

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

RIGHT NUMBER: 22-13246

NAME AND ADDRESS:

JAMES W PRICE
PO BOX 212
DRIGGS ID 83422

MARLENE T PRICE
PO BOX 212
DRIGGS ID 83422

PRICE BROS
73 HARPER BOX 563
DRIGGS ID 83422

SOURCE:

Source:
TETON CREEK

Tributary:
TETON RIVER

QUANTITY:

3.030 CFS

~~3.000 CFS~~

PRIORITY DATE:

04/15/1938

~~04/15/1936~~

POINT OF DIVERSION:

T05N R45E S36 NWNWNE
Within TETON County

PURPOSE AND
PERIOD OF USE:

Purpose of use:

Period of use:

Quantity:

IRRIGATION

04/15 10/31

3.030 CFS

~~3.000 CFS~~

PLACE OF USE:

IRRIGATION within TETON County

T04N R45E S03 Lot 4 NWNW 35.0

T05N R45E S34 NWSW 0.7

T05N R45E S34 SWSW 19.0

T05N R45E S34 SESW 21.0

75.7 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 75.7 acres in a single irrigation season. Combined Right Nos.: 22-78, 22-84, and 22-13246.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Water is conveyed through a side channel of Teton Creek, with the beginning of the side channel located at T5N R45E S25 SWSE.



Holden Kidwell
Hahn & Crapo P.L.L.C.
L A W O F F I C E S

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405

RECEIVED
JUL 13 2010
Department of Water Resources
Eastern Region

Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com
E-mail: rharris@holdenlegal.com

July 13, 2010

VIA HAND DELIVERY

Michael Holliday
Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

RE: Signed Standard Form 5 Stipulated Elements for a Water Right Regarding South Bates Water Group.

Dear Michael:

Enclosed for your signature are Standard Form 5 Stipulated Elements of a Water Right regarding the water users that divert from the side channel of Teton Creek, which I believe are commonly referred to as the South Bates Water Group. I have had these documents for some time, but recently received authorization from James Price to agree to the consistent priority date that you and I had discussed. Overall, we find the water rights to be satisfactory, and request that they be decreed accordingly. If you have any questions or concerns, please let me know.

Best Regards,

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures

G:\WPDATA\RLH\15182 South Bates\Michael Holliday ltr 071310.wpd:cdv

Established in 1896



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

January 6, 2010

VIA ELECTRONIC & FIRST CLASS MAIL

Robert L. Harris
Holden, Kidwell, Hahn & Crapo, P.L.L.C.
1000 Riverwalk Dr., Ste. 200
P.O. Box 50130
Idaho Falls, ID 83405

Re: Basin 22 Teton Creek settlement proposal and request for documents

Dear Rob:

I received your December 9, 2009, letter to my colleague, Garrick Baxter, requesting documents for Basin 22 water right claims in Teton Creek. As you know, I am now handling these matters on behalf of the Idaho Department of Water Resources ("IDWR").

In your letter, you propose a settlement to resolve SRBA subcase numbers 22-13245, -13246, -13626, -13636, -13637, -13639, and -12018 ("Water Rights") with a remark that recognizes the historical use of the side channel. I presented your proposal to IDWR. Using strikethrough and underlining to indicate slight modifications to the proposed language, IDWR agrees to a remark in the Explanatory section of the Water Rights that states, "Water is ~~delivered~~ conveyed through a side channel of Teton Creek, with the beginning of the side channel located at T5N., R45E., Sec. 25, SWSE." As we have discussed, if it proves helpful, IDWR is willing to write a letter to you regarding IDWR's recognition of the use of the side channel as the conveyance means from the recommended point of diversion on Teton Creek to the various places of use reflected in the Water Rights.

While discussing the proposed settlement last month, you and I both agreed that, at this time, emphasis should be placed on settlement instead of document production. Pursuant to agreement, then, IDWR will hold off on responding while we continue negotiations.

Natural Resources Division - Water Resources Section
P.O. Box 83720, Boise, Idaho 83720-0088
Telephone: (208) 287-4801; Legal FAX: (208) 287-6700

In hopes that your clients find the above remark agreeable, IDWR has begun preparing the necessary settlement documents ("SF5s") for each of the Water Rights. Michael Holliday, the IDWR agent assigned to the Water Rights, has identified additional elements of some of the Water Rights that should be adjusted, i.e., increased quantity, improved priority date, etc. Please let me know what your clients decide, and if the remark resolves their concerns, I will forward to you the SF5s for review and signatures.

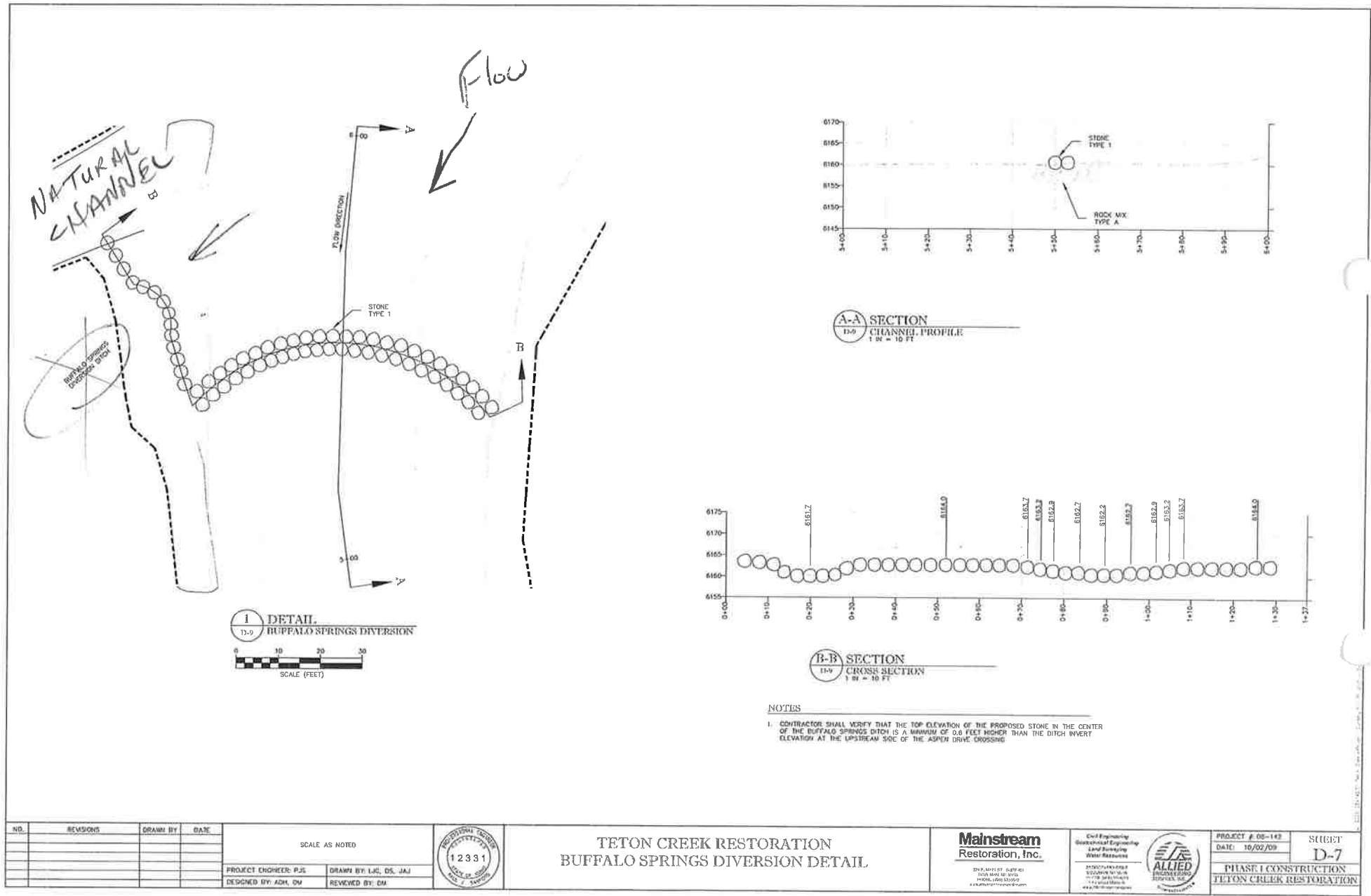
If you have questions about this matter, please contact me at (208) 287-4810.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrea L. Courtney", with a stylized flourish at the end.

Andrea L. Courtney

Cc: Michael Holliday





STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

April 6, 2009

Robert L. Harris
1000 Riverwalk Drive, Suite 200
P.O. Box 50130
Idaho Falls, ID 83405

RE: *SRBA Subcase No. 22-13245, 22-13246, 22-13626, 22-13636, 22-13637, 22-13639, and 22-12018 (Idaho Holdings, LLC et al.)*

Dear Rob:

I recently met with the Idaho Department of Water Resources (IDWR) to discuss your clients' request that IDWR recognize an accomplished transfer in the point of diversion for the above referenced water right claims. Here are the facts as I understand them: These are beneficial use claims from Teton Creek for irrigation purposes. Teton Creek is a braided stream and the headgate for these rights is located on the west channel of Teton Creek in NWNE of Section 36, Township 5N, Range 45E. The water master historically measured and ensured delivery of these water rights at the headgate described above. Mr. Leon Westin provided an affidavit to IDWR that recognizes that the historical point of diversion is the NWNE of Section 36. However, Mr. Weston explains that sometime in the early 1980s, a developer altered the Teton Creek stream channel. The alteration changed the creek such that less water went into the west channel and more water went into the other channels. As a result, Mr. Westin's father and uncle pushed gravel and other debris into Teton Creek so that more water would move into the west channel. Mr. Westin's father and uncle did this "on a number of occasions" and did this prior to November 19, 1987. This was done in the SW1/4SE1/4 of Section 25, Township 5N, Range 45E. Your clients would like the point of diversion for these rights to now be described as the SW1/4SE1/4 of Section 25, Township 5N, Range 45E.

I have discussed this matter with a number of representatives of IDWR. IDWR is sympathetic to your clients' situation, as your clients are not the ones that originally changed the hydrology of Teton Creek. However, IDWR cannot agree that there has been an accomplished transfer of the point of diversion for these water rights. First, the historical record shows that the point of diversion (where the water is measured and delivered) continues to be located at the NWNE of Section 36. Dee O'Brien was a deputy water master for Water District 01 from 1978 to 2000. Mr. O'Brien provided a letter to IDWR explaining that he delivered water from Teton Creek through the diversion near the "Y" intersection just east of Driggs (this corresponds with the recommended point of diversion). A copy of the letter is attached. IDWR has talked with the current water master and the assistant water master. They said that they measure and deliver these water rights at the headgate at the NWNE of Section 36. Even assuming that Mr. Westin's father and uncle did push gravel and other debris into the Teton Creek on occasion, IDWR does not view these acts as transferring the point of diversion for these water rights. The point of measurement and delivery has always been and continues to be at the NWNE of Section 36.

Natural Resources Division - Water Resources Section
P.O. Box 83720, Boise, Idaho 83720-0098
Telephone: (208) 287-4801; Legal FAX: (208) 287-6700

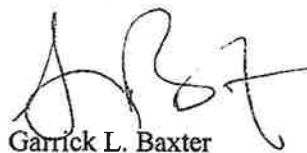
Moreover, IDWR faced a similar factual situation in Basin 65. In Basin 65, water users along Seven Mile Slough often pushed dirt and other debris into the stream channel to funnel more water towards their headgates. In its SRBA recommendations in Basin 65, IDWR recommended the point of diversion where the headgate is located, not where the water users push dirt and debris into the river to funnel water towards their headgates. The placement of dirt and debris in the river in this manner is analogous to the many splitting structures located in rivers through out the state. These structures do not function as points of diversion for water rights, but instead redirect water in one direction or another within a natural stream. IDWR does not consider river splitting structures as points of diversion for water rights. To do so in this case would be a departure from IDWR policy.

Finally, the request also raises stream channel protection concerns. IDWR is not inclined to support a change to the point of diversion that could lead to arguments that the west channel is not a natural channel of Teton Creek but an unregulated ditch. Moving the point of diversion to the suggested location could undermine the status of the west channel of Teton Creek as a natural stream channel.

If your clients believe they need to put a splitting structure in Teton Creek to ensure they get adequate water, IDWR encourages your clients visit with Mr. Tom Bassista of IDWR's Eastern Regional Office. Mr. Bassista is a stream channel protection specialist for IDWR and would be able to help your clients start the process for getting a permit to install a splitting structure. Mr. Bassista is familiar with the process and can help them navigate their way through it. While IDWR cannot guarantee that the permit would be approved, IDWR sees the permit as the best way to accomplish their goal of moving more water down the west channel.

If you should have any questions or comments, please don't hesitate to contact me at 287-4811.

Sincerely,



Garrick L. Baxter
Deputy Attorney General, IDWR

Attachment

cc: Michael Holliday
Don Shaff
Ernie Carlsen

Dear Sirs:

I am writing this letter to address some issues regarding water rights and delivery of water to Jay Dell Butler, James Price and others from Buffalo Springs, Crandall Springs and unnamed springs. These claimants name Teton Creek as the source for their claims, which seem to be the issue.

I served as deputy watermaster for water district 01 from 1978 to 2000. During that time I delivered water from Teton Creek through the diversion near the "Y" intersection just east of Driggs and from a diversion on Teton Creek just east of the Val Christensen home. This diversion is located approximately 1/3 of a mile downstream from the "Y" diversion. After these two diversions were opened it took approximately 10 days to two weeks for the sub water to come up and for the springs and streams that are used by Price and Butler to begin to flow.

These springs and the sub water continued to flow for the rest of the irrigation season even though Teton Creek was totally diverted above these two diversions on the Creek.

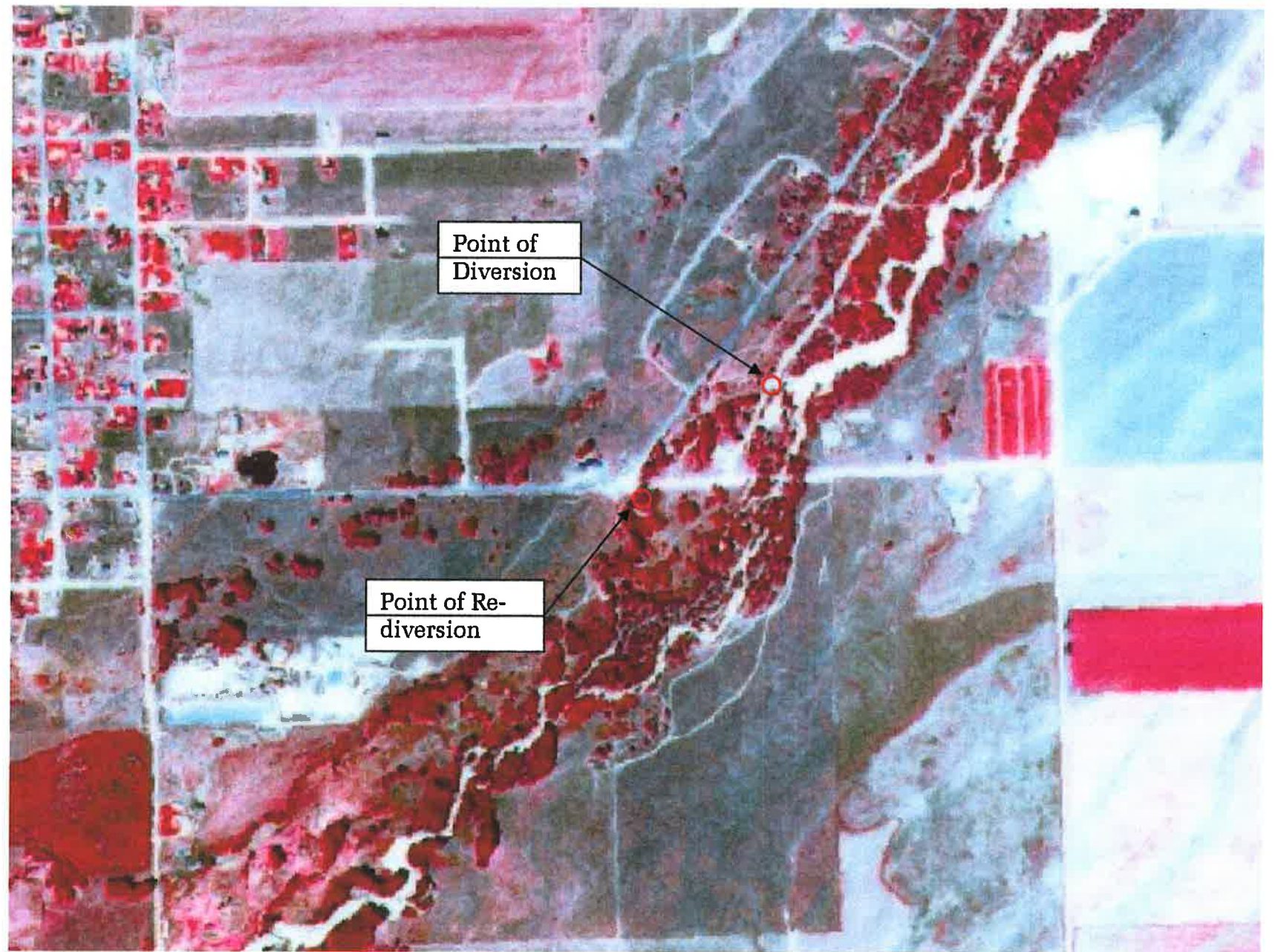
This was the common practice during the entire time that I was the watermaster.

Sincerely yours,

Deed' Buen

SCANNED

JUN 06 2007



Location Map
T05N, R45E, Sec 25 (NAIP, 2006)

Subcase Nos.

22-13245, 22-13246, 22-13626, 22-13636, 22-13637, 22-13639, and 22-12018.

AFFIDAVIT OF LEON WESTIN

State of Idaho)
)ss.
County of Bonneville)

1. I am over the age of 18 and competent to testify as to the matters contained herein. If called upon to testify in court, I would testify as follows.
2. I was born and raised in Teton County, Idaho. I am the owner of property in Teton County, and I am the owner of Water Right No. 22-13637. I am familiar with how water diverted pursuant to this water has been diverted and used.
3. This water right allows the diversion of water from Teton Creek to my property for irrigation purposes.
4. Originally, Teton Creek was a braided channel upstream from a headgate where the watermaster measured water diverted pursuant to my water right and the owners of other water rights. This headgate is located in NW1/4NE1/4 of Section 36, Township 5N, Range 45E.
5. The channel of Teton Creek that carried water to the headgate referenced in the above paragraph 4 was the western-most channel of the original Teton Creek channels.
6. Beginning in the early 1980s, local developers altered the riparian area directly north of the headgate such that most of the water was contained in the other two channels. Because of these changes, it became more difficult for water to make it down the western-most channel that delivered water to the headgate. As a result, work was performed at the heading of this side channel to ensure sufficient water was delivered to the headgate.
7. I remember on a number of occasions my father and uncle using a Ford Major Diesel tractor with an F-11 loader to push gravel and other debris into the other Teton Creek channels to direct water from Teton Creek into the channel that carried water to the headgate. The heading of this side channel is located in SW1/4SE1/4 of Section 25, Township 5N, Range 45E.
8. I cannot remember specifically the years when the work was done, but I do know that the work was performed before 1987. I know it was before 1987 because my mother passed away in 1983, and the work was performed before that time.


Leon Westin

Subscribed and sworn to me on March 17, 2009.



Ruth M. Olson
Notary Public for Idaho
Residing at: Idaho
My Commission Expires: 11/30/2010

Subcase Nos.

22-13245, 22-13246, 22-13626, 22-13636, 22-13637, 22-13639, and 22-12018.

AFFIDAVIT OF GARY L. HENRIE

State of Idaho)
)ss.
County of Bonneville)

1. I am over the age of 18 and competent to testify as to the matters contained herein. If called upon to testify in court, I would testify as follows.
2. I was born and raised in Teton County, Idaho. I am 73 years old. I am the owner of property in Teton County, and I am the owner of Water Right No. 22-13636. I am familiar with how water diverted pursuant to this water has been diverted and used.
3. This water right allows the diversion of water from Teton Creek to my property for irrigation purposes.
4. Originally, Teton Creek was a braided channel upstream from a headgate where the watermaster measured water diverted pursuant to my water right and the owners of other water rights. This headgate is located in NW1/4NE1/4 of Section 36, Township 5N, Range 45E.
5. The channel of Teton Creek that carried water to the headgate referenced in the above paragraph 4 was the western-most channel of the original Teton Creek channels.
6. Beginning in the early 1980s, local developers altered the riparian area directly north of the headgate such that most of the water was contained in the other two channels. Because of these changes, it became more difficult for water to make it down the western-most channel that delivered water to the headgate. As a result, work was performed at the heading of this side channel to ensure sufficient water was delivered to the headgate.
7. I personally witnessed the end result of the work performed at the heading of the side channel located in SW1/4SE1/4 of Section 25, Township 5N, Range 45E. I observed pushed up gravel that would allow for the diversion of water down the side channel. The work was performed with a tractor by my father, Les Henrie, and Otto Westin and Dale Price.
8. I cannot remember specifically the years when the work was done, but I do know that the work was performed before 1987. I know it was before 1987 because Dale Price died in 1990. Dale was a neighbor and friend; and I know work was performed much earlier than 1990 when he died.

Gary L. Henrie
Gary L. Henrie

Subscribed and sworn to me on March 17, 2009.



Ruth M. Oliversen
Notary Public for Idaho
Residing at: Idaho
My Commission Expires: 11/30/2010

Subcase Nos.

22-13245, 22-13246, 22-13626, 22-13636, 22-13637, 22-13639, and 22-12018.

AFFIDAVIT OF JAMES W. PRICE

State of Idaho)
)ss.
County of Bonneville)

1. I am over the age of 18 and competent to testify as to the matters contained herein. If called upon to testify in court, I would testify as follows.
2. I was born and raised in Teton County, Idaho. I am 77 years old. I am the owner of property in Teton County, and I am the owner of Water Right No. 22-13246. I am familiar with how water diverted pursuant to this water has been diverted and used.
3. This water right allows the diversion of water from Teton Creek to my property for irrigation purposes.
4. Originally, Teton Creek was a braided channel upstream from a headgate where the watermaster measured water diverted pursuant to my water right and the owners of other water rights. This headgate is located in NW1/4NE1/4 of Section 36, Township 5N, Range 45E.
5. The channel of Teton Creek that carried water to the headgate referenced in the above paragraph 4 was the western-most channel of the original Teton Creek channels.
6. Beginning in the early 1980s, local developers altered the riparian area directly north of the headgate such that most of the water was contained in the other two channels. Because of these changes, it became more difficult for water to make it down the western-most channel that delivered water to the headgate. As a result, work was performed at the heading of this side channel to ensure sufficient water was delivered to the headgate.
7. I am a neighbor to Leon Westin, and I know that my brother Dale would get together with Leon's dad and uncle to go perform work on the side channel. I personally witnessed the end result of the work performed at the heading of the side channel located in SW1/4SE1/4 of Section 25, Township 5N, Range 45E. I observed pushed up gravel, which was removed from the heading of the side channel.
8. I have also performed work at the heading of a ditch called the Price-Fairbanks Ditch, which is upstream from the side channel identified in Paragraph 7 above. I used a tractor and loader, and I pushed the gravel over away from the heading to allow water to go down the Price-Fairbanks Ditch. My brother Dale performed the work downstream on the side channel, and while I did not actually perform the work on the side channel heading, I observed the results from Dale's work.
9. I cannot remember specifically the years when the work was done, but I do know that the work was performed before 1987. I know it was before 1987 because my

brother Dale passed away in 1990, and the work was performed well before that time.

James W. Price
James W. Price

Subscribed and sworn to me on March 17, 2009.



Ruth M. Oliverson
Notary Public for Idaho
Residing at: Idaho
My Commission Expires: 11/30/2010



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

EASTERN REGION

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Interim Director

January 18, 2007

DALE & VIRGINIA PRICE
3032 W 3000 S
WESTON ID 83286-5127

RE: CHANGE OF ADDRESS FOR 22-78, 22-84, 22-13246

Dear Mr. & Mrs. Price:

Please fill out the enclosed change of address form and mail back to me. We need signed permission to update your address in our database.

Sincerely,

Jennifer Crabtree
Technical Records Specialist

Enclosure

SCANNED

JUN 06 2007

OF WATER RESOURCES
DISTRICT OFFICE
4. SKYLINE DR.
LLS, IDAHO 83402

RESS SERVICE
REQUESTED

U.S. POSTAGE
1321 PB3523907
8952 \$00.63 JAN 05 2007
8693 MAILED FROM ZIP CODE 83402

SCANNED
JUN 06 2007

PRIC073* 834222001 1B05 11 01/09/07
FORWARD TIME EXP RTN TO SEND
PRICE VIRGINIA
3032 W 3000 S
WESTON ID 83286-5127

RETURN TO SENDER
|||||

RECEIVED
JAN 12 2007
Department of Water Resources
Southwest Region

DALE K PRICE

VIRGINIA P PRICE
73 HARPER AVE
PO BOX 563
DRIGGS ID 83422

22-78
22-84
22-13246

U.S. POSTAGE PB3523907
1611 8942 \$00.87 DEC 01 2006
6531 MAILED FROM ZIP CODE 83402

ADDRESS SERVICE
REQUESTED

 **ATTEMPTED,
NOT KNOWN**

AWK

MARILYN ANDERSON
125 E 2ND N
REXBURG ID 83440

not
at this
address

RECEIVED
DEC 28 2006
Department of Water Resources
Eastern Region

SCANNED
JUN 06 2007

Present owner
for
22-84
22-78
22-13246

WATER RESOURCES
RICT OFFICE
YLINE DR.
IDAHO 83402

SS SERVICE
EQUESTED

 **ATTEMPTED,
NOT KNOWN**

PRIC563* 834222001 1N 11 01/09/07
UNABLE TO FORWARD

NO FORWARD ORDER ON FILE

RETURN TO POSTMASTER
OF ADDRESSEE FOR REVIEW

83422

PRICE BROS
73 HARPER BOX 563

~~PRICE BROS 83402~~

★ ★  PITNEY BOWES
★ ★
U.S. POSTAGE 1191 PB3523907
8912 \$00.870 JAN 05 2007
8367 MAILED FROM ZIP CODE 83402

RECEIVED
JAN 11 2007

Department of Water Resources
Eastern Region

SCANNED

JUN 06 2007

DR

22-78

22-84

22-13246

22-13248

22-13610

22-13612

22-480C 7H
136G

22-621A 78

13290	7029	13372	84
13413	7349	7388	13246
11526	7373	7339	13248
11529	13590	12064	13610
11530	13540	2128	13612
	356	10835	133A

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION
IDAHO FALLS ID
208-525-7161 - PHONE
208-525-7177 - FAX

7338	12533	7178
276A	12629	7215B
408B	2146	12239
409B	4076	2206
410B	184A	11677
	10105	178A
	2293	178B
	11384	10236
	4139	13457
	4161	7403

TRANSMITTAL COVER SHEET

OMNIFAX

FAX: 354-8410

TO: JESSIE FROM: JENNIFER

Teton County Assessor

DOCUMENT DESCRIPTION: REQUEST FOR CURRENT OWNER INFORMATION. I HAVE SENT A SPREADSHEET INDICATING WHO WE HAVE IN OUR RECORDS AND THEIR LEGAL DESCRIPTION OF THEIR PROPERTY. EACH OF THESE LETTERS WAS RETURNED TO SENDER. PLEASE FILL OUT THE

LAST COLUMN WITH THE OWNER AND ADDRESS INFORMATION FOR THE PROPERTY LISTED. I HAVE ATTACHED A MAP FOR EACH PROPERTY WHEN I HAD ONE AVAILABLE.

PLEASE CALL ME WITH ANY QUESTIONS. THANKS SO MUCH FOR YOUR HELP.

TOTAL NUMBER OF PAGES (Including this page): X 13

* * *

* Billing address: N/A * *

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* No of Pages Cost / Page Total Charge N/A * *

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SCANNED
JUN 06 2007



Idaho Department of Water Resources

SRBA Recommendation:

22-13246

(Irrigation)

Legend

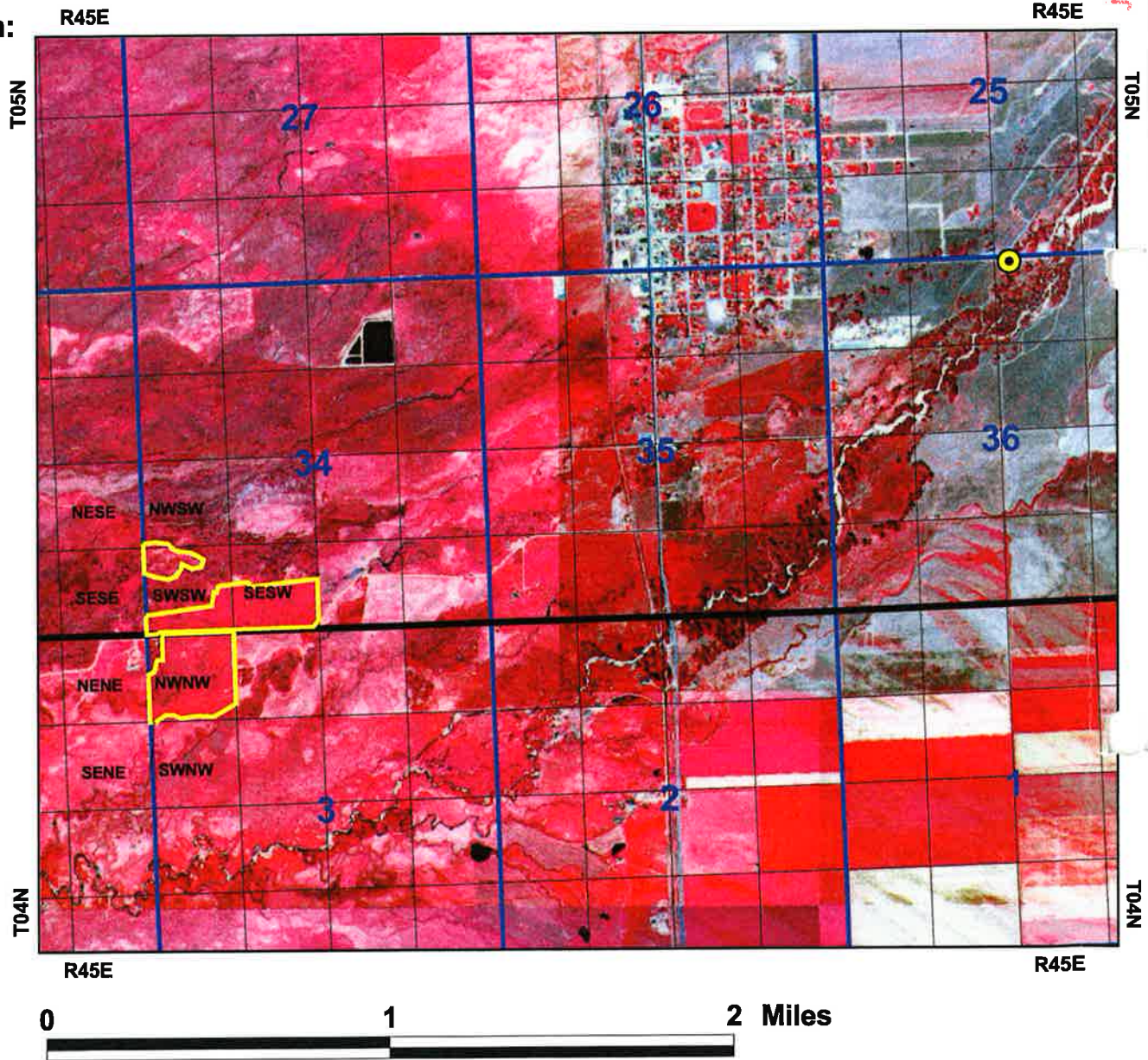
- Point of Diversion
- Place of Use
- Townships
- PLS Sections
- Quarter Quarters



Teton County
IDWR Basin 22



Prepared by T. Galbraith
On Monday, November 20, 2006
1987/88 Aerial Photography



11-20-06

- Given 2" to the acre for
conveyance loss.

ib

SCANNED

JUN 06 2007

Claim no. _____

Claimant Contact Log

Date Remarks Agent initials

6/26/04 Visited with James Price and
went over maps, rights ownership
etc. Need to get c/o forms
for him.

7/14/04 Visited with James Price

7/16/04 Met with Ken Price and gave
him change of ownership form.

5/18/05 Called James Price - Discussed the documents from
Ray Rigby - All the documents support is (22-685 orig.
O'Brien) 22-11747 SRBA claim - split to 22-13247 and 13248 - the
documents in no way support this claim (22-13246). I
advised his notes and affidavit from someone that
can support delivery/dates. Also advised he talk
to Doc O'Brien to have him see if he has delivery
records.
He will collect additional data and call SA Appt.

SCANNED

JUN 06 2007

Contacts Data Entry Form

Claim Number: _____

Owner Type	Full Name	Address	City	State	Zip

Current Owner: _____ Phone No.: _____

Current Owner: _____ Phone No.: _____

Current Owner: _____ Phone No.: _____

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

Representing Attorney: _____ Phone No.: _____

Accompanied By: _____ Phone No.: _____

Relationship to Claimant: _____ Date of Field Exam: _____

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

CLAIMING AS BONE USE AS 22-1942 SPLIT TO: 22-13245 AND 13246.

Owners claim Teton Creek as source with Buffalo springs as a secondary source. If Teton Creek isn't diverted early the springs will not come in.

James Price owns all of SW 4 of Sec. 34 even though the NESW is not listed. Approx. 8 acres of that 40 acres is irrigated.

The source of water is Teton Creek which brings up Buffalo springs and an unnamed stream that flows into the north side of the property.

Refers to Court Case # 1948 from Seventh Judicial District Court.

Overlaps with 22-13248 - Apparently an Enlargement Claim

Reviewer: _____ Date: _____

SCANNED

JUN 06 2007

Priority Date Data Entry Form

Claim Number: _____

Water Right Priority Date: _____ Water Right Basis: _____

Claimed Priority Date: 6/19/1920 Claimed Basis: BU

Recommended Priority Date: _____ Recommended Basis: _____

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

CLAIMS SAME PRIORITY AS DECROOD RT (22-685 CLAIMED AS
22-11747 - SPLIT TO 22-13247 AND 13248.

Reviewer: _____

Date: _____

SCANNED

JUN 05 2007

Place Of Use Data Entry Form

Claim Number: _____

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

Total acres _____

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

Total acres _____

Pending or approved Transfers: _____

Overlapping rights: _____

Document how the POU was verified:

Civil Case No 1948: Report in the Nature of Proposed Findings of Water Rights; Conclusions of Law #13, pg 12 clearly describes 192 acres in the W1/2 Sec. 34, T. 5N, R. 45E. Recommendations to the Court, pg 13, #1 P.F. Sec. 34 describes NW1/4 SW1/4 - 144 ac, SW1/4 SW1/4 - 52 acres all in T5N, R45E.

Reviewer: _____ Date: _____

SCANNED

JUN 05 2007

Season of Use and Quantity Data Entry Form

Claim Number: _____

Water Right Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume

Overall Diversion Rate _____

Overall Diversion Volume _____

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume

Overall Diversion Rate _____

Overall Diversion Volume _____

Recommended Period of Use and Diversion Rate

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

Overall Diversion Rate _____

Overall Diversion Volume _____

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

SEASON OF USE DETERMINED BY CIVIL CASE NO. 1948: 'CONCLUSIONS
OF LAW,' II, pg. 12

Reviewer: _____

Date: _____

SCANNED

JUN 06 2007

27-~~Oct~~. 2004

ALLEN RUBERRY

IDWR ~~NORTHERN~~ ^{EASTERN} Region

900 N Skyline DR, suite A

Idaho Falls, Idaho 83402-1718

Enclosed please find items listed below as Requested.

- ① Copy of letter Requesting priority for SRBA Right Claim # 22-13246
- ② Change of ownership form
- ③ Copy of notice of claim
- ④ Affidavit Re: SRBA claim # 22-13246
- ⑤ Copy of water Right #885 given to ALZINA CRANDALL Given ~~to~~ Deed to VANDER A PRICE AND eventually to JAMES & MARLENE PRICE NOTED on warranty deed. dated 28 OCT 1992.
- ⑥ QUADRANT MAP showing Area (c) Description
- ⑦ Copy of Court CASE #1948 - Ray Rigby
- ⑧ Copy of warranty Deed - note TRACT 3 in warranty Deed shows Title by James & Marlene PRICE.
- ⑨ Patent USA To ALZINA CRANDALL 1907
Warranty Deed from ALZINA CRANDALL To V. A.
- ⑩ PRICE (VANDER ALONZO PRICE) 1919.

We appreciate your help in this matter - also,
help of Dec O'Brien - if you have any questions
please let us know.

SCANNED
JUN 06 2007

James & Marlene
Price

April 7, 2004
State of Idaho Dept. of Water Resources

RECEIVED

APR 12 2004

Department of Water Resources
Eastern Region

To those concerned;

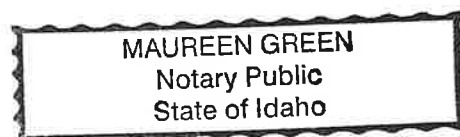
Please review this letter to set evidence of priority of beneficial use of water right claim no. 22-12081. After trying to gain history of my property by talking to family members of the previous owners / renters. The best source I have is Leslie Henrie. He is since deceased but his son Gary Henrie states that he and his family moved to town (Driggs) in 1948. His dad purchased the property next to mine, which then belonged to Edgar Cordon whose estate I bought it from. They milked a few head of cows and had some pasture on their place. They were able to run them at times on the Cordon property. The ditches were already established and the property was irrigated from this water source at that time, just as it is to this day. I'm not at all sure much longer it was before 1948.

The map I made and sent with the General Adjudication claim on my property filed in 09/1988 case # 39576 should show the areas on my place that I am able to irrigate with this water source. I owned this property since 1984. I hope this will provide the proof needed to set the priority date.

Thanks



Les van Leerdam
p/o 626
Driggs, Idaho 83422



SUBSCRIBED & FORN TO BEFORE
ME THIS 9th DAY OF April 12, 2004
Maureen Green
NOTARY PUBLIC
RESIDING AT: Teton Co
MY COMMISSION EXPIRES: 08/05/08

claim 22-12018

PROFILED

SCANNED
FEB 11 2005

SCANNED
JUN 06 2007

 Haws Dam and Crandall Springs*
 Fremont County
 3 second feet
 Irrigation and domestic
 priority 10-3-1904

S T A T E O F I D A H O

Water License No. 885.

WHEREAS, On the 3rd day of October, A.D. 1904, ALZINA T. CRANDALL, of Driggs, County of Fremont, State of Idaho, duly made application (No. 1229) to me for a permit to use 4 cubic feet per second of the waters of Haws Dam and Crandall Springs, County of Fremont, State of Idaho, for irrigation and domestic purposes; and.

WHEREAS, On the 25th day of October A.D. 1904, Permit No. 885 was issued to said applicant for the diversion of said water, and providing for the completion of the works of diversion therein described on or before the 25th day of October A.D. 1905, and for the application to beneficial use of said water on or before the 25th day of October A.D. 1909, and,

WHEREAS, On the 25th day of October A.D. 1905, the holder of said permit duly made proof of the completion of adequate works for the diversion of 4 cubic feet per second of said waters, as evidenced by my Certificate No. 885 dated November 28, 1905, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use 4 cubic feet per second of water, with date of priority of October 3, 1904, and

WHEREAS, On the 5th day of September A.D. 1908, proof was duly made of the application to beneficial use of 3 cubic feet per second of said water:

NOW, THEREFORE, By virtue of the authority vested in me by the laws of the State of Idaho, I hereby grant and confirm to ALZINA T. CRANDALL of Driggs, Idaho, the holder and owner of said Permit No. 885, a perpetual right, dating from October 3, 1904, to the use of 3 cubic feet per second of the waters of Haws Dam and Crandall Springs, in the county of Fremont and State of Idaho, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at a point in the southwest quarter of southeast quarter, and at a point in southwest quarter of northeast quarter, section 34, township 5 north, range 45 east of Boise meridian, and conducted to and upon (80 acres in north half of southwest quarter; 20 acres in the southwest quarter of southwest quarter; 30 acres in southeast quarter of southwest quarter, section 34, township 5 north, range 45 east B.M.; and 20 acres in the northwest quarter of northwest quarter, section 3, township 4 north, range 45 east of the Boise meridian, for the purpose of irrigation and domestic use, subject, however, to the laws of the State of Idaho applicable to a license for the use of the waters of the State, and subject, also, to the local or community customs, rules and regulations, which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS, My hand and the seal of my office at Boise, Idaho, this 23rd day of October A.D. Nineteen hundred and eight.

Jas. Stephenson, Jr.

State Engineer

(SEAL)

Recorded October 23, 1908.

SCANNED

JUN 06 2007

June 14,2005
Allen Ruberry
IDWR Eastern Region
900 N. Skyline Dr. Suite A
Idaho Falls Idaho 83402-1718

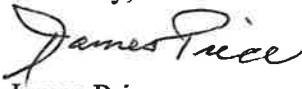
Ref. SRBA Claim #22-13246

I appreciate your help and patience in the on going adjudication process. On September 27,2004 I delivered a folder of information concerning this water claim. It contained (1) copy of letter requesting priority for SRBA right claim #22-13246 (2) Change of ownership form. (3) Copy of notice of claim. (4) My Affidavit Re: SRBA claim #22-13246. (5) Copy of water right #885 given to Alzina Crandall. Given in deed to Vandes A. Price and eventually to James and Marlene Price noted on warranty deed dated 28 Oct. 1992. (6) Quadrant map showing area (i.e.) description. (7) Copy of court case #1948-Ray Rigby. (8) Copy of warranty deed-note tract 3 in warranty deed it shows title by James and Marlene Price. (9) Patent USA to Alzina Crandall 1907. (9a) To Vandes A. Price 1918.

Now, attached please find letters from Dee O'Brien, John Letham, and Leon Weston confirming this water has in the past been used for beneficial use on the lands shown in the claim # 22-13246 and that the source of such water has been diverted from Teton Creek at the noted points of diversion as noted in Dee O'Brien Letter. This water has been the source of water supplying water used from Crandall Springs, Buffalo Springs, and Haws Dam, not to mention the un-named streams that flow from the area where the water is diverted. This water has been used on the land described in the Water Claim.

Thanks again for your help and if you would like to go with me for a few minutes some day I would enjoy showing you this area and help verify these natural happenings.

Sincerely,


James Price

RECEIVED

JUN 16 2005

Department of Water Resources
Eastern Region

SCANNED

JUN 06 2007

Dear Sirs:

I am writing this letter to address some issues regarding water rights and delivery of water to Jay Dell Butler, James Price and others from Buffalo Springs, Crandall Springs and unnamed springs. These claimants name Teton Creek as the source for their claims, which seem to be the issue.

I served as deputy watermaster for water district 01 from 1978 to 2000. During that time I delivered water from Teton Creek through the diversion near the "Y" intersection just east of Driggs and from a diversion on Teton Creek just east of the Val Christensen home. This diversion is located approximately 1/3 of a mile downstream from the "Y" diversion. After these two diversions were opened it took approximately 10 days to two weeks for the sub water to come up and for the springs and streams that are used by Price and Butler to begin to flow.

These springs and the sub water continued to flow for the rest of the irrigation season even though Teton Creek was totally diverted above these two diversions on the Creek.

This was the common practice during the entire time that I was the watermaster.

Sincerely yours,

A handwritten signature in cursive script that reads "Dee O'Brien". The signature is written in dark ink and is positioned below the "Sincerely yours," text.

SCANNED

JUN 06 2007

June 14, 2005
Allen Ruberry
IDWR Eastern Region
900 N. Skyline Dr. Suite A
Idaho Falls, Idaho 83402-1718

I am writing this letter to address some issues regarding water rights and delivery of water to Jay Dell Butler, James Price and others from Buffalo Springs, Crandall Springs and unnamed springs. These claimants name Teton Creek as the source for their claims, which seem to be the issue.

I've served as water master for Grand Teton Canal Co. for several years and have run a beef cow ranch operation in Teton Valley all my life. In the years past I have been aware of and have witnessed water being diverted at the various points of diversion as mentioned in Dee O'Brien letter and know of the valuable influence this diverted water has on the various Springs and Streams mentioned. I have also put up hay close to the land in question and know the Prices have irrigated these lands with water from the mentioned Teton Creek and various springs and unnamed streams fed by Teton Creek water.

This has been the common practice during the time period I have observed.

Sincerely,



John Letham

SCANNEL

JUN 06 2007

June 14, 2005
Allen Ruberry
IDWR Eastern Region
900 N. Skyline Dr. Suite A
Idaho Falls, Idaho 83402-1718

I am writing this letter to address some issues regarding water rights and delivery of water to Jay Dell Butler, James Price and others from Buffalo Springs, Crandall Springs and unnamed streams. These claimants name Teon Creek as the source for their claims, which seem to be the issue.

I've lived in Teton Valley all my life and ranched and farmed in and around the area mentioned in Dee O'Brien letter. In the years past I have been aware of and have witnessed water being diverted at the various points of diversion as mentioned, in the letter.

The area in which I ranch and water is also directly affected by the mentioned water diverted from Teton Creek and use water diverted from the same locations.

This has been the common practice during the time period I have observed and ranched.

Sincerely,

A handwritten signature in cursive script that reads "Leon Weston". The signature is written in dark ink and is positioned above the printed name.

Leon Weston

SCANNED

JUN 06 2007



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 WEB SITE: www.idwr.state.id.us

EASTERN REGION

September 14, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

KENNETH P PRICE
PO BOX 51
DRIGGS ID 83422

RE: SPLIT OWNERSHIP OF WATER RIGHT 22-78, 22-84, 22-13246

Dear Mr. Price:

Review of your "Notice of Change in Water Right Ownership" reveals a portion of the water right(s) listed above is appurtenant to your property. However, our office is unable to split water rights in Basin 22 until after we submit the Director's Report to the Snake River Basin Adjudication Court. Therefore, you have been added to the water right record(s) as a "present owner." This designation will allow you to receive copies of mailings that pertain to the water right(s) listed above.

Splitting rights will be completed following distribution of the Basin 22 Director's Report scheduled for mailing in 2006. At that time we will designate you "current owner" of your portion and notify the SRBA Court, so the water rights appurtenant to your property will be adjudicated in your name.

Respectfully,

Jennifer Crabtree
Technical Records Specialist

Enclosure

cc: File: 22-78
James & Marlene Price
Dale & Virginia Price
Linda Bingham
Marilyn Anderson
Dale K. Price Jr.
R. Vandes Price

SCANNED

JUN 06 2007

M E M O R A N D U M

DATE: September 8, 2005

TO: File

FROM: Jennifer Crabtree, Technical Records Specialist

RE: Adding Present Owners

Per the procedure developed in August 2005 by the state office staff, legal, and the court, I added the new claimants as "present owners" and left the old claimants as "current owners". Once the director's report is issued and all the ownership changes are received, the recommendation will be split as per our normal procedure.

SCANNED

JUN 06 2007

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

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

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, 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
A22-13246					

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) are 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)

Price Bros
73 Harper Box 563, Driggs, ID 83422

4. New Owner/Claimant(s)

Name Connector (Check one): ☐ and, ☐ or, ☐ and/or

New Mailing Address

James & Marlene Price, Box 112

City, State and ZIP Code

Driggs, ID 83422

New Telephone Number

(208) 354-2381

5. Date you acquired the property

28 Oct 1992

SCANNED

JUN 06 2007

RE: Priority Date

James Price -

Born in 1931 - raised on farm in NW 1/4 Sec 34.

As young boy, age 5, rode horse with friends up to 3 creeks - in area where present diversions on Tetan Creek are located.

NE 1/4 Sec 36. There were in the "3 creeks" area ~~there were~~ Tetan Creek had braided channels that flowed ~~to~~ South westerly. ^{During spring run off, high} Water from ^{Tetan Creek flowed in} these channels recharged Buffalo Springs. ~~A believe~~
~~that~~ :

I believe eventually the people who received water ~~from~~ ^{through} these channels constructed head gates at their beginning on Tetan Creek to ~~control the quantity entering the and~~ began to maintain these channels as ditches.

Based on memory of James Price I suggest recommending a priority of April 15 1936.

SCANNED

JUN 06 2007

If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number <u>A22-13246</u>		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	<u>1.02</u>	<u>51 all in SW 4 of Sec 34</u>
Stock		<u>Owns all of SW 4 of Sec 34</u>
Domestic		
Other		
Total	<u>1.02</u>	

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s) _____
(include title if applicable)

James W. Price
Marlene J. Price

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

SCANNED

JUN 06 2007

For Office Use Only

Received by _____	Date _____	Fee _____
Received by _____	Date _____	Receipt No. _____
Processed by _____ AJ	Date _____	WR _____ Date _____

AFFIDAVIT

State of IDAHO)
 ss.
County of Madison)

RE: SRBA Water Right Claim 22-13246

JAMES W. PRICE, being first duly sworn, deposes and says:

1. That he makes this affidavit in support of the above numbered claim to water right, and he also makes this affidavit in behalf of himself and his wife and for his deceased brother DALE K. PRICE and his wife and their families.
2. That he resides at 410 North 1st East, P.O. Box 212, Driggs, ID 83422; that he was born in Driggs, Idaho on May 28th, 1931 and has lived in the same house or a nearby house in the same block all of his lifetime, except for the time he spent in the U.S. Army Air Corps in 1954-1956, and while he attended college at the University of Idaho in Moscow, Idaho.
3. That he is the son of Vandes A. Price, a.k.a. V.A. Price, and Vera K. Price, both of whom are now deceased, who lived on the same block as your affiant.
4. On June 2, 2004, Allen B. Ruberry, in behalf of the Idaho Department of Water Resources, by a letter to James or Marlene Price, asked for evidence of Priority (June 19, 1920) for SRBA Water Right Claim 22-13246.
5. Your affiant attaches hereto a copy of State of Idaho Water License 885, together with a Township Plat of the subject property. Said License specifies that the Priority Date is October 3, 1904, and therefore said Water Right Claim 22-13246 should be amended to change the Priority date from June 19, 1920 to October 3, 1904. *22-13246 FILED AS BU, SOURCE TETON CK*
6. Your affiant also attaches hereto a copy of the James W. Price, et al vs. Ronald D. Carlson, et al Decree, dated June 11, 1986, together with a Township Plat of the subject property. Said Decree specifies the Date of Priority as June 19, 1920 for 1.5 cfs for use on 61 acres in Section 33 and 19 acres in Section 34, all in Township 5 N., Range 45 E.B.M. *22-685 CLAIMED AS 22-11747 SPLIT TO 22-13247 22-13248.*
7. That your affiant has farmed all his life, on all of the lands involved in this water claim and verifies the use of said water right in the manner set forth above.

F:\WP6\DK\PRICEJ1.AFF

5/12/05 - All this packet does NOT RELATE TO 22-13246 EVIDENCE - Rather it supports 22-685; CLAIMED AS 22-11747 (SPLIT TO 22-13247, Dorothy; MO, 22-13248, PRICE).

SCANNED

JUN 6 2 2007

James W. Price
James W. Price

Subscribed and Sworn to before me this 16th day of August, 2004.



Lay W. Sigby
A Notary Public for Idaho
Residing At: Rexburg, ID
My Commission Expires: 03-12-2005

F:\WP6\DK\PRICEJ1.AFF

SCANNED
JUN 06 2007

copy 3

ALZINA Chandler water right #885

This went with deed to Van Pelt on down to James & Marlene Pelt

Instrument #885

STATE OF IDAHO

885

1904

WATER LICENSE NO. 885

WHEREAS, On the 24 day of October A. D. 1904 ALZINA T. CHANDLER of Driggs, County of Fremont, and State of Idaho duly made application (No 1289) to me for a permit to use 4 cubic feet per second of the waters of said land and CHANDLER SPRINGS, County of Fremont State of Idaho, for irrigation and domestic purposes; and

WHEREAS, On the 25th day of October A. D. 1904 Permit No 885 was issued to said applicant for the diversion of said water, and providing for the completion of the works of diversion therein described on or before the 25th day of October A. D. 1905 and for the application to beneficial use of said water on or before the 25th day of October A. D. 1905 and,

WHEREAS, on the 25th day of October A. D. 1905 the holder of said permit duly made proof of the completion of adequate works for the diversion of 4 cubic feet per second of said waters as evidenced by my Certificate No. 885 Dated November 28, 1905, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use 4 cubic feet per second of water, with date of priority of October 2, 1904 and,

WHEREAS, On the 5th day of September A. D. 1906 proof was duly made of the application to beneficial use of 5 cubic feet per second of said water;

NOW, THEREFORE, By virtue of the authority vested in me by the laws of the State of Idaho I hereby grant and confirm to ALZINA T. CHANDLER, of Driggs, Idaho the holder and owner of said permit No. 885 a perpetual right, dating from October 2, 1904 to the use of 5 cubic feet per second of the waters of said land and CHANDLER SPRINGS, in the County of Fremont, and State of Idaho, or so much thereof as may be necessary for the purposes hereinbefore mentioned, to be diverted at,

a point in the southwest quarter of southeast quarter and at a point in southwest quarter of northwest quarter section 34 township 5 north, range 45 East of Boise meridian, and conducted to and upon 80 acres in north half of southwest quarter; 20 acres in southwest quarter of southwest quarter; 20 acres in southeast quarter of southwest quarter, section 34, township 5 north range 45 East S. M., and 20 acres in the northwest quarter of northwest quarter, section 5 township 4 north, range 45 east of the Boise meridian, for the purpose of irrigation and domestic use,

subject, however, to the laws of the State of Idaho applicable to a license for the use of the waters of the State, and subject, also, to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS my hand and the seal of my office at Boise, Idaho this 25th day of October A. D. Nineteen Hundred and eight.

Jas. Stephenson Jr.
State Engineer.

(SEAL)

Recorded at the request of Teton Abstract Co January 7 1919 at 11:40 A. M.

A. W. Clark

Deputy

W. F. Robertson

Recorder.

SCANNED

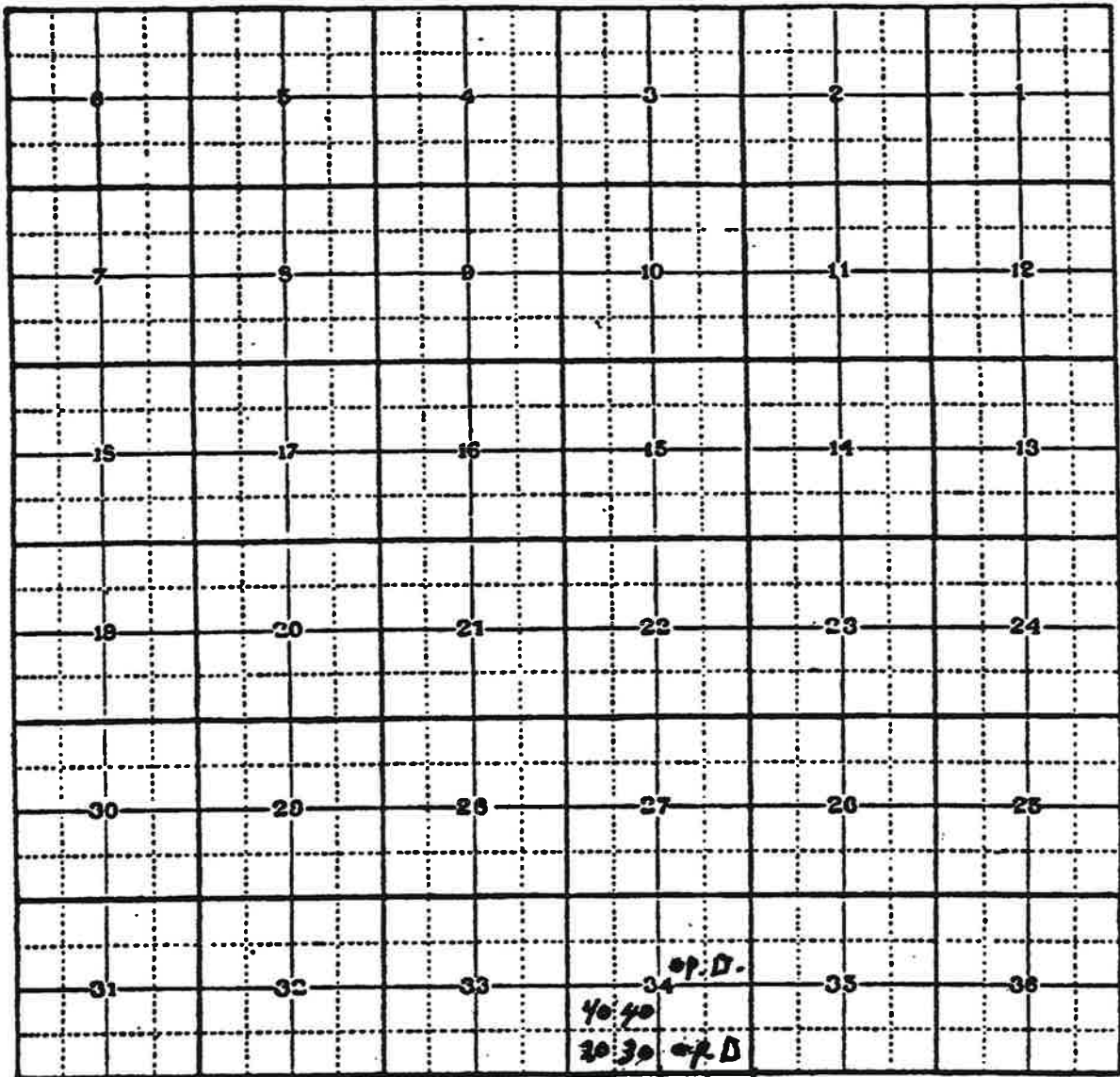
JUN 06 2007

22-2004

State Water License # 885

SCALE: 1 INCH = 1 MILE

County Leton Township 5 N Range 45 E



Twp 4 N, Rge 45 E

License # 885 (IDW)
priority date: Oct 3, 1918

waters of Howe Dam
& Crandal Springs

3 C.F.S.

License dated:
October 23, 1918

SCANNED
JUN 06 2007

COPY

FILMED ✓
INDEXED ✓
PLATED

100107

7

FILED
AT THE REQUEST OF

Ray Pigby, Attorney

AT 30 MINUTES PAST 11 a.m.

DATE December 19, 1986

E. Wayne Schiess

CLERK OF RECORDER

BY Nora Hill
DEPUTY

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

JAMES W. PRICE and MARLENE T.
PRICE, husband and wife; and
DALE K. PRICE and VIRGINIA P.
PRICE, husband and wife.

Plantiffs,

Case No. 1948

vs.

RONALD D. CARLSON, Watermaster
of Water District No. 01 of the
State of Idaho, and ALL UNKNOWN
CLAIMANTS OF 1.5 cfs OF THE
WATERS OF A BRANCH OF WOOD CREEK,
A TRIBUTARY OF THE TETON RIVER,
TRIBUTARY OF THE SNAKE RIVER,
DIVERTED IN THE NE1/4SE1/4 of
SECTION 33, AND IN THE NW1/4
SE1/4 AND SW1/4SW1/4 OF SECTION
34, ALL IN TOWNSHIP 5, RANGE 45
EAST BOISE MERIDIAN, IN TETON
COUNTY, IDAHO,

Defendants.

DECREE

A Report in the Nature of Proposed Findings of Water Rights
(hereinafter the report) was filed with this Court by the
Director of the Idaho Department of Water Resources on June 25,
1986. The report contains findings of fact, conclusions of law,
and recommendations to the court as to the rights of James W. and

SCANNED

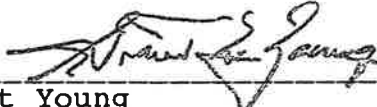
JUN 06 2007

Marlene T. Price and Dale K. and Virginia P. Price to the use of water from an unnamed stream tributary to the Teton River within Teton County. The report is hereby incorporated in this decree by this reference.

IDAHO CODE § 42-1405 (3)(f) and 42-1411(4)(f) (Supp. 1986) provide for a period of 60 days from the filing of the report in which objections to the report may be filed. The objection period ended August 25, 1986, and no objections to the report were filed.

The findings of fact and conclusions of law set forth in the report are hereby adopted, and the recommendations to the court set forth in the report are hereby decreed.

DATED this 4th day of September 1986.



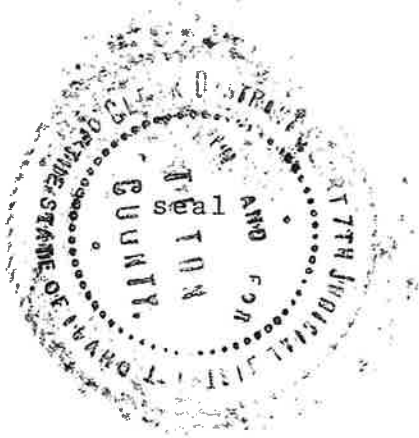
Grant Young
District Judge

C E R T I F I C A T I O N

I certify that these are true and correct copy
of Deeds

DATED this 8th day of September 1986

Bonnie Seese, Deputy



SCANNED

JUN 08 2007

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

JAMES W. PRICE and MARLENE T.)
PRICE, husband and wife; and)
DALE K. PRICE and VIRGINIA P.)
PRICE, husband and wife.)

Plaintiffs,)

vs.)

RONALD D. CARLSON, Watermaster)
of Water District No. 01 of the)
State of Idaho, and ALL UNKNOWN)
CLAIMANTS OF 1.5 cfs OF THE)
WATERS OF A BRANCH OF WOOD CREEK,)
A TRIBUTARY OF THE TETON RIVER,)
TRIBUTARY OF THE SNAKE RIVER,)
DIVERTED IN THE NE1/4SE1/4 OF)
SECTION 33, AND IN THE NW1/4)
SE1/4 AND SW1/4SW1/4 OF SECTION)
34, ALL IN TOWNSHIP 5, RANGE 45)
EAST BOISE MERIDIAN, IN TETON)
COUNTY, IDAHO,)

Defendants.)

Case No. 1948

REPORT IN THE NATURE
OF PROPOSED FINDING
OF WATER RIGHTS

22-685

SCANNED
JUN 06 2007

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SCANNED
JUN 06 2007

The above-entitled cause was initiated by the filing of a complaint, entitled COMPLAINT - QUIET TITLE TO WATER RIGHTS, but which provides that the action was filed pursuant to Idaho Code § 42-1405 (Supp. 1985), for the purpose of quieting title to rights to the use of water of a branch of Wood Creek, a tributary of the Teton River, which is tributary to the Snake River. The Idaho Department of Water Resources, acting for Ronald Carlson, defendant watermaster, prayed in its answer that plaintiffs not be decreed any water rights until such time as the Department had completed an examination of the claimed water right and submitted this report in the nature of proposed findings of water rights as provided in Idaho Code § 42-1405 (Supp. 1985).

Based on the files and records of the Department and of the above-entitled court, and on the field examination by the Department of the pertinent ditches, diversions, lands irrigated, and other uses of water, the Director recommends the following findings of fact, conclusions of law, and decree of water rights:

FINDINGS OF FACT

Definitions

1. The phrase "acre-foot" or the acronym "af" is the volume of water sufficient to cover one acre of land one foot deep with water; one af is equal to 43,560 cubic feet or about 325,851 gallons or 12 acre-inches.

2. The phrase "cubic foot per second" or the acronym "cfs" refers to a unit of measure of the rate of flow of water; one cfs

is equal to fifty miner's inches in Idaho, or about 449 gallons per minute.

3. The phrase "consumptive use" means the amount of water that does not remain in the water system after use or is not returned to the water system through return flows or seepage, whether or not treatment for purposes of maintaining water quality is required before the water may be returned to the water system. For irrigation purposes, consumptive use is that amount of water used through evapotranspiration by the crop minus the effective precipitation.

4. The term "Department" refers to the Idaho Department of Water Resources; the term "Director" refers to the Director of the Idaho Department of Water Resources.

5. The phrase "irrigation use" means water use limited to application of water to the land surface or root zone of the soil for the purpose of producing crops on that land.

6. The term "permit" refers to a water right document authorizing the appropriation of water issued by the Department pursuant to Idaho Code § 42-204 (Supp. 1985).

7. The term "watermaster" refers to a person charged with distribution of water within a water district pursuant to title 42, chapter 6, Idaho Code.

Initiation of the Supplemental Adjudication

8. The plaintiff initiated this action by the filing of a complaint for quiet title in the District Court of the Seventh

Judicial District of the State of Idaho in and for the County of Teton on December 3, 1982, which complaint provided that the action was filed pursuant to Idaho Code § 42-1405 (Supp. 1985).

9. The plaintiff caused to be published in the Teton Valley News, a weekly newspaper published at Driggs, County of Teton, a notice of SUMMONS QUIET TITLE. The notice was published in said newspaper once a week for three consecutive weeks beginning with the December 16, 1982 issue.

10. Said notice contained the information required by Idaho Code § 42-1405(c) (Supp. 1985) with the following exceptions: the post-office address of the plaintiffs, the date of priority of the water right claimed, the nature of the water use, and the place of use. The notice incorrectly names Woods Creek as the source of water.

11. The Department filed its answer on January 20, 1983, praying that plaintiffs not be decreed any water rights until the Department had conducted an examination and submitted a report.

Objections

12. No objections were filed pursuant to Idaho Code § 42-1405(1)(d)(Supp. 1985) to the water right claimed by the plaintiffs.

Field Examination

13. The Department conducted a field examination July 12, 1982. The examination included an investigation of the diversion structures, the uses made of the water diverted, and the lands

upon which it was used.

General Description of the Plaintiffs' Property and Its Environment

14. Plaintiffs are owners of property located in Teton County as described below:

a. SE1/4 Sec. 33, T. 5 N., R. 45 E., B. M.

b. SW1/4 Sec. 34, T. 5 N., R. 45 E., B. M.

15. As shown on U.S. Geological Survey maps, Bates and Driggs Quadrangles, an unnamed stream, tributary to the Teton River, flows through plaintiffs' property. One branch flows in a southwesterly direction through the N1/2 SE1/4 Sec. 33, the other branch flows in a southwesterly direction through Sec. 34. Woods Creek and its tributaries are north of the drainage from which water is diverted.

16. Water rights in the Teton River drainage basin are located in the Department's administrative Basin 22 which is part of Water District No. 01, and are subject to regulation by the watermaster of Water District No. 01 of the State of Idaho.

17. The period of use when water is beneficially used for irrigation is when the chance of temperatures of 28°F. or lower is 50% or less. The period of use in the area where the plaintiffs' property is located is April 15 to October 15 of each year for a total of 184 days.

18. A maximum rate of flow of .02 cfs per acre of irrigated land is reasonably required for irrigation of land in the area where the plaintiffs' property is located. The consumptive use

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for irrigation where the plaintiffs' property is located is 1.86 af per acre per year.

Description of Points of Diversion and Places of Use

19. Exhibit A shows the points of diversion and places of use of the rights claimed in this action. Exhibit A is incorporated herein by this reference.

20. The presently used points of diversion are as follows:

NW1/4 SE1/4 Sec. 33,
NW1/4 SW1/4 Sec. 34,
SW1/4 SW1/4 Sec. 34,
All in T. 5 N., R. 45 E., B. M.

21. The places of use are as follows:

NW1/4 SE1/4 (28 acres)
NE1/4 SE1/4 (23 acres)
SW1/4 SE1/4 (2 acres)
SE1/4 SE1/4 (8 acres)
All in Sec. 33 (61 acres subtotal)

NW1/4 SW1/4 (14 acres)
SW1/4 SW1/4 (5 acres)
All in Sec. 34 (19 acres subtotal)

All in T. 5N., R. 4. B. M. (80 acres total)

22. The wooden diversion works and ditches have a capacity of 1.5 cfs. Measuring devices and lockable headgates or other control devices have not been installed at any of the points of diversion.

Plaintiffs' Rights to Use Water From The Teton River
Drainage Basin

23. An application for permit to appropriate water was received by the Commissioner of Reclamation on June 19, 1920 from the plaintiffs' predecessor in interest. A certificate of

Completion of Works was issued July 15, 1921. Proof of beneficial use was due July 10, 1922, but was not filed. On October 20, 1975, the permit was cancelled by the Department, after notice to the permit holder and an opportunity for the permit holder to show cause why the permit should not be cancelled.

24. The original permit incorrectly named Woods Creek as the source of water. The point of diversion and place of use shown on the original permit are different from those claimed in this action. The point of diversion was the SW1/4 NW1/4 Sec. 34, the place of use was 80 acres in the N1/2 SE1/4 Sec. 33, all in T. 5 N., R. 45 E., B. M. There has been no expansion of use even though the point of diversion and places of use are different than those stated in the original permit. The Department has no record of any water rights with a point of diversion from the unnamed stream which would be affected by the change.

Prior Decrees Determining Rights to Use Water from the Teton River Drainage Basin

25. General adjudications:

Rexburg Irrigation Co. v. Teton Canal Co. (9th Dist., Fremont Co. 1910).

26. Adjudications supplemental to Rexburg:

- a. Woodville Canal Co. v. Clark & Edwards Canal Co. (E.D. Id. 1929);
- b. Garner v. Baldwin (9th Dist., Fremont Co. 1930);
- c. Saurey v. Crandall (9th Dist., Fremont Co. 1932);
- d. Teton Valley Power & Milling Co. v. Crandall (9th Dist., Fremont Co. 1936);

- e. Cherry Grove Canal Co. v. Crandall (9th Dist. Fremont Co. 1937);
- f. Fox Creek Irrigation Co. v. Crandall (9th Dist., Fremont Co. 1937);
- g. Grand Teton Canal Co. v. Crandall (9th Dist., Fremont Co. 1937);
- h. String Canal Co. v. Crandall (9th Dist., Fremont Co. 1938);
- i. Garden Water Co. v. Crandall (9th Dist., Fremont Co. 1938);
- j. Griggs v. Crandall (9th Dist., Fremont Co. 1938);
- k. Hansen v. Crandall (9th Dist., Fremont Co. 1938);
- l. Johnson v. Crandall (9th Dist., Fremont Co. 1938);
- m. Leigh Creek Canal Co. v. Crandall (9th Dist., Fremont Co. 1938);
- n. Gillette v. Crandall (9th Dist., Fremont Co. 1938);
- o. Cache Canal Co. v. Crandall (9th Dist., Fremont Co. 1948);
- p. Rasmussen v. Crandall (9th Dist., Fremont Co. 1950);
- q. Rasmussen v. Crandall (9th Dist., Fremont Co. 1952);
- r. Buxton v. Crandall (9th Dist., Fremont Co. 1954);
- s. Gardner v. Crandall (9th Dist., Fremont Co. 1954);
- t. Smith v. Crandall (9th Dist., Fremont Co. 1955);
- u. Price v. Crandall (9th Dist., Fremont Co. 1955);
- v. Rammell v. Crandall (9th Dist., Fremont Co. 1956);
- w. Sorenson v. Crandall (9th Dist., Fremont Co. 1956);
- x. Christensen v. Eagle (12 Dist., Fremont Co. 1959);
- y. Pehrson v. Eagle (12th Dist., Fremont Co. 1959);
- z. Ricks v. Eagle (12th Dist., Fremont Co. 1964);

- aa. Buxton v. Eagle (12th Dist., Fremont Co. 1966);
 - bb. Aberdeen-Springfield Canal Co. v. Eagle (7th Dist., Fremont Co. Civil No. 6117, 1969);
 - cc. Hoopes v. Larson (7th Dist., Fremont Co. Civil No. 6513, 1971);
 - dd. Rammell v. Dunn (7th Dist., Teton Co. Civil No. 1912, 1986).
27. Other actions affecting water rights:
- a. Taylor v. Hulet (6th Dist., Fremont Co. 1912)(action between water users);
 - b. Koon v. Empey (9th Dist., Bonneville Co. 1922)(re ownership of rights decreed in Rexburg);
 - c. Madsen v. Miekke (9th Dist., Teton Co. 1933)(re ownership of rights decreed in Rexburg);
 - d. McClellan v. Row (9th Dist., Madison Co. 1935)(re ownership of rights decreed in Rexburg);
 - e. Roxana Canal Co. v. Daniels (Equity No. 2447, D Wyo. 1941)(stipulation between Idaho and Wyoming water users);
 - f. Neeley v. Browning (9th Dist., Madison Co. 1954)(stipulation between water users);
 - g. Kunz v. Kunz (12th Dist., Teton Co. Civil No. 1459, 1967)(action between water users);
 - h. Jardine v. Eagle (7th Dist., Teton Co. Civil No. 1647, 1968)(groundwater right);
 - i. Crow v. Carlson (7th Dist., Teton Co. Civil No. 1856, 1985)(re ownership of right decreed in Rexburg);

28. Matter herein expressed as a finding of fact which is later deemed to be a conclusion of law is hereby made a conclusion of law.

CONCLUSIONS OF LAW

Based upon the foregoing findings of fact, the Director makes the following conclusions of law:

Applicable Legal Principles

1. Idaho Code § 42-1405 (Supp. 1985) states in part as follows:

(1)

(b) The claimant shall in his complaint, set out his own right and he shall further set forth his acceptance as binding upon him of all prior applicable decrees and the findings of fact and conclusions of law upon which they are based....

(c) After return of service of summons, the claimant in said action shall cause to be published once a week for not less than three (3) weeks a notice of the pendency and purpose of said action in such newspaper or newspapers as the judge of said district court may order, which notice shall contain the title of the court and the cause, the name and post-office address of the plaintiff, the date of priority of the water right claimed, the source of the water supply, the amount of water claimed, in general the nature of the water use, the approximate location of the point of diversion, and the place of use; and

(d) Any person claiming a water right which may be injured thereby, and who objects to the water right claimed by the plaintiff, as described in the published notice, shall, within forty-five (45) days of the date of the first publication of notice, file with the district court written notice of such objection stating the reasons for the objection. . . .

. . . .

(f) Upon completion of the report by the department of water resources, it shall be filed with the court and a copy thereof shall be sent to all parties to the action. Objections to the report of the department and hearing upon such objections

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shall be in accordance with the provisions of section 42-1410, Idaho Code;

.

(2) The court by its decree in said action shall determine the rights of said plaintiff in accordance with the proof submitted but subject to the terms of the original decree or decrees.

2. An appropriative right is defined by a determination of the following:

- a. source of water supply
- b. date of priority
- c. rate of diversion
- d. nature of use
- e. point of diversion
- f. place of use
- g. period of use
- h. annual volume of consumptive use

Idaho Code § 42-1410 (Supp. 1985).

3. Beneficial use is the measure and limit of an appropriative water right.

4. Prior to May 19, 1971, two methods of initiating a new right to the use of surface water existed in Idaho. The first method was to follow the then existing statutory procedure. The second method was to divert unappropriated water and apply it to a beneficial use. The date of priority under the first method related back to the date of posting the required notice or the filing of an application with the state engineer. The date of

priority under the latter method is the date of application of the water to a beneficial use. Sand Point Water & Light Co. v. Panhandle Development Co., 11 Idaho 405, 83P. 347 (1905); Nielson v. Parker, 19 Idaho 727, 115 P.488 (1911); Crane Falls Power & Irrigation Co. Ltd. v. Snake River Irrigation Co. Ltd., 24 Idaho 63, 133 P.655 (1913).

5. Prior to the 1969 amendments to Idaho Code § 42-108 (see 1969 Idaho Session Laws, Ch. 303, p. 905) requiring persons seeking to change the point of diversion or place of use of a water right to obtain the approval of the Department, the place of use or point of diversion of a water right could be changed without filing an application for change in use with the Department, provided that the change did not cause injury to the rights of other water users.

6. Idaho Code § 42-701 (1977) requires the plaintiffs to install and maintain measuring devices and lockable headgates or other control devices of a type acceptable to the Department, at the point where water is diverted, for use by the watermaster in the delivery of the water right.

Application of Legal Principles

7. The plaintiffs have not strictly complied with the provisions of Idaho Code § 42-1405(c) (Supp. 1985) concerning publication of notice of the present action, but the notice published was sufficient to apprise interested persons of the pendency and purpose of the present action.

8. The doctrines of res judicata, collateral estoppel, and Idaho Code § 42-1405 (Supp. 1985) do not preclude a claimant from acquiring a right to the use of water after entry of a decree in a prior general adjudication.

9. It is concluded that the plaintiffs initiated a right to the use of waters from an unnamed stream with a priority of June 19, 1920.

10. The rate of diversion is 1.5 cfs, the maximum annual volume of consumptive use is 148.8 af.

11. The nature of use is irrigation, the period of use for irrigation is April 15 to October 15 each year.

12. The points of diversion are located in:

NE1/4 SE1/4 Sec. 33,
NW1/4 SW1/4 Sec. 34,
SW1/4 SW1/4 Sec. 34,
all in T. 5 N., R. 45 E., B. M.

13. The place of use is 61 acres in the SE 1/4 Sec. 33, and
* 19 acres in the W 1/2 Sec. 34, all in T. 5N., R.45E., B.M.

14. The plaintiffs have not complied with Idaho Code § 42-701 (1977).

15. This action is supplemental to the Rexburg Decree (see Finding of Fact No. 25) and the decree and the findings of fact and conclusions of law upon which it is based are binding upon the plaintiffs.

16. Matter herein expressed as a conclusion of law which is later deemed to be a finding of fact is hereby made a finding of fact.

Should READ W²SW Sec. 34

RECOMMENDATIONS TO THE COURT

Based upon the foregoing findings of fact and conclusions of law, the Director makes the following recommendations:

1. The plaintiffs' right to the use of water shall be as follows:

- a. source: unnamed stream, tributary to Teton River
thence the Snake River
- b. date of priority: June 19, 1920
- c. nature of use: Irrigation
- d. rate of diversion: 1.5 cfs
- e. points of diversion: NE1/4 SE1/4 Sec. 33
NW1/4 SW1/4 Sec. 34
SW1/4 SW1/4 Sec. 34
All in T. 5 N., R. 45 E.,
B. M.

f. place of use:

Section 33: NW1/4 SE1/4 (28 acres)
NE1/4 SE1/4 (23 acres)
SW1/4 SE1/4 (2 acres)
SE1/4 SE1/4 (8 acres)

Section 34: NW1/4 SW1/4 (14 acres)
SW1/4 SW1/4 (5 acres)

All in T. 5 N., R. 45 E., B. M. (80 acres
total)

g. period of use: April 15 to October 15 of each year

Price / Carlson Deed
Dated June 11, 1986

SCALE: 1 INCH=1 MILE

County Teton Township 5N Range 45E

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
18	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

Handwritten notes in the bottom right corner of the grid:

- 80
- 28
- 23
- 14
- 2
- 8
- 5

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h. maximum annual volume of consumptive use: 148.8 af

i. basis of right: Beneficial use

2. The plaintiffs shall be required to install and maintain measuring devices and lockable headgates or other flow control devices of a type acceptable to the Department in accordance with Idaho Code § 42-701 (1977).

DATED this 11th day of June, 1986.

Respectfully submitted,



A. KENNETH DUNN

Director, Idaho Department of
Water Resources

change of ownership
from Virginia & Dale
to James & Marlene Price

OCT 30 1992

County Clerk

WARRANTY DEED

THIS INDENTURE, Made this 25th day of October, 1992, between VIRGINIA P. PRICE, of 73 E. Harper Ave., POB 563, Driggs, ID 83422; LINDA BINGHAM, of 3032 W. 3000 S., Weston, ID 83286; MARILYN ANDERSON, of 125 E. 2nd N., Rexburg, ID 83440; DALE K. PRICE, JR., of 18631 SE 277th Place, Kent, WA 98042; KENNETH P. PRICE of Box 51, Driggs, ID 83422, and R. VANDES PRICE, of 970 W. 450 S., Layton, UT 84041, the parties of the first part, and JAMES W. PRICE and MARLENE PRICE, husband and wife, of 410 N. 1 E., Driggs, ID 83422, the parties of the second part,

This deed shall be simultaneously executed and delivered in two or more counterparts, each of which shall be deemed to be an original, and all shall constitute but one and the same instrument.

WITNESSETH, That the said parties of the first part, in consideration of the transfer by the parties of the second part to the parties of the first part of like property with like value, and in furtherance of a division of partnership assets (Price Brothers, of Driggs, Idaho), do hereby grant, convey and confirm unto the said parties of the second part their one-half interest in and to the following described real estate, situated in Teton County, State of Idaho, to-wit:

TRACT 1 Old Price & Ruth place

111394

TRACT 1: Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho.
Section 26: SW1/4NW1/4
NW1/4SW1/4

FILED

AT THE REQUEST OF

First American
35
October 30, 1992
Ass. J. Drake
CLERK OF RECORDER

ALSO TAX NO. 841 being described as follows:
Beginning at the NW Corner of the SE1/4NW1/4 of Section 26, Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho, and running thence South 80 rods; thence East 581.4 feet to the Railroad Right-of-way; thence North 80 rods along the Railroad Right-

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JUL 08 2007

TRACT 1 CONT.
old price &
BUTLER PLACE

of-way; thence West 560 feet to the point of beginning.

ALSO TAX NO. 146 being described as follows: Beginning at the SW Corner of the NE1/4SW1/4 of Section 26, Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho, and running thence East 578 feet; thence North 1320 feet; thence West 581 feet, thence South 1320 feet to the point of beginning.

ALSO TAX NO. 514 being described as follows: Beginning at a point 313.5 feet West of the SE corner of the NW1/4 of Section 26, Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho, and running thence North 880 feet; thence West 326.5 feet; thence South 880 feet; thence East 326.5 feet to the point of beginning.

ALSO DEED NO. 101400 being described as follows: All of that certain strip of land heretofore acquired by Yellowstone Park Railroad Company (predecessor to Oregon Short Line Railroad Company) from Pratt Rge. Company, etal., by Warranty Deed dated May 12, 1910, filed for record December 3, 1912, in Book 10 of Deeds at Page 569 of the records of Fremont County, Idaho, being described in said deed as follows:

A strip of land 100 feet wide, being 50 feet in width on each side of the center line of main tract of the Teton Basin Branch of the Yellowstone Park Railroad as located across the SE1/4NW1/4 of Section 26, Township 5 North, Range 45 East of the Boise Meridian.

The course of said center line of main track being more particularly described as follows to wit: Beginning at a point in the north line of the S1/2NW1/4 of Section 26 and 1953.2 feet, more or less, easterly from the northwest corner thereof; thence southerly along a spiralled curve to the right with a radius of 1910.1 feet for a distance of 575 feet, more or less; thence S. 0 degrees 7'W, 765 feet to a point in the south line of said SE1/4NW1/4 of said Section 26 and 1977.7 feet easterly from the southwest corner of said NW1/4 of said Section 26.

Darby Ranch

TRACT 2: Township 4 North, Range 45 East, Boise Meridian, Teton County Idaho.
Section 1: S1/2NW1/4

TOGETHER WITH a 30 foot Easement for ingress and egress along the West side of the SW1/4 of Section 1, Township 4 North, Range 45 East Boise Meridian, Teton County, Idaho.

Section 2: SE1/4SE1/4
N1/2SE1/4
S1/2NE1/4

LESS: Railroad and State Highway Right-of-ways

ALSO LESS: Commencing at a point 540 feet West of the NE corner of the SW1/4NE1/4 of Section 2, Township 4 North, Range 45 East, Boise Meridian, and running thence South 300 feet; thence West 290 feet; thence North 300 feet; thence East 290 feet to the point of beginning.

Swart Ranch

TRACT 3: Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho.
Section 34: SW1/4

ALSO: That portion of the NW1/4NW1/4 (Lot 4) of Section 3, Township 4 North, Range 45 East, Boise Meridian, Teton County, Idaho, lying North of the South Bates Road being described as follows:

Beginning at the Northwest Corner of said Section 3 and running thence South 82.22 feet more or less to the right-of-way line of the South Bates Road; and running thence Northeasterly along said right-of-way line 183 feet, more or less, to the North Section Line of said Section 3; running thence West 164 feet, more or less, along the North Section line of said Section 3 to the point of beginning.

*Ralph & Tim
This is the MARTIN
Exchange because of
Road Proj. putting
RA off Property
on West side of Rd*

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging and all estate,

right, title and interest in and to the said property, as well in law as in equity, of the said parties of the first part.

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

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Virginia P. Price

Linda Bingham

Marilyn Anderson

Dale K. Price, Jr.

Kenneth P. Price

R. Vandes Price

R. Vandes Price

2007

No. 24915

THE UNITED STATES OF AMERICA

Homestead Certificate No. 5087

Application 6165

ss.

To all to Whom these Presents shall Come—GREETING:

WHEREAS, There has been deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Blackfoot, Idaho whereby it appears that, pursuant to the Act of Congress approved 20th May, 1862, "To Secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of Alzina T. Crandall

has been established and duly consummated, in conformity to law, for the

East half of the south west quarter and the south west quarter of the south west quarter of section thirty four in township five North, and the lot numbered four of section three in township four North of Range forty five East of Boise meridian, in Idaho, containing one hundred and sixty acres and forty hundredths of an acre,

according to the Official Plat of the Survey of the said Land, returned to the General Land Office by the Surveyor General.

NOW, KNOW YE, That there is, therefore, granted by the United States unto the said

Alzina T. Crandall

the tract of land above described:

TO HAVE AND TO HOLD THE SAID TRACT OF LAND, with the appurtenances thereof, unto the said

Alzina T. Crandall

and to —

heirs

and assigns forever, subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws and decisions of Courts, and also subject to the right of the proprietor of a vein or lode, to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law, and there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I,

Theodore Roosevelt

President of the United

States of America, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the eighteenth day of July, in the year of our Lord one thousand nine hundred and seven, and of the Independence of the United

States the one hundred and thirty second

BY THE PRESIDENT: Theodore Roosevelt



Miscellaneous By

F. M. McKean

Secretary.

Recorded Vol.

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H.W. Sanford

Recorder of the General Land Office.

Filed for Record at 1-30 o'clock P. M.,
John S. Boyer

March 5th

A. D. 1909, and recorded at the request of

I. N. Corey

Recorder

By Deputy.

Transcribed from Book D, Patents, page 239, Fremont County Records.

Transcribed from Book 40 of Patents page 425 Madison County Records.

SCANNED

JUN 6 2007

WARRANTY DEED

Instrument No. 5037

1918

This Indenture, Made the 27th day of November in the year of our Lord one thousand nine hundred and eighteen, between Alzina T. Crandall, a widow, of Springville

of the County of Utah and State of Utah the part y of the first part, and

V. A. Price

of the County of Teton and State of Idaho the part y of the second part,

WITNESSETH, That the said part y of the first part, for and in consideration of the sum of Forty Five Hundred DOLLARS, lawful money of the United States of America, to her in hand paid by the said part y of the second part, the receipt whereof is hereby acknowledged, do es by these presents Grant, Bargain, Sell and Convey and Confirm unto the said part y of the second part, and to his heirs and assigns, forever, all that certain lot, piece or parcel of land situate, lying and being in the County of Teton and State of Idaho and bounded and described as follows, to-wit:

East Half ($\frac{1}{2}$) of the SouthWest quarter (SW $\frac{1}{4}$) and the South-west quarter (SW $\frac{1}{4}$) of the South-west Quarter (SW $\frac{1}{4}$) of Section Thirty Four (34) in Township Five (5) North, Range 45 East of Boise Meridian; also Lot numbered Four(4) Section (3) Three in Township Four (4) North, Range FortyFive (45) East of Boise Meridian County and State aforesaid, Containing One Hundred and Sixty acres and Forty one hundredths of an acre (160.40) .

Together with 3 cubic feet per second of the waters of Haws Dam, and Crandall Springs, in Fremont County, State of Idaho as defined and granted in State of Idaho, Water License No. 885, recorded October 23, 1908, in Book 1 of Licenses, Page 379. Date of Priority, October 3, 1904, Covering the lands described in this instrument.

(\$4.50 Revenue Stamps attached and cancelled.)

together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the rents, issues and profits thereof.

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances and privileges thereto incident, unto the said part y of the second part, and to his heirs and assigns forever, and the said part y of the first part, and her heirs, and the said premises in a quiet and peaceable possession of the said part y of the second part, his heirs and assigns, against the said part y of the first part and her heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same, shall and will warrant any and by these presents forever defend.

IN WITNESS WHEREOF, The said part y of the first part ha s hereunto set her hand and seal , the day and year first above written.

Signed, Sealed and Delivered in the Presence of:

W. B. McPherson

Alzina T. Crandall

STATE OF IDAHO, Utah

County of Utah } ss. On this 27th day of November in the year 1918 , before me, W. B. McPherson a Notary Public in and for said County and State, personally appeared Alzina T. Crandall, a widow, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same. And on this day of in the year 1918 , before me, the wife of the above named personally appeared

known to me to be the person whose name is subscribed to the within and foregoing instrument, described as a married woman; and upon an examination without the hearing of her husband, I made her acquainted with the contents of the instrument, and thereupon she acknowledged to me that she executed the same, and that she does not wish to retract such execution.

In Witness Whereof, I have hereunto set my hand and affixed my official seal, at the day and year in this certificate first above written. (SEAL)

W. B. McPherson

My commission expires June 5, 1923.

Recorded at the request of Ta. Co. 7th day of January

19 19 , at 45 minutes past 11 o'clock A. M.

By A. W. Clark

Deputy. W. B. Robertson

SCANNED Recorder.

JUN 06 2007

June 2, 2004

**JAMES OR MARLENE PRICE
PO BOX 212
DRIGGS ID 83422**

RE: EVIDENCE OF PRIORITY FOR SRBA WATER RIGHT CLAIM 22-13246

Dear Claimant (s):

The Idaho Department of Water Resources is nearing the end of water rights review in Basin 22, the Teton River drainage. The Notice(s) of Claim identified with the number shown above has been filed in the Snake River Basin Adjudication (SRBA). The Notice of Claim indicates water usage is based on "Beneficial Use". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Claim. The date the water was first put to beneficial use, known as the priority date, has not been confirmed by License, Decree, or Permit. For this reason, proof must be provided supporting the priority date. **As the claimant, you are responsible for submitting the necessary proof to support the priority date.**

Your claim, as referenced above, claims a Priority Date of JUN 19 1920, from TETON CREEK.

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

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

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

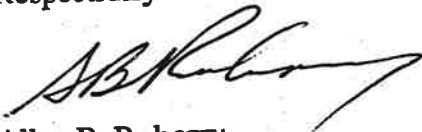
SCANNED

JUN 06 2007

.....
The Department will not recommend the Notice of Claim be decreed by the court if evidence of a priority date is not submitted. The Notice of Claim will be disallowed.
.....

Please submit documentation supporting the priority date within 30 days of the date of this letter, referencing all documents with the corresponding claim number. If you have any questions not covered by this letter or the enclosed pamphlet, please feel free to contact this office.

Respectfully submitted,



Allen B. Ruberry
Sr. Water Resource Agent
Adjudication Bureau

cc: File

Enclosure: Brochure on "Evidence of Priority"

SCANNED
JUN 6 8 2007

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

RETURN SERVICE REQUESTED

- At # _____
Carr init _____
Date _____
- ☐ Not Deliverable As Addressed
 - ☐ Unable To Find
 - ☐ Insufficient Address
 - ☐ Moved Left No Address
 - ☐ Unclaimed Mail Used
 - ☐ Attempted - Not Known
 - ☐ No Such Street
 - ☐ Vacant or Illegible
 - ☒ No Mail Receipts
 - ☐ Box Closed No Order
 - ☐ Returned For Better Address
 - ☐ Postage Due

JAMES W PRICE

MARLENE T PRICE

410 N 1ST E

DRIGGS ID 83422



U.S. POSTAGE
1740 PB3523907
8926 \$00.370 MAR 02 2004
0642 MAILED FROM ZIP CODE 83402

Neu:
Pd Box 212
DRIGGS, ID 83422

22-11943
13246
13448
461
7043
78
84



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

June 13, 2002

DAVID MC WETHY
JAMES MC WETHY
LAURA MC WETHY
SAUNDRA SEWELL
107 SHADOW END
VICTOR ID 83455

RE: CHANGE IN OWNERSHIP FOR 22-11747 & 22-11942

Dear Claimants:

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:

22-11747:

22-13247: 1.14 cfs, 122 AFA, 61 acres, McWethy, et al

22-13248: 0.36 cfs, 38 AFA, 19 acres, Price, et al

22-11942:

22-13245: 3.91 cfs, 130 AFA, 61 acres, McWethy, et al

22-13246: 5.81 cfs, 194 AFA, 91 acres, Price, et al

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.

SCANNED

JUN 06 2002

Respectfully submitted,

Jennifer Crabtree

Jennifer Crabtree

Technical Records Specialist

cc: James Price
Price Brothers
Marlene Price

SCANNED

JUN 06 2007

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

OK JC 6-13-02
 RECEIVED

MAY 21 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, 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
	22-11747	X			
	22-11942	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) are 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)

4. New Owner/Claimant(s) David B. McWethy Sandra Sewell James B. McWethy Laura McWethy
 Name Connector (Check one): ☐ and, ☐ or, ☒ and/or

New Mailing Address

107 Shadow End

City, State and ZIP Code

Victor, ID 83455

New Telephone Number

(208) 787-4163

5. Date you acquired the property

APRIL 17th, 2002

SCANNED

JUN 06 2007

If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number

Water Use

Diversion Rate or Volume
(cubic feet per second or acre-feet per annum)

Description
(acres, number and type of stock, homes, etc)

Irrigation

Stock

Domestic

Other

Total

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number

Water Use

Diversion Rate or Volume
(cubic feet per second or acre-feet per annum)

Description
(acres, number and type of stock, homes, etc)

Irrigation

Stock

Domestic

Other

Total

7. Signature of New Owner(s) or Claimant(s)
(include title if applicable)

Daniel B. McWetney

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by

Date

Fee

Receipted by

Date

Receipt No.

Processed by

AJ

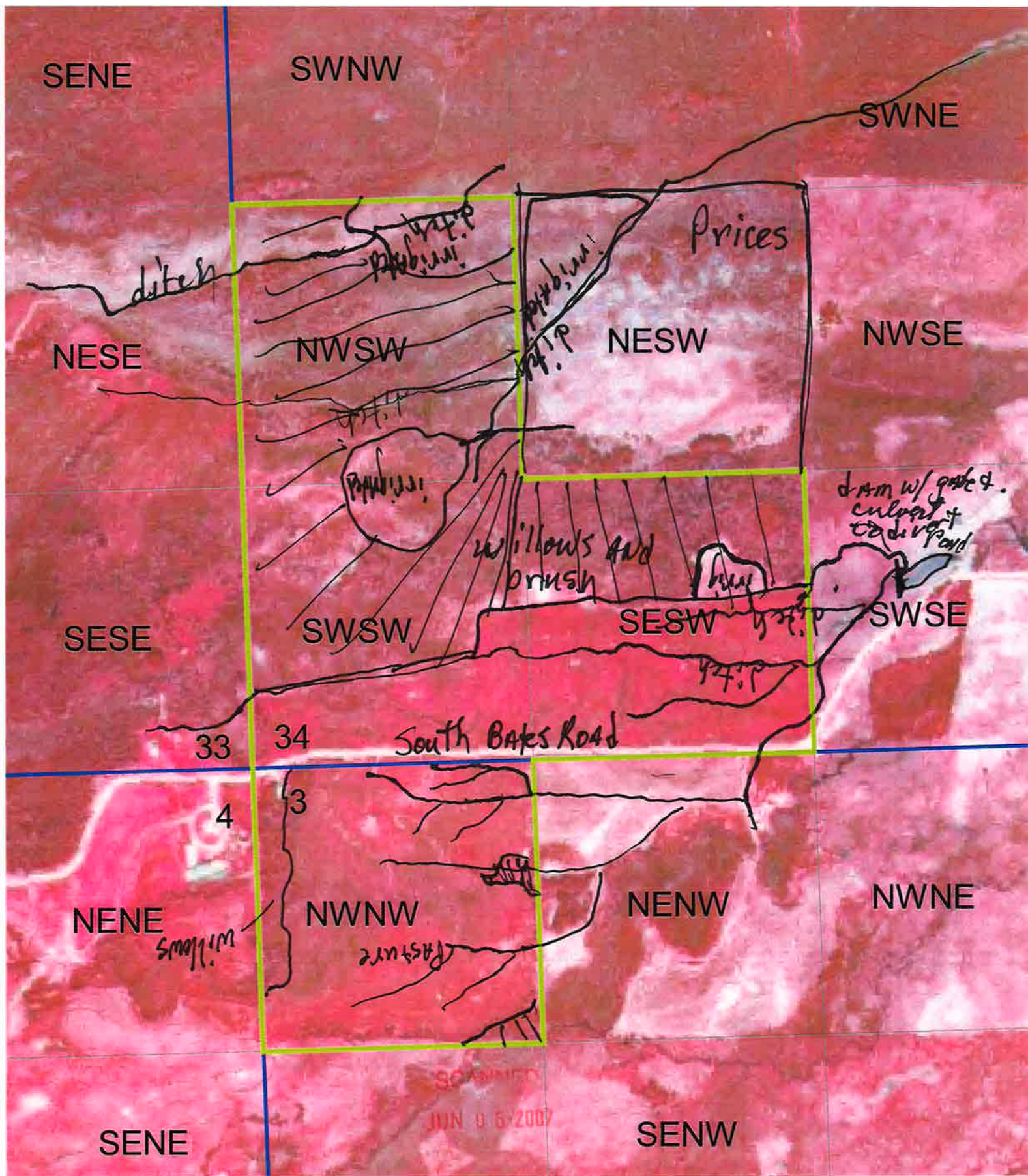
Date

WR

SCANNED
JUN 06 2007

22-13246

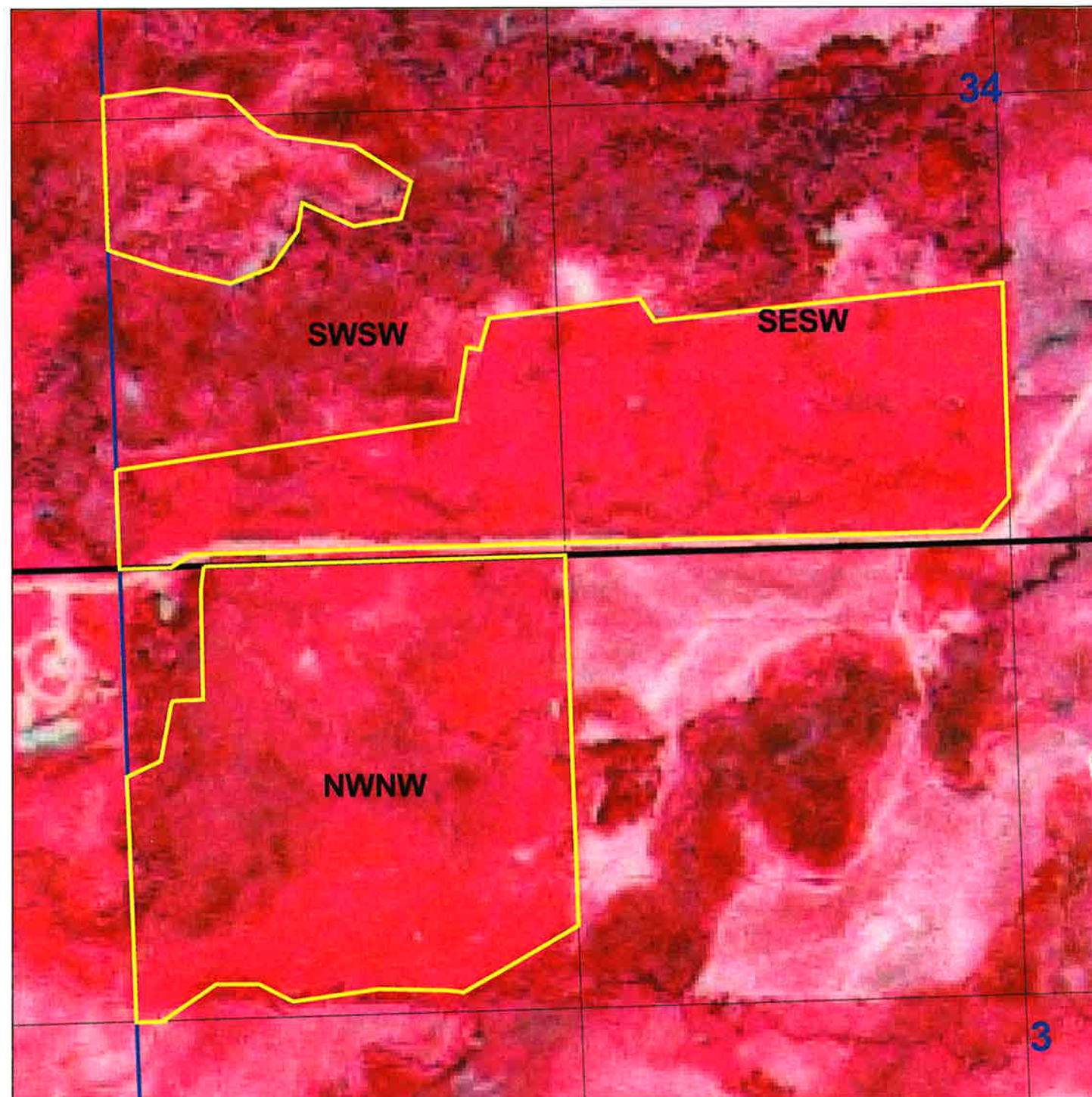
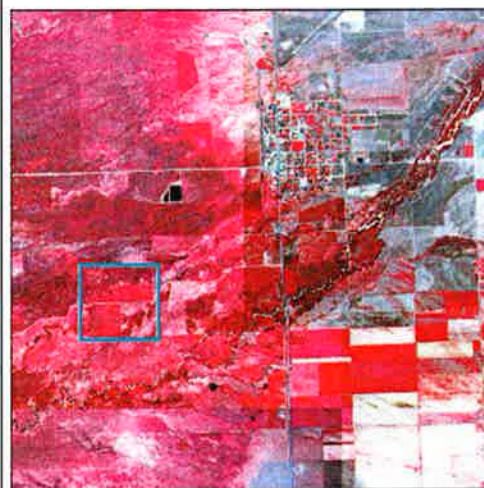
DO
6/29/04

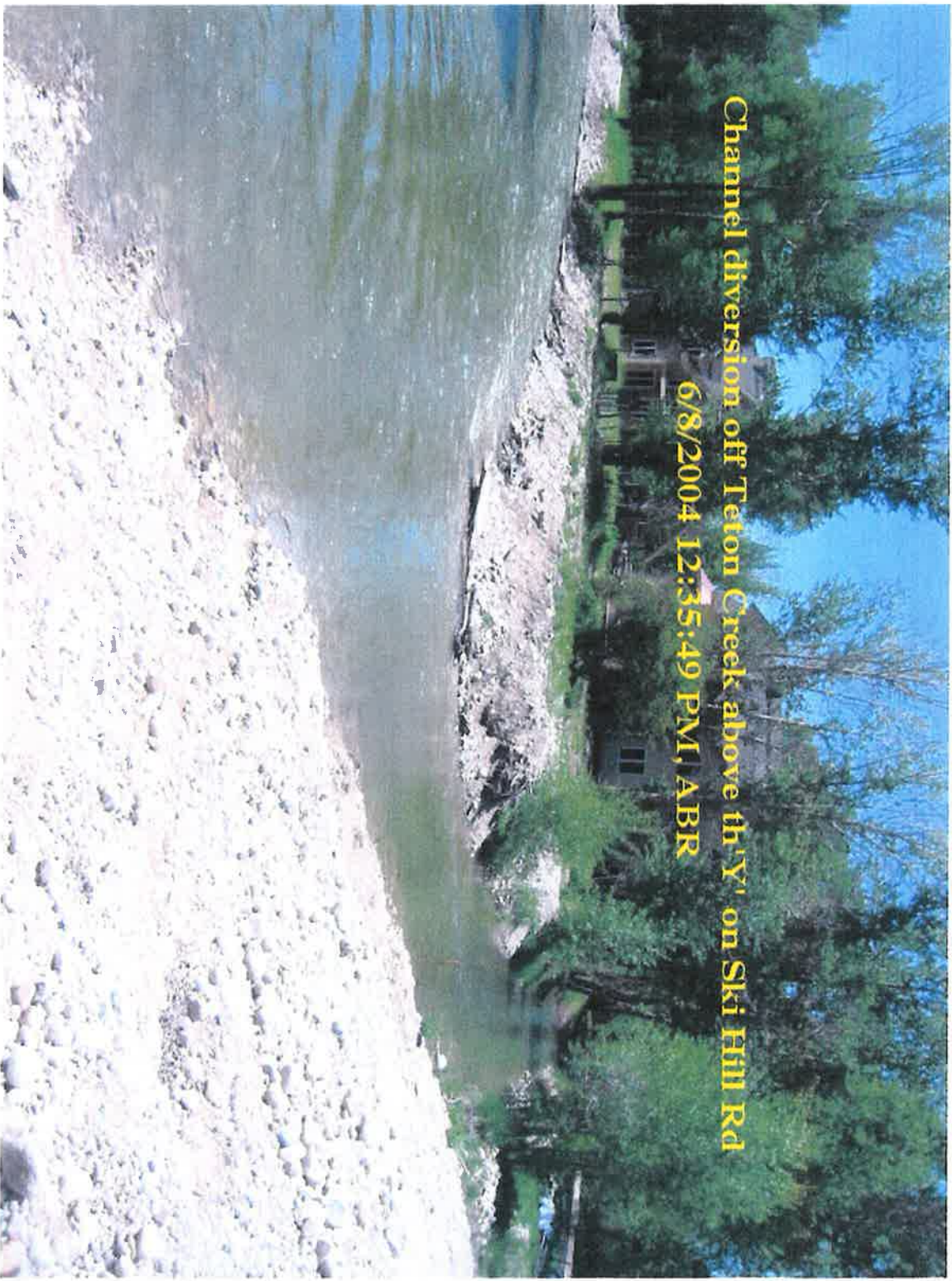


22-13246



SCANNED
JUN 06 2007

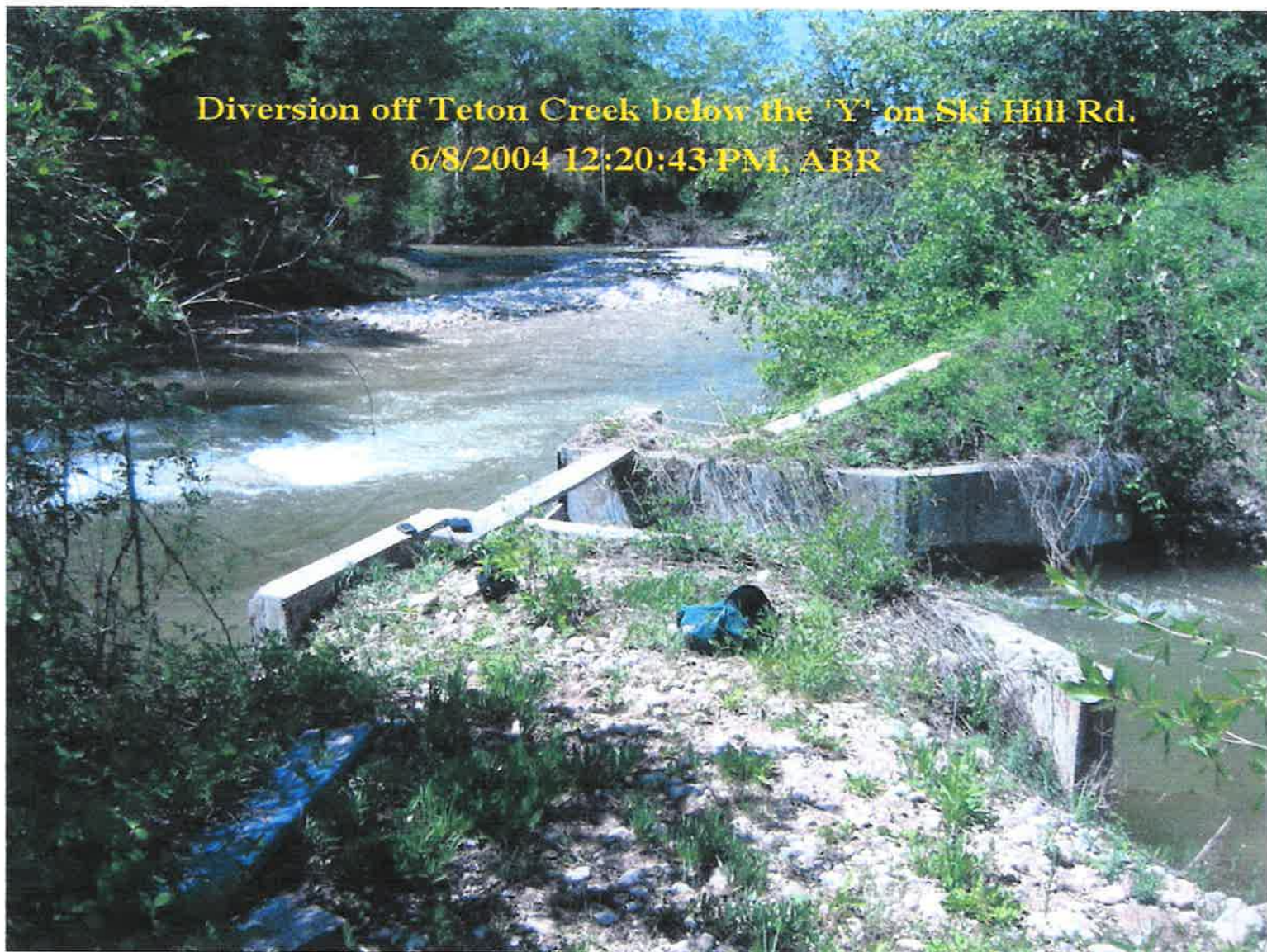




Channel diversion off Teton Creek above th 'Y' on Ski Hill Rd
6/8/2004 12:35:49 PM, ABR

SCANNED
JUN 06 2007

Diversion off Teton Creek below the 'Y' on Ski Hill Rd.
6/8/2004 12:20:43 PM, ABR



SCANNED
JUN 06 2007

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

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

CIVIL CASE NUMBER: 39576

Ident. Number 22-13246
Date Received: 6/13/2002
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

JAMES W PRICE Phone: (208)354-2381
410 N 1st E
DRIGGS ID USA 83422

PRICE BROS Phone: (208)354-2252
73 HARPER BOX 563
DRIGGS ID 83422

MARLENE T PRICE Phone: (208)354-2381
410 N 1st E
DRIGGS ID USA 83422

2. Date of Priority: 06/19/1920

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

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot			County	Type
05N	45E	36	NW	NW	NE	TETON	
05N	45E	36	SE	NE	NW	TETON	

5. Description of diverting works:

HEADGATES AND DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/15	5.81	194

7. Total Quantity Appropriated is:
5.81 C.F.S. and/or 194 A.F.A.

A2213246



8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
04N	45E	3	NW	NW		IRRIGATION	40
						Section Acres	40
05N	45E	34	NW	SW		IRRIGATION	14
			SW	SW		IRRIGATION	17
			SE	SW		IRRIGATION	20
						Section Acres	51
						Total Acres	91

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 22-11942

15. Basis of Claim: Beneficial Use