

12/13/2006

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

RIGHT NUMBER: 22-2027

NAME AND ADDRESS: FOX CREEK CANAL CO
C/O DAWN STONE SEC
494 S 50 W
VICTOR ID 83455

FOX CREEK CANAL CO
C/O RANDALL FOSTER PRES
402 S 200 E
DRIGGS ID 83422

SOURCE: FOX CREEK

TRIBUTARY: TETON RIVER

QUANTITY: 2.000 CFS

PRIORITY DATE: 10/11/1907

POINT OF
DIVERSION:

T04N R45E S25 SESWNE Within TETON County
T04N R46E S29 SWSWNE Lot 4 Within TETON County
T04N R46E S30 NENWNE Lot 6 Within TETON County
T04N R46E S30 NWSNW Within TETON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

2.000 CFS

PLACE OF USE:

3496.3 ACRES TOTAL

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

Place of use is within the area served by Fox Creek Canal Company.

The rights listed below are limited to the irrigation of a combined total of 3455.4 acres in a single irrigation season. Combined Right Nos.: 22-107, 22-188, 22-202, 22-432, 22-2027, 22-2037, 22-12156, 22-12159, 22-12161, 22-12164, 22-12165, 22-12166.

This right is limited to the irrigation of 120 acres within the place of use described above in a single irrigation season.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Water is delivered through Fox Creek Canal.

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

In Re SRBA)

Water Rights: 22-107, 22-188, 22-
202, 22-432, **22-2027**, 22-2037, 22-
12156, 22-12159, 22-12161, 22-12164

Case No. 39576)

**NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING**

IDWR has completed the following Administrative proceeding:

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

☒ Other - REMARKS

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

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

DATED: Aug. 12, 2008

Ernest Carlson
Signature of IDWR Representative

SCANNED
AUG 20 2008

CERTIFICATE OF MAILING

I certify that on Aug 13, 2008, I mailed the original and copies of this form to the following persons, postage prepaid by regular mail and addressed as follows:

1. Original to:

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

2. One copy to:

Claimant/Seller for Substitution of Party or attorney of record:	
Fox Creek Canal Co	Fox Creek Canal Co
C/O Dawn Stone Sec	C/O Randall Foster Pres
494 S 50 W	402 S 200 E
Victor ID 83455	Driggs ID 83422

3. One copy to:

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

4. One copy to:

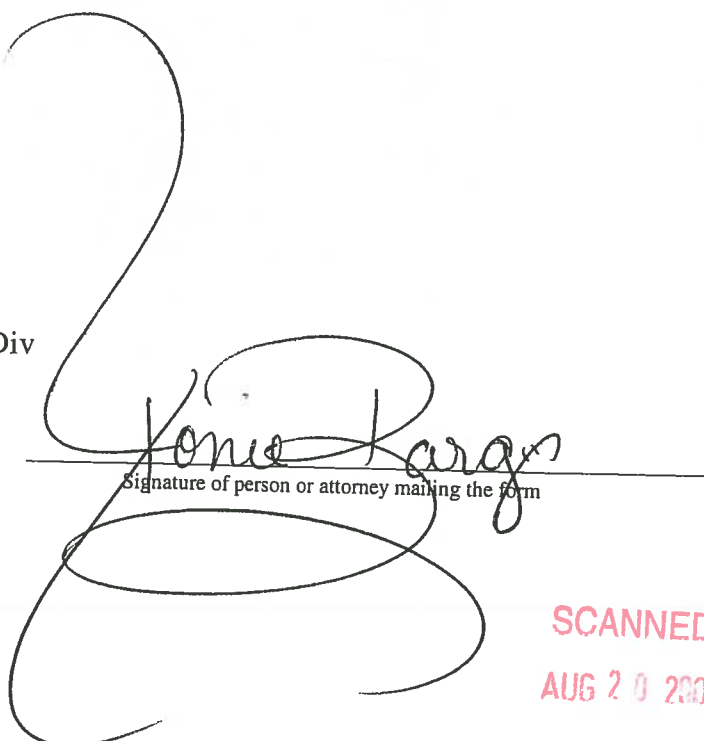
Each party in the subcase, or attorney of record

5. One copy each to:

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

6. One Copy to:

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



Signature of person or attorney mailing the form

SCANNED
AUG 20 2008

08/12/2008

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

RIGHT NUMBER: 22-2027

NAME AND ADDRESS: FOX CREEK CANAL CO
C/O DAWN STONE SEC
494 S 50 W
VICTOR ID 83455

FOX CREEK CANAL CO
C/O RANDALL FOSTER PRES
402 S 200 E
DRIGGS ID 83422

SOURCE: FOX CREEK TRIBUTARY: TETON RIVER

QUANTITY: 2.000 CFS

PRIORITY DATE: 10/11/1907

POINT OF
DIVERSION:

T04N R45E S25 SESWNE Within TETON County
T04N R46E S29 SWSWNE Lot 4 Within TETON County
T04N R46E S30 NENWNE Lot 6 Within TETON County
T04N R46E S30 NWSNW Within TETON County

PURPOSE AND
PERIOD OF USE:

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

PLACE OF USE:

3377.7 ACRES TOTAL

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

Place of use is within the area served by Fox Creek Canal Company.

The rights listed below are limited to the irrigation of a combined total of 3377.7 acres in a single irrigation season. Combined Right Nos.: 22-107, 22-188, 22-202, 22-432, 22-2027, 22-2037, 22-12156, 22-12159, 22-12161, 22-12164, 22-13872, 22-13874.

This right is limited to the irrigation of 120 acres within the place of use described above in a single irrigation season.

SCANNED

AUG 20 2008

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Water is delivered through Fox Creek Canal.

SCANNED

AUG 20 2008

Fox Creek C.C. Analysis

Rights	CFS To Fox Creek CC	Decreed Cfs	Priority	Claim File	Decreed to:	Acres Decreed	Acres to Fox Creek
107	83.2	83.2	1/22/1916	107	Fox Creek	4160	4160
188	2.4	2.4	6/1/1900	188	George W. Bush	280	280
202	3.2	3.2	6/1/1894	202	Nels Christensen	160	160
432	0.3	0.3	6/1/1895	432	B. F. Parker	280	280
2027	2	2	10/11/1907	2027	William Nickell	120	120
2037	1.2	1.2	7/20/1908	2037	N. P. Hansen	80	80
165	0	1.6	6/1/1889	12156	Ebenezer and J. Beezley	160	80
558	1.1	1.1	7/15/1889	12156	George M. Tonks	320	320
Total	1.1		7/15/1889	12156			320
166	0.1	1.6	6/1/1890	12159	Ebenezer and J. Beezley	80	5
360	0.73	2.2	6/1/1890	12159	Kimbal	240	80
350	0	1.6	6/1/1890	12159	William Jenkins	80	0
674	0.8	1.6	6/1/1890	12159	Steven Crow	160	80
Total	1.63		6/1/1890	12159			165
108	1.6	1.6	5/15/1896	12161	Hal Rasmussen	80	80
417	2	2	5/15/1896	12161	Charles Moulton	160	160
418	1.88	2	5/15/1896	12161	George F. Moulton	160	150.4
Total	5.48		5/15/1896	12161			390.4
185	2	2	6/1/1896	12164	George W. Bush	280	280
187	0.8	0.8	6/1/1896	12164	George W. Bush	280	No Additional
361	0.4	1.6	6/1/1896	12164	R. C. Kimbal	240	60
445	0.4	0.4	6/1/1896	12164	Farley Penfold	120	120
540	1.6	3.2	6/1/1896	12164	Henry J. Stone	160	0
562	2.74	3.2	6/1/1896	12164	J. R. Vail	160	137

Total	7.94		6/1/1896	12164			597
211	0.2	0.2	6/1/1897	12165	Charles Cluff	160	160
433	2.4	2.4	6/1/1897	12165	B. F. Parker	280	280
444	1.84	2	6/1/1897	12165	Algeroy Penfold	160	147.2
446	2	2	6/1/1897	12165	Farley Penfold	120	120
563	2.4	2.4	6/1/1897	12165	W. C. Vail	160	160
564	2	2	6/1/1897	12165	W. C. Vail	160	160
Total	10.84		6/1/1897	12165			1027.2
149	0	1	6/1/1898	12166	Amos Allen	160	
212	3	3	6/1/1898	12166	Charles Cluff	160	160
434	1.5	1.5	6/1/1899	12166	B. F. Parker	280	280
Total	4.5		6/1/1899	12166			440
Grand Total	123.79						8019.6

Claims competing with Fox Creek C.C.

Right	Right CFS	Split	Split CFS	CFS to Fox Creek CC
149	1	149	1	0
165	1.6	165	1.6	0
166	1.6	13543	0.52	0.1
166		13614	0.23	
166		13615	0.74	
228	3.2	228	3.2	0
350	1.6	13540	1.56	0
350		13357	0.04	
360	2.2	13152	0.23	0.73
360		13151	0.31	
360		13606	0.29	
360		13607	Disallowed	
361	1.6	13154	0.17	0.4
361		13153	0.23	
361		13608	0.23	
361		13609	0.57	
418	2	418A	0.12	1.88
444	2	444A	0.16	1.84
540	3.2	11415	1.6	1.6
562	3.2	13411	0.04	0
562		562B	0.1	2.74
562		562A	0.32	
674	1.6	674E	0.2	0.8
674		674D	0.2	
674		674C	0.2	
674		674B	0.2	

11/10/2006

NOTICE OF ERROR

REPLY

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

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

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS:

Water right number: 22-2027

FOX CREEK CANAL CO
C/O DAWN STONE SEC
494 S 50 W
VICTOR ID 83455
Telephone Number: (208)787-2759

FOX CREEK CANAL CO
C/O RANDALL FOSTER PRES
402 S 200 E
DRIGGS ID 83422
Telephone Number: (208)354-8463

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

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

DATE: 12-9-06

SIGNATURE: Randall L Foster

Please print your name: Randall L Foster

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

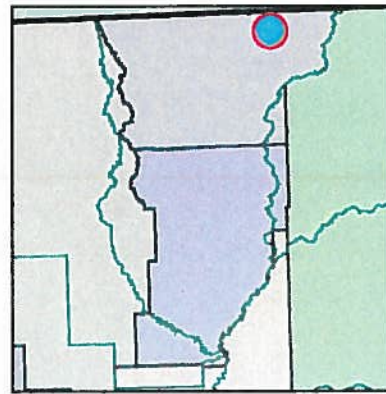
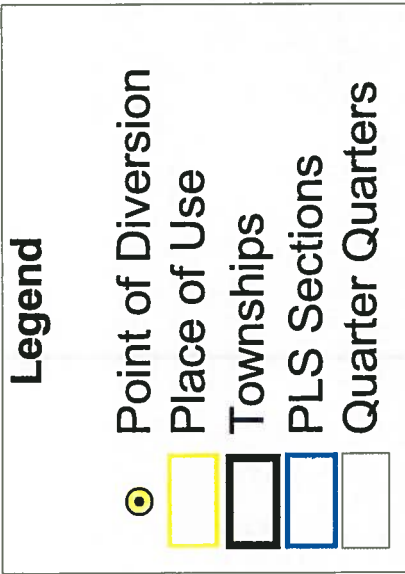


Idaho Department of Water Resources

Fox Creek Canal Co

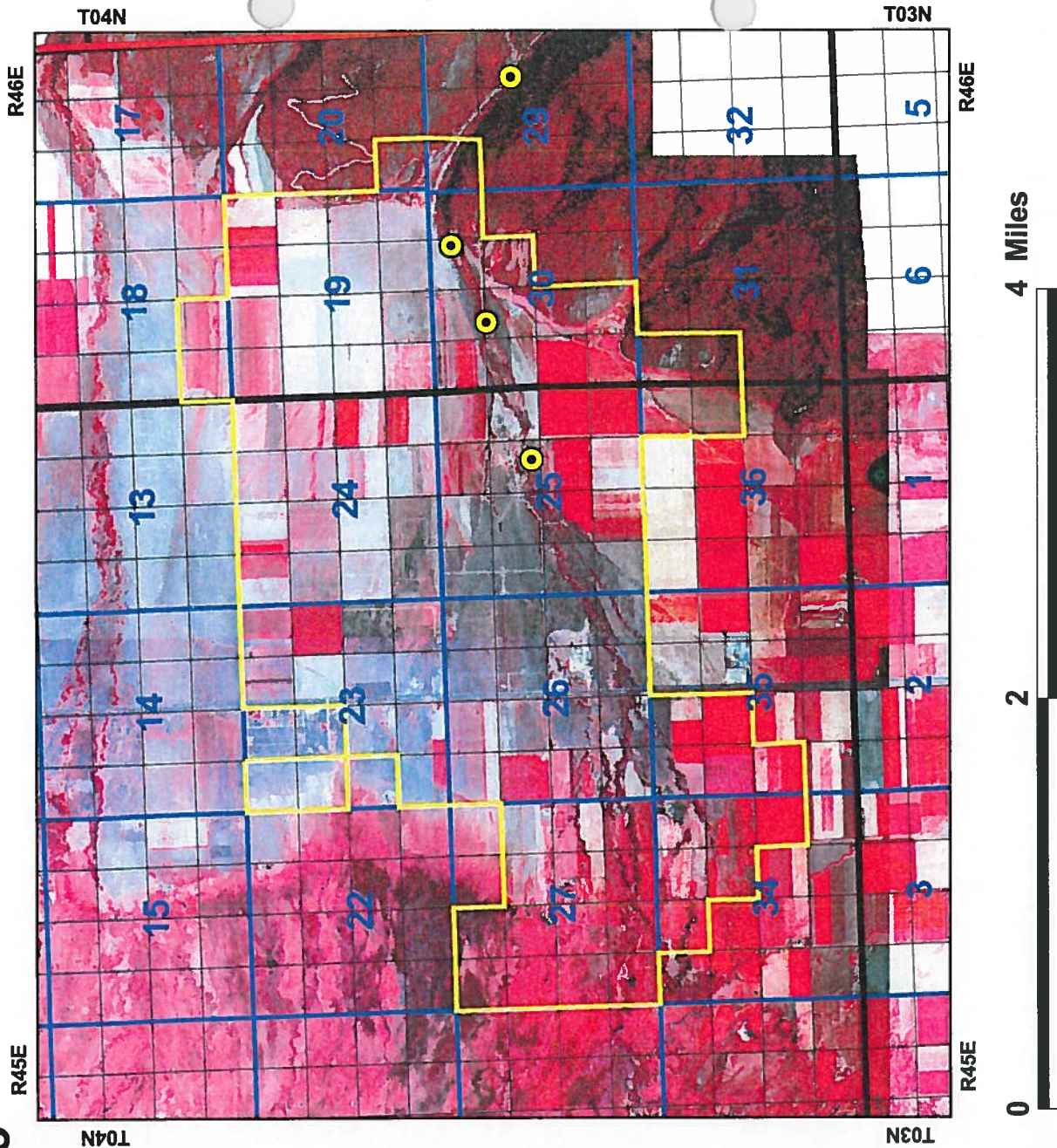
Service Area Boundary
Irrigated Acres = 3496.3

GIS Place of Use Illustration



Teton County
IDWR Basin 22

Prepared by T. Galbraith
On Wednesday, December 13, 2006
1987/88 Aerial Photography





Idaho Department of Water Resources

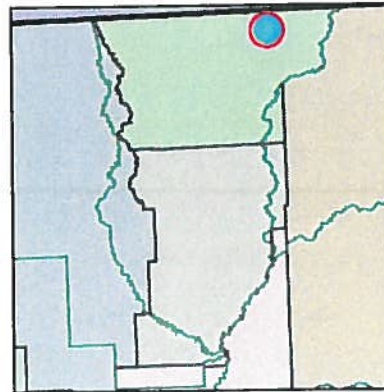
Fox Creek Canal Co

Service Area Boundary
Irrigated Acres = 3455.4

GIS Place of Use Illustration

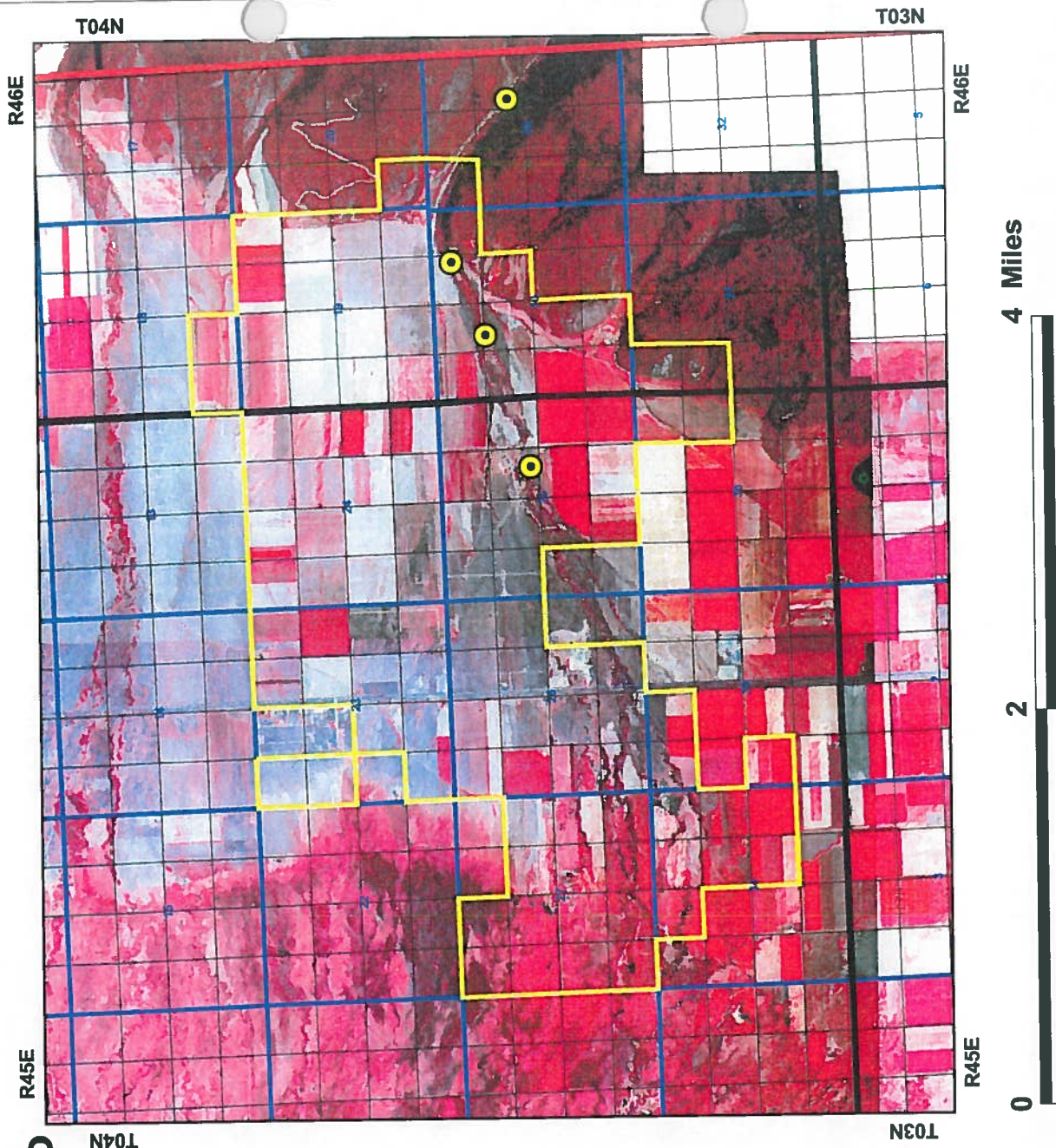
Legend

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



Teton County
IDWR Basin 22

Prepared by T. Galbraith
On Saturday, November 18, 2006
1987/88 Aerial Photography



Fremont County
Fox Creek
2 second feet
Irrigation
Priority 10-11-1907

S T A T E O F I D A H O

Water License No. 3192.

WHEREAS, On the 11th day of October A.D.1907, WILLIAM NICKELL, of Chopin, County of Fremont, and State of Idaho, duly made application (No. 4463) to me for a permit to use two cubic feet per second of the waters of Fox Creek, County of Fremont, State of Idaho, for irrigation and domestic purposes; and,

WHEREAS, On the 12th day of October, A.D. 1907, Permit No. 3192, was issued to said applicant for the diversion of said water, and providing for the completion of the works of diversion therein described on or before the 12th day of October, A.D.1908, and for the application to beneficial use of said water on or before the 12th day of October, A.D. 1909, and,

WHEREAS, On the 28th day of December A.D.1907, the holder of said permit duly made proof of the completion of adequate works for the diversion of two cubic feet per second of said waters, as evidenced by my Certificate No. 3192, dated January 21,1908, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use two cubic feet per second of water, with date of priority of October 11,1907, and,

WHEREAS, On the 18th day of January, A. D.1909, proof was duly made of the application to beneficial use of two cubic feet per second of said water.

NOW, THEREFORE, By virtue of the authority vested in me by the laws of the State of Idaho, I hereby grant and confirm to WILLIAM NICKELL, of Chopin, Idaho, the holder and owner of said Permit No. 3192, a perpetual right, dating from October 11,1907, to the use of two cubic feet per second of the waters of Fox Creek, in the County of Fremont, and State of Idaho, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at a point near the northeast corner of southeast quarter of northwest quarter (SE4 NW4) Section 29, Twp. 4 N., R. 46. E.B.M., and conducted to and upon (30 acres in SW4 SW4, Section 20; 20 acres in NW4 NW4 Section 29; 30 acres in NE4 NE4, Section 30 and 40 acres in NW4 NE4 Section 30, all in Township 4 north, range 46 east of Boise meridian, for the purpose of irrigation and domestic use, subject, however, to the laws of the State of Idaho applicable to a license for the use of the waters of the State, and subject, also, to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS, My hand and the seal of my office at Boise, Idaho, this second day of February A.D. Nineteen Hundred and nine.

Jas. Stephenson, Jr.

(SEAL)

State Engineer/

Recorded February 2,1909

22-2027

Claim No. 22-2627

Document Checklist

☒ Copy License/Decree

☐ Copy Transfer

N/A

☒ Copy Licensing Field Exam

☐ Check if Ownership/Address Change is Required

N/A

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

N/A

1

☒ Generate Arcview Map

Claim Number: 22-02027

Water Right Priority Date: _____ Water Right Basis: LICENSE

Claimed Priority Date: _____ Claimed Basis: LICENSE

Recommended Priority Date: _____ Recommended Basis: _____

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

P.D. SAME AS LICENSE

Reviewer: _____

Date: _____

feet
on
10-11-1907

S T A T E O F I D A H O

Water License No. 3192.

REAS, On the 11th day of October A.D.1907, WILLIAM NICKELL, of Chopin, County of
and State of Idaho, duly made application (No. 4463) to me for a permit to use
feet per second of the waters of Fox Creek, County of Fremont, State of Idaho,
ation and domestic purposes; and,

REAS, On the 12th day of October, A.D. 1907, Permit No. 3192, was issued to said
for the diversion of said water, and providing for the completion of the works
ion therein described on or before the 12th day of October, A.D.1908, and for
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REAS, On the 28th day of December A.D.1907, the holder of said permit duly made
the completion of adequate works for the diversion of two cubic feet per second
waters, as evidenced by my Certificate No. 3192, dated January 21,1908, confirm-
completion of works of sufficient capacity for diverting and conveying to the
intended use two cubic feet per second of water, with date of priority of
1,1907, and,

REAS, On the 18th day of January, A. D.1909, proof was duly made of the applicati
cial use of two cubic feet per second of said water.

THEREFORE, By virtue of the authority vested in me by the laws of the State of
hereby grant and confirm to WILLIAM NICKELL, of Chopin, Idaho, the holder and
said Permit No. 3192, a perpetual right, dating from October 11,1907, to the use
bic feet per second of the waters of Fox Creek, in the County of Fremont, and
Idaho, or so much thereof as may be necessary for the purposes hereinbelow mentio
erted at a point near the northeast corner of southeast quarter of northwest
SE4 NW4) Section 29. Twp. 4 N., R. 46. E.B.M., and conducted to and upon (30
SW4 S74, Section 20; 20 acres in NW4 NW4 Section 29; 30 acres in NE4 NE4, Section
acres in NW4 NE4 Section 30, all in Township 4 north, range 46 east of Boise
for the purpose of irrigation and domestic use, subject, however, to the laws
ate of Idaho applicable to a license for the use of the waters of the State,
et, also, to the local or community customs, rules and regulations which have
ay be adopted from time to time by a majority of the users from a common source
, canal or lateral from which such water may be taken, when such rules and regu-
ave for their object the economical use of such water.

ESS My hand and the seal of my office at Boise Idaho this second day of

Report of Engineer

1. State name of applicant and number of permit: *William Nickell No 3192*
2. State source of water supply: *Fox Creeks Canyon*
3. Location of point of diversion: *Half mile west of Wyoming line*
4. State whether or not the works of diversion are fully completed and in accordance with terms of permit: *Yes, fully completed and in accordance with permit*
5. Describe works as they exist, giving dimensions of same as follows:
 - (a) Width of conduit at bottom: *3 feet*
 - (b) Width at water line: *3 feet*
 - (c) Depth of water: *1 foot*
 - (d) Grade per mile: *27 feet*

A { *B* { *3 feet*
3 feet
8 inches
35 feet
6. State whether or not water has been turned into works of diversion and if so, to what extent: *Yes, it has been used for nearly for four years*
7. Give exact location of lands to be irrigated. Give exact number of acres under cultivation in each forty acre tract: *The location of each forty is the following: N.W. 1/4 of N.E. 1/4 of Sec. 30 with 40 acres cultivated. N.E. 1/4 of N.E. 1/4 sec 30 with 30 acres cultivated. N.W. 1/4 of N.W. 1/4 Sec. 29 with 20 acres cultivated. S.W. 1/4 of S.W. 1/4 Sec. 20 with 30 acres cultivated.*
8. Submit map on enclosed plat, source of supply, point of diversion, route of ditch or ditches and cross hatch lands to be irrigated.

Remarks: *In 5 above the dimensions of two conduits are given. On map you will notice conduit A and B.*

D. S. Neal

STATE OF IDAHO,

County of _____ ss.

_____, being first duly sworn, deposes and says that the statements contained in the within report are correct to the best of his knowledge and belief.

Subscribed and sworn to before me this *12* day of *Jan* 190*9*.

My Commission Expires *May 26-1910*

Harold D. Winger
Notary Public.

3192

about

Journal

W. H. 46

1873 PM

North

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

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30

29



road

road

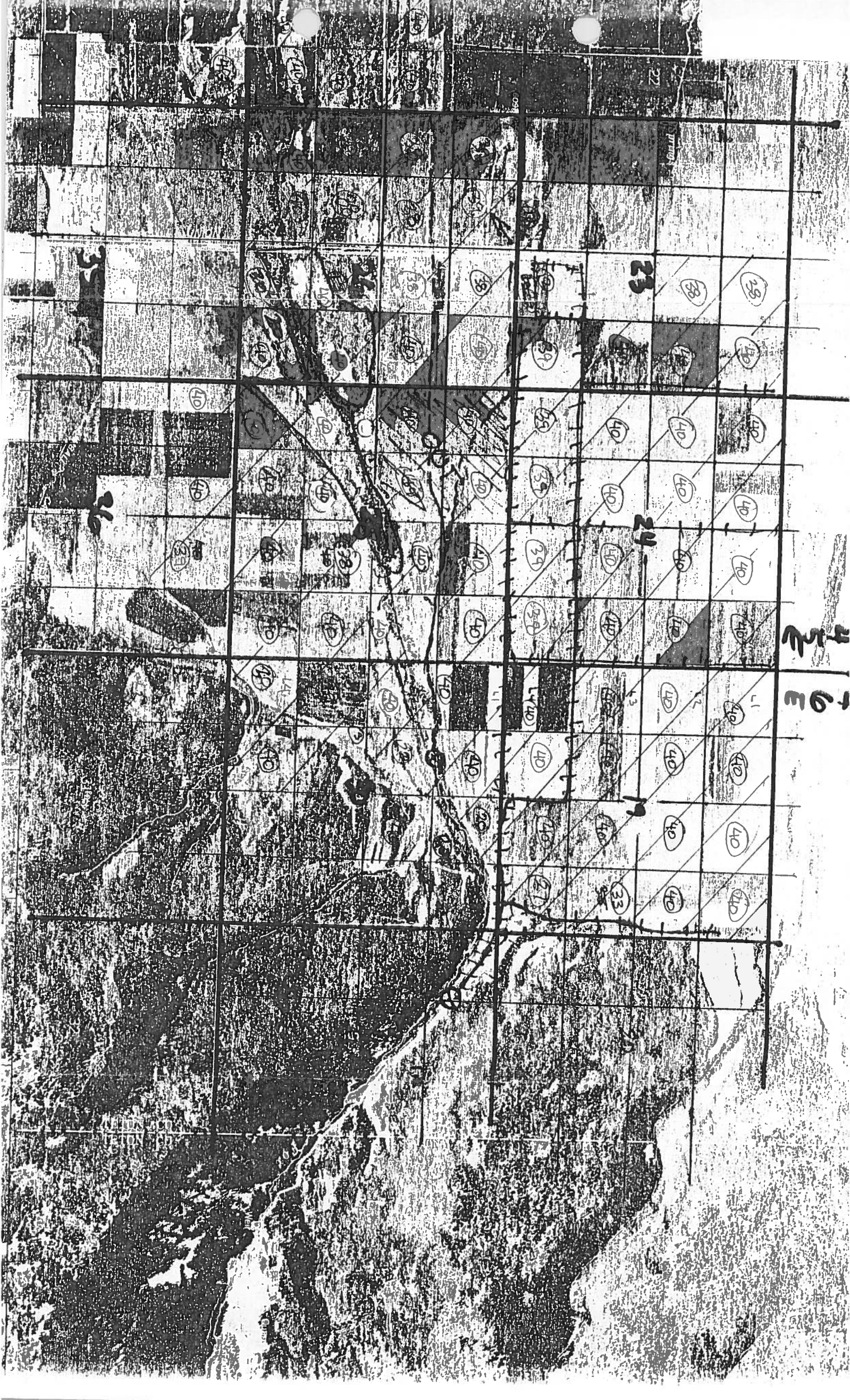
road

road for each Company

The above portions are marked and the numbers of sheets that number of sheets

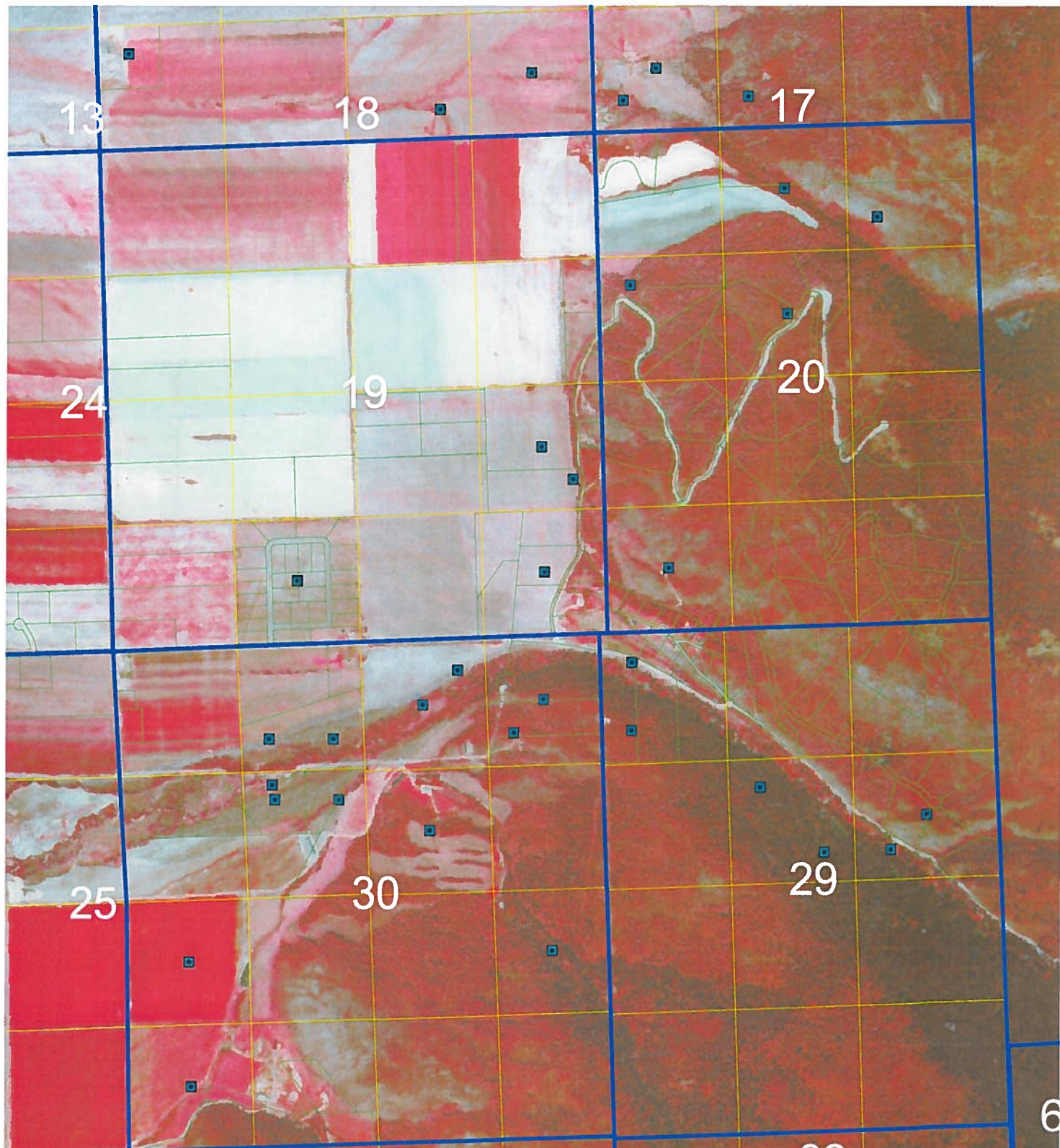
South

3192



22 - 2027

4N 46E



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

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

CIVIL CASE NUMBER: 39576

Ident. Number: A22-02027
Date Received: 10/05/1988
Receipt No: 6002927
Received By: SW

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: FOX CREEK CANAL COMPANY 208-787-2759
Address: C/O DAWN STONE, SEC.
RT. 1, BOX 551
VICTOR, ID 83455

2. Date of Priority: OCT 11, 1907

3. Source: FOX CREEK Trib. to: TETON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
04N	46E	29	SW	NW	NW		TETON

5. Description of diverting works:
HEADWORKS OF FOX CREEK PIPELINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/15	10/15	2.000		

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

8. Total consumptive use is 630.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
04N	46E	20	SW	SW		IRR	30.0
Section Acres							30.0

A22-02027

Page

1

Date: 10/05/88

MICROFILMED
OCT 29 1992



10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	46E	29	NW	NW		IRR	20.0
						Section Acres	20.0
		30	NE	NE		IRR	30.0
			NW	NE		IRR	40.0
						Section Acres	70.0
						Total Acres	120.0

11. Place of use in counties: TETON

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

13. Other Water Rights Used:
SEVERAL RTS. UNDER FOX CREEK CANAL CO.

14. Remarks:
LICENSE INDICATES P/D IN FREMONT CO.

15. Basis of Claim: LICENSE
Water Right Number: 3192

(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.

MICROFILMED
OCT 29 1992