

04/13/2006

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

RIGHT NUMBER: 22-11422

NAME AND ADDRESS: RUBY KUNZ
596 S 450 W
VICTOR ID 83455

SOURCE: HENDERSON CREEK

TRIBUTARY: SINKS

QUANTITY: 2.960 CFS

PRIORITY DATE: 11/22/1965

POINT OF DIVERSION:
T04N R44E S25 SWNWSE Within TETON County

PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	4/15 10/15	2.960 CFS
PLACE OF USE:	<u>IRRIGATION Within TETON County</u>		
	T04N R45E S30 Lot 4 SWSW 34.00	T04N R45E S30 SESW	40.00
	T04N R45E S31 NENW 38.00	T04N R45E S31 Lot 2 SWNW	16.00
	128 ACRES TOTAL		

Right Nos. 22-7229 and 22-11422 are limited to the irrigation of a combined total of 128 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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use



22-11422

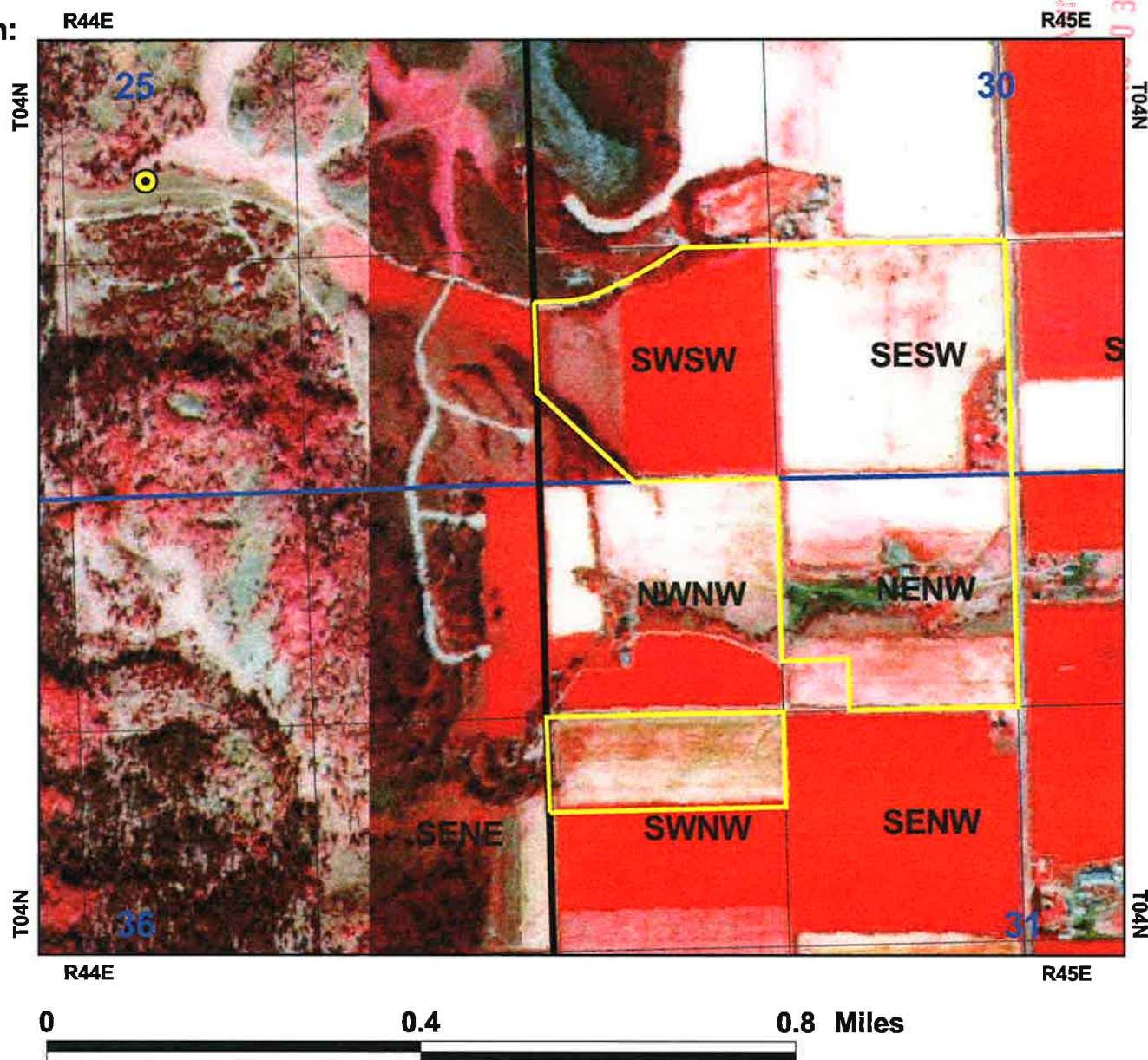
(Irrigation)

Legend

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



**Prepared by T. Galbraith
On Thursday, July 19, 2007
1987/88 Aerial Photography**

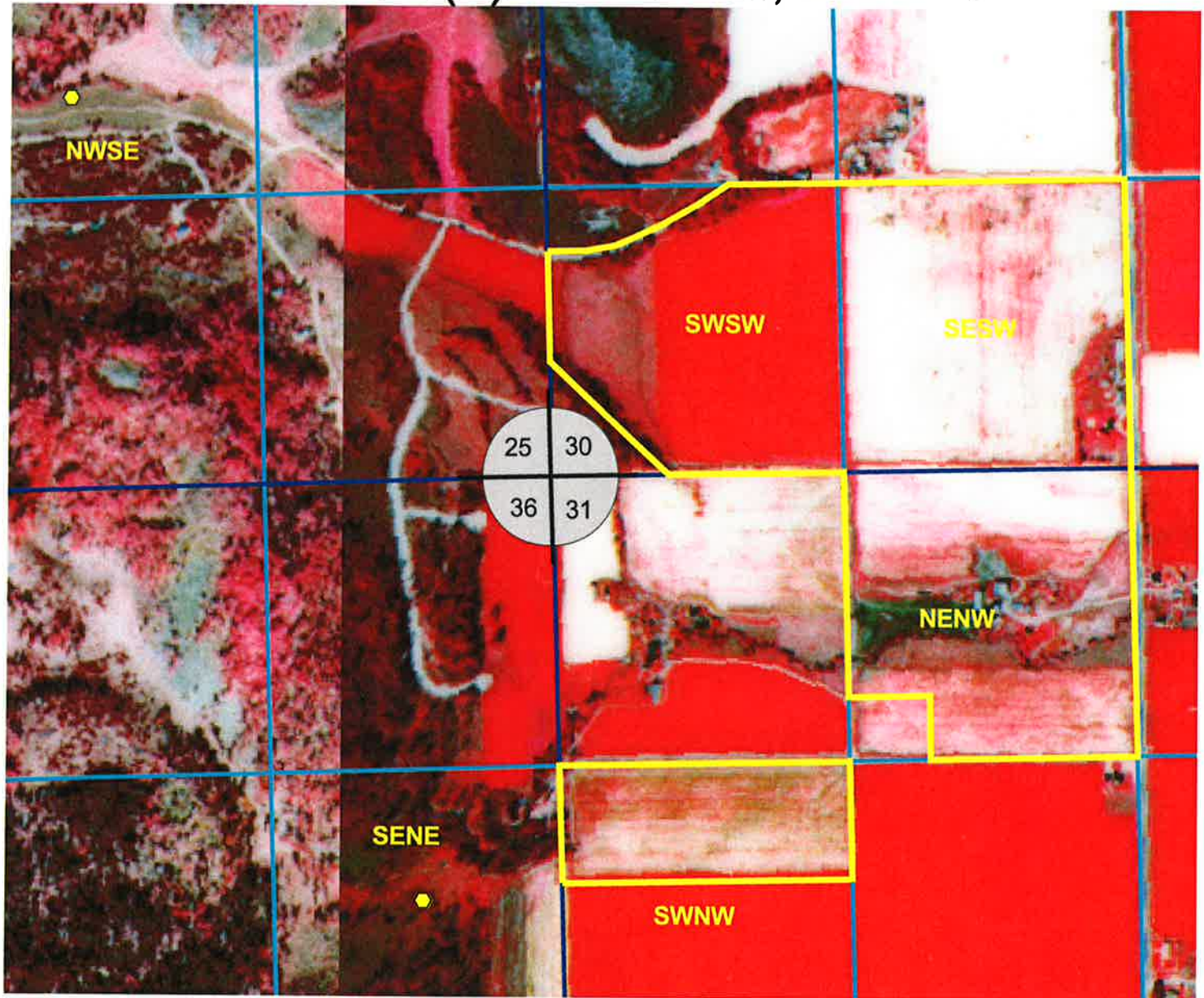




State of Idaho
Department of Water Resources
Eastern Region



Claim No.(s): 22-7229, 22-11422



1000 0 1000 2000 Feet

- Place of Use
- Points Of Diversion
- Sections
- Quarter Quarter

GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by T. Galbraith
Date: April 2006

SCANNED
AUG 03 2006



04/13/2006

NOTICE OF ERROR
REPLY

RECEIVED

DEC 21 2006

DEPARTMENT OF
WATER RESOURCES

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: 22-11422

RUBY KUNZ
596 S 450 W
VICTOR ID 83455
Telephone Number: (208)354-2410

RECEIVED

DEC 26 2006

Department of Water Resources
Eastern Region

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:

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

DATE: 12-18-06 SIGNATURE: Ruby B. Kunz
Please print your name: Ruby B. Kunz

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

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AUG 03 2007

jc

4-13-06
- Recommended priority date as 11-22-196⁵₃
per "agreement."
JG

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AUG 03 2007

Claim no. 22 11 422

Claimant Contact Log

Date Remarks Agent initials

11/26/85 Visited with Mike Kunz
DD Please refer to claim A22 7229 for
map of PDY.
Kunz's land - they have sold
SENE and NENE of Sec 36 and SESE of
Sec. 25
→ NO C/P RECEIVED

Recommends Priority date of 22 Nov. 1965 per DAFB
"AGREEMENT" (Attachment) was executed.

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AUG 03 2007

Claims A22-114224 2-11425

Henderson Creek diversion



Photo shows concrete headgate that diverts Henderson Creek into Hung's pipeline.

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Claim #A22-11422 & A2211425
Diversion on Henderson Creek

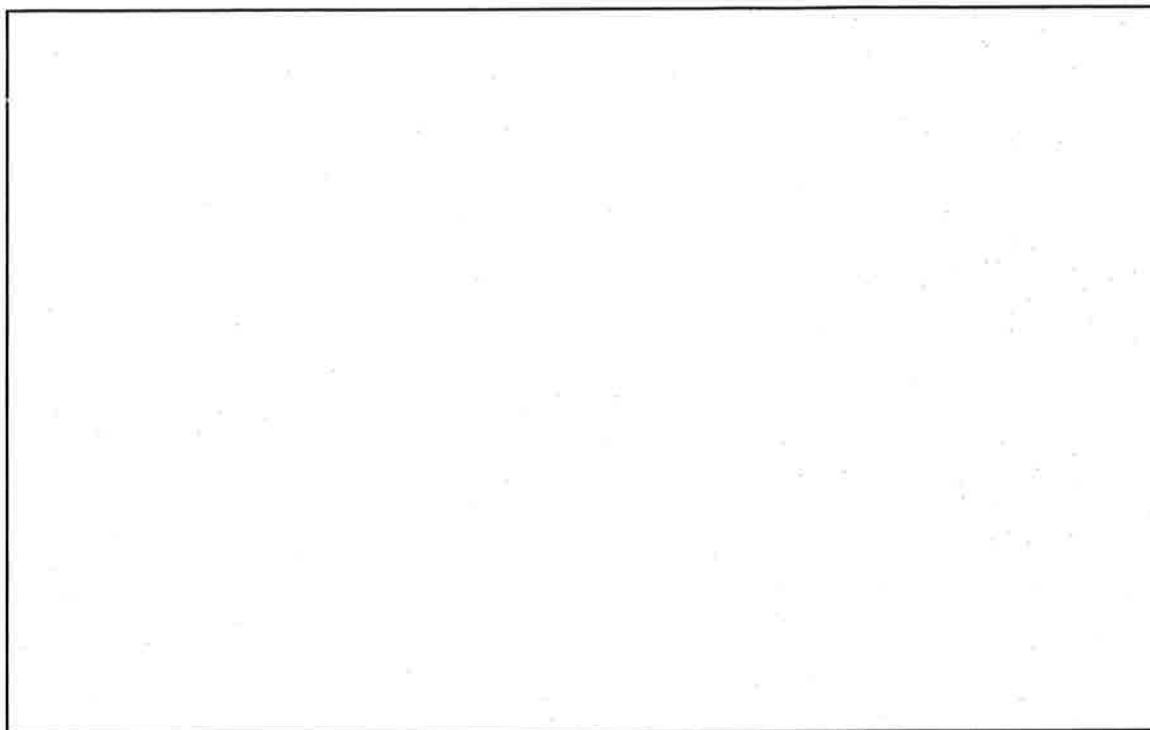


Photo shows concrete headgate that
can be dismantled off to divert water
into Kury pipeline from Henderson
Creek.

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Water Right No(s). 2211422



GPS DATA:

Tag # ADP 16007 Location: Southeast end of concrete headgate

Diversion Data:

Source: Henderson Creek Trib to: Sinks

MOTOR

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

PUMP

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

NOTES:

Field Exam Date: 10/26/05 Agent: LOD

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Point of Diversion and Source Data Entry Form

Claim Number: 2211422Water 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
4N	44E	25		SWNWSE	Teton	Henderson CK	Sinks

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? A 22. 0 7229

Transfers Pending or approved: _____

Document how the POD and Source were verified:

10/26/05
 20
 Field exam shows a concrete headgate that can be dammed off to divert Henderson Creek into a pipeline that carries the water approx. 1/2 mile to POD. This is a gravity flow system that connects to mainline that comes from a well.
 at the date of exam there was 10-15" (miners' inches) of water. This wasn't reaching live water.

Reviewer: _____ Date: _____

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AUG 03 2007

Place Of Use Data Entry Form

Claim Number: 2211422

Claimed Place Of Use

Twp	Rge	Sec	QQ	Q	County	Lot Num	Acres	Purpose of Use
4N	44E	25	SE	SE	Tipton		20	Recreation
"	"	36	NE	NE	"		10	"
"	"	"	SE	NE	"		2	"
4N	45E	30	SW	SW	"	4	31	"
"	"	"	SE	SW	"		35	"
"	"	31	NE	NW	"		29	"
"	"	"	SW	NW	"		16	"

Total acres 148

Recommended Place of Use

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

Total acres _____

Pending or approved Transfers: _____

Document how the POU was verified:

Please refer to Claim A2207229 for map and notes
on POU

Reviewer: _____ Date: _____

SCANNED
AUG 03 2007

MAILED
2-26-04

February 26, 2004

**RUBY KUNZ
596 S 450 W
VICTOR ID 83455**

RE: EVIDENCE OF PRIORITY FOR SRBA WATER RIGHT CLAIM 22-11422

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 JANUARY 1, 1919, from HENDERSON CREEK.

The previous documentation submitted as evidence of priority, an AGREEMENT dating to NOVEMBER 22, 1966, does not reference 1919 as claimed.

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".

No Response to Request of Priority date as claimed

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AUG 03 2007

.....
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 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)

SCANNED
AUG 03 2007

Mailed 3/29/04

March 29, 2004

**RUBY KUNZ
596 S 450 W
VICTOR ID 83455**

RE: EVIDENCE OF PRIORITY FOR SRBA WATER RIGHT CLAIM 22-11422

Dear Claimant (s):

The Idaho Department of Water Resources is beginning 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 JANUARY 1, 1919, from HENDERSON CREEK.

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.

NO Response

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AUG 03 2007

Dated Nov 25 1974

Dwight C. Stone

Ex-Officio Auditor & Recorder
Clerk of the District Court

Bonnie White

Deputy Clerk

AGREEMENT

WHEREAS, certain uncertainties and disputes have existed between and among the undersigned with respect to the rights in and to the various creeks and sources of water hereinafter mentioned and described,

AND WHEREAS, some of the undersigned were parties to an action lately pending in the District Court of the Twelfth Judicial District of the State of Idaho entitled VICTOR KUNZ, Plaintiff, vs. JAMES KUNZ, et al, Blaton County Case No. 1-59, and the claims of some of the undersigned having been dismissed during the course of the trial of said action, and all parties entering into the following agreement which settles the uncertainties and disputes,

AND WHEREAS, all of the undersigned desire to, and it was contemplated that they will, enter into a formal written agreement.

NOW, THEREFORE, in consideration of the premises and of the covenants and agreements hereinafter set forth, the parties do hereby agree as follows:

IT IS HEREBY AGREED AND AGREED by and between James Kunz and Ellen Kunz, husband and wife, Ellis Kunz and Jessie Kunz, husband and wife, Frances Austin and Vera Jean Austin, husband and wife, all parties to the above entitled action, and Eva Austin, a widow, Conice Williams, a widow, claimants to the waters of Henderson Creek, hereinafter referred to, and Victor A. Kunz and Emma Kunz, husband and wife, parties to the above action, and Grant Kunz and Ruby Kunz, husband and wife, and Wilford J. Kunz, a widower, and Jean Kunz, a widow, also claimants to Henderson Creek, as follows:

One. That in consideration of the sum of one thousand dollars, lawful money of the United States, five hundred dollars thereof to be paid to Eva Austin and five hundred dollars to

Bottom Copy in 22-11425

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Rubice Williams immediately upon the execution hereof, they and James Kunz, Monroe Dustin, Vera Jean Dustin, Eva Austin, Rubice Williams do hereby forever disclaim, surrender and abandon any and all right, title, claim or interest that each or any of them may have had in and to the waters of Henderson Creek and all irrigation devices used in connection therewith, and in favor of Grant Kunz and Ruby Kunz, husband and wife, and Milford N. Kunz, and agree to execute any and all deeds or other written instruments which may be necessary to the transfer and relinquishment of said rights. Grant Kunz and Milford Kunz shall pay the sum of five hundred dollars, and James Kunz and Ellis Kunz and Monroe Dustin shall pay the other five hundred dollars.

Two. It is recognized, however, that Jean Kunz, a widow, and Milford N. Kunz, a widower, do have a right in and to the waters of Boquet Creek for domestic use for their present two homes, gardens and livestock, which said water is diverted by a two-inch pipe, reducing to a one-inch pipe, and serving the two dwelling houses. It is understood that said right shall not be interfered with by any of the other parties, and the said Jean Kunz and Milford Kunz do hereby agree that they will not in any way or manner interfere with the other parties' use of the waters of Boquet Creek, or make or assert any other or additional right or claim thereto.

Jean Kunz a widow and Milford Kunz, a widower, do hereby forever disclaim, surrender and abandon any and all other right, title, claim or interest that they may have had in and to the waters of Boquet Creek, and James Kunz and Arliegh Kunz, husband and wife, Ellis Kunz and Joseph Kunz, husband and wife, Monroe Dustin and Vera Jean Dustin, husband and wife, Victor A. Kunz and Erma Kunz, husband and wife, Grant Kunz and Ruby Kunz, husband and wife,

*Boquet Creek
domestic use
HOMES
GARDENS
LIVESTOCK*

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NOV 06 1992

Scanned
Apr 23 2007

do hereby disclaim, surrender and abandon any and all right, title, claim or interest that any of them may have had in and to the waters of Boquist Creek, in each and every case, in full favor of Eva : Dustin, a widow and Eunice Williams, a widow, and said parties further agree to execute and acknowledge any and all deeds or instruments that may be necessary to effect such disclaimer, surrender and abandonment.

Three. That Victor A Kunz and Erna Kunz, husband and wife, in consideration of the premises do hereby forever disclaim and surrender and abandon any and all right, title, claim or interest that they may have had in and to the waters of Grove Creek and Willow Springs Creek, tributaries to each other, and in favor of James Kunz and wife, Ellis Kunz and wife, Monroe Dustin and wife, and agree to execute and acknowledge any and all deeds or instruments that may be necessary to effect such transfer, and in such amounts or quantities or rights to said water as the said transferees may direct and agree upon.

Four. That the court in the above entitled cause shall forthwith dismiss with prejudice the action of the plaintiff, Victor Kunz, as against James Kunz and his wife, and shall forthwith dismiss with prejudice the complaint in intervention of Ellis Kunz and his wife, and Monroe Dustin and his wife, as against Victor Kunz and Erna Kunz, husband and wife.

Five. The dismissal as to the parties to the above entitled action shall be without the payment of costs to either party.

IN WITNESS WHEREOF, the parties have hereunto set their hands this 22nd day of November, 1953.

James Kunz
James Kunz

Arleigh Kunz
Arleigh Kunz
HUSBAND AND WIFE

Ellis Kunz
Ellis Kunz

Jessie Kunz
Jessie Kunz
HUSBAND AND WIFE

Morris Dustin
Morris Dustin

Sarah Ann Dustin
Sarah Ann Dustin
HUSBAND AND WIFE

Eva Dustin
Eva
A WIDOW

Eunice Williams
Eunice Williams

Victor A. Kunz
Victor A. Kunz

Erma Kunz
Erma Kunz
HUSBAND AND WIFE

Grant Kunz
Grant Kunz

Ruby Kunz
Ruby Kunz
HUSBAND AND WIFE

William B. Kunz
William B. Kunz
A WIDOWER

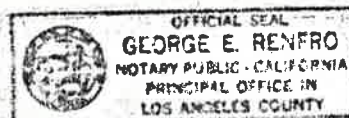
Robert C. Kunz
Robert C. Kunz

STATE OF CALIFORNIA)
County of Los Angeles) SS.

On this 31 day of December, 1946, before me, the undersigned, a Notary Public for California, personally appeared VICTOR A. KUNZ and ERMA KUNZ, husband and wife, known to me to be the persons whose names are subscribed to the within and foregoing Agreement, and acknowledged to me that they 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.

(SEAL)



NOTARY PUBLIC - CALIFORNIA
PRINCIPAL OFFICE IN
LOS ANGELES COUNTY
MY COMMISSION EXPIRES OCT. 2, 1947

George E. Renfro
Notary Public for California
Residing at: _____
My Commission Expires: _____

SCANNED
AUG 03 2007

MICROFILMED
NOV 06 1992

STATE OF IDAHO)
County of Teton) ss.

On this 11 day of APRIL, 1966, before me, the undersigned, a Notary Public for Idaho, personally appeared GRANT KUNZ and RUBY KUNZ, husband and wife, known to me to be the persons whose names are subscribed to the within and foregoing Agreement, and acknowledged to me that they 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.

Carroll Durney
Notary Public for Idaho
Residing at: _____
My Commission Expires: Nov 6, 1966

STATE OF Maryland
County of Prince Georges ss.

On this 28th day of April, 1966, before me, the undersigned, a Notary Public for Prince Georges County, State of Maryland, personally appeared LEONARD M. KUNZ, a widower, and JEAN KUNZ, a widow, known to me to be the persons whose names are subscribed to the within and foregoing Agreement, and acknowledged to me that they 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.

Laurel B. Wells
Notary Public for Prince Georges County
Residing at: Lexham, State of Md.
My Commission Expires: July 1, 1967

SCANNED

AUG 03 2007

MICROFILMED

NOV 06 1992

STATE OF IDAHO)
) SR.
County of Teton)

On this 7 day of June, 1966, before me, the undersigned, a Notary Public for Idaho, personally appeared JAMES KUNZ and ARLIEGH KUNZ, husband and wife, ELLIC KUNZ and JESSIE KUNZ, husband and wife, MONROE DUSTIN and VERA JEAN DUSTIN, husband and wife, EVA DUSTIN, a widow, and ~~ELMER WILLIAMS~~, a widow, known to me to be the persons whose names are subscribed to the within and foregoing Agreement, and acknowledged to me that they 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.

Lynne S. Kearney
Notary Public for Idaho
Residing at: Victor, Idaho

(SEAL)

My Commission Expires: Feb 21, 1967

STATE OF Idaho)
) ;
County of Cannville)

On this 17th day of May, 1966, before me, the undersigned, a Notary Public in and for said County and State, personally appeared MILFORD N. KUNZ known to me to be the person whose name is subscribed to the within and foregoing Agreement, 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.

James L. Brown
Notary Public for Idaho
Residing at: Idaho Falls, Idaho
My Commission expires: 7-5-68

(SEAL)

STATE OF IDAHO
STATE OF IDAHO,)
TETON) SS.
County of TETON)

On this 30th day of June, 1966, before me, the under-
signed, a Notary Public in and for said State, personally
appeared EUNICE WILLIAMS, known to me to be the person whose
name is subscribed to the within instrument, and acknowledged to
me that they executed the same.

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

F.C. Gullett

Notary Public for Idaho
Residing at ~~Butte, Idaho~~ ~~Butte, Idaho~~
VICTOR, IDAHO

My Commission Expires:

July 1, 1968

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AUG 03 2007

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NOV 06 1992



63933

STATE OF IDAHO } ss
COUNTY of TETON }

Filed for Record at the Request of

of Robert S. Hatcher

at 35 Minutes past 9

P. M. this 8

day of August 1966

and Micro-filmed or Recorded in

Book _____

of _____

Records of Teton County

Robert S. Hatcher
Recorder

By Robert S. Hatcher Deputy

8650

AUG 03 2007

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NOV 06 1992

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: A22-11422
Date Received: 8/29/1988
Receipt No: E001871
Received By: SIM

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: RUBY KUNZ 208-354-2410
Address: 596 SOUTH 450 WEST
VICTOR, ID 83455

2. Date of Priority: JAN 01, 1919

3. Source: HENDERSON CREEK Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04N	44E	25	SW	NW	SE		TETON

5. Description of diverting works:
HEADGATE TO 10" BURIED MAIN LINE TO PLACE OF USE.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/15	10/15	2.960		

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

8. Total consumptive use is 296.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE.

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	44E	25	SE	SE		IRR	20.0
Section Acres							20.0

A22-11422

Page 1

Date: 08/29/88

SCANNED

AUG 03 2007

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NOV 06 1992

A2211422

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	44E	36	NE	NE		IRR	10.0
			SE	NE		IRR	7.0
			Section Acres				17.0
	45E	30	SW	SW	4	IRR	31.0
			SE	SW		IRR	35.0
			Section Acres				66.0
		31	NE	NW		IRR	29.0
			SW	NW		IRR	16.0
			Section Acres				45.0
			Total Acres				148.0

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:
A22-07229

14. Remarks:

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: -X-2-

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): Luby B. Lutz Date: Aug 29-88

Date: _____

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 27th day
of August 19 88 Deena Green
Notary Public

Seal

Residing at Rigby
My Commission Expires 4-22-1994



09 -
T4N

NOT TO SCALE

NOV 9 1982