

04/10/2006

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

RIGHT NUMBER: 22-11645

DISALLOWED

NAME AND ADDRESS: JAY DELL BUXTON
256 S 500 W
DRIGGS ID 83422

JUDY BUXTON
256 S 500 W
DRIGGS ID 83422

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 1.830 CFS

PRIORITY DATE: 08/18/1966

POINT OF DIVERSION: T04N R44E S12 SESENE 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	1.830 CFS
PLACE OF USE:	<u>IRRIGATION Within TETON County</u>		
	T04N R44E S12 SENE 37.00	T04N R44E S12 NESE	35.00
	T04N R44E S12 NWSE 39.00	T04N R44E S12 SESE	38.00
	T04N R45E S07 SESW 39.00		
	188 ACRES TOTAL		

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

No beneficial use found.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

No beneficial use found: This is included for a claim based on beneficial use that is proposed to be disallowed because beneficial use of water was not confirmed by IDWRs field examination or by other evidence submitted by the claimant.

04/28/2006

**NOTICE OF ERROR
REPLY**

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

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

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS:

Water right number: 22-11645

JAY DELL BUXTON
256 S 500 W
DRIGGS ID 83422
Telephone Number: (208)354-2570

JUDY BUXTON
256 S 500 W
DRIGGS ID 83422
Telephone Number: (208)354-2570

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:

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

DATE:

Dec 5/2006

SIGNATURE:

Jaydell Buxton

Please print your name:

Jaydell Buxton

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

Claim no. _____

Claimant Contact Log

Date _____

Remarks

Agent initials

Disallowed based on non-SPBA right 22-7479, which was licensed in 2002 to cover the 39 ac. in this claim. There is no claim for 22-7479, but there is no need since it is so recent.

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 22-07479

Priority: June 26, 1984

Maximum Diversion Rate: 0.78 CFS

It is hereby certified that JAY DELL BUXTON
256 S 500 W
DRIGGS ID 83422 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated June 26, 1984; and has
submitted Proof of Beneficial Use on November 27, 1992. An examination indicates that the works have
a diversion capacity of 3.6 cfs of water from:

SOURCE

GROUND WATER

and a water right has been established as follows:

BENEFICIAL USE

IRRIGATION

PERIOD OF USE

04/15 to 10/31

DIVERSION RATE

0.78 CFS

LOCATION OF POINT OF DIVERSION:

GROUND WATER SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 12, Twp 04N, Rge 44E, B.M., TETON County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
04N	45E	7												39.0					39.0

Total Acres: 39

CONDITIONS OF APPROVAL

1. Right 22-02278 is also diverted through the point of diversion described above.
2. Rights 22-02278 and 22-07479 when combined shall not exceed a total diversion rate of 3.6 cfs.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 137.0 af at the field headgate for the lands above.
4. The right holder shall use the full allotment of appurtenant surface water rights in conjunction with ground water diverted under this right.
5. If the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use, this right to divert groundwater shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.

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MAY 11 2003

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 22-07479

6. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
7. The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed and sealed this 26TH day of DECEMBER, 2002.

Acting for 
KARL J. DREHER
Director

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MAR 11 2003

RECEIVED

APR 15 2004

Department of Water Resources
Eastern Region

april 14 2004

Mr. Al Ruberry:

In reply to the letter I received from the IDWR regarding proof of beneficial use on claim 22-11645.

I am a little confused - because I have a Water Right license issued from the IDWR Water Right No 22-07479 showing did submit beneficial use. I do have a document with your seal. It does show a priority date June 26 1984.

I think what happened here is: I applied for this license before the adjudication process started - and applied at the adjudication process - so there are two applications.

The Well does have a 1966 priority date but the 39 acres came much later when I bought the property.

I am sending notarized proof of use at the 1984 priority date.

Jeffrey Buxton

* The claim 22-11645 and the Water Right license 22-07479 - have the same legal description

12 April 2004

Jaydell and Judy Buxton purchased 39 acres from me in June of 1984.

In June of 1984 Jaydell installed Irrigation equipment on this property. That equipment consisted of mainline pipe and 2 wheel line lateral 1/4 mile long each.

I have observed Jaydell using that irrigation equipment to irrigate hay, grain and potatoes on that 39 acres. The first year was from June 1984 and every year since.

Legal description of property is:

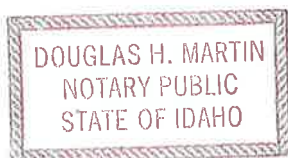
SE1/4SW1/4 of Section 7, Township 4N Range 45 East, Bosie Meridian.

X Darwin Josephson
Darwin Josephson

State of
County of

On this 12th day of APRIL, 2004, before me, a Notary Public in an for
said State, personally appeared (1) DARWIN JOSEPHSON and
(2) _____ known to me to be the person(s) whose names(s) are
subscribed to the within 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,



Douglas H. Martin

Notary Public

Residing at Driggs, Idaho

My Commission Expires 8-28-2004

March 19, 2004

JAYDELL BUXTON
256 S 500 W
DRIGGS ID 83422

RE: EVIDENCE OF PRIORITY FOR SRBA WATER RIGHT CLAIM 22-11645

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 AUGUST 18, 1966, from a WELL.

It is important that each element of the Notice of Claim be verified. For instance, regarding claims for irrigation, the evidence should tend to show that diversion works were in place, that they were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place of use on or before the claimed priority date.

For your reference, I have provided a printout of your Notice of Claim and the pamphlet entitled "**Evidence of Priority**". The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement. While I encourage you to read the entire pamphlet, I direct your attention to the two sections entitled "**What Kind of Evidence is Required**" and "**Some Examples of Documents Which May Be Evidence of the Priority Date**".

It is our goal to recommend historical water rights within the Snake River Basin as accurately as possible. Field exams to verify other elements of the Notice of Claim have been or soon will be conducted by Department personnel.

Claim no. 2211645

Claimant Contact Log

Date _____

Remarks

Agent initials

19 March or mailed Request For Priority Evidence

Contacts Data Entry Form

Claim Number: 2211645

Owner Type	Full Name	Address	City	State	Zip
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Current Owner: Jay Dell Buxton Phone No.: 208-354-2570

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.B.U.Other water rights used (surface water)FE pod/pou compliance system

Reviewer: _____ Date: _____

Water Right No(s). 2211645



GPS DATA:

Tag # A0006721 Location: ON MAIN LINE

Diversion Data:

Source: Ground WATER Trib to: _____

MOTOR

Make: WESTINGHOUSE Model: AB 00 Hp: 125
SN: 627B530G 40

PUMP

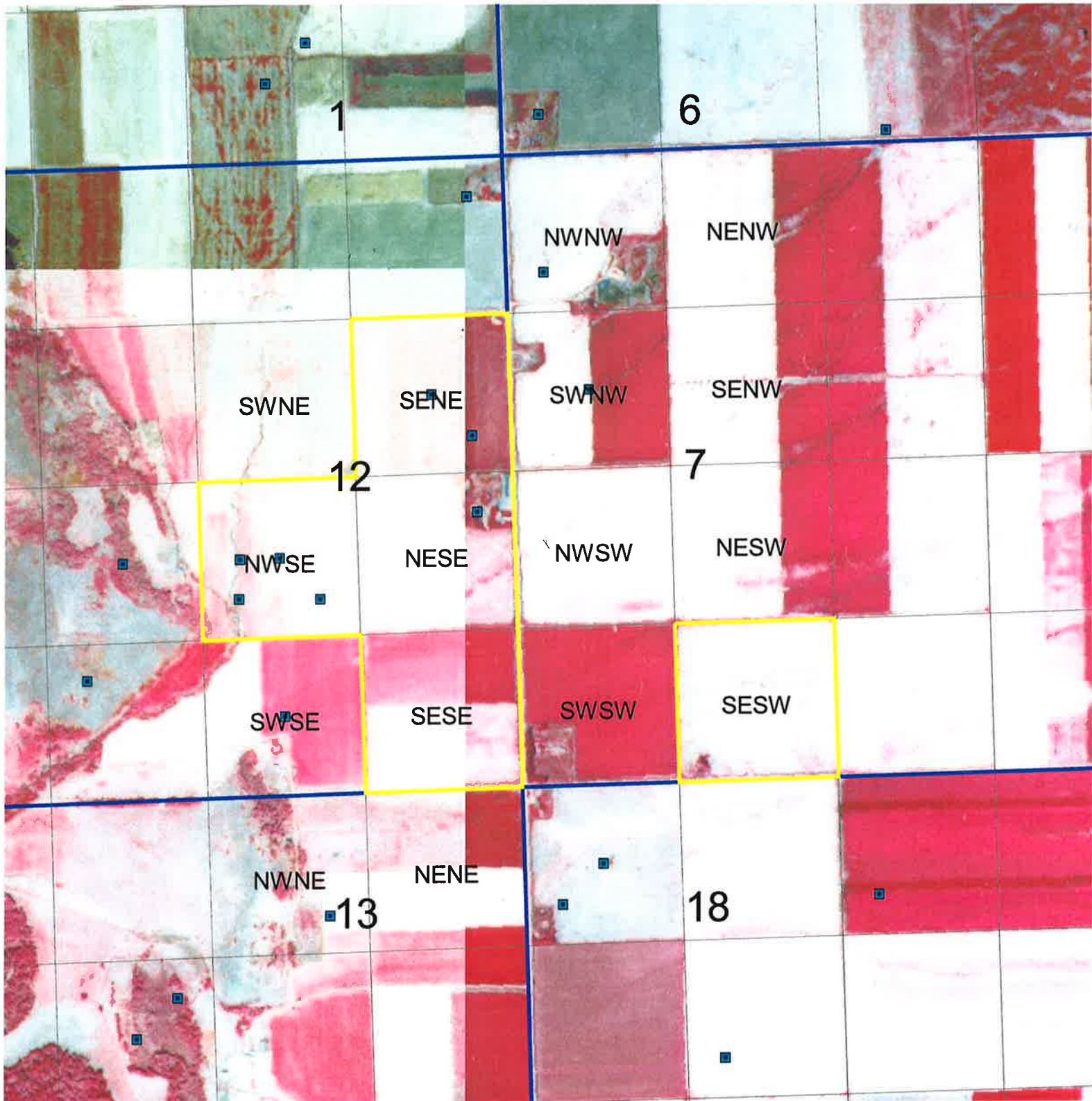
Make: Johnson Model: NA Disch: NA
SN: NA

NOTES:

HAD GPS TAG. ALREADY ON MAIN LINE. HAS TAKEN
ACRES FROM ARIANAT.

Field Exam Date: 6-15-04 Agent: NICK OLSON

22-11645



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: **A22-11645**
Date Received: 9/20/1988
Receipt No: M001356
Received By: _____

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: JAYDELL BUXTON 208-354-2570
Address: 256 S 500 W
DRIGGS ID 83422

Name: JUDY BUXTON 208-354-2570
Address: 256 S 500 W
DRIGGS ID 83422

2. Date of Priority: AUG 18, 1966

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04N	44E	12	SE	SE	NE		TETON

5. Description of diverting works:
WELL, PUMP, PIPELINE AND SPRINKLER SYSTEM.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/15	10/15	1.830		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	44E	12	SE	NE		IRR	37.0

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10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	44E	12	NE	SE		IRR	35.0
			NW	SE		IRR	39.0
			SE	SE		IRR	38.0
						Section Acres	149.0
	45E	7	SE	SW		IRR	39.0
						Section Acres	39.0
						Total Acres	188.0

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:
SURFACE RIGHTS FROM MAHOGANY CREEKS.

14. Remarks:
THIS CLAIM WAS AMENDED TO REFLECT THE LAND THAT WAS ACTUALLY
IRRIGATED FROM THE TIME THE ORIGINAL WELL WAS DRILLED IN 1966.

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): *Jeffrey Buxton* Date: *Jan 5/1996*

Date: _____

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 5th day

of January 19 96

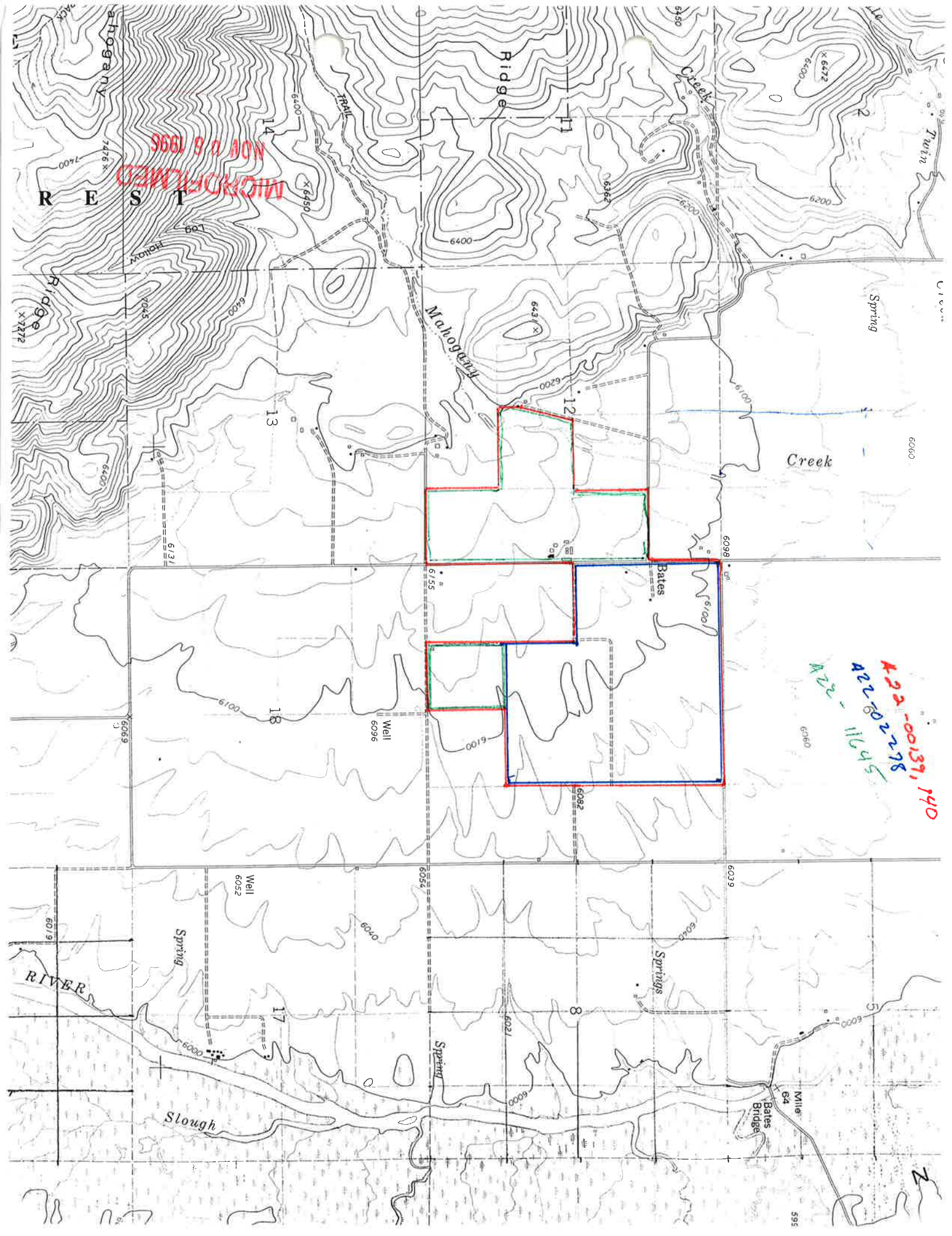
Gregory J. Taylor
Notary Public

Seal



Residing at Idaho Falls

My Commission Expires 3/3/98



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: A22-11645
Date Received: 9/16/1988
Receipt No: 11001356
Received By: EMC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JAYDELL BUXTON 208-354-2570
Address: 256 S. 500 W.
DRIGGS, ID 83422

2. Date of Priority: JUN 01, 1985

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04N	44E	12	SE	SE	NE		TETON

5. Description of diverting works:
WELL, PUMP, PIPELINE AND SPRINKLER SYSTEM.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/15	10/15	0.480		

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

8. Total consumptive use is 78.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	45E	7	SE	SW		IRR	39.0
Section Acres							39.0
Total Acres							39.0

A22-11645

Page 1

Date: 09/16/88

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NOV 06 1992



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:
SURFACE RIGHTS FROM MAHOGANY CREEKS.

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: _____

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): *Gayle Buxton* Date: *Sept 20 1988*
Date: _____

State of Idaho)
County of *Bonneville*) SS.

Subscribed and sworn (or affirmed) before me this *20th* day

of *September* 19 *88*

Anthony S. Olenchak
Notary Public

Seal

Residing at *Idaho Falls*

My Commission Expires *9/12/1994*

REFILMED
NOV 06 1992

Wireline Heading

X A21-11645

A21-00139

W211

A21-02758

T. 4N

R. 45E

R. 44E

6