

12/14/2006

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

RIGHT NUMBER: 22-4032

NAME AND ADDRESS: SHOOTING STAR DEVELOPMENT LLC
PO BOX 6880
KETCHUM ID 83340

SOURCE: LEWIS-MURDOCK SPRING

TRIBUTARY: TETON RIVER

QUANTITY: 0.880 CFS

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

PRIORITY DATE: 07/15/1916

POINT OF DIVERSION:

T04N R45E S10 NESWSE Within TETON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.240 CFS
IRRIGATION	04/15 10/15	0.880 CFS

PLACE OF USE: IRRIGATION in TETON County

T04N R45E S10	NWSW	30.00	T04N R45E S10	SWSW	5.60
T04N R45E S10	SESW	8.20			

STOCKWATER in TETON County

T04N R45E S10	SWSW
---------------	------

43.8 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 63 acres in a single irrigation season. Combined Right Nos.: 22-4032, 22-13264 and 22-13373.

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

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

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 - Beneficial Use

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

Stockwater use is for 150 range cows.



Idaho Department of Water Resources

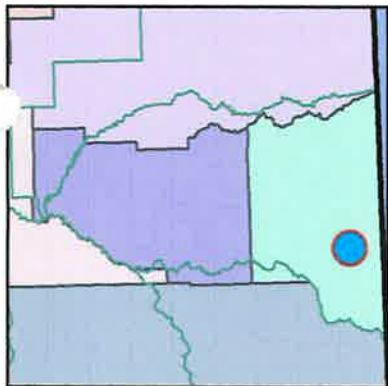
SRBA Recommendation:

22-4032

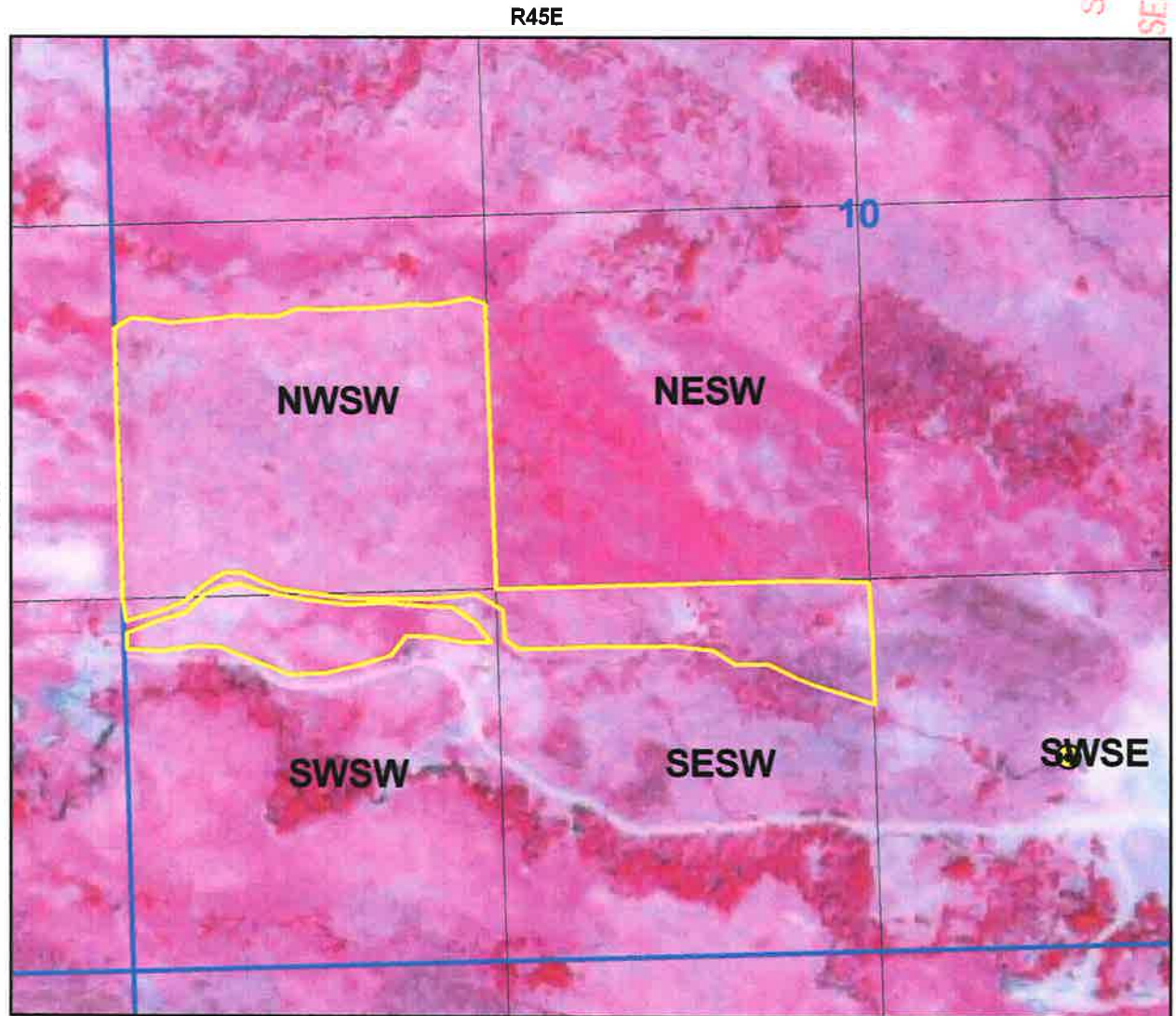
(Irrigation)

Legend

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



Teton County
IDWR Basin 22



0 0.3 0.6 Miles

Prepared by C. Bird
On Thursday, December 14, 2006
1987/88 Aerial Photography

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SEP 17 2007

P.O. Box 6880
Ketchum, Idaho 83340

Law Offices
John C. Grabow

MEMORANDUM

208-622-
7785

To: IDWR

From: John & Laura Grabow

Date: December 8, 2006

Re: Water Rights Claims 22-4032, 22-4095, 22-13264 & 22-13373 — sy

Because all four of these claims relate to the same 160-acre parcel of land, homesteaded by the Lewis family in 1916, I am providing you with a single narrative response.

22-13373 Darby Creek; .620 CFS; 1916 priority – no changes being sought.

22-4032 Lewis-Murdock Spring; 1.340 CFS; 1943 priority. I am not contesting the volume, period of use or source but strenuously disagree with the 1943 priority date, which as far as I can tell is based upon the birth date of one of the supporting affiants, adjoining landowner Randy Murdock.

This determination disregards the March 26, 1980 notarized Claim to a Water Right of prior owner William Lewis, which is sworn and notarized and specifically identifies continuous use of the Murdock-Lewis Spring since 1910. That document was also publicly filed in the Teton County Water Rights book, and not challenged. Mr. Lewis died in the 1980's, in his nineties, and was born in approximately 1895. Accordingly, he would have direct personal knowledge of such continuous use of the Murdock-Lewis Spring. Especially since individuals alive in 1910 are unlikely to still be alive, and the State chose to adjudicate these beneficial use claims now rather than an earlier date, such as in 1980 when Mr. Lewis complied with the statutory requirement to file such a claim, to disregard his sworn statement now as to when the Murdock-Lewis Spring was first applied to a beneficial use on the basis, as I understand it, that the statement is only contained in a prior claim, is arbitrary and capricious.

In addition, the 1910 priority date is directly supported by the 1916 land patent to Eli Lewis, which has also been submitted in support of this claim.. Under the Homestead Act of 1862, the land patent would have been granted only after five years of improvements and agricultural use of the land – fully consistent with William Lewis's claimed 1910 priority date.

Finally, at the suggestion of Ernie Carlson, I submitted as well the application of adjoining landowner Randy Murdock, whose grandfather homesteaded in the same time period and also makes use of the same Murdock-Lewis Spring. Though, unlike William Lewis, not himself alive when beneficial use of the Murdock-Lewis Spring was first made in 1910, I do not believe this reflects a lack of personal knowledge by Randy. He is not merely indicating that he heard such use took place – he has lived on the property and has personal knowledge that the Lewis's and his family both farmed and irrigated their adjoining properties since the early 1900's, that there was no ground water well for that purpose but only surface water, including in particular the Murdock-Lewis Spring.

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The IDWR preliminary recommendation for this claim indicates that it is to be used in combination with 22-13373, which has a 1916 priority date. I would not oppose a 1916 (rather than 1910 as claimed) priority date for this claim as well, but the 1943 priority date is inconsistent with the evidence offered in support – and also common sense, since these 160 acres plainly could not and were not irrigated between 1910 and 1943 from Darby Creek alone (as to which diversion, No. 22-13373 being recommended for only 31 acres).

22-13264 Dick Creek; .440 CFS; 1942 priority Again, my only challenge is to the priority date, which I am only guessing is based upon the approximate date that supporting affiant Rodney Lewis, son of William Lewis, was either born or lived on the property. Again, however, I believe that this is based upon an incorrect definition of personal knowledge – and a definition particularly inappropriate when the State has chosen to formally adjudicate these claims at a time when virtually anyone alive at the time beneficial use was first made would now be deceased. As with Mr. Murdock, Rodney Lewis did not simply hear that his father and uncle irrigated the northern portion of this property from this Dick Creek diversion since 1916 – he knows that this portion of this property was used for agricultural purposes by his father and uncle, that there was no ground water well for that purpose but only surface water, in particular this diversion from Dick Creek which was continued to be used by Rodney Lewis himself (and later, by affiant Gordon Allen). In addition, as above, the 1916 priority date is supported by the 1916 land patent to Eli Lewis, which has also been submitted in support of this claim.. Under the Homestead Act of 1862, the land patent would have been granted only on the basis of improvements and agricultural use of the land, which included the northern portion not irrigated by the other irrigation sources.

22-4095 Disallowed. This also involves the northern portion of the property. I will not contest this disallowance if 22-13264 is granted the requested priority date of 1916; otherwise, I reserve my right to challenge this disallowance which, notwithstanding the finding, was supported by evidence by the claimant and is based upon diversion and beneficial use, even though this recommendation apparently indicates not found during the field inspection.

No 792

4-1003

The United States of America

Blackfoot, 03938

TO ALL TO WHOM THESE PRESENTS SHALL COME—GREETING:

WHEREAS, A Certificate of the Register of the Land Office at Blackfoot, Idaho has been deposited in the General Land Office, whereby it appears that, pursuant to the Act of Congress of May 20, 1862, "To Secure Homesteads to Actual Settlers on the Public Domain" and the acts supplemental thereto, the claim of

Elias M. Sherman

has been established and duly consummated, in conformity to law, for the

Lot four of section five and the lot one of section six in township three north of range forty five east of the Boise Meridian Idaho containing eighty and two hundredths acres.

according to the Official Plat of the Survey of the said land, returned to the General Land Office, by the Surveyor General.

NOW KNOW YE, That there is, therefore, granted by the United States unto the said claimant the tract of land above described; To Have and to Hold the said tract of land, with the appurtenances thereof, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, Woodrow Wilson

President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the ninth day of

September in the year of our Lord one thousand nine hundred and thirteen

and of the Independence of the United States the one hun-

and and thirty-eighth
of the United States General
land Office)

BY THE PRESIDENT: Woodrow Wilson

By M. P. Leroy Secretary.

Recorded: Patent Number 353950

L. C. C. Lamer
Recorder of the General Land Office.

Filed for record at the request of Mutual Abstract Company at 15 minutes
past 9 A. M., March 16, 1914

By S. P. Oldham Deputy Jno. Hegstad Recorder.

Fees \$1.00 Transcribed from book 2 of deeds page 681 Madison County Records.

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12/06/2006

NOTICE OF ERROR
REPLY

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

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

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS:

Water right number: 22-4032

SHOOTING STAR DEVELOPMENT LLC

PO BOX 6880

KETCHUM ID 83340

Telephone Number: (208) 622-7455

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

See attached statement

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

11

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

11

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

DATE: *Dec. 8, 2006*

SIGNATURE: *[Signature]*

Please print your name: *John C. Grubbs*

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

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*KMT
12/11*

Claim no. A22-4032

Claimant Contact Log

Date 11-10-06

Remarks

Agent initials

I talked to Randy Murdock the next door neighbor to Shooting Star Development. He says that these folks have a well inside the house that they use for Domestic use. No surface water Domestic use.

J. L. Jones

~~SS~~

- Paid \$140 for this claim \$50 claim \$90 acreage
- Domestic + stock not paid for.
- De minimis stock at .24 ds

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Notes

10-28-06. This is conveyed through open ditches. Domestic?

ADD REMARKS: X01 # of homes?

X02 # of stock?

Stock & domestic were not paid for.

- Check statutory claim.

- domestic same as irrigation? W $\frac{1}{2}$ SW & SE $\frac{1}{4}$ SW.

Why does 22-4032 & 13373 have a combined
limit remark?

Domestic 0.02 for a Spring NOT outlets
as for Groundwater.

Homestead patent. SENE Sec. 9. T4N R45E
SW $\frac{1}{4}$ Sec. 10.

W $\frac{1}{2}$ SW

11/7/06 Katy Jackson will get a hold of the
assessor's office about the home.

11/27/06 Mr. Grabou faxed a homestead
document and files that was sufficient
to prove priority date. This deed doesn't
include all the land under the claim.

12/6/06 Removed domestic from. spent NOE/PDR CB.

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10/03/05 Photo shows concrete headgate that
diverts water from spring and lower
Bundy Creek



↖ creek

• 1022-
Census 4032

claim A22-4032



10/03/05 Photo shows origin of Lewis Murdock
DD spring
This spring heads in SWSE of section 10.

Water Right No(s). _____

GPS DATA: P001 Tag AOP16001 on north wall of headgate

Tag # P002 Tag AOP16010 Location: on quaking aspen next to spring

Diversion Data:

Source: Lewis Murdock Springs

Trib to: Teton River

MOTOR

Make: _____ Model: _____ Hp: _____

SN: _____

PUMP

Make: _____ Model: _____ Disch: _____

SN: _____

NOTES:

Field Exam Date: 10/03/05 Agent: DD

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Point of Diversion and Source Data Entry Form

Claim Number: _____

Water Right Point(s) of diversion and Source.

Water Right Point of Diversion: T _____, R _____, Sec. _____, _____, _____, _____, County: _____

Source: _____ Tributary to: _____

Water Right Point of Diversion: T _____, R _____, Sec. _____, _____, _____, _____, County: _____

Source: _____ Tributary to: _____

Claimed Point(s) of Diversion and Source.

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source	Tributary to

Recommended Point(s) of Diversion and Source.

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source	Tributary to

Other rights from this POD? _____

Transfers Pending or approved: _____

Document how the POD and Source were verified:

10/03/05 DO Field exam for POD1 shows ^{concrete} headgate on Lewis-Murdoch spring diverts water to POD.

Field exam for POD2 shows ditch running from spring source to POD. Dams along ditch divert water for irrigation.

Reviewer: _____ Date: _____

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Place Of Use Data Entry Form

Claim Number: _____

Claimed Place Of Use

Twp	Rge	Sec	QQ	Q	County	Lot Num	Acres	Purpose of Use

Total acres _____

Recommended Place of Use

Twp	Rge	Sec	QQ	Q	County	Lot Num	Acres	Purpose of Use

Total acres _____

Pending or approved Transfers: _____

Overlapping rights: _____

Document how the POU was verified:

10/03/05

DD

Field exam showed POU is irrigated w/ 2 ditches that come from springs. Dams are used along the ditches to flood irrigate. Currently this all pasture. Acreage claimed seems pretty close.

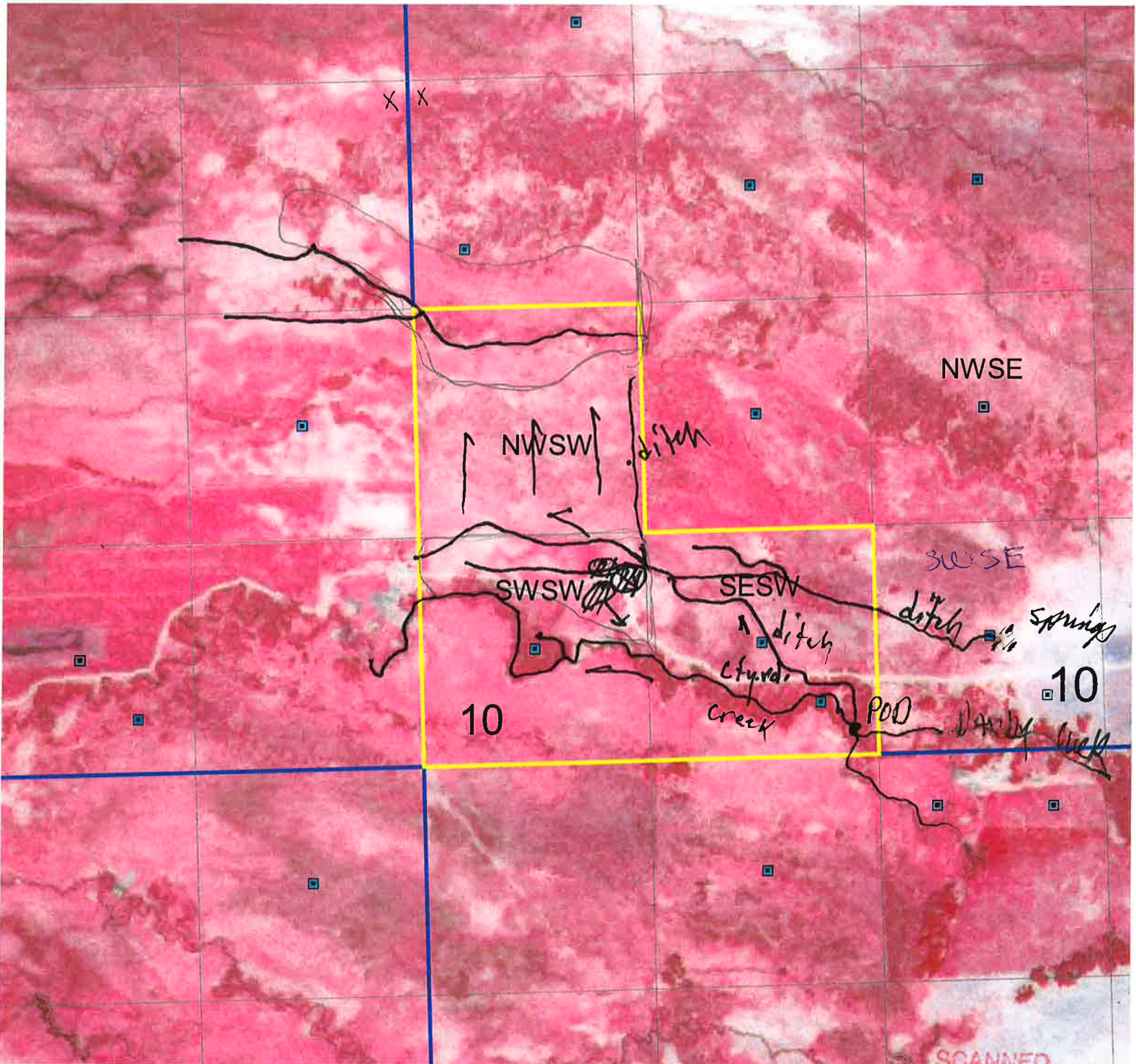
Reviewer: _____ Date: _____

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22-4032
4N 45E

Jan 20, 1916
10/03/05
20



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Idaho Department of Water Resources

SRBA Recommendation:

22-4032

(Irrigation)

Legend

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



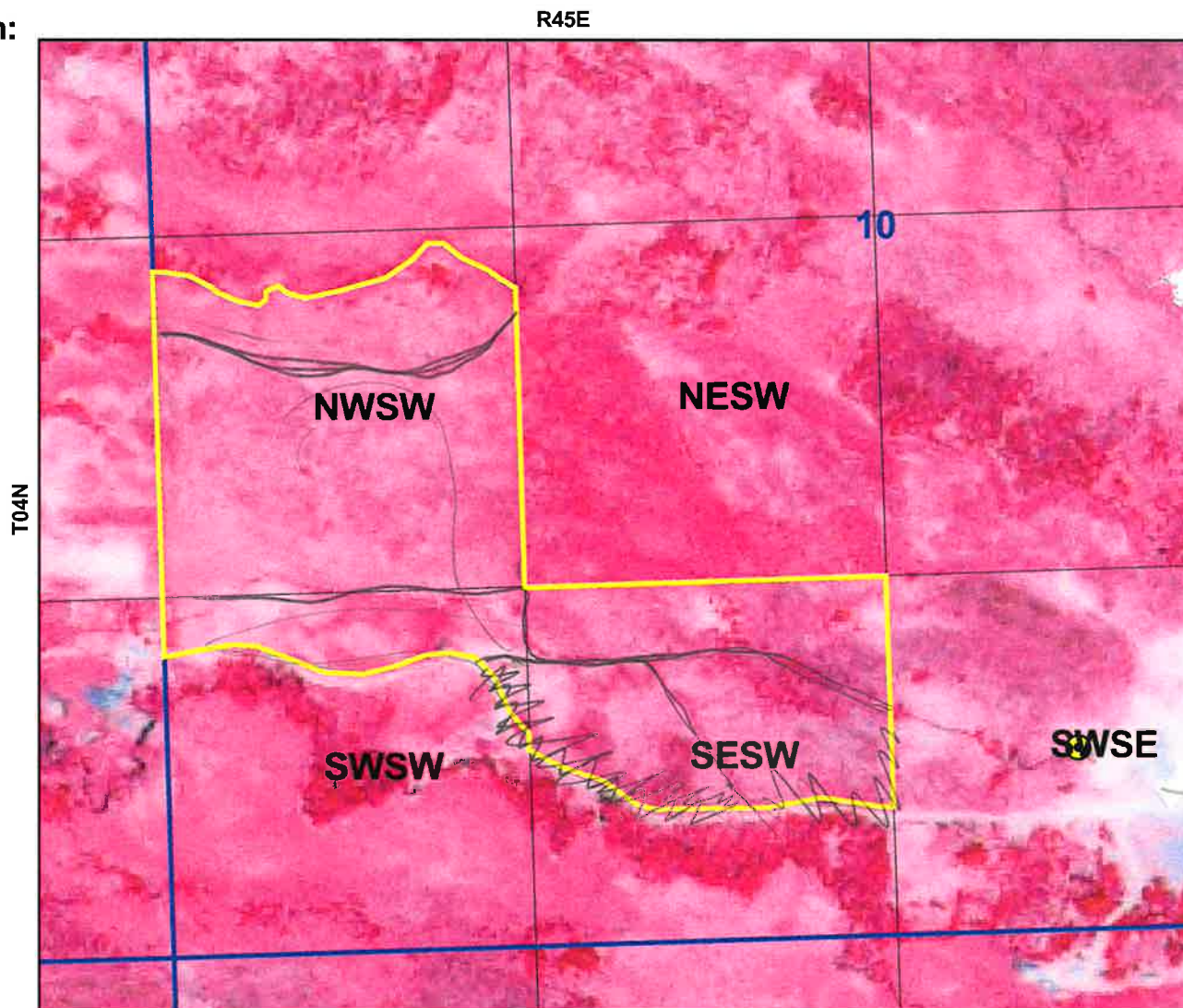
Teton County
IDWR Basin 22



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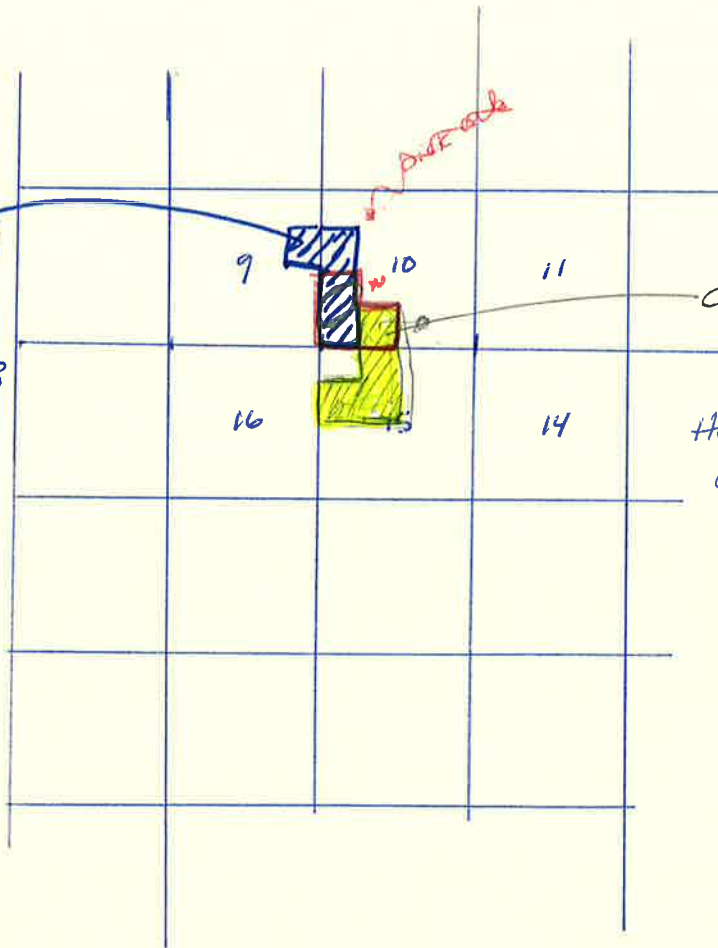
Prepared by T. Galbraith
On Monday, July 10, 2006
1987/88 Aerial Photography



0 0.3 0.6 Miles

T4N R45E

(Allen Property) Eli Lewis
8-2-1916
#1526
Patent 536193



John
Cowan
4-13-1910
#31422
Homestead
Certificate 5098

12/15/06 Ernie checked BLM site for
homesteads. We agreed to change
the priority dates under 22-4032,
4034, 13364 to 7-15-1916 dates. But
based on affidavits in the file the
acres under Duck Creek were cut
back. Also, under the statutory claim
22-4032 acres in the SESW of Section
10, were reduced, add 605 for acres
in the SWSW of Section 10.

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Law Offices
John C. Grabow

P.O. Box 6880
Ketchum, Idaho 83340

February 16, 2006

208-622-7116
Fax 208-622-7470

Allen B. Ruberry
Idaho Dep't of Water Resources
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

Re: Water Rights Claims 22-4032, 22-13373, 22-13264 & 22-4095

Dear Mr. Ruberry:

My wife and I are the Managing Members of Shooting Star Developments LLC. I am writing in response to your letter of January 30, 2006, regarding the above-referenced water right claims on this 160 acre parcel in Teton County. The supporting information attached to this letter has been previously provided to Ernie Carlson in your office. Mr. Carlson has been extremely helpful and generous with his time in guiding me through this complex process (I am definitely not a water law guy). Out of an abundance of caution, however, I am providing additional copies in response to your letter.

As a starting point, your letter does not make mention of an additional claim relating to this same property, No. 22-13373. A copy of that Notice of Claim is attached as Exhibit A.

With respect to the priority dates claimed, attached as Exhibit B to this letter is the Affidavit of Randy Murdock (relating to my claim No. 22-4032 as well as Mr. Murdock's claim No. 22-4034 on his adjacent property) and as Exhibits C & D the Affidavits of past landowners of this property, Rodney Lewis and Gordon Allen (both relating to claim No. 22-13264).

Finally, consistent with the claimed priority dates and continuous irrigation of this property, attached as Exhibit E is the U.S. patent for these 160 acres to the original Lewis, dated 1916 and making specific reference to the conveyance of the water rights.

If there is any additional information I may provide in support of these claims, do not hesitate to contact me.

Sincerely yours,



John C. Grabow

RECEIVED

FEB 17 2006

Department of Water Resources
Eastern Region

SEP 17 2007

Exhibit A

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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: 39576

Ident. Number 22-13373
Date Received: 4/25/2005
Receipt No: E030826
Received By: EMC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

SHOOTING STAR DEVELOPMENT LLC Phone: (208) 622-7455
PO BOX 6880
KETCHUM ID USA 83340

2. Date of Priority: 01/22/1916

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

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
04N	45E	10	SE SE SW	TETON	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/15	0.62	

7. Total Quantity Appropriated is:
0.62 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
04N	45E	10	NW SW	IRRIGATION	15
			SW SW	IRRIGATION	8.8
			SE SW	IRRIGATION	7.2
				Section Acres	31

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Total Acres 31

11. Place of use in counties: TETON

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

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Decreed

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 Managing Member of
Title

SHOOTING STAR DEVELOPMENT LLC, that I have signed the foregoing
Organization

document in the space below as Managing Member of
Title

SHOOTING STAR DEVELOPMENT LLC and that the statements contained in the
Organization

foregoing document are true and correct.

Signature of Authorized Agent

Managing Member, SHOOTING STAR DEVELOPMENT LLC
Title and Organization

April 25, 2005
Date

State of Idaho)

) SS.

County of Bonneville)

Subscribed and sworn (or affirmed) before me this 25 of April 2005



Ernest M. Carlsen
Notary Public

Residing at

Commission Expires

8-21-2009

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T04N R45E

10

NWSW

SWSW

SESW



ED

2007

Exhibit B

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SEP 17 2007

March 20, 2005
P.O. Box 969
Ketchum, ID 83340
208-351-5355

Mr. Randy Murdock
204 West, 300 South
Victor, ID 83455

Water Right Claims 22-4034 & 22-4032

Dear Mr. Murdock,

It has come to my attention that the Idaho Department of Water Resources is attempting to substantiate the priority date for your water right claim 22-4034 and my water right claim 22-4032.

For reference, both claims 22-4034 and 22-4032 have their source listed as the Lewis/Murdock Spring and its point of diversion located in the SW $\frac{1}{4}$, SE $\frac{1}{4}$, Township 4N, Range 45E, Section 10.

I understand based upon speaking with you today that you are 61 years old, that you were born in Teton Valley and you have lived on your family's ranch since your birth in 1943. At the time of your birth your father Russell Murdock was already living on the ranch which he purchased in approximately 1930 from your grandfather Albert Murdock who homesteaded the property in approximately 1900-1910.

From the time you purchased your ranch from your father in approximately 1972 to the present day, you have irrigated 160 acres located in the NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$, SE $\frac{1}{4}$, Township 4N, Range 45E, Section 9 with water from the Lewis/Murdock Spring. Your father, who bought this property from your grandfather, owned it from approximately 1930-1972. While you grew up on the property, your father irrigated the same 160 acres with water from this spring. It is also your understanding that since the late 1800's your family has used water from the Lewis/Murdock spring to irrigate land for hay and cattle pasture in the area.

You also have knowledge that Bill Lewis, who owned the property to the east of your ranch from 1942-1986, and his father Eli Lewis who owned the property from the early 1900's, irrigated approximately 90 acres from the Lewis/Murdock Spring, and that irrigation has continued on the property to the present day. The location of the irrigation is just east of your place of use, located in the NW $\frac{1}{4}$, SW $\frac{1}{4}$, and the SE $\frac{1}{4}$, Township 4N, Range 45E. (The pasture just north of the road and east of your home.) You have knowledge from Clair Hillman, who is 10 years older than you, that Clair's father homesteaded the acreage where the Lewis/Murdock Spring originates. Both your acreage and my property, formerly the Lewis property were irrigated from Lewis/Murdock Spring since the time that both properties were homesteaded.

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You also have knowledge that the Lewis/Murdock Spring runs into a ditch and then flows westerly. There is no headgate diverting the water from the spring to any other properties except for your ranch and my property. You know that historically there is water in the Lewis/Murdock Spring for irrigation from approximately late March until late October each year. You remember that Bill Lewis and your father would share the maintenance of the ditch each spring and throughout the year. You currently clean the ditch out each spring with a backhoe to get proper flow.

If you are in agreement with the above facts please sign this letter in the presence of a Notary of the Public. Thank you very much for your cooperation and time regarding this matter.

Sincerely,

Craig Knight
Manager Teton Valley Holdings

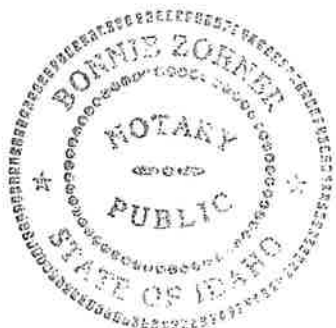
By signing below, I Randy Murdock solemnly swear that the statements contained in the foregoing documents are true and correct.

Signature Randy murdock Date 3-21-05

State of Idaho _____)

County of Teton _____)

Subscribed and affirmed before me this 21st day of March 2005



Notary Public Bonnie Zoller

Residing at Driggs Idaho

My Commission Expires 10/13/2010

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SEP 17 2007

Exhibit C

SCANNED
SEP 17 2007

INTERMOUNTAIN
AQUATICS INC.
ENVIRONMENTAL CONSULTING & HABITAT RESTORATION
December 15, 2002

Mr. Rodney Lewis
202 N. 4100 E.
Rigby, ID 83442

RE Water Use on a Portion of the old Allen Ranch

Dear Mr. Lewis:

I am sending forth the facts surrounding historic water use on a portion of the old Allen Ranch. The facts are as I understand them after you explained them to me at our meeting on November 21, 2002.

The old Allen Ranch is located near Driggs, ID and described here as 160 acres composed of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 9; SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ and portions of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 10; T 4 N, R 45 E, Boise Meridian. Your Dad Bill Lewis formerly owned this property from 1942 to 1986 and this was the place you grew up on. During that time your family irrigated the property for cattle pasture. Prior to your dad's ownership his uncle Eli Lewis owned the property.

I understand that your dad irrigated approximately 22 acres of pasture located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 10, T 4N R 45E and that prior to that Eli Lewis also irrigated this same ground while he owned it. The irrigation water was diverted from Dick Creek in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sect. 10 (formerly Murdock Property). Historic diversion works consisted of a wooden headgate. The rate of diversion averages approximately 2 cfs and is conveyed by a well-maintained ditch. To keep the ditch clean the diversion was historically left in place year round but water was typically only used from early May until mid-October when the diversion ditch was regularly checked with canvas or earthen sod dams to flood the pasture. The attached aerial photograph shows the point of diversion and place of use you described to me please verify that it is correct.

If you are in complete agreement with the above facts please sign this letter in the presence of a Notary of the Public and return it to me. Thank you for your cooperation regarding this matter.

Sincerely,



Jeffrey Klausmann, *environmental consultant*

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SEP 17 2002

Page 1 of 2

By signing below, I Rodney Lewis, solemnly swear that the statements contained in the foregoing document are true and correct.



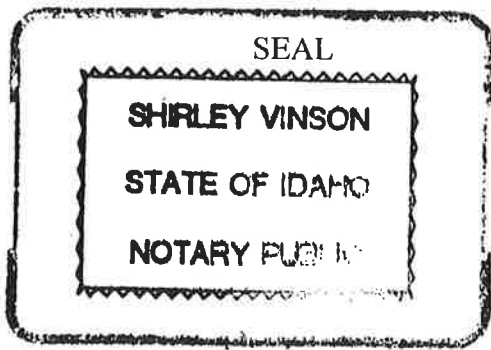
Signature Rodney Lewis

Date 1-07-03

State of Idaho _____)

County of Jefferson)

Subscribed and affirmed before me this 7th day of January 2003



Notary Public Shirley Vinson

Residing at Rigley, Idaho

My Commission Expires 10-5-04

Exhibit D

SCANNED
SEP 17 2007



December 15, 2002

Mr. Gordon Allen
4226 E 400 N
Rigby, ID 83442

RE Water Use on a Portion of the old Allen Ranch

Dear Mr. Allen:

I am sending forth the facts surrounding historic water use on a portion of the old Allen Ranch. The facts are as I understand them after you explained them to me at our meeting on November 19, 2002.

The old Allen Ranch is located near Driggs, ID and described here as 160 acres composed of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 9; SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ and portions of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 10; T 4 N, R 45 E, Boise Meridian. You formerly owned this property from 1995 until the summer of 2002. During that time you irrigated the property for cattle pasture. Prior to your ownership your uncle Mr. Keith Clements owned the property from 1986 until his death in 1995. You also said that your uncle had purchased the property from Mr. Bill Lewis.

I understand that you irrigated approximately 22 acres of pasture located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 10, T 4N R 45E and that prior to that your uncle Keith Clements also irrigated this same ground while he owned it. I also understand that he had told you that Mr. Bill Lewis, the landowner before your uncle did exactly the same. The irrigation water was diverted from Dick Creek in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sect. 10. Historic diversion works consisted of a wooden headgate but more recently the diversion has been replaced with wood piers and plastic tarping. The rate of diversion averages approximately 2 - 4 cfs and is conveyed by a well-maintained ditch. Of this amount approximately 0.5 cfs is used to flood the pasture and the remainder flows to the downstream neighbor and eventually makes it back into Dick Creek. To keep the ditch clean the diversion was historically left in place year round but water was typically only used from early May until mid-October when the diversion ditch was regularly checked with canvas or plastic dams to flood the pasture. The attached aerial photograph shows the point of diversion and place of use you described to me please verify that it is correct.

If you are in complete agreement with the above facts please sign this letter in the presence of a Notary of the Public and return it to me. Thank you for your cooperation regarding this matter.

Sincerely,

Jeffrey Klausmann, *environmental consultant*

SCANNED

SEP 17 2007

Page 1 of 2

By signing below, I Gordon Allen, solemnly swear that the statements contained in the foregoing document are true and correct.



Signature

Gordon Allen

Date

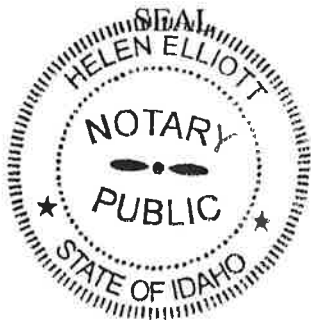
12-27-02

State of Idaho)

County of

Bonneville)

Subscribed and affirmed before me this 27th day of December 20 02



Notary Public

Helen Elliott

Residing at

Idaho Falls, Idaho

My Commission Expires

9/26/06

SCANNED

SEP 17 2007 Page 2 of 2

Exhibit E

SCANNED
SEP 17 2007

KNIGHT:

COPY
ORIGINAL PATENT
Allen Property

5/537

Instrument No. 1526.

Jul 15 1916.

Blackfoot 07846

THE UNITED STATES OF AMERICA,

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

WHEREAS, A Certificate of the Register of the Land Office at Blackfoot, Idaho, has been deposited in the General Land Office, whereby it appears that, pursuant to the Act of Congress of May 20, 1862, "To Secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of Eleazar Lewis has been established and duly consummated, in conformity to law, for the southeast quarter of the northeast quarter of Section nine and the southwest quarter of the northwest quarter and the west half of the southwest quarter of Section ten in Township four north of Range forty-five east of the Boise Meridian, Idaho, containing one hundred sixty acres, according to the Official Plat of the Survey of the said Land, returned to the General Land Office by the Surveyor-General;

NOW KNOW YE, That there is, therefore, granted by the UNITED STATES unto the said claimant the tract of Land above described; TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I Woodrow Wilson, President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed. GIVEN under my hand, at the City of Washington, the thirtieth day of June in the year of our Lord one thousand nine hundred and sixteen and of the Independence of the United States the one hundred and fortieth.

By the President: Woodrow Wilson

(SEAL)

By W. P. LeRoy, Secretary.

Recorded: Patent Number 536193

L. T. C. Lamar, Recorder of the
General Land Office.

Recorded at the request of Miller & Vicle August 2nd 1916 at 5:06 P. M.

W. F. ROBERTSON, RECORDER.

536193

T4S, R45E.

SENE Sec. 9.

? SWNW Sec. 10.

W 1/2 SW

SCANNED

SEP 17 2007

KNIGHT:

COPY
ORIGINAL PATENT
ALLEN PROPERTY

5/537

Instrument No. 1526.

Jul 13 1916.

Blackfoot 07846

THE UNITED STATES OF AMERICA.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

N RUSE
SEC. 9
NE
10
NW
SW

WHEREAS, A Certificate of the Register of the Land Office at Blackfoot, Idaho, has been deposited in the General Land Office, whereby it appears that, pursuant to the Act of Congress of May 20, 1862, "To Secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of Eleazar Lewis has been established and duly consummated, in conformity to law, for the southeast quarter of the northeast quarter of Section nine and the southwest quarter of the northwest quarter and the west half of the southwest quarter of Section ten in Township four north of Range forty-five east of the Boise Meridian, Idaho, containing one hundred sixty acres, according to the Official Plat of the Survey of the said Land, returned to the General Land Office by the Surveyor-General;

NOW KNOW YE, That there is, therefore, granted by the UNITED STATES unto the said claimant the tract of Land above described; TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I Woodrow Wilson, President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed. GIVEN under my hand, at the City of Washington, the thirteenth day of June in the year of our Lord one thousand nine hundred and sixteen and of the Independence of the United States the one hundred and fortieth.

By the President: Woodrow Wilson

(SEAL)

By W. P. LeRoy, Secretary.

Recorded: Patent Number 536193

L. T. C. Lamar, Recorder of the
General Land Office.

Recorded at the request of Miller & Viele August 2nd 1916 at 5:06 P. M.

W. F. ROBERTSON, RECORDER.

SCANNED
SEP 17 2007

No. 31422

THE UNITED STATES OF AMERICA

Homestead Certificate No. 5099

Application 7854

ss.

To all to Whom these Presents shall Come---GREETING:

WHEREAS, There has been deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Blackfoot, Idaho whereby it appears that, pursuant to the Act of Congress approved 20th May, 1862, "To Secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of John B. Cowan

has been established and duly consummated, in conformity to law, for the

South east quarter of the south west quarter of section ten and the east half of the north west quarter and the south west quarter of the north west quarter of section fifteen in township four North of Range forty five East of Boise Meridian, in Idaho, containing one hundred and sixty acres.

according to the Official Plat of the Survey of the said Land, returned to the General Land Office by the Surveyor General.

NOW, KNOW YE, That there is, therefore, granted by the United States unto the said

John B. Cowan

the tract of land above described:

TO HAVE AND TO HOLD THE SAID TRACT OF LAND, with the appurtenances thereof, unto the said

John B. Cowan

and to his heirs

and assigns forever, subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws and decisions of Courts, and also subject to the right of the proprietor of a vein or lode, to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law, and there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I,

Theodore Roosevelt

President of the United

States of America, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the ninth day

of May, in the year of our Lord one thousand nine hundred and seven, and of the Independence of the United

States the one hundred and thirty first

BY THE PRESIDENT: T. Roosevelt

By F. M. McKean

Secretary.

Miscellaneous

Recorded Vol. 602 Page 393 H. W. Sanford

Recorder of the General Land Office.



Filed for Record at 3 o'clock P. M., April 13 A. D. 1910, and recorded at the request of

F. A. Miller

I. N. Corey

Recorder

By Deputy.

Transcribed from Book D, Patents, page 382, Fremont County Records.
Transcribed from Book 40 of Patents-page 300 Madison County Records.

SCANNED

SEP 17 2007

March 20, 2005
P.O. Box 969
Ketchum, ID 83340
208-351-5355

Mr. Randy Murdock
204 West, 300 South
Victor, ID 83455

Water Right Claims 22-4034 & 22-4032

Dear Mr. Murdock,

It has come to my attention that the Idaho Department of Water Resources is attempting to substantiate the priority date for your water right claim 22-4034 and my water right claim 22-4032.

For reference, both claims 22-4034 and 22-4032 have their source listed as the Lewis/Murdock Spring and its point of diversion located in the SW $\frac{1}{4}$, SE $\frac{1}{4}$, Township 4N, Range 45E, Section 10.

I understand based upon speaking with you today that you are 61 years old, that you were born in Teton Valley and you have lived on your family's ranch since your birth in 1943. At the time of your birth your father Russell Murdock was already living on the ranch which he purchased in approximately 1930 from your grandfather Albert Murdock who homesteaded the property in approximately 1900-1910.

From the time you purchased your ranch from your father in approximately 1972 to the present day, you have irrigated 160 acres located in the NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$, SE $\frac{1}{4}$, Township 4N, Range 45E, Section 9 with water from the Lewis/Murdock Spring. Your father, who bought this property from your grandfather, owned it from approximately 1930-1972. While you grew up on the property, your father irrigated the same 160 acres with water from this spring. It is also your understanding that since the late 1800's your family has used water from the Lewis/Murdock spring to irrigate land for hay and cattle pasture in the area.

You also have knowledge that Bill Lewis, who owned the property to the east of your ranch from 1942-1986, and his father Eli Lewis who owned the property from the early 1900's, irrigated approximately 90 acres from the Lewis/Murdock Spring, and that irrigation has continued on the property to the present day. The location of the irrigation is just east of your place of use, located in the NW $\frac{1}{4}$, SW $\frac{1}{4}$, and the SE $\frac{1}{4}$, Township 4N, Range 45E. (The pasture just north of the road and east of your home.) You have knowledge from Clair Hillman, who is 10 years older than you, that Clair's father homesteaded the acreage where the Lewis/Murdock Spring originates. Both your acreage and my property, formerly the Lewis property were irrigated from Lewis/Murdock Spring since the time that both properties were homesteaded.

SCANNED

SEP 17 2007

You also have knowledge that the Lewis/Murdock Spring runs into a ditch and then flows westerly. There is no headgate diverting the water from the spring to any other properties except for your ranch and my property. You know that historically there is water in the Lewis/Murdock Spring for irrigation from approximately late March until late October each year. You remember that Bill Lewis and your father would share the maintenance of the ditch each spring and throughout the year. You currently clean the ditch out each spring with a backhoe to get proper flow.

If you are in agreement with the above facts please sign this letter in the presence of a Notary of the Public. Thank you very much for your cooperation and time regarding this matter.

Sincerely,

Craig Knight
Manager Teton Valley Holdings

By signing below, I Randy Murdock solemnly swear that the statements contained in the foregoing documents are true and correct.

Signature Randy murdock Date 3-21-05

State of Idaho _____)

County of Teton _____)

Subscribed and affirmed before me this 21st day of March 2005



Notary Public Bonnie Zohner

Residing at Driggs Idaho

My Commission Expires 10/13/2010

SCANNED

SEP 17 2007

No. 31422

THE UNITED STATES OF AMERICA

Homestead Certificate No. 5098
Application 7854

ss.

To all to Whom these Presents shall Come—GREETING:

WHEREAS, There has been deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Blackfoot, Idaho whereby it appears that, pursuant to the Act of Congress approved 20th May, 1862, "To Secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of John B. Cowan

has been established and duly consummated, in conformity to law, for the

South east quarter of the south west quarter of section ten and the east half of the north west quarter and the south west quarter of the north west quarter of section fifteen in township four North of Range forty five East of Boise Meridian, in Idaho, containing one hundred and sixty acres.

according to the Official Plat of the Survey of the said Land, returned to the General Land Office by the Surveyor General.

NOW, KNOW YE, That there is, therefore, granted by the United States unto the said

John B. Cowan

the tract of land above described:

TO HAVE AND TO HOLD THE SAID TRACT OF LAND, with the appurtenances thereof, unto the said

John B. Cowan

and to his heirs

and assigns forever, subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws and decisions of Courts, and also subject to the right of the proprietor of a vein or lode, to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law, and there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I,

Theodore Roosevelt

President of the United

States of America, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the ninth day

of May, in the year of our Lord one thousand nine hundred and seven, and of the Independence of the United

States the one hundred and thirty first

BY THE PRESIDENT: T. Roosevelt

By F. M. McKean

Secretary.

Miscellaneous
Recorded Vol. 602

Page 393 H. W. Sanford

Recorder of the General Land Office.



Filed for Record at 3 o'clock P. M., April 13 A. D. 1910, and recorded at the request of

F. A. Miller

I. N. Corey

By Deputy.

Recorder

Transcribed from Book D, Patents, page 382, Fremont County Records.
Transcribed from Book 40 of Patents page 300 Madison County Records.

SCANNED

SEP 17 2007

KNIGHT:

COPY
ORIGINAL PATENT
Allen Property

5/537

Instrument No. 1526.

Jul 13 1916.

Blackfoot 07846

THE UNITED STATES OF AMERICA,

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

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NOW KNOW YE, That there is, therefore, granted by the UNITED STATES unto the said claimant the tract of Land above described; TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I Woodrow Wilson, President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed. GIVEN under my hand, at the City of Washington, the thirteenth day of June in the year of our Lord one thousand nine hundred and sixteen and of the Independence of the United States the one hundred and fortieth.

By the President: Woodrow Wilson

(SEAL)

By W. P. LeRoy, Secretary.

L. T. C. Lamar, Recorder of the

Recorded: Patent Number 536193

General Land Office.

Recorded at the request of Miller & Viele August 2nd 1916 at 5:06 P. M.

W. F. ROBERTSON, RECORDER.

SCANNED

SEP 17 2007

January 30, 2006

**SHOOTING STAR DEVELOPMENT LLC
PO Box 6880
KETCHUM ID 83340**

**FINAL NOTICE
PLEASE READ**

**RE: REQUEST FOR EVIDENCE OF PRIORITY
SRBA WATER RIGHT CLAIMS: 22-13264, 22-4095, 22-4032**

Dear Claimant (s):

The Idaho Department of Water Resources is beginning water rights review in Basin 22, the Teton Valley area. The Notice(s) of Claim identified with the number shown above has been filed in the Snake River Basin Adjudication (SRBA). The Notice of Claim indicates water usage is based on "Beneficial Use". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Claim. The date the water was first put to beneficial use, known as the priority date, has not been confirmed by License, Decree, or Permit. For this reason, proof must be provided supporting the priority date. **As the claimant, you are responsible for submitting the necessary proof to support the priority date.**

***Your claim, 22-13264, claims a Priority Date of July 13, 1916, from DICK CREEK.
Your claim, 22-4095, claims a Priority Date of April 01, 1946, from SPRINGS.
Your claim, 22-4032, claims a Priority Date of July 15, 1910, from LEWIS-MURDOCK SPRING.***

It is important that each element of the Notice of Claim be verified. For instance, regarding claims for irrigation, the evidence should tend to show that diversion works were in place, that they were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place of use on or before the claimed priority date.

For your reference, I have provided a printout of your Notice of Claim and the pamphlet entitled "**Evidence of Priority**". The pamphlet describes the types of evidence which are acceptable and suggests which documents will fulfill this requirement. While I encourage you to read the entire pamphlet, I direct your attention to the two sections entitled "**What Kind of Evidence is Required**" and "**Some Examples of Documents**

SCANNED

SEP 17 2007

December 17, 2006

To: Cindy Bird

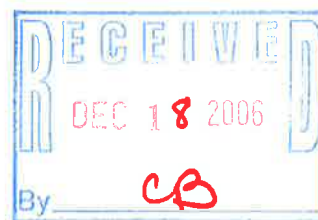
From: John & Laura Grabow

Re: Nos. 22-4032, 4095, 13264 & 13373

You were good enough in your cover letter dated December 14 to say that I could call you if I had questions on the preliminary recommendations. I will call you tomorrow (Monday), but since you no doubt have thousands of these claims before you, I thought I'd fax you first with my issue and the relevant claim numbers.

The original recommendations, to which I objected to some of the priority dates in my memo of December 8, recommended for No. 4032 - 66.8 acres, No. 13264 - 22 acres & No. 13373 - 31 acres. With my acceptance of the disallowance of 22-4095, this totaled 119.80 acres of irrigated land out of the property total of 160 acres, which seemed to me fair. However, if I am reading this correctly, the revised recommendations are No. 4032- 43.8 acres, No.13264 - 9 acres and 22-13373 - 31 acres (unchanged), totaling only 83.80 acres of the 160 acres. In addition, all three recommendations - 22-13373 and 22-4032 in the southern portion of the property and 22-13264 up in the north - state that the three are limited to irrigation of a total of 63 acres.

Thanks for getting back to me on my prior December 8 memo so quickly. I will call you Monday,



SCANNED

SEP 17 2007



State of Idaho
DEPARTMENT OF WATER RESOURCES

15 W. Center St. Soda Springs, Idaho 83276

Phone: (208) 547-3993 FAX: (208) 547-3939 www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

December 14, 2006

JOHN AND LAURA GRABOW
PO BOX 6880
KETCHUM, ID USA 83340

REF: SRBA CLAIMS 22-4032, 22-4095, 22-13264 AND 22-13373.

Subject: NOE REPLIES AND MEMORANDUM

Dear John and Laura,

Enclosed is your new preliminary recommendations based on your memorandum and notice of error replies received. If you have any questions please don't hesitate to give me a call at 547-3993.

Respectfully,

Cindy E. Bird
Adjudication Bureau

Enclosure(s): Preliminary Recommendations 22-4032, 22-13264 and 22-13373.

SCANNED
SEP 17 2007

P.O. Box 6880
Ketchum, Idaho 83340

Law Offices
John C. Grabow

MEMORANDUM

208-622-
7755

To: IDWR

From: John & Laura Grabow

Date: December 8, 2006

Re: Water Rights Claims 22-4032, 22-4095, 22-13264 & 22-13373 — *cb*

Because all four of these claims relate to the same 160-acre parcel of land, homesteaded by the Lewis family in 1916, I am providing you with a single narrative response.

22-13373 Darby Creek; .620 CFS; 1916 priority – no changes being sought.

22-4032 Lewis-Murdock Spring; 1.340 CFS; 1943 priority. I am not contesting the volume, period of use or source but strenuously disagree with the 1943 priority date, which as far as I can tell is based upon the birth date of one of the supporting affiants, adjoining landowner Randy Murdock.

This determination disregards the March 26, 1980 notarized Claim to a Water Right of prior owner William Lewis, which is sworn and notarized and specifically identifies continuous use of the Murdock-Lewis Spring since 1910. That document was also publicly filed in the Teton County Water Rights book, and not challenged. Mr. Lewis died in the 1980's, in his nineties, and was born in approximately 1895. Accordingly, he would have direct personal knowledge of such continuous use of the Murdock-Lewis Spring. Especially since individuals alive in 1910 are unlikely to still be alive, and the State chose to adjudicate these beneficial use claims now rather than an earlier date, such as in 1980 when Mr. Lewis complied with the statutory requirement to file such a claim, to disregard his sworn statement now as to when the Murdock-Lewis Spring was first applied to a beneficial use on the basis, as I understand it, that the statement is only contained in a prior claim, is arbitrary and capricious.

In addition, the 1910 priority date is directly supported by the 1916 land patent to Eli Lewis, which has also been submitted in support of this claim. Under the Homestead Act of 1862, the land patent would have been granted only after five years of improvements and agricultural use of the land – fully consistent with William Lewis's claimed 1910 priority date.

Finally, at the suggestion of Ernie Carlson, I submitted as well the application of adjoining landowner Randy Murdock, whose grandfather homesteaded in the same time period and also makes use of the same Murdock-Lewis Spring. Though, unlike William Lewis, not himself alive when beneficial use of the Murdock-Lewis Spring was first made in 1910, I do not believe this reflects a lack of personal knowledge by Randy. He is not merely indicating that he heard such use took place – he has lived on the property and has personal knowledge that the Lewis's and his family both farmed and irrigated their adjoining properties since the early 1900's, that there was no ground water well for that purpose but only surface water, including in particular the Murdock-Lewis Spring.

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SEP 17 2007

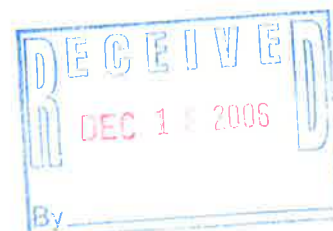


The IDWR preliminary recommendation for this claim indicates that it is to be used in combination with 22-13373, which has a 1916 priority date. I would not oppose a 1916 (rather than 1910 as claimed) priority date for this claim as well, but the 1943 priority date is inconsistent with the evidence offered in support – and also common sense, since these 160 acres plainly could not and were not irrigated between 1910 and 1943 from Darby Creek alone (as to which diversion, No. 22-13373 being recommended for only 31 acres).

22-13264 Dick Creek; .440 CFS; 1942 priority Again, my only challenge is to the priority date, which I am only guessing is based upon the approximate date that supporting affiant Rodney Lewis, son of William Lewis, was either born or lived on the property. Again, however, I believe that this is based upon an incorrect definition of personal knowledge – and a definition particularly inappropriate when the State has chosen to formally adjudicate these claims at a time when virtually anyone alive at the time beneficial use was first made would now be deceased. As with Mr. Murdock, Rodney Lewis did not simply hear that his father and uncle irrigated the northern portion of this property from this Dick Creek diversion since 1916 – he knows that this portion of this property was used for agricultural purposes by his father and uncle, that there was no ground water well for that purpose but only surface water, in particular this diversion from Dick Creek which was continued to be used by Rodney Lewis himself (and later, by affiant Gordon Allen). In addition, as above, the 1916 priority date is supported by the 1916 land patent to Eli Lewis, which has also been submitted in support of this claim.. Under the Homestead Act of 1862, the land patent would have been granted only on the basis of improvements and agricultural use of the land, which included the northern portion not irrigated by the other irrigation sources.

22-4095 Disallowed. This also involves the northern portion of the property. I will not contest this disallowance if 22-13264 is granted the requested priority date of 1916; otherwise, I reserve my right to challenge this disallowance which, notwithstanding the finding, was supported by evidence by the claimant and is based upon diversion and beneficial use, even though this recommendation apparently indicates not found during the field inspection.

SCANNED
SEP 17 2007



only one, prior fax recently dated.

Law Offices

John C. Grabow

December 4, 2006

P.O. Box 6880

Ketchum, Idaho 83340

208-622-**ONE (1) PAGE BY FACSIMILE**

Cindy Bird
Idaho Dep't of Water Resources

Re: Water Rights Claim 22-4032

Dear Ms. Bird:

Following up on our conversation last week, and your suggestion that I check the public records for any indication of water use by the prior owners of these 160 acres, I drove to Driggs and looked through the public records, including an old water rights book in the County Courthouse. The March 26, 1980 notarized Claim to a Water Right of prior owner William Lewis, which as we discussed contains specific reference to continuous use of the Murdock-Lewis Spring since 1910, was publicly filed. I did some checking and learned that Mr. Lewis died in the 1980's, in his nineties, and was born in approximately 1895. Accordingly, he would have direct personal knowledge of such continuous use of the Murdock-Lewis Spring. Especially since individuals alive in 1910 are unlikely to still be alive, and the State chose to adjudicate these beneficial use claims now rather than an earlier date, such as in 1980 when Mr. Lewis complied with the statutory requirement to file such a claim, his sworn statement as to when the Murdock-Lewis Spring was first applied to a beneficial use should be considered in the current adjudication of this claim. In addition, the March 20, 2005 Affidavit of adjoining landowner Randy Murdock (who I believe has been recommended a 1920 priority date for the same Murdock-Lewis Spring) supports such use by Lewis since the early 1900's. Though, unlike Lewis, not himself alive back then, this does not reflect a lack of personal knowledge by Randy. He is not merely indicating that he heard such use took place - he has lived on the property and has personal knowledge that the Lewis's and his family both farmed and irrigated their adjoining properties since the early 1900's, that there was no ground water well for that purpose but only surface water, including in particular the Murdock-Lewis Spring.

As you can probably tell when we spoke, I am not a water law expert. However, last week I did review this matter with a water rights attorney in Boise. In addition, to the forgoing, he thought that the 1916 land patent to Lewis supports the 1910 claimed priority date. He indicated that under the Homestead Act of 1862, the land patent would have been granted only after five years of improvements and agricultural use of the land - consistent with William Lewis's claimed 1910 priority date.

Thank you for your consideration.

Sincerely yours,


John C. Grabow

SCANNED

SEP 17 2007

22-4034

Nov. 27, 2006

TO: Cindy Bird

From: John Grabow (208-622-7455)

Four (4) pages by fax, re # 22-4032

SCANNED

SEP 17 2007

Law Offices
John C. Grabow

P.O. Box 6880
Ketchum, Idaho 83340

October 23, 2006

208-622-7116
Fax 208-622-7470

22-7455

Ernie Carlson
Idaho Dep't of Water Resources
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

Re: Water Rights Claim 22-4032

Dear Mr. Carlson:

I am writing to follow up on my pending water right claim 22-4032, which has as its source the so-called Lewis/Murdock Spring. As I understand it from the IDWR database, this claim has a tentative recommendation for a 1943 priority date – which I am hoping is a mistake and, in any event, do not understand since I am aware of nothing in the file which would support that date.

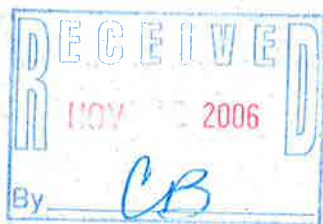
In my previous meeting with you, and later letter to Allen Ruberry of February 16, 2006, to substantiate a 1912 priority date I submitted an affidavit of Randy Murdock, the adjacent property owner, and a U.S. patent for these 160 acres, dated 1916, which makes specific reference to the conveyance of the water rights. I am writing you now because, having just recently left the stone age and switched from dial-up to DSL internet, I was for the first time able to open upon the backup files to this claim on the IDWR database. I found there a 1980 affidavit from W.W. Lewis (whom I believe is deceased), the son of Eli Lewis who owned the property from the early 1900's. That affidavit (attached) indicates continuous irrigation use from the Lewis/Murdock Spring on the property since 1910.

If there is any additional information I may provide in support of this claim, please let me know. As always, thank you for your cooperation.

Sincerely yours,



John C. Grabow



RECEIVED
OCT 24 2006
Department of Water Resources
Eastern Region

SCANNED
SEP 17 2007

March 20, 2005
P.O. Box 969
Ketchum, ID 83340
208-351-5355

Mr. Randy Murdock
204 West, 300 South
Victor, ID 83455

Water Right Claims 22-4034 & 22-4032

Dear Mr. Murdock,

It has come to my attention that the Idaho Department of Water Resources is attempting to substantiate the priority date for your water right claim 22-4034 and my water right claim 22-4032.

For reference, both claims 22-4034 and 22-4032 have their source listed as the Lewis/Murdock Spring and its point of diversion located in the SW $\frac{1}{4}$, SE $\frac{1}{4}$, Township 4N, Range 45E, Section 10.

I understand based upon speaking with you today that you are 61 years old, that you were born in Teton Valley and you have lived on your family's ranch since your birth in 1943. At the time of your birth your father Russell Murdock was already living on the ranch which he purchased in approximately 1930 from your grandfather Albert Murdock who homesteaded the property in approximately 1900-1910.

From the time you purchased your ranch from your father in approximately 1972 to the present day, you have irrigated 160 acres located in the NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$, SE $\frac{1}{4}$, Township 4N, Range 45E, Section 9 with water from the Lewis/Murdock Spring. Your father, who bought this property from your grandfather, owned it from approximately 1930-1972. While you grew up on the property, your father irrigated the same 160 acres with water from this spring. It is also your understanding that since the late 1800's your family has used water from the Lewis/Murdock spring to irrigate land for hay and cattle pasture in the area.

You also have knowledge that Bill Lewis, who owned the property to the east of your ranch from 1942-1986, and his father Eli Lewis who owned the property from the early 1900's, irrigated approximately 90 acres from the Lewis/Murdock Spring, and that irrigation has continued on the property to the present day. The location of the irrigation is just east of your place of use, located in the NW $\frac{1}{4}$, SW $\frac{1}{4}$, and the SE $\frac{1}{4}$, Township 4N, Range 45E. (The pasture just north of the road and east of your home.) You have knowledge from Clair Hillman, who is 10 years older than you, that Clair's father homesteaded the acreage where the Lewis/Murdock Spring originates. Both your acreage and my property, formerly the Lewis property were irrigated from Lewis/Murdock Spring since the time that both properties were homesteaded.

SCANNED

SEP 17 2007

You also have knowledge that the Lewis/Murdock Spring runs into a ditch and then flows westerly. There is no headgate diverting the water from the spring to any other properties except for your ranch and my property. You know that historically there is water in the Lewis/Murdock Spring for irrigation from approximately late March until late October each year. You remember that Bill Lewis and your father would share the maintenance of the ditch each spring and throughout the year. You currently clean the ditch out each spring with a backhoe to get proper flow.

If you are in agreement with the above facts please sign this letter in the presence of a Notary of the Public. Thank you very much for your cooperation and time regarding this matter.

Sincerely,

Craig Knight
Manager Teton Valley Holdings

By signing below, I Randy Murdock solemnly swear that the statements contained in the foregoing documents are true and correct.

Signature Randy Murdock Date 3-21-05

State of Idaho _____)

County of Teton _____)

Subscribed and affirmed before me this 21st day of March 2005



Notary Public Bonnie Zoller

Residing at Driggs Idaho

My Commission Expires 10/13/2010

SCANNED

SEP 17 2007

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

MAR 21 2005

Department of Water Resources
Eastern Region

CHANGE IN ADDRESS

This form can be used to notify the Department of a change in
address of the owners of record for the listed water rights.
(Please print or type)

*changed
JC
3/21/05*

[] Water Right Number(s): A22 - 4032

[] Name(s): Craig Knight, manager
Teton Valley Holdings, LLC.

[] Old Mailing Address: 2 Primus Avenue
Boston, MA 02114

[] New Mailing Address: P.O. Box 969
Ketchum, ID 83340

Telephone Number: (208) 351 - 5355

[] Signature(s) of Owner(s) C. Knight, manager
Teton Valley Holdings, LLC.
(Include your title if on behalf of company or organization)

SCANNED
APR 06 2005

Date: 3/17/05

PROFILED

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
	<u>22-4032</u>				
	<u>22-13264</u>				
	<u>22-4095</u>				

Handwritten note: ownership adjudicated 4/23/05 KCJ

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) Teton Valley Holdings LLC
2 Primus Avenue, Barton, MA 02114
4. New Owner/Claimant(s) E Shooting Star Development LLC
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address P.O. Box 6880
- City, State and ZIP Code Letehum, ID 83340
- New Telephone Number (208) 622-7455
5. Date you acquired the property March 22, 2005

See ENVELOPE FOR PLAT MAP

PROFILED

SCANNED
APR 26 2005

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

**INSTRUCTIONS FOR FILING
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP**

This form has been prepared to assist all claimants and owners of water rights to comply with the requirements of Sections 42-248 and 42-1409(6), Idaho Code. All claimants and owners of water rights are required to notify the Department of Water Resources (IDWR) of any change in mailing address or change in ownership of all or part of a water right. In addition, all purchasers of water rights within a pending general adjudication area must inquire whether a notice of claim has been filed and, if not, shall file a notice of claim if necessary.

Effective July 1, 2000, the Idaho Legislature amended Section 42-248, Idaho Code to include a provision for fees to file a Notice of Change in Water Right Ownership. Please see details at Item 8, below, to determine if fees are required for your filing.

Separate brochures are available from IDWR describing the adjudication of water rights and the requirement to notify IDWR of changes in ownership. Please contact your nearest IDWR office, or call 1-800-451-4129, if you would like more information or need help completing this form. Please attach additional sheets to the form if you require additional space to describe or explain any of the items on the form.

1. If there are water rights associated with the property, **the seller should be able to provide you with the water right or adjudication claim number(s).** Please enter the number(s) at **Item 1.** Corresponding water right and adjudication claim numbers should be listed next to each other on the form. You may have purchased only a portion of the water right(s) held by the seller. If so, the water right(s) held by the seller may need to be "split" to provide you your share of each right. Indicate if a split is required by checking in the space provided next to each water right.

If you receive water from a municipal provider, an irrigation district or other water delivery organization, where the water rights are held by the organization, please do not use this form to record a change. You may need to contact the water delivery organization to determine if any action is necessary.

If you or the seller believes there are water rights for the property but the numbers are unknown, you may wish to contact IDWR for assistance in identifying the water rights for the property in question. If adjudication claims for the rights are required and have not been filed, IDWR will so advise you.

2. The information described at **Item 2** is required, since IDWR cannot process the requested change without documentation of ownership. The preferred types of documentation are shown; contact IDWR if you have difficulty obtaining this information. **Do not** obtain a new survey for purposes of this form before contacting IDWR.
3. Please provide the name and address of the former owner/claimant(s) of the water right(s) at **Item 3.**
4. The name, mailing address, and telephone numbers of the new owner/claimant(s) is entered at **Item 4.** Please indicate the relationship between multiple owners by using the connector "and", "or", or "and/or." If an "and" is used, all parties must sign this form. If an "and/or" or "or" is used, all parties may sign; however, only one of the named parties is required to sign.
5. At **Item 5**, please provide the date the property in question was acquired. This may be the date of "closing" in the case of a real estate transaction or the date of court order for other types of ownership changes.

PROFILED

**SCANNED
APR 26 2005**

MAR. 16. 2005 2:08PM
212378

FIRST AM. TITLE-DRUGS 167016

NO. 915 P. 9

First American Title Company

WARRANTY DEED

RECEIVED

MAR 22 2005

TETON CO., ID
CLERK RECORDER

For Value Received Teton Valley Holdings, LLC, an Idaho limited liability company

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

Shooting Star Development, LLC, Limited Liability Company

whose address is PO Box 6880, Ketchum, ID 83340

Hereinafter called the Grantee, the following described premises situated in Teton County, Idaho, to-wit:

See attached legal description

TOGETHER WITH ALL APPURTENANT WATER RIGHTS

SUBJECT TO all easements, right of ways, covenants, restrictions, reservations, applicable building and zoning ordinances and use regulations and restrictions of record, and payment of accruing present year taxes and assessments as agreed to by parties above.

TO HAVE AND TO HOLD the said premises, with its appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated:

Teton Valley Holdings, LLC, an Idaho limited liability company
BY Knight Brothers, LLC, an Idaho limited liability company

BY: *C. Knight, Manager* Teton Valley Holdings, LLC.
Craig Knight, Manager of Knight Brothers, LLC
Manager of Teton Valley Holdings, LLC

STATE OF *Idaho*
COUNTY OF *Blaine*

On this *17th* day of March, 2005, before me a notary public, personally appeared Craig Knight, manager of Knight Brothers, LLC who is a member of Teton Valley Holdings, LLC, and known or identified to me (or proved to me on the oath of), to be the manager or a member of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

[Signature]
Notary Public of *Idaho*
Residing at: *Ketchum*
Commission Expires: *7-12-06*



Instrument # 167016

DRUGS, TETON, IDAHO

2005-03-22 12:12:17 No. of Pages: 4

Recorded for: FIRST AMERICAN TITLE

MOLAN G. BOYLE

Dr-Office Recorder Deputy *[Signature]* Fee: 12.00

Index by: CLEO, WILSON/HIV

SCANNED

FILED

167016

APR 26 2005

ATTACHED LEGAL DESCRIPTION

Order No.: T12378

A parcel of land within Section 9 and Section 10, T4N, R45E, Boise Meridian, Teton County, Idaho, more particularly described as follows;

The SE1/4NE1/4 of said Section 9, the SW1/4NW1/4 and the NW1/4SW1/4 of said Section 10;

AND TOGETHER WITH the following described portion of the S1/2SW1/4 of said Section 10, more particularly described as follows;

BEGINNING at the South 1/16 corner common to said Section 9 and said Section 10, where is found a 5/8 inch diameter steel rebar with a 2 1/2" diameter aluminum cap inscribed "PLS 7481"; Thence along the North line of said S1/2SW1/4 of said Section 10, N89°57'56" E, 2839.54 feet to the center-South 1/16 corner of said Section 10 where is found a 5/8 inch diameter steel rebar with a 2 1/2" diameter aluminum cap inscribed "PLS 7481";

Thence along the East line of the SE1/4SW1/4, S00°32'14" W, 855.47 feet more or less to an intersection with the centerline of an existing gravel road;

Thence departing said East line and following along said centerline through the following courses:

N87°40'52" W, 56.61 feet;

N83°11'46" W, 43.25 feet;

N79°46'57" W, 94.27 feet;

Thence continuing along said centerline along a curve to the left with a radius of 600.00 feet and an arc length of 202.45 feet, through a central angle of 19°19'56", being subtended by a chord of N89°28'55" W, 201.49 feet;

Thence following said centerline, S80°51'07" W, 105.27 feet;

Thence continuing along said centerline along a curve to the right with a radius of 300.00 feet and an arc length of 71.08 feet, through a central angle of 13°34'31", being subtended by a chord of S87°38'22" W, 70.81 feet;

Thence following said centerline through the following courses;

N85°34'22" W, 70.10 feet;

S87°19'53" W, 179.88 feet;

Thence continuing along said centerline along a curve to the right with a radius of 200.00 feet and an arc length of 122.63 feet, through a central angle of 35°07'47", being subtended by a chord of N75°06'13" W, 120.71 feet;

Thence following said centerline through the following courses;

N67°32'20" W, 48.05 feet;

N51°15'45" W, 35.34 feet;

Thence continuing along said centerline along a curve to the left with a radius of 200.00 feet and an arc length of 86.60 feet, through a central angle of 24°48'33", being subtended by a chord of N63°40'01" W, 85.93 feet;

Thence following said centerline, N76°04'18" W, 44.80 feet;

Thence continuing along said centerline along a curve to the right with a radius of 300.00 feet and an arc length of 106.63 feet through a central angle of 20°21'54", being subtended by a chord of N85°53'21" W, 106.07 feet;

Thence continuing along said centerline N55°42'24" W, 122.86 feet to an intersection with the east line of the SW1/4SW1/4 of said section 10;

Thence departing said centerline and following along the said east line S00°37'38" W, 104.29 feet

ALTA Plain Language Commitment Legal Description
(T12378.PFD/T12378/25)

167916

PROF

SCANNED

APR 26 2005

LEGAL DESCRIPTION

(Continued)

Order No.: T12378

more or less to an intersection with the thread of Darby Creek;
Thence departing said East line and following the thread of Darby Creek generally through the following courses;

N70°44'25" W, 118.99 feet;
S55°11'14" W, 26.51 feet;
N32°24'40" W, 29.10 feet;
N33°44'06" W, 51.66 feet;
S89°36'12" W, 121.60 feet;
S53°50'33" W, 56.34 feet;
N43°54'15" W, 64.30 feet;
S88°22'10" W, 87.69 feet;
S02°10'30" W, 88.50 feet;
S70°24'55" W, 43.24 feet;
N20°09'31" W, 81.24 feet;
N67°13'14" W, 29.17 feet;
S36°03'59" W, 78.65 feet;
N84°44'40" W, 44.23 feet;
S18°00'31" W, 90.42 feet;
N71°53'40" W, 58.00 feet;
S46°03'27" W, 58.24 feet;
N84°50'58" W, 112.33 feet;
N18°12'41" E, 40.70 feet;
N68°22'42" E, 122.54 feet;
N50°02'01" W, 108.03 feet;
N02°05'15" E, 138.17 feet;
N06°51'30" W, 83.03 feet;
S80°43'00" W, 59.34 feet;
N37°52'09" W, 70.54 feet;
N46°28'05" E, 94.73 feet;
N30°04'08" W, 85.92 feet;
S54°23'08" W, 50.08 feet;
N47°44'40" W, 76.12 feet;
S89°24'55" W, 34.98 feet;
S02°30'10" E, 37.48 feet;
S22°32'01" W, 77.10 feet;
N87°24'03" W, 112.98 feet;
S78°23'55" W, 39.85 feet;
S09°31'35" W, 13.25 feet;
S02°28'29" W, 8.40 feet;

Thence departing said thread of Darby Creek, N00°43'00" E, 124.51 feet more or less to an intersection with the centerline of said gravel road;

Thence along said centerline along the following courses;

S89°44'58" W, 66.30 feet;
N85°22'33" W, 50.82 feet to an intersection with the west line of the SW 1/4 SW 1/4 of said Section 10;

ALTA Plain Language Commitment Legal Description
(T12378.PFC/T12378/25)

157000

PROFILE

SCANNED

APR 26 2005

LEGAL DESCRIPTION

(Continued)

Order No.: T12378

Thence along the said West line, N00°43'00" E, a distance of 215.54 feet to the POINT OF BEGINNING.

LESS AND EXCEPTING THEREFROM the existing county road right-of-way that falls within the boundaries of the above described property.

ALTA Plain Language Commitment Legal Description
(T12378.PFD/T12378/25)

167016

PROFILED

SCANNED
APR 26 2005

OK
JC
8/21/03

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, 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
	A22-4032				

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) are 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)

KEITH and OPAL CLEMENTS
10977 SOUTH SNAKE RIVER ROAD

4. New Owner/Claimant(s)

REXBURG, ID 83440

Name Connector (Check one): ☐ and, ☐ or, ☐ and/or

New Mailing Address

CRAIG KNIGHT, Manager Teton Valley Holdings LLC

City, State and ZIP Code

2 PRIMUS PLACE Avenue
Boston, MA 02114

New Telephone Number

(617) 367-3924

5. Date you acquired the property

August 1, 2002

SCANNED

SEP 17 2007

RECEIVED

OCT 29 2002

Department of Water Resources
Eastern Region

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7.** If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s) _____
(include title if applicable)

C. Smith, manager Teton Valley Holdings LLC.

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____	Date _____	Fee _____
Receipted by _____	Date _____	Receipt No. _____
Processed by _____ AJ	Date _____	WR _____ Date _____

SCANNED

SEP 17 2007

149437

WARRANTY DEED

RECEIVED

AUG 01 2002

TETON CO., ID
CLERK RECORDERFor Value Received **Gordon J. Allen and Cherrie P. Allen**

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

Teton Valley Holdings, LLC, an Idaho limited liability company

whose address is:

Hereinafter called the Grantee, the following described premises situated in **Teton** County, , to-wit:

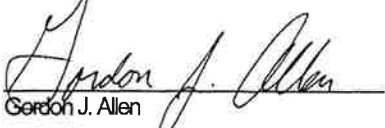
SEE ATTACHED LEGAL DESCRIPTION

SUBJECT TO all easements, right of ways, covenants, restrictions, reservations, applicable building and zoning ordinances and use regulations and restrictions of record, and payment of accruing present year taxes and assessments as agreed to by parties above.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated:

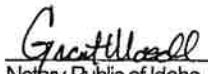
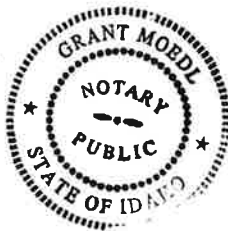
7-30-02


Gordon J. Allen
Cherrie P. Allen

STATE OF IDAHO

COUNTY OF Jefferson

On this 30th day of July, 2002, before me a Notary Public, personally appeared Gordon J. Allen and Cherrie P. Allen, known or identified to me (or proved to me on the oath of), to be the person(s) whose name(s) are subscribed to the within instrument, and acknowledged to me that they executed the same.


Notary Public of IdahoResiding at: Rexburg, IDCommission Expires: 8-2-2004

Instrument # 149437

DRIGGS, TETON, IDAHO

2002-08-01 11:42:20 No. of Pages: 3

Recorded for: FIRST AMERICAN TITLE

NOLAN G. BOYLE

Fee: 9.00

Ex-Officio Recorder Deputy

Index to: DEED, WARRANTY

SCANNED

SEP 17 2002

ATTACHED LEGAL DESCRIPTION

Order No.: T9769

A parcel of land within Section 9 and Section 10, Township 4 North, Range 45 East, Boise Meridian, Teton County, Idaho, more particularly described as follows;

The SE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 9, the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 10;
AND TOGETHER WITH the following described portion of the S $\frac{1}{2}$ SW $\frac{1}{4}$ of said Section 10, more particularly described as follows;

BEGINNING at the South 1/16 corner common to said Section 9 and said Section 10 where is found a 5/8 inch diameter steel rebar;

THENCE along the west line of said Section 10, S 00°43'00"W, 215.54 feet more or less to an intersection with the centerline of an existing gravel road;

THENCE following the centerline of said gravel road through the following courses,

S 85°22'33"E, 50.82 feet;

N 89°44'58"E, 155.54 feet;

S 88°59'46"E, 110.50 feet;

THENCE continuing along said centerline along a curve to the right with a radius of 250.00 feet and an arc length of 140.81 feet, through a central angle of 32°16'14", being subtended by a chord of

S 72°51'39"E, 138.95 feet;

THENCE following said centerline through the following courses,

S 56°43'31"E, 64.02 feet;

S 67°13'28"E, 10.07 feet;

THENCE continuing along said centerline along a curve to the left with a radius of 300.00 feet and an arc length of 152.22 feet, through a central angle of 29°04'18", being subtended by a chord of

S 81°45'37"E, 150.59 feet;

THENCE following said centerline through the following courses,

N 83°42'14"E, 65.60 feet;

N 79°53'02"E, 90.91 feet;

N 74°31'00"E, 137.94 feet;

N 78°39'10"E, 50.35 feet;

THENCE continuing along said centerline along a curve to the right with a radius of 150.00 feet and an arc length of 232.71 feet, through a central angle of 88°53'17", being subtended by a chord of

S 56°54'11"E, 210.06 feet;

THENCE following said centerline through the following courses,

S 12°27'32"E, 39.74 feet;

S 11°55'29"E, 60.62 feet;

THENCE continuing along said centerline along a curve to the left with a radius of 175.00 feet and an arc length of 124.07 feet, through a central angle of 40°37'11", being subtended by a chord of

S 32°14'04"E, 121.48 feet;

THENCE following said centerline through the following courses,

S 52°32'40"E, 63.21 feet;

S 55°42'24"E, 129.21 feet;

THENCE continuing along said centerline along a curve to the left with a radius of 300.00 feet and an arc length of 106.63 feet, through a central angle of 20°21'54", being subtended by a chord of

S 65°53'21"E, 106.07 feet;

ALTA Plain Language Commitment Legal Description
(T9769.PFD/T9769/29)

149437

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SEP 17 2007

LEGAL DESCRIPTION

(Continued)

Order No.: T9769

THENCE following said centerline, S 76°04'18"E, 44.80 feet;

THENCE continuing along said centerline along a curve to the right with a radius of 200.00 feet and an arc length of 86.60 feet, through a central angle of 24°48'33", being subtended by a chord of S 63°40'01"E, 85.93 feet;

THENCE following said centerline through the following courses,

S 51°15'45"E, 35.34 feet;

S 57°32'20"E, 48.05 feet;

THENCE continuing along said centerline along a curve to the left with a radius of 200.00 feet and an arc length of 122.63 feet, through a central angle of 35°07'47", being subtended by a chord of S 75°06'13"E, 120.71 feet;

THENCE following said centerline through the following courses,

N 87°19'53"E, 175.88 feet;

S 85°34'22"E, 70.10 feet;

THENCE continuing along said centerline along a curve to the left with a radius of 300.00 feet and an arc length of 71.08 feet, through a central angle of 13°34'31" being subtended by a chord of N 87°38'22"E, 70.91 feet;

THENCE following said centerline, N 80°51'07"E, 106.27 feet;

THENCE continuing along said centerline along a curve to the right with a radius of 600.00 feet and an arc length of 202.45 feet, through a central angle of 19°19'56", being subtended by a chord of S 89°28'55"E, 201.49 feet;

THENCE following said centerline through the following courses,

S 79°48'57"E, 94.27 feet;

S 83°11'46"E, 43.25 feet;

S 87°40'52"E, 56.51 feet more or less to an intersection with the east line of the said S½SW¼;

THENCE departing said centerline and followig said east line, N 00°32'14"E, 855.47 feet to the center-south 1/16 corner of said Section 10;

THENCE along the north line of said S½SW¼, S 89°57'56"W, 2639.54 feet to the POINT OF BEGINNING;

TOGETHER WITH and SUBJECT TO any other easements, rights-of-way, covenants, conditions, restrictions, agreements, reservations or encumbrances of sight and/or record.

ALTA Plain Language Commitment Legal Description
(T9769, PFD/T9769/29)

149437

SCANNED

SEP 17 2007



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

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

August 21, 2003

TETON VALLEY HOLDINGS LLC
C/O CRAIG KNIGHT
2 PRIMUS AVENUE
BOSTON MA 02114

RE: NOTICE(S) OF CHANGE OF WATER RIGHT OWNERSHIP
NOTICE(S) OF CLAIM TO A WATER RIGHT 22-4032

Dear Mr. Knight:

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 the new claimant.

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,

Kristen Forsgren
Office Specialist 1

Enclosure

SCANNED

SEP 17 2007

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT



Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that W. W. Lewis

(Name of Claimant)

Box 201, Driggs, ID 83422

(Mailing Address)

Telephone No. 354-2551

{Zip Code}

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use) Since July 15, 1910

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

Lewis-Murdock Spring tributary to Teton River

- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs, gpd, AFA)		(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive)	
			(Mo., Day)	(Mo., Day)
Quantity	2.0 cfs	Use <u>irrigation</u>	Period of Use From 5/15	To 10/15
Quantity	.04 cfs	Use <u>domestic</u>	Period of Use From 1/1	To 12/31
Quantity	.96 cfs	Use <u>stockwater</u>	Period of Use From 1/1	To 12/31
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To

- | | | |
|-----|---------|----------------------|
| (4) | 3.0 cfs | TOTAL QUANTITY USED. |
|-----|---------|----------------------|

(cfs, gpd, AFA)

- (5) A) Point of diversion: (Location of point where water is diverted from its source)

SW ¼ SE ¼, Sec. 10 Twp. 4N Rge. 45E B.M., County of Teton

Additional points of diversion: SE 1/4 SW 1/4, Sec. 10, Twp. 4N, Rge. 45E

- B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Natural Ditch

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

No. of acres 52

- B) If water is used for other than irrigation, fully describe that use, being as specific as possible:**

Domestic, household use, stockwatering. This is in addition to water used for irrigation purposes.

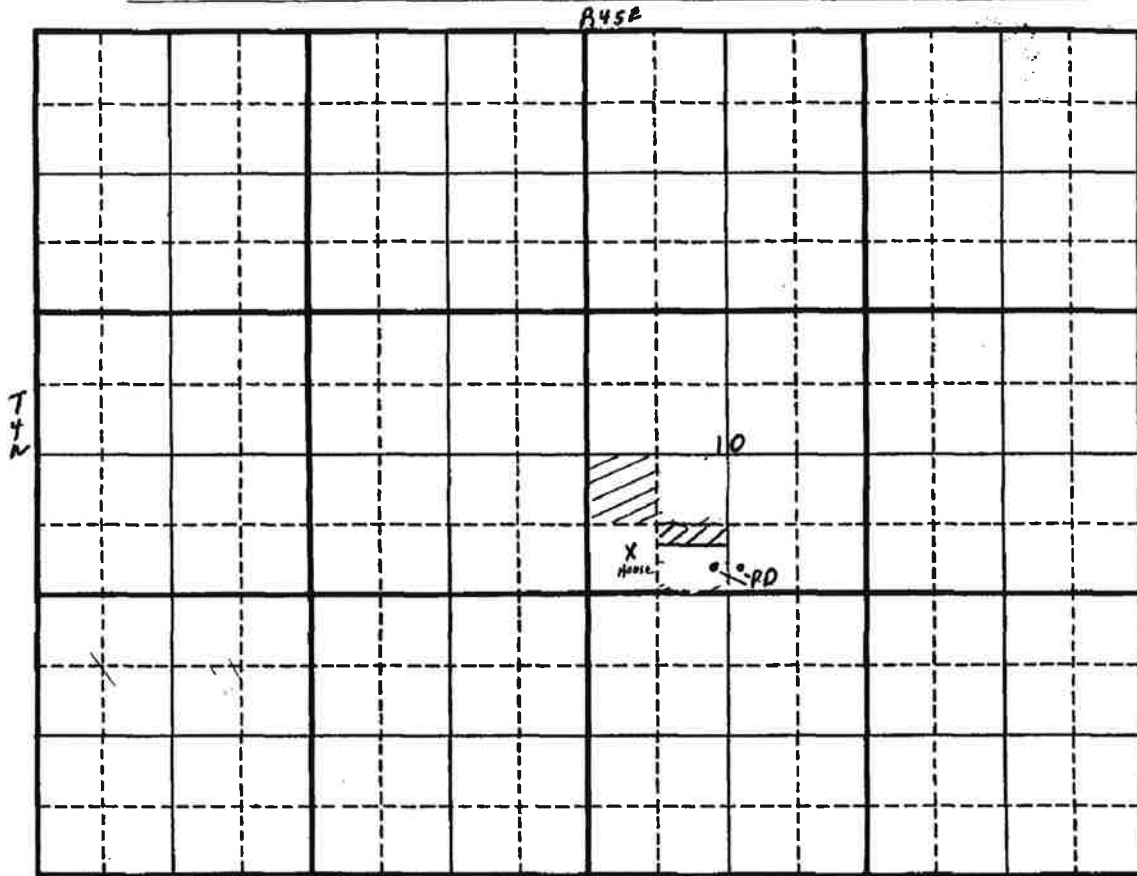
NOTE: Include here the type and number of stock watered: 150 head mixed cattle.

- (7) If you are claiming water as a member of an organization, list name of organization:

MICROFILMED

(8) Remarks Water for purposes herein described has been used consistently since the year of 1910.

7-15-1916



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Bonneville) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 26 day of March, 1980.

Ch. O. Lewis
(claimant)
Kathleen A. Walker
Notary Public
Residing at Idaho Falls

My commission expires 3/26/1980 2/15/83

FOR DEPARTMENT USE ONLY

Received by <u>OC</u>	Date <u>3/26/80</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>AME</u>	Date <u>3/26/80</u>		claimant by:	
\$20.00 fee received by <u>OC</u>	Date <u>3/26/80</u>	#13889		
Published in <u>Teton Valley News</u>				
Dates <u>4/23 & 4/30/80</u>	<u>5/1 & 5/8/80</u>			

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 22-4032
Date Received: 8/3/1988
Receipt No: E001040
Received By:

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

1. Name of Claimant(s)

TETON VALLEY HOLDINGS LLC Phone: (617) 367-3924
C/O CRAIG KNIGHT
2 PRIMUS AVENUE
BOSTON MA USA 02114

2. Date of Priority: 07/15/1910

3. Source: LEWIS-MURDOCK SPRING , LEWIS-MURDOCK SPRING Trib. to: TETON RIVER ,
TETON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
04N	45E	10	SE SW	TETON	
04N	45E	10	SW SE	TETON	

5. Description of diverting works:

DITCHES FROM SRRINGS TO FLOOD IRRIGATION.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/15	10/15	2	
STOCKWATER	1/01	12/31	0.96	
DOMESTIC	1/01	12/31	0.04	

7. Total Quantity Appropriated is:
3 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
04N	45E	10	SW	SW	STOCKWATER	
			NW	SW	IRRIGATION	40
			SE	SW	IRRIGATION	30
			SW	SW	IRRIGATION	20
					Section Acres	90
					Total Acres	90

11. Place of use in counties: TETON

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

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Statutory Claim

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: A22-04032
Date Received: 8/03/1988
Receipt No: E001037
Received By: SM

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: KEITH CLEMENTS 208-356-0559
Address: 10977 SOUTH SNAKE RIVER ROAD
REXBURG, ID 83440
AND/OR
Name: OPAL W. CLEMENTS 208-356-0559
Address: 10977 SOUTH SNAKE RIVER ROAD
REXBURG, ID 83440



2. Date of Priority: JUL 15, 1910

3. Source: LEWIS-MURDOCK SPRING Trib. to: TETON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04N	45E	10	SE	SW			TETON
			SW	SE			TETON

5. Description of diverting works:
DITCHES FROM SRRINGS TO FLOOD IRRIGATION.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/15	10/15	2.000		
STOCKWATER	01/01	12/31	0.960		
DOMESTIC	01/01	12/31	0.040		

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

8. Total consumptive use is 200.0 Acre Feet Per Annum.

9. Non-irrigation uses:
S/150 MIXED CATTLE.

A22-04032

Page 1

Date: 08/03/88

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10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
04N	45E	10	NW		SW		IRR	40.0
			SW		SW		STOCK	
			SW		SW		IRR	20.0
			SE		SW		IRR	30.0
							Section Acres	90.0
							Total Acres	90.0

11. Place of use in counties: TETON

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

13. Other Water Rights Used:
NONE.

14. Remarks:

15. Basis of Claim: STATUTORY CLAIM

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: 1

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): Keith Clements Date: 8-3-88

Date: _____

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 3 day
of August 19 88

Betty J. Thompson
Notary Public

Seal

Residing at Idaho Falls
My Commission Expires 6/2/1994

I-10

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SEP 17 2007

A-199
213-A

D 302

Very Little

10 3/2
10 11

A-126
212-A

Barracks

T. 4 NORTH
R. 40 EAST

PLACE OF USC

Shore Road

POINTS OF DIVERSION

A-116
214-A

4 1/2
9 1/6

Real Christmas

122

B 499

B 127

10

124

130

10

15

221

10

15

15 1/4

H-10
SOUTH

A-141
215-A

5 1/4
8 1/4

OCT 29 1982

MICROFILMED

422-04032

90ac