

12/13/2006

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

RIGHT NUMBER: 22-2037

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: 1.170 CFS

PRIORITY DATE: 07/20/1908

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	1.170 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.

This right is limited to the irrigation of 80 acres within the place of use described above in a single irrigation season.

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.

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

[X] 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

COINED
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

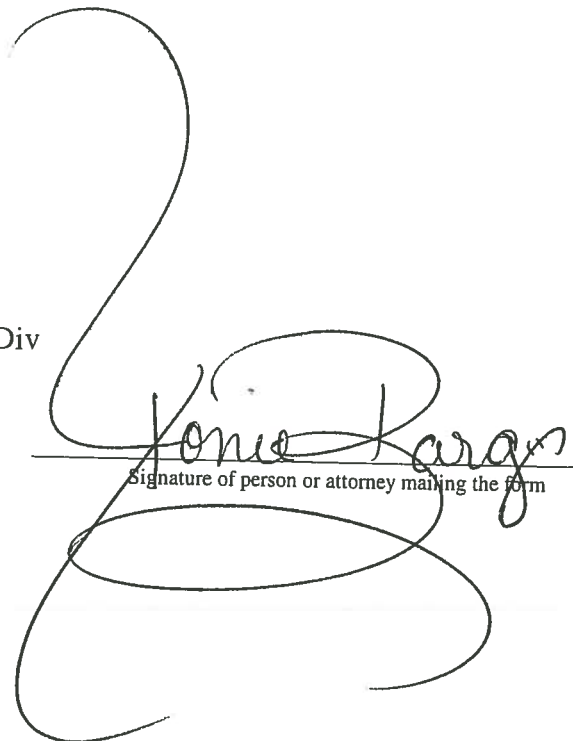
6. One Copy to:

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

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	

11/18/2006

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: 22-2037

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
DRUGGS 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 J. Foster

Please print your name: Randall J. Foster

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

Received Time Dec. 11. 11:20AM

WMT
12/13



Idaho Department of Water Resources

Fox Creek Canal Co

Service Area Boundary
Irrigated Acres = 3496.3

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 Wednesday, December 13, 2006
1987/88 Aerial Photography

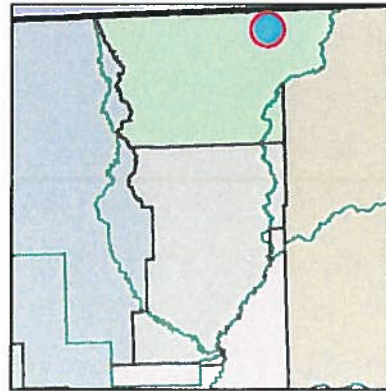
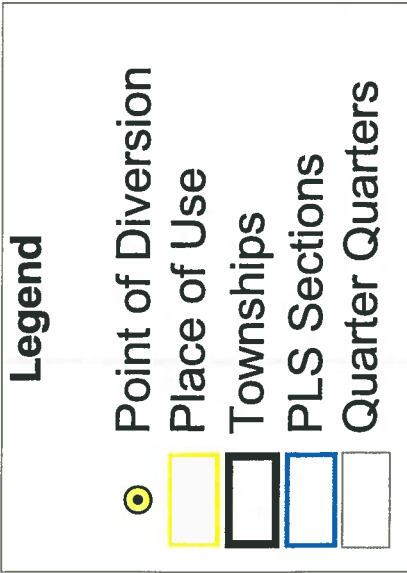


Idaho Department of Water Resources

Fox Creek Canal Co

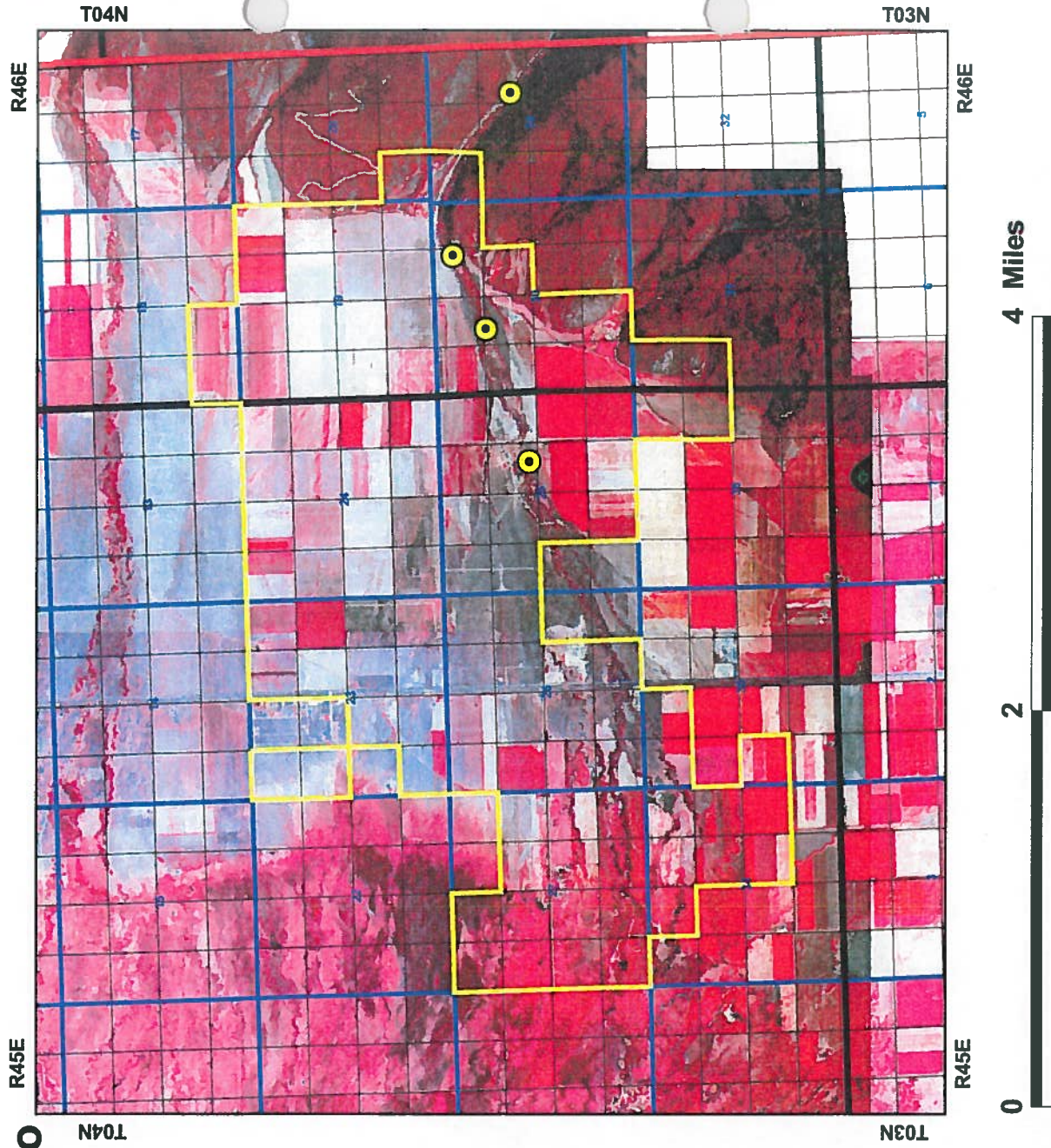
Service Area Boundary
Irrigated Acres = 3455.4

GIS Place of Use Illustration



Teton County
IDWR Basin 22

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



 Fremont County *
 Fox Creek *
 1 1/6 second-feet *
 Irrigation *
 Priority 7/20/1908. *

STATE OF IDAHO

Water License No. 3933

WHEREAS, On the 20th day of July, A.D. 1908, MICHAEL BYRNE, of Chapin, County of Fremont, State of Idaho, duly made application (No. 5465) to me for a permit to use eighty nine and six-tenths (89.6) 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 29th day of August, A.D. 1908, Permit No. 3933 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 29th day of August, A.D. 1912, and for the application to beneficial use of said water on or before the 29th day of August, A.D. 1916, and,

WHEREAS, On the 9th day of May, A.D. 1912, Michael Byrne, the holder of said permit, transferred all his right, title and interest in and to said Permit to the Fox Creek Irrigation Company, Limited, and,

WHEREAS, On the 20th day of June, A.D. 1912, FOX CREEK IRRIGATION COMPANY, LIMITED, the holder of said permit, duly made proof of the completion of adequate works for the diversion of 89.6 cubic feet per second of said waters, as evidenced by my Certificate No. 3933, dated August 24, 1912, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use 89.6 cubic feet per second of water, with date of priority of July 20, 1908, and,

WHEREAS, On the 20th day of June, A.D. 1912, the Fox Creek Irrigation Company, the holder of said permit, transferred to N. P. Hansen, of Rexburg, Fremont County, Idaho, one and one-sixth (1 1/6) cubic feet per second of Fox Creek waters, appropriated under Permit No. 3933, and,

WHEREAS, On the 30th day of July, A.D. 1912, N. P. HANSEN, the holder of said permit, duly made proof of the application to beneficial use of 1-1/6 cubic feet per second of said water:

NOW, THEREFORE, By virtue of authority vested in me by the laws of the State of Idaho, I hereby grant and confirm to N. P. HANSEN, of Rexburg, County of Fremont, State of Idaho, the holder and owner of said Permit No. 3933, a perpetual right, dating from July 20, 1908, to the use of one and one-sixth (1-1/6) 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 ^{ENW Sec 29} diverted at a point 1991 ft. S. and 2360 ft. E. of Sec. cor. common to Secs. 19-20-29-30, Tp. 4 N., R. 40 E., S. 40 E., and conducted to and upon 80 acres divided as follows: (40 acres in the NE4 of NE4 and 40 acres in the NW4 of NE4 of Section 34, Township 4 North, Range 45, East of the 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.

Claim No. 22-2037

Document Checklist

☒ Copy License/Decree

☐ Copy Transfer

☒ Copy Licensing Field Exam

☐ Check if Ownership/Address Change is Required

N/A

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

N/A

☒ Generate Arcview Map

Claim Number: 22-02037

Current Owner: FOX CREEK CANAL CO Phone No.: _____

Current Owner: _____ Phone No.: _____

Accompanied By: _____ Phone No: _____

Relationship to Claimant: _____ Date of Field Exam: _____

Discussion of right origin and split history. Questions and problems.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

Reviewer: _____ Date: _____

Priority Date Data Entry Form

Claim Number: 22-02032Water Right Priority Date: July 20, 1908 Water Right Basis: LICENSEClaimed 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 July 20 1908
with 89.6 CFS.
Original. License Had 1.76 CFS Split off
to make this Right.

Reviewer: _____

Date: _____

STATE OF IDAHO

Water License No. 3933

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State of Idaho, duly made application (No. 5465) to me for a permit to use eighty
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WHEREAS, On the 29th day of August, A.D. 1908, Permit No. 3933 was issued to said
for the diversion of said water, and providing for the completion of the works o
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d all his right, title and interest in and to said Permit to the Fox Creek Irriga
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WHEREAS, On the 20th day of June, A.D. 1912, FOX CREEK IRRIGATION COMPANY, LIMITE
of said permit, duly made proof of the completion of adequate works for the dive
bic feet per second of said waters, as evidenced by my Certificate No. 3933, date
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owner of said Permit No. 3933, a perpetual right, dating from July 20, 1908, to
and one-sixth (1-1/6) cubic feet per second of the waters of FOX CREEK, in the
Fremont and State of Idaho, or so much thereof as may be necessary for the purpos
mentioned, to be ^{ENW Sec 29} (diverted at a point 1991 ft. S. and 2360 ft. E. of Sec. cor. c
-20-29-30, Tp. 4 N., R. 4 E.B.M.), and conducted to and upon 80 acres divided a
0 acres in the NE4 of NE4 and 40 acres in the NW4 of NE4 of Section 34, Township
e 45, East of the Boise Meridian, for the purpose of irrigation and domestic use
wever, to the laws of the State of Idaho applicable to a license for the use of
he State, and subject, also, to the local or community customs, rules and regula
been or may be adopted from time to time by a majority of the users from a commo
supply. canal or lateral from which such water may be taken. when such rules and

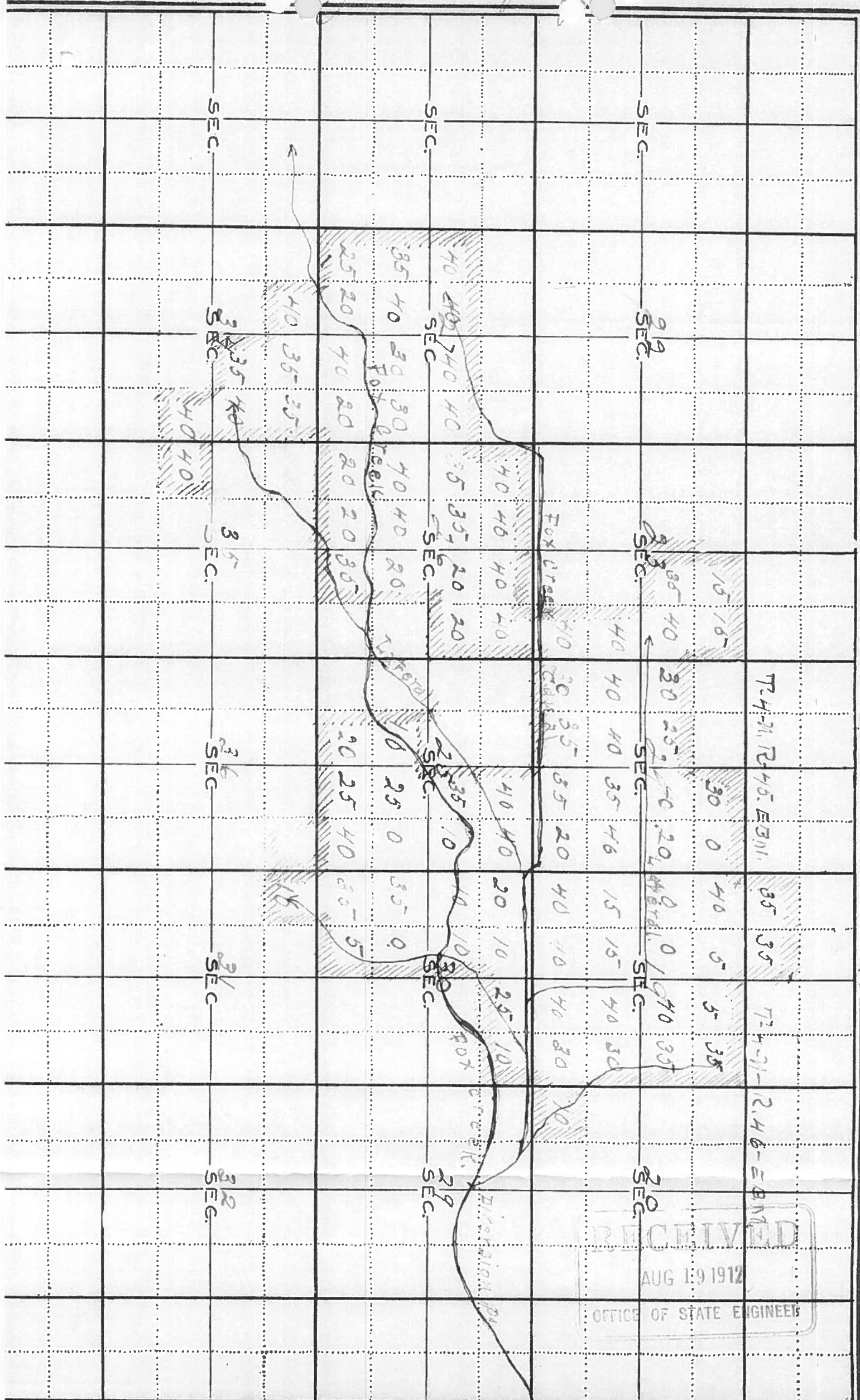
WITNESS, My hand and the seal of my office at Boise, Idaho, this 28th
August, A.D. Nineteen hundred and twelve.

(SEAL)

A. E. Robins

State Engin

22-20



REPORT OF ENGINEER

1. State name of applicant and number of permit: Fox Creek Irrigation Co. - Permit 3933
 2. State source of water supply: Fox Creek
 3. Location of point of diversion: 1991 ft. S. and 2360 ft. E. of Sec. Cor. of Secs. 19-20-29-30, T. 4 N., R. 46 E., B.M.
 4. State whether or not the works of diversion are fully completed and in accordance with terms of permit: yes
 5. Describe works as they exist, giving dimensions and capacities of same: Control dam 36 ft long, 18" thick, 4 ft high, Spillway 30 ft x 14", 2 head gates of plank 5' wide x 4 ft high, side & wing walls 12" thick, (long 20 ft long x 4 ft high, Ditch 12 ft wide x 18" deep Cap 60 Sec. ft.
 6. State whether or not water has been turned into works of diversion: yes
 7. Give exact location of lands to be irrigated. Give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation):

$$\begin{array}{ccccccccccc} \text{SW}\frac{1}{4} \text{ of SW}\frac{1}{4} \text{ Sec. 20, } & \text{Sec. 19, } & \text{S}\frac{1}{2} \text{ SW}\frac{1}{4} \text{ Sec. 18, } & \text{W}\frac{1}{2} \text{ Sec. 30, } & \text{N}\frac{1}{2} \text{ NW}\frac{1}{4} \text{ Sec. 30, } & & & & & & \\ \text{NW}\frac{1}{4} \text{ NW}\frac{1}{4} \text{ Sec. 31, } & \text{NW}\frac{1}{4} \text{ NW}\frac{1}{4} \text{ Sec. 29, } & \text{T. 4 N., R. 46 E.; } & \text{Secs. 25, 26 \& 27, } & \text{S}\frac{1}{2} \text{ Sec. 24, } & & & & & & \\ \text{NW}\frac{1}{4}, \text{ S}\frac{1}{2} \text{ NW}\frac{1}{4} \text{ Sec. 24, } & \text{N}\frac{1}{2} \text{ Sec. 25, } & \text{NW}\frac{1}{4} \text{ \& NW}\frac{1}{4} \text{ SW}\frac{1}{4} \text{ Sec. 35, } & \text{NW}\frac{1}{4} \text{ and NW}\frac{1}{4} \text{ NW}\frac{1}{4} \text{ and NW}\frac{1}{4} \text{ SE}\frac{1}{4} \end{array}$$

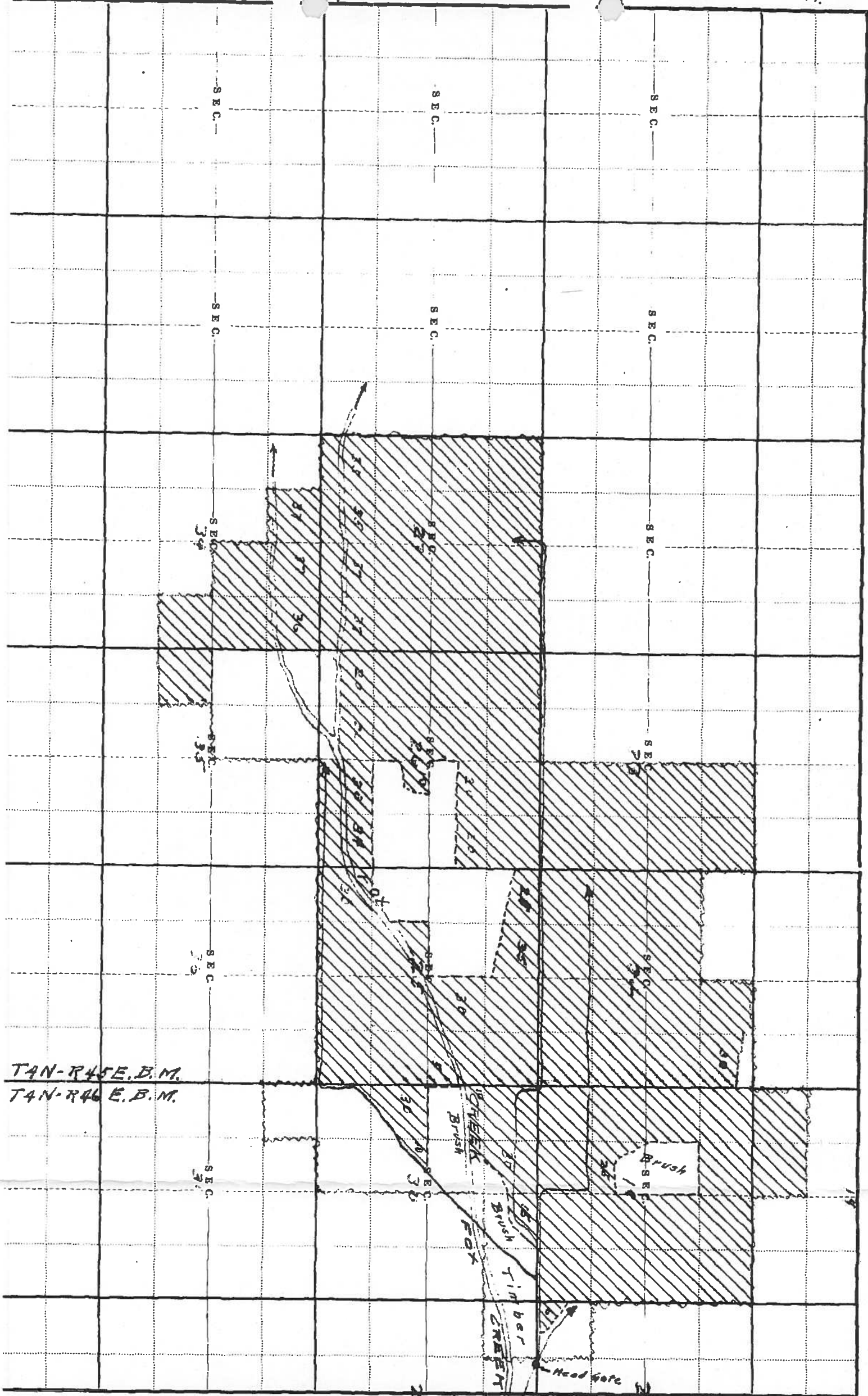
Sec. 34, T. 4 N., R. 46 E., B.M.

Total area in cultivation = 3534 Acres
 8. Submit map on enclosed plat, showing location and details of above description.
- Remarks: These works are very well constructed and the land is practically all in cultivation
- * Thos. M. Grover succeeded A. C. Larsen as President of the "Fox Creek Irrigation Co."

This examination was made on the 25th day of July 1921

(Signed) Donald J. Johnson

Engineer.

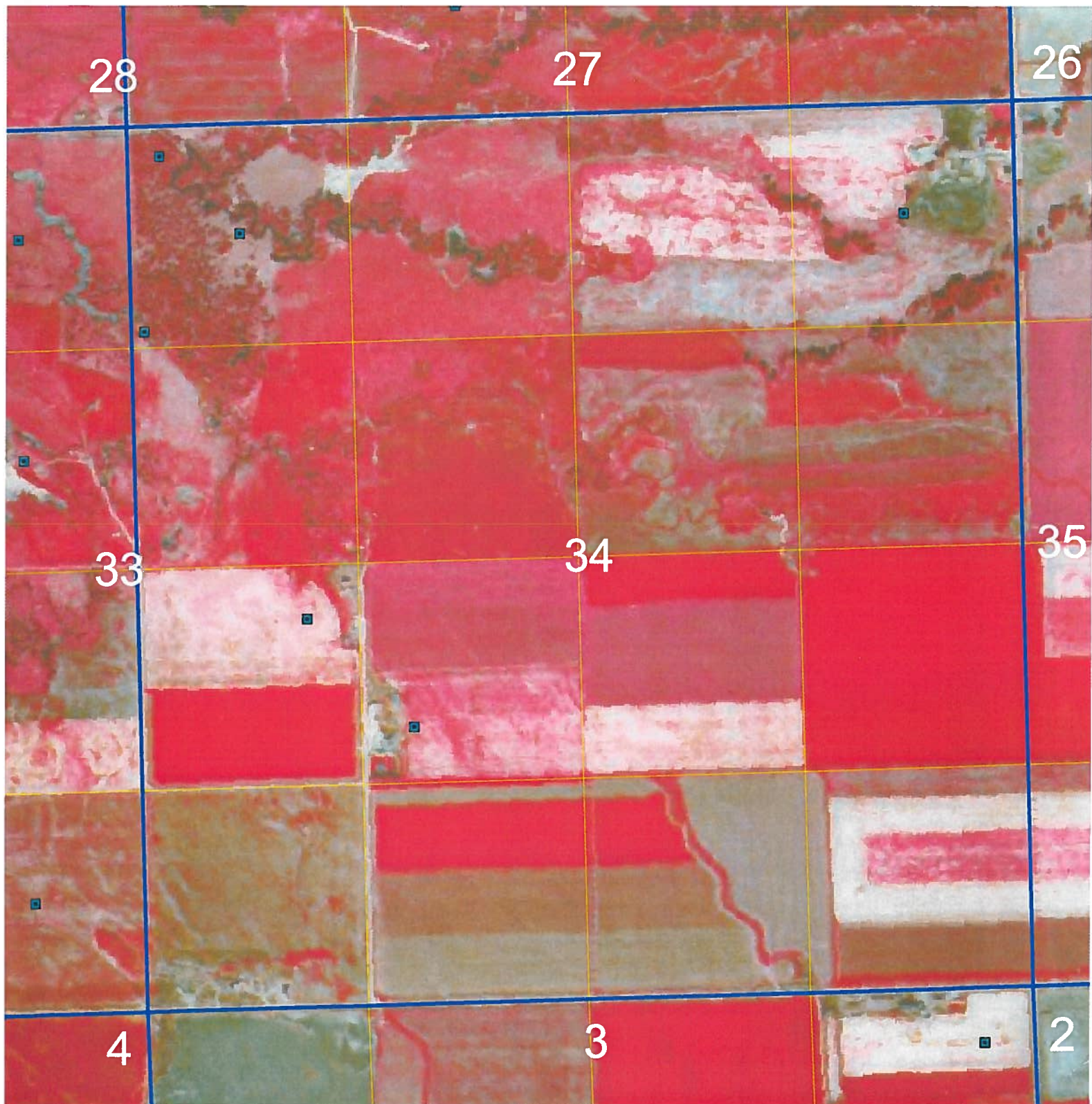


T4N-R45E.D.M.
T4N-R46E.D.M.

22-2037

POD- 4N 46E

POU - 4N 45E



MEMO

RECEIVED

A22 02037

DEC 14 1988

Dawn Stone

494 ~~5158 West~~

Victor, ID 83455

Dear Mr. Verner,

Department of Water Resources
Eastern District Office

Enclosed you will find the checks for the amounts we discussed yesterday, per our telephone conversations.

I hope this will clear everything needed for the Fox Creek Canal Co. concerning these special fees.

I'll be looking forward to receiving the receipts for these two checks to the address above.

I will also check into this other matter with Mr. Gordon, over his filing or not.

Thanks again for all your help and patience.

MICROFILMED

OCT 29 1992

Sincerely,

Dawn Stone, Secy.

Merry Christmas!

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: A22-02037
Date Received: 10/05/1988
Receipt No: ~~600 2927~~ 600 5218
Received By: ESV

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: JUL 20, 1908

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
		30	SW	NE	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	1.170		

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

8. Total consumptive use is 160.0 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	45E	34	NE	NE		IRR	40.0

A22-02037

Page 1

Date: 10/05/88

A2202037



MICROFILMED

OCT 29 1992

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
04N	45E	34	NW NE		IRR	40.0
Section Acres						80.0
Total Acres						80.0

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 FOX CREEK CANAL CO. RTS.

14. Remarks:
LICENSE INDICATES P/D IN FREMONT CO.
WATER DIVERTED INTO FOX CREEK PIPELINE AND GRAVITY FLOW TO
SPRINKLER LINES OR FLOOD IRRIGATION.

15. Basis of Claim: LICENSE
Water Right Number: 3933

(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.

For Organizations:

Pres. Vernal Foster
Signature of Authorized Agent

10-5-88
Date

e this 5 day

Go. J. Lem
Notary Public

Residing at Idaho Falls, ID
My Commission Expires 22 Aug 1994

