

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: A63-05284
Date Received: 8/08/1989
Receipt No: C009073
Received By: JP

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: CHARLIE L. GIBSON 208-343-6525
Address: 5125 BOGUS BASIN RD.
BOISE, ID 83702

AND/OR

Name: CECIL GIBSON 208-343-6525
Address: 5125 BOGUS BASIN RD.
BOISE, ID 83702

2. Date of Priority: APR 01, 1947

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04N	02E	22	SE	SE	NE		ADA

5. Description of diverting works:
WELL, PUMP & SPRINKLERS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.600		
STOCKWATER	01/01	12/31	0.090		

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

8. Total consumptive use is 105.0 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCK/400 HEAD CATTLE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	02E	22	SE	NE		IRR	10.0
			NE	SE		IRR	10.0
					Section Acres		20.0
		23	SW	NW		IRR	8.0
			SW	NW		STOCK	
			NW	SW		IRR	2.0
			NW	SW		STOCK	
					Section Acres		10.0
					Total Acres		30.0

11. Place of use in counties: ADA

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

13. Other Water Rights Used:
DOMESTIC WELL ALSO USED FOR STOCK

14. Remarks:

15. Basis of Claim: STATUTORY CLAIM

16. Signature(s)

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

Number of attachments: 1

For Individuals:

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

Signature of Claimant(s): Charles L. Hahn Date: Aug 9 89

Date: _____

State of Idaho)
County of ADA) SS.

Subscribed and sworn (or affirmed) before me this 8TH day
of AUGUST 19 89

Jeff Peppersack
Notary Public

Seal

Residing at _____

My Commission Expires _____

Jeff Peppersack, Notary Public
Residing at Boise, Idaho
My Commission Expires Nov. 8, 1994



ReceiptID	Amount	BasinNumber	SequenceNuml	SplitSuffix	Type
C009073	25.00	63	17078		Claim
C009073	80.00	63	5284		Claim

RECEIVED
FEB 26 2009
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
FEB 26 2009	
By _____	Clerk
Deputy Clerk	

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	) SPECIAL MASTER'S REPORT
	)
Case No. 39576	) FINDINGS OF FACT AND
	) CONCLUSIONS OF LAW
	)
_____	) FOR WATER RIGHT 63-05284

I. FINDINGS OF FACT

A notice of claim was filed for the above-captioned water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

On April 21, 2006, the Edwards Family LLC, through its attorney Dana Hofstetter, filed an objection to the *Director's Report*. Also on April 21, 2006, an objection was filed by The Terteling Company, Inc., through its attorney Charles Honsinger. On March 24, 2008, IDWR filed an *Amended Director's Report*. No objections were filed to the *Amended Director's Report*, and the time for objecting has expired.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that water right 63-05284 be decreed with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated Feb 25, 2009



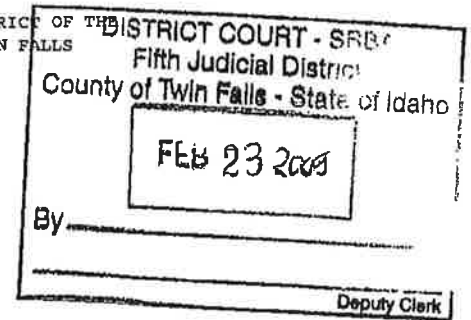
Theodore R. Booth
Special Master
Snake River Basin Adjudication

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
Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 63-05284



NAME AND ADDRESS:

CHARLIE L GIBSON
ESTATE OF CECIL GIBSON
5125 BOGUS BASIN RD
BOISE, ID 83702

SOURCE:

GROUND WATER

This water right does not authorize the diversion of a low
temperature geothermal resource or other geothermal resource.

QUANTITY:

0.24 CFS
135.00 AFY

The quantity of water under this right for stockwater use shall
not exceed 13,000 gallons per day.

PRIORITY DATE:

04/01/1912

POINT OF DIVERSION:

T04N R02E S22 SENE Within Ada County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	03-01 TO 11-15	0.24 CFS 135.00 AFY
Stockwater	01-01 TO 12-31	0.04 CFS 5.38 AFY

PLACE OF USE:

Place	Quantity	Location
Irrigation		Within Ada County
T04N R02E S22	SENE 13.0	NESE 7.0
S23	SWNW 8.0	NWSW 2.0
30.0 Acres Total		

Stockwater		Within Ada County
T04N R02E S23	SWNW	NWSW

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

The quantity of water decreed for this water right for
stockwater use is not a determination of historical beneficial
use.

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. I.C. SECTION 42-1412(6).



SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

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)

Case No. 39576)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

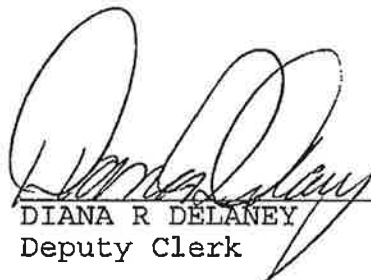
Water Right(s): 63-05284

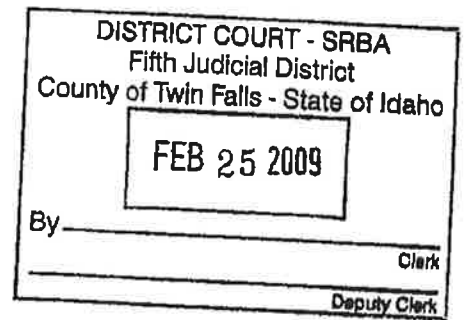
On February 25, 2009, Special Master THEODORE R. BOOTH issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED February 25, 2009.


DIANA R DELANEY
Deputy Clerk



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)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 63-05284

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on February 25, 2009, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

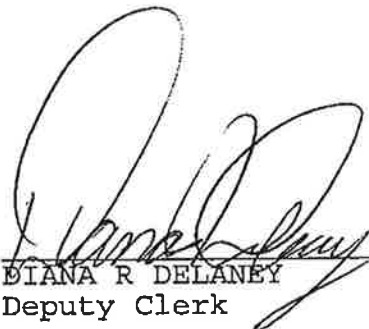
CHARLIE L GIBSON
EDWARDS FAMILY LLC
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702
Phone: 208-424-7800

CHARLES L HONSINGER
455 S 3RD ST
PO BOX 2773
BOISE, ID 83701-2773

CERTIFICATE OF MAILING

PAGE 1
02/24/09

ESTATE OF CECIL GIBSON
5125 BOGUS BASIN RD
BOISE, ID 83702
Phone: 208-343-6525



DIANA R DELANEY
Deputy Clerk

COPY

AMENDED DIRECTOR'S REPORT

Subcase No. 63-5284

RECEIVED

MAR 25 2008

**DEPARTMENT OF
WATER RESOURCES**

In Re SRBA

Twin Falls County Civil Case No. 39576

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
MAR 24 2008	
By _____	Clerk
_____	Deputy Clerk

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
David R. Tuthill, Jr., Director
Donald V. Shaff, Adjudication Bureau Chief

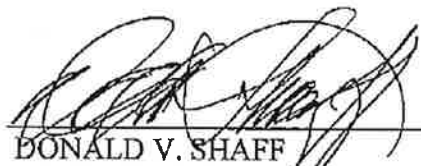
March 20, 2008

DESCRIPTIVE SUMMARY

This is an Amended Director's Report submitted by the Director of the Idaho Department of Water Resources.

DISCUSSION

Pursuant to the *Motion to File an Amended Notice of Claim* filed on November 27, 2007, the *Motion to Alter or Amend* filed on November 28, 2007, and the *Order Granting Motions to Alter or Amend and to File Amended Notice of Claim; Order Withdrawing Master's Report and Recommendation; Order Requesting Amended Director's Report From IDWR and Setting Deadlines* issued by Special Master Booth on January 25, 2008, the Director submits for filing with the Court, an Amended Director's Report for the aforementioned subcase (see attached print-out).


DONALD V. SHAFF
Adjudication Bureau Chief

03/10/2008

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

RIGHT NUMBER: 63-5284

NAME AND ADDRESS: CECIL GIBSON
5125 BOGUS BASIN RD
BOISE ID 83702

CHARLIE L GIBSON
5125 BOGUS BASIN RD
BOISE ID 83702

SOURCE: GROUND WATER

TRIBUTARY:

This water right does not authorize the diversion of a low temperature geothermal resource or other geothermal resource.

QUANTITY: 0.240 CFS
135.00 AFY

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 04/01/1912

POINT OF
DIVERSION:

T04N R02E S22 SENE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.240 CFS 135.00 AFY
STOCKWATER	01/01 12/31	0.040 CFS 5.38 AFY

PLACE OF USE: IRRIGATION in ADA County

T04N R02E S22	SENE	13.00	T04N R02E S22	NESE	7.00
T04N R02E S23	SWNW	8.00	T04N R02E S23	NWSW	2.00

STOCKWATER in ADA County

T04N R02E S23	SWNW	T04N R02E S23	NWSW
---------------	------	---------------	------

30 ACRES TOTAL

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Parcel Nos. 90622140000 and 90623230000.

Stockwater use is for 400 range cattle.

CERTIFICATE OF SERVICE

I certify that on March 20, 2008, I served the original and/or copies of this form, including all attachments, to the following persons by delivering the original and/or copies, as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

2. Copies to:

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

ADA COUNTY COURTHOUSE
200 W. FRONT ST.
BOISE, ID 83202-7300

CHARLIE L. GIBSON
EDWARDS FAMILY LLC
Represented by:
DANA L. HOFSTETTER
608 W. FRANKLIN STREET
BOISE, ID 83702

CHARLES L. HONSINGER
455 S. THIRD STREET
P.O. BOX 2773
BOISE, ID 83701-2773

CECIL GIBSON
5125 BOGUS BASIN ROAD
BOISE, ID 83702



Signature of person delivering form

03/10/2008

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

RIGHT NUMBER: 63-5284

NAME AND ADDRESS: CECIL GIBSON
5125 BOGUS BASIN RD
BOISE ID 83702

CHARLIE L GIBSON
5125 BOGUS BASIN RD
BOISE ID 83702

SOURCE: GROUND WATER

TRIBUTARY:

This water right does not authorize the diversion of a low temperature geothermal resource or other geothermal resource.

QUANTITY: 0.240 CFS
135.00 AFY

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 04/01/1912

POINT OF
DIVERSION:

T04N R02E S22 SENE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.240 CFS 135.00 AFY
STOCKWATER	01/01 12/31	0.040 CFS 5.38 AFY

PLACE OF USE: IRRIGATION in ADA County

T04N R02E S22	SENE	13.00	T04N R02E S22	NESE	7.00
T04N R02E S23	SWNW	8.00	T04N R02E S23	NWSW	2.00

STOCKWATER in ADA County

T04N R02E S23	SWNW	T04N R02E S23	NWSW
---------------	------	---------------	------

30 ACRES TOTAL

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Parcel Nos. S0622140000 and S0623230000.

Stockwater use is for 400 range cattle.

RECEIVED

JAN 30 2008

Department of Water Resources
Adjudication Bureau

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

2008 JAN 25 PM 1 38

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	) Subcase 63-05284
	)
Case No. 39576	) ORDER GRANTING MOTIONS TO
	) ALTER OR AMEND AND TO FILE
	) AMENDED NOTICE OF CLAIM;
	)
	) ORDER WITHDRAWING MASTERS
	) REPORT AND RECOMMENDATION;
	)
	) ORDER REQUESTING AMENDED
	) DIRECTOR'S REPORT FROM IDWR
	) AND SETTING DEADLINES

A *Special Master's Report and Recommendation* was issued for the above-captioned water right on October 23, 2007. On November 27, 2007, the Claimant, Charlie L. Gibson, through his attorney Dana Hofstetter, filed a *Standard Form 4 – Motion to File an Amended Notice of Claim*, seeking to claim a priority date earlier than had been originally claimed. On November 28, 2007, Mr. Gibson filed a *Motion to Alter or Amend*, apparently as a sort of procedural “place-holder” because the motion to file the amended claim was made subsequent to the master’s report having been issued. A hearing on the matter was held on January 22, 2008. At the hearing, counsel for Mr. Gibson demonstrated that in the process of preparing for trial regarding an objection to priority date filed by the Terteling Company, Inc. (objection withdrawn on October 16, 2007), the claimant discovered evidence to support the claim for an earlier priority date.

Having reviewed the motion to amend the claim and the documents attached thereto, and having heard the statements of the participants at the hearing, this Special Master finds that the claimant has demonstrated good cause for amended his claim at this point in time, that there is little likelihood of prejudice to other parties to the SRBA, and

that he has presented a meritorious position. Accordingly, the *Motion to File Amended Notice of Claim* and the *Motion to Alter or Amend* are hereby **granted**. The previously issued *Special Master's Report and Recommendation* is hereby **withdrawn**.

The Idaho Department of Water Resources is requested to file an amended director's report on the amended claim no later than March 31, 2008. The amended director's report will be published on the Court's docket sheet in April 2007, with an objection period ending April 28, 2008, and a response period ending May 16, 2008.

Dated Jan. 25, 2008



THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTIONS; ORDER WITHDRAWING MASTER'S REPORT; ORDER SETTING DEADLINES was mailed on January 25, 2008, with sufficient first-class postage to the following:

CHARLIE L GIBSON
EDWARDS FAMILY LLC
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702
Phone: 208-424-7800

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

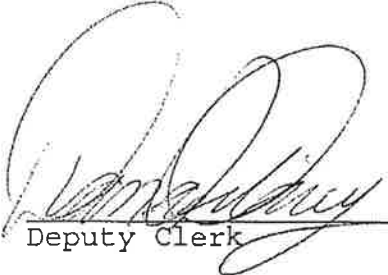
CHARLES L HONSINGER
455 S 3RD ST
PO BOX 2773
BOISE, ID 83701-2773

CECIL GIBSON
5125 BOGUS BASIN RD
BOISE, ID 83702
Phone: 208-343-6525

ORDER

Page 1 1/25/08

FILE COPY FOR 01246


Deputy Clerk

HOFSTETTER LAW OFFICE

608 West Franklin Street
Boise, Idaho 83702

Dana@IdahoWaterLaw.com

Dana L. Hofstetter
Attorney at Law

Telephone: (208) 424-7800
Facsimile: (208) 424-8774

January 23, 2008

RECEIVED

JAN 24 2008

WATER RESOURCES
WESTERN REGION

Vicky Music
Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705-5082

Re: SRBA Subcase No. 63-5284

Dear Ms. Music:

I enclose a copy of the Homestead Patent file from the National Archives for Charlie Gibson's property. I previously e-mailed the file to you; however, I am providing you this hard copy also as Mr. Gibson wanted to make sure that a copy of the Homestead Patent file would be on record at the Idaho Department of Water Resources as part of the SRBA Claim file for Water Right No. 63-5284.

Please let me know if you have any questions or need any additional information regarding this matter. Thank you.

Sincerely,

HOFSTETTER LAW OFFICE, LLC



Dana L. Hofstetter

Enclosure
cc: Charlie Gibson w/out enclosure
4074.1/7866

RECEIVED
NOV 28 2007
DEPARTMENT OF
WATER RESOURCES

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	)	Subcase <u>63-5284</u>
	)	(Insert water right number)
	)	
Case 39576	)	STANDARD FORM 4
	)	
	)	MOTION TO FILE:
	)	☐ LATE NOTICE OF CLAIM
	)	☒ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

X I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Oct. 16, 1997).

My name is Charlie L. Gibson

My address is 5125 Bogus Basin Road

Boise, Idaho 83702

My phone number is: Work _____ Home (208) 343-6525

I am an attorney representing Charlie L. Gibson

My name is Dana L. Hofstetter

My address is Hofstetter Law Office, L.C.C.

608 West Franklin Street

Boise, Idaho 83702

My phone number is (208) 424-7800 FAX: (208) 424-8774

MOTION TO FILE A LATE NOTICE OF CLAIM

A Motion to File a Late Notice of Claim will require a hearing before the Presiding Judge.

☐ I did not file a Notice of claim to the use of water in the SRBA because:

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☐ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

I have attached:

- ☐ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.
- ☐ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on _____
(Insert Date and Time)

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File an Amended Notice of Claim may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

- ✕ I must amend my Notice of Claim to the use of water in the SRBA because:
- Newly available information supports an earlier priority date than originally claimed. The record reflects that the original claim was based on the claimant's personal involvement with water use on the property. However, new information supports an earlier priority date. Based on the actions of another water user in the area, it appears that a ground water call in the immediate area may occur. It is necessary to ensure that this water right has an accurate priority date in light of the anticipated call.

- ☒ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

The attached "Homestead Entry - Final Proof - Testimony of Claimant" provides factual documentation to support the 1912 priority date in the Amended Notice of Claim. This information was obtained from the National Archives in October 2007 by the Claimant's counsel in this subcase in preparation for the trial which is now vacated due to the objector's withdrawal from the subcase.

I have attached:

- ☒ An amended Notice of Claim (available from IDWR).

- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION (Must be completed)

State of Idaho

County of Ada

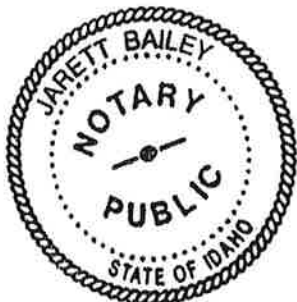
Dana L. Hofstetter, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Signature of person filing motion

Dana Hofstetter
Attorney signing in representative capacity

Subscribed and sworn to before me on November 27, 2007.
(Insert Date)



Jarett Bailey
Notary Public for the State of Idaho
Residing at: Boise, Idaho
My Commission expires: June 5, 2012

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on November 27, 2007, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court (*via Hand Delivery*)
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.

Cecil Gibson
5125 Bogus Basin Road
Boise, Idaho 83702



Signature of person or attorney mailing the form

4-369.

Form approved by the Secretary of the Interior, November 23, 1906.

DEPARTMENT OF THE INTERIOR.

HOMESTEAD ENTRY.

U. S. LAND OFFICE BOISE, IDAHO,

No. 04711

FINAL PROOF.

Receipt No.

TESTIMONY OF CLAIMANT.

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

ANSWER. James W. Young; 5411 Boise, Idaho, R.F.D. No. 3.

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. Yes, born in Mass.

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

S.04711, 10452, at the Boise, Idaho, U.S. Land Office on the

15th day of January, 1908, for the

NE 1/4 SE 1/4, SE 1/4 NE 1/4, Section 22, SW 1/4 NW 1/4, NW 1/4 SW 1/4,

Section 23,

Township 4 North, Range 2 East, Boise Meridian?

ANSWER. Yes.

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

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

ANSWER. My wife and two 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. January 20, 1908.

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

ANSWER. Built prior to January, 1908.

(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. No absence by either one of us.

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.
Rolling, sage-brush land.	90	None.	
90 acres could be cultivated; rest			
is too hilly.			

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.

First

Sec. 22,

ANSWER. House was built in 1908, on NE $\frac{1}{4}$ SE $\frac{1}{4}$, cleared about 35 acres, about half each of the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22, and SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 23; in Fall of 1908, plowed 12 acres; 12 acres planted in wheat, in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 23; in 1909, plowed 10 acres more on SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 22; in 1910, plowed 15 acres which was also cleared; planted same 15 acres to wheat; cut it for hay; fair crop; 1911, cleared and plowed 7 or 8 acres more; put 7 or 8 acres in wheat; the second year after I plant wheat I plant alfalfa; 1912, no new land; 65 acres has been in crops; had about 45 acres in crop this year; land all fenced and cross-fenced; the most of it was fenced the first year. The hilly land I use for grazing purposes, just my own stock; some land on each forty.

Second house was built in 1909. Have two acres in fruit trees now; same forty as the house is on. In 1911, had 55 acres in alfalfa and wheat, including the 7 or 8 acres in wheat, given above.

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.
House is on NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 22	House, about 28 by 32 ft., one story; barn, 47 by 52 ft., land all fenced and cross-fenced; 65 acres has been in crops; had 45 acres in crops this year; three cellars; one well, 425 ft. deep, one well 250 ft. deep; three chicken houses; Value, \$3,000. Bunk; house; machinery shed, etc. 2 acres in fruit trees.

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. This land was formerly embraced in my desert-land entry but I relinquished it and made a homestead entry of it. Could not get water on land to reclaim it as a desert entry. None other.

James A. Young
(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 125 of the U. S. Criminal Code (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 Boise, Ada County, Idaho, within the Boise, Idaho, land district, this 19th day of September, 1912.

Geo. H. Smith

Receiver.

(Official designation of officer.)

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 A63-05284
Date Received:
Receipt No:
Received By:

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name of Claimant(s)

CHARLIE L. GIBSON
5125 BOGUS BASIN ROAD
BOISE, IDAHO 83702

Phone: (208) 343-6525

2. Date of Priority: 04/01/1912

3. Source: GROUNDWATER

Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 Lot	County
04N	02E	22	SE	SE	NE	ADA

5. Description of diverting works: WELL, PUMP AND SPRINKLERS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/15	0.600	
STOCKWATER	1/01	12/31	0.090	

7. Total Quantity Appropriated is:
0.600 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses: STOCK/400 HEAD CATTLE

10. Place of use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres	
04N	02E	22	SE	NE		IRRIGATION	10.00	
			NE	SE		IRRIGATION	10.00	
							Section Acres	20.0
		23	SW	NW		IRRIGATION	8.00	
			SW	NW		STOCK		
			NW	SW		IRRIGATION	2.00	
			NW	SW		STOCK		
							Section Acres	10.0
						Total Acres	30	

11. Place of use in counties: ADA

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

13. Other Water Rights Used:
DOMESTIC WELL ALSO USED FOR STOCK

14. Remarks:

15. Basis of Claim: Beneficial Use/Statutory Claim

16. Signature(s)

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

Number of attachments: 1

For Individuals:

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

Signature of Claimant(s): CHILL Date: Nov 26 07

Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 26th of November 2007



[Signature]
Notary Public

Residing at Idaho

My commission Expires 7/2/08



RECEIVED

NOV 29 2007

DEPARTMENT OF
WATER RESOURCES

Dana L. Hofstetter, ISB # 3867
HOFSTETTER LAW OFFICE, L.L.C.
608 West Franklin Street
Boise, ID 83702
Telephone: (208) 424-7800
Facsimile: (208) 424-8774

Attorney for Claimant Charlie L. Gibson

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

	)	Subcase No. 63-5284
	)	
In Re SRBA	)	Motion to Alter or Amend
	)	
Case No. 39576	)	
	)	
_____	)	

Charlie L. Gibson, by and through his counsel of record, Dana L. Hofstetter of Hofstetter Law Office, LLC, hereby moves this Court, pursuant to *SRBA Administrative Order No. 1*, Section 13a, to alter or amend the *Special Master's Recommendation* in the above-referenced Subcase so that the newly discovered evidence described in the pending Motion to File Amended Claim may be considered by the Idaho Department of Water Resources and the Court. This Motion is supported by the Motion to File Amended Claim and other matters of record.

DATED this 28th day of November, 2007.

HOFSTETTER LAW OFFICE, LLC

By 
Dana L. Hofstetter

CERTIFICATE OF SERVICE

I hereby certify that on the **28th** day of November, 2007, I caused to be served copies of the foregoing **Motion to Alter or Amend** by depositing a copy thereof in the U.S. mail, postage prepaid, upon:

Idaho Department of Water Resources
Document Depository
P. O. Box 83720
Boise, Idaho 83720-0098

Cecil Gibson
5125 Bogus Basin Road
Boise, Idaho 83702

Charles L. Honsinger
Ringert Clark
P.O. Box 2773
Boise, Idaho 83701-2773


Dana L. Hofstetter

D:\4074.1\7800

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NOV 30 2007
DEPARTMENT OF
WATER RESOURCES

2007 NOV 27 PM 04:17
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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	)	NOTICE SETTING HEARING
	)	
Case No. 39576	)	
_____	)	SUBCASE NO: 63-05284

Please be advised that Special Master THEODORE R. BOOTH
has set for hearing the MOTION TO FILE AMENDED NOTICE OF CLAIM.

TUESDAY, JANUARY 22, 2008 at 03:00 PM (MT)

SRBA
DISTRICT COURT
253 3RD AVENUE NORTH
TWIN FALLS, ID

Parties may participate by telephone by dialing the number
225-383-1099 and when prompted entering the code 675342.

Dated: NOVEMBER ²⁸~~27~~, 2007

/S/ DIANA R DELANEY
Deputy Clerk
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the NOTICE SETTING HEARING was mailed on NOVEMBER 27, 2007, with sufficient first-class postage to the following:

CHARLIE L GIBSON
EDWARDS FAMILY LLC
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702
Phone: 208-424-7800

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

CHARLES L HONSINGER
455 S 3RD ST
PO BOX 2773
BOISE, ID 83701-2773

CECIL GIBSON
5125 BOGUS BASIN RD
BOISE, ID 83702
Phone: 208-343-6525

CHARLES L. HONSINGER (ISB #5240)
RINGERT CLARK CHARTERED
455 S. Third Street, P.O. Box 455
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657
Attorneys for Objector The Terteling Company, Inc.

RECEIVED
OCT 18 2007
DEPARTMENT OF
WATER RESOURCES

**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	)	
	)	Subcase Nos. 63-5284
Case 38576	)	
	)	THE TERTELING COMPANY INC'S
	)	WITHDRAWAL OF OBJECTION TO
	)	RECOMMENDATION OF WATER RIGHT
	)	NO. 63-5284

COMES NOW, The Terteling Company, Inc. by and through its attorneys of record, Ringert Clark, Chartered, and hereby withdraw their Objection to the recommendation of water right no. 63-5284, claimed in the Snake River Basin Adjudication by claimant Charles Gibson and/or Cecil Gibson. The Tertling Company, Inc. hereby requests that the Court enter an Order dismissing its objection filed in the Snake River Basin Adjudication to the recommendation of water right no. 63-5284.

DATED this 16th day of October, 2007.

RINGERT CLARK CHARTERED

By: Charles L. Honsinger
Charles L. Honsinger
Attorneys for Plaintiff

THE TERTELING COMPANY INC'S WITHDRAWAL OF OBJECTION TO
RECOMMENDATION OF WATER RIGHT NO. 63-5284 - Page 1

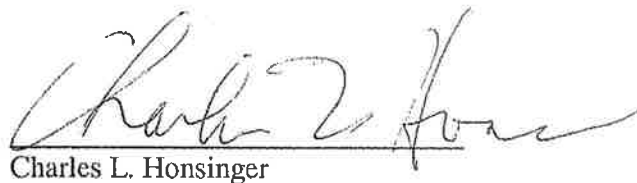
COPY

CERTIFICATE OF MAILING

I hereby certify that service of the within and foregoing document was made this 16th day of October, 2007, by mailing a copy thereof, postage prepaid, to each of the parties listed below.

Dana Hofstetter
Hofstetter Law Office, LLC
608 W. Franklin Street
Boise, ID 83702
Fax: (208)424-8744
(served by facsimile as well)

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098


Charles L. Honsinger

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

FILED

In Re SRBA

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Case No. 39576

Water Right 63-05284

2007 OCT 23 PM 2 28

NAME AND ADDRESS: CECIL GIBSON
CHARLIE L GIBSON
5125 BOGUS BASIN RD
BOISE, ID 83702

SOURCE: GROUND WATER

This water right does not authorize the diversion of a low
temperature geothermal resource or other geothermal resource.

QUANTITY: 0.24 CFS
135.00 AFY

The quantity of water under this right for stockwater use shall
not exceed 13,000 gallons per day.

PRIORITY DATE: 04/01/1947

POINT OF DIVERSION: T04N R02E S22 SENE Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	0.24 CFS 135.00 AFY
	Stockwater	01-01 TO 12-31	0.04 CFS 5.38 AFY

PLACE OF USE:	Irrigation	Within Ada County
	T04N R02E S22	SENE 14.0 NESE 7.0
	S23	SWNW 8.0 NWSW 2.0
	31.0 Acres Total	
	Stockwater	Within Ada County
	T04N R02E S23	SWNW 7.0 NWSW
	7.0 Acres Total	

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

The quantity of water decreed for this water right for
stockwater use is not a determination of historical beneficial
use.

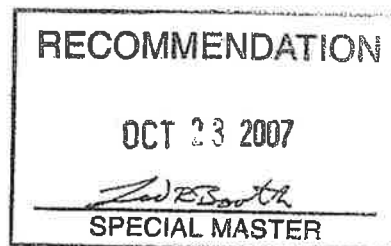
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



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OCT 23 2007

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

2007 OCT 23 PM 2 28

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

Case No. 39576

) SPECIAL MASTER'S REPORT
)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) ORDER DISMISSING OBJECTION AND
) VACATING TRIAL
)
) FOR WATER RIGHT 63-05284
)

I. FINDINGS OF FACT

A notice of claim was filed for the above-captioned water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

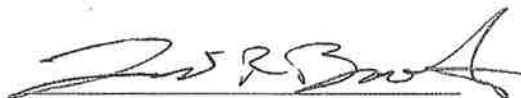
Objections were timely filed by The Terteling Company, Inc., and by the Edwards Family LLC. On August 6, 2007, the parties to the subcase filed a *Stipulation to Partially Resolve Subcase*, which resolved the objection filed by the Edwards Family LLC. The Idaho Department of Water Resources concurred with the stipulation.

On October 16, 2007, the Terteling Company, Inc., filed the *Terteling Company Inc's Withdrawal of Objection to Recommendation of Water Right No. 63-5284*. Pursuant to such withdrawal, it is hereby ordered that the objection filed by the Terteling Company, Inc., is **dismissed**. Accordingly, there are no outstanding objections to the *Director's Report* for this water right claim, and the trial set for November 13, 2007, is **vacated**.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that water right 63-05284 be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated October 23, 2007



Theodore R. Booth
Special Master
Snake River Basin Adjudication

DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO
FILED

2007 OCT 23 PM 2 29

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)

Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

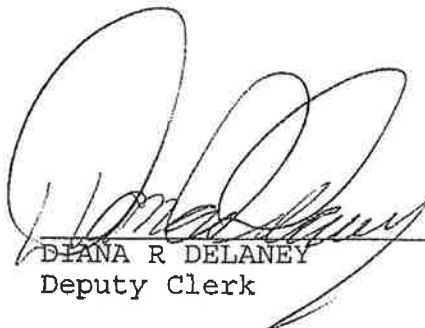
Water Right(s): 63-05284

On October 23, 2007, Special Master THEODORE R. BOOTH issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED October 23, 2007.


DIANA R DELANEY
Deputy Clerk

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

2007 OCT 23 PM 2 29

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)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 63-05284

CERTIFICATE OF MAILING

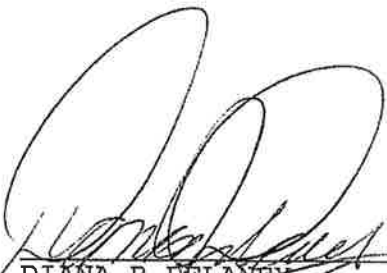
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on October 23, 2007, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

CHARLIE L GIBSON
EDWARDS FAMILY LLC
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702
Phone: 208-424-7800

CECIL GIBSON
5125 BOGUS BASIN RD
BOISE, ID 83702
Phone: 208-343-6525

CERTIFICATE OF MAILING


DIANA R DELANEY
Deputy Clerk

PAGE 1
10/23/07

Dana L. Hofstetter, ISB No. 3867
HOFSTETTER LAW OFFICE, LLC
608 West Franklin Street
Boise, ID 83702
Telephone: (208) 424-7800
Facsimile: (208) 424-8774
Attorney for Claimant Charlie L. Gibson

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

In Re SRBA	)	Subcase No. 63-5284
	)	
Case No. 39576	)	NOTICE OF TAKING DEPOSITION
	)	DUCES TECUM (Joe Terteling)
	)	

TO: Joe Terteling

PLEASE TAKE NOTICE that the Claimant Charlie L. Gibson, by and through his counsel of record, Hofstetter Law Office, LLC, will take the deposition upon oral examination of JOE TERTELING commencing at 10:30 a.m. on October 17, 2007, at the office of Tucker and Associates, LLC Court Reporters, 605 West Fort Street, Boise, Idaho 83702 before Tucker and Associates, LLC Court Reporters or some other officer authorized to administer oaths. This deposition will continue from day to day until completed. All parties to the above-identified subcase are invited to attend and participate in the manner provided for in the Idaho Rules of Civil Procedure.

The deponent is required to bring with him to said deposition all documents of any type that relate in any way to Water Right No. 63-5284 or the diversion, conveyance, application or use of water under Water Right No. 63-5284 for inspection and copying, including, but not limited to, the following documents:

1. All documents, including without limitation any photographs, supporting or in any way concerning The Terteling Company, Inc.'s assertion of a priority date no earlier than April 1, 1962 for Water Right No. 63-5284.

2. All documents, including without limitation any photographs, supporting or in any way concerning The Terteling Company, Inc.'s assertion of a priority date of April 1, 1962 for Water Right No. 63-5284.

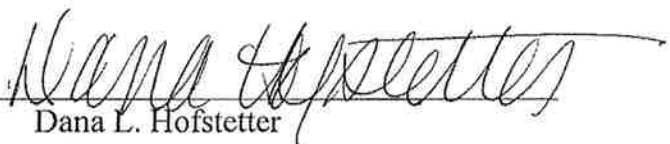
3. All documents, including without limitation any photographs, supporting The Terteling Company, Inc.'s Objection in the above-referenced SRBA Subcase to a priority date of April 1, 1947 for Water Right No. 63-5284.

4. All documents, including without limitation any photographs, concerning or in any way relating to Water Right No. 63-5284 or the diversion, conveyance, application or use of water thereunder.

RESPECTFULLY SUBMITTED this 3rd day of October, 2007.

HOFSTETTER LAW OFFICE, LLC

By


Dana L. Hofstetter

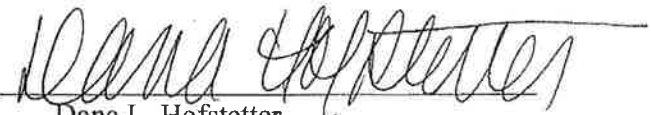
CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of October, 2007, I caused to be served copies of the foregoing **Notice of Taking Deposition Duces Tecum** by U.S. Mail, postage prepaid on:

Charles Honsinger (and by *facsimile*)
Ringert Clark
P.O. Box 2773
Boise, ID 83701

Idaho Department of Water Resources
Document Depository
P. O. Box 83720
Boise, Idaho 83720-0098

Joe Terteling
The Terteling Company, Inc.
1665 Hill Road
Boise, Idaho 83702


Dana L. Hofstetter

4074.1/7710

Dana L. Hofstetter, ISB No. 3867
HOFSTETTER LAW OFFICE, LLC
608 West Franklin Street
Boise, ID 83702
Telephone: (208) 424-7800
Facsimile: (208) 424-8774
Attorney for Claimant Charlie L. Gibson

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

In Re SRBA	)	Subcase No. 63-5284
	)	
Case No. 39576	)	NOTICE OF TAKING DEPOSITION
	)	DUCES TECUM (Ed Squires)
_____	)	

TO: ED SQUIRES

PLEASE TAKE NOTICE that the Claimant Charlie L. Gibson, by and through his counsel of record, Hofstetter Law Office, LLC, will take the deposition upon oral examination of ED SQUIRES commencing at 2:30 p.m., or upon the completion of the deposition of Joe Terteling, on October 17, 2007, at the office of Tucker and Associates, LLC Court Reporters, 605 West Fort Street, Boise, Idaho 83702 before Tucker and Associates, LLC Court Reporters or some other officer authorized to administer oaths. This deposition will continue from day to day until completed. All parties to the above-

identified subcase are invited to attend and participate in the manner provided for in the Idaho Rules of Civil Procedure.

The deponent is required to bring with him to said deposition all documents of any type that relate in any way to Water Right No. 63-5284 or the diversion, conveyance, application or use of water under Water Right No. 63-5284 for inspection and copying, including, but not limited to, the following documents:

1. All documents, including without limitation any photographs, supporting or in any way concerning The Terteling Company, Inc.'s assertion of a priority date no earlier than April 1, 1962 for Water Right No. 63-5284.
2. All documents, including without limitation any photographs, supporting or in any way concerning The Terteling Company, Inc.'s assertion of a priority date of April 1, 1962 for Water Right No. 63-5284.
3. All documents, including without limitation any photographs, supporting The Terteling Company, Inc.'s Objection in the above-referenced SRBA Subcase to a priority date of April 1, 1947 for Water Right No. 63-5284.
4. All documents, including without limitation any photographs, and other materials pertaining to any opinions the deponent has as to the priority date of Water Right No. 63-5284.
5. Any and all letters, notes, billing statements, reports, data analyses and any other documents or information in any form or medium relating to or in any way

concerning the deponent's evaluation, knowledge, opinion or work in connection with Water Right No. 63-5284.

6. All documents, including without limitation any photographs, concerning or in any way relating to Water Right No. 63-5284 or the diversion, conveyance, application or use of water thereunder.

RESPECTFULLY SUBMITTED this 3rd day of October, 2007.

HOFSTETTER LAW OFFICE, LLC

By


Dana L. Hofstetter

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of October, 2007, I caused to be served copies of the foregoing **Notice of Taking Deposition Duces Tecum** by U.S. Mail, postage prepaid on:

Charles Honsinger (and by *facsimile*)
Ringert Clark
P.O. Box 2773
Boise, ID 83701

Idaho Department of Water Resources
Document Depository
P. O. Box 83720
Boise, Idaho 83720-0098

Ed Squires
HydroLogic, Inc.
1002 West Franklin Street
Boise, Idaho 83702


Dana L. Hofstetter

4074.1/7710

RECEIVED

OCT 04 2007

DEPARTMENT OF
WATER RESOURCES

Dana L. Hofstetter, ISB No. 3867
HOFSTETTER LAW OFFICE, LLC
608 West Franklin Street
Boise, Idaho 83702
Telephone: (208) 424-7800
Facsimile: (208) 424-8774

Attorney for Claimant Charlie L. Gibson

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF IDAHO**

In Re SRBA	)	
	)	Subcase No. 63-5284
	)	
Case 39576	)	NOTICE OF SERVICE OF
	)	CHARLIE L. GIBSON'S
	)	RESPONSES TO THE TERTELING
	)	COMPANY'S FIRST SET OF
	)	INTERROGATORIES AND
	)	REQUESTS FOR PRODUCTION
	)	
_____	)	

COMES NOW Claimant Charlie L. Gibson, by and through his counsel of record, Dana L. Hofstetter of Hofstetter Law Office, LLC, and pursuant to Rules 33(a)(5) and 34(d) of the Idaho Rules of Civil Procedure hereby gives notice that on the 2nd day of October, 2007, Charlie L. Gibson's Responses to The Terteling Company's First Set of Interrogatories and Requests for Production were served

by facsimile and by mailing the original thereof with postage pre-paid to the following:

Charles L. Honsinger
Ringert Clark Chartered
P.O. Box 2773
Boise, Idaho 83701-2773

DATED this 3rd day of October, 2007.

HOFSTETTER LAW OFFICE, LLC



Dana L. Hofstetter

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of October, 2007, I caused to be served a copy of the foregoing **Notice of Service of Charlie L. Gibson's Responses to The Terteling Company's First Set of Interrogatories and Requests for Production** on the following person(s) by the method(s) indicated below:

Charles L. Honsinger
Ringert Clark Givens Pursley LLP
P.O. Box 2773
Boise, ID 83701-2773

✖ U.S. Mail ☐ FedEx Overnight ☐ Hand Delivery ☐ Fax

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720

✖ U.S. Mail ☐ FedEx Overnight ☐ Hand Delivery ☐ Fax



Dana L. Hofstetter

RECEIVED

OCT 04 2007

DEPARTMENT OF
WATER RESOURCES

CHARLES L. HONSINGER (ISB #5240)
RINGERT CLARK CHARTERED
455 S. Third Street, P.O. Box 455
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657
Attorneys for Objector The Terteling Company, Inc.

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

Case 38576

Subcase Nos. 63-5284

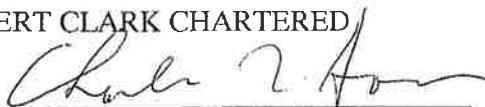
WITHDRAWAL OF MOTION TO COMPEL

COMES NOW, The Terteling Company, Inc. by and through its attorneys of record,
Ringert Clark, Chartered, and hereby withdraw their currently pending Motion to Compel in the
above-referenced subcase.

DATED this 3rd day of October, 2007.

RINGERT CLARK CHARTERED

By:


Charles L. Honsinger
Attorneys for Plaintiff

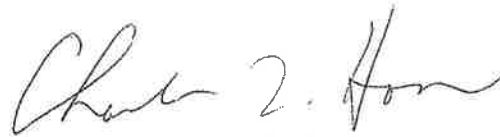
COPY

CERTIFICATE OF MAILING

I hereby certify that service of the within and foregoing document was made this 3rd day of October, 2007, by mailing a copy thereof, postage prepaid, to each of the parties listed below.

Dana Hofstetter
Hofstetter Law Office, LLC
608 W. Franklin Street
Boise, ID 83702
Fax: (208)424-8744

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

A handwritten signature in dark ink, appearing to read "Charles L. Honsinger", written over a horizontal line.

Charles L. Honsinger

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

CORRECTED AFFIDAVIT OF
CHARLES L. HONSINGER IN SUPPORT
OF MOTION TO COMPEL

COUNTY OF ADA

3. On March 26, 2007, on behalf of my client, I submitted The Terteling Company Inc.'s First Set of Interrogatories and Requests for Production to Claimant Charles Gibson. A Notice of Service of the same was filed with the SRBA District Court on March 27, 2007.

COPY

4. On or about April 26, 2007, I received a telephone call from Claimant Charles Gibson. Mr. Gibson informed me that his responses to the discovery propounded by The Terteling Company, Inc. would not be transmitted to my by the due date because he would be out of town. I agreed to grant Mr. Gibson a reasonable extension.

5. On May 31, 2007, I sent a letter to Mr. Gibson requesting that he respond to the discovery requests. A true and accurate copy of that letter is attached hereto as Exhibit "A".

6. On or about July 31, 2007, attorney Dana Hofstetter filed a Notice of Appearance informing the Court and parties that she would be representing Mr. Gibson in this matter.

7. On August 13, 2007, I sent a letter to Ms. Hofstetter requesting that she respond to the discovery requests served on March 26, 2007, and included a copy of the same for her records. A true and accurate copy of my August 13, 2007 letter to Ms. Hofstetter is attached hereto as Exhibit "B".

8. On August 14, 2007, I received an e-mail message from Dana Hofstetter requesting that I provide her with an electronic copy of the discovery requests served upon Mr. Gibson. A true and accurate printed copy of that e-mail message is attached hereto as Exhibit "C".

9. On August 14, 2007, I provided Ms. Hofstetter with an electronic copy of the discovery requests served on Mr. Gibson via electronic mail. A true and accurate printed copy of that e-mail message is attached hereto as Exhibit "D".

10. On September 14, 2007, I sent a letter to Ms. Hofstetter explaining the necessity that the discovery responses be provided as soon as possible. A true and accurate printed copy of that letter is attached hereto as Exhibit "E".

11. To date, I have not received responses to the discovery requests served on Mr. Gibson on March 26, 2007.

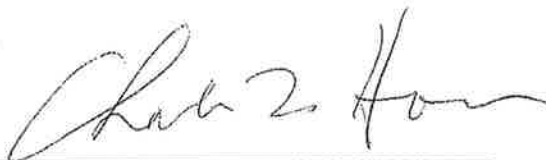
12. I.R.C.P. 37(b)(2) provides that a party may move for an Order compelling discovery if a party fails to respond to discovery.

13. I hereby certify that I have attempted to confer with Mr. Gibson's attorney in good faith in an attempt to secure the requested discovery responses without resorting to a motion to compel in compliance with I.R.C.P. 37(a)(2). Such good faith attempt is evidenced by the attachments hereto.

Further your affiant sayeth naught.

DATED this 28th day of September, 2007.

By:



Charles L. Honsinger

Sworn to and subscribed before me this 28th day of September, 2007.



Notary Public for Idaho

Residing in Boise, Idaho

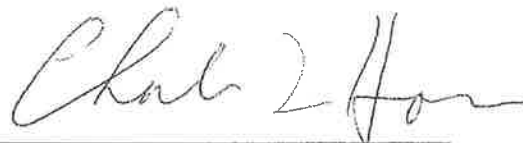
My Commission Expires: 2/24/10

CERTIFICATE OF MAILING

I hereby certify that service of the within and foregoing document was made this 28th day of September, 2007, by mailing a copy thereof, postage prepaid, to each of the parties listed below.

Dana Hofstetter
Hofstetter Law Office, LLC
608 W. Franklin Street
Boise, ID 83702
Fax: (208)424-8744

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

A handwritten signature in cursive script, appearing to read "Charles L. Honsinger", written over a horizontal line.

Charles L. Honsinger

RINGERT
CLARK
CHARTERED
LAWYERS

May 31, 2007

Charlie Gibson
5125 Bogus Basin Road
Boise, Idaho 83702

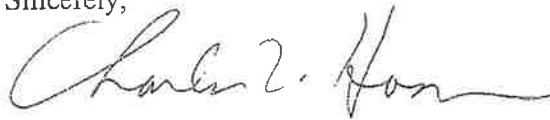
Re: Discovery Responses in SRBA Subcase No. 63-5284

Dear Mr. Gibson:

Responses to the discovery requests served on you by The Terteling Company, Inc. were due on April 26, 2007. On or about that date, you contacted me to inform me that you would be out of town for a short while and would be unable to have your responses to me by the due date. I informed you that so long as the responses were forthcoming in a relatively timely manner, that I would not object to their lateness.

Now, however, the responses are more than one month late. Please respond to the discovery requests by June 15, 2007 to avoid the time and expense of a Motion to Compel. I look forward to receiving your responses. Thank you.

Sincerely,



Charles L. Honsinger

cc: Andy Terteling

Laura E. Burn
Jeffrey R. Christensen
David P. Claiborne
D. Blair Clark
S. Bryce Farris
Jon C. Gould
David Hammerquist
Charles L. Honsinger
James P. Kaufman
Jennifer Reid Mahoney
James G. Reid
Daniel V. Steensón

William F. Ringert, of Counsel
Ailyn L. Sweeney, of Counsel
Samuel Kaufman (1921-1986)

EXHIBIT A

RINGERT
◆ CLARK
CHARTERED
LAWYERS

Laura E. Buri
Jeffrey R. Christenson
David P. Claiborne
D. Blair Clark
S. Bryce Farris
Jon C. Gould
David Hammerquist
Charles L. Honsinger
James P. Kaulman
Jennifer Reid Mahoney
James G. Reid
Daniel V. Steenson

William F. Ringert, of Counsel
Allyn L. Sweeney, of Counsel
Samuel Kaulman (1921-1986)

August 13, 2007

Ms. Dana Hofstetter
Hofstetter Law Office, LLC
608 W. Franklin Street
Boise, ID 83702
Fax: (208)424-8744

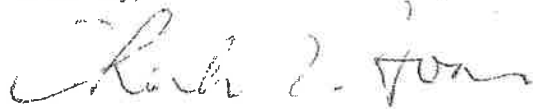
Re: SRBA Subcase No. 63-5284

Dear Dana:

We recently received your Notice of Appearance in the above-referenced subcase. Given your recent entry into the subcase, I wanted to apprise you of The Terteling Company, Inc.'s pending discovery requests to Mr. Gibson. The discovery requests were served on March 26, 2007. I have requested in writing that Mr. Gibson respond. Would you please provide prompt responses to the discovery requests?

I am enclosing a copy of both the requests and the Notice of Service for your records. Please contact me with any questions or concerns.

Sincerely,



Charles L. Honsinger

enclosures

cc: client

EXHIBIT 9

Kimi White

From: Hofstetter Law Office [Dana@IdahoWaterLaw.com]
Sent: Tuesday, August 14, 2007 1:14 PM
To: Charlie Honsinger
Subject: SRBA 63-5284

Charlie:

I received your letter regarding the 63-5284 Discovery Requests today.
Could you e-mail me the Word version of these Discovery Requests?

Thank you,
Dana Hofstetter

Hofstetter Law Office, LLC
608 West Franklin Street
Boise, Idaho 83702
Telephone: (208) 424-7800
Facsimile: (208) 424-8774

EXHIBIT C

Kimi White

From: Charlie Honsinger
Sent: Tuesday, August 14, 2007 3:35 PM
To: 'Hofstetter Law Office'
Subject: RE: SRBA 63-5284



discoveryrequests.w
pd (36 KB)

Dana:

Here they are.

Thanks.

clh

-----Original Message-----

From: Hofstetter Law Office [mailto:Dana@IdahoWaterLaw.com]
Sent: Tuesday, August 14, 2007 3:00 PM
To: Charlie Honsinger
Subject: Re: SRBA 63-5284

WordPerfect is fine - Thank you.

Dana

Charlie Honsinger wrote:

>I'll e-mail it to you, but it is in Word Perfect format, not Word. Is
>that OK?

>
>Charlie

>
>-----Original Message-----

>From: Hofstetter Law Office [mailto:Dana@IdahoWaterLaw.com]
>Sent: Tuesday, August 14, 2007 1:14 PM
>To: Charlie Honsinger
>Subject: SRBA 63-5284

>
>Charlie:

>
>I received your letter regarding the 63-5284 Discovery Requests today.
>Could you e-mail me the Word version of these Discovery Requests?

>
>Thank you,
>Dana Hofstetter

>
>Hofstetter Law Office, LLC
>608 West Franklin Street
>Boise, Idaho 83702
>Telephone: (208) 424-7800
>Facsimile: (208) 424-8774

EXHIBIT D

RINGERIT
CLARK
CHARTERED
LAWYERS

Laura E. Buri
Jeffrey R. Christenson
David P. Clalborne
D. Blair Clark
S. Bryce Farris
Jon C. Gould
David Hammerquist
Charles L. Honsinger
James P. Kaufman
Jennifer Reid Mahoney
James G. Reid
Daniel V. Steenson

September 17, 2007

William F. Ringeri, of Counsel
Allyn L. Sweeney, of Counsel
Samuel Kaufman (1921-1986)

Joe Terteling
Andy Terteling
The Terteling Company, Inc.
1665 Hill Road
Boise, ID 83702
Fax: (208)381-5200

Re: Gibson SRBA Objection

Dear Joe and Andy:

Enclosed please find copies of the Disclosure Lay Witnesses filed by Charlie Gibson in the above matter, together with his first set of discovery to which we must respond by October 15, 2007.

I will begin preparing our discovery responses for your review and our discussion. In the meantime, please review Mr. Gibson's list of witnesses and let me know what your thoughts are about each person's potential testimony.

Sincerely,


Charles L. Honsinger

enclosures

EXHIBIT E

Attorneys for Claimants The Terteling Company, Inc.

STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

NOTICE OF TAKING DEPOSITION OF CHARLES GIBSON - Page 1

DATED this 27th day of September, 2007.

RINGERT CLARK CHARTERED

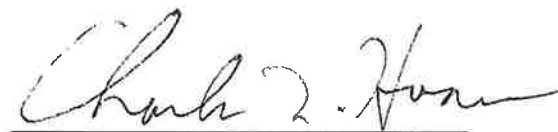
By 
Charles L. Honsinger
Attorneys for the Objector

CERTIFICATE OF MAILING

I hereby certify that service of the within and foregoing document was made this 27th day of September, 2007, by mailing a copy thereof, postage prepaid, to each of the parties listed below.

Dana Hofstetter
Hofstetter Law Office, LLC
608 W. Franklin Street
Boise, ID 83702
Fax: (208)424-8744

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098


Charles L. Honsinger

CHARLES L. HONSINGER (ISB #5240)
RINGERT CLARK CHARTERED
455 S. Third Street, P.O. Box 455
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657
Attorneys for Claimants The Terteling Company, Inc.

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

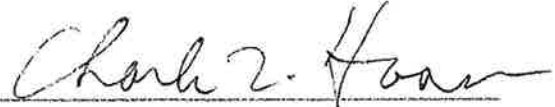
Case 38576

)
) Subcase Nos. 63-5284
)
)
) MOTION TO COMPEL
)
)
)
)

COMES NOW, The Terteling Company, Inc. and T-7, LLC, by and through their attorneys of record, Ringert Clark, Chartered, and hereby move this Court to issue an Order compelling Claimant Charles Gibson to respond to the First Interrogatories and Requests for Production propounded by The Terteling Company, Inc. in the above-referenced subcase. This Motion is made pursuant to I.R.C.P. 37(b)(2), and is supported by the Affidavit of Charles L. Honsinger in Support of Motion to Compel submitted herewith. A hearing is requested. Attorney fees are requested pursuant to I.R.C.P. 37(a)(4).

DATED this 27th day of September, 2007

RINGERT CLARK CHARTERED

By: 

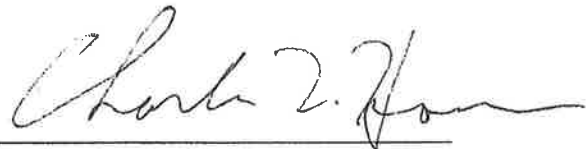
Charles L. Honsinger
Attorneys for Objector

CERTIFICATE OF MAILING

I hereby certify that service of the within and foregoing document was made this 27th day of September, 2007, by mailing a copy thereof, postage prepaid, to each of the parties listed below.

Dana Hofstetter
Hofstetter Law Office, LLC
608 W. Franklin Street
Boise, ID 83702
Fax: (208)424-8744

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

A handwritten signature in dark ink, appearing to read "Charles L. Honsinger", written over a horizontal line.

Charles L. Honsinger

CHARLES L. HONSINGER (ISB #5240)
RINGERT CLARK CHARTERED
455 S. Third Street, P.O. Box 455
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657
Attorneys for Claimants The Terteling Company, Inc.

**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	)	
	)	Subcase Nos. 63-5284
Case 38576	)	
	)	AFFIDAVIT OF CHARLES L. HONSINGER
	)	IN SUPPORT OF MOTION TO COMPEL
	)	
	)	
	)	
_____	)	
STATE OF IDAHO	)	
	) ss	
COUNTY OF ADA	)	

CHARLES L. HONSINGER, being first duly sworn upon his oath, deposes and says that:

1. I am the attorney for the objector, The Terteling Company, Inc. in the above captioned Snake River Basin Adjudication subcase.
2. I make this affidavit based upon my own personal knowledge and belief of the facts contained herein.
3. On March 26, 2007, on behalf of my client, I submitted The Terteling Company Inc.'s First Set of Interrogatories and Requests for Production to Claimant Charles Gibson. A Notice of Service of the same was filed with the SRBA District Court on March 27, 2007.

4. On or about April 26, 2007, I received a telephone call from Claimant Charles Gibson. Mr. Gibson informed me that his responses to the discovery propounded by The Terteling Company, Inc. would not be transmitted to my by the due date because he would be out of town. I agreed to grant Mr. Gibson a reasonable extension.

5. On May 31, 2007, I sent a letter to Mr. Gibson requesting that he respond to the discovery requests. A true and accurate copy of that letter is attached hereto as Exhibit "A".

6. On or about July 31, 2007, attorney Dana Hofstetter filed a Notice of Appearance informing the Court and parties that she would be representing Mr. Gibson in this matter.

7. On August 13, 2007, I sent a letter to Ms. Hofstetter requesting that she respond to the discovery requests served on March 26, 2007, and included a copy of the same for her records. A true and accurate copy of my August 13, 2007 letter to Ms. Hofstetter is attached hereto as Exhibit "B".

8. On August 14, 2007, I received an e-mail message from Dana Hofstetter requesting that I provide her with an electronic copy of the discovery requests served upon Mr. Gibson. A true and accurate printed copy of that e-mail message is attached hereto as Exhibit "C".

9. On August 14, 2007, I provided Ms. Hofstetter with an electronic copy of the discovery requests served on Mr. Gibson via electronic mail. A true and accurate printed copy of that e-mail message is attached hereto as Exhibit "D".

10. On September 14, 2007, I sent a letter to Ms. Hofstetter explaining the necessity that the discovery responses be provided as soon as possible. A true and accurate printed copy of that letter is attached hereto as Exhibit "E".

11. To date, I have not received responses to the discovery requests served on Mr. Gibson on March 26, 2007.

12. I.R.C.P. 37(b)(2) provides that a party may move for an Order compelling discovery if a party fails to respond to discovery.

13. I hereby certify that I have attempted to confer with Mr. Gibson's attorney in good faith in an attempt to secure the requested discovery responses without resorting to a motion to compel in compliance with I.R.C.P. 37(a)(2). Such good faith attempt is evidenced by the attachments hereto.

Further your affiant sayeth naught.

DATED this 27th day of September, 2007.

By: Charles L. Honsinger
Charles L. Honsinger

Sworn to and subscribed before me this 27th day of September, 2007.



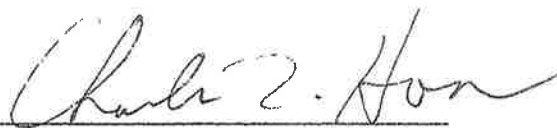
Kimi A. White
Notary Public for Idaho
Residing in Boise, Idaho
My Commission Expires: 01/01/10

CERTIFICATE OF MAILING

I hereby certify that service of the within and foregoing document was made this 27th day of September, 2007, by mailing a copy thereof, postage prepaid, to each of the parties listed below.

Dana Hofstetter
Hofstetter Law Office, LLC
608 W. Franklin Street
Boise, ID 83702
Fax: (208)424-8744

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098


Charles L. Honsinger

DEPARTMENT OF
WATER RESOURCES

**NOTICE OF SERVICE OF CLAIMANT'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION - Page 1**

and by mailing a copy thereof with postage pre-paid to the following:

Charles L. Honsinger
Ringert Clark Chartered
P.O. Box 2773
Boise, Idaho 83701-2773

DATED this 17th day of September, 2007.

HOFSTETTER LAW OFFICE, LLC


Dana L. Hofstetter

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of September, 2007, I caused to be served a copy of the foregoing **Notice of Service of Claimant's First Set of Interrogatories and Requests for Production** on the following person(s) by the method(s) indicated below:

Charles L. Honsinger
Ringert Clark Givens Pursley LLP
P.O. Box 2773
Boise, ID 83701-2773

☒ U.S. Mail ☐ FedEx Overnight ☐ Hand Delivery ☐ Fax

IDWR Director
P.O. Box 83720
Boise, ID 83720-0098

☒ U.S. Mail ☐ FedEx Overnight ☐ Hand Delivery ☐ Fax


Dana L. Hofstetter

Dana L. Hofstetter, ISB #3867
HOFSTETTER LAW OFFICE, LLC
608 West Franklin Street
Boise, Idaho 83702
Telephone (208) 424-7800
Facsimile: (208) 424-8774
Email: Dana@IdahoWaterLaw.com

Attorney for Charlie L. Gibson

RECEIVED

SEP 18 2007

DEPARTMENT OF
WATER RESOURCES

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF IDAHO**

In Re SRBA

)

)

)

Case 39576

)

)

)

)

)

)

)

Subcase No. 63-5284

**CLAIMANT'S DISCLOSURE
OF LAY WITNESSES**

Comes now Claimant Charlie L. Gibson by and through his attorney of record, Dana L. Hofstetter of Hofstetter Law Office, LLC, and pursuant to the Court's February 14, 2007 Trial Scheduling Order hereby discloses the following lay witnesses who may testify at trial:

Charlie Gibson
5125 Bogus Basin Road
Boise, Idaho 83702

Jack DeChambeau
12775 W. Silverbrook
Boise, Idaho 83713

Merle Hansen
655 W. Victory Road
Meridian, Idaho 83642

John Barringer
6016 N. Pierce Park Lane
Boise, Idaho 83714

Richard B. Smith
116 W. Braemere
Boise, Idaho 83702

Frederick Bagley
3222 Hillcrest Lane
Boise, Idaho 83705

Dated this 14th day of September 2007

HOFSTETTER LAW OFFICE, LLC

A handwritten signature in dark ink, appearing to read "Dana L. Hofstetter", is written over a horizontal line.

Dana L. Hofstetter
Attorney for Charlie L. Gibson

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served a copy of the foregoing document this 14th day of September 2007, by U.S. Mail postage pre-paid (or by the pre-paid method as otherwise indicated below) to:

IDWR Director
P.O. Box 83720
Boise, ID 83720-0098

Charles Honsinger (*and Facsimile*)
Ringert Clark
P.O. Box 2773
Boise, ID 83701


Dana L. Hofstetter

COPY

Dana L. Hofstetter (ISB #3867)
Hofstetter Law Office, LLC
608 West Franklin Street
Boise, Idaho 83702
Telephone: (208) 424-7800
Facsimile: (208) 424-8774

Attorney for Edwards Family LLC

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

2007 AUG 6 AM 11 19

RECEIVED
AUG 07 2007
DEPARTMENT OF
WATER RESOURCES

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	)	SUBCASE NO.: 63-5284
	)	
Case No. 39576	)	STIPULATION TO PARTIALLY
	)	RESOLVE SUBCASE
	)	
	)	

DESCRIPTIVE SUMMARY

This is a stipulation to resolve Edwards Family LLC's objection to the Idaho Department of Water Resources Director's Report recommendation for claimant Charlie L. Gibson's water right number 63-5284.

STIPULATION

In order to resolve the Edwards Family LLC's objection to the Idaho Department of Water Resources Director's Report recommendation for claimant Charlie L. Gibson's water right number 63-5284, the parties hereby stipulate and agree that the claimant's water right number 63-5284 should include the following language in the source element of the water right description: "This water right does not authorize the diversion of a low temperature geothermal resource or other geothermal resource." All decrees, whether partial or final, should include that remark in the source element for this water right.

This stipulation does not resolve the objection filed in this subcase by attorney, Charlie Honsinger, on behalf of The Terteling Company. The Terteling Company objection will be resolved separately and apart from this stipulation.

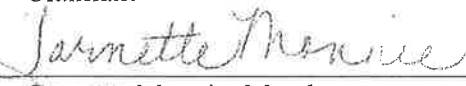
This stipulation has been reached through good faith negotiations for the purpose of resolving legal disputes, including pending litigation, and all parties hereto agree that no offers and/or statements made in the course of negotiations shall be construed as admissions against interest or be used in any legal proceeding, and that this agreement is not and shall not be used as precedent for any other claim to a water right.

This stipulation was entered into and executed voluntarily by all parties in good faith, and without any fraud, misunderstanding, overreaching, misrepresentation, duress, or undue influence whatsoever.

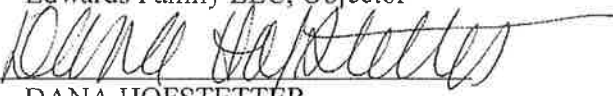
After the filing of this stipulation, Edwards Family LLC shall remain a party to this subcase and its attorney of record shall continue to receive service of subcase documents.

By: 
Charlie L. Gibson
Claimant

Dated: July 30 07.

By: 
Garnette Monnie, Member
Edwards Family LLC, Objector

Dated: July 31 2007

By: 
DANA HOFSTETTER
Attorney for Edwards Family LLC

Dated: July 31, 2007

IDWR Concurrence:

By: 
NICHOLAS B. SPENCER
Deputy Attorney General for IDWR

Dated: 8-2-07

By: _____
Vicky L. Music
Senior Water Resource Agent, IDWR

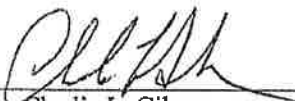
Dated: _____

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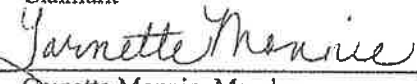
This stipulation has been reached through good faith negotiations for the purpose of resolving legal disputes, including pending litigation, and all parties hereto agree that no offers and/or statements made in the course of negotiations shall be construed as admissions against interest or be used in any legal proceeding, and that this agreement is not and shall not be used as precedent for any other claim to a water right.

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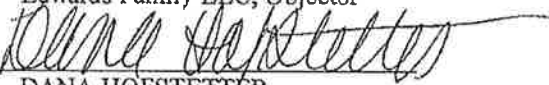
After the filing of this stipulation, Edwards Family LLC shall remain a party to this subcase and its attorney of record shall continue to receive service of subcase documents.

By: 
Charlie L. Gibson
Claimant

Dated: July 30 07

By: 
Garnette Monnie, Member
Edwards Family LLC, Objector

Dated: July 31 2007

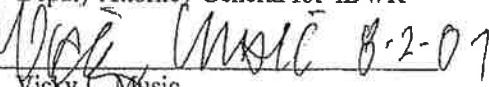
By: 
DANA HOFSTETTER
Attorney for Edwards Family LLC

Dated: July 31, 2007

IDWR Concurrence:

By: _____
NICHOLAS B. SPENCER
Deputy Attorney General for IDWR

Dated: _____

By:  8-2-07
Vicky L. Music
Senior Water Resource Agent, IDWR

Dated: _____

CERTIFICATE OF MAILING

I certify that on August 2, 2007, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0098

Charles L. Gibson
5125 Bogus Basin Road
Boise, Idaho 83702

Dana L. Hofstetter
Hofstetter Law Office, LLC
608 West Franklin Street
Boise, Idaho 83702

Charles L. Honsinger
Ringert Clark
P.O. Box 2773
Boise, Idaho 83701-2773



Signature of person mailing the form

RECEIVED

JUL 24 2007

DEPARTMENT OF
WATER RESOURCES

CHARLES L. HONSINGER (ISB #5240)
RINGERT CLARK CHARTERED
455 S. Third Street, P.O. Box 455
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657

Attorneys for Objector The Terteling Company, Inc.

**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

Subcase No. 63-5284

Case 38576

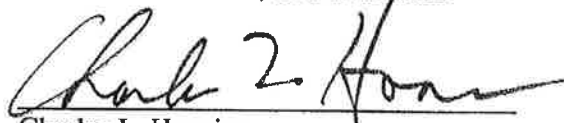
DISCLOSURE OF EXPERT WITNESS

COMES NOW, The Terteling Company Inc., by and through its attorneys of record, Ringert Clark Chartered, and, pursuant to the February 15, 2007 Trial Scheduling Order in the above-captioned matter, hereby notify the Court and the parties of the name of the following expert witness that they may call at the trial of this matter:

Ed Squires

Dated this 20th day of July, 2007.

RINGERT CLARK, CHARTERED



Charles L. Honsinger
Attorneys for The Terteling Company, Inc.

COPY

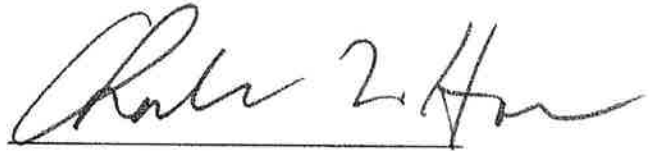
CERTIFICATE OF MAILING

I hereby certify that service of the within and foregoing document was made this 20th day of July, 2007, by mailing a copy thereof, postage prepaid, to each of the parties listed below.

Charlie Gibson
5125 Bogus Basin Road
Boise, Idaho 83702

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

A handwritten signature in dark ink, appearing to read "Charles L. Honsinger", written over a horizontal line.

Charles L. Honsinger

SUPPLEMENTAL DIRECTOR'S REPORT
REGARDING SUBCASE NO. 63-5284

In Re SRBA

Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
David R. Tuthill, Jr., Director
Donald V. Shaff, Adjudication Bureau Chief

June 1, 2007

I. INTRODUCTION

In accordance with Idaho Code §42-1412(4), Administrative Order 1, and Special Master Booth's March 28, 2007, *Order Granting Motion for 706 Report*, the Director of the Idaho Department of Water Resources ("IDWR" or "Department") submits this Supplemental Director's Report ("Report") regarding subcase number 63-5284, setting forth the basis for the Department's recommendation for this water right. The Report was prepared under the supervision of David R. Tuthill, Jr., Director, and Donald V. Shaff, Adjudication Bureau Chief.

The following employee has knowledge of the information contained in the Report: Vicky Music, Senior Water Resource Agent.

II. SUMMARY OF THE ISSUES

Claimant Charles L. Gibson filed verified claim number 63-5284 in the SRBA on behalf of himself and his father, Cecil Gibson, on August 8, 1989. (The Department has since been informed, and believes, that Cecil Gibson is now deceased.) The claim was for 0.60 cfs for stockwater and the irrigation of 30 acres. Its claimed priority date was April 1, 1947. (A copy of the SRBA Claim is attached hereto as Exhibit 1.) This claim in turn was based upon a "statutory claim" filed with the Department pursuant to the provisions of Idaho Code §42-243 by Charles L. Gibson on June 29, 1983. This statutory claim asserted a 1947 priority date. (A copy of the statutory claim is attached hereto as Exhibit 2.)

IDWR recommended SRBA claim number 63-5284 in *its Director's Report for Irrigation and Other Rights, Basin 63 Part II*, Reporting Area 13, on December 16, 2005, for 0.24 cfs for stockwater and the irrigation of 31 acres, with a priority date of April 1,

1947. On or about April 21, 2006, the Terteling Co., Inc., filed an objection in the SRBA to the Department's recommendation of the priority date for this right, asserting that the correct priority date should be April 1, 1962.¹ Since priority date is the only disputed element of this right, and since the Special Master in his March 28, 2007, order requested that this Report place "particular emphasis upon the disputed element of priority date..." only the basis for the Department's priority date recommendation will be addressed herein.

III. LEGAL AND POLICY BASIS FOR IDWR'S RECOMMENDATION

Idaho Code §42-1409 includes priority date as an element of the water right that must be included in a notice of claim for a water right in a general adjudication. It reads in part as follows:

(1) The director shall prepare and furnish on request a standard notice of claim form . The notice of claim form shall include the following:

...

(d) the date of priority claimed:

(i) the date of priority claimed for water rights acquired under state law shall be from any license, permit, or decree; or if the right is not based upon a license, permit, or decree, then the date when the water was first applied to beneficial use;

Idaho Code §42-1410 in turn requires the director to investigate the claims filed for water rights in a general adjudication. It reads in part as follows:

[T]he director shall commence an examination of the water system, the canals and ditches and other works, and the uses being made of water diverted from the water system for water rights acquired under state law. The examination shall continue in a manner and for such a period of time as the director determines is necessary to evaluate the extent and nature of each water right for which a notice of claim under state law has been filed.

¹ The Edwards Family LLC also filed an objection to IDWR's recommendation of this claim on or about April 24, 2006, but this objection has since been resolved.

Finally, Idaho Code §42-1411(2) provides that the priority date is included among the elements the director will recommend for each right in his director's report. It reads in part as follows:

- (2) The director shall determine the following elements, to the extent the director deems appropriate and proper, to define and administer the water rights acquired under state law:

...
(d) the date of priority

Chapter 3 of IDWR's *CLAIMS INVESTIGATION HANDBOOK* provides guidance to the water resource agents investigating the priority dates of beneficial use water right claims. (A copy of this chapter is attached as Exhibit 3.) Section IIB of that chapter states in part as follows:

The claim file must document the evidence upon which the agent recommended a beneficial use water right priority date. If that recommendation was based upon an oral conversation with an "old timer" or a claimant relaying their parents' stories, that should be documented in the file with notes or a recording. Obtaining affidavits from "old timers" is also helpful to preserve their testimony. A statutory claim filed under Idaho Code §42-243 is not evidence of priority. A public information brochure describing the types of information that a claimant may submit to IDWR to show a priority date has been prepared and distributed to the regions. The brochure with an appropriate cover letter should be mailed to all beneficial use claimants in a sub-basin at the beginning of the investigation stage for the sub-basin.

All claimants of irrigation and other rights based on beneficial use must submit information supporting the claimed priority date. It is up to the agent to use common sense to evaluate the credibility of the information, to weigh conflicting information, and to determine in light of any contradictory information, whether the claimant's information supports the priority date, and if not, to determine what date it does support.

(Emphasis added.)

IV. INVESTIGATION OF THE PRIORITY DATE

The claim file for claim number 63-5284 was assigned to Vicky Music, Senior Water Resource Agent at IDWR's Western Region office, for review and recommendation. Ms.

Music conducted an initial claim file review, which included a review of well logs filed with IDWR and aerial photographs. A well log, by documenting the date the well was drilled, would provide evidence of the priority date of the right. Aerial photography, to the extent it might show water use as of the date the photograph was taken, also can serve as evidence of priority. Ms. Music had available to her aerial photography of the property from 2003, 2000, 1987, and 1964, as well as a black and white aerial photo from 1939 which showed both a house and apparently cultivated ground on the property.

Ms. Music determined that IDWR did not possess well logs for any wells located upon the claimed property, nor from the aerial photography was she able to clearly determine that the water use disclosed on the photos must of necessity have come from the point of diversion listed on the claim. Based upon this initial investigation Ms. Music determined that the evidence of priority was inadequate to prove the claimed priority date, and on September 1, 2004, she sent a letter request to the claimants asking for evidence to establish the claimed priority date. (A copy of this letter is attached hereto as Exhibit 4.) Included with the letter was a brochure entitled, *Evidence of Priority, A Guide to the Sources Which May Constitute Proof of the Priority Date of Your Water Right*, (A copy of this brochure is attached hereto as Exhibit 5.) In response to this letter, claimant Charles L. Gibson visited the IDWR Western Region office on September 14, 2004, and met with Ms. Music.

Mr. Gibson and Ms. Music discussed the historical use of the water and the basis of the claimed priority date. According to Mr. Gibson his parents, Cecil and Lottie Gibson, purchased the subject property in 1947. Mr. Gibson was born in 1951, and had lived his entire life on the property. His knowledge was therefore based not only upon his own

personal knowledge from the time he could first remember but also upon information related to him over the years by his parents. Mr. Gibson explained that two wells were in use on the property at the time his parents bought it. After purchasing the property, Mr. Gibson's parents used the water for stock water for turkeys and cattle, dust and disease control, and irrigation of approximately 30 acres for food for the turkeys and pasture for cattle. The Gibsons developed a sizeable turkey breeding operation and for many years raised between 3,000 and 4,000 turkeys.

Mr. Gibson further stated that most of the water use came from the northernmost of the two wells on the property ("the north well") which is the point of diversion recommended for water right number 63-5284. However, there was a second well ("the south well") that was used for stockwater, domestic uses, and irrigation. Mr. Gibson stated that in 1960 his father ceased raising turkeys, installed a larger pump in the north well and began using the north well exclusively for irrigating 30 acres of alfalfa.²

According to Mr. Gibson, although both wells were in use when the Gibson family purchased the property, his father did not know when they were drilled. Therefore, when Mr. Gibson filed his SRBA Notice of Claim he claimed as the right's priority date what he understood was the generally accepted start of the irrigation season for 1947, the year his parents purchased the property.

During the discussion with Ms. Music on September 14, 2004, Mr. Gibson prepared a handwritten statement regarding the water use on the property for inclusion in

² There are circumstances where increasing the quantity pumped out of a well would constitute a new appropriation with a priority date as of the date the additional quantity was first diverted out of the well. However, in the present case Ms. Music understood Mr. Gibson as relating that at the time the number of acres irrigated out of the north well increased, irrigation out of the south well ceased, resulting in no net increase of the quantity diverted. She therefore treated this situation as an accomplished transfer of part of the diversion rate out of the south well to the north well, which would not change the priority date of the right.

the claim file. (A copy of that statement is attached hereto as Exhibit 6.) One should note that the statement contains a sentence, that, when read in isolation, could be interpreted as stating that Mr. Gibson's father first started irrigating in 1960. However, based upon her contemporaneous conversation with Mr. Gibson, Ms. Music understood that sentence to mean that in 1960 Mr. Gibson's father ceased the turkey operation and the irrigation and other water uses associated with it, and commenced raising alfalfa exclusively on the entire place of use.

Subsequent to making her recommendation, during a Court-moderated settlement conference held on January 17, 2007, on the objection to the recommendation of the priority date for this water right, Ms. Music was provided additional information by Mr. Gibson.³ Mr. Gibson showed her eleven black and white photographs, ten of which contained handwritten notations and dates ranging from 1949 to 1952. Mr. Gibson believed the notations and dates were in his deceased mother's handwriting. The photographs contain various views of what Mr. Gibson explained were the place of use of the right at that time. In showing the pictures to Ms. Music, Mr. Gibson was able to orient the pictures to existing locations and landmarks. The pictures show different aspects of the farming operation, including the turkey raising operation. Mr. Gibson subsequently provided Ms. Music with copies of these photos for the claim file. (A CD containing electronic copies of the photographs is included herewith as Exhibit 7.)

V. RECOMMENDATION OF THE PRIORITY DATE

Initially Ms. Music's review of the 1939 aerial photograph confirmed that there was apparently cultivated ground and a house on the property at that time. From that it was

³ It is not uncommon for claimants to provide IDWR with additional information during the objection resolution process, and IDWR will evaluate the information it receives for the purpose of facilitating objection resolution.

logical for her to conclude that the property must have had a source of water, even though the photograph did not reveal what that water source was.

Mr. Gibson's explanation that the two wells were on the property when his parents purchased it in 1947 was consistent with the inference from the 1939 photograph that there was a water source on the property by 1939. Because of his personal knowledge gleaned from his having resided on the property since his birth in 1951, as well as the information he received from his parents regarding the history of the property from the time they bought it, Ms. Music viewed Mr. Gibson as having a better knowledge base about the property than anyone else. Since she was able to meet with Mr. Gibson personally she was able to judge his credibility for herself. She found the information provided by him to be believable and consistent with the information she had from aerial photography and the results of a field examination done by another water resource agent to confirm other elements of the right. Since Mr. Gibson's information about other elements of the right was consistent with the other information she had in her possession, Ms. Music had no reason to doubt the accuracy of the information he provided about priority date.

Even though the 1939 photograph could have served as the basis for an argument in support of a priority date earlier than 1947, Ms. Music was aware that the claimant had based his assertion of a 1947 priority date upon the firsthand knowledge of his father, and, accordingly concluded that the claimed priority date was credible and reasonable under the circumstances. She therefore recommended the claimed priority date of April 1, 1947.

In reviewing the photographs subsequently provided to her by Mr. Gibson, Ms. Music has concluded they lend further support to the claimed 1947 priority date insofar as they evidence the use of the water between 1949 and 1951 consistent with the information previously provided her by Mr. Gibson.

VI. CONCLUSION

Ms. Music concluded that the priority date claimed for water right number 63-5284, April 1, 1947, was reasonable and supported by the information available to her. She therefore recommended the priority date as claimed. The additional information subsequently provided to her by the claimant reinforces that conclusion.

RESPECTFULLY SUBMITTED this 1st day of June, 2007.



DONALD V. SHAFF
Adjudication Bureau Chief

CERTIFICATE OF MAILING

I certify that on June 1, 2007, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

Charles L. Honsinger
Ringert Clark Chartered
455 S Third Street
PO Box 455
Boise, ID 83701-2773

Dana L. Hofstetter
608 West Franklin Street
Boise, ID 83702

Charlie L. Gibson
5125 Bogus Basin Rd
Boise, ID 83702

IDWR Repository
P.O. Box 83720
Boise, ID 83720

Karen A Wood
Signature of person mailing the form

EXHIBIT 1

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: A63-05284

Date Received: 8/08/1989

Receipt No: C009073

Received By: JF

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: CHARLIE L. GIBSON 208-343-6525
Address: 5125 BOGUS BASIN RD.
BOISE, ID 83702

AND/OR

Name: CECIL GIBSON 208-343-6525
Address: 5125 BOGUS BASIN RD.
BOISE, ID 83702

2. Date of Priority: APR 01, 1947

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
04N	02E	22	SE	SE	NE		ADA

5. Description of diverting works:
WELL, PUMP & SPRINKLERS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.600		
STOCKWATER	01/01	12/31	0.090		

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

8. Total consumptive use is 105.0 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCK/400 HEAD CATTLE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	02E	22	SE	NE		IRR	10.0
			NE	SE		IRR	10.0
					Section Acres		20.0
		23	SW	NW		IRR	8.0
			SW	NW		STOCK	
			NW	SW		IRR	2.0
			NW	SW		STOCK	
					Section Acres		10.0
					Total Acres		30.0

11. Place of use in counties: ADA

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

13. Other Water Rights Used:
DOMESTIC WELL ALSO USED FOR STOCK

14. Remarks:

15. Basis of Claim: STATUTORY CLAIM

16. Signature(s)

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

Number of attachments: 1

For Individuals:

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

Signature of Claimant(s): Charles L. Shu Date: Aug 9 89

Date: _____

State of Idaho)
County of ADA) SS.

Subscribed and sworn (or affirmed) before me this 8TH day
of AUGUST 19 89

Jeff Peppersack
Notary Public

Seal

Residing at _____

My Commission Expires _____

Jeff Peppersack, Notary Public
Residing at Boise, Idaho
My Commission Expires Nov. 8, 1994

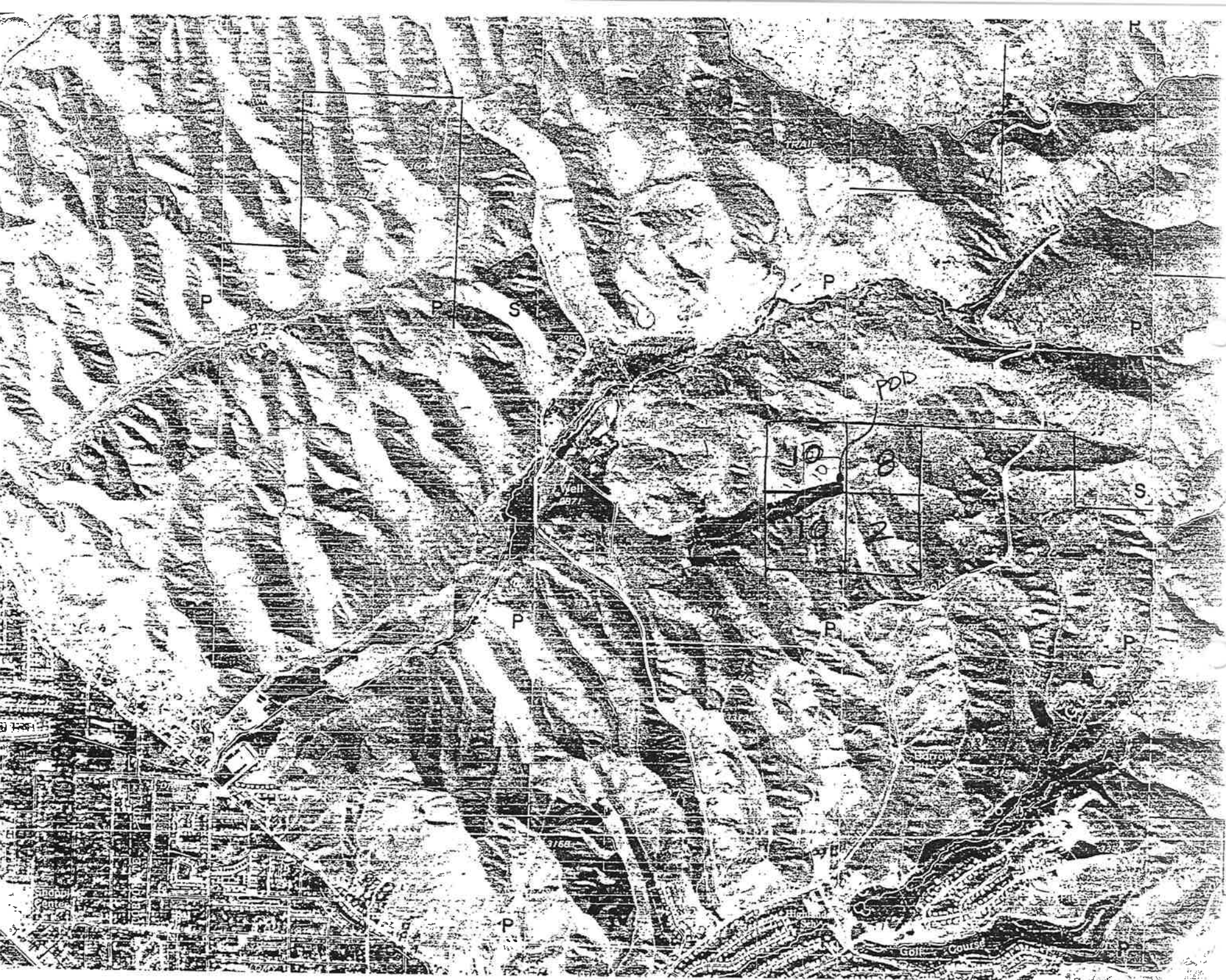


EXHIBIT 2

(Name of Claimant)

(Mailing Address)

(Zip Code)

Telephone No. 343-6525

(cfs, af)

(Domestic, Irrigation, Stock, Etc.)

(Both dates inclusive)

(Mo., Day)

(Mo., Day)

Quantity 0.6 cfs

Use irrigation

Period of Use From 4/1

To 11/1

Quantity _____

Use _____

Period of Use From _____

To _____

Quantity _____

Use _____

Period of Use From _____

To _____

Quantity _____

Use _____

Period of Use From _____

To _____

Quantity _____

Use _____

Period of Use From _____

To _____

- (4) 0.6 cfs TOTAL QUANTITY USED.
(cfs. af)

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

NE ¼ SE ¼, Sec. 22 Twp. 4N Rge. 2E B.M., County of Ada

Additional points of diversion: SENE Sec 22 T4N E2E

- 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. 2 wells w/pump to sprinkler system

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

30

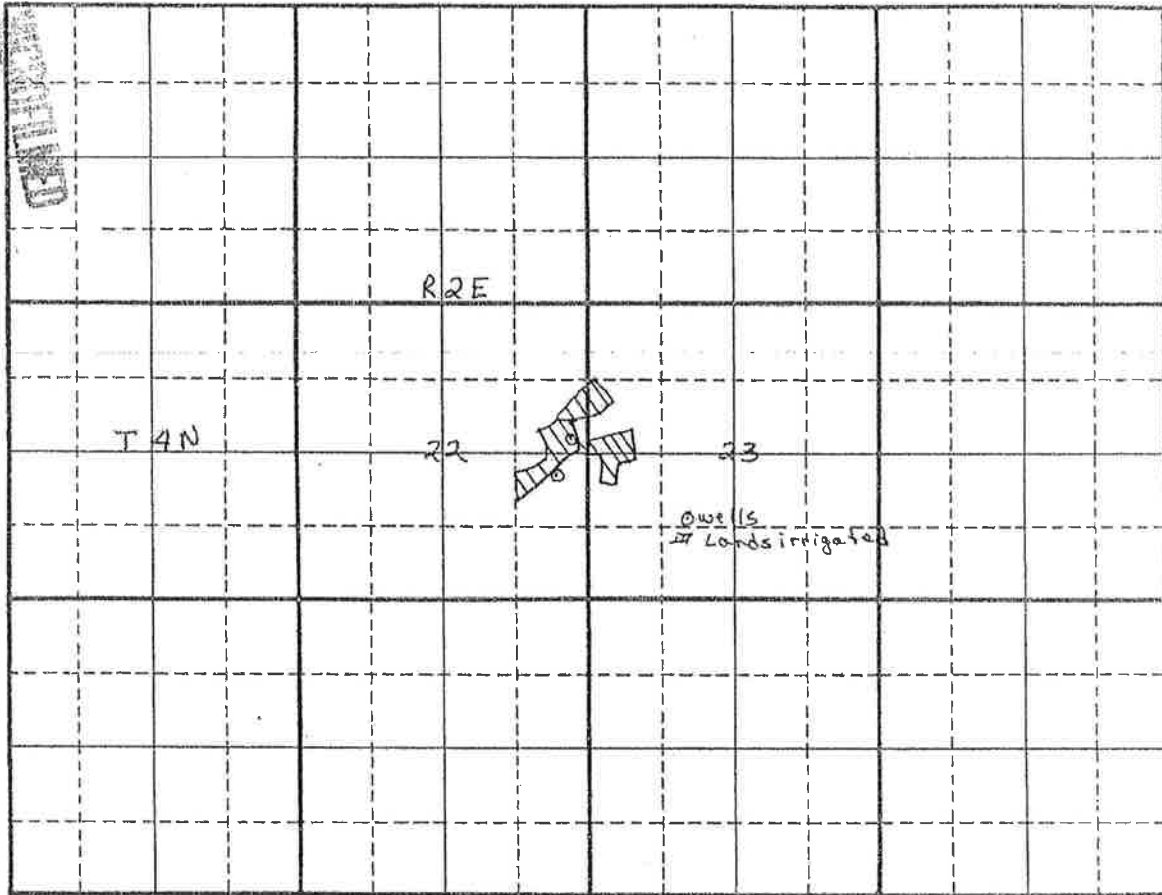
No. of acres

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

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

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

8) Remarks



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho

County of

Ada

)
) ss.
)

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 29 day of June, 1981.

[Signature]
(Claimant)

Nancy M. Anthony
Notary Public
Residing at Boise

My commission expires

Life

FOR DEPARTMENT USE ONLY

Received by ED Date 6/29/83 Exception filed by: _____ Date _____
Prelim. check by JG Date 6/29/83 claimant by: _____
\$30.00 fee received by ED Date 6/29/83 # 26865
Published in Idaho Statesman _____
Dates 2/23 & 3/1/84 _____

EXHIBIT 3

CHAPTER 3

PRIORITY DATE

I. INTRODUCTION

A water right's priority date is dependent upon the legal method by which the water right was established. When examining a water right's priority date agents must keep in the front of their mind the significant dates in Idaho water law. Click [here](#) for a link to a memorandum setting forth those dates. There are five different methods of obtaining a water right, each with a different method of determining the priority date:

- ▶ Beneficial Use Method.
- ▶ Posted Notice Method.
- ▶ Permit Method.
- ▶ 42-1426 Enlargement Method.
- ▶ 42-1416B Expansion Method.

II. BENEFICIAL USE WATER RIGHTS.

A. Priority date.

The priority date for a beneficial use water right is the date when water is first appropriated by application to beneficial use. This doctrine can cause problems when a water user has gradually developed the water use over time. There could be multiple water rights for one overall water use. When a water user is claiming gradual development of the water use the agent should likely consult legal counsel to discuss the appropriate priority date(s) to recommend.

B. Evidence of priority

The claim file must document the evidence upon which the agent recommended a beneficial use water right priority date. If that recommendation was based upon an oral conversation with an "old timer" or a claimant relaying their parents' stories, that should be documented in the file with notes or a recording. Obtaining affidavits from "old timers" is also helpful to preserve their testimony. A statutory claim filed under Idaho Code § 42-243 is not evidence of priority. A public information brochure describing the types of information that a claimant may submit to IDWR to show a priority date has been prepared and distributed to the regions. The brochure with an appropriate cover letter should be mailed to all beneficial use claimants in a sub-basin at the beginning of the investigation stage for the sub-basin.

All claimants of irrigation and other rights based on beneficial use must submit information supporting the claimed priority date. It is up to the agent to use common sense to evaluate the credibility of the information, to weigh conflicting information, and to

determine, in light of any contradictory information, whether the claimant's information supports the priority date, and if not, to determine what date it does support. If there is insufficient information to support a priority date that is not in violation of the mandatory permit statute, then the claim should be recommended for disallowal, and should include the following GENERAL remark: "NO LAWFUL APPROPRIATION SHOWN." (P01 and condition P01)

A beneficial use priority should not be recommended that is outside the season of use for the purposes of use to be recommended. For example, a priority date of December 31 should not be recommended for a right recommended solely for irrigation purposes. If a claimant provides information that only supports the year in which water was put to beneficial use for irrigation but not a date, the agent should recommend (the last day of the year)(the last day of the irrigation season)(the first day of the irrigation season for the next year)(?)

C. Effect of Mandatory Permit Statute.

Where the year of the priority claimed is 1963 and later for ground water or 1971 and later for surface water, there must be some evidence that would tend to show that the appropriation was completed prior to the effective date of the mandatory permit statute, or was commenced prior to the effective date of the mandatory permit statute and completed within a reasonable time thereafter. (The effective dates of the mandatory permit statute were March 25, 1963 for ground water, and May 20, 1971 for surface water) A beneficial use right with a priority after the effective date of the mandatory permit statute may still be valid if the claimant can show that the appropriation was commenced prior to the effective date of the statute and completed with reasonable diligence. See Adjudication Memo #23 for more information as to the effect of the mandatory permit statutes.

Historically, it was not uncommon for a person with a beneficial use right to seek documentation of the right by filing an application for permit. Under the statute, the only priority date that could be licensed was the date of filing the application, even though the right was in fact established earlier.

Where an earlier priority date is claimed for a right for which a license has been issued, then the claim should be reviewed as a claim based on beneficial use, and if recommended with a beneficial use priority, then the basis of the claim should be changed to beneficial use. A new number should be assigned to the beneficial use water right to avoid confusion with the license. However, the evidence submitted by the claimant in support of a claim based on beneficial use should be weighed in light of any evidence in the water right record.

If the claimant's evidence is sufficient to recommend only a portion of the licensed amount with an earlier priority date, then the claim may be recommended as two water rights, one with the earlier priority for the portion of the claim for which the required evidence was submitted, and one with the licensed priority for the remainder.

III. POSTED NOTICE WATER RIGHTS

A. Priority Date.

From February 10, 1881 thru March 11, 1903, Idaho had a "posted notice" statute, which described one means to perfect a water right. As a first step an appropriator was required to post a notice describing the intended appropriation at the proposed point of diversion. The notice then had to be recorded and diversion works were required to be completed and water applied to a beneficial use with due diligence. If the requirements of the statute were satisfied, then the priority date of the water right "related back" to the date of posting. The agent should consult with their legal counsel to determine the exact requirements in effect at the time in question.

B. Evidence of Priority Date.

A posted notice is evidence of the intent to appropriate water, but it is not evidence of application of water to beneficial use nor due diligence in completing the appropriation. Some evidence of completion of the appropriation within a reasonable time after the date of posting must be found by the agent before a claim may be recommended based on a posted notice. Completion within five years is reasonable; the reasonableness of longer periods will depend on the circumstances.

The claimant should be notified that the claimant should submit evidence of the date of first use in the same fashion as beneficial use right claimants. If the claimant submits evidence of completion of the appropriation within a reasonable time following the date of posting, then the date of posting should be recommended as the priority date.

If the date of first use is not within a reasonable amount of time from the date of posting the right might be recommended as a beneficial use right.

1. Sufficiency of posted notice.

The agent should review the posted notice with legal counsel to be sure it met the statutory requirements. The posted notice must contain the following:

- a. Name of appropriator
- b. Source
- c. Amount of water
- d. Location of point of diversion
- e. Purposes of use
- f. Location of place of use
- g. Description of means of diversion
- h. For notices posted or recorded between March 7, 1895 and February 24, 1899, the length of time necessary to complete the appropriation, which may not be more than five years.

- i. Date of recording between February 10, 1881 and March 10, 1903, and within the following time limits from the date of posting:
 - Prior to June 1, 1887 - 15 days
 - June 1, 1887 to February 19, 1895 - 10 days
 - February 20, 1895 to March 10, 1903 - 15 days

The date of recording is the date the notice was recorded with the office of the county recorder for the county in which the land was located at the time the notice was recorded (there have been some changes in county boundaries since the posted notice statutes). A copy of the posted notice from the county recorder's office will have an endorsement by the county recorder that shows the date of recording.

If the posted notice does not meet these minimum requirements, then the basis of the claim should be changed to beneficial use and the claim should be reviewed the same as a claim based on beneficial use.

2. Does the posted notice include the right claimed?

The water right claim based upon the posted notice statute should accurately reflect the information shown on the notice. If not, the agent must examine the right carefully to determine if it is, in fact, the use intended under the posted notice statute. Keep in mind that the original right might have been transferred. If the claimed use cannot be reconciled with the posted notice, examine the claim to determine if it is for a beneficial use right.

If the claimed right is partially included in the posted notice, or may partially be considered a change in use of the appropriation described in the posted notice, then the claim may need to be separated into two claims, one based on posted notice and a second based on beneficial use.

IV. LICENSED WATER RIGHTS

A. Priority Date.

The priority date for a water right based upon the permit/license method is generally the date the application for permit was filed with IDWR. Idaho Code § 42-219.

B. Evidence of Priority.

The priority date of a licensed water right should appear on the face of the license or permit.

V. 42-1416 ENLARGEMENT WATER RIGHTS

A. Priority Date.

The priority date of a water right claimed as an enlargement under Idaho Code § 42-1416 is the date of the completion of that enlargement. The date of completion must be on or before November 19, 1987. In order to prevent injury to junior water users IDWR has also determined that all 42-1416 enlargements should also be recommended with the following subordination remark:

This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1416, Idaho Code. As between water rights decreed as enlargements pursuant to 42-1416, Idaho Code, the earlier priority right is the superior right.

B. Evidence of Priority.

A person claiming an enlargement right should be requested to provide evidence of the date of the completion of the enlargement in the same fashion as for beneficial use rights.

VI. 42-1416B EXPANSION WATER RIGHTS

A. Priority Date.

The priority date for a water right recommended under Idaho Code § 42-1416B is June 30, 1985.

B. Evidence of Priority.

No evidence of priority date is necessary for a water right claimed under Idaho Code § 42-1416B. So long as the water right can be recommended under this statute, the statutory priority date should be used.

VII. ACTIONS AFFECTING AVAILABLE PRIORITY

A. Decrees

The available priority dates for water rights claimed in an area that has been adjudicated may be limited. If a water right was required to be claimed in an adjudication, and was not, the claimant may be barred from claiming a water right with a priority date preceding the date of the adjudication decree. The issue of whether, or not, a water right was required to be claimed in an adjudication is complex, and agents should consult with their legal counsel when faced with this question. See Adjudication Memo #14 for the decree dates of some recent adjudications.

Generally, IDWR will place the burden on the claimant to show the claimant is not "bound" by an adjudication, either by showing that the owner at the time of the more recent adjudication was not a party to the more recent adjudication (some water right adjudications

are binding only on named parties, not on all claimants from the source), by showing that particular water right claims were not required to be filed, or by showing that the source claimed was not included in the water system adjudicated. If the claimant does not meet this burden of proof, then IDWR will recommend either that the claim is barred or that the priority date must be advanced to after the adjudication.

Some water rights have been adjudicated more than once. Claims for these rights should be referred for further review by legal staff.

B. Claimed priority date later than available priority date.

Some claimants claim a priority date later than the date which appears to be available to them under a decree, license or other evidence. In this situation the claimant should be contacted to allow the claimant the opportunity to file an amended claim asserting the earlier priority date, otherwise the earlier priority is waived. A priority earlier than the claimed priority may not be recommended.

C. Subordination.

The priority date of a water right may be "subordinated" to water rights that would, in the normal course, have a later priority date. A water right is subordinated when those water rights with a later priority date are moved ahead of the subordinated water right in priority. Subordination can result from voluntary agreement by the water right owner, by operation of legal principles such as laches and estoppel, and through conditions placed on a water right license by IDWR. Water rights that have been should be recommended with a subordination remark placed under the ostensible priority date. Agents should not impose a subordination remark in the absence of clear evidence of subordination.

EXHIBIT 4



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

September 1, 2004

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

CHARLIE L AND CECIL GIBSON
5125 BOGUS BASIN RD.
BOISE, ID 83702

RE: EVIDENCE OF PRIORITY
Snake River Basin Claim No(s): A63-5284

Dear Claimant(s),

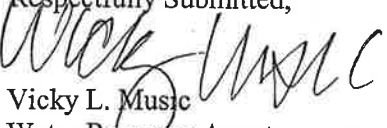
In the past, you submitted the above referenced claim(s) during the Snake River Basin Adjudication (SRBA) claims taking. Enclosed is a computer generated print-out of the claim(s) for your reference only, it is not necessary to return this print-out or re-file it. You indicated, when this claim was filed, that the water right(s) was based on either a "Statutory Claim" or "Beneficial Use" of the water. Water rights of this type are established by historical use of the water for a beneficial use purpose, dating back to the time the water was first used; this date being the "Priority Date" as shown on the enclosed print-out. Your claim(s) has not been confirmed by a previous filing with the Department of Water Resources since there is no decree, license, or permit on file to verify the use of this water. For this reason, the Department is required to gather evidence from claimants supporting the date of priority for claims based on historical beneficial use of water.

Enclosed is a pamphlet entitled "**Evidence of Priority**" which describes why evidence of the priority date is necessary, along with examples of types of evidence that can be submitted to 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.**"

If no evidence of your priority date is submitted, or we do not hear from you within the time limit below, your priority date, as claimed, may not be recommended to the SRBA court for decree. This could jeopardize your water use under this right(s) if water availability problems arise in the future.

The required evidence supporting the priority date(s) requested needs to be submitted by September 20, 2004. Additionally, please verify or correct the place of use and point of diversion of this right on the enclosed map and return it to me with your evidence of priority. Please let me know if you may not be able to submit proof of priority or have any questions not covered by this letter and the enclosed pamphlet, by the date indicated above.

Respectfully Submitted,


Vicky L. Music
Water Resource Agent
Adjudication Bureau

Enclosure: "Evidence of Priority" pamphlet
Notice of Claim Report A63-5284
Arcview 1987 NAPP photo

NOTE: If you no longer own the property upon which this claim was filed, please contact this office immediately. Idaho State law requires that the Department be notified of a change of owner or address on a water right.

EXHIBIT 5

of the well driller who drilled the well, if a report was filed with IDWR.

4. ***Pump test records.***

5. ***Sales receipts*** for equipment or materials used in the water system.

6. ***Records*** of the person or business who sold, installed, or constructed the diversion works.

7. ***Electric bills*** for electric powered diversion equipment.

8. ***Homestead documents for irrigation claims, patent documentation for mining claims or other documentation indicating use of water during the acquisition of government land.*** These may be of record at the county recorder's office for the county in which the land is located. These should also be of record with the National Archives, although there are often delays in obtaining copies. The address and phone number of the National Archives are:

8th and Pennsylvania Ave., N.W.
Washington, D.C., 20408
202-523-3006

9. ***Aerial photography.*** Information on available aerial photography can be obtained from the U.S. Geological Survey at the following address and phone number:

U.S. Geological Survey
EROS Data Center
User Services Section
Sioux Falls, South Dakota 57198
605-594-6151

WHAT IF I AM UNABLE TO OBTAIN ANY OF THE SOURCES LISTED ABOVE?

IF YOU CANNOT furnish some proof such as the examples listed above, you may submit your own testimony, in the form of an affidavit (a letter signed by the you and notarized), which explains the basis for the year of priority claimed. The letter should include a statement of the claimant's personal knowledge of the water use, but may also include information the claimant obtained from others.

DOCUMENTS WHICH ARE NOT SUFFICIENT EVIDENCE OF THE PRIORITY DATE CLAIMED

1. **STATUTORY CLAIMS** filed pursuant to Idaho Code 42-243. In the late 1970's, legislation was enacted that required persons with beneficial use rights to register them with IDWR. These "claims" were declarations of the water right owners, and were not investigated or verified. Notices of claims in the SRBA are different, because they will be investigated and verified, resulting in a decree that confirms the water right and properly describes it.

The statutory claim may be evidence of a water right claimed in the SRBA if the times and quantities of use claimed in the SRBA are substantially the same as they were on the statutory claim. **EVEN THEN**, the statutory claim is evidence of

such use **ONLY** as the date the statutory claim was filed - **NOT** as of the priority date claimed either in the statutory claim or the notice of claim filed in the SRBA.

2. **POSTED NOTICES.** The posted notice may be evidence of a priority date as of the date the notice was posted, but **ONLY IF** some evidence is submitted showing completion of the appropriation within a reasonable time after posting of the notice.

WHAT WILL HAPPEN IF EVIDENCE OF THE PRIORITY DATE IS NOT SUBMITTED?

IDWR will not recommend the claim to be decreed by the court if no evidence of the priority date is submitted. If proof is submitted but it supports a year of priority later than the year claimed, then a later year will be recommended.

**CALL TOLL-FREE
1-800-451-4129**

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION BUREAU
BOISE IDAHO 83720-0089
(208) 287-4910
IDWR/2-05/3000/42003

EVIDENCE OF PRIORITY

A GUIDE TO
SOURCES WHICH
MAY CONSTITUTE
PROOF OF THE
PRIORITY DATE
OF YOUR WATER RIGHT



IDAHO DEPARTMENT OF WATER RESOURCES

FEBRUARY 2005

EVIDENCE OF PRIORITY DATE FOR CLAIMS FILED IN THE SRBA

IF YOU HAVE RECEIVED A LETTER FROM THE DEPARTMENT OF WATER RESOURCES INFORMING YOU THAT YOU MAY HAVE TO SUBMIT PROOF OF BENEFICIAL USE THE INFORMATION BELOW WILL ASSIST YOU IN FINDING THE NECESSARY DOCUMENTATION.

WHAT IS A PRIORITY DATE?

The Priority date is one of the elements of the water right which you were required to state on your notice of claim. The priority date is the basis upon which water is distributed in times of shortage. When there is not enough water to satisfy all existing water rights, then water is distributed first to those with the oldest priority date.

WHAT IS A BENEFICIAL USE WATER RIGHT?

A beneficial use water right is one that is based on actual use of the water, and is not documented by a permit or license issued by IDWR, or a decree issued by a court. A beneficial use water right is established by putting the water to beneficial use, such as for domestic and stockwatering, irrigation, hydropower, commercial or industrial

use, or aquaculture, among others.

Generally, the priority date of a beneficial use right is the date the water was first put to beneficial use. This date is NOT NECESSARILY WHEN YOU ACQUIRED THE PROPERTY, or WHEN YOU FIRST MADE BENEFICIAL USE. A previous owner could have established beneficial use, which you continued.

There is a special category of beneficial use rights called "posted notice" rights, to which special rules apply. Prior to 1903, Idaho had a "posted notice" statute, which provided for posting of a notice including specified information at the point of diversion, recording of the notice at the county recorder's office, and actual diversion and beneficial use within a reasonable time after posting, among other things. If the statutory requirements were met, then the priority date was the date of posting the notice. These "posted notice" water rights are considered a type of beneficial use water right because they are not confirmed by a permit, license, or decree.

FOR WHICH CLAIMS IS EVIDENCE OF PRIORITY DATE REQUIRED?

Each claim filed in the SRBA is the claimant's affidavit (statement) of the elements of the water right being claimed. Some claimants in the SRBA will be required to submit additional evidence of the priority date of the water right IF:

1. *the claim is based on beneficial use*
AND

2. *the claim is NOT a small domestic and stockwater claim.*

NOTE: Additional proof of priority for beneficial use claims for small D&S uses will not be required unless specifically requested by IDWR.

The claim is a beneficial use claim if it is not based on a permit or license issued by IDWR or a decree issued by the court.

Small domestic and stockwater uses are very specifically defined by statute, and proof is required for a beneficial use claim if the use claimed does not meet that definition. If your claim was accepted with a \$25.00 fee, then your claim was probably a small domestic and stockwater claim.

WHAT KIND OF EVIDENCE IS REQUIRED?

SOME evidence of the YEAR of the priority claimed is sufficient. Conclusive evidence is not required. Evidence of the month and day is not required, but should be included if available.

Documentation of the priority date claimed can take almost any form. Generally, the document will be sufficient if it tends to show that water was used:

1. *For the purpose claimed,*
2. *In the year claimed as the priority date,*
AND
3. *On the land claimed as the place of use or by the owner of that land.*

It is possible for a water right to have been established on one parcel of land and then transferred for use on another parcel of land. In such cases, the evidence should tend to show that water was used on the original place of use or by the owner of the original place of use to meet the third part of the requirement.

SOME EXAMPLES OF DOCUMENTS WHICH MAY BE EVIDENCE OF THE PRIORITY DATE

Note: Proof of ownership of land by a title or warranty deed usually does not, by itself, constitute proof of a priority date since the priority is based on use of water.

Here are a few examples and there may be others, but the proof must meet the general requirements highlighted above.

1. *Affidavits* - a notarized statement of someone with personal knowledge of when beneficial use was first made, such as a neighbor or a previous owner of the property. Personal knowledge means someone who observed the use, not someone who was told of the use by someone else.

2. *For irrigation claims* - crop reports, income tax documents showing income from sale of crops, or property tax documents showing property was taxed as irrigated agriculture.

3. *For ground water rights* - the report

EXHIBIT 6

63-5284 - evidence of priority submitted by Charles Gibson

I have lived on property since 1951. My Parents purchased it in 1947. The Wells were first used to water 4000 turkeys plus the cattle and the ground around the turkeys. In 1960 my father put a bigger pump in the north well and started irrigating and raising alfalfa.

Charles Gibson
Sept 14 04

We lived in a little house about the size of a garage on the property in 1951

EXHIBIT 7



499 U

3 1/2 mos. Aug. 18. 50.



904 Insyys.
1950.



September 11th 1949

EXHIBIT

tabbies

7

63-5284



477U

3 1/2 mos. - Aug. 15, 50



477U

3 1/2 mos. - Aug. 15, 50



Turkey raising
Begins Basin -
147 1949



Charles Kibson
Mother - Lottie Kibson
at Bogus Basin Ranch
"1951"

47



479U

3 1/2 mos. Aug 15-50.



Charles Kibson
at Bogus Basin Ranch
"1952." Basin

316



Turkeys at
Hobson Ranch
Bain's Lake

843



014

Turkey breeding
system at
Bogus Basin Ranch
Lattie & Carl Hobson
Bain

Bogus Basin
Ranch
Pastures

* * * Memory TX Result Report (Jun. 1. 2007 4:06PM) * * *

1) Idaho Dept. of Water Resources
2)

Date/Time: Jun. 1. 2007 3:54PM

File No. Mode	Destination	Pg(s)	Result	Page Not Sent
2580 Memory TX	912087362121	P. 38	OK	

Reason for error

E. 1) Hang up or line fail

E. 3) No answer

E. 5) Exceeded max. E-mail size

E. 2) Busy

E. 4) No facsimile connection

SUPPLEMENTAL DIRECTOR'S REPORT

REGARDING SUBCASE NO. 63-5284

In Re SRBA

Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources

David R. Tuthill, Jr., Director

Donald V. Shaff, Adjudication Bureau Chief

June 1, 2007

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

2007 MAR 28 PM 1 42

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) Subcase 63-05284
Case No. 39576) ORDER GRANTING MOTION FOR 706
REPORT
_____)

On March 27, 2007, The Terteling Company, Inc., by and through its attorney Charles L. Honsinger, filed a *Motion for 706 Report*, seeking to have the Idaho Department of Water Resources (IDWR) prepare a report detailing the basis for its recommendation in the *Director's Report* for the above-captioned water right claim. Pursuant to Idaho Rule of Evidence 706, and Idaho Code § 42-1401B, the motion is hereby **granted**. No later than **Friday, June 1, 2007**, IDWR shall prepare and serve upon the parties to the subcase and the SRBA Court a report detailing the basis for its recommendation, with particular emphasis upon the disputed element of priority date.

In accordance with I.R.E. 706, a deposition of IDWR may be taken by any party; and IDWR may be called to testify by any party or by the Court pursuant to I.R.E. 614(a); and IDWR shall be subject to cross-examination by each party.

Dated March 28, 2007



THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION FOR 706 REPORT was mailed on March 28, 2007, with sufficient first-class postage to the following:

THE TERTELING CO INC

Represented by:
CHARLES L. HONSINGER
455 S THIRD ST
PO BOX 2773
BOISE, ID 83701-2773
Phone: 208-342-4591

EDWARDS FAMILY LLC

Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702
Phone: 208-424-7800

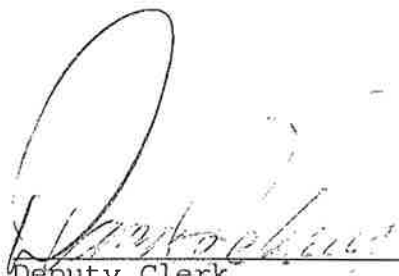
DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

CECIL GIBSON
CHARLIE L GIBSON
5125 BOGUS BASIN RD
BOISE, ID 83702
Phone: 208-343-6525

ORDER GRANTING MOTION

Page 1 3/28/07

FILE COPY FOR 01246


Deputy Clerk

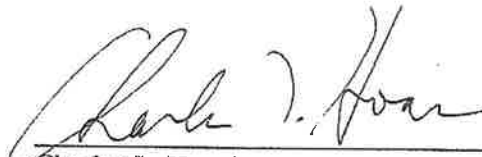
CERTIFICATE OF MAILING

I hereby certify that service of the within and foregoing document was made this 26th day of March, 2007, by mailing a copy thereof, postage prepaid, to each of the parties listed below.

Charlie Gibson
5125 Bogus Basin Road
Boise, Idaho 83702

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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



Charles L. Honsinger

CHARLES L. HONSINGER (ISB #5240)
RINGERT CLARK CHARTERED
455 S. Third Street, P.O. Box 455
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657

RECEIVED

MAR 27 2007

DEPARTMENT OF
WATER RESOURCES

Attorneys for Objector The Terteling Company, Inc.

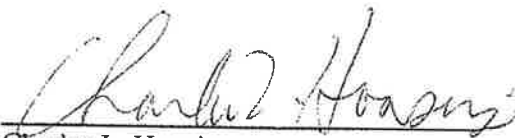
**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA	)	Subcase No. 63-5284
	)	
	)	NOTICE OF SERVICE OF THE
Case 38576	)	TERTELING COMPANY INC'S FIRST
	)	SET OF INTERROGATORIES AND
	)	REQUESTS FOR PRODUCTION TO
	)	CHARLES GIBSON
	)	

COMES NOW Objector, The Terteling Company, Inc., by and through its counsel of record, Charles L. Honsinger, and pursuant to Idaho Rule of Civil Procedure 33(a)(5) hereby give notice that on the 26th day of March, 2007, The Terteling Company Inc.'s First Set of Interrogatories and Requests for Production to Charles Gibson, was served by mailing a copy of the foregoing document via U.S. Mail, postage prepaid, to the following:

Charles Gibson
5125 Bogus Basin Road
Boise, Idaho 83702

DATED this 26th day of March, 2007.



Charles L. Honsinger
Attorney for Objector

CERTIFICATE OF MAILING

I hereby certify that service of the within and foregoing document was made this 26th day of March, 2007, by mailing a copy thereof, postage prepaid, to each of the parties listed below.

Charles Gibson
5125 Bogus Basin Road
Boise, Idaho 83702



Charles L. Honsinger

RECEIVED

JAN 19 2007

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

2007 JAN 19 PM 12 56

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	)	Subcase 63-5284
	)	(Gibson)
Case No. 39576	)	
	)	ORDER RECONVENING
	)	SETTLEMENT CONFERENCE

A settlement conference was convened at the Idaho Water Center in Boise, Idaho, on January 17, 2007, by Settlement Moderator Terrence A. Dolan. Claimants Charlie and Heidi Gibson appeared *pro se*; Charles L. Honsinger appeared for objector The Terteling Co., Inc., along with T.E. and J.L. Terteling; and Nicholas B. Spencer appeared for IDWR, along with Vicky L. Music.

The parties were unable to settle the single contested issue of the Gibsons' claimed priority, so the parties agreed to reconvene the settlement conference by telephone at a later date.

THEREFORE, IT IS ORDERED that the settlement conference shall be reconvened by telephone conference on **Tuesday, January 30, 2007, 1:30 p.m.** The parties may participate by calling 1-225-383-1099 and when prompted entering code 654400. If you have any difficulty connecting to this call, call the SRBA Court immediately at 208-736-3011.

DATED January 18, 2007.


TERRENCE A. DOLAN
Settlement Moderator
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER RECONVENING SETTLEMENT CONFERENCE was mailed on January 18, 2007, with sufficient first-class postage to the following:

THE TERTELING CO INC
Represented by:
CHARLES L. HONSINGER
455 S THIRD ST
PO BOX 2773
BOISE, ID 83701-2773
Phone: 208-342-4591

EDWARDS FAMILY LLC
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702
Phone: 208-424-7800

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

CECIL GIBSON
CHARLIE L GIBSON
5125 BOGUS BASIN RD
BOISE, ID 83702
Phone: 208-343-6525

RECEIVED

DEC 18 2006

DEPARTMENT OF
WATER RESOURCES

2006 DEC 15 AM 8:06

DISTRICT COURT-SRBA
TWIN FALLS CO IDAHO
FILED *[Signature]*

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

) Subcase 63-05284

Case No. 39576

)
) ORDER SETTING MANDATORY
) SETTLEMENT CONFERENCE
)

The Court recognizes that formal litigation of subcases in the Snake River Basin Adjudication may impose an economic burden on parties. Settlement conferences often provide an opportunity to settle subcases and avoid a trial. These conferences can help open lines of communication, clarify issues, reveal the strengths and weaknesses of each party's legal position, identify areas of agreement and generate options for a mutually agreeable resolution of the dispute.

Each party and IDWR is required to be present with the individual having full settlement authority on every aspect of the contested subcase. Partnerships, corporations, limited partnerships, unincorporated associations and all governmental entities must have a responsible officer or partner with settlement authority in attendance, in addition to their attorney of record, unless written authority to settle has been given to the attorney and is presented to the Settlement Moderator. **This Order does not apply to objector Edwards Family LLC.**

Settlement Statement- Each party (except Edwards Family LLC) to this subcase shall submit a confidential "Settlement Statement" to Settlement Moderator Terrence A. Dolan on or before Friday, January 12, 2007, by 5:00 P.M. The contents of the settlement statement shall not be disclosed by the Settlement Moderator to the other parties, the Court, or to Special Master Booth except with the express consent of the parties. The settlement statements shall not be filed with the Court or the Special Master and shall be

disposed of as Settlement Moderator Dolan deems appropriate. The settlement statement shall contain the following information:

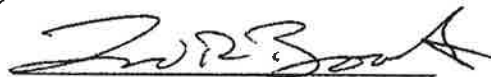
1. Identify the person(s) in addition to counsel of record, who shall attend the session with settlement authority.
2. The claimant shall disclose the legal and factual bases of his claim. (Please limit this disclosure to 5 pages including attachments)
3. The objector shall disclose the legal and factual bases of his objections. (Please limit each disclosure to 5 pages including attachments)
4. The Respondent shall disclose the legal and factual bases of its response (Please limit each disclosure to 5 pages including attachments)
5. Each party shall summarize the facts that are now settled or resolved and shall summarize those facts that remain in dispute.
6. Parties are encouraged to bring additional documents, maps or other information that may be helpful in the settlement discussions.

Failure to attend or attendance without settlement authority may result in sanctions by the court.

IT IS ORDERED that this subcase shall proceed with a SETTLEMENT CONFERENCE before Settlement Moderator Terrence A. Dolan, as follows:

DATE: Wednesday, January 17, 2007
TIME: 9:00 AM Mountain Time
LOCATION: Idaho Department of Water Resources
Idaho Water Center
322 E. Front Street
Boise, Idaho 83720

Dated December 14, 2006



THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the was mailed on December ~~13~~¹⁵ 2006, with sufficient first-class postage to the following:

THE TERTELING CO INC
Represented by:
CHARLES L. HONSINGER
455 S THIRD ST
PO BOX 2773
BOISE, ID 83701-2773
Phone: 208-342-4591

EDWARDS FAMILY LLC
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702
Phone: 208-424-7800

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

CECIL GIBSON
CHARLIE L GIBSON
5125 BOGUS BASIN RD
BOISE, ID 83702
Phone: 208-343-6525

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)

Case No. 39576)

A. Subcase 63-5284

(Insert water right number
From the Objection Form)

**STANDARD FORM 2
RESPONSE TO OBJECTION**

Please **print or type** the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: Edwards Family LLC
Address: 4106 Sand Creek Street
Boise, Idaho 83703
Daytime Phone: (208) 342-7548

Name & Address of Attorney, if any:
Dana L. Hofstetter, ISB # 3867
Hofstetter Law Office, LLC
608 West Franklin Street
Boise, Idaho 83702
(208) 424-7800

**C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION TO
WHICH YOU ARE RESPONDING**

Name: The Terteling Co. Inc.
Address: 3823 North 36th Street
Boise, Idaho 83703

SCANNED
OCT 06 2006

D. I am responding to the objections to the following elements. (Please check the appropriate box(es))

1. ☐ Name and Address
2. ☐ Source
3. ☐ Quantity
4. ☒ Priority Date
5. ☐ Point(s) of Diversion
6. ☐ Instream Flow Description
7. ☐ Purpose(s) of Use
8. ☐ Period of Year
9. ☐ Place of Use
11. Recommendation
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

E. VERIFICATION (Must be Completed)

State of Idaho)
County of Ada) ss:

Dana L. Hofstetter duly sworn, upon oath, deposes and says:
(Name of person filing response)

That I am the party/claimant filing this response as defined by I.C. § 42-1401A(1) and (6) or that I am the attorney for the party/claimant responding and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing response)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: June 23, 2006



Sue E. Giberman
Notary Public for the State of Idaho
Residing at: Boise Idaho
My Commission Expires: 2-25-09

INSTRUCTIONS FOR MAILING

You must mail the response, including all attachments, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

F. CERTIFICATE OF MAILING

I certify that on June 23, 2006, I caused to be hand delivered the original and caused to be mailed copies of this response, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: Cecil and Charlie L. Gibson
Address: 5125 Bogus Basin Road
Boise, Idaho 83702

3. One copy to the party who filed the objection at the following address:

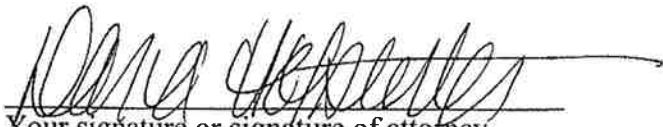
Name: Charles L. Honsinger
Address: Ringert Clark Chartered
P.O. Box 2773
Boise, Idaho 83701

4. Copies to:

IDWR Document Depository
P. O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724


Your signature or signature of attorney
mailing on your behalf

RECEIVED

APR 24 2006

DEPARTMENT OF
WATER RESOURCES

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

Case 39576

A. Subcase 63-5284

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Edwards Family LLC

Address: 4106 Sand Creek Street

Boise, Idaho 83703

Daytime Phone: 208-342-7548

Name & Address of Attorney, if any:

Dana Hofstetter

Hofstetter Law Office, LLC

608 West Franklin Street

Boise, Idaho 83702

208-424-7800

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Cecil and Charlie L. Gibson

Address: 5125 Bogus Basin Road

Boise, Idaho 83702

D. I object to the following elements as recommended in the Director's Report.
(Please check the appropriate box(es)):

1. ☐ **Name and Address**
Should be: _____
2. ☒ **Source**
Should be: See Section E
3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point of Diversion**
Should be: _____
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
10. **I object because:**
 - ☒ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTION(S):** To the extent that this water right authorizes the diversion of water from the Stewart Gulch Geothermal Aquifer it should not exist pursuant to *Silkey v. Tiegs*. Otherwise, the following provision should be listed under "Other Provisions Necessary for Definition or Administration of this Water Right:" The diversion and use of geothermal water is not authorized under this right. Also, the local name for the cold water well should be described.

F.

VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

Dana L. Hofstetter, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

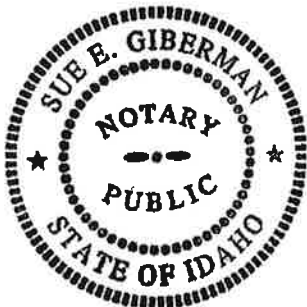
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Signature of person filing objection

Dana Hofstetter

Attorney signing in representative capacity

Subscribed and sworn to before me on: April 20, 2006



Sue E Giberman

Notary Public for the State of Idaho
Residing at: Boise Idaho
My Commission expires: 2-25-09

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on April 21, 2006, I filed the original with the SRBA Court and mailed copies of this Objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court (*via Hand Delivery*)
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: Cecil and Charlie L. Gibson
Address: 5125 Bogus Basin Road
Boise, Idaho 83702

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

United States Department of Justice
Environment and Natural Resources Division
550 West Fort Street, MCS 033
Boise, ID 83724



Signature of Objector or attorney
mailing on Objector's behalf

RECEIVED
APR 21 2006
DEPARTMENT OF
WATER RESOURCES

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)

Case No. 39576)

A.)

Subcase 63-5284

(Insert water right no.)

**STANDARD FORM 1
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: THE TERTELING CO INC.

Address: 3823 North 36th Street
Boise, Idaho 83703

Daytime Phone: 208 338-5200

Name & Address of Attorney, if any:
Charles L. Honsinger
Ringert Clark Chartered
P.O. Box 2773
Boise, ID 83701

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTORS'S REPORT

Name: CECIL GIBSON
CHARLIE GIBSON

Address: 5125 Bogus Basin Road
Boise, Idaho 83702

COPIES

D. I object to the following elements as recommended in the Director's Report. (Please check the Appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☐ **Quantity**
Should be: _____
4. ☒ **Priority Date**
Should be: April 1, 1962
5. ☐ **Point(s) of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
10. ☐ **I object because:**
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

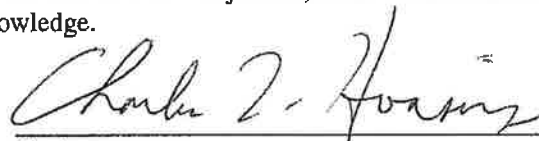
E. REASONS SUPPORTING OBJECTION (S): The earliest evidence of priority available establishes an April 1, 1962 date.

F. VERIFICATION (must be completed)

State of Idaho)
) ss.
County of Ada)

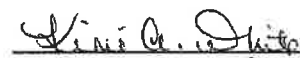
Charles L. Honsinger, duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this objection, as defined by I. C. §§ 42-1401A (1) and/or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.


Charles L. Honsinger

Subscribed and sworn to before me on: April 19, 2006




Notary Public for Idaho
Residing at: Boise, Idaho
My Commission Expires: 01/01/10

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will no be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on April 20, 2006, I mailed the original and copies of this objection, including all attachments, to the following by Federal Express:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the Claimant of the water right at the following address by U.S. Mail:

Name: CECIL GIBSON
CHARLIE GIBSON

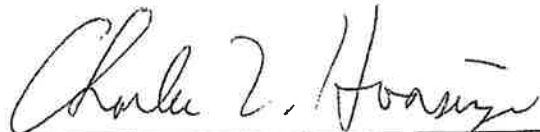
Address: 5125 Bogus Basin Road
Boise, Idaho 83702

3. Copies by U.S. Mail to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

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



Signature of Objector or attorney
mailing on Objector's behalf

10/25/2007

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

RIGHT NUMBER: 63-5284

NAME AND ADDRESS: CECIL GIBSON
5125 BOGUS BASIN RD
BOISE ID 83702

CHARLIE L GIBSON
5125 BOGUS BASIN RD
BOISE ID 83702

SOURCE: GROUND WATER

TRIBUTARY:

This water right does not authorize the diversion of a low temperature geothermal resource or other geothermal resource.

QUANTITY: 0.240 CFS
135.000 AFY

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 04/01/1947

POINT OF DIVERSION:

T04N R02E S22 SENE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.240 CFS 135.00 AFY
STOCKWATER	01/01 12/31	0.040 CFS 5.38 AFY

PLACE OF USE:

IRRIGATION in ADA County

T04N R02E S22	SENE	14.00	T04N R02E S22	NESE	7.00
T04N R02E S23	SWNW	8.00	T04N R02E S23	NWSW	2.00

STOCKWATER in ADA County

T04N R02E S23	SWNW	7.00	T04N R02E S23	NWSW	
---------------	------	------	---------------	------	--

31 ACRES TOTAL

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

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

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
Stockwater use is for 400 range cattle.
Parcel Nos. S0622140000 and S0623230000.

06/24/2005

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

RIGHT NUMBER: 63-5284

NAME AND ADDRESS: CECIL GIBSON
5125 BOGUS BASIN RD
BOISE ID 83702

CHARLIE L GIBSON
5125 BOGUS BASIN RD
BOISE ID 83702

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.240 CFS
135.000 AFY

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 04/01/1947

POINT OF DIVERSION:

T04N R02E S22 SENE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.240 CFS 135.00 AFY
STOCKWATER	01/01 12/31	0.040 CFS 5.38 AFY

PLACE OF USE: IRRIGATION Within ADA County

T04N R02E S22	SENE	14.0	T04N R02E S22	NESE	7.0
---------------	------	------	---------------	------	-----

T04N R02E S23	SWNW	8.0	T04N R02E S23	NWSW	2.0
---------------	------	-----	---------------	------	-----

STOCKWATER Within ADA County

T04N R02E S23	SWNW	7.0	T04N R02E S23	NWSW	
---------------	------	-----	---------------	------	--

31 ACRES TOTAL

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

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

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: Beneficial Use

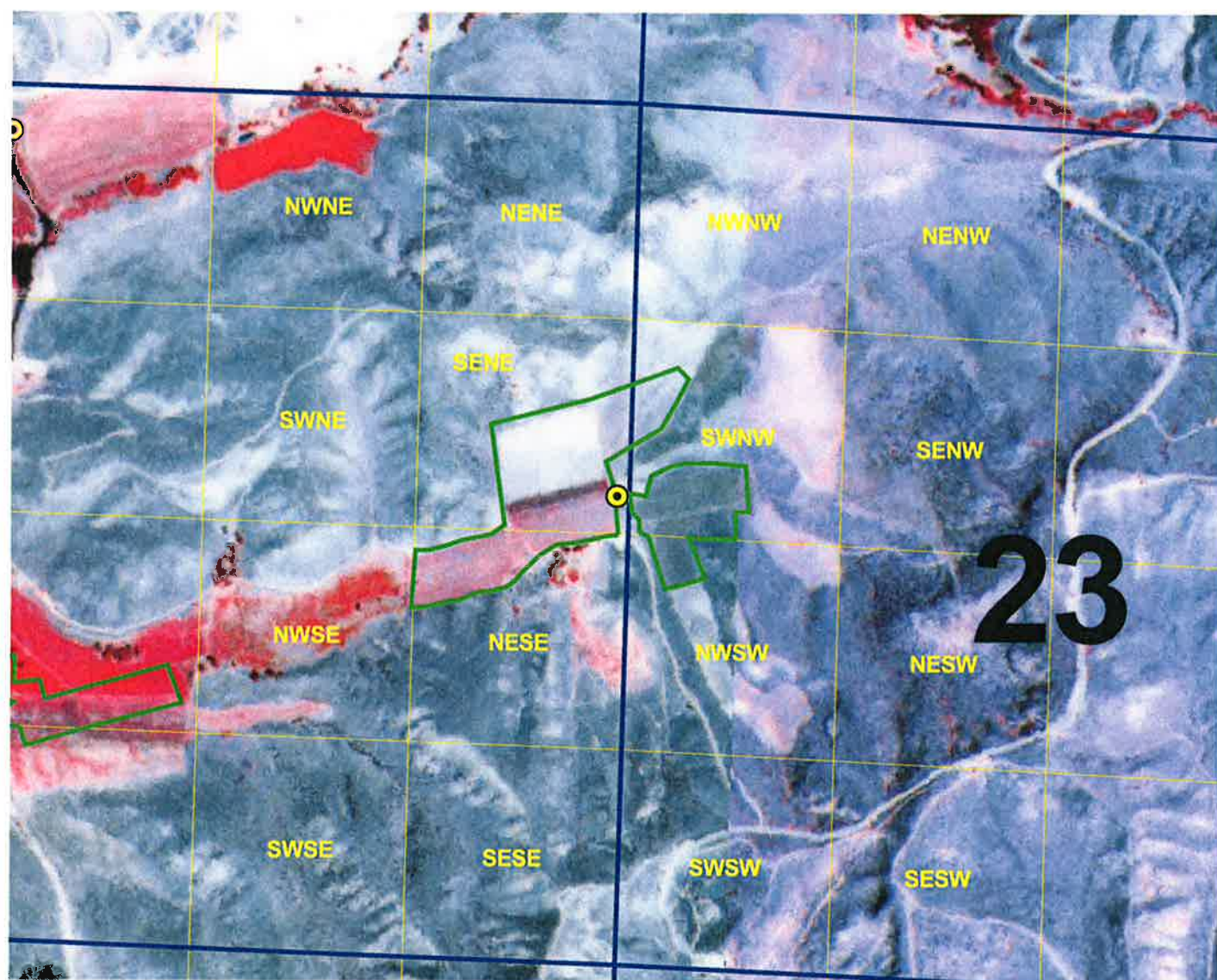
Stockwater use is for 400 range cattle.

Parcel Nos. S0622140000 and S0623230000.



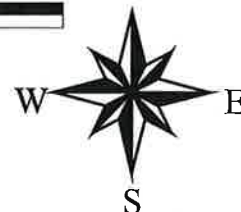
State of Idaho
Idaho Department of Water Resources
Western Region

T4N R2E SECTIONS 22 and 23
Water Right (s): 63-5284



1320 0 1320 2640 3960 Feet

TOTAL IRRIGATED ACRES = 30



-  Point of Diversion
-  Place of Use
-  Section Lines
-  Quarter Quarter Lines

GIS Place of Use Illustration
1987 NAPP Photography
Prepared By: Vicky Music
Date: June 2005

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-5284 V1

WATER RIGHT NUMBER: 63-5284 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CECIL GIBSON 5125 BOGUS BASIN RD BOISE, ID 83702 (208)343-6525
Current Owner	CHARLIE L GIBSON 5125 BOGUS BASIN RD BOISE, ID 83702 (208)343-6525

Priority Date: 04/01/1947

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	0.240 CFS	
STOCKWATER	01/01 to 12/31	0.040 CFS	
	<u>Total Diversion:</u>	0.240 CFS	

Location of Point(s) of Diversion

GROUND WATER	SE1/4NE1/4	Sec. 22, Twp 04N, Rge 02E, B.M.
ADA County		

Place of Use

IRRIGATION Within ADA County

T04N R02E S22	SENE 14.0	T04N R02E S22	NESE 7.0
T04N R02E S23	SWNW 8.0	T04N R02E S23	NWSW 2.0

Total Acres: 31

STOCKWATER Within ADA County

T04N R02E S23	SWNW 7.0	T04N R02E S23	NWSW
---------------	----------	---------------	------

Conditions of Approval:

1. C18 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.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-5284 V1

Comments:

1. vmusic 6/24/2005 EVIDENCE OF PRIORITY

Comment: STATEMENT FROM CHARLIE GIBSON, CLAIMANT

2. vmusic 6/24/2005 QUANTITY

Comment: CLAIMED .6 CFS FOR 30 ACRES BUT RECOMMENDED .24 CFS WHICH IS SYSTEM CAPACITY CALCULATED BY FIELD EXAMINER BURKE SCHOLER.

3. vmusic 6/24/2005 POU

Comment: CLAIMED 30 ACRES BUT FIELD EXAMINER BURKE SCHOLER FOUND 20.45 IRRIGATED NOW, RECOMMENDED THE 30 BECAUSE I CAN SEE THAT THESE ACRES LOOK CULTIVATED IN 1987.

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Contacts	2/10/2005 10:12:29 AM	vmusic			Active
Priority Date	2/10/2005 10:13:09 AM	vmusic			Active
POD	2/10/2005 10:13:46 AM	vmusic			Active
Source	2/10/2005 10:14:28 AM	vmusic			Active
POU	2/10/2005 10:21:54 AM	vmusic			Active
Use	2/10/2005 10:23:24 AM	vmusic			Active
Season	2/10/2005 10:24:10 AM	vmusic			Active
Quantity	2/10/2005 10:24:55 AM	vmusic			Active
Summary			02/10/2005	vmusic	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
POU	6/24/2005 11:04:23 AM	vmusic	Updated shape for Active POU
POD	6/24/2005 11:52:16 AM	vmusic	Updated shape
Source	2/10/2005 10:14:29 AM	vmusic	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim an Application or Permit? (No) 6. Is the basis of claim a Posted Notice? (No) 7. Is there evidence that there has been a change in the source? (Yes) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required? Description for Question 10 - FIELD EXAM

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-5284 V1

POU	2/10/2005 10:21:54 AM	vmusic	(No) 1. Is the basis of this claim a Decree or License? (Yes) 2b. Is the POU required? (No) 3. Is the basis of claim a Application or Permit? (No) 7. Is there evidence that there has been a change in the POU? (Yes) 13. Does the file contain all the necessary information to verify the POU? (Yes) 14. Is a POU remark and/or condition required? Description for Question 13 - AERIALS, FIELD EXAM
Season	2/10/2005 10:24:10 AM	vmusic	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined? (Yes) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?
Contacts	2/10/2005 10:12:30 AM	vmusic	(No) 1. Do you want to schedule an appointment? Comment for 1: DESKTOP REVIEW. SEE FIELD EXAM NOTES IN FILE
Priority Date	2/10/2005 10:13:09 AM	vmusic	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (No) 9. Is the Priority Date claimed after the date a permit is required for the source and the water use? (Yes) 12. Does the claim file contain sufficient evidence of Priority Date? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required? Description for Question 12/13 - STATEMENT FROM CLAIMANT
POD	2/10/2005 10:13:47 AM	vmusic	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-5284 V1

Use	2/10/2005 10:23:24 AM	vmusic	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Purpose of Use? (Yes) 11. Does the file contain all the necessary information to verify the Water Use? (Yes) 13. Is a Purpose of Use remark and/or condition required? Description for Question 10,11,12 - CLAIMANT STATEMENT, AERIALS AND FIELD EXAM
Quantity	2/10/2005 10:24:55 AM	vmusic	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is the basis of claim a posted notice? (Yes) 7. Is a flow measurement required? (Yes) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (Yes) 10. Is a irrigation a purpose of use? (Yes) 12. Is a Quantity remark or condition required?
Summary	2/10/2005 10:25:50 AM	vmusic	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (No) 5. Does this right have any combined use limits with other rights? (Yes) 6. Is an additional remark and/or condition required? (No) 7. Would you like to view the recommended right?

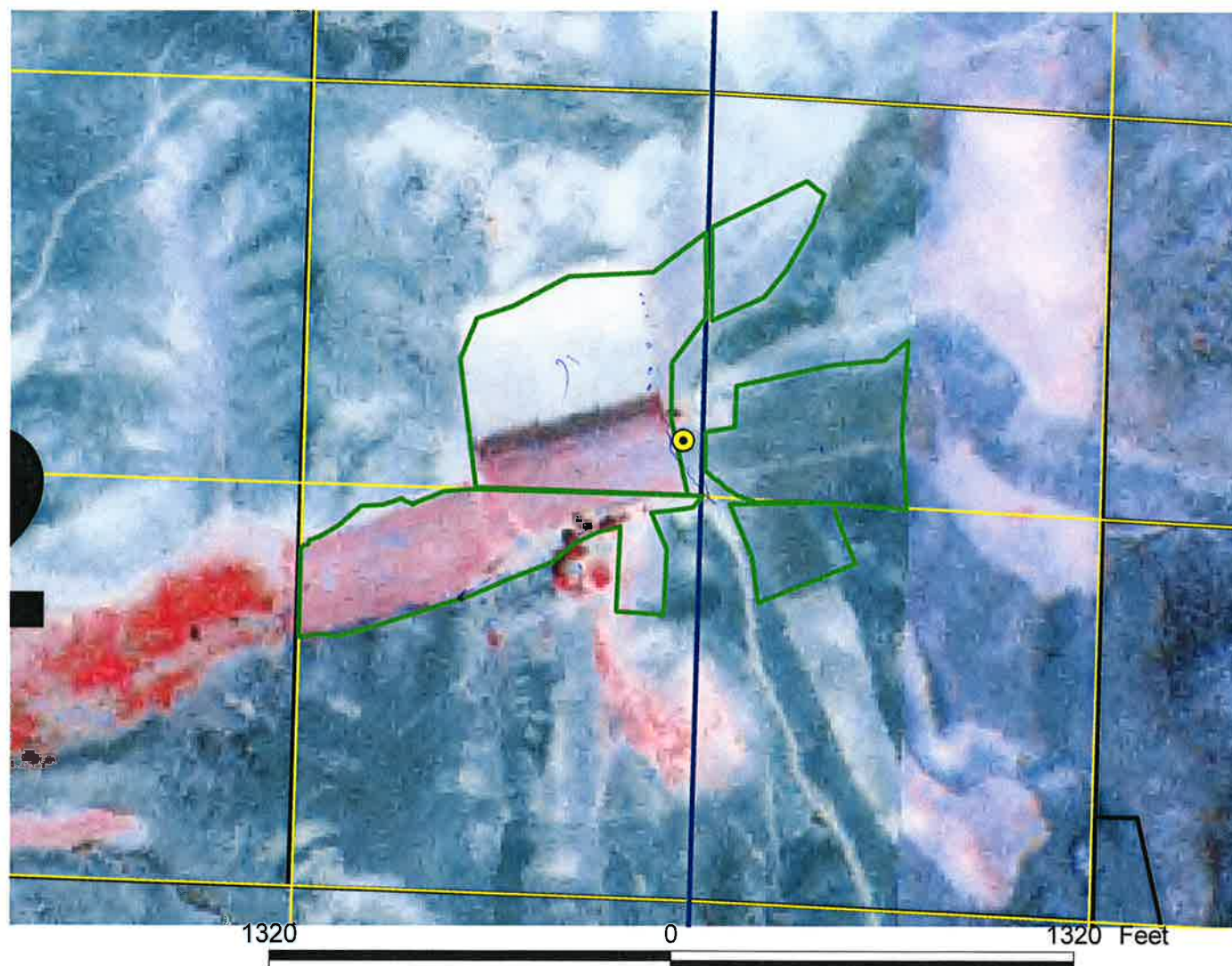
Water Supply Bank:



State of Idaho
Idaho Department of Water Resources
Western Region

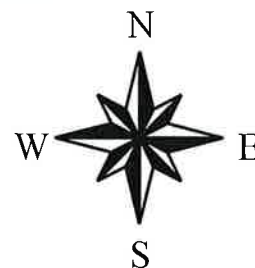
T4N R2E SECTION 22 and 23

Water Right(s) : 63-5284



Burke - this shows 30 acres irrigated which is what Cecil filed for in 1983 in his statutory claim and what Charile filed on in the SRBA claim. If the acres are more that this, an amended claim will be needed. Have Charlie confirm or modify fields irrigated in 1987. There is some variation between the 2 claimed maps.

-  Point of Diversion
-  Place Of Use
-  Quarter Quarter Lines
-  Section Lines



GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared By: Vicky Music
Date: February 2005

SITE TAG PLACED ON Pumphouse
A 000 2495

DIVERSION AND DELIVERY SYSTEM

Points of Diversion:

GPS 2323159 #72
1387808

ID #	Govt Lot #	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks GPS ID
		SE	SE	NE	22	4N	2E	ADA	NAPP PHOTO + GPS

Description of diverting works

8" DIA WELL, STATIC W.L. @ 59', 5HP SUBMERSIBLE PUMP.

MAINLINE AS SHOWN ON PHOTO W/ HANDLINES & WHEELLINE

OVERLAP REVIEW

Other water rights with the same point of diversion: NONE

Does overlap add acres or uses to existing system, increase rate of flow or volume, or other? Explain:

WATER USES

☒ No change

☐ Different Uses

Use IRRIGATION From 3/15 To 11/15 Amount 0.6 CFS AF
 Use STOCKWATER From 1/1 To 12/31 Amount 1.09 CFS AF
 Use _____ From _____ To _____ Amount _____ CFS AF

TOTAL VOLUME - Groundwater only

- ☐ Incomplete on claim, the total is, Amount _____ CFS _____ AFA
- ☐ Changes found, the new total is, Amount _____ CFS _____ AFA
- ☐ More than 1" per Acre? Yes _____ (claimant must complete excess flow sheet)

NON-IRRIGATION USES:

☒ No change

☐ Changes Exam found: Domestic # of homes _____ Stock # _____
 Types _____ Additional comments: _____

PLACE OF USE:

☐ No Change

☒ Changes shown below:

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION FIELD REPORT**

Prior to Field Exam

- ☐ Copy of Claim, claim has been signed, sealed, and dated by notary?
- ☐ Check fees paid
- ☐ Well logs (if needed)
- ☐ Copy of topo or NAPP
- ☐ Check of Govt. Lots, if needed, Govt. Plat/Tax lot information
- ☐ Check POD & POU overlap, see below – include overlapping right for exam
- ☐ Evidence of Priority – if none, talk with claimant

CLAIMANT INFORMATION – verify contact information is completeClaim No(s) 63-05284Owner: CHARLIE L. ^{AND} OR CECIL GIBSON Phone No. 208-343-6525Current Address: 5125 BOGUS BASIN RD. BOISE ID

- ☒ No change NAME IS THE SAME
- ☐ NEW OWNER
- ☒ No change Address
- ☐ NEW ADDRESS
- ☐ How long owned property? _____

Accompanied by: CHARLIE GIBSON**PRIORITY DATE**

- ☐ No change – Complete evidence submitted or not necessary
- ☐ Incomplete – Claimant should be asked when water was first used and submit proof of date.
- ☐ Priority date is acceptable/within mandatory filing dates?

Priority date, per claimant, is: APRIL 1, 1947

(If priority date, based on your exam, seems questionable, explain below.)

Source: GROUNDWATER Tributary to _____

- ☒ No Change – SAME SOURCE
- ☐ Source found is different than claimed: _____

POINT OF DIVERSION

- ☐ No change
- ☐ POD found is different than claimed: _____
- ☐ If different, when did POD change? _____

A 3 PHASE POWER LINE WOULD HAVE TO BE CONSTRUCTED.

SEE ATTACHED AERIAL PHOTO FOR THE P.O.U ACRES AND THE SPRINKLER SYSTEM LAYOUT.

AFTER EXAM THE FILE SHOULD CONTAIN:

- ☒ Completed claim checklist
- ☒ Photographs of POD's and POU
- ☒ GPS readings
- ☐ Completed map and or GIS layout showing POD's and POU

DATE EXAM CONDUCTED: 4/29/05 AND 5/16/05

FIELD EXAMINER: Bruce H. Scholten

IRRIGATED LAND = 20.45 AC

PUMP HP = 5.0

EFF. = .70

T.D.H. REQD = 149'

NOZZLE # = 36

" PSI = 43 (99')

LIFT = 50'

T.D.H. = 149'

$$HP = \frac{(108)(149)}{(3960)(.70)} = \underline{5.8}$$

$$\% \text{ LOAD} = \frac{(IHP)(\text{MOTOR EFF.})}{\text{NAMEPLATE HP}}$$

$$IHP = \frac{5.8}{.90} = 6.44$$

USE FLOW RATE
OF 108 GPM

$$\frac{(6.44)(90)}{5.0} = \underline{1.16 \text{ S.F.}}$$

16% OVER
OK

$$\frac{108 \text{ GPM}}{20.45 \text{ AC}} = \underline{5.28 \text{ GPM/AC}}$$

WATER DUTY

Place of Use			NE				NW				SW				SE				Totals
TWP	RGE	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	2E	22				10.5									16.6				17.1
"	"	22				1.45									0.8				1.45
"	"	22																	0.80
"	"	23							4.84										4.84
"	"	23										1.62							1.62
"	"	23							1.9										1.9
SEE AERIAL PHOTO (NAPP)																			27.71

Overlap with other water rights: _____

Does overlap increase rate of flow, volume, additional acres, different source for same acres? Explain: _____

Delivery System Narrative: THIS IRRIGATED AREA HAS A WELL W/ A SUBMERSIBLE PUMP. IT HAS HAD A SHP PUMP WHICH HAS BEEN CAPABLE OF RUNNING ABOUT 25 NOZZLES AT ONE TIME. (25 NOZ. @ 4.0 GPM = 100 GPM.) THERE IS ONE WHEEL LINE LATERAL WITH 15 NOZZLES AND TWO HANDLINE LATERALS WITH 21 NOZZLES. IN THE PAST, HE HAS RUN THE WHEEL LINE + ONE HANDLINE AT A TIME. THIS WOULD BE 36 NOZZLES. AT 4.0 GPM/NOZ IT WOULD BE A TOTAL OF 144 GPM. ACCORDING TO MY CALCULATIONS, IN ORDER TO MAKE THIS WORK IT WOULD HAVE TO BE 1/8" NOZ @ 42 PSI, OR 3 GPM/NOZ. (3 X 36 = 108 GPM).

PUMP IS OUT OF WELL FOR REPAIRS

Well or Diversion Identification No GPS ID	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge size
A0002495 (1)	UNKNOWN	5			3" DISCHARGE
		↑			

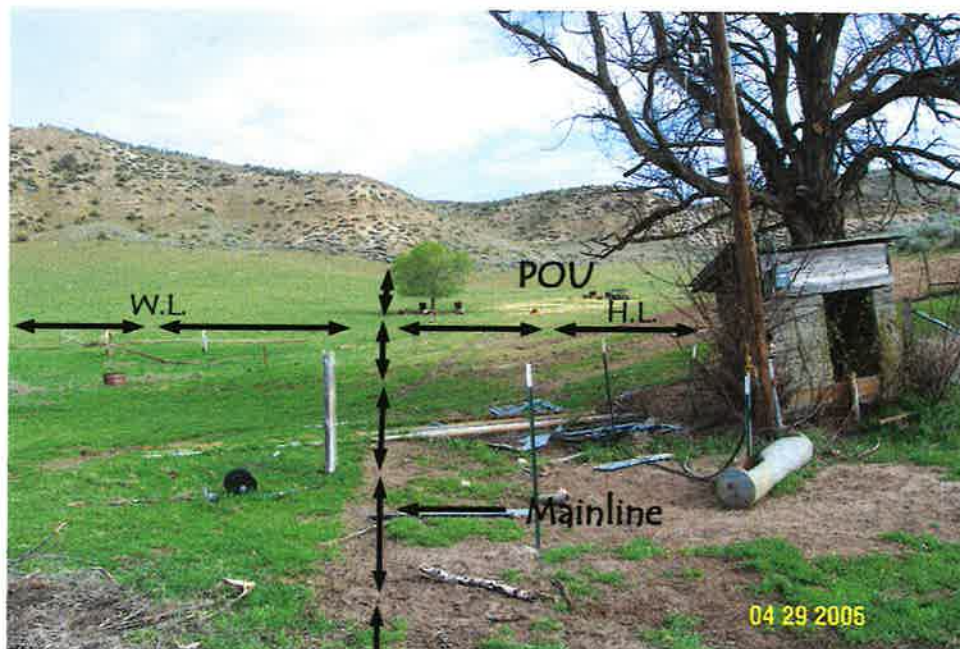
↑ ACCORDING TO CHARGE

FLOW MEASUREMENTS: REQUIRED FLOW TO RUN SPINKLER SYSTEM IS 108 GPM PUMP, WHICH IS OUT FOR REPAIRS, IS 5.0 HP. (1.24 CFS)

Attach appropriate documents SEE BOTTOM OF PAGE 4

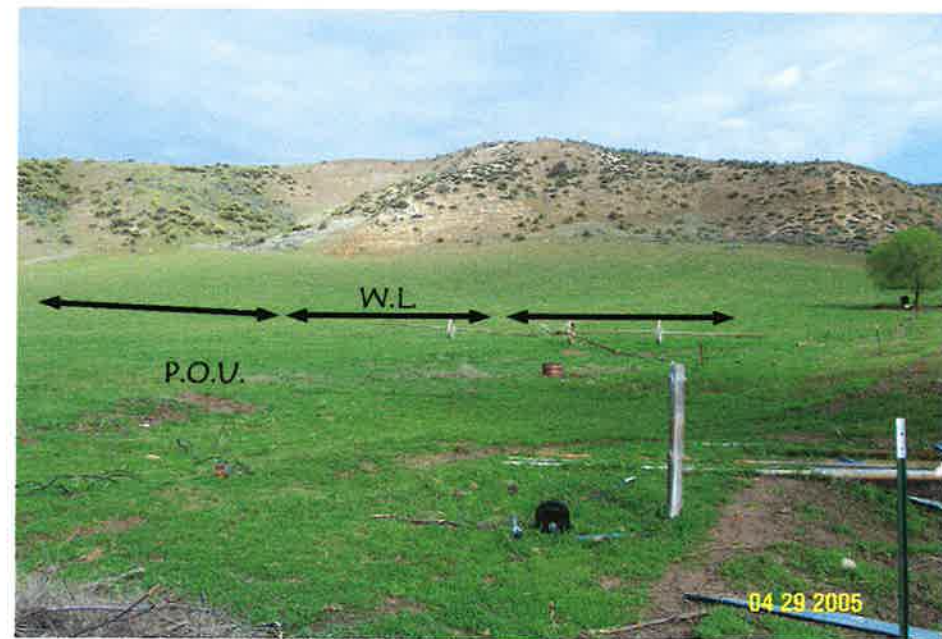
NARRATIVE/REMARKS/COMMENTS

THIS PLACE, ORIGINALLY WAS ABOUT 27.71 ACRES IRRIGATED. THRU THE YEARS SOME OF THE HARDER PLACES TO GET TO (AREAS SHOWN ON POU TABLE) WAS TAKEN OUT OF IRRIGATION. THE WELL PUMP IS ONLY SHD BECAUSE THERE IS ONLY SINGLE PHASE POWER AVAILABLE. THE PUMP IS PRESENTLY OUT FOR REPAIRS. I SUGGESTED THAT A 7.5 HP WOULD WORK ON SINGLE PHASE POWER. HE IS CONSIDERING THIS OPTION TO INCREASE FLOW TO BETTER SERVE THE IRRIGATED AREA. THE IRRIGATED LAND IS ALL PLANTED TO PASTURE. A 7 1/2 HP UNDER THE SAME CONDITIONS COULD INCREASE THE FLOW TO ABOUT 140 GPM (.31 CFS). THE RIGHT IS LICENSED FOR 0.16 CFS OR 269 GPM. IN ORDER TO PUMP THIS AMOUNT HE WOULD NEED ABOUT 15 HP. THIS WOULD REQUIRE A PHASE CONVERTER OR



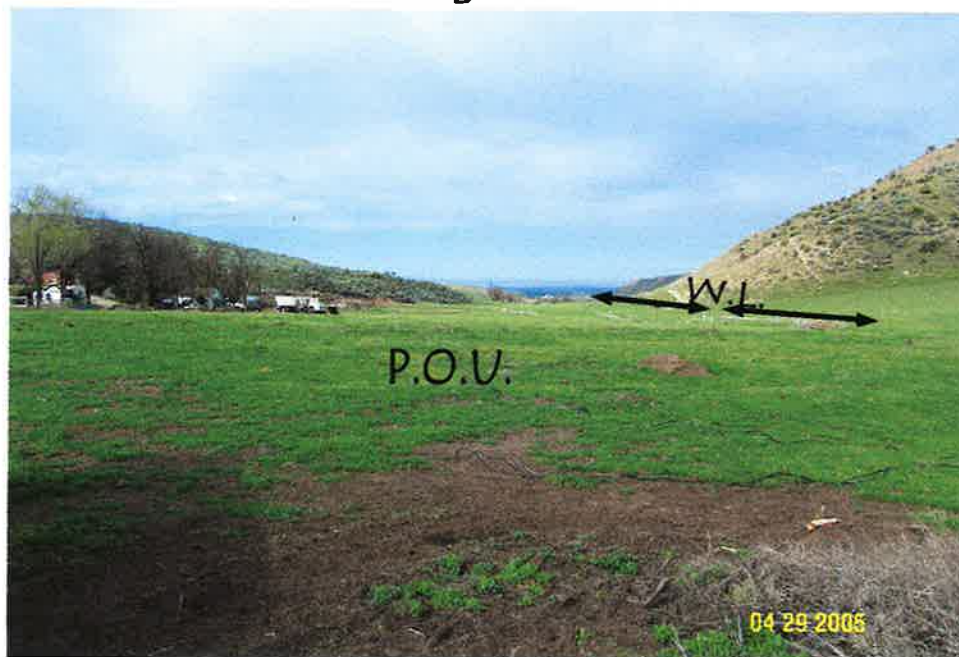
Looking North

63-8254



Looking Northwest
from pump

Looking West



Looking South





Pump is currently
out of well

Old Pump House

63-8254

February 10, 2005

TO: BURKE SCHOLER, FIELD EXAMINER
FROM: VICKY MUSIC, WATER RESOURCE AGENT

FIELD EXAM NEEDED FOR BENEFICIAL USE CLAIM 63-5284:

CONTACT FOR FIELD EXAM: Charlie Gibson [OWNER], PHONE # 343-~~5284~~
PROPERTY LOCATED at 5125 Bogus Basin Rd.

4/29/05
9:00am
FRI
6525
859-7787

1-VERIFY ACRES IRRIGATED IN 1987. See map in file. Have Charlie confirm or modify the fields historically irrigated. IF he adds acres, the claim will have to be amended. *SEE NARRATIVE*

✓ 5 - LOCATE AND GPS the well used for this claim. There are 2 wells. I just need information for the well used for this claim. Please get information to calculate well capacity/ flow.

Gibsons have a domestic and stockwater right # 63-17078 – has already been decreed in the SRBA.

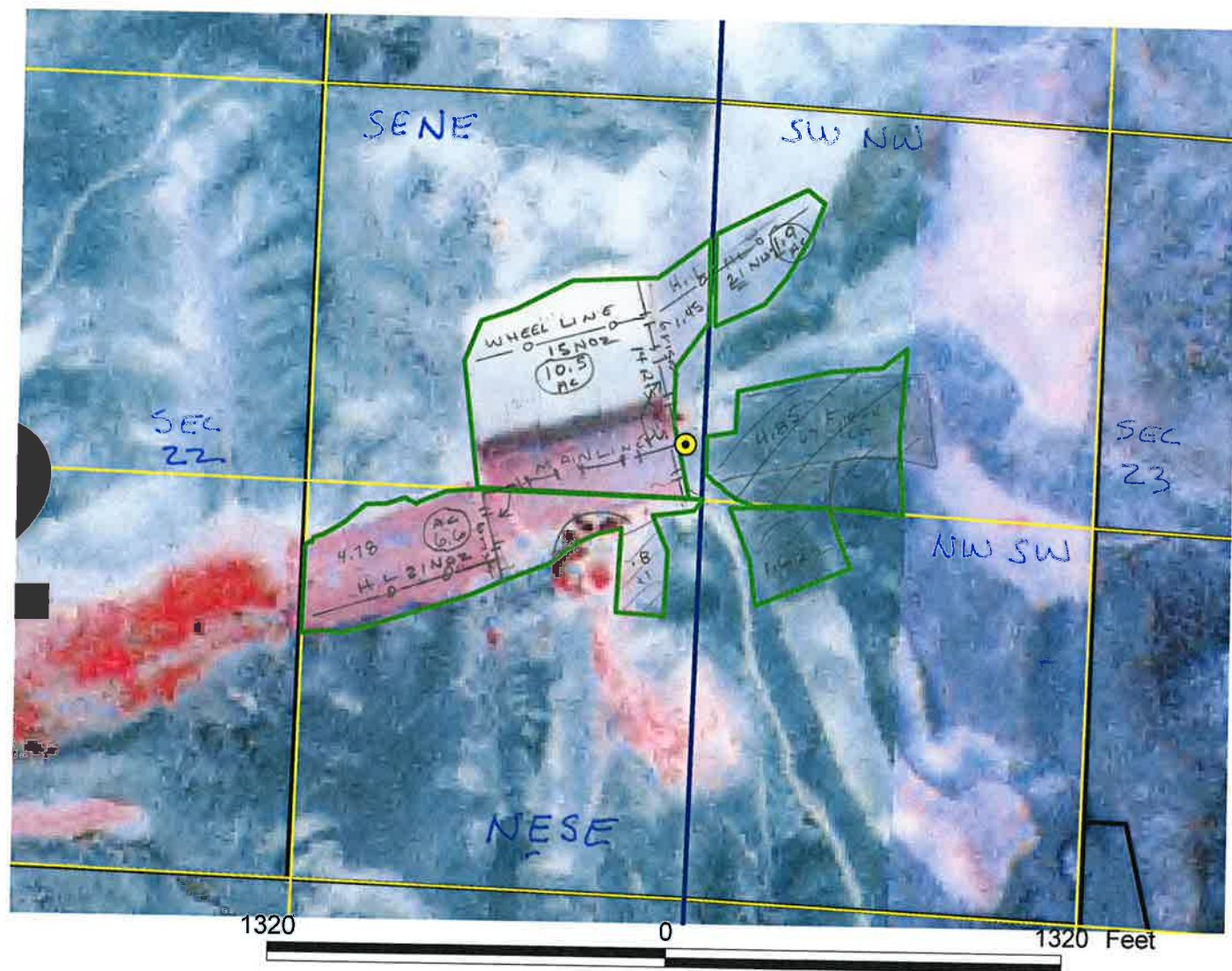
GPS 2323159 #12
1387808

PUMP
HOUSE

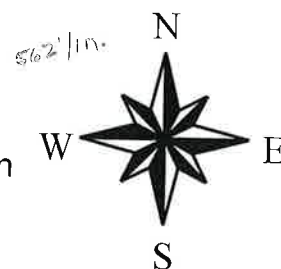
SITE TAG A0002495



T4N R2E SECTION 22 and 23

Water Right(s) : 63-5284

Burke - this shows 30 acres irrigated which is what Cecil filed for in 1983 in his statutory claim and what Charile filed on in the SRBA claim. If the acres are more that this, an amended claim will be needed. Have Charlie confirm or modify fields irrigated in 1987. There is some variation between the 2 claimed maps.



-  Point of Diversion
-  Place Of Use
-  Quarter Quarter Lines
-  Section Lines

**GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared By: Vicky Music
Date: February 2005**

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: A63-05284

Date Received: 8/08/1989

Receipt No: C009073

Received By: JP

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: CHARLIE L. GIBSON
Address: 5125 BOGUS BASIN RD.
BOISE, ID

208-343-6525-64

83702

AND/OR

Name: CECIL GIBSON
Address: 5125 BOGUS BASIN RD.
BOISE, ID

208-343-6525

83702

2. Date of Priority: APR 01, 1947

3. Source: GROUNDWATER

Trib. to:

4. Point of Diversion: 2 WELLS

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
04N	02E	22	<u>SE</u> SE NE		ADA

5. Description of diverting works:
WELL, PUMP & SPRINKLERS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.600		
STOCKWATER	01/01	12/31	0.090		

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

A.F.A.

8. Total consumptive use is 105.0 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCK/400 HEAD CATTLE

A63-05284

Page 1

Date: 08/08/89

MICROFILMED

AUG 21 1992

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
04N	02E	22	SE		NE		IRR	10.0
			NE		SE		IRR	10.0
							Section Acres	20.0
		23	SW		NW		IRR	8.0
			SW		NW		STOCK	
			NW		SW		IRR	2.0
			NW		SW		STOCK	
							Section Acres	10.0
							Total Acres	30.0

11. Place of use in counties: ADA

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

13. Other Water Rights Used:
DOMESTIC WELL ALSO USED FOR STOCK

14. Remarks:

15. Basis of Claim: STATUTORY CLAIM

16. Signature(s)

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

Number of attachments: 1

For Individuals:

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

Signature of Claimant(s): Charles L. Lhu Date: Aug 9 89

Date: _____

State of Idaho)
County of ADA) SS.

Subscribed and sworn (or affirmed) before me this 8TH day
of AUGUST 19 89

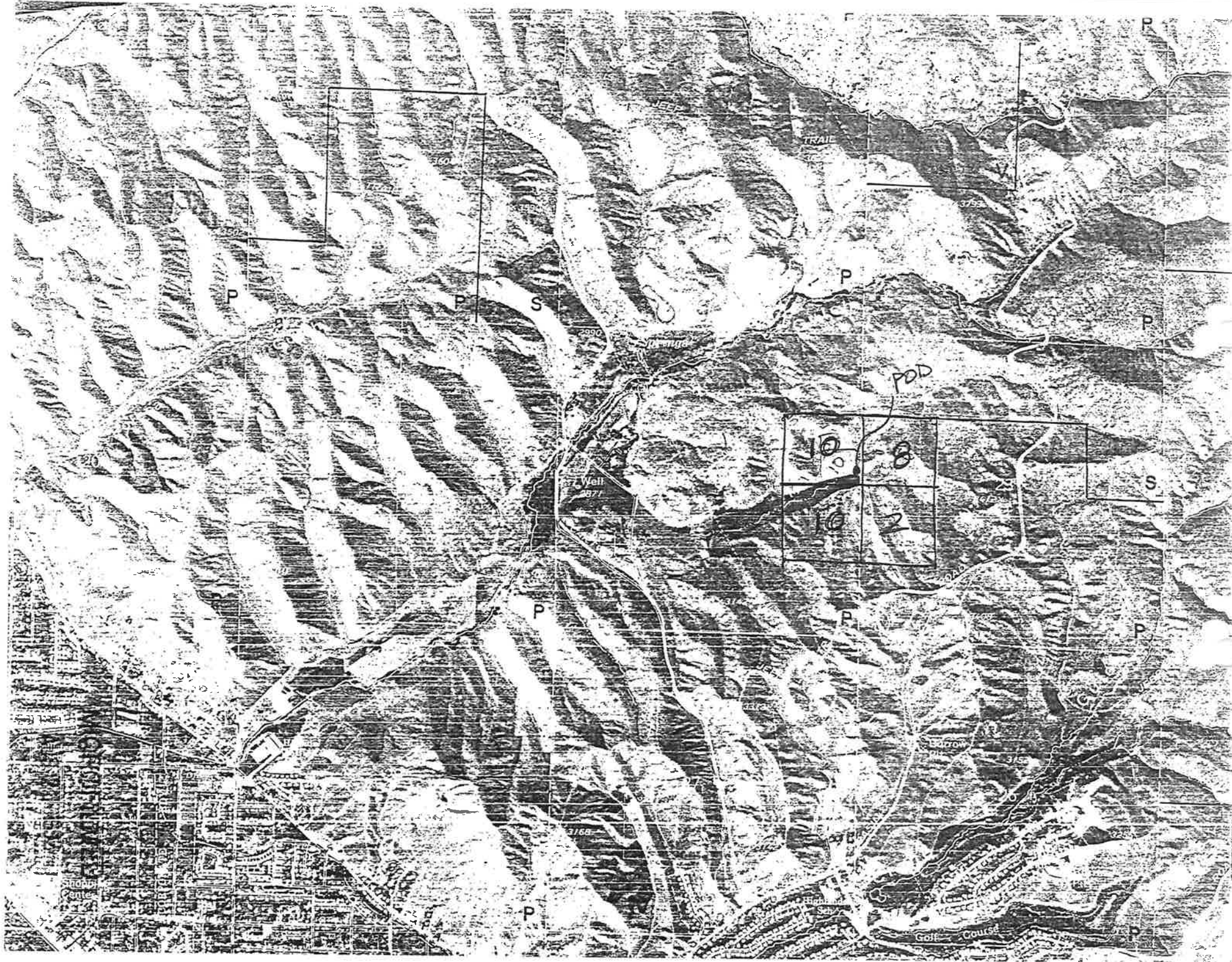
Jeff Peppersack
Notary Public

Seal

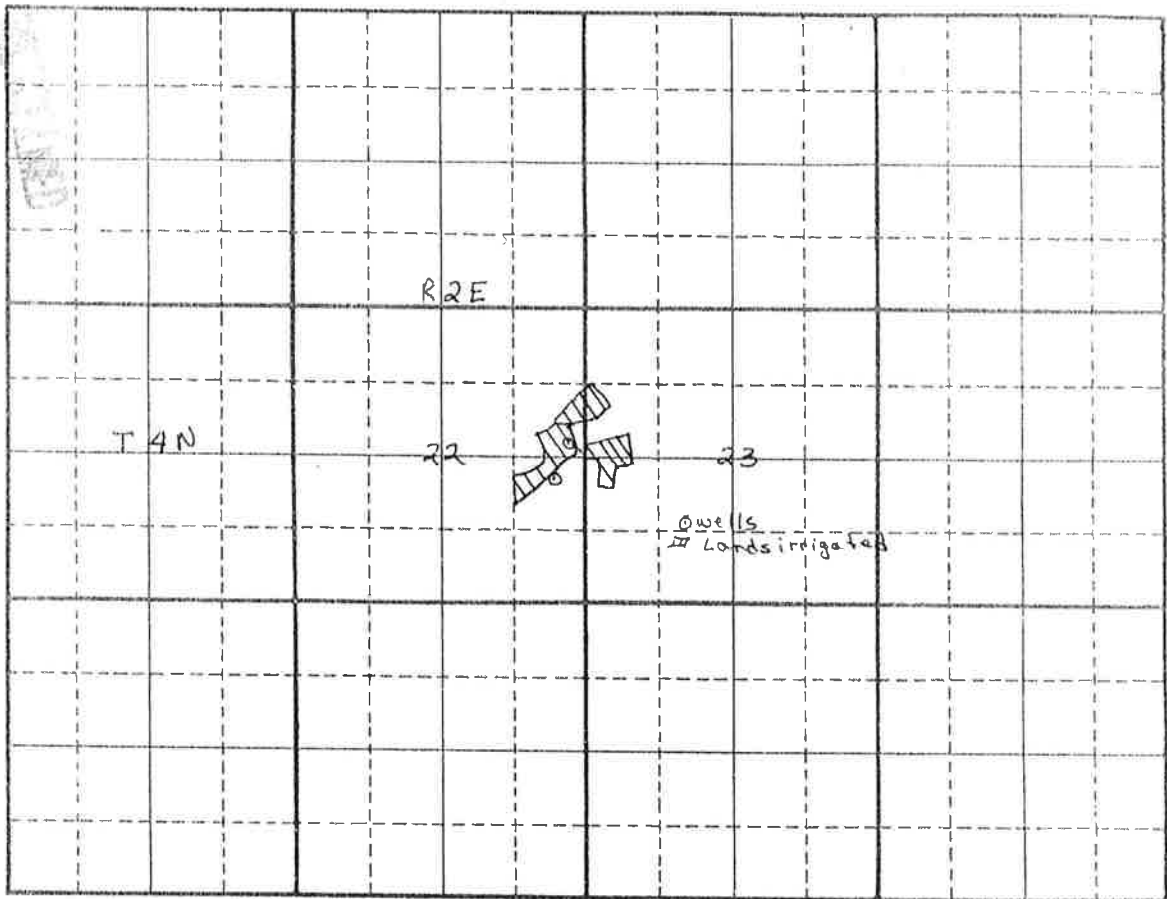
Residing at _____

My Commission Expires _____

Jeff Peppersack, Notary Public
Residing at Boise, Idaho
My Commission Expires Nov. 8, 1994



3) Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)

County of Ada) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 29 day of June, 19 83.

[Signature]
(Claimant)

Nancy M. Northway
Notary Public
Residing at Bose

My commission expires Life

FOR DEPARTMENT USE ONLY

Received by ED Date 6/29/83 Exception filed by: _____ Date _____
Prelim. check by FC Date 6/30/83
\$30.00 fee received by ED Date 6/29/83 #26865
Published in Idaho State Gazette
Dates 6/29/83 to 7/1/84

February 10, 2005

TO: BURKE SCHOLER, FIELD EXAMINER
FROM: VICKY MUSIC, WATER RESOURCE AGENT

FIELD EXAM NEEDED FOR BENEFICIAL USE CLAIM 63-5284:

CONTACT FOR FIELD EXAM: Charlie Gibson [OWNER], PHONE # 343-5284
PROPERTY LOCATED at 5125 Bogus Basin Rd.

1-VERIFY ACRES IRRIGATED IN 1987. See map in file. Have Charlie confirm or modify the fields historically irrigated. IF he adds acres, the claim will have to be amended.

5 - LOCATE AND GPS the well used for this claim. There are 2 wells. I just need information for the well used for this claim. Please get information to calculate well capacity/ flow.

Gibsons have a domestic and stockwater right # 63-17078 – has already been decreed in the SRBA.



014

Turkey brooding
system at
Bago Basin Ranch
Lottie & Cecil Johnson
Bago



Turkey raising
Bogus Basin -
147 1949"



4770

3 1/2 years Aug. 18-50



477U

3 1/2 mos Aug 15 50.



477U

3' 2" mo S - Aug 15. 50



September 11th 1949



Local History
Jaguar Barni Ranch
Barro Colorado

014

Charles Hicken
Mother - Little Ellen
at Bryans Boone Ranch
1951

497





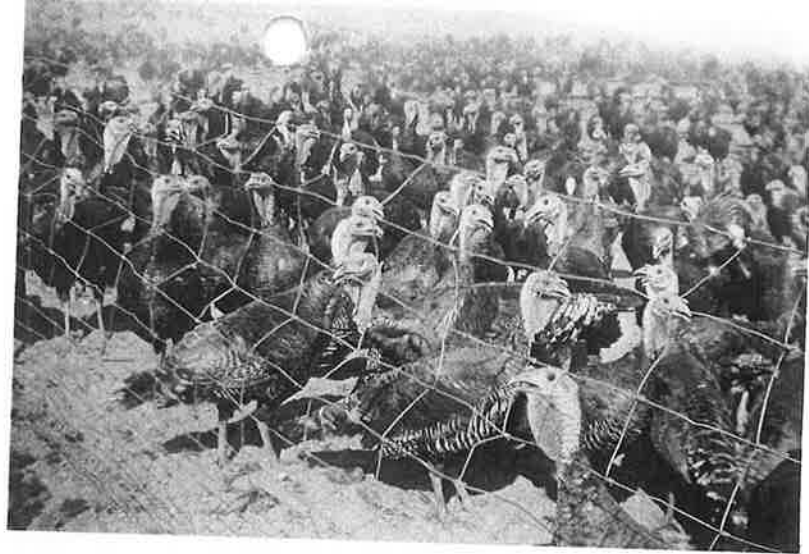
Charles Hickson
at Bogus Basin Ranch
"1952." Basin

315



479U

3 1/2 mos Aug 15-50.



904 Turkeys.
1950.

CONVERSATION MEMO

DATE: 2/ 10/2005
TO: MEMO TO CLAIM FILE NO. 63-5284
CC: NA
From: Vicky L Music, WATER RESOURCE AGENT,
IDWR/ WESTERN REGION
RE: FIELD EXAM

I left message for Charlie Gibson today regarding the need for a field exam. I told him that it was a courtesy call because when he was in my office in 9/2004, he thought my evidence of priority letter request was in response to a complaint or something by neighbors, Tertelling.

I told him to expect a call from Burke S in the next few weeks for the field exam.

I need: confirmation of acres irrigated in 1987, well GPSed, flow measurement or well info to be able to calculate diversion rate.

VLM



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

September 1, 2004

CHARLIE L AND CECIL GIBSON
5125 BOGUS BASIN RD.
BOISE, ID 83702

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

RE: EVIDENCE OF PRIORITY
Snake River Basin Claim No(s): A63-5284

Dear Claimant(s),

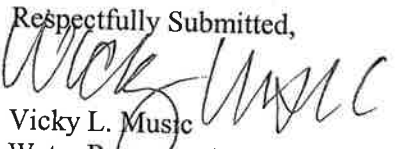
In the past, you submitted the above referenced claim(s) during the Snake River Basin Adjudication (SRBA) claims taking. Enclosed is a computer generated print-out of the claim(s) for your reference only, it is not necessary to return this print-out or re-file it. You indicated, when this claim was filed, that the water right(s) was based on either a "Statutory Claim" or "Beneficial Use" of the water. Water rights of this type are established by historical use of the water for a beneficial use purpose, dating back to the time the water was first used; this date being the "Priority Date" as shown on the enclosed print-out. Your claim(s) has not been confirmed by a previous filing with the Department of Water Resources since there is no decree, license, or permit on file to verify the use of this water. For this reason, the Department is required to gather evidence from claimants supporting the date of priority for claims based on historical beneficial use of water.

Enclosed is a pamphlet entitled "**Evidence of Priority**" which describes why evidence of the priority date is necessary, along with examples of types of evidence that can be submitted to 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.**"

If no evidence of your priority date is submitted, or we do not hear from you within the time limit below, your priority date, as claimed, may not be recommended to the SRBA court for decree. This could jeopardize your water use under this right(s) if water availability problems arise in the future.

The required evidence supporting the priority date(s) requested needs to be submitted by September 20, 2004. Additionally, please verify or correct the place of use and point of diversion of this right on the enclosed map and return it to me with your evidence of priority. Please let me know if you may not be able to submit proof of priority or have any questions not covered by this letter and the enclosed pamphlet, by the date indicated above.

Respectfully Submitted,


Vicky L. Music
Water Resource Agent
Adjudication Bureau

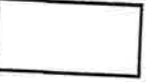
Enclosure: "Evidence of Priority" pamphlet
Notice of Claim Report A63-5284
Arcview 1987 NAPP photo

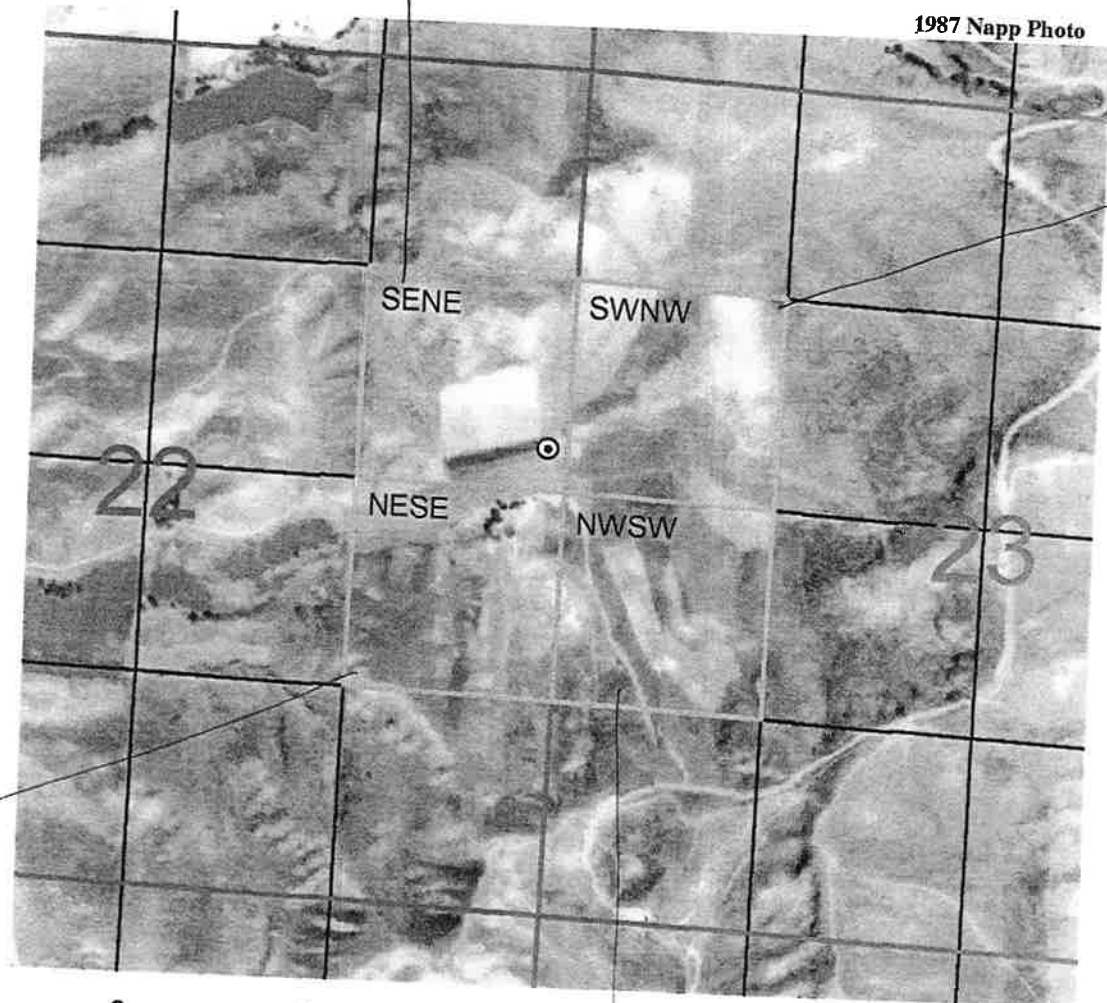
NOTE: If you no longer own the property upon which this claim was filed, please contact this office immediately. Idaho State law requires that the Department be notified of a change of owner or address on a water right.

Idaho Department of Water Resources

where is 10 acres irrigated?

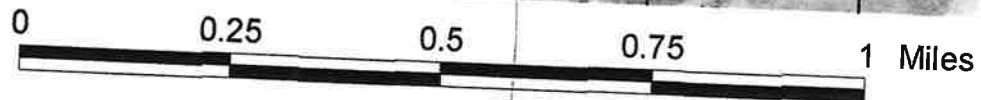
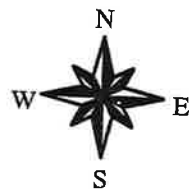
Claim Number: 63-05284
Legal: T04N, R02E, S22 & 23
Reviewed By:

- ⊙ Point of Diversion
-  Place of Use
-  Section Lines
-  Quarter Quarter Lines



where is the 8 acres irrigated?

where is the 2 acres irrigated?



where is the 2 acres irrigated?

63-5284 - evidence of priority submitted by Charles Gibson

I have lived on property since 1951. My Parents purchased it in 1947. The Wells were first used to water 4000 turkeys plus the cattle and the ground around the turkeys. In 1960 my father put a bigger pump in the north well and started irrigating and raising alfalfa.

Charles Gibson
Sept 14 04

We lived in a little house about the size of a garage on the property in 1951

verified by Charles Jackson on 9-14-04
 Utah Department of Water Resources

issues:

9-16-04

① Where are the 30 acres?

looks like 7 30 ac. irr.

4 & 23

② has 300 head cattle-

Q seems insufficient for 30 ac. irr + 300 head cattle.



POINT OF DIVERSION



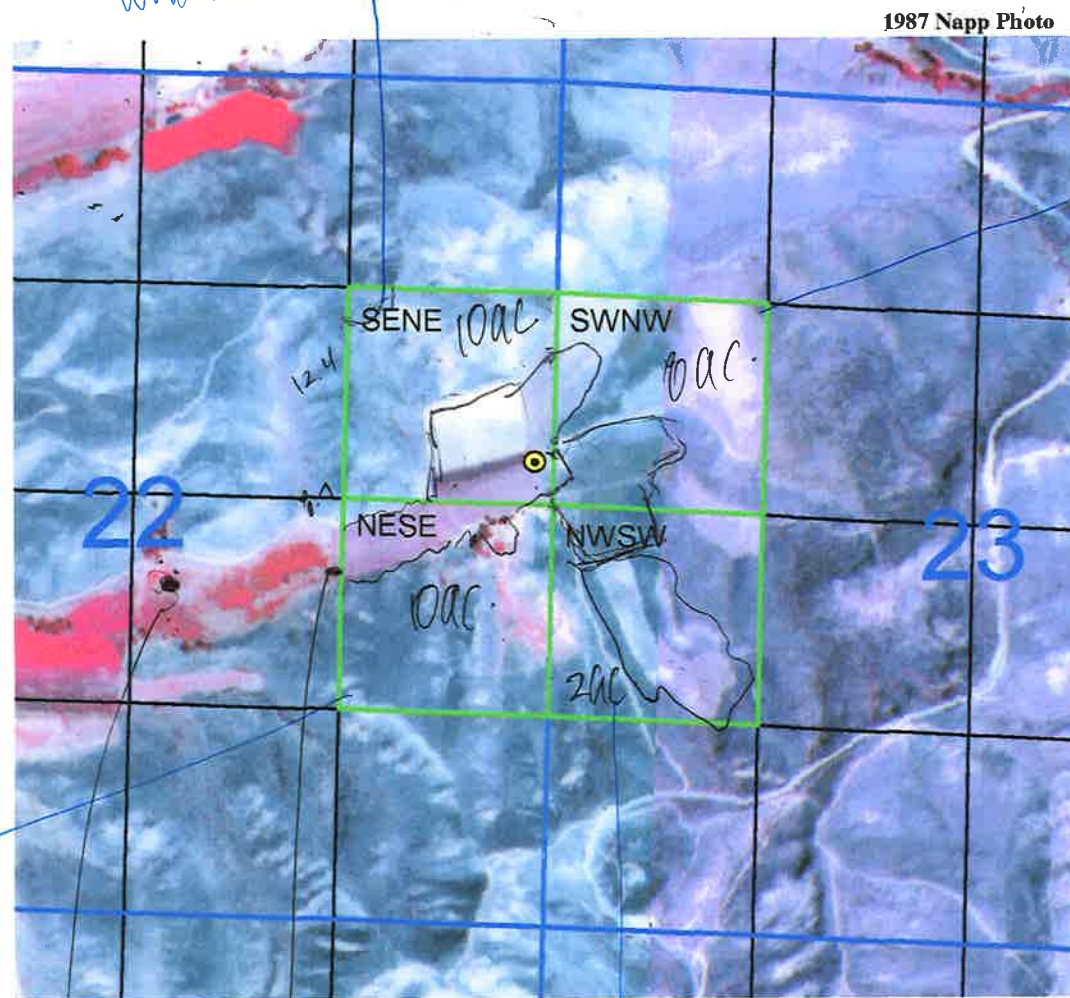
Place of Use



Section Lines



Quarter Quarter Lines

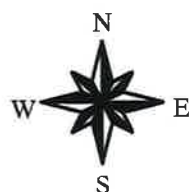


where is 10 acres irrigated?

where is the 8 acres irrigated?

where is the 8 acres irrigated?

where is the 2 acres irrigated?



3 phase pump

the Tertling

spring 04

greenhouse

redrilled - old water well



**63-5284 - 2000 AERIAL - THIS IS THE
BEST REPRESENTATION OF THE FIELDS AND THE 3
0 ACRES THAT HAVE BEEN
HISTORICALLY IRRIGATED.**

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-17078 V1

WATER RIGHT NUMBER: 63-17078 V1

Owner TypeName and Address

Current Owner

CECIL GIBSON
5125 BOGUS BASIN RD
BOISE, ID 83702
(208)343-6525

Current Owner

CHARLIE L GIBSON
5125 BOGUS BASIN RD
BOISE, ID 83702
(208)343-6525

Priority Date: 04/01/1947

Basis: Beneficial Use

Status: Closed

SourceTributary

GROUND WATER

Beneficial Use

From To

Diversion RateAnnual Volume

STOCKWATER

1/01 to 12/31

0.090 CFS

DOMESTIC

1/01 to 12/31

0.040 CFS

Total Diversion:

0.130 CFS

Location of Point(s) of Diversion

GROUND WATER

NE1/4NE1/4SE1/4

Sec. 22, Twp 04N, Rge 02E, B.M.

ADA County

Place of UseSTOCKWATER Within ADA County

T04N R02E S22 NESE

DOMESTIC Within ADA County

T04N R02E S22 NESE

Conditions of Approval:

1. C18 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.
2. N11 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
3. N13 THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.

Remarks:

stet.
Q sufficient for ~ 125 head.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-17078 V1

1. Explanatory STOCKWATER, 400 RANGE CATTLE PARCEL NO. S0622140000

Comments:

IDAHO DEPARTMENT OF WATER RESOURCES
 Adjudication Recommendation Report 63-17078 V1

WATER RIGHT NUMBER: 63-17078 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CECIL GIBSON 5125 BOGUS BASIN RD BOISE, ID 83702 (208)343-6525
Current Owner	CHARLIE L GIBSON 5125 BOGUS BASIN RD BOISE, ID 83702 (208)343-6525

*same 700-
di April 1st mel*

Priority Date: 04/01/1947
 Basis: Beneficial Use
 Status: Closed

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	1/01 to 12/31	0.090 CFS	
DOMESTIC	1/01 to 12/31	0.040 CFS	
	<u>Total Diversion:</u>	0.130 CFS	

Location of Point(s) of Diversion

GROUND WATER	NE1/4NE1/4SE1/4	Sec. 22, Twp 04N, Rge 02E, B.M.
ADA County		

Place of Use

STOCKWATER Within ADA County

T04N R02E S22 NESE

DOMESTIC Within ADA County

T04N R02E S22 NESE

Conditions of Approval:

1. C18 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.
2. N11 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
3. N13 THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.

Remarks:

Page 2

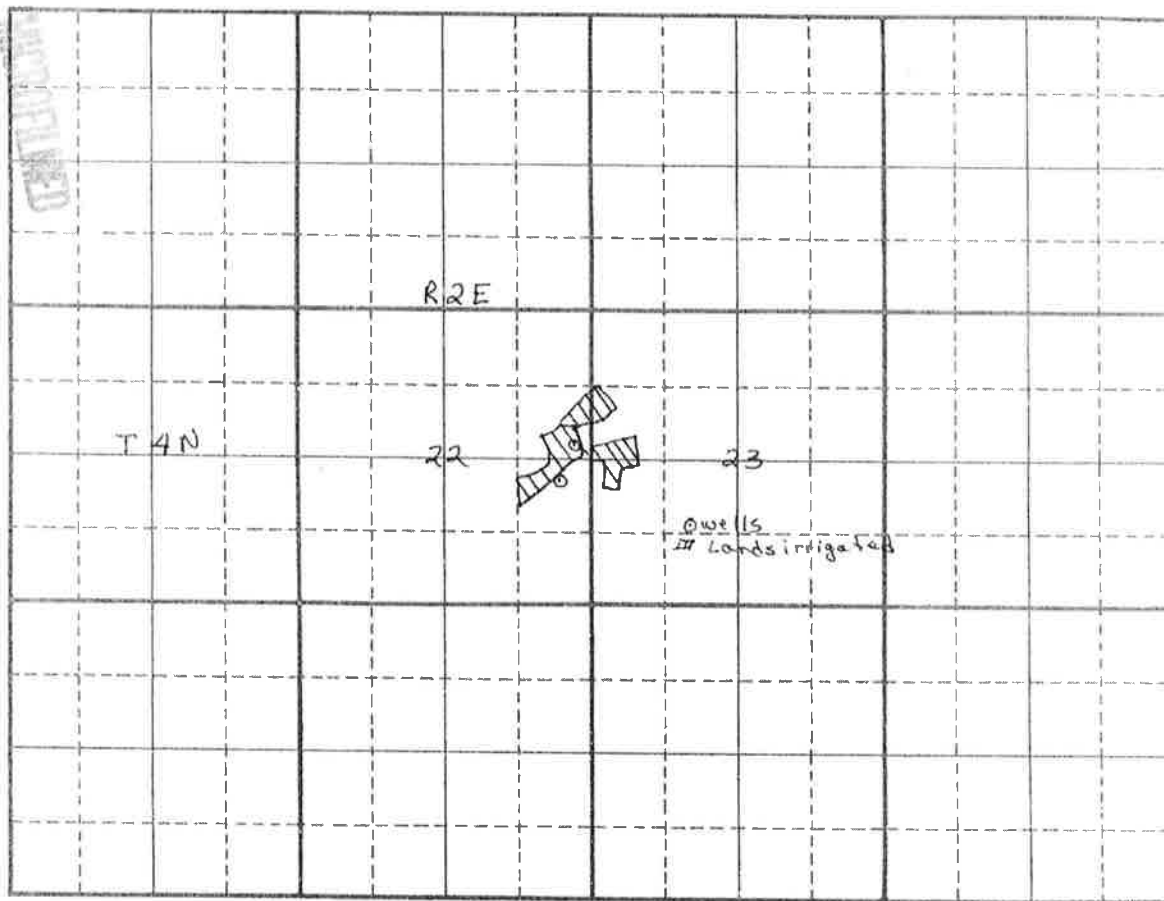
IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-17078 V1

1. Explanatory STOCKWATER, 400 RANGE CATTLE PARCEL NO. S0622140000

Comments:

8) Remarks



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho

County of

Ada

ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this

29

day of

June

19 83.

(Claimant)

Notary Public

Residing at

Bosse

My commission expires

Life

FOR DEPARTMENT USE ONLY

Received by

ED

Date

6/29/83

Exception filed by:

Forwarded to

Date

Prelim. check by

JG

Date

6/29/83

claimant by:

\$30.00 fee received by

ED

Date

6/29/83 # 26865

Published in

Idaho Statesman

Dates

6/29/83 3/1/84

CONTRACTOR: Karan Waters

CLAIM/ID #: 63-05284Date: 4-25-01

	TNS	RNG	SEC	NE				NW				SW				SE				Sum
				NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
Claim	4N	2E	22				10									10				20
GIS							40									40				80
Claim	4N	2E	23						8				2							10
GIS									40				40							80
Claim																				
GIS																				
Claim																				
GIS																				

Number of POD's 1Total Claimed Acres: 30

Overlapping POU Claim #'s:

Total GIS Acres: 160

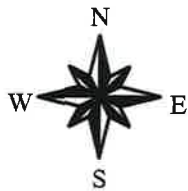
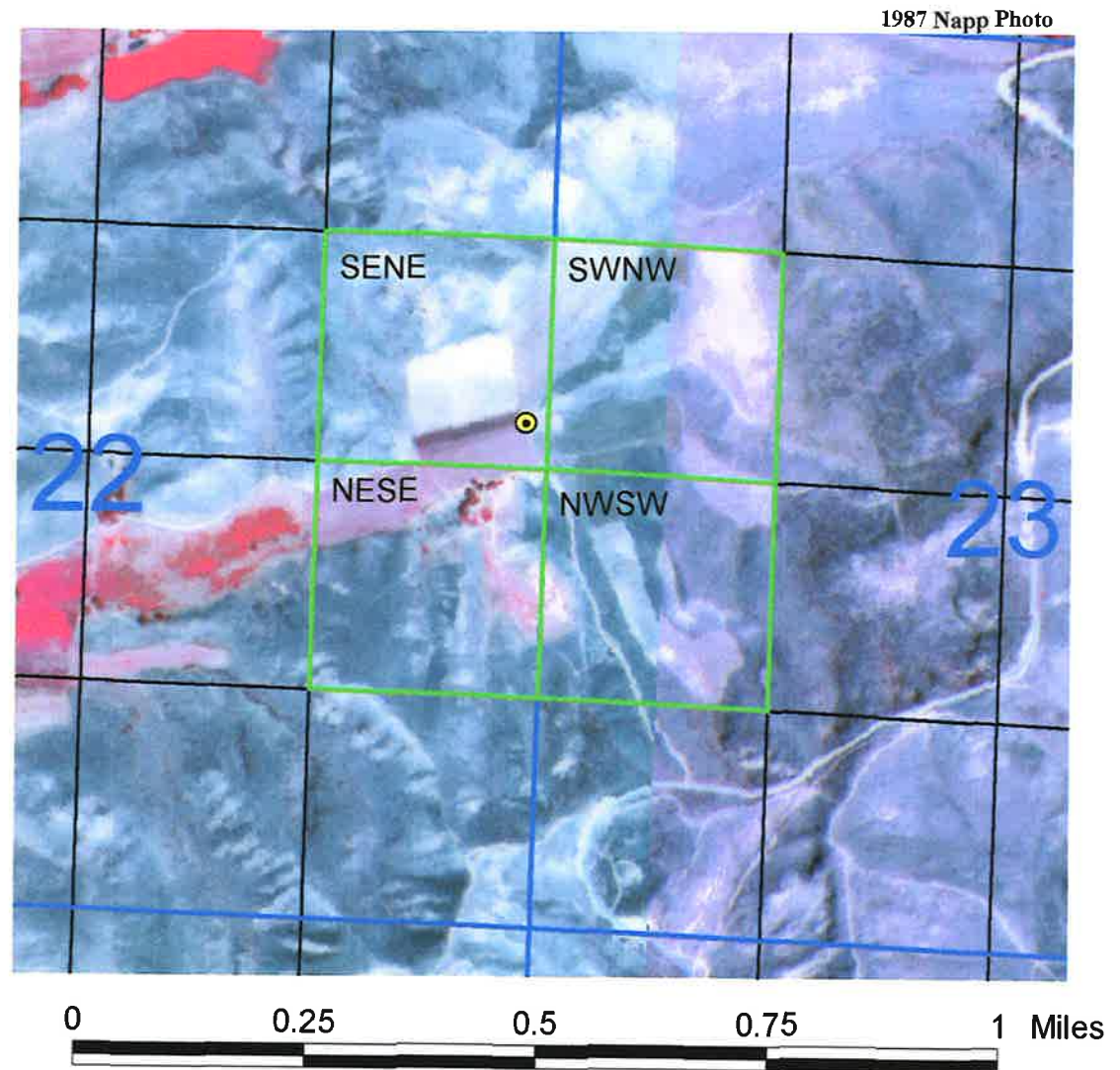
COMMENTS:

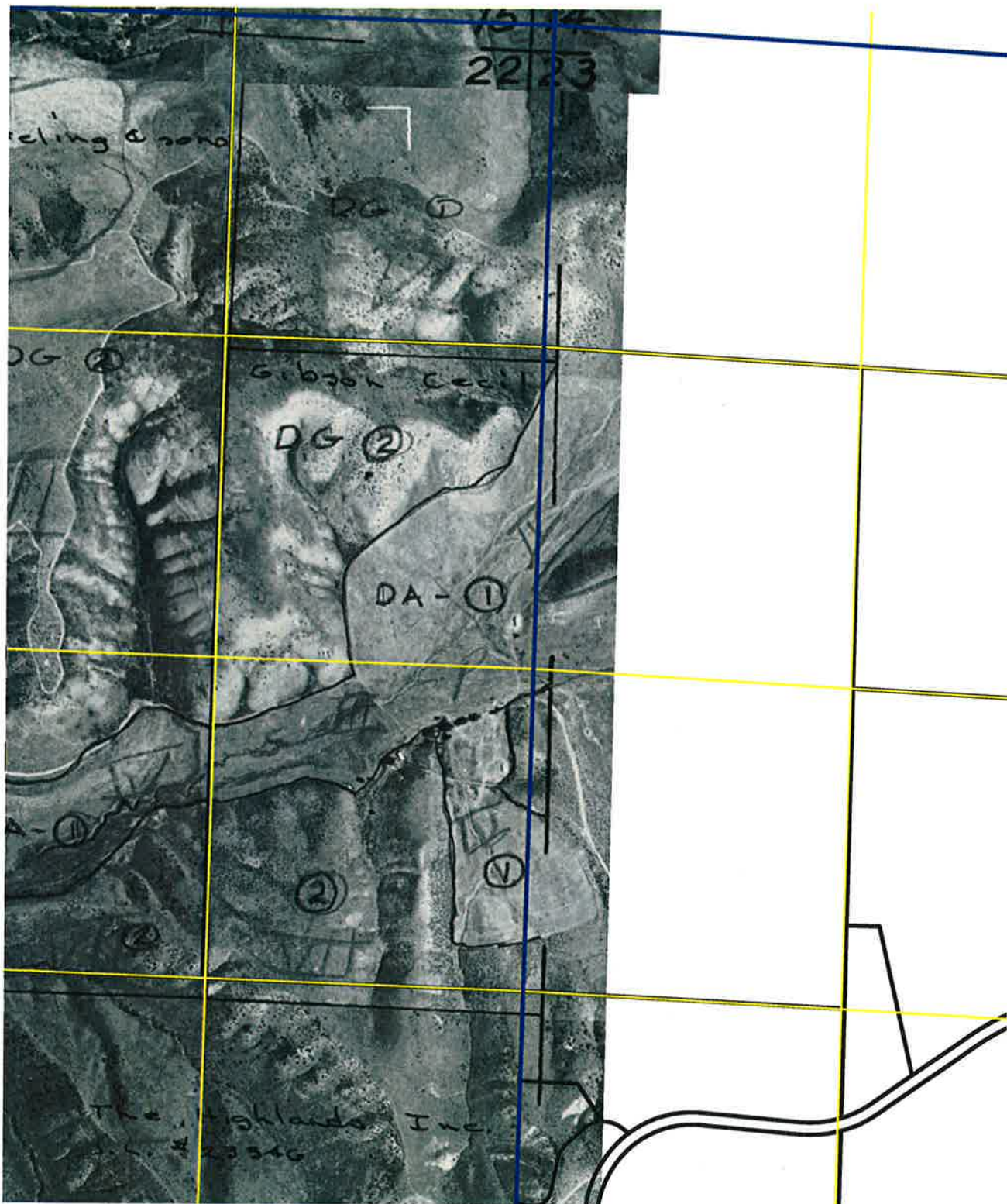
per claim map

Idaho Department of Water Resources

Claim Number: 63-05284
Legal: T04N, R02E, S22 & 23
Reviewed By:

-  Point of Diversion
-  Place of Use
-  Section Lines
-  Quarter Quarter Lines





63-5284 - 1964 AERIAL - THIS IS ALL THE
1964 COVERAGE THERE IS

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION FIELD REPORT**

Prior to Field Exam

- ☒ Copy of Claim, claim has been signed, sealed, and dated by notary?
- ☒ Check fees paid
- ☒ Well logs (if needed) — none found
- ☐ Copy of topo or NAPP
- ☒ Check of Govt. Lots, if needed, Govt. Plat/Tax lot information (none)
- ☐ Check POD & POU overlap, see below — include overlapping right for exam
- ☐ Evidence of Priority — if none, talk with claimant

CLAIMANT INFORMATION — verify contact information is completeClaim No(s) 63-5287

Owner: _____ Phone No. _____

Current Address: _____

- ☒ No change NAME IS THE SAME
- ☐ NEW OWNER _____
- ☐ No change Address
- ☐ NEW ADDRESS _____
- ☐ How long owned property? _____

Accompanied by: _____

PRIORITY DATE

- ☐ No change — Complete evidence submitted or not necessary
- ☒ Incomplete — Claimant should be asked when water was first used and submit proof of date.
- ☐ Priority date is acceptable/within mandatory filing dates?

Priority date, per claimant, is: 4-1-1947

(If priority date, based on your exam, seems questionable, explain below.)

See statement in file
~~no evidence provided.~~ House present in 1939 aerial photo
 so 1947 P. date is reasonable. *at side of current house?*

Source: _____ Tributary to _____

- ☒ No Change — SAME SOURCE
- ☐ Source found is different than claimed: _____

POINT OF DIVERSION

- ☒ No change
- ☐ POD found is different than claimed: _____
- ☐ If different, when did POD change? _____

DIVERSION AND DELIVERY SYSTEM

Points of Diversion:

ID #	Govt Lot #	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks GPS ID

Description of diverting works

see claim and field exam

OVERLAP REVIEW

Other water rights with the same point of diversion: *none*

Does overlap add acres or uses to existing system, increase rate of flow or volume, or other? Explain:

NA

WATER USES

- ☐ No change
- ☐ - Different Uses

Use *IRV* From *3/1* To *11/15* Amount *135* CFS *135* AFA
 Use *SW* From *1-1* To *12-31* Amount *0.4* CFS *5.38* AFA
 Use _____ From _____ To _____ Amount _____ CFS _____ AFA

(30 ac)(4.5) = 135 afa *(20)(1.9835)(240) = 204.43* *123-77*
TOTAL VOLUME - Groundwater only

- ☐ Incomplete on claim, the total is, Amount _____ CFS _____ AFA
- ☐ Changes found, the new total is, Amount _____ CFS _____ AFA
- ☐ More than 1" per Acre? Yes _____ (claimant must complete excess flow sheet)

NON-IRRIGATION USES:

- ☒ No change
- ☐ Changes Exam found: Domestic # of homes _____ Stock # _____
 Types _____ Additional comments: _____

PLACE OF USE:

- ☒ No Change
- ☐ Changes shown below:

** per field exam by Burke Smoker, 20.45 ac are irrigated. recommend 21.5 ac.*

SW: (400)(12)(365)/325,950 = 5.38 afa

(0.4)(1.9835)(365) = 28.95 afa

10.8 3.7
6.7
6.3

Place of Use			NE				NW				SW				SE				Totals
TWP	RGE	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Overlap with other water rights: _____

Does overlap increase rate of flow, volume, additional acres, different source for same acres? Explain:

Delivery System Narrative: _____

Well or Diversion Identification No GPS ID	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge size

FLOW MEASUREMENTS:

Attach appropriate documents

NARRATIVE/REMARKS/COMMENTS

~~63-12070. Show water recommended & pdd under~~
~~NO - different well.~~
 ✓ Panel # 5062214000 & 5062323000
 ✓ SW is for 400 hampel cattle ✓ a for SW = 13k gpd.
 ✓ not a del. of inst b/l
 for SW

- (1) app - statement by Clint.
- (2) Q - limited to 21 (fs system capacity)
- (3) POU - claimed 30 ac. but field examiner confirmed ^{is 21}

AFTER EXAM THE FILE SHOULD CONTAIN:

- ☒ Completed claim checklist
- ☒ Photographs of POD's and POU
- ☒ GPS readings
- ☒ Completed map and or GIS layout showing POD's and POU

DATE EXAM CONDUCTED: _____

FIELD EXAMINER: _____

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM POD REVIEW REPORT
ADJUDICATION CLAIM NUMBER: 63-5284

02/10/2005

1

ater Right #	Type	Twp	Rge	Sec	QQ	Q	Lot	Source	Name
63-5284	Claim	04N	02E	22	SE	NE		GROUND WATER	CECIL GIBSON
63-5284	Water Right	04N	02E	22	SE	NE		GROUND WATER	CECIL GIBSON

**IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM POU REVIEW REPORT
ADJUDICATION CLAIM NUMBER: 63-5284**

02/10/2005

1

Right #	Type	Twp	Rge	Sec	QQ	Q	Lot	Purpose of Use	Acres/Total	Name
5284	Claim	04N	02E	22	SE	NE		IRRIGATION	10/30	CECIL GIBSON
5284	Water Right	04N	02E	22	SE	NE		IRRIGATION	15/30	CECIL GIBSON
5284	Claim	04N	02E	22	NE	SE		IRRIGATION	10/30	CECIL GIBSON
5284	Water Right	04N	02E	22	NE	SE		IRRIGATION	5/30	CECIL GIBSON
17078	Water Right	04N	02E	22	NE	SE		STOCKWATER		CECIL GIBSON
17078	Water Right	04N	02E	22	NE	SE		DOMESTIC		CECIL GIBSON
5284	Claim	04N	02E	23	SW	NW		IRRIGATION	8/30	CECIL GIBSON
5284	Water Right	04N	02E	23	SW	NW		IRRIGATION	8/30	CECIL GIBSON
5284	Claim	04N	02E	23	SW	NW		STOCKWATER		CECIL GIBSON
5284	Claim	04N	02E	23	NW	SW		IRRIGATION	2/30	CECIL GIBSON
5284	Water Right	04N	02E	23	NW	SW		IRRIGATION	2/30	CECIL GIBSON
5284	Claim	04N	02E	23	NW	SW		STOCKWATER		CECIL GIBSON

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-5284

WATER RIGHT NUMBER: 63-5284

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CECIL GIBSON 5125 BOGUS BASIN RD BOISE, ID 83702 (208)343-6525
Current Owner	CHARLIE L GIBSON 5125 BOGUS BASIN RD BOISE, ID 83702 (208)343-6525

Priority Date: 04/01/1947
 Basis: Statutory Claim
 Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/15	11/15	0.600 CFS	
STOCKWATER	1/01	12/31	0.090 CFS	
<u>Total Diversion:</u>			0.600 CFS	

Location of Point(s) of Diversion

GROUND WATER	SE1/4SE1/4NE1/4	Sec. 22, Twp 04N, Rge 02E, B.M.
ADA County		

Place of UseIRRIGATION Within ADA County

T04N R02E S22	SENE	10.0	T04N R02E S22	NESE	10.0
T04N R02E S23	SWNW	8.0	T04N R02E S23	NWSW	2.0

Total Acres: 30

STOCKWATER Within ADA County

T04N R02E S23	SWNW	T04N R02E S23	NWSW
---------------	------	---------------	------

Conditions of Approval:Remarks:Comments:

Charlie B. visited office 9-14-04
 275-300 head of cattle. Wheel lines.
 different well than 17078

no different well
 recommended / PDED
 as 63-17078

4-196.

RECEIVED

JAN 24 2033

WATER RESOURCES
WESTERN REGION

Department of the Interior

United States Land Office, Boise, Idaho.

Serial No. 04711.

H. E. No. 10452

Receipt No. 910966

Certificate.

Homestead.

Earned "M," E.W.P.

September 19, 1912.
(Date.)

It is hereby certified that, pursuant to the provisions of Section 2291, Revised Statutes of the United States,
James W. Young

has made payment in full for NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 22,
SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$

Patent to contain reservation, according
to proviso to the Act of Aug. 30, 1890.

Section 23

Township 4 North, Range 2 East, Boise Meridian,
Idaho, containing 160 acres.

Now, therefore, be it known that, on presentation of this Certificate to the COMMISSIONER OF THE GENERAL LAND OFFICE, the said James W. Young

shall be entitled to receive a Patent for the lot above described.

M. Balderston, Register.

NOTE.—A duplicate of this Certificate is issued to the claimant as notice of the acceptance of the proof and payment, and of the allowance of the entry by the Register and Receiver.

The original is forwarded to the General Land Office, with the entry papers, for approval by the Commissioner of the General Land Office and issuance of patent.

The duplicate copy forwarded to the claimant should be held until notice of issuance of patent is received.

In all correspondence concerning the entry in connection with which this Certificate issued, refer to the NAME OF THE LAND OFFICE and the SERIAL NUMBER noted hereon.

APPROVED

By

Division

6-1960

NOV 18 1912

Pat No 306325
Dec. 20 1912

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

DEPARTMENT OF THE INTERIOR.

HOMESTEAD ENTRY.

U. S. LAND OFFICE

BOISE, IDAHO,

No. 04711

FINAL PROOF.

Receipt No.

910.966

TESTIMONY OF CLAIMANT.

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

ANSWER. James W. Young; 54; Boise, Idaho, R.F.D. No. 5.

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. Yes, born in Mass.

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

S. 04711, 10452, at the Boise, Idaho, U.S. Land Office on the 15th day of January, 1908, for the NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 22, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$,

Section 23, Township 4 North, Range 2 East, Boise Meridian?

ANSWER. Yes.

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

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

ANSWER. My wife and two 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. January 20, 1908.

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

ANSWER. Built prior to January, 1908.

(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. No absence by either one of us.

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.
Rolling, sage-brush land.	90	None.	
90 acres could be cultivated; rest			
is too hilly.			

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.

First

Sec. 22,

ANSWER. House was built in 1908, on NE $\frac{1}{4}$ SE $\frac{1}{4}$, cleared about 35 acres, about half of each of the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22, and SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 23; in Fall of 1908, plowed 12 acres; 12 acres planted in wheat, in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 23; in 1909, plowed 10 acres more on SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 22; in 1910, plowed 15 acres which was also cleared; planted same 15 acres to wheat; cut it for hay; fair crop; 1911, cleared and plowed 7 or 8 acres more; put 7 or 8 acres in wheat; the second year after I plant wheat I plant alfalfa; 1912, no new land; 65 acres has been in crops; had about 45 acres in crop this year; land all fenced and cross-fenced; the most of it was fenced the first year. The hilly land I use for grazing purposes, just my own stock; some land on each forty.

Second house was built in 1909. Have two acres in fruit trees now; same forty as the house is on. In 1911, had 55 acres in alfalfa and wheat, including the 7 or 8 acres in wheat, given above.

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.
House is on NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 22	House, about 28 by 32 ft., one story; barn, 47 by 52 ft., land all fenced and cross-fenced; 65 acres has been in crops; had 45 acres in crops this year; three cellars; one well, 425 ft. deep, one well 250 ft. deep; three chicken houses; Value, \$3,000. Bunk house; machinery shed, etc. 2 acres in fruit trees.

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. This land was formerly embraced in my desert-land entry but I relinquished it and made a homestead entry of it. Could not get water on land to reclaim it as a desert entry. None other.

James A. Young
(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 123 of the U. S. Criminal Code (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 Boise, Ada County, Idaho,
(Town, county, and State.)
within the Boise, Idaho, land district,
this 19th day of September, 1912.

John A. Miller

AB.

Receiver.

(Official designation of officer.)

FINAL AFFIDAVIT REQUIRED OF HOMESTEAD CLAIMANTS.

I, James W. Young, having made a Homestead Entry of the NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 22, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 23, Township 4 North, Range 2 East, Boise Meridian, subject to entry at Boise, Idaho, under section No. 2289 of the Revised Statutes of the United States, do now Act June 6, 1912, apply to perfect my claim thereto by virtue of section No. 2291, under of the Revised Statutes of the United States; and for that purpose do solemnly swear that I am a native-born (Native-born or naturalized.) citizen of the United States; that I have made actual settlement upon and have cultivated and resided upon said land since the 20th day of January, 1908, to the present time; that no part of said land has been alienated, except as provided in section 2288 of the Revised Statutes, but that I am the sole bona fide owner as an actual settler; that I will bear true allegiance to the Government of the United States; and, further, that I have not heretofore perfected or abandoned an entry made under the homestead laws of the United States, except none.

NOTE.—Every person swearing falsely to the above affidavit will be punished as provided by law for such offense. (See Sec. 125, U. S. Criminal Code, below.)

I HEREBY CERTIFY that the foregoing affidavit was read to or by
affiant in my presence before affiant affixed signature thereto; that
affiant is to me personally known, ~~or has been satisfactorily identified~~
~~before me by~~

that I verily believe affiant to be a credible person and the identical person hereinbefore described, and that said affidavit was duly subscribed and sworn to before me, at my office, in _____ Boise, _____
(Town.)
____ Ada County, Idaho, _____ this _____ 19th _____ day
(County and State.)
of _____ September _____, 1912.

AB.

Receiver.

(Official designation of officer.)

UNITED STATES CRIMINAL CODE.—CHAPTER 6. (35 Stat., 1111.)

SEC. 125. Whoever, 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, shall willfully and contrary to such oath state or subscribe any material matter which he does not believe to be true, is guilty of perjury, and shall be fined not more than two thousand dollars and imprisoned not more than five years. Act March 4, 1909 (35 Stat., 1111.)

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

DEPARTMENT OF THE INTERIOR.

HOMESTEAD ENTRY.

U. S. LAND OFFICE _____ Boise, Idaho, _____, No. 04711

FINAL PROOF. Receipt No. _____

TESTIMONY OF WITNESS.

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

ANSWER. Charles M. Daly; 36; Boise, Idaho, R.F.D. No. 5.

QUESTION 2. (a) How long have you known the claimant in this case and the ~~XXXXXX~~ NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 22, and SW $\frac{1}{4}$ NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SW $\frac{1}{4}$, _____ Section 23, Township 4 North, Range 2 East, Boise Meridian, the land embraced in Homestead Entry, No. 10452, S. 04711, made at the Boise, Idaho, _____ Land Office?

ANSWER. Claimant for 4 years; land for four years.

(b) Is claimant married? ANSWER. Entryman.

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. Latter part of January, 1908.

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

ANSWER. Latter part of January, 1908.

(c) Have claimant and family resided continuously on the homestead 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. No absence by either one of them that I know of.

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.
Rolling, sage-brush land.	80	None.	
80 acres could be cultivated; rest is too steep and rolling.			

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. Built his first house in January, 1908, and established residence; cleared 40 acres; house is in NE $\frac{1}{4}$ SE $\frac{1}{4}$, and NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 25; 1909, had 60 acres in wheat; on same two forties; fair; second house was built in either 1908 or 1909; 1910, had 60 acres in wheat and alfalfa; fair crop; same forties; 1911, about same; 1912, same; 160 acres fenced and cross-fenced; uses a part of the land for grazing his own stock.

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.
House is in NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22.	House, about 26 ft. square; barn, about 30 ft., square; two cellars; two artesian wells; wagon-shed; machinery shop; 65 acres has been cleared and cropped; 1 $\frac{1}{2}$ or 2 acres in orchard; Value, \$2500.

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. No.

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. I live on adjoining land, about $\frac{1}{4}$ of a mile; see them every day, or nearly so.

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

ANSWER. Not interested. Not related.

Charles M. Felt
(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 James W. Young, Boise, 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 Boise, Ada County, Idaho,
(Town, county, and State.)
within the Boise, Idaho, land district,
this 19th day of September, 1912.

John H. Fisher

AR.

Receiver.
(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.

4-369 a.

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

DEPARTMENT OF THE INTERIOR.

HOMESTEAD ENTRY.

U. S. LAND OFFICE _____ BOISE, IDAHO, _____, No. 04711

FINAL PROOF. Receipt No. _____

TESTIMONY OF WITNESS.

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

ANSWER. Charles Pidgeon; 49; Boise, Idaho, R.F.D. No. 5.

QUESTION 2. (a) How long have you known the claimant in this case and the NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 22, and SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$,Section 23,
Township 4 North, Range 2 East, Boise Meridian,
the land embraced in Homestead Entry, No. 04711, made at the
Boise, Idaho, Land Office?

ANSWER. Claimant for or since 1908; land since 1906.

(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. Latter part of January, 1908.

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

ANSWER. Latter part of January, 1908.

(c) Have claimant and family resided continuously on the homestead 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. No not know of any absence at all by either of them.

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.
Rolling, sage-brush land.	80	None.	
80 acres is too hilly and rough.			

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. In 1908, had 40 or 45 acres in grain; on two South forties; he has built two houses; established his residence in January, 1908; 1909, had about 10 or 15 acres in alfalfa; on NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22, and SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 23; his house is in NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22; had 35 or 40 acres more in grain and ~~xxxx~~ fruit trees; 1910, had same number of acres in same kind of crops; 1911, had 60 acres in wheat, alfalfa and oats; fair crop; 1912, had 65 or 70 acres in same kind of crops; fair crops; land all fenced and cross-fenced; uses a part of the land for grazing his own stock.

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.
House is on NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22.	House, about, 3 or 4 rooms; 36 ft. square; barn, about 60 ft. long by 30 ft. wide; 2 artesian wells; two cellars; 5 acres in orchard; 65 or 70 acres has been in crops; land all fenced and cross-fenced; 4 or 5 chicken houses; wagon-shed; machine shed; Value, \$2500. or \$3,000.

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. No.

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. I see them every few weeks on their land; I live about half a mile from his house; there is a ridge and I cannot see them unless I am on top of the ridge.

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

ANSWER. Not interested. Not related.

Charles P. Pidgeon
(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 James W. Young, Boise, 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 Boise, Ada County, Idaho,
(Town, county, and State.)
within the Boise, Idaho, land district,
this 19th day of September, 1912.

John W. Miller

At.

Receiver,

(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. (Sec. 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.

HOMESTEAD,
DESERT LAND, and
TIMBER or STONE
Entries.

Boise Statesman.

1-343 a.

Serial No. 04711.

NOTICE FOR PUBLICATION.

(REGISTER.)

DEPARTMENT OF THE INTERIOR,

U. S. LAND OFFICE at Boise, Idaho.

July 15, 1912.

NOTICE is hereby given that James W. Young, of
Boise, Idaho, who, on January 15, 1908, made
Homestead Entry No. 10452, Serial No. 04711, for
(Kind of application or entry)
NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 22; SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 23,
Township 4 North, Range 2 East, Boise Meridian,
has filed notice of intention to make Three Year
(If homestead, insert "five year" or "commutation," as case may be.)
Proof, to establish claim to the land above described, before
the Register and Receiver, U. S. Land Office, at
Boise, Idaho, (Name of officer.)
on the 19th day of
September, 1912.

Claimant names as witnesses:

Charles M. Daly	, of	Boise, Idaho;
James L. Daly	, of	Boise, Idaho;
Charles Pidgeon	, of	Boise, Idaho;
Charles Sheppard	, of	Boise, Idaho.

William Bolderston.

Register.

CERTIFICATE AS TO POSTING OF NOTICE.

Boise Id. Sep 19, 1912

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 66
days, I having first posted said notice on the 15th day of

July, 1912

Wm Bolderston

Register.

DEPARTMENT OF THE INTERIOR,
BUREAU OF LANDS,
FIMBER OF STONE
Entries.

012

Serial No. 04711.

NOTICE FOR PUBLICATION.

(PUBLISHER.)

Boise Statesman.

DEPARTMENT OF THE INTERIOR,

U. S. LAND OFFICE at Boise, Idaho.

July 15, 1912.

NOTICE is hereby given that James W. Young, of Boise, Idaho, who, on January 15, 1908, made Homestead Entry No. 10452, Serial No. 04711, for NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 22; SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 23, Township 4 North, Range 2 East, Boise Meridian, has filed notice of intention to make Final Three Year Proof, to establish claim to the land above described, before the Register and Receiver, U. S. Land Office, at Boise, Idaho, on the 19th day of September, 1912.

Claimant names as witnesses:

Charles M. Daly, of Boise, Idaho;
James L. Daly, of Boise, Idaho;
Charles Pidgeon, of Boise, Idaho;
Charles Sheppard, of Boise, Idaho.

William Balderston, Register.

AFFIDAVIT OF PUBLICATION.

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

I, J. C. Adams, Publisher, of the

Idaho Monthly Statesman

published Monthly at Boise, Idaho

do solemnly swear that a copy of the above notice, as per clipping attached, was published Monthly in the regular and entire issue of said newspaper, and not in any supplement thereof, for 3 consecutive issues, commencing with the issue dated July 29, 1912, and ending with the issue dated August 26, 1912

26th day of August, 1912

W. M. Adams, (Official designation.)

Serial No. 04711.
Notice for Publication.
Department of the Interior, United States Land Office at Boise, Idaho, July 15, 1912.—Notice is hereby given that James W. Young of Boise, Idaho, who on January 15, 1908, made homestead entry No. 10452, Serial No. 04711, for northeast quarter, southeast quarter, southeast quarter, southeast quarter, section 22; southwest quarter, northwest quarter, southwest quarter, section 23, Township 4 North, Range 2 East, Boise Meridian, has filed notice of intention to make final three-year proof to establish claim to the land above described, before the register and receiver, United States Land Office, at Boise, Idaho, on the 19th day of September, 1912.
Claimant names as witnesses: Charles M. Daly of Boise, Idaho; James L. Daly of Boise, Idaho; Charles Pidgeon of Boise, Idaho; Charles Sheppard of Boise, Idaho.—William Balderston, Register.
First insertion July 29.
Last insertion August 26.

Subscribed and sworn to before me this 26th day of August, 1912

AUG 19 1912

4-348 a.

Serial No. 04711.

HOMESTEAD,
DESERT LAND, and
TIE-BACK or STONE
ENTRIES.

NOTICE FOR PUBLICATION.

(REGISTER.)

Boise Statesman.

DEPARTMENT OF THE INTERIOR,

U. S. LAND OFFICE at Boise, Idaho.

July 15, 1912.

NOTICE is hereby given that James W. Young, of
Boise, Idaho, who, on January 15, 1908, made
Homestead Entry No. 10452, Serial No. 04711, for
(Kind of application or entry.)
NE 1/4 SE 1/4, SW 1/4 NW 1/4, NW 1/4 SW 1/4, Section 23,
Township 4 North, Range 2 East, Boise Meridian,
has filed notice of intention to make Three Year
(If homestead, insert "five year" or "commutation," as case may be.)
Proof, to establish claim to the land above described, before
the Register and Receiver, U. S. Land Office
(Name of officer.)
Boise, Idaho, on the 19th day of
September, 1912.

Claimant names as witnesses:

Charles M. Daly, of Boise, Idaho;
James L. Daly, of Boise, Idaho;
Charles Pidgeon, of Boise, Idaho;
Charles Sheppard, of Boise, Idaho.

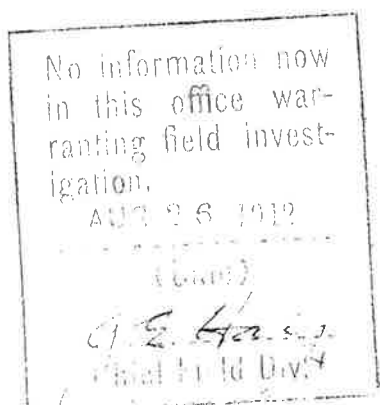
William Ballerston,
Register.

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
_____, 1912.

Register.

6-4711



4-138.

74716

Receiver's Duplicate Receipt No. 104452

Application No. 104452

HOMESTEAD.

Department of the Interior,

UNITED STATES LAND OFFICE,

BOISE, IDAHO

JAN 15 1908

RECEIVED of James W. Young the sum
of Sixteen dollars cents;

being the amount of fee and compensation of Register and Receiver for the
entry of

NE 1/4, SE 1/4 Sec. 22, SW 1/4, NW 1/4

of Section 23 in

Township 4 N of Range 2 E, under

Section No. 2290, Revised Statutes of the United States.

Frank J. Hamilton
Receiver.

\$ 16.00

Entryman should read carefully the suggestions on the back of this receipt.

SUGGESTIONS TO HOMESTEAD ENTRYMEN.

First—LANDS MUST BE SUBJECT TO ENTRY.

Any entry must be canceled if it is made for lands which are either mineral or saline in character, or for lands which are embraced in or covered by any valid subsisting adverse settlement, application, entry, location, or other form of appropriation, or for lands which have already been granted, reserved, or withdrawn for any purpose.

Second—ENTRYMAN MUST BE FULLY QUALIFIED TO MAKE ENTRY.

All entries must be canceled when they are held by persons of either of the following classes: (1) Minors, who are not the heads of families; (2) aliens, who have not declared their intentions to become citizens; (3) married women, with certain exceptions; (4) persons who have exhausted their rights by making other homestead entries; (5) persons who were at the date of such entry the owners of more than 160 acres of land, and (6) persons who have, since August 30, 1890, acquired title to, or are claiming through settlement or entry, other agricultural public lands which with the lands last applied for exceed in the aggregate 320 acres.

Third—FRAUDULENT ENTRIES.

All entries must be declared fraudulent and canceled where (1) they are made by disqualified persons who falsely represent themselves to be qualified; (2) where they are not made for the sole purpose of actual residence and cultivation to obtain a home for the entryman, but are made wholly or in part in the interest of, or for the benefit of, some other person, and (3) where they were originally made in good faith but are afterwards held in the interest of or for the benefit of others. An entry made in good faith, without fraud, becomes a fraudulent entry and must be canceled if the entryman, before final proof, sells or agrees to sell the land, or any part thereof or interest therein, to some other person and thereafter continues his residence and cultivation, intending, after proof, to make a conveyance to such person.

Fourth—CONTINUOUS BONA FIDE RESIDENCE AND CULTIVATION NECESSARY.

Homestead entries must be canceled in all cases where the entryman fails, for six months from the date of his entry, to actually abandon all other homes and make his home in good faith on the land entered; and when the entryman has in this manner actually established his bona fide home on the land to the entire exclusion of a home elsewhere, he must thereafter continuously reside upon and cultivate the land entered until he has earned a patent, and his failure to do so may result in the cancellation of his entry, unless the register and receiver, for good cause shown, grant him a leave of absence from the land. It should always be remembered by entrymen that they can not, while seeking title under the homestead laws, maintain a home anywhere except on the land.

Fifth—TIMBER ON LANDS COVERED BY A HOMESTEAD ENTRY.

Timber on lands covered by a homestead entry may be cut and removed by the entryman for the bona fide purpose of clearing and improving the land for cultivation, and when timber has been actually cut for that purpose it may be removed and sold if it is not needed in the improvement of the land. But the cutting and removal of timber for any other purpose than to clear the land for cultivation will justify the cancellation of the entry and may result in criminal prosecution and punishment of the persons who cut it or permit it to be cut.

Sixth—FINAL PROOF AND PATENT.

A homestead entryman may, by proving fourteen months' residence and cultivation and the payment of the minimum price of the land, in addition to certain fees, obtain a patent; or he may, by proof of five years' actual residence and cultivation, at any time within seven years from the date of his entry, obtain a patent by the payment of the fees and commissions only, except in certain cases. But the entryman may take credit for the length of time he resided upon and cultivated the land prior to his entry, either in making commutation proof or final five years' proof. Soldiers of the war of the rebellion, the Spanish-American war, and the Philippine insurrection, and their widows and minor orphans are, under certain circumstances, entitled to have the period of their service deducted from the period of five years' residence and cultivation, after they have resided upon and cultivated the land for one year.

An entryman desiring to make proof should, in writing, notify the register and receiver of that fact, mentioning the time and place where proof is to be made, the name of the officer before whom he desires to offer proof, and the names of at least four of his neighbors, who can testify of their own knowledge as to his residence and cultivation. Upon receipt of this notice the register will then issue and publish a notice naming the time, place, and the officer before whom proof is to be taken. On the date named in the notice the entryman must appear before the officer designated to take the proof with at least two of the witnesses named in the notice, and there give their testimony. If for any reason the entryman and his witnesses are not able to appear before the officer on the date named, the officer should continue the case from day to day until the expiration of ten days, and the proof may be taken on any day within that time when the entryman and his witnesses appear, but they should, if it is at all possible to do so, appear on the date named in the notice. Entrymen are advised that they should, whenever it is possible to do so, offer their proofs before the register and receiver, as it may be found necessary to refer all proofs made before other officers to a special agent for investigation and report before they can be finally approved and patent issued thereon, while, if made before registers and receivers, there is less likelihood of this being done, and there is less probability of the proofs being incorrectly taken. By making proof before the register and receiver, entrymen will also save the fees which they would be required to pay other officers, as they are required under the law to pay to the register and receiver the same amount of fees in each case, regardless of the fact that the proof is taken before them or before some other officer.

Entrymen are cautioned against improvidently making commutation proofs, as all such proofs will hereafter, as far as possible, be carefully examined into by special agents before patent is issued, and any attempt to improperly obtain title under the commutation law will not only result in the cancellation of the entry, but may result in the indictment and prosecution of the entryman.

Seventh—FEES.

The entryman should forward with his notice of intention to make final proof sufficient money to pay the newspaper for publishing his notice, or he should furnish the register with a statement from the publisher of the paper, or his agent, that the necessary money has been paid or deposited with the publisher. The newspaper is entitled to receive the same compensation for publishing this notice which it would be authorized to receive under the laws of the State for publishing legal notices of a similar character.

United States commissioners, United States court commissioners, and judges and clerks of courts of record who take proofs are authorized to receive no greater sum than 25 cents for each affidavit made before them, and 25 cents for administering the oath to each final-proof testimony, when such testimony is not written and prepared by them, but they are entitled to receive \$1 for the testimony of each claimant and witness which is sworn to before them after they have prepared and written the testimony. Such officers can not act as attorneys or agents for entrymen in any matter, and should not receive compensation for such services.

On all proofs taken before either the register and receiver, or before any other officer authorized to take proofs, the register and receiver are entitled to 15 cents for each 100 words reduced to writing by themselves or others, and in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming they are entitled to receive 22½ cents for each 100 words.

In all cases, except commutation proofs, the entryman must pay the register and receiver, in addition to the testimony fee above mentioned, a commission of \$1 for each 40-acre tract embraced in an entry made for lands outside of railroad grants, and \$2 for each 40-acre tract within such limits in all the States and Territories except those above mentioned, and when the lands are situated in those States they should pay the sum of \$1.50 and \$3, respectively, for each 40-acre tract. All fees and commissions due the register and receiver should be paid at the time the final proofs are made or received at their office.

DESERT LAND
Entries.

NOTICE OF INTENTION TO MAKE PROOF.

July 29 1912

DEPARTMENT OF THE INTERIOR,

U. S. LAND OFFICE at

Boise, Idaho

I,

James H. Young

of

Boise, Ida.

who, on

January 15, 1908,

made

Homestead Entry

No. 10452

for

NE 1/4, Sec 22, T4N, R4E, S1E, Section 23

Township

4 N, Range 4 E

Boise

Meridian,

hereby give notice of my intention to make Final

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

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

the Register and Receiver

(Name of officer.)

at

Boise, Idaho

on the

19th

day of

September

1912, by two of the following witnesses:

Charles M. Daly

of

Boise, Idaho

James L. Daly

of

" "

Charles Pigeon

of

" "

Charles Sheppard

of

" "

James H. Young
(Signature of claimant.)

Boise, Idaho; July 15, 1912.

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

Statesman,

(Name of newspaper.)

Boise, Idaho

(Place of publication.)

for a period of five consecutive weeks, which I hereby designate as the newspaper published nearest the land above described.

Wm. B. Davidson

Register.

346325

Case 34712 WWC

12

UNITED STATES DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

WASHINGTON, D. C.

1913

10454, Jan. 17, 1908,

34712, May 15, 1911.

Monahan. Entry approved for patenting.

Specimen of title

Specimen of title

Specimen of title

Specimen of title

Section 34, Township 1 N., Range 3 E.,

Section 34, Township 1 N., Range 3 E.,

Section 34, Township 1 N., Range 3 E.,

Section 34, Township 1 N., Range 3 E.,

Section 34, Township 1 N., Range 3 E.,

Section 34, Township 1 N., Range 3 E.,

Section 34, Township 1 N., Range 3 E.,

Very respectfully,

Assistant Commissioner

306325

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Sec. 10

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04711

4-357.

(Form approved by the Secretary of the Interior, April 18, 1910.)

DEPARTMENT OF THE INTERIOR.

NOTICE OF RIGHT OF ELECTION

In cases where final proof has not been submitted.

(ACT OF MARCH 3, 1909.)

U. S. LAND OFFICE, Boise, Idaho, No. 10452Feb. 20, 1911., 1911James W. Young,Boise, Idaho.

Sir:

Your attention is directed to the provisions of the Act of March 3, 1909, printed on the back hereof, and you are hereby notified that subsequently to your homestead entry

(Insert kind of entry, location, or selection.)

No. 10452-04711, made Jan. 15, 1908, 1908, forNE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec 22 andSW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 23,Township 4 N., Range 2 E., Boise Meridian,

said tract was classified, claimed, or reported as being valuable for coal; also that at the time of applying for notice to submit final proof you must state in writing whether you elect to receive a patent which shall contain a reservation to the United States of all coal in said land, and the right of the United States, or any person or persons authorized by it, to prospect for, mine, and remove coal from the same, in accordance with the conditions and limitations imposed by said act. Should you elect to receive such patent, no further inquiry will be made respecting the coal character of the land, and patent will issue, with the statutory reservation, provided satisfactory proof of your good faith and of compliance on your part with the provisions of the law under which you claim, be submitted. In the event you decline to elect to receive such patent, evidence will be received at the time of making final proof with a view to determining whether the land is chiefly valuable for coal, and, the proof being in other respects regular and satisfactory, you will be entitled to receive patent without reservation unless at the time of the hearing on final proof it shall be shown that the land is chiefly valuable for coal.

Respectfully,

Chas. B. Bader
 _____, Register.

_____, Receiver.

Election to Receive Patent upon Nonmineral Claim Exclusive of any Deposits
 of Coal in the Land.

"Coal reservation noted on records March 11, 1911."

I, James W. Young, of Boise,County of Ada, State of Idaho,who on Jan. 15, 1908, made Homestead

(Insert kind of location, selection, or entry.)

No. 1114 (1114), for the

NE 1/4 Sec. 22 &
SW 1/4 NW 1/4 SW 1/4

Section 23,

Township 4 N., Range 2 East Boise Meridian,
do hereby ELECT, upon submission of satisfactory proof of compliance
with law under which my claim was initiated, to receive patent for the
lands, which patent shall reserve to the United States all of the coal
in said lands with the right of the United States, or any person author-
ized by it, to prospect for, mine, and remove the coal from same in
accordance with the conditions and limitations of the Act of March 3,
1909 (35 Stat., 844).

In accordance with above election, I hereby authorize the proper
officer or officers of the United States, upon submission of satisfac-
tory final proof upon my location, selection, or entry, to issue final
certificate or other paper as basis for patent, containing the reser-
vation of the coal hereinbefore described, and to issue patent in
accordance therewith.

James H. Young

The foregoing election was, in our presence, read to or by the
said *James H. Young* who is to each of us personally known,
and we, the undersigned, have this day hereunto set our hands as wit-
nesses of the execution thereof.

Dated this 11th day of March, 1911, at
Boise State of Idaho

Name *Wm. Radersten* Residence *Boise, Idaho*
Name *A. B. Chapman* Residence *" "*

Note.—The attention of parties in interest is directed to the provisions of the Act of March 3, 1909, copy of which is printed below.

[35 STAT., 844.]

An Act For the protection of the surface rights of entrymen.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who has in good faith located, selected, or entered under the nonmineral land laws of the United States any lands which subsequently are classified, claimed, or reported as being valuable for coal, may, if he shall so elect, and upon making satisfactory proof of compliance with the laws under which such lands are claimed, receive a patent therefor, which shall contain a reservation to the United States of all coal in said lands, and the right to prospect for, mine, and remove the same. The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal-land laws in force at the time of such disposal, but no person shall enter upon said lands to prospect for, or mine and remove coal therefrom, without previous consent of the owner under such patent, except upon such conditions as to security for and payment of all damages to such owner caused thereby as may be determined by a court of competent jurisdiction: *Provided*, That the owner under such patent shall have the right to mine coal for use on the land for domestic purposes prior to the disposal by the United States of the coal deposit: *Provided further*, That nothing herein contained shall be held to affect or abridge the right of any locator, selector, or entryman to a hearing for the purpose of determining the character of the land located, selected, or entered by him. Such locator, selector or entryman who has heretofore made or shall hereafter make final proof showing good faith and satisfactory compliance with the law under which his land is claimed shall be entitled to a patent without reservation unless at the time of such final proof and entry it shall be shown that the land is chiefly valuable for coal.

Approved March 3, 1909.

DEPARTMENT OF THE INTERIOR.

HOMESTEAD ENTRY.

U. S. LAND OFFICE, Boise, Idaho, Jan. 15, 1908., No. 10452

APPLICATION.

I, James W. Young (Give full Christian name.) (male), a resident of Boise, Ada County, Idaho, (Male or female.)
(Town, County, and State.)
do hereby apply to enter, under Section 2289, Revised Statutes of the United States, the NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 22, and SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 23, Township 4 North, Range 2 East, Boise Meridian, containing 160 acres, within the Boise, Idaho, U.S. land district;
and I do solemnly swear that I am not the proprietor of more than 160 acres of land in any State or Territory; that I am a native born
(Applicant must state whether native born, naturalized, or has filed declaration of intention to become a citizen. If not native born, certified copy of naturalization or declaration of intention, as case may be, must be filed with this application.)

citizen of the United States, and
am over the age of twenty-one years,
(State whether the head of a family, married or unmarried, or over twenty-one years of age.)

that my post-office address is Boise, Idaho,
that this application is honestly and in good faith made for the purpose of actual settlement and cultivation, and not for the benefit of any other person, persons, or corporation; that I will faithfully and honestly endeavor to comply with all the requirements of law as to settlement, residence, and cultivation necessary to acquire title to the land applied for; that I am not acting as agent of any person, corporation, or syndicate in making this entry, nor in collusion with any person, corporation, or syndicate to give them the benefit of the land entered, or any part thereof, or the timber thereon; that I do not apply to enter the same for the purpose of speculation, but in good faith to obtain a home for myself, and that I have not directly or indirectly made, and will not make, any agreement or contract, in any way or manner, with any person or persons, corporation, or syndicate whatsoever, by which the title which I may acquire from the Government of the United States will inure in whole or in part to the benefit of any person except myself. I further swear that since August 30, 1890, I have not entered and acquired title to, nor am I now claiming, under an entry made under any of the nonmineral public-land laws, an amount of land which, together with the land now applied for, will exceed in the aggregate 320 acres; and that I have not heretofore made any entry under the homestead laws (except None.)
(Here describe former homestead entry by section, township, range, land district, and number of entry; how perfected, or if not perfected state that fact.)

that I am well acquainted with the character of the land herein applied for and with each and every legal subdivision thereof, having personally examined same; that there is not to my knowledge within the limits thereof any vein or lode or quartz or other rock in place bearing gold, silver, cinabar, lead, tin, or copper, nor any deposit of coal, placer, cement, gravel, salt spring, or deposit of salt, nor other valuable mineral deposit; that no portion of said land is claimed for mining purposes under the local customs or rules of miners, or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially nonmineral land, and that my application therefor is not made for the purpose of fraudulently obtaining title to mineral land; that the land is not occupied and improved by any Indian.

James W. Young
(Sign here, with full Christian name.)

I HEREBY CERTIFY that the foregoing affidavit was read to or by affiant in my presence before affiant affixed signature thereto; that affiant is to me personally known (or has been satisfactorily identified before me by _____);

(Give full name and post-office address.)

that I verily believe affiant to be a qualified applicant and the identical person hereinbefore described; and that said affidavit was duly subscribed and sworn to before me, at my office, in Boise,
Ada County, Idaho, within the Boise, Idaho,
(County and State.)
land district, this 15th day
of January, 1908.

Edward J. Garrett

Receiver U.S.L.O.

(Official designation of officer.)

UNITED STATES LAND OFFICE at Boise, Idaho,

January 15, 1908

I HEREBY CERTIFY that the foregoing application is for surveyed land 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.

Addison Smith

Register.

RECEIVED of the above-named applicant the sum of Sixteen

dollars and _____ cents, being the amount of fees and compensation of the Register and Receiver for the entry of the land, hereinbefore described, under Section 2290, Revised Statutes of the United States.

\$ 16.00

Edward J. Garrett

Receiver.

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.

6-771

4-007.

HOMESTEAD ENTRY.

U.S. LAND OFFICE,
BOISE, IDAHO

No. 10452

APPLICATION.

Name

Date JAN 15 1908

Section

22, 23

Township

42N

Range

2E

NOTATION OF ACTION.

Space below for use in GENERAL LAND OFFICE only.)

21-164

GENERAL LAND OFFICE

BOISE, IDAHO
(Land Office)

Serial No.

04/11

Final Hd., Act May 20, 1862

Act June 6, 1912 (Public Law 179)

Send Patent to _____

Appearance by _____

Approved for Patenting

Dec. 10, 1912 C.M.A
(Initials.)

List No. _____

Patent No. _____

Dated _____, 19____

*21
164 Idaho*

'B' LIST NO. 245

ACTION TAKEN

C

*Dec. 10/12 rejecting coal
election & approving case
for patenting C.M.A. for
W.M.C.*

*Coal M.C. Excluded from
Classified Name & Title
Dec 1/11.*

Pat No 306325
Dec. 20 1912

*W.M.C.
e.s.c.*