

10/12/2006

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

RIGHT NUMBER: 22-4148
NAME AND ADDRESS: LOWELL E BIRCH
395 N 2200 E
ST ANTHONY ID 83445
RAYOLA R BIRCH
395 N 2200 E
ST ANTHONY ID 83445

SOURCE: SPRINGS TRIBUTARY: SINKS

QUANTITY: 0.250 CFS

PRIORITY DATE: 06/01/1960

POINT OF DIVERSION:
T07N R40E S15 NWSWNE Within FREMONT County
T07N R40E S15 SESENE Within FREMONT County

PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	04/01 10/31	0.250 CFS
PLACE OF USE:	<u>IRRIGATION Within FREMONT County</u>		
	T07N R40E S15 NWNE	5.50	T07N R40E S15 SWNE 6.20
	T07N R40E S15 SENW	0.70	
	12.4 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

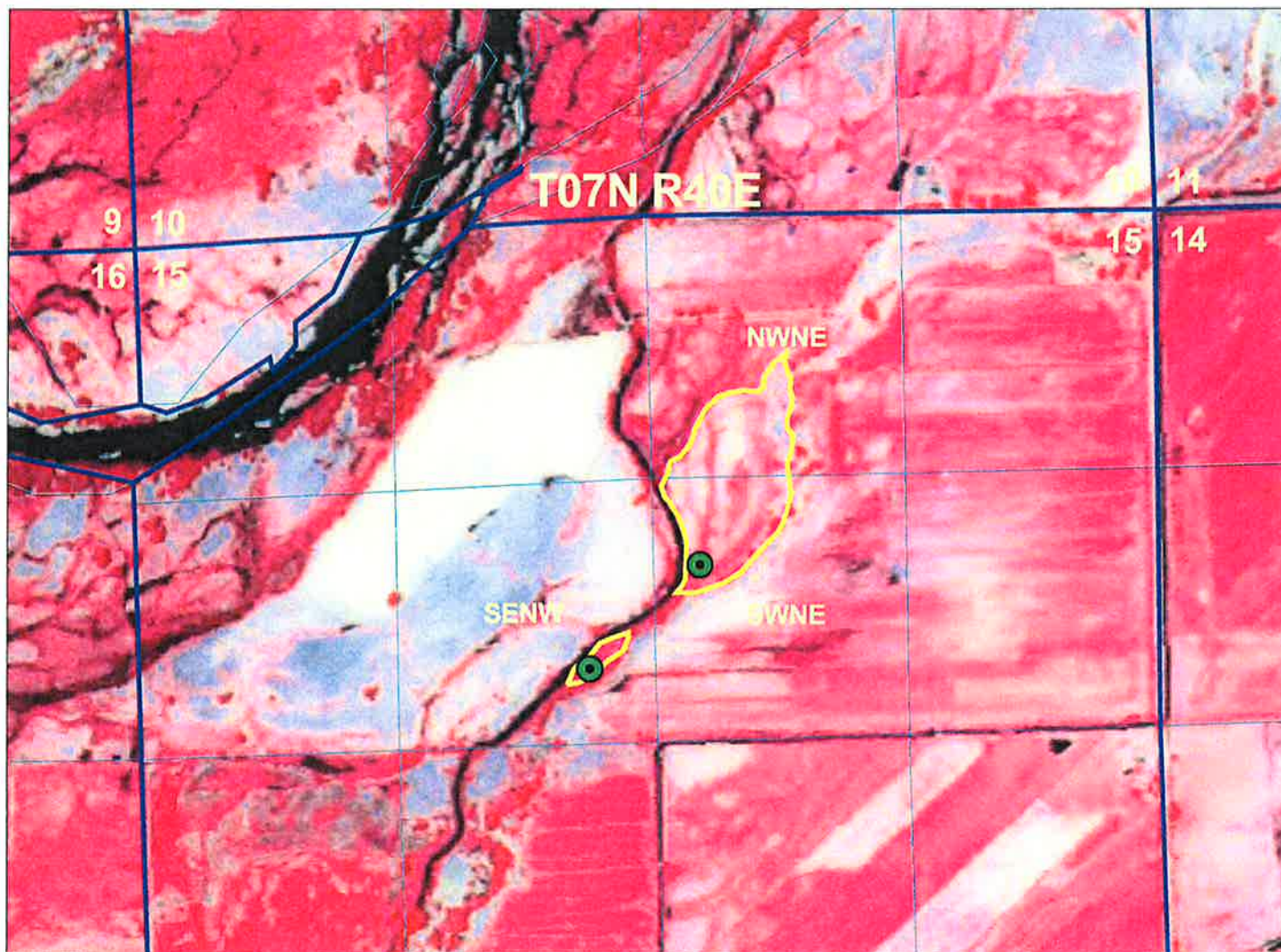


Department of Water Resources

Eastern Region

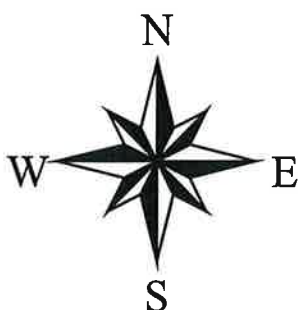


Claim No.: 22-4148



0 660 1320 1980 2640 Feet

-  Point of Diversion
-  22-4148
-  Township/Range
-  Sections
-  QQ



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

10/12/2006

**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: 22-4148

LOWELL E BIRCH
395 N 2200 E
ST ANTHONY ID 83445
Telephone Number: (208)624 3051

RAYOLA R BIRCH
395 N 2200 E
ST ANTHONY ID 83445

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

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

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

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

DATE: 10-29-06 SIGNATURE: Rayola R. Birch

Please print your name: Rayola R. Birch

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

KUT
11/08



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

EASTERN REGION

JAMES E. RISCH
Governor

KARL J. DREHER
Director

October 12, 2006

Lowell E Birch
395 N 2200 E
St Anthony Id 83445

Dear Mr. Birch,

RE: Change to Preliminary Director's Report **22-4148**

The purpose of this letter is to notify you the Preliminary Director's Report you previously received for the above referenced claim has been changed. A printout of the new Preliminary Director's Report is included for your records.

The notices of error and new claims received subsequent to the mailing of the Preliminary Director's Report caused us to re-examine the recommendations involving water right **22-4148**. The recommendation has been changed to more accurately reflect the source for this claim.

If you have questions or wish to schedule an appointment please call me at the above number.

Respectfully,

Trent Galbraith
Water Agent
Adjudication Bureau

Enclosure

Amended Preliminary Directors Report

NOTES

11-9-04

Original claim is for 130 ac. According to field exam by Skip, only 12.4 ac are being irrigated. This has been the practice for some time. Dennis verified POU. Because of topography and such, it is difficult to get spring water across to the rest of the property. Canal water is used to irrigate the rest.

Recommending 1 1/2 ac. for 12.4 ac. Priority date is ok. Canal shares are not used on this portion of land.

Water Right No(s). A22-4148

See Attached Photos

Source actually looks like waste water + seep
From canal just above Points of Diversion

2/ Cfs seems excessive, especially in light of reduced
acres.

3/ System is flood irrigation to series of ditches.

4/ No Flumes over canal to property to west

GPS File
GPS Data - A224148-1

2682500
1417564

GPS File
A224148-2

2682274
1417403

GPS DATA:

Tag # No Tag Location: _____

Diversion Data:

Source: Springs Trib to: Henry's Fork

MOTOR

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

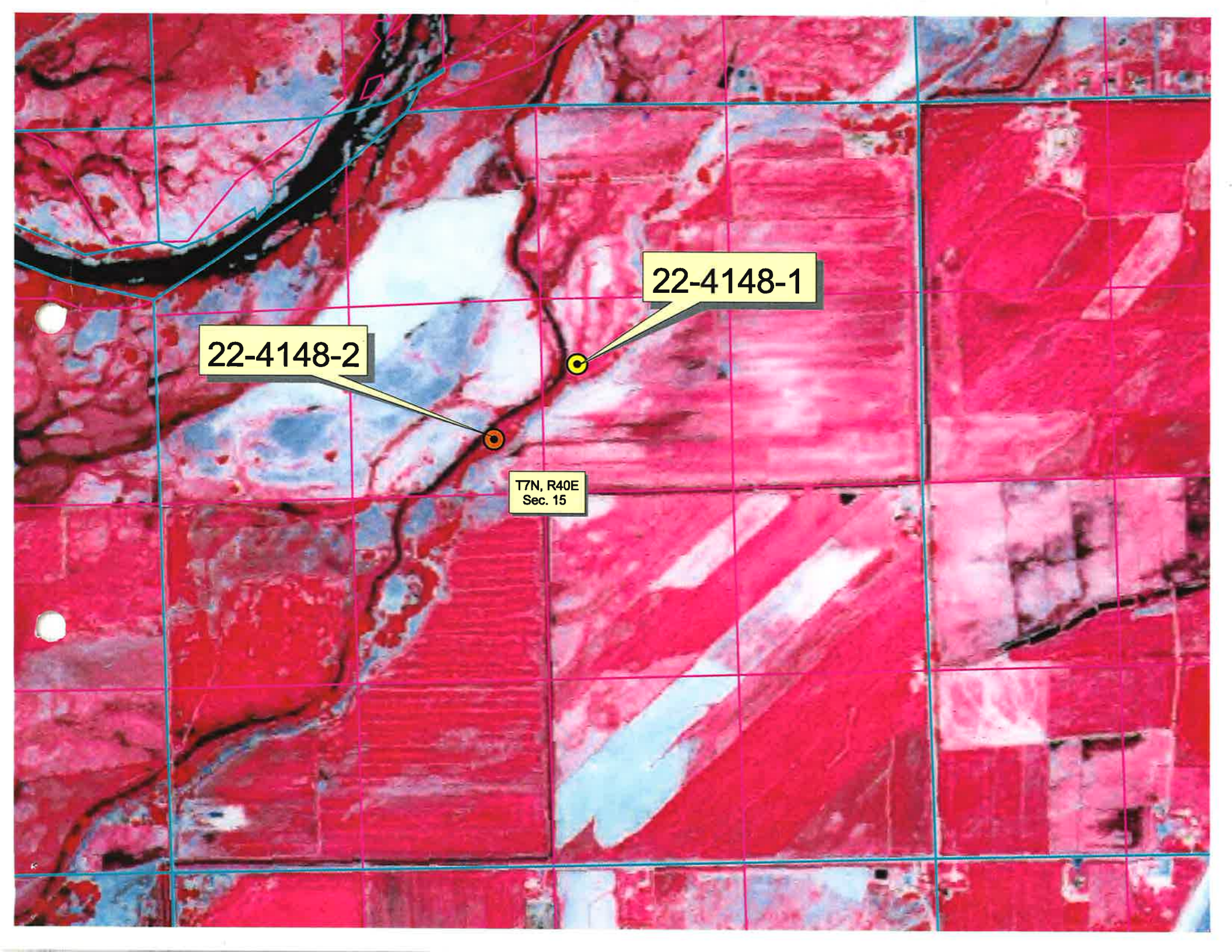
PUMP

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

NOTES:

Applicant Lowell Birch passed away in Sept 2004. Reynolds is
Sale owner. New address is 395 N. 2200 E., St. Anthony, ID.
83445. Phone is still good. Dennis Birch, son, was on-site
with me + modified P.O.U. map. Dennis Birch's phone is
256-4988.

Field Exam Date: 10-18-2005 Agent: J.W. Jones



22-4148-2

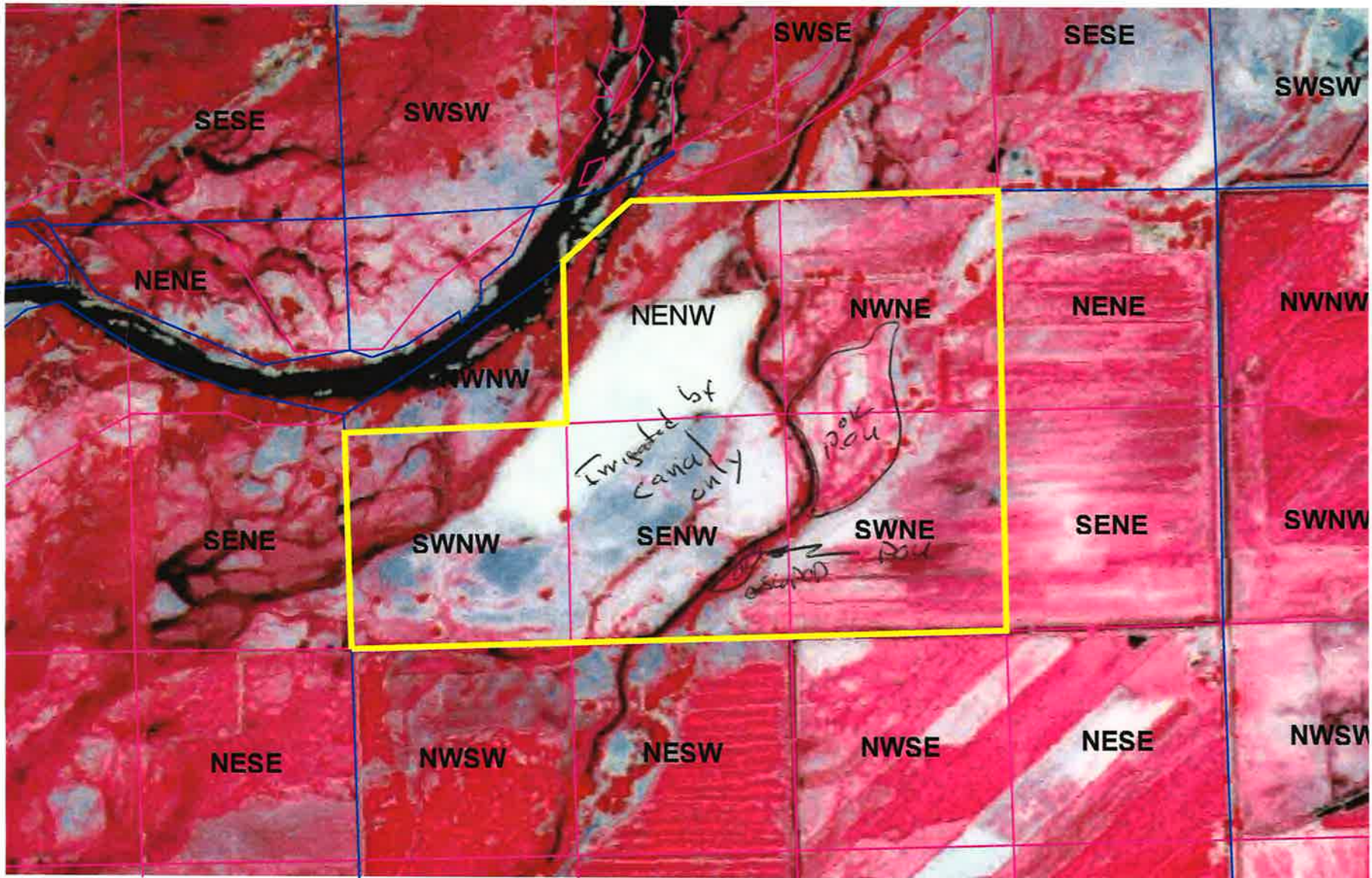
22-4148-1

T7N, R40E
Sec. 15

Township
07N

Range
40E

Section
15



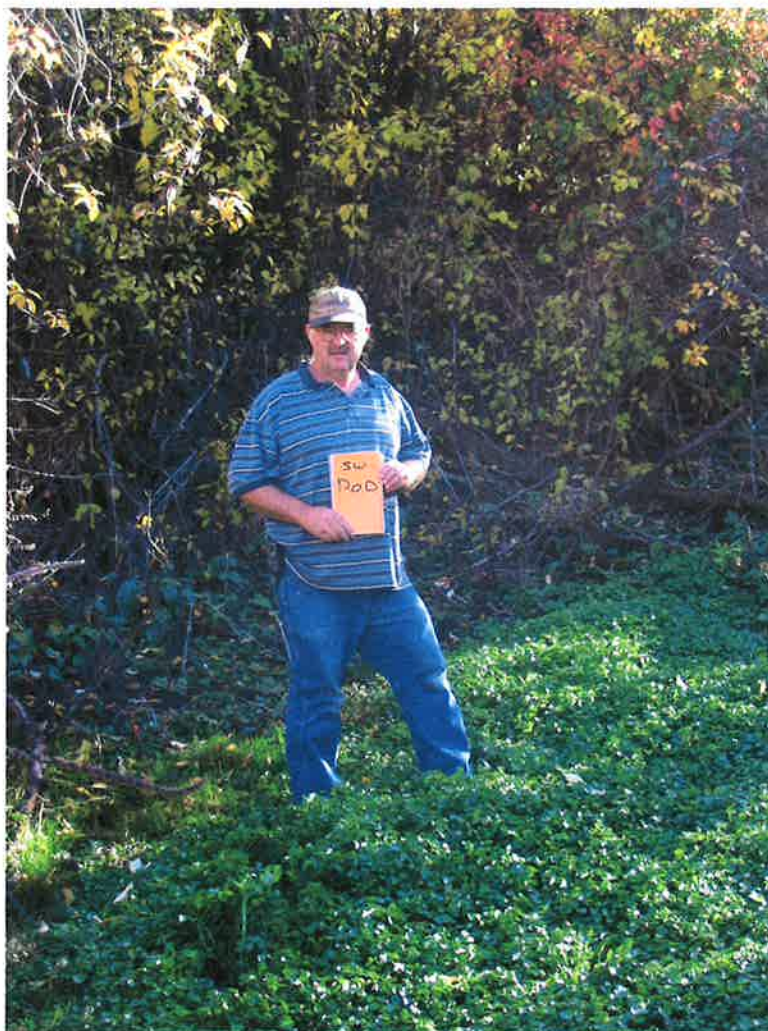
Notes:

Water Right #: 2204148

Examiner

Date:



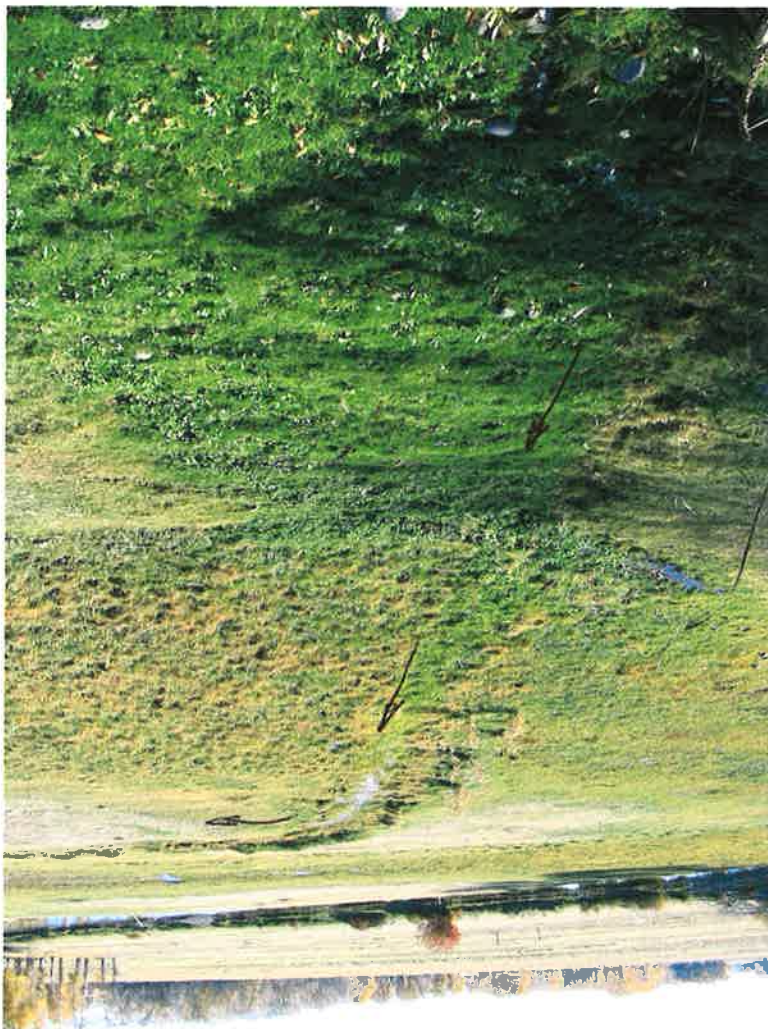


A22-4148, P.O.D. #2, Looking West



A22-4148 , P.O.D. # 1 , Locking West

A22-4148, P.O.D #1, water running East



May 28, 2004

**LOWELL OR RAYOLA BIRCH
RT 1 PO BOX 8
ST ANTHONY ID 83445**

RE: EVIDENCE OF PRIORITY FOR SRBA WATER RIGHT CLAIM 22-4148

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 JUN 1 1960, from 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"

June 28, 2004

RECEIVED
JUL 15 2004
Department of Water Resources
Eastern Region

Idaho Department of Water Resources
Adjudication Bureau
Statehouse Mail
Boise, Idaho 83720-9000

WJOK

RE: EVIDENCE OF PRIORITY FOR SRBA WATER RIGHT CLAIM 22-4148

To Whom It May Concern:

I purchased this ranch in 1953 from Estil Fisher. At that time the springs ran out of the hillside and watered the ground. After I purchased the ranch, my sons and I put in ditches to be able to further irrigate the pasture with this water. In 1988 I went to the Idaho Water Resource office in Idaho Falls and filed on the springs with a priority date of 1960. The springs have continually watered the pasture and cattle for the last 50 years.

I am enclosing the notarized letters from the following people.

Three sons - Michael Birch, David Birch, and Kenneth Birch

Two neighbors - Vard Wright, J.T. Beech

My brother - Vincent Birch

If there is anything else that I can provide or do to help with this water matter, please let me or my son know.

Sincerely,

Lowell E. Birch

Lowell E. Birch
(208) 624-3051

RECEIVED

JUL 15 2004

Department of Water Resources
Eastern Region

July 7, 2004

State of Idaho Department of Water Resources

Reference Claim Number 22-4148

Dear Water Resources:

This letter documents my knowledge of the fresh water springs that are located on the farm of Lowell and Rayola Birch. (claim # 22-4148)

I am the oldest child of Lowell and Rayola Birch, (born 1945). I lived on the farm until I was married in 1969, and since that time I have lived in Eastern Idaho. My family now visits the farm and enjoy hiking, as we say, "below the hill" where the springs are. You can see plenty of birds and other animals around the springs.

The springs in question have provided water for irrigation of pasture and cultivated farm land. I have hunted waterfowl on the ponds that the springs create.

Lowell Birch built ditches to move the water around on pasture land.

I hope this provides you with the needed documentation. Thank you for your consideration.

Sincerely,

Michael Birch

*Appeared before me this 7th day of July, 2004.
Michael Birch*



*Janette Whyte
Notary for Idaho
Comm exp. 6/2010*

VERIFICATION OF HILLSIDE SPRINGS ON THE LOWELL BIRCH PROPERTY:

RECEIVED

JUL 15 2004

Department of Water Resources
Eastern Region

TO WHOM IT MAY CONCERN:

Having been raised on the Lowell Birch property I remember the springs along the hillside.

During the years from when I was 10 to 20 years old from about 1957 to 1967 the springs were used for irrigating the land between the hill and the canal. We dug ditches so that the land could be irrigated. I remember putting in dams in the ditches and changing them each day during the irrigation season.


David R. Birch

STATE OF IDAHO

SS:

COUNTY OF CARIBOU

On this 6th day of July, 2004, before me, the undersigned, a Notary Public, in and for said State, personally appeared David R. Birch, know to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same as his free act and deed for the uses, purposes and consideration therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the said date.





Notary Public, residing at Soda Springs

My commission expires 7-18-08

RECEIVED

JUL 15 2004

Department of Water Resources
Eastern Region

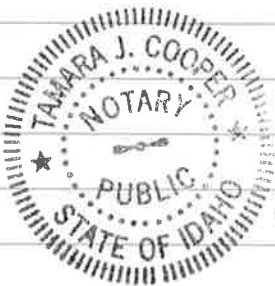
To Whom it may concern -

I Vincent A. Birch have been asked to write a statement about the springs on the Lowell E. Birch Ranch south west of St. Anthony Idaho.

I remember seeing the springs running water out of the base of the hill in the mid 1950's. Ditches were made, and ponds were dozed out to get the water out on the pasture land down below the hill. Much of the ground below the hill was irrigated with that water. The water had been used for many years before that.

Thank You

Vincent A. Birch



Tamara J Cooper
Notary Public
Expires 11/24/06

RECEIVED

JUL 15 2004

Department of Water Resources
Eastern Region

6-25-2004

Verification of hillside springs on
Lowell Birch Property

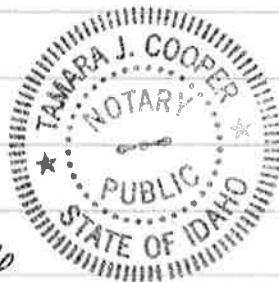
In 1931 my father purchased property next to the property now owned by Mr. Lowell Birch. In 1961 we purchased the place from my father. Our irrigation headgate in the Consolidated Farmers Canal is located just across the canal from where these springs come out of the hillside. I have observed these springs running water for the last 44 years.

J. T. Beech

2198 E. 200 N.

St. Anthony, Idaho 83445

Tamara J Cooper
Notary Public
St. Anthony
expires 1/24/06



June 23, 2004

TO WHOM IT MAY CONCERN

Having lived here all my life (62 years), I remember as a kid hunting and fishing along the hillside on the Lowell Birch property and seeing the springs that they have filed on. These springs have probably been there since irrigation has been in the area

Sincerely

Vard Wright

Vard Wright

RECEIVED

JUL 15 2004

Department of Water Resources
Eastern Region



Ladonna Henman
Regley ID
Expires 6-1-05

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 Lowell E. or Rayola R. Birch

Rt. #1, Box 8, St. Anthony, ID 83445

5 (Name of Claimant)

Telephone No. 208-624-3051

(Mailing Address)

(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) June 1, 1960

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)

Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
 Unnamed springs tributary to Consolidated Farmers Canal

(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, af)		(Domestic, Irrigation, Stock, Etc.)		(Both dates inclusive)	
Quantity		Use		(Mo., Day)	(Mo., Day)
3.20 cfs		Use	Irrigation	4/1	11/1
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To

(4) 3.20 cfs TOTAL QUANTITY USED.

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

SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 15 Twp. 7N Rge. 40E B.M., County of Fremont

Additional points of diversion:

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. collection ditch at bottom of hill from which springs emerge

(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 160

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

NOTE: Include here the type and number of stock watered:

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

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: A22-04148

Date Received: 3/07/1989

Receipt No: MOX 2957

Received By: B



Department of Water Resources
Department of Water Resources
**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name: LOWELL E. BIRCH
Address: RT. 1, BOX 8
ST. ANTHONY, ID

208-624-3051

83445

AND/OR

Name: RAYOLA R. BIRCH
Address: RT. 1, BOX 8
ST. ANTHONY, ID

83445

2. Date of Priority: JUN 01, 1960

3. Source: SPRINGS

Trib. to: HENRY'S FORK SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
07N	40E	15	NE	SW	NE		FREMONT
			SE	SE	NW		FREMONT

5. Description of diverting works:

GRAVITY, PUMPS, SPRINKLERS, FLUMES OVER CANAL, DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	3.200		

7. Total Quantity Appropriated is:

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

A.F.A.

8. Total consumptive use is

325.0 Acre Feet Per Annum.

9. Non-irrigation uses:

A22-04148

Page

1

Date: 03/09/89



MICROFILMED

OCT 29 1992

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07N	40E	15	NW	NE		IRR	20.0
			SE	NE		IRR	4.0
			NE	NW		IRR	34.0
			SW	NW		IRR	40.0
			SE	NW		IRR	32.0
						Section Acres	130.0
						Total Acres	130.0

11. Place of use in counties: FREMONT

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

13. Other Water Rights Used:

TWIN GROVES CANAL AND IRRIG. CO. 57 SHARES

14. Remarks:

POD IS TRANSITORY BETWEEN NE, SW, NE OF SECTION 15 AND THE
SE, SE, NW OF SECTION 15.

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) *Lowell E. Smith* Date: 3/9/89
_____ Date: _____

State of Idaho)
County of Fremont) SS.

Subscribed and sworn (or affirmed) before me this 9th day
of March 19 89

Anna Baunhoff
Notary Public

Seal

Residing at Bowei Idaho
My Commission Expires 12-7-1994

T7N
R40E
Sec. 15

A-2-04148

130 ACRES

OCT 29 1992

MICROFILMED

