

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

RIGHT NUMBER: 22-13955

NAME AND ADDRESS: SUMMERCO INC  
27 N 3000 E  
SUGAR CITY ID 83448

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 3.100 CFS

Right Nos. 22-2258A and 22-13955 are limited to a total combined diversion rate of 3.1 cfs and to a total combined annual diversion volume of 542.5 AF.

PRIORITY DATE: 06/01/1968

This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

POINT OF  
DIVERSION:

T06N R40E S26 SENWNE Within MADISON County  
T06N R40E S26 NESWSW Within MADISON County

PURPOSE AND  
PERIOD OF USE:

|               | <u>PURPOSE OF USE</u>               | <u>PERIOD OF USE</u> | <u>QUANTITY</u> |
|---------------|-------------------------------------|----------------------|-----------------|
|               | IRRIGATION                          | 04/01 10/31          | 3.100 CFS       |
| PLACE OF USE: | <u>IRRIGATION in MADISON County</u> |                      |                 |
|               | T06N R40E S22 NENE 5.20             | T06N R40E S22 SWNE   | 1.60            |
|               | T06N R40E S22 SENE 31.00            | T06N R40E S22 NESE   | 36.00           |
|               | T06N R40E S22 NWSE 8.40             | T06N R40E S22 SWSE   | 4.80            |
|               | T06N R40E S22 SESE 37.00            | T06N R40E S23 NENE   | 12.00           |
|               | T06N R40E S23 SWNE 4.00             | T06N R40E S23 SENE   | 39.00           |
|               | T06N R40E S23 SWSW 40.00            | T06N R40E S23 SESW   | 40.00           |
|               | T06N R40E S23 NESE 39.00            | T06N R40E S23 NWSE   | 21.00           |
|               | T06N R40E S23 SWSE 39.00            | T06N R40E S23 SESE   | 39.00           |
|               | T06N R40E S24 NESE 35.00            | T06N R40E S24 NWSE   | 18.00           |
|               | T06N R40E S24 SESE 26.00            | T06N R40E S24 SESE   | 39.00           |
|               | T06N R40E S25 NENE 40.00            | T06N R40E S25 NWNE   | 24.00           |
|               | T06N R40E S25 SWNE 29.00            | T06N R40E S25 SENE   | 38.00           |
|               | T06N R40E S25 NESW 29.00            | T06N R40E S25 NWSW   | 40.00           |
|               | T06N R40E S25 SWSW 39.00            | T06N R40E S25 SESW   | 38.00           |
|               | T06N R40E S25 NESE 12.00            | T06N R40E S25 NWSE   | 39.00           |
|               | T06N R40E S25 SWSE 15.00            | T06N R40E S26 NENE   | 40.00           |
|               | T06N R40E S26 NWNE 40.00            | T06N R40E S26 SWNE   | 40.00           |
|               | T06N R40E S26 SENE 40.00            | T06N R40E S26 NENW   | 40.00           |
|               | T06N R40E S26 NWNW 39.00            | T06N R40E S26 SWNW   | 40.00           |
|               | T06N R40E S26 SENW 40.00            | T06N R40E S26 NESW   | 40.00           |
|               | T06N R40E S26 NWSW 39.00            | T06N R40E S26 SWSW   | 39.00           |

T06N R40E S26

SESW 40.00

1335 ACRES TOTAL

Right Nos. 22-2258A, 22-2295, 22-10646, 22-10777 and 22-13955 are limited to the irrigation of a combined total of 1335 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.

This right is based upon an enlargement of Right No. 22-2258A pursuant to Section 42-1426, Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

This right is for an enlargement of 158 acres within the place of use described for this right.

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.



# Idaho Department of Water Resources

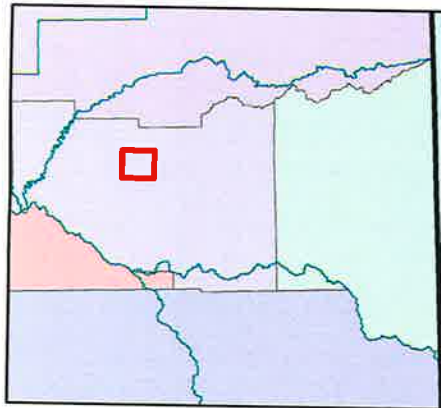
Adjudication Recommendation

22-13955

(IRRIGATION)

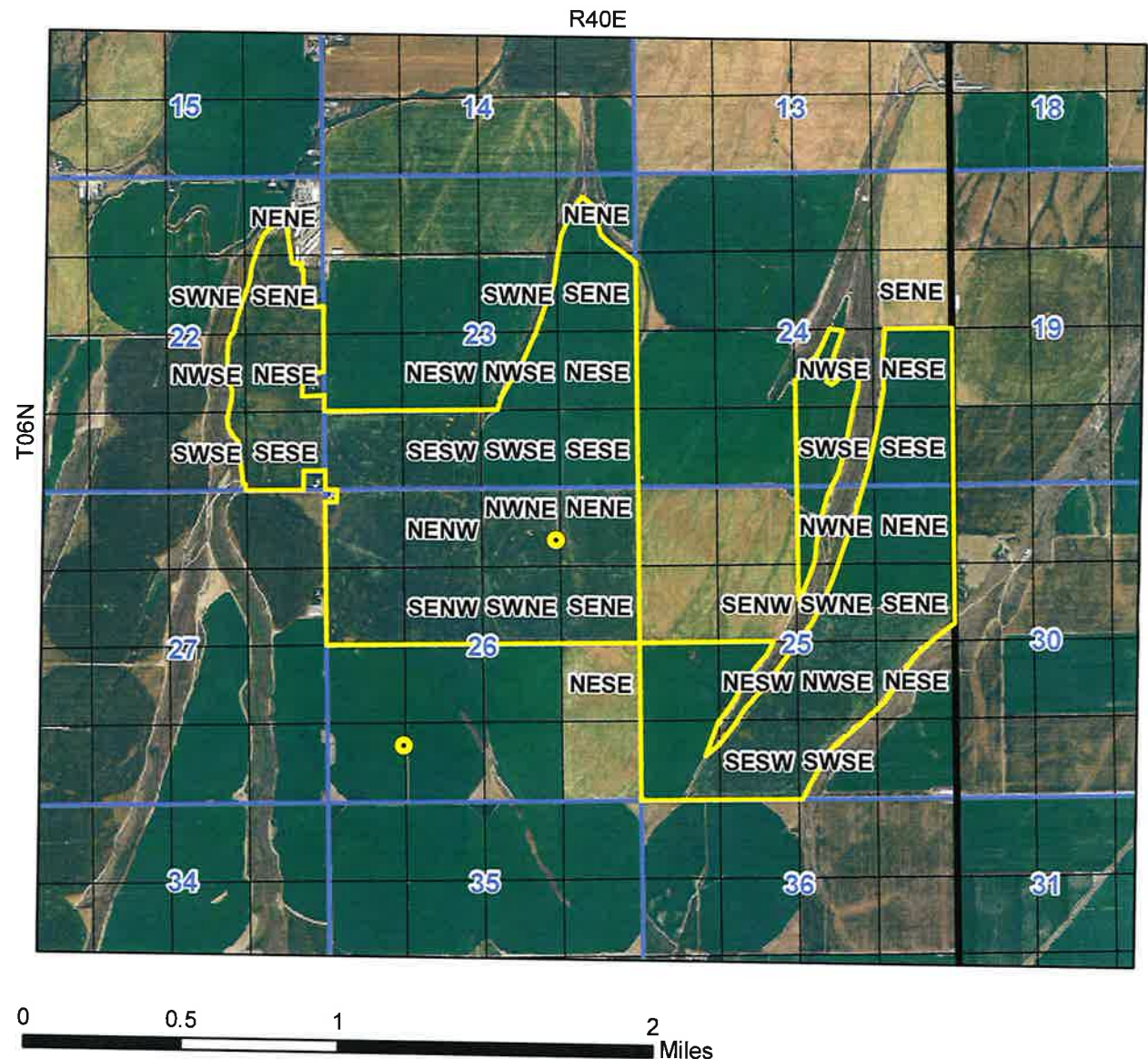
## Legend

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



Madison County  
IDWR Basin 22

Prepared by Kidman, Denise  
On November 17, 2010  
2004 Aerial Photography



**Kidman, Denise**

---

**From:** Jerry Rigby [jrigby@rex-law.com]  
**Sent:** Thursday, March 26, 2009 8:45 AM  
**To:** Carlsen, Ernie  
**Cc:** Kidman, Denise; Spencer, Nick  
**Subject:** Frank Summers, Inc./Summerco, Inc. water rights : enlargement of 22-2258A

Ernie,

Thanks so much for working with me yesterday after our meeting with Egin Bench to come up with a plan to address my issue regarding the Summer's cousins. I really do appreciate your help over the years. As I understand it, the preferred route is to now file a late claim of enlargement of 22-2258A to include the 160 acres also being watered by 22-2183. We have clear proof (which we will provide) evidencing that the two rights have been connected and from the beginning of 22-2258 and have watered all of the lands once owned by the predecessor (both 160s). We will then ask that the right be split with the enlarged claim transferred to Frank Summers, Inc. of .5 cfs leaving 2.6 cfs with Summerco, all by agreement of the parties. I understand that you will prepare the enlargement claim to make sure that it is done the way you believe it should be filed and I will then file the Motion to file late claim. Please let me know if I am missing anything here. Again, thanks for your help.

Thanks

*Jerry R. Rigby*

Rigby, Andrus,  
& Moeller, Chtd.  
P.O. Box 250  
Rexburg, ID 83440  
208-356-3633

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\_\_\_\_\_ Information from ESET NOD32 Antivirus, version of virus signature database 3965  
(20090326) \_\_\_\_\_

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

06N40E27

06N40E26

Summer Farm and Ranch- Danny  
N -111 42.790  
W 43 48.852

Summerco  
N -111 42.794  
W 43 48.839

06N40E34

06N40E35

**Kidman, Denise**

---

**From:** Jerry Rigby [jrigby@rex-law.com]  
**Sent:** Tuesday, May 12, 2009 12:51 PM  
**To:** Kidman, Denise  
**Subject:** Kelly Summers - Frank Summers, Inc.  
**Attachments:** DOC104.PDF; DOC105.PDF

Denise,

Once I finally figured out what you needed, I had Kelly get off of his tractor and come in to see me. He brought his large map (attached) and he and I identified all of the wells, pivots and Kelly's two wells located 1.25 miles away (from which his Harris rights are now pumped). The picture is a little dark but you can see two circles immediately west from the two Harris wells (one of which is on the section line and the other in a few hundred yards).

I have also attached your map of the three identified locations from which you needed to have clarified. You will note that you had them mixed up. The pivot receives its water from the two wells located 1.25 miles away (the scanner cut off the words: Kelly's 2 wells 1 ¼ mile. Please review and if you need anything additional, please do not hesitate to contact me.

As I said before, even though Kelly understood that his "transfer" from the Harris wells was complete, he now understands that he was in error and we will need to complete the transfer after he the split between Summerco and Summers Farm and Ranch is completed.

Thanks

*Jerry R. Rigby*

Rigby, Andrus,  
& Moeller, Chtd.  
P.O. Box 250  
Rexburg, ID 83440  
208-356-3633

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\_\_\_\_\_ Information from ESET NOD32 Antivirus, version of virus signature database 4068  
(20090512) \_\_\_\_\_

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

5/15/2009

FRANK SUMMERS PIVOT  
North POD  
22-11318, 22-2258B, 22-2238  
Summers Farm

SUMMERS FARM LAUNCH  
Middle POD DANNY  
22-2295, 22-2258A, 22-10777  
22-10646  
All-Sumeroe Inc. WELL  
Smell

SUMMERS  
South POD GARY LA  
22-2183, 22-10485  
Frank-Summers New

JELLY

WELLS

Y/MIL

$$\frac{154.4}{6}$$

9

$$\frac{6.2}{6}$$

9

 $\frac{200}{8}$ 

8/23/12

Frank Sumner Fiver-

Summers Farm & Ranch, LLC  
Summers, NC

**Sanwicho**

9476

6214

0.540

32

15

200

$$\frac{2.5}{1.0}$$

2/2

$$\frac{54.7}{6}$$

6

9.0

15

$$\frac{22.2}{13}$$

12

36

**IN**



**Kidman, Denise**

**From:** Jerry Rigby [jrigby@rex-law.com]  
**Sent:** Thursday, March 26, 2009 8:45 AM  
**To:** Carlsen, Ernie  
**Cc:** Kidman, Denise; Spencer, Nick  
**Subject:** Frank Summers, Inc./Summerco, Inc. water rights : enlargement of 22-2258A

Ernie,

Thanks so much for working with me yesterday after our meeting with Egin Bench to come up with a plan to address my issue regarding the Summer's cousins. I really do appreciate your help over the years.

As I understand it, the preferred route is to now file a late claim of enlargement of 22-2258A to include the 160 acres also being watered by 22-2183. We have clear proof (which we will provide) evidencing that the two rights have been connected and from the beginning of 22-2258 and have watered all of the lands once owned by the predecessor (both 160s). We will then ask that the right be split with the enlarged claim transferred to Frank Summers, Inc. of .5 cfs leaving 2.6 cfs with Summerco, all by agreement of the parties.

I understand that you will prepare the enlargement claim to make sure that it is done the way you believe it should be filed and I will then file the Motion to file late claim.

Please let me know if I am missing anything here.

Again, thanks for your help.

Thanks

*Jerry R. Rigby*

Rigby, Andrus,  
 & Moeller, Chtd.

P.O. Box 250  
 Rexburg, ID 83440  
 208-356-3633

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Information from ESET NOD32 Antivirus, version of virus signature database 3965  
 (20090326)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

## Kidman, Denise

---

**From:** Courtney, Andrea  
**Sent:** Wednesday, December 17, 2008 3:19 PM  
**To:** Kidman, Denise  
**Cc:** Williams, Ray  
**Subject:** Summerco et al 22-2183, -2258a, -10483

Denise~

Jerry Rigby apologized for not getting the amended claims put together before today's hearing. He has promised to meet with you/Ernie by the end of January to talk about some of the issues with these subcases and square things away before filing the amended claims (which are now due to the Dept by the end of Jan. '09). The Special Master set an ADR deadline (contingent on Jerry's timely filing) for 2/27/09 with another status conference for 4/15/09 at 11:30am.

Denise, based on prior emails you've sent to me, I asked specifically if he knew these were based on a license and he said yes and that he wasn't seeking more but just a different distribution. I'm not sure he's on the same page as you, but sounds like he'll be in to visit, which is a good step.

Andrea

## Kidman, Denise

---

**From:** Courtney, Andrea  
**Sent:** Wednesday, October 08, 2008 4:09 PM  
**To:** Kidman, Denise  
**Cc:** Williams, Ray  
**Subject:** 22-2183, -2258A, -10483 Summers

Denise~

Jerry Rigby appeared on behalf of Frank Summers Inc. and Summerco. He explained that the owners are cousins, the land was originally owned by three brothers who are now deceased and the issue arose when the brothers' land was improperly split amongst the cousins. He has talked to the parties and they agree in principle how best to resolve these three. They want the original water right prorated per the land that was split off.

I informed him that there is a problem with -2183 because the claim only seeks 2 cfs while the obj wants 2.5. The Court granted his oral motion to amend the claim for more quantity and an additional POD subject to his filing a written amended claim with the Dep't. I also let him know that you are the agent working on these rights. He'll be in touch. Hopefully he'll get the amended claim to you shortly. I asked that the Special Master give you until the end of November to prepare the ADRs and she agreed. ADRs due 11/28/08. The next status conference is 12/17/08 at 3pm.

One additional wrinkle that I foresee is that all three of these are based on licenses. I haven't looked at the licenses to see what they say, but it is possible that the "improper split" stems from the licenses. I assume he'll send the amended claim to both of us, but just in case please let me know when you hear from him and vice versa.

Whew, that was a full day of hearings. Now for my sandwich.

Andrea

22-2183

Emailed Andrea regarding email -

10/10/08 wait for ~~amended~~ Claims -

11/24/08 hearing - no ADR deadline

Jerry Rigby - wait for amended Claims  
end of Jan '09 2/27/09 ADR

1/8/09 - Still waiting for Amended Claim



Idaho Department of Water Resources

# MEMORANDUM

---

File: Summerco, Frank Summers Inc., and Summers Farm and Ranch

Subject: Field exam of POD's

Frank Summers Inc (Kelly)- 22-2219, 22-4091

Tag #A0012241

Drilled about 1962

GPS -N 111 44 05.8 W 42 48 55.2

Spatial Data Point #380415

Tag #A0012242

Drilled 1991

GPS- N 111 44 25.9 W43 48 68.5

Spatial Data Point #380416

A0012241 and A0012242 are tied together

Frank Summers Inc- 22-2263B, 22-2264B

Tag#A0012240

GPS- N 111.750367 W 43.780333

Spatial Data Point #364993

Summerco-(Gary) 22-10777

Tag#A0012244

GPS- N 111.713233 W 43.813983

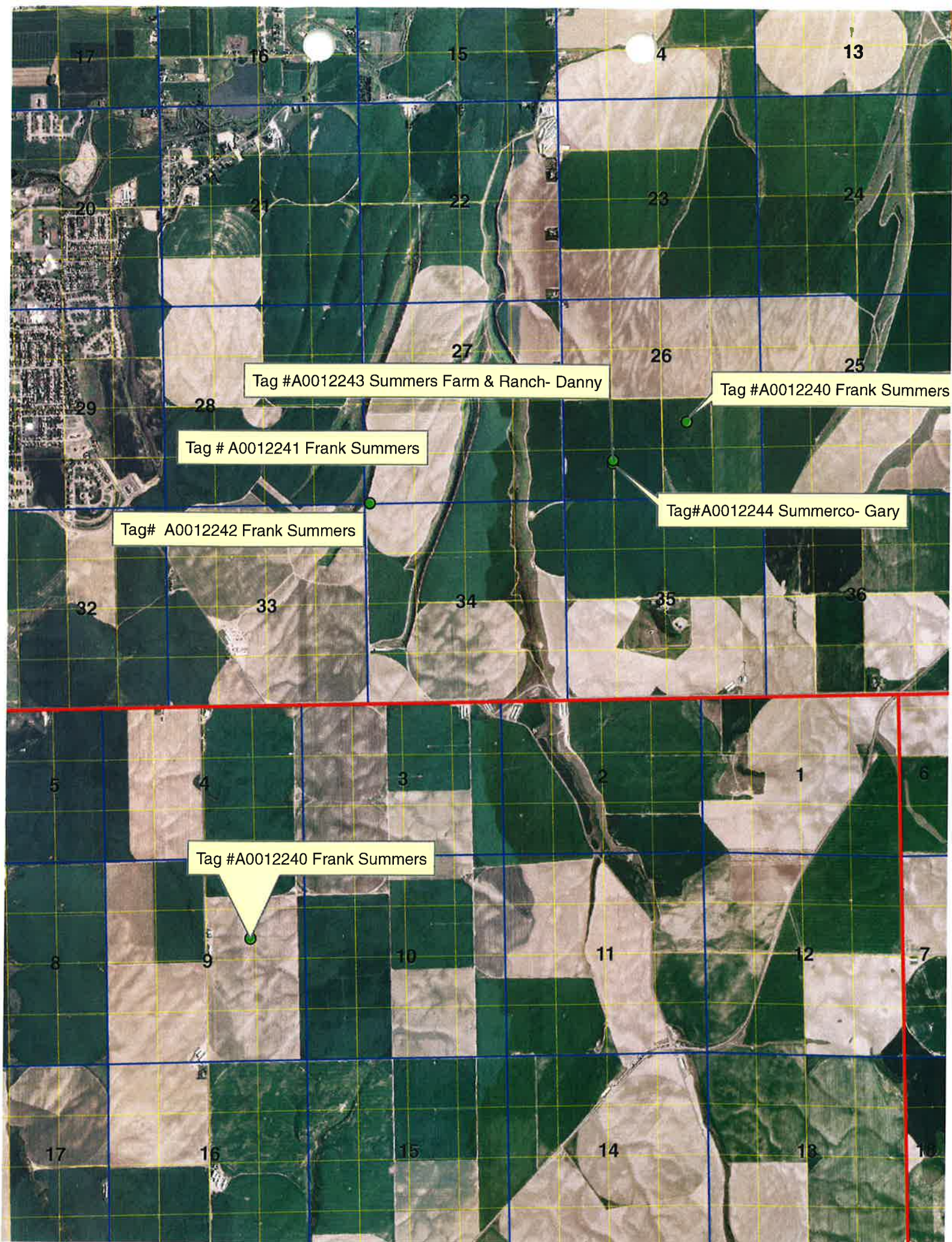
Spatial Data Point #370139

Summers Farm & Ranch (Danny) 22-2258B, 22-2238, 22-11318

Tag#A0012243

GPS- N 111.716167 W43.8142

Spatial Data Point #364985





Idaho Department of Water Resources

# MEMORANDUM

---

File: 22-2183 & 22-10483 Frank Summers  
Date: July 21, 2009  
Subject: Objection Resolution

I met with Kelly Summers on June 25, 2009 to GPS the POD locations. There has been some confusion regarding which wells belonged to which claimant. ArcMap shows three POD's for this water right.

ArcMap shows:

North POD- A0012243

Summers Farm and Ranch- 22-11318, 22-2258B, 22-2238

Middle POD- No tag

Summerco, Inc- 22-2295, 22-2258A, 22-10777, 22-10646

South POD- A0012244

Frank Summers, Inc.- 22-2183, 22-10483

Field Visit:

It was determined that there were only two POD's that should be showing up on ArcMap. The water rights linked to the north POD should actually be linked to the middle POD according to the GPS readings. It is undeterminable why there were three POD's listed.

Summerco, Inc. and Frank Summers water right need to be combined to the south POD.

Summerco has filed a late claim, 22-13955, for an additional rate which will be split between Summerco and Frank Summers to make the original split equal among the cousins.

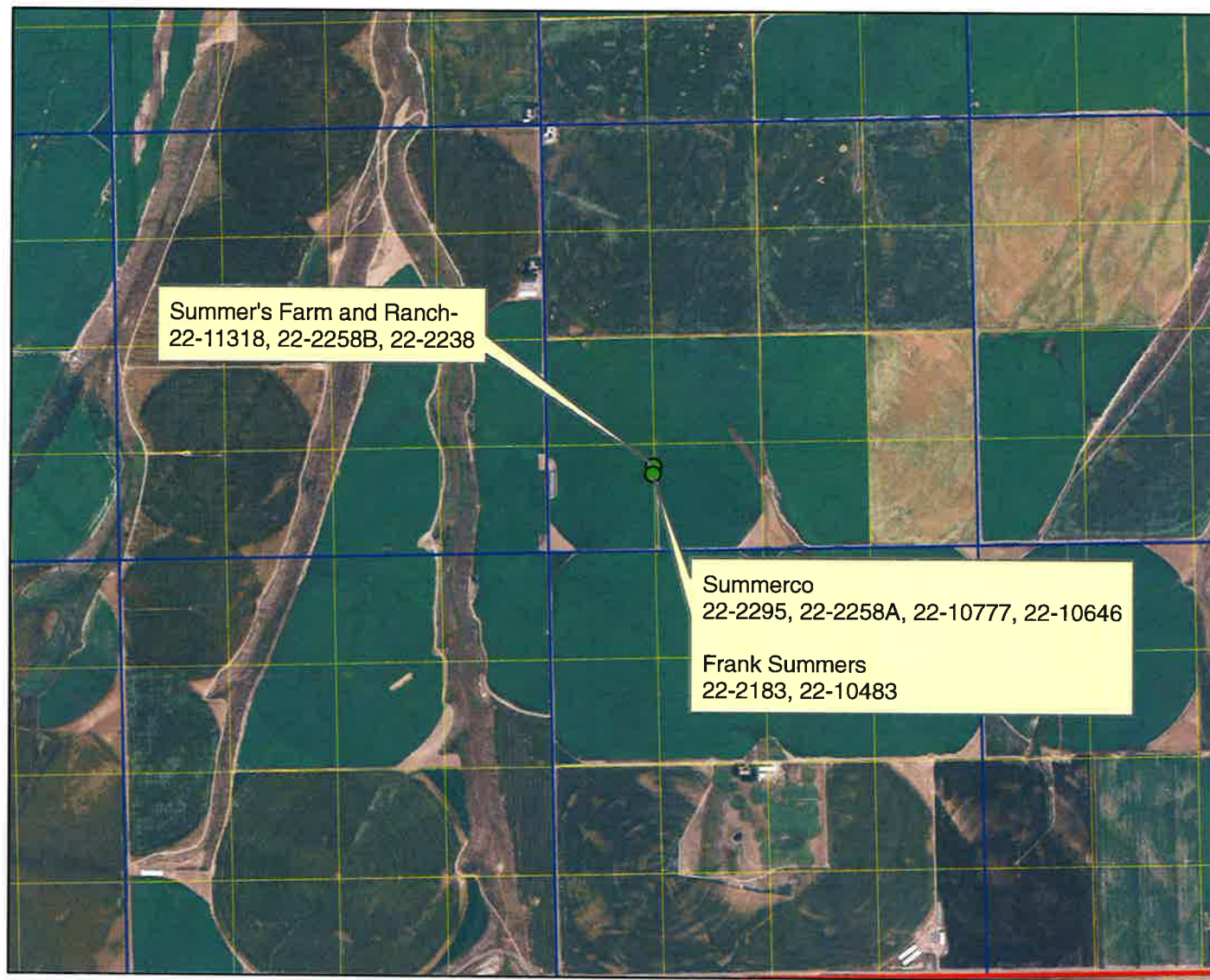
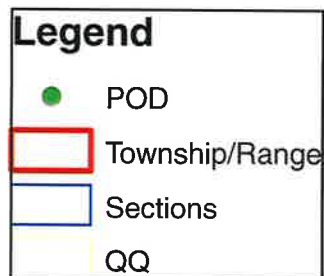
Once the late claim has been recommended, 22-13955 will be split between Summerco and Frank Summers. Frank Summers water rights will then be transferred to where they are being used in 6N. When the Summers purchased the land from Harris's Frank moved the water right to 6N. Frank thought that the change of POD has been filed and completed.

*From the desk of Denise Kidman*



# Idaho Department of Water Resources

Location of POD's determined during June 25th Field Visit



Prepared by Denise Kidman  
On July 21, 2009  
2004 Aerial Photography

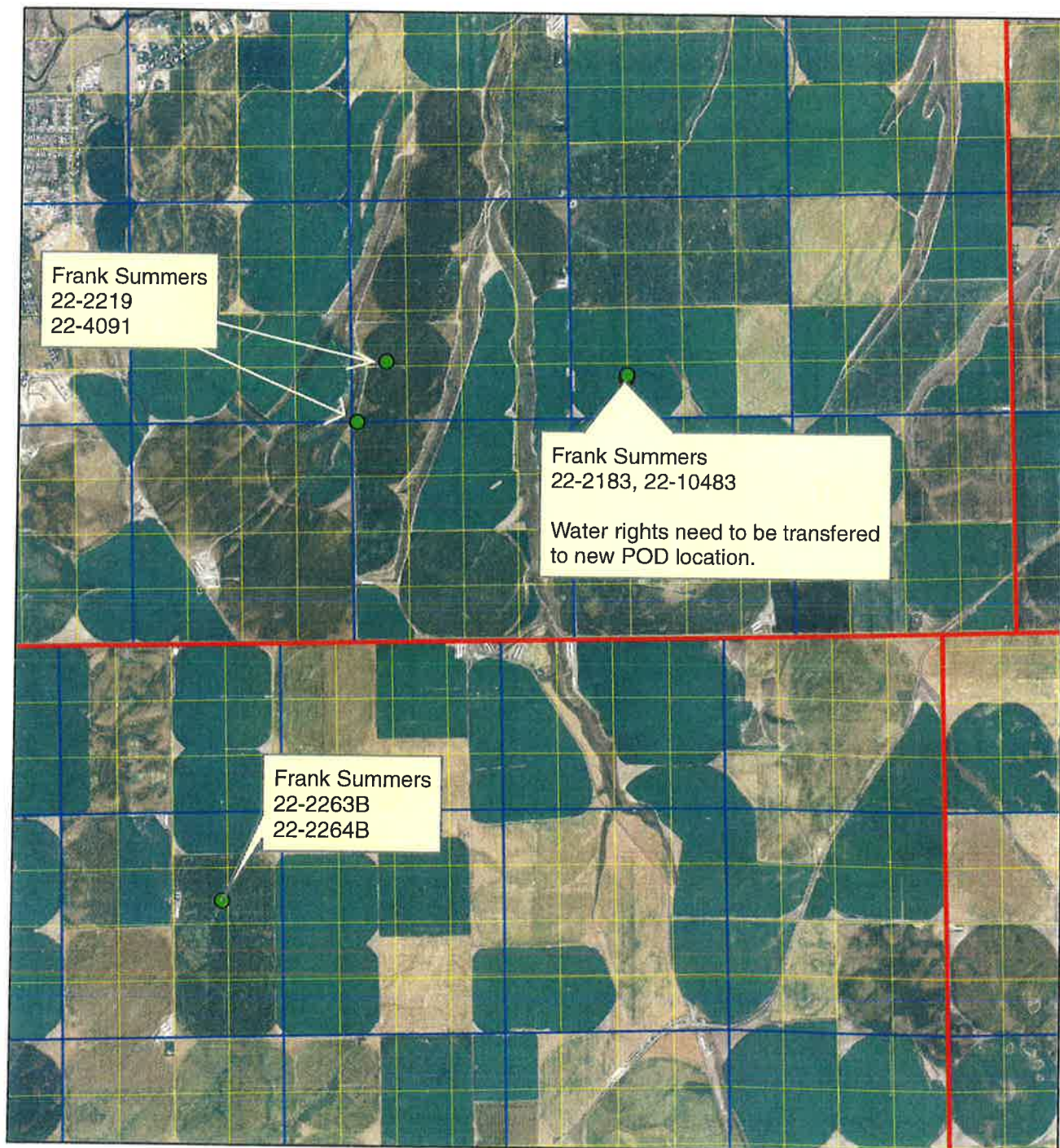
0 0.15 0.3 0.6 0.9 1.2 Miles

map A

# Idaho Department of Water Resources

Water Rights 22-2183, 22-10843

Frank Summers



Map B

RECEIVED  
OCT 14 2009  
DEPARTMENT OF  
WATER RESOURCES

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

|            |   |                                                          |
|------------|---|----------------------------------------------------------|
| In Re SRBA | ) | Subcase: 22-13955                                        |
|            | ) |                                                          |
|            | ) | STANDARD FORM 4                                          |
| Case 39576 | ) |                                                          |
|            | ) | MOTION TO FILE                                           |
|            | ) | <input checked="" type="checkbox"/> LATE NOTICE OF CLAIM |
|            | ) | <input type="checkbox"/> AMENDED NOTICE OF CLAIM         |
|            | ) |                                                          |

---

☒ I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is Summerco, Inc.

My address is: 27 North 3000 East, Sugar City, ID 83448

My phone number is: (208)356-7314

I am an attorney representing Summerco, Inc.

My name is Jerry R. Rigby

My address is: 25 North 2<sup>nd</sup> East, P.O. Box 250, Rexburg, Idaho 83440

My phone number is: (208) 356-3633

## MOTION TO FILE A LATE NOTICE OF CLAIM

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

X I did not file a Notice of Claim to the use of the water in the SRBA because:

The lands upon which this right has historically been diverted was purchased and then divided among corporations owned by brothers many years ago. The division also involved several water rights. Each corporation didn't know precisely what the other was doing with the split rights before the SRBA until after the Director's reports were issued and therefore this Claimant only claimed water right 22-2183. However, it was always the historical practice that right No. 22-2258 was also diverted and watered the lands owned by Frank Summers, Inc., as well as Summerco, Inc., from before 1987 and it was the clear intent between Summerco, Inc. and Frank Summers, Inc. to split the right as close to "even" as possible taking into consideration other rights used upon the same lands, because the right was diverted on equal acreage owned by the two corporations. However, it was only recently discovered and understood that the best method of conforming the historical use with the water rights would be to have the statutorily authorized enlargement claimed and once authorized and proven, then split this water right in such a manner which would more closely equal a proportionate share of the water rights to Summerco and Frank Summers, Inc.'s share of the split lands.

- ☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of claim for domestic or stock watering use.
- ☐ I am providing legal and factual documentation for my claimed use of water. You must described these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

I have attached:

- X A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$\_\_\_\_\_.
- X A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$100.00.

Follow these instructions regarding the hearing on this motion.

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

This motion will be heard on: Tuesday, January 20, 2010 at 1:30 p.m.  
at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

### **MOTION TO FILE AN AMENDED NOTICE OF CLAIM**

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

- ☐ I must amend my Notice of Claim to the use of the water in the SRBA because:
  - ☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.
- 

I have attached:

- ☐ An Amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:  
Fees have been paid when the claims were originally filed.

VERIFICATION

STATE OF IDAHO,                    )  
                                                  ss  
County of Madison.                )

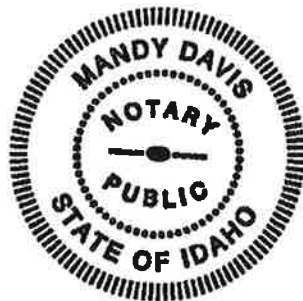
Jerry R. Rigby, being first duly sworn, upon oath, deposes and says:

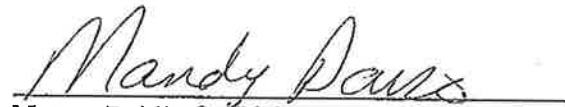
That I am the Secretary of party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 4204101A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

\_\_\_\_\_  
Signature of person filing motion

  
\_\_\_\_\_  
Attorney signing in representative capacity.

Subscribed and sworn to before me on this 9<sup>th</sup> day of October, 2009.



  
\_\_\_\_\_  
Notary Public for Idaho  
Residing at St. Anthony  
My Commission Expires: 06/24/2011

## CERTIFICATE OF MAILING

I certify that on October 9, 2009, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to

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

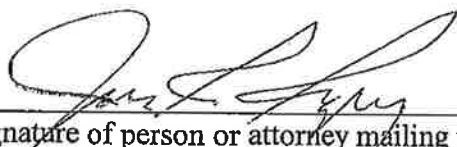
2. Copies to:

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

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

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

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

  
\_\_\_\_\_  
Signature of person or attorney mailing the form

COPY

RECEIVED

SEP 10 2010

DEPARTMENT OF  
WATER RESOURCES

|                                       |       |
|---------------------------------------|-------|
| DISTRICT COURT - SRBA                 |       |
| Fifth Judicial District               |       |
| County of Twin Falls - State of Idaho |       |
| SEP - 8 2010                          |       |
| By _____                              | Clerk |

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

In Re SRBA

Case No. 39576

A. Subcase: 22-13955  
(Insert Water Right Number)

STANDARD FORM 1  
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Summerco

Address: 327 S. 3000 E. Sugar City, Idaho, 83448

Daytime Phone: (208) 356-7314

Name and Address of Attorney, if any:

Jerry R. Rigby

Rigby, Andrus & Rigby

25 N. 2<sup>nd</sup> E, Rexburg, ID 83440

208-356-3633

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

Name: Summerco Inc

Address: 27 N 3000 E  
Sugar City, ID 83448

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

1. ☐ **Name and Address**  
Should be:
2. ☐ **Source**  
Should be:
3. ☐ **Quantity**
4. ☐ **Priority Date**  
Should be:
5. ☒ **Point of Diversion**  
Should be: Should include the SENWNE of Section 26, Township 06N, Range 40 E.B.M., Madison County, Idaho, in addition to the point of diversion recommended.
6. ☐ **Instream Flow Beginning and Ending Point**  
Should be:
7. ☐ **Purpose(s) of Use**  
Should be:
8. ☐ **Period of Year**  
Should be:
9. ☒ **Place of Use**  
Should be: Please see Exhibit A
10. ☐ **Other Conditions of Approval**
11. ☐ **I object because:**
  - ☐ This water right Should not exist.
  - ☐ This water right was not recommended, but Should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTION(S):**

Water rights 22-2258a and 22-2183 were commingled combining pod and pou. This late claim is for an enlargement of 158 acres for 22-2258a which is also covered by 22-2183.

SF1-Objection  
Amended 10/16/97

Page 2

F. VERIFICATION (must be completed)

STATE OF IDAHO, )  
 )  
 County of Madison. )

Robert H. Wood, duly sworn, upon oath, deposes and says:  
 (Name of person filing objection)

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

(Signature of person filing objection)

(Attorney signing in representative capacity)

*S. Dee May for Robert H. Wood*  
 Attorney at Law

Subscribed and sworn before me on:

*September 8, 2010*



*Sheri L. Mitchell*  
 Notary Public for Idaho

Residing at *Jerome, Idaho*

My Commission Expires: *Oct 26, 2011*

## INSTRUCTIONS FOR MAILING

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

G.

### CERTIFICATE OF MAILING

I certify that on September 8, 2010, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:  
Clerk of the District Court  
Snake River Basin Adjudication  
253 Third Avenue North  
PO Box 2707  
Twin Falls, ID 83303-2707
2. One copy to the claimant of the water right at the following address:  
  
Name: Summerco Inc.  
Address: 27 N. 3000 E. Sugar City, Idaho, 83448
3. Copies to:  
IDWR Document Depository  
PO Box 83720  
Boise, ID 83720-0098  
  
United States Department of Justice  
Environment and Nat'l Resources Div  
550 W. Fort Street, MSC 033  
Boise, ID 83724  
  
Chief, Natural Resources Division  
Office of the Attorney General  
PO Box 44449  
Boise, ID 83711-4449

  
Signator of objector or attorney  
mailing on Objector's behalf

SF.1-Objection  
Amended 10/16/97

Page 4

RECEIVE:

NO. 4797

09/08/2010/WED 03:31PM

May, Browning & May

## Exhibit A

9. Place of use: Should be as follows

| Township      | Range | Section | 1/4 of 1/4 | Use        | Acres |
|---------------|-------|---------|------------|------------|-------|
| 06N           | 40E   | 22      | NE NE      | IRRIGATION | 5.2   |
|               |       |         | SW NE      | IRRIGATION | 1.6   |
|               |       |         | SE NE      | IRRIGATION | 31    |
|               |       |         | NE SE      | IRRIGATION | 36    |
|               |       |         | NW SE      | IRRIGATION | 8.4   |
|               |       |         | SW SE      | IRRIGATION | 4.8   |
|               |       |         | SE SE      | IRRIGATION | 37    |
| Section Acres |       |         |            |            | 124   |
| 06N           | 40E   | 23      | NE NE      | IRRIGATION | 12    |
|               |       |         | SW NE      | IRRIGATION | 4     |
|               |       |         | SE NE      | IRRIGATION | 39    |
|               |       |         | SW SW      | IRRIGATION | 40    |
|               |       |         | SE SW      | IRRIGATION | 40    |
|               |       |         | NE SE      | IRRIGATION | 39    |
|               |       |         | NW SE      | IRRIGATION | 21    |
|               |       |         | SW SE      | IRRIGATION | 39    |
|               |       |         | SE SE      | IRRIGATION | 39    |
| Section Acres |       |         |            |            | 273   |
| 06N           | 40E   | 24      | NE SE      | IRRIGATION | 35    |
|               |       |         | NW SE      | IRRIGATION | 18    |
|               |       |         | SW SE      | IRRIGATION | 26    |
|               |       |         | SE SE      | IRRIGATION | 39    |
| Section Acres |       |         |            |            | 118   |
| 06N           | 40E   | 25      | NE NE      | IRRIGATION | 40    |
|               |       |         | NW NE      | IRRIGATION | 24    |
|               |       |         | SW NE      | IRRIGATION | 29    |

SF.I-Objection  
Amended 10/16/97

Page 5

|    |    |            |    |
|----|----|------------|----|
| SE | NE | IRRIGATION | 38 |
| NE | SW | IRRIGATION | 29 |
| NW | SW | IRRIGATION | 40 |
| SW | SW | IRRIGATION | 39 |
| SE | SW | IRRIGATION | 38 |
| NE | SE | IRRIGATION | 12 |
| NW | SE | IRRIGATION | 39 |
| SW | SE | IRRIGATION | 15 |

Section Acres 343

06N 40E 26

|    |    |            |    |
|----|----|------------|----|
| NE | NE | IRRIGATION | 40 |
| NW | NE | IRRIGATION | 40 |
| SW | NE | IRRIGATION | 40 |
| SE | NE | IRRIGATION | 40 |
| NE | NW | IRRIGATION | 40 |
| NW | NW | IRRIGATION | 39 |
| SW | NW | IRRIGATION | 40 |
| SE | NW | IRRIGATION | 40 |

Section Acres 319

Total Acres 1177

SF.1-Objection  
Amended 10/16/97

Page 6

RECEIVED

JAN 21 2010

DEPARTMENT OF  
WATER RESOURCES

DISTRICT COURT-SRBA  
Fifth Judicial District  
County of Twin Falls - State of Idaho

JAN 20 2010

By

Clerk  
Deputy Clerk

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

In Re SRBA

Subcase: 22-13955

Case No. 39576

ORDER GRANTING MOTION TO FILE  
LATE NOTICE OF CLAIM

On October 13, 2009, Summerco Inc., by and through counsel, Jerry R. Rigby, filed a *Motion to File Late Notice of Claim* for the above-captioned water right. Hearing was held on the *Motion* on January 19, 2010. This *Motion* complied with all procedural requirements under *SRBA Administrative Order 1*, and no objections were made to this late Notice of Claim.

THEREFORE, IT IS ORDERED, that the *Motion to File a Late Notice of Claim* for the above-captioned water right is **granted**.

The original Notice of Claim, as well as any attached filing fees, and a copy of this *Order* will be forwarded to the Idaho Department of Water Resources for further action. Following investigation by the Idaho Department of Water Resources, recommendation for the claim will be reported in the next *Late Claims Director's Report* which is issued on an annual basis. This modifies the provisions of *SRBA Administrative Order 1* 4d(2)(h).

IT IS SO ORDERED.

Dated January 20, 2010.

  
ERIC J. WILDMAN  
Presiding Judge  
Snake River Basin Adjudication

SCANNED  
JAN 26 2010

**CERTIFICATE OF MAILING**

I certify that a true and correct copy of the ORDER GRANTING MOTION TO FILE LATE NOTICE OF CLAIM was mailed on January 20, 2010, with sufficient first-class postage to the following:

SUMMERCO INC

Represented by:

JERRY R. RIGBY

25 N 2ND E

PO BOX 250

REXBURG, ID 83440-0250

Phone: 208-356-3633

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

**SCANNED**

**JAN 26 2010**

ORDER

Page 1 1/20/10

FILE COPY FOR 00773

Deputy Clerk

*Julie Murphy*

1-19-2010

Hearing

RECEIVED

OCT 14 2009

DEPARTMENT OF  
WATER RESOURCES

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

In Re SRBA     For ok. Claimant     )  
                     POW overlaps 22-2259A     )  
                     + 22-2103     )  
Case 39576     )  
                     )  
                     )  
                     )  
                     )  
                     )

Subcase: 22-13955

STANDARD FORM 4

MOTION TO FILE

☒ LATE NOTICE OF CLAIM

☐ AMENDED NOTICE OF CLAIM

**X** I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is Summerco, Inc.

My address is: 27 North 3000 East, Sugar City, ID 83448

My phone number is: (208)356-7314

I am an attorney representing Summerco, Inc.

My name is Jerry R. Rigby

My address is: 25 North 2<sup>nd</sup> East, P.O. Box 250, Rexburg, Idaho 83440

My phone number is: (208) 356-3633

SCANNED

OCT 15 2009

## MOTION TO FILE A LATE NOTICE OF CLAIM

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

**X** I did not file a Notice of Claim to the use of the water in the SRBA because:

The lands upon which this right has historically been diverted was purchased and then divided among corporations owned by brothers many years ago. The division also involved several water rights. Each corporation didn't know precisely what the other was doing with the split rights before the SRBA until after the Director's reports were issued and therefore this Claimant only claimed water right 22-2183. However, it was always the historical practice that right No. 22-2258 was also diverted and watered the lands owned by Frank Summers, Inc., as well as Summerco, Inc., from before 1987 and it was the clear intent between Summerco, Inc. and Frank Summers, Inc. to split the right as close to "even" as possible taking into consideration other rights used upon the same lands, because the right was diverted on equal acreage owned by the two corporations. However, it was only recently discovered and understood that the best method of conforming the historical use with the water rights would be to have the statutorily authorized enlargement claimed and once authorized and proven, then split this water right in such a manner which would more closely equal a proportionate share of the water rights to Summerco and Frank Summers, Inc.'s share of the split lands.

- ☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of claim for domestic or stock watering use.
- ☐ I am providing legal and factual documentation for my claimed use of water. You must described these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

I have attached:

- X** A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ \_\_\_\_\_.
- X** A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$100.00.

SCANNED

OCT 15 2009

Follow these instructions regarding the hearing on this motion.

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

This motion will be heard on: Tuesday, January 20, 2010 at 1:30 p.m.

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

### **MOTION TO FILE AN AMENDED NOTICE OF CLAIM**

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

- ☐ I must amend my Notice of Claim to the use of the water in the SRBA because:
  
  - ☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.
- 

I have attached:

- ☐ An Amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:  
Fees have been paid when the claims were originally filed.

**SCANNED**  
OCT 15 2009

## VERIFICATION

STATE OF IDAHO,            )  
                                          ss  
County of Madison.        )

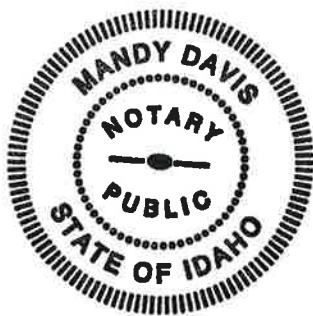
Jerry R. Rigby, being first duly sworn, upon oath, deposes and says:

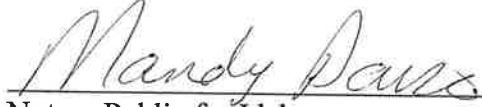
That I am the Secretary of party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 4204101A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

\_\_\_\_\_  
Signature of person filing motion

  
\_\_\_\_\_  
Attorney signing in representative capacity.

Subscribed and sworn to before me on this 9<sup>th</sup> day of October, 2009.



  
\_\_\_\_\_  
Notary Public for Idaho  
Residing at St. Anthony  
My Commission Expires: 06/24/2011

SCANNED

OCT 15 2009

## CERTIFICATE OF MAILING

I certify that on October 9, 2009, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to

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

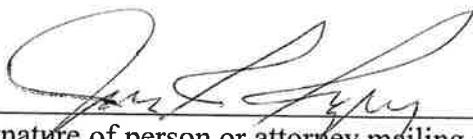
2. Copies to:

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

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

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

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

  
\_\_\_\_\_  
Signature of person or attorney mailing the form

SCANNED  
OCT 15 2009

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 22-13955  
Date Received:  
Receipt No:  
Received By:

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

SUMMERCO INC Phone: (208)356-7314

27 N 3000 E  
SUGAR CITY ID USA 83448

2. Date of Priority: 06/01/1968

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

| Township | Range | Section | 1/4 of 1/4 of 1/4 Lot | County  | Type |
|----------|-------|---------|-----------------------|---------|------|
| 06N      | 40E   | 26      | NE SW SW              | MADISON |      |

5. Description of diverting works:

WELL AND PUMP TO SPRINKLER

6. Water is used for the following purposes:

| Purpose    | From | To    | C.F.S. | (or) A.F.A |
|------------|------|-------|--------|------------|
| IRRIGATION | 4/01 | 11/01 | 3.1    |            |

7. Total Quantity Appropriated is:  
3.1 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      | 40E   | 26      | NE SW          | IRRIGATION | 40    |
|          |       |         | NW SW          | IRRIGATION | 39    |
|          |       |         | SW SW          | IRRIGATION | 39    |

SCANNED  
OCT 15 2009

|    |    |               |     |
|----|----|---------------|-----|
| SE | SW | IRRIGATION    | 40  |
| NE | NW | IRRIGATION    | 39  |
| NW | NW | IRRIGATION    | 39  |
| SE | NW | IRRIGATION    | 39  |
| SE | NW | IRRIGATION    | 38  |
|    |    | Section Acres | 313 |
|    |    | Total Acres   | 313 |

11. Place of use in counties: MADISON

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

13. Other Water Rights Used: 22-2183

14. Remarks:

THIS IS AN EXPANSION OF LICENSE 22-2258.

WATER RIGHTS 22-2258A AND 22-2183 WERE COMINGLED COMBINING POD AND POU. THIS LATE CLAIM IS FOR AN ENLARGEMENT OF 158 ACRES FOR 22-2258A WHICH IS ALSO COVERED BY 22-2183.

15. Basis of Claim: License

16. Signature(s)

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

SCANNED  
OCT 15 2009

Number of attachments: \_\_\_\_\_

**For Organizations:**

I do solemnly swear or affirm that I am \_\_\_\_\_ of  
Title

\_\_\_\_\_, that I have signed the foregoing

Organization  
document in the space below as \_\_\_\_\_ of

\_\_\_\_\_, and that the statements contained in the  
Organization  
foregoing document are true and correct.

Signature of Authorized Agent

attly  
\_\_\_\_\_  
Title and Organization

10-9-09  
\_\_\_\_\_  
Date

State of Idaho )

County of Madison ) SS.

Subscribed and sworn (or affirmed) before me this

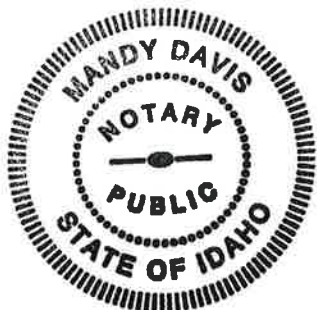
9<sup>th</sup> of October 2009

Mandy Davis

Notary Public

Residing at St. Anthony

My commission Expires 10-24-2011



DEC 01 2010

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 22-13955  
Date Received:  
Receipt No:  
Received By:

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

## 1. Name of Claimant(s)

SUMMERCO INC Phone: (208)356-7314

27 N 3000 E  
SUGAR CITY ID USA 83448

## 2. Date of Priority: 06/01/1968

## 3. Source: GROUND WATER Trib. to:

## 4. Point of Diversion:

| Township | Range | Section | 1/4 of 1/4 of 1/4 Lot |    |    | County  | Type |
|----------|-------|---------|-----------------------|----|----|---------|------|
| 06N      | 40E   | 26      | NE                    | SW | SW | MADISON |      |
| 06N      | 40E   | 26      | SE                    | NW | NE | MADISON |      |

## 5. Description of diverting works:

WELL AND PUMP TO SPRINKLER

## 6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S. | (or) A.F.A |
|------------|-------|-------|--------|------------|
| IRRIGATION | 04/01 | 11/01 | 3.10   |            |

7. Total Quantity Appropriated is:  
3.10 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      | 40E   | 22      | NE             | NE | IRRIGATION | 5.2   |
|          |       |         | SW             | NE | IRRIGATION | 1.6   |

|     |     |    |    |    |               |      |
|-----|-----|----|----|----|---------------|------|
|     |     |    | SE | NE | IRRIGATION    | 31   |
|     |     |    | NE | SE | IRRIGATION    | 36   |
|     |     |    | NW | SE | IRRIGATION    | 8.4  |
|     |     |    | SW | SE | IRRIGATION    | 4.8  |
|     |     |    | SE | SE | IRRIGATION    | 37   |
|     |     |    |    |    | Section Acres | 124  |
| 06N | 40E | 23 | NE | NE | IRRIGATION    | 12   |
|     |     |    | SW | NE | IRRIGATION    | 4    |
|     |     |    | SE | NE | IRRIGATION    | 39   |
|     |     |    | SW | SW | IRRIGATION    | 40   |
|     |     |    | SE | SW | IRRIGATION    | 40   |
|     |     |    | NE | SE | IRRIGATION    | 39   |
|     |     |    | NW | SE | IRRIGATION    | 21   |
|     |     |    | SW | SE | IRRIGATION    | 39   |
|     |     |    | SE | SE | IRRIGATION    | 39   |
|     |     |    |    |    | Section Acres | 273  |
| 06N | 40E | 24 | NE | SE | IRRIGATION    | 35   |
|     |     |    | NW | SE | IRRIGATION    | 18   |
|     |     |    | SW | SE | IRRIGATION    | 26   |
|     |     |    | SE | SE | IRRIGATION    | 39   |
|     |     |    |    |    | Section Acres | 118  |
| 06N | 40E | 25 | NE | NE | IRRIGATION    | 40   |
|     |     |    | NW | NE | IRRIGATION    | 24   |
|     |     |    | SW | NE | IRRIGATION    | 29   |
|     |     |    | SE | NE | IRRIGATION    | 38   |
|     |     |    | NE | SW | IRRIGATION    | 29   |
|     |     |    | NW | SW | IRRIGATION    | 40   |
|     |     |    | SW | SW | IRRIGATION    | 39   |
|     |     |    | SE | SW | IRRIGATION    | 38   |
|     |     |    | NE | SE | IRRIGATION    | 12   |
|     |     |    | NW | SE | IRRIGATION    | 39   |
|     |     |    | SW | SE | IRRIGATION    | 15   |
|     |     |    |    |    | Section Acres | 343  |
| 06N | 40E | 26 | NE | NE | IRRIGATION    | 40   |
|     |     |    | NW | NE | IRRIGATION    | 40   |
|     |     |    | SW | NE | IRRIGATION    | 40   |
|     |     |    | SE | NE | IRRIGATION    | 40   |
|     |     |    | NE | NW | IRRIGATION    | 40   |
|     |     |    | NW | NW | IRRIGATION    | 39   |
|     |     |    | SW | NW | IRRIGATION    | 40   |
|     |     |    | SE | NW | IRRIGATION    | 40   |
|     |     |    | NE | SW | IRRIGATION    | 40   |
|     |     |    | NW | SW | IRRIGATION    | 39   |
|     |     |    | SW | SW | IRRIGATION    | 39   |
|     |     |    | SE | SW | IRRIGATION    | 40   |
|     |     |    |    |    | Section Acres | 477  |
|     |     |    |    |    | Total Acres   | 1335 |

11. Place of use in counties: MADISON

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

13. Other Water Rights Used: 22-2258A

14. Remarks:

THIS IS AN EXPANSION OF LICENSE 22-2258.

WATER RIGHTS 22-2258A AND 22-2183 WERE COMINGLED COMBINING POD AND POU. THIS LATE CLAIM IS FOR AN ENLARGEMENT OF 158 ACRES FOR 22-2258A WHICH IS ALSO COVERED BY 22-2183.

15. Basis of Claim: Beneficial Use

16. Signature(s)

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

Number of attachments: \_\_\_\_\_

For Organizations:

I do solemnly swear or affirm that I am an attorney of Summerco Inc., that I have signed the foregoing document in the space below as an attorney of Summerco Inc. and that the statements contained in the foregoing document are true and correct.

Robert H. Wood  
Signature of Authorized Agent

Attorney, Summerco Inc  
Title and Organization

Nov. 29, 2010  
Date

State of Idaho )  
County of Madison ) SS.

Subscribed and sworn (or affirmed) before me this  
of November 29, 2010

Mandy Davis  
Notary Public

Residing at ST Anthony

My commission Expires 6-24-11





# Water Right 22-2258A Enlargement Acres Water Right 22-13955 Place of Use



**Legend**

22-13955

22-2258A Enlargement

Township/Range

Sections

QQ

Prepared by Denise Kidman  
On November 17, 2010  
2009 Aerial Photography



RECEIVED

DEC 01 2010

Department of Water Resources  
Eastern Region

*Law Offices*

**RIGBY, ANDRUS & RIGBY  
Chartered**

*Ray W. Rigby  
G. Rich Andrus  
Jerry R. Rigby  
Michael S. Kam (1954-2001)  
Hyrum D. Erickson  
Robert H. Wood*

*P.O. Box 250  
25 North Second East  
Rexburg, ID 83440*

*Telephone: (208) 356-3633  
Fax: (208) 356-0768*

November 30, 2010

Idaho Department of Water Resources  
Attn: Denise Kidman  
900 N. Skyline, Ste. A  
Idaho Falls, ID 83402

**Re: Summerco, Inc. Water Right No. 22-13955**

Dear Denise:

I have enclosed herewith an Amended Amended Notice of Claim to a Water Right.

If you have any questions, please contact our office. Thanks.

Sincerely yours,



Mandy Davis,  
Assistant to Jerry R. Rigby

/md  
Enclosure

sb/summerco.lt2

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 22-13955  
Date Received: 1-27-2010  
Receipt No: REC-5187-925  
Received By: SR7 \$100-  
JAN 21 2010

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

DEPARTMENT OF  
WATER RESOURCES

1. Name of Claimant(s)

SUMMERCO INC Phone: (208)356-7314

27 N 3000 E  
SUGAR CITY ID USA 83448

2. Date of Priority: 06/01/1968

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

| Township | Range | Section | 1/4 of 1/4 of 1/4 Lot | County  | Type |
|----------|-------|---------|-----------------------|---------|------|
| 06N      | 40E   | 26      | NE SW SW              | MADISON |      |

5. Description of diverting works:

WELL AND PUMP TO SPRINKLER

6. Water is used for the following purposes:

| Purpose    | From | To    | C.F.S. | (or) A.F.A |
|------------|------|-------|--------|------------|
| IRRIGATION | 4/01 | 11/01 | 3.1    |            |

7. Total Quantity Appropriated is:  
3.1 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        |
|----------|-------|---------|----------------|------------|
| 06N      | 40E   | 26      | NE SW          | IRRIGATION |
|          |       |         | NW SW          | IRRIGATION |
|          |       |         | SW SW          | IRRIGATION |

Acres  
SCANNED  
40  
39 JAN 26 2010  
39

|    |    |               |     |
|----|----|---------------|-----|
| SE | SW | IRRIGATION    | 40  |
| NE | NW | IRRIGATION    | 39  |
| NW | NW | IRRIGATION    | 39  |
| SE | NW | IRRIGATION    | 39  |
| SE | NW | IRRIGATION    | 38  |
|    |    | Section Acres | 313 |
|    |    | Total Acres   | 313 |

11. Place of use in counties: MADISON

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

13. Other Water Rights Used: 22-2183

14. Remarks:

THIS IS AN EXPANSION OF LICENSE 22-2258.

WATER RIGHTS 22-2258A AND 22-2183 WERE COMINGLED COMBINING POD AND POU. THIS LATE CLAIM IS FOR AN ENLARGEMENT OF 158 ACRES FOR 22-2258A WHICH IS ALSO COVERED BY 22-2183.

15. Basis of Claim: License

16. Signature(s)

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

SCANNED

JAN 26 2010

Number of attachments: \_\_\_\_\_

**For Organizations:**

I do solemnly swear or affirm that I am \_\_\_\_\_ of  
Title \_\_\_\_\_

\_\_\_\_\_, that I have signed the foregoing  
Organization  
document in the space below as \_\_\_\_\_ of  
Title \_\_\_\_\_

\_\_\_\_\_, and that the statements contained in the  
Organization  
foregoing document are true and correct.

Signature of Authorized Agent

\_\_\_\_\_  
Title and Organization

\_\_\_\_\_  
Date

State of Idaho

County of Madison

) SS.

Subscribed and sworn (or affirmed) before me this

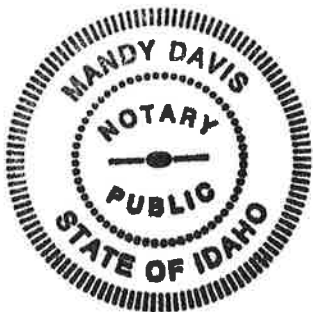
9<sup>th</sup> of October 2009

Mandy Davis

Notary Public

Residing at St. Anthony

My commission Expires 6-24-2011



SCANNED

JAN 26 2010