

09/07/2005

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

RIGHT NUMBER: 22-4082

NAME AND ADDRESS: GREEN CANYON HOT SPRINGS INC
C/O PHIL GENE NEIBAUER PRES
PO BOX 235
NEWDALE ID 83436

SOURCE: PINCOCK HOT SPRINGS
SPRING

TRIBUTARY: CANYON CREEK
TRIBUTARY: CANYON CREEK

QUANTITY: 0.460 CFS

PRIORITY DATE: 05/24/1898

POINT OF DIVERSION:

T05N R43E S6 NESWNW Lot 8 Within MADISON County
T05N R43E S6 NESWNW Lot 8 Within MADISON County
T05N R43E S6 NESWNW Lot 8 Within MADISON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 10/31	0.145 CFS
COMMERCIAL	01/01 12/31	0.460 CFS

PLACE OF USE: IRRIGATION Within MADISON County

T05N R43E S06 Lot 4 NWNW 2.5 T05N R43E S06 Lot 8 SWNW 4.7

COMMERCIAL Within MADISON County

T05N R43E S06 Lot 8 SWNW

7.2 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.

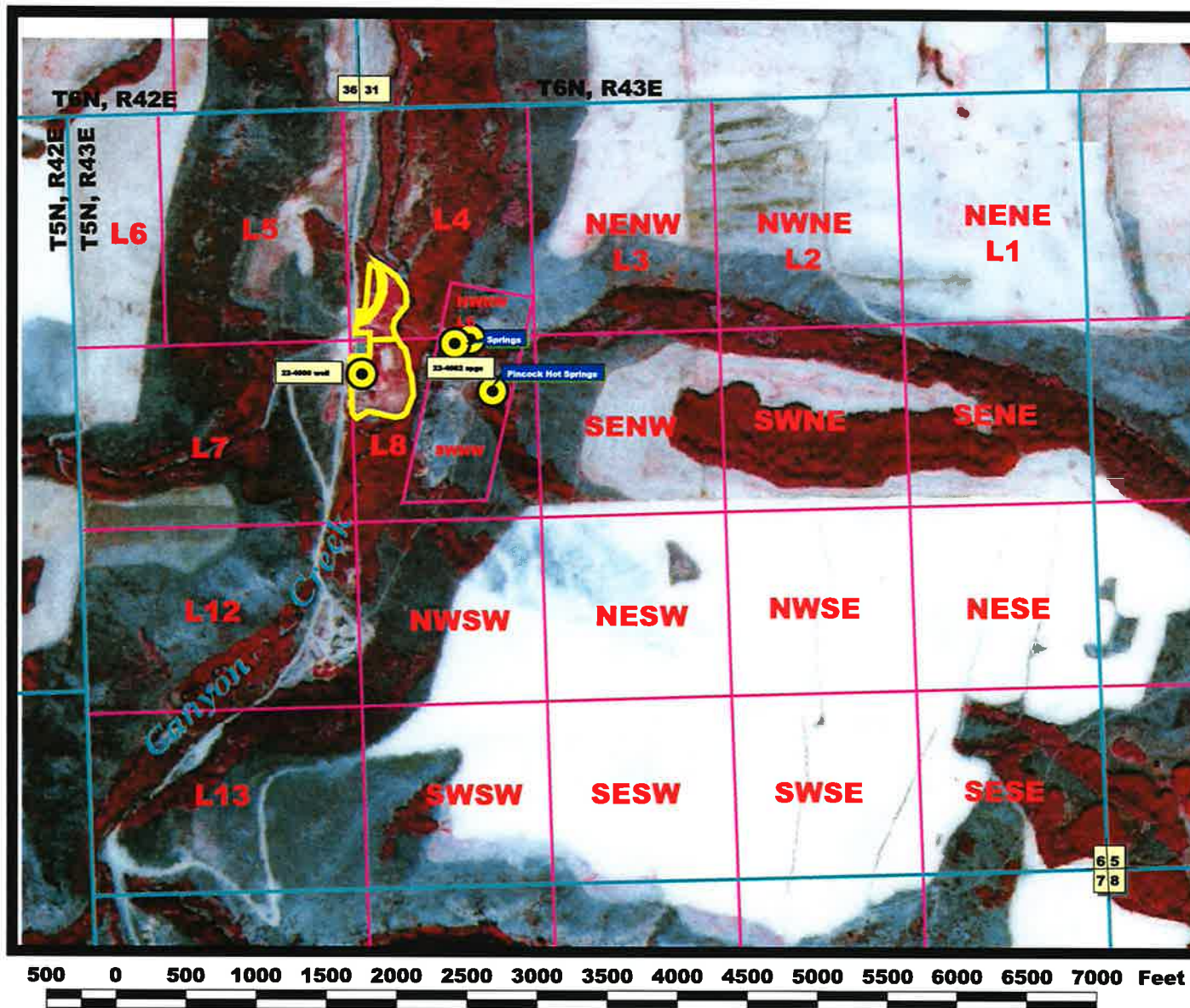
EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use



State of Idaho

Department of Water Resources

Eastern Region



Water Right(s):

22-4080 Domestic

22-4082 Commercial

Point(s) of Diversion:

T5N, R43E Sec. 6

NESWNW (L8) 3 Spgs

NWSWNW (L8) Well

Place of Use: (parts of)

T5N, R43E Sec. 6

NWNW (L4), SWNW (L8)

LEGEND



Point of Diversion

SESE

Place of Use



Section



Quarter-Quarter



GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: A. Ruberry
Date: September 2005

36

31

T6N, R43E

T6N, R42E

T5N, R42E

T5N, R43E

L6

L5

L4

NENW
L3

NWNE
L2

NENE
L1

NWNW
L5

Springs

Pincock Hot Springs

22-4080 & 4081

SWNW

SENW

SWNE

SENE

L7

L8

L12

NWSW

NESW

NWSE

NESE

L13

SWSW

SESW

SWSE

SESE

Canyon Creek

65

78

Claim no. A22-4082

Claimant Contact Log

Date 8-17-05 Remarks Agent initials

HWJ

I met with claimant Phil Neihaur on-site + found 3 separate springs each with a 4" pipe (Buried) that delivers warm water to the swimming pool and a sprinkler system that irrigated ground around the facility.

The three GPS points on the map - 224082, 224082-2 + 224082-3 represent the spring/pipeline spots. Site 224082 is the Pincock Hot Spring site or the main spring. The old pool from the 1890's was at this site also.

The Place of Use map (irrigation) was modified by claimant.

$7.25ac \times .02 = 0.145 \text{ ac irrig}$

Water Right No(s). A22-4082

See attached photos

a/ Main Spring - GPS File 224082 - GPS data 2706270
1402078
Site was 60' SE of actual
P.O.D

b/ #2 Spring - GPS File 224082-2 - GPS data 2706272
1402192

c/ #3 Spring GPS file 224082-3 GPS data 2706188
1402182

GPS DATA:

Tag # No Tags used Location: _____

Diversion Data:

Source: Springs Trib to: Canyon Creek

MOTOR

Make: _____ Model: _____ Hp: _____
SN: _____

PUMP

Make: _____ Model: _____ Disch: _____
SN: _____

NOTES:

Each spring source has a buried 4" pipeline that converge to
cross Canyon Creek & go to pool & irrigation system.
The flow of 0.46cfs was calculated by claimant based on
how long it took spring flows to fill his pool.

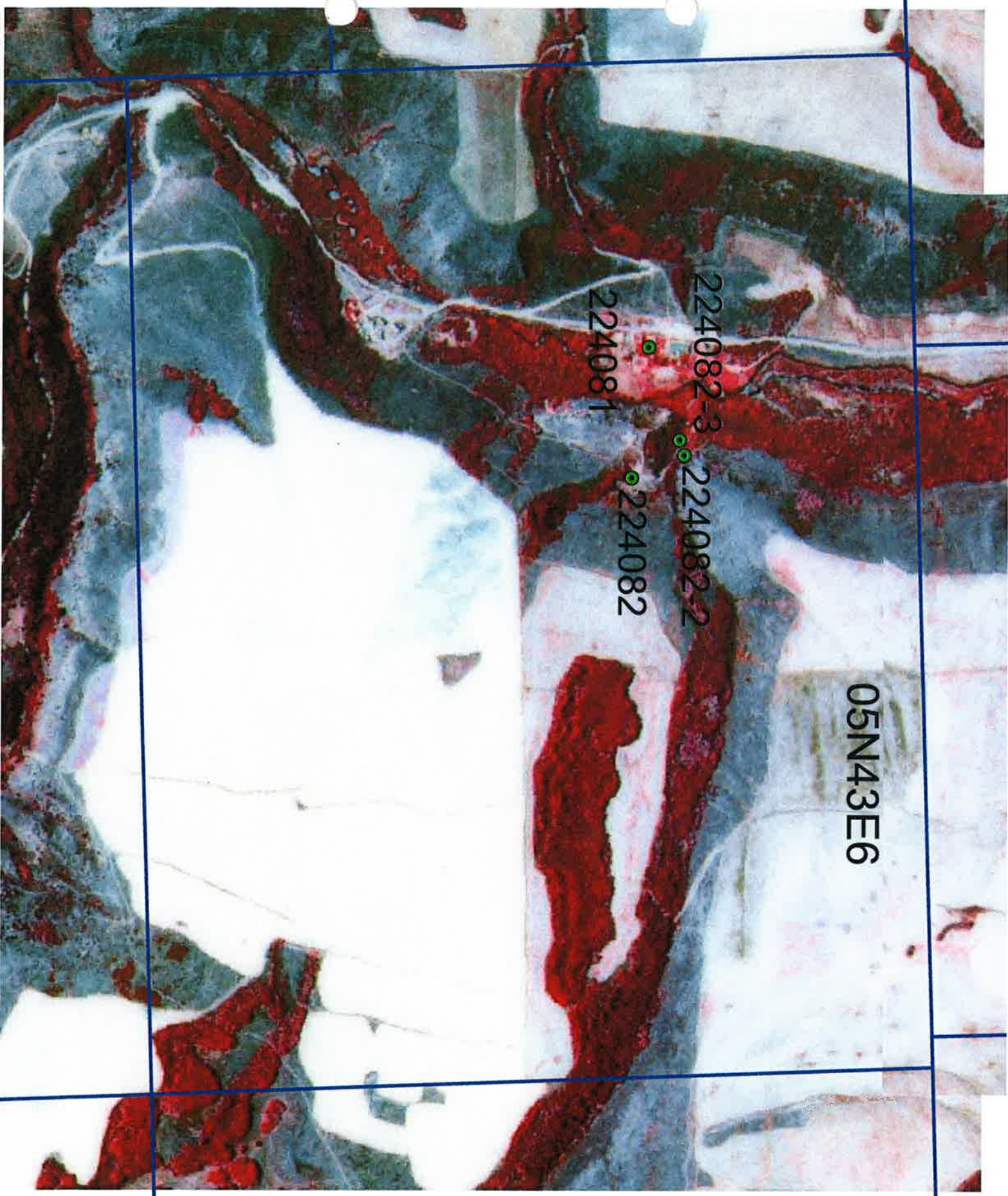
Field Exam Date: 8-16-2005 Agent: D. W. Jones

05N43E6

224082-3 224082-2

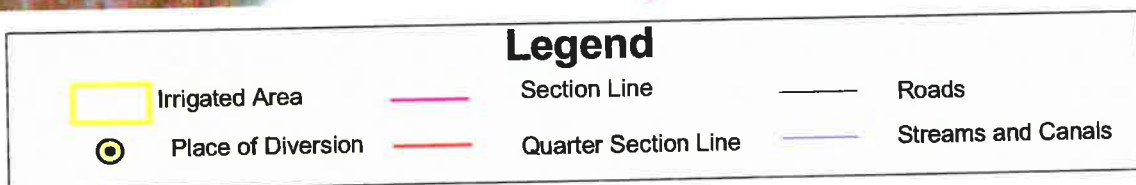
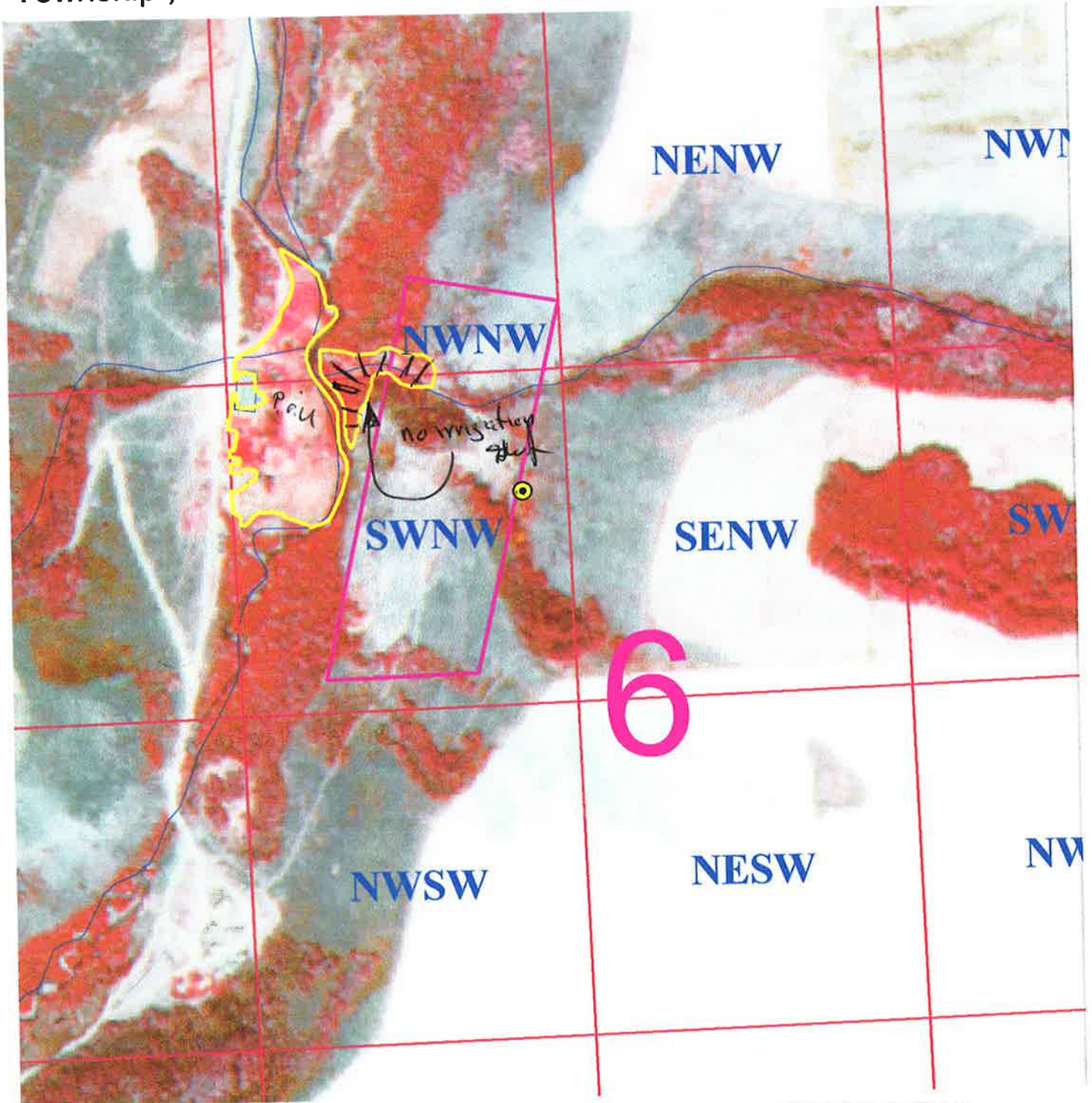
224081

224082



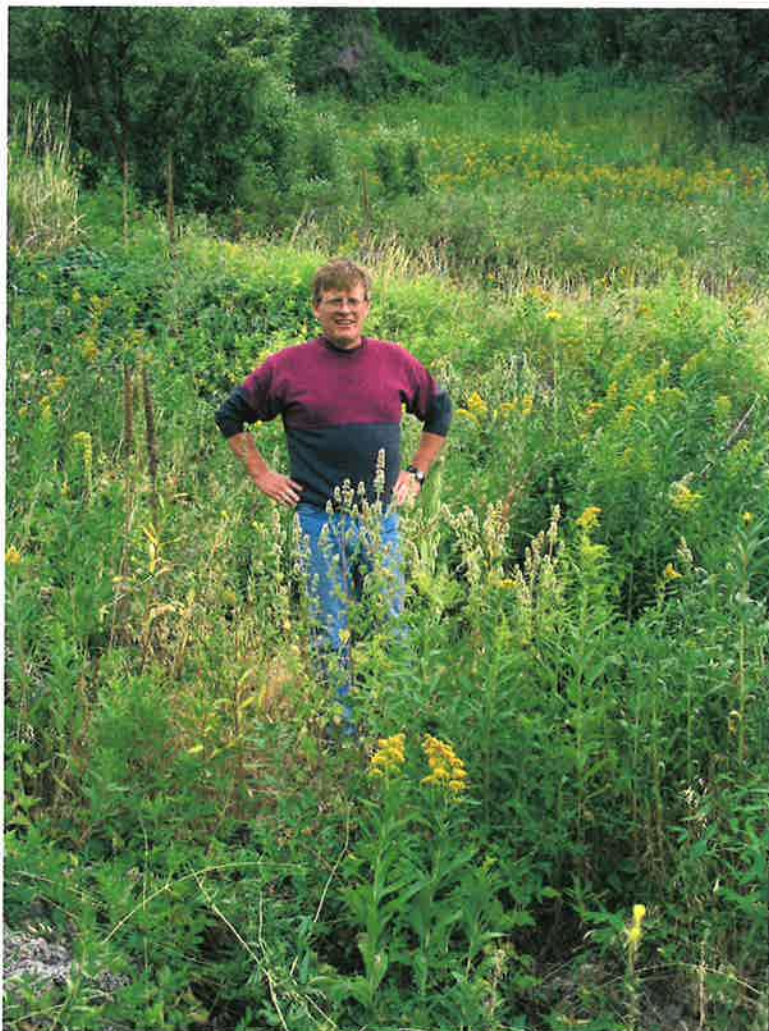
Water Right Claim Number 22-04082
Township , 5N43E

08/09/2001





Claim 122-4082, GPS site 224082 - main spring



Aaa-4082, Gene Neibaur at spring site

224082-2, Springs + pipeline are buried.



A22-4082, Springs site 224082-3, springs + pipeline are buried



A22-4082 pipelines to swimming pool + irrig. system
Springs pipelines (4") come together + cross Canyon Creek
Photo looking East



Aaa-4082, Irrigation system sprinklers from Springs



A22-4082, Swimming Pool

May 10, 2004

**GREEN CANYON HOT SPRINGS INC
C/O PHIL GENE NEIBAUR PRES
PO BOX 235
NEWDALE ID 83436**

RE: EVIDENCE OF PRIORITY FOR SRBA WATER RIGHT CLAIM 22-04082

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 of MAY 24 1898 from PINCOCK HOT SPRINGS.

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.

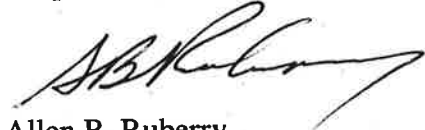
For your reference, I have provided a printout of your Notice of Claim and the pamphlet entitled "**Evidence of Priority**". The pamphlet describes the types of evidence which are acceptable and suggests which documents will fulfill this requirement. While I encourage you to read the entire pamphlet, 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.

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"

Log for claim 22-04082

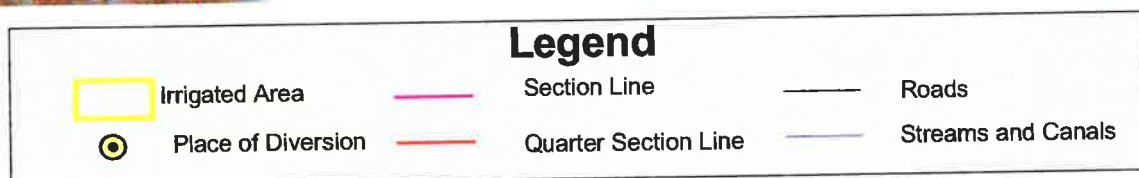
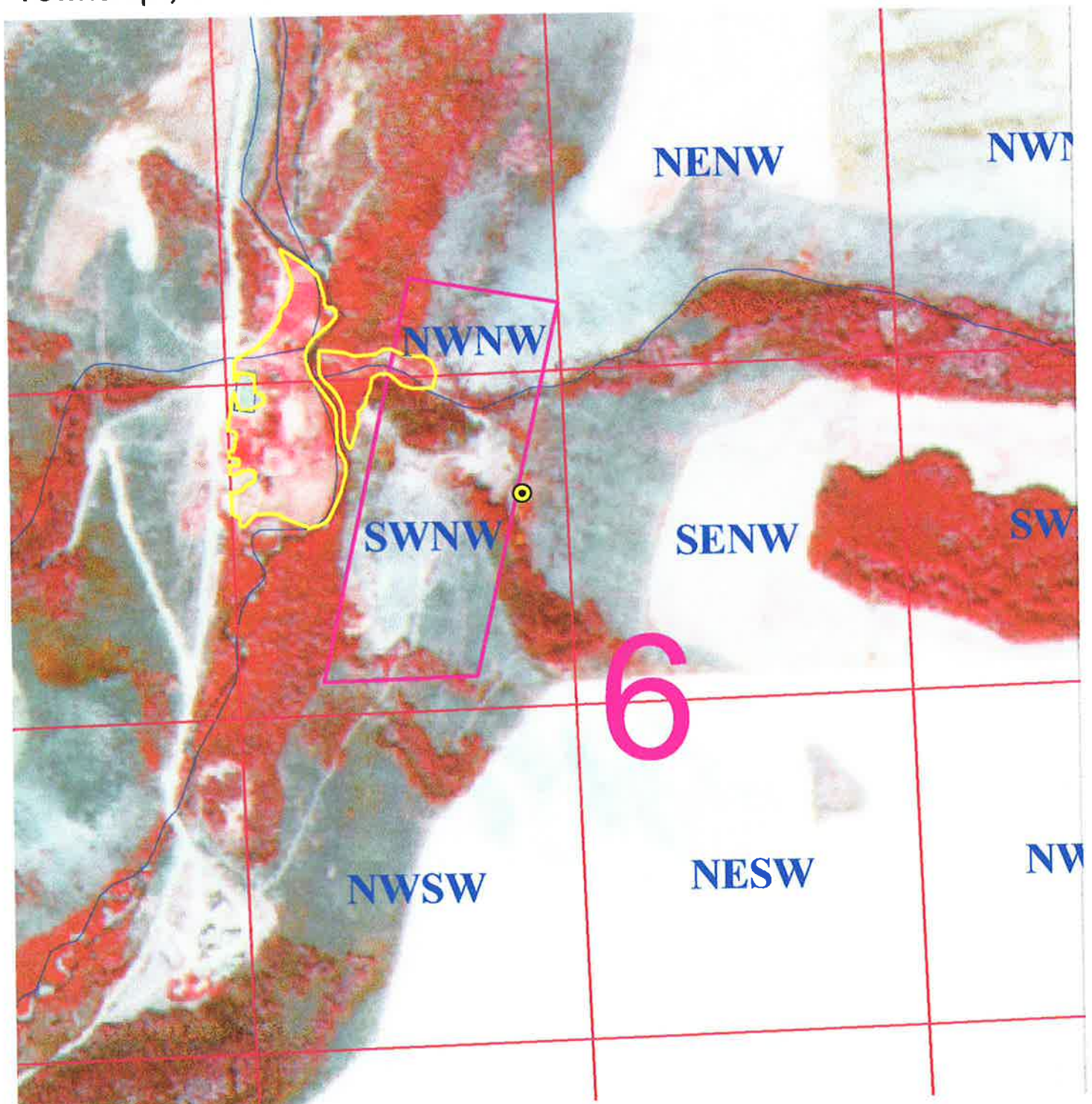
Spatial Dynamics BTD

8/9/01

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
05n43e	6	NWNW	8	3	
05n43e	6	SWNW	9	5.4	
Totals:			17	8.4	

Water Right Claim Number 22-04082
Township , 5N43E

08/09/2001



NOTICE OF WATER RIGHT.

STATE OF IDAHO,

County of Tremont } ss.

TO ALL CONCERNED, NOTICE IS HEREBY GIVEN:

1st. That we, John C. Pruecock and James H. Pruecock of Idaho hereby claim ^{all} the use of the waters of a certain Spring known as Warm Spring, located near the NE corner of Pruecock & Company's mining claim and being on the said claim which claim is in record in said County known as the Warm Spring Land to the extent of all its waters being about 5 cubic feet per second.

2d. It is intended to divert said water at or near the point where a copy of this notice is posted, and more definitely described as follows: at the mouth of said Spring

(In above description give legal subdivision of land or describe the place with reference to some prominent landmark.)

3d. The purpose for which said water is intended to be used is agricultural, medicinal, bathing, power and milling stock growing and domestic purposes.

The place of intended use is a basin for plunge bathing about 80 to 100 feet Northwest of Spring and a bath house to be erected and situated at the Spring for bathing purposes. Also all stock yards and cattle and horses hereafter described.

4th. It is intended to divert said water by means of a ditch, pipe or main running from Spring to bath house, thence to said basin or plunge, thence to said land.

The general course of the proposed canal is ditch, pipe or main is Northwest

The length of the proposed canal is ditch, pipe or main is 80 to 100 feet to basin and to land described below 500 to 800 feet.

It is intended to use said water for irrigating the following described land: a small valley or flat lying immediately North of the said Warm Spring road, also lying immediately West of Canyon Creek and on opposite side from said Spring.

OCT 29 1992

MICROFILMED

over and on opposite side from said spring.

5th. It is intended to have the works for diversion and use of said water as aforesaid completed within five years. (This must in no case exceed five years.)

WITNESS our hand at St. Anthony, Idaho,
this 10th day of May, 1898,
John E. Pincock,
James H. Pincock, } Claimants.

STATE OF IDAHO,
County of Fremont } ss.

John E. Pincock
being first duly sworn, depose and say that he is of lawful age and one of the
claimant of the Water Right mentioned in the foregoing notice and whose name is subscribed thereto. That
the statements in said notice are true, and that the original notice, of which the foregoing is a true copy, was posted
in a conspicuous place at or near the place of intended diversion (as provided by law) on the 24th
day of May, 1898, at 11 minutes past 11 o'clock A.M.

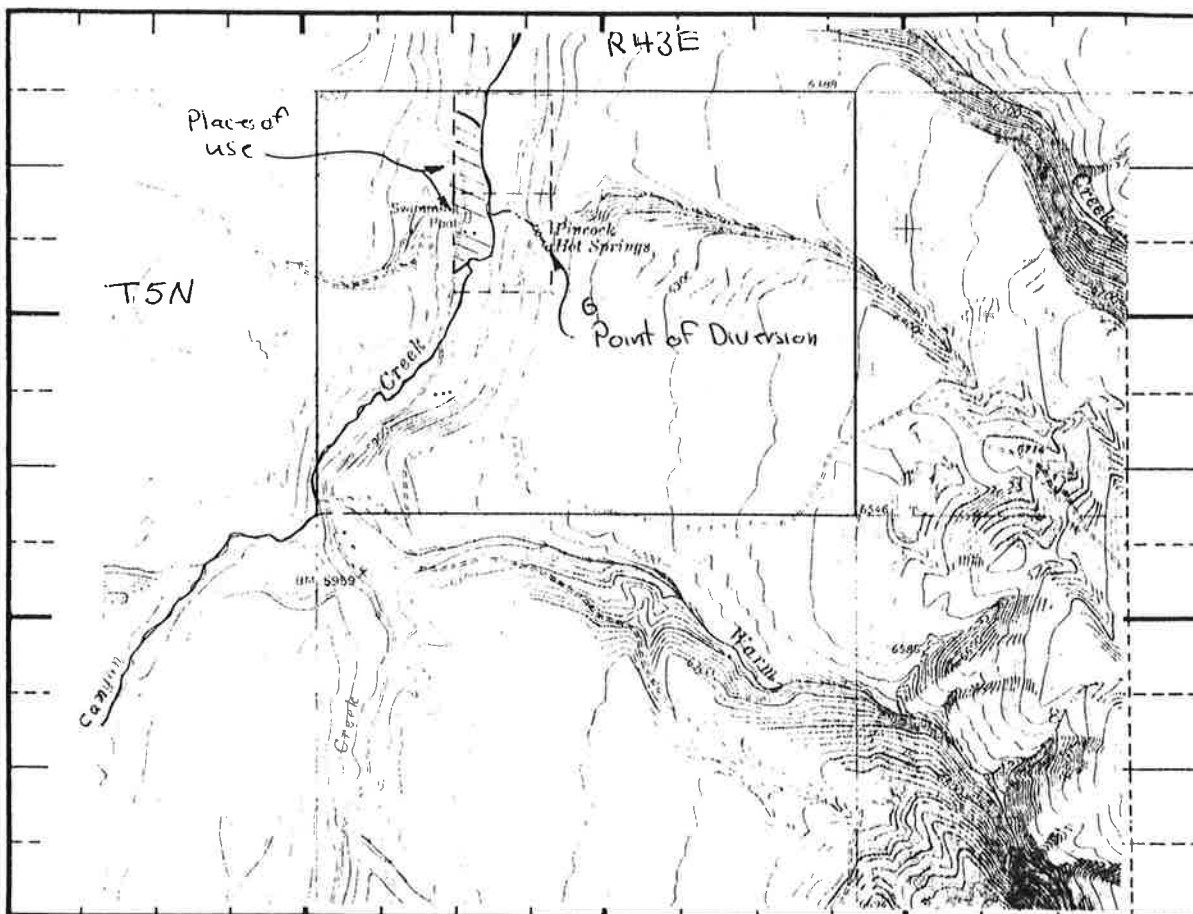
Subscribed and sworn to before me this 24th day of May, 1898.

NOTE.—The above Certificate may, where there are several claimants, be made and sworn to by one of them.

Filed for record this 24th day of May, 1898 at 5⁴⁰ o'clock P.M.
By Ernest Stammwall Recorder.
Deputy.

OCT 29 1892

MICROFILMED



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 _____) 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

14

day of

December

1982

Phil Gene Nilan

(Claimant)

Wm. H. Bell

Notary Public

Residing at

Lyon City, Idaho

My commission expires

9/86

FOR DEPARTMENT USE ONLY

Received by

AW

Date

1-6-83

Exception filed by:

Forwarded to

Date

Prelim. check by

Kaw

Date

1-7-83

claimant by:

\$30.00 fee received by

AW

Date

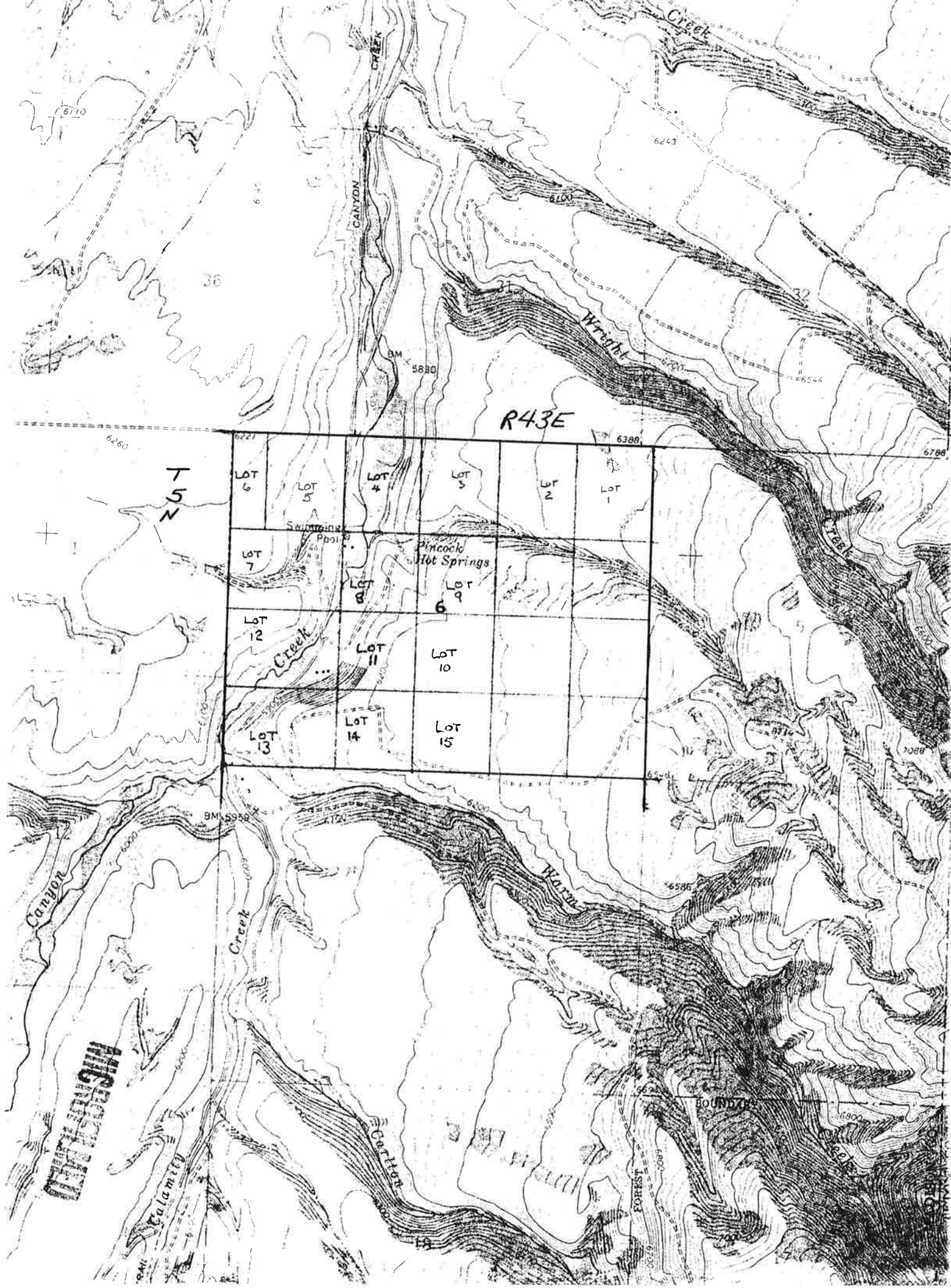
1-7-83 #2328-5

Published in

Standard Journal

Date

1/20 - 1/27/83



NOTICE OF WATER RIGHT RECEIVED

STATE OF IDAHO,

County of Tremont } ss.

JAN 6 1983

NOV 24 1982

Department of Water Resources
Eastern District Office

Department of Water Resources
Eastern District Office

TO ALL CONCERNED, NOTICE IS HEREBY GIVEN:

1st. That we John C. Crucock and James H. Crucock of Teton hereby claim ^{all} the use of the waters of a certain Spring known as Warren Spring, located near the McGowan Ranch & Company running claim and being on the said claim which claim is in record in said County to the extent of all its waters being about 3 cubic feet per second.

2d. It is intended to divert said water at or near the point where a copy of this notice is posted, and more definitely described as follows: at the mouth of said Spring

(In above description give legal subdivision of land or describe the place with reference to some prominent landmark.)

3d. The purpose for which said water is intended to be used is agricultural, medicinal, bathing, power and milling, stock growing and domestic purposes

The place of intended use is a bath for plunge bathing about 80 to 100 feet Northwest of Spring and a bath house to be erected immediately at the Spring for domestic purposes. Also all stock yards and corrals and also hereafter described

4th. It is intended to divert said water by means of a ditch, pipe or main running from Spring to bath house, thence to said bath or plunge, thence to said land

The general course of the proposed canal is ditch, pipe or main is Northwest

The length of the proposed canal is ditch, pipe or main is 80 to 100 feet to bath and to land described feet.

It is intended to use said water for irrigating the following described land: a small valley or flat lying immediately North of the said Warren Spring, and also lying immediately West of Canyon Creek and on opposite side from said Spring

MICROFILMED

even and on opposite same from each other.

5th. It is intended to have the works for diversion and use of said water as aforesaid completed within five years. (This must in no case exceed five years.)

WITNESS our hand at St. Anthony Idaho, this 10th day of May 1898

John E. Pincock
James H. Pincock } Claimants.

STATE OF IDAHO,
County of Fremont } ss.

John E. Pincock
being first duly sworn, depose and say that he is of lawful age and one of the claimant of the Water Right mentioned in the foregoing notice and whose name is subscribed thereto. That the statements in said notice are true, and that the original notice, of which the foregoing is a true copy, was posted in a conspicuous place at or near the place of intended diversion (as provided by law) on the 24th day of May 1898, at 11 minutes past 11 o'clock A.M.

Subscribed and sworn to before me this 24th day of May 1898
Ernest S. Hamwall
Clerk of the District Court.

NOTE.—The above Certificate may, where there are several claimants, be made and sworn to by one of them.

Filed for record this 24th day of May 1898 at 5⁴⁰ o'clock P.M.
By Ernest S. Hamwall Recorder.
Deputy.

MICROFILMED

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: A22-04082
Date Received: 8/23/1988
Receipt No: 6001575
Received By: SA

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: GREEN CANYON HOT SPRINGS, INC. 208-458-4454
Address: C/O PHIL GENE NEIBAUR, PRES.
BOX 235
NEWDALE, ID 83436

2. Date of Priority: MAY 24, 1898

3. Source: PINCOCK HOT SPRINGS Trib. to: CANYON CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
05N	43E	6	NE	SW	NW	8	MADISON

5. Description of diverting works:
GRAVITY FLOW PIPELINES TO SWIMMING POOL & TO SPRINKLER SYSTEM.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	05/01	10/31	0.460		
COMMERCIAL	01/01	12/31	0.460		

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

8. Total consumptive use is 33.0 Acre Feet Per Annum.

9. Non-irrigation uses:
C/SWIMMING POOL, HEATING.

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
05N	43E	6	NW	NW	4	IRR	8.0

A22-04082

Page 1

Date: 08/23/88

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OCT 29 1992



10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05N	43E	6	SW	NW	8	IRR	9.0
			SW	NW	8	COMMER	
						Section Acres	17.0
						Total Acres	17.0

11. Place of use in counties: MADISON

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

13. Other Water Rights Used:
NONE

14. Remarks:

P/U AC. IRR = 16.5.

P/U GREEN CANYON HOT SPRINGS.

HOT SPRINGS USED TO WARM POOL WATER AND IRRIGATE PASTURE AND
CAMP GROUNDS AROUND POOL.

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 x wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 2

For Organizations:

I do solemnly swear or affirm that I am President of _____
Title

Green Canyon Hot Springs Inc. that I have signed the foregoing
Organization
document in the space below as President of _____
Title

Green Canyon Hot Springs Inc. and that the statements contained in the
Organization
foregoing document are true and correct.

Phil Gene Neilson
Signature of Authorized Agent

Pres. Green Canyon Hot Springs Inc.
Title and Organization

Aug. 23, 1988
Date

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 23rd day

of August 19 88

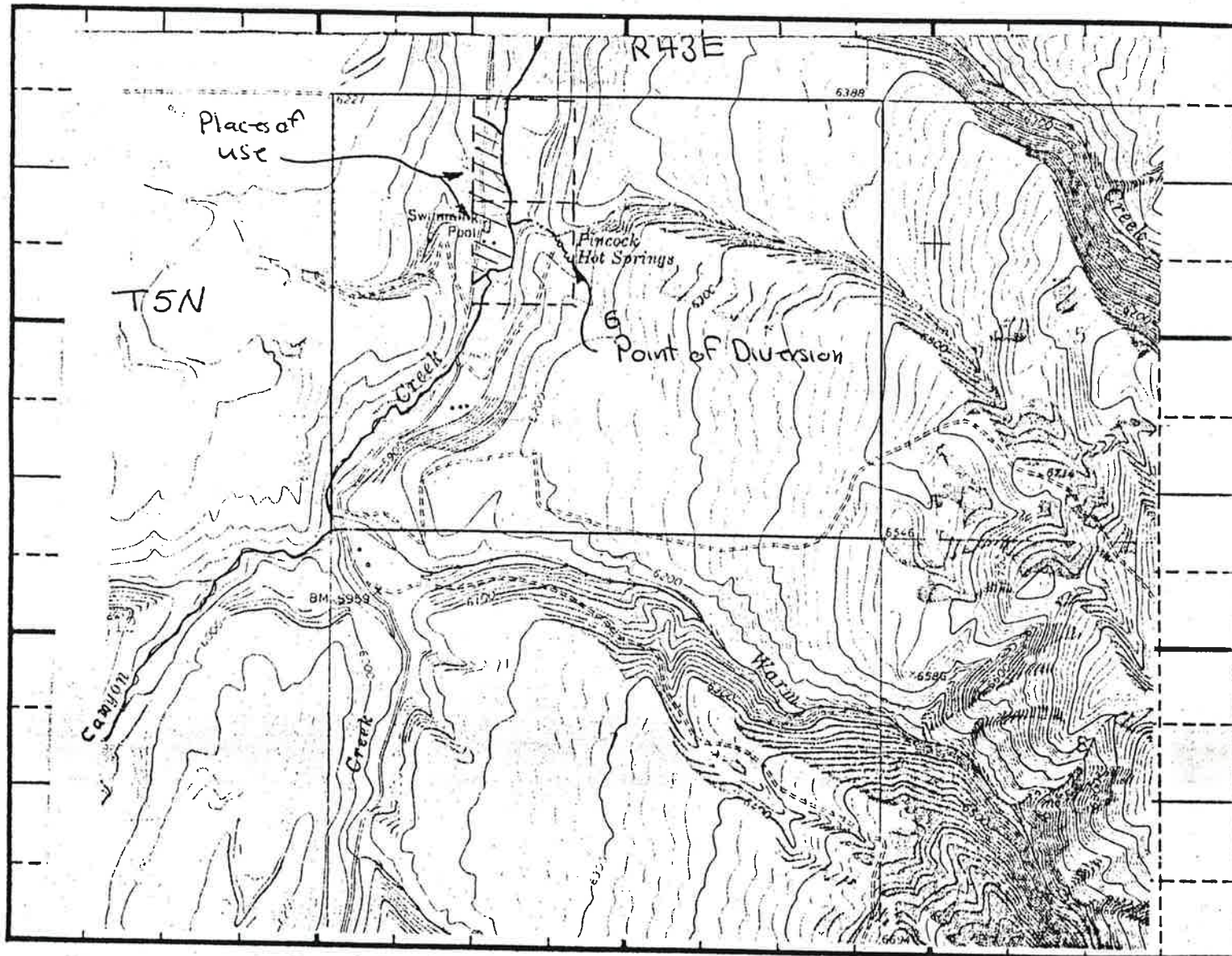
Betty J. Thompson
Notary Public

Seal

Residing at Idaho Falls

My Commission Expires 6-94

(8) Remarks _____



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)
) ss.
 County of _____)

MICROFILMED
OCT 29 1992

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim