

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 22-11537

NAME AND ADDRESS:

DON LE ROY MILLER
1835 TETON VIEW DR
REXBURG ID 83440

SOURCE:

Source:
PARADISE SPRING
~~PARADISE SPRINGS~~

Tributary:
TETON RIVER

QUANTITY:

0.070 CFS ~~0.140 CFS~~

PRIORITY DATE: 07/21/1969

POINT OF DIVERSION:

T04N R45E S30 NENW
Within TETON County
~~T04N R45E S30 SWNENW~~
~~Within TETON County~~

PURPOSE AND
PERIOD OF USE:

Purpose of use:	Period of use:	Quantity:
IRRIGATION	04/15 10/31	<u>0.070 CFS</u> ~~0.140 CFS~~

PLACE OF USE:

IRRIGATION within TETON County
T04N R45E S30 NENW 9.7 ~~T04N R45E S30 NENW 9.5~~
T04N R45E S30 Lot 1 NWNW 2.1 ~~T04N R45E S30 Lot 1 NWNW 2.3~~

11.8 ACRES TOTAL

Right Nos. 22-13211 and 22-11537 are limited to the irrigation of a combined total of 11.8 acres in a single irrigation season.

This right is limited to the irrigation of 3.3 acres within the place of use described above in a single irrigation season.

~~This right is limited to the irrigation of 6.7 acres within the place of use described above in a single irrigation season.~~

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

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

This right is a split from former right 22-4104.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

)

Water Rights: 22-11537

Case No. 39576

)

)

**NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING**

IDWR has completed the following Administrative proceeding:

☐ Address change

☒ Substitution of Party MILLER-MILLER

☐ I.C. § 42-222 transfer

☐ point of diversion

☐

place of use

☐ period of use

☐

nature of use

☐ split of water right

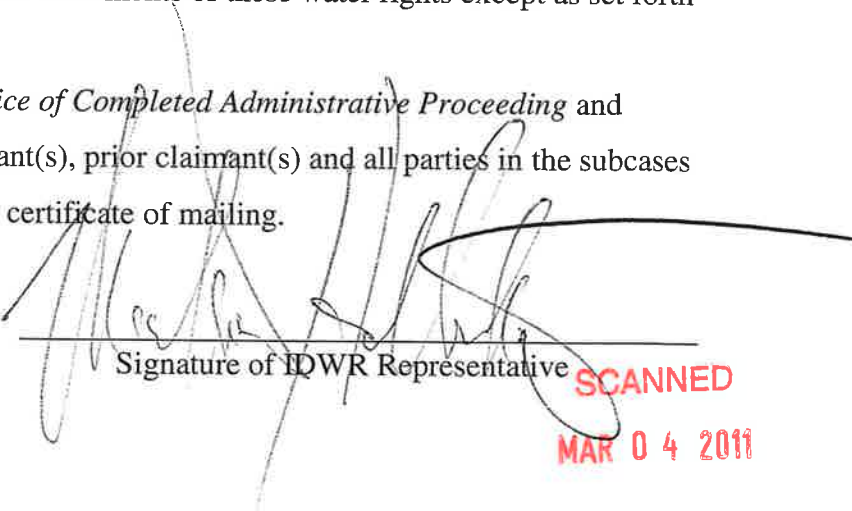
☐

change in ownership

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: 3/2/2011



Signature of IDWR Representative

SCANNED

MAR 04 2011

CERTIFICATE OF MAILING

I certify that on March 4, 2011, I mailed the original and copies of this form to the following persons, postage prepaid by regular mail and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707

2. One copy to:

Claimant/Seller for Substitution of Party or attorney of record:

Don LeRoy Miller	Clarice S Miller
Linda Miller	Kenneth Roy Miller
1835 Teton View Dr	4030 Dixie
Rexburg ID 83440	Idaho Falls ID 83401

3. One copy to:

Claimant/Purchaser for Substitution of Party, or attorney of record:

Don LeRoy Miller
1835 Teton View Dr
Rexburg ID 83440

4. One copy to:

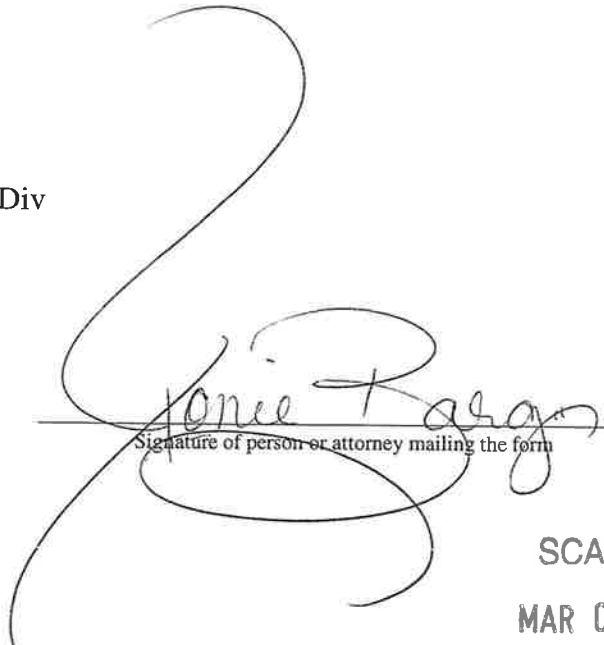
Each party in the subcase, or attorney of record

5. One copy each to:

Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise ID 83711-4449

6. One Copy to:

United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724


Signature of person or attorney mailing the form

SCANNED

MAR 04 2011

NOTICE OF COMPLETED ADMINISTRATIVE PROCEEDING

3/2/2011

22-11537

Page 2

03/02/2011

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 22-11537

NAME AND ADDRESS: DON LE ROY MILLER
1835 TETON VIEW DR
REXBURG ID 83440

SOURCE: PARADISE SPRINGS

TRIBUTARY: TETON RIVER

QUANTITY: 0.140 CFS

PRIORITY DATE: 07/21/1969

POINT OF
DIVERSION:

T04N R45E S30 SWNENW 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	0.140 CFS
PLACE OF USE:	<u>IRRIGATION in TETON County</u>		
	T04N R45E S30 NENW 9.50	T04N R45E S30 Lot 1 NWNW	2.30

11.8 ACRES TOTAL

This right is limited to the irrigation of 6.7 acres within the place of use described above in a single irrigation season.

Right Nos. 22-13211 and 22-11537 are limited to the irrigation of a combined total of 11.8 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

This right is a split from former right 22-4104

SCANNED
MAR 04 2011

RECEIVED

FEB 09 2011

Department of Water Resources
Eastern RegionSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

FEB 09 2011

Department of Water Resources
Eastern Region

Notice of Change in Water Right Ownership

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "Yes" in the "Split?" column.

Water Right/Claim No.	Split?	Water Right/Claim No.	Split?	Water Right/Claim No.	Split?
22-11537	Yes ☐		Yes ☐		Yes ☐
22-13211	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐

2. Previous Owner's Name: Clarice S. Miller and Kenneth Roy Miller

Name of current water right holder/claimant

3. New Owner(s)/Claimant(s): Don LeRoy Miller

Name of each new owner as listed on the conveyance document

New owner continued

Name connector ☐ and ☐ or ☐ and/or

Mailing address

1835 Teton View Drive Rexburg,

City

State

ZIP

(208) 356-4299

Telephone

Email

musicNAN@gmail.com

4. If the water rights and/or adjudication claims were split, how did the division occur?

- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

5. Date you acquired the water rights and/or claims listed above: 11 Dec. 1990

6. This form must be signed and submitted with the following **REQUIRED** items:

- A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
- Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
- Filing fee (see instructions for further explanation):
 - \$25 per *undivided* water right.
 - \$100 per *split* water right.
 - No fee is required for pending adjudication claims.

7. Signature: Don LeRoy Miller

Signature of new owner/claimant

Title, if applicable

Date

7 February 2011

Signature:

Signature of new owner/claimant

Title, if applicable

Date

For IDWR Office Use Only:

Received by _____ Date _____ Receipt No. _____ Receipt Amt. _____

Approved by _____ Processed by _____ Date _____

SALT LAKE CITY - COUNTY HEALTH DEPARTMENT

DIVISION OF VITAL STATISTICS

STATE OF UTAH - DEPARTMENT OF HEALTH

CERTIFICATE OF DEATH

Access to information on
this form is limited under
the Vital Statistics Act
and Rules.

LOCAL FILE NUMBER 18-1543

STATE FILE NUMBER

DECEDENT	1. NAME OF DECEDENT FIRST MIDDLE LAST LINDA CHRISTENSEN MILLER			2. SEX Female	3a. DATE OF DEATH (Mo. Day, Yr.) April 24, 1992		3b. TIME OF DEATH (24 hr. clock) 0350
	4. DATE OF BIRTH (Mo. Day, Yr.) AUG. 8, 1940		5. AGE (Last Birthday) 51 Yrs		6. BIRTHPLACE (City & State or Foreign Country) Salt Lake City, Utah		7. SOCIAL SECURITY NUMBER [REDACTED]
	8a. PLACE OF DEATH (Check only one) ☒ Inpatient ☐ ER/Outpatient ☐ DOA			8b. NAME OF HOSPITAL, NURSING HOME OR OTHER FACILITY (If outside a facility, give street address of location) University Hospital			
	8c. CITY, TOWN OR LOCATION OF DEATH Salt Lake City, Utah			8d. COUNTY OF DEATH Salt Lake			
	9. SURVIVING SPOUSE (If wife, give maiden name) Don LeRoy Miller						
	10. WAS DECEDENT EVER IN U.S. ARMED FORCES? ☐ Yes ☒ No		11. MARITAL STATUS ☐ Never Married ☒ Married ☐ Divorced ☐ Widowed		12a. DECEDENT'S USUAL OCCUPATION (Give kind of work done during most of working life. Do NOT use retired) (Homemaker)		12b. KIND OF BUSINESS OR INDUSTRY ---
	13a. RESIDENCE - STREET AND NUMBER 1835 Teton View Drive			13b. CITY, TOWN OR COMMUNITY Rexburg		13c. COUNTY Fremont	13d. STATE Idaho
	13e. INSIDE CITY LIMITS? ☒ Yes ☐ No		13f. ZIP CODE 83440		14. WAS DECEDENT OF HISPANIC ORIGIN? ☐ Yes ☒ No (If yes, specify) ☐ Mexican ☐ Cuban ☐ Puerto Rican ☐ Other (Specify)		15. RACE - Black, White, Am. Indian (Tribe may be entered), Japanese, etc. (Specify) White
	16. EDUCATION (Specify only highest grade completed) Elementary or Secondary (0-12) College (13-16 or 17+) 15						
	PARENTS	17. FATHER'S NAME (First, Middle, Last) Horace J. Christensen			18. MAIDEN NAME OF MOTHER (First, Middle, Last) LaVonda Hansen		
INFORMANT	19. NAME, RELATIONSHIP AND MAILING ADDRESS OF INFORMANT HUSBAND - Don L. Miller / 1835 Teton View Drive / Rexburg, Idaho 83440						
DISPOSITION	20. METHOD OF DISPOSITION ☐ Entombment ☐ Donation ☐ Other		21a. DATE OF DISPOSITION APR. 28, 1992		21b. PLACE OF DISPOSITION (Name of cemetery, crematory, or other place) Cedron Cemetery		21c. LOCATION - City or Town, State Teton County - Victor, Idaho
	22. SIGNATURE OF FUNERAL SERVICE LICENSEE [Signature]		23. LICENSE NUMBER 353		24. FUNERAL HOME (Name, address and license number) WADE FUNERAL HOME 290 North Main Street Driggs, Idaho 83422		
CERTIFIER	25. DATE DECEASED WAS LAST ATTENDED BY CERTIFYING PHYSICIAN April 24, 1992		26. If not certified by medical examiner, was death reported to M.E.? ☐ Yes ☒ No If yes, enter the date and hour reported: M.E. Case No.				
	27a. CERTIFIER ☒ CERTIFYING PHYSICIAN To the best of my knowledge, death occurred at the time, date, and place, and due to the cause(s) and manner as stated. ☐ MEDICAL EXAMINER / LAW ENFORCEMENT OFFICIAL On the basis of examination and/or investigation, in my opinion, death occurred at the time, date, place, and due to the cause(s) and manner as stated.						
	27b. SIGNATURE AND TITLE OF CERTIFIER [Signature] M.D. Professor of Medicine		27c. LICENSE NUMBER 1079710010		27d. DATE SIGNED (Mo., Day, Yr.) 4/27/92		
	28. NAME AND ADDRESS OF PERSON WHO CERTIFIED THE CAUSE OF DEATH (ITEM 31) (Type/print) Finn Petersen, M.D., 50 North Medical Drive, Salt Lake City, Utah 84132						
REGISTRAR	29. REGISTRAR'S SIGNATURE [Signature]		30. DATE FILED (Month, Day, Year) April 24, 1992		30. DATE FILED (Month, Day, Year) April 29, 1992		
CAUSE OF DEATH	31. PART I: ENTER THE DISEASES, INJURIES, OR COMPLICATIONS THAT CAUSED THE DEATH. DO NOT ENTER THE MODE OF DYING, SUCH AS CARDIAC OR RESPIRATORY ARREST, SHOCK, OR HEART FAILURE. LIST ONLY ONE CAUSE ON EACH LINE. IMMEDIATE CAUSE (Final disease or condition resulting in death) a. CARDIOVASCULAR HYPOTENSION DUE TO (OR AS A CONSEQUENCE OF) b. CLINICAL SEPTICEMIA DUE TO (OR AS A CONSEQUENCE OF) c. STATUS POST ALLOGENEIC BONE MARROW TRANSPL. DUE TO (OR AS A CONSEQUENCE OF) d. ACUTE LYMPHOBLASTIC LEUKEMIA						
	PART II: Other Significant Conditions contributing to death but not resulting in the underlying cause given in Part I						
	32. IN YOUR OPINION, TOBACCO USE BY THE DECEDENT ☐ Probably contributed to the cause of death ☐ Was the underlying cause of death ☒ Did not contribute to the cause of death ☐ Is unknown in relation to the cause of death		33a. WAS AN AUTOPSY PERFORMED? ☒ Yes ☐ No		33b. WERE AUTOPSY FINDINGS AVAILABLE PRIOR TO COMPLETION OF CAUSE OF DEATH? ☒ Yes ☐ No		
	34. MANNER OF DEATH ☒ Natural ☐ Accident ☐ Suicide ☐ Homicide ☐ Undetermined If injured Purposely or Accidentally ☐ Pending Investigation		35a. DATE OF INJURY (Month, Day, Year)		35b. TIME OF INJURY (24 Hour Clock)		35c. INJURY AT WORK? ☐ Yes ☐ No
	35d. PLACE OF INJURY - At home, farm, street, factory, office, building, etc. (Specify)		35g. If motor vehicle accident, specify if decedent was driver, passenger or pedestrian.				

This is to certify that this is a true copy of the information on file in this office. This certified copy is issued under authority of Section 26-15-26 of the Utah Code Annotated, 1953 as amended.

Harry L. Gibbons, M.D., M.P.H.
Director of Health

Date Issued

32407

APR 29 1992

DEPUTY REGISTRAR

WARNING: IT IS ILLEGAL TO DUPLICATE THIS COPY FOR OFFICIAL PURPOSES.

THIS INDENTURE, made this 11 day of December, 1990, between KENNETH ROY MILLER and CLARICE S. MILLER, his wife, 4030 Dixie, of Idaho Falls, County of Bonneville, State of Idaho the party of the first part and DON LEROY MILLER and LINDA C. MILLER, his wife, Route 2 Box 114C, of Rexburg, County of Madison, State of Idaho the party of the second part,

WITNESSETH, that the said party of the first part, for and in consideration of the sum of -----DIVISION OF PARTNERSHIP PROPERTY-----Dollars lawful money of the United States of America to party of the first part in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and by these presents, does grant, bargain, sell and convey and confirm unto the said party of the second part, and to party of the second part's heirs and assigns, forever, all the following described real estate situated in _____, County of Teton, State of Idaho, to-wit:

RECEIVED

SEE ATTACHED EXHIBIT A

MAR 25 1991

TETON CO., ID
CLERK RECORDER

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, and rents, issues and profits thereof; and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said party of the first part,

TO HAVE AND TO HOLD, all and singular the above mentioned and described premises together with the appurtenances unto the party of the second part, and to party of the second part's heirs and assigns forever. And the said party of the first part, and said party of the first part's heirs shall and will warrant and by these presents forever defend the said premises in the quiet and peaceable possession of the said party of the second part, and party of the second part's heirs and assigns, against the said party of the first part, and party of the first part's heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same.

In construing this deed and where the context so requires, the singular includes the plural.

IN WITNESS WHEREOF, the said party of the first part hereunto has set his hand.

Kenneth R. Miller
Clarice Miller

STATE OF IDAHO,

County of _____

On this 11th day of

ss.

December

in the year 1990, before me

the undersigned _____, a Notary Public in and for said State, personally appeared KENNETH ROY MILLER and CLARICE S. MILLER, his wife,

known to me to be the persons whose names are subscribed to the within instrument, 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.

Blair Brown

Notary Public for the State of Idaho

Residing at Rigby, Idaho.

Commission Expires: 10/24/91



No. _____
WARRANTY DEED
(FORM No. 321)

to

SPACE RESERVED
FOR
RECORDER'S USE

Dated _____, 19____

AFTER RECORDING RETURN TO

STATE OF IDAHO,
County of Teton } ss.

I hereby certify that this instrument was filed for record at request of Don Leroy Miller at 51 minutes past 1 o'clock P.M., this 25th day of March, 1991, in my office, and duly entered in Book of Microfilm at page _____

Asa J. Drake
Ex Officio Recorder.
By *Clarice Smith*
Deputy.
Fees, \$ 6.⁰⁰

COPY

EXHIBIT "A"

PARCEL 1:

Beginning at the SE corner of the NE1/4NW1/4 of Section 30, Township 4 North, Range 45 E.B.M., running thence north 32 rods, west to a point 60 feet from the bank of Miller pond, thence meandering westerly along a line at all times 60 feet from said pond, to a point due east of a point 32 rods north of the SW corner of said NE1/4NW1/4, thence west to the west line of said NE1/4NW1/4, thence south 32 rods, east 80 rods to place of beginning, containing a parcel of 16 acres more or less.

Together with all appurtenant water rights and claims to water rights.

PARCEL 2:

Beginning at the Northwest corner of Section 30, Township 4 North, Range 45 E.B.M., thence Southeast diagonally across Lot 1 to the Southeast corner of Lot 1, thence West along the South boundary of Lot 1 to the West section line, thence North along the section line to the Northwest corner of Section 30.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718
Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

July 2, 2010

DAVID W AXELROD
1705 NW 32ND AVE
PORTLAND OR 97210-1909

Dear David:

While working on the resolution of some water rights objections in the Snake River Basin Adjudication (SRBA), I discovered that you may have an interest in water right 22-11537. Although your predecessor claimed the land that you now own near Paradise Springs, it appears that the water right was not decreed to your property.

Apart from objections being filed with the court, it will not be possible to correct this error, if indeed there is an error.

Please feel free to contact me at 208-525-7161 if you have questions or would like to discuss this matter.

Sincerely,

Michael Holliday
Water Resource Agent
Adjudication Bureau

Paradise Springs Water Rights, Basin 22, Teton County Idaho

Paradise Springs, located near Driggs Idaho in Basin 22 is the subject of much contention. The recommendations have been reported to the court for all Basin 22 claims as well as these Paradise Springs and those water rights related to Paradise Springs. Objections are now being filed with the court regarding these rights. This report is to document the reasoning behind the recommendations made on the water rights for Paradise Springs and those water rights relating.

Water Right Referenced in This Report

22-180A, 22-180B, 22-180D, 22-575A, 22-11537, 22-11639, 22-12714B, 22-13134, 22-13135, 22-13211, 22-13212, 22-13503, 22-13509, 22-13511, 22-13585, 22-13586.

Water Right 22-405

Water right 22-405 was decreed to J. J. Miller in “Rexburg Irrigation Company et al. vs. Teton Irrigation Canal Company et al.”, commonly known as the Rexburg Decree. Water right 22-405 was decreed to lands located on SWSE and S½ SW Section 30, and NENW of Section 21, Township 4 North, Range 45 East, for a total of 160 acres. The decree entitled Mr. Miller to a total of 2.0 cfs from Paradise Springs. The decree stated a priority date of 6-1-1904.

Mike Reid, Don Leroy Miller and Rex Miller are the original claimants for 22-405. Rex Miller has since sold a portion of his land to John Collins, Andrew Richardson and some of his land if not all is now being subdivided. All of the original claimants claim the water had never been used on the decreed place of use. Don is J.J. Miller’s son. He states along with the rest of the original claimants that J. J. Miller never owned any of the land described in the Rexburg decree, and that the land that the water was intended to be used on is located in the SESW and NESW Section 19 as well as NENW and SENW Section 30, Township 4 North, Range 45 East. After looking at the USGS topographic map, it was found that Paradise Springs’ water could never have been used on the land described in the Rexburg Decree because it is up hill.

Don Miller brought in J. J. Millers Homestead description as well as a Notice Of Water Right submitted by J. J. Miller. The Homestead Entry for J. J. Miller and the land listed on his Notice of Water right are described as follows: E½ NW Section 30 and E½ SW Section 19, Township 4 North, Range 45 East.

Given this information it is believed that water right 22-405 had always been used on the land described by the claimants. It is also believed that the Rexburg Decree was in error.

Because of this error and the fact that the Rexburg Decree is an indeterminate decree in regard to exact acreage, Idaho Department of Water Resources’ “Adjudication Memo #57” was used as a guide for these recommendations. “Adjudication Memo #57” states

that if the water right was part of an indeterminate decree, then the acres irrigated in 1987 will be used as the decreed place of use. In 1987 all of the E½ NW Section 30 and E½ SW Section 19, Township 4 North, Range 45 East was irrigated. This information was found through statements from the original claimants including signed statements from Rex Miller and Craig Kunz and by reviewing the aerial photos taken in 1987/1988 by the National Agriculture Imagery Program (NAIP). Though this is true, the claimants state that the NESW of Section 19 Township 4 North, 45 East was not irrigated until later (Affidavit supplied).

Rex Miller and Don Miller are brothers and each of them owned part of the land that was homesteaded by J. J. Miller. Even though the land was not split half and half between Don and Rex, the water right was. This information was obtained by a conversation with Don and a signed statement from Rex. Rex Miller and Don Miller each received 1.0 cfs of water right 22-405.

Mike Reid bought a portion of land from Don Miller therefore a portion of Don's 1.0 cfs was portrayed to him. Because of a claim that ground water users in the area were drying up Paradise Springs, Mike Reid filed a transfer to officially move the water from the decreed place of use to the land that it has always been used on. This transfer was lost in the system and when it was found it was decided that the Adjudication recommendations would accomplish the change the transfer was trying to accomplish, and the transfer was withdrawn. Rex's 1.0 cfs was also split. The recommendations for 22-405 have been created based on the above information.

Recommendations for 21-405:

- Mike Reid owns 35.6 acres of the Homesteaded land and receives 0.7 cfs and is reflected in the following claim files: 22-13212 (0.5 cfs), 22-13503 (0.2 cfs).
- Don Miller owns 9.6 acres and receives 0.3 cfs reflected in claim number 22-13211
- Rex Miller at one time irrigated 93.8 acres using water right 22-405 and water right 22-587. He owns 1.0 cfs of 22-405 and did not claim any additional water from 22-587 although he owned land covered by that right. He sold 7.2 acres and 0.08 cfs to Russel Bourne who then sold it to John Collins. John Collins' land was decreed as 22-587 and was therefore was recommended as such. Rex then sold another piece of his land to Andrew Richardson who received 0.34 cfs for 31 acres on land decreed as 22-405. Rex was left with 55.6 acres and 0.61 cfs on land covered by both 22-405 and 22-587.
- Rex Miller 55.6 acres and 0.61 cfs. Combination of 22-405 and 22-587 reflected in claim number 22-13585.
- Andrew Richardson 31 acres and 0.34 cfs. Portion of 22-405 reflected in claim number 22-13586.

- John Collins 7.2 acres and 0.08 cfs. Portion of 22-587 reflected in claim number 22-12714B.

Water Right 22-13509

Later in time the NESW of Section 19, Township 4 North, Range 45 East started being irrigated by water that came from a ditch along the Western hillside. There was an affidavit submitted by Chester Miller, one of J. J. Miller's sons. This affidavit went through some history about the water from Paradise springs but the only concrete date that can be taken from that affidavit was 1960. Because of this information the priority date that was given to water right 22-13509 for the irrigation of the NESW of Section 19, Township 4 North, Range 45 East.

Water Right 22-4104

According to the claimants in 1969 a pump went in on the East side of the spring and pumped water through a pipe for sprinkler irrigation. This pump not only irrigated all of the homesteaded land, but also began irrigating a small piece of land owned by Don Miller in the NWNW of Section 30 Township 4 North, Range 45 East. The affidavit provided by Chester Miller supports this beneficial use water right 22-4104. This right was split between Don Miller and Mike Reid.

Recommendations for 22-4104:

- Mike Reid receives 0.59 cfs reflected in claim number 22-11639.
- Don Miller receives 0.14 cfs reflected in claim number 22-11537.

Water Right 22-587

This water right was decreed in the Rexburg Decree to Caroline Withrick for an "undivided $\frac{1}{4}$ of Paradise Springs" with a priority of 6-1-1904. The land in the decree is stated as follows:

"NE1/4SE1/4, and SE1/4 of NE1/4 of Section 30, T. 4 N., R., 45 E., B. M. also, Homestead not described in pleadings."

The Homestead for Caroline Withrick was found on the BLM website (www.glorerecords.blm.gov) but her name was spelled slightly different. The homestead was issued to Carolina Wuthrick dated May 20th 1862. The land was listed as follows:

"S1/2SE Section 19 and NWNE Section 30 of T 4N R 45E"

The land listed on the decree and on the Homestead Entry total 200 acres.

7.2 acres of SWSE Section 19, Township 4 North, Range 45 East has been recommended to John Collins as 22-12714B. The remainder of that quarter-quarter has been recommended to Rex Miller as 22-13585. Duane Kunz claims 1.6 cfs of 22-587 reflected in water right claim number 22-13511. He claims the water has been used on NESW and NWSW Section 30, Township 4 North, Range 45 East, which is not the decreed place of use and no evidence has been submitted suggesting an error in the decree. As a result that claim has been disallowed.

Water Right 22-575

Water right 22-575 was decreed in the Rexburg Decree to George Walton for 100 inches (2 cfs) from Paradise Springs with a priority of 6-1-1892. The land it was decreed to is described as follows:

“NW1/4 of SW1/4 and W1/2 of NW1/4 of Section. 29, and NE1/4 of NE1/4 of Section 30, T. 4 N. R., 45 E., B. M., Containing 160 Acres.”

In water right transfer number 3555 Gary Zohner transferred 1 cfs of water right 22-575 from NWNW Section 29 and NENE Section 30, Township 4 North, Range 45 East to the NWSE and SESE Section 19, Township 4 North, Range 45 East. Also in the same transfer he moved 0.7 cfs of water right 22-180 from the NENE Section 30, Township 4 North, Range 45 East to the same place of use in Section 19.

After transfer # 3555, the land pertinent to 22-575 is as follows:

NWSW and SESE Section 19, SWNW and NWSW Section 29 all in Township 4 North, Range 45 East.

Teton Rainbow Ranch at one time prior to 1987 owned land located in the SWNW and NWSW Section 29, Township 4 North, Range 45 East. They sold that land to Peter Shields and reserved the water as stated in the warrantee deed located in the claim file for water right 22-13134. Teton Rainbow Ranch then moved the water to SENE and NESE Section 30, Township 4 North, Range 45 East. Based on this information the recommendations follow.

Recommendations for 22-575:

- Gary Zohner receives 1.0 cfs reflected in claim number 22-575A limited to 80 acres.
- Wally Rothgeb receives, as an accomplished change in place of use, 0.13 cfs for 8.9 acres reflected in claim number 22-13135.
- Teton Rainbow Ranch receives, as an accomplished change in place of use, 0.86 cfs for 54 acres reflected in claim number 22-13134.

Water Right 22-180

Water right 22-180 was decreed in the Rexburg Decree to H. C. Bowles for 140 inches (2.8 cfs) from Spring Creek, with a priority of 6-1-1889. The land describe in the decree is as follows:

“SW1/4 of SW1/4 and SW1/4 of SE1/4 of Section. 29, N1/2 of NE1/4 of Section. 30, T. 4 N., R. 45 E., B. M., containing 160 acres”.

After transfer # 3555 mentioned above the lands to which water right 22-180 was pertinent is as follows.

NWSE and SESE Section 19, SWSW and SWSE Section 29, and NWNE Section 30, Township 4 North, Range 45 East.

Though 22-180 was decreed the source of “Spring Creek”, no one knows exactly where Spring Creek is. Some of the local names for Paradise Springs are Sulfur Creek and Spring Creek. In my analysis Paradise Springs, springs up into a pond and when water is high it will flow down and add to the water down stream in what is locally known as Miller Slough or Paradise Creek. Paradise Creek is a gaining reach and water can be found in it even after water is too low for Paradise Springs to feed it. It is possible that at the time of the Rexburg decree, Paradise Springs and Paradise Creek were referred to as separate sources. It is my opinion that the Rexburg Decree decreed rights to Paradise Springs and also Paradise Creek but named it Spring Creek because it was connected to Paradise Springs at times. For lack of other evidence and the fact that for years, it has been accepted that 22-180 is part of Paradise Springs my recommendation is that 22-180 be decreed, at least in part, to Paradise Creek. A transfer was even approved by the Department for this right and no protests were received to my knowledge. The Rexburg Decree did however decree 40 acres of land to this water right on the East side of the River. This is the portion of the right that Duane Kunz is claiming. That is why I recommended Unnamed Stream to this right. Why that land was decreed is unknown to me. It may be an error, or the land on the West side of the river may be in error. It could also be that H. C. Bowles allowed the water to flow into the Teton River and then he took it out upstream in an exchange fashion, otherwise I don’t understand why 80 acres would be decreed right on Paradise Creek and 80 acres decreed ½ mile upstream and 40 acres of it on the East side of the river. It may be that we want to recommend 22-180A and 22-180D as Paradise Creek to differentiate between Paradise Springs and Paradise Creek, and then have a point of injection and a point of re-diversion.

Based on that information the recommendations for 22-180 are as follows.

Recommendations for 22-180:

- Gary Zohner receives 0.7 cfs for 80 acres reflected in claim number 22-180A (Paradise Springs)

- Duane Kunz receives 0.7 for 40 acres reflected in claim number 22-180B (Unnamed Stream)
- Larell Kunz receives 0.44 cfs for 25 acres reflected in claim number 22-180D (Paradise Springs)

Report by Trent Galbraith 12-15-06: Revised 10-1-2007



Idaho Department of Water Resources

SRBA Recommendation:

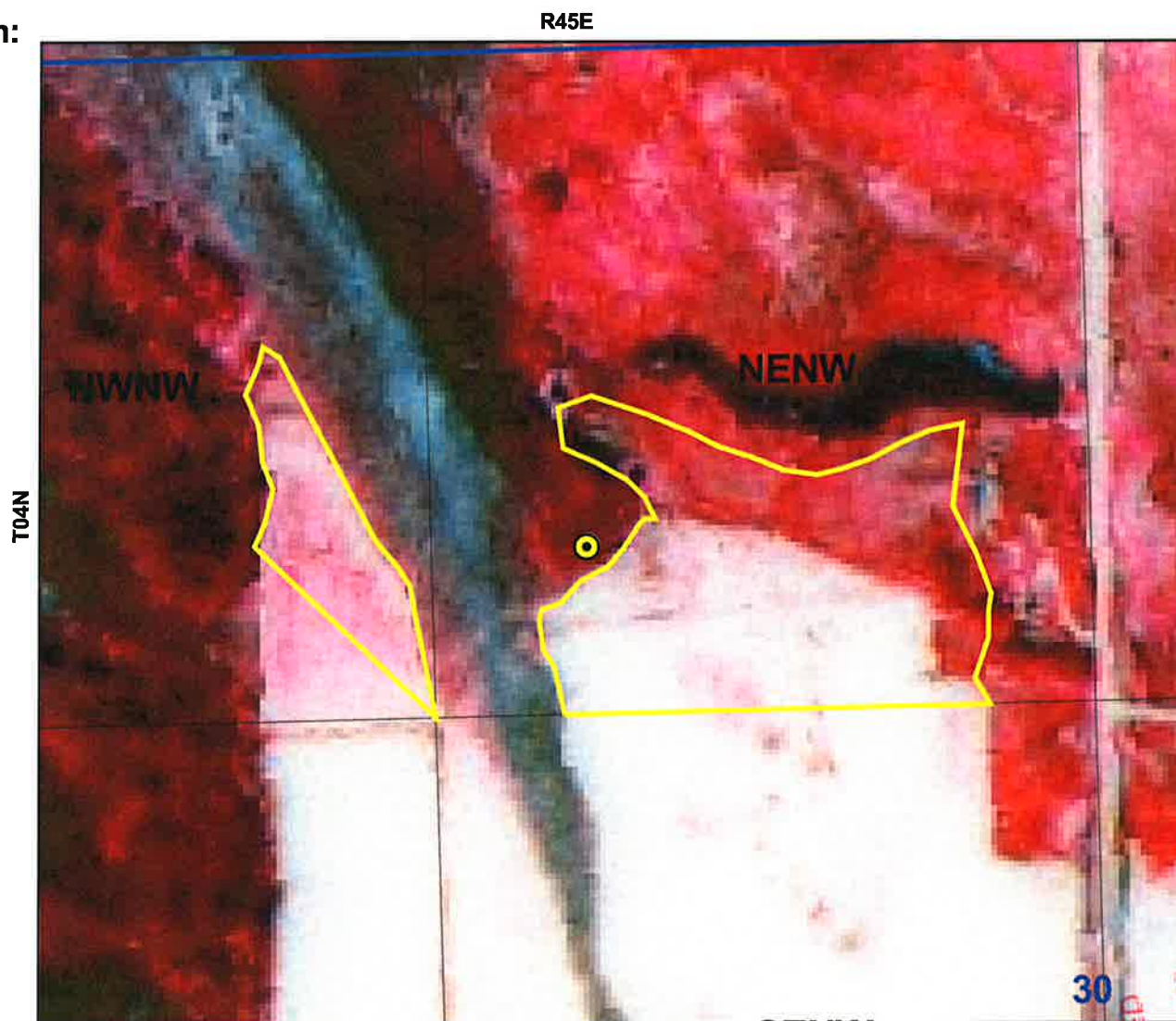
22-11537

Legend

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



Teton County
IDWR Basin 22



0 0.1 0.2 Miles



Prepared by T. Galbraith
On Tuesday, April 25, 2006
1987/88 Aerial Photography

SCANNED
JUN 4 2007

December 19, 2005

Don L Miller
1835 Teton View Dr
Rexburg ID 83440



RE: EVIDENCE OF PRIORITY FOR SRBA WATER RIGHT CLAIM 22-11537

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 JULY 21, 1969, from Paradise 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.**

SCANNED

JUN 04 2007

SDG Evidence Letter 114
22-11639.

copy for transcript in place of use
and that there have been forfeitures
and you will have to agree - if not we will
we have asked our land is to be used & how it is
ought to be allocated

RIGBY & THATCHER
ATTORNEYS AT LAW
25 NORTH SECOND EAST
P. O. BOX 362
REXBURG, IDAHO 83440

RAY W. RIGBY
GORDON S. THATCHER

August 23, 1967

TELEPHONE
356.6701
356.3238
AREA CODE 208

Mr. M. N. Kunz
Victor, Idaho

Mr. Grant Kunz
Victor, Idaho

Mr. Monroe Dustin
Victor, Idaho

Mr. Denton Dustin
Victor, Idaho

Gentlemen:

4N 4SE

Jacob Zohner, Fred Miller and Chester Miller have asked the assistance of this office in straightening out some water titles on Paradise Springs there in the Bates area of Teton County. In the famous water decree in the case of Rexburg Irrigation Company v. Teton Irrigation Canal Company, J. J. Miller was decreed 100 inches of water from Paradise Springs with a priority of June 1, 1904, to be used upon the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and S $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 30, and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 31, all in Twp. 4 N., R. 45, E.B.M. However, neither at that time nor at any time since has J. J. Miller ever owned that land. Furthermore, he filed a notice of water right in the Fremont County Records dated May 23, 1901, wherein he claimed that he was going to use waters of Henderson Springs or Paradise Springs to the extent of 2 c.f.s.; that the water would be diverted commencing as a spring on the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 30, Twp. 4 N., R. 45, E.B.M., thence East about 1/2 mile and thence into the Teton River. He said the general course of the proposed canal is "north"; that the length of the proposed canal is about one mile, and that he intended to use the water upon the E $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 30 and the E $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 19, both in Twp. 4 N., R. 45, E.B.M.

SCANNED

JUN 04 2007

Mr. M. N. Kunz
Mr. Grant Kunz
Mr. Monroe Dustin
Mr. Denton Dustin

August 23, 1967
Page No. 2

Again, you will note that the course of the canal would have to have been south to reach the land to which this water was decreed in Sec. 30 and Sec. 31. An examination of the premises reveals that this would have been virtually impossible because of the high hill just to the north of the property described in the decree.

These people say that water from Paradise Springs has never been used upon the land mentioned in the decree, and from our exhaustive search of the records and discussing it with several people, they all are in accord. It appears that the water was used principally to the north of the springs and is now being used on the E $\frac{1}{2}$ NW $\frac{1}{4}$ of Sec. 30, E $\frac{1}{2}$ SW $\frac{1}{4}$ and the entire SE $\frac{1}{4}$ of Sec. 19, all in Twp. 4 N., R. 45, E.B.M. These people then claim that they own all of the Paradise Springs water decreed to J. J. Miller, as well as other water rights in Paradise Springs by virtue of other decrees. They base this right on the fact that they own the land upon which the water is used; that the decree was in error in describing the land owned by J. J. Miller, and that in any event, they have used the water on these lands to the exclusion of those lands mentioned in the decree uninterruptedly for many years, and certainly more than the last five years, which would mean they would have acquired the right by prescriptive use, if by no other title.

They are now thinking of putting in a pump, mainline and sprinklers to more fully utilize this water. Before they do this, however, they would like to make sure their water rights are good. It would seem very wise for all parties to sit down together and work this out, if there is any dispute. We have a wealth of information here at the office, and would be happy to meet with you people or anyone else in your behalf, and we could even get all the parties together and show them the information we have and let them make their own independent searches to the end that titles to the water may be properly documented to avoid a quiet title action or any other type of action at law.

SCANNED

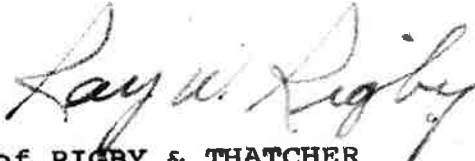
JUN 04 2007

Mr. M. N. Kunz
Mr. Grant Kunz
Mr. Monroe Dustin
Mr. Denton Dustin

August 23, 1967
Page No. 3

We assure you of our complete cooperation in behalf of all parties concerned. Would you please let us know what your thinking is and if we might arrange a meeting of all parties. It is quite important that this be done as soon as possible.

Yours very truly,


of RIGBY & THATCHER

ss

CC Mr. Jacob Zohner
Mr. Chet Miller —
Mr. Fred Miller

The undersigned do hereby affirm that the John J Miller water right, #22-405 decreed for 2 cfs in the Rexburg Decree, was split between the undersigned as claimed in the SRBA, as follows:

Rex Miller owns 1 cfs (split to .92cfs for Rex and .08 cfs to R. Bourne)
Don Miller owns .30 cfs
Mike Reid owns .70 cfs

I hereby swear or affirm this is true.

Rex Miller
Rex Miller



(State Of Idaho)
(Jerome County)

(Subscribed and sworn or affirmed before me this 29th day of June, 2006.)

Teena McCandless
Residing at: Jerome
Commission expires: 11/17/11

Don Miller
Don Miller

(State Of Idaho)
(Madison County)

(Subscribed and sworn or affirmed before me this 15th day of May, 2006.)

Wanda Virgin
Residing at: Rexburg
Commission expires: 9-20-2006

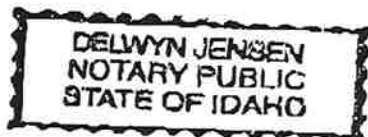
Mike Reid
Mike Reid

(State Of Idaho)
(Teton County)

(Subscribed and sworn or affirmed before me this 10 day of May, 2006.)

Delwyn Jensen
Residing at: Driggs
Commission expires: 1/22/07

SCANNED
JUN 04 2007



Received Time Jun. 29. 1:28PM

Form approved by the Secretary of the Interior, November 23, 1908.

SERIAL NO. 02287

DEPARTMENT OF THE INTERIOR.

HOMESTEAD ENTRY.

U. S. LAND OFFICE _____, No. _____

FINAL PROOF.

Receipt No. 307777

TESTIMONY OF CLAIMANT.

QUESTION 1. What is your full name, age, and post-office address?

ANSWER. John J. Miller 37. Bates Fremont Co. Idaho.

QUESTION 2. Are you a native-born citizen of the United States, and if so, in what State or Territory were you born? (If foreign born, see Note 1.)

ANSWER. I am foreign born, was born in Switzerland.

QUESTION 3. Are you the same person who made Homestead Entry No.

8850, at the Blackfoot Land Office on the 15th day of August A.D., 1902, for the E 1/4 NW 1/4 Sec 30, & E 1/2 SW 1/4

_____, Section 19, Township 4 N, Range 45 E., B.M. Meridian?

ANSWER. Yes.

QUESTION 4. (a) Are you married or single? ANSWER. Married

(b) If married, of whom does your family consist?

ANSWER. Wife and nine children.

(c) If a married woman, state whether your husband now has an unperfected homestead entry, and during what time he has resided on this land with you?

ANSWER.

QUESTION 5. (a) When did you first establish actual residence upon this land?

ANSWER. About July 1901. I lived on place over a year before filing on it.

(b) When was your house built on this land?

ANSWER. About July 15th 1901.

(c) Have either you or your family ever been absent from the homestead since establishing residence?

ANSWER. No

(d) If there has been such absence give the dates covered by each absence; and as to each absence state whether you, your family, or both, were thus absent and the reason for each such absence?

ANSWER. There has been none.

QUESTION 6. Describe the land embraced in above entry by legal subdivisions, showing fully the character of same, and kind and amount of timber, if any.

ANSWER.

Subdivision.	Acres cultivable.	Acres timbered.	Feet timber.
N.E. 1/4 NW 4 Sec 30.	20 grain	none	
S.E. 1/4 NW 4 " 30	Pasture	"	
S.E. 1/4 SW 4 " 19	10 hay	"	
N.E. 1/4 SW 4 " 19	unfenced.		

QUESTION 7. State by subdivisions the number of acres cultivated, kind of crop planted, and amount harvested, each year. How many acres of the claim are now cleared, or broken, and under cultivation? If used for grazing only, state number and kind of stock grazed each year and by whom owned.

ANSWER.

Thirty acres in grain and hay. ^{Seasonally} Sixty pasture, or grazing. Have raised crops for the past six years on the 30 acres above designated and all of S.E. 1/4 NW 4, ^{Sec 30} I have grazed for six years. Also grazed 30 acres of S.E. 1/4 SW 4 Sec 19. Remainder of entry is unfenced and uncultivated.

QUESTION 8. Describe fully and in detail the amount and kind of improvements on each subdivision. State total value of improvements on the claim.

ANSWER.

Subdivision.	Character of improvements.
N.E. 1/4 NW 1/4 Sec 30.	House 2 rooms? Stables, Sheds, granary
" " " "	Fish Pond 80,000 trout in it.
" " " "	Also \$400. Dam to irrigate land. \$3000.00
S.E. 1/4 NW 4 " 30	Just fence, 3 wire fence. 120.00
S.E. SW 4 " 19	Hay & grain fence. 100.00
	Total Value. \$3720.00

QUESTION 9. Is your present claim within the limits of an incorporated town or selected site of a city or town, or used in any way for trade or business?

ANSWER.

No

QUESTION 10. Are there any indications of coal, salines, or minerals of any kind on the land? If so, describe what they are.

ANSWER.

No

QUESTION 11. Have you ever made any other homestead entry? If so, describe the same.

ANSWER.

No

QUESTION 12. Have you sold, conveyed, or agreed to sell or convey any portion of the land; if so, to whom and for what purpose?

ANSWER. no

QUESTION 13. Have you optioned, mortgaged, or agreed to option or mortgage, or convey this land, or any part thereof; if so, when, to whom, and for what purpose and in what amount?

ANSWER. no

QUESTION 14. Have you any personal property of any kind elsewhere than on this claim? If so, describe the same, and state where the same is kept.

ANSWER. no

QUESTION 15. Describe by legal subdivisions, or by number, kind of entry, and office where made, any other entry or filing (not mineral) made by you since August 30, 1890.

ANSWER. I made an entry south of present claim for which I was allowed to exchange for one and now making proof on. I think numbers are same. I cannot give dates nor numbers; This is my only entry.

John A. Miller
(Sign plainly, with full Christian name.)

NOTE 1.—If applicant is alien born, he should state the fact and file evidence of citizenship in due form, either a certificate of his own naturalization in a court of competent jurisdiction, or, if claiming to be a citizen by virtue of his father's naturalization and his own minority and residence in the United States at the date thereof, or, if a married woman claiming citizenship by virtue of her husband's nativity or naturalization, then record evidence of the naturalization of the father, or husband, or an affidavit as to the nativity of the latter.

NOTE 2.—The officer before whom the proof is made will see that all answers are complete and responsive to the questions.

NOTE 3.—The officer before whom the deposition is taken should call the attention of the witness to section 5392 of the Revised Statutes (over), and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

I HEREBY CERTIFY that the deponent was examined separately and apart from the other witnesses in the case; that the foregoing deposition was read to or by deponent in my presence before deponent affixed signature thereto; that deponent is to me personally known (or has been satisfactorily identified before me by _____);

(Give full name and post-office address.)

that I verily believe deponent to be the identical person hereinbefore described, and that said deposition was duly subscribed and sworn to

before me at my office, in Rexburg Fremont County Idaho
(Town, county, and State.)

within the Blackfoot land district,

this 13th day of July A.D., 1909.

COANNED

JUN 04 2007

Hargrave
U.S. Commissioner
(Official designation of officer.)

DEPARTMENT OF THE INTERIOR.

HOMESTEAD ENTRY.

U. S. LAND OFFICE _____, No. _____

FINAL PROOF. Receipt No. _____

TESTIMONY OF WITNESS.

QUESTION 1. What is your full name, age, and post-office address?

ANSWER. Robert Hung; 23, Bates Fremont
County Idaho.QUESTION 2. (a) How long have you known the claimant in this case
and the E². N.W. 4 Sec. 30;E². N.W. 4 Sec 19 Section _____,
Township 4 N., Range 45 E., Boise Meridian,the land embraced in Homestead Entry, No. 8850, made at the
Blackfoot, Land Office?

ANSWER. Eight or nine years.

(b) Is claimant married? ANSWER. yrs.

QUESTION 3. Is said tract within the limits of an incorporated town,
or used in any way for trade or business?

ANSWER. No

QUESTION 4. (a) When did claimant settle upon the homestead?

ANSWER. In the summer of 1901;

(b) At what date did claimant establish actual residence thereon?

ANSWER. Some time in July of that year 1901

(c) Have claimant and family resided continuously on the home-
stead since thus establishing residence thereon?

ANSWER. yrs.

(d) Have claimant and family ever been absent from the homestead
since thus establishing residence thereon?

ANSWER. No

(e) If there have been any such absences, give the dates covered
by such absences, stating who was absent and for what
reason.

ANSWER. There are none

SCANNED

JUN 04 2007

QUESTION 5. Describe the land embraced in above entry by legal subdivisions, showing fully the character of same, and kind and amount of timber, if any.

ANSWER.

Subdivision.	Acres cultivable.	Acres timbered.	Feet timber.
NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec 30	20 grain	—	—
SE $\frac{1}{4}$ NW $\frac{1}{4}$ " "	30 grazed		
SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 19.	10 hay	bal. grazed.	
NE $\frac{1}{4}$ SW $\frac{1}{4}$ " "	unfenced & unfenced.		

QUESTION 6. State by subdivisions the number of acres cultivated, kind of crop planted, and amount harvested, each year. How many acres of the claim are now cleared, or broken, and under cultivation? If used for grazing only, state number and kind of stock grazed each year and by whom owned.

ANSWER.

30 in grain and hay; About 60 used for pasturage, or grazing. Crops every year, on 30 acres; all of SE $\frac{1}{4}$ NW $\frac{1}{4}$ has been grazed for the past five years to my knowledge, and he has grazed for same time 30 acres of the S.E. $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 19. NE $\frac{1}{4}$ SW $\frac{1}{4}$ is unfenced, and lying open to the public.

QUESTION 7. Describe fully and in detail the amount and kind of improvements on each subdivision. State total value of improvements on the claim.

ANSWER.

Subdivision.	Character of improvements.
NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 30	2 room house, 2 stables Shed granary ten acres in garden and Fish Pond, Value \$7500.00
SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec 30	Fenced with barbed wire 1.00
SE SW " 19	Hay & grain & fencing 1.50
	Total \$2750.00

QUESTION 8. Are there any indications of coal, salines, or minerals of any kind on the land? If so, describe what they are.

ANSWER.

No

QUESTION 9. Have you any knowledge or information that claimant has sold or contracted to sell, optioned, mortgaged, or agreed to option or mortgage this land? If so, give full details as to whom, for what purpose, and in what amount.

ANSWER.

None

SCANNED

QUESTION 10. (a) Have you personal knowledge, from your own observation, that claimant and his family (if any) actually resided upon and cultivated this land each year in accordance with your above testimony?

ANSWER.

yes.

(b) How many times each year have you seen this land, and the claimant and his family residing thereon; and what other personal knowledge have you upon which your answers are based?

ANSWER.

Two to four times a week for five years last past.

QUESTION 11. Are you interested in this claim,² or related to the claimant?³ If so, how?

ANSWER.

No Sir:

yes.

by marriage, he is my brother in law;

Robert Kung

(Sign plainly, with full Christian name.)

NOTE 1.—The officer before whom the proof is made will see that all answers are complete and responsive to the questions.

NOTE 2.—The officer before whom the deposition is taken should call the attention of the witness to section 5392 of the Revised Statutes (below), and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

I HEREBY CERTIFY that the deponent was examined separately and apart from the other witnesses in the case; that the foregoing deposition was read to or by deponent in my presence before deponent affixed signature thereto; that deponent is to me personally known (or has been satisfactorily identified before me by _____);

(Give full name and post-office address.)

that I verily believe deponent to be the identical person hereinbefore described, and that said deposition was duly subscribed and sworn to

before me at my office, in

Blackfoot

(Town, county, and State.)

within the

Blackfoot

land district,

this

13th

day of

July

, 1909

Hazel Smith
U. S. Commissioner

(Official designation of officer.)

REVISED STATUTES OF THE UNITED STATES. TITLE LXX.—CRIMES.—CHAP. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years; and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See Sec. 1750.)

NOTE.—In addition to the above penalty, every person who knowingly or willfully in anywise procures the making or presentation of any false or fraudulent affidavit pertaining to any matter within the jurisdiction of the Secretary of the Interior may be punished by fine or imprisonment.

c 6—1532

SCANNED

JUN 04 2007

DEPARTMENT OF THE INTERIOR.

HOMESTEAD ENTRY.

U. S. LAND OFFICE _____, No. _____

FINAL PROOF. Receipt No. _____

TESTIMONY OF WITNESS.

QUESTION 1. What is your full name, age, and post-office address?

ANSWER. *Conrad Miller; 41; St Anthony
Fremont County Idaho.*QUESTION 2. (a) How long have you known the claimant in this case
and the *E 1/2 NW 1/4 Sec 30, - and**E 1/2 SW 1/4* Section *19*,
Township *4 N*, Range *45 E*, *Baise* Meridian,
the land embraced in Homestead Entry, No. *8850*, made at the
Bluefoot Land Office?ANSWER. *The claimant, all his life, the land ten years;*(b) Is claimant married? ANSWER. *yes.*QUESTION 3. Is said tract within the limits of an incorporated town,
or used in any way for trade or business?ANSWER. *No*

QUESTION 4. (a) When did claimant settle upon the homestead?

ANSWER. *In July 1901.*

(b) At what date did claimant establish actual residence thereon?

ANSWER. *July 15th 1901*(c) Have claimant and family resided continuously on the home-
stead since thus establishing residence thereon?ANSWER. *yes.*(d) Have claimant and family ever been absent from the homestead
since thus establishing residence thereon?ANSWER. *no*(e) If there have been any such absences, give the dates covered
by such absences, stating who was absent and for what
reason.ANSWER. *none*

QUESTION 5. Describe the land embraced in above entry by legal subdivisions, showing fully the character of same, and kind and amount of timber, if any.

ANSWER.

Subdivision.	Acres cultivable.	Acres timbered.	Feet timber.
NE ⁴ NW ⁴ Sec 30,	20, grain	—	—
SE ⁴ NW ⁴ Sec 30	30, grazed.		
SE ⁴ NW ⁴ Sec 19,	10 Hay		
NE ⁴ NW ⁴ " 19	unacceded, unimproved.		

QUESTION 6. State by subdivisions the number of acres cultivated, kind of crop planted, and amount harvested, each year. How many acres of the claim are now cleared, or broken, and under cultivation? If used for grazing only, state number and kind of stock grazed each year and by whom owned.

ANSWER.

He has 30 acres plowed land in crop: 20 grain 10 hay, and 30 or more he is and has been grazing ever since he settled on claim. I can not tell the land by subdivisions but can mark out what I mean; there is one 40 acres not yet cultivated that is also unimproved.

QUESTION 7. Describe fully and in detail the amount and kind of improvements on each subdivision. State total value of improvements on the claim.

ANSWER.

Subdivision.	Character of improvements.
	He has a two room good house 2 Stables Corral granary and fine garden. A big fish pond and grain and hay.
	In all I would value \$3000.00

QUESTION 8. Are there any indications of coal, salines, or minerals of any kind on the land? If so, describe what they are.

ANSWER.

I do not think so

QUESTION 9. Have you any knowledge or information that claimant has sold or contracted to sell, optioned, mortgaged, or agreed to option or mortgage this land? If so, give full details as to whom, for what purpose, and in what amount.

ANSWER.

No sir.

QUESTION 10. (a) Have you personal knowledge, from your own observation, that claimant and his family (if any) actually resided upon and cultivated this land each year in accordance with your above testimony?

ANSWER.

Yes.

(b) How many times each year have you seen this land, and the claimant and his family residing thereon; and what other personal knowledge have you upon which your answers are based?

ANSWER.

About twice a month in the summer time I go to see him, and occasionally in the winter.

QUESTION 11. Are you interested in this claim, or related to the claimant? If so, how?

ANSWER.

1 No. 2 yes. 3 I am his brother;

Conrad Miller

(Sign plainly, with full Christian name.)

NOTE 1.—The officer before whom the proof is made will see that all answers are complete and responsive to the questions.

NOTE 2.—The officer before whom the deposition is taken should call the attention of the witness to section 5392 of the Revised Statutes (below), and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

I HEREBY CERTIFY that the deponent was examined separately and apart from the other witnesses in the case; that the foregoing deposition was read to or by deponent in my presence before deponent affixed signature thereto; that deponent is to me personally known (or has been satisfactorily identified before me by *Hyrum Jacobs Sugar City Fremont Co. Idaho*);

(Give full name and post-office address.)

that I verily believe deponent to be the identical person hereinbefore described, and that said deposition was duly subscribed and sworn to

before me at my office, in

Pixburg Fremont Co. Idaho

(Town, county, and State.)

within the

Blackfoot

land district,

this

13th

day of

July

, 19

09

Angelus Dix
U.S. Commissioner

(Official designation of officer.)

REVISED STATUTES OF THE UNITED STATES. TITLE LXX.—CRIMES.—CHAP. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years; and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See Sec. 1750.)

NOTE.—In addition to the above penalty, every person who knowingly or willfully in anywise procures the making or presentation of any false or fraudulent affidavit pertaining to any matter within the jurisdiction of the Secretary of the Interior may be punished by fine or imprisonment.

c 6-1532

JUN 04 2007

NOTICE FOR PUBLICATION

Blackfoot, Idaho,

June 22, 1909.

Mr. Clinton H. Hartson,
Chief of Field Division,
Boise, Idaho.

Sir:-

I hereby certify that on June 21, 1909, I made field examination of the land involved, in this entry, and found the entryman, with his family ~~residing~~. The following improvements were found: 2 roomed log house, 16' X 28', board roof and floor, 4 full windows, house comfortably furnished, another one room log house, 12' X 14', board roof. 25 acres under cultivation, in grain, barn and small fish hatchery. Approximate value of improvements \$350/ 480 rods of fence.

I interviewed entryman, W. J. Wood and Thomas Bates, neighbors, from whose statements it appears that the entryman has resided with his family on the entry continuously since making the entry.

In view of the foregoing, I respectfully recommend that if proof is found satisfactory, the entry pass to patent.

Very respectfully,

APPROVED
Clinton H. Hartson
CHIEF OF FIELD DIVISION

Charles E. Brookes
Special Agent, G.L.O.

CERTIFICATE AS TO POSTING OF NOTICE

I HEREBY CERTIFY that the above notice, or copy thereof, was by me posted in a conspicuous place in my office for a period of days, I having first posted said notice on the day of

SCANNED

JUN 04 2007

NOTICE FOR PUBLICATION.
(PUBLISHER.)

DEPARTMENT OF THE INTERIOR,

U. S. LAND OFFICE at BLACKFOOT, IDAHO.

NOTICE is hereby given that John J. Miller, of Bates Idaho, who, on May 27, 1909, made Homestead Application 8850 Serial No. 02287 ~~8850~~, for E. 2. NW 4 Sec. 30 E 2 S. W. 4, Section 19, Township 4 N, Range 45 E, Baine Meridian, has filed notice of intention to make Final Five year Proof, to establish claim to the land above described, before Hughes Nix U.S. Commissioner, at Rexburg Idaho, on the 13 day of July, 1909.

Claimant names as witnesses:

George Watton, of Bates Idaho
Robert Kung, of "
Fred Murri, of St. Anthony
Conrad Miller, of "

Henry W. Kiefer
Register.

AFFIDAVIT OF PUBLICATION.

Publisher: Return this form to the Register at the end of the period of publication, with the "Affidavit of Publication" properly executed.

I, Wm. F. Gibson
Publisher, of the
Fremont County News
published weekly at St. Anthony, Idaho
do solemnly swear that a copy of the above notice, as per clipping attached, was published weekly in the regular and entire issue of said newspaper, and not in any supplement thereof, for Six consecutive weeks, commencing with the issue dated June 2, 1909, and ending with the issue dated July 7, 1909.

Wm. F. Gibson
(Signature.)

Subscribed and sworn to before me this 14 day of July, 1909

James F. Gorman
Notary Public
(Official designation.)



SCANNED

JUN 04 2007

NOTICE OF INTENTION TO MAKE PROOF.

DEPARTMENT OF THE INTERIOR,

U. S. LAND OFFICE at

BLACKFOOT, IDAHO

May 27, 1909

I, John J. Miller, of

Bates Idaho, who, on Aug. 15, 1902, made

Homestead Entry 8850 Serial, No. 02287, for

E 2 N 25 E Sec 30, T 40 N, Section 19,

Township 4 70, Range 45, East Boise Meridian,

hereby give notice of my intention to make Final Five Year

(If homestead, insert "five year" or "commutation," as case may be.)

Proof, to establish my claim to the land above described, before

Douglas Hix, U.S. Commissioner, at

(Name of officer.)

Redburg Idaho, on the 13 day of

July, 1909, by two of the following witnesses:

George Walton, of Bates Ida

Robert Kung, of "

Fred Munn, of St. Anthony

Conrad Miller, of "

John J. Miller
(Signature of claimant.)

May 27, 1909

Notice of the above intention to make proof will be published in the

News St. Anthony Ida

(Name of newspaper.)

(Place of publication.)

for a period of 6 consecutive Weeks, which I hereby designate

as the newspaper published nearest the land above described.

Henry H. Kiefer
Register.

NOTICE OF WATER RIGHT.

4/15/50

To All Concerned Notice is Hereby Given:

1st. That

John J. Miller

watering trough of

Bates Fremont C. Soc

hereby claim the use of the waters of

Paradise Spring

to the extent of

2

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

ed as follows:

Commencing as a spring on the

ore definitely

as follows: ~~Ammonia~~ ~~in~~ ~~2~~ ~~500~~ ~~gr~~
Lact 30. Inf 4 R. R 25. 7

Thence East about one half mile, and
Thence into the Leton River.

(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 to be used is

6. The purpose for which said water is to be
Culinary Services

The place of intended use is

Basis Farmout Co. Idaho

Ans. It is intended to divert said water by means of

Open and Headfates

The general course of the proposed canal is

The length of the proposed canal is.

about one mile

The length of the proposed canal is 1000 feet.
It is intended to use said water for irrigating the following described land:

$\Sigma^2 994 = 30 = \Sigma^2 594$; Int 19. Imp 4. R 45-8.

5th. It is intended to have the works for diversion and use of said water as aforesaid completed with-

in 2 years. (This must in no case exceed five years.)

WITNESS



hand.....at

8. - Anthony

Idaho,

this

day of

May

1904

John A. Miller

Claimants.

SCANNED

JUN 04 2007

STATE OF IDAHO

County of Fremont

ss

John J. Miller, being first duly sworn, deposes and says that he is the identical person who on the 10th day of July 1896, made homestead entry No. 5544 at Blackfoot, Idaho, that in the ¹⁹⁰¹ year he affiant made application to be allowed to amend said entry, for the reason that he is utterly unable to get any water for the said tract, either for irrigation or culinary purposes.

Affiant further alleges that he has been notified by the department that he cannot be allowed to amend the same but that his case is one for a second homestead entry.

Affiant now pleads to be allowed to make a second homestead entry, and that the description of the same is set forth on the papers herewith appended.

John J. Miller

Subscribed to and sworn before me at St Anthony, Idaho, on this the 7th day of July, 1902.

Thomas Elliott
U.S. Commissioner

Ered Murri, and Ernest Murri, being first duly sworn, deposes and says that they are acquainted with the foregoing affidavit of John W. Miller, praying that he be allowed to make a second homestead entry, and that to their personal knowledge that the statements made therein are true and correct.

Ered Murri

Ernest Murri

Subscribed to and sworn before me at St Anthony, Idaho on this the 7th day of July, 1902.

Thomas Elliott

U.S. Commissioner

SCANNED

JUN 04 2007

June 12, 1902

4-007.

Application No. 8850

HOMESTEAD.

Land Office at

I, John J. Miller, of Bates
Idaho, do hereby apply to enter, under Section 2289,

Revised Statutes of the United States, the

E 28 N 4 = 30 = 65 N 4

of Section 19, in Township 4 N of
Range 43 E, containing 160 acres.

John J. Miller

Land Office at BLACKFOOT, IDAHO.

JUL 19 1902

I, LORENZO R. THOMAS, REGISTER OF THE LAND OFFICE,

do hereby certify that the above application is for Surveyed Lands of the class which the applicant is legally entitled to enter under Section 2289, Revised Statutes of the United States, and that there is no prior valid adverse right to the same.

Lorenzo R. Thomas
Register.

SCANNED

JUN 04 2007

Kent
Koster
H. not
Ray

NOTICE OF WATER RIGHT.

STATE OF IDAHO, }
COUNTY OF FREMONT, }

To All Concerned Notice is Hereby Given:

1st. That

John J. Miller
hereby claims the use of the waters of *Anderson's Springs* or *Paradise Springs* ^{watering trough} of *Batis Fremont Co. Id.*
to the extent of *2* 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 set as follows: *Commencing as a spring on the NW 1/4 Sec 30. Twp 4 N. R. 45 E. Thence East about one half mile, and thence into the Latah River.*

(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 to be used is *Irrigation and*

Cultivating Surprises
The place of intended use is *Batis Fremont Co. Idaho*

4th. It is intended to divert said water by means of *Dam and Headgate*

The general course of the proposed canal is *North*

The length of the proposed canal is *about one mile*

It is intended to use said water for irrigating the following described land:

E 1/2 N 1/4 = 20 = E 1/2 S 1/4; Lot 19 Twp 4 N R 45 E.

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

WITNESS

my hand

at

St. Anthony

Idaho,

this

23

day of

May

1901

John J. Miller

Claimants.

SCANNED

JUN 04 2007

STATE OF IDAHO

County of Fremont

ss
|
|

John J. Miller, being first duly sworn, deposes

and says that he is the identical person who on the 10th day of July 1896, made homestead entry No. 5544 at Blackfoot, Idaho, that in the year ¹⁹⁰¹ he affiant made application to be allowed to amend said entry, for the reason that he is utterly unable to get any water for the said tract, either for irrigation or culinary purposes.

Affiant further alleges that he has been notified by the department that he cannot be allowed to amend the same but that his case is one for a second homestead entry.

Affiant now pleads to be allowed to make a second homestead entry, and that the description of the same is set forth on the papers herewith appended.

John J. Miller

Subscribed to and sworn before me at St Anthony, Idaho, on this the 7th day of July, 1902.

Thomas Elliott
U.S. Commissioner

SCANNED

JUN 04 2007

Fred Murri, and Ernest Murri, being first duly sworn, deposes and says that they are acquainted with the foregoing affidavit of John W. Miller, praying that he be allowed to make a second homestead entry, and that to their personal knowledge that the statements made therein are true and correct.

Fred Murri

Ernest Murri

Subscribed to and sworn before me at St Anthony, Idaho on this the 7th day of July, 1902.

Thomas Elliott

U. S. Commissioner

SCANNED

JUN 04 2007

Paradise Springs

22-405

22-405 was decreed to J. J. Miller in the Rexburg Decree to lands located on SWSE and S1/2SW Sec 30, and NENW of Sec 21 T 4 N 45 E for a total of 160 acres. The source of the decree is 2 CFS from Paradise Springs. The decree stated a priority date of 6/1/1904.

Mike Reid, Don Leroy Miller and Rex Miller are the original claimants for 22-405. Rex Miller has since sold a portion of his land to John Collins, Andrew Richardson and some of his land if not all is now being subdivided. All of the original claimants claim the water has never been used on the decreed POU. Don is J.J. Miller's son. He states as well as the rest of the claimants that J. J. Miller never owned any of the land described in the Rexburg decree, and that the land that the water was intended to be used on is SESW and NESW Sec 19 as well as NENW and SENW Sec 30 in T 4 N 45 E. Paradise Springs' water could never have been used on the land described in the Rexburg Decree because it is up hill and too far away.

Don Miller brought in J. J. Millers Homestead description as well as a Notice Of Water Right. The Homestead Entry for J. J. Miller and the land listed on his Notice of Water right are described as follows: E1/2NW Sec 30 and E1/2SW Sec 19 T 4 N 45 E.

Given this information it is believed that water right 22-405 had always been used on the land described by the claimants. It is also believed that the Rexburg Decree was in error.

Because of this error and the fact that the Rexburg Decree is an indeterminate decree when it comes to exact acreage, memo #57 was used as a guide for these recommendations. Memo #57 states that if the water right was part of an indeterminate decree, then we use the acres irrigated in 1987 as the decreed POU. In 1987 all of the E1/2NW Sec 30 and E1/2SW Sec 19 was irrigated. This information was found by looking at aerial photos of 1987 or by statements from the original claimants including signed statements from Rex Miller and Craig Kunz. Though this is true the claimants state that the NESW of Sec 19 was not irrigated until later (Affidavit supplied).

Rex Miller and Don Miller are brothers and each of them owned part of the land that was homesteaded. Even though the land was not split half and half between Don and Rex, the water right was. This information was obtained by a conversation with Don and a signed statement from Rex. Rex Miller initially had 1 CFS of 22-405 and Don had the same.

Mike Reid bought some land from Don Miller so a portion of Don's 1 CFS goes to him. Because of some issues with well users drying up Paradise Springs, Mike Reid filed a transfer to officially move the water from the decreed POU to the land that it has always been used on. This transfer was lost in the system and by the time it was found it was decided that because the Adjudication recommendations would accomplish the same thing the transfer was trying to accomplish, the transfer would be withdrawn. Rex's 1

SCANNED
JUN 04 2007

CFS was also split. The recommendations for 22-405 have been created based on the above information.

Recommendations

Mike Reid owns 35.6 acres of the Homesteaded land and receives 0.7 CFS and is reflected in the following claim files: 22-13212 (0.5 CFS), 22-13503 (0.2 CFS).

Don Miller owns 9.6 acres and receives 0.3 CFS reflected in claim number 22-13211

Rex Miller at one time irrigated 93.8 acres using water right 22-405 and 22-587. He owns 1.0 CFS of 22-405 and did not claim any additional water from 22-587 although he owned land covered by that right. He sold 7.2 acres and 0.08 CFS to Russel Bourne who then sold it to John Collins. That land was decreed as 22-587 so that is how it was recommended. Rex Then split off another piece of his land to Andrew Richardson who then got a right for 0.34 CFS for 31 acres on land decreed to 22-405. Rex was left with 55.6 acres and 0.61 CFS on land covered by both 22-405 and 22-587.

Rex Miller 55.6 acres 0.61 CFS combination of 22-405 and 22-587 reflected in claim number 22-13585.

Andrew Richardson 31 acres 0.34 CFS portion of 22-405 reflected in claim number 22-13586.

John Collins 7.2 acrs .08 CFS portion of 22-587 reflected in claim number 22-12714B.

22-13509

Later in time the NESW of Sec 19 started being irrigated by water that came from a ditch along the Western Hillside. There was an affidavit submitted by Chester Miller, one of J. J. Miller's sons. This affidavit went through a lot of history about the water from Paradise springs but the only date that can be pulled from that affidavit was 1960. This is the priority date I gave 22-13509 for the irrigation of the NESW of Sec 19.

22-4104

According to the claimants in 1969 a pump went in on the east side of the spring and pumped water through a pipe for sprinkler irrigation. This pump besides irrigating all of the Homesteaded land also began irrigating a small piece of land owned by Don Miller in the NWNW of Sec 30. The affidavit provided by Chester Miller supports this beneficial use water right 22-4104. This right was split between Don Miller and Mike Reid.

Recommendations

Mike Reid receives 0.59 CFS reflected in 22-11639.

SCANNED

JUN 04 2007

Don Miller receives 0.14 CFS reflected in 22-11537.

22-587

This water right was decreed in the Rexburg Decree to Caroline Withrick for an "undivided ¼ of Paradise Springs" with a priority of 6/1/1904. The land stated in the decree is stated as follows:

"NE1/4SE1/4, and SE1/4 of NE1/4 of Sec 30, T. 4 N., R., 45 E., B. M. also, Homestead not described in pleadings."

The Homestead for Caroline Withrick was found on the BLM website (www.glorerecords.blm.gov) but her name was spelled a little different. The homestead was made by Carolina Wuthrick dated May 20th 1862. The land was listed as follows:

S1/2SE Sec 19 and NWNE Sec 30 of T 4N R 45E

The land listed on the decree and on the Homestead Entry totals 200 acres.

7.2 acres of SWSE Sec 19 T 4N R 45E has been recommended to John Collins. The remainder of SWSE has been recommended to Rex Miller. Duane Kunz claims 1.6 CFS of 22-587. He claims the water has been used on NESW and NWSW Sec 30 T 4N R 45E which is not the decreed POU so it has been disallowed.

22-575

22-575 was decreed in the Rexburg Decree to George Walton for 100 inches (2 CFS) from Paradise Springs with a priority of 6/1/1892. The land it was decreed to is described as follows:

"NW1/4 of SW1/4 and W1/2 of NW1/4 of Sec. 29, and NE1/4 of NE1/4 of Sec. 30, T. 4 N. R., 45 E., B. M., Containing 160 Acres."

In transfer number 3555 Gary Zohner Transferred 1 CFS of 22-575 from NWNW Sec 29 and NENE Sec 30 4N 45E to NWSE and SESE Sec 19 4N 45E. Also in the same transfer he moved .7 CFS of 22-180 from NENE Sec 30 4N 45E to the same POU in Sec 19.

After the transfer, the land pertinent to 22-575 is as follows:

NWSW and SESE Sec 19, SWNW and NWSW Sec 29 all in 4N 45E.

Teton Rainbow Ranch at one time prior to 1987 owned SWNW and NWSW Sec 29. They sold that land to Peter Shields and reserved the water as stated in a warrantee deed in 22-13134. Teton Rainbow Ranch then moved the water to SENE and NESE Sec 30. Based on this information the recommendations follow.

SCANNED

JUN 04 2007

Recommendations

Gary Zohner receives 1.0 CFS reflected in claim number 22-575A limited to 80 acres.

Wally Rothgeb receives, as an accomplished change in POU, 0.13 CFS for 8.9 acres reflected in claim number 22-13135.

Teton Rainbow Ranch receives, as an accomplished change in POU, 0.86 CFS for 54 acres reflected in claim number 22-13134.

22-180

22-180 was decreed in the Rexburg Decree to H. C. Bowles for 140 inches (2.8 CFS) from Spring Creek, with a priority of 6-1-1889. The land describe in the decree is as follows:

“SW1/4 of SW1/4 and SW1/4 of SE1/4 of Sec. 29, N1/2 of NE1/4 of Sec. 30, T. 4 N., R. 45 E., B. M., containing 160 acres”.

After transfer 3555 mentioned above the lands to which this water water was pertinent is as follows.

NWSE and SESE Sec 19, SWSW and SWSE Sec 29, and NWNE Sec 30.

Based on that information the recommendations for 22-180 are as follows.

Recommendations

Gary Zohner receives 0.7 CFS for 80 acres reflected in claim number 22-180A

Duane Kunz receives 0.7 for 40 acres reflected in claim number 22-180B

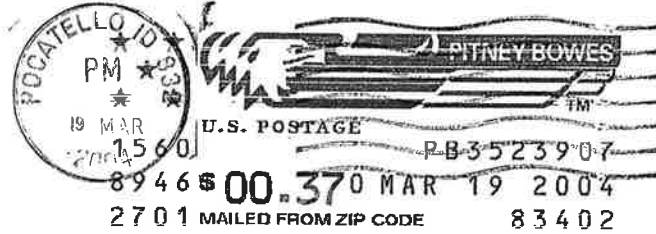
Larell Kunz receives .44 CFS for 25 acres reflected in claim number 22-180D

Report by Trent Galbraith 12-15-06

SCANNED
JUN 04 2007

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern District Office
900 N. Skyline Dr., Suite A
Idaho Falls, ID 83402-1718

RETURN SERVICE REQUESTED



RETURNED TO
SENDER
ATTEMPTED,
NOT KNOWN

ANK

DON LE ROY MILLER
PO BOX 114 C
REXBURG ID 83440

RECEIVED

MAR 22 2004

Department of Water Resources
Eastern Region

12/19/05 RESENT TO 1835 Teton View Dr
Rexburg 83440

SCANNED
JUN 04 2007

83440+0114

MAILED
19 March 04

March 19, 2004

**DON LE ROY MILLER
RT 2 BOX 114C
REXBURG ID 83440**

RE: EVIDENCE OF PRIORITY FOR SRBA WATER RIGHT CLAIM 22-11537

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 JULY 21, 1969, from PARADISE 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 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.

SCANNED

JUN 04 2007

Claim no. 2211537

Claimant Contact Log

Date	Remarks	Agent initials
------	---------	----------------

19 March 04 mailed Request For Priority Evidence.

SCANNED

JUN 14 2007

Contacts Data Entry Form

Claim Number: 2011537

Owner Type	Full Name	Address	City	State	Zip
------------	-----------	---------	------	-------	-----

Current Owner: DON Leroy Miller Phone No.: 208-356-4299

Current Owner: _____ Phone No.: _____

Current Owner: _____ Phone No.: _____

Name connector: and _____, or _____, and/or _____.

Representing Attorney: _____ Phone No.: _____

Accompanied By: _____ Phone No.: _____

Relationship to Claimant: _____ Date of Field Exam: _____

Discussion of right origin and split history. Questions and problems.

Statutory Claim. THESE IRRIGATED ACRES ARE
EXPANDED ACRES."

This Claim is A split From 2004104 The Remainder
is 2011639 The CFS is 6.2" (0.34 CFS LESS THAN
Claim 4104 BECAUSE THIS CLAIM WAS GIVEN 102 CFS PER
AC.

FE pod/pou conveyance/system

Reviewer: _____ Date: _____

SCANNED

JUN 04 2007

Priority Date Data Entry Form

Claim Number: 2211537

Water Right Priority Date: _____ Water Right Basis: _____

Claimed Priority Date: 21 July 1969 Claimed Basis: Statutory Claim

Recommended Priority Date: _____ Recommended Basis: _____

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

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Reviewer: _____

Date: _____

UN 04 2007

Water Right No(s). 2211537

The photo is in

A. 2211639 MICHAEL L. REID

THEY HAVE SAME POD + SHARE
THE SAME DITCH PUMP.

GPS DATA:

Tag # A009573 Location: on post

Diversion Data:

Source: PARADISE SPRINGS Trib to: TETON RIVER

MOTOR

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

PUMP

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

NOTES:

WATER LEAVES POD DOWN A DITCH
TO A DITCH PUMP THEN IS PUMPED INTO
HAND LINES.

Field Exam Date: 10-6-05 Agent: NICK OLSON

SCANNED

JUN 04 2007

Point of Diversion and Source Data Entry Form

Claim Number: 2011537Water 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	45E	30		NE NW	TETON	Paradise Springs	TETON RIVER

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? _____

Transfers Pending or approved: _____

Document how the POD and Source were verified:

Reviewer: _____ Date: _____

SCANNED

JUN 04 2007

Season of Use and Quantity Data Entry Form

Claim Number: 2211532Water Right Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume

Overall Diversion Rate _____

Overall Diversion Volume _____

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
Irrigation	4/15	10/15		

Overall Diversion Rate _____

Overall Diversion Volume _____

Recommended Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume

Overall Diversion Rate _____

Overall Diversion Volume _____

Document how the Period of Use and/or Diversion Rate were verified:

IPWR STD SOU. 4/15 - 10/31

Reviewer: _____

Date: _____

SCANNED

JUN 04 2007

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 LeRoy and /or Ruth E. Miller

(Name of Claimant)

Rt 1 Box 594, Victor, Idaho
(Mailing Address)

83455

(Zip Code)

Telephone No 354-2528

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) July 21, 1969

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)

Paradise Springs tributary to Teton River

- (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) (Mo., Day)	(Mo., Day)
Quantity	<u>0.20 cfs</u>	Use <u>Irrigation</u>	Period of Use From <u>6-1</u>	To <u>10-1</u>
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) 0.80 cfs TOTAL QUANTITY USED.
(cfs, af)

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

NE 1/4 NW 1/4, Sec. 30 Twp. 04N Rge. 45E B.M., County of Teton
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. Diverted from dam by ditch to collecting sump and thence by pump to hand lines.

- (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.

T	R	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTAL
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
4N	45E	30					8	6		40									54

No. of acres 54

- B) If water is used for other than irrigation, fully describe that use, be 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:

SCANNED

JUN 04 2007

2211639 MICHAEL L REID

29.5" (.59 CFS) PRIORITY DATE 21 July 1969
POD T4N R4SE SEC 30 SW NE NW PARADISE CREEK, TETON
RIVER. POB 4N 4SE SEC 30 SE NW 35.6 AC
TOTAL 35.6 AC

LEROY OR RUTH E MILLER

2204104

40" (.80 CFS)

POB NE 1/4 NW 1/4 SEC 30
T4N R. 4SE. PARADISE Spring
TETON RIVER 21 July 1969
POB 4N-4SE SEC 30 NE NW 8 AC
NW NW 6 AC SE NW 40 AC
TOTAL 54 AC

DON LEROY MILLER

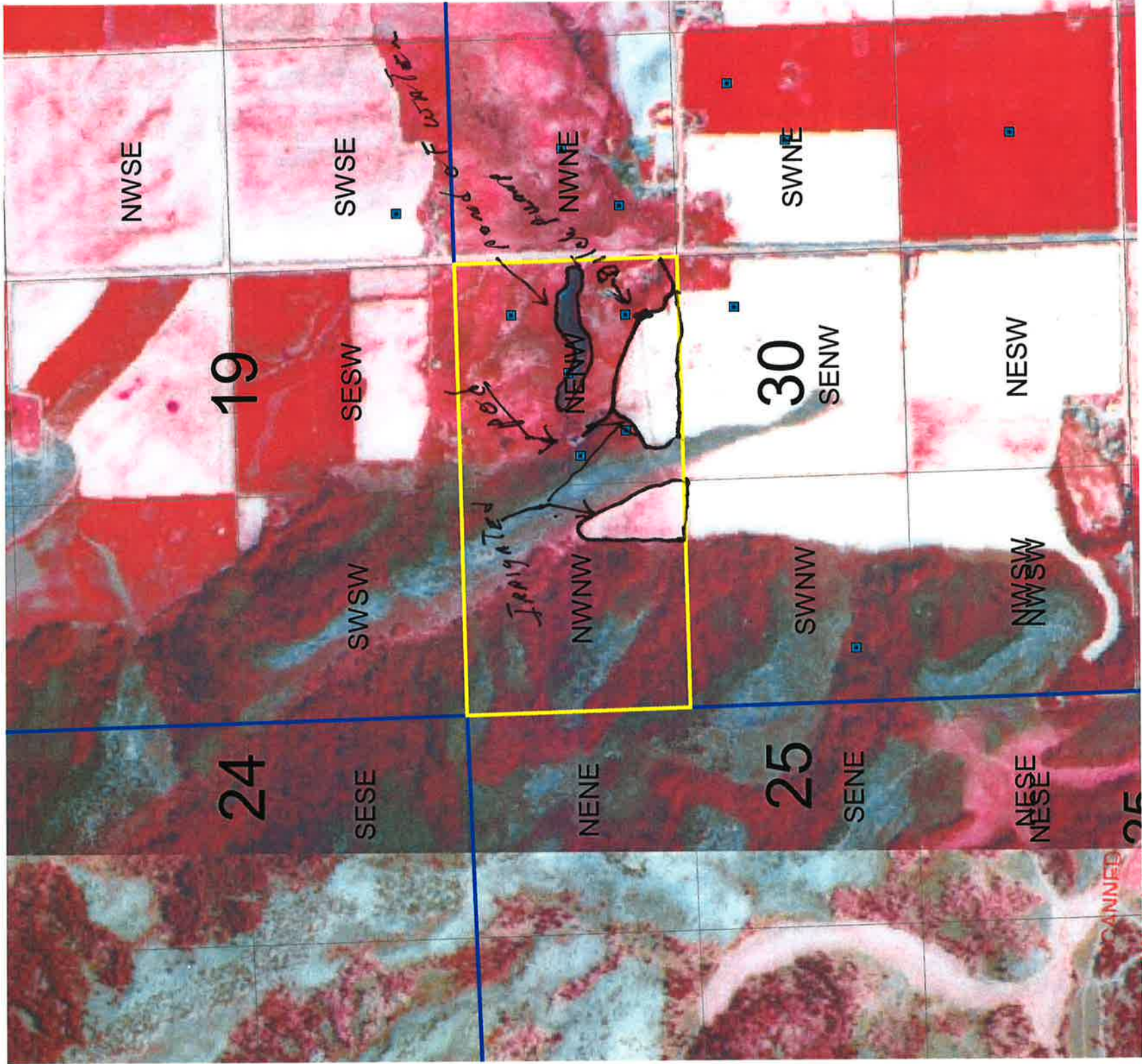
2211537

7.4" .148 CFS P.D. 21 July 1969
POB T4N R4SE SEC 30 NE NW PARADISE CREEK
TETON RIVER. POB T4N R. 4SE SEC 30 NE NW
4 AC NW NW 3.4 TOTAL 7.4 AC.

SCANNED

JUN 04 2007

22-11537



CANNED

JUN 04 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: A22-11537
Date Received: 9/13/1988
Receipt No: E002248
Received By: TO

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DON LE ROY MILLER 208-356-4299
Address: RT. 2, BOX 114C 83440
REXBURG, ID
AND/OR
Name: LINDA C. MILLER 208-356-4299
Address: RT. 2, BOX 114C 83440
REXBURG, ID
AND/OR
Name: KENNETH ROY MILLER 208-523-6036
Address: 4030 DIXIE 83401
IDAHO FALLS, ID
AND/OR
Name: CLARICE S. MILLER 208-523-6036
Address: 4030 DIXIE 83401
IDAHO FALLS, ID

2. Date of Priority: JUL 21, 1969

3. Source: PARADISE SPRINGS Trib. to: TETON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04N	45E	30	~~SE~~	NE	NW		TETON

5. Description of diverting works:
DAM/DITCH/PUMP TO SPRINKLERS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/15	10/15	0.148		

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

A22-11537

Page 1

Date: 09/13/88

A2211537



SCANNED
JUN 04 2007

MICROFILMED

NOV 06 1992

8. Total consumptive use is 14.8 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	45E	30	NE	NW		IRR	4.0
			NW	NW		IRR	3.4
						Section Acres	7.4
						Total Acres	7.4

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:

THIS CLAIM IS BASED ON A PORTION OF CLAIM 22-4104, WHICH WAS
BASED ON AN EXPANSION OF DECREED RIGHT 22-0405.
THE CLAIMED FLOW RATE WAS CALCULATED BY MULTIPLYING 0.02 CFS PER
IRRIGATED ACRE.

15. Basis of Claim: STATUTORY CLAIM
Water Right Number: 4104

SCANNED
JUN 04 2007

MICROFILMED
NOV 06 1992

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: 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): Kenneth R. Uffler Date: 9/13/88

Date: _____

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 13th day
of Sept 19 88 William Wragg
Notary Public

Seal

Residing at Idaho Falls
My Commission Expires 5/29/99

NOTE-O-GRAM

THE DRAWING BOARD • BOX 505 • DALLAS, TEXAS 75221

FALL RIVER RURAL ELECTRIC COOPERATIVE INC.
ASHTON, IDAHO 83420 • 652-7431

MESSAGE

REPLY

TO

Don Miller

Rt 2 Box 114-C

Rexburg, Id 83440

DATE February 22, 1983

45-070000-02

DATE

Dear Mr Miller:

This is to verify that the LeRoy Miller pump
was connected July 21, 1969.

Yours truly,

Valene Jones
Valene Jones

Consumer Accounting Supervisor

SIGNED

BY

NOTE: N-73 (C) The Drawing Board, Inc. Box 505, Dallas, Texas 75221

INSTRUCTIONS TO SENDER:

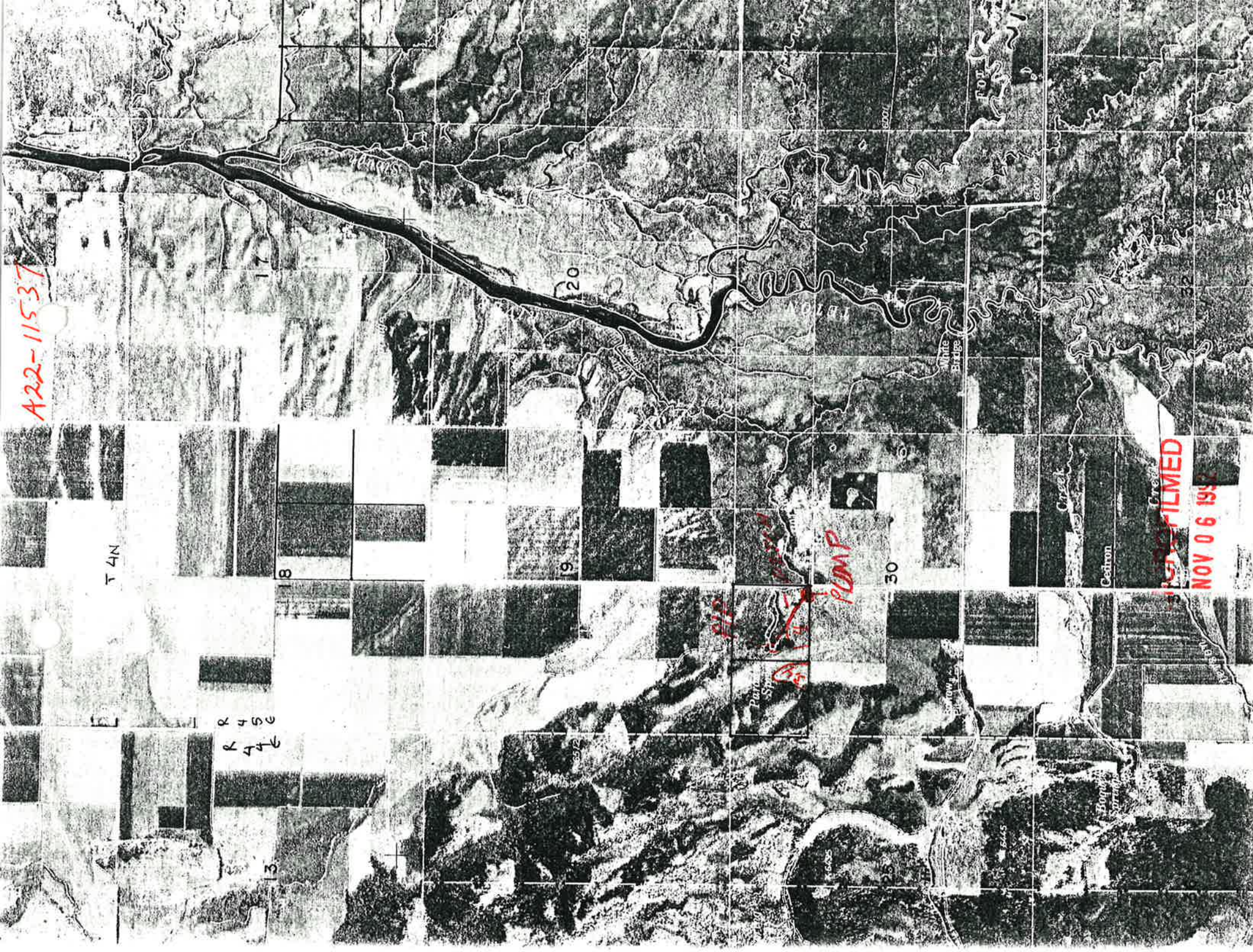
1. KEEP YELLOW COPY. 2. SEND WHITE AND PINK COPIES INTACT.

INSTRUCTIONS TO RECEIVER:

1. WRITE REPLY. 2. DETACH STUB, KEEP PINK COPY, RETURN WHITE COPY TO SENDER.

SCANNED
JUN 04 2007

MICROFILMED
NOV 06 1992



A22-11537

T 4N

R 44E
R 45E

13

18

20

19

30

Pine
Bridge

Pine
Bridge

Cedar
River

Cedar
Creek

NOV 06 1952

PUMP