

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

RIGHT NUMBER: 22-13379

NAME AND ADDRESS:

KOLENE LATER
943 N HWY 32
TETONIA ID 83424

~~RON BROWER~~
~~947 HWY 32~~
~~TETONIA ID 83452~~

~~BEULAH BROWER~~
~~947 HWY 32~~
~~TETONIA ID 83452~~

SOURCE: Source:
BADGER CREEK

Tributary:
TETON RIVER

QUANTITY: 0.240 CFS ~~0.220 CFS~~

PRIORITY DATE: 01/18/1905

POINT OF DIVERSION:

T06N R45E S8 NWNESE
Within TETON County

PURPOSE AND
PERIOD OF USE:

Purpose of use:	Period of use:	Quantity:
IRRIGATION	04/15 10/31	<u>0.240 CFS</u> ~~0.220 CFS~~

PLACE OF USE: IRRIGATION within TETON County

T06N R45E S08 NESW 1.7
T06N R45E S08 NWSW 9.1

~~T06N R45E S08 NESW 2.2~~
~~T06N R45E S08 NWSW 8.8~~

10.8 ACRES TOTAL

~~11 ACRES TOTAL~~

The rights listed below are limited to the irrigation of a combined total of 10.8 acres in a single irrigation season. Combined Right Nos.: 22-13376, 22-13379, and 22-13382.

~~Use of this right with Right Nos. 22-13376, 22-13379, and 22-13382 are limited to the irrigation of a combined total of 11 acres in a single irrigation season.~~

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Water is delivered through Stewart Ditch.

This right is a split from original right 22-254A.

~~This right is a split from original right 22-254.~~



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

January 19, 2010

Clerk of the SRBA Court
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

RE: Subcase No. 22-13379 (Later)

To the Clerk of the SRBA Court:

This Court entered an *Order of Partial Decree* for water right no. 22-13379 on November 24, 2008. Recently, the Idaho Department of Water Resources ("Department") learned that the partial decree for 22-13379 contains an error.

Water right no. 22-13379 overlaps with some water rights that required several ownership changes to resolve objections in a handful of subcases. The Department filed a Notice of Completed Administrative Proceeding for water right no. 22-13379, along with related water rights 22-13376 and 22-13382, on November 28, 2008, reflecting the change in ownership. Standard Form 5s were filed for water right numbers 22-13376 and 22-13382 on March 4, 2009, with a combined use remark in the Place of Use element (the three related rights are limited to 10.8 acres). Like ships passing in the night, however, water right no. 22-13379 had already moved forward to partial decree with a combined use limit of 11 acres. To accurately describe water right no. 22-13379 and to properly assist in future administration, the partial decree for that right needs to be amended to reflect the correct combined use limit of 10.8 acres.

Accordingly, the Department requests this Court issue amended partial decrees pursuant to Rule 60(a) of the Idaho Rules of Civil Procedure, correcting the error in the partial decree. For that purpose, I am attaching an Amended Director's Report in underline/strikeout format to illustrate the changes necessary. I am sending a copy of this letter to the claimant and her counsel so that they are aware of this error.

If you should have any questions or comments, please feel free to contact me at (208) 287-4810.

Sincerely,

A handwritten signature in black ink, reading "Andrea L. Courtney".

Andrea L. Courtney
Deputy Attorney General, IDWR

Cc: Kolene Later
Jerry R. Rigby
Michael Holliday

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



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.
Director

November 25, 2008

KOLENE LATER
943 N HWY 32
TETONIA ID 83424

RE: Notice of Change of Water Right Ownership (NCO) for
22-13376, 22-13379 and 22-13382 and Notice of Completed Administrative Proceeding (NCAP)

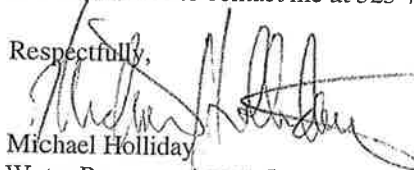
Dear SIRMADAM:

The Idaho Department of Water Resources (IDWR) received an NCO changing the right holder for a portion of the above referenced water right(s). Based on this NCO, IDWR water right records for the Snake River Basin Adjudication (SRBA) have been updated with new water right numbers reflecting the division of the water right(s). Once IDWR processes the change of ownership, IDWR mails a copy of the updated water right record(s) (Director's Report) to each party listed on the NCAP. Enclosed please find the relevant NCAP(s) for your right(s). The intent of this mailing is to ensure each party has a current record of the water right(s) as recorded in the SRBA.

You may recall the initial hearings held in Rexburg on August 19, 2008. During those hearings the present parties discussed changes that needed to be made to resolve issues related to place of use, acreage and diversion rate for the aforementioned water rights. You may notice that the changes discussed at the initial hearings are not reflected in the enclosed Director's Report. Those changes were excluded from this version of the Director's Report solely because the purpose of the NCAP is simply to inform the parties and the SRBA Court of the changes in ownership. A Standard Form 5 (SF5) settlement document will follow shortly under separate cover. The SF5 will incorporate the corrections that we discussed at the initial hearings. Once the parties sign the SF5 settlement documents for these water rights, the SF5s will be sent to Special Master Bilyeu for her review and then to Judge Melanson for partial decree.

Please feel free to contact me at 525-7161 if you have any questions concerning this matter.

Respectfully,


Michael Holliday
Water Resource Agent, Sr.

Enclosure

cc: RON BROWER
BEULAH BROWER

SCANNED
DEC 03 2008

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

In Re SRBA)

Water Rights: 22-13376, 22-13379 &
22-13382

Case No. 39576)

NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING

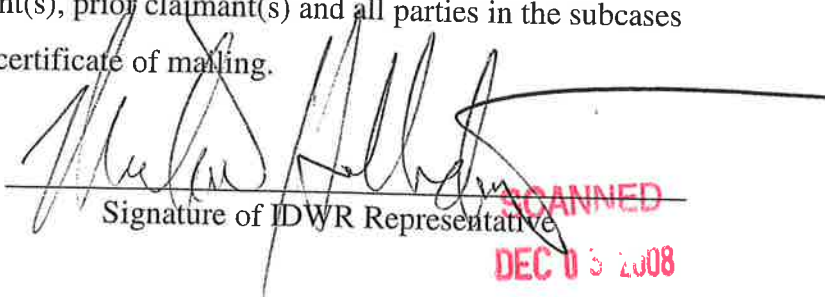
IDWR has completed the following Administrative proceeding:

- [X] Address change
- [X] Substitution of Party BROWER & LATER - LATER
- ☐ I.C. § 42-222 transfer
- | | |
|---|--|
| ☐ point of diversion | ☐ place of use |
| ☐ period of use | ☐ nature of use |
| ☐ split of water right | ☐ change in ownership |

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

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

DATED: 11/25/2008

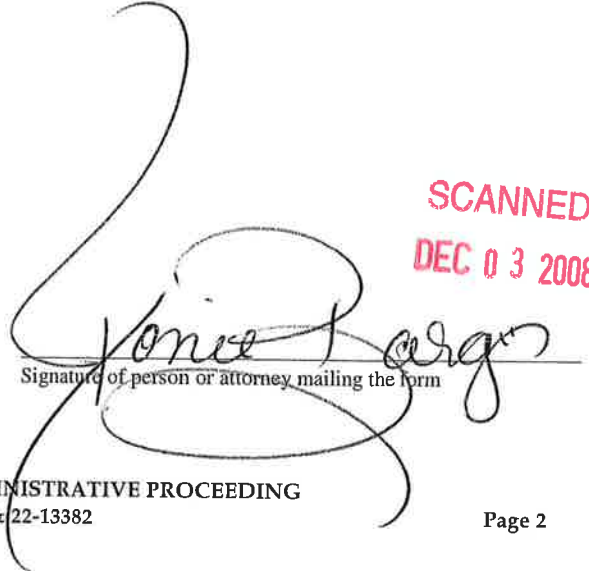

Signature of IDWR Representative

SCANNED
DEC 03 2008

CERTIFICATE OF MAILING

I certify that on Nov. 26, 2008, I mailed the original and copies of this form to the following persons, postage prepaid by regular mail and addressed as follows:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707
2. One copy to:
Claimant/Seller for Substitution of Party or attorney of record:
Beulah Brower Kolene Later
Ron Brower 947 N Hwy 32
947 N Hwy 32 Felt ID 83424
Tetonia ID 83452
3. One copy to:
Claimant/Purchaser for Substitution of Party, or attorney of record:
Kolene Later
943 N Hwy 32
Tetonia ID 83424
4. One copy to:
Each party in the subcase, or attorney of record
Kolene Later
C/O Jerry R Rigby
25 N 2nd E
Rexburg ID 83440-0250
5. One copy each to:
Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise ID 83711-4449
6. One Copy to:
United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724


Signature of person or attorney mailing the form

SCANNED
DEC 03 2008

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

RIGHT NUMBER: 22-13379

NAME AND ADDRESS: KOLENE LATER
943 N HWY 32
TETONIA ID 83424

SOURCE: BADGER CREEK

TRIBUTARY: TETON RIVER

QUANTITY: 0.220 CFS

PRIORITY DATE: 01/18/1905

POINT OF
DIVERSION:

T06N R45E S8 NWNESE Within TETON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

0.220 CFS

PLACE OF USE:

IRRIGATION in TETON County

T06N R45E S08

NESW

2.20

T06N R45E S08

NWSW

8.80

11 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 11 acres in a single irrigation season. Combined Right Nos.: 22-13376, 22-13379, and 22-13382.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Water is delivered through Stewart Ditch.

This right is a split from original right 22-254.

SCANNED
DEC 03 2008



Idaho Department of Water Resources

SRBA Recommendation:

22-13379

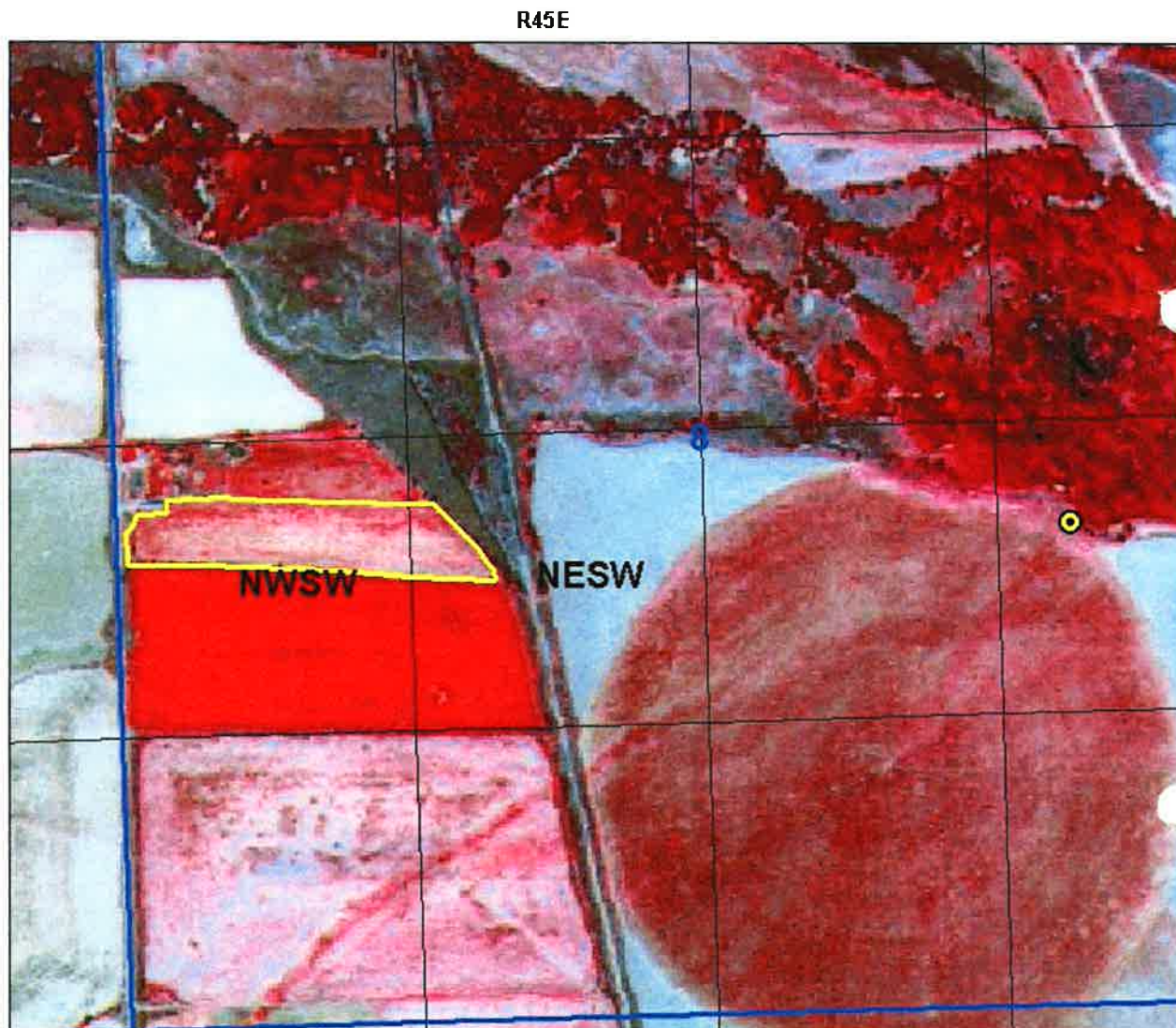
(Irrigation)

Legend

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



Teton County
IDWR Basin 22



0 0.3 0.6 Miles



Prepared by C. Moore
On Tuesday, November 28, 2006
1987/88 Aerial Photography

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 22-254

WATER RIGHT NUMBER: 22-254

<u>Owner Type</u>	<u>Name and Address</u>
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Current Owner J G FELT

, (D

Priority Date: 01/18/1905

Basis: Decreed

Status: Active

Source

Tributary

BADGER CREEK

TETON RIVER

Beneficial Use

From To

Diversion Rate

Annual Volume

IRRIGATION

/ to /

12.800 CFS

Total Diversion: 12.800 CFS

Location of Point(s) of Diversion

BADGER CREEK

Place of Use

IRRIGATION

[illegible]

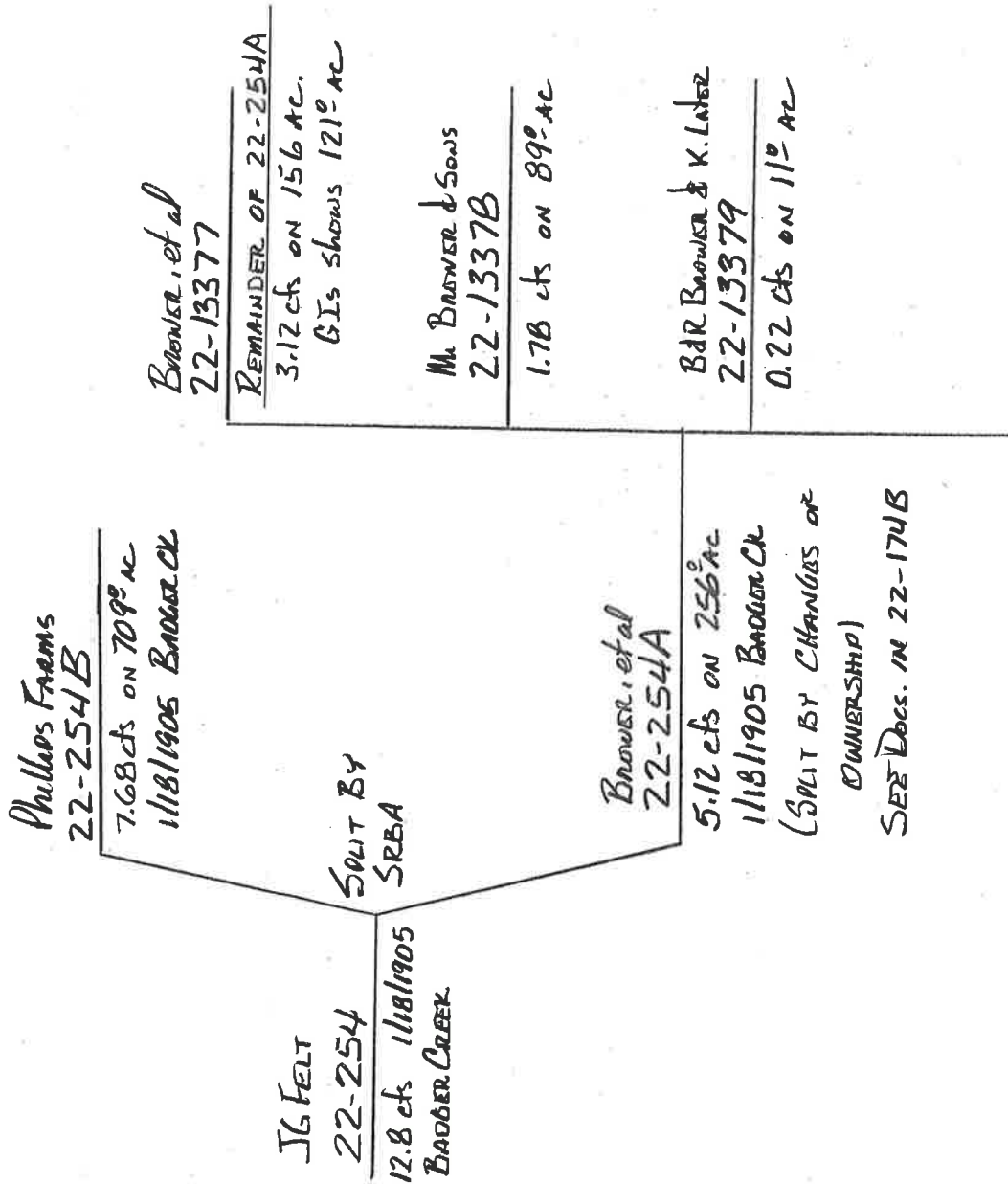
Conditions of Approval:

1. AC. IRR. = 640.

Remarks:

Comments:

Water Right and SRBA Split History Analysis



Reviewer: _____
mydoc/fieldexamforms/splitthistory

Date: _____

JUN 17 2005

PROVIDED

Contacts Data Entry Form

Claim Number: 22-254

Owner Type	Full Name	Address	City	State	Zip
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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.

DECEASED UNDER KORBURG US PATENT, 1910, AC: #259 TO J. G. FULT,
640", 1/10/1905, Badger Cr.

128 cts NO KNOWN SPLITS OR TX'S ON A/R side

APPARENTLY SPLIT BY SRBA TO:

22-254A - Brown et al, 5¹² cts ON 256² AC

22-254B - Phillips Farms, 7⁶⁸ cts ON 709² AC
1200 cts

SRB 22-174B (Parent) FOR PB NOTES, photos, etc

SPLITS BY C/O's: 22-254A

22-13377 - Brown et al, 3¹² ON 156² AC (GIS shows 12¹²) REMAINING

22-13378 - M. Brown & Sons, 1²⁶ ON 139² AC

22-13379 - B & R Brown & K. L. Linn, 0²² ON 11² AC

5¹² cts 256² SPLIT IN-FULL

Reviewer: _____ Date: _____

PROFILED

SCANNED

JUN 17 2005

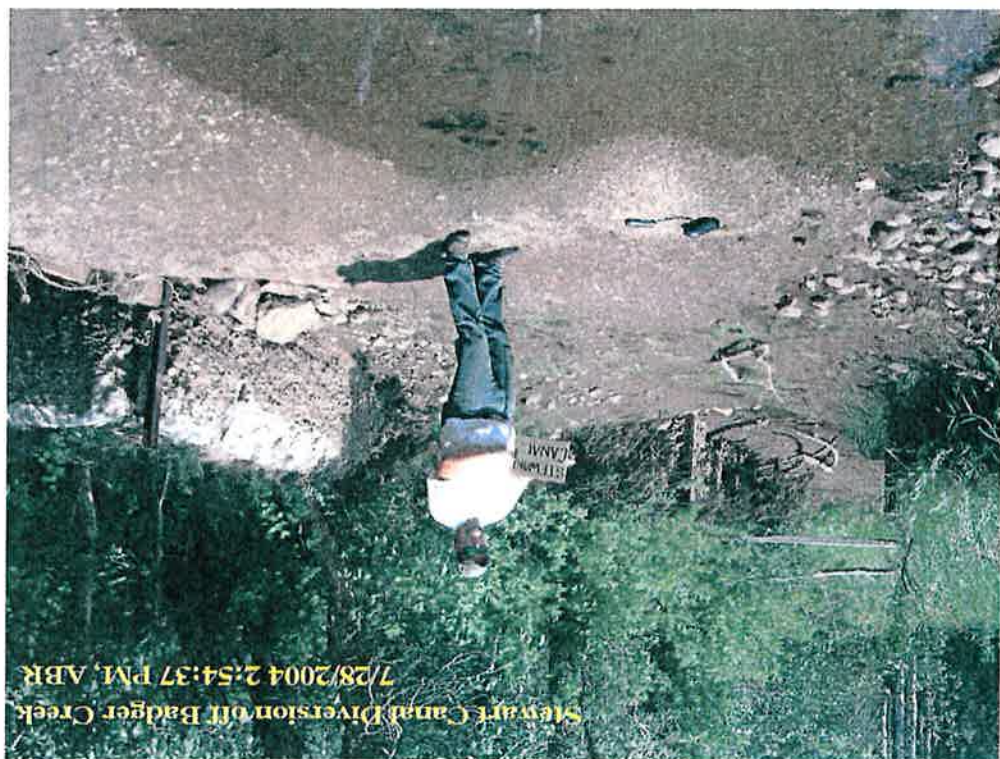
PROTECTED

SCANNED
JUN 17 2005

7/28/04
ABR

GPS Tag # A0013677

Heckler Stewart Ditch
not (across) canal



Stewart Canal Diversion off Badger Creek
7/28/2004 2:54:37 PM, ABR

T6N, R44E
T6N, R45E

Badger
Creek

65
78

32



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

DEC 06
AR
1-21-05

RECEIVED

JAN 19 2005

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

Department of Water Resources
 Eastern Region

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

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
	22-2189	⇒	22-13380, 13381, 13382		
	22-254A	⇒	22-13379, 13378, 13377		
See Docs in	22-174B	⇒	22-13374, 13375, 13376		

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.**

DEATH CON. for TED, ESTATE DUDS or DISTRIBUTION.

☒ C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):

PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

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

3. Name and Address of Former Owner/Claimant(s)

4. New Owner/Claimant(s)

New Mailing Address

City, State and ZIP Code

New Telephone Number

5. Date you acquired the property

Beulah Brower / Ron Brower / Kolene Later
 Name Connector (Check one): ☒ and ☐ or ☐ and/or

947 St Hwy 30

Tetonia, Id 83452

(208) 456-2862

P.O. Box 247

Tetonia, Id 83452

(208) 456-0056

FILED

SCANNED
 JUN 17 2005

RECEIVED
 JAN 12 2005
 Department of Water Resources
 Eastern Region

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 22-13379
Date Received: 5/11/2005
Receipt No:
Received By:

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

KOLENE LATER Phone: (208)456-2862
947 N HWY 32
FELT ID USA 83424

BEULAH BROWER Phone: (208) 456-2862
947 ST HWY 32
TETONIA ID USA 83452

RON BROWER Phone: (208) 456-2862
947 ST HWY 32
TETONIA ID USA 83452

2. Date of Priority: 01/18/1905

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

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
06N	45E	9	NW NW SE	TETON	

5. Description of diverting works:

HEADGATE 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	0.22	

7. Total Quantity Appropriated is:

0.22 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
06N	45E	8	NW SE	IRRIGATION	9
			NE SE	IRRIGATION	2
				Section Acres	11

Total Acres 11

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 22-254a,

receipt M001456

15. Basis of Claim: Decreed