

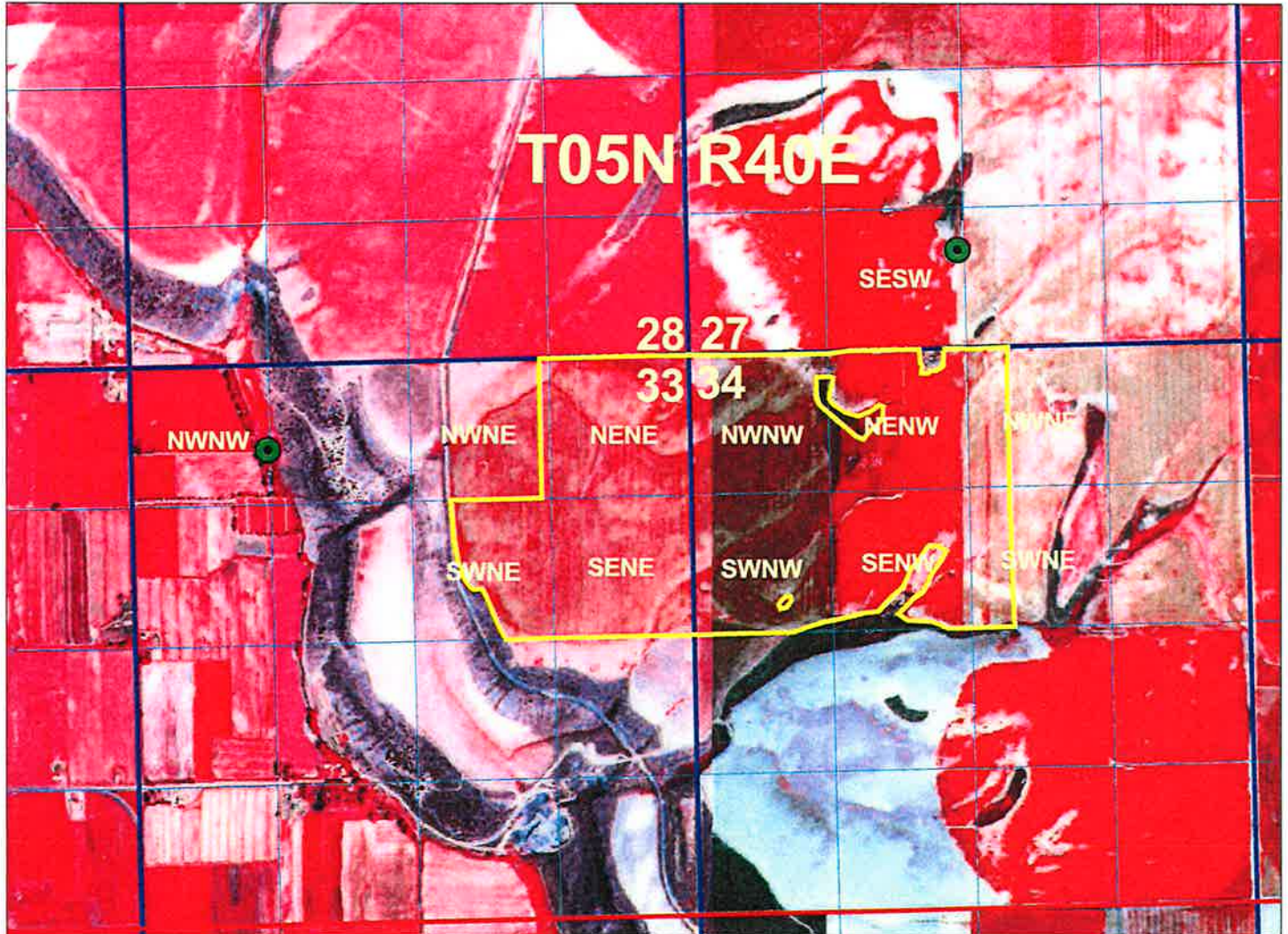
IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

The following rights are also diverted through point of diversion described above: 22-7493, 22-7495, 22-7513, and 22-7090.

Department of Water Resources Eastern Region

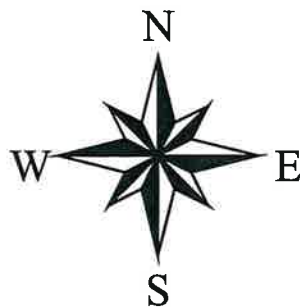


Claim No.: 22-2251



0 1320 2640 3960 5280 Feet

- Point of Diversion
- 22-2251
- Township/Range
- Sections
- QQ



GIS Place of Use Illustration
1987/88 NAPP Photography
Prepared by: Kristin Moore
Date Prepared: October 2005



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. SKYLINE DR., SUITE A, IDAHO FALLS, ID 83402-1718

PHONE: (208) 525-7161 FAX: (208) 525-7177 WEB SITE: www.idwr.state.id.us

EASTERN REGION

JAMES E. RISCH
GovernorKARL J. DREHER
Director

October 12, 2006

KIRT SUTTON
BRET SUTTON
390 E 7000 S
REXBURG ID 83440RE: NOTICE(S) OF CHANGE OF WATER RIGHT OWNERSHIP
NOTICE(S) OF CLAIM TO A WATER RIGHT 22-2251, 22-7090

Dear Claimants:

The request for Change of Water Right Ownership concerning the above-referenced Notice(s) of Claim has been processed and the Department's records updated to reflect you as another current owner. When you have completed paid off the sale contract, and a deed is issued in your name, then we will list you as the sole owner.

The enclosed report shows this change along with listing the elements of the water right being claimed. Please review this report and contact this office if there are corrections or questions.

Respectfully yours,

Jennifer Crabtree
Technical Records Specialist

Enclosure

cc: Zollinger Farm

Please Change address

Kirt Sutton

864 E 7156 S.

Rexburg, ID. 83440

Received Time Nov. 28. 9:11AM

10/17/2005

**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: 22-2251

BRET SUTTON
390 E 7000 S
REXBURG ID 83440
Telephone Number: (208)356-0702

KIRT SUTTON
390 E 7000 S
REXBURG ID 83440
Telephone Number: (208)356-0702

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: 10-6-06 SIGNATURE: Kirt Sutton pres. Current owner.
Please print your name: Kirt Sutton

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. SKYLINE DR., SUITE A, IDAHO FALLS, ID 83402-1718

PHONE: (208) 525-7161 FAX: (208) 525-7177 WEB SITE: www.idwr.state.id.us

EASTERN REGION

JAMES E. RISCH
Governor

KARL J. DREHER
Director

October 12, 2006

KIRT SUTTON
BRET SUTTON
390 E 7000 S
REXBURG ID 83440

RE: NOTICE(S) OF CHANGE OF WATER RIGHT OWNERSHIP
NOTICE(S) OF CLAIM TO A WATER RIGHT 22-2251, 22-7090

Dear Claimants:

The request for Change of Water Right Ownership concerning the above-referenced Notice(s) of Claim has been processed and the Department's records updated to reflect you as another current owner. When you have completed paid off the sale contract, and a deed is issued in your name, then we will list you as the sole owner.

The enclosed report shows this change along with listing the elements of the water right being claimed. Please review this report and contact this office if there are corrections or questions.

Respectfully yours,

Jennifer Crabtree
Technical Records Specialist

Enclosure

cc: Zollinger Farm

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
22-7493					
22-7495					
	22-7090				
	22-2251				

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) LeRoy Zollinger
4. New Owner/Claimant(s) Kirt Sutton
Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address 864 E 7156 S
- City, State and ZIP Code Rexburg Idaho 83440
- New Telephone Number (208) 356-6356
5. Date you acquired the property 1994

COPY

CONTRACT OF SALE

THIS AGREEMENT is made and entered into this 1st day of February, 1994, by and between H. LEROY ZOLLINGER and SHARON DALE ZOLLINGER, his wife, of 8611 Brynwood Drive, Boise, Ada County, Idaho; WANDA PERCIVAL and DONALD PERCIVAL, her husband, of 1180 Corrine Ave, Idaho Falls, Bonneville County, Idaho; LAVINA ZOLLINGER POWELL of 1304 Laurel, Idaho Falls, Bonneville County, Idaho; and ZOLLINGER FARMS PARTNERSHIP an Idaho partnership composed of H. LeRoy Zollinger and Wanda Percival and Lavina Zollinger Powell, of 8611 Brynwood Drive, Boise, Ada County, Idaho all of whom are collectively hereinafter referred to as SELLERS, and BRET SUTTON and FRANKIE SUE SUTTON, his wife, of 390 East 7000 South, Rexburg, County of Madison, Idaho, and KIRT SUTTON and LORI SUTTON, his wife, of 864 East 7156 South, Rexburg, County of Madison, Idaho, all of whom are collectively hereinafter referred to as PURCHASERS.

WITNESSETH:

1. CONSIDERATION AND PROPERTY DESCRIPTION: For and in consideration of the sum of One Million Two Hundred Twenty-eight Thousand Dollars (\$1,228,000.00), lawful money of the United States of America, to be paid by the PURCHASERS as is hereinafter provided; the SELLERS agree to sell and convey, and the PURCHASERS agree to purchase all that certain lot, piece and parcel of land, situate, lying and being in Madison County, Idaho, together with the irrigation equipment all described as follows, to wit:

A. The real property which is described on Exhibit "A" attached hereto and by this reference made a part hereof as though fully set forth herein.

Subject to all existing easements or claims of easements, patent reservations, rights-of-way, protective covenants, zoning ordinances and applicable building codes, laws and regulations, encroachments, overlaps, boundary line disputes and other matters which would be disclosed by an accurate survey or inspection of the premises.

B. The two wells located thereon, license nos., 22-7090 and 22-2251.

C. One 300 horsepower pump, serial number HC1029564, together with any additions, substitutions, and/or replacements thereof. PURCHASERS agree to execute a Security Agreement on said pump together with the substitutions and/or replacements thereof in favor of SELLERS.

D. Two circles: Pivot #6 - Valley Model No. 5971
Serial No. 28511

Pivot #7 - Valley Model No. 2071
Serial No. 13062

PURCHASERS agree to execute a Security Agreement on said circles, but not on any replacements or substitutions thereof in favor of SELLERS.

E. An old disk and old deep furrow drills together with any other old miscellaneous machinery located on the premises and old buildings or other improvements thereon.

2. PURCHASE PRICE - INTEREST - ACCELERATION: The PURCHASERS agree to pay the purchase price of One Million Two Hundred Twenty-eight Thousand Dollars (\$1,228,000.00), as follows:

(a) Two Hundred Twenty-eight Thousand Dollars (\$228,000.00) down, the receipt of which is hereby acknowledged.

(b) The balance of One Million Dollars (\$1,000,000.00) One Hundred Nine Thousand Eight Hundred Dollars (\$109,800.00) per year with the first such payment due February 1, 1995, and a like payment each succeeding year thereafter for a total of fifteen (15) such equal annual payments. The unpaid balance shall earn interest at seven percent (7%) per annum from February 1, 1994, and each payment shall be applied first to interest due and the balance to principal.

(c) The last payment may need to be larger or smaller because of interest accumulation, but whatever the amount, the Contract balance shall be paid in full with the fifteenth payment.

(d) PURCHASERS may not prepay all or any portion of this purchase price without prior written consent of SELLERS.

(e) If payments are not paid in the manner and at the time or times as above stated, the entire unpaid balance, both principal and interest, will become immediately due and collectible at the option of SELLERS. Failure of the SELLERS to accelerate upon default shall not constitute a waiver of such right in the event of a subsequent default.

3. DIVISION OF PURCHASE PRICE: SELLERS herein agree to divide the purchase price as follows:

A. LAVINA ZOLLINGER POWELL shall receive 2.5% of the down payment and each annual payment.

B. LEROY ZOLLINGER and WANDA PERCIVAL shall divide equally between them 13.5%, 6.75% each, of the down payment and each annual payment.

C. The balance of 84% of the down payment and each annual payment shall be divided as follows:

(a) H. LEROY ZOLLINGER	40%
(b) WANDA PERCIVAL	40%
(c) LAVINA ZOLLINGER POWELL	20%

4. FALSE REPRESENTATIONS AND WARRANTIES: It is mutually understood and agreed that the property being sold under the terms of this Contract has been inspected by the PURCHASERS and that the same is being purchased by them wholly as the result of said inspection and not upon any representation made by the SELLERS, their agents, and/or attorneys, and the PURCHASERS hereby waive any and all claims for damages by reason of any cancellation or foreclosure of this agreement, or otherwise, because of any representation made by any person, whomsoever, other than as is contained in this agreement.

Said property is purchased in its "AS IS" condition.

5. TRUTH-IN-LENDING -- UNIFORM CONSUMER CREDIT CODE: It is hereby disclosed by the SELLERS on this date, and acknowledged by the PURCHASERS, that the SELLERS are not persons who, in the ordinary course of business regularly extend, or arrange for the extension of consumer credit of this kind, or offer to extend or

extension of consumer credit of this kind, or offer to extend or arrange for the extension of such credit, and said SELLERS are not regularly engage as SELLERS in credit transactions of the kind included within this agreement, and are, consequently, exempt from the provisions of the Federal Truth-in-Lending Act and/or the Uniform Consumer Credit Code of the State of Idaho.

6. POSSESSION: Possession shall be delivered to the PURCHASERS on execution hereof and PURCHASERS shall be entitled to remain in possession so long as they are not in default under the terms of this agreement.

7. TAXES AND ASSESSMENTS: SELLERS agree to assume and pay all taxes and assessments for 1993 and theretofore; PURCHASERS shall assume and pay all taxes and assessments for the year 1994 and thereafter.

8. ESCROW: It is mutually understood and agreed that the following documents shall be placed in escrow with the West One Bank, at Rigby, Idaho:

1. Executed Original Contract of Sale.
2. Three Executed Original Warranty Deeds.
3. Three Executed Original Quitclaim Deeds.

All payments shall be made directly to the escrow holder commencing with the payment due February 1, 1995. The escrow fee shall be shared equally between the SELLERS and the PURCHASERS.

9. WARRANTY DEED AND TITLE INSURANCE: It is mutually understood and agreed by and between the parties hereto that upon full payment of the purchase price, the SELLERS shall furnish a Warranty Deed, and shall convey a good and marketable title, free and clear of any and all liens, encumbrances, taxes or assessments of whatsoever nature, except those liens, encumbrances, taxes or assessments which, by the terms of this contract the PURCHASERS do specifically agreed to assume and pay, or which they create. Also subject to easements and rights-of-way for highways, roads, ditches, canals, pole, power and transmission lines as they may exist, and any other easements or claims of easements, protective covenants, zoning ordinances and applicable building codes, laws and regulations, encroachments, overlaps, boundary line disputes and other matters which would be disclosed by an accurate survey or inspection of the premises, and subject to the usual printed exceptions contained in the title policies currently being issued.

PURCHASERS understand there is a first mortgage lien on the premises in favor of the Production Credit Association having an unpaid balance of \$29,000.00 which will be paid off in two more years. PURCHASERS do not assume that obligation. SELLERS agree they will make the two annual payments so that said obligation is discharged and paid in full according to the terms and conditions thereof.

10. WASTE: It is hereby agreed that during the term of this Contract, the PURCHASERS shall maintain the property in as good a condition as the property is at the date of this Contract of Sale, keep said property clean and free from noxious weeds, care for and keep said property in a good and neat appearance, and protect the collateral position of the SELLERS herein.

11. INDEMNIFICATION: PURCHASERS shall indemnify and save harmless the SELLERS against any and all claims and liabilities for claims arising from the conduct, use of, or management of, or from any work or thing whatsoever done in or about the demised premises, or any building or structure thereon, or arising from any accident, injury or damage whatsoever, however caused, to any person or persons or to the property of any person or persons, corporation or corporations, occurring during the existence of this Contract, on, in or about the same premises, and from and against all costs, counsel fees, expenses and liabilities incurred in or about any such claims or any action or proceeding being brought against the SELLERS by reason of any such claims. PURCHASERS, upon notice from SELLERS, shall resist or defend any such action or proceeding.

12. DEFAULT: This agreement is made upon the express condition that time and punctuality of payment are of the essence and a material part of this Contract. In the event PURCHASERS shall default in the performance of the terms of this agreement, SELLERS may cause notice in writing to be given to PURCHASERS specifying the matters in which such default occurred. The notice shall be served upon PURCHASERS by depositing the same in a United States Post Office, addressed to the PURCHASERS at 390 East 7000 South, Rexburg, Idaho 83440. Said notice shall be sent by certified and/or registered mail, return receipt requested, postage prepaid, and such notice shall be deemed served upon its deposit in the post office as aforesaid. If PURCHASERS shall fail to cure such default within sixty (60) days after the service of such notice as aforesaid, then SELLERS may elect to do any one or more of the following:

(a) Declare the entire unpaid balance on the Contract, including principal, interest, taxes, assessments, attorney's fees, and any other sums owing SELLERS to be immediately due and owing.

(b) Bring an action for specific performance of the terms, covenants and conditions of this agreement, and to require and enforce full and complete performance by PURCHASERS of said terms, covenants and conditions.

(c) Rescind this Contract and recover full and complete restitution from PURCHASERS.

(d) Affirm this Contract and bring an action for breach of contract against PURCHASERS for the collection of all obligations of PURCHASERS under the terms of this Contract and all other damages suffered by SELLERS as a result of the default and breach by PURCHASERS.

(e) Bring suit to establish the balance owing hereunder as a debt due by PURCHASERS to SELLERS and to foreclose this Contract as a real estate mortgage securing said debt, in accordance with the laws of the State of Idaho relating to the foreclosure of real estate mortgages, including the right to a deficiency judgment. No notice to PURCHASERS of the election to pursue this remedy is required prior to suit.

(f) Declare this Contract to be terminated due to said default. In that event, this Contract shall be immediately terminated and PURCHASERS shall forfeit all rights to said premises, and all payments made hereon shall be retained by SELLERS as liquidated damages for breach of this Contract. In that event, PURCHASERS agree to immediately surrender possession of the premises, and any improvements made thereon shall attach to and become a part of the real property and shall be retained as liquidated damages.

(g) To pursue any other remedy in law or equity to enforce the performance of this Contract, or to recover damages for the breach thereof.

(h) Bring an action against PURCHASERS for strict foreclosure of this Contract of Sale.

RELIEF UNDER ANY AND ALL REMEDIES:

(i) No matter which one or more of the above remedies SELLERS pursue, they shall be entitled in addition to the relief described, attorney's fees and all costs including costs of title search which right shall survive forfeiture and/or termination of this Contract.

(j) To reclaim from the escrow holder all papers placed therein, including a Quitclaim Deed, from PURCHASERS to SELLERS, which the parties agree shall be made a part of the escrow.

(k) The default period in this Contract and in the escrow agreement shall run concurrently.

13. COST TO PREPARE NOTICES: In the event it is necessary for SELLER to cause any notice in writing to be given under the preceding paragraph, and following said notice the default is cured, PURCHASERS nevertheless agree to pay all attorney's fees incurred by SELLERS leading to the sending of the notice, and the preparation thereof, in an amount of not less than \$100.00. It is agreed the default will not be fully cured until said fees are paid.

14. LIENS: It is understood and agreed that the PURCHASERS shall not, or will not, suffer or permit any mechanic's liens or other liens to attach to or be against the above described premises which shall or may be superior to the rights of the SELLERS herein.

15. ASSIGNMENT OR SALE OF CONTRACT: PURCHASERS may assign or sale all or any portion of their interest herein or in the property described herein but such assignment or sale shall not relieve PURCHASERS from their obligations hereunder.

16. HEIRS, EXECUTORS, ADMINISTRATORS, PERSONAL REPRESENTATIVES: All covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors,

administrators, personal representatives, successors and assigns of the respective parties hereto.

17. FULL AGREEMENT: This agreement represents the complete and entire agreement between the parties. There are no oral agreements or representations.

18. ATTORNEY'S FEES: In the event it is necessary for either party to commence an action to enforce or defend any covenant contained herein, or to terminate any rights hereunder, or to institute suit hereunder, the unsuccessful party agrees to pay all reasonable attorney's fees of the successful party, together with all costs, including searching records to determine condition of title, which sum shall be included in any judgment or decree entered in such suit.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year in the acknowledgements hereinafter set forth.

SELLERS:

PURCHASERS:

H. LeRoy Zollinger
H. LEROY ZOLLINGER

Bret Sutton
BRET SUTTON

Sharon Dale Zollinger
SHARON DALE ZOLLINGER

Frankie Sue Sutton
FRANKIE SUE SUTTON

Wanda Percival
WANDA PERCIVAL

Kirt Sutton
KIRT SUTTON

Donald Percival
DONALD PERCIVAL

Lori Sutton
LORI SUTTON

Lavina Zollinger Powell
LAVINA ZOLLINGER POWELL

H. LeRoy Zollinger
ZOLLINGER FARMS PARTNERSHIP
by H. LeRoy Zollinger

STATE OF IDAHO)
County of Jefferson) ss

On this 4th day of February, 1994, before me, the undersigned, a Notary Public in and for said state, personally appeared H. LEROY ZOLLINGER and SHARON DALE ZOLLINGER, husband and wife, known to me to be the persons whose names are subscribed to the foregoing, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgement first above written.

(seal)

[Signature]
Notary Public for Idaho
Residing at: Rigby, Id
Commission Expires: 10/24/97

STATE OF IDAHO)
County of Jefferson) ss

On this 4th day of February, 1994, before me, the undersigned, a Notary Public in and for said state, personally appeared WANDA PERCIVAL and DONALD PERCIVAL, known to me to be the persons whose names are subscribed to the foregoing, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgement first above written.

(seal)

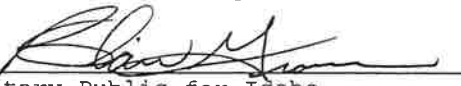

Notary Public for Idaho
Residing at: Rigby, Id.
Commission Expires: 10/24/97

STATE OF IDAHO)
County of Jefferson) ss

On this 4th day of February, 1994, before me, the undersigned, a Notary Public in and for said state, personally appeared LAVINA ZOLLINGER POWELL, known to me to be the person whose name is subscribed to the foregoing, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgement first above written.

(seal)

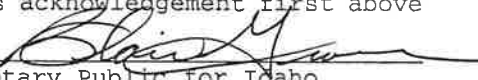

Notary Public for Idaho
Residing at: Rigby, Id.
Commission Expires: 10/24/97

STATE OF IDAHO)
County of Jefferson) ss

On this 4 day of February, 1994, before me, the undersigned, a Notary Public in and for said state, personally appeared H. LEROY ZOLLINGER, ZOLLINGER FARMS PARTNERSHIP, known to me to be the person whose name is subscribed to the foregoing, and acknowledged to me that he executed the same on behalf of ZOLLINGER FARMS PARTNERSHIP.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgement first above written.

(seal)


Notary Public for Idaho
Residing at Rigby, Idaho
Commission Expires: 10/24/97

STATE OF IDAHO)
) ss
County of Teton)

On this 4th day of February, 1994, before me, the undersigned, a Notary Public in and for said state, personally appeared BRET SUTTON and FRANKIE SUE SUTTON, known to me to be the persons whose names are subscribed to the foregoing, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgement first above written.

(seal)


Notary Public for Idaho
Residing at: Big Lost, ID
Commission Expires: 10/24/97

STATE OF IDAHO)
) ss
County of Teton)

On this 4th day of February, 1994, before me, the undersigned, a Notary Public in and for said state, personally appeared KIRT SUTTON and LORI SUTTON, known to me to be the persons whose names are subscribed to the foregoing, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgement first above written.

(seal)


Notary Public for Idaho
Residing at: Big Lost, ID
Commission Expires: 10/24/97

TRACT 1:

Township 5 North, Range 40 East, Boise Meridian, Madison County, Idaho
Section 27: SE $\frac{1}{4}$

TRACT 2:

Township 5 North, Range 40 East, Boise Meridian, Madison County, Idaho

Section 27: SW $\frac{1}{4}$

Section 28: E $\frac{1}{2}$ SE $\frac{1}{4}$

Section 33: NE $\frac{1}{4}$, less right of way for railroad; E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$; the West 2 rods of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and commencing at a point 522 feet North of the Southeast Corner of the NW $\frac{1}{4}$ NW $\frac{1}{4}$, and running thence West 50 feet; thence South 60 feet; thence East 50 feet; thence North 60 feet to the point of beginning.

Also an undivided one-third interest in and to the following easement:

Easement for ingress and egress to the above described property 20 feet wide, the center line described as follows: commencing at a point 494 feet North of the Southwest Corner of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and running thence East 1320 feet.

Section 34: All

TRACT 3:

Township 5 North, Range 40 East, Boise Meridian, Madison County, Idaho

Section 28: W $\frac{1}{2}$ SE $\frac{1}{4}$, lying and being East of the Railroad right of way.

Exhibit A

Claim no. A22-02251

Claimant Contact Log

Date 12-21-2004 Remarks Agent initials

Thj

1/ Met with Kurt Sutton & revised P.O.U. map to better define the 280 acres on License 22-02251.

2/ Well system serves A22-02251, 22-07513 & 22-07495. System has 2 pivots and handlines. Has 300 hp well pump with 100 hp booster. Twelve inch mainline runs uphill to P.O.U. to east of pump. See photo

10-17-05

Recommending as licensed. Combined use w/ 22-7493, 7495, 7513, and 7090. First three licenses just listed are post ASRBA and do not have claims.

Water Right No(s). A 22-02251

See attached

GPS DATA:

Tag # A 0000 252 Location: 2680474
1393850 452 Tag on wood
GPS RL # 22251 Power pole

Diversion Data:

Source: Groundwater Trib to: _____

MOTOR / Rooster
Make: U.S. Motor / G.E. Model: _____ Hp: 300 hp / 100 hp
SN: HCI029564 / DEF3408134

PUMP
Make: Perkins / Johnston Model: _____ Disch: _____
SN: — / GC-140

NOTES:

Well is located at Kurt Sutton's home and adjacent to a canal
system. Canal is west of well. System pumps to 12" mainline
uphill (East) to several water right places of use.

Field Exam Date: 12-22-04 Agent: Z. C. Jones



CPS
TAS

Aaa-2251, looking west

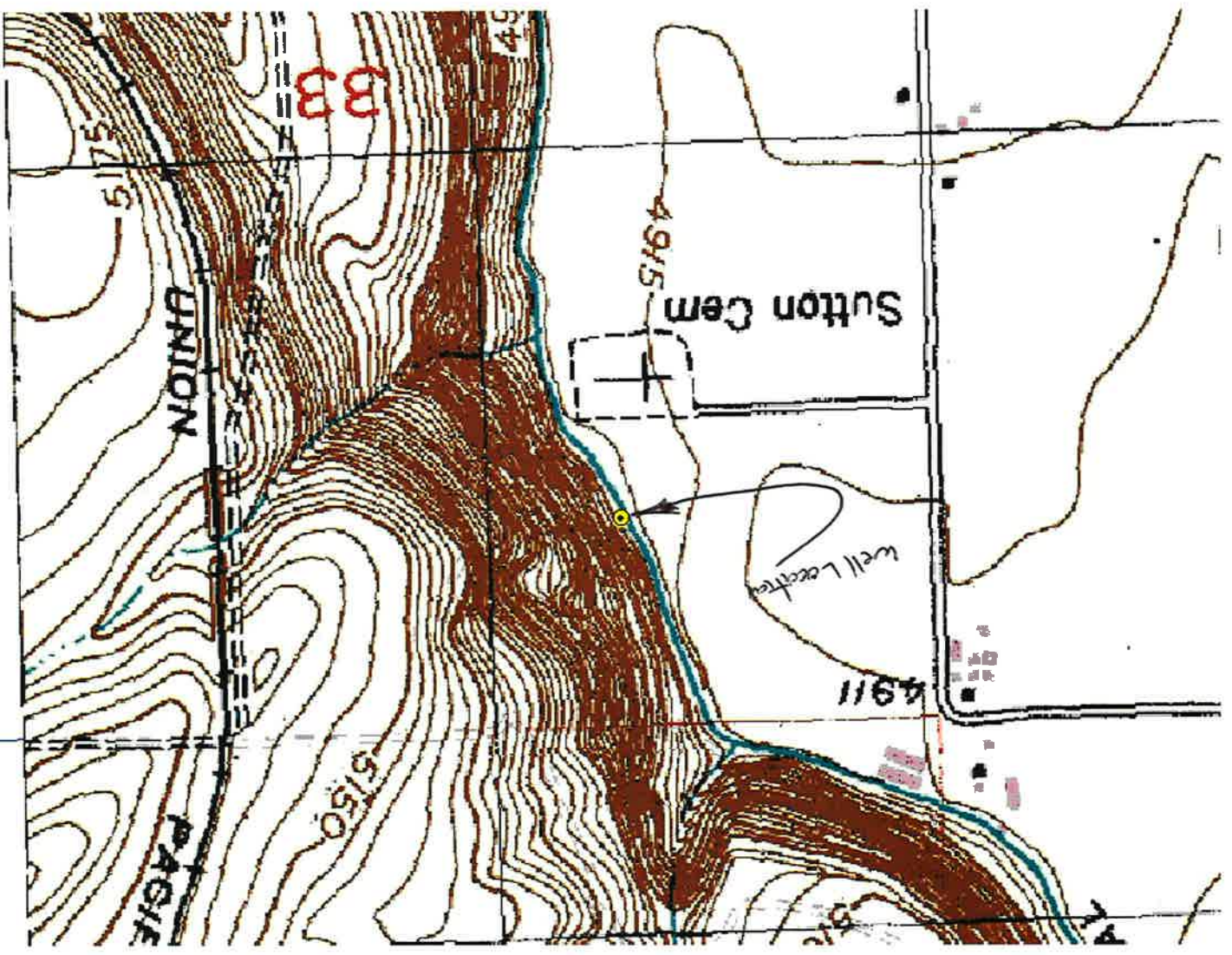
Aaa-aa51 3cc up Lutz pump Tag



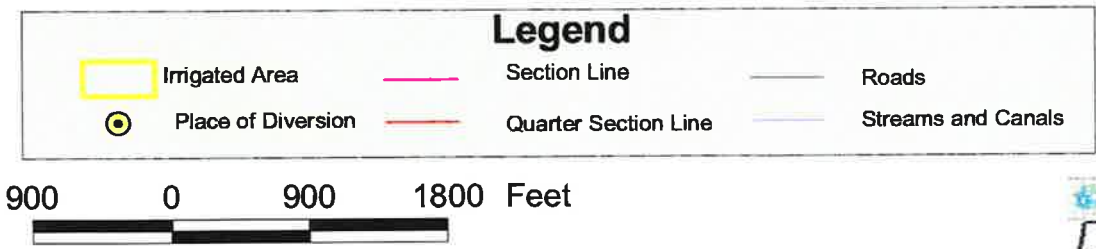
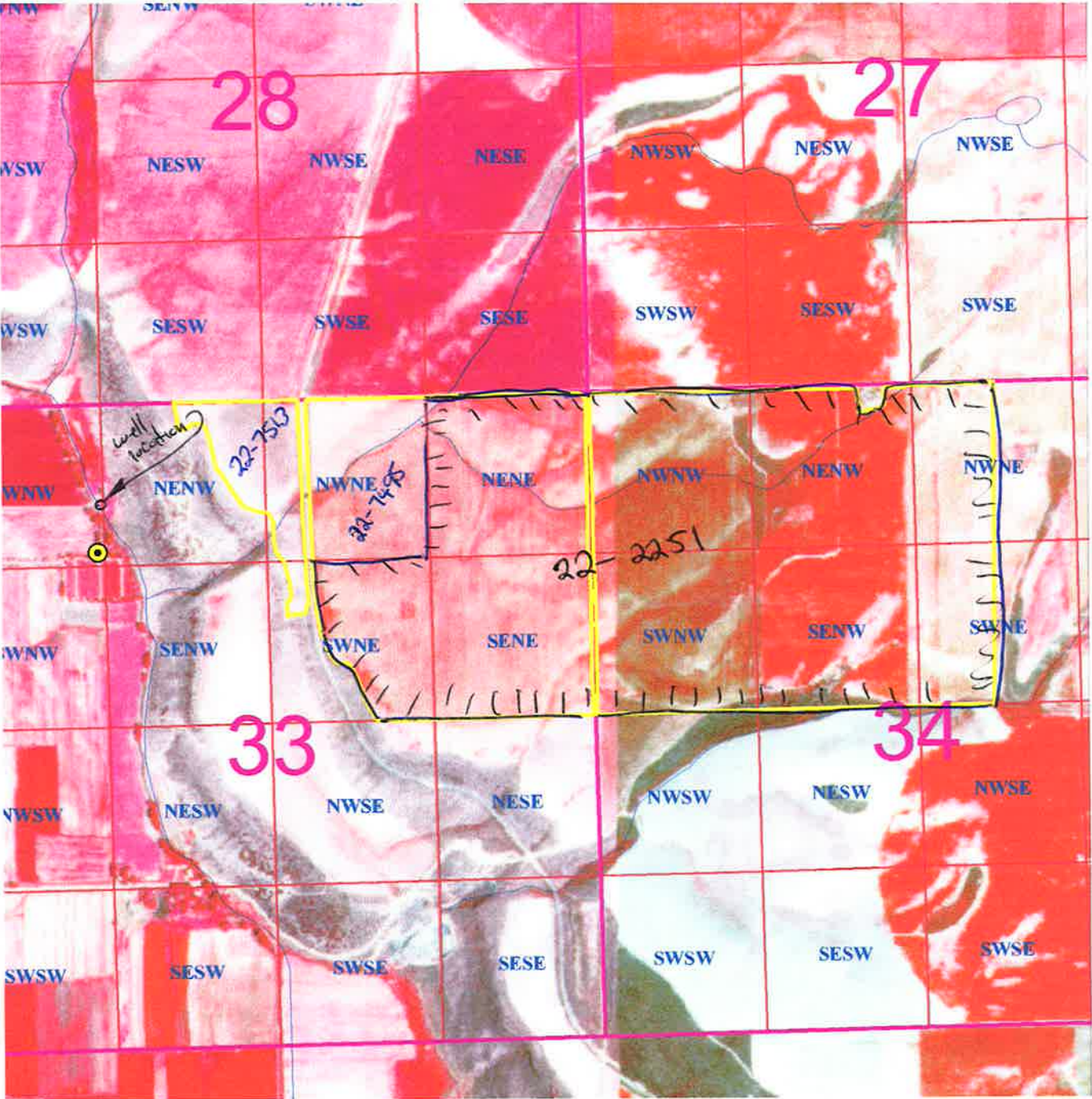


A22-02251 mainline runs uphill (east)

A22-02251



GPS # 2680474
1292850 USR



State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 22-02251

Priority: April 20, 1988

Maximum Diversion Rate:

2.36 CFS

This is to certify, that ZOLLINGER FARM INC
C/O H LEROY ZOLLINGER
8611 BRYNWOOD
BOISE ID 83704

has complied with the terms and conditions
of the permit, issued pursuant to Application for Permit dated June 16, 1965; and
has submitted Proof of Beneficial Use on April 20, 1988. An examination indicates
that the works have a diversion capacity of 9.110 cfs of water from a GROUNDWATER
source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	2.36 CFS	

LOCATION OF POINT(S) OF DIVERSION:

SESW , Sec. 27, Township 05N, Range 40E
NWNW , Sec. 33, Township 05N, Range 40E
MADISON County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
05N	40E	33	NENE 40	NWNE 3	SWNE 24	
			SENE 40			107
		34	NWNE 12	SWNE 12	NENW 37	
			NWNW 39	SWNW 39	SENW 34	173

Total number of acres irrigated: 280

CONDITIONS/REMARKS:

1. This water right is appurtenant to the described place of use.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. Use of this right with the rights listed below is limited to a total combined diversion rate of 9.11 cfs, a total combined annual diversion volume of 3324.8 af, and to the irrigation of a combined total of 1081 acres in a single irrigation season.
5. The combined rights include: 22-07493, 22-07495, 22-07513, and 22-07090.
6. The following rights are also diverted through the point(s) of diversion described above: 22-07493, 22-07495, 22-07513, and 22-07090.

JUN 09 1994

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 22-02251

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 30TH
day of APRIL, 1994.

Acting for 
R. Keith Higginson, Director

JUN 09 1994

APPROVED

State of Idaho
Department of Water Resources

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 22-02251

RECEIVED
APR 21 1994
Department of Water Resources

Date of Priority: April 20, 1988 Maximum Diversion Rate: 2.36 CFS
Comes now ZOLLINGER FARM INC
C/O H LEROY ZOLLINGER
8611 BRYNWOOD
BOISE ID 83704

and represents to the Director of the

Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the
State of Idaho No. 22-02251, and requests that the permit be changed as follows:

Source: GROUNDWATER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	2.36 CFS	

LOCATION OF POINT(S) OF DIVERSION: SESW , Sec. 27, Township 05N, Range 40E
NWNW , Sec. 33, Township 05N, Range 40E
MADISON County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
05N	40E	33	NENE 40 ✓	NWNE 3 ✓ 35	SWNE 24 ✓	
			SENE 40 ✓			107
	34		NWNE 12 ✓	SWNE 12 ✓	NENW 37 ✓	
			NWNW 39 ✓	SWNW 39 ✓	SENW 34 ✓	173

Total number of acres irrigated: 280

FROM 512N W 911
SEC 34 & 35

Permit holder asserts that no one will be injured by such change and that such change
will be made at permit holder's own risk.

Signed at Boise, this 20 day of ap, 19 94.
H. Leroy Zollinger
(Signature)

JUN 09 1994

State of Idaho
Department of Water Resources

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 22-02251

FOR DEPARTMENT USE ONLY

Preliminary check by BC Fee = 20⁰⁰ Received by dw # C030124 Date 4/21/94 ✓

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, R. Keith Higginson, of the Department of Water Resources hereby approve the
above Application for Amendment for Permit No. 22-02251 with the following;

CONDITIONS/REMARKS:

1. This water right is appurtenant to the described place of use.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. Use of this right with the rights listed below is limited to a total combined diversion rate of 9.11 cfs, a total combined annual diversion volume of 3324.8 af, and to the irrigation of a combined total of 1081 acres in a single irrigation season.
5. The combined rights include: 22-07493, 22-07495, 22-07513, and 22-07090.
6. The following rights are also diverted through the point(s) of diversion described above: 22-07493, 22-07495, 22-07513, and 22-07090.

Witness my hand this 30TH day of April, 1994.

Acting for

Roman C Young
R. Keith Higginson, Director

JUN 09 1994

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED

APR 08 1994

Department of Water Resources

A. GENERAL INFORMATION

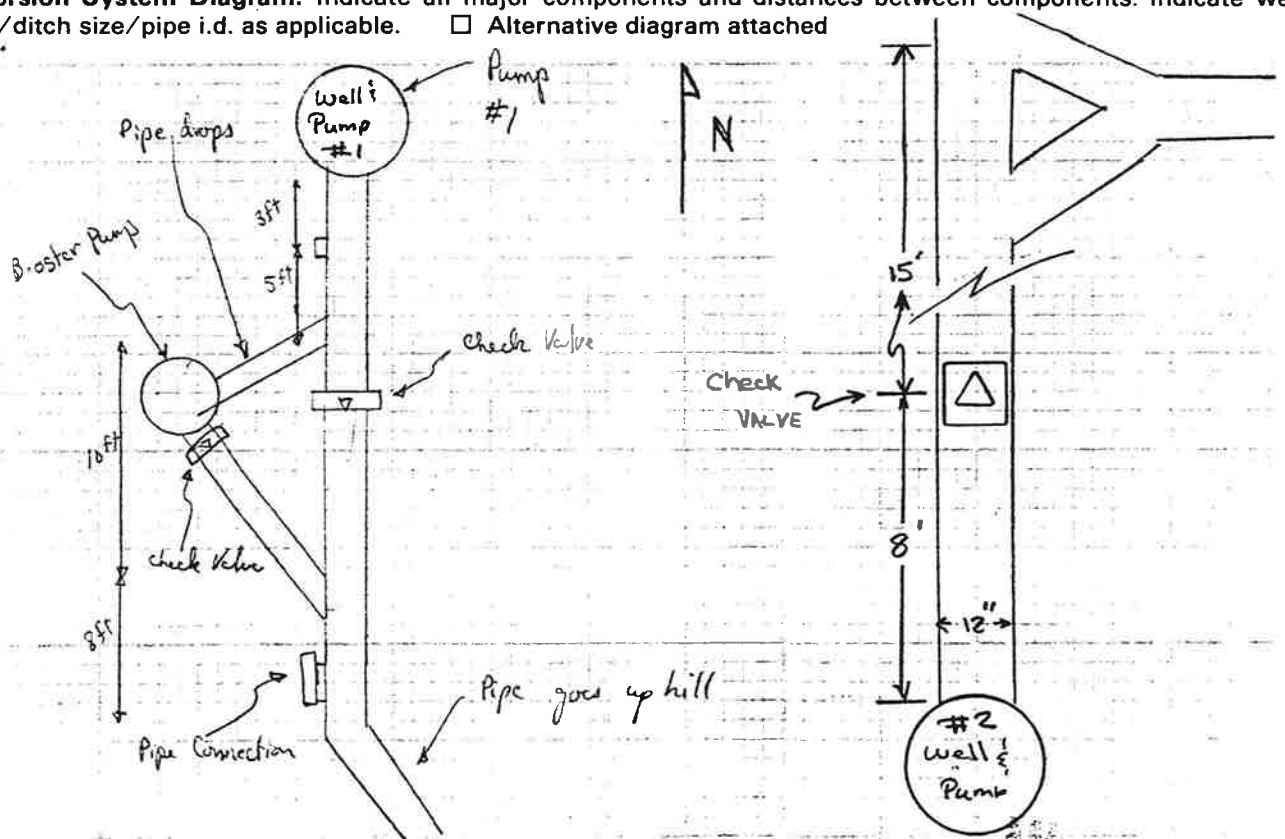
1. Owner: Herman A. Zollinger % Leroy Zollinger Permit No. 22-02251
Current Address: 8611 Brynwood Boise Id 83704 Phone No. 334-1335
2. Accompanied by: Stanley Sutton EXAM. DATE: 7-16-1992
Address: 578 E 7000 S Rexburg Id 83440 Phone No. 356-3562
Relationship to Permit Holder: Renter
3. Source: GROUNDWATER tributary to _____

B. OVERLAP REVIEW

1. Other water rights with same place of use: _____ ☐ Copies Attached
2. Other water rights with same point of diversion: 22-2251/7090/7493/7495/7513
_____ ☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached



Scale: 1" = _____

2. ☒ Copy of U.S.G.S. Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required). ☒ Aerial Photo Attached (required for irrigation of 10 acres or more). JUN 09 1994
☐ Photo of Diversion and System Attached (required for all but single household domestic groundwater, and stockwater).

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
Flow Meter Station	Annubar	Dieterich	7517-316-SS	191166	13.25	
Flow indicator	Manometer	IDWR			60"	
Pressure gage		Rainbird			0-160	

2. Measurements:

Use Measurements Permit # 22-7090 (7-1-1981) Pump # 2 $Q = 4.38$
System # 1 $\text{psi} = 145 \text{psi}$ 22-2251 (6-15-1989) Pump # 1 $Q = 4.73$
Manometer $28.6" \rightarrow 20.4" = 8.2"$
 $Q_{\text{Total}} = 9.11 \text{ cfs}$
System # 2 Field Exam $Q = 4.38 \text{ cfs}$

E. FLOW CALCULATIONS

☒ Additional Computation Sheets Attached

1. Measured Method:

2. Alternate Method for Checking Purposes: $Q = 9.11 \text{ cfs}$

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)
Total Head: (1) + (2) = _____ (3) ; Flow rate: _____ cfs (4)
Water HP: (3) x (4) $\div$ 8.8 = _____ (5)
Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)
Meter Input HP: (6) x 1.34 = _____ (7)
Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Amps x .001732 = _____ (6)
Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = (280 \text{ ac})(3.5) = 980 \text{ afc}$
 $V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = (2.36 \text{ cfs})(183)(1.9835) = 856.6$
 $V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = 856.6 \text{ afc}$

2. Volume Calculations for Other Uses:

JUN 09 1994

State of Idaho
DEPARTMENT OF WATER RESOURCES
SUPPLEMENTAL FIELD REPORT FOR ANNUBAR MEASUREMENT

Measured by: Log Notes Date 6-15-89
Owner: _____ Permit No. 22-2251

Description of well &/or measuring site
- Include any clarifications of the sketch
- Include legal description if more than one p.d. is described in the Field Report
Item E, Point #1 NWNW, Sec 33, T5N, R40E

MEASURED INSIDE PIPE DIAMETER IN INCHES (ID)
CIR = Pipe Circumference in Inches = _____
T = Pipe Thickness in Inches = _____
ID = 2 [(0.1592 X CIR) - T] = ... 13.625"

ANNUBAR DESCRIPTION & CONSTANT (C)
Size Used in Test 13.25"
State ID No. 19766

ALSO FOR:
22-07493
22-07495
22-07090
22-07513
BC

Select C based on size from Table below.

Nominal Pipe Size	C
4"	4.23
6"	3.75
8"	3.87
10"	3.94
12"	3.99
14"- 16"	4.01
18"- 24"	4.02
30" or larger	4.03

C selected 3.99

DIFFERENTIAL PRESSURE READING IN INCHES OF H2O (H)
High Reading = 28.6"
Low Reading = 26.4"
High - Low = H = ... 2.2"

CALCULATION OF DISCHARGE IN CFS (Q)

$$Q = \frac{(ID)^2 \cdot (\sqrt{H}) \cdot (C)}{448.8}$$
$$Q = \frac{(13.625)^2 \cdot (\sqrt{2.2}) \cdot (3.99)}{448.8} = 4.726 \text{ CFS} \approx 4.73 \text{ cfs}$$

SKETCH (If not shown on Field Report)

JUN 09 1994

22-2251

PERMIT NUMBER

ALTERNATE COMPUTATION SHEET:

WELL LOGS: WELL #1 (Static level = 52 ft) drilled 1970
 WELL #2 (Static level = 451 ft) drilled 1975

ELEVATIONS DIFFERENCE BETWEEN WELL #1 & #2 = 375 ft.

ELEVATION OF WELL #2 - ELEVATION OF WELL #1 =
 (5300 ft - 4925 ft) = 375 ft

ASSUMPTIONS:

1. Wells #1 & #2, are in the same aquifer
2. The static water level of the wells 1 & 2 differs only by the elevation difference.
3. The current static water level will be determined by the well drilled last (i.e. well #2).
4. The efficiency of both wells is 70%
5. Dynamic pumping level well #1 will be an additional 65 ft. or 141 ft total dynamic pumping level.
6. Well #1 psi = 165 psi
7. Well #2 (600 hp) will have a proportional change in the dynamic pumping level as well #1 (400 hp).

STATIC WATER LEVEL: (Assumptions #1 - #3)

WELL #2 = 451 ft.

WELL #1 = STATIC LEVEL WELL #2 - ELEVATION DIFFERENCE =
 = (451 ft - 375 ft) = 76 ft

FLOW CALCULATIONS: (Assumptions #4 - #7)

WELL #1 (hp = 300 motor + 100 booster = 400 hp)
 pumping depth = 65 ft + 76 ft = 141 ft

$$Q = \frac{(HP)(8.814)(EFF)}{(LIFT) + (2.308 \times PSI)} = \frac{(400)(8.814)(0.70)}{(141) + (2.308 \times 165 \text{ psi})} = \underline{4.73 \text{ cfs}}$$

WELL #2 (Note: If 400 hp well has a 141 ft pumping depth then 600 hp well would have 661 ft pumping depth.)
 (141 ft/400 hp = X ft/600 hp, X = 211.5 ft. = 210 ft
 210 ft + static level (451 ft) = 661 ft)

$$Q = \frac{(HP)(8.814)(EFF)}{(LIFT) + (2.308 \times PSI)} = \frac{(600)(8.814)(0.70)}{(661) + (2.308 \times 80 \text{ psi})} = \underline{4.38 \text{ cfs}}$$

TOTAL DIVERSION RATE = Q1 + Q2 = 4.73 cfs + 4.38 cfs = 9.11 cfs

RECEIVED
 JUN 09 1994

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
POINT OF DIVERSION OVERLAP REVIEW

22-2251

Permit Number

1. Analysis of Entire System, Current Application Rate per Acre (Q_c):
Limit to 0.02 cfs/ac, Permitted Amount, or System Capacity, Whichever is Less.

A. Total Diversion Rate (Q_t) =

$$\frac{4.38 \text{ cfs}(22-7090) + 4.73 \text{ cfs}(22-2251/7493/7495/7513)}{1081 \text{ acres}} = 9.11 \text{ cfs}$$

$Q_t = 9.11 \text{ cfs}$

B. Total Number of Acres irrigated = 1081 acres

$Q_c = \text{Total Diversion rate [1.A] / Total irrigated acres [1.B]}$

$= \frac{9.11 \text{ cfs}}{1081 \text{ acres}} = 0.0084273 \text{ cfs/ac}$

2. Old Application Rate per Acre (Q_o) from Licensed Flow Rates:

License # 22-07090 @ 4.38 cfs / 406 ac = 0.0107881 cfs/ac

$Q_c = 0.0107881 \text{ cfs/ac}$

3. Comparison of Application Rates:

Old Application Rate(Q_o) > New Application Rate(Q_c)

$Q_o(\#2) = 0.0107881 \text{ cfs/ac} > Q_c(\#1) = 0.0084273$: EXCLUDE Licensed Lands.

4. Calculate Flow Rate to be licensed excluding licensed land.

Total Acres(#1.B) - Lic. Acres(#2) = New Acres
 (1081 ac) - (406 ac) = 675 ac

22-02251 = 280 acres
22-07493 = 280 acres
22-07495 = 20 acres
22-07513 = 95 acres
<u>675 acres</u>

$Q_t \text{ for } 22-2251 = Q_c(\#1) \times (\# \text{ New Acres } 22-2251) = 0.0084273 \text{ cfs/ac} \times 280 \text{ ac}$

$Q_t \text{ } 22-2251 = 2.359 \text{ cfs} = 2.36 \text{ cfs}$

$Q_t \text{ for } 22-7493 = Q_c(\#1) \times (\# \text{ New Acres } 22-7493) = 0.0084273 \text{ cfs/ac} \times 280 \text{ ac}$

$Q_t \text{ } 22-7493 = 2.359 \text{ cfs} = 2.36 \text{ cfs}$

$Q_t \text{ for } 22-7495 = Q_c(\#1) \times (\# \text{ New Acres } 22-7495) = 0.0084273 \text{ cfs/ac} \times 20 \text{ ac}$

$Q_t \text{ } 22-7495 = 0.1685 \text{ cfs} = 0.17 \text{ cfs}$

$Q_t \text{ for } 22-7513 = Q_c(\#1) \times (\# \text{ New Acres } 22-7513) = 0.0084273 \text{ cfs/ac} \times 95 \text{ ac}$

$Q_t \text{ } 22-7513 = 0.8006 \text{ cfs} = 0.80 \text{ cfs}$

CONDITIONS/REMARKS:

THIS RIGHT IN COMBINATION WITH 22-7090, 22-7493, 22-7495,
 & 22-7513, SHALL NOT EXCEED 9.11 cfs.

JUN 09 1994

LAND LIST ATTACHMENT

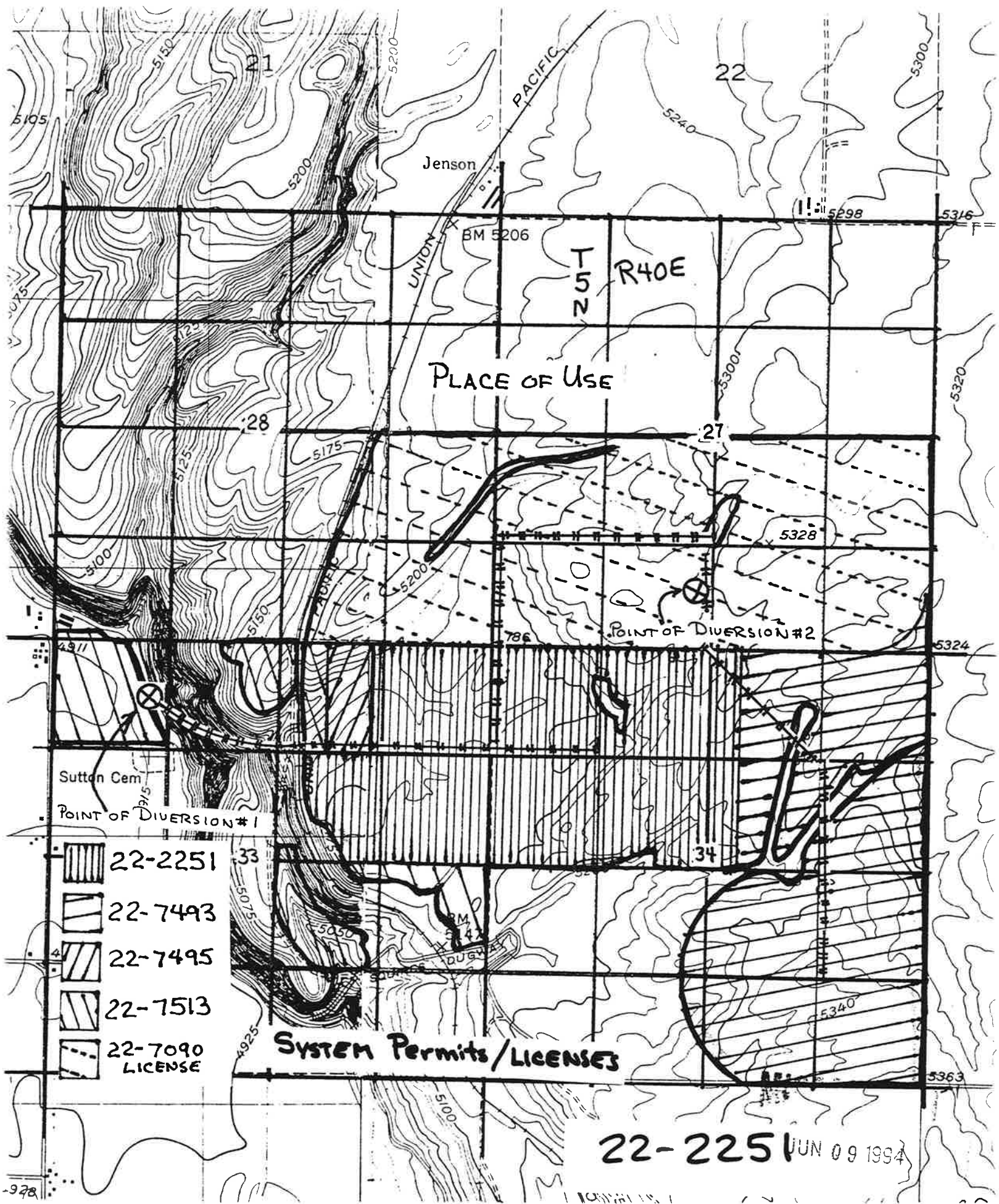
Description and location of place of use:

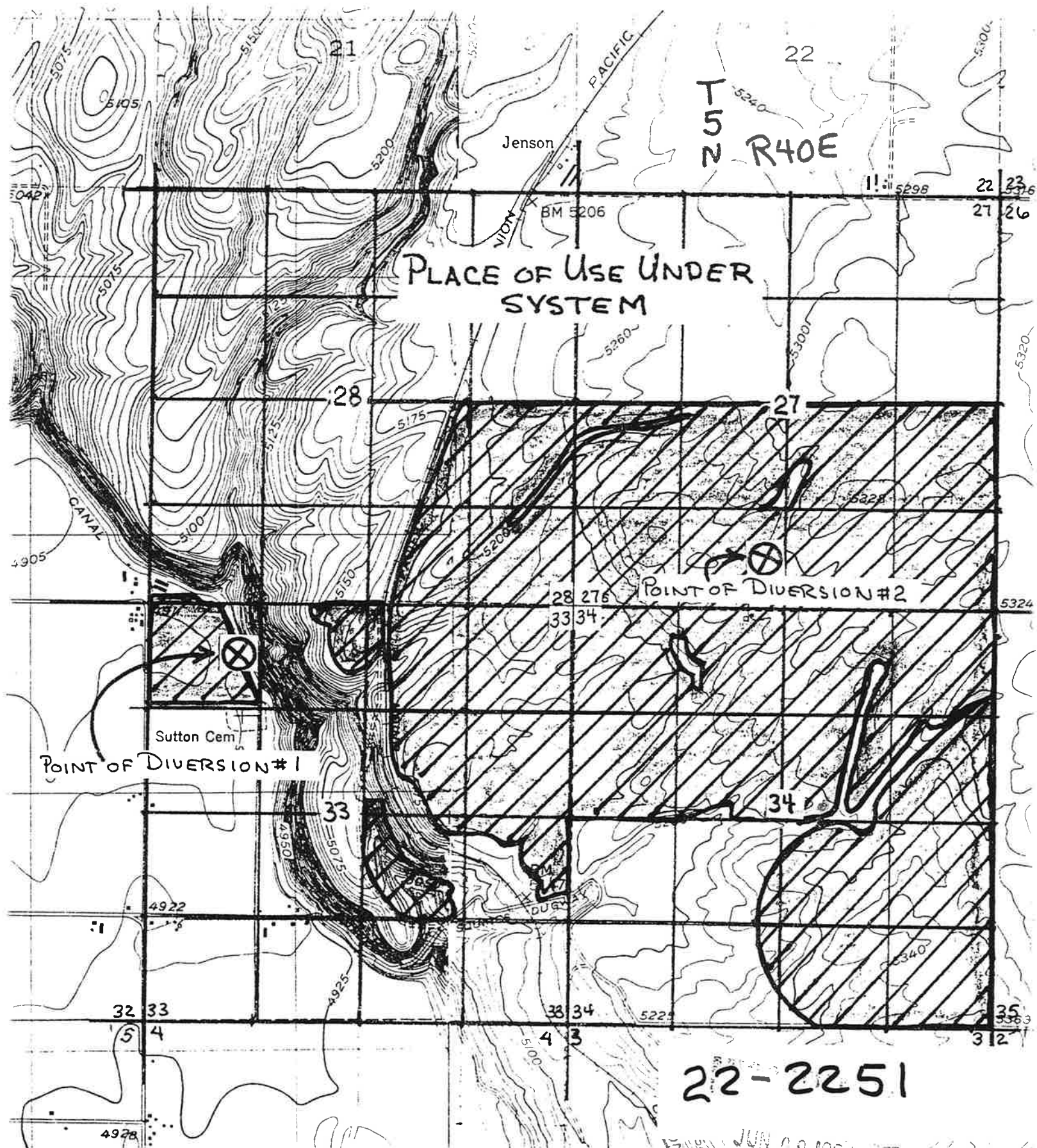
TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
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5N	40E	33	40	3	24	40													107
		34		12	12		37	39	39	34									173
<22-7493>																			<22-7493>
5N	40E	27															8		8
		34	38	23	19	33				5		5	39	36	36	38			272
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5N	40E	33		20															20
<22-7513>																			<22-7513>
5N	40E	28									2								2
		33		12	2		8	30						18	23				93

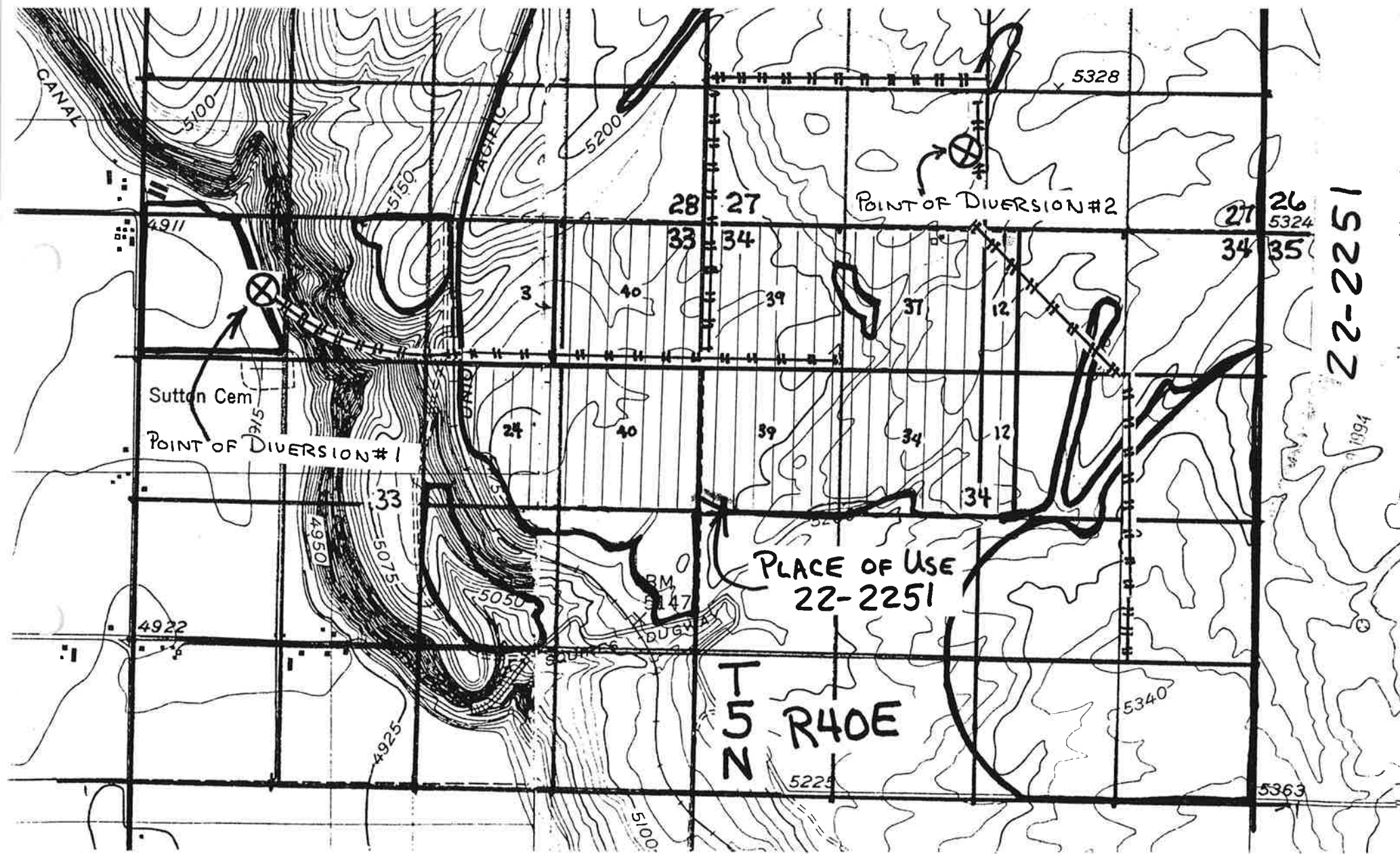
Total number of acres irrigated 675 acres

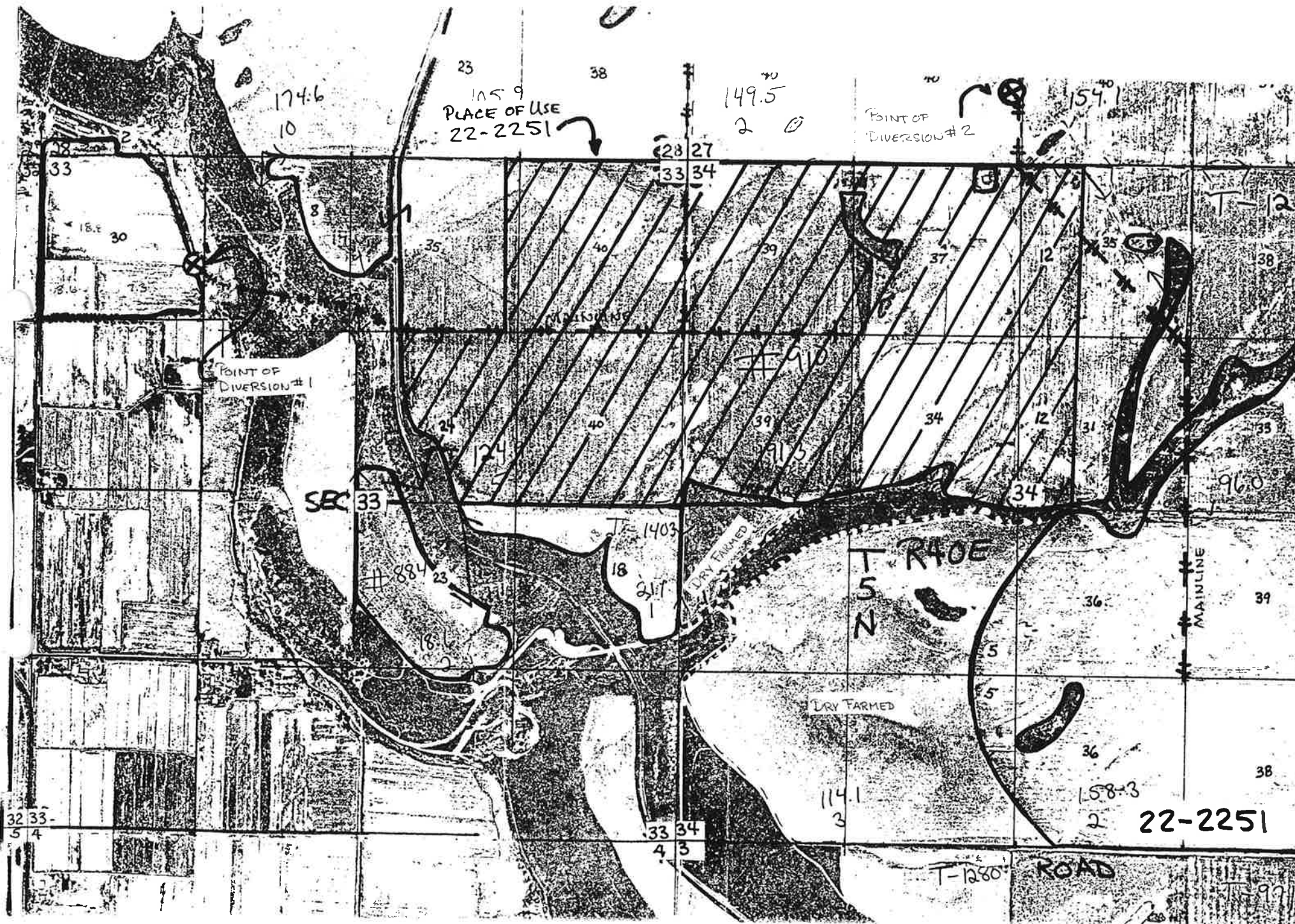
22-2251

394









SEPTEMBER 26, 1994

BRET OR KIRT SUTTON
390 E 7000 S
REXBURG ID 83440

RE: CHANGE IN OWNERSHIP FOR A22-02251

Dear Sirs:

The request for Change in Ownership concerning the Notice(s) of Claim in the above reference has been processed and the Notice(s) modified to reflect you as the new owner.

Enclosed is a typed Notice with your name shown as the current owner. Review the forms and if there are other corrections or questions, feel free to contact this office.

If there are no questions or corrections, please keep this Notice for your records.

Respectfully submitted,

Jo Thompson
Adjudication Secretary

Enclosure: Notice of Claim

MICROFILMED
NOV 06 1994



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see instructions on back of page)

RECEIVED

SEP 26 1994

Department of Water Resources
Eastern District Office

DATE OF CLOSING: _____

LEGAL DESCRIPTION OF PROPERTY: Township 5N Range 40E
Section 33, 34, 1/4 of _____ 1/4 of _____ 1/4, Govt. Lot _____, BM.
Lot _____, Block _____, Subdivision/Townsite _____.
If you have additional legal descriptions, please attach separate sheet.

- ☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)
- ☐ Water Right Number(s)
Assigned by IDWR: A 22-02251
- ☐ Name and Address of Former Owner/Claimant(s)(Seller): H. Leroy Zollinger
8611 Brynwood
Boise, ID
- ☐ New Owner/Claimant (Purchaser): Bret or Kirt Sutton
- ☐ New Mailing Address: 390 E. 7000 S.
Rexburg, ID 83440
- ☐ New Telephone Number: (208) 356 - 0702
- ☐ Does the change in ownership result in a splitting of the water right owned/claimed? yes ☒ no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

☒ Attach proof of ownership, describe proof attached:

Copy of Contract of Sale

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

☒ Signature of New Owner/Claimant(s)

Bret J. Sutton
Kirt Sutton

Date 9-19-94

Date 9-19-94

☐ Signature of Former Owner/Claimant(s):

Date

Date

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

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: _____ By: _____

Further Action Needed:

Further Action Taken

Date: _____ By: _____

Final Review and Data-Entry

Date: _____ By: _____

Claim Numbers of Split, if any:

MICROFILMED

NOV 06 1994

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

Water Right Number: A22-02251

FIRST PAGE

10.	TWP	RNG	SEC	1/4	1/4	Lot	Acres	Use	Use Desc.	County	County Name
	05N	40E	33	NE	NE		40.0	01	IRR	65	MADISON
	05N	40E	33	NW	NE		40.0	01	IRR	65	MADISON
	05N	40E	33	SW	NE		30.0	01	IRR	65	MADISON
	05N	40E	33	SE	NE		40.0	01	IRR	65	MADISON
	05N	40E	33	NE	NW		20.0	01	IRR	65	MADISON
	05N	40E	34	NW	NE		20.0	01	IRR	65	MADISON
	05N	40E	34	SW	NE		20.0	01	IRR	65	MADISON
	05N	40E	34	NE	NW		40.0	01	IRR	65	MADISON
	05N	40E	34	NW	NW		40.0	01	IRR	65	MADISON
	05N	40E	34	SW	NW		40.0	01	IRR	65	MADISON
	05N	40E	34	SE	NW		40.0	01	IRR	65	MADISON

(Enter=Exit)

(GOLD4=Prev Screen)
(GOLD5=Next Screen)

(GOLD6=End of Data)
(GOLD8=Cancel)

MICROFILMED
NOV 06 1994

* Return with Change of
Ownership

COPY

CONTRACT OF SALE

THIS AGREEMENT is made and entered into this 1st day of February, 1994, by and between H. LEROY ZOLLINGER and SHARON DALE ZOLLINGER, his wife, of 8611 Brynwood Drive, Boise, Ada County, Idaho; WANDA PERCIVAL and DONALD PERCIVAL, her husband, of 1180 Corrine Ave, Idaho Falls, Bonneville County, Idaho; LAVINA ZOLLINGER POWELL of 1304 Laurel, Idaho Falls, Bonneville County, Idaho; and ZOLLINGER FARMS PARTNERSHIP an Idaho partnership composed of H. LeRoy Zollinger and Wanda Percival and Lavina Zollinger Powell, of 8611 Brynwood Drive, Boise, Ada County, Idaho all of whom are collectively hereinafter referred to as SELLERS, and BRET SUTTON and FRANKIE SUE SUTTON, his wife, of 390 East 7000 South, Rexburg, County of Madison, Idaho, and KIRT SUTTON and LORI SUTTON, his wife, of 864 East 7156 South, Rexburg, County of Madison, Idaho, all of whom are collectively hereinafter referred to as PURCHASERS.

WITNESSETH:

1. CONSIDERATION AND PROPERTY DESCRIPTION: For and in consideration of the sum of One Million Two Hundred Twenty-eight Thousand Dollars (\$1,228,000.00), lawful money of the United States of America, to be paid by the PURCHASERS as is hereinafter provided; the SELLERS agree to sell and convey, and the PURCHASERS agree to purchase all that certain lot, piece and parcel of land, situate, lying and being in Madison County, Idaho, together with the irrigation equipment all described as follows, to wit:

A. The real property which is described on Exhibit "A" attached hereto and by this reference made a part hereof as though fully set forth herein.

Subject to all existing easements or claims of easements, patent reservations, rights-of-way, protective covenants, zoning ordinances and applicable building codes, laws and regulations, encroachments, overlaps, boundary line disputes and other matters which would be disclosed by an accurate survey or inspection of the premises.

B. The two wells located thereon, license nos., 22-7090 and 22-2251.

C. One 300 horsepower pump, serial number HC1029564, together with any additions, substitutions, and/or replacements thereof. PURCHASERS agree to execute a Security Agreement on said pump together with the substitutions and/or replacements thereof in favor of SELLERS.

D. Two circles: Pivot #6 - Valley Model No. 5971
Serial No. 28511

Pivot #7 - Valley Model No. 2071
Serial No. 13062

PURCHASERS agree to execute a Security Agreement on said circles, but not on any replacements or substitutions thereof in favor of SELLERS.

E. An old disk and old deep furrow drills together with any other old miscellaneous machinery located on the premises and old buildings or other improvements thereon.

2. PURCHASE PRICE - INTEREST - ACCELERATION: The PURCHASERS agree to pay the purchase price of One Million Two Hundred Twenty-eight Thousand Dollars (\$1,228,000.00), as follows:

(a) Two Hundred Twenty-eight Thousand Dollars (\$228,000.00) down, the receipt of which is hereby acknowledged.

(b) The balance of One Million Dollars (\$1,000,000.00) One Hundred Nine Thousand Eight Hundred Dollars (\$109,800.00) per year with the first such payment due February 1, 1995, and a like payment each succeeding year thereafter for a total of fifteen (15) such equal annual payments. The unpaid balance shall earn interest at seven percent (7%) per annum from February 1, 1994, and each payment shall be applied first to interest due and the balance to principal.

(c) The last payment may need to be larger or smaller because of interest accumulation, but whatever the amount, the Contract balance shall be paid in full with the fifteenth payment.

(d) PURCHASERS may not prepay all or any portion of this purchase price without prior written consent of SELLERS.

(e) If payments are not paid in the manner and at the time or times as above stated, the entire unpaid balance, both principal and interest, will become immediately due and collectible at the option of SELLERS. Failure of the SELLERS to accelerate upon default shall not constitute a waiver of such right in the event of a subsequent default.

3. DIVISION OF PURCHASE PRICE: SELLERS herein agree to divide the purchase price as follows:

A. LAVINA ZOLLINGER POWELL shall receive 2.5% of the down payment and each annual payment.

B. LEROY ZOLLINGER and WANDA PERCIVAL shall divide equally between them 13.5%, 6.75% each, of the down payment and each annual payment.

C. The balance of 84% of the down payment and each annual payment shall be divided as follows:

(a) H. LEROY ZOLLINGER	40%
(b) WANDA PERCIVAL	40%
(c) LAVINA ZOLLINGER POWELL	20%

4. FALSE REPRESENTATIONS AND WARRANTIES: It is mutually understood and agreed that the property being sold under the terms of this Contract has been inspected by the PURCHASERS and that the same is being purchased by them wholly as the result of said inspection and not upon any representation made by the SELLERS, their agents, and/or attorneys, and the PURCHASERS hereby waive any and all claims for damages by reason of any cancellation or foreclosure of this agreement, or otherwise, because of any representation made by any person, whomsoever, other than as is contained in this agreement.

Said property is purchased in its "AS IS" condition.

5. TRUTH-IN-LENDING -- UNIFORM CONSUMER CREDIT CODE: It is hereby disclosed by the SELLERS on this date, and acknowledged by the PURCHASERS, that the SELLERS are not persons who, in the ordinary course of business regularly extend, or arrange for the extension of consumer credit of this kind, or offer to extend or

extension of consumer credit of this kind, or offer to extend or arrange for the extension of such credit, and said SELLERS are not regularly engage as SELLERS in credit transactions of the kind included within this agreement, and are, consequently, exempt from the provisions of the Federal Truth-in-Lending Act and/or the Uniform Consumer Credit Code of the State of Idaho.

6. POSSESSION: Possession shall be delivered to the PURCHASERS on execution hereof and PURCHASERS shall be entitled to remain in possession so long as they are not in default under the terms of this agreement.

7. TAXES AND ASSESSMENTS: SELLERS agree to assume and pay all taxes and assessments for 1993 and theretofore; PURCHASERS shall assume and pay all taxes and assessments for the year 1994 and thereafter.

8. ESCROW: It is mutually understood and agreed that the following documents shall be placed in escrow with the West One Bank, at Rigby, Idaho:

1. Executed Original Contract of Sale.
2. Three Executed Original Warranty Deeds.
3. Three Executed Original Quitclaim Deeds.

All payments shall be made directly to the escrow holder commencing with the payment due February 1, 1995. The escrow fee shall be shared equally between the SELLERS and the PURCHASERS.

9. WARRANTY DEED AND TITLE INSURANCE: It is mutually understood and agreed by and between the parties hereto that upon full payment of the purchase price, the SELLERS shall furnish a Warranty Deed, and shall convey a good and marketable title, free and clear of any and all liens, encumbrances, taxes or assessments of whatsoever nature, except those liens, encumbrances, taxes or assessments which, by the terms of this contract the PURCHASERS do specifically agreed to assume and pay, or which they create. Also subject to easements and rights-of-way for highways, roads, ditches, canals, pole, power and transmission lines as they may exist, and any other easements or claims of easements, protective covenants, zoning ordinances and applicable building codes, laws and regulations, encroachments, overlaps, boundary line disputes and other matters which would be disclosed by an accurate survey or inspection of the premises, and subject to the usual printed exceptions contained in the title policies currently being issued.

PURCHASERS understand there is a first mortgage lien on the premises in favor of the Production Credit Association having an unpaid balance of \$29,000.00 which will be paid off in two more years. PURCHASERS do not assume that obligation. SELLERS agree they will make the two annual payments so that said obligation is discharged and paid in full according to the terms and conditions thereof.

10. WASTE: It is hereby agreed that during the term of this Contract, the PURCHASERS shall maintain the property in as good a condition as the property is at the date of this Contract of Sale, keep said property clean and free from noxious weeds, care for and keep said property in a good and neat appearance, and protect the collateral position of the SELLERS herein.

11. INDEMNIFICATION: PURCHASERS shall indemnify and save harmless the SELLERS against any and all claims and liabilities for claims arising from the conduct, use of, or management of, or from any work or thing whatsoever done in or about the demised premises, or any building or structure thereon, or arising from any accident, injury or damage whatsoever, however caused, to any person or persons or to the property of any person or persons, corporation or corporations, occurring during the existence of this Contract, on, in or about the same premises, and from and against all costs, counsel fees, expenses and liabilities incurred in or about any such claims or any action or proceeding being brought against the SELLERS by reason of any such claims. PURCHASERS, upon notice from SELLERS, shall resist or defend any such action or proceeding.

12. DEFAULT: This agreement is made upon the express condition that time and punctuality of payment are of the essence and a material part of this Contract. In the event PURCHASERS shall default in the performance of the terms of this agreement, SELLERS may cause notice in writing to be given to PURCHASERS specifying the matters in which such default occurred. The notice shall be served upon PURCHASERS by depositing the same in a United States Post Office, addressed to the PURCHASERS at 390 East 7000 South, Rexburg, Idaho 83440. Said notice shall be sent by certified and/or registered mail, return receipt requested, postage prepaid, and such notice shall be deemed served upon its deposit in the post office as aforesaid. If PURCHASERS shall fail to cure such default within sixty (60) days after the service of such notice as aforesaid, then SELLERS may elect to do any one or more of the following:

(a) Declare the entire unpaid balance on the Contract, including principal, interest, taxes, assessments, attorney's fees, and any other sums owing SELLERS to be immediately due and owing.

(b) Bring an action for specific performance of the terms, covenants and conditions of this agreement, and to require and enforce full and complete performance by PURCHASERS of said terms, covenants and conditions.

(c) Rescind this Contract and recover full and complete restitution from PURCHASERS.

(d) Affirm this Contract and bring an action for breach of contract against PURCHASERS for the collection of all obligations of PURCHASERS under the terms of this Contract and all other damages suffered by SELLERS as a result of the default and breach by PURCHASERS.

(e) Bring suit to establish the balance owing hereunder as a debt due by PURCHASERS to SELLERS and to foreclose this Contract as a real estate mortgage securing said debt, in accordance with the laws of the State of Idaho relating to the foreclosure of real estate mortgages, including the right to a deficiency judgment. No notice to PURCHASERS of the election to pursue this remedy is required prior to suit.

(f) Declare this Contract to be terminated due to said default. In that event, this Contract shall be immediately terminated and PURCHASERS shall forfeit all rights to said premises, and all payments made hereon shall be retained by SELLERS as liquidated damages for breach of this Contract. In that event, PURCHASERS agree to immediately surrender possession of the premises, and any improvements made thereon shall attach to and become a part of the real property and shall be retained as liquidated damages.

(g) To pursue any other remedy in law or equity to enforce the performance of this Contract, or to recover damages for the breach thereof.

(h) Bring an action against PURCHASERS for strict foreclosure of this Contract of Sale.

RELIEF UNDER ANY AND ALL REMEDIES:

(i) No matter which one or more of the above remedies SELLERS pursue, they shall be entitled in addition to the relief described, attorney's fees and all costs including costs of title search which right shall survive forfeiture and/or termination of this Contract.

(j) To reclaim from the escrow holder all papers placed therein, including a Quitclaim Deed, from PURCHASERS to SELLERS, which the parties agree shall be made a part of the escrow.

(k) The default period in this Contract and in the escrow agreement shall run concurrently.

13. COST TO PREPARE NOTICES: In the event it is necessary for SELLER to cause any notice in writing to be given under the preceding paragraph, and following said notice the default is cured, PURCHASERS nevertheless agree to pay all attorney's fees incurred by SELLERS leading to the sending of the notice, and the preparation thereof, in an amount of not less than \$100.00. It is agreed the default will not be fully cured until said fees are paid.

14. LIENS: It is understood and agreed that the PURCHASERS shall not, or will not, suffer or permit any mechanic's liens or other liens to attach to or be against the above described premises which shall or may be superior to the rights of the SELLERS herein.

15. ASSIGNMENT OR SALE OF CONTRACT: PURCHASERS may assign or sale all or any portion of their interest herein or in the property described herein but such assignment or sale shall not relieve PURCHASERS from their obligations hereunder.

16. HEIRS, EXECUTORS, ADMINISTRATORS, PERSONAL REPRESENTATIVES: All covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors,

administrators, personal representatives, successors and assigns of the respective parties hereto.

17. FULL AGREEMENT: This agreement represents the complete and entire agreement between the parties. There are no oral agreements or representations.

18. ATTORNEY'S FEES: In the event it is necessary for either party to commence an action to enforce or defend any covenant contained herein, or to terminate any rights hereunder, or to institute suit hereunder, the unsuccessful party agrees to pay all reasonable attorney's fees of the successful party, together with all costs, including searching records to determine condition of title, which sum shall be included in any judgment or decree entered in such suit.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year in the acknowledgements hereinafter set forth.

SELLERS:

PURCHASERS:

H. LeRoy Zollinger
H. LEROY ZOLLINGER

Bret Sutton
BRET SUTTON

Sharon Dale Zollinger
SHARON DALE ZOLLINGER

Frankie Sue Sutton
FRANKIE SUE SUTTON

Wanda Percival
WANDA PERCIVAL

Kirt Sutton
KIRT SUTTON

Donald Percival
DONALD PERCIVAL

Lori Sutton
LORI SUTTON

Lavina Zollinger Powell
LAVINA ZOLLINGER POWELL

H. LeRoy Zollinger
ZOLLINGER FARMS PARTNERSHIP
by H. LeRoy Zollinger

STATE OF IDAHO)
County of Jefferson) ss

On this 4th day of February, 1994, before me, the undersigned, a Notary Public in and for said state, personally appeared H. LEROY ZOLLINGER and SHARON DALE ZOLLINGER, husband and wife, known to me to be the persons whose names are subscribed to the foregoing, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgement first above written.

(seal)

[Signature]
Notary Public for Idaho
Residing at: Rigby, Id
Commission Expires: 10/24/97

STATE OF IDAHO)
County of Jefferson) ss

On this 4th day of February, 1994, before me, the undersigned, a Notary Public in and for said state, personally appeared WANDA PERCIVAL and DONALD PERCIVAL, known to me to be the persons whose names are subscribed to the foregoing, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgement first above written.

(seal)


Notary Public for Idaho
Residing at: Rigby, Id.
Commission Expires: 10/24/97

STATE OF IDAHO)
County of Jefferson) ss

On this 1st day of Febuary, 1994, before me, the undersigned, a Notary Public in and for said state, personally appeared LAVINA ZOLLINGER POWELL, known to me to be the person whose name is subscribed to the foregoing, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgement first above written.

(seal)

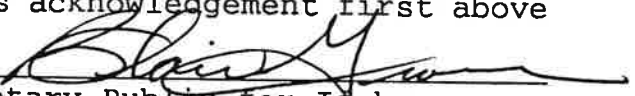

Notary Public for Idaho
Residing at: Rigby, Id.
Commission Expires: 10/24/97

STATE OF IDAHO)
County of Jefferson) ss

On this 4 day of February, 1994, before me, the undersigned, a Notary Public in and for said state, personally appeared H. LEROY ZOLLINGER, ZOLLINGER FARMS PARTNERSHIP, known to me to be the person whose name is subscribed to the foregoing, and acknowledged to me that he executed the same on behalf of ZOLLINGER FARMS PARTNERSHIP.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgement first above written.

(seal)


Notary Public for Idaho
Residing at Rigby, Idaho
Commission Expires: 10/24/97

STATE OF IDAHO)
) ss
County of Jefferson)

On this 4th day of February, 1994, before me, the undersigned, a Notary Public in and for said state, personally appeared BRET SUTTON and FRANKIE SUE SUTTON, known to me to be the persons whose names are subscribed to the foregoing, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgement first above written.

(seal)

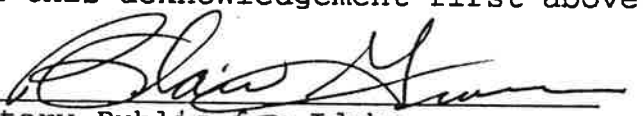

Notary Public for Idaho
Residing at: Bigby, Id.
Commission Expires: 10/24/97

STATE OF IDAHO)
) ss
County of Jefferson)

On this 4th day of February, 1994, before me, the undersigned, a Notary Public in and for said state, personally appeared KIRT SUTTON and LORI SUTTON, known to me to be the persons whose names are subscribed to the foregoing, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgement first above written.

(seal)


Notary Public for Idaho
Residing at: Bigby, Id.
Commission Expires: 10/24/97

TRACT 1:

Township 5 North, Range 40 East, Boise Meridian, Madison County, Idaho
Section 27: SE $\frac{1}{4}$

TRACT 2:

Township 5 North, Range 40 East, Boise Meridian, Madison County, Idaho

Section 27: SW $\frac{1}{4}$

Section 28: E $\frac{1}{2}$ SE $\frac{1}{4}$

Section 33: NE $\frac{1}{4}$, less right of way for railroad; E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$; the West 2 rods of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and commencing at a point 522 feet North of the Southeast Corner of the NW $\frac{1}{4}$ NW $\frac{1}{4}$, and running thence West 50 feet; thence South 60 feet; thence East 50 feet; thence North 60 feet to the point of beginning.

Also an undivided one-third interest in and to the following easement:

Easement for ingress and egress to the above described property 20 feet wide, the center line described as follows: commencing at a point 494 feet North of the Southwest Corner of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and running thence East 1320 feet.

Section 34: All

TRACT 3:

Township 5 North, Range 40 East, Boise Meridian, Madison County, Idaho

Section 28: W $\frac{1}{2}$ SE $\frac{1}{4}$, lying and being East of the Railroad right of way.

Exhibit

A

Mr. Hileroy Zollinger
Zollinger Farm
8611 Brynwood
Boise, Idaho 83704

RE: Adjudication claim A22-02251

Dear Mr. Zollinger:

Please find enclosed a copy of the computer coded claim for lapsed permit 22-02251. This is the permit you are trying to have reinstated. You indicated that the priority date of this claim was "1968". I coded the priority date as April 30, 1968, which was the priority date of the original permit.

Please review the remainder of the claim for any additional changes. You may make changes to the claim by lining-through the incorrect item, initialing the change, and then sign the form and submit it as an amended claim. There is no fee associated with filing an amended claim.

Feel free to contact our office if you have further questions regarding this matter.

Sincerely;

Eric Verner
Sr. Water Agent

Enclosure

MICROFILMED

OCT 29 1992

State of Idaho
Department of Water Resources

RECEIVED
MAY 1 1994
Department of Water Resources
Eastern District Office

WATER RIGHT LICENSE

WATER RIGHT NO. 22-02251

Priority: April 20, 1988 Maximum Diversion Rate: 2.36 CFS

This is to certify, that ZOLLINGER FARM INC
C/O H LEROY ZOLLINGER
8611 BRYNWOOD
BOISE ID 83704 has complied with the terms and conditions
of the permit, issued pursuant to Application for Permit dated June 16, 1965; and
has submitted Proof of Beneficial Use on April 20, 1988. An examination indicates
that the works have a diversion capacity of 9.110 cfs of water from a GROUNDWATER
source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	2.36 CFS	

LOCATION OF POINT(S) OF DIVERSION:
SESW , Sec. 27, Township 05N, Range 40E
NWNW , Sec. 33, Township 05N, Range 40E
MADISON County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
05N	40E	33	NENE 40	NWNE 3	SWNE 24	107
			SENE 40			
		34	NWNE 12	SWNE 12	NENW 37	
			NWNW 39	SWNW 39	SENW 34	173

Total number of acres irrigated: 280

CONDITIONS/REMARKS:

1. This water right is appurtenant to the described place of use.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. Use of this right with the rights listed below is limited to a total combined diversion rate of 9.11 cfs, a total combined annual diversion volume of 3324.8 af, and to the irrigation of a combined total of 1081 acres in a single irrigation season.
5. The combined rights include: 22-07493, 22-07495, 22-07513, and 22-07090.
6. The following rights are also diverted through the point(s) of diversion described above: 22-07493, 22-07495, 22-07513, and 22-07090.

MICROFILMED
NOV 06 1990

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 22-02251

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 30TH
day of APRIL, 1994.

Acting for  R. Keith Higginson, Director

MICROFILMED
NOV 06 1990

April 4, 1988

8611 Brynwood Drive
Boise, Idaho 83704

Mr. Ronald D. Carlson
Department of Water Resources
Eastern Region
150 Shoup
Idaho Falls, Idaho 83401

Dear Mr. Carlson:

In 1965 Herman Zollinger applied to appropriate 12.0 cfs for the irrigation of 620 acres. The ground was developed under a lease with Stan Sutton. Mr. Zollinger was granted permit 22-2251.

Perhaps because of the lease with Mr. Sutton and the inadequate transfer of paperwork between the lessor and lessee, permit 22-2251 lapsed. Mr. Sutton, however, developed the ground and has been irrigating it since 1968.

Additional applications have since been filed when it was discovered that the department's records showed no water rights for approximately 600 acres of the Zollinger farm. However, because of the slowdown in processing of applications by the IDWR, Zollinger farms, the heir to the estate of Herman Zollinger, requests that the department reinstate permit 22-2251 pursuant to Idaho Code Section 42-218a.

Sincerely,



H. LeRoy Zollinger

cc: Stan Sutton, 578 E. 7000 So., Rexburg, Idaho 83440

MICROFILMED

OCT 29 1992

Pew, Lori

From: Rushing, Emalee
Sent: Friday, February 29, 2008 9:33 AM
To: Pew, Lori
Subject: FW: From " 356 7483"(Fax Message NO.8766)

Attachments: 20080228223442488.tif



2008022822344248
8.tif (291 KB)...

Lori,

I'm forwarding this fax to you as it appears that there are 2 active adjudication claims. There is a prior ownership change request that is scanned to claim # 22-7090 & 22-2251.

I did phone Kirt Sutton to let him know that based on the documents submitted, I cannot just remove Frankie Sue & Bret Sutton as current owners of the water right. I am faxing him another blank copy of the notice of change in water right ownership (for Stan & Pauline Sutton's use).

Emalee

-----Original Message-----

From: Mitchell, Camille On Behalf Of IDWR Fax
Sent: Friday, February 29, 2008 8:18 AM
To: Rushing, Emalee; Gibson, Deborah
Subject: FW: From " 356 7483"(Fax Message NO.8766)

-----Original Message-----

From: idwrfax@idwr.idaho.gov [mailto:dwrfax@idwr.idaho.gov]
Sent: Thursday, February 28, 2008 8:35 PM
To: IDWR Fax
Subject: From " 356 7483"(Fax Message NO.8766)

This E-mail was sent from "State_507_BW" (Aficio 2045e).

Queries to: webmaster@idwr.idaho.gov

GRANT DEED**COPY**

FOR VALUE RECEIVED, **FRANKIE SUE SUTTON**, as Personal Representative of the **ESTATE OF BRET J. SUTTON**, deceased, with the Estate pending in the Seventh Judicial District in and for the County of Madison, Case No. CV-05-251, and **FRANKIE SUE SUTTON**, a widow, of 390 East 7000 South, Rexburg, Idaho 83440, collectively as to an undivided Fifty Percent (50%) interest, hereinafter "Grantors," do hereby grant and convey to **STANLEY B. SUTTON** and **PAULINE SUTTON**, as Co-Trustees, or their successors in trust, under the **STAN & PAULINE SUTTON LIVING TRUST**, dated November 24, 1999, of 578 East 7000 South, Rexburg, Madison County, Idaho 83440, hereinafter "First Grantees," an undivided Twenty-five Percent (25%) interest, and **KIRT SUTTON** and **LORI SUTTON**, husband and wife, of 864 E. 7156 S., Rexburg, Idaho 83440, hereinafter, "Second Grantees", an undivided Twenty-five Percent (25%) interest, in and to the following described property, situated in Madison County, Idaho, to-wit:

Twp. 5 N., Rge. 40 E., Boise Mer., Madison County, Idaho

- Sec. 27: S $\frac{1}{2}$
Sec. 28: E $\frac{1}{2}$ SE $\frac{1}{4}$ and that part of W $\frac{1}{2}$ SE $\frac{1}{4}$ lying and being East of the Railroad right-of-way
Sec. 33: NE $\frac{1}{4}$ less Railroad right-of-way
Also: E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Also: The West 2 rods of NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Also: Commencing at a point 522 feet North of the Southeast corner of NW $\frac{1}{4}$ NW $\frac{1}{4}$ and running thence West 50 feet; thence South 60 feet; thence East 50 feet; thence North 60 feet to the point of beginning, **together with** an easement for ingress and egress thereto 20 feet wide, the center line of which commences at a point 494 feet North of the Southwest Corner of NW $\frac{1}{4}$ NW $\frac{1}{4}$ and running thence East 1320 feet.
Sec. 34: All

TOGETHER WITH any and all water rights, wells, pumps and irrigation systems and improvements and appurtenances thereto.

SUBJECT TO Easements of record or in existence for roads, railroads, ditches, pipelines and utilities.

Grant Deed - Page 1 of 5
SUTTONS.GD9

Instrument # 329836

REXBURG, MADISON, IDAHO

2006-07-27 10:55:00 No. of Pages: 5

Recorded for : GORDON THATCHER

MARILYN R. RASMUSSEN

Ex-Officio Recorder Deputy

Fee: 15.00

SCANNED

MAR 25 2008

THIS CONVEYANCE is subject to all the rights of Sellers under that "Contract of Sale," dated February 1, 1994, with "Notice of Purchasers Interest," recorded on February 10, 1994, as Instrument No. 250527, records of Madison County, Idaho. There is owing on the Contract of Sale three remaining amortized installments of \$109,800.00 each, due on February 1, 2007, February 1, 2008 and February 1, 2009 (with the final installment to include any balance of principal and interest then unpaid). Second Grantees are obligated to make all of those payments, when due, and to hold Grantors and First Grantees harmless of any liability thereunder.

AS A RESULT of this conveyance the property is owned, subject to the Contract of Sale above described, Twenty-five Percent (25%) by First Grantees and Seventy-five Percent (75%) by Second Grantees [who already owned Fifty Percent (50%) thereof under the Contract of Sale.]

THIS CONVEYANCE is in partial furtherance of a Real Estate Exchange Agreement dated February 10, 2006. The property included herein may be referred to as the "Hill Property" or the "Zollinger Property."

"GRANTORS"


FRANKIE SUE SUTTON,
as Personal Representative of the
Estate of Bret Sutton, deceased.


FRANKIE SUE SUTTON

Acknowledgment by Personal Representative

STATE OF IDAHO)
 ss.
County of Madison.)

On this 21st day of July, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared **Frankie Sue Sutton**, known to me to be the Personal Representative of the Estate of Bret J. Sutton, deceased, and acknowledged to me that she executed the same as such Personal Representative.



A handwritten signature of Anne Wieben in cursive script, written over a horizontal line.

Notary Public for Idaho

Residing at Rigby

My Commission expires: 7/27/2007

Acknowledgment

STATE OF IDAHO,)
 ss.
County of Madison)

On this 21st day of July, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared **Frankie Sue Sutton**, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.



A handwritten signature of Anne Wieben in cursive script, written over a horizontal line.

Notary Public for Idaho

Residing at Rigby

My Commission Expires: 7/27/2007

ACCEPTED BY FIRST GRANTEES AND SECOND GRANTEES this 10th day of February, 2006.

“FIRST GRANTEES”


STANLEY B. SUTTON, as Co-Trustee
of the Stan & Pauline Sutton
Living Trust


PAULINE SUTTON, as Co-Trustee
of the Stan & Pauline Sutton
Living Trust

“SECOND GRANTEES”

Kirt Sutton
KIRT SUTTON

Lori Sutton
LORI SUTTON

Acknowledgment by Co-Trustees

STATE OF IDAHO,)
County of Madison. ss.
)

On this 26th day of July, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared **Stanley B. Sutton** and **Pauline Sutton**, known to me to be persons whose names are subscribed to the within instrument as the Trustees of the **STAN & PAULINE SUTTON LIVING TRUST**, and acknowledged to me that they executed the same as such Trustees.



Anne Wicken
Notary Public for Idaho
Residing at Rigby
My Commission expires: 7/27/2007

Acknowledgment

STATE OF IDAHO,)
 ss.
County of Madison)

On this 7 day of July, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared **Kirt Sutton** and **Lori Sutton**, husband and wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.



A handwritten signature of Anne Wieben in cursive script, written over a horizontal line.

Notary Public for Idaho

Residing at Rigby

My Commission Expires: 7/27/2007



State of Idaho

DEPARTMENT OF WATER RESOURCES ²⁰⁰⁴

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

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

November 27, 2007

C. L. "BUTCH" OTTER
GovernorDAVID R. TUTHILL, JR.
DirectorKIRT & LORI SUTTON
864 E 7156 S
REXBURG ID 83440BRET & FRANKIE SUE SUTTON
390 E 7000 S
REXBURG ID 83440

RE: Change of Ownership for Water Right 22-7493 & 22-7495

Dear Water Right Holders:

The department acknowledges receipt of fee and correspondence changing ownership of the above referenced water rights to you. The department has modified its records to reflect the change in ownership and has enclosed computer-generated reports for your records.

Zollinger Farms will continue to be listed as a current owner of the water rights until proof of conveyance, such as a Warranty Deed, is received.

Please note that Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office, or at the department's website at: www.idwr.idaho.gov.

Please feel free to contact this office if you have any questions regarding this matter.

Sincerely,

Emalee Rushing
Office Services Supervisor
Water Allocations Bureau

Enclosures

cc Zollinger Farms Inc
c/o H Leroy Zollinger
8611 Brynwood
Boise ID 83704SCANNED
MAR 27 2008

C/O: Emalee Rushing
2/28/08

In November 2007 a request was made to change ownership for water rights, by adding Kirt and Lori Sutton and deleting Bret Sutton who is, "deceased," and deleting Frankie Sue Sutton his wife, from the water rights. I was sent a notice that Kirt and Lori Sutton had been added as co-owners to the water rights, however Bret and Frankie Sue had not been deleted. I have included a Grant deed showing the transfer of property and all water rights wells, pumps, etc. At this time all we need to do is delete Bret and Frankie Sue Sutton from co-ownership of water rights. In February of 2009 I will be making final payment on the property and all water rights will be transferred to Kirt and Lori Sutton as new ownership by warranty deed from Zollinger Farm Inc. Feel free to contact Leroy Zollinger on this matter if you need to, or contact me for more information.

Kirt Sutton
864 East 7156 South
Rexburg, ID 83440
1-208-356-6356 - Home
1-208-390-6356 - Cell
1-208-356-7483 - Fax

Kirt Sutton

SCANNED

MAR 21 2008

FROM

EV

DATE 8/30/88

TO A22-02251

SUBJECT

Priority Date - Assume applicant wishes to claim
permit priority date of June 16, 1965.

As of this date, permit not reinstated

MICROFILMED

OCT 29 1992

EV

SIGNATURE

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: A22-02251
Date Received: 8/30/1988
Receipt No: E001901
Received By:

COPY FOR YOUR FILES	NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW	COPY FOR YOUR FILES
1. Name: BRET SUTTON Address: 390 E 7000 S REXBURG ID OR Name: KIRT SUTTON Address: 390 E 7000 S REXBURG ID	83440 83440	208-356-0702 208-356-0702
2. Date of Priority:	APR 30, 1968	
3. Source: GROUNDWATER	Trib. to:	
4. Point of Diversion:		
Township 05N	Range 40E	Section 33
1/4 of NW	1/4 of NW	1/4 of NW
Lot		County MADISON
5. Description of diverting works:		
20" WELL, 210' DEPTH ELEC. MOTOR & PUMP. STEEL MAINLINE.		
6. Water is used for the following purposes:		
Purpose IRRIGATION	From 04/01	To 11/01
	C.F.S 7.400	(or) A.F.A.
7. Total Quantity Appropriated is:		
7.400 C.F.S. (and/or)		A.F.A.
8. Total consumptive use is	925.0 Acre Feet Per Annum.	
9. Non-irrigation uses:		
10. Place of Use:		
Township 05N	Range 40E	Section 33
1/4 of NE	1/4 of NE	Lot
Use IRR		Acres 40.0
A22-02251	Page 1	Date: 09/26/94

10. Place of Use: Continued

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
05N	40E	33	NW		NE		IRR	40.0
			SW		NE		IRR	30.0
			SE		NE		IRR	40.0
			NE		NW		IRR	20.0
							Section Acres	170.0
		34	NW		NE		IRR	20.0
			SW		NE		IRR	20.0
			NE		NW		IRR	40.0
			NW		NW		IRR	40.0
			SW		NW		IRR	40.0
			SE		NW		IRR	40.0
							Section Acres	200.0
							Total Acres	370.0

11. Place of use in counties: MADISON

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

13. Other Water Rights Used:
NONE

14. Remarks:

PRIORITY DATE -- ASSUME APPLICANT WISHES TO CLAIM PERMIT PRIORITY DATE OF JUNE 16, 1965. AS OF THIS DATE, PERMIT NOT REINSTATED. APPLICATION FOR PERMIT 22-07495 IS ON FILE FOR THIS SAME SYSTEM. THIS CLAIM IS BASED UPON LAPSED PERMIT 22-02251 WHICH CLAIMANT IS PETITIONING TO HAVE REINSTATED.

15. Basis of Claim: LICENSE

Water Right Number: 227495

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NOV 06 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 THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A22-02251
Date Received: 8/30/1988
Receipt No: E001901
Received By: C. J. S. J.

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: HILERoy ZOLLINGER 208-376-8285
Address: ZOLLINGER FARM
8611 BRYNWOOD
BOISE, ID 83704
OR
Name: WANDA PERCIVOL 208-376-8285
Address: 8611 BRYNWOOD
BOISE, ID 83704
OR
Name: LAVINIA POWELL 208-376-8285
Address: 8611 BRYNWOOD
BOISE, ID 83704

2. Date of Priority: APR 30, 1968

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
05N	40E	33	NW	NW	NW		MADISON

5. Description of diverting works:
20" WELL, 210' DEPTH ELEC. MOTOR & PUMP. STEEL MAINLINE.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	7.400		

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

8. Total consumptive use is 925.0 Acre Feet Per Annum.

9. Non-irrigation uses:

A22-02251

Page 1

Date: 02/14/89

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OCT 29 1992

A2202251



10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
05N	40E	33	NE		NE		IRR	40.0
			NW		NE		IRR	40.0
			SW		NE		IRR	30.0
			SE		NE		IRR	40.0
			NE		NW		IRR	20.0
							Section Acres	170.0
		34	NW		NE		IRR	20.0
			SW		NE		IRR	20.0
			NE		NW		IRR	40.0
			NW		NW		IRR	40.0
			SW		NW		IRR	40.0
			SE		NW		IRR	40.0
							Section Acres	200.0
							Total Acres	370.0

11. Place of use in counties: MADISON

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

13. Other Water Rights Used:
NONE

14. Remarks:

PRIORITY DATE -- ASSUME APPLICANT WISHES TO CLAIM PERMIT PRIORITY DATE OF JUNE 16, 1965. AS OF THIS DATE, PERMIT NOT REINSTATED. APPLICATION FOR PERMIT 22-07495 IS ON FILE FOR THIS SAME SYSTEM. THIS CLAIM IS BASED UPON LAPSED PERMIT 22-02251 WHICH CLAIMANT IS PETITIONING TO HAVE REINSTATED.

15. Basis of Claim: BENEFICIAL USE
Water Right Number: 227495

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 _____

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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

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

CIVIL CASE NUMBER: 39356
Ident. Number A22-0251
Date Received 8/12/88
Receipt Number 6001901



AUG 12 1988

Department of Water Resources
Eastern District Office

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly HILARY ZOLLINGER OR WANDA PERCIVAL OR LAVINIA POWELL

1. Name of Claimant (s) ZOLLINGER FARM Phone (208) 376-8285

Mailing Address 8611 BRYNWOOD, BOISE Zip 83704

2. Date of Priority (Only one (1) per claim) ap. 1968 HERMAN ZOLLINGER applied for 12 cfs, \$620.00. IN 1965 & GRANTED PERMIT NO. 22-2251.

3. Source of water supply (a) GROUND WATER
which is tributary to (b) _____

4. a. Location of existing point of diversion is: Township 5N Range 40E Section 33,
N.W 1/4 of NW 1/4 of _____ 1/4, Govt. Lot, _____ B.M., County of MADISON

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. 20" dia. well, 210 FT DEPTH
ELEC. MOTOR & PUMP. STEEL MAIN LINE

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Copies: White-State, Yellow-Claimant

6. Water is claimed for the following purposes:
- (both dates are inclusive) (cfs) (acre feet)
- For IRRIGATION purposes from 4/1 to 11/1 amount 7.4 or _____
- For _____ purposes from _____ to _____ amount _____ or _____
- For _____ purposes from _____ to _____ amount _____ or _____
- For _____ purposes from _____ to _____ amount _____ or _____
7. Total quantity claimed (a) 7.4 (cfs) and/or (b) _____ (acre feet)
8. Total consumptive use claimed is 925 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	
5	40E	34		20	20		40	40	40	40									200
5	40E	33	40	40	30	40	20												170

Total number of acres irrigated 370

11. In which county (ies) are lands listed above as place of use located? MADISON
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.
_____ or None (✓)
14. Remarks: see attached letter
- _____
- _____
- _____
- _____
- _____

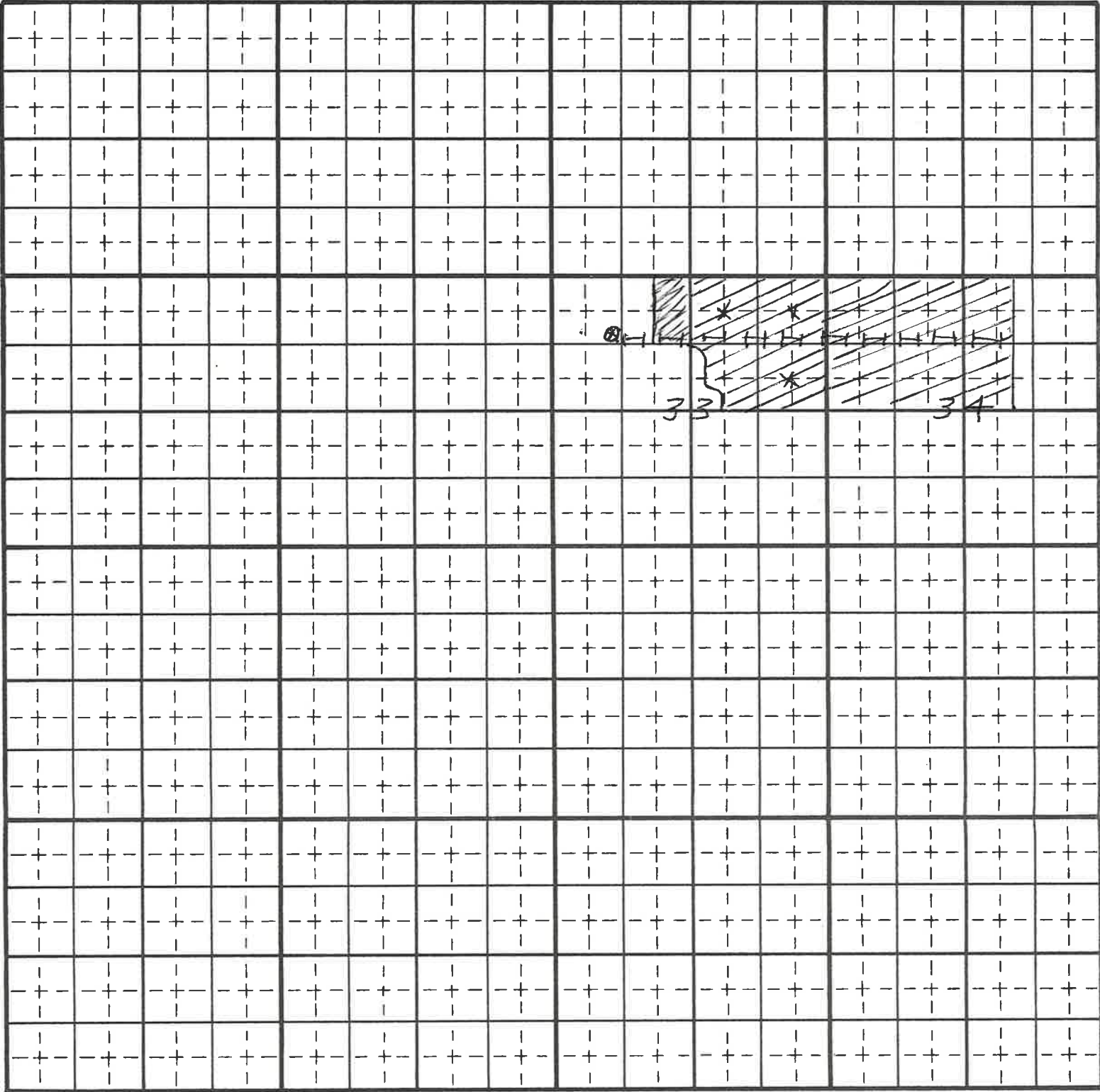
Last Name ZOLLINGER Ident No. _____

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

Scale: 2 inches equals 1 mile

T 5 N R 40 E



Last Name ZOLLINGER Ident No. _____

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15. Basis of Claim (check one) Beneficial Use ☒ Posted Notice ☒ License ☐ Permit ☒
Decree _____
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date late
Plaintiff vs Defendant _____ 22-2251

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 do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.
Signature of Claimant (s) Abbey Zollinger Date 8/14/88
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____ Title _____
of _____, that I have signed the foregoing
Organization
document in the space below as _____ of _____
Title 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 Ada) SS.
Subscribed and sworn (or affirmed) before me this 11th day of August 19 88
SEAL Notary Public Nancy M. Lindgren
Residing at Boise
My Commission Expires 1-19-1994
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 ZOLLINGER Ident. Number _____

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	YES	NO
1. Is the name and address complete with zip code?	☒	☐
2. Is a priority date entered?	☐	☒
Is the water use exempt from the Permit requirements, or if it is not exempt, has a Permit been approved or a License issued? A Permit is required: (1) for groundwater developed after March 25, 1963 (except single family domestic and stockwater wells using less than 13,000 gpd), or (2) for surface water developed after May 20, 1971 (except for instream stockwater). USE CARE IF CLAIM IS RETURNED. REFER TO ADJUDICATION MEMOS # 1 (ADJ. CLAIMS/APPLICATIONS) AND # 9 (REJECTION OF CLAIMS). EXPLAIN IN COMMENTS.		
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, each household must file a separate claim. See Adjudication Memo # 4.	☒	☐
10. Is (are) the place(s) of use entered?	☒	☐
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 checked?	☒	☐
16. Is the claim signed by the claimant, and is the signature appropriate? (If an individual is the claimant, has that individual signed the claim, or if an organization is the claimant, is the organization signature block complete?)	☒	☐
Has the claim been signed, sealed, and dated by a notary?	☒	☐
Was this claim filed on time, or was an extension granted?	☒	☐
Is the fee enclosed correct?	☒	☐
If this claim is based on an existing water right, has the identification number been entered?	☒ N/A	☐
Should this claim be receipted and data entered?	☒	☐

* See note - send Copy to Claimant to review

Claim checked by: ESB

Comments: Put memo to file in remarks - Claimant is attempting to have this lapsed permit reinstated - ESB

1001

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