

01/26/2004

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

RIGHT NUMBER: 23-10123
NAME AND ADDRESS: AFTON H SMITH
4634 E 250 N
RIGBY ID 83442
SOURCE: INDIAN CREEK TRIBUTARY: SOUTH FORK SNAKE RIVER
QUANTITY: 1.290 CFS
PRIORITY DATE: 07/05/1900
POINT OF DIVERSION:
T02S R46E S8 NESWSE Within BONNEVILLE County
T02S R46E S9 NWNWSW Within BONNEVILLE County
PURPOSE AND PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION'	04/15 10/31	1.290 CFS

PLACE OF USE: IRRIGATION Within BONNEVILLE County

T02S R46E S07	SESE	9.4	T02S R46E S08	NESW	1.6
T02S R46E S08	SWSW	24.0	T02S R46E S08	SESW	20.0
T02S R46E S18	NENE	1.5			

56.5 ACRES TOTAL

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

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

EXPLANATORY MATERIAL: Decreed

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT
TO SECTION 42-1425, IDAHO CODE.

SCANNED
JUL 19 2004

Water Right Split History Analysis

NOTES OF 23-00108

1. THIS RIGHT IS LOST FORFEITURE FROM 1957 WHEN PALLADES REG. WAS COMPLETED.
2. SEE JUDGEMENT ATTACHED

D.W. SMITH
23-108

5° cfs INDIAN CK 7/05/1900

POD - NOT LISTED BY DECREE

POU - T.25. R45E.

SENE. E²SE SEC. 12

NENE SEC. 13

T.25. R46E.

SWNW, NWSW SEC. 7

23-109

5° cfs INDIAN CK 7/05/1900

POD - NOT LISTED BY DECREE

POU - T.25. R46E.

S²NW, NENW, N²NE SEC. 18

S²SW SEC. 8

SESE SEC. 7

AFTON SMITH → ROB. SMITH
23-10123

COMBINES 23-00108 AND 23-00109
5° cfs OF EACH ⇒ 10° cfs.

CLAIMS 87° AC POU AS:

T.25. R46E.

SESE SEC. 7

SW, W²SE SEC. 8

NOTES OF 23-00109

1.

BOTH 23-00108 AND 23-00109 WERE
DECREED UNDER SMITH & KEYSER VS L.
CRANDALL, MAY 23, 1947.

Reviewer: _____

Date: _____

SCANNED
JUL 19 2004



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

28 October 2003

Afton H. Smith
4634 E 250 N
Rigby ID 83442

Re: Snake River Basin Adjudication claim 23-10123

Dear Ms Smith:

I have recently conducted a field exam of the Indian Creek ranch area. I have discovered a couple problems that need to be addressed. Please contact me at your earliest convenience so we can discuss the problems and potential solutions.

I look forward to your immediate response.

Respectfully submitted,

Allen B. Ruberry
Sr. Water Resource Agent
Adjudications Bureau

Cc; file

Enclosure; claim copy

Resend this to: 8D5C03

Afton Smith

15533 E River Hwy

River ID

83443

Contacts Data Entry Form

Water Right No. 23-10123

Owner Type	Full Name	Address	City	State	Zip	Phone
------------	-----------	---------	------	-------	-----	-------

Current Owner Arton Smith

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

Current Owner _____

Current Owner _____

Representing Attorney: _____ Phone Number: _____

Accompanied By: _____ Phone Number: _____

Relationship to Claimant: _____

Date of Field Exam: _____ Time: _____

Directions to Property (if different from above) and/or update owner information:

DECREED - THIS CLAIM COMBINES 23-108 AND 23-109.
DECREED UNDER D.W. Smith AND G.D. KEYSOR JR VS
LYNN CRANDALL, 5/23/1947.
ALSO SEE USA VS A.R. McKAY, et AL (NO. 1802-E) UNDATED.

10/8/03 - FE UNACCOMPANIED. VISITED AND GPS'd ALL POD's (TAGGED
NONE, NO PLACE TO PUT TAGGOS) PHOTOS OF ALL. WALKED POH
AND TRACED DITCHES

* CLAIMED SOURCE OF SPRING RUN IS NOT CITED BY DECREED RTS 23-108
AND/OR 23-109. THEREFORE, IT WILL NOT BE RECOMMENDED UNDER THIS
WR CLAIM. RATHER, ANOTHER CLAIM (BU) MUST BE FILED FOR SPRING
RUN AND EVIDENCE OF PRIORITY AND FLOW EVIDENCE PROVIDED.
FE INDICATED: POH/POD's, SOURCES, SYSTEM, CFS USED

NEEDS NEW CLAIM!

Reviewer: _____

Date: _____

WATER RIGHT NUMBER: 23-108

Status: Active

Location of Point(s) of Diversion
INDIAN CREEK

T02N R45E S12	SENE NOT CLAIMED	T02N R45E S12	NESE NOT CLAIMED
T02N R45E S12	SESE NOT "	T02N R45E S13	NENE NOT "
T02N R46E S07	SWNW NOT "	T02N R46E S07	NWSW NOT "

Dates and Other Information:

T2N REFERENCE HEREIN IS AN ERROR OF DATA ENTRY - DUEBOS IS CLEAR AND STATES T2S

Water Right Report 23-109

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	GEORGE D KEYSER
	, ID

Status: Active

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	/	to /	5.000 CFS	
DOMESTIC	/	to /		
		<u>Total Diversion:</u>	5.000 CFS	

IRRIGATION Within BONNEVILLE County

T02N R46E S07	SESE ✓	T02N R46E S08	SWSW ✓
T02N R46E S08	SESW ✓	T02N R46E S18	NENE NO
T02N R46E S18	NWNE NO	T02N R46E S18	NENW NO
T02N R46E S18	SWNW NO	T02N R46E S18	SENW NO

DOMESTIC same as IRRIGATION

Conditions of Approval:

1. General P/D NOT LISTED IN DECREE.

Dates and Other Information:

Priority Date Data Entry Form

Claim Number: _____

Water Right Priority Date: _____ Water Right Basis: _____

Claimed Priority Date: 7/05/1900 Claimed Basis: DECREERecommended Priority Date: 7/05/1900 Recommended Basis: DECREE☐ Use Claimed Priority Date and Basis as Recommended Priority Date and Basis

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

THIS CLAIM REPRESENTS DECREE RIGHTS 23-108 AND
23-109; BOTH HAVE 7/05/1900 PRIORITY DATES. OK

Reviewer: _____

Date: _____



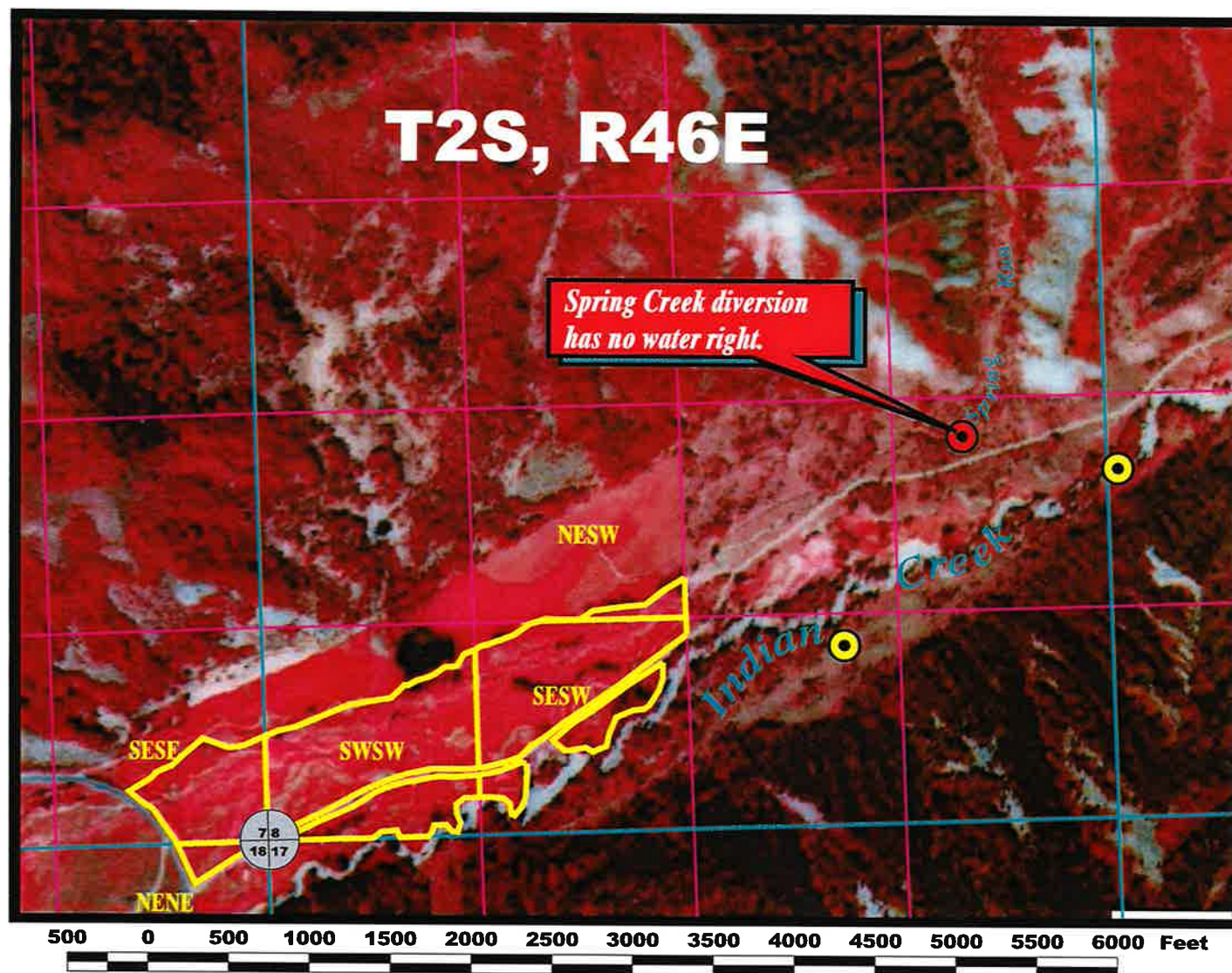




State of Idaho

Department of Water Resources

Eastern Region



Water Right(s):

23-10123

Place of Use: (parts of)
T2S, R46E Sec. 7 SESE,
Sec. 8 S2SW, NESW,
Sec. 18 NENE

Point(s) of Diversion:
T2S, R46E
Sec. 8 NESWSE,
Sec. 9 NWNWSW

LEGEND

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



GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: A. Ruberry
Date: January 2004

Point of Diversion and Source Data Entry Form

Claim Number: _____

Water Right Point of Diversion: T____, R____, Sec.____,____,____,____. County: _____

Source: _____ Tributary: _____

Claimed Point of Diversion: T____, R____, Sec.____,____,____,____. County: _____

Source: _____ Tributary: _____

Recommended Point of Diversion: T____, R____, Sec.____,____,____,____. County: _____

Source: _____ Tributary: _____

____ Use Claimed POD and Source as Recommended POD and Source

GPS POD's - NO TAG'S
NO PINS TO PUT THEM.

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source
25	46	8		N E S W S E		INDIAN CK

SO FR Spring Run

GPS Coordinates: _____

		9		N W N W S W		"
--	--	---	--	-------------	--	---

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

Other rights from this POD? _____

Document how the POD and Source were verified and/or Pump and Motor data:

SOURCE DETERMINED AS INDIAN CREEK - CLAIMS INDIAN CK AND SPRING RUN. SPRING RUN IS NOT SO DETERMINED UNDER 23-108 OR 23-109. THEREFORE, SPRING RUN WILL REQUIRE A SEPARATE BU CLAIM. POD'S FOR INDIAN CK NOT ADDRESSED BY DEEDS => C & P 3
POD CLAIMED AS NESENE SEC. 9 AND DITCH ARE NOT USED INDIAN CK IS DOWN CUT AND TOO WIDE TO DAM OFF. DITCH IS WASHED OUT

Transfers Changing POD _____

Reviewer: _____

Date: _____

AND UNMAINTAINED.

BOTH POD'S FROM INDIAN CK DIVERT WATER WITH STRAW BALS AND LOGS.
POD ON SPRING RUN FLOW THROUGH RANIER BUT IS ALSO DIVERTED W/ STRAW -

Place Of Use Data Entry Form

Claim Number: _____

_____ Use Claimed POU as Recommended POU

Claimed Place of Use

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

Total Acres _____

Recommended Place of Use

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

Total Acres 56.3

SEE GPS

CØ5

Document how the POU was verified:

POU TO PRESENT LOCATION BY JUDGMENT (No. 1802-E) IN THE
NAME OF THE USA vs A.R. McKay, et al.

Claims 87⁰ AC - GPS SHOWS 78⁰ AC. SOME SLIGHT CHANGES FROM DECREE
OR JUDGMENT → CØ5! NO NET GAIN TO AC. NEEDS AMENDED TO
ADJUST ACRES. CØ5

PART OF ORIGINAL DECREE POLL IS UNDER PAULSARUS RESERVOIR
THUS REDUCTION OF "ORIGINAL POLL" AND CLAIMS Q.

Transfers Changing POU _____

Reviewer: _____

Date: _____

Period of Use and Quantity Data Entry Form

Claim Number: _____

☐ Use Claimed Period of Use and Quantity as Recommended Period of Use and Quantity

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

Overall Diversion Rate _____

Overall Diversion Volume _____

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

SOU to DEPT STD - NOT ADDRESSED BY DECREE, DEPT STD 4/15 to 10/31.

10⁰ COMB FROM COMBINING 23-108 AND 23-109: BOTH @ 5⁰ cfs EACH. HOWEVER, 10⁰ cfs ON 78⁺ ACRES (6 IS WAY TOO HIGH. ORIGINAL POLL (108 & 109 COMB) WOULD TOTAL @ BEST CASE 16 QQ'S X 40 ac/QQ = 640 ac/10 cfs

DECREE ADDRESS POLL IN SEC. 18: NOW UNDER PALISADES RES. → BASIS OF QUANTITY REDUCTION, X

Reviewer: _____

Date: _____

Allow Convey Loss or 5% / QQ $\Rightarrow 2 \text{ QQ'S} \times .05 \times 1.56 = 0.16$

X Part of Poll is under Palisades Reservoir. Thus NO IRRIGATION AND REDUCTION OF RT.

Remark
Partial Forfeiture

Log for claim 23-10123

Spatial Dynamics BTD

6/13/01

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
02s46e	7	SESE	14	17	
02s46e	8	NESW	15.5	20	
02s46e	8	NWSW	0.5	1.8	
02s46e	8	SWSW	30	26	
02s46e	8	SESW	24	15	
02s46e	8	NWSE	2	3.4	
02s46e	8	SWSE	1	0.1	
Totals:			87	83.3	

T2S, R46E

needs new claim

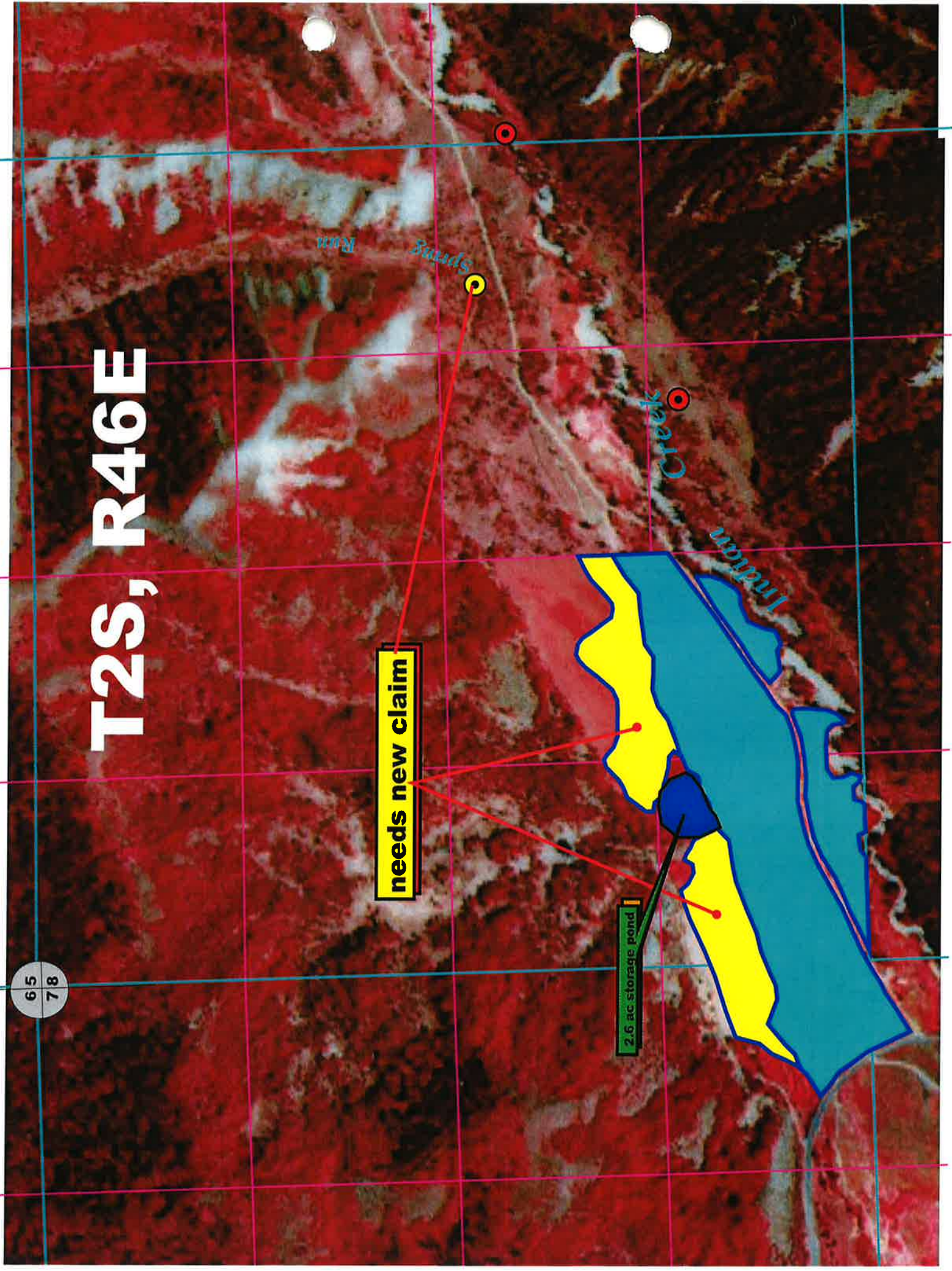
2.6 ac storage pond

Run

Springs

Creek

Indian



Palisades

T1S
T2S

R45E
R46E

Reservoir

65
78

21
11 12

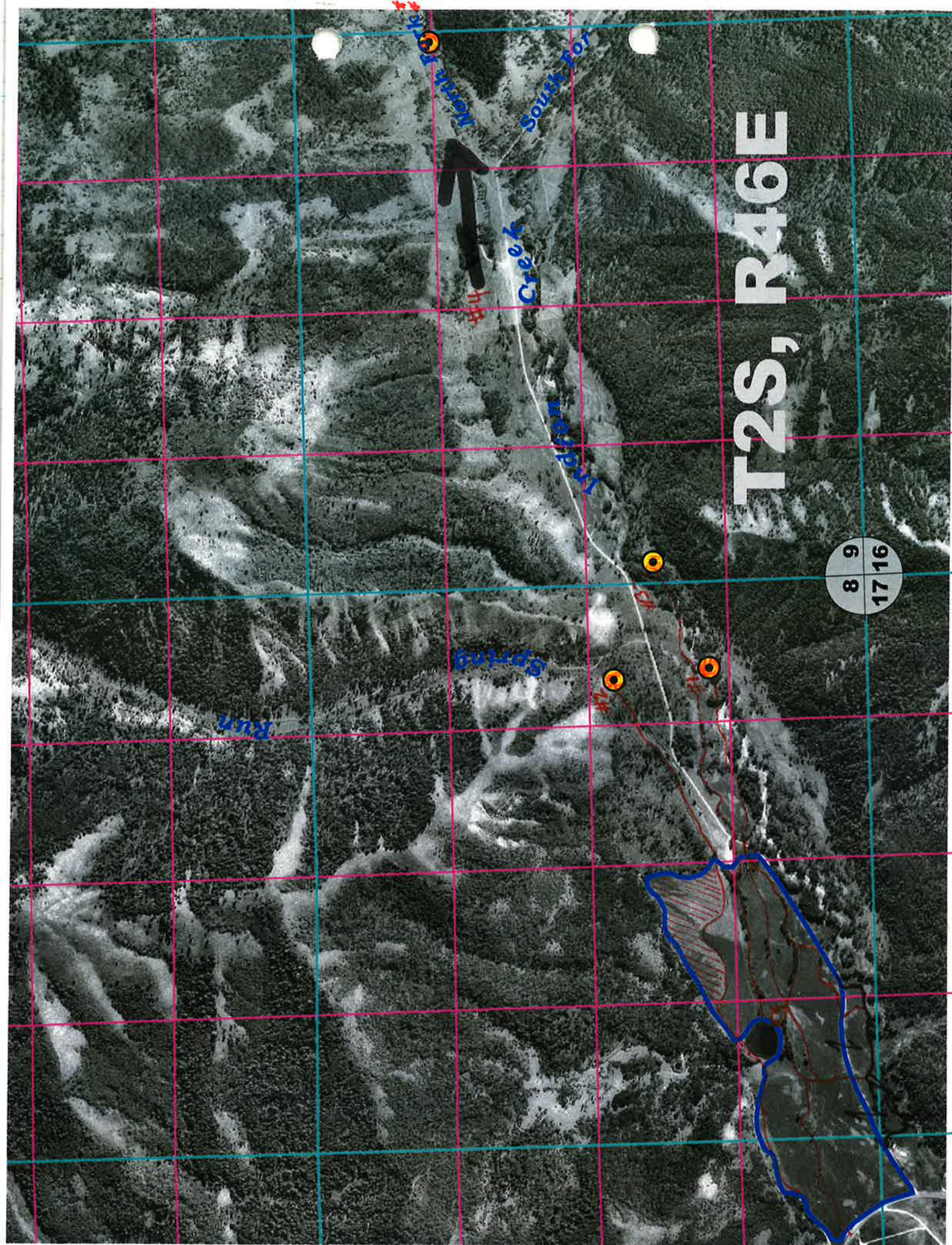
13 18
24 19

23-00108 decreed POU

23-00109 decreed POU

Spring Run

Creek



T2S, R46E

8 9
17 16

Field Exam: 10/8/03 MBE

IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF FREMONT

ooo

D. Worth Smith and George D. Keyser, Jr.,
Plaintiffs,

vs.

Lynn Crandall, Watermaster of Water
District No. 36 of the State of Idaho,
Defendant.

DECREE

This cause came on for trial on the merits in open court at Idaho Falls, Idaho, on May 23, 1947, pursuant to stipulation of counsel for the respective parties, Alvin Denman appearing as attorney for the plaintiffs, and O. A. Johannesen for the defendant, at which time it was stipulated in open court that each of the plaintiffs would accept a decree for 250 inches of the waters of Indian Creek for their respective lands described in the complaint on file herein, and that the defendant would submit no proof and would make no objection to such a decree for 250 inches of said waters of Indian Creek to each plaintiff, and that the defendant would waive findings of fact and conclusions of law; and thereupon witnesses were sworn and examined and documentary evidence received in behalf of the plaintiff; and the court being fully advised in the premises;

23 - 0108

It is ordered, adjudged and decreed that the plaintiff D. Worth Smith is entitled to divert and use 250 inches of the waters of Indian Creek, a tributary of the South Fork of Snake River for the irrigation of the southeast quarter of the northeast quarter and the east half of the southeast quarter of section twelve, and the northeast quarter of the northeast quarter of section thirteen, township

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two, south of range forty-five; and the southwest quarter of the northwest quarter and the northwest quarter of the southwest quarter of section seven, township two, south of range forty-six, E.B.M., and to use the same for domestic purposes, with a priority of July 5, 1900, said right to be appurtenant to said lands;

23-0109 And it is further decreed that the plaintiff George D. Keyser, Jr. is entitled to divert and use 250 inches of the waters of Indian Creek, a tributary of the South Fork of Snake River, for the irrigation of the south half of the northwest quarter, and the northeast quarter of the northwest quarter and the north half of the northeast quarter of section eighteen; the south half of the southwest quarter of section eight; and the southeast quarter of the southeast quarter of section seven, township two, south of range forty-six, and to use the same for domestic purposes, with a priority of July 5, 1900, said right to be appurtenant to said lands;

And it is further ordered that the rights decreed herein are both subject to the decree of this court of December 16, 1910, in the case of Rexburg Irrigation Company et al v. Teton Irrigation Canal Company et al; the decree of the District Court of the Fourth Judicial District of the State of Idaho in and for Twin Falls County, entered June 20, 1913, wherein Twin Falls Canal Company was plaintiff and Charles N. Foster et al defendants; and the decree of the United States District Court, District of Idaho, Eastern Division, entered June 25, 1929, wherein Woodville Canal Company, a corporation, was plaintiff, and Clark and Edwards Canal Company, a Corporation, et al were defendants.

Done in open court at Idaho Falls, Idaho, May 23, 1947.

C. J. Taylor
District Judge

MICROFILMED
NOV 06 1992

COPY

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	No. 1802-E
vs.	)	<u>J U D G M E N T</u>
609.44 ACRES OF LAND, more or less, in the)	)	
County of Bonneville, State of Idaho;	)	
ARCHIE R. McKay, et al,	)	(Tract No. 43-B)
Defendants.	)	

THIS CAUSE, in respect to Tract No. 43-B, for a more particular description of which reference is hereby made to the Declaration of Taking filed herein, came on regularly to be heard before Honorable Chase A. Clark, presiding judge, and it appearing to the satisfaction of the Court from the records and files herein,

I

That on August 28, 1953, a Complaint, together with a Declaration of Taking, was filed herein; and there was deposited in the registry of the court the sum of \$51,000.00 as estimated compensation for the estate taken in Tract No. 43-B.

II

That the estate taken is a full fee simple title in and to Tract 43-B.

III

That the Secretary of the Interior has found and determined that it is necessary and advantageous to acquire Tract No. 43-B in connection with the construction and maintenance of the Palisades Dam and Reservoir Project.

IV

That, at the time of the filing of the Declaration of Taking, fee simple title to Tract 43-B was vested in D. Worth Smith and

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Afton H. Smith; except for a highway right-of-way as disclosed by deed dated August 4, 1933, executed by R. T. Smith and Rose Smith, his wife, to the State of Idaho; recorded May 23, 1934 in Book 33 of Deeds, at page 425, records of Bonneville County, Idaho; that they are the only persons entitled to recover for the taking of said property.

V

That D. Worth Smith and Afton H. Smith, former owners, and the United States of America, by SHERMAN F. FUREY, JR., the United States Attorney, entered into a Stipulation agreeing that the sum of \$59,000.00 is full and just compensation, inclusive of interest, for the estate taken including all damages, past, present or future; provided that all water and water rights arising from Indian Creek and its tributaries belonging, or in anywise appertaining to the above described lands, are expressly reserved to D. Worth Smith and Afton H. Smith, his wife, for use on lands now owned, or hereafter acquired by them, in Indian Creek Canyon, and agreeing that judgment may be entered in accordance with the terms of the Stipulation.

NOW, THEREFORE, by reason of the law and premises,

IT IS ORDERED, ADJUDGED, AND DECREED:-

VI

That the use for which the lands or interests therein were taken is a public use and that the taking by eminent domain is duly authorized by the Acts of Congress set forth in the Complaint filed herein.

VII

That the fee simple title to Tract 43-B vested in the United States of America upon the filing of a Declaration of Taking on August 28, 1953, free and clear of all liens or encumbrances; provided that all water and water rights arising from Indian Creek and its

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tributaries belonging, or in anywise appertaining to the above described lands, are expressly reserved to D. Worth Smith and Afton H. Smith, his wife, for use on lands now owned, or hereafter acquired by them, in Indian Creek Canyon.

VIII

That, as of August 28, 1953, the date the Declaration of Taking was filed, the just compensation, including all damages sustained by reason of the taking of the property rights hereinabove described, is the sum of \$59,000.00, without interest.

IX

That the United States of America shall pay into the registry of the court for the benefit of the person entitled thereto the sum of \$8,000.00, without interest.

X

That the clerk of this court be and he is hereby authorized, empowered and directed to pay to D. Worth Smith and Afton H. Smith the sum of \$51,000.00 now on deposit in the registry of this court and upon payment of the deficiency in the amount of \$8,000.00, the clerk of this court shall pay the same to D. Worth Smith and Afton H. Smith.

Jurisdiction is retained for such further orders as may be necessary and proper.

Dated this _____ day of _____, 195 .

CHASE A. CLARK
CHIEF JUDGE
U. S. District Court

Approved as to form.

WILLIAM S. HOLDEN
WILLIAM S. HOLDEN

Attorney for Defendants.

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NOV 06 1992

137⁰⁰ X

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: A23-10123
Date Received: 8/04/1989
Receipt No: 5009935
Received By: JD 8-22-89
Assisted by EMC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: AFTON H. SMITH 208-538-7975
Address: 4634 E. 250 N.
RIGBY, ID 83442

2. Date of Priority: JUL 05, 1900

3. Source: INDIAN CREEK Trib. to: SNAKE RIVER, SOUTH
SPRING RUN INDIAN CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
02S	46E	8	NW	NE	SE		BONNEVILLE
			SW	NE	SE		BONNEVILLE
		9	NE	SE	NE		BONNEVILLE
			SW	NW	SW		BONNEVILLE

5. Description of diverting works:
HEADGATES AND OPEN DITCHES.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	10.000		

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

8. Total consumptive use is 217.5 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

A23-10123

Page 1

Date: 08/04/89

A2310123



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10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
02S	46E	7	SE	SE		IRR	14.0
						Section Acres	14.0
		8	NE	SW		IRR	15.5
			NW	SW		IRR	0.5
			SW	SW		IRR	30.0
			SE	SW		IRR	24.0
			NW	SE		IRR	2.0
			SW	SE		IRR	1.0
						Section Acres	73.0
						Total Acres	87.0

11. Place of use in counties: BONNEVILLE

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

13. Other Water Rights Used:
NONE

14. Remarks:

THIS NOTICE IS BASED ON A COMBINATION OF RIGHTS 23-00108 AND 21-00109, DECREED IN THE CASE OF D. WORTH SMITH AND GEORGE D. KEYSER, JR. VS. LYNN CRANDALL AND SUBSEQUENTLY TRANSFERED TO THE ABOVE LISTED PLACE OF USE THROUGH JUDGMENT (NO. 1802-E) IN THE NAME OF THE UNITED STATES OF AMERICA VS. ARCHIE R. MC KAY, ET AL.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 5/23/1947

D. WORTH SMITH ET AL
Decree Plaintiff

vs

LYNN CRANDALL
Decree Defendant

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: 6

For Individuals:

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

Signature of Claimant(s): Apton H. Smith Date: Aug. 4, 1989

Date: _____

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 4 day

of August 19 89

Ernest Carlson
Notary Public

Seal

Residing at Alto Falls, ID.

My Commission Expires 6-14-1994

