

12/08/2006

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

RIGHT NUMBER: 22-4044

NAME AND ADDRESS: VERNAL J FOSTER
PO BOX 116
SWAN VALLEY ID 83449-0116

SOURCE: UNNAMED STREAM

TRIBUTARY: FOX CREEK

QUANTITY: 0.800 CFS

PRIORITY DATE: 04/01/1970

POINT OF DIVERSION:

T04N R45E S28 NWNE Within TETON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	0.800 CFS

PLACE OF USE:

IRRIGATION in TETON County

T04N R45E S28	NWNW	26.00	T04N R45E S29	NENE	14.00
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40 ACRES TOTAL

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use



Idaho Department of Water Resources

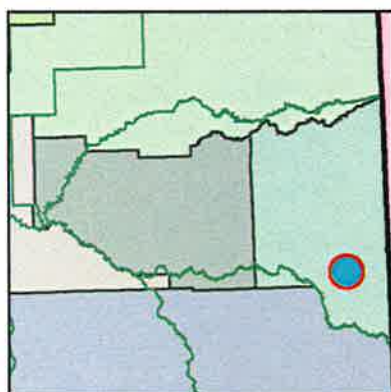
SRBA Recommendation:

22-4044

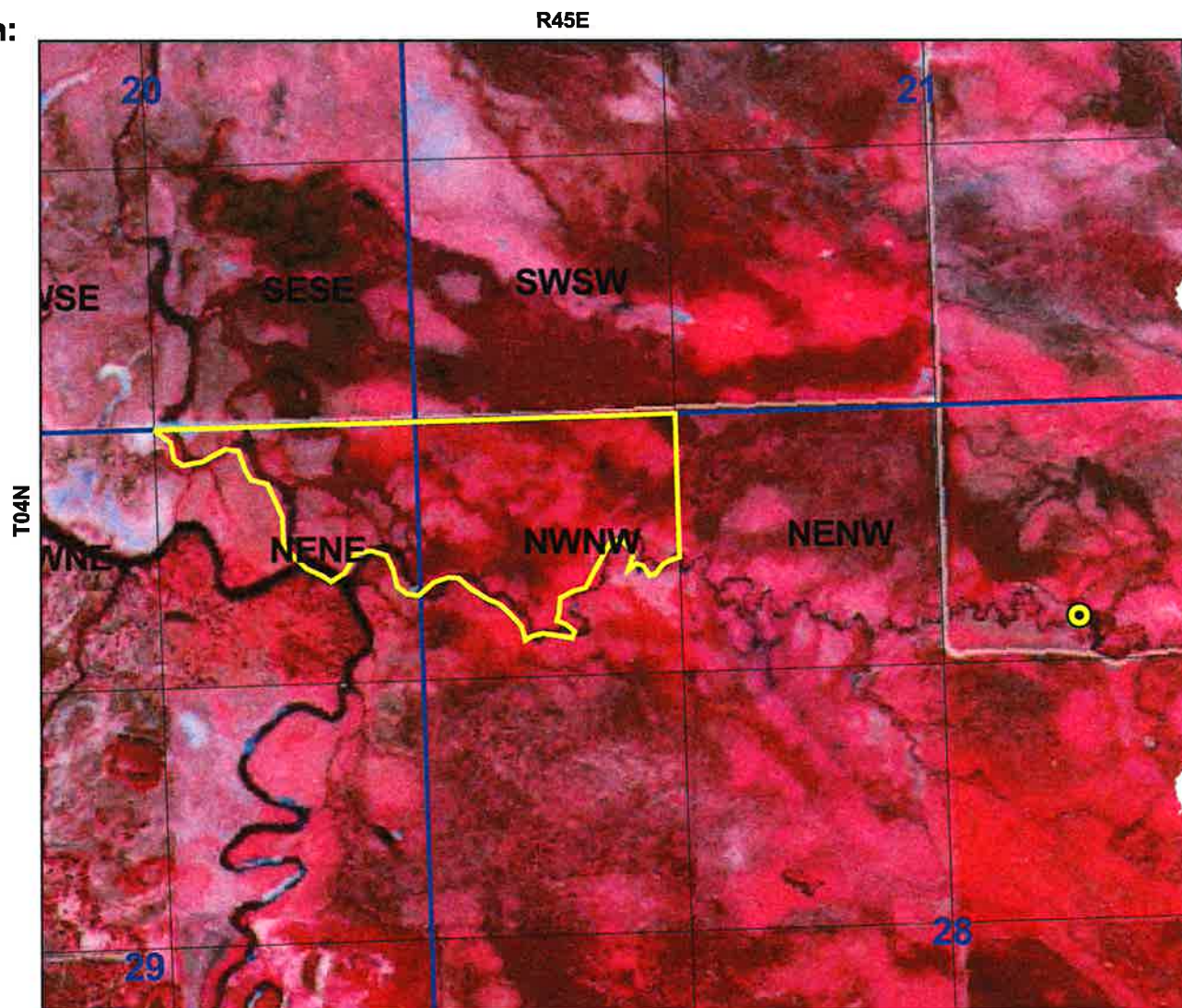
(Irrigation)

Legend

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



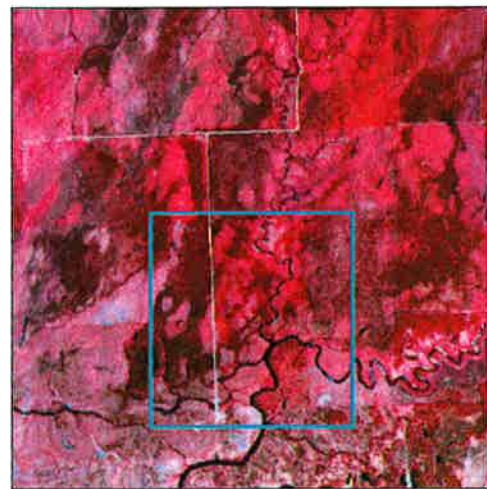
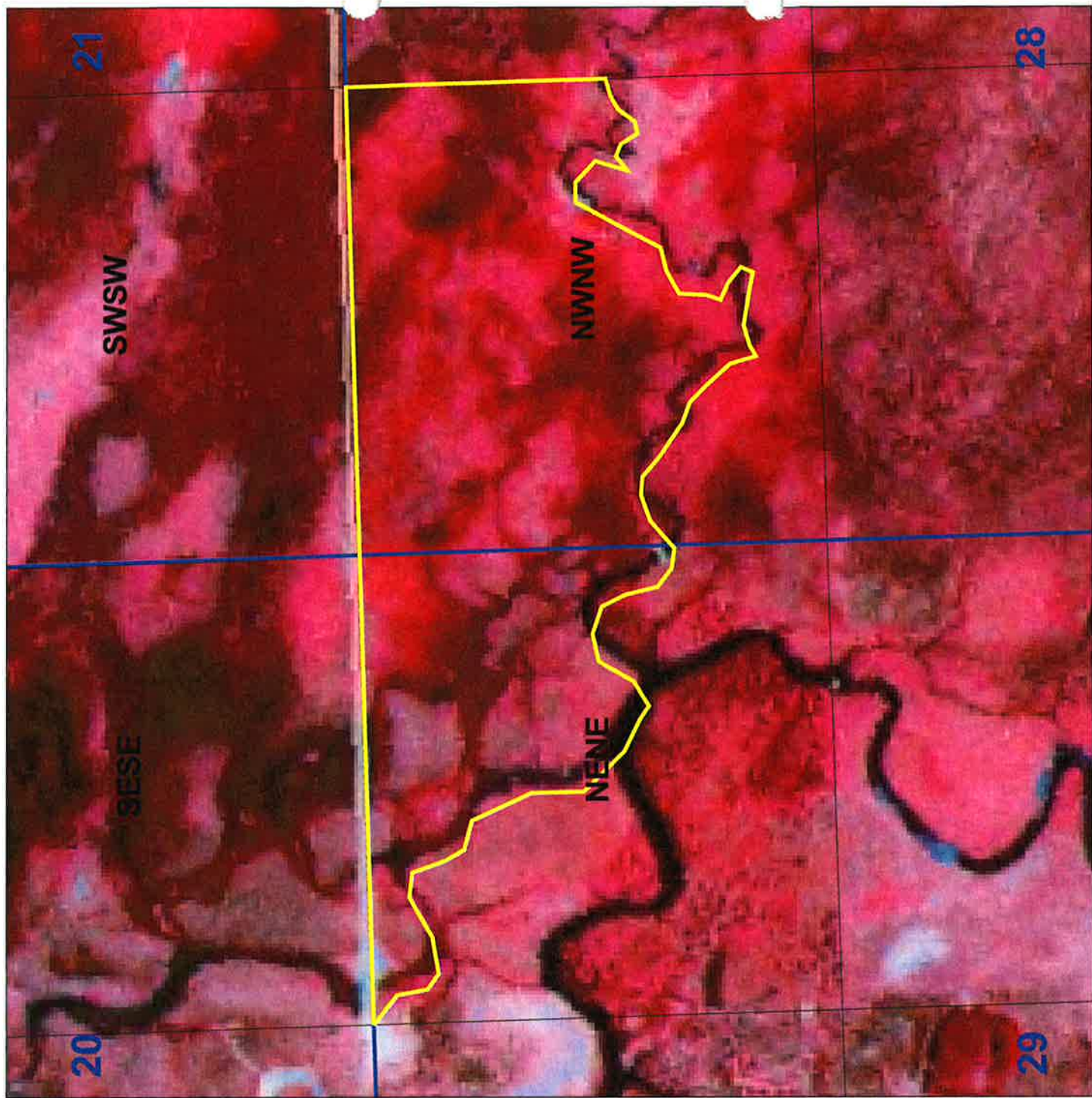
Teton County
IDWR Basin 22



0 0.4 0.8 Miles

Prepared by T. Galbraith
On Friday, December 8, 2006
1987/88 Aerial Photography

22-4044



Dec. 12, 2006

I, Randall J Foster, hereby testifies that my father, Vernal John Foster, owned the NW1/4NW1/4 Sec. 28 and NE1/4NE1/4 Sec. 29 T. 4N R. 45 E. B.M. During the summer of 1969 a handline was used with a portable P.T.O. pump to irrigate the above described property. The inlet hose of the pump was dropped into an unnamed stream that enters the property on the eastern boundary and meanders in a westerly direction to join Fox Creek. In following years, a diversion was built approximately 3/8 mile east of the eastern edge of above described property on the same unnamed stream and ditches used to get the water to property. Theses ditches are still evident along with flood irrigation ditches in the property.

Randall J. Foster

Randall J. Foster

12-12-06

- 1970
- Randall Foster remembers the water being used in 1970 or before because that is when the hand lines went in.

12-8-06
JH

- Recommending a 1970 PD
- Affidavit from Randall will ~~come~~ be sent in.
JH

February 7, 2006

**VERNAL J FOSTER
PO BOX 116
SWAN VALLEY ID 83449**

**IMPORTANT
FINAL NOTICE
PLEASE READ**

RE: EVIDENCE OF PRIORITY FOR SRBA WATER RIGHT CLAIM 22-4044

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, as referenced above, claims a Priority Date of April 1, 1920, from UNNAMED STREAM.

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 Which May Be Evidence of the Priority Date**". **PLEASE READ THE ENCLOSED PAMPHLET.**

.....
The Department will not recommend the Notice of Claim be decreed by the court if evidence of a priority date is not submitted. The Notice of Claim will be disallowed.
.....

Please submit documentation supporting the priority date within 30 days of the date of this letter, referencing all documents with the corresponding claim number. If you have any questions not covered by this letter or the enclosed pamphlet, please feel free to contact this office.

Respectfully submitted,



Allen B. Ruberry
Sr. Water Resource Agent
Adjudication Bureau

cc: File

Enclosure: Brochure on "Evidence of Priority"

May 13, 2004

VERNAL FOSTER
PO BOX 116
SWAN VALLEY ID 83499

RE: EVIDENCE OF PRIORITY FOR SRBA WATER RIGHT CLAIM 22-4044

Dear Claimant (s):

The Idaho Department of Water Resources is nearing the end of water rights review in Basin 22, the Teton River drainage. 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.**

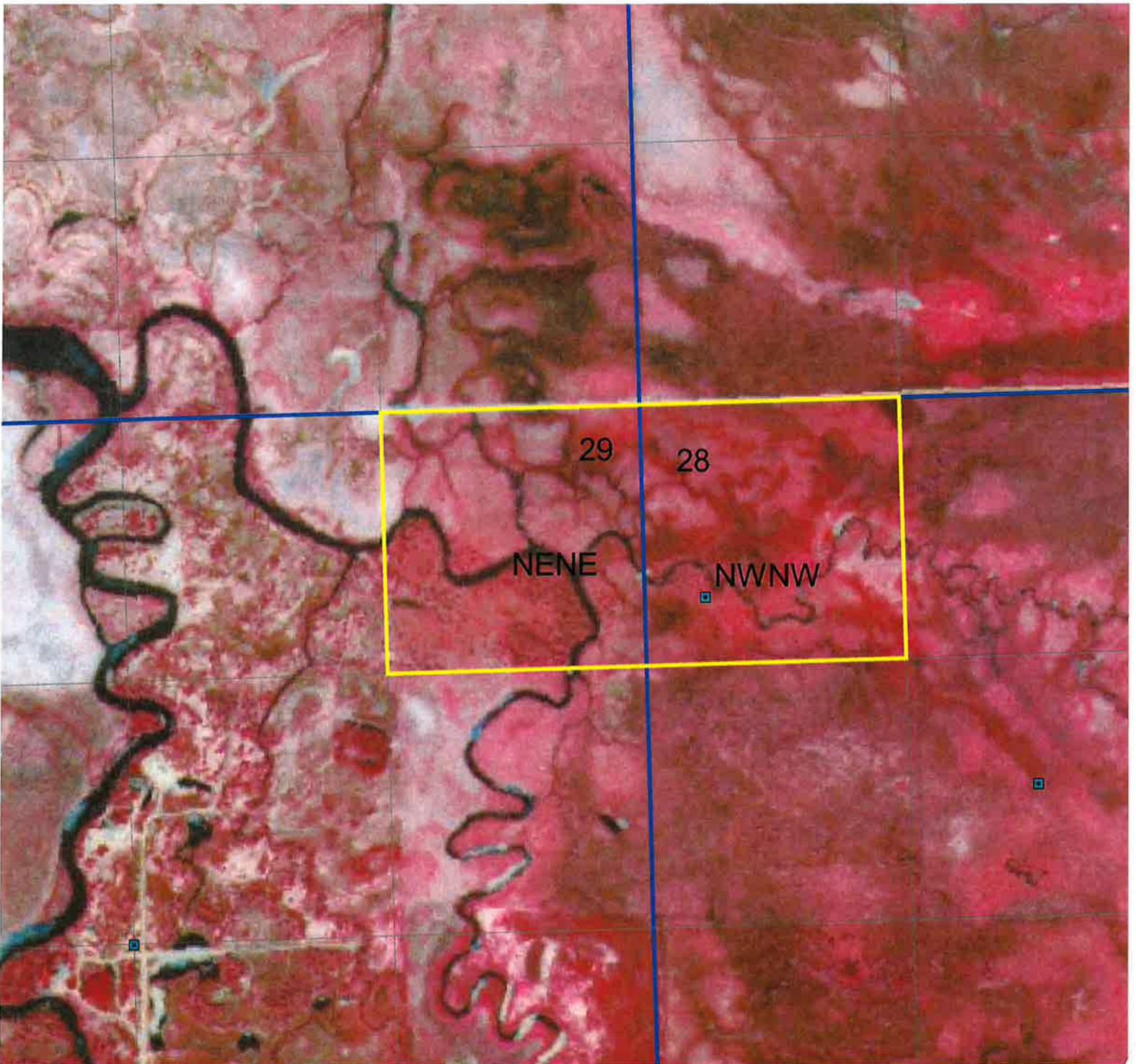
Your claim, as referenced above, claims a Priority Date APRIL 1 1920 from UNNAMED STREAM.

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 Which May Be Evidence of the Priority Date"**. **PLEASE READ THE ENCLOSED PAMPHLET.**

It is our goal to recommend historical water rights within the Snake River Basin as accurately as possible. Field exams to verify other elements of the Notice of Claim have been or soon will be conducted by Department personnel.

22-4044
4N 45E



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: A22-04044
Date Received: 9/19/1988
Receipt No: 6602-447
Received By: SSV

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: VERNAL FOSTER 208-483-2072
Address: BOX 116
SWAN VALLEY, ID 83449

2. Date of Priority: APR 01, 1920

3. Source: UNNAMED STREAM Trib. to: FOX CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
04N	45E	28	SW	NW	NW		TETON

5. Description of diverting works:
DAM & DITCH.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/15	10/15	1.600		

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

8. Total consumptive use is 160.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
04N	45E	28	NW	NW		IRR	40.0
Section Acres							40.0



10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	45E	29	NE	NE		IRR	40.0
Section Acres							40.0
Total Acres							80.0

11. Place of use in counties: TETON

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

13. Other Water Rights Used:
NONE

14. Remarks:
P/D IN NWNW 28 T4N R45E.

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): Vernal Fortin Date: 9-19-88

Date: _____

State of Idaho)
County of Bonneville) SS.

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

[Signature]
Notary Public

Seal

Residing at Idaho Falls, Id.
My Commission Expires 22 Aug 1994

R46E

T314
1415

20 21
29 28

T362
176

(40)

(40)

DITCH

21 22
28 27

POD

A22-04044

4
N

WET
6/12/93

UNCLASSIFIED

29 28
32 33

28 27
33 34