

01/29/2004

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

RIGHT NUMBER: 23-55B
NAME AND ADDRESS: RANDY T HUSKEY
HC 34 BOX 28
IRWIN ID 83428

SOURCE: PALISADES CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 0.150 CFS

PRIORITY DATE: 08/20/1890

POINT OF DIVERSION:
T01N R44E S26 NESWSE 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	0.150 CFS

PLACE OF USE: IRRIGATION Within BONNEVILLE County
T01N R44E S35 NESE 7.7

7.7 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: BASIS OF CLAIM - Decreed

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

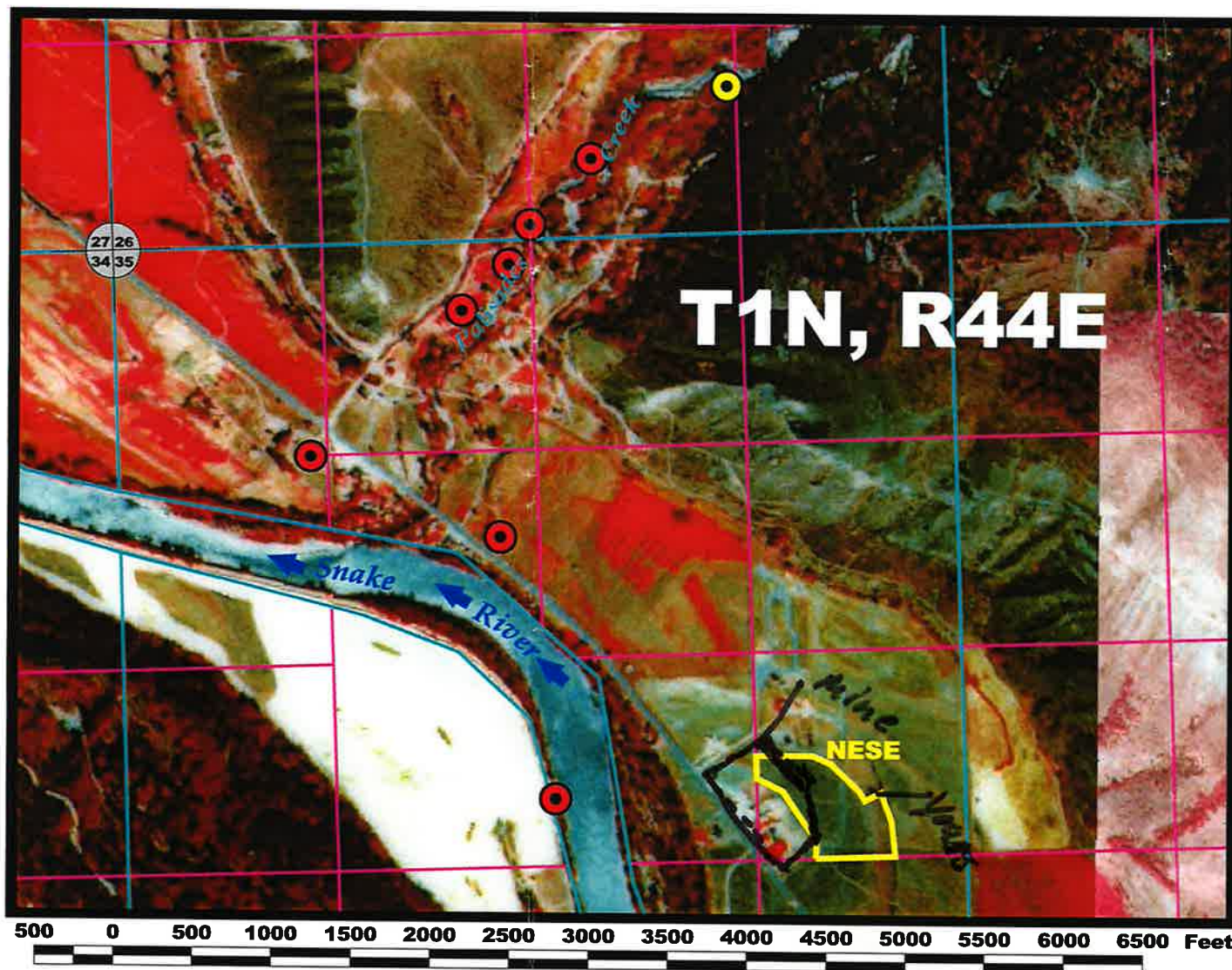


SCANNED
JUL 07 2004

State of Idaho

Department of Water Resources

Eastern Region



Water Right(s):
23-00055B

Place of Use: (part of)
T1N, R44E
Sec. 35 NESE

Point(s) of Diversion:
T1N, R44E
Sec. 26 NESWSE

LEGEND

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



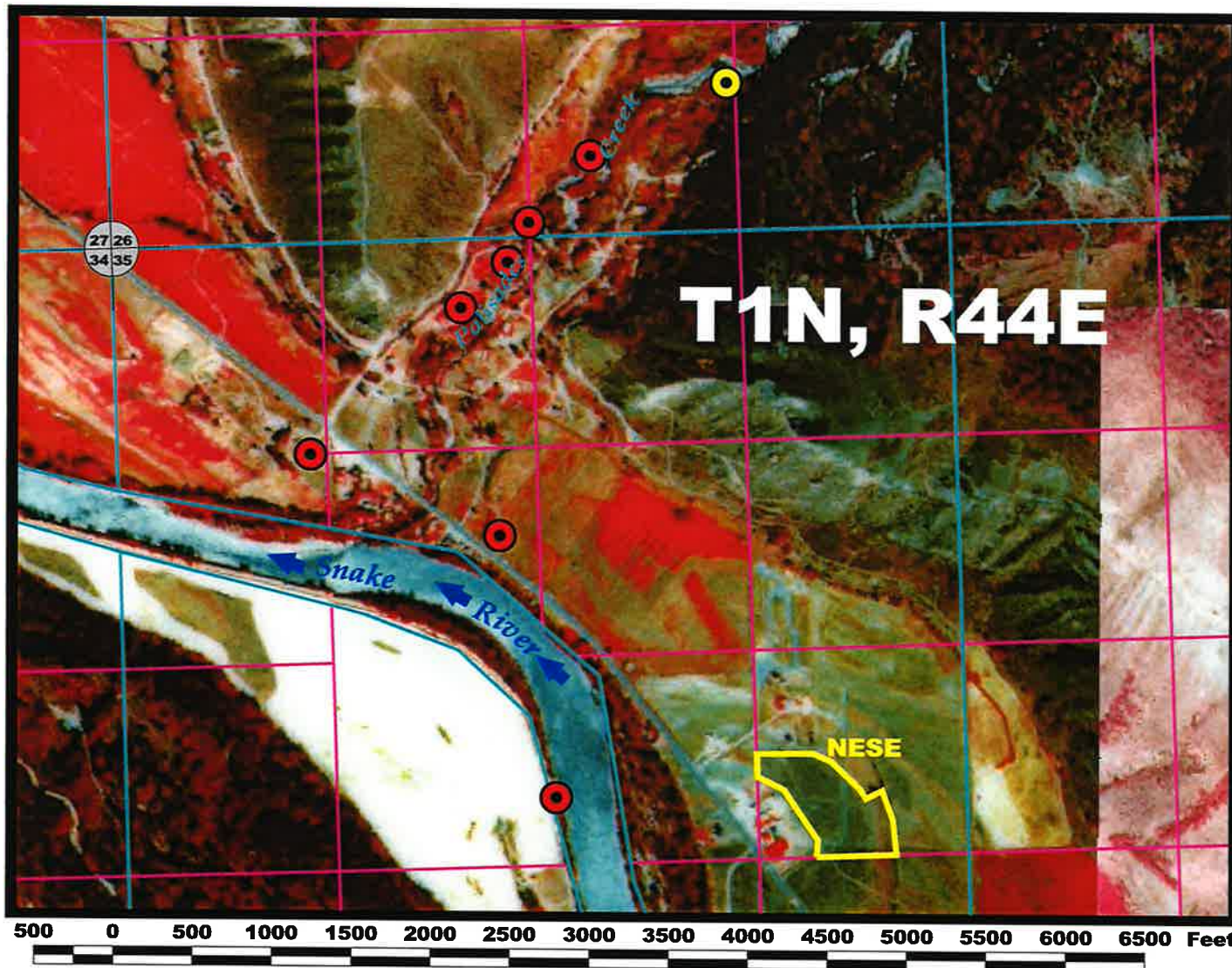
GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: A. Ruberry
Date: January 2004



State of Idaho

Department of Water Resources

Eastern Region



Water Right(s):
23-00055B

Place of Use: (part of)
T1N, R44E
Sec. 35 NESE

Point(s) of Diversion:
T1N, R44E
Sec. 26 NESWSE

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

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
01n44e	35	NESE	5.5	2.8	
01n44e	35	NWSE	2.2	2.8	
Totals:			7.7	5.6	

Man's Place

Penny Barnes 483-5524

4/22/03 CHRIS STONOR CURRENT OWNER STATES THE South LEG OF THE CANAL, WHICH WOULD SERVICE HIS CLAIMED POOL, WAS CLOSED 17 YRS AGO (CIRCA 1986). AND, APPARENTLY THERE HAVE BEEN HOMES BUILT OVER IT; SOME PARTS OF THE CANAL FILLED IN,

DISALLOW THIS CLAIM - PER §42-222(2) IC
 → NO! CLAIM FILED 1988 - NONUS WOULD HAVE STARTED ABOUT 1986 ⇒ CANNOT FIND FORTUITOUS - RECOMMEND AS CLAIMED.

Priority/Source MATCH DOUGLAS

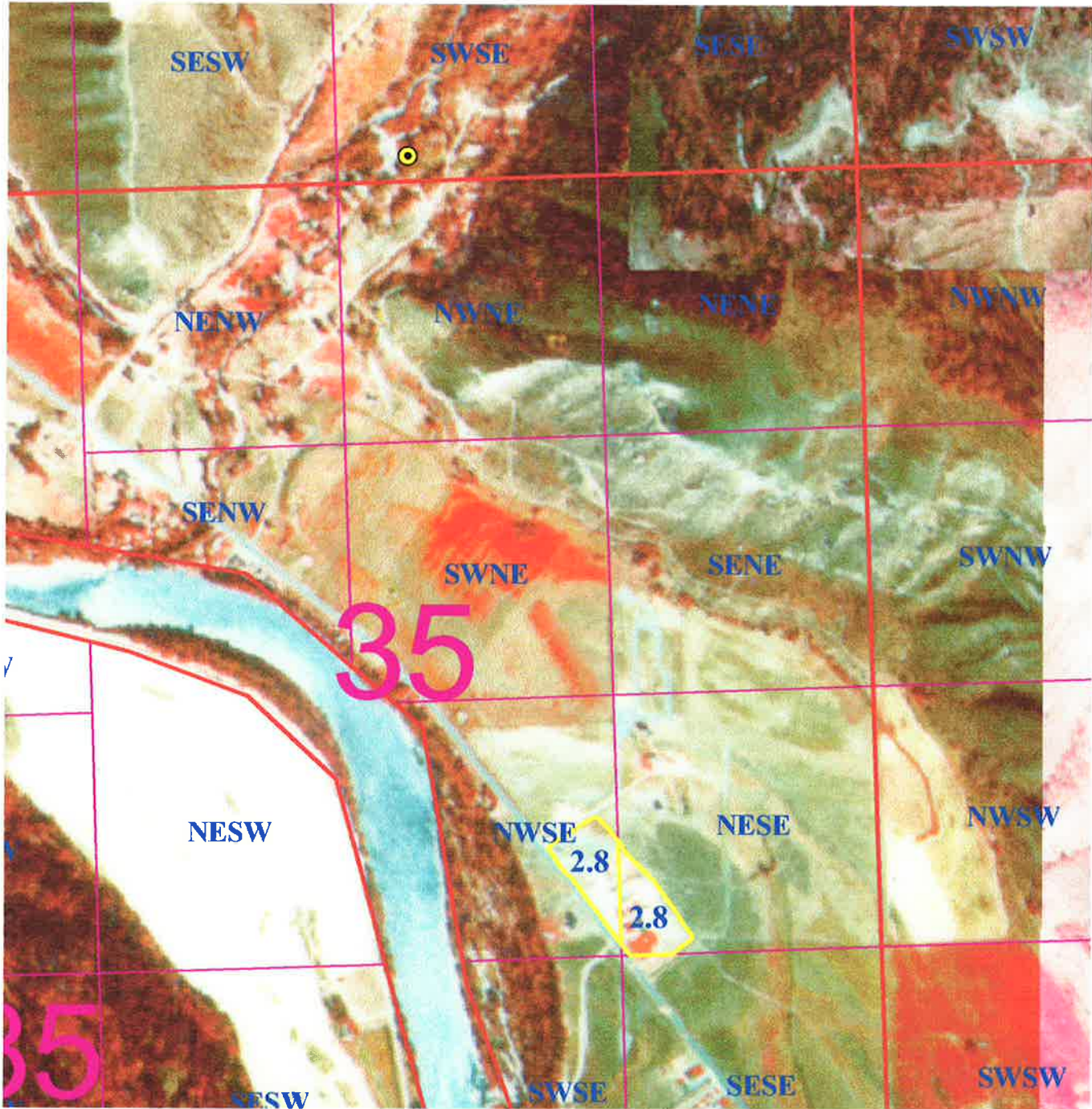
POD: TIN R44E, SEC. 26 NE SW SE (CLAIM ERRORS by 10 AC PARCEL)

Sec: 4/15 TO 10/31 NOT SPEC. by DOUGLAS - USE DOPT STD.

Pool: OK

Water Right Claim Number 23-00055B
Township , 1N44E

05/18/2001





Irrigated Area



Section Line



Roads



Place of Diversion



Quarter Section Line



Streams and Canals



PHOTOS TAKEN 4/22/03
BY: A. RABBITRY



Photo 1. OLD DITCH (NO STRUCTURE) OFF PALISADES CREEK
FOR DELIVERY ON SOUTH OF THE CREEK.



Photo 2. Shows A PLACE BEHIND THE BLOCKAGE OFF THE
CREEK. OBVIOUSLY THERE HAS BEEN NO MAINTENANCE
AND NO DELIVERY FOR A LONG TIME.

Ruberry, Allen

From: Ruberry, Allen
Sent: Tuesday, March 16, 2004 12:39 PM
To: 'huskey103@cs.com'
Subject: Notice of error reply

Randy, thank you for your response to the water right recommendation. I have reviewed your comments and mapping. There are a few issues to be aware of:

1. Chris Stoner has been forwarded a Notice of Change of Water Right Ownership. However, he has failed to respond, that is why the water right recommendation was sent to you; you are the claiming owner absent his response. There has been some discussion with Mr. Stoner that the water right will be sold as soon as the Partial Decree is issued since the water right is undeliverable to the place of use recommended (shown in yellow on the map sent).

2. The place of use you outline on your reply and claim map will not work since a water right can not be appurtenant to a parking lot or drive way, such as is the case at the filling station. That portion appurtenant to the RV park/cabin area and lawns MIGHT work but that only uses a small portion of the claimed portion.

3. The recommendation is based on ownership of irrigated ground that is shown to be held by Mr. Stoner. This information comes from the Bonneville County Assessors Office. In the effort to preserve the water right portion claimed the place of use was adjusted to that irrigated acreage.

4. Although I cannot find forfeiture of the water right due to the claim filing date there is an opportunity for someone else to file an objection alleging forfeiture due to non-delivery from 1986. Discussions with a couple locals indicates the ditch was not used since 1986. Idaho code 42-222(2) find forfeiture if the right has not been used in a "term of five years". To date, the ditch is obliterated in several places, the point of diversion off Palisades Creek is closed, apparently there are buildings built over the historic ditch trace and no effort has been made by users to preserve the right. Some of the claims filed on the Palisades Creek right(s) have been disallowed due to the non-use issue of forfeiture (having to do with the claim filing date as mentioned above).

Thanks for the response: I will look forward to your reply regarding the above issues. And, if there are additional questions and or concerns please feel to call (208) 525-7161 or e-mail.

Respectfully,

Al Ruberry

3/25/04 No Reply to this e-mail



RANDY HUSKEY (HUSKEY'S)

P.O. Box 147
Swan Valley ID. 83449
208-483-3535
huskey103@cs.com

March 5, 2004

RECEIVED

MAR 12 2004

Department of Water Resources
Eastern Region

Dear Idaho Department of Water Resources,

I am sending you a accurate correction of the place of use outlined in the aerial photo sent with your notice of correction 01/29/2004. Being in Arizona for the winter the legal description looks accurate. Please update your files with my outlined copy aerial reprint. Please notice that my mailing address has changed on this letter.

Sincerely,

Randy T Huskey

Signature



01/29/2004

**NOTICE OF ERROR
REPLY**

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS:

Water right number: 23-55B

RANDY T HUSKEY

HC 34 BOX 28

IRWIN ID 83428

Telephone Number: (208)483-3581

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

X I AGREE with this proposed recommendation: no changes need to be made.

DATE:

03/06/04

SIGNATURE:

Randy T. Huskey

Please print your name:

Randy T. Huskey

IDWR Regional Office,

RECEIVED

MAR 12 2004

Department of Water Resources
Eastern Region

MEMORANDUM

11 July 2003

To: Files; 23-55 A/B/C/D/E/F, 23-10271

From: A. Ruberry

Subject: Split portions of SRBA claims, as above

On April 22, 2003, a field exam was conducted by A. Ruberry, IWDR. The claimed Point of Diversion SWSWSE Sec. 26, T1N, R44E, was GPD'd and photographed. This claimed Point of Diversion has no structure to control any type of diversion off Palisades Creek; it is in-fact, filled with gravel and about 150' +/- down-ditch (remnant) from the claimed Point of Diversion is also filled and heavily overgrown with vegetation (see photographs).

In addition, within the SWNWNWNE of Sec. 35, there is a culvert in the ditch remnant that is crossed by a roadway. A short distance further down ditch the ditch is filled-in.

It is obvious this ditch has not been used due to the heavy growth of vegetation and lack of any type of maintenance. According to local residents, Chris Stoner and Jay Weeks, this ditch has not been used in 10 years (Jay) and 17 years (Chris). Thus, according to Mr. Stoner's statement abandonment of the ditch began in 1986.

Portions of the 23-00055 water right, as listed above, will be recommended as Disallowed pursuant to §42-222 (2) IC. Lands claimed under this water right are not a subject of the Conservation Reserve Program (CRP), as addressed under this statute. 23-00055 originated as a Decreed water right under the Rexburg Irrig. Co. vs Teton Irrig. Co., 1910, as 3.3 cfs from Palisades Creek, 8/20/1890. See attached split history attached; 1.92 cfs of this right is not accounted and unclaimed.

*This claim recommended - claim filed 1988, cannot
find confirmation on abandonment. 1986-1988.*

*1/9/04 MAILED to after TELECON w/ Chris Stoner.
He'll get on it.*

*1/29/04 NO RESPONSE TO REQUEST FOR CHANGE OF OWNERSHIP
RECOMMEND AS CLAIMED TO RAYON HUSBY -*

Water Right Split History Analysis

23-00055A R.J. JONES ✓

0.08 cfs

23-55B R.T. HUSKEY ✓ ⇒ Chris Stenior

0.15 cfs

23-55C D.N. DENNING ✓

0.52 cfs

23-55D R. HENKEN

0.10 cfs

S.C. WEEKS

23-00055

3.30 cfs 8/20/1890

PALISADES CREEK

23-55E H.J. TAYLOR

0.03 cfs

23-55F R. RADFORD

0.03 cfs

23-10271 J. BYRD ✓

0.47 cfs (CLAIMS PART OF SSC.)

 $\Sigma_{\text{CLAIMS}} = 1.38 \text{ cfs}$

23-55? UNCLAIMED / UNACCOUNTED

1.92 cfs

Reviewer: ABRDate: 7/7/03

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: A23-00055B
Date Received: 9/15/1988
Receipt No: E002360 - E010313
Received By: HGJ

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: RANDY T. HUSKEY 208-483-3581
Address: HC 34 BOX 28
IRWIN, ID 83428

2. Date of Priority: AUG 20, 1890

3. Source: PALISADES CREEK Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
01N	44E	26	SW	SW	SE		BONNEVILLE

5. Description of diverting works:
HEADGATE TO DITCHES FOR FLOOD IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/15	10/15	0.150		

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

8. Total consumptive use is 19.2 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
01N	44E	35	NE	SE		IRR	5.5
			NW	SE		IRR	2.2
Section Acres							7.7

A23-00055B

Page 1

Date: 09/13/89

MICROFILMED

NOV 07 1992

10. Place of Use: Continued

Total Acres 7.7

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 IS A PORTION OF 23-0055 DECREED TO SAMUEL C. WEEKS

15. Basis of Claim: DECREED

Water Right Number: 230055

Case Number:

Court :

Decree date: 12/16/1910

REXBURG IRRIGATION COMPANY
Decree Plaintiff

vs

TETON IRRIGATION CANAL COMPANY
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: _____

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): *Randy H. H.* Date: 9-13-89

Date: _____

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 13th day

of Sept 19 89

Betty J. Thompson
Notary Public

Seal

Residing at BETTY J. THOMPSON, NOTARY PUBLIC

RESIDING AT IDAHO FALLS, IDAHO
My Commission Expires EXPIRES: 6-30-94

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: A23-00055B
Date Received: 9/15/1988
Receipt No: E002360
Received By: KCW

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: RANDY T. HUSKEY 208-483-3581
Address: HC 34 BOX 28
IRWIN, ID 83428
2. Date of Priority: AUG 20, 1890
3. Source: PALISADES CREEK Trib. to: SNAKE RIVER
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
01N	44E	26	SW	SW	SE		BONNEVILLE
5. Description of diverting works:
HEADGATE TO DITCHES FOR FLOOD IRRIGATION
6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/15	10/15	0.050		
7. Total Quantity Appropriated is:
0.050 C.F.S. (and/or) A.F.A.
8. Total consumptive use is 8.8 Acre Feet Per Annum.
9. Non-irrigation uses:
NONE
10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
01N	44E	35	NE	SE		IRR	1.3
			NW	SE		IRR	2.2
Section Acres							3.5

10. Place of Use: Continued

Total Acres 3.5

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 IS A PORTION OF 23-0055 DECREED TO SAMUEL C. WEEKS

15. Basis of Claim: DECREED

Water Right Number: 230055

Case Number:

Court :

Decree date: 12/16/1910

REXBURG IRRIGATION COMPANY
Decree Plaintiff

vs

TETON IRRIGATION CANAL COMPANY
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 ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

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): X Randy F. Husz Date: 9-15-88

Date: _____

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 15th day
of September 19 88 _____
Notary Public

Residing at Idaho Falls
My Commission Expires 6-94



PALISADES

BENCH

630 000
FEET

R44E 4804

T-2

IDAHO FALLS 51 MI.
SWAN VALLEY (IDAHO 31) 7 MI.

Swan Valley

POINT OF DIVERSION

43°22'30"

Irwin

Irwin

Mile
898

4802000m.N.

R44E

T-1

35

SWAN

PLACE OF USE

T.1 N.

T.1 S.

6009A

Camp
Little Lemhi

Creek
TRAIL

A23-00055B

MICROFILMED

BASE

Palisades
Cal

5600

5524

Palisades

Cromwell

TRAIL
Canyon

x6118

26

25

36

36

5800

500