

08/04/2006

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

RIGHT NUMBER: 22-13223

NAME AND ADDRESS: CUSHMAN FAMILY TRUST
601 S FIGUEROA ST 47TH FLOOR
LOS ANGELES CA 90017

SOURCE: MAHOGANY CREEK

TRIBUTARY: TETON RIVER

QUANTITY: 0.910 CFS

PRIORITY DATE: 01/22/1916

POINT OF DIVERSION:

T04N R44E S14 SENWNE Lot 2 Within TETON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
04/15 10/31

QUANTITY
0.910 CFS

PLACE OF USE: IRRIGATION Within TETON County

T04N R44E S12	SESW	21.00	T04N R44E S12	SWSE	9.20
---------------	------	-------	---------------	------	------

30.2 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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 22-41



Idaho Department of Water Resources

Adjudication Claim:

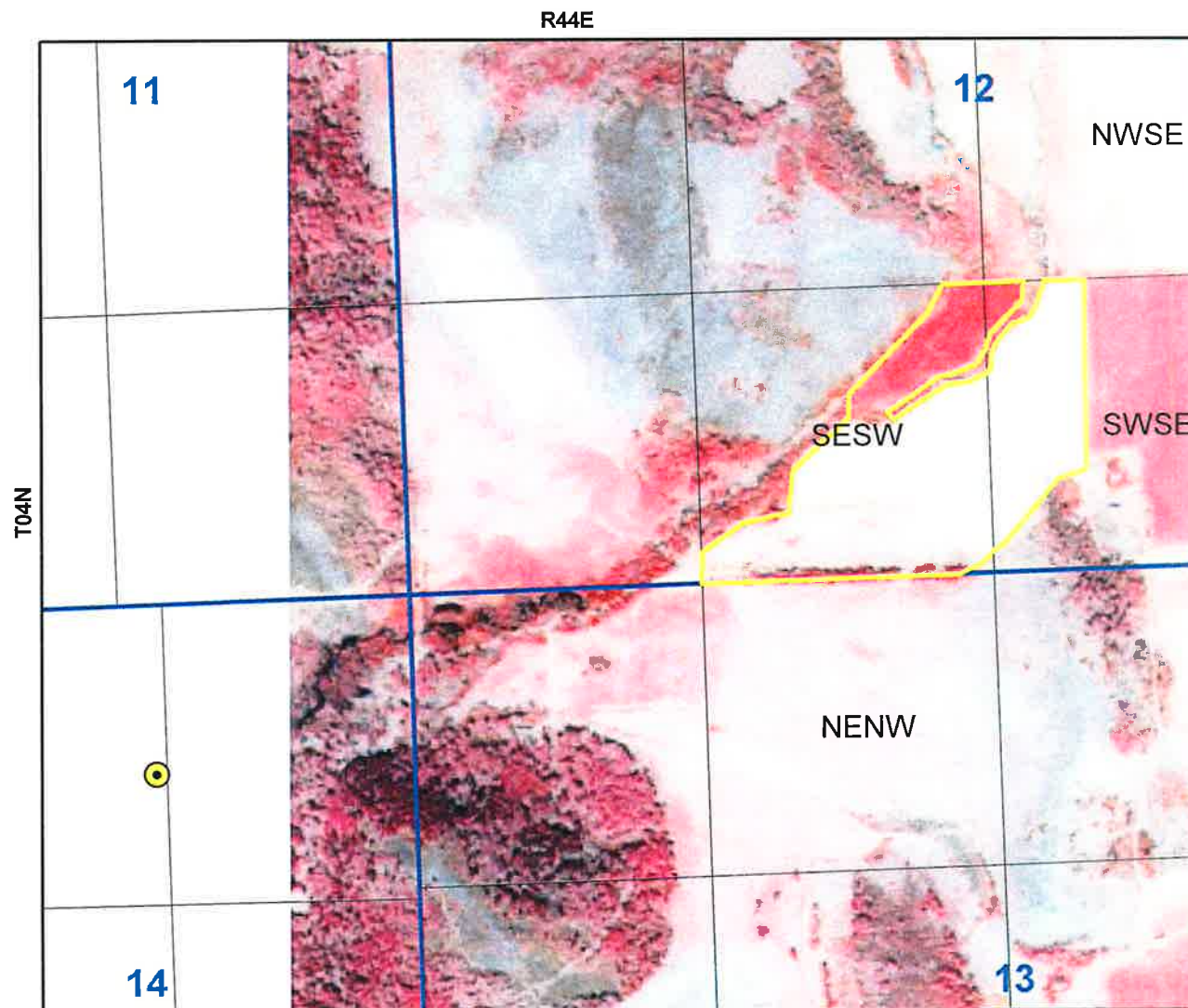
22-13223

Legend

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



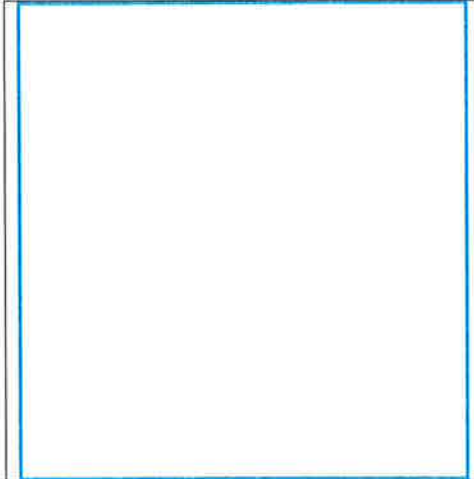
Teton County
IDWR Basin 22



0 0.3 0.6 Miles

Prepared by D. Carlson
On Friday, August 4, 2006
1987/88 Aerial Photography

Z





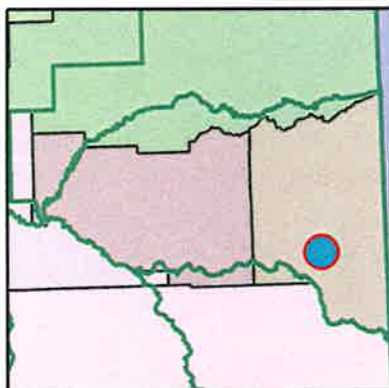
Idaho Department of Water Resources

Adjudication Claim:

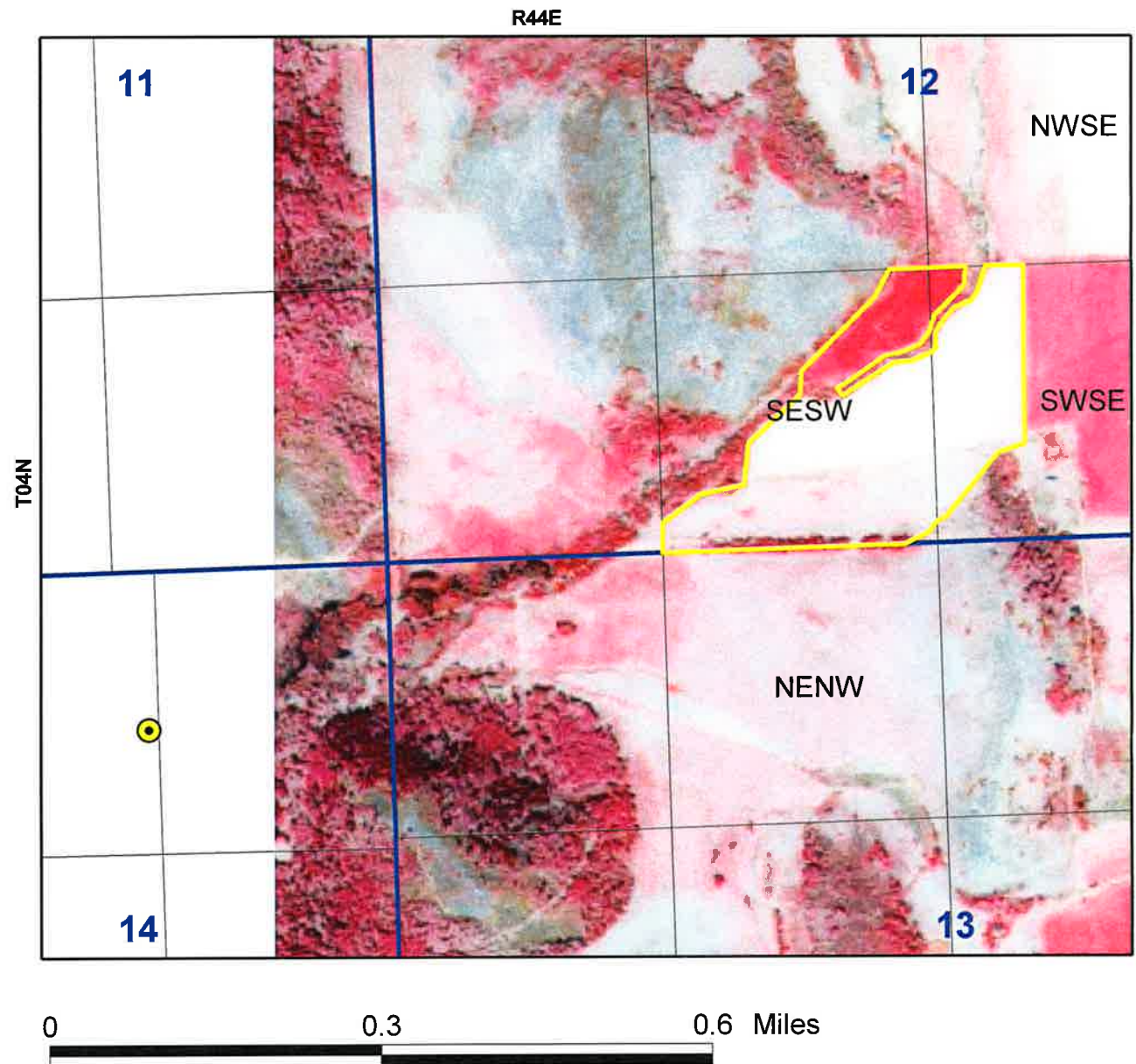
22-13223

Legend

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

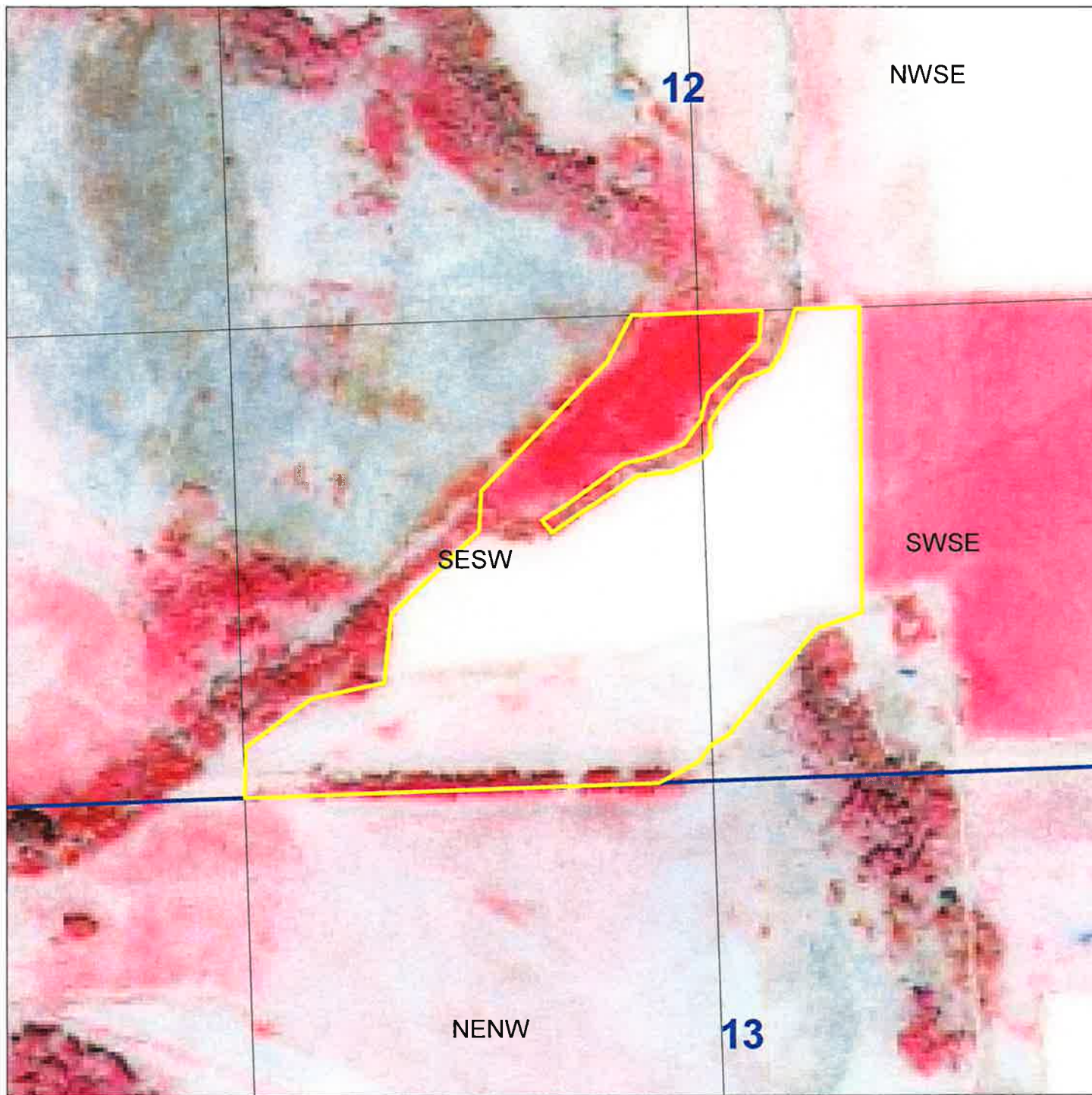


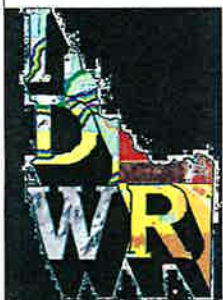
Teton County
IDWR Basin 22



Prepared by D. Carlson
On Friday, August 4, 2006
1987/88 Aerial Photography

22-13223





Idaho Department of Water Resources

Adjudication Claim:

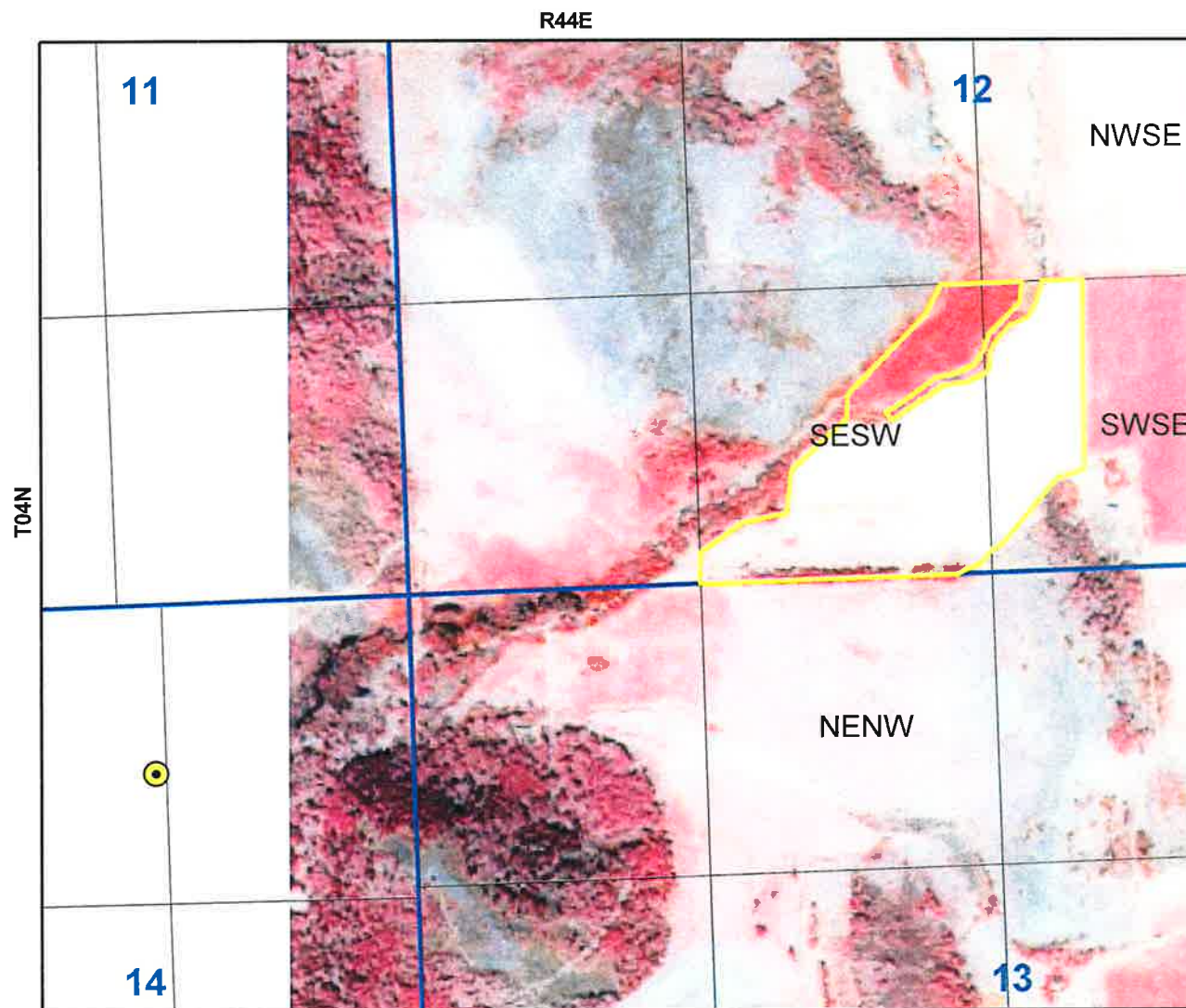
22-13223

Legend

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



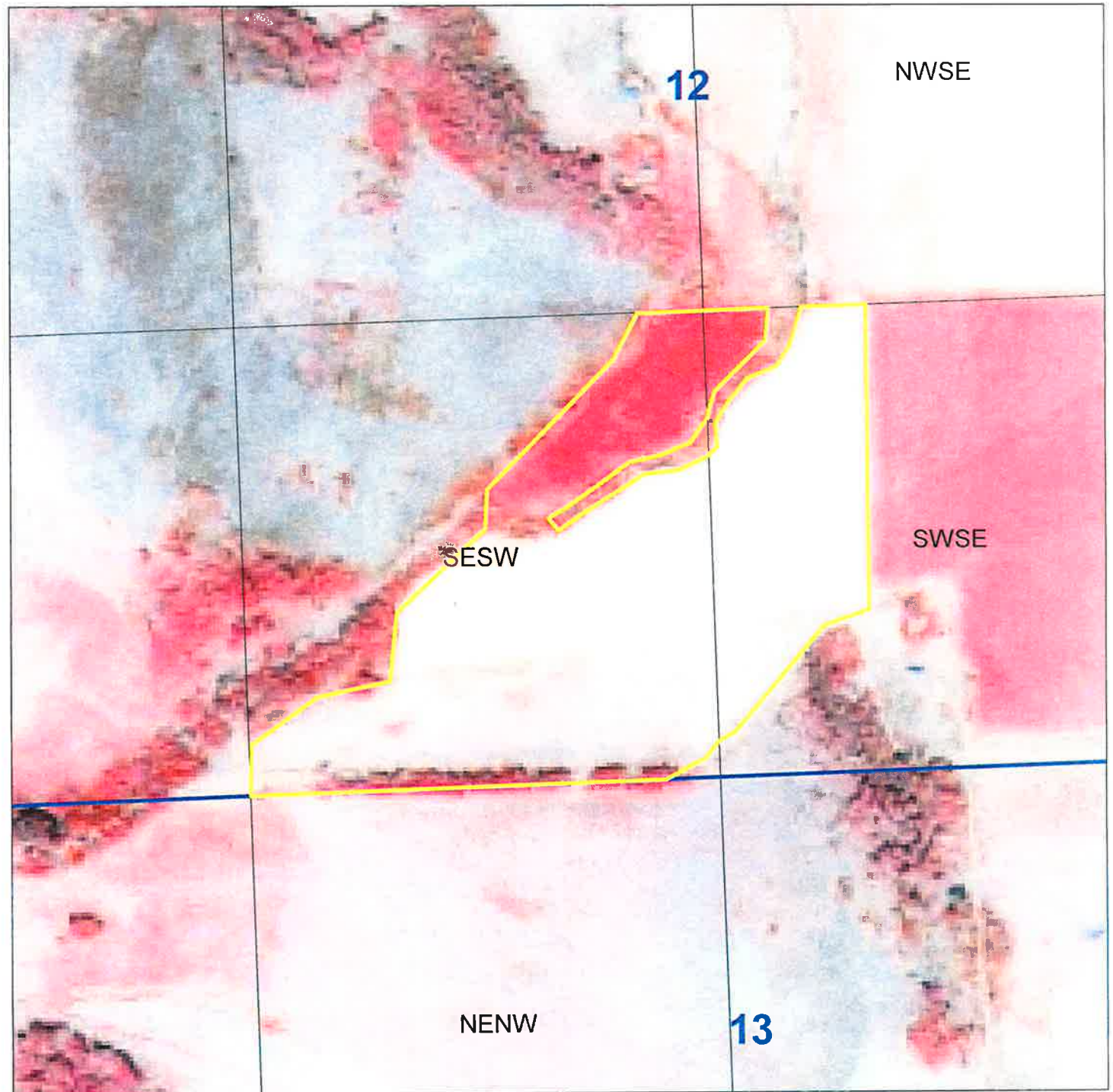
Teton County
IDWR Basin 22



0 0.3 0.6 Miles

Prepared by D. Carlson
On Friday, August 4, 2006
1987/88 Aerial Photography

22-13223





Idaho Department of Water Resources

Adjudication Claim:

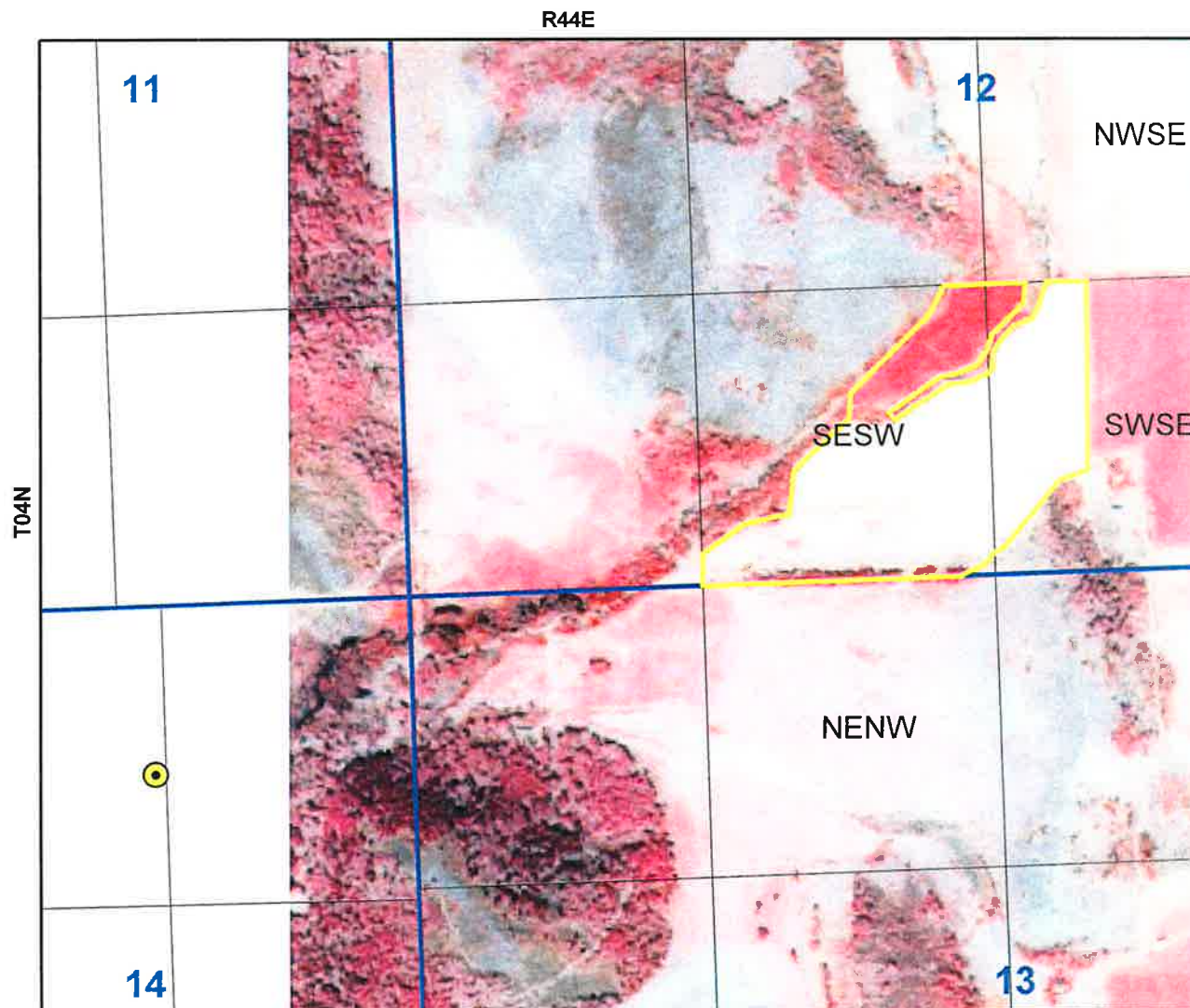
22-13223

Legend

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



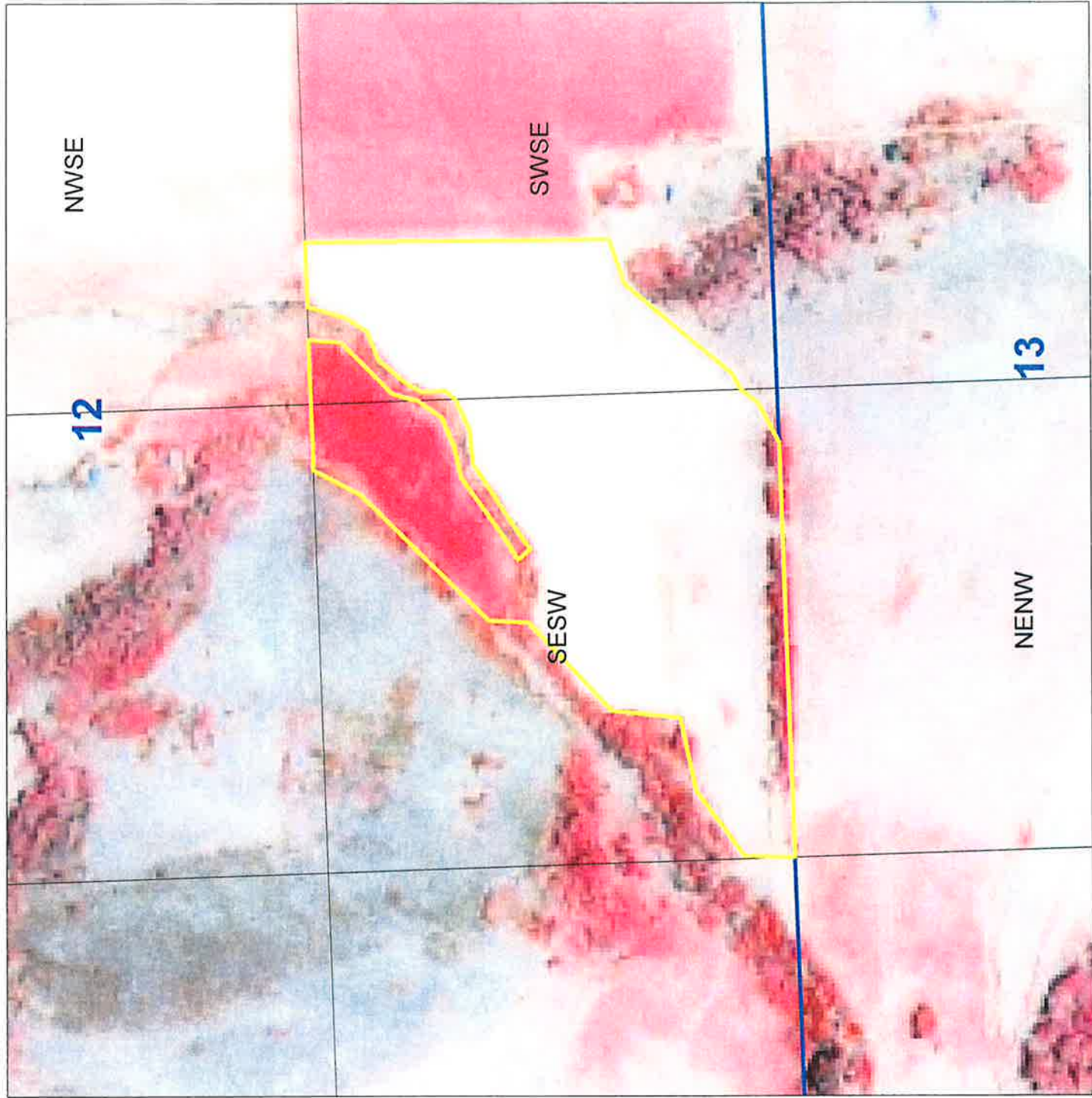
Teton County
IDWR Basin 22



0 0.3 0.6 Miles

Prepared by D. Carlson
On Friday, August 4, 2006
1987/88 Aerial Photography

22-13223



Water Right and SRBA Split History Analysis

22-41

22-41

F. + J. Buxton
POD Mahogany Creek
POU T04N R44E Sec 12
SESW, SWSE
62 acres 1.6 cfs

22-13222

F. + J. Buxton
POD: Mahogany Creek
POU: T04N R44E SWSE Sec 12
22.74 acres 0.69 cfs

22-13223

Cushman Family Trust
POD: Mahogany Creek
POU: T04N R44E Sec 12 SESW
30.26 acres 0.91 cfs

Reviewer: _____
mydoc/fieldexamforms/splithistory

PROFILED

Date: _____
SCANNED

JAN 11 2006

Water Right No(s). A 22 13223



GPS DATA:

Tag # A0013801 Location: concrete gate

Diversion Data:

Source: Mahogany Creek Trib to: Teton River

MOTOR

Make: gravity ^{Flow} Model: _____ Hp: _____
SN: _____

PUMP

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

NOTES:

Diverted out of north pipe
out of irrigation ditch from Mahogany
Creek they are irrigating more land than
the original right probably need an expiration
claim

Field Exam Date: 11-19-04 Agent: Nick Olson

PROFILED

SCANNED

JAN 11 2006

22 0035/26. That the plaintiff, George Furace, is awarded the right to the use of 6.4 cubic feet per second or 320 miners inches of the waters of Mahogany Creek, with priority date of January 22nd, 1916, and with point of diversion and for the irrigation of the lands described in Paragraph XXIX of the Findings of Fact.

22 0036/27. That the plaintiff, Charles Groschlose, is awarded the right to the use of .8 cubic foot per second or 10 miners inches of the waters of Mahogany Creek, with priority date of January 22nd, 1916, and with point of diversion and for the irrigation of the lands described in Paragraph XXX of the Findings of Fact.

22 0037/28. That the plaintiff, George Stone, is awarded the right to the use of 4.8 cubic feet per second or 240 miners inches of the waters of Mahogany Creek, with priority date of January 22nd, 1916, and with point of diversion and for the irrigation of the lands described in Paragraph XXXI of the Findings of Fact.

22 0038/29. That the plaintiff, A. C. Piquet, is awarded the right to the use of 1.6 cubic feet per second or 80 miners inches of the waters of Mahogany Creek, with priority date of January 22nd, 1916, and with point of diversion and for the irrigation of the lands described in Paragraph XXXII of the Findings of Fact.

22 0039/30. That the plaintiff, Henry T. Bates, is awarded the right to the use of 1.6 cubic feet per second or 80 miners inches of the waters of Mahogany Creek, with priority date of January 22nd, 1916, and with point of diversion and for the irrigation of the lands described in Paragraph XXXIII of the Findings of Fact.

22 0040/31. That the plaintiff, Eph Josephson, is awarded the right to the use of 1.6 cubic feet per second or 80 miners inches of the waters of Mahogany Creek, with priority date of January 22nd, 1916, and with point of diversion and for the irrigation of the lands described in Paragraph XXIV of the Findings of Fact.

22 0041/32. That the plaintiff, Elba Wood, is awarded the right to the use of 1.6 cubic feet per second or 80 miners inches of the waters of Mahogany Creek, with priority date of January 22nd, 1916, and with point of diversion and for the irrigation of the lands de-

PROF.

SCANNED

JAN 11 2006

per second or 80 miners inches of the waters of said creek, and has applied the same to beneficial use in the irrigation of the above described lands during each irrigating season, which has been in addition to any other rights fixed, decreed, or granted to the said plaintiff, or his predecessors in interest.

XXXV.

22-0041
That the plaintiff, Elba Wood, is the owner of or has an estate in the following described lands, to-wit:

SE $\frac{1}{4}$ SW $\frac{1}{4}$; SW $\frac{1}{4}$ SE $\frac{1}{4}$ of section 12 in township 4 north, range 44 E.B.M.,

and is the owner of a ditch through which she conveys water from Mahogany Creek, with the point of diversion located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of section 12 in township 4 north, range 44 E.B.M., and the plaintiff, or her predecessor in interest, on or before and ever since the 22nd day of January, 1916, has so diverted 1.6 cubic feet or 80 miners inches of the waters of said creek, and has applied the same to beneficial use in the irrigation of the above described lands during each irrigating season, which has been in addition to any other rights fixed, decreed, or granted to the said plaintiff, or her predecessor in interest.

XXXVI.

22-0042
That the plaintiff, William Hanson, is the owner of or has an estate in the following described lands, to-wit:

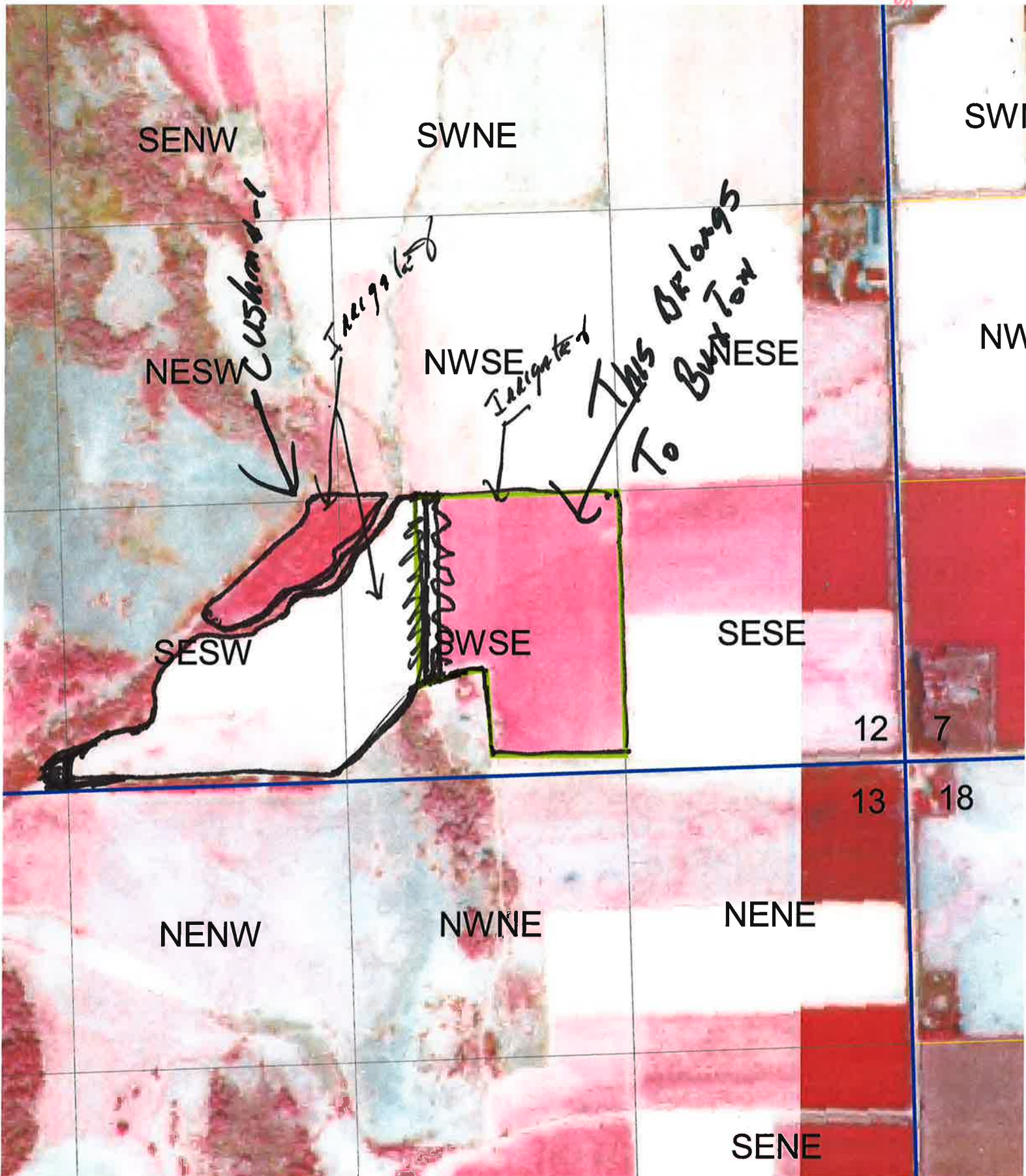
NE $\frac{1}{4}$ NE $\frac{1}{4}$ of section 36, in township 6 north, range 45 E.B.M.,

and is the owner of a ditch through which he conveys water from

PROFILED

22-13223

SCANNED
JAN 11 2006





State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 17, 2002

JOHN & JEANINE CUSHMAN
CUSHMAN FAMILY TRUST
601 S FIGUEROA ST 47TH FLOOR
LOS ANGELES CA 90017

RE: CHANGE IN OWNERSHIP FOR 22-41

Dear Mr. & Mrs. Cushman:

The request for Change in Ownership for a portion of the above referenced Notice(s) of Claim has been processed with the new Notice(s) reflecting you as one of the claimants.

Since the Change in Ownership involved just a portion of the Notice(s) of Claim, the right was split as follows:

22-41:

22-13222, 0.69 cfs, 22.74 acres, Buxton

22-13223, 0.91 cfs, 30.26 acres, Cushman

Enclosed for your records is a typed Notice(s) reflecting your portion of the right. Review the Notice(s) and if you have other corrections or questions, please contact this office.

Respectfully submitted,

Jennifer Crabtree

Technical Records Specialist

SCANNED

JAN 11 2006

PROFILED

OK JC 4-17-02
RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

APR 03 2002

Department of Water Resources
Eastern Region

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
A22-00041		X			

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) **Farrell and Jeanne Buxton**
- Rt. 2, Box 1244, Driggs, ID 83422**
4. New Owner/Claimant(s) **Cushman Family Trust U/D/T 3/29/89**
- Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address **John C. Cushman III and Jeanine S. Cushman, Trustees**
- City, State and ZIP Code **601 South Figueroa Street, 47th Floor**
Los Angeles, CA 90017
- New Telephone Number **(213) 629-6575**
5. Date you acquired the property **9/22/2000**

PROFILED

SCANNED

JAN 11 2006

Assignment of Joint Use Agreement and Acknowledgment of Transfer of Water Rights

Date

The effective date of this agreement is September 22, 2000.

Parties

Jay Farrell Buxton and Jeanne Buxton, husband and wife, of 332 South 500 West, Driggs, ID 83422 (assignor); and

John C. Cushman III and Jeanine S. Cushman as trustees of the Cushman Family Trust U/D/T 3/29/89 (assignee)

Background

A. Assignor is a grantor/reciprocal grantee under a Grant of Easement and Joint Use Agreement dated June 14, 1984, recorded in Teton County, Idaho, June 19, 1984, Instrument no. 94987, affecting the following real property owned by assignor on the date of recording:

The W1/2 SW1/4, SE1/4 SW1/4, and SW1/4 SE1/4, Section 12, Township 4 North, Range 44 East, Boise Meridian, Teton County, Idaho.

B. Contemporaneous with this instrument, assignor through Mahogany Creek Enterprises, Limited Liability Company has sold and conveyed to assignee the following parcels of the above described property:

Parcel 1

Most of the W1/2 SW1/4, Section 12, Township 4 North, Range 44 East, Boise Meridian, Teton County, Idaho, being further described as: commencing at the SW corner of said Section 12; thence N 00°11'21" E, 2476.47 feet, more or less, along the western section line to a fence corner; thence along a fence line, N 80°03'32" E, 823.81 feet, more or less, to a point; thence along a fence line, S 89°46'27" E, 515.26 feet, more or less, to a point on the east line of the W1/2 SW1/4 of said Section 12; thence S 00°13'22" W, 2614.83 feet along the east line of the W1/2 SW1/4 to the SE corner of the W1/2 SW1/4 of said Section 12; thence S 89°55'14" W, 1324.72 feet along the southern section line of said Section 12 to the point of beginning.

Contains 78.32 acres, more or less.

Subject to a county road and utility easement along the southern property line.

Parcel 2

Most of the SE1/4 SW1/4 and a part of the SW1/4 SE1/4, Section 12, Township 4 North, Range 44 East, Boise Meridian, Teton County, Idaho, being further described as: from the S1/4 corner of said Section 12, thence S 89°55'14" W, 100.00 feet along the southern section line to an iron pin, the true point of beginning; thence S 89°55'14" W, 1224.71 feet further along the southern section line to the SW corner of the SE1/4 SW1/4 of said Section 12; thence N 00°13'22" E, 1324.50 feet along the west line of the SE1/4 SW1/4 to the NW corner of the SE1/4 SW1/4 of said Section 12; thence N 89°56'14" E, 1325.49 feet along the north line of the SE1/4 SW1/4 to the NE corner of the SE1/4 SW1/4 of said Section 12; thence N 89°56'00" E, 351.80 feet along the north line of the SW1/4 SE1/4 of said Section 12 to a point; thence South, 921.92 feet to a point; thence S 83°17'08" W, 50.37 feet to an iron pin; thence S 42°39'15" W, 126.21 feet to an iron pin; thence S 39°51'02" W, 218.69 feet to an iron pin; thence S 53°12'39" W, 227.32 feet to the point of beginning.

Contains 48.93 acres, more or less.

Subject to a county road and utility easement along the southern property lines.

C. According to the terms of the Grant of Easement and Joint Use Agreement, the reciprocal easements and their corresponding burdens and benefits described in that instrument are perpetual in nature, appurtenant to, and run with assignor's real property being conveyed by separate instrument to assignee.

D. The Grant of Easement and Joint Use Agreement contains additional terms and conditions relating to joint ownership in a buried irrigation pipeline system known as the Mahogany Sprinkler Irrigation Group and how that irrigation system is to be maintained, repaired, and replaced. The irrigation system is presently owned 80% by Jay Dell Buxton and Judy Buxton, husband and wife; 10% by Steven Bates and Mary Bates, husband and wife; and 10% by assignor. Assignor's 10% ownership interest corresponds to a total of 53 acres designated by assignor as the place of use according to the water claims filed by assignor with the Idaho Department of Water Resources as water right claim no. A22-00041. 30.26 of these 53 irrigated acres are included in the real property being conveyed by assignor to assignee. It is the ownership interest in the irrigation system and the transfer of ownership in the water rights corresponding to the 30.26 irrigated acres that is the subject of this Assignment of Joint Use Agreement and Acknowledgment of Transfer of Water Rights. All the water is used on Parcel 2 described above.

Assignment

As additional consideration for the purchase price paid by assignee to assignor for the conveyance of the real property described in background paragraph B, assignor now assigns, transfers, and conveys to assignee a 5.7% ownership in the buried irrigation pipeline system known as the Mahogany Sprinkler Irrigation Group. Assignor retains the remaining 5% of assignor's original 10% interest in the irrigation system. This division is based on the irrigated acres ratio of $30.26 \div 53$.

Acknowledgment of transfer

Assignor acknowledges and agrees to the transfer of ownership of the underlying water rights as shown in the attached IDWR Notice of Change in Water Right Ownership and authorizes assignee to file such notice with the Idaho Department of Water Resources (IDWR). The filing of this instrument, together with a copy of the recorded warranty deed conveying the real property described in background paragraph B to assignee, shall be sufficient proof of assignor's acknowledgment of transfer of said water rights as set forth in the attached IDWR notice.

Recording

This instrument shall be recorded and indexed as pertaining to all the real property described in background paragraphs A and B.

Assignor:

Jay Farrell Buxton
Jay Farrell Buxton

Jeanne Buxton
Jeanne Buxton

STATE OF IDAHO

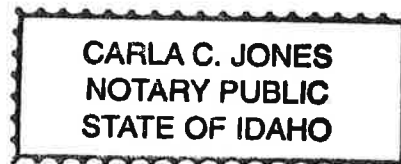
County of Teton

On September 22, 2000, before me, Carla C Jones, an Idaho notary public, personally appeared Jay Farrell Buxton and Jeanne Buxton, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

In witness, I have set my hand and affixed my official seal the day and year in this certificate first above written.

Carla C Jones
Notary Public for Idaho
Residing at: Driggs
My Commission expires: 11/19/05

(SEAL)



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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 22-13223
Date Received: 4/17/2002
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

CUSHMAN FAMILY TRUST Phone: (213)629-6575
601 S FIGUEROA ST 47TH FLOOR
LOS ANGELES CA USA 90017

2. Date of Priority: 01/22/1916

3. Source: MAHOGANY CREEK Trib. to: TETON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
04N	44E	14	NE NE	TETON	

5. Description of diverting works:

PIPELINE TO SPRINKLER SYSTEM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/15	0.91	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
----------	-------	---------	----------------	-----	-------



04N	44E	12	SE	SW	IRRIGATION	24.46
			SW	SE	IRRIGATION	5.8
					Section Acres	30.26
					Total Acres	30.26

11. Place of use in counties: TETON

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

13. Other Water Rights Used:

14. Remarks:

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 22-41

15. Basis of Claim: Decreed

to 2 ac. total in 1987

Cushman

Buxton

JAN 11 2006