

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-22219 V1

WATER RIGHT NUMBER: 37-22219 V1

Owner Type Name and Address
 Current Owner JOHN BROWN INC
 247 GLENDALE RD
 BELLEVUE, ID 83313
 (208)788-2593

Priority Date: 05/02/1884

Basis: Decreed

Status: Active

Source
 BIG WOOD RIVER

Tributary
 MALAD RIVER

Beneficial Use

IRRIGATION

claim - IRRIGATION

From To

04/15 to 10/31

4/01 to 11/01

Total Diversion:Diversion Rate

6.290 CFS

6.400 CFS Claim

6.290 CFS

Annual VolumeLocation of Point(s) of Diversion

BIG WOOD RIVER
 BLAINE County

NW1/4SE1/4SW1/4

Sec. 12, Twp 01N, Rge 18E, B.M.

Place of Use

IRRIGATION

Claim

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	14							10.0		40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	210.0
01N	18E	15				8.0					5.0			30.0	40.0	37.0	40.0	40.0	200.0
01N	18E	22	40.0	40.0															80.0
01N	18E	23						40.0	40.0										80.0
Total Acres: 570																			

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	14							8.5		32.7	40.0	40.0	35.0	32.9	1.2			190.3
01N	18E	15				7.0					6.7			25.0	39.0	34.0	40.0	40.0	191.7
01N	18E	22	39.0	39.0															78.0
01N	18E	23						34.0	33.0										67.0
Total Acres: 527																			

Conditions of Approval:

1. This right is a split from former right 37-203.
2. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
3. C18 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.
4. E56 The rights listed below are limited to the irrigation of a combined total of 527.0 acres in a single irrigation season. Combined Right Nos.: 37-22219, 37-22221, 37-22223, 37-22225, and 37-22227.

Remarks:

22219

No ac limit req

203
 Rec'd
 37-22219
 37-22220
 Sect 4 NESW 6.3 ac
 NWSE 3.1 ac
 9.4 ac
 36

1987
 shape = 512 ac

claim = 536.4 ac
 88820
 9.4
 527.0

520
 - 3.6
 516.4
 516.6

new shape
 526.1

05/06/2011

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

RIGHT NUMBER: 37-22219

NAME AND ADDRESS: BROWN RANCH INC
247 GLENDALE RD
BELLEVUE ID 83313

SOURCE: BIG WOOD RIVER

TRIBUTARY: MALAD RIVER

QUANTITY: 6.290 CFS

PRIORITY DATE: 05/02/1884

VERIFIED BY KKC
5-17-11

POINT OF
DIVERSION:

T01N R18E S12 NWSESW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	04/01 4/15 10/31	6.290 CFS
PLACE OF USE:	<u>IRRIGATION in BLAINE County</u>		
	T01N R18E S14 SWNW ~~8.50~~ 8.30	T01N R18E S14	NESW ~~32.70~~ 32.00
	T01N R18E S14 NWSW 40.00	T01N R18E S14	SWSW ~~40.0~~ 39.00
	T01N R18E S14 SESW ~~35.0~~ 34.0	T01N R18E S14	NWSE ~~32.9~~ 33.00
	~~T01N R18E S14 SWSE 1.20~~	T01N R18E S15	SENE ~~7.00~~ 8.00
	T01N R18E S15 NESW ~~6.70~~ 8.20	T01N R18E S15	SESW 25.00
	T01N R18E S15 NESE ~~39.00~~ 40.0	T01N R18E S15	NWSE ~~34.0~~ 33.00
	T01N R18E S15 SWSE 40.00	T01N R18E S15	SESE 40.00
	T01N R18E S22 NENE 39.00	T01N R18E S22	NWNE 39.00
	T01N R18E S23 NWNW ~~34.0~~ 38.00	T01N R18E S23	SWNW ~~33.0~~ 37.00

~~527~~ 533.5 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 527.0 acres in a single irrigation season. Combined Right Nos.: 37-22219, 37-22221, 37-22223, 37-22225, and 37-22227.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

This right is a split from former right 37-203.

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

Christensen, Kelly

37-22219

Brown Ranch IWC

From: Jo Beeman [Jo.Beeman@beemanlaw.com]
Sent: Tuesday, August 24, 2010 7:21 PM
To: Kelly, Vicki
Cc: Dan Brown; Norm Young (ERO); Spencer, Nick; Christensen, Kelly; Fritschle, Carter; Debi Cline; Joyce Angell
Subject: RE: BROWN RANCH (37-22219, 37-22221, 37-22223, 37-22225 AND 37-22227)
Attachments: 20050323 Quitclaim Deeds John Brown, Inc. - Brown Ranch, Inc..pdf; 20040701 Articles of amendment John Brown, Inc. - Brown Ranch, Inc..pdf

Vicki,

I am attaching the March 23, 2005 quitclaim deeds from John Brown, Inc. to Brown Ranch, Inc. to facilitate the entry of Brown Ranch, Inc. as the named owner on these water rights. As the quitclaims show, there is no change to the address. The Secretary of State's record of the July 1, 2004 Articles of Amendment from John Brown, Inc. to Brown Ranch, Inc is also attached.

If you could let Debi Cline know what else is necessary for the name change, we appreciate your assistance.

Thank you,
Jo

Josephine P. Beeman
Beeman & Associates, P.C.
Phone: 208-331-0950
Fax: 208-331-0954
jo.beeman@beemanlaw.com

CONFIDENTIAL NOTICE: This transmission is intended only for the use of the individual(s) named as recipients. It may contain information that is privileged, confidential and/or protected from disclosure under applicable law including, but not limited to, the attorney client privilege and/or work product doctrine. If you are not the intended recipient of this transmission, please notify the sender immediately by telephone. Do not deliver, distribute or copy this transmission, disclose its contents, or take any action in reliance on the information it contains.

From: Jo Beeman
Sent: Tuesday, August 24, 2010 7:07 PM
To: Vicki Kelly (IDWR)
Cc: Dan Brown; Norm Young (ERO); Nick Spencer (IDWR); Kelly Christensen (IDWR); Carter Fritschle (IDWR); 'Debi Cline (B&A)'; 'Joyce Angell (B&A)'
Subject: BROWN RANCH (37-22219, 37-22221, 37-22223, 37-22225 AND 37-22227)

Vicki,

Norm Young and I have reviewed with Dan Brown the resolutions to the objections to the above referenced SRBA claims discussed at the June 21, 2010 conference, and I am authorized to respond as follows:

Place of use: Dan is in general agreement with the irrigated acreage of 527 acres and a permissible place of use described in Kelly Christiansen's June 10, 2010 email to Norm Young. This agreement is with the understanding that we will have the opportunity to review and give final agreement to a revised shape-file and revised Director's reports for these rights.

Season of use and stockwater: Dan has considered the options discussed at the conference and prefers to have the rights decreed in accordance with the Brown Ranch objections to the above listed claims; i.e., irrigation season of April 1 to November 1 for all of the claims and stockwater from March 1 to November 30 for claims 37-22223 and 37-22225.

Please let me know if any additional response by the claimant is needed to allow partial decrees to be issued for these claims.

Jo

Josephine P. Beeman
Beeman & Associates, P.C.
Phone: 208-331-0950
Fax: 208-331-0954
jo.beeman@beemanlaw.com

4-15 thru 10-31
3-1 thru 11-30

CONFIDENTIAL NOTICE: This transmission is intended only for the use of the individual(s) named as recipients. It may contain information that is privileged, confidential and/or protected from disclosure under applicable law including, but not limited to, the attorney client privilege and/or work product doctrine. If you are not the intended recipient of this transmission, please notify the sender immediately by telephone. Do not deliver, distribute or copy this transmission, disclose its contents, or take any action in reliance on the information it contains.

22219
22221
22223
22225
22227

Christensen, Kelly

From: Christensen, Kelly
Sent: Thursday, February 03, 2011 12:10 PM
To: Kelly, Vicki; Spencer, Nick
Subject: 37-22219 thru 22227 Brown Ranch Inc

Referring back to Jo Beeman's e-mail Aug 24, 2010 @ 7:07 PM

I am working on this group again. I believe that I have a finalized POU recommendation that is acceptable. I have discussed this with Norm but have not e-mailed him the exact acreage.

The other issue is the Season of use.

For irrigation, did we decide to go with the shoulder remarks for a season of use from April 1 through November 1?

The stockwater season of use is really quite easy at this time. They did not claim stockwater.

kkc

Kelly K Christensen
Sr Water Resource Agt
Boise, Western Region
(208)-334-2190

Change of ownership
BK file pgs 7 → 12

37-22219 Back f. 1c
Pc Docs Pg 11

PARCEL DESCRIPTION FOR THE BELLEVUE TREATMENT PLANT
AND RAPID INFILTRATION BASINS.

A parcel of land located in the NE 1/4 SW 1/4 and the NW 1/4 SE 1/4 of Section 14; Township 1 North; Range 18 East; Boise Meridian; more particularly described as follows:

Beginning at a point which is South 0° 07' 44" West 67.08 feet from the center 1/4 corner of Section 14, T. 1 N., R. 18 E., S.M. using a basis of bearing of North 89° 16' 15" East 2623.15 feet from the center 1/4 corner to the East 1/4 corner of said section:

thence South 90° 00' 00" East 1091.26 feet; 1091.26

thence South 0° 00' 00" West 100.00 feet; 100

thence South 90° 00' 00" West 1050.00 feet; 1050

thence South 0° 00' 00" West 474.00 feet; 474

thence South 90° 00' 00" West 221.53 feet; 221.53

thence North 44° 11' 35" West 331.91 feet; 331.91

thence North 0° 00' 00" West 112.02 feet; 112.02

thence North 90° 00' 00" West 161.77 feet; 161.77

thence North 57° 33' 13" West 310.17 feet; 310.17

thence North 0° 00' 00" East 57.60 feet; 57.60

thence North 90° 00' 00" East 607.27 feet to the point of beginning.

Parcel contains 9.426 acres.

1091.26
- 67.06
1024.20 Q.R. corner
to N eastern corner

1091.26
837.27
1928.53

2690
2623 67'

Beginning Point

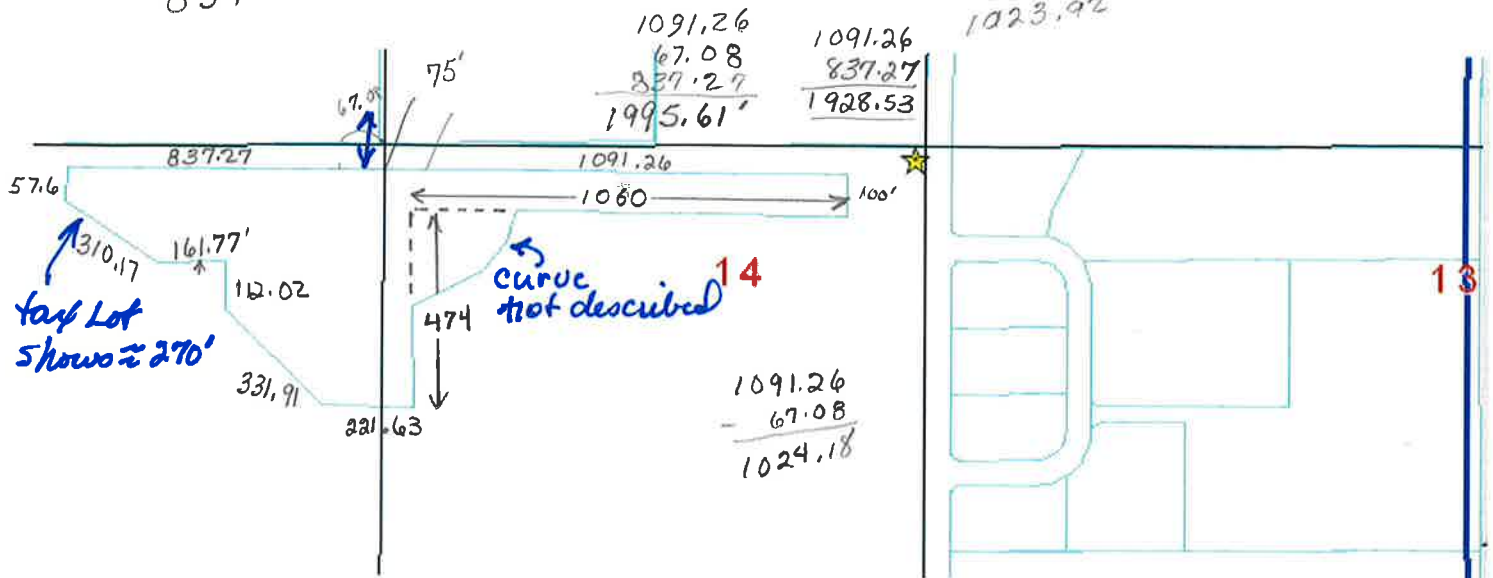
50° 7' 44" West 67.08 ft from the center 1/4 corner of Sec 14
Using a basis of bearing of N 89° 16' 15" E 2623.15' from
the center 1/4 corner to the east 1/4 corner of said Section.

762 to Q/Q line
75' to P/B

837

1091
1040 to
51'

- 67.08
1023.92



it appears that the first 67.06'

South
67.06'

John Brown Inc
City of Bellevue

37-22219, 37-22221, 37-22223, 37-22225, and 37-22227
37-22220, 37-22222, 37-22224, 37-22226, and 37-22228



Ownership conflict:

In clearing up the relationship between the shapefiles for Brown and Bellevue I came up with a discrepancy between the tax lot shapefile received from the county, the physical features, and the warranty deed attachment A submitted with the change of ownership for the rights listed above.

Attachment A identifies the property as 9.426 acres whereas the tax lot information identifies the property as 10.2 acres. Currently the splits are partly based upon the Attachment A legal description and partly on the tax lot shapefile. The City portion was identified as 9.4 acres when the rights were split.

The Attachment A describes the parcel as overlaying the quarter/quarter lines and excluding an area in the NWSE, shown as the Salmon colored shape. There is also a discrepancy on the western side of the property.

The green shape is the modified shape for the City of Bellevue, based upon currently available information. It does not include the 'area in question' but the physical features and current tax lot information suggest that that area is a part of the City property.

The tax lot shape is the light blue line which is predominately covered by the green shape.

The current recommendation for Brown includes the 'area in question'. While all of the differences only represent a difference of approximately 1 acre it still is a difference that needs to be resolved.

Rights Sharing decreed P/a

37-203 22219
 -204 - 22221 / 22222
 -205 22223
 206 22225 / 22226?

37-478 ^{478A} Renum 22227
 479 ^{479A}

Competing Rights
 37-21121 MANNING 2.40
 21122 6-10-1887 1.20

37-604A.

548 →

37-21122 - 1.20 cfs
 21121 - 1.20 cfs.

1.60 cfs.

604A 6-3-1887

^{527 ac}
 Rec ³⁷ 204 536.4

219 6.29 cfs
 221 7.86 cfs
 223 6.29 cfs
 225 3.14 cfs
 227 1.57 cfs

22222 7.14 cfs 9.4
 527. ac diff

25.15 cfs. = 0.047 cfs/ac.

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

RIGHT NUMBER: 37-206

NAME AND ADDRESS: JOHN BROWN INC
247 GLENDALE RD
BELLEVUE ID 83313

Parent for 22225
22226

SOURCE: BIG WOOD RIVER

TRIBUTARY: MALAD RIVER

QUANTITY: 3.200 CFS

PRIORITY DATE: 06/01/1901

POINT OF

DIVERSION: T01N R18E S12 NWSESW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	04/15 10/31	3.200 CFS
PLACE OF USE:	<u>IRRIGATION in BLAINE County</u>		
	T01N R18E S14 SWNW	8.50	T01N R18E S14 NESW 39.00
	T01N R18E S14 NWSW	40.00	T01N R18E S14 SWSW 40.00
	T01N R18E S14 SESW	35.00	T01N R18E S14 NWSE 36.00
	T01N R18E S14 SWSE	1.20	T01N R18E S15 SENE 7.00
	T01N R18E S15 NESW	6.70	T01N R18E S15 SESW 25.00
	T01N R18E S15 NESE	39.00	T01N R18E S15 NWSE 34.00
	T01N R18E S15 SWSE	40.00	T01N R18E S15 SESE 40.00
	T01N R18E S22 NENE	39.00	T01N R18E S22 NWNE 39.00
	T01N R18E S23 NWNW	34.00	T01N R18E S23 SWNW 33.00

536.4 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 536.4 acres in a single irrigation season. Combined Right Nos.: 37-203, 37-204, 37-205, 37-206, and 37-479A.

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

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

BROWN RANCH INC

<u>Claims</u>	<u>Parent claim</u>
37-22219	37-203
37-22221	37-204
37-22223	37-205
37-22225	37-206
37-22227	37-478A and 479A (part)
No claims include stockwater.	

The recommended POU is a PPU of 533.5 acres with only 527 irrigated acres within that area. The irrigated acreage within the decreed POU is 456.3 acres.

37-22219, 37-22221, 37-22223, and 37-22225 were decreed as stacked rights for a common POU with a gross acreage of 640 acres. The recommended POU includes 3 40-acre tracts (72.2 irrigated acres) outside of the decreed POU.

There is one 40-acre tract within the decreed POU that was not claimed nor was any water right recognized on that tract. A majority of 2 40-acre tracts are owned by a neighbor but has not been claimed by that neighbor.

In the director's report, 37-22227 was recognized within the same PPU as the other rights but limited to the irrigation of 170 acres within the PPU. Brown Ranch Inc currently owns approximately 185 acres within the decreed POU. The current PPU recognizes 33.2 irrigated acres within the historical decreed POU. 37-562A was transferred to a portion of the decreed POU (44 acres) not claimed under the above discussed 533.5 acre PPU.

Right 37-604 was decreed to 3 40-acre tracts including Sec 22 NWNE which is a part of the 533.5 acre PPU. Brown Ranch Inc did not claim against this right. Virtually all of the original 4.00 cfs has been claimed by other individuals.

As the claimant has not claimed all of the decreed rights covered by the PPU by necessity to recommend 527 irrigated acres an unrecorded transfer must be recognized.

Christensen, Kelly

From: Jo Beeman [Jo.Beeman@beemanlaw.com]
Sent: Tuesday, August 24, 2010 7:07 PM
To: Kelly, Vicki
Cc: Dan Brown; Norm Young (ERO); Spencer, Nick; Christensen, Kelly; Fritschle, Carter; Debi Cline; Joyce Angell
Subject: BROWN RANCH (37-22219, 37-22221, 37-22223, 37-22225 AND 37-22227)

Vicki,

Norm Young and I have reviewed with Dan Brown the resolutions to the objections to the above referenced SRBA claims discussed at the June 21, 2010 conference, and I am authorized to respond as follows:

Place of use: Dan is in general agreement with the irrigated acreage of 527 acres and a permissible place of use described in Kelly Christiansen's June 10, 2010 email to Norm Young. This agreement is with the understanding that we will have the opportunity to review and give final agreement to a revised shape-file and revised Director's reports for these rights.

Season of use and stockwater: Dan has considered the options discussed at the conference and prefers to have the rights decreed in accordance with the Brown Ranch objections to the above listed claims; i.e., irrigation season of April 1 to November 1 for all of the claims and stockwater from March 1 to November 30 for claims 37-22223 and 37-22225.

Please let me know if any additional response by the claimant is needed to allow partial decrees to be issued for these claims.

Jo

Josephine P. Beeman
Beeman & Associates, P.C.
Phone: 208-331-0950
Fax: 208-331-0954
jo.beeman@beemanlaw.com

*Rights w/stockwater 37- 8832
11182-GW
11184-GW*

CONFIDENTIAL NOTICE: This transmission is intended only for the use of the individual(s) named as recipients. It may contain information that is privileged, confidential and/or protected from disclosure under applicable law including, but not limited to, the attorney client privilege and/or work product doctrine. If you are not the intended recipient of this transmission, please notify the sender immediately by telephone. Do not deliver, distribute or copy this transmission, disclose its contents, or take any action in reliance on the information it contains.

Christensen, Kelly

From: Christensen, Kelly
Sent: Thursday, June 10, 2010 8:47 AM
To: 'Norm Young'; Kelly, Vicki; Spencer, Nick
Cc: Dan Brown; Jo Beeman
Subject: RE: Place of use for Brown Ranch Claims 37-22219, etc.
Attachments: image001.jpg; 37-22219 Brown fringe area.docx

I do not feel that it would be unreasonable to include the farmstead area within the POU shape and still maintain an acre limit of 527 acres. In contemplating the PPU boundary it appears reasonable to me that two small areas along the west side probably should be excluded from the shape. I have attached a clip of that area outlined in yellow.

At this point I would be willing to recommend your shape which would include the farmstead but exclude the two western areas identified, with a remark limiting the rights to 527 acres.

Kelly

From: Norm Young [mailto:nyoung@erresources.com]
Sent: Wednesday, April 21, 2010 1:33 PM
To: Christensen, Kelly
Cc: Dan Brown; Jo Beeman
Subject: Re: Place of use for Brown Ranch Claims 37-22219, etc.

Kelly:

Thank you for the update.

Does the PPU cover the places of use shown as irrigated on the latest photography? As we have discussed, we want to avoid an unnecessary paper shuffle for both Brown Ranches and IDWR of having to work through an application for transfer to cover the present place of use and Brown Ranches certainly does not want to become vulnerable after issuance of a partial decree to an NOV for a small variation in what is now irrigated from an agreed upon place of use for these water rights.

Relative to the farmstead area, will you consider including the entire area within the PPU without increasing the annual authorized irrigated area of 527 acres?

Norm

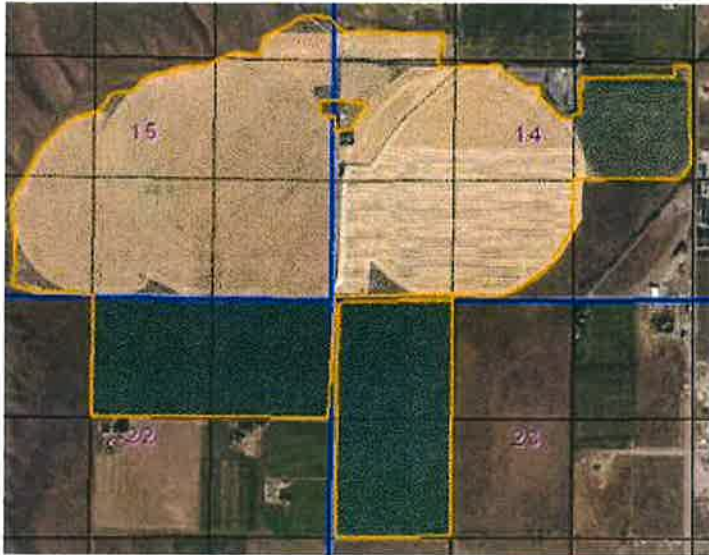
----- Original Message -----

From: [Christensen, Kelly](#)
To: [Norm Young](#)
Cc: [Spencer, Nick](#) ; [Kelly, Vicki](#)
Sent: Friday, April 16, 2010 11:12 AM
Subject: RE: Place of use for Brown Ranch Claims 37-22219, etc.

I finally had time to review your e-mail and additional information. I checked with historic watermaster records and confirmed that Dan did receive water from the north ditch so I am willing to recognize those acres as a part of the historically irrigated POU. The attached PPU shape totals 530.5 acres and subtracting the 3.5 acre stackyard area the recommended irrigated acres within this shape would be 527 acres.

At this point I am planning on using these numbers for the POU for the rights associated with this property. I hope to be able to draft the recommendations next week. If I miss next week I will be running into conflicts with initial hearings scheduled for the week of Apr 26 through the 30th and the subsequent fallout.

kkc



From: Norm Young [mailto:nyoung@erresources.com]
Sent: Tuesday, March 30, 2010 6:49 PM
To: Christensen, Kelly
Cc: Jo Beeman; Dan Brown
Subject: Place of use for Brown Ranch Claims 37-22219, etc.

Dear Kelly:

Thank you for resending your email of September 18, 2009. I do not know why I did not get it or did not locate it when originally sent.

The main concern in your email is the omission of the previously recommended irrigated areas between the upper and middle ditches on the north and west edges of the irrigated property. You recommend omitting these areas because Dan Brown's claims do not list the upper ditch as a point of diversion. However, Dan reminded me that the points of diversion for right nos. 37-478 and 479 historically included the upper ditch (Bannon #49 Ditch) that you refer to as the "Mannino Ditch." Dan recalls last using the upper ditch in about 1975. He then immediately began using the middle ditch to supply a propane-powered pump and began irrigating with handline sprinklers the western part of the fields up to the upper ditch. In 1980 Dan began to pump to these area from the pond south of the ranch house.

As shown in the photos included with my September 9, 2009 letter to you, the areas between the upper and middle ditches have moderate slopes and are readily irrigable from the upper ditch. After Dan discontinued use of the upper ditch these areas were served using handline sprinklers from either the middle ditch or the pond. The change in point of diversion is claimed as an accomplished transfer. Because a legal point of diversion has always existed to allow irrigation of these acres either using the upper ditch or from alternate points established prior to 1987, there is no basis for omitting these areas from the recommended area for irrigation under the claims.

The table below illustrates that there is little disagreement about the area to be recommended as irrigated for the parcels on the north and west edges of the irrigated part of the ranch (see the red print entries in the table) if the areas between the upper and middle ditches are included as irrigated. For the 40-acre subdivisions in red print, the Director's report recommended a total of 120.2 acres, your March 2009 proposal found 121.5 acres, and ERO suggested 121.4 acres.

If you agree that there is adequate information to restore the omitted 12.7 acres to your September 18, 2009 recommendation, the irrigated area totals 531.5 acres with a maximum of 528 acres irrigated in a given year (reference the column on the right hand side of the table). This column uses your recommendations in the September 18, 2009 email except the 12.7 acres omitted because of the point of diversion issue have been restored to the entries for the parcels on the north and west sides of the irrigated ranch. Your proposal that 3.5 acres are devoted to stack yards and other relocateable uses that do not require irrigation is incorporated in this column.

I appreciate your offer to further review the area that has been irrigated within the farmstead area. The entire area occupied by the farmstead could be flood irrigated from the ditch system in place prior to the changes to sprinkler system and much of the area was devoted to typical farmstead uses that require irrigation including garden, lawn, orchard, wind breaks, sheep pasture, etc. Dan says that these areas would have been the very first land irrigated in the early days and regularly received water up to the present. Areas occupied by buildings, corrals, equipment storage and stack yards are protected from flood irrigated by dikes or cutoff ditches, otherwise they are subject to flood irrigation. The farmstead area on ERO's shape is based upon my field observations of the locations and relative sizes of the building, corrals and other areas. The non-irrigated area in IDWR's shape is substantially larger because irrigated areas north of the original residence have been included as non-irrigated as well as some areas within the farmstead that show up as irrigated on the 1965 and 1987 photographs. Increases to the irrigated area listed in the right hand column of the table below that more accurately describe the historic use of water in the farmstead area will be appreciated.

The permissible place of use provision incorporated into your previous recommendation is important for Dan to be able to agree to and adjust to a reduction in acres from that allowed under the rights as now recorded. You indicated that the reason for withdrawing this provision was confusion between the size of the irrigated acres and the PPU acres that could result in Dan irrigating more acres than authorized. I ask that you reconsider this issue because: 1) agreement upon the above land list eliminates this potential confusion, 2) any wateruser could violate the terms of a decree or an approved transfer, but Dan has consistently demonstrated compliance with the law and the terms of his water rights, and 3) it is not clear that a transfer approval can be more enforceable than a partial decree. The minor deviations from the place of use documented in 1987 and that are now included in Dan's updated irrigation systems have existed for many years without complaint and are contained within the historically irrigated area of the ranch. An SRBA partial decree records these changes at least as well as the cumbersome transfer process.

Please let me know if you want to discuss these matters or if additional information is needed.

c. Jo Beeman

COMPARISON OF SUGGESTED IRRIGATED AREAS
FOR BROWN RANCH CLAIMS 37-22219 etc.

1/4 1/4 Section Parcels	IDWR Director's Report Recom.	Kelly's 3/10/09 Proposal	ERO's 9/9/09 Proposal	Kelly's 9/18/09 Proposal	Diff. In Kelly's Proposals	Kelly's 9/18/09 Rec. with NW area restored
Sec. 14						
swnw	8.5	8.3	8.3	5	-3.3	8.3
nesw	32.7	32	32.8	33	+1.0	33
nws	40	35	38.8	37	+2.0	37
sww	40	38	38.9	39	+1.0	39
sesw	35	34	34.5	34	0	34
nwse	32.9	33	33.4	33	0	33
swse	1.2	--	--	--		
Sec. 15						
sene	7	8	8	3.6	-4.4	8
nesw	6.7	8.2	8.2	6.2	-2.0	8.2
sesw	25	25	24.8	24	-1.0	25
nese	39	39	39.4	38	-1.0	39
nwse	34	33	32.7	32	-1.0	33
swse	40	40	40	40	0	40
sese	40	40	40	40	0	40
Sec. 22						
nene	39	39	40	39	0	39
nwne	39	39	40	39	0	39
Sec. 23						
nwnw	34	37	38	38	+1.0	38
swnw	33	37	38.3	38	+1.0	38
Total	527	525.5	536.1	518.8	-6.7	531.5
NW total	120.2	121.5	121.4	108.8		121.5
Irr. Limit	none	515.1	532.6	515.3		528.0

37-22219 etal POU

The two areas outlined in yellow are on the fringe of the PPU and do not appear to be ground that is now irrigated.



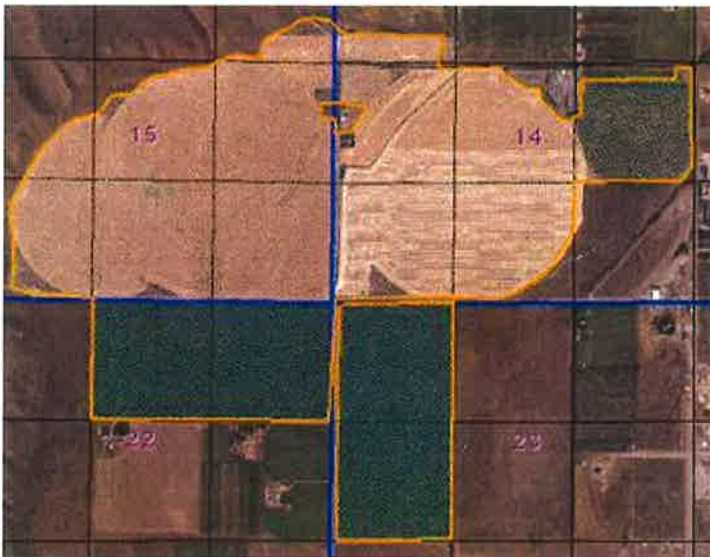
Christensen, Kelly

From: Christensen, Kelly
Sent: Friday, April 16, 2010 11:12 AM
To: 'Norm Young'
Cc: Spencer, Nick; Kelly, Vicki
Subject: RE: Place of use for Brown Ranch Claims 37-22219, etc.
Attachments: image002.jpg

I finally had time to review your e-mail and additional information. I checked with historic watermaster records and confirmed that Dan did receive water from the north ditch so I am willing to recognize those acres as a part of the historically irrigated POU. The attached PPU shape totals 530.5 acres and subtracting the 3.5 acre stackyard area the recommended irrigated acres within this shape would be 527 acres.

At this point I am planning on using these numbers for the POU for the rights associated with this property. I hope to be able to draft the recommendations next week. If I miss next week I will be running into conflicts with initial hearings scheduled for the week of Apr 26 through the 30th and the subsequent fallout.

kkc



From: Norm Young [mailto:nyoung@erresources.com]
Sent: Tuesday, March 30, 2010 6:49 PM
To: Christensen, Kelly
Cc: Jo Beeman; Dan Brown
Subject: Place of use for Brown Ranch Claims 37-22219, etc.

Christensen, Kelly

From: Norm Young [nyoung@erresources.com]
Sent: Tuesday, March 30, 2010 6:49 PM
To: Christensen, Kelly
Cc: Jo Beeman; Dan Brown
Subject: Place of use for Brown Ranch Claims 37-22219, etc.

Dear Kelly:

Thank you for resending your email of September 18, 2009. I do not know why I did not get it or did not locate it when originally sent.

The main concern in your email is the omission of the previously recommended irrigated areas between the upper and middle ditches on the north and west edges of the irrigated property. You recommend omitting these areas because Dan Brown's claims do not list the upper ditch as a point of diversion. However, Dan reminded me that the points of diversion for right nos. 37-478 and 479 historically included the upper ditch (Bannon #49 Ditch) that you refer to as the "Mannino Ditch." Dan recalls last using the upper ditch in about 1975. He then immediately began using the middle ditch to supply a propane-powered pump and began irrigating with handline sprinklers the western part of the fields up to the upper ditch. In 1980 Dan began to pump to these area from the pond south of the ranch house.

As shown in the photos included with my September 9, 2009 letter to you, the areas between the upper and middle ditches have moderate slopes and are readily irrigable from the upper ditch. After Dan discontinued use of the upper ditch these areas were served using handline sprinklers from either the middle ditch or the pond. The change in point of diversion is claimed as an accomplished transfer. Because a legal point of diversion has always existed to allow irrigation of these acres either using the upper ditch or from alternate points established prior to 1987, there is no basis for omitting these areas from the recommended area for irrigation under the claims.

The table below illustrates that there is little disagreement about the area to be recommended as irrigated for the parcels on the north and west edges of the irrigated part of the ranch (see the red print entries in the table) if the areas between the upper and middle ditches are included as irrigated. For the 40-acre subdivisions in red print, the Director's report recommended a total of 120.2 acres, your March 2009 proposal found 121.5 acres, and ERO suggested 121.4 acres.

If you agree that there is adequate information to restore the omitted 12.7 acres to your September 18, 2009 recommendation, the irrigated area totals 531.5 acres with a maximum of 528 acres irrigated in a given year (reference the column on the right hand side of the table). This column uses your recommendations in the September 18, 2009 email except the 12.7 acres omitted because of the point of diversion issue have been restored to the entries for the parcels on the north and west sides of the irrigated ranch. Your proposal that 3.5 acres are devoted to stack yards and other relocateable uses that do not require irrigation is incorporated in this column.

I appreciate your offer to further review the area that has been irrigated within the farmstead area. The entire area occupied by the farmstead could be flood irrigated from the ditch system in place prior to the changes to sprinkler system and much of the area was devoted to typical farmstead uses that require irrigation including garden, lawn, orchard, wind breaks, sheep pasture, etc. Dan says that these areas would have been the very first land irrigated in the early days and regularly received water up to the present. Areas occupied by buildings, corrals, equipment storage and stack yards are protected from flood irrigated by dikes or cutoff ditches, otherwise they are subject to flood irrigation. The farmstead area on ERO's shape is based upon my field

observations of the locations and relative sizes of the building, corrals and other areas. The non-irrigated area in IDWR's shape is substantially larger because irrigated areas north of the original residence have been included as non-irrigated as well as some areas within the farmstead that show up as irrigated on the 1965 and 1987 photographs. Increases to the irrigated area listed in the right hand column of the table below that more accurately describe the historic use of water in the farmstead area will be appreciated.

The permissible place of use provision incorporated into your previous recommendation is important for Dan to be able to agree to and adjust to a reduction in acres from that allowed under the rights as now recorded. You indicated that the reason for withdrawing this provision was confusion between the size of the irrigated acres and the PPU acres that could result in Dan irrigating more acres than authorized. I ask that you reconsider this issue because: 1) agreement upon the above land list eliminates this potential confusion, 2) any wateruser could violate the terms of a decree or an approved transfer, but Dan has consistently demonstrated compliance with the law and the terms of his water rights, and 3) it is not clear that a transfer approval can be more enforceable than a partial decree. The minor deviations from the place of use documented in 1987 and that are now included in Dan's updated irrigation systems have existed for many years without complaint and are contained within the historically irrigated area of the ranch. An SRBA partial decree records these changes at least as well as the cumbersome transfer process.

Please let me know if you want to discuss these matters or if additional information is needed.

c. Jo Beeman
Dan Brown

MEMORANDUM

RECEIVED

SEP 15 2009

WATER RESOURCES
WESTERN REGION

TO: KELLY CHRISTENSEN
FROM: NORM YOUNG *NCY*
RE: BROWN RANCH (37-22219 etc.)
DATE: SEPTEMBER 9, 2009

COPY

Thank you for meeting and discussing this matter on August 24, 2009. My understanding from our discussions is that you have revised the proposal dated March 10, 2009 for resolving the place of use objections. I do not have a copy so references to the details of the revised proposal are based upon my understanding of our discussions at the meeting.

I reviewed the March 10, 2009 proposal in the field with Dan Brown on April 23, 2009 taking particular note of the existence and location of the ditch along the north and west edges of the irrigated parcel, the character (especially the slope and vegetative cover) of the land below the ditch that is not now irrigated, the location of the survey markers, the size and location of farmsteads, stack yards and other areas not irrigated, and the size and nature of the roads crossing and bordering the property. A series of photographs taken during the field visit, keyed to a reference map, is included as an attachment to a paper copy of this memorandum. The photographs are provided to assist in identification of irrigated/irrigable areas from the aerial photographs.

The suggestion in your March 10, 2009 proposal that the place of use can be described as a permissible place of use is particularly helpful because of changes to the irrigation systems in the past 20 years. Your March 10, 2009 proposal offers a 526.1-acre PPU within which a maximum of 515.1 acres can be irrigated each season. My understanding of your revised proposal is that the area of the PPU was not changed, but the irrigated area within the PPU would be increased to 522.6 acres. I advised you that ERO had found a somewhat larger PPU and irrigated area using the 1987 photo, and you requested that a copy of ERO's shape file be sent to you in electronic format for your review. An electronic copy of the shape file prepared by ERO is included as a separate attachment to the email forwarding this memorandum. *IDWR*

The perimeter identified by ERO's shape file matches the line used for your March 10, 2009 along the north and west sides of the parcel. Some adjustments of the line to increase the PPU area might be justified, however, because your line graciously includes other areas that have been added by changes since 1987, your line defining that side of the PPU represents an acceptable compromise for purposes of negotiating a settlement.

The shape file prepared by ERO identifies a PPU containing 536.1 acres. The stack yard area located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 14 is included within the PPU area identified by ERO. My understanding of your revised proposal is that the area that can be irrigated during a season would be 3.5 acres less than the PPU to recognize that such non-irrigated areas such as stack yards have changed locations from year-to-year. I appreciate your providing this flexibility within the PPU.

Steve Hannula or I will be pleased to review ERO's shape file with you if there are questions.

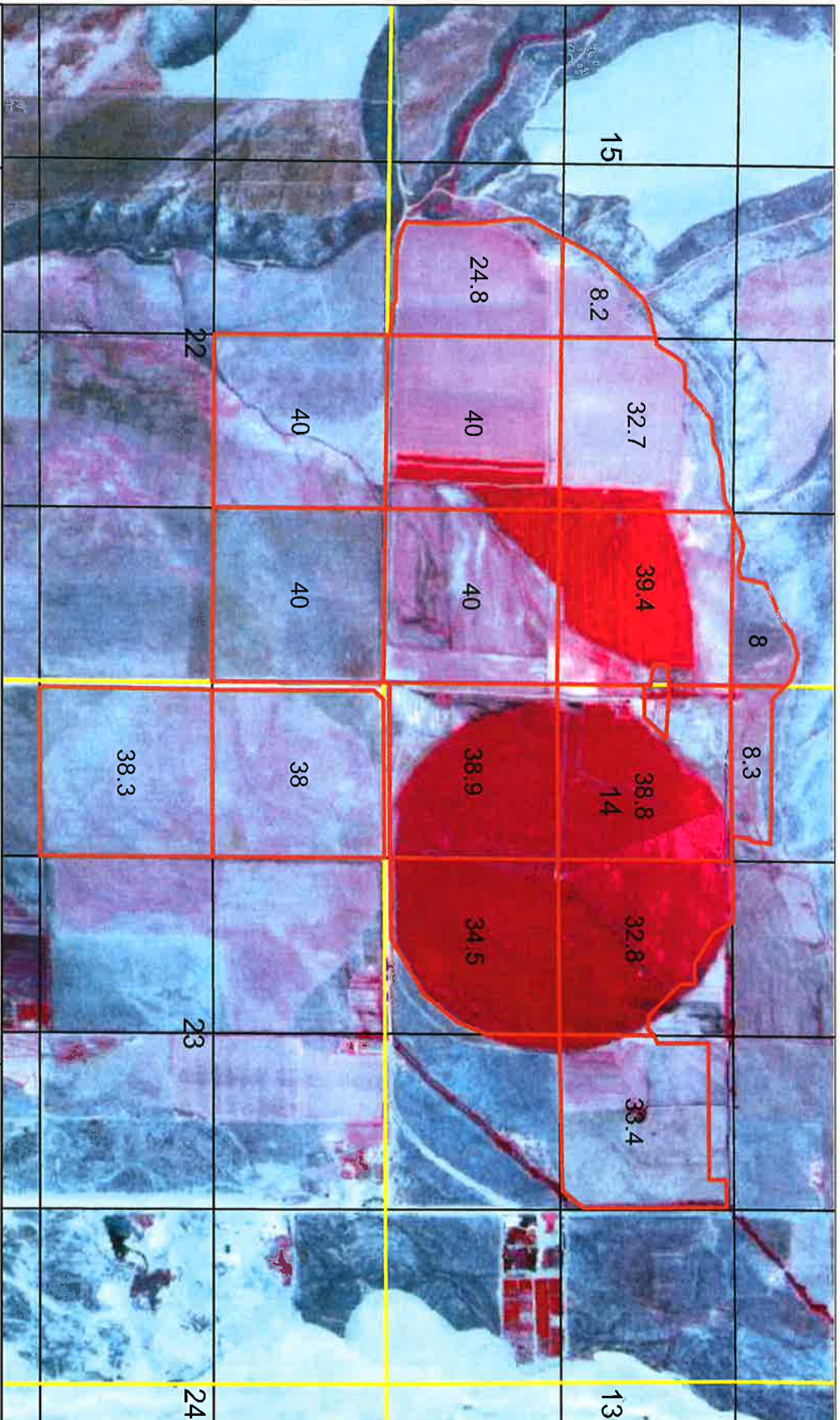
cc. Jo Beeman
Dan Brown

Attachment: Brown Ranch photos (to paper copy only)

COPY

COMPARISON OF SUGGESTED IRRIGATED AREAS
FOR BROWN RANCH CLAIMS 37-22219 etc.

1/4 1/4 Section Parcels	IDWR Director's Report Recom.	Kelly's 3/10/09 Proposal	ERO's 9/9/09 Proposal	Kelly's 9/18/09 Proposal	Diff. In Kelly's Proposals	Kelly's 9/18/09 Rec. with NW area restored
Sec. 14						
swnw	8.5	8.3	8.3	5	-3.3	8.3
nesw	32.7	32	32.8	33	+1.0	33
nws	40	35	38.8	37	+2.0	37
sww	40	38	38.9	39	+1.0	39
sesw	35	34	34.5	34	0	34
nwse	32.9	33	33.4	33	0	33
swse	1.2	--	--	--		
Sec. 15						
sene	7	8	8	3.6	-4.4	8
nesw	6.7	8.2	8.2	6.2	-2.0	8.2
sesw	25	25	24.8	24	-1.0	25
nese	39	39	39.4	38	-1.0	39
nwse	34	33	32.7	32	-1.0	33
swse	40	40	40	40	0	40
sese	40	40	40	40	0	40
Sec. 22						
nene	39	39	40	39	0	39
nwne	39	39	40	39	0	39
Sec. 23						
nwnw	34	37	38	38	+1.0	38
swnw	33	37	38.3	38	+1.0	38
Total	527	525.5	536.1	518.8	-6.7	531.5
NW total	120.2	121.5	121.4	108.8		121.5
Irr. Limit	none	515.1	532.6	515.3		528.0



ERO Resources Corp.
3314 Grace Street
Boise, ID 83703
(208) 373-7983
Fax: (208) 373-7985

Brown Farm - Place of Use

T1N, R18E
Blaine County, Idaho

0 500 1,000
Feet

Legend

37-22219 POU - ERO & IDWR



Figure XX Brown Farm

Prepared for:
File: z:\Projects\820 - Brown
Date: September 9, 2009

Christensen, Kelly

From: Christensen, Kelly
Sent: Friday, September 18, 2009 1:33 PM
To: Spencer, Nick; Kelly, Vicki
Subject: 37-22219 etal Analysis as of 9-17-2009

Attachments: 37-22219 John Brown analysis revisited 9-18-2009.doc

Attached is my analysis that refers back to the previous e-mail attachments of photos, map, and letter from Norm Young.

Hopefully I have structured my analysis in a reasonable manner. Please comment and/or make any changes you think necessary.

Thanks,



37-22219 John
Brown analysis r...

Kelly K Christensen
Sr Water Resource Agt
Boise, Western Region
(208)-334-2190

37-22219 etal ANALYSIS FOLLOWING 9-15-2009 INFORMATION PACKET

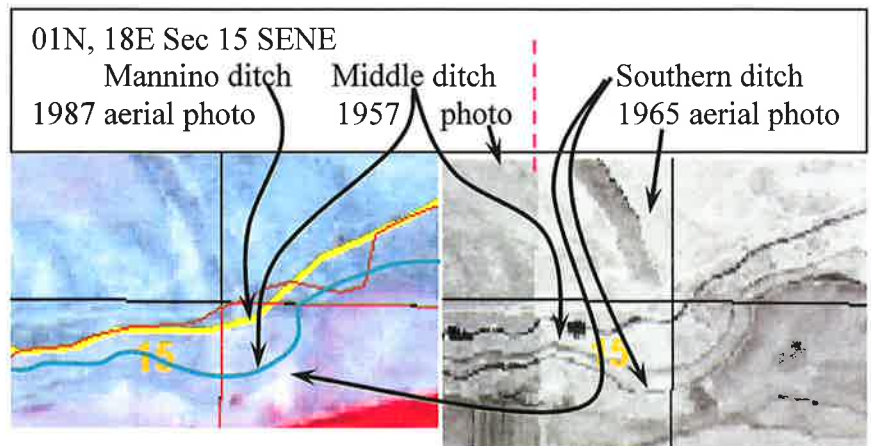
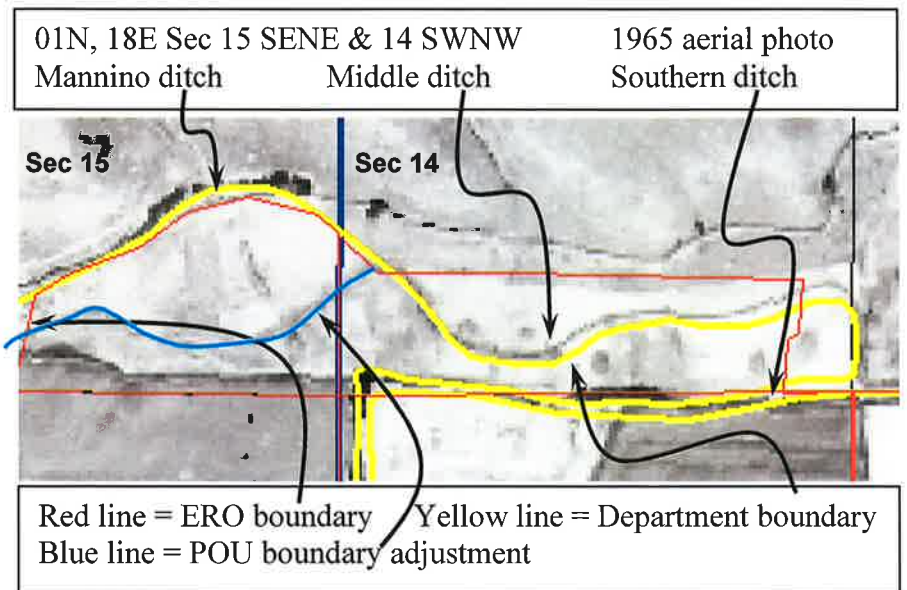
I have reviewed your September 9, 2009 letter, map, and photos you submitted in an effort to reconcile the differences in our numbers. You did not specifically state an irrigated acre limit within the PPU. In reading the next to the last paragraph where you identified ERO's PPU shape as 536.1 acres which includes the 3.5 acre non irrigated stack yard, it appears to suggest that you understand that the irrigation acre limit would be 532.6 acres. This analysis is primarily an attempt to establish the actual irrigated acre count as of 1987.

The POU we discussed during the August 24, 2009 meeting basically reflected my understanding of the irrigated PPU of 526.1 acres as of 1987 which included 3.5 acres considered a dry stack yard thus resulting in 522.6 irrigated acres.

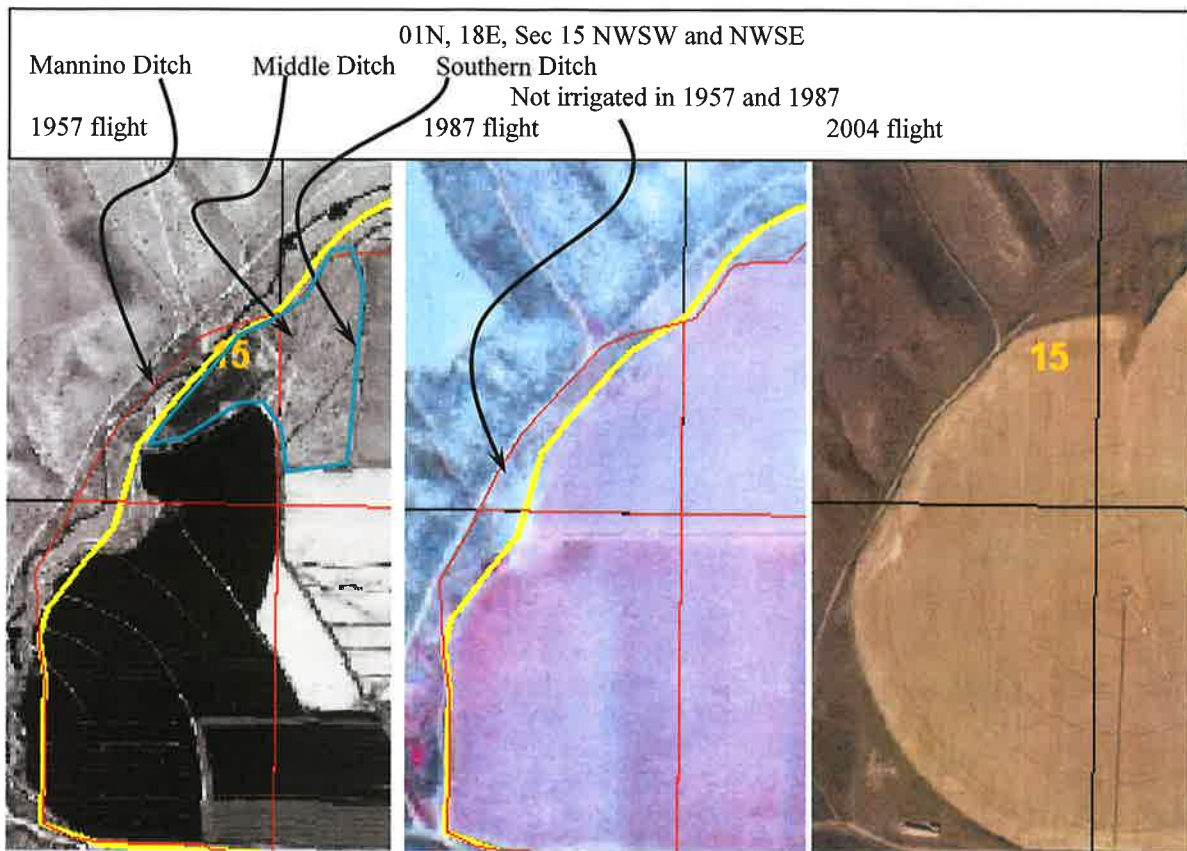
As you stated, our differences are primarily associated with the northern and western portions of the POU and the farmstead. I have since spent additional time reviewing the 1957/64/65, 1987, 1992, 2004, and 2006 aerial photos, your photos of the property, your notes and various department records. The mosaic of 1957, 1964, and 1965 aerial photo joins roughly in the center of Sec 15 SWSE. The 1957 portion lies west of that point, 1964 lies to the south and east of that point and, and the 1965 photo lies north and east of that point.

It appears clear to me that the northern and western most ditch bordering the Brown property is only associated with irrigation of the Christopher Mannino property down stream from this point. Dan Brown does not receive any water from that ditch nor is the POD a part of any Brown claims. After a closer review of the Mannino ditch and the middle ditch it appears that I errored in defining the irrigation boundary in this area. As the middle ditch is the uppermost physical boundary, the POU should have followed the ditch in this area (the blue line). The use in that area appears unchanged as of 1987.

The next segment just to the west of the first clip shows a continuation of the three ditches and a continuation of the blue line following the middle ditch. North of the blue line and south of the yellow line is again that area included in error. Actually the



ground between the middle and southern ditches in this area probably was not being irrigated by 1987 but is included as irrigated at this time. In all, the excluded ground is approximately 8 acres.



Along the western portion of the POU I have outlined an area that does not appear irrigated in 1957 but does in 1987 (blue area). As the area outlined in blue is irrigated in 1987 I am still including that ground as a part of the irrigated acreage. Another area further south that was included by ERO but excluded by the department does not appear to be irrigated as of 1987 but does in the 2004 aerial photo. That ground still shows a slight difference in appearance in the 2004 photo and is not considered as a part of the recommended irrigated ground as of 1987.

ADJUSTED POU (includes 3.5 acre stack yard) Irrigation = 515.3 acres

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	14							5.0		33.0	37.0	39.0	34.0		33.0			181.0
01N	18E	15				3.6					6.2			24.0	38.0	32.0	40.0	40.0	183.8
01N	18E	22	39.0	39.0															78.0
01N	18E	23					38.0	38.0											76.0
Total Acres: 518.8																			

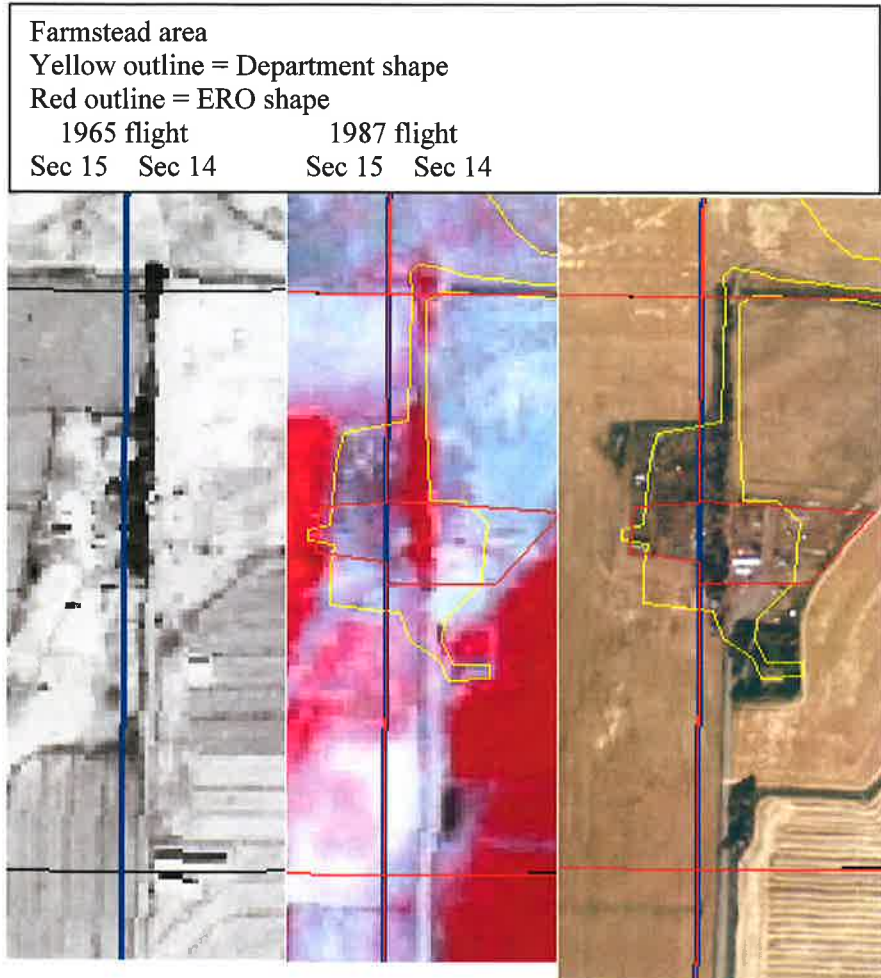
Acreage shown above represents the POU shape less the approximated 8 acres discussed above.

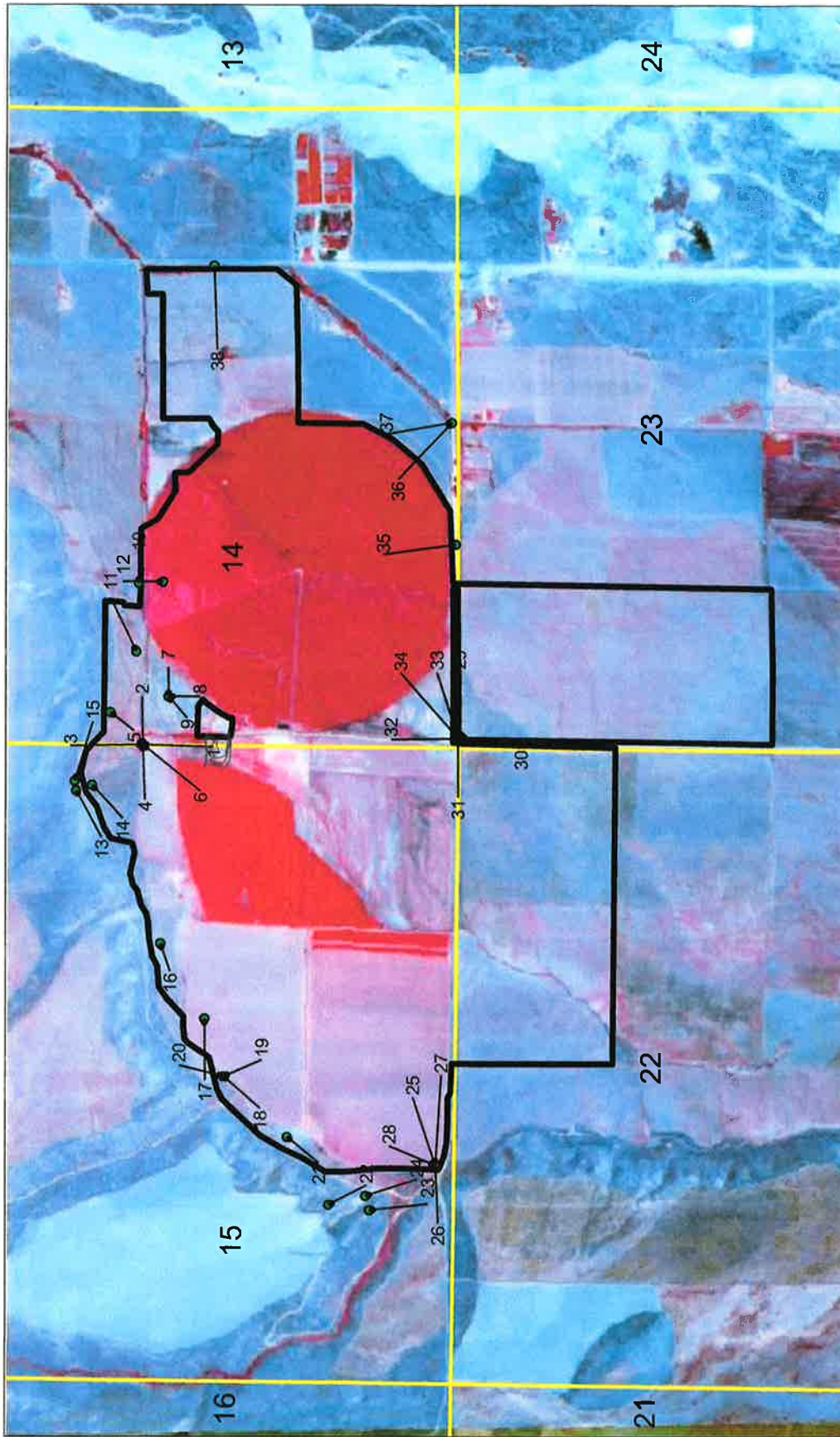
There is still room for discussion regarding the farmstead area. The ditch area coming in from the north is currently ≈ 30 ft wide in my shape. Possibly this is a little wide. Some ground within the farmstead may be irrigated but it appears that the ERO shape is somewhat understated. In doing a rough approximation of the farmstead area shown in the 2004 aerial photo (excluding the tree and pond area on the south) I found approximately 3.0 acres and the department shape, although a different boundary (and excluding the ditch north of the farmstead) is approximately 2.8 acres.

Both shapes exclude the access road running from the south to the north. Based upon aerial photography and reviewing photo # 32 it appears that the road and non irrigated area around the road is approximately 30 ft wide.

If I have made an error in interpretation of the aerial photos and other information currently available please let me know.

After discussing this system with the State Office it is the consensus that although the initial intent was to recognize a slightly larger PPU that included ground not a part of the system in 1987, the department should only recommend the 1987 POU shape. The reasoning behind that is the continued confusion between the size of the irrigated acres and the PPU acres, and that by going with a PPU limited by irrigated acres there is the potential for the irrigation of more acres than was irrigated in 1987. As there already is confusion regarding the size of the PPU and the number of irrigated acres within that area, a transfer would be the best method to document and recognize the change in the POU. The transfer process is a better method to establish the changes in POU and ultimately condition the various rights according to the then current system. A review of the 2004 aerial photo indicates that there were several 'dry' areas within the ERO PPU boundary mainly associated with pivot corners. I did a rough calculation and found approximately 10 +/- acres that were dry. This would leave an irrigated POU of 526 acres which exceeds 1987 irrigated acreage.





Key Map for Photos Taken April 23, 2009 by NCY

T1N, R18E
Blaine County, Idaho

0 500 1,000 Feet



ERO Resources Corp.
3314 Grace Street
Boise, ID 83703
(208) 373-7983
Fax: (208) 373-7985

Legend

● Photo_Point

□ 37-22219 - ERO



Figure XX
Brown Farm

Prepared for:
File: z:\Projects\820 - Brown
Date: August 21, 2009

RECEIVED

SEP 15 2009

WATER RESOURCES
WESTERN REGION

MEMORANDUM

TO: KELLY CHRISTENSEN
FROM: NORM YOUNG *NCA*
RE: BROWN RANCH (37-22219 etc.)
DATE: SEPTEMBER 9, 2009

Thank you for meeting and discussing this matter on August 24, 2009. My understanding from our discussions is that you have revised the proposal dated March 10, 2009 for resolving the place of use objections. I do not have a copy so references to the details of the revised proposal are based upon my understanding of our discussions at the meeting.

I reviewed the March 10, 2009 proposal in the field with Dan Brown on April 23, 2009 taking particular note of the existence and location of the ditch along the north and west edges of the irrigated parcel, the character (especially the slope and vegetative cover) of the land below the ditch that is not now irrigated, the location of the survey markers, the size and location of farmsteads, stack yards and other areas not irrigated, and the size and nature of the roads crossing and bordering the property. A series of photographs taken during the field visit, keyed to a reference map, is included as an attachment to a paper copy of this memorandum. The photographs are provided to assist in identification of irrigated/irrigable areas from the aerial photographs.

The suggestion in your March 10, 2009 proposal that the place of use can be described as a permissible place of use is particularly helpful because of changes to the irrigation systems in the past 20 years. Your March 10, 2009 proposal offers a 526.1-acre PPU within which a maximum of 515.1 acres can be irrigated each season. My understanding of your revised proposal is that the area of the PPU was not changed, but the irrigated area within the PPU would be increased to 522.6 acres. I advised you that ERO had found a somewhat larger PPU and irrigated area using the 1987 photo, and you requested that a copy of ERO's shape file be sent to you in electronic format for your review. An electronic copy of the shape file prepared by ERO is included as a separate attachment to the email forwarding this memorandum.

The perimeter identified by ERO's shape file matches the line used for your March 10, 2009 along the north and west sides of the parcel. Some adjustments of the line to increase the PPU area might be justified, however, because your line graciously includes other areas that have been added by changes since 1987, your line defining that side of the PPU represents an acceptable compromise for purposes of negotiating a settlement.

The shape file prepared by ERO identifies a PPU containing 536.1 acres. The stack yard area located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 14 is included within the PPU area identified by ERO. My understanding of your revised proposal is that the area that can be irrigated during a season would be 3.5 acres less than the PPU to recognize that such non-irrigated areas such as stack yards have changed locations from year-to-year. I appreciate your providing this flexibility within the PPU.

Steve Hannula or I will be pleased to review ERO's shape file with you if there are questions.

cc. Jo Beeman
Dan Brown

Attachment: Brown Ranch photos (to paper copy only)

Brown Ranch Homestead Photo 1



Photo 2



Photo 4

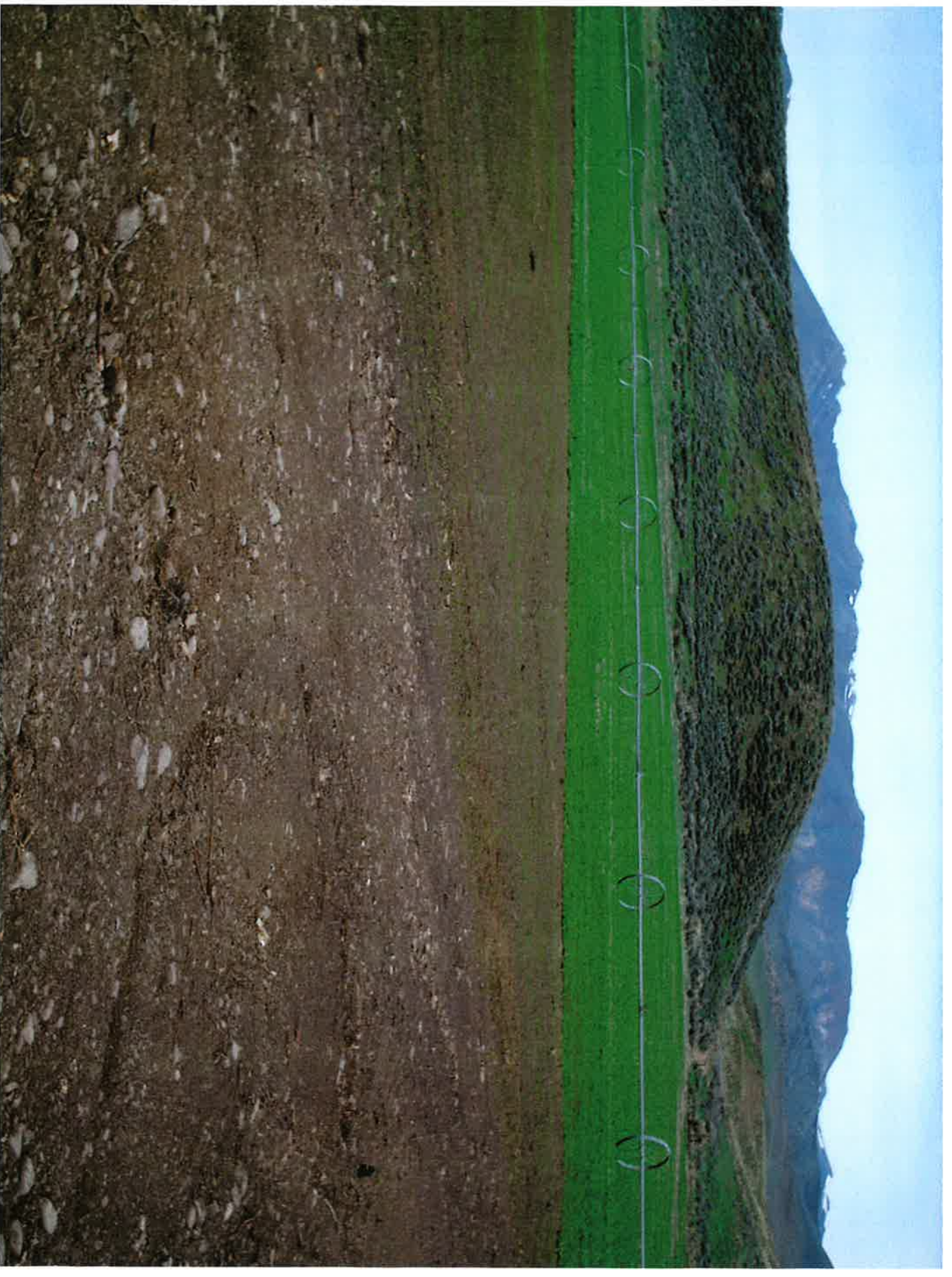


Photo 5



Photo 6



Photo 7



Photo 8



Photo 9



Photo 10



Photo 11





Photo 12

Photo 13



Photo 14



Photo 15





Photo 16

Photo 17



Photo 18



Photo 19



Photo 20



Photo 21



Photo 22





Photo 23

Photo 24



Photo 25



Photo 26



Photo 27



Photo 28



Photo 29



Photo 30



Photo 31



Photo 32



Photo 33



Photo 34



Photo 35



Photo 36



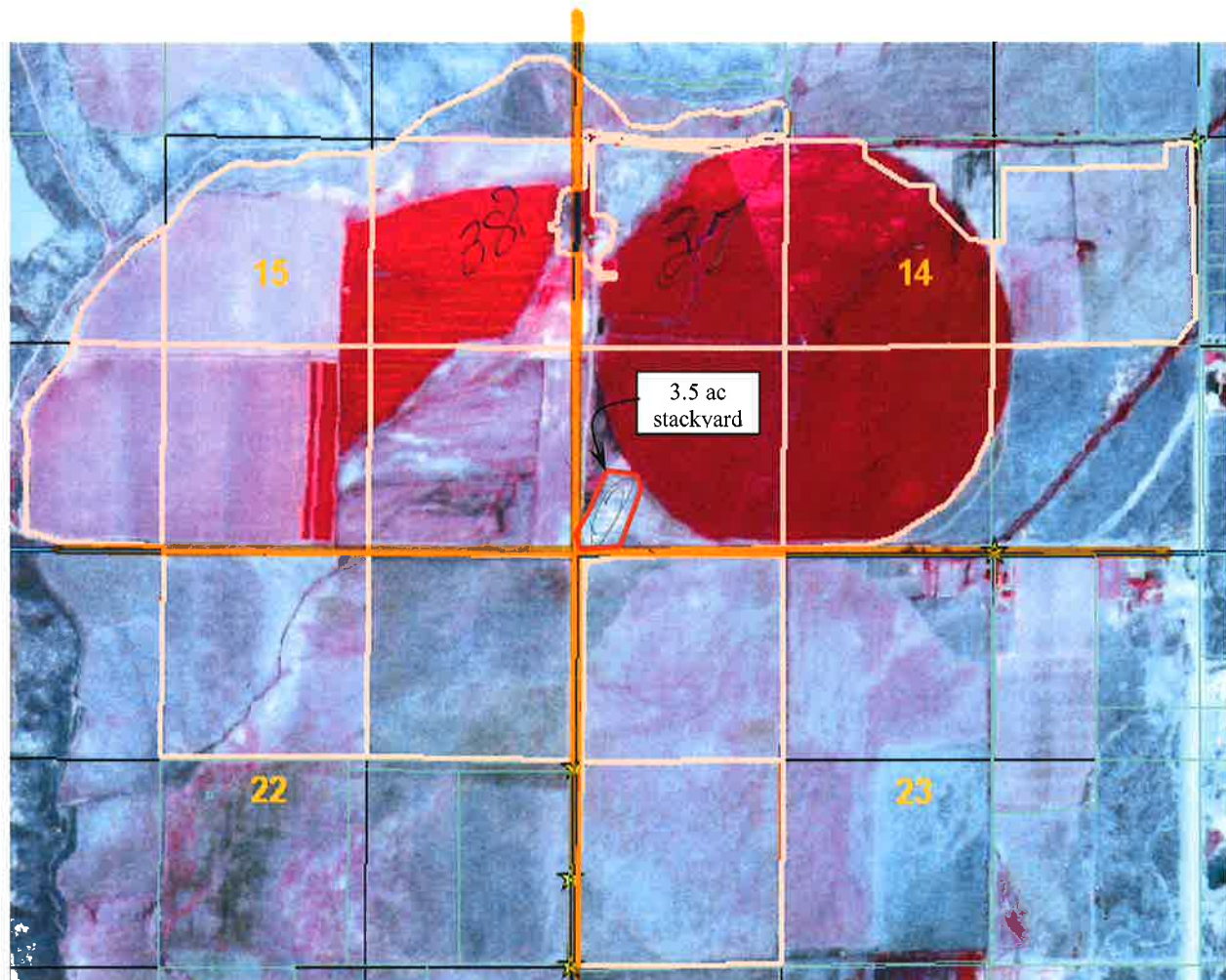
Photo 37



Photo 38

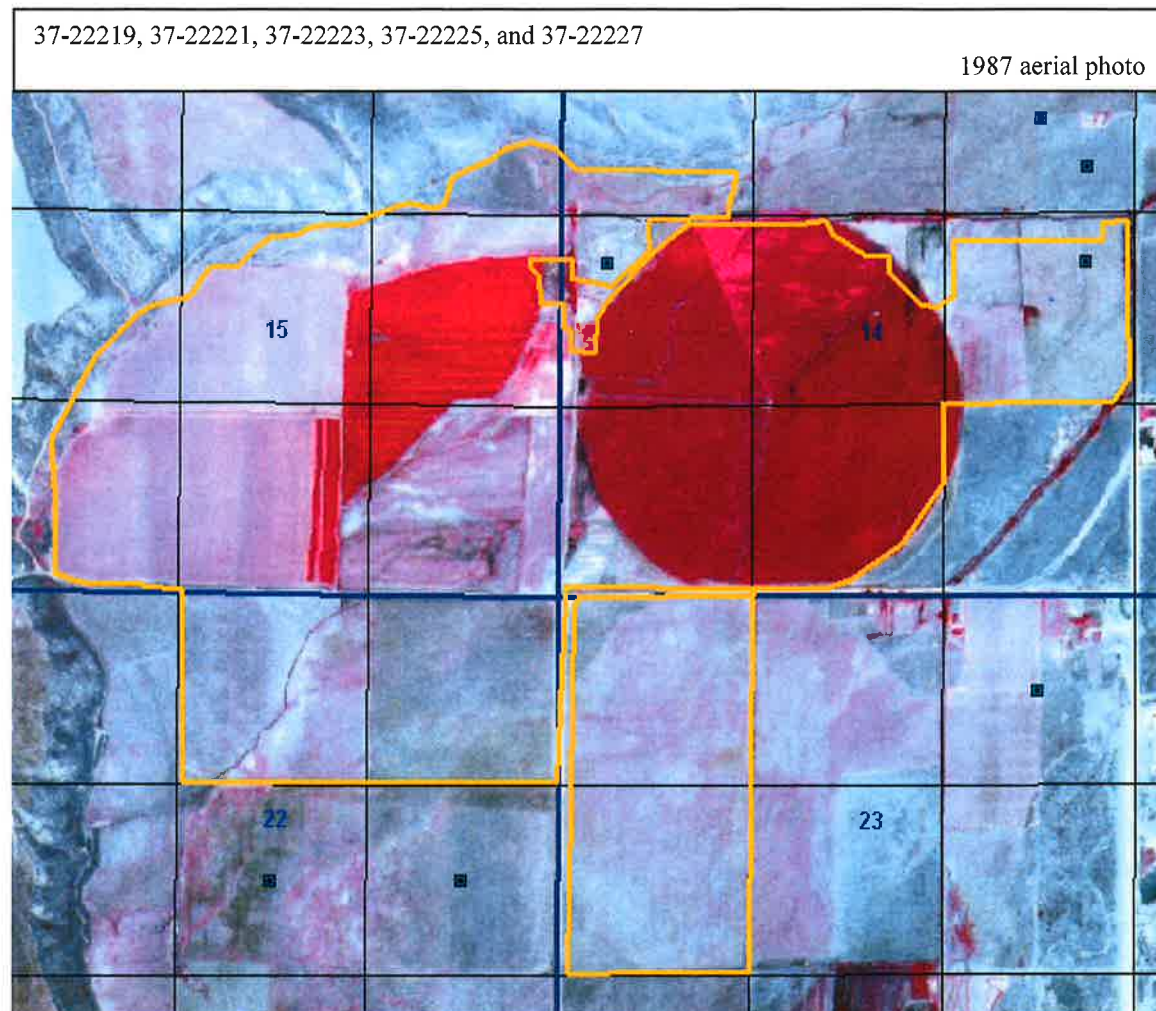


37-22219 Brown 1987 POU by quarter-quarter.



Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	14							5.2		33.0	37.0	39.0	34.0			33.0		181.2
01N	18E	15				8.9				6.2			24.0		38.0	34.0	40.0	40.0	191.1
01N	18E	22	39.0	39.0															78.0
01N	18E	23					38.0	38.0											76.0
Total Acres: 526.3																			

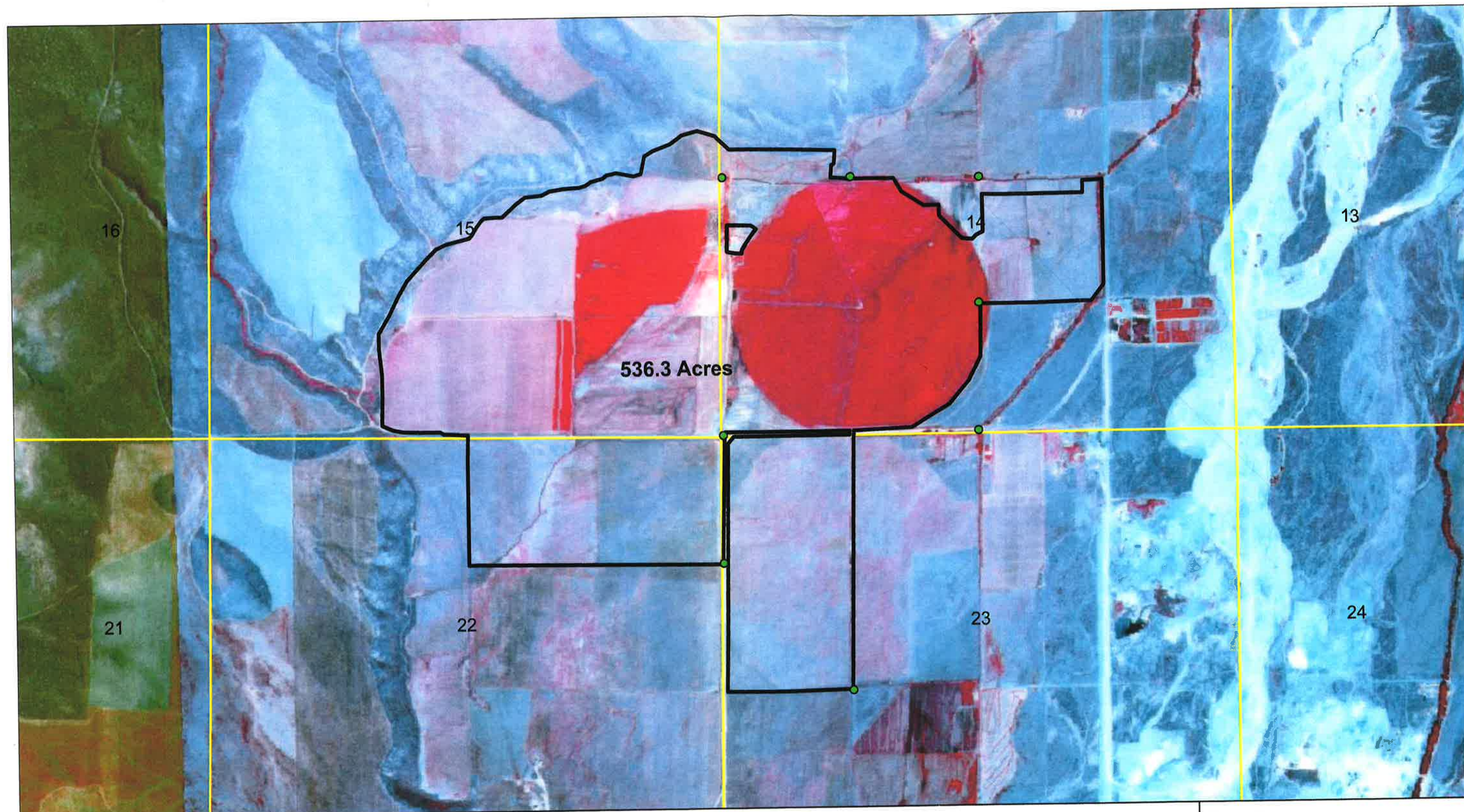
526.3
 3.5
 522.8



The shape shown represents a tentative recommended POU of 526.1 acres but limited to the irrigation of 515.1 acres within that PPU.

The 515.1 acre determination is based upon a reassessment of the 1987 recommendation. The original recommendation included areas such as the farmstead and areas that have historically been stack yards. In reviewing aerial photographs covering several different years I noted that the stack yard areas were somewhat mobile depending upon the irrigation delivery method but stayed roughly the same size. Thus the recommendation of a PPU greater than the total recognized irrigated acreage. Also the field boundary has also varied over the years, again based upon the irrigation delivery method.

Kelly K Christensen
Sr Water Resource Agent



ERO

ERO Resources Corp.
3314 Grace Street
Boise, ID 83703
(208) 373-7983
Fax: (208) 373-7985

Brown Farm Irrigation Place of Use

T1N, R18E
Blaine County, Idaho

Legend

- GPS_Coords
- 37-22219 - ERO

0 1,000 2,000
Feet



Figure X

Prepared for: Jo Beman
File: Z:\820 - Brown
March 24, 2009

MEMORANDUM

TO: JO BEEMAN

FROM: NORM YOUNG

RE: JOHN BROWN, INC OBJECTIONS CONCERNING
IRRIGATION SEASON AND STOCKWATER USE (Claim
Nos. 37-22219, 22221, 22223, 22225 AND 22227)

DATE: MARCH 3, 2009

During settlement discussions following the initial hearing last week, Nick Spencer asked for an evaluation of: 1) whether an irrigation season longer than IDWR's presently recognized season has been recommended for other claims in Basin 37 Part 3, and 2) whether stockwater has been recommended for other claims based upon the Frost Decree that list Big Wood River as a source.

Longer Irrigation Season

IDWR currently recognizes April 15 to October 31 as the irrigation season in the Upper Big Wood River Basin (the portion upstream from Magic Reservoir) from about Ketchum downstream and May 1 to October 31 in the Basin from approximately Ketchum upstream (Attachment 1. "Irrigation Season of Use" map, page 12 in IDWR's instructions accompanying the SRBA claim form, revised January 7, 2009). The above referenced claims in the name of John Brown, Inc. list April 1 to October 31 as the irrigation season. IDWR recommended the claims with the irrigation season beginning April 15. Water District 37 records show that the Glendale Canal (the canal used to divert the rights claimed by John Brown, Inc.) and the Baseline Canal diverting at the same location often begin diverting earlier than April 15 (Attachment 2. "Irrigation Season" memorandum dated January 10, 2007).

Using the search function in the Director's Report CD for Basin 37 Part 3 to search for irrigation seasons beginning "4/01" shows that there are more than 200 claims recommended to have an April 1 irrigation season beginning date. Many of these recommendations are for claims from Big Wood River and other surface streams in the Upper Big Wood River Basin. A complete list of these claims will be provided if you or IDWR want to review it. A number of the claims are based upon licenses issued when IDWR was using an earlier irrigation season beginning date as the standard for the area. More than 100 of these are for ground water. Some of these ground water rights are in the immediate vicinity of John Brown, Inc.

Of particular note is the recommendation for Claim No. 37-833H (Attachment 3) that lists April 1 as the start of the irrigation season for a right diverted through the Glendale Canal and used on a parcel about ¼ mile east of the place of use for John Brown, Inc.

Stockwater Uses from Big Wood River

A search of IDWR's on-line database of water right Recommendations using "stockwater" as the use and "Big Wood River" as the source, identified 31 claims that have stockwater included within the recommended purposes of use. Most of the claims are based upon decreed rights, of which most of these are from the Frost Decree. The list also includes nine recommendations relating to USBLM claims for in-stream stockwater based upon beneficial use.

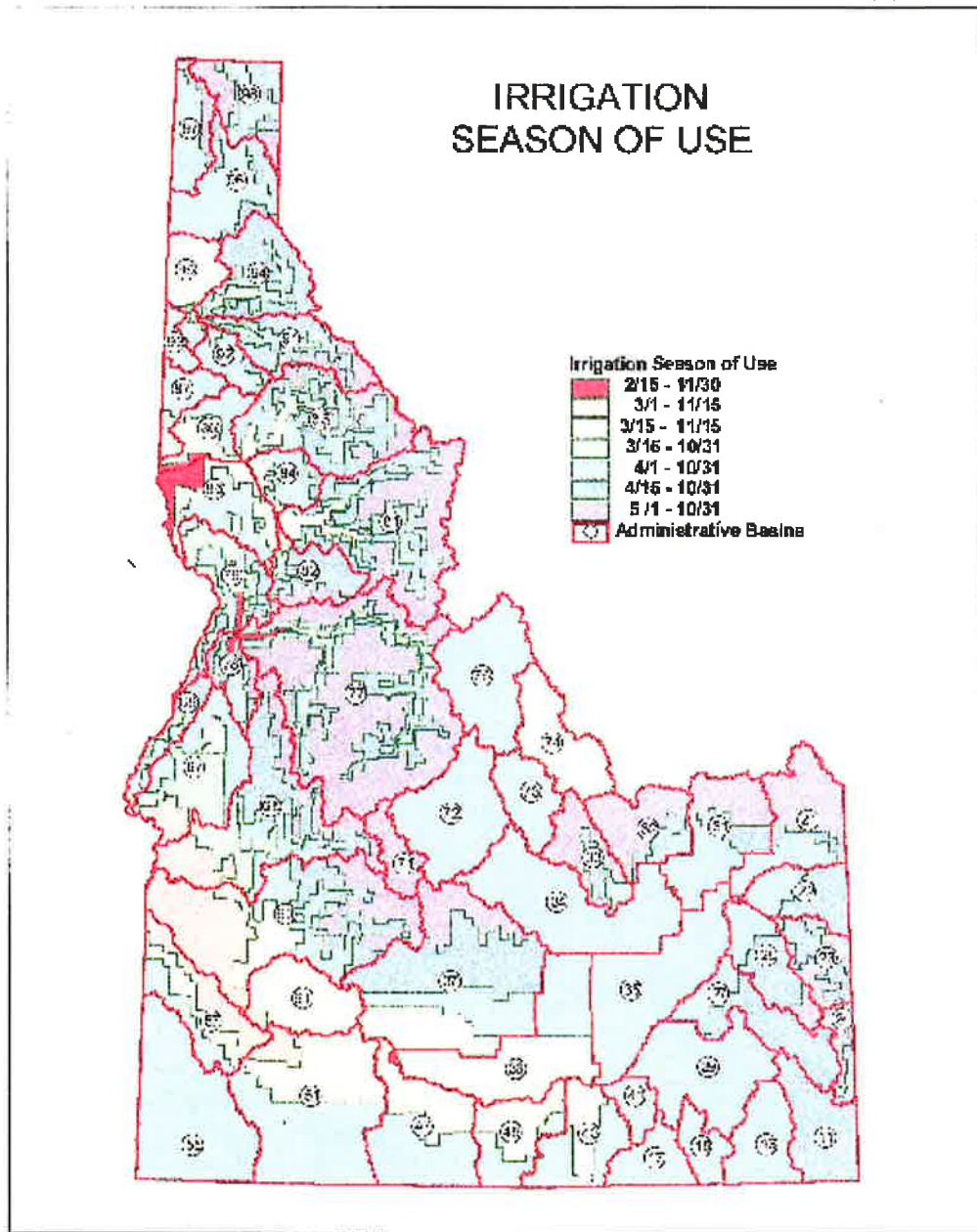
The season of use for stockwater is listed as year-round on 17 of the recommendations, April through October on 4 recommendations, 7 recommendations have April 15 to October 31 matching the usually recommended irrigation season, one for Big Wood Canal Company has a November through March season and several for the USBLM claims have shorter periods during the irrigation season.

Most relevant is that the recommendation for Claim No. 37-604B (Attachment 4) is for year-round stockwater use diverted through the Glendale Canal and used on an 80-acre parcel bordering John Brown, Inc.'s southern boundary. The small diversion rate (0.02 cfs) will not reach the place of use when delivered alone.

Many of the recommendations have a limitation of 13,000 gallons per day for stockwater. Only one (Claim No. 37-22248) includes language to recognize that the 13,000 gallons per day is measured at the place of use.

Conclusions

IDWR is not risking setting a precedent by allowing stockwater as a use for John Brown, Inc. from March 1 to November 30 or by recommending an irrigation season beginning on April 1. Perhaps IDWR needs to take a more comprehensive approach to the stockwater use and irrigation season issues to assure that the status quo is not disturbed and to avoid a "haves vs have nots" situation in this basin.



MEMORANDUM

TO: BROWN RANCH FILE

FROM: NORM YOUNG

RE: IRRIGATION SEASON

DATE: JANUARY 10, 2007

IDWR's bound annual reports for Water District 37 (and predecessor districts) list the first date each year for which flow was recorded as follows:

GLENDALE CANAL

1942 April 1	1953 April 12	1961 April 15
1977 April 1 and 10 (flow recorded for April 1 but none from then until April 10)		
1980 April 18	1981 April 13	1982 May 11
1983 May 21	1984 May 5	1985 May 2
1986 May 3	1987 April 11	1988 April 16
1989 May 2	1990 April 17	1991 May 11
1992 April 1	1993 May 13	1994 April 19
1995 May 23	1996 May 11	1997 May 10
1998 May 2	1999 May 15	2000 April 15*
2001 April 26	2002 May 7*	2003 May 24*
2004 May 1*		

*Separate page for Glendale Canal indicating "Sample" right delivered from April 1.

BASELINE CANAL

1942 April 1	1953 April 15	1961 April 12
1977 April 11		
1980 April 22	1981 April 19	1982 April 13
1983 May 24	1984 May 10	1985 May 1
1986 April 22	1987 April 7	1988 April 5
1989 April 6	1990 April 1	1991 April 2
1992 April 2	1993 April 13	1994 April 5
1995 April 4	1996 April 9	1997 May 13
1998 May 7	1999 May 18	2000 May 2
2001 April 1	2002 April 16	2003 April 8
2004 April 1		

THOUGHTS

1. Diversions may have been occurring prior to the watermaster beginning observation. The records do not start prior to April 1 for any year that I reviewed and in the earliest years of water district operation (the 1920's and 1930's), the records seem to begin on May 1. However, the record for some years specifically indicates "zero" flow in the canal prior to the first day flow is recorded.
2. The flow rates recorded for initial days of operation each year are usually significantly lower than for later in the season.
3. It is possible that diversion is initiated for purposes other than irrigation; e.g., stock water.
4. The wide variation in turn on dates (from April 1 to May 24) is hard to understand. A late turn on date could be attributed to not needing water because of a cold, wet spring (such as 1997), but late turn on dates are noted during the drought sequences (1987 to 1992 and 2000 to 2004). Do these late dates occur because of low flow in the river not being adequate to supply the priority of rights in the canal?
5. It is also hard to understand why the turn on date for a given year varies significantly for these two canals that have the same diversion. For example, in 2003 Baseline's record begins April 8 compared to May 24 for Glendale. The sequence is reversed in 2000 with Glendale's record starting more than 2 weeks earlier than Baseline's record.

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

3/3/2009

WATER RIGHT NO. 37-833H

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	GEORGE EDWARD CAMERON
Current Owner	MARGARET J CAMERON
	PO BOX 177
	BELLEVUE, ID 83313
	(208) 788-4817 -

Priority Date: 11/12/1936
Basis: Decreed
Status: Active

<u>Source</u>	<u>Tributary</u>
BIG WOOD RIVER	MALAD RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	11/01	0.54 CFS	
Total Diversion			0.54 CFS	

Location of Point(s) of Diversion:

BIG WOOD RIVER NWSESW Sec. 12 Township 01N Range 18E BLAINE County

IRRIGATION Use:
Acre Limit: 17

Place(s) of use:

Place of Use Legal Description: IRRIGATION BLAINE County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
01N	18E	23		NWNE 19			SWNE 4.9							

Total Acres: 23.9

Conditions of Approval:

1. R02 A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
2. R01 A measuring device of a type approved by this Department shall be maintained as a part of the diverting works.
3. R04 Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
4. C18 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.
5. Pursuant to a call in times of scarcity, this right is senior to all other rights that did not result from saved water in the Rockwell By-Pass, as established by and subject to the provisions included within the Rockwell vs. Coffin decree issued on 29 July, 1949.
6. Rockwell By-Pass owners must maintain the by-pass for the entire length of the by-pass capable of carrying 17.36 cfs of water during the irrigation season.
7. The saved water shall be made available to the Rockwell By-Pass saved water right holders any time the Rockwell By-Pass is being used to deliver water to Broadford Slough right holders. The Rockwell saved water rights shall be curtailed when calls for senior water rights from the Broadford Slough cannot be delivered.
8. X27 This right is limited to the irrigation of 17.0 acres within the place of use described above in a single irrigation season.

9. E55 Right Nos. 37-577Y, 37-833H, 37-7243, and 37-7995 are limited to the irrigation of a combined total of 23.9 acres in a single irrigation season.

Dates:

Other Information:

State or Federal: S

Owner Name Connector: OR

Water District Number: 37

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

3/3/2009

WATER RIGHT NO. 37-604B

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	POVERTY FLATS PROPERTIES LLC C/O BILL LANSING 93962 BRIDGE VIEW LN NORTH BEND, OR 97459 (541)269-1642
Attorney	SPECK & AANESTAD JAMES P SPECK PO BOX 987 KETCHUM, ID 83340 (208)726-4421
Original Owner	MYSTIC SADDLE RANCH C/O DEBRA A BITTON HC 64 BOX 9951 STANLEY, ID 83340 (208)774-3591
Original Owner	MYSTIC SADDLE RANCH C/O JEFFREY M BITTON HC 64 BOX 9951 STANLEY, ID 83340

Priority Date: 06/03/1887

Basis: Decreed
Status: Active

Source Tributary
BIG WOOD RIVER MALAD RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	0.3	CFS
STOCKWATER	01/01	12/31	0.02	CFS
Total Diversion			0.3	CFS

*Claimed
priority date
4-1 → 11-1
don't know why yr round shown*

Location of Point(s) of Diversion:

BIG WOOD RIVER NWSESW Sec. 12 Township 01N Range 18E BLAINE County

Place(s) of use:

Place of Use Legal Description: IRRIGATION BLAINE County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
01N	18E	22		NESE 9			NWSE 9.1							

Place of Use Legal Description: STOCKWATER BLAINE County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
01N	18E	22		NESE			NWSE							

Total Acres: 18.1

Conditions of Approval:

1. C18 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.

2. The place of use is located within Parcel A, Rocking Chair R Ranch Subdivision and Lot 2, Bitton Ranch Subdivision.
3. N05 The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
4. N08 The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

Dates:

Other Information:

State or Federal: S

Owner Name Connector: AND

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

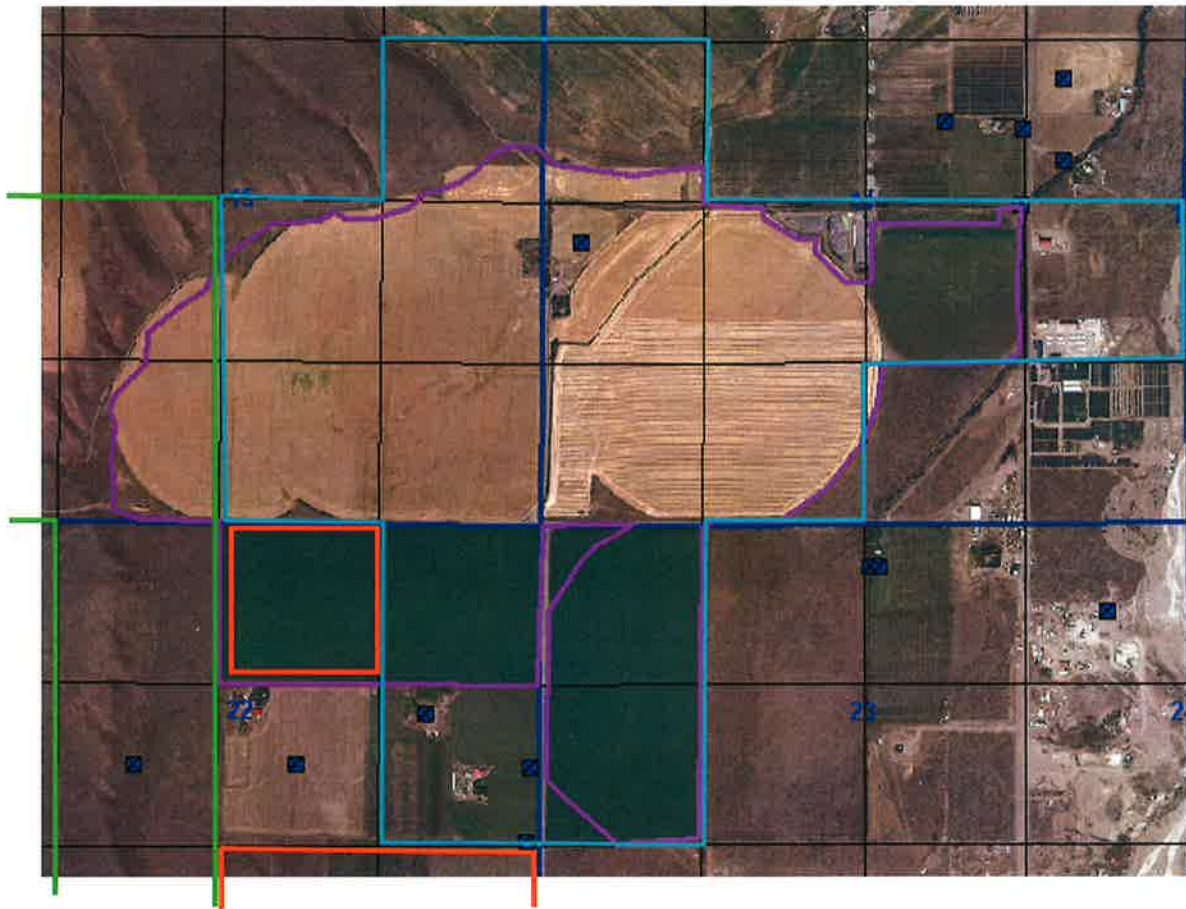
DLE Act Number:

Cary Act Number:

Mitigation Plan: False

JOHN BROWN INC

37-22219, 37-22221, 37-22223, 37-22225, & 37-22227

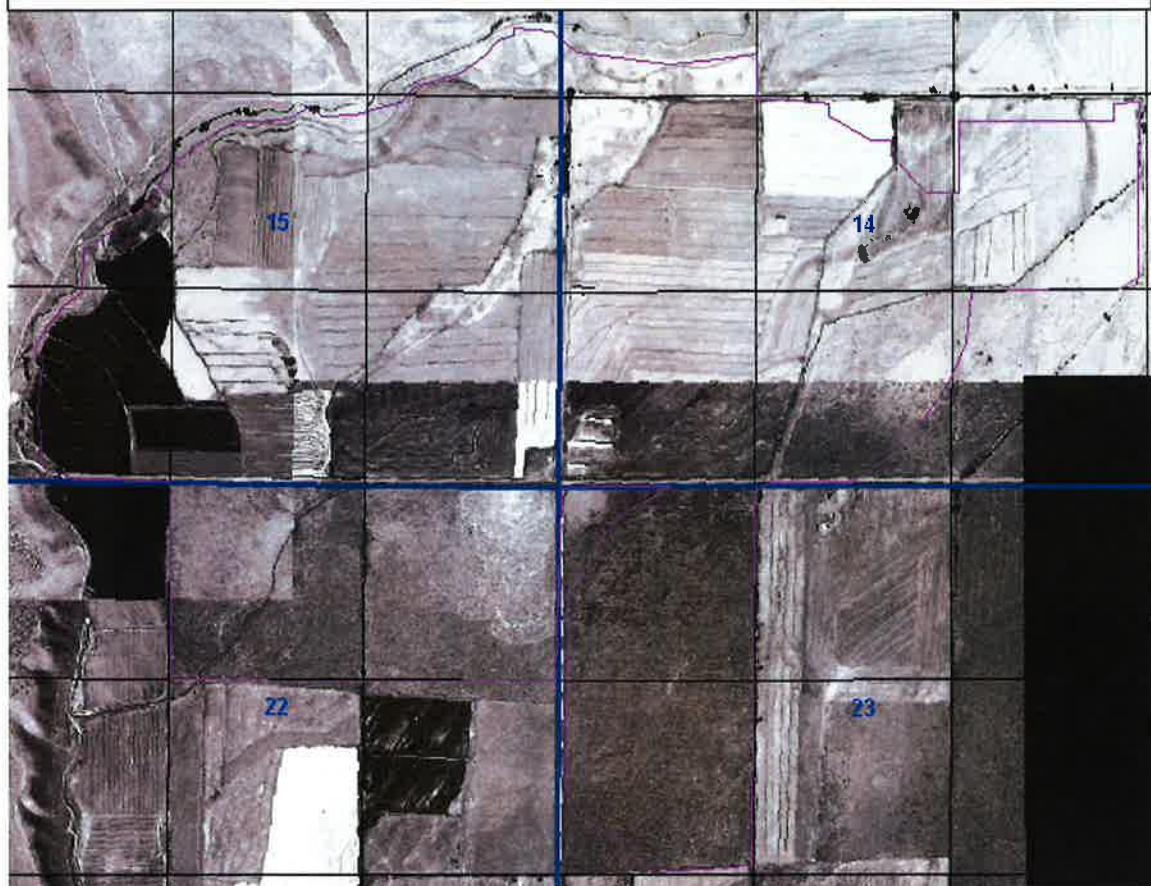


-  Recommended pou boundary
-  Decreed POU for 37-203 et al
-  Decreed POU boundary for 37-478 and 37-479
-  Decreed POU boundary for 37-604A

*37-604 has been claimed and
recommended in full on other ground.*

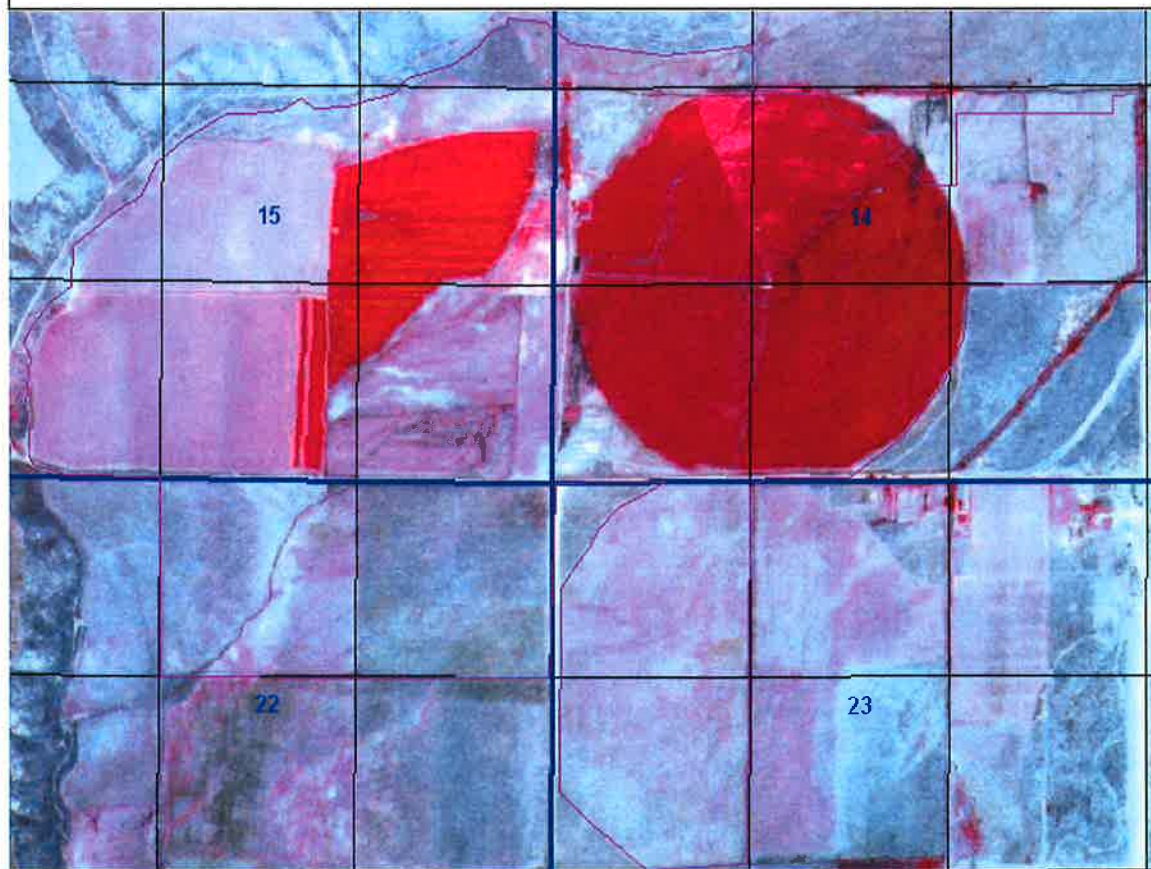
Combination of 1957 and 1964 flights

1N, 18E



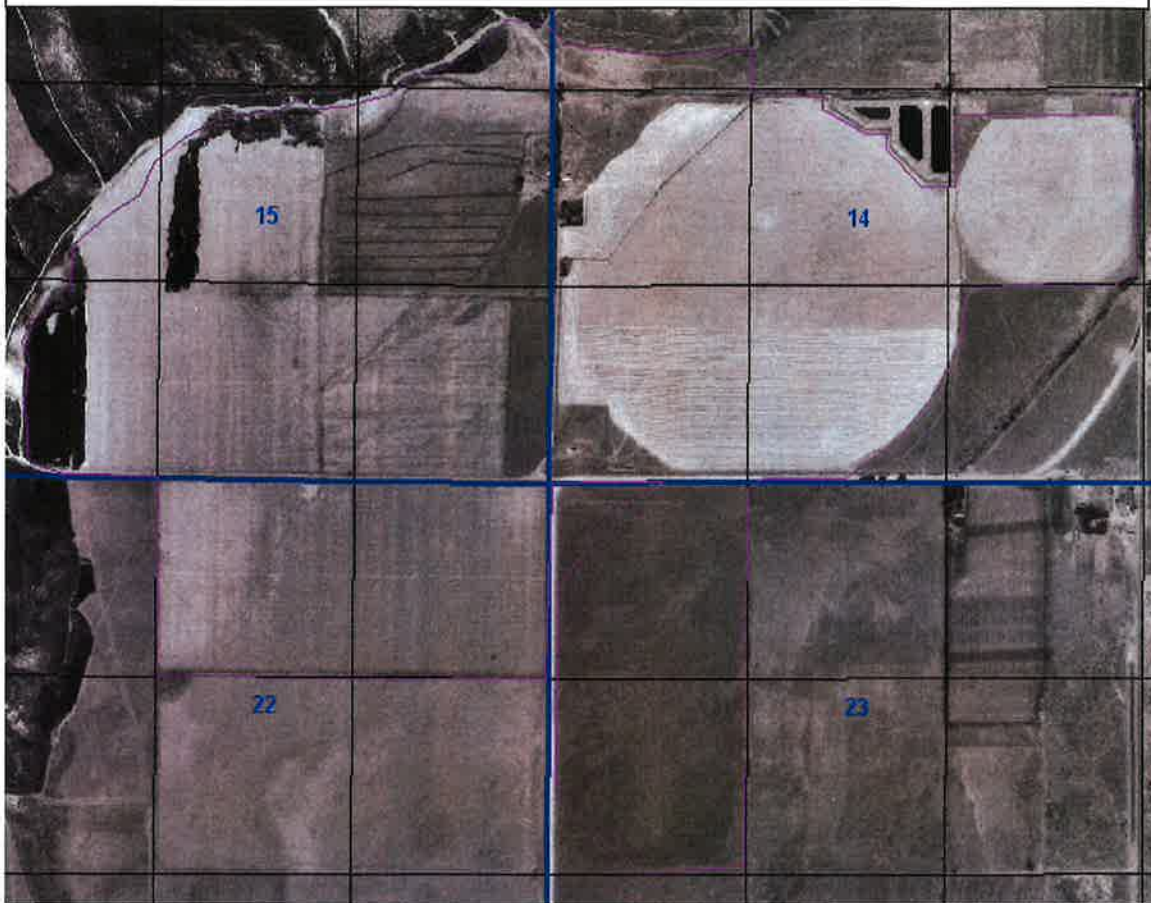
1987 Flight

1N, 18E



1992 Flight

1N, 18E



2004 Flight

1N, 18E



WR 37-478 2.40cf
479 2.80cf

37-203 6.40cf		37-204 8.00cf		37-205 6.40		37-206 3.20		37-478A 1.60cf	
22219	22220	22221	22222	22223	22224	22225	22226	22227	22228
6.29cf	0.11cf	7.86cf	1.14cf	6.29cf	0.11cf	3.14cf	0.06cf	1.57cf	0.03cf