

10/04/2005

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

RIGHT NUMBER: 22-2264B

NAME AND ADDRESS: FRANK SUMMERS INC
C/O KELLY SUMMERS
327 S 3000 E
SUGAR CITY ID 83448

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 3.650 CFS
863.000 AFY

Right Nos. 22-2263B and 22-2264B are limited to a total combined diversion rate of 3.65 cfs.

PRIORITY DATE: 10/26/1965

POINT OF DIVERSION:

T05N R40E S9 SESWNE Within MADISON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
04/01 10/31

QUANTITY
3.650 CFS
863.00 AFY

PLACE OF USE: IRRIGATION Within MADISON County

T05N R40E S09	NENE	9.4	T05N R40E S09	NWNE	9.1
T05N R40E S09	SWNE	34.0	T05N R40E S09	SENE	40.0
T05N R40E S09	NESE	40.0	T05N R40E S09	NWSE	38.0
T05N R40E S09	SWSE	37.0	T05N R40E S09	SESE	39.0

246.5 ACRES TOTAL

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

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

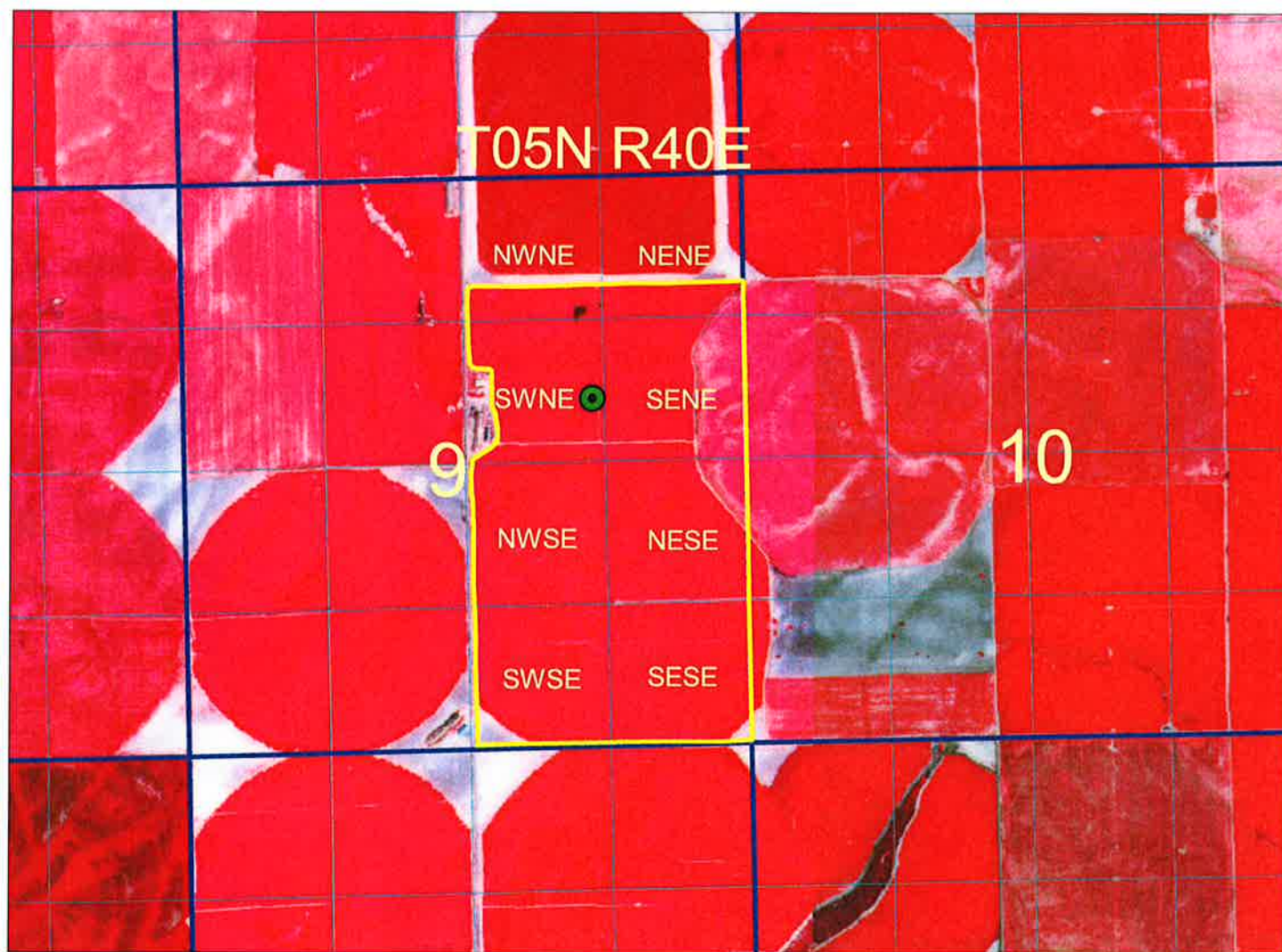
EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Department of Water Resources

Eastern Region

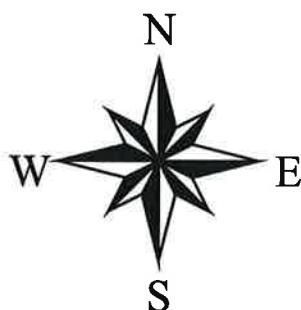


Claim No.: 22-2264B



0 1320 2640 3960 5280 Feet

- Point of Diversion
- 22-2264b.shp
- Township/Range
- Sections
- QQ



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

09/30/2005

**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: 22-2264B

FRANK SUMMERS INC
C/O KELLY SUMMERS
327 S 3000 E
SUGAR CITY ID 83448
Telephone Number: (208)356-5375

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:

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

DATE: 10/17/06

SIGNATURE:

F. Kelly Summers

Please print your name:

F. Kelly Summers

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

*KMS
10/20*

Water Right No(s). A22-2263B + A22-2264B

See attached

GPS DATA:

Tag # A0000271

Location: on support post

GPS data - 2681037
1400165

GPS File - 22263

Diversion Data:

Source: Groundwater

Trib to: _____

MOTOR

Make: G.E.

Model: _____

Hp: 400

SN: HKJ814019

PUMP

Make: Verti-Line

Model: _____

Disch: _____

SN: D 15750

NOTES:

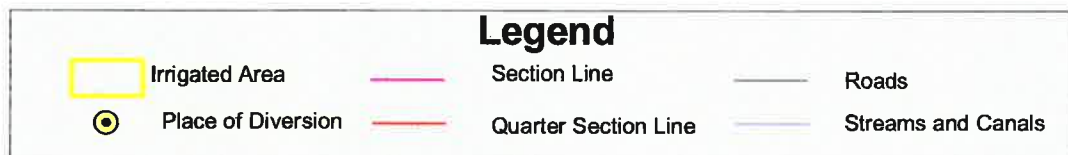
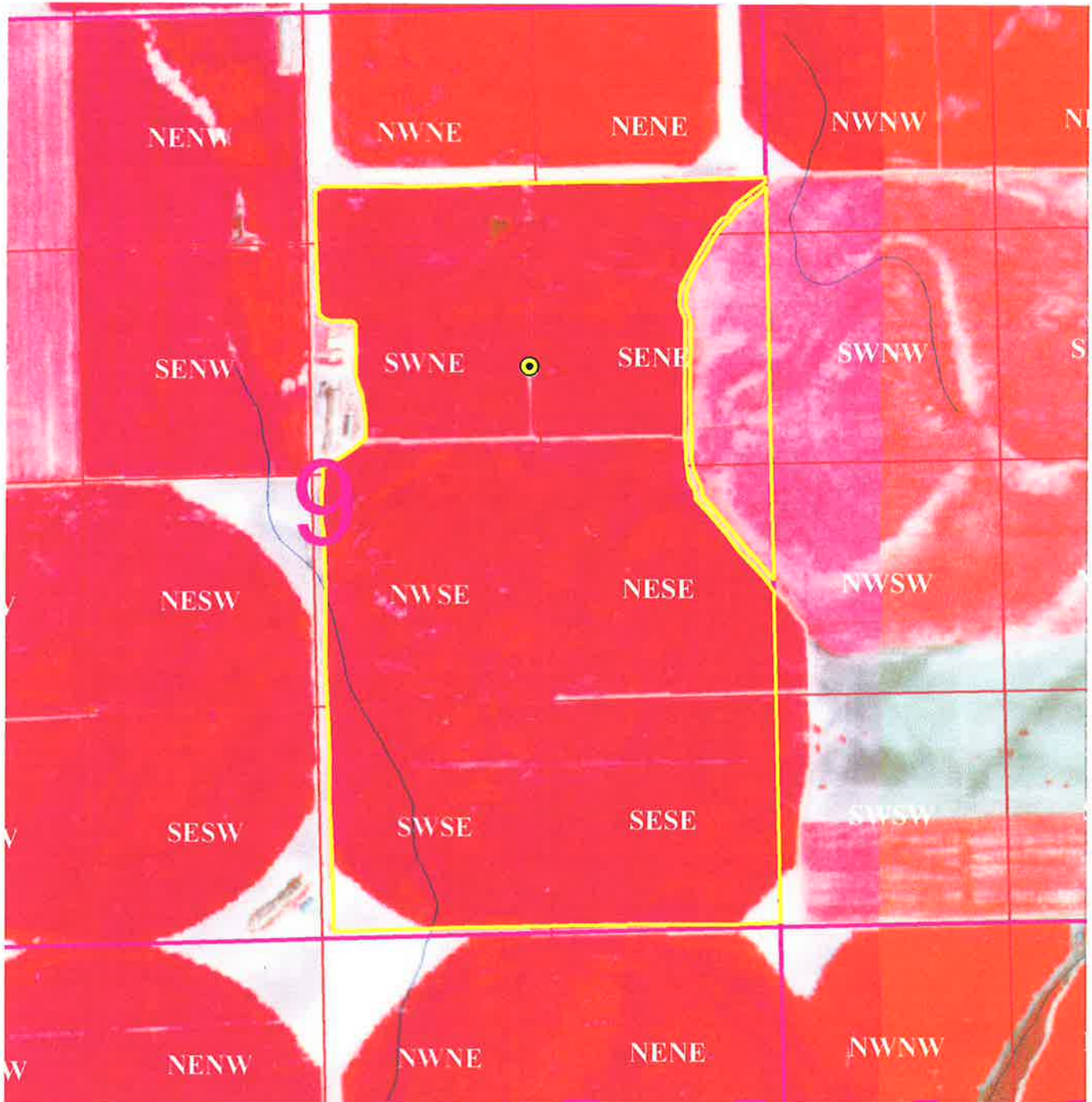
Met with Kelly Summers on-site. Name, address & phone on claim
still good. P&G map is good. System is well, pump &
4 pivots thru 10" mainline.

Field Exam Date: 5-2-2005

Agent: A. W. Jones

Water Right Claim Number 22-02264B
Township , 5N40E

06/29/2001



2264 B

Director

State of Idaho
Department of Water Resources
**AMENDED
WATER RIGHT LICENSE**

License of Water Right No. 32571/22-2264 Priority Oct. 26, 1965 Amount 8.09 cfs
(Part)

THIS IS TO CERTIFY, that MYRON LEWIS

of Rexburg, Idaho, has complied with the terms and conditions of Permit No. 32571/22-2264 issued pursuant to Application for Permit dated October 26, 1965, and has submitted proof to the Department of Water Resources on February 9, 1968, that he has applied water to a beneficial use; an examination by the Department indicates that the works have a capacity for the diversion of 8.09 cfs of water from a ground water source, tributary to _____, and that the permit holder has applied to a beneficial use and established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
<u>Irrigation</u>	from <u>April 1</u> to <u>Nov. 1</u>	at <u>8.09</u> cfs and	<u>1,808</u> acre feet or
	from _____	_____ cfs and	<u>3.5</u> af per acre
	from _____	_____ cfs and	_____
	(both dates inclusive)		

Subject, however, to the condition that no more than * 8.09 cfs of water be diverted at any one time, and that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed 1,808 acre feet per year, said waters to be diverted within the SE 1/4 of Sec. 4,

Twp. 5 N, Rge. 40 E, B. M. in the County of Madison

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	
5 N	40 E	3					48	30	28		40	40	38						209.58
		4													40	41	41	40	249.82
		9	28.5	28.5															57.00

Total number of acres irrigated 516.40

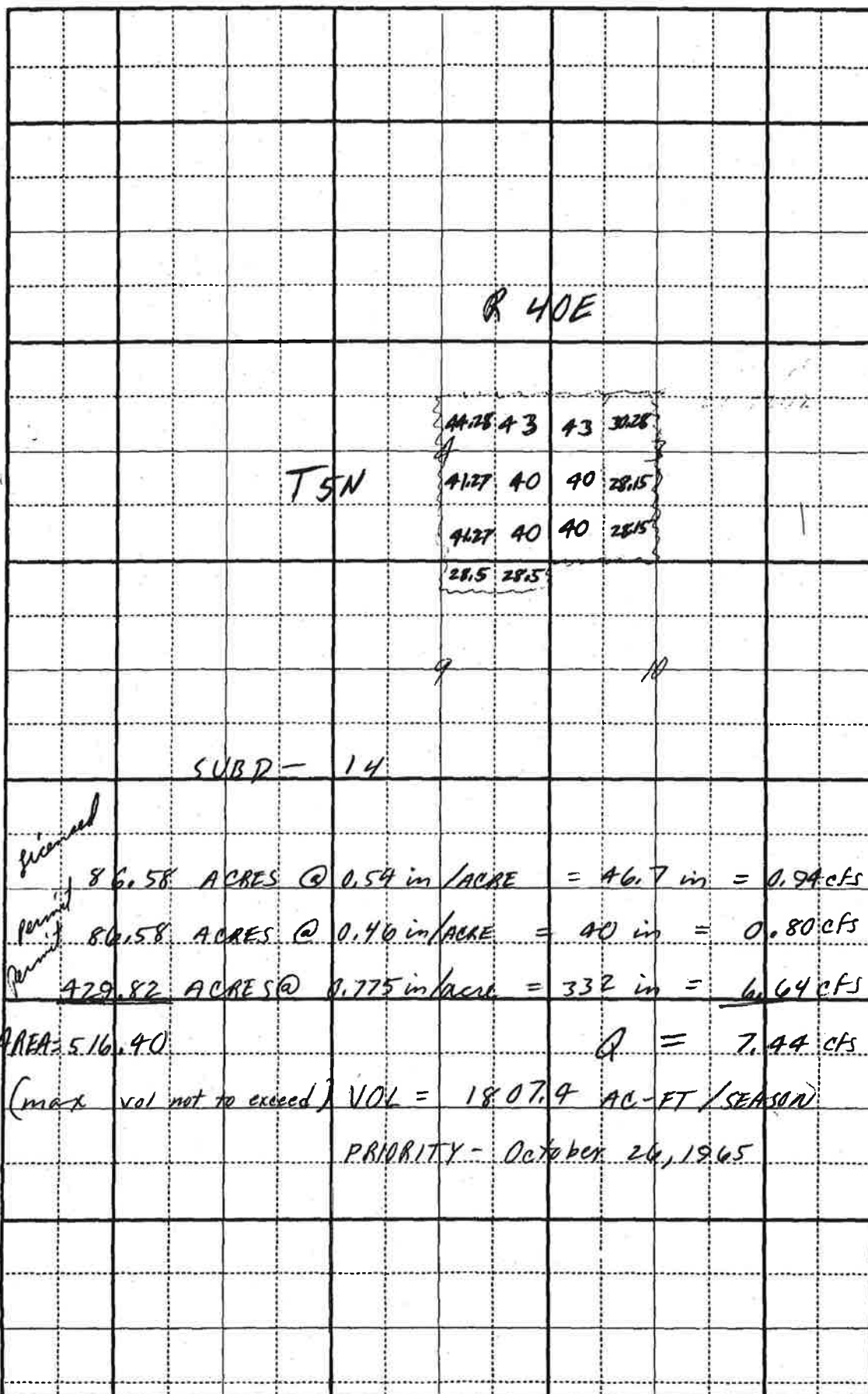
* Subject to the condition that the maximum rate of diversion shall not exceed 8.09 cfs when combined with License No. 32570/22-2263 (Part).

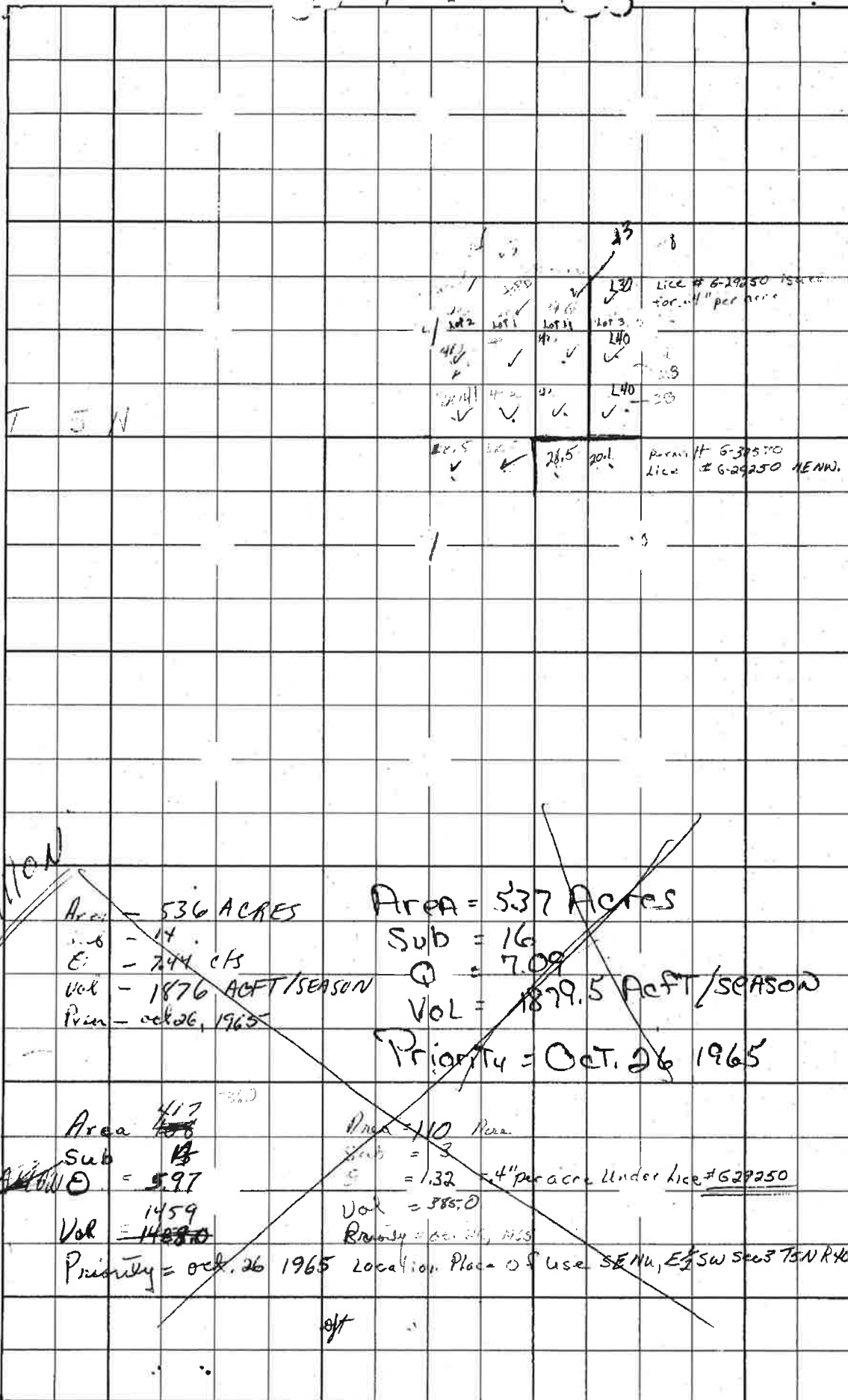
NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 18 day of December, 19 75.

Director





STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO
REPORT OF EXAMINER

Permit No. G-32571 (part)

This proof is for Completion of Works & Beneficial Use In Water District No.

1. Name of applicant Myron Lewis

2. Source of water supply: subterranean

3. Location of point of diversion: Is in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 4
T. 5 N R. 40 E County of Madison

4. Describe works as they exist, giving dimensions and capacities of same:

U.S. motor 450 HP 13966.36 Verti-Live D-14663
12" Discharge Booster U.S. Hollowshaft No PLATE
200 HP (They say) Verti-Live Pump

5. Water is used for: irrigation

6. State whether or not water has been turned into works of diversion:

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if other than irrigation):

N $\frac{1}{2}$ NE $\frac{1}{4}$, SEC. 9; Lot 4 (SW $\frac{1}{4}$ NW $\frac{1}{4}$), lot 3 (SE $\frac{1}{4}$ NW $\frac{1}{4}$), SW $\frac{1}{4}$, sec. 3; Lot 2 (SWNE),
Lot 1 (SE $\frac{1}{4}$ NE $\frac{1}{4}$), SE $\frac{1}{4}$, sec. 4, T. 5 N, R. 40 E, B.M. 537-Peris

(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach?

Remarks: John Raybould was present

24 LATS of 31 EACH $\frac{3}{32}$ Reindurds 30WS

@ pressure 48" $244 \times 4.88 = 809$ Allow = 7.137

This report is incomplete no quantity subdivision or acreage marked

All of the land shown irrigated has not been advertised.
check file 29520

This examination was made on the 16 day of JULY, 1968

(Signed) Examiner.

32-2264
32511
Plat
H.

INSTRUCTIONS TO EXAMINERS

1. Always carefully note the location of the point of diversion and accurately plat same.
2. When proof is for beneficial use, carefully check up the number of acres actually irrigated in each forty and accurately plat same.
3. Make a map showing the correct location of streams and ditches, and the irrigated lands, and any adjacent permanent landmarks, such as towns, lakes, large streams and public roads.
4. If any unusual conditions are discovered, make plain statement of them under remarks.
5. Always see the holder, if possible, and go over the whole ground with him and make your report only upon actual existing facts and conditions.
6. Give general characteristics of soils, topography, and crops raised.

Myron Lewis
40 North 4th East
Rexburg, Idaho

Permit No. G-32571

Examination for Completion of Works and Beneficial Use

County Madison

Quantity: Sec. 4 T. 5 N. R. 40 E
10.74 c.f.s.

Source: 22
subterranean

P.D.: SE 1/4, sec. 4, T. 5 N, R. 40 E, B.M.

Use: irrigation

Extension:

Protest:

Completion of Works:

Other Rights: none

Filed: October 26, 1965

Due: October 26, 1970

Made: February 9, 1968

Priority: October 26, 1965

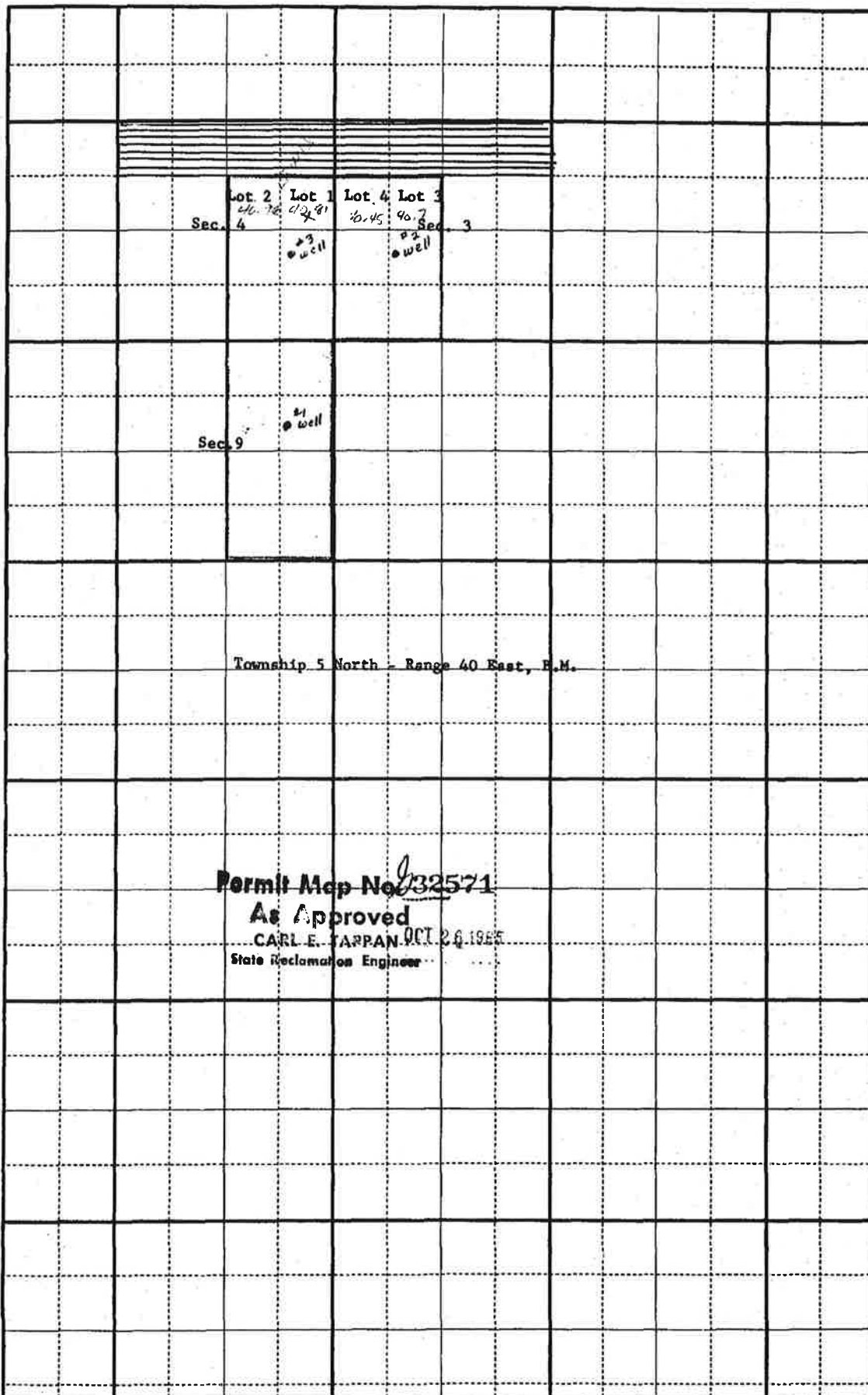
well with pump, mainline, later
als and sprinklers
465'x20"

H - 397'

Q - 4500 gpm measured by
pump co. engineers test
775 - 11/64 - 45"

NAME OF APPLICANT Florence Gardner

Form No. 0



SCALE: 2 Inches Equal 1 Mile. Draw Plan in Ink.

32571



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

JUNE 16, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

FRANK SUMMERS INC
C/O KELLY SUMMERS
327 S 3000 E
SUGAR CITY ID 83448

RE: CHANGE IN OWNERSHIP FOR A22-02264B, A22-02263B

Dear Ms. Summers:

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 are copies of the Notice(s) of Claim, 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. **A22-07668 is a water right license (an adjudication filing not required); State office will change the ownership for you on this water right.**

If there are no questions or corrections, please keep these Notices for your records.

Respectfully submitted,

Jo Thompson
Adjudication Secretary

Enclosure: Notices of Claim

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

DE LOG G7
6-10-97
RECEIVED
JUN 04 1997

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

Department of Water Resources

1. Water Right Number(s) 22-07668, Q 22-02264B, Q 22-02263B
Adjudication Claim Number(s) _____

RECEIVED

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

JUN 09 1997

- A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE, or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.
AND
B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually on file with the county.)
OR
C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency (formerly ASCS) AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and Address of Former Owner/Claimant(s) KWA Farms % Marilyn Hoopes

16 Bryson Dr. Sutter Creek, Ca.
95685

4. New Owner/Claimant(s) Frank Summers, Inc. % Kelly Summers

Name connector (Check one): [] AND, [] OR, [] AND/OR

New Mailing Address 327 So. 3000 E.

City, State and ZIP Code Sugar City, Id. 83448

New Telephone Number (208) 356-5375

5. Date you acquired the property March 15, 1996

6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.

Number of acres actually irrigated _____ Number and type of stock _____

Diversion rate in CFS _____ Number of homes _____ Other uses _____
cubic feet per second

If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

7. Signature of New Owner/Claimant(s) Frank Summers, Inc. by Date 5/31/97
F. Kelly Summers (owner) Date _____

8. (Corporations or other organizations must submit a list of directors/officers demonstrating authority to sign form.)
For Snake River Basin Adjudication Claims: If you are represented by an attorney and you want IDWR to correspond directly with your attorney for all matters related to your claims, please attach a Notice of Appearance completed by your attorney.

WARRANTY DEED

FOR VALUE RECEIVED, Marilyn K. Hoopes, a married woman dealing with her sole and separate property, of 16 Bryson Drive, Sutter Creek, California 95685, hereinafter called "Grantor", does hereby grant, bargain, sell, warrant and convey unto **Frank Summers Inc.**, an Idaho corporation, of 327 South 3000 East, Sugar City, Idaho 83448, hereinafter called "Grantee", an undivided one-half interest (Holly Hoopes owning the other undivided one-half interest) in and to the following described real property in Madison County, Idaho, to-wit:

A portion of Sections 9 and 10, Township 5 North, Range 40 East, Boise Meridian, described as follows:

Commencing at a point 3031.1 feet West of the Southeast Corner of Sec. 10, Twp. 5 N., Rge. 40 E., Boise Mer., and running thence North 4339.5 feet; thence West 4889.5 feet, more or less, to a point on the North and South Center line of Sec. 9, Twp. 5 N., Rge. 40 E., Boise Mer.; thence S 0°32'00" East 4342 feet to the South Quarter corner of Sec. 9; thence East 4849.3 feet, to the point of beginning.

Together with the irrigation well on the property with all water rights of every kind and nature relating thereto, including but not limited to Water Licenses No. 32570/22-2263B and No. 32571/22-2264B, for a combined 3.65 CFS of irrigation water and together with domestic well for apartment and farm buildings.

Together with all irrigation equipment used to irrigate the real property, including but not limited to pumps, buried main lines, two operating and complete pivot irrigation systems, and all other irrigation lines including hand lines; also electric panels, motors and systems; also opens, valves and sprinkler heads.

Together with all wheat and barley grain "base" as reflected in the Madison County ASCS office records.

Together with the potato storage facility, complete; shop and apartment building; metal storage building; two grain bins; and two buried fuel tanks, 1,000 gallons each-- one for gasoline and one for diesel-- both of which have been installed and are maintained in compliance with environmental and other government laws and regulations.

Together with any and all other improvements and appurtenances thereto, rents, issues and profits thereof, and reversions and remainders.

Subject to easements of record or in existence for roads, utilities, pipelines and ditches.

4 | 3
9 | 10

135.0
10 NHCL

2.4
11 NHCL

point of
diversion

23
NHCL

1615

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: **A22-02264B**
Date Received: 8/23/1988
Receipt No: E001620
Received By: _____

**COPY FOR
YOUR FILES**

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

**COPY FOR
YOUR FILES**

1. Name: FRANK SUMMERS INC
Address: C/O KELLY SUMMERS
327 S 3000 E
SUGAR CITY ID

208-356-5375

83448

2. Date of Priority: OCT 26, 1965

3. Source: GROUNDWATER

Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
05N	40E	9	SW	NE			MADISON

5. Description of diverting works:

WELL PUMP MAINLINE TO CENTER PIVOTS AND HAND LINES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	3.650		

7. Total Quantity Appropriated is:

3.650 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is

518.0 Acre Feet Per Annum.

9. Non-irrigation uses:

NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05N	40E	9	NE	NE		IRR	11.5
			NW	NE		IRR	11.5
			SW	NE		IRR	38.0

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05N	40E	9	SE	NE		IRR	40.0
			NE	SE		IRR	40.0
			NW	SE		IRR	40.0
			SW	SE		IRR	39.0
			SE	SE		IRR	39.0

Section Acres 259.0

Total Acres 259.0

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:

AC. IRR. = 259.

SUBJECT TO THE CONDITION THAT THE MAXIMUM RATE OF DIVERSION SHALL NOT EXCEED 3.65 CFS WHEN COMBINED WITH LIC. NO.

NO. 32570/22-2263B

CHANGED OWNERSHIP PER REQUEST 6/16/97/JT/GJT

15. Basis of Claim: LICENSE

Water Right Number: 32571

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: A22-02264B
Date Received: 8/23/1988
Receipt No: E001620
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: KWH FARMS
Address: RT. 1 BOX 135
ST. ANTHONY, ID 83445
208-624-3006

2. Date of Priority: OCT 26, 1965

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
05N	40E	9	SW	NE			MADISON

5. Description of diverting works:
WELL PUMP MAINLINE TO CENTER PIVOTS AND HAND LINES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	3.650		

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

8. Total consumptive use is 518.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05N	40E	9	NE	NE		IRR	11.5
			NW	NE		IRR	11.5
			SW	NE		IRR	38.0

A22-02264B

Page 1

Date: 08/23/88

A2202264B



MICROFILMED

OCT 29 1992

10. Place of Use: Continued

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
05N	40E	9	SE		NE		IRR	40.0
			NE		SE		IRR	40.0
			NW		SE		IRR	40.0
			SW		SE		IRR	39.0
			SE		SE		IRR	39.0
Section Acres								259.0
Total Acres								259.0

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:
AC. IRR. = 259.
SUBJECT TO THE CONDITION THAT THE MAXIMUM RATE OF DIVERSION SHALL
NOT EXCEED 3.65 CFS WHEN COMBINED WITH LIC. NO.
NO. 32570/22-2263B

15. Basis of Claim: LICENSE
Water Right Number: 32571

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 Organizations:

I do solemnly swear or affirm that I am a General Partner of
Title
KWH Farms, that I have signed the foregoing
Organization
document in the space below as a General Partner of
Title
KWH Farms and that the statements contained in the
Organization
foregoing document are true and correct.

[Signature]
Signature of Authorized Agent

General Partner KWH Farms
Title and Organization

8-23-88
Date

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 23rd day
of August 19 88

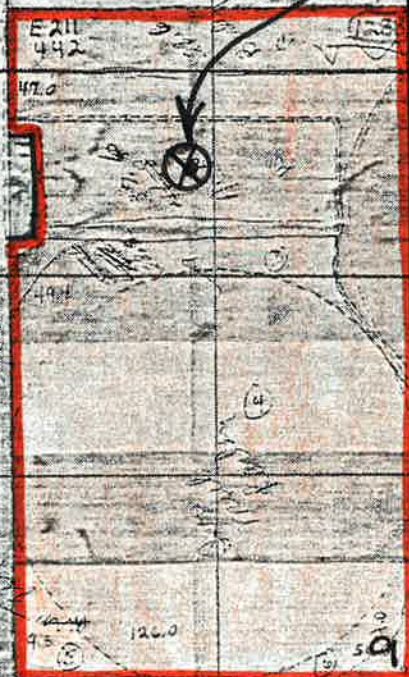
Betty J. Shannon
Notary Public

Seal

Residing at Idaho Falls
My Commission Expires 6-94

R40E
T5N

POINT OF DIVERSION



PLACE OF USE

E-4
SW

A22-02264B

Not to Scale

UNOFFICIAL

OCT 20 1992