

06/20/2011

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

RIGHT NUMBER: 22-11070

NAME AND ADDRESS: MELVIN SCHWENDIMAN
PO BOX 74
NEWDALE ID 83436

DONALD STAKER
PO BOX 111
NEWDALE ID 83436

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 1.130 CFS
198.000 AFY

Right Nos. 22-2131 and 22-11070 are limited to a total combined diversion rate of 2.60 cfs.

PRIORITY DATE: 06/01/1978

This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

POINT OF DIVERSION:

T07N R41E S35 SESW 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	1.130 CFS 198.00 AFY

PLACE OF USE: IRRIGATION in FREMONT County

T07N R41E S34	NESW	25.00	T07N R41E S34	SESE	5.70
T07N R41E S35	NESW	40.00	T07N R41E S35	NWSW	40.00
T07N R41E S35	SWSW	38.00	T07N R41E S35	SESW	38.00

186.7 ACRES TOTAL

Right Nos. 22-2131 and 22-11070 are limited to the irrigation of a combined total of 186.7 acres in a single irrigation season.

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.

This right is based upon an enlargement of Right No. 22-2131 pursuant to Section 42-1426, Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

This right is for an enlargement of 56.7 acres within the place of use described for this right.

Right No. 22-2131 is also diverted through point of diversion described above.

10/18/2006

**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: 22-11070

MELVIN SCHWENDIMAN
PO BOX 74
NEWDALE ID 83436
Telephone Number: (208)458-4376

DONALD STAKER
PO BOX 111
NEWDALE ID 83436
Telephone Number: (208)458-4387

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:

RECEIVED
NOV 01 2006

Department of Water Resources
Eastern Region

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

DATE: Oct. 30, 2006

SIGNATURE:

Melvin Schwendiman & Donald Staker

Please print your name:

Melvin Schwendiman

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

SCANNED

AUG 20 2007

11/3

11/09/2005

**NOTICE OF ERROR
REPLY**

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

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

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS:

Water right number: 22-11070

MELVIN SCHWENDIMAN

PO BOX 74

NEWDALE ID 83436

Telephone Number: (208)458-4376

DONALD STAKER

PO BOX 111

NEWDALE ID 83436

Telephone Number: (208)458-4387

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

All

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

should be recommended as an enlargement of 22-2131.

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

*Has been irrigated since 6-1-1978
An affidavit will be sent in for evidence.*

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

DATE: *10/16/06* SIGNATURE: *Melvin Schwendiman*

Please print your name: *Melvin Schwendiman*

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

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*KWS
10/16*

Grant Klingler

do solemnly swear that the land outlined on attachment 'A' and described in water claim number 22-11070 has been irrigated since June 1st of 1978.

I have lived in the area since 1948 and have witnessed this irrigation of this land by Melvin Schwendiman and Donald Staker.

Signature

Grant Klingler

Date:

10-17-2006

State of Idaho)

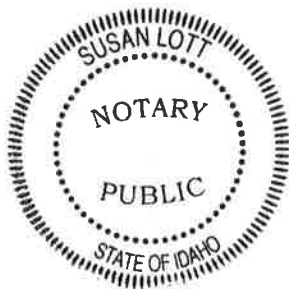
County of

Fremont

) SS.
)

Subscribed and sworn (or affirmed) before

me this 17th day of October 2006



Susan Lott
Notary Public

Newdale, Fremont County, Idaho
Residing at

June 2, 2012
My commission Expires

SCANNED

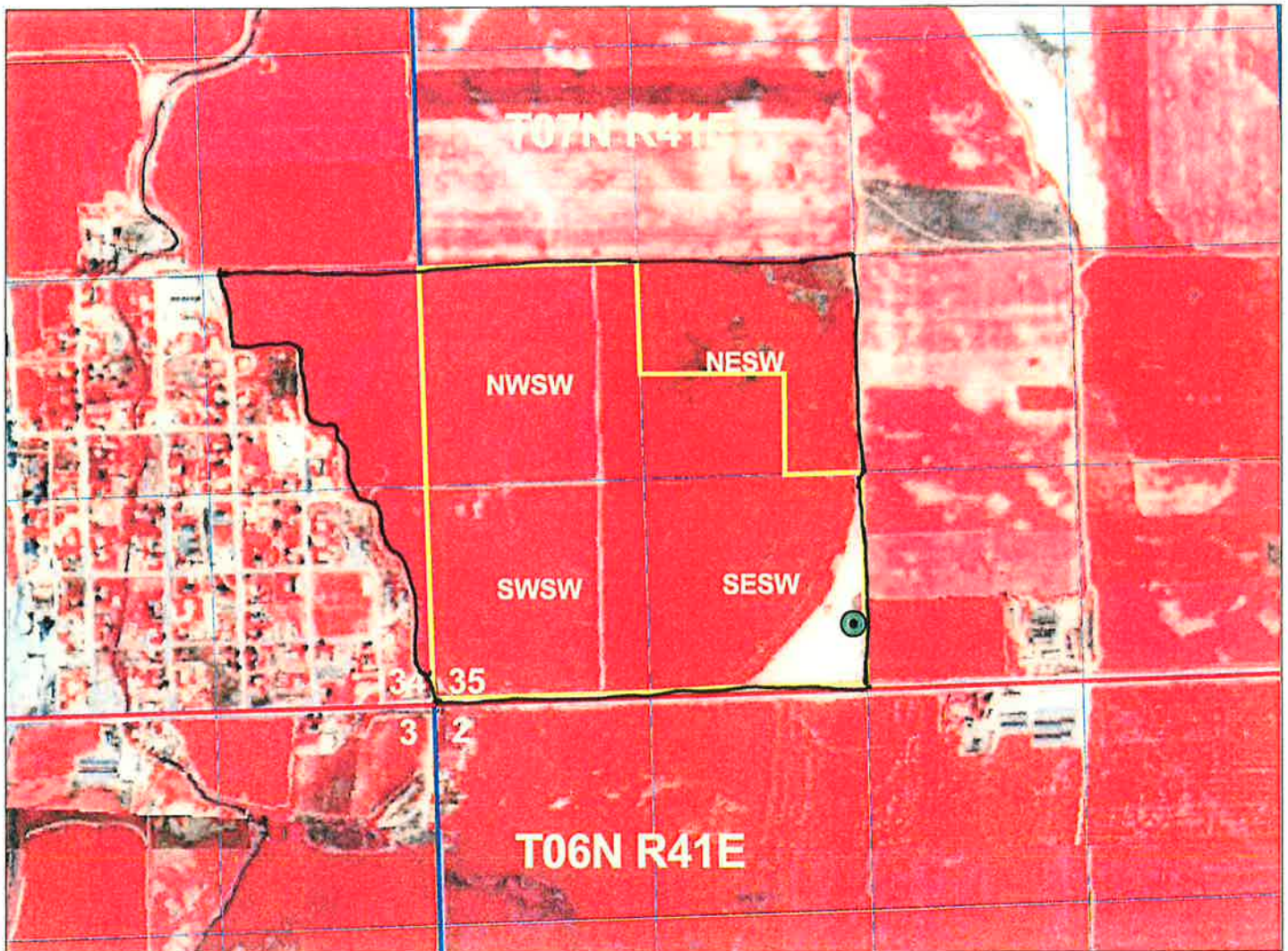
AUG 20 2007

A

Department of Water Resources Eastern Region



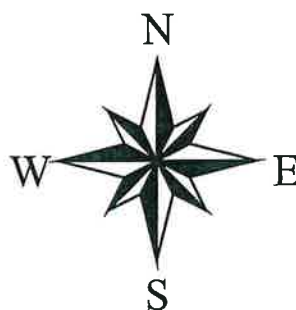
Claim No.: 22-2131



0 660 1320 1980 2640 Feet



- Point of Diversion
- 22-2131
- Township/Range
- Sections
- QQ



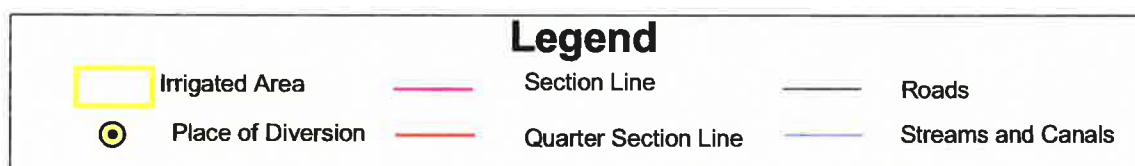
RECEIVED
OCT 18 2006
Department of Water Resources
Eastern Region
GIS Place of Use Illustration
1987/88 NAPP Photography
Prepared by: Kristin Moore
Date Prepared: November 2005

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AUG 20 2007

Water Right Claim Number 22-11070
Township , 7N41E

08/21/2001



500 0 500 1000 Feet

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AUG 20 2007

SPATIAL
DYNAMICS



February 24, 2004

DONALD STAKER
PO BOX 111
NEWDALE ID 83436

MAILED
2-24-04
11/09/05 - No Response to

Request

Disallowed - No B/L Found

RE: EVIDENCE OF PRIORITY FOR SRBA WATER RIGHT CLAIM 22-11070

Dear Claimant (s):

The Idaho Department of Water Resources is nearing the end of water rights review in Basin 23, the Swan 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 JUNE 1, 1978, from A WELL.

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 required 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**".

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.

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Please submit the 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,

Nick L. Olson
Special Contract Agent
Adjudication Bureau

cc: File

Enclosure: Brochure on "Evidence of Priority"
Notice of Claim (copy)

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AUG 20 2007

Contacts Data Entry Form

Water Right No. A2211070

Owner Type	Full Name	Address	City	State	Zip	Phone
Current Owner	<u>Donald STAKER</u>					
Name connector: and						
Current Owner						
Current Owner						

Representing Attorney: _____ Phone Number: _____

Accompanied By: _____ Phone Number: _____

Relationship to Claimant: _____

Date of Field Exam: _____ Time: _____

NEED ADDRESS FOR
M. SCHWEDDINIAN

Directions to Property (if different from above) and/or update owner information:

B.U. Claim - ENLARGEMENT Claim §42-1426

↓
PO Box 74

This Right is used in Combination with A22-02131
shall not exceed (2.6 CFS.)

FE pd./pou conveyance/system

Reviewer: _____

Date: _____

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AUG 20 2007

Priority Date Data Entry Form

Claim Number:

A2211070

Water Right Priority Date:

Water Right Basis:

Claimed Priority Date:

1 - June 1978

Claimed Basis:

B.4

Recommended Priority Date:

Recommended Basis:

B.4☐ Use Claimed Priority Date and Basis as Recommended Priority Date and Basis

Document the evidence submitted/reviewed for the priority date claimed, include your analysis of the evidence:

B.H. Claim

Claim must be ENLARGEMENT Claim R.R. 342-1426 due to
CLAIMED Priority, and must have EVIDENCE - This claim
MUST BE BASED ON 22-2131.

Reviewer: _____

Date: _____

SCANNED
AUG 20 2007

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 22-11070

Date Received:
Receipt Nos:
Received By:

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

Name of Claimant
DONALD STAKER
PO BOX 111
NEWDALE, ID 83436
(208)458-4387
MELVIN SCHWENDIMAN
PO BOX 74
NEWDALE, ID 83436
(208)458-4376

Priority Date: 06/01/1900
Basis: Decreed/License
Status: Active

<u>Source</u>	<u>Tributary</u>
Ground Water	
Teton River	Snake River

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	1.08 CFS	189.7 AFA

Total Diversion

1.08 CFS

Location of Point(s) of Diversion:

GROUND
WATER

SESESW Sec. 35

Township 07N

Range 41E

FREMONT County

Place(s) of use:

Place of Use Legal Description: IRRIGATION FREMONT County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
07N	41E	34		SENE	0.1									
				NESE	25		SESE	5.1						
		35		NESW	39		NWSW	39		SWSW	38		SESW	38

Total Acres: 184.2

Remarks: This water right includes the right to divert water which is recovered ground water resulting from recharge for irrigation and/or water resulting from irrigation under the Canyon Creek Canal Company irrigation works for use on lands within said irrigation entity's authorized place of use. Diversion of this right for the purpose of irrigation is authorized for a maximum acreage equivalent to the authorized place of use for this right. This right includes an accomplished change in place of use pursuant to Section 42-1425, Idaho Code. § I.C. 42-1425 and/or I.C. 42-228. This right includes an accomplished change in point of diversion pursuant to Sections 42-1425 and/or 42-228, Idaho Code. In the event recharge or recovered water is not available, the priority date shall revert to the previously licensed priority date.

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

1. C18 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.

This right is based upon an enlargement of Right No. 22-2131 pursuant to Section 42-1426, Idaho Code.

3. E55 Right Nos. 22-2131 and 22-11070 are limited to the irrigation of a combined total of 184.2 acres in a single irrigation season.

4. E60 Right Nos. 22-2131 and 22-11070 are limited to a total combined diversion rate of 2.6 cfs and to a total combined annual diversion volume of 455 AF.

This right is for an enlargement of 54.2 acres within the place of use described for this
5. K09 right.

This water right is subordinate to all water rights with a priority date earlier than April 12,
1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As
6. C11 between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code,
the earlier priority right is the superior right.

Describe any other water rights used at the same place and for the same purposes as describe
above: Those water rights recommended as of the date of this amended claim.

Basis of Claim: Decreed/License

Signature(s)

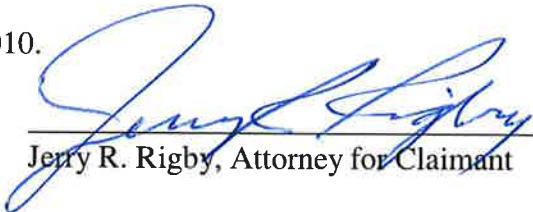
(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form
entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do
_____ do not XX wish to receive and pay a small annual fee for monthly copies of the docket
sheet.

Number of attachments: Previously submitted and on file with IDWR

For Individuals/Organizations:

I do solemnly swear or affirm under penalty of perjury that I am the attorney for the above
individual or organization, that I have signed the foregoing document in the space below as
attorney for the individual or organization and that the statements contained in the forgoing
document are true and correct.

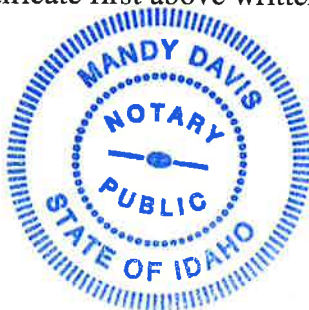
DATED this 17th day of August, 2010.

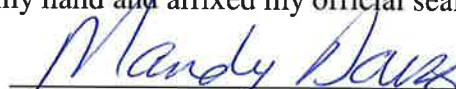

Jerry R. Rigby, Attorney for Claimant

STATE OF IDAHO,)
ss.
County of Madison.)

On this 17th day of August, 2010, before me, the undersigned, a Notary Public in and for
said State, personally appeared Jerry R. Rigby, known to me to be the person whose name is
subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the
day and year in this certificate first above written.




Notary Public for Idaho
Residing at: St. Anthony
My Commission Expires: 6/24/2011



22-2131
22-11070

Legend

-

This aerial map displays the SENE area, which is divided into several labeled sections: SENE, SWNW, SENW, NESE, NWSW, NESW, SESE, SWSW, and SESW. The map is overlaid with a grid of red lines. A yellow boundary line is drawn around a central area, and a blue line is visible on the left side. The map is labeled with 'R41E' at the top and bottom, and 'T07N' and 'T06N' on the left and right sides. A scale bar at the bottom indicates distances of 0, 0.3, and 0.6 miles. A small yellow circle with a black dot is located in the lower right quadrant of the map.

**Prepared by T. Galbraith
On Wednesday, October 18, 2006
1987/88 Aerial Photography**

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: A22-11070
Date Received: 8/19/1988
Receipt No: E001488
Received By: Raw

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DONALD STAKER 208-458-4387
Address: P.O. BOX 111
NEWDALE, ID 83436
OR
Name: MELVIN SCHWENDIMAN
Address: NEWDALE, ID 83436

2. Date of Priority: JUN 01, 1978

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07N	41E	35	SE	SW			FREMONT

5. Description of diverting works:
WELL PUMP MAINLINE TO CENTER PIVOT AND LATERALS WITH SPRINKLERS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	1.400		

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

8. Total consumptive use is 1.4 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

A22-11070

Page 1

Date: 08/19/88

SCANNED

AUG 20 2007

MICROFILMED
NOV 06 1992

A2211070



10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07N	41E	34	NE	SE		IRR	30.0
			NW	SE		IRR	3.0
			SE	SE		IRR	9.0
						Section Acres	42.0
		35	NE	SW		IRR	28.0
						Section Acres	28.0
						Total Acres	70.0

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:
NONE

14. Remarks:

THIS RIGHT IN COMBINATION WITH A22-02131 SHALL NOT EXCEED 2.6 CFS

15. Basis of Claim: BENEFICIAL USE

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 Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Donald Stader Date: Aug 19/1988

Date: _____

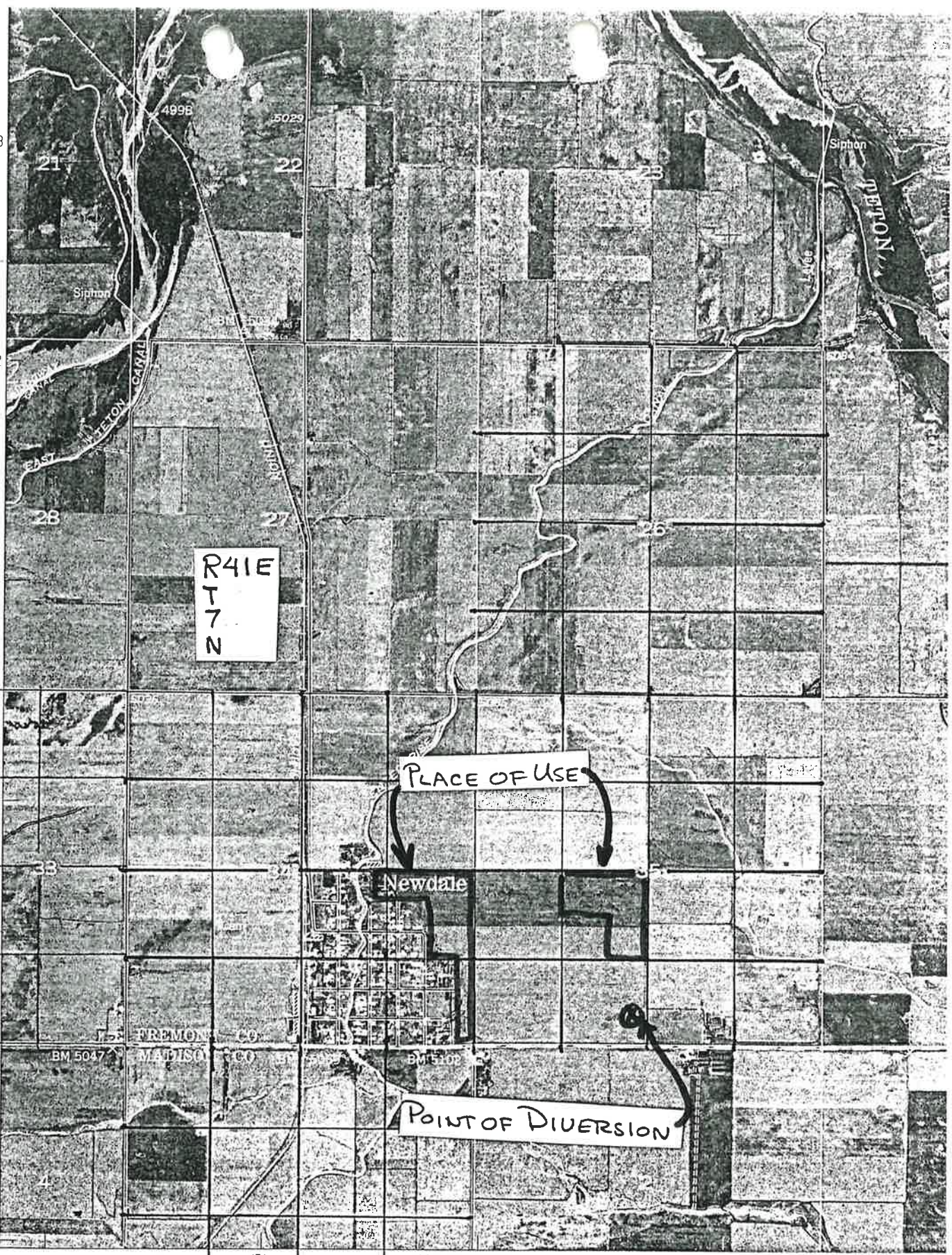
State of Idaho)
County of Bonneville) SS.

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

Betty J. Thompson
Notary Public

Seal

Residing at Idaho Falls
My Commission Expires 6-94



Produced by the Geological Survey
in cooperation with the Soil Conservation Service

Orthophotograph prepared from 1:78 000-scale
aerial photographs taken August 5, 1976

Projection and 10,000-foot grid ticks: Idaho coordinate
system, east zone (transverse Mercator)
1000-meter Universal Transverse Mercator grid ticks,
zone 12. 1927 North American datum

SCANNED
AUG 20 2007

MICROFILMED
NOV 06 1992

A22-11070