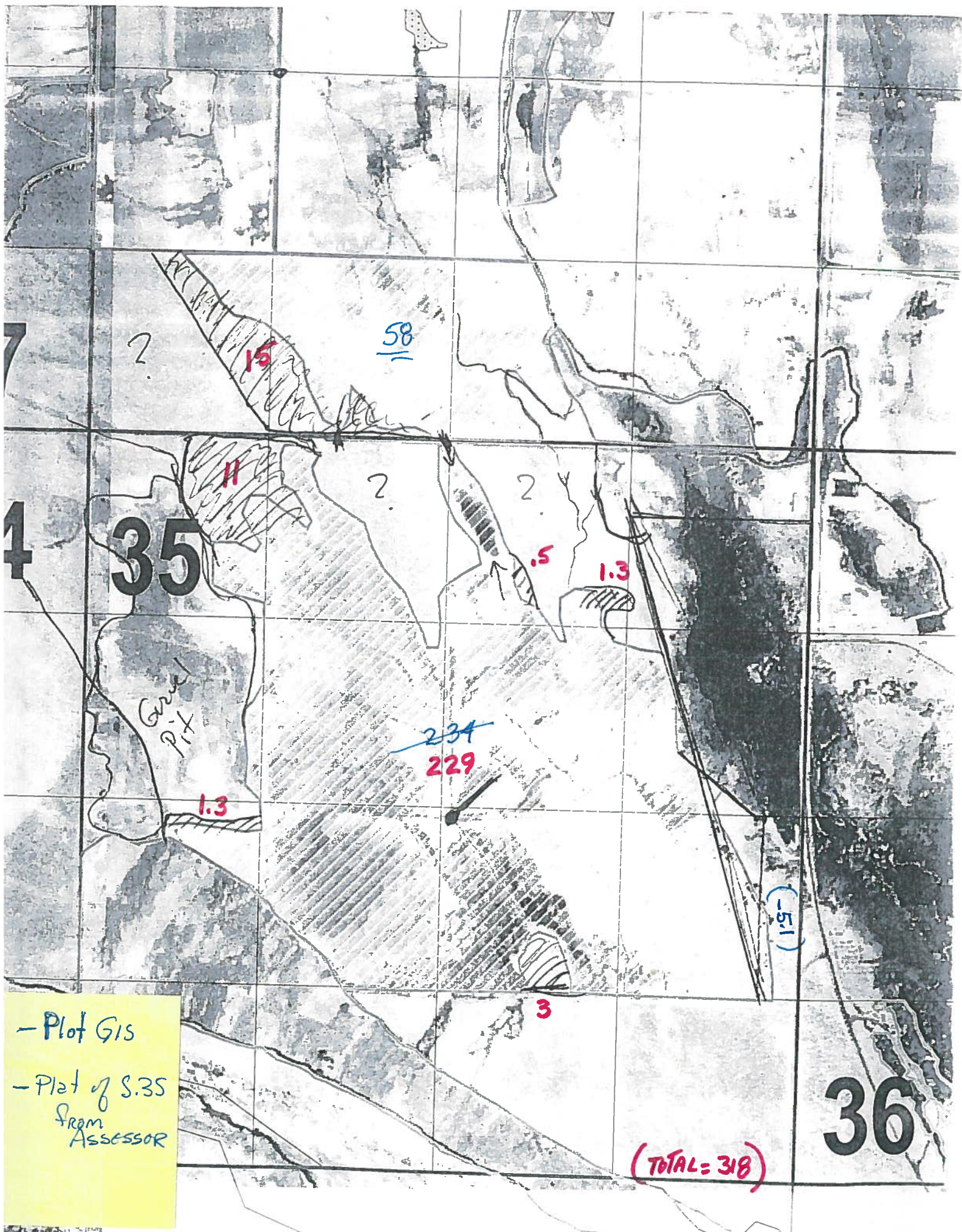
36

40

33

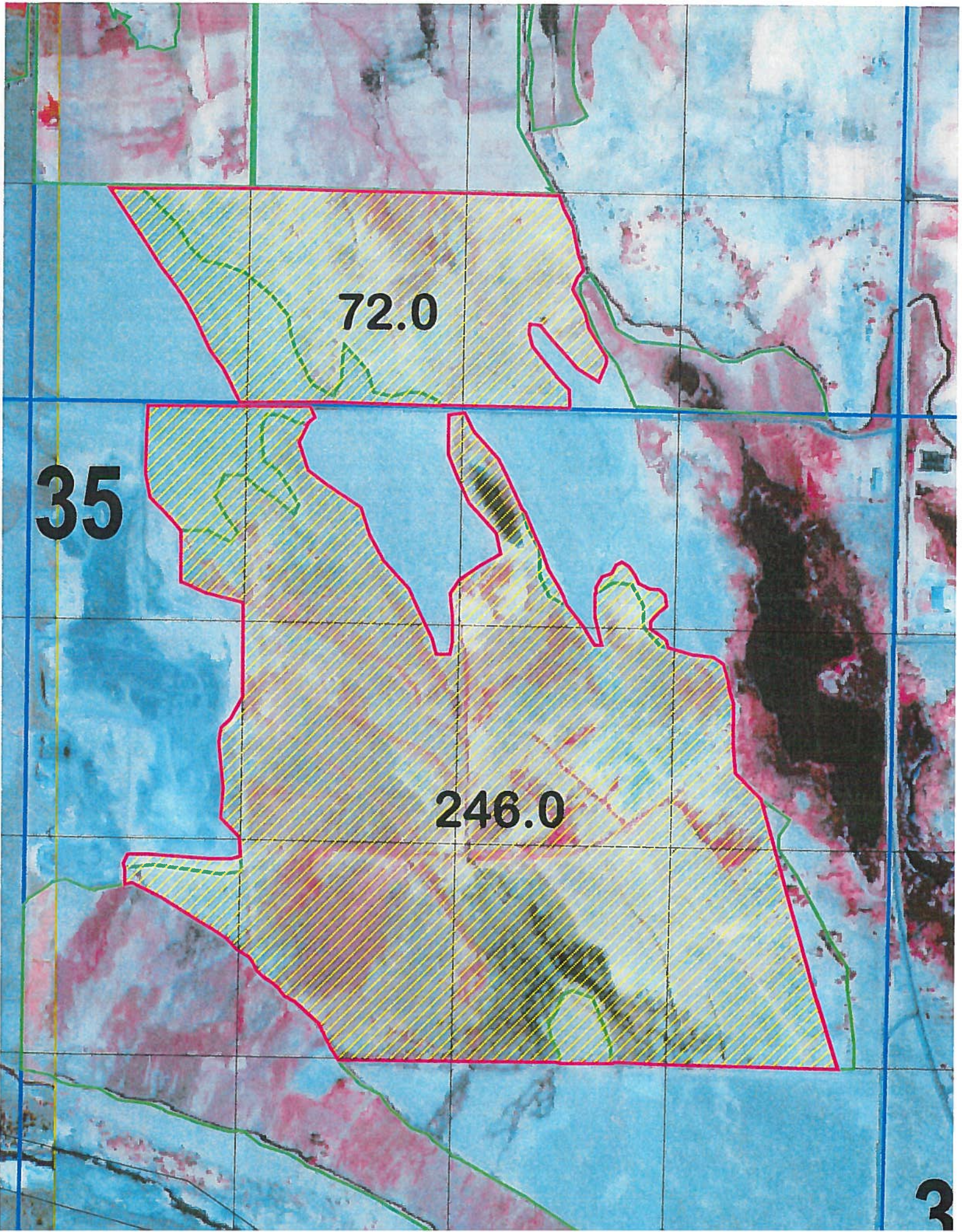
36

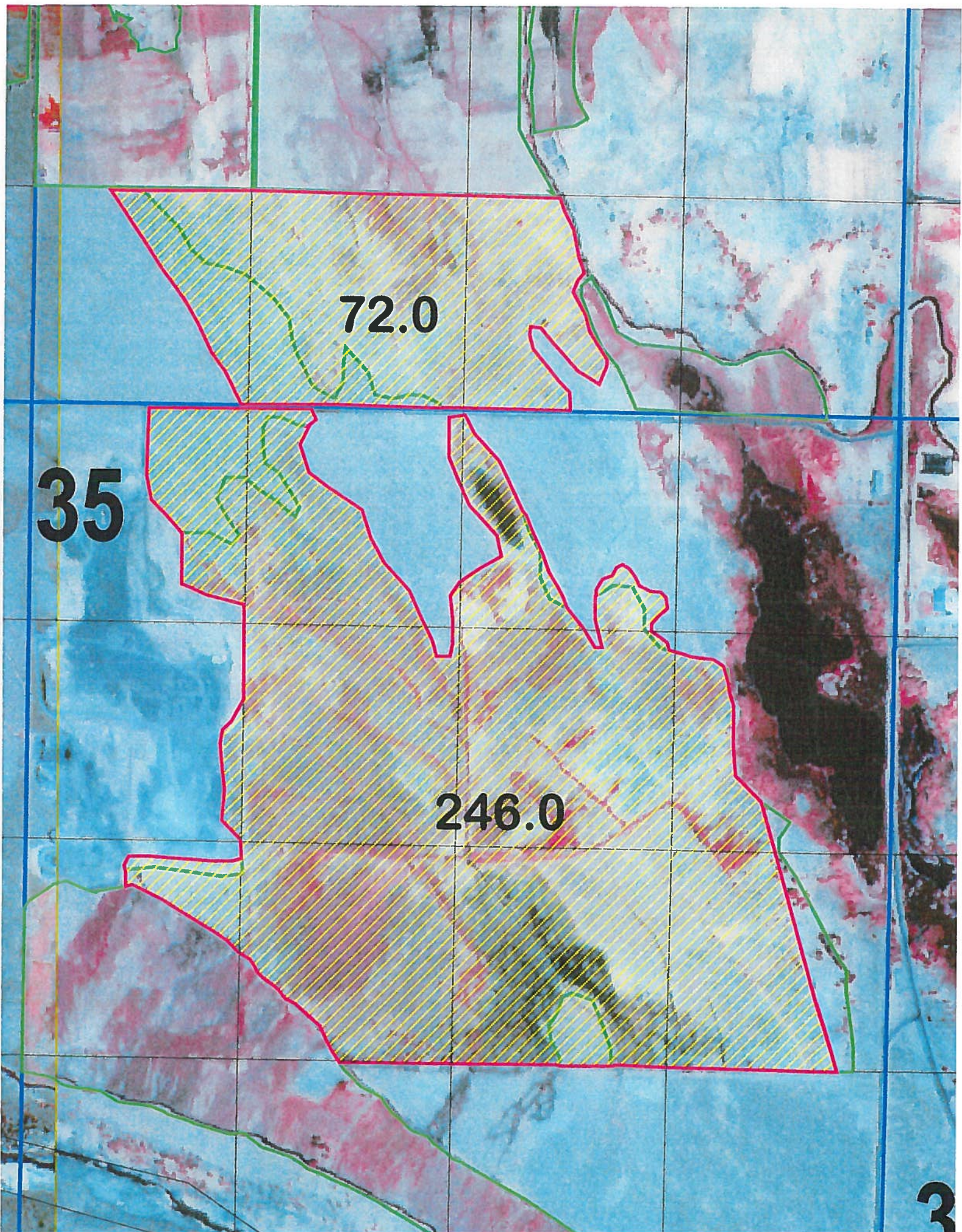
483 claimed



- Plot GIS
- Plot of S.35
from
Assessor

(TOTAL = 318)





14

13

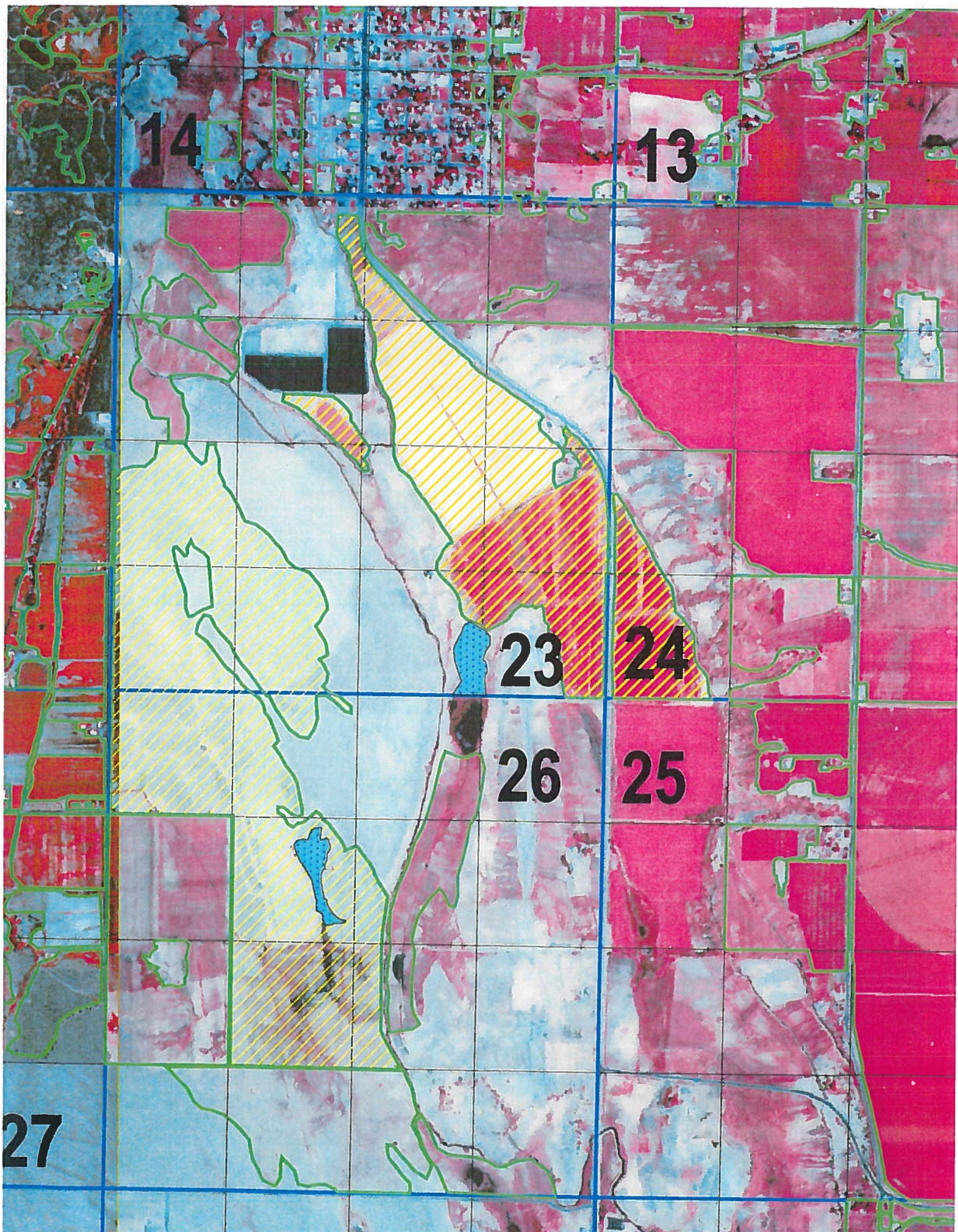
23

24

26

25

27



36-00004, 36-00018, 36-00015
Place of Use

Historical Use: all three water rights have historically been used on the subject property at various times as illustrated by historical data previously submitted.

This historical use is further supported by the three Claims for Water Rights filed by the Rosholt Law Firm.

Had the 36-00004 right been adjudicated at the same time as the 36-00018 and 36-00015, this administrative error of "Place of Use" might have been eliminated.

Place of Use is further supported by the following documents:

Agreement for Sale
Transfer Deed
Pasture Lease Agreement

These documents were not discovered prior to the 36-00018 and 36-00015 adjudication, thus the error in "Place of Use" of these two water rights.

18/15

04

Historic
water
use

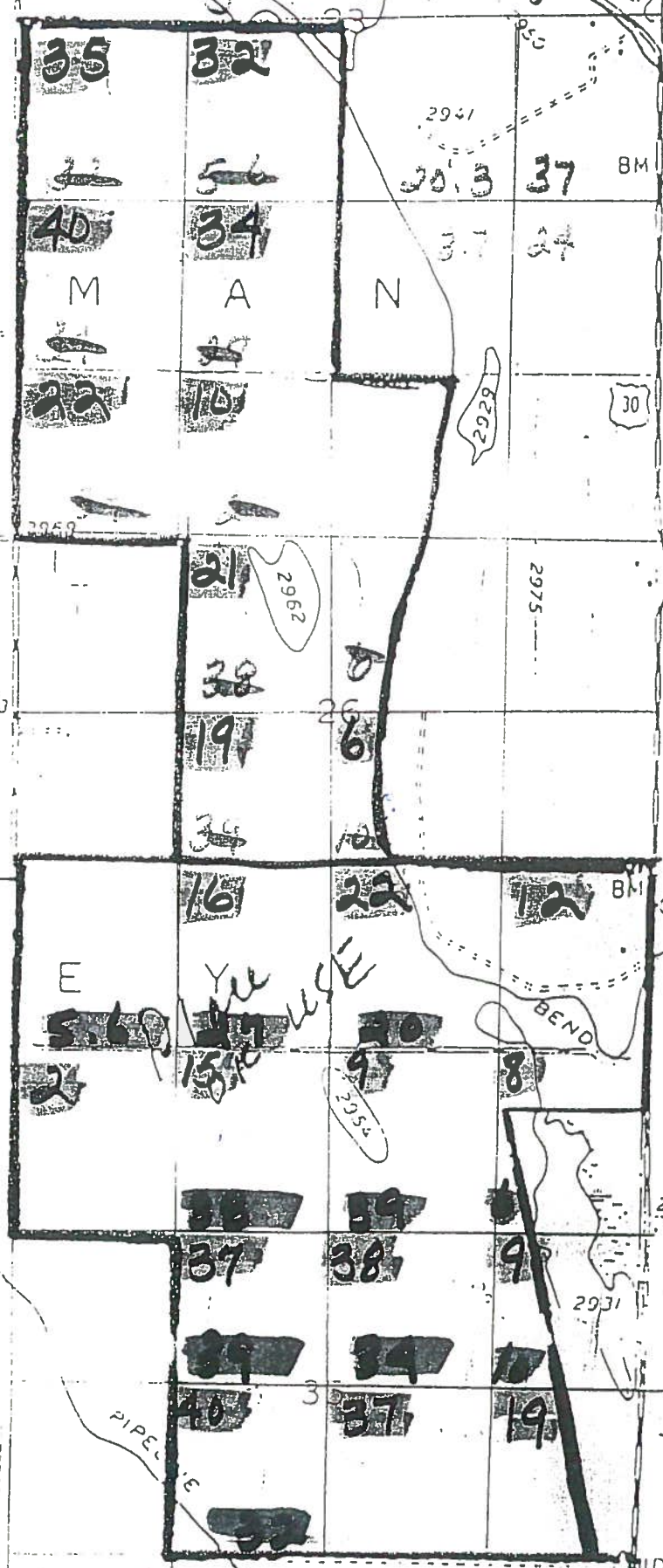
36-00004
when
36-00018/15
not available

36-00004
→
leased land

partially
Decreed
North Bars
219 acres

Total
Decreed
483 acres
36-00018
36-00015

Partially
Decreed
South Bars
264 acres



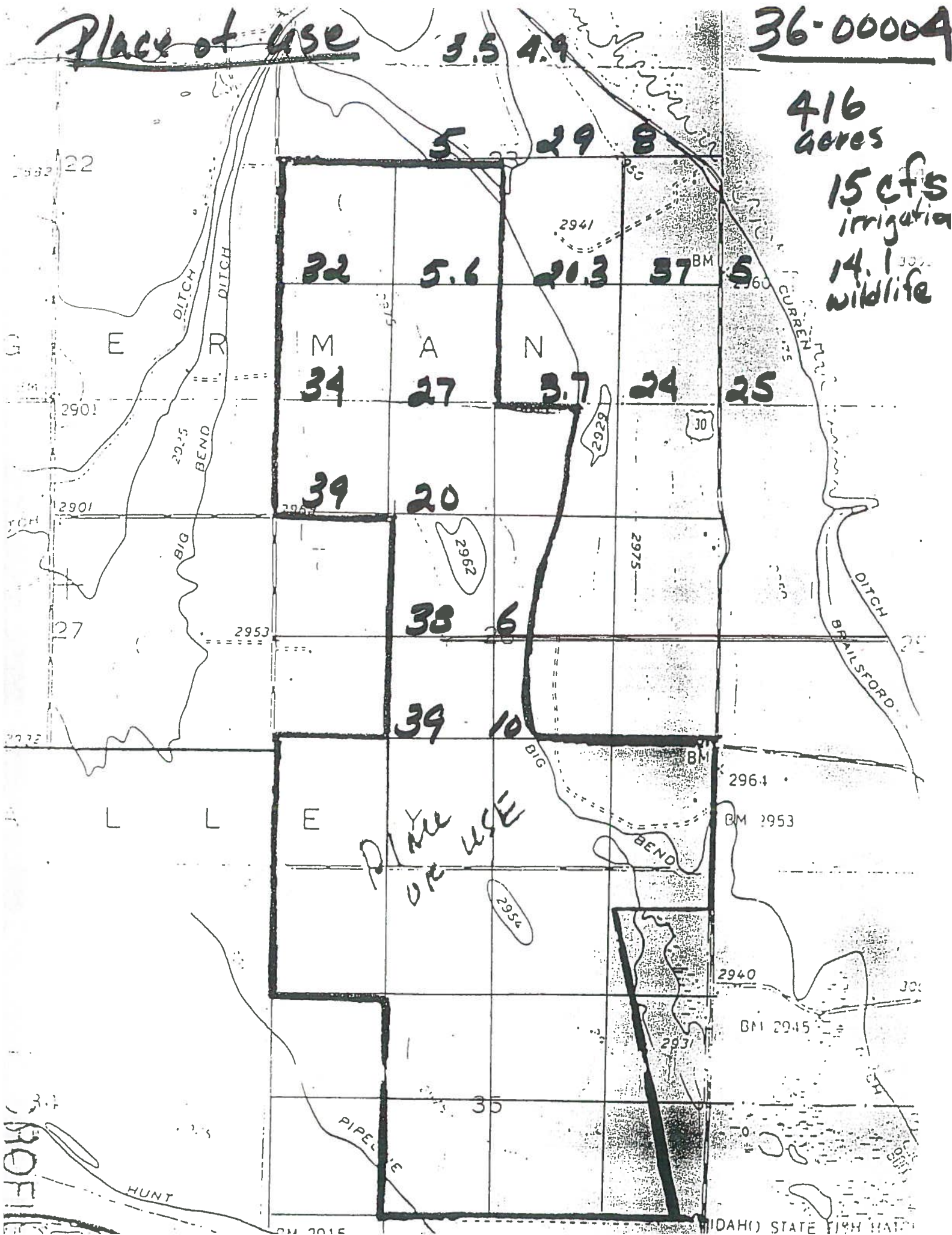
3.5 4.9

36-00004

416
acres

15 cfs
irrigation

14.1 wildlife



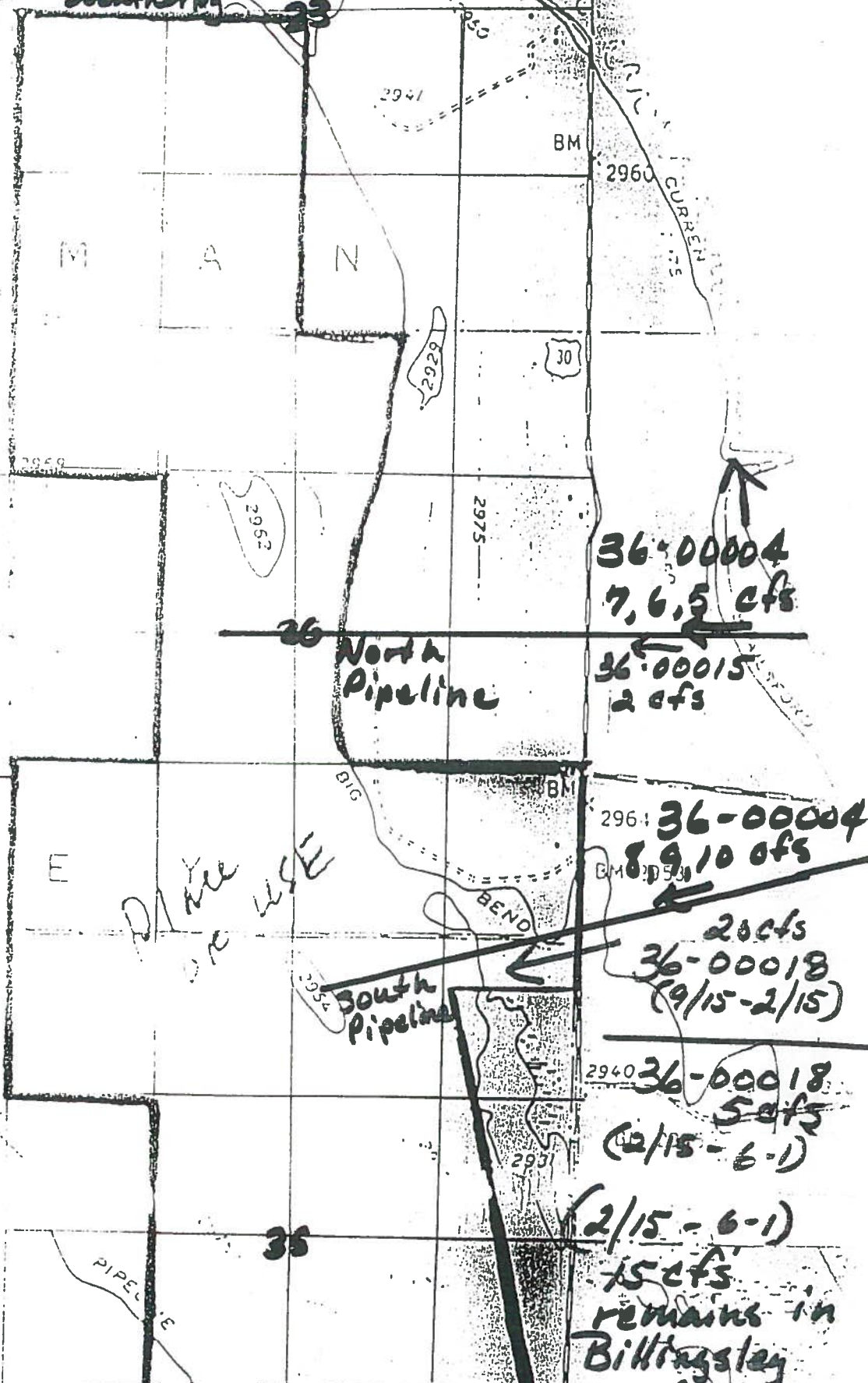
483
acres
20 cfs
2940
irrigation
36-00018
6.5
irrigation
36-00015

Points of use

36-08335
36-00003H
8, 9, 10 of 5

Sept 15 -
May 15 -

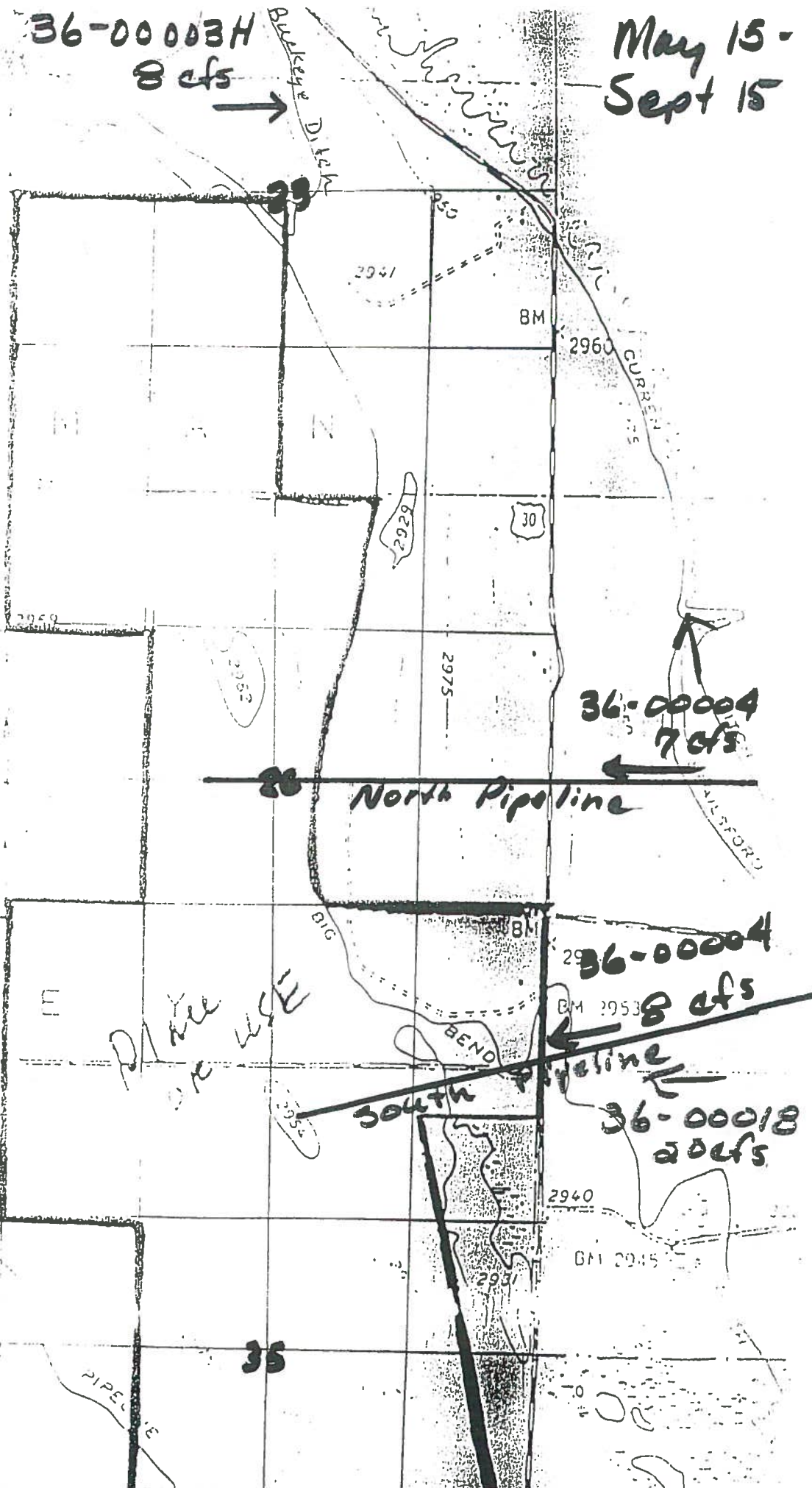
(2/15 - 5/15) (-2 cfs - 36-00015)
Weatherby



Points of use

36-00003H
8 cfs

May 15 -
Sept 15



MEMORANDUM

TO: Dave Tuthill/Nick Spencer
Via Fax: (208) 327-5400

Via Fax: Steve Clelland/Allen Merritt, IDWR Twin Falls
(208) 736-3037

Via Fax: Charles Brockway, Sr.
(208) 736-8506

Via Fax: John Simpson, Attorney for Buckeye Farms, Inc.
(208) 344-6034

Via Fax: Brian Barsotti, Buckeye Farms, Inc.
(208) 726-2922

FROM: Pam Wascher, Western Legends LC
Via Fax: (208) 837-6641

RE: Transfer of Rights 36-00018/36-00015

DATE: April 12, 1999

I will be delivering to IDWR in Boise this date, the Exhibit Boards referenced herein.

I would like to summarize in writing the meeting of April 9, 1999. Due to schedules and illness, several parties either were absent or had to leave early. After several hours of negotiations, no resolution was reached. The meeting turned into a debate rather than a cohesive plan for effectuating the transfer.

The immediate problem: the Judge has stated that a SF5 must be signed by Wednesday, April 14, 1999.

Discussion was held concerning the criteria for determining this transfer. Chuck Brockway, Sr. inquired as to whether the photos were the sole source of determining irrigated acres. IDWR's response was that unless there were affidavits as to irrigation practices and acres irrigated, the photos would be the information upon which they would base their decision.

There are two factors which IDWR must consider in making their determination as to the Place of Use in this transfer.

1. The criteria in the Idaho Code 42-222, and
2. The historical information concerning acres irrigated.

Idaho Code 42-222 requires the director of IDWR to examine all the evidence and available information, and specifically issues set out in 42-222 must be addressed.

...the change does not constitute an enlargement in use of the original right.

IC 42-1416B(5)(a) "Expanded use" means an increase in the number of acres irrigated, or other additional use, under a valid ground water right without any increase in the rate of diversion or volume of water diverted."

Dovel v. Dobson, 122 Idaho 59, 831 P.2d 527 (1992) The transfer of water to divert 1.6 cfs of water to three separate fields did not result in an enlargement of the existing right even though consumptive use to one of the fields had been forfeited by nonuse.

The fact that the entire 560 acres has not been consistently irrigated over the 90 plus years should not prohibit the transfer. There has been no forfeiture, and there have been periods of time when the entire water right could not be delivered. Engineering studie proved up the duty of water for 483 acres.

Section 35 and portions of Section 26 have historically irrigated 560 acres. There are numerous documents relative to the Weatherby water (36-00015) and the Curran water (36-00018) substantiating this fact:

EXHIBIT BOARD NO. 1

1. Certificate of Completion of Works (Curran water) dated October 31, 1918, which identifies 520 acres in Section 35 as being the section for place of use of this water.

2. Engineer's Map (1918) showing Section 35 being owned by F. D. Brown showing the portion of Section 35 historically irrigated with the Curran water.

3. Certificate of Completion of Works dated October 31, 1918 issued by Fred A. Wilkie, State Engineer of the State of Idaho showing this Section as being the land to which this water is applied.

4. Deposition of Holder, F. D. Brown, dated March 21, 1918, testifying that the water has been turned into the works and is "running full of water". (Curran water on the 560 acres).

5. Deposition of Witness, Nat Owsley, dated March 21, 1918, describing the capacity of the "works" delivering the Curran water to Section 35.

6. Deposition of Witness A. T. Ingalls, dated March 21, 1918, describing the capacity of the "works" delivering the Curran water to Section 35.

EXHIBIT BOARD NO. 2

1. Indenture Agreement dated April 27, 1911, wherein The Buckeye Land Company, Inc. sells to Henry Bryant, thirty-five (35) inches of water to be used and applied on Lots numbered one and two (1 & 2) of Section Thirty-five (35), said water to be delivered from the Buckeye Ditch.

This document shows that water was historically delivered to the corner of Section 35 in question.

2. 1946 aerial photo showing the ditch system to Section 35 from the Buckeye Ditch.

3. 1964 aerial photo showing the ditch system to Section 35 from the Buckeye Ditch.

EXHIBIT BOARD NO. 3

1. 1946 aerial photo showing the irrigated acres reference in board documents.

2. 1918 Engineer Drawing indicating the location of a pipeline running parallel to Highway 30, which delivered water to the NE1/4 of the NE1/4 of Section 35, which was irrigated with the Weatherby water (IDWR determined that this 1/4 section could not have been irrigated by Weatherby water).

3. 1928 Engineer Drawing showing pipelines and the NE1/4 of the NE1/4 of Section 35 being irrigated by the Weatherby water.

4. Proof of Application of Water to Beneficial Use (Weatherby water) Deposition of Witness, Fred J. Vader, dated June 28, 1928, testifying to the acres being used for irrigation in Section 26 and the NE1/4 of the NE1/4 of Section 35.

5. 1911 Decree showing the Weatherby Water being decreed to the Ormsby Land and Livestock Company (then the owner of the Bar S property) in Section 26 and Section 35.

The total acreage referenced in these documents is 560 in Section 35 and the portions of Section 26 in question. These documents show that historically at least "483 acres" (as Decreed in Water Rights 36-00015 and 36-00018) were irrigated.

EXHIBIT BOARD NO. 4

1. 1946 aerial photo with colored arrows showing the North pipeline and the pipeline heading south which irrigated the NE1/4 of the NE1/4 of Section 35.
2. Photos of the pipeline from the North pipeline used to irrigate the NE1/4 of the NE1/4 of Section 35.

EXHIBIT BOARD NO. 5

1. Photos of the ditch system from the "North Bar S" in Section 26 to the South quarter sections.
2. Photos of the old gates and pipeline used to irrigate the south portion of Section 26.

EXHIBIT BOARD NO. 6

A number of documents support the use of 18/15 water on Section 35 and Section 26.

1. 1932 New International Decree.
2. Agreement for Sale of Spring Valley Ranch, Inc.
2. Corporate Warranty Deed.
3. Transfer Deed.

Idaho Code 42-222 further states:

...the change is consistent with the conservation of water resources within the state of Idaho.

Idaho Code 42-1501 references minimum stream flow and the Legislative Purpose. Buckeye Farms, Inc. is complying with this statute by way of allowing a major portion of their water rights to be diverted into Billingsley Creek for five (5) months of each year, and they will use these waters after it has been beneficially used in Billingsley Creek.

... is in the public interest as defined in section 42-203A(5)

- (a) this transfer will not reduce water supply
- (b) water supply is sufficient
- (c) application is made in good faith
- (d) financial resource is not an issue
- (e) this transfer will not conflict with public interest
- (f) this transfer complies with the state's conservation of water resources.

Again, Buckeye's allowing water to flow through Billingsley Creek before their use of their water rights, certainly supports this criteria of ID 42-222 as to public interest.

...significantly affect the agricultural base of the local area

This transfer does not negatively affect the agricultural base.

...The transfer of a right to the use of stored water for irrigation purposes shall not constitute an enlargement in use of the original right even though more acres may be irrigated, if no other water rights are injured thereby.

This criteria does not apply in that this transfer is not to the use of stored water for irrigation purposes.

This transfer is only asking for 483 acres to be placed where historically 560 acres have been irrigated, yet this statute would allow more acres to be irrigated with stored water.

CONCLUSION

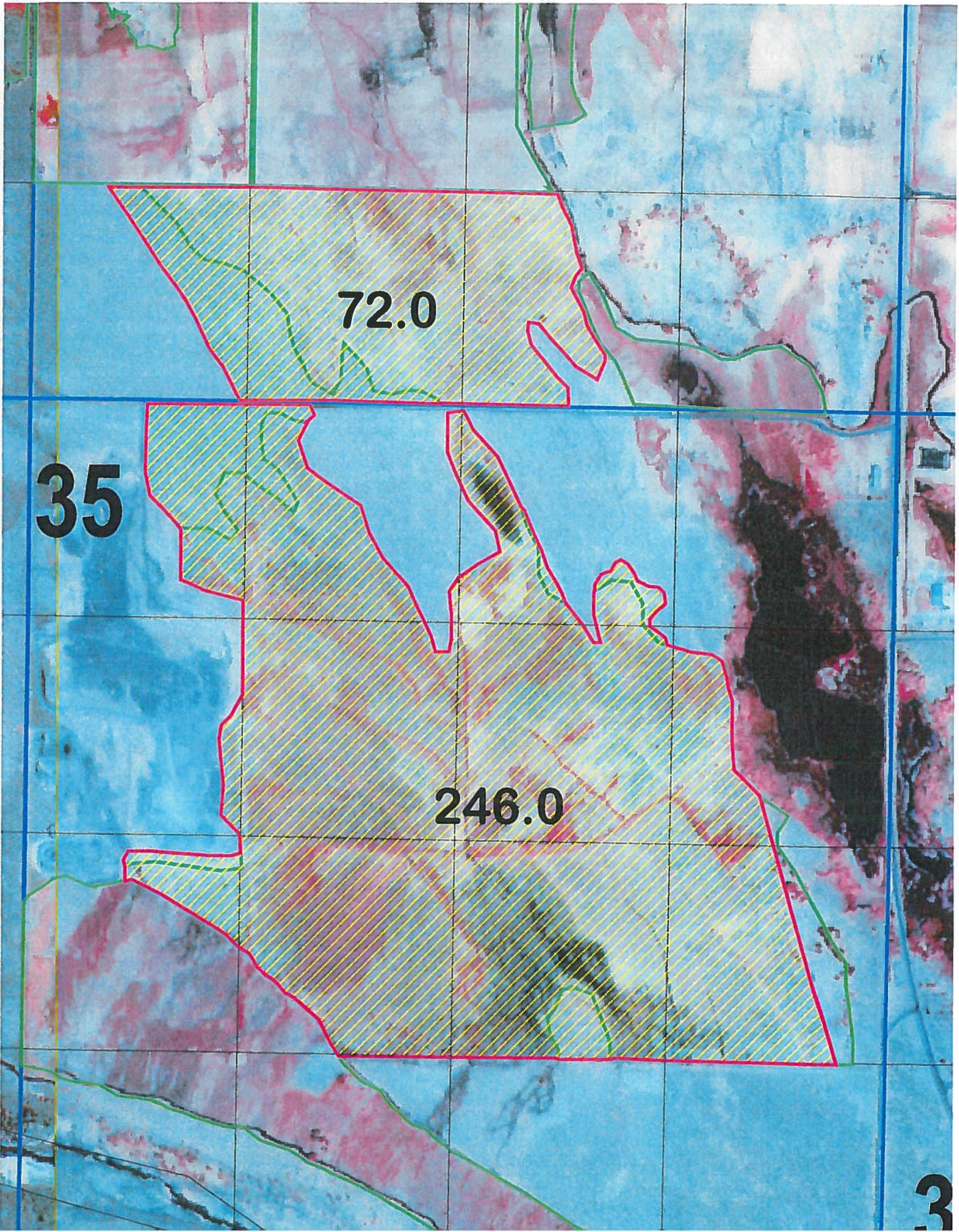
In our prior meeting in Twin Falls with Dave Tuthill, Nick Spencer, et al, the transfer was initially discussed, as well as historical irrigation practices. Issues of the protestants were also discussed. The issues of the protestants have been addressed. Buckeye Farms, Inc. and Western Legends LC (who was originally one of the protestants, and has withdrawn its protest), with the assistance of Chuck Brockway, Sr., is ready,

willing and able to obtain the withdrawal of all protests from protestants, having addressed their concerns immediately upon IDWR's approval of this transfer.

IDWR has stated from the inception of the Settlement Negotiations of 36-00004 that the removal of the 36-00015 and 36-00018 rights from the North Bar S must take place prior to the decreeing the 36-00004 right.

- All parties have complied with the requirement of the IDWR. Substantial evidence as to the historical use in Section 35 and Section 26 has been presented.
- IDWR stated that if Buckeye could prove that 483 acres were available in the South Bar S that either an administrative transfer or statutory transfer could take place, based on the fact that had the 04 right been adjudicated at the same time as the 15/18 right, this error in "place of use" would not have occurred.
- Time is of the essence in the conclusion of this matter due to the ruling of the Judge in the 36-00004. All parties to this adjudication have settled their differences, and IDWR needs to uphold their oral commitments in decreeing this 04 water right.
- Photos presented showing irrigated acreage are 5 examples of 1 day in 1 year, out of 90 plus years of irrigation on this property. These photos were presented to support IDWR's resolution to correcting an error in place of use.

IDWR has a fiduciary duty to complete this transfer based on their oral representations made to Buckeye Farms, Inc. and Western Legends LC., and based on the substantial evidence which more than adequately supports the Idaho Code requirements of this transfer.



8-3-92

CONVEYANCE LOSS - WORSTELL

REACH	LENGTH (FT)	AVE WIDTH (FT)	SEEPAGE (FT/DAY)	WORSTELL LOSS (CFS)	DELIVERY (CFS)	DELIVERY LEFT (CFS)	LOSS FACTOR	DELIVERY LOSS (CFS)	FLOW (CFS)
1	1600	10.0	2.00	0.40	0.06	31.06	0.0130	0.00	32.80
2	200	10.0	2.00	0.05	20.69	31.00	0.0016	0.30	32.34
3	1700	10.0	2.00	0.43	1.00	10.31	0.0417	0.06	11.60
4	1500	10.0	2.00	0.38	6.25	9.31	0.0407	0.61	10.17
5	6300	3.0	2.00	0.48	3.06	3.06	0.1561	0.77	3.54
6	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	0.00
7	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	0.00
8				0.00		0.00	0.0000	0.00	0.00
9				0.00		0.00	0.0000	0.00	0.00
10				0.00		0.00	0.0000	0.00	0.00
11				0.00		0.00	0.0000	0.00	0.00
12				0.00		0.00	0.0000	0.00	0.00
13				0.00		0.00	0.0000	0.00	0.00
14				0.00		0.00	0.0000	0.00	0.00
15				0.00		0.00	0.0000	0.00	0.00
16				0.00		0.00	0.0000	0.00	0.00
17				0.00		0.00	0.0000	0.00	0.00
18				0.00		0.00	0.0000	0.00	0.00
19				0.00		0.00	0.0000	0.00	0.00
20				0.00		0.00	0.0000	0.00	0.00
TOTALS	11300			1.74	31.06			1.74	

REACH = SECTION OF CHANNEL

LENGTH = LENGTH OF REACH, THE CHANNEL CAN BE DIVIDED INTO EQUAL LENGTH REACHES
OR ACTUAL LENGTHS BETWEEN DELIVERY POINTS

AVE WIDTH = AVERAGE TOP WIDTH OF REACH

SEEPAGE = SOIL SEEPAGE RATE OF REACH

WORSTELL LOSS = CONVEYANCE LOSS IN REACH BASED ON WORSTELL METHOD

DELIVERY = TOTAL DELIVERIES IN REACH

DELIVERY LEFT = SUM(DELIVERIES OF CURRENT AND REMAINING REACHES)

LOSS FACTOR = WORSTELL LOSS/DELIVERY LEFT

DELIVERY LOSS = SUM(LOSS FACTORS OF CURRENT AND PREVIOUS REACHES) X DELIVERY,
REPRESENTS THE LOSSES ASSIGNED TO THE DELIVERIES IN THE REACH

FLOW = TOTAL FLOW AT BEGINNING OF EACH REACH

* THESE RIGHTS SHARE THIS PORTION:

36-00015

36-00011B

36-00189A

36-00011C

36-11142

36-00011D

36-00198A

36-00033B

36-15157

36-00033C

36-00033D

36-00033E

$$0.61 \div 12 = 0.05 \text{ cfs per right}$$

COPY

⊗ Some rights will not have their
conveyance loss identified in Devec.

MEMO

TO: FILE A36-00003G
FROM: STEVE CLELLAND *SC*
DATE: April 9, 1997

RE: FOLLOW-UP MEMO TO REVIEW REQUEST BY IDWR
ATTORNEYS; A36-00003G

=====

On December 12, 1996, Special Master Dolan issued the Order Granting Motion to Amend Claim No. 36-00003G. Shortly thereafter I was asked to review and investigate the changes made to the claim as a result of the Amendment and additional evidence.

After reviewing the information submitted I could find no indication that any changes were needed to the original recommendation of the SRBA Claim No. A36-00003G. The mere confirmed ownership of the west half of the 40 acre tract by Mr. Lloyd does not alter the facts found that no Buckeye Ditch water is used on that portion of the land; only as previously reported under the right 36-00003G.

RECEIVED

DEC 26 1996

DEC 13 1996

Department of Water Resources
Snake River Basin

Department of Water Resources

1996 DEC 12 AM 10:04

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

DISTRICT OF THE
TWIN FALLS CO., IDAHO
FILED

In Re SRBA

) Subcase 36-00003G

Case No. 39576

)
) ORDER GRANTING MOTION
) TO AMEND CLAIM
)

On December 6, 1996, claimants Cleave and Betty Lloyd filed a *Motion to Alter/Amend Preliminary Report*. In the *Motion*, the Lloyds sought amendment to include in their claim irrigable land they own in the W $\frac{1}{2}$ of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, § 22, T 7S, R 13E, B.M., Gooding County, Idaho. The Lloyds alleged that before and during trial, they were not aware of a deed conveying that land and appurtenant water rights to them. For that reason, the Lloyds claimed water rights only for the E $\frac{1}{2}$ of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ when they filed their claim on September 19, 1988.

Although the Lloyds filed a *Motion to Alter/Amend Preliminary Report* in a timely manner, because of the nature of the relief sought, the court will deem their *Motion* to be a *Motion to Amend Claim*. There are no other parties to the subcase.

The court finds that because (1) there is no indication that the Lloyds intend to claim more than the 20 acres originally claimed, and (2) the relief sought conforms to the evidence presented at trial concerning the Lloyds' use of water, the Lloyds have stated good cause to amend their claim.

Therefore, it is ordered that the Lloyds' *Motion to Amend Claim* is **granted**. The claim is hereby amended to be for irrigation of no more than 20 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, § 22, T 7S, R 13E. IDWR is requested to investigate and report to the court in a reasonable time the Lloyds' alleged use of water to irrigate land in the W $\frac{1}{2}$ of the NE $\frac{1}{4}$ NE $\frac{1}{4}$. IDWR does not have to report further concerning water use in the E $\frac{1}{2}$.

In the meantime, the court will take under advisement IDWR's *Report Re: Review of Special Master's Amended Report and Recommendation in Subcase No. 36-00003G*, lodged November 21, 1996.

DATED December 12, 1996.



TERRENCE A. DOLAN
Special Master, Reporting Area 3
Snake River Basin Adjudication



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNORKARL J. DRESHER
DIRECTOR

RECEIVED

DEC 10 1996

TRANSMITTAL COVER SHEET

Department of Water Resources
Southern Region

FAX NUMBER: (208) 327-5400

DATE: 12/10/96

TO:

Steve Clelland
Southern

FROM:

Charlie Honsinger

DOCUMENT DESCRIPTION:

FVI - I'll call to discuss
some km

COVER SHEET + 2 PAGES

CONTACT: IF YOU DO NOT RECEIVE ALL THE PAGES

THANK YOU!

CLEAVE Lloyd - Outclaim

RECEIVED

DEC 11 1996

Department of Water Resources
Southern Region

RECEIVED

DEC 09 1996

Department of Water Resources

1996 DEC -6 PM 3:08

DISTRICT COURT-SRBA
TWIN FALLS CO, IDAHO
FILED _____IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Subcase: 36-00003G

Case No. 39576

MOTION TO ALTER/AMEND
PRELIMINARY REPORT

I hereby request that the Amended Preliminary Report & Recommendation be amended to include irrigable acreage in the W $\frac{1}{2}$ of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 22, Township 7 South, Range 13 East of the Boise Meridian.

This request is made because of recently discovered evidence that I and my wife own the above property. Before and during the trial, I was unaware that this evidence was available and I only recently discovered the Quitclaim Deed dated December 15, 1986, wherein my brother, Jesse W. Lloyd, quitclaimed the property and appurtenant water rights back to me and my wife.

Attached is a photocopy of this Quitclaim Deed.

Cleave C. Lloyd
Cleave Lloyd, claimant *pro se*

cc: Idaho Department of Water Resources

QUITCLAIM DEED

For Value Received

JESSE W. LLOYD

Box 123, Almo, Idaho 83312

do hereby convey, release, remise and forever quit claim unto

CLEAVE LLOYD AND BETTY LLOYD, Husband and Wife
Route 1, Box 14, Hagerman, Idaho 83332

the following described premises in Gooding County, Idaho, to-wit:

W $\frac{1}{2}$ of NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 22, Township 7 South, Range 13 East of the
Boise Meridian

Together with 2 shares of Big Bend Mining and Irrigation Company
and ten inches of water of Billingsley Creek.

125364
STATE OF IDAHO
COUNTY OF GOODING, SS
RECORDED AT REQUEST
Cleave Lloyd
'86 DEC 15 PM 1 18
H. T. 200

together with their appurtenances.

Dated: December 15, 1986

Jesse W. Lloyd
JESSE W. LLOYD

STATE OF IDAHO, COUNTY OF GOODING

On this 15th day of December, 1986,
before me, a notary public in and for said State, personally appeared

Jesse W. Lloyd

known to me to be the person whose name is
subscribed to the within instrument and acknowledged
to me that he executed the same.

William M. Sutton
Notary Public

Residing at Gooding, Idaho

STATE OF IDAHO, COUNTY OF TWIN FALLS

I hereby certify that this instrument was filed for record at the request of

at _____ minutes past _____ o'clock m.,
this _____ day of _____
19 _____, in my office, and duly recorded in Book
of Deeds at page _____

Ex-Officio Recorder

By _____ Deputy.

Fees \$

Mail to:

A36-000039

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

In Re SRBA
Case No. 39576

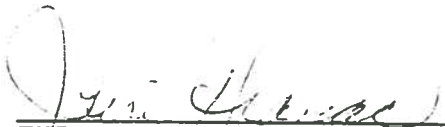
NOTICE OF ISSUANCE OF
PRELIMINARY SPECIAL MASTER'S
REPORT AND RECOMMENDATION

Water Right(s): 36-00003G

On November 08, 1996, Special Master TERRENCE A. DOLAN lodged a PRELIMINARY SPECIAL MASTER'S REPORT and a PRELIMINARY SPECIAL MASTER'S RECOMMENDATION pursuant to SRBA Administrative Order 1 section 9 (f).

These documents are served only on parties to the subcase. They are not served on the Presiding Judge. Parties to this subcase may file a Motion to Alter or Amend with the Special Master, but must do so before November 22, 1996.

DATED November 08, 1996.


TERI HRANAC
Deputy Clerk

NOTICE OF ISSUANCE

MICROFILMED
PAGE 1
11/08/96 4 1996

JAN 10 PM 1:00
JAN 10 1996
JAN 10 1996
JAN 10 1996

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

In Re SRBA

) Subcase: 36-00003G

Case No. 39576

)
)
) AMENDED PRELIMINARY
) SPECIAL MASTER'S REPORT
) AND RECOMMENDATION
)

Background

1. Claim

Cleave and Betty Lloyd filed this claim on September 19, 1988, seeking .4 cfs from Billingsley Creek through the Buckeye Ditch to irrigate 20 acres with a total volume of consumptive use of 60 afy. The claimed priority date was September 10, 1884. The Lloyds based their claim on the *New International Mortgage Bank v. Idaho Power Company* decree entered in the United States District Court in 1932. In the remarks section of the claim form, the Lloyds wrote:

This rt. was obtained when 10 shares of Big Bend Irrig. Co. water was traded for this 20" of Decree thru the Buckeye Ditch.

On November 2, 1992, IDWR filed with the SRBA Court its *Director's Report for Reporting Area 3 (Basin 36)*. The Director recommended .12 cfs to irrigate 3 acres with a total volume of consumptive use of 9 afy. Under remarks, the Director stated that ".03 cfs of this right is limited to use for conveyance losses in delivery of this right."

The Lloyds filed their *Objection* on April 29, 1993, objecting to quantity, purpose of use, period of year, place of use, consumptive use, remarks and other. IDWR filed its *Response to Objection* on September 10, 1993, proposing no changes in the recommendation. No one else filed an objection to 36-00003G.

At the pre-trial hearing, IDWR agreed that domestic use should be added to irrigation use.

At trial, the Lloyds amended their claim to include irrigation, domestic and "other purposes" based on language in the *New International* decree.

2. Trial

A ten hour trial was held on May 8, 1996, at the SRBA Courthouse in Twin Falls, Idaho. The Lloyds appeared and represented themselves. IDWR was represented by Brent King and Charles Honsinger. The day after trial, Mr. Lloyd, George Lemmon, Brent King, Steve Clelland and the Special Master viewed the Lloyds' property and related water delivery systems in the Hagerman Valley.

3. Responses to *Preliminary Special Master's Report and Recommendation*

A *Preliminary Special Master's Report and Recommendation* was entered on July 1, 1996. The Lloyds responded on July 11, 1996, by filing a two page letter in the nature of a *Motion to Reconsider and to Correct Clerical Errors*. The Lloyds' *Motion* pointed out several factual errors which have since been corrected. They also disagreed with the recommended quantity of water used, place of use (number of irrigated acres) and purposes of use.

On July 15, 1996, IDWR lodged its *Review of Preliminary Special Master's Report*. The *Review* described calculation errors in both the recommended duty of water and conveyance loss.¹ IDWR then offered to perform a Hubble analysis of the Lloyds' property and submit the results to the court. On August 26, 1996, the Lloyds wrote to the court agreeing to cooperate with IDWR in preparation of a Hubble analysis of their property.

The court entered an **Order Requiring Hubble Analysis and Report** on August 27, 1996. As part of the **Order**, the Lloyds were given the opportunity to respond to the report after it was lodged. Then, the court would consider the taking of evidence closed.

4. Hubble Report

IDWR lodged several documents on October 2, 1996, which comprise its Hubble report:

- o *Report Regarding Claim to Water Right No. 36-00003G*
- o Affidavit of David R. Tuthill, Jr.
- o *Evaluation of Irrigation Diversion Rate, Water Right Number: 36-00003G*
- o Affidavit of Jeff Peppersack
- o *Report Regarding Evaluation of Irrigation Diversion Rates*

¹ As a follow-up to the *Review*, IDWR lodged its *Report Regarding Error in the Special Master's Preliminary Report and Recommendation in Subcase No. 36-00003G* on August 29, 1996. This *Report* addressed the issue of conveyance loss in more detail.

- *Report to Hagerman Water Right Owners Association, "Crop Water Requirements in the Hagerman Valley," February 4, 1994.*

The Lloyds did not respond to IDWR's Hubble report.

Finding of Fact

1. Contract of Sale

On July 16, 1957, the Lloyds bought a 40 acre tract of land in the Hagerman Valley from Harry and Joy LeMoyné.² The Contract of Sale stated:

Vendors covenant and agree that there are four shares of the Big Bend Mining and Irrigation Co and twenty inches of water from Billingsley Creek which represent the water appurtenant to the property herein conveyed.

Contract of Sale, p. 2, attached to *Notice of Claim to a Water Right*.

Sometime after the purchase, the Lloyds deeded the W½ of the property (20 acres) to Mr. Lloyd's brother, but retained the E½ (20 acres). The Lloyds' claim in the SRBA was for irrigation of the entire 20 acres in the E½ the Lloyds still own. Mr. Lloyd's brother has not filed a claim in the SRBA for water on his 20 acre parcel.

2. New International Decree

IDWR agreed with the Lloyds that water right 36-00003G derives from water rights first decreed to the New International Mortgage Bank in 1932. In the *New International* decree, the court described land in the Hagerman Valley:

[T]hat the subsoil of said valley underlying said valley and all of the same is shattered, fissured lava flow, upon which has been deposited layers of clay and gravel, interspersed with water worn boulders, fragments of rock, and the soil is composed mainly of decomposed lava rock, oxidized lava rock and sand, and that owing to the nature of the soil and subsoil, the coarse texture and the mechanical composition of the soil and its free drainage, the said land and all of the land in Hagerman Valley requires a large amount of water, as hereinafter specified, for its successful irrigation and production thereon of ordinary agricultural crops.

Lloyd Exhibit 7, pp.1-2.³

² The tract is described as: T 7S, R 13E, § 22, NE¼NE¼, B.M., Gooding County, Idaho.

³ Lloyd Exhibit 7 is a copy of the *New International* decree from the National Archives and Records Administration (NARA) in Seattle, Washington. This 36 page document was certified by the director, National Archives-Pacific NW Region, and is a photocopy of the original maintained by the agency charged with keeping U.S. Government records, including this decree entered in the U.S. District Court for the District of Idaho, Southern

After describing the Hagerman Valley, the court listed water rights awarded to the New International Mortgage Bank, including 20 cfs from Billingsley Creek for the "irrigation of its hereinafter described land and for domestic and other purposes thereon...." Lloyd Exhibit, pp. 3-4. It is part of this water, with a priority date of September 10, 1884, that the Lloyds and IDWR agreed was transferred to the Lloyds' property.⁴

For each water right in the *New International* decree, the court listed ownership, amount of water and source, priority of appropriation, diversion point, place of use and purpose of use. However, besides annual volume of consumptive use and period of use, the decree omitted the irrigated acreage. Therefore, the Lloyds' claim for water to irrigate their 20 acre parcel is based on a portion of water previously decreed to some other unknown number of acres.

3. The Lloyds' Water Uses

The Lloyds are best described as resourceful and independent people. Soon after they bought the land 39 years ago, they built their own 8 kilowatt hydroelectric power generator behind their house. Water delivered through the Big Bend Ditch supplies all the electricity they need.⁵ The Lloyds also receive water through the Big Bend Ditch for their domestic use under 36-00133.⁶ They have no well.

George Lemmon, water master for the Hagerman Valley, said the Lloyds never wasted water. They have always been assessed operation and maintenance charges based on 20" (.04 cfs) of water delivered through the Buckeye Ditch.

Division. For a complete discussion of the differences between the NARA copy of the *New International* decree and the copy on file with the District Court Clerk for Gooding County, see Subcases 36-00134B and 36-00135A, **Order Denying Motion for Summary Judgment**, entered June 13, 1996.

⁴ There is no clear evidence of how or when the exchange of water was accomplished- "10 shares of Big Bend Irrig. Co. water was traded for this 20" of decree thru the Buckeye Ditch." Attached to the *Notice of Claim* is a letter dated April 14, 1959, from H.F. LeMoyné to George Lemmon, Secretary of the Buckeye Ditch Association. Mr. LeMoyné wrote that 20 inches of 1884 priority date water from the Buckeye Ditch "is being transferred to and shall hereafter be appurtenant to" land which the LeMoynes sold to the Lloyds two years earlier. Mr. Lloyd guessed that this water transfer, which he called "horse trading", occurred in the 1940's.

⁵ In 36-04142, the Lloyds claimed a beneficial use right to 11 cfs of water delivered through the Big Bend Ditch for power generation year 'round with a priority date of April 1, 1960. The Director recommended 5 cfs. On March 5, 1996, the Lloyds and IDWR agreed on 8.23 cfs.

⁶ 36-00133 is claimed by the Big Bend Irrigation and Mining Company with a priority date of December 17, 1903. That water probably represents some, if not all, of the Lloyds' shares in Big Bend Irrigation and Mining Company mentioned in their Contract of Sale with the LeMoynes. There was testimony that the Lloyds receive additional domestic water under 36-00192; however, IDWR recommended that claim for irrigation use only. The Lloyds' property is not included in the recommended place of use for 36-00192.

The Lloyds often commingle their water for multiple uses. Besides power generation, domestic and irrigation, the Lloyds have used their water for livestock, saw cooling at their own sawmill, truck washing, fire protection and even groundwater recharge. They also own and store a bewildering array of used automobiles, machinery and assorted materials on the premises.

Mr. Lloyd is a jack-of-all-trades whom many in the Hagerman Valley call upon to build, repair or clean their equipment. The Lloyds own large earth moving equipment Mr. Lloyd uses to repair and maintain up to 8 different water ditches.⁷ He described his accomplishments best when he said, "I've made things work."

Harry LeMoyne recalled that the Lloyd property had 20 shares of Buckeye Ditch water when he bought it in the late 1940's. His family ran a sheep operation and they used the land mostly for pasture. He remembered the whole place was irrigated around the rocks by contour ditches. Fruit trees were scattered around lava rock outcroppings. Mr. LeMoyne never knew exactly how many acres were irrigated and no one measured the amount of water his family used. Mr. LeMoyne guessed that 20 of the 40 acres were irrigated. He did not specify where on the property those 20 irrigated acres were located.

4. Buckeye Ditch

Harry LeMoyne said the Buckeye Ditch was originally built by the Buckeye Ranch as a miner's ditch for placer mining. As more people moved into the Hagerman Valley, the Buckeye Ranch was split up and sold. Uses for water from the Buckeye Ditch changed. The ditch now carries water over 5 miles from the headgate on Billingsley Creek to approximately 74 share owners. The Lloyd's property is about 2½ miles down the ditch. Steve Clelland, senior water resources agent for IDWR, said part of his task is to make sure that all these uses total no more than the original right.

From the time Mr. LeMoyne bought the Lloyd property in the late 1940's through the present, no one measured the amount of water taken out of the Buckeye Ditch. Water was measured only at the headgate on Billingsley Creek. Mr. LeMoyne recalled that folks simply took the water they needed when they needed it. Mr. Clelland described the practice as "informal rotation"- very common in the Hagerman Valley to this day. Mr. Clelland was not sure if all users along the Buckeye Ditch have the same priority date, but he could not recall water being administered in

⁷ Mr. Lloyd is president of both the Big Bend Irrigation and Mining Company and the Buckeye Ditch Company. Mr. Lloyd said he took the jobs to make sure the ditches were cleaned and kept in good repair. Otherwise, he and others would not receive their allotted water.

priority within the ditch.

5. Conveyance Loss

Since the Lloyds claimed a diversion of more than 1" per acre (.02 cfs), IDWR calculated the ditch conveyance loss at the Lloyds' property by using the "Worstell Method". The formula takes into account the length and width of a ditch, plus the amount of water absorbed into the ditch soil. The calculation is not dependent on the quantity of water flowing in the ditch.

The total conveyance loss for the Buckeye ditch was allocated among the various rights based on the quantity of water delivered within a given reach of the ditch and on their delivery locations along the ditch.⁸

The Buckeye Ditch was never actually measured for conveyance losses, but the accuracy of the Worstell Method has been verified on similar ditches. In this instance, the equation yielded a conveyance loss of 25%. IDWR's calculations were in line with informal measurements made by the Lloyds' neighbor, Lynn Babbington.⁹

Moss and slime in the Buckeye Ditch contribute some to conveyance losses, but such growth can also seal the lining of the ditch. Its real impact is on delivery of water through the ditch. First, plant growth displaces the water and can block its flow altogether. Second, when the plant growth becomes excessive, the ditch must be dried up and cleaned. Mr. Lloyd said he cleans the Buckeye Ditch three times each year. When the flow of water is resumed, conveyance loss is higher until the ditch lining is restored.

The Lloyds are concerned about ditch maintenance and conveyance losses on the Buckeye Ditch and the Big Bend Ditch because they commingle their water rights from both ditches. They try to use a continuous amount of water from either ditch when one of the ditches is dried up for cleaning. This can be accomplished by simply adjusting valves along their diversion works.

6. Irrigated Acreage

Mr. Clelland said the Lloyds' use of water on their property over the past 20 or 30 years has been consistent. Based on several field inspections and assorted aerial photographs, Mr. Clelland calculated that the Lloyds irrigate no more than 3 acres within their 20 acre parcel- mostly around

⁸ IDWR's Report Regarding Error in the Special Master's Preliminary Report and Recommendation in Subcase No. 36-00003G, p. 2.

⁹ The Lloyds introduced a Soil Conservation Service report, dated October 2, 1992. The report described canal losses along the Big Bend and Buckeye Ditches between 4% and 32% per mile. But without further evidence or testimony, the court was unable to relate those figures to IDWR's results.

the house and shop. The remainder of the property is occupied by buildings, roadways, work and storage areas, lava rock pressure ridges and ground covered by non-irrigated native grasses.

During trial, Mr. Lloyd said he still irrigates within the whole 40 acre parcel he and his wife bought from the LeMoynes. That includes his brother's 20 acres. However, Mr. Lloyd estimated that only 10 acres of his own 20 acre parcel is irrigable and being irrigated on an irregular basis. He stopped irrigating some of the land because of his age (69), the time and expense of maintaining his own ditches and the low return for his efforts.

7. Duty of Water

Because the Lloyds' claim was recommended for irrigation of fewer than 5 acres, Mr. Clelland applied IDWR's diversion standard of $1\frac{1}{2}$ " per acre (.03 cfs). IDWR routinely applied this higher than 1" per acre (.02 cfs) standard to account for inefficiency inherent in smaller systems. When applied to the recommended 3 acres, that equaled an on-farm irrigation requirement of .09 cfs. That figure, plus a conveyance loss of .03 cfs, equaled the total irrigation diversion of .12 cfs recommended in the Director's Report. At trial, IDWR offered no testimony to support its standard for the duty of water in the Hagerman Valley.

On the other hand, Mr. Lloyd offered some evidence in support of a diversion quantity higher than recommended by IDWR.¹⁰ The first bit of evidence was a report, dated October 2, 1992, from the United States Department of Agriculture, Soil Conservation Service (SCS), in Boise. The report first described "two unique features of the Hagerman area":

1. A climate hotter than that of the Snake River Plain a few hundred feet higher in elevation; and,
2. Sandy soils of high permeability, low water holding capacity, and low water holding retention ability.

The SCS report continued by defining the irrigation season in the Hagerman Valley as "in excess of 200 days", and then suggested the appropriate duty of water:

It takes a high degree of management to surface irrigate these soils. It can be argued that it takes 28 gpm/ac.[.06 cfs or 3.1"/acre] delivered to the field to successfully manage surface irrigation. Sandy soils, bare conditions, steep slopes, and high flows per furrow can all contribute to erosion and sediment transport. Computer modeling,

¹⁰ The Lloyds claimed .4 cfs to irrigate 20 acres or .02 cfs/acre (1"/acre). IDWR recommended a higher diversion rate per acre than claimed- .09 cfs to irrigate 3 acres (excluding .03 cfs for conveyance losses) or .03 cfs/acre (1½"/acre). However, the Lloyds objected to the recommended quantity, *inter alia*, as being "less than decreed and/or beneficially used... Objectors reserve the right to claim...quantities of use as shown by the evidence at trial." *Objection*, p. 7.

however, shows little runoff, but high deep percolation.

Lloyd Exhibit 3, p. 2.

A supplement to the SCS report, dated October 7, 1992, described another farm in the Hagerman Valley:

Furrow irrigation modeling shows application rates of 28 gpm/ac (3.1 in/ac) and a high degree of irrigation water management needed to meet consumptive use rates for mint. These application rates are needed due to a combination of factors including climate, soil textures, excessively drained soil, topography, and the lower irrigation efficiencies of surface irrigation systems. Erosion and sediment transport are not a problem due to little runoff, but the model shows excessive deep percolation.

Lloyd Exhibit 3, p. 1.

Because the amount of water historically used for irrigation on the Lloyds' property has never been measured, it is impossible to precisely determine an appropriate duty of water. Besides what Mr. Clelland said, the only other evidence offered at trial was testimony by Mr. Lemmon. He said he once owned 70 acres adjacent to the Lloyds' property and needed 4" or .08 cfs/acre to irrigate.

8. Hubble Analysis

Four months after the trial, on September 10, 1996, IDWR staff and Mr. Lloyd re-inspected the Lloyds' property as part of IDWR's Hubble analysis.¹¹ The result of that analysis was revision of the Director's recommended quantity element. More exactly, the recommended on-farm irrigation requirement was raised while the conveyance loss was left unchanged. The recommended irrigated acreage (3 acres) stayed the same.

Instead of a total irrigation diversion of .12 cfs (.03 cfs/acre, plus .03 cfs conveyance loss), IDWR raised its recommendation to .17 cfs (.047 cfs/acre, plus .03 cfs conveyance loss). The revision was necessary "[b]ecause IDWR has received new information and has refined the methodology since the time of the original analysis of irrigation diversion requirement...."¹²

The court is convinced that documents comprising IDWR's Hubble analysis and report are

¹¹ The Lloyds' irrigation was described as "wild flooding." Their 3 irrigated acres "consist of native grasses, pasture, lawn, trees and shrubs....The ground is rocky and uneven. Water is delivered through pipes to hoses and nozzles which allow the water to flood the surface at high spots and randomly irrigate as it moves downslope." *Evaluation of Irrigation Diversion Rate, Water Right Number: 36-00003G*, p. 1.

¹² *Id.*, p.1.

reliable and relevant and will assist the court to understand the evidence and determine facts in issue. The Lloyds have not responded to the report nor objected to its admission into evidence. Therefore, the evidence was admitted.

9. Annual Volume of Consumptive Use

Mr. Clelland determined the annual volume of consumptive use by simply applying IDWR's standard rate of 3 acre feet/acre for the Hagerman Valley. For the Lloyds' 3 acres, that yielded an annual volume of consumptive use of 9 afy. The Lloyds offered no evidence to rebut IDWR's recommended annual volume of consumptive use.

Conclusions of Law

1. *Prima Facie* Evidence

Elements of water rights recommended in the Director's Report are presumed to be true unless disproved by some evidence to the contrary. The Idaho Legislature put it this way in their latest amendment of I.C. § 42-1411 (4):

[T]he director's report...shall constitute prima facie evidence of the nature and extent of the water rights acquired under state law. The unobjected to portions of the director's report shall be decreed as reported.

Since passage of the amendment, the Idaho Supreme Court has had the opportunity to put its stamp of approval on the legislation:

The Legislature's direction that the contents of the Director's report shall constitute prima facie evidence of some water right claims was a permissible exercise of the authority, recognized in I.R.E. 301, to create an evidentiary presumption. Unless that evidentiary presumption is overcome by the evidence or the application of that presumption is clearly erroneous on its face, the facts set forth in the Director's report are established.

In Re SRBA Case No. 39576, 128 Idaho 246, 912 P.2d 614, 624 (1995).

2. Purposes of Use

In 1988, the Lloyds only claimed irrigation use based on the *New International* decree. Later, they amended their claim to add domestic and "other purposes". As mentioned earlier, IDWR agreed that domestic should be included in this water right. The only issue presented under this element is whether "other purposes" should be included along with irrigation and domestic.

When the *New International* decree was entered in 1932, it is true that the Lloyds' predecessor was awarded 20 cfs from Billingsley Creek for "the irrigation of its hereinafter described

land and for domestic and other purposes thereon....” However, the federal court could only have intended to include *then existing* beneficial uses- not some future uses. That means beneficial uses being made of water flowing through the Buckeye Ditch in 1932. *not so it does not say intend*

The reason for this limit is the general maxim of water law: water must be (1) *diverted* with an (2) *intent* to appropriate it for a (3) *beneficial use* before there can be a valid appropriation.¹³ To support a valid appropriation of water, and hence entitle an appropriator to a decreed water right, all three elements of *diversion*, *intent* and *beneficial use* must exist at the time the decree is entered.

We do not know what was included in “other purposes” in 1932, and the Lloyds have offered no suggestions. Perhaps the court was thinking of placer mining since the Buckeye Ditch was first built for mining. We can only guess. But for now, the Lloyds are only entitled to irrigation and domestic uses under 36-00003G.¹⁴

3. Irrigated Acreage

At trial, it was clear the Lloyds were claiming a water right only for their 20 acre parcel (E½)- not for Mr. Lloyd’s brother’s 20 acre parcel (W½). There was some confusion on this point because most of the evidence and testimony concerned water rights and irrigated acreage on the whole 40 acre tract the Lloyds bought from the LeMoynes. The issue, then, is how many of the 20 acres in the E½ do the Lloyds irrigate? The Lloyds first claimed that all 20 acres were being irrigated, but IDWR recommended only 3 acres. At trial, and again in the Lloyds’ *Motion to Reconsider and to Correct Clerical Errors*, p. 2, Mr. Lloyd conceded that maybe they irrigate only 10 acres. *not so I said 10 acres*

The only certain way to determine irrigated acreage is to survey the land. But this method is expensive and time consuming. The next best method is to rely on aerial photographs and maps, as IDWR did in this subcase. Their procedure of using NAPP photography, Landsat data and orthophotoquad maps, plus field inspections to verify the results, was the most convincing evidence of actual irrigated acreage.

¹³ *Water Law*, 2d ed., David H. Getches, p. 88 (1990).

¹⁴ At trial, counsel for IDWR pointed out that most, if not all, of the uses the Lloyds make of their water may be included under “domestic purposes” as defined by I.C. § 42-111:

- (a) The use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (½) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day, or
- (b) Any other uses, if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day.

Testimony by the Lloyds' witnesses was less credible because they described irrigated acreage relative to the 40 acre tract and not to the Lloyds' 20 acres. Those witnesses also relied heavily on the number of inches or shares of water assessed to the land as evidence of irrigated acreage. For example, they assumed that if the Lloyds are assessed for 20" of water from the Buckeye Ditch, they must be irrigating 20 acres. No one explained how many of those 20 irrigated acres were retained when the Lloyds conveyed half of their land to Mr. Lloyd's brother.

When the court viewed the Lloyds' property, it was apparent that most of the 20 acres in the E $\frac{1}{2}$ cannot be irrigated. Much of what may have been irrigated before the Lloyds bought the property has since been converted to other uses. Buildings, roads and storage areas have taken over a substantial part.

Based on the evidence presented at the hearing, including documents and testimony, plus the court's viewing, the court is persuaded that the Lloyds should be awarded water sufficient to irrigate 3 acres within their 20 acre tract. Water to irrigate more than 3 acres within the Lloyds' 20 acre tract (E $\frac{1}{2}$) would not be a beneficial use of water.¹⁵

4. Quantity/Duty of Water

The Lloyds' 3 irrigated acres may now be the most carefully studied plot in the Hagerman Valley. As noted earlier, IDWR first recommended an on-farm irrigation requirement of .03 cfs/acre based on its diversion standard for small irrigation systems. After re-inspecting the premises and completing a Hubble analysis, IDWR increased its recommendation to .047 cfs/acre or .14 cfs total. When the conveyance loss of .03 cfs is added to the on-farm irrigation requirement, that equals a total irrigation diversion of .17 cfs.

To complete the Hubble analysis, IDWR re-inspected the Lloyds' property with Mr. Lloyd present. IDWR considered the Lloyds' crops, irrigated acres, type of irrigation system used, evapotranspiration estimates, field application efficiencies and conveyance loss. Those factors were then weighed to arrive at a recommended on-farm irrigation requirement.¹⁶

¹⁵ It must be remembered that the court has not considered the number of irrigated or irrigable acres on the W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ deeded to Mr. Lloyds' brother. No claim for water has been made for that parcel. Neither was there evidence that the Lloyds retained water rights from the W $\frac{1}{2}$ when they conveyed the land to Mr. Lloyd's brother, or that water rights to the W $\frac{1}{2}$ were transferred back to the Lloyds.

¹⁶ IDWR based its analysis on a comparable type of irrigation:

In general, IDWR does not consider irrigation by wild flooding methods to be an acceptable irrigation practice. For those cases, analysis is based on the use of furrow irrigation systems (corrugations) as a standard to determine a reasonable diversion rate. Therefore, this right was analyzed based on the use of a furrow (corrugation) system.

In light of IDWR's Hubble analysis and report, the court is convinced that IDWR's amended recommendation for the on-farm irrigation requirement for the Lloyds' property is accurate. The Lloyds' evidence in support of their claim to a higher duty of water was not specific to their land and therefore, was less convincing.

5. Conveyance Loss

Having determined the on-farm irrigation requirement, that leaves the matter of conveyance loss. IDWR's recommendation included a 25% conveyance loss based on the Worstell Method. The court is convinced that such a percentage is accurate and reasonable under these circumstances, particularly since the Lloyds offered no evidence to the contrary. It is also clear that conveyance loss is not dependent on the quantity of water flowing in the Buckeye Ditch. Therefore, the conveyance loss of .03 cfs recommended in the Director's Report should be accepted.

6. Consumptive Use

IDWR's recommended annual volume of consumptive use for the Lloyds' 3 irrigated acres was 9 afy (3 af/a x 3 acres = 9 afy). The Lloyds claimed 60 afy (3 af/a x 20 acres = 60 afy) or the same per acre consumptive use. The Lloyds offered no evidence to overcome the *prima facie* weight given IDWR's recommended consumptive use per acre. Neither did they demonstrate that application of the presumption was clearly erroneous on its face. Therefore, the court must conclude that the correct annual volume of consumptive use is 9 afy.

Recommendation

It is recommended that Cleave and Betty Lloyd be adjudicated the following water right under claim 36-00003G:

Name and address of claimants:

**Cleave and Betty Lloyd
Route 1, Box 14
Hagerman, Idaho 83332**

Source of water:

Billingsley Creek

The existing system is made up of numerous small parcels which are difficult to analyze individually. The largest irrigated area was analyzed and the resultant diversion rate per acre was applied to all irrigated parcels on the property.

Evaluation of Irrigation Diversion Rate, Water Right Number: 36-00003G, pp. 1-2.

Quantity of water used:

Irrigation- .17 cfs
Domestic- .02 cfs (in-home use)
Total- .19 cfs

.03 cfs of this right is limited to use for conveyance loss in delivery of this right.

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

Date of priority:

September 10, 1884

Point of diversion:

T 7S, R 13E, § 11, B.M., Gooding County, Idaho,
SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$

Purposes of use:

Domestic and irrigation

Period of use:

Irrigation- irrigation season
Domestic- January 1 to December 31

Places of uses:

Domestic-

T 7S, R 13 E, § 22, B.M., Gooding County, Idaho,
SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$

Irrigation-

T 7S, R 13E, § 22, B.M., Gooding County, Idaho,
E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ - 3 acres

Annual volume of consumptive use:

9 afy

The consumptive use volume is only for the irrigation portion of this water right.

Other provisions necessary for definition or administration of this water right:

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

DATED November 8, 1996.



TERRENCE A. DOLAN
Special Master, Reporting Area 3
Snake River Basin Adjudication

DISTRICT COURT - 5TH JUDICIAL DISTRICT
TWIN FALLS COUNTY, IDAHO

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

In Re SRBA

Case No. 39576

CERTIFICATE OF MAILING

Water Right(s): 36-00003G

CERTIFICATE OF MAILING

I certify that a true and correct copy of PRELIMINARY SPECIAL MASTER'S REPORT, PRELIMINARY SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF PRELIMINARY SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on November 08, 1996, with sufficient first-class postage prepaid to the following:

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

CLIVE STRONG
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720

CLEAVE C. LLOYD
ROUTE 1, BOX 14
HAGERMAN, ID 83332


TERI HRANAC
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
11/08/96

MICROFILMED
DEC 04 1996

RECEIVED

JRBA

Hagerman, Idaho
July 10, 1996

P.O. Box 2707

JUL 12 1996

Twin Falls, Idaho 83303-2707

Department of Water Resources
Southern Region

207-7363011

1996 JUL 11 PM 1:15

DISTRICT CLERK
TWIN FALLS CO. IDAHO
FILED

I am disapointed but not surprised at the report the court concluded on my behalf.

Although I appreciate the complements given me for my resourcefulness, my status in the eyes of state water dept. is not as great as a criminal or someone on welfare. I expressed my feelings at some of the conferences that I feared I would be used as a example so that no one else would dare try to defend their rights as to water users and to destroy if possible anyone who could not afford the high price of defence or have the kind of clout to be a exception.

In page 8 purposes of use Case no 39576 subcase 36-000036 special master's report and recommendation July 1, 1996 other purposes are ruled out and explained away that the federal court could have intended - or assumed - at that time and not some future use.

The document states water being a pertenant to the land and other user. That is what it says not something else, if so, then why take the water away that has not been contested except by I.D.W.R. What good is the land with no water that can never replaced or reinstated forever? The taxes will still increase and what I paid for am supposed to lose and be given to someone else or sent to the ocean. I Don't think 20 inches of water will save the State.

I keep several ditches maintained to deliver water and I cannot deliver enough water to the end of the ditches

MICROFILMED
DEC 04 1996

Subcase

36-

000036

and sometimes none. Many times I have went without water so someone below me may benifit untill conditions change. Dept. agents never show under these conditions, just when water is high and demand low. The report says to allow me more than 3 acres would not be benificial. They are telling me my survival is of no value.

As I read this report I find many things that are not written down the same as I presented them. On page 4 of Buckeye ditch it states approximately 20 water users, my secretary printout that the court has as evidence is 74 share owners. Mr. LeMoynne guessed irrigating 20 acres. the report is confused where on the property thoes acres were located when it is obvious as rough as it is it takes the whole 40 in order to come up with 20 where water will run by gravity, my guess is 10

Thoes I.D.W.R. experts that I did not except as such, were were trained for a government job in a air conditioned building at a guaranteed salary, not in 100 degree plus tenure at hard labor from 12 to 14 hours a day plus taxes.

Page 3 at 4 and 5 I did not Claim 5 C.F.S. for power I Claimed 11 C.F.S. and the dept. put it at 5. I contested that and it was proved and changed to 8.23 C.F.S. dated Feb. 26-1996 Case no 39516 settlement report subcase no 36-04142.

I hope this reply statement of facts would be given some reasonable Consideration and not that I am a bad guy that should be exterminated because I bought a parcel of land with a right 39 years ago and have survived up to now. Sincerely,

Cleave C. Floyd

MICROFILMED

DEC 04 1996

RECEIVED

JUL 03 1996

Department of Water Resources

RECEIVED

JUL 10 1996

JUL 10 1996
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHODepartment of Water Resources
Southern Region

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

In Re SRBA

Subcase: 36-00003G

Case No. 39576

PRELIMINARY SPECIAL MASTER'S
REPORT AND RECOMMENDATION

Background

1. Claim

Cleave and Betty Lloyd filed this claim on September 19, 1988, seeking .4 cfs of water from Billingsley Creek through the Buckeye Ditch to irrigate 20 acres with a total volume of consumptive use of 60 afy. The claimed priority date was September 10, 1884. The Lloyds based their claim on the *New International Mortgage Bank v. Idaho Power Company* decree entered in the United States District Court in 1932. In the remarks section of the claim form, the Lloyds wrote:

This rt. was obtained when 10 shares of Big Bend Irrig. Co. water was traded for this 20" of Decree thru the Buckeye Ditch.

On November 2, 1992, IDWR filed with the SRBA Court its Director's Report for Reporting Area 3 (Basin 36). The Director recommended .12 cfs to irrigate 3 acres with a total volume of consumptive use of 9 afy. Under remarks, the Director stated that ".03 cfs of this right is limited to use for conveyance losses in delivery of this right."

The Lloyds filed their *Objection* on April 29, 1993, objecting to quantity, purpose of use, period of year, place of use, consumptive use, remarks and other. IDWR filed its *Response to Objection* on September 10, 1993, proposing no changes in the recommendation. No one else filed an objection to 36-00003G.

At the pre-trial hearing, IDWR agreed that domestic use should be added to irrigation use

At trial, the Lloyds amended their claim to include irrigation, domestic and "other purposes" based on the *New International* decree.

2. Trial

A ten hour trial was held on May 8, 1996, at the SRBA Courthouse in Twin Falls, Idaho. The Lloyds appeared and represented themselves. IDWR was represented by Brent King and Charles Honsinger. The day after trial, the Lloyds, George Lemmon, Brent King, Steve Clelland and the Special Master viewed the Lloyds' property and related water delivery systems in the Hagerman Valley.

Finding of Fact

1. Contract of Sale

On July 16, 1957, the Lloyds bought a 40 acre tract of land in the Hagerman Valley from Harry and Joy LeMoyné.¹ The Contract of Sale stated:

Vendors covenant and agree that there are four shares of the Big Bend Mining and Irrigation Co and twenty inches of water from Billingsley Creek which represent the water appurtenant to the property herein conveyed.

Contract of Sale, p. 2, attached to *Notice of Claim to a Water Right*.

Sometime after the purchase, the Lloyds deeded the W $\frac{1}{2}$ of the property (20 acres) to Mr. Lloyd's brother, but retained the E $\frac{1}{2}$. Their claim in the SRBA was for irrigation of the entire 20 acres in the E $\frac{1}{2}$ the Lloyds still own. Mr. Lloyd's brother has not filed a claim for water on his half.

2. *New International* Decree

IDWR agreed with the Lloyds that water right 36-00003G derives from water rights first decreed to the New International Mortgage Bank in 1932. In the *New International* decree, the court described land in the Hagerman Valley:

[T]hat the subsoil of said valley underlying said valley and all of the same is shattered, fissured lava flow, upon which has been deposited layers of clay and gravel, interspersed with water worn boulders, fragments of rock, and the soil is composed mainly of decomposed lava rock, oxidized lava rock and sand, and that owing to the nature of the soil and subsoil, the coarse texture and the mechanical composition of the soil and its free drainage, the said land and all of the land in Hagerman Valley requires a large amount of water, as hereinafter specified, for its successful irrigation and production thereon of ordinary agricultural crops.

¹ T 75, R 13E, §-22, NE $\frac{1}{4}$ NE $\frac{1}{4}$, B.M., Gooding County, Idaho.

Lloyd Exhibit 7, pp.1-2.²

After describing the Hagerman Valley, the court listed water rights awarded to the New International Mortgage Bank, including 20 cfs from Billingsley Creek for the "irrigation of its hereinafter described land and for domestic and other purposes thereon...." Lloyd Exhibit, pp. 3-4. It is this water, with a priority date of September 10, 1884, that the Lloyds and IDWR agree was transferred to the Lloyds' property.³

3. The Lloyds' Water Uses

The Lloyds are best described as resourceful and independent people. Soon after they bought the land 39 years ago, they built their own 8 kilowatt hydroelectric power generator behind their house. Water delivered through the Big Bend Ditch supplies all the electricity they need.⁴ The Lloyds also receive water through the Big Bend Ditch for their domestic use under 36-00133.⁵ They have no well.

George Lemmon, water master for the Hagerman Valley, said the Lloyds never wasted water. They have always been assessed operation and maintenance charges based on 20" (.04 cfs) of water delivered through the Buckeye Ditch.

The Lloyds often commingle their water for multiple uses. Besides power generation,

² Lloyd Exhibit 7 is a copy of the *New International* decree from National Archives and Records Administration (NARA) in Seattle, Washington. This 36 page document was certified by the director of the National Archives-Pacific NW Region and is a photocopy of the original, maintained by the agency charged with keeping U.S. Government records, including this decree entered in the U.S. District Court for the District of Idaho, Southern Division. For a complete discussion of the differences between the NARA copy of the *New International* decree and the copy on file with the District Court Clerk for Gooding County, see Subcases 36-00134B and 36-00135A, Order Denying Motion for Summary Judgment, entered June 13, 1996.

³ There is no clear evidence of how or when the exchange of water was accomplished- "10 shares of Big Bend Irrig. Co. water was traded for this 20" of decree thru the Buckeye Ditch." Attached to the *Notice of Claim* is a letter dated April 14, 1959, from H.F. LeMoynes to George Lemmon, Secretary of the Buckeye Ditch Association. Mr. LeMoynes wrote that 20 inches of 1884 priority date water from the Buckeye Ditch "is being transferred to and shall hereafter be appurtenant to" land which the LeMoynes sold to the Lloyds two years earlier. Mr. Lloyd guessed that this water transfer, which he called "horse trading", occurred in the 1940's.

⁴ In 36-04142, the Lloyds claimed a beneficial use right to 5 cfs of water delivered through the Big Bend Ditch for power generation year 'round with a priority date of April 1, 1960. The Lloyds filed the only objection in that subcase.

⁵ 36-00133 is claimed by the Big Bend Irrigation and Mining Company with a priority date of December 17, 1903. That water probably represents some, if not all, of the Lloyds' shares in Big Bend Irrigation and Mining Company mentioned in their Contract of Sale with the LeMoynes. There was testimony that the Lloyds receive additional domestic water under 36-00192; however, IDWR recommended that claim for irrigation use only. The Lloyds' property is not included in the recommended place of use.

domestic and irrigation, the Lloyds have used their water for livestock, saw cooling at their own sawmill, truck washing, fire protection and even groundwater recharge. They also own and store a bewildering array of used automobiles, machinery and assorted materials on the premises.

Mr. Lloyd is a jack-of-all-trades whom many in the Hagerman Valley call upon to build, repair or clean their equipment. The Lloyds own large earth moving equipment Mr. Lloyd uses to repair and maintain up to eight different water ditches.⁶ He described his accomplishments best when he said, "I've made things work."

Harry LeMoyne recalled that the Lloyd property had 20 shares of Buckeye Ditch water when he bought it in the late 1940's. His family ran a sheep operation and they used the land mostly for pasture. He remembered the whole place was irrigated around the rocks by contour ditches. Fruit trees were scattered around lava rock outcroppings. Mr. LeMoyne never knew exactly how many acres were irrigated and no one measured the amount of water his family used. Mr. LeMoyne guessed that 20 of the 40 acres were irrigated. He did not specify where on the property those 20 irrigated acres were located.

4. Buckeye Ditch

Harry LeMoyne said the Buckeye Ditch was originally built by the Buckeye Ranch as a miner's ditch for placer mining. As more people moved into the Hagerman Valley, the Buckeye Ranch was split up and sold. Uses for water from the Buckeye Ditch changed. The ditch now carries water over five miles from the headgate on Billingsley Creek to approximately 20 water users. The Lloyd's property is about 2½ miles down the ditch. Steve Clelland, senior water resources agent for IDWR, said part of his task is to make sure that all these uses total no more than the original right.

From the time Mr. LeMoyne bought the Lloyd property in the late 1940's through the present, no one measured the amount of water taken out of the Buckeye Ditch. Water was measured only at the headgate on Billingsley Creek. Mr. LeMoyne recalled that folks simply took the water they needed when they needed it. Mr. Clelland described the practice as "informal rotation"- very common in the Hagerman Valley to this day. Mr. Clelland was not sure if all users along the Buckeye Ditch have the same priority date, but he could not recall water being administered in priority within the ditch.

⁶ Mr. Lloyd is president of both the Big Bend Irrigation and Mining Company and the Buckeye Ditch Company. Mr. Lloyd said he took the jobs to make sure the ditches were cleaned and kept in good repair. Otherwise, he and others would not receive their allotted water.

5. Conveyance Losses

Since the Lloyds claimed a diversion of more than 1" per acre (.02 cfs), IDWR calculated the ditch conveyance loss at the Lloyds' property by using the "Worstell Method". The formula takes into account the length and width of a ditch, plus the amount of water absorbed into the ditch soil. The Buckeye Ditch was never actually measured for conveyance losses, but the Worstell Method has been verified in similar ditches. In this instance, the equation yielded a conveyance loss of 25%, or .03 cfs of the total recommended diversion of .12 cfs. IDWR's calculations were in line with informal measurements made by the Lloyds' neighbor, Lynn Babbington.⁷

Moss and slime in the Buckeye Ditch contribute some to conveyance losses, but such growth often seals the lining of the ditch. Its real impact is on delivery of water through the ditch. First, plant growth actually displaces the water and can block its flow altogether. Second, when the plant growth becomes excessive, the ditch must be dried up and cleaned. Mr. Lloyd said he cleans the Buckeye Ditch three times each year. When the flow of water is resumed, conveyance loss is higher until the ditch lining is restored.

The Lloyds are concerned about ditch maintenance and conveyance losses because they commingle their water rights from the Buckeye Ditch and the Big Bend Ditch. They want to use the same amount of water from either ditch when the other ditch is dried up for cleaning. This can be accomplished by simply turning valves.

6. Acreage

Mr. Clelland said the Lloyds' use of water on their property over the past 20 or 30 years has been consistent. Based on several field inspections and assorted aerial photographs, Mr. Clelland calculated that the Lloyds irrigate no more than 3 acres within their 20 acre parcel- mostly around the house and shop. The remainder of the property is occupied by buildings, roadways, work areas, storage, lava rock pressure ridges or non-irrigated native grasses.

During trial, Mr. Lloyd said he still irrigates the whole 40 acre parcel he and his wife bought from the LeMoynes. That includes his brother's 20 acres. However, Mr. Lloyd estimated that only 10 acres of his and his wife's 20 acre parcel is irrigable and being irrigated on an irregular basis. He stopped irrigating some of the land because of his age (69), the time and expense of maintaining his own ditches and the low return for his efforts.

⁷ The Lloyds introduced a Soil Conservation Service report, dated October 2, 1992. The report described canal losses along the Big Bend and Buckeye Ditches between 4% and 32% per mile. But without further evidence or testimony, the court was unable to relate those figures to IDWR's results.

7. Duty of Water

Because the Lloyds' claim was recommended for irrigation of fewer than 5 acres, Mr. Clelland applied IDWR's diversion standard of $1\frac{1}{2}$ " per acre (.03 cfs). IDWR routinely applied this higher than 1" per acre (.02 cfs) standard to account for inefficiency inherent in smaller systems. When applied to the recommended 3 acres, that equaled a diversion of .09 cfs. That figure, plus a recommended conveyance loss of .03 cfs, equaled the .12 cfs in the Director's Report. IDWR offered no testimony to support its standard for the duty of water in the Hagerman Valley.

On the other hand, Mr. Lloyd offered some evidence in support of a diversion quantity higher than recommended by IDWR.⁸ The first bit of evidence was a report, dated October 2, 1992, from the United States Department of Agriculture, Soil Conservation Service (SCS), in Boise. The report first described "two unique features of the Hagerman area":

1. A climate hotter than that of the Snake River Plain a few hundred feet higher in elevation; and,
2. Sandy soils of high permeability, low water holding capacity, and low water holding retention ability.

The SCS report continued by defining the irrigation season in the Hagerman Valley as "in excess of 200 days", and then suggested the appropriate duty of water:

It takes a high degree of management to surface irrigate these soils. It can be argued that it takes 28 gpm/ac.[.06 cfs or 3.1"/acre] delivered to the field to successfully manage surface irrigation. Sandy soils, bare conditions, steep slopes, and high flows per furrow can all contribute to erosion and sediment transport. Computer modeling, however, shows little runoff, but high deep percolation.

Lloyd Exhibit 3, p. 2.

A supplement to the SCS report, dated October 7, 1992, more specifically described a farm near the Lloyds' property:

Furrow irrigation modeling shows application rates of 28 gpm/ac (3.1 in/ac) and a high degree of irrigation water management needed to meet consumptive use rates for mint. These application rates are needed due to a combination of factors including climate, soil textures, excessively drained soil, topography, and the lower irrigation efficiencies of surface irrigation systems. Erosion and sediment transport

⁸ The Lloyds claimed .4 cfs to irrigate 20 acres or .02 cfs/acre (1"/acre). IDWR recommended a higher diversion rate per acre than claimed- .09 cfs to irrigate 3 acres (excluding .03 cfs for conveyance losses) or .03 cfs/acre (1 $\frac{1}{2}$ "/acre). However, the Lloyds objected to the recommended quantity, *inter alia*, as being "less than decreed and/or beneficially used... Objectors reserve the right to claim...quantities of use as shown by the evidence at trial." *Objection*, p. 7.

are not a problem due to little runoff, but the model shows excessive deep percolation.

Lloyd Exhibit 3, p. 1.⁹

Because the amount of water historically used for irrigation on the Lloyds' property has never been measured, it is impossible to precisely determine an appropriate duty of water. Besides Mr. Clelland, the only other testimony on the matter was given by Mr. Lemmon. He said he once owned 70 acres adjacent to the Lloyds' property and he needed 4" or .08 cfs/acre to irrigate.

8. Consumptive Use

After Mr. Clelland determined the acreage and applied the standard duty of water for small irrigated acreage, that left only the matter of annual volume of consumptive use. For that element, he applied IDWR's standard rate of 3 acre feet/acre for the Hagerman Valley which equaled a total volume of consumptive use of 9 afy. As with the duty of water, IDWR offered no testimony to support its standard for annual volume of consumptive use in the Hagerman Valley. The Lloyds offered no evidence to rebut IDWR's recommended annual volume of consumptive use.

Conclusions of Law

1. *Prima Facie* Evidence

Elements of water rights recommended in the Director's Report are presumed to be true unless disproved by some evidence to the contrary. The Idaho Legislature put it this way in their latest amendment of I.C. § 42-1411 (4):

[T]he director's report...shall constitute prima facie evidence of the nature and extent of the water rights acquired under state law. The unobjected to portions of the director's report shall be decreed as reported.

Since passage of the amendment, the Idaho Supreme Court has had the opportunity to put its stamp of approval on the legislation:

The Legislature's direction that the contents of the Director's report shall constitute prima facie evidence of some water right claims was a permissible exercise of the authority, recognized in I.R.E. 301, to create an evidentiary presumption. Unless that evidentiary presumption is overcome by the evidence or the application of that presumption is clearly erroneous on its face, the facts set forth in the Director's report are established.

⁹ The Lloyds' irrigation, by contour ditches and hand lines, approximates the furrow irrigation described in the SCS letter dated October 7, 1992.

In Re SRBA Case No. 39576, 128 Idaho 246, 912 P.2d 614, 624 (1995).

2. Purposes of Use

In 1988, the Lloyds only claimed irrigation use based on the *New International* decree. Later, they amended their claim to add domestic and "other purposes". As mentioned earlier, IDWR agreed that domestic should be included in this water right. The only issue presented under this element is whether "other purposes" should be included along with irrigation and domestic.

When the *New International* decree was entered in 1932, it is true that the Lloyds' predecessor was awarded 20 cfs from Billingsley Creek for "the irrigation of its hereinafter described land and for domestic and other purposes thereon...." However, the federal court could only have intended to include then existing beneficial uses, not some future uses. That means beneficial uses being made of water flowing through the Buckeye Ditch in 1932. The reason for this limit is the general maxim of water law: water must be (1) *diverted* with an (2) *intent* to appropriate it for a (3) *beneficial use* before there can be a valid appropriation.¹⁰ To support a valid appropriation of water, and hence entitle an appropriator to a decreed water right, all three elements of *diversion*, *intent* and *beneficial use* must exist at the time the decree is entered.

We do not know what was included in "other purposes" in 1932, and the Lloyds have offered no suggestions. Perhaps the court was thinking of placer mining since the Buckeye Ditch was first built for mining. We can only guess. But for now, the Lloyds are only entitled to irrigation and domestic¹¹ uses under 36-00003G.

3. Place of Use/Irrigated Acreage

At trial, it was clear the Lloyds were claiming a water right only for their 20 acre parcel, not for Mr. Lloyd's brother's 20 acre parcel. There was some confusion on this point because most of the evidence and testimony concerned water rights and irrigated acreage on the whole 40 acre tract the Lloyds bought from the LeMoynes. The issue, then, is to determine how many of the 20 acres the Lloyds irrigate. The Lloyds first claimed all 20 acres were irrigated, but IDWR recommended

¹⁰ *Water Law*, 2d ed., David H. Getches, p. 88 (1990).

¹¹ At trial, counsel for IDWR pointed out that most, if not all, of the uses the Lloyds make of their water may be included under "domestic purposes" as defined by I.C. § 42-111:

(a) The use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day, or
(b) Any other uses, if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day.

JUL 10 1996

Department of Water Resources
Southern Region

3 acres. At trial, Mr. Lloyd agreed that maybe they irrigate only 10 acres.

The only certain way to determine irrigated acreage is to survey the land. But this method is expensive and time consuming. The next best method is to rely on aerial photographs and maps, as IDWR did in this subcase. Their procedure of using NAPP photography, Landsat data and orthophotoquad maps, plus field inspections to verify the results, was the most convincing evidence of actual irrigated acreage.

Testimony by the Lloyds' witnesses was less credible because they described irrigated acreage relative to the 40 acre tract and not to the Lloyds' 20 acres. Those witnesses also relied heavily on the number of inches or shares of water assessed to the land as evidence of irrigated acreage. For example, they assumed that if the Lloyds are assessed for 20" of water from the Buckeye Ditch, they must be irrigating 20 acres. No one explained how many of those 20 irrigated acres were retained when the Lloyds sold half of their land to Mr. Lloyd's brother.

When the court viewed the Lloyds' property, it was apparent that most of the 20 acres cannot be irrigated. Much of what may have been irrigated before the Lloyds bought the property has since been converted to other uses. Buildings, work areas and storage have taken over a substantial part.

Based on the evidence presented at the hearing, including documents and testimony, plus the court's viewing, the court is persuaded that the Lloyds should be awarded water sufficient to irrigate 3 acres within their 20 acre tract. Water to irrigate more than 3 acres would not be a beneficial use of water.

4. Quantity/Duty of Water

It was clear that the Lloyds overcame IDWR's *prima facie* evidence concerning the quantity of water that is beneficially required to irrigate their 3 acres. IDWR relied solely on application of its standard diversion rate of .03 cfs/acre for small irrigation systems. But there was no testimony or documentation to support IDWR's standard. The court was left with minimal bases to determine its admissibility, relevance, weight and credibility.

The Lloyds' SCS report and its supplement accurately described the climate and soil conditions in the Hagerman Valley. In fact, the language could just as easily have been written by Judge Cavanaugh in the *New International* decree back in 1932. The SCS report concluded that a reasonable duty of water for land similar to the Lloyds' is .06 cfs/acre, or double IDWR's recommendation. That duty of water yields a diversion quantity of .18 cfs for the Lloyds' 3 acres. The court was not convinced that the higher duty of .08 cfs/acre suggested by Mr. Lemmon is appropriate. There was simply not enough credible evidence to support that higher diversion.

Post-It® Fax Note 7671		Date 7/10	# of pages 3
To Doug		From Vicki	
Co./Dept		Co. State Office	
Phone #		Phone #	

amount.

5. Conveyance Loss

Having determined the diversion quantity, that leaves the matter of conveyance loss. IDWR's recommendation included a 25% conveyance loss based on the Worstall Method. The court is convinced that such a percentage is accurate and reasonable under these circumstances, particularly since the Lloyds offered no evidence to the contrary. Therefore, calculated the same way as the claim was recommended, the conveyance loss equals .06 cfs:

$$\begin{aligned} & .18 \text{ cfs } (.06 \text{ cfs/acre diversion rate} \times 3 \text{ acres}) \\ + & \quad .02 \text{ cfs (in-home domestic use)} \\ = & \quad .20 \text{ cfs} \\ + & \quad .06 \text{ cfs (conveyance loss) } [.26 \text{ cfs} \times 25\% = .06 \text{ cfs}] \\ = & \quad .26 \text{ cfs (total quantity of water diverted).} \end{aligned}$$

6. Consumptive Use

IDWR's recommended annual volume of consumptive use for the Lloyds' 3 irrigated acres was 9 afy ($3 \text{ af/a} \times 3 \text{ acres} = 9 \text{ afy}$). The Lloyds claimed 60 afy ($3 \text{ af/a} \times 20 \text{ acres} = 60 \text{ afy}$) or the same consumptive use per acre. Since the Lloyds offered no evidence to disprove IDWR's recommended consumptive use, the court is left to conclude that the appropriate annual volume of consumptive use is 9 afy.

Recommendation

It is recommended that Cleave and Betty Lloyd be adjudicated the following water right under claim 36-00003G:

Name and address of claimants:

Cleave and Betty Lloyd
Route 1, Box 14
Hagerman, Idaho 83332

Source of water:

Billingsley Creek
Water is delivered through the Buckeye Ditch.

Quantity of water used:

Irrigation- .24 cfs
Domestic- .02 cfs (in-home use)
Total- .26 cfs

.06 cfs of this right is limited to use for conveyance loss in delivery of this right.

Date of priority:

September 10, 1884

Point of diversion:

T 7S, R 13E, § 11, B.M., Gooding County, Idaho,
SE¼SE¼NE¼

Purposes of use:**Domestic and irrigation****Period of use:****Irrigation- Irrigation season****Domestic- January 1 to December 31****Places of uses:****Domestic-****T 7S, R 13 E, § 22, B.M., Gooding County, Idaho,
SE¼NE¼NE¼****Irrigation-****T 7S, R 13E, § 22, B.M., Gooding County, Idaho,
NE¼NE¼- 3 acres****Annual volume of consumptive use:****Irrigation- 9 afy****Conditions on exercise of water right:****None****Remarks or other matters necessary for definition of the right, for clarification of any element of the right, or for administration of the right by the director:****None****DATED July 1, 1996.**

TERRENCE A. DOLAN
Special Master, Reporting Area 3
Snake River Basin Adjudication

R PROOF

CVR

MAPS

PHOTOS

MISC

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OCT 1 1994

From: DWR03::DSHAW 30-SEP-1994 07:19:50.39
To: DWR60::AMERRITT, DSHAW
CC:
Subj: Cleave Lloyd's Letter to SRBA Court

Allen - Thanks for reviewing the letter & concur with your analysis. I also agree we probably should not contact Mr. Lloyd given the current situation with the court's order limiting communications.

I can certainly understand Mr. Lloyd's feeling of frustration but until we are contacted or the gag order is lifted I think all we can do is monitor and keep a record of what is happening so we hopefully won't be too far out of the loop when we find out what will be expected of us.

Thanks
Dave

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OCT 11 1994

From: DWR60::AMERRITT 29-SEP-1994 11:58:42.06
To: DWR03::DSHAW
CC: AMERRITT
Subj: CLEAVE LLOYD'S LETTER TO SRBA COURT

I RECEIVED THE COPY OF CLEVE'S LETTER WITH YOUR NOTE ASKING WHAT THIS WAS ABOUT.

I CAN ONLY SPECULATE SINCE THE LETTER WAS VERY BRIEF. AS BACKGROUND MR. LLOYD HAS TWO CLAIMS (36-00003G & 36-04142) RECOMMENDED IN THE BASIN 36 DIRECTOR'S REPORT AND BOTH OF THEM HAVE BEEN OBJECTED TO BY PAT BROWN REPRESENTING THE HAGERMAN VALLEY WATER RIGHTS GROUP. I BELIEVE MR. LLOYD IS A MEMBER OF THAT GROUP. FROM THE LETTER I WOULD SPECULATE THAT HE NO LONGER WISHES TO BE REPRESENTED BY PAT BROWN AND WISHES TO REPRESENT HIMSELF BEFORE THE SRBA COURT. I AM NOT SURE IF THIS IS COURT BUSINESS OR IF WE SHOULD SEND HIM THE APPROPRIATE STANDARD COURT FORM FOR CHANGE OF ATTORNEY.

IF YOU WANTED YOU COULD READ A LOT INTO THE LAST SENTENCE AND TAKE IT AS A VEILED THREAT TOWARD THE STATE OR IDWR AGENTS. I THINK IT PROBABLY SPEAKS TOWARD THE FRUSTRATION MANY ARE FEELING WITH THE PROCESS.

IF YOU THINK IT APPROPRIATE WE CAN CONTACT MR. LLOYD BUT WITH THE COURT SITUATION I AM SOMEWHAT HESITANT. PLEASE ADVISE.

ALLEN

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OCT 11 1994

District Court SRBA
Twin Falls, Idaho

Hagerman, Idaho
July 6 - 1994

36-00003-G +
36-04142

1994 JUL -7 AM 11:47

DISTRICT COURT - SRBA
TWIN FALLS, IDAHO

FILED

I cannot afford the expense of a attorney
and financially survive so if I am destine
to loss I will do so defending myself
against the system of the State.

Clave C. Lloyd

SEP 29 1994

SEP 29 1994
Department of Water Resources
Southern Region Office

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OCT 11 1994



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 1, 1993

Patrick D. Brown
Hepworth, Nungester and Lezamiz
133 Shoshone St. N.
P.O. Box 389
Twin Falls, ID 83303-0389

Re: Notice of Appearance

Dear Mr. Brown:

We received your Notice of Appearance on behalf of Hagerman Water Owners, Inc. and its individual members on February 10, 1993. The records listed on the notice were updated with some exceptions.

Claim numbers with "A" prefixes identify claims filed in the SRBA. Claim numbers without prefixes identify recommendations in the Director's Report. The following table identifies claimants for which you filed a notice of appearance, but the number you referred to is actually the identification of the recommendation. They have been updated with the notice information.

Claimant's Name	Recommendation No. (no "A" prefix)
Bybee, Gertrude B. Owsley	36-00042A 36-00041C
Candy, Walter W. & Margaret	36-00135B
Crandlemire, Roger C.	36-00134C 36-00135C
Gustafson Family Trust/Gustafson, Ivan J. & Lucille co-trustees	36-00033F
McFaddan, Dan H. & Irma R.	36-00048A
Muller, Manfred	36-00035J
Zink, Basil Lester & Myrle Hyde	36-00103F

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Mr. Patrick D. Brown
March 1, 1993
Page 2

The following is a list of claims that have been updated with the notice information, however, there is a discrepancy between IDWR records and the notice list (see third column).

Claimant's Name as listed on Notice of Appearance	As Claimed/ As Recommended	Claim No. or Claimant's Name in IDWR's Records
Anderson, Anita G.	A36-00050D/36-00050D	Andersen (name spelling is different)
Brailsford, Robert H.	A36-04260/36-04260	A36-04260B/36-04260B (claim was split--"B" suffix)
Brooks, Allen L. & Andree	A35-00060	A36-00060/36-00060 (Basin 36 instead of Basin 35)
Crandlemire, Roger C. & George C.	A36-00113J/36-00113J	Crandlemire, Roger C. (George C. not listed as claimant)
Gisler, Harry R.	A36-00021B/36-00021B	A36-00021/36-00021 (claim was renumbered)
Glauner, Frank L. & Joan	A36-00039E/36-00039E	Jean instead of Joan
Gustafson Family Trust/Gustafson, Ivan J. & Lucille co-trustees	A36-00011C/36-00033F	Gustafson, Ivan J. (not listed as a trust)
Johnson, Ira L. & Huguette M.	A36-07142/36-07142	Johnson, Ira L. (Huguette M. not listed as claimant)
Joint Hagerman School Dist. 233	A36-15463/36-15463	Original claim & IDWR records show school dist. as #3.
Jones, John W., Jr.	A36-00068/36-00068 A36-00069/36-00069 A36-07071/36-07071 A36-00070/36-00070	Jones, John W. Jr. & Deloris D. (Deloris D. is included as a claimant)

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Mr. Patrick D. Brown
 March 1, 1993
 Page 3

Claimant's Name as listed on Notice of Appearance	As Claimed/ As Recommended	Claim No. or Claimant's Name in IDWR's Records
Mueller, Manfred	A36-00034D/36-00035J	Muller (name spelling is different in IDWR records)
Strange, Wm. (Penelope Turn- er-remainder man)	A36-00006/36-00006 A36-00007/36-00007 A36-00008/36-00008	Strange, Wm. & Louise (Louise is included as a claimant, Penelope Turner is not in records)
Veenendaal, Dick J.	A36-00108A/36-00108A A36-00039C/36-00039C	Veenendaal, Dick J. & Sigrid E. (Sigrid E. is included as a claimant)
Wiens, M. J., Jr.	A36-80317	A36-08317/36-08317 (no. was transposed on notice)
Wiens, M. J., Jr.	A36-00098/36-15384	36-15384 (claim was combined with no. 36-00141 into no. 36- 15384)
Wiens, M. J., Jr.	A36-00141/36-15384	36-15384 (claim was combined with no. 36-00098 into no. 36- 15384)

The following claims have not been updated with the notice information because of the discrepancies listed in the third column.

Claimant's Name	Claim No. as listed on Notice of Appearance	Discrepancy Between Notice of Appearance and IDWR Records
Hagerman Gun Club	A36-00100/36-00100 A36-00099/36-00099 A36-07233/36-07233 A36-07172/36-07172 A36-10249/36-10249	Owners are listed as Bob Porter and Fred Surbaugh

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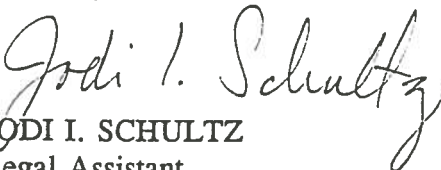
Mr. Patrick D. Brown
March 1, 1993
Page 4

Claimant's Name	Claim No. as listed on Notice of Appearance	Discrepancy Between Notice of Appearance and IDWR Records
Ya-Ta-Hay Investments, Inc.	A36-07875/36-07875	No record of this claim no., nor any other claim no. for claimant other than A36-10283A/36-10283A (as listed)

Please review the claimants and claim numbers and let me know if you have any questions or problems with the claims as listed in IDWR's records. Also, please review the claims in the last table. We need to solve these discrepancies before IDWR's records are updated with the notice information. My phone number is 327-5444.

Please note we have received your supplemental and second supplemental notices of appearance and are currently working to update those records. We will inform you if there are any discrepancies.

Sincerely,


JODI I. SCHULTZ
Legal Assistant
Idaho Department of Water Resources

cc: IDWR Southern Region

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OCT 11 1994

Fred Beckstead
Box 359
Hagerman Id.
83332



RECEIVED

JAN 15 1993
Department of Water Resources
Southern Region Office
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Idaho Dept. of Water Resources
222 Shoshone St. East,
Twin Falls, Idaho
83301

CONVERSATION MEMORANDUM

NAME OF PARTY Cleave Lloyd
EMPLOYEE: STEVE CLELLAND

DATE 10-17-90
FILE A36-000036

RE: _____

He says he uses Buckeye ditch water and Big Bend water to irrigate lawn, garden, trees and shop area uses like washing out trucks. These rights are combined when used. a separate diversion exists for Domestic uses from the Big Bend Ditch. The diversion is near the power diversion and a small pipe runs alongside the open chute parallel to the power pipe supply. Supplies all water except for Drinking water which is hauled in from the City Water supply.

Cleave estimated his irrigation (actual irrigation use) to be about 10 ACRES. Water is run in between the rock piles to grow grasses.

8-5-92

Final review (HHT/scc)

Based on above discussion, Big Bend Water used for domestic purposes with Buckeye water used for separate irrigation. HHT

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JAN 20 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

25-Jan-1993

CLEVE LLOYD
RT 1 BOX 14
HAGERMAN ID 83332

RE: Copy of SRBA File(s): 36-00003G, 36-04142

Dear Mr. Lloyd:

Please find enclosed the copies of documents you recently requested contained in the above referenced SRBA file(s) as of this date. Please note that copies of orthophoto quad maps or NAPP photography or aerial slides which may have been used in the review of your claim(s) have not been included since they are not easily reproduced. These items are however available for your review at our office. Please also note that in some situations some water rights may have other associated files which contain privileged information between IDWR staff and our legal council which has not been copied.

Please remit the following for the cost of the copies and postage:

\$8.42

Sincerely,


Jeanie Robertson
Records Clerk

Encl:

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OCT 11 1994

RECEIVED

JAN 19 1993

Department of Water Resources
Southern Region Office

January 19 - 93
(Date)

IDAHO DEPARTMENT OF WATER RESOURCES
222 SHOSHONE ST. EAST
TWIN FALLS, IDAHO 83301

Dear Idaho Department of Water Resources:

Please provide me with a copy of all information included in my file as it relates to water right number 36-000036.

Please advise me of any documents in my file which you are not releasing to me and why they are not being released.

Please bill me for the copy charge.

Sincerely,

Cleave Lloyd
(Name)

Rt 1 Box 14
(Address)

Hagerman Idaho 83332
(City, State, Zip Code)

cc: David B. Shaw, Adjudication Bureau Chief
Idaho Department of Water Resources
1301 North Orchard Street
Statenouse Mail
Boise, Idaho 83720-9000

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OCT 11 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 the Rights to the Use of Water
from the Snake River Basin
Water System

Case No. 36-00003G -0001

The State of Idaho, ex rel.
R. Keith Higginson in his
official capacity as Director
of the Idaho Department of
Water Resources,

RESPONSE TO OBJECTION

Petitioner,

vs.

The United States; the State
of Idaho; and all Claimants to
the use of water from the Snake
River Basin Water System,

Respondents.

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

Address: IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Briefly describe your interest in this water right:

IDWR is required to file a response to an objection to part
I of the director's report pursuant to I.C. section 42-1412(2).

(Over)

2. Person who filed objection:

Name: CLEAVE C LLOYD
Address: ROUTE 1 BOX 14
HAGERMAN ID 83332

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER

Attorney Address: DEPUTY ATTORNEY GENERAL(S)
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

3. ☒ Quantity: I respond to the objection concerning:
- 3a. ☒ The total quantity of water used in cubic feet per second.
7. ☒ Purposes of Use: I respond to the objection concerning the purpose(s) of use.
8. ☒ Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
9. ☒ Place of Use: I respond to the objection concerning:
- 9b. ☒ The number of irrigated acres within each forty (40) acre subdivision.
10. ☒ Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.
11. ☒ Remarks: I respond to the objection concerning the "remarks" listed with the water right.

14. ☒ Other: I respond to the objection concerning:

ALL MATTERS RAISED IN THE CLAIMANT'S ANSWER,
AFFIRMATIVE DEFENSES, AND PRAYER FOR RELIEF.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 3 and 3.a, and all allegations of the objection regarding those items, IDWR responds as follows: (1) it recommended the amount of water it determined was being beneficially used; (2) the claimant is not entitled to any amount greater than that which is beneficially used (Idaho Code Secs. 42-104 and 42-1402); (3) the recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right; and (4) the eventual decree by the SRBA Court of the amount of water beneficially used, even if less than the amount previously decreed, will not constitute a taking because the right is limited to that amount beneficially used.

In response to Statement of the Objection item 7, and all allegations of the objection regarding that item, IDWR responds that it recommended the same purpose or purposes of use that were identified on the notice of claim and that were found when the claim was investigated. By identifying in the objection an additional domestic use that the claimant did not list on the notice of claim, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim after a director's report is filed, just as a party must obtain leave of the court to file a late claim after the director's report is filed. Once leave of the court is granted, IDWR can investigate the amended claim and make an appropriate recommendation to the court.

In response to Statement of the Objection item 8, and all allegations of the objection regarding that item, IDWR responds as follows: The decree asserted by the claimant does not contain a period of use decreed for this water right. Idaho Code Sec. 42-1411(2)(g) requires the director to determine the period of use of each water right acquired under state law that is recommended in the director's report. IDWR has developed irrigation season of use standards for various climatic areas throughout the state based on a 75% chance of a 24 degree fahrenheit frost. The irrigation season of use cannot exceed the period in which water may be beneficially used. The period of

(Over)

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the year during which this water right may be used is consistent with the standard irrigation season of use for the area in which the place of use of this water right is located. Water may be used for irrigation outside the standard season of use, subject to the conditions set forth in general provision 12b of the director's report.

In further response to this objection item, IDWR responds that it recommended this element of the water right as claimed. By now seeking to include a year around season of use, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim after a director's report is filed, just as a party must obtain leave of the court to file a late claim after the director's report is filed. Once leave of the court is granted, IDWR can investigate the amended claim and make an appropriate recommendation to the court.

In response to Statement of the Objection 9 and 9.b, and all allegations of the objection regarding those items, IDWR responds that the recommended water right accurately describes the total number of acres within each 40 acre subdivision upon which IDWR found water was beneficially used for irrigation under this water right.

In response to Statement of the Objection item 10 and all allegations of the objection regarding that item, IDWR responds as follows: (1) The decree asserted by the claimant did not set an annual volume of consumptive use for this water right. (2) Idaho Code Sec. 42-1411(2)(i) requires the director to determine the annual volume of consumptive use for each water right acquired under state law and recommended in the director's report. (3) Idaho Code Sec. 42-1401A(2) provides that the quantification of consumptive use "is included as a rebuttable presumption in a decree only for the purpose of transfers pursuant to section 42-222, Idaho Code"; therefore, the consumptive use recommended for this water right is included solely for use in future transfer proceedings. (4) The annual volume of consumptive use claimed and recommended is 3 acre feet per acre. This is the maximum volume of water consumed by the most water consumptive crop (pasture) that can be grown in the area during the period of year when water is used for irrigation, as provided for by Idaho Code Sec. 42-1401A(2). (5) The recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right. (6) The eventual decree by the SRBA Court of the amount of water beneficially used, even if less than the amount

previously decreed, will not constitute a taking because the right is limited to that amount beneficially used.

In response to Statement of the Objection item 11, and all allegations of the objection regarding that item, IDWR responds that it has authority pursuant to Idaho Code Sec. 42-1411(2)(j) to include in its recommendations of water rights acquired under state law and recommended in the director's report "such other matters as are necessary to define the right." The remark or remarks objected to are necessary to adequately describe and define this water right.

In response to Statement of the Objection item 14, and all allegations of the objection regarding that item, see attached "IDWR's Response to Answer Affirmative Defenses and Prayer for Relief of Claimant".

In response to the sentence listed in Changes to the Director's Report, whereby the claimant attempts to "reserve the right to claim all purposes of use and quantities of use as shown by the evidence at trial," IDWR responds as follows: Insofar as this purported reservation of rights may constitute an attempt to reserve the right to amend at trial the claimant's notice of claim, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim just as a party must obtain leave of the court to file a late claim after the director's report is filed.

CHANGES TO THE DIRECTOR'S REPORT

The director proposes no changes to the description of this claim in the Director's Report.

☒ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary:

(Over)

601 / 1000
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No. of
Pages

Notice of Claim No. A36-00003G

8

IDWR's Response to Answer, Affirmative Defenses, and Prayer
for Relief of Claimant

4

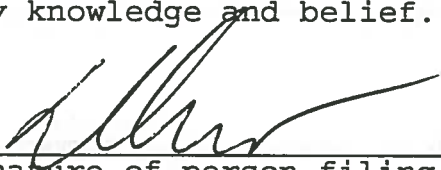
VERIFICATION (Must be Completed)

State of IDAHO

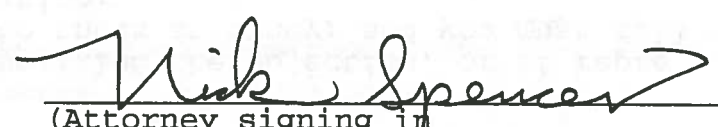
County of ADA

David B. Shaw, being first duly sworn, upon oath, deposes and says:

That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that I am the Adjudication Bureau Chief for IDWR and am authorized by R. Keith Higginson, in his official capacity as director of IDWR, to verify this response; and that I have read the foregoing response, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

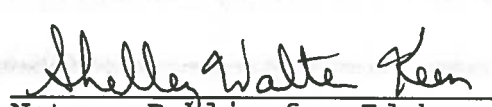

Signature of person filing response

By:


(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 9th day of September,
1993.




Notary Public for Idaho
Residing at: Boise, Idaho
My Commission expires: July 31, 1997

(Over)

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CERTIFICATE OF MAILING

I hereby certify that on the 10th day of September, 1993, I mailed the original and copies of the foregoing response, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepared and addressed as follows:

1. Original to:

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

2. One copy to the owner of the water right, and you must fill in the following information:

See No. 3

3. One copy to the party who filed the objection, or if represented by an attorney, to their attorney; and you must fill in the following information:

Name: HEPWORTH NUNGESTER & LEZAMIZ
Address: PATRICK D BROWN
& PENELOPE PARKER
PO BOX 389
TWIN FALLS ID 83303

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83734



Signature of Respondent or attorney
mailing on Respondent's behalf

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 A36-00003G
Date Received 9-19-88
Receipt Number 5002268

COPY

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Cleave Lloyd Phone () None
Mailing Address Rt. 1 Box 14, Hagerman, Id Zip 83332

2. Date of Priority (Only one (1) per claim) Sept. 10, 1884

3. Source of water supply (a) Billingsley Creek
which is tributary to (b) Snake River

4. a. Location of existing point of diversion is: Township 7S. Range 13E. Section 11,
NE 1/4 of SE 1/4 of NE 1/4, Govt. Lot, B.M., County of Gooding

Additional points of diversion if any:

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

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

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

to place of use,

Via Buckeye Ditch

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6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrig. purposes from 3/15 to 11/15 amount 0.40 or _____
For _____ purposes from _____ to _____ amount _____ or _____
For _____ purposes from _____ to _____ amount _____ or _____
For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.40 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 60 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
			<u>E 1/2</u>																
<u>7S</u>	<u>13E</u>	<u>22</u>	<u>20</u>																<u>20</u>

Total number of acres irrigated 20

11. In which county (ies) are lands listed above as place of use located? Gooding

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

Shares in Big Bend Ditch or None ()

14. Remarks:

This rt. was obtained when 10 shares of
Big Bend Irrig. Co. water was traded for this
20" of Decree thru the Buckeye Ditch.

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JAN 20 1993

Last Name Lloyd Ident No. _____

Copies: White -State, Yellow-Claimant

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

COPY

See Attached

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JAN 21 1988

Last Name

Lloyd

Ident No.

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree Decree

If applicable provide IDWR Water Right Number _____

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant New International Mortgage Co. vs. Idaho Power Co.

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 3

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) x *Clavel C. Lloyd* Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____ Title _____

of _____ Organization _____, that I have signed the foregoing document in the space below as _____ Title _____ of _____ Organization _____

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho/or _____)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 18th day of Aug 19 88

SEAL

Notary Public *Alice D. Merrett*

Residing at *Kilbuckly Id.*

My Commission Expires *6/30/94*

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

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Last Name _____ Ident. Number _____

Copies White-State, Yellow-Claimant

COPY

April 14, 1959

Mr. George Lemmon
Secretary, Buckeye Ditch Association
Hagerman, Idaho

Dear Mr. Lemmon:

Mr. Cleve Lloyd of Hagerman was deeded 20 inches of the waters of Billingsley Creek with dated priority of September 10, 1884. The point of diversion from said creek being in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 11, Twp. 7 S., R. 13 E.B.M., Gooding County, Idaho. Said water is a portion of the water decreed to the New International Mortgage Bank by decree of record in said Gooding County in book 6, page 331, of the records of decrees. Said water has heretofore been appurtenant to Tracts 126 and 127, Buckeye Ranch, according to the plat of said ranch of record in said Gooding County. Said water is being transferred to and shall hereafter be appurtenant to the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 22, Twp. 7 S., R. 13 E.B.M., Gooding County, Idaho.

Since Mr. Lloyd has this water he is entitled to take it out of the Buckeye ditch anywhere that the ditch goes through Mr. Lloyd's land. Since there are no measuring devices or no one else on the ditch measures water, Mr. Lloyd is entitled to put in any type of headgate he wished. As you know, the point of diversion on this water has not been changed and the fact is that this 20 inches of water will be used up the ditch from its former use and will not effect any of the other ditch users. I am sending a copy of this letter to Mr. James Mason and a copy to Mr. Lloyd.

Will you please read this letter in the minutes of the next meeting of the Buckeye Ditch Association, so that all of the users may be advised of the proper transfer of the said water. Thank you.

Very truly yours,

E. F. LeMoine

HFL:ms

COPY

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CONTRACT OF SALE

July 16, 1957

This contract made between Harry F. LeMoyne and Joy E. LeMoyne, husband and wife, Hagerman, Idaho, vendors and Cleve Lloyd (wife's name BETTY Lloyd), Hagerman, Idaho, purchaser.

In consideration of the mutual covenants and agreements herein contained vendors sell and purchaser buys the following described land situate in the County of Wooding, State of Idaho: NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22, Twp. 7 S. R. 13 E., B. M.

The agreed purchase price of said property is the sum of \$1600.00 which is being and shall be paid in the following manner, to wit: the sum of \$25.00 has heretofore been paid receipt of which is hereby acknowledged; the sum of \$175.00 on or before August 15, 1957; the balance of the purchase price, to wit, \$1400.00 shall be paid in annual installments of \$300.00, or more; the first of such annual installments to be made on July 1, 1958 and on the 1st day of July of each and every year thereafter until the said purchase price has been paid in full. The deferred balance shall bear interest at the rate of five per cent per annum. The accrued interest shall be paid concurrently with the principal payment and shall be paid in addition to said principal payments. Additional payments may be made at any time and in multiples of \$10.00.

All taxes and legal assessments levied for the year 1956 and previous years have been or will be paid by vendors and all subsequent taxes and legal assessments shall be paid promptly by the purchaser as and when the same become due.

When as much as the sum of \$800.00 has been paid on the purchase price vendors will upon written request of the purchaser procure and submit to purchaser a policy of title insurance or, in vendor's discretion, an abstract of title recently continued to date showing marketable title to the property so being sold in vendors' names, subject only to current taxes, water charges, legal assessments, existing rights of way and any liens or encumbrances made or suffered by purchaser. In the event that vendors elect to obtain title insurance

FOR ORIGINAL

the same will be a policy known as a purchaser's policy and will insure the purchaser to the full amount of the purchase price subject to the above qualifications.

POOR ORIGINAL

In the event that an abstract is furnished then any and all reasonable defects of title which purchaser or his attorneys point out in writing to seller within thirty days time shall be remedied by seller within a reasonable time at their own expense and if such defects are not pointed out by purchaser within the period of thirty days then purchaser will be deemed to have waived such objections.

Until the said purchase price and all other sums secured hereby are fully paid purchaser agrees to keep the buildings and improvements on said land constantly insured against fire in companies satisfactory to seller for at least \$ _____ and such policy shall bear the usual loss payable clause.

Vendors covenant and agree that there are four shares of the Big Bend Mining and Irrigation Co and twenty inches of water from Billingsley Creek which represent the water appurtenant to the property herein conveyed. Concurrently with the final payment vendors agree to execute and deliver a warranty deed conveying said property to purchaser subject only to existing rights of way and any liens or encumbrances made or suffered by purchaser. Concurrently with the final payment vendors will execute and deliver to purchaser water certificates and any and all other papers and documents necessary to transfer said water rights to purchaser.

Revenue stamps shall be affixed to the deed at the expense of vendors before final delivery.

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Possession of the property being sold shall be given to purchaser not later than the 16th day of July,

1957, and henceforth during the life of this contract purchaser agrees to maintain and care for said property and all improvements thereon or to be placed in a good and husband-like manner, so that no waste shall be committed thereon, and no unlawful use made of any part thereof; and he agrees to maintain all buildings and other improvements in as good order and repair as the same now are, reasonable wear and use excepted, and to keep said property free and clear of all liens and encumbrances. Vendor may re-enter at reasonable times for the purpose of making necessary inspections or repairs.

Should purchaser fail or neglect to make timely payment of assessments, any taxes, insurance or other lawful charges against said property, vendor may pay the same, and such sums with interest thereon at the rate of seven per cent per annum shall become a part of and be secured by this contract, and such advancements and interest thereon will be due and payable on the first principal payment date thereafter.

Purchaser expressly agrees that he has personally carefully inspected said property and the whole thereof as to amount of land in cultivation, prevalence of rocks, noxious weeds and other objectionable features, and is exercising his own judgment as to the condition and value of the property he is purchasing, and has not been influenced by any representation by or for vendor other than those contained in this contract.

This contract shall not be recorded until at least fifty per cent of the total purchase price shall have been paid.

Any notice to be given to either party in connection herewith must be given in writing, which may be delivered by some third party or sent by certified mail directed to the above addresses, or such other addresses as may later be furnished in writing.

The provisions hereof shall be binding upon and inure to the benefit of the heirs, personal representatives and assigns of the contracting parties.

Vendor's waiver of any breach or delay on the part of purchaser shall not be a waiver of any subsequent or other breach or delay.

If suit be instituted for the collection of any part of said purchase price or the enforcement of any right hereunder, the successful party shall recover in addition to other relief, such sum as the court shall adjudge reasonable as an attorneys fee.

It is expressly understood and agreed that time is of the essence of this contract and should purchaser fail, neglect or refuse to comply with any of the covenants herein contained all his right, title and interest in and to said property and any and all improvements and additions placed thereon by purchaser shall, at the option of the vendor, be subject to termination and cancellation. Before purchaser's interest may be terminated or cancelled vendor shall give purchaser notice specifying the particulars in which purchaser is in default, and in the event purchaser complies with all the then-due terms and conditions of this contract within thirty days of said notice, then such notice shall become ineffective, but if purchaser fails to comply with the then-due terms of this contract as required by said notice within such thirty-day period, then this contract will be subject to final and complete termination and cancellation by vendor. In the event of such termination or cancellation of this contract all payments theretofore made by purchaser hereunder, together with all improvements placed upon said property by him, shall be considered as rental for said property during purchaser's occupation and use thereof and as liquidated damages, and immediately upon such termination or cancellation all purchaser's title and interest in or to said property and improvements, and the whole thereof, either in law or in equity, shall completely terminate and be cancelled, and vendor shall be entitled to and shall have immediate and absolute possession, control and ownership of said property, together with any and all improvements placed thereon by purchaser. Advice of cancellation may be given in the same manner as written notices.

IN WITNESS WHEREOF the parties have hereunto set their hands as of the day and year first above written.

[Signature]
Purchaser

[Signature]
Vendor

STATE OF IDAHO }
COUNTY OF GOODING } ss.

On this 22nd day of July, 1957, before the undersigned a notary public in and for

said county, personally appeared Harry F. LeMoine and Joy E. LeMoine known to me to be the persons whose names are subscribed to the foregoing contract and acknowledged to me that they executed the same.

In witness whereof I have hereunto set my hand and affixed my seal the day and year in this certificate first above written.

(SEAL)

[Signature]
Notary Public residing at Gooding, Idaho

STATE OF Idaho }
COUNTY OF Gooding } ss.

On this day of July, 1957, before the undersigned a notary public in and for

said county, personally appeared Cleve Lloyd known to me to be the persons whose names are subscribed to the foregoing contract and acknowledged to me that they executed the same.

In witness whereof I have hereunto set my hand and affixed my seal the day and year in this certificate first above written.

(SEAL)

Notary Public residing at

COPY

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OCT 11 1994

**IDWR'S RESPONSE TO ANSWER, AFFIRMATIVE DEFENSES AND PRAYER FOR
RELIEF OF CLAIMANT**

This portion of the response addresses the multi-page attachment to the objection (hereinafter "the attachment"), wherein the claimant admits or denies all sections of Parts I, II, and III of the director's report, asserts 27 affirmative defenses, and alleges a prayer for relief. The attachment contains the following sections, corresponding to the various sections of the director's report:

- (1) I. **GENERAL RESPONSE**
- (2) II. **DESCRIPTIVE SUMMARY**, (first unnumbered page of Part I of the director's report)
- (3) III. **TABLE OF CONTENTS** (second and third unnumbered pages of Part I of the director's report)
- (4) IV. 1. **INSTRUCTIONS FOR USING THIS REPORT PART I** (page 1 of Part I of the director's report)
- (5) IV. 2. **SCOPE OF THE ADJUDICATION** (pages 1-3 of Part I of the director's report)
- (6) IV. 3. **PURPOSE OF THIS REPORT PART I** (pages 3-4 of Part I of the director's report)
- (7) V. 1. **BOUNDARIES OF BASIN** (pages 4-6 of Part I of the director's report)
- (8) V. 2. **WATER SOURCES** (page 6 of Part I of the director's report)
- (9) V. 3. **DEVELOPMENT OF WATER USE** (pages 6-9 of Part I of the director's report)
- (10) VI. **GENERAL PROVISIONS 1-8 APPLY TO ALL WATER RIGHTS IN BASIN 36** (page 9 of Part I of the director's report)
- (11) VI. General Provision 1. **EFFECT OF ADJUDICATION** (page 9 of Part I of the director's report)
- (12) VI. General Provision 2. **GENERAL ADMINISTRATIVE PROVISIONS** (pages 9-10 of Part I of the director's report)
- (13) VI. General Provision 3. **CONJUNCTIVE ADMINISTRATION** (page 10 of Part I of the director's report)
- (13) VI. General Provision 4. **ADMINISTRATION OF GROUND WATER RIGHTS** (page 10 of Part I of the director's report)
- (14) VI. General Provision 5. **ADMINISTRATION OF BASIN 36 RELATIVE TO THE SNAKE RIVER** (page 10 of Part I of the director's report)
- (15) VI. General Provision 6. **ADMINISTRATION OF SMALL DOMESTIC AND STOCK WATER RIGHTS** (page 11 of Part I of the director's report)
- (16) VI. General Provision 7. **MEASURING DEVICES AND CONTROL**

WICHOWITZ

- WORKS (page 11 of Part I of the director's report)
- (17) VI. General Provision 8. FIRE FIGHTING PURPOSES (page 11 of Part I of the director's report)
 - (18) VI. General Provision 9. CONSUMPTIVE USE (page 12 of Part I of the director's report)
 - (19) VI. GENERAL PROVISION 10 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH DOMESTIC USE AS A PURPOSE OF USE (page 12 of Part I of the director's report)
 - (20) VI. General Provision 10. DOMESTIC USE (page 12 of Part I of the director's report)
 - (21) VI. GENERAL PROVISION 11 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH STOCK WATER USE AS A PURPOSE OF USE (page 13 of Part I of the director's report)
 - (22) VI. General Provision 11. STOCK WATER USE (page 13 of Part I of the director's report)
 - (23) VI. GENERAL PROVISIONS 12-16 APPLY TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH IRRIGATION AS A PURPOSE OF USE (page 13 of Part I of the director's report)
 - (24) VI. General Provision 12. IRRIGATION USE (pages 13-14 of Part I of the director's report)
 - (25) VI. General Provision 13. DIVERSION VOLUME FOR IRRIGATION (page 14 of Part I of the director's report)
 - (26) VI. General Provision 14. CONSUMPTIVE USE FOR IRRIGATION (pages 14-15 of Part I of the director's report)
 - (27) VI. General Provision 15. AMOUNT OF COMBINED WATER RIGHTS FOR IRRIGATION (page 15 of Part I of the director's report)
 - (28) VI. General Provision 16. DIVERSION RATES IN EXCESS OF .02 CFS PER ACRE (pages 15-16 of Part I of the director's report)
 - (30) VI. 17. INSTRUCTIONS FOR USE OF LIST OF RECOMMENDED WATER RIGHTS (pages A-i through A-iii of Part I of the director's report)
 - (31) VI. 18. IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW (pages A-1 through B-25 of Part I of the director's report)
 - (32) DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36), (DIRECTOR'S REPORT PART II)
 - (33) DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36), (DIRECTOR'S REPORT PART III)

The attachment also contains part VIII, AFFIRMATIVE DEFENSES (pp. 20 through 28) and a PRAYER FOR RELIEF (untitled, p. 28).

In response to each of the items enumerated above IDWR responds that pursuant to Section 4 a.(2)(c) of SRBA Administrative Order 1, Rules of Procedure, IDWR generally denies each and every allegation, if any, contained in each enumerated portion of the attachment. IDWR affirmatively responds that neither SRBA Administrative Order 1, Rules of Procedure, nor Title 42, Chapter 14, Idaho Code, make provision for IDWR to affirm, amplify, or otherwise respond to the claimant's admissions, or to deny the claimant's denials, and that IDWR therefore does not believe that it is required to do so. Title 42, Chapter 14, Idaho Code solely defines the content and scope of the director's report. It is to contain a description of the water system and is to provide a recommendation as to each water right claimed and as to those matters necessary for administration of those water rights. Therefore, the content and scope of the objection is limited to those same matters. The attachment to the present objection asserts or otherwise raises matters not directly addressing the elements of the water right as recommended, the description of the water system, or the general provisions. Rather, the attachment raises broad issues as to the constitutional, statutory and administrative efficacy of the entire adjudication process. All such issues should be raised by means of motions to designate basinwide issues and similar procedural vehicles specifically designed to provide for basinwide notice and participation. They should not be permitted to divert the focus of any individual subcase away from the issues directly connected to the elements of the water right and the administration thereof. Therefore, because the attachment to the present objection is not within the scope of the statutory purpose of an objection it should be stricken.

However, in the event that the court should determine that all or part of the attachment is properly within the scope of the objection, IDWR further responds as follows:

IDWR affirmatively responds that all statements within the director's report are properly included therein pursuant to Title 42, Chapter 14, Idaho Code, and in particular pursuant to Idaho Code §§ 42-1411 and 42-1412(8); and that the provisions of the Idaho Rules of Civil Procedure regarding pleadings are inapplicable to the extent that they are in conflict with the statutory requirements. Therefore IDWR denies all allegations directed at the contents of the director's report.

As to the enumerated portions of the attachment addressing the listings of recommended water rights, abstracts of federal reserved water right claims, or negotiated agreements, other than the individual recommendation that is the subject of this objection, IDWR responds that such claims or agreements are not brought before this court by this objection.

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UNRECORDED

Responding to the 27 affirmative defenses asserted in the attachment, IDWR generally denies each and every affirmative defense asserted. IDWR further responds that affirmative defense numbers 1, 2, 4, 5, 10, 11, 12, 18, and 22, asserting various violations of civil or constitutional rights, fail to comply with the requirements I.R.C.P. 9(b) providing that in all averments of violation of civil or constitutional rights the factual circumstances constituting such violation must be stated with particularity. Accordingly, IDWR asserts that those affirmative defenses should be stricken.

In response to that portion of the multi-page attachment to the objection wherein the claimant asserts a prayer for relief, IDWR responds as follows:

1. IDWR denies that the director's report asserts any claims against the claimant; rather, the director's report contains only the recommendation of the director as to how the claimant's water right should be decreed and administered.
2. IDWR denies that the claimant is entitled to have the water right decreed as claimed unless in the director's report the water right has been recommended as claimed.
3. IDWR denies that any acts upon its part constitute the taking of private property for which just compensation should be allowed and awarded.
4. IDWR denies that the claimant is entitled to recover court costs and reasonable attorney fees.
5. IDWR denies that the claimant by this objection has raised any claims against IDWR entitling such claimant to any relief other than the eventual judicial determination and decree of the various elements of the claimant's water right, if any, and of those related matters necessary to describe and administer that water right.

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

Case No. A36-00003G
(You must insert the
water right number you
are objecting to)

The State of Idaho, ex rel.
R. Keith Higginson in his
official capacity as Director
of the Idaho Department of
Water Resources,

OBJECTION

Petitioner,

vs.

The United States; the State
of Idaho; and all Claimants to
the use of water from the Snake
River Basin Water System,

36-00003G -0001/
93-04-0010

Respondents.

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in the Director's Report. You may object to one water right per objection form. The water right number you are objecting to must be indicated above in the blank space following "Case No." To object to more than one water right, you must file a separate objection form for each. Forms may be obtained from the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form, as long as it is identical to the court's form. You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

Any party physically filing 25 (twenty-five) or more objections must make an appointment with the Clerk of the Adjudication Court and arrange for an appointment to file multiple objections.

(Over)

By filing an objection form, you are certifying that the objection is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and that it is not filed for any improper purpose, such as to harass, cause unnecessary delay or needless increase in the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name: Cleave C. Lloyd

Address: Route #1, Box 14

Hagerman, Idaho 83332

Briefly describe your interest in this water right:

Priority date 9/10/1884; Decreed right pursuant

to New International Mortgage Bank v. Idaho

Power Company - March 22, 1932;

2. Owner of the water right:

Name: Cleave C. Lloyd

Address: Route #1, Box 14

Hagerman, Idaho 83332

3. If this objection is filed by an attorney:

Attorney Name: Patrick D. Brown & Penelope Parker

Attorney Address: Hepworth, Nungester & Lezamiz

P.O. Box 389, Twin Falls, ID 83303

Attorney Phone No.: (208) 734-7510

If filed by an attorney, notice of pending court proceedings will be sent to the attorney only.

II. STATEMENT OF THE OBJECTION

Please check each "box" which states your objection to the recommendation in the Director's Report.

1. ☐ Name and Address: I object to the name and/or address of the owner of the water right.
2. ☐ Source: I object to the source of water.
3. ☒ Quantity: I object to:
 - a. ☒ the total quantity of water used in cubic feet per second; or
 - b. ☐ the total quantity of water stored in acre-feet per year; or
 - c. ☐ the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☐ Priority Date: I object to the priority date.
5. ☐ Points of Diversion: I object to the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.
7. ☒ Purpose(s) of Use: I object to the purpose(s) of use.
8. ☒ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. ☒ Place of Use: I object to:
 - a. ☐ the legal description of the place of use; or
 - b. ☒ the number of irrigated acres within each forty (40) acre subdivision.
10. ☒ Consumptive Use: I object to the annual volume of consumptive use.
11. ☒ Remarks: I object to the "remarks" listed with the water right.

(Over)

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12. ☐ Water Right Recommendation: I object to:
- a. ☐ this water right being recommended at all; or
- b. ☐ this water right not being recommended.
13. ☐ Description of Reservation: I object to the legal description of the reservation.
14. ☒ Other: I object to: See attached
- _____
- _____
- _____
- _____

REASONS SUPPORTING EACH BOX CHECKED

In the space following, you must state the reason(s) by number for each box checked. You may use additional pages if necessary.

See page 7

CHANGES TO THE DIRECTOR'S REPORT

Specifically describe how you want the Director's Report to be changed. You may use additional pages if necessary.

Maximum quantity as decreed &/or beneficially used; Period of

Use: 01/01 - 12/31; Purpose of Use: add domestic; Place of

Use: 20 acres; Consumptive Use: to correspond with maximum

quantity; Remarks: strike everything after "Buckeye Ditch".

Please note: You should attach copies of documents which support your objection. Note on each document the "box number" it supports.

☒ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary. _____

See Hagerman Water Right Owners, Inc.'s

Compendium "A"

VERIFICATION (Must be Completed)

State of Idaho

County of ~~Twin Falls~~ Gooding

Cleave C. Lloyd, being first duly
(Name of person filing objection)
sworn, upon oath, deposes and says:

That I am the person or entity filing this objection, that I am a water claimant or party in this proceeding, as defined by I.C. Sec 42-1401A(1) and (7), and that I have read the foregoing objection, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

Cleave C. Lloyd
Signature of person filing objection

By: [Signature]
(Attorney signing in
representative capacity)

1993 . Subscribed and sworn to before me this 20th day of April,

[Signature]
Notary Public for Idaho
Residing at: HAGERMAN, Idaho
My Commission Expires: 5-10-97

(Over)

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INSTRUCTIONS FOR MAILING

You must mail the objection, including all attachments, to the Clerk of the Court. **FAX filings will not be accepted by the Clerk of the Court.** You must also send a copy to the owner of the water right, if other than yourself; to the Office of the Attorney General, State of Idaho; and to the United States Department of Justice, as set out below in the Certificate of Mailing. Finally, you must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the 28 day of April, 1993, I mailed the original and copies of the foregoing objection, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepaid and addressed as follows:

1. Original to:

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

2. One copy to the owner of the water right, and you must fill in the following information:

Owner name: Cleave C. Lloyd
Owner's address: Route #1, Box 14
Hagerman, Idaho 83332

3. One copy to:

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

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, ID 83724



Signature of Objector or attorney
mailing on Objector's behalf

REASONS SUPPORTING EACH BOX CHECKED, page 4

Box 3, 3a and 10 - IDWR recommends an amount less than decreed and/or beneficially used. A reduction in water right would constitute a taking.

Box 7 - Beneficially used for purposes set forth in notice of claim.

Box 8 - IDWR recommends a period of use less than decreed and/or beneficially used. A reduction in water right would constitute a taking.

Box 9 - Director's Report fails to accurately state the place of use.

Box 11 - This is beyond the statutory authority vested in the Director.

CHANGES TO DIRECTOR'S REPORT, page 4

Objectors reserve the right to claim all purposes of use and quantities of use as shown by the evidence at trial.

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Question 14., page 4, Other

I.

GENERAL RESPONSE

Except as specifically admitted herein, objectors deny each and every allegation contained in the Director's Report, any related or subsidiary pleadings, and/or any attachments thereto.

II.

DESCRIPTIVE SUMMARY

(DIRECTOR'S REPORT PART I)

(hereinafter DRP-I)

(DRP-I at first unnumbered page)

The objectors admit that Part I of the Director's recommendation contains some claims to water rights appropriated under state law from Reporting Area 3. The objectors deny all other averments because the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of the averments.

III.

TABLE OF CONTENTS

(DRP-I at 2nd and 3rd unnumbered pages)

The objectors admit that the Table of Contents reflects the page numbers of the referenced sections and deny all other averments based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because any averment, expressed or implied, is so

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indefinite that it prevents the objectors from knowing what would be admitted or denied.

IV.

INTRODUCTION

1. INSTRUCTIONS FOR USING THIS REPORT PART I. (DRP-I at page 1)

The objectors admit that Part I consists of seven sections; that the description of the water system includes a brief description of Reporting Area 3 and an illustration of the boundaries of the reporting area; that the water rights and the list of the recommended rights are grouped alphabetically by source and listed chronologically by priority date; that the rights or claims in the list of claims/rights not recommended are listed numerically by water right number; and that brief instructions are found at the beginning of the applicable sections. The objectors deny that any description or any implication that the description of the water system or the illustrations are true and accurate due to lack of knowledge or information regarding the truth of the averment; deny that the general provisions apply to all water rights or define or limit classes of water rights; and deny that the general provisions "will affect your water right," based upon insufficient knowledge or information upon which to form a belief as to the truth of the averments.

2. SCOPE OF THE ADJUDICATION. (DRP-I at page 1 - 3)

The objectors deny all averments in paragraph a., due to lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments.

Regarding paragraph b., the objectors lack sufficient information or knowledge upon which to form a belief as to whether water rights which are not claimed in the adjudication will or will not exist upon entry of the court's decree and, therefore, deny such averment. The objectors admit that the court entered an order dated January 17, 1989, but presently lack sufficient knowledge to know whether any of the other averments concerning the court's order are true or accurate and, therefore, deny the same. The objectors deny that a right must be adjudicated before water may be distributed by the director. The objectors deny all other averments in paragraph b.

3. PURPOSE OF THIS REPORT PART I. (DRP-I at page 3 - 4)

The objectors admit that portion of the first sentence which states "This report contains the Director's recommendations to the SRBA District Court as to the nature and extent of water rights," but deny that such recommendations "are necessary for administration of water rights in Reporting Area 3," and further deny the Director has authority to "administer" such rights.

Regarding the second paragraph, the objectors admit that all water rights remain subject to the applicable law generally, but deny the remainder of the second paragraph.

Regarding the third paragraph of this section, the objectors deny all averments therein based upon lack of knowledge or information upon which to form a belief as to the truthfulness of the averments.

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V.

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DESCRIPTION OF THE WATER SYSTEM: BASIN 36

1. BOUNDARIES OF BASIN. (DRP-I at pages 4 - 6)

Regarding the first paragraph of this section, the objectors deny all averments due to a lack of knowledge or information upon which to admit or deny.

Regarding the second, third and fourth paragraphs of this section, the objectors admit that as broad statements, those paragraphs are generally accurate but the statements are so broad and attenuated from any matter relevant to the objectors' water right that the objectors are unable to know what would be implicitly admitted or denied and therefore, deny the same.

With respect to the fifth paragraph of this section, the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred and, therefore, deny the averments.

2. WATER SOURCES. (DRP-I at page 6)

The objectors admit that the Snake River Plain Aquifer is the source of outflows of springs located along the Snake River Canyon Wall in the Hagerman Valley. The objectors presently lack sufficient knowledge or information upon which to form an opinion as to the truth of the other averments set out in this section and, therefore, deny the same.

3. DEVELOPMENT OF WATER USE. (DRP-I at pages 6 - 9)

The objectors admit that numerous factual and historical averments are set out in this section, which may be accurate, but

these objectors have no basis for knowing whether some or all of the averments are intended to relate to the objectors' claims and, thus, are prevented from knowing what would be admitted or denied. Therefore, the averments are denied.

VI.

GENERAL PROVISIONS

GENERAL PROVISIONS 1 - 8 APPLY TO ALL WATER RIGHTS IN BASIN 36.
(DRP-I at page 9)

The objectors deny that "General Provisions 1 - 8" apply to all water rights in Basin 36 as the statements are so broad and attenuated from any matter relevant to the objectors' water rights, that the objectors are unable to know what would be explicitly admitted or denied. The objectors also specifically deny that general provisions 1-8 apply to the objectors' right.

1. EFFECT OF ADJUDICATION. (DRP-I at page 9)

With respect to paragraph a., the objectors presently have no knowledge or information upon which to form a belief as to the truth of whether a future decree would supersede prior decrees, or whether unclaimed rights would cease to exist and, therefore, deny the same.

Regarding paragraph b., the objectors deny that the Director has any powers to administer water rights other than those specifically delegated by the Legislature of the State of Idaho, and which do not violate the objectors' state and federal constitutional rights, and therefore the averments are denied.

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2. **GENERAL ADMINISTRATIVE PROVISIONS.** (DRP-I at pages 9 - 10)

The objectors admit paragraphs a. and b.

3. **CONJUNCTIVE ADMINISTRATION** (DRP-I at page 10)

The objectors deny the conjunctive administration provisions based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because any averment expressed or implied is so indefinite that it prevents the objectors from fairly understanding what would be admitted or denied. Additionally, the objectors deny that the Department of Water Resources has any statutory or regulatory authority for the "conjunctive administration" as therein described.

4. **ADMINISTRATION OF GROUND WATER RIGHTS** (DRP-I at page 10)

The objectors deny the averments within this section.

5. **ADMINISTRATION OF BASIN 36 RELATIVE TO THE SNAKE RIVER** (DRP-I at page 10)

The objectors admit that the springs are hydrologically interconnected with the Snake River Aquifer, but deny all other averments based upon the objectors' lack of sufficient information or knowledge upon which to form a belief as to the averments herein. The objectors additionally deny any said averments expressed or implied because the averments are so indefinite and generalized as to prevent the objectors from fairly understanding what would be admitted or denied.

6. ADMINISTRATION OF SMALL DOMESTIC AND STOCK WATER RIGHTS (DRP-I at page 11)

The objectors admit that part of the first sentence of subparagraph a. to the effect that "small domestic and stock water rights from surface water are not subject to administration," but deny the balance of said sentence and said paragraph.

The objectors admit the first sentence of paragraph b., and deny the balance of that paragraph because the criteria set forth therein ("if the director determines that administration is necessary") is so ambiguous, indefinite and uncertain that it prevents the objectors from knowing what would be admitted or denied, and by further reason of the fact that no statutory or regulatory authority exists conferring such sweeping and unlimited authority upon the Director or the Department.

The objectors deny the averments in paragraph c. as the averments are inaccurate and because the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of the matters averred.

7. MEASURING DEVICES AND CONTROL WORKS (DRP-I at page 11)

The objectors deny all averments contained herein as such averments are based upon an indeterminate subjective standards which are so ambiguous and indefinite as to prevent the objectors from fairly knowing what would be admitted or denied. Additionally, no statutory or regulatory authority exists conferring such sweeping and unlimited authority upon the Director or the Department as is alleged in this paragraph.

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8. FIRE FIGHTING PURPOSES (DRP-I at page 11)

The objectors admit that subparagraph a. and subparagraph b. are generally accurate statements of present law, but deny the averments are in any way relevant to defining the objectors' right.

9. CONSUMPTIVE USE (DRP-I at page 12)

The objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred and, therefore, deny the same.

GENERAL PROVISION 10 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH DOMESTIC USE AS A PURPOSE OF USE (DRP-I at page 12)

The objectors deny that "General Provision 10" applies to all water rights in Basin 36 shown with domestic use as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water rights, that the objectors are unable to fairly understand what would be explicitly admitted or denied and, therefore, deny the same.

10. DOMESTIC USE (DRP-I at page 12)

The objectors deny that the definition of "domestic use" contained in paragraphs a., b., and c. is consistent or in conformity with the definition of such term for purposes of the Idaho Constitution, or statutory definition contained in I.C. Section 42-111 as now, or as heretofore in effect at relevant times. The objectors further deny that the limitations set forth therein exist, are in force, or apply or serve in any way to limit objectors' rights.

GENERAL PROVISION 11 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH STOCK WATER USE AS A PURPOSE OF USE. (DRP-I at page 13)

The objectors deny that "General Provision 11" applies to all water rights in Basin 36 shown with stock water use as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water right, that the objectors are unable to fairly understand what would be admitted or denied and, therefore, deny the same.

11. STOCK WATER USE (DRP-I at page 13)

The objectors deny the averments herein as beyond the scope and applicability of the definition as provided by Idaho law as now, or as heretofore in effect at relevant times. The objectors further deny that the limitations set forth therein limit the objectors' right or are relevant to the right.

GENERAL PROVISIONS 12 - 16 APPLY TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH IRRIGATION AS A PURPOSE OF USE (DRP-I at page 13)

The objectors deny that "General Provisions 12 - 16" apply to all water rights in Basin 36 shown with irrigation as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water right that the objectors are unable to fairly understand what would be admitted or denied.

12. IRRIGATION USE. (DRP-I at pages 13 - 14)

The objectors deny all averments based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because

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prevent the objectors from fairly knowing what would be admitted or denied; because the standard utilized ("as determined by the director") is ambiguous, subjective and indefinite so as to prevent objectors from knowing what would be admitted or denied; and because it is both expressly and implicitly in excess of the power and authority conferred upon the State of Idaho, the Director or the Department by the Constitutions of the United States and State of Idaho, pertinent provisions of the Idaho Code or valid applicable regulations, if any, adopted by the Department in conformity with law. Therefore, the objectors deny the same.

13. DIVERSION VOLUME FOR IRRIGATION. (DRP-I at page 14)

The objectors admit that Figure 1 generally depicts certain lands in Basin 36; however, the objectors deny all other averments including that the amounts set forth are the maximum annual volume of water reasonably required at the field headgate for irrigation, either within Basin 36 in general, or upon objectors' real property in particular. The objectors additionally deny that the maximum annual volumes per acre set forth is that which is "reasonably required for irrigation unless a higher annual diversion volume is reasonably required due to conveyance losses, method of irrigation or field conditions;" because the standard utilized ("as determined by the director") is ambiguous, subjective and indefinite so as to prevent objectors from knowing what would be admitted or denied; and because it is both expressly and implicitly in excess of the power and authority conferred upon the State of Idaho, the Director or the Department

by the Constitutions of the United States and State of Idaho, pertinent provisions of the Idaho Code or valid applicable regulations, if any, adopted by the Department in conformity with law. Therefore, the objectors deny the same.

14. CONSUMPTIVE USE FOR IRRIGATION. (DRP-I at page 14 and 15)

The objectors admit that the recommended water rights contained within the Director's Report show only the irrigation use listed unless otherwise indicated in "Remarks." The objectors deny all other averments contained within this section, including the amount of maximum annual volume of consumptive use per acre in the northern and southern portions of the basin, all of which is beyond the scope of any power or authority vested in the Director or the Department, and contrary to fact; historical use; established, vested, decreed, licensed or permitted rights.

15. AMOUNT OF COMBINED WATER RIGHTS FOR IRRIGATION. (DRP-I at page 15)

The specific averments have no relationship to or basis in fact relating to the individual needs or rights of the objectors, and accordingly, objectors deny this section in its entirety. In addition, no statutory or regulatory authority exists conferring upon the Director, or the Department, the power to limit use and ownership of objectors' private property rights as alleged.

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16. DIVERSION RATES IN EXCESS OF .02 CFS PER ACRE. (DRP-I at page 15 - 16)

The objectors deny the averments contained in this section in its entirety.

17. INSTRUCTIONS FOR USE OF LIST OF RECOMMENDED WATER RIGHTS. (DRP-I at page A-i, A-ii and A-iii)

The objectors admit that each water right in the list of recommended water rights includes a description including right number, name and address, source, maximum quantity, consumptive use, priority date, point of diversion, purpose of use, period of use, place of use, basis of right and others. The objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred in said descriptions other than that the descriptions allegedly include the Director's or Department's version of the facts as they relate to the matters identified. Objectors deny the accuracy of the substantive allegations or information set forth with regard to the objectors' right.

18. IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW. (DRP-I, pages A-1 - B-25)

The objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred in said recommended water rights other than those specific admissions contained in Questions 1 - 12 of the attached individual objection, and therefore deny the same.

DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36)

(DIRECTOR'S REPORT PART II)

I.

Objectors do not understand the allegations, averments or contents of Part II of the Director's Report for Reporting Area 3 (Basin 36) to pertain or relate to objectors or their claims, and do not believe any response is required. To the extent a response is required, objectors deny the same in its entirety.

DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36)

(DIRECTOR'S REPORT PART III)

I.

No report denominated as Part III of the Director's Report for Reporting Area 3 (Basin 36) has been filed, and accordingly objectors are unable to admit, deny or otherwise response to the same. Objectors do not understand that the contemplated subject matter of such Part III will relate or pertain to objectors or their claims, and no response is required in any case. To the extent any response is required, objectors deny the same in its entirety.

VIII.

AFFIRMATIVE DEFENSES

Pursuant to I.R.C.P. 8(c), objectors herewith state the following matters of affirmative defense or avoidance:

AFFIRMATIVE DEFENSE NO. 1

The objectors' water right is an incorporeal form of real property (as defined by Idaho Code Sections 7-703, 73-114, 55-101,

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and like statutes) protected by Section 14, Article 1, of the Idaho Constitution, and the Fifth Amendment to the United States Constitution, and allege that the actions of the Director in recommending, limiting and/or regulating said rights is an unconstitutional infringement upon and a taking of private property, without just compensation and violation thereof.

AFFIRMATIVE DEFENSE NO. 2

The adjudication authorization legislation, I.C. Section 42-1401, et seq., on its face and as applied by the Director and the Department constitutes an improper delegation of constitutional power and authority conferred upon the executive, legislative and/or judicial branches of government and as such violate the provisions governing separation of powers set forth in Article 2, Section 1, Idaho Constitution.

AFFIRMATIVE DEFENSE NO. 3

The procedure set forth in the adjudication authorization legislation, statutes, I.C. Section 42-1401, et seq., and any rules, regulations, procedures, policies or standards promulgated by the Director and/or the Department, if any, are vague and so lacking in reasonable specificity so as to render them impossible of reasonable comprehension, or consistent and meaningful application.

AFFIRMATIVE DEFENSE NO. 4

The procedures, rules, regulations, policies or standards, if any, adopted, implemented and applied by the Department and/or the Director violate the equal protection and due

process clauses of the Fourteenth Amendment, United States Constitution, and Article 1, Sections 2 and 13, Idaho Constitution.

AFFIRMATIVE DEFENSE NO. 5

The adjudication authorization legislation, Idaho Code Section 42-1401, et seq., and the actions of the Director and Department in recommending, limiting and/or regulating the objectors' water right constitutes a violation of 42 U.S.C. Section 1983.

AFFIRMATIVE DEFENSE NO. 6

The water right owned by the objectors is the subject of valid existing decrees issued by the Director and Department, which decrees are binding upon the State of Idaho, the Department and the Director. As a result, the State of Idaho, the Department and the Director are precluded by the doctrines of res judicata, collateral estoppel, judicial estoppel and the like from relitigating or questioning the validity, existence or priority of such right, and/or from taking any position in the Director's Report, or otherwise, which is inconsistent with such decrees.

AFFIRMATIVE DEFENSE NO. 7

The Director's recommendations are contrary to decreed rights, historical use and extent licenses and permits issued by the Department. There has been no forfeiture nor abandonment of the objectors' water rights, nor have the objectors' water rights been prescriptively or adversely possessed, nor have such decrees been vacated or such licenses and permits revoked.

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AFFIRMATIVE DEFENSE NO. 8

The Directors' Report fails to state a claim to the extent the same asserts a forfeiture, abandonment, prescriptive or adverse acquisition or loss, or loss resulting from estoppel, of the objectors' water right in the absence of any fact upon which forfeiture, abandonment, prescriptive or adverse acquisition for loss, or loss resulting from estoppel, may be based or asserted.

AFFIRMATIVE DEFENSE NO. 9

The objectors' water right is an incorporeal form of real property, as defined by Idaho Code Sections 7-703, 73-114, 55-101, and like statutes, and, as such, pursuant to Idaho Code Section 7-904, et. seq., the actions of the Director in attempting to limit, reduce and/or regulate such rights, and the assertion of some inconsistent proprietary ownership or right to use or control by the State of Idaho, constitutes an unauthorized and invalid taking of private property without the payment of just compensation, or compliance with statutory requirements, all in violation of Title 7, Chapter 7, Idaho Code.

AFFIRMATIVE DEFENSE NO. 10

The actions of the Director, the Department and their agents, servants and employees in recommending, limiting, reducing and/or regulating objector's water rights, either as alleged in the Director's Report or as in fact applied, violates objectors' rights as secured by Art. 1, Section 1; Art. 15, Sections 3, 4 and/or 5; and/or as otherwise provided in the Constitution of the State of Idaho.

AFFIRMATIVE DEFENSE NO. 11

The various allegations, statements and assertions contained in the Director's Report concerning the Department and/or the Director's position or intentions with regard to the adjudication, as well as the implementation of statutes and/or regulations, as well as the administration of water or management of water rights or claims to the beneficial uses of water, if implemented, constitute a violation of various provisions the United States and Idaho constitutions, and/or a violation of the letter, spirit and/or intent of various statutes enacted by the legislature, and/or constitute an exercise of purported authority or powers either in excess of those conferred by law, or in a manner inconsistent with those conferred by law, or both.

AFFIRMATIVE DEFENSE NO. 12

The individual recommendations relating to the specific water right of the objectors as set forth in the Director's Report are (1) not based upon substantial evidence and/or are not, in fact, the product of any reasonable, complete or accurate investigation as required by law; (2) are the product of arbitrary and capricious action on the part of the Department or the Director; (3) have been made in excess of the constitutional and statutory authority of the Department and the Director; (4) have been made upon an unlawful and invalid procedure; (5) are affected by various and sundry errors of law; and/or (6) are clearly erroneous in view of the reliable, probative and substantial evidence.

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AFFIRMATIVE DEFENSE NO. 13

The Director's Report is a pleading subject to the provisions of the Idaho Rules of Civil Procedure, including, but not limited to the requirement of I.R.C.P. 8(a)(1) that such pleadings contain a clear and plain statement of the facts, demonstrating an entitlement to relief. The Director's Report violates such provision.

AFFIRMATIVE DEFENSE NO. 14

The Director's Report fails to state a claim upon which relief may be granted.

AFFIRMATIVE DEFENSE NO. 15

The Director's Report is subject to, and must comply with, the requirements of Idaho Code Section 42-1411. The Director's Report does not comply with the requirements of the statute.

AFFIRMATIVE DEFENSE NO. 16

In conducting the investigation and compiling the Director's Report, the Department and the Director have not complied with the requirements of Idaho Code Section 42-1410.

AFFIRMATIVE DEFENSE NO. 17

In conducting the investigation and compiling the Director's Report, the Department and the Director have not complied with the requirements of Idaho Code Section 42-1416.

AFFIRMATIVE DEFENSE NO. 18

The procedures specified in the authorizing legislation and procedural rules promulgated in accordance therewith serve to

deny objectors due process of law in violation of Amendment Fourteen to the Constitution of the United States and Art. 1, Section 13, Idaho Constitution.

AFFIRMATIVE DEFENSE NO. 19

The "General Provisions" and "Other Statements" contained in the Director's Report, along with the Claims Investigation Manual, Adjudication Memoranda and other materials of a similar nature used or employed by the Department, the Director and/or their agents, servants and/or employees constitute rules and regulations which were required to be proposed, promulgated, adopted and approved in conformity with the Administrative Procedures Act and other applicable statutory provisions. The Department, Director and their agents, servants and employees have failed to comply with such requirements, and accordingly, the "General Provisions," "Other Statements", Claims Investigation Manual and the like are invalid, void and of no force or effect.

AFFIRMATIVE DEFENSE NO. 20

Neither the "General Conditions," the Claims Adjudication Manual, Adjudication Memoranda or other promulgations, adoptions, policies, or the like have been submitted to or approved by the Legislature as required by Idaho Code Section 67-5217.

AFFIRMATIVE DEFENSE NO. 21

The relief requested by the Department and the Director in the Director's Report are beyond and in excess of the subject matter jurisdiction of the Court.

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AFFIRMATIVE DEFENSE NO. 22

The actions of the Legislature, or the Department and the Director to enact, adopt, implement or enforce statutes, regulations, rules or policies subsequent to November 19, 1987, and to apply or enforce the same for the purpose of, or with the effect of recommending, diminishing or altering objectors' water rights, constitute a violation of Amendment Fourteen, United States Constitution; Art. 1, Section 13, Idaho Constitution; the SRBA authorization legislation; and Idaho Code Sections 73-101 and 73-106.

AFFIRMATIVE DEFENSE NO. 23

These proceedings are subject to the requirements and provisions of Idaho Code Sections 12-117, 12-121, 12-123 and I.R.C.P. 11, and the provisions of the private attorney general doctrine, and other related doctrines, and the Department, Director and State of Idaho are obligated to objectors for the payment and reimbursement of any and all reasonable costs or attorney fees incurred herein.

AFFIRMATIVE DEFENSE NO. 24

The Director's Report asserts what amounts to be a taking of private property by power of eminent domain as governed by Idaho Code Section 7-701 et seq., and as such, venue is therefore improper.

AFFIRMATIVE DEFENSE NO. 25

The Department and the Director are equitably estopped from seeking any reduction in the quantity, quality or priority of

objectors' water rights by virtue of prior statements, representations and actions of the Department, Director or their agents, servants and employees.

AFFIRMATIVE DEFENSE NO. 26

The Department and the Director are barred by laches and the applicable statutes of limitation, including, but not limited to, Idaho Code Sections 5-202, 5-203, 5-204, 5-206, 5-207, 5-208, 5-215, 5-218, 5-219(2), 5-224 and/or 5-241.

AFFIRMATIVE DEFENSE NO. 27

Objectors hereby reserve the right to assert any further affirmative defenses not expressly stated herein, but which subsequently become apparent.

WHEREFORE, the objectors pray for judgment as follows:

1. That the State of Idaho take nothing by reason of its Directors' Report, and that this action, and any claims asserted against objectors, be dismissed.

2. That a decree be entered adjudicating the existence, validity, amount and priority of objectors' water rights in accordance with objectors' claims.

3. That to the extent the acts of the Department or Director constitute a taking of objectors' property for public use, that objectors be allowed and awarded just compensation therefor.

4. That the objectors be allowed all costs of suit and reasonable attorney fees incurred herein.

5. For such further relief to which the Court finds objectors justly entitled.

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NOTICE OF ERROR

RESPONSE

CORRECTED R PROOF

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AUG-24-1992

NOTICE OF ERROR FORM

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Please type or print clearly, fill out completely, and return to:

Idaho Department of Water Resources

Statehouse Mail

Boise, Idaho 83720-9000

SEP 28 1992

Department of Water Resources
Southern Region Office

The notice of error must be received at IDWR by the **deadline date** printed below with your proposed recommendation.

YOUR DEADLINE FOR FILING A NOTICE OF ERROR IS: SEP-24-1992

1. Water right number: 36-000036

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SEP 22 1992

2. Name: Cleave C. Lloyd

Department of Water Resources

Address: RT. 1 Box 14 Hagerman Idaho

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JAN 20 1993

Weekday Telephone Number:

TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE

(Instead of filling in items 3 and 4 below you may include a copy of your proposed recommendation with the changes marked on the copy.)

3. Describe the portion of proposed recommendation with which you disagree:

That portion you insist on taking from me

4. Describe the changes you wish to have made in the proposed recommendation:

That which was decreed by the court in 1932

5. Describe why you disagree with the proposed recommendation:

Because I would like to enjoy life a little too.
I paid for this so called right. Why does the IDWR want
to destroy Hagerman Valley and its people. Why not take our
land too?

6. Date: Sept 18-1992

SIGNATURE

Cleave C. Lloyd



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director



CLEAVE Lloyd

VIEW NW

8-30-90



CLEAVE Lloyd

VIEW SOUTH

MICROFILMED

JAN 20 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

OCT. 16, 1992

MR CLEAVE LLOYD

RT 2 BOX 14

HAGERMAN, ID 83332

RE: CLAIMS 36-04142 AND
36-0003G

DEAR MR. LLOYD;

YOU SUBMITTED NOTICE OF ERROR FORMS FOR THE ABOVE
RECOMMENDED CLAIMS. A FIELD EXAM OF CLAIM 36-00003G
SHOWED THAT ONLY 3 ACRES OF YOUR PROPERTY UNDER THIS CLAIM
IS BEING IRRIGATED WITH THIS WATER AND THE REST IS NOT IN
PRODUCTION. ONLY THE ACRES IRRIGATED BENEFICIALLY CAN BE
RECOMMENDED.

YOUR CLAIM FOR POWER GENERATION (36-04142) WAS FOR 11 CFS
OF FLOW. THIS FLOW WAS MEASURED AS 5 CFS ON MAY 6, 1991.
THE EXAMINATION SHOWED THIS FLOW WAS THROUGH A 9" PIPE TO
THE GENERATOR. THE MEASURED FLOW RATE WAS LESS THAN 1/2
OF THE CLAIMED FLOW RATE, SO WE WILL RECOMMEND 5 CFS AS THE
DIVERSION RATE ON THIS CLAIM.

RESPECTFULLY,

ROBERT V. WORSTELL
WATER RIGHT AGENT

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JAN 20 1993

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT
(REGIONAL)

10/17/92 21:38:02
Page 1

Water Right Number - R36-00003G Prefix Translation: RESEARCH Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***
LLOYD CLEAVE 1 - RT1 BOX 14
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-000-0000

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
09/10/1884 17 SOUTHERN D - DECREED

+ - - - - Source - - - - - + + - - - - - Tributary - - - - - +
BILLINGSLEY CREEK SNAKE RIVER

+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
07S 13E 11 SE SE NE (47) GOODING

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 03/15 11/15 0.120

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.120 9.0

+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 22 NE NE 3.0 01 IRRIGATION (47) GOODING

Total Acres: 3.0

+ - - Diversion Means - VIA BUCKEYE DITCH

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +
WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.
0.03 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT.

+ - - - - Old Water Right Numbers - - - - - +
3600003

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JAN 20 1993

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT
(REGIONAL)

10/17/92 21:38:02
Page 2

Water right number - R36-00003G

Prefix Translation: RESEARCH

+ - - - - Conditions of Approval - - - - -
No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - +
NEW INTERNATIONAL MORTGAGE BANK

+ - - - - Decree Defendant - - - +
IDAHO POWER COMPANY

+ - - Decree Date - - +
00/00/0000

+ - - - - Comments - - - - -

Date: 08/05/1992 User Id: WORSTELL Subject: COPIED FROM REMARKS
THIS RIGHT WAS OBTAINED WHEN 10 SHARES OF BIG BEND DITCH IRRIG. CO. WATER WAS TRADED FOR THIS 20" OF DECREE THROUGH THE BUCKEYE DITCH.

Date: 09/22/1992 User Id: SCHULTZ Subject: NOTICE OF ERROR (NOE)
RECEIVED NOE 9/22/92. CHANGED NOE FLAG FROM BLANK TO A. CLAIM VERIFIED 8/5/92. DID NOT REVERIFY ANY PART OF CLAIM.

Date: 10/17/1992 User Id: WORSTELL Subject: NOTICE OF ERROR RECORD - NO CHANGE

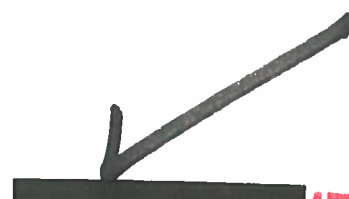
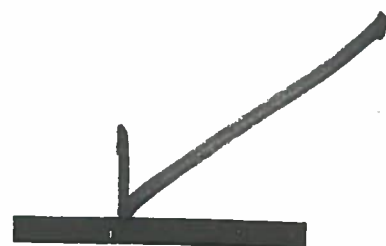
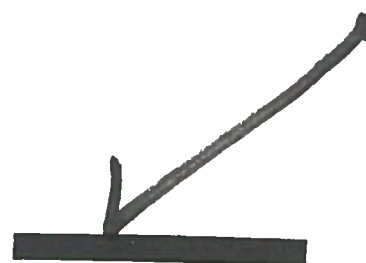
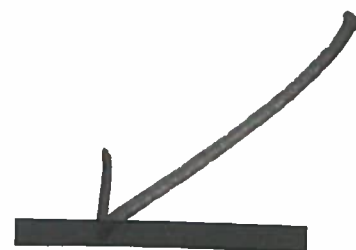
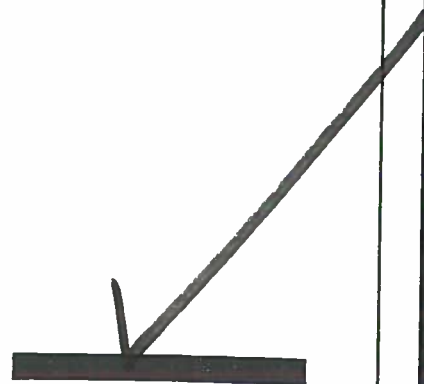
+ - - Audit Fields - - +
10/17/92 WORSTELL

+ - - - - Adjudication Rights Dates and Flags Area - - - - -

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 10/17/1992	Old Judicial District	-
Claim Received Date	- 09/19/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S002268	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- OR	Presumption Flag	- C
				Notice of Error Flag	- B

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JAN 20 1993

R PROOF
CVR
MAPS
PHOTOS
MISC



MICROFILMED

JAN 20 199

Water Right Number - R36-00003G Prefix Translation: RESEARCH Old (D) Number -
+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +
*** C - CURRENT OWNER ***
LLOYD CLEAVE 1 - RT1 BOX 14
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-000-0000
+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
09/10/1884 17 SOUTHERN D - DECREED
+ - - - - Source - - - - - + + - - - - - Tributary - - - - - +
BILLINGSLEY CREEK SNAKE RIVER
+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
07S 13E 11 SE SE NE (47) GOODING
+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 04/01 10/31 0.120
+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.120 9.0
+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 22 NE NE 3.0 01 IRRIGATION (47) GOODING
Total Acres: 3.0
+ - - Diversion Means - VIA BUCKEYE DITCH
+ - - Non-Irrigation Use -
+ - - Other Rights for Same Use - NONE
+ - - - - Remarks - - - - - +
WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.
0.03 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT.
+ - - - - Old Water Right Numbers - - - - - +
3600003

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JAN 20 1993

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT
(REGIONAL)

08/05/92 11:05:10
Page 2

Water right number - R36-00003G

Prefix Translation: RESEARCH

+ - - - - Conditions of Approval - - - - -
No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - +
NEW INTERNATIONAL MORTGAGE BANK

+ - - - - Decree Defendant - - - +
IDAHO POWER COMPANY

+ - Decree Date - +
00/00/0000

+ - - - - Comments - - - - -
Date: 08/05/1992 User Id: WORSTELL Subject: COPIED FROM REMARKS
THIS RIGHT WAS OBTAINED WHEN 10 SHARES OF BIG BEND DITCH IRRIG. CO. WATER WAS TRADED FOR THIS 20" OF DECREE THROUGH THE BUCKEYE DITCH.

+ - - Audit Fields - - +
08/05/92 WORSTELL

+ - - - - Adjudication Rights Dates and Flags Area - - - - -

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 08/05/1992	Old Judicial District	-
Claim Received Date	- 09/19/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S002268	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- OR	Presumption Flag	- C
				Notice of Error Flag	-

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JAN 20 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

14:36:22
06/28/90

PAGE: 15
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-000036

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE			8-30-90			HHT		
POINT OF DIV	Y		SCU/HHT	N	1,5	8/5/92	DB	
SOURCE				Y				
PLACE OF USE	Y			N				
DIV. AMOUNT CFS/VOLUME	Y			Y	1,4,25			
CONSUMPTIVE USE	-			Y	6. DEGREE			
PURPOSES				Y				
PERIOD OF USE	Y			N				
BASIS OF CLAIM	Y			N				
REMARKS	Y			N				

"VERIFIED BY" CODES

TOPO MAP/ORTHO-PQ = 1
ASCS MAP = 2
WATERMASTER RECORDS = 3
NAPP PHOTOS = 4
FIELD EXAM = 5
OTHER (SEE REMARKS) = 6

THESE CODES ARE USED TO INDICATE HOW THE FIELD EXAMINER VERIFIED THE INFORMATION
USED FOR THIS FIELD EXAMINATION. INDICATED ARE ALL CODES WHICH APPLY.

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JAN 20 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

14:36:22
06/28/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-00003G

LAST: NEW INTERNATIONAL MORTGAGE BANK
ADDRESS:
CITY: N/A
PHONE NUMBER: 208-000-0000

FIRST:

STATE: ID ZIP: 00000

OWNER CODE: 0

LAST: LLOYD
ADDRESS: RT.1 BOX 14
CITY: HAGERMAN
PHONE NUMBER: 208-000-0000

FIRST: CLEAVE

STATE: ID ZIP: 83332

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

DATABASE
Y

FIELD
EXAMINER

CLAIM REMARKS: THIS RIGHT WAS OBTAINED WHEN 10 SHARES OF BIG BEND DITCH IRRIG.
CO. WATER WAS TRADED FOR THIS 20" OF DECREE THROUGH THE BUCKEYE
DITCH.

when?

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CONTACT PERSON: _____

PHONE NUMBER: (____) ____-____

DATE OF FIELD EXAM: 8/30/90

APPOINTMENT MADE: Y(____) N(____)

TIME: ____:____ A(____) P(____)

ACCOMPANIED BY: _____

PHONE NUMBER: (____) ____-____

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

Also conversation Memo on 10-17-90.

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JAN 20 1993

A. AJ CLAIM: # A36-00003G PRIORITY DATE: 09-10-1884 STAGE: D
B. WR RECORD: # 36-00003 PRIORITY DATE: 09-10-1884 STAGE: D

C. FIELD EXAM REQUIRED?

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)

DATABASE
N

FIELD
EXAMINER
N

ARE THERE OBVIOUS REASONS TO QUESTION THE PRIORITY DATE CLAIMED? Y() N(✓)
IF YES EXPLAIN.

REMARKS:

=====

RECOMMENDED PRIORITY DATE:
09-10-1884

REVIEWED BY

nht

DATE

7-12-90

=====

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JAN 20 1993

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-00003G	07S	13E	11	NE	SE	NE		GOODING

OTHER AJ CLAIMS WITH SAME AJ POD

A PREFIX R PREFIX
A36-00051D NONE

WR RECORDS IN SAME 40 ACRE TRACT

A36-10119	36-00005
A36-10120	36-00019
A36-10751	36-00021
A36-10752	36-00024
A36-10755	36-00025
A36-10061	36-00026
A36-00103B	36-00027
A36-00108A	36-00034
A36-00027	36-00035A
A36-00039C	36-00035B
A36-00090E	36-00039A
A36-00051B	36-00039B
A36-00076A	36-00040
A36-00089B	36-00051
A36-00089D	36-00052
A36-10283	36-00064
A36-10312	36-00065
A36-00090A	36-00067
A36-00003D	36-00071
A36-00090B	36-00076
A36-00090C	36-00077
A36-00090D	36-00082
A36-00090F	36-00083
A36-00108F	36-00085
A36-00125A	36-00087
A36-00026	36-00088
A36-00051C	36-00089
A36-00071A	36-00090
A36-00089A	36-00091
A36-00108C	36-00094
A36-00108D	36-00095
A36-00108E	36-00096
A36-00108H	36-00103
A36-04008	36-00108
	36-00112A
	36-00112B
	36-00113B
	36-00113C
	36-00113D
	36-00125
	36-04008
	36-04115
	36-04261
	36-07271
	36-07658
	36-07739

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JAN 20 1993

36-07834
36-07840
36-07853
36-07875
36-07957
36-08058
36-08319
36-08335

SOURCE: BILLINGSLEY CREEK

TRIB: SNAKE RIVER

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
36-00003	07S	13E	11		SE	NE		GOODING

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX

36-00005	A36-00025	NONE
36-00019	A36-00087	
36-00021	A36-07658	
36-00024	A36-10409	
36-00025	A36-00051D	
36-00026	A36-10119	
36-00027	A36-10120	
36-00034	A36-10751	
36-00035A	A36-10752	
36-00035B	A36-10755	
36-00039A	A36-10061	
36-00039B	A36-00103B	
36-00040	A36-00108A	
36-00051	A36-00027	
36-00052	A36-00039C	
36-00064	A36-00090E	
36-00065	A36-00051B	
36-00067	A36-00076A	
36-00071	A36-00089B	
36-00076	A36-00089D	
36-00077	A36-10283	
36-00082	A36-10312	
36-00083	A36-00090A	
36-00085	A36-00003D	
36-00087	A36-00090B	
36-00088	A36-00090C	
36-00089	A36-00090D	
36-00090	A36-00090F	
36-00091	A36-00108F	
36-00094	A36-00125A	
36-00095	A36-00026	
36-00096	A36-00051C	
36-00103	A36-00071A	
36-00108	A36-00089A	
36-00112A	A36-00108C	
36-00112B	A36-00108D	
36-00113B	A36-00108E	
36-00113C	A36-00108H	

MICROFILMED
JAN 20 1993

36-00113D
36-00125
36-04008
36-04115
36-04261
36-07271
36-07658
36-07739
36-07834
36-07840
36-07853
36-07875
36-07957
36-08058
36-08319
36-08335

A36-04008
A36-04115
A36-04261
A36-00113B
A36-10316
A36-10588
A36-00039J
A36-00096A
A36-00113F
A36-00113G
A36-10559
A36-00048B
A36-00048C
A36-10223
A36-00103A
A36-00003B
A36-00003C
A36-00003E
A36-00003F
A36-00003J
A36-00039G

MICROFILMED
JAN 20 1993

SOURCE: BILLINGSLEY CREEK

TRIB: SNAKE RIVER

C. FIELD EXAM REQUIRED?

	DUE TO POD DISCREPANCY? (Y/N)	DUE TO SOURCE DISCREPANCY? (Y/N)	DATABASE	FIELD EXAMINER
	Y		Y	<u>N</u>
			N	<u>N</u>

REMARKS:

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	COUNTY
<u>7S</u>	<u>13E</u>	<u>11</u>	<u>SE</u>	<u>SE</u>	<u>NE</u>	<u>---</u>	<u>Gooding</u>

SOURCE: BILLINGSLEY CREEK

TRIB: SNAKE RIVER

REVIEWED BY: hnt

DATE: 7-12-90

VIA BUCKEYE DITCH

change claim

A. ROOT WATER RIGHT NUMBERS:

A36-00003A
A36-00003B
A36-00003C
A36-00003D
A36-00003E
A36-00003F
A36-00003G
A36-00003H
A36-00003J

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JAN 20 1993

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
07S	13E	22	NE	NE		LLOYD , CLEAVE	A36-00003G /20.0	- /	2.0	3.0	3.0
						MADARIETA , FELIX	A36-10272 /	- /			
						PETERSON , ORLAND	A36-10523 /	- /			
						BIG BEND IRRIGATION & MINING	CA36-00192 / 9.0	36-00192 /			
						LLOYD , CLEAVE	A36-04142 /	36-04142 /			
						BIG BEND IRRIGATION & MINING	CA36-00133 / 9.0	36-00133 /			
						BIG BEND IRRIGATION & MINING C		36-02007 /			
TOTAL ACRES							A36-00003G	20.00	2.00		3.0

ARE IRRIGATED ACRES FOUND IN TRACTS OTHER THAN INDICATED ABOVE, Y() N(X)
IF YES SEE ATTACHED SHEET:

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER
Y

PRESUMPTION FLAG: C

REMARKS:

This needs field verification- Landsat & NAPP show the
land not irrigated. ✓ sec 3.0 Acres ~~also allowed as found under BBI.~~
via Buckeye ditch
BBI water used for domestic purposes

RECOMMENDATIONS:

TOTAL ACRES: 3.0
REVIEWED BY: sec

DATE: 10-18-90

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A. AJ CLAIMED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
A36-00003G IRRIGATION	FROM 03-15 TO 11-15	.400 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		.400 CFS

B. WR RECORDED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
36-00003 IRRIGATION	FROM TO	20.000 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		20.000 CFS

PRESUMPTION FLAG: C

C. FIELD EXAM REQUIRED?

	DATABASE	FIELD EXAMINER
DUE TO WATER-USE DISCREPANCY? (Y/N)	N	<u>N</u>
DUE TO DIVERSION RATE DISCREPANCY? (Y/N)	Y	<u>N</u>
DUE TO PERIOD FROM/TO DISCREPANCY? (Y/N)	Y	<u>N</u>

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

RECOMMEND TO WR STANDARDS OR OTHER?

Y(X) N()

Y(X) N(X)

Explain in remarks, below.

REMARKS:

4-1 to 10-31

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A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y() N(X)

AJ TOTAL CLAIMED DIVERSION RATE: 0.400 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 20.000 CFS

*** IF NO or IF STATUTORY CLAIM or BENEFICIAL USE then flow measurement required. ***
** If an amount smaller than the original diversion rate is **
** claimed and an exam is NOT required, explain in remarks. **

FLOW MEASUREMENT REQUIRED?

DUE TO STAGE OR DIVERSION RATE DISCREPANCY? (Y/N)

FIELD
DATABASE EXAMINER
Y N

B.

FLOW MEASUREMENT

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

C. ARE OTHER WATER RIGHTS USED? (Y Y) N() IF YES COMPLETE OVERLAP REVIEW.

OTHER RIGHTS LISTED IN CLAIM: ~~SHARES IN BIG BEND DITCH IRRIGATION~~ None

change
Claim

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A36-00003G	BILLINGSLEY CREEK	LLOYD , CLEAVE	0.400	0.020		
A36-00192	TUCKER SPRINGS, LOWER	BIG BEND IRRIGATION & MINING C	15.000	0.017	10859.70	12.35

LIST ALL RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION.

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A36-10272	DOMESTIC	MADARIETA , FELIX	FROM 01-01 TO 12-31	.040 CFS	
A36-10523	DOMESTIC	PETERSON , ORLAND	FROM 01-01 TO 12-31	.040 CFS	
A36-04142	POWER	LLOYD , CLEAVE	FROM 01-01 TO 12-31	11.000 CFS	

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JAN 20 1993

D.

RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE 0.03
ACRES 3.0 x 0.02 CFS/ACRE = 0.09 CFS
(Taken from p/u review)

1b. CALCULATIONS

DOES AMOUNT CLAIMED EXCEED 0.02 CFS/ACRE? Y(X) N()

*** IF YES ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y() N(X) ***

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 60.0 AF/A

ACRES 3 x CONSUMPTIVE VOL. AF/A FOR AREA 3 =

TOTAL CONSUMPTIVE USE 9.0 AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES 3 x DIVERSION VOL. AF/A FOR AREA 4 =

TOTAL DIVERSION VOLUME 12.0 AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N()

REMARKS: (Include limitations on CONSUMPTIVE USE for combined rights.)

per conversation memo and
field exam, irrigation is by gravity
for pump pressure to sprinkle or
Drip irrigate.

* allow IDWR standard = 0.09

7-23-92 see

Irrigation from Buckeye Ditch,
BBI water used for
domestic purposes.
HHS

Rec. Div. Rate 0.09
Conv. loss 0.03
total 0.12

RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM TO	REC. DIV RATE CFS	REC. DIV VOL. AF/A	REC. CONS. USE
IRRIGATION	03-15 11-15	DATABASE EXAMINER ~~0.400~~ ~~0.04~~ ~~0.09~~ 0.12 ~~12~~	DATABASE EXAMINER ~~60.0~~ ~~0.12~~ ~~60.0~~ 9.0	
TOTAL FOR THIS RIGHT		~~0.400~~	~~60.0~~	
REVIEWED BY: <u>Sec</u>	DATE: <u>10-18-90</u>			

~~w/2 proportional rate = $\frac{29 \text{ cfs}}{1446 \text{ Ac.}} = 0.014 \text{ cfs/Ac.}$~~
~~(3 x 0.014 = 0.042)~~
~~* allow 0.04 cfs~~

See Pg. 11 for div. rate
discussion.

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JAN 20 1993

A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP _____
FORFEIT/ABANDON _____
ADDITIONAL DIV. AMOUNT _____

ACCEPTED
AS CLAIMED

(☒)
()
()

NEEDS
REVIEW

()
(☒)
(☒)

legal review

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-00003

TOTAL DIVERSION RATE OF WR SPLITS DATABASE 20.000 EXAMINER _____ CFS

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
A36-00003	A36-00003A	1.600	-		36-00003	20.000
A36-00003	A36-00003B	7.160	-		36-00003	20.000
A36-00003	A36-00003C	0.300	-		36-00003	20.000
A36-00003	A36-00003D	0.240	-		36-00003	20.000
A36-00003	A36-00003E	0.200	-		36-00003	20.000
A36-00003	A36-00003F	0.800	-		36-00003	20.000
A36-00003	A36-00003G	0.400	-		36-00003	20.000
A36-00003	A36-00003H	12.000	-		36-00003	20.000
A36-00003	A36-00003J	4.000	-		36-00003	20.000
TOTAL CFS		26.700				20.000

DIVERSION RATE REVIEW

DO THE SUM CFS RATE OF THE SPLITS EQUAL THE ROOT RIGHT CFS RATE? (Y/N)
IF NO, is the written review sheet attached? (Y/N)

DATABASE
N

FIELD
EXAMINER
N
N

REMARKS:

See ~~attached~~ ~~A36-00003~~ for split Reviews

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JAN 20 1993

=====

AUTHENTICATION:

SIGNATURE: Steve Callahan

DATE: 10-18-90

NAME OF FIELD EXAMINER: _____

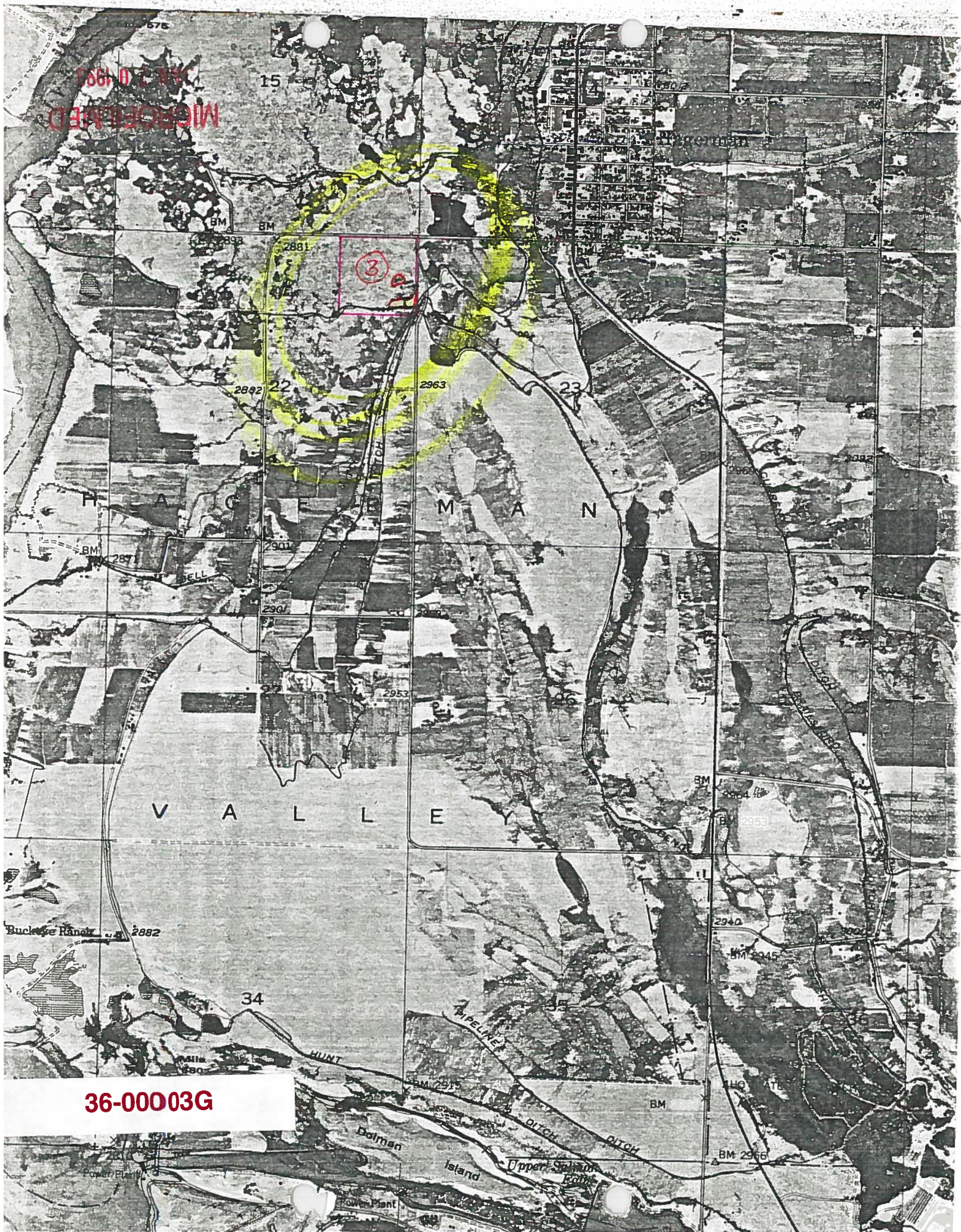
TITLE: _____

=====

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JAN 20 1993

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APR 20 1993



36-00003G

See 8-3-92

CONVEYANCE LOSS - WORSTELL

REACH	LENGTH (FT)	AVE WIDTH (FT)	SEEPAGE (FT/DAY)	WORSTELL LOSS (CFS)	DELIVERY (CFS)	DELIVERY LEFT (CFS)	LOSS FACTOR	DELIVERY LOSS (CFS)	FLOW (CFS)
1	800	10.0	2.00	0.20	0.06	18.83	0.0107	0.00	26.81
2	600	10.0	2.00	0.15	1.02	18.77	0.0081	0.02	26.55
3	1400	10.0	2.00	0.35	0.24	17.75	0.0199	0.01	25.38
4	800	10.0	2.00	0.20	0.44	17.51	0.0115	0.02	24.79
5	1100	10.0	2.00	0.28	0.17	17.07	0.0163	0.01	24.14
6	1200	10.0	2.00	0.30	0.10	16.90	0.0179	0.01	23.70
7	300	10.0	2.00	0.08	1.22	16.80	0.0045	0.11	23.29
8	1000	10.0	2.00	0.25	0.16	15.58	0.0162	0.02	22.00
9	500	10.0	2.00	0.13	0.50	15.42	0.0082	0.06	21.58
10	2200	10.0	2.00	0.56	4.13	14.92	0.0373	0.62	20.96
11	5500	10.0	2.00	1.39	0.20	10.79	0.1288	0.06	16.27
12	1700	10.0	2.00	0.43	0.09	10.59	0.0406	0.03	14.68
13	3900	10.0	2.00	0.99	0.34	10.50	0.0938	0.14	14.16
14	600	10.0	2.00	0.15	0.27	10.16	0.0149	0.12	12.84
15	1500	10.0	2.00	0.38	0.62	9.89	0.0383	0.29	12.42
16	1600	10.0	2.00	0.40	1.00	9.27	0.0436	0.51	11.42
17	600	10.0	2.00	0.15	0.30	8.27	0.0183	0.16	10.01
18	300	10.0	2.00	0.08	3.25	7.97	0.0095	1.75	9.56
19	3000	10.0	2.00	0.76	0.24	4.72	0.1606	0.17	6.24
20	3000	10.0	2.00	0.76	4.48	4.48	0.1692	3.89	5.24
TOTALS	31600			7.98	18.83			7.98	

Buckeye Ditch

A36-000036

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JAN 20 1993

REACH = SECTION OF CHANNEL
 LENGTH = LENGTH OF REACH, THE CHANNEL CAN BE DIVIDED INTO EQUAL LENGTH REACHES
 OR ACTUAL LENGTHS BETWEEN DELIVERY POINTS
 AVE WIDTH = AVERAGE TOP WIDTH OF REACH
 SEEPAGE = SOIL SEEPAGE RATE OF REACH
 WORSTELL LOSS = CONVEYANCE LOSS IN REACH BASED ON WORSTELL METHOD
 DELIVERY = TOTAL DELIVERIES IN REACH
 DELIVERY LEFT = SUM(DELIVERIES OF CURRENT AND REMAINING REACHES)
 LOSS FACTOR = WORSTELL LOSS/DELIVERY LEFT
 DELIVERY LOSS = SUM(LOSS FACTORS OF CURRENT AND PREVIOUS REACHES) X DELIVERY,
 REPRESENTS THE LOSSES ASSIGNED TO THE DELIVERIES IN THE REACH
 FLOW = TOTAL FLOW AT BEGINNING OF EACH REACH

DECREED RIGHT SPLIT ANALYSIS

PARENT RIGHT NO. 36-00003 TOTAL DIVERSION RATE 20.0PREPARATION DATE 7-29-92 HHT

CLAIM PORTION	CLAIMED RATE	RECOMMENDED RATE	IS CLAIMED RATE EXCEEDED BY ANALYSIS	CONVEYANCE LOSS	DOES DIV RATE + CALC. C.L. EXCEED CLAIMED RATE	TOTAL RECOMMENDED DIV. RATE
A	1.6	0.26 13ac.	N	0.10	N	0.36
B	7.16	3.25 129ac	N	1.75	N	5.00
C	0.30	0.20 10ac.	N	0.26	Y	0.30
D	0.24	0.24 2ac.	Y	0 (0.17)	NA	0.24
E	6.20	6.20 5ac.	Y	0 (0.06)	NA	0.20
F	0.80	0.80 40ac.	N	(0.26)	Y	0.80
G	0.40	0.09 3ac.	N	0.03	N	0.12
H	20.0	4.48 224ac	N	3.89	N	8.69
J	4.0	0.30 15ac.	N	0.16	N	0.46
Total	34.7	9.82				16.17

Recommended rates do not exceed decreed diversion rate
HHT

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JAN 20 1993

A36-000036
LLOYD

3
83.9

2
12.7

480

T-573

479

T-572

478

T-571

486

T-578

477

T-567

12.3

50

473

T-561

480

T-580

12.1

3.3

2

12.2

11.7

478

4

13

14

15

16

17

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INITIALS

DATE

**PRESUMPTION
CODE**

FOI

Buckeye Hike

002

0.030 cfs.

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JAN 20 1993

1/30/1989

SRBA CLAIMS RECEIVING CHECKLIST #2

CLAIMANT'S NAME Lloyd CLAIM # ENT. NO. 436-000036

DATE RECEIVED 9-19-88 ? CK # 5002268 AMOUNT \$ 5002268

- | | YES | NO | Required Info? |
|--|-------------------------------------|--------------------------|----------------|
| 1. Is the name and address complete with zip code? | ☒ | ☐ | * |
| 2. Is a priority date entered?
Is the priority date acceptable in view of mandatory filing dates?
See Adjudication Memos #1 and #4 to determine if a Permit is required. | ☒ | ☐ | * |
| 3. (a) Is a source entered? | ☒ | ☐ | * |
| (b) Is a tributary to entered? (if required) N/A | ☒ | ☐ | |
| 4. Is the legal description of the p.d. sufficient? | ☒ | ☐ | * |
| 5. Is there a description of the diverting works? | ☒ | ☐ | |
| 6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form. | ☒ | ☐ | * |
| Is the period of use included? | ☒ | ☐ | |
| Is a quantity claimed for each use? | ☒ | ☐ | * |
| 7. Is a total quantity claimed entered? | ☒ | ☐ | |
| 8. If required is a consumptive use entered? N/A | ☒ | ☐ | |
| Is the consumptive use correct? N/A | ☒ | ☐ | |
| 9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4. | ☒ | ☐ | * |
| 10. Is (are) the place(s) of use and purpose(s) indicated? | ☒ | ☐ | * |
| 11. Is (are) the county(ies) entered? | ☒ | ☐ | |
| 12. Is the ownership of p.u. checked? | ☒ | ☐ | |
| 13. Are other water rights listed or "none" indicated? | ☒ | ☐ | |
| 14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.) N/A | ☒ | ☐ | |
| 15. Is the basis of the claim indicated? | ☒ | ☐ | |
| 16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.) N/A | ☒ | ☐ | |
| 17. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block. | ☒ | ☐ | * |
| 18. Has the claim been signed, sealed, and dated by a notary? | ☒ | ☐ | * |
| 19. Was this claim filed on time, or was an extension granted? | ☒ | ☐ | * |
| 20. Is the fee enclosed correct? Exempt | ☒ | ☐ | * |
| 21. If this claim is based on an existing water right, has the identification number been entered? N/A | ☒ | ☐ | |
| 22. Should this claim be receipted and data entered? | ☒ | ☐ | |

Claim checked by: CL Date: 2-7-89

Claim must be returned to claimant: (Yes) (No)

Claimant must be notified of modifications: (Yes) (No)

Receipt Prepared by: Allen Merrill Date: 9-19-88
Claim data entered by: CL Date: 2-7-89 Checked by: CL Date: 2-8-89
Sent to claimant by: CL Date: 2-7-89

Comments: _____

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JAN 20 1989