

03/31/2004

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

RIGHT NUMBER: 23-55D
NAME AND ADDRESS: RAYMOND N HENKEN
PO BOX 237
IRWIN ID 83428

ELAINE L HENKEN
PO BOX 237
IRWIN ID 83428

SOURCE: PALISADES CREEK TRIBUTARY: SOUTH FORK SNAKE RIVER
QUANTITY: 0.022 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	0.022 CFS

PLACE OF USE: IRRIGATION Within BONNEVILLE County
T01N R44E S35 NWNE 1.1

1.1 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



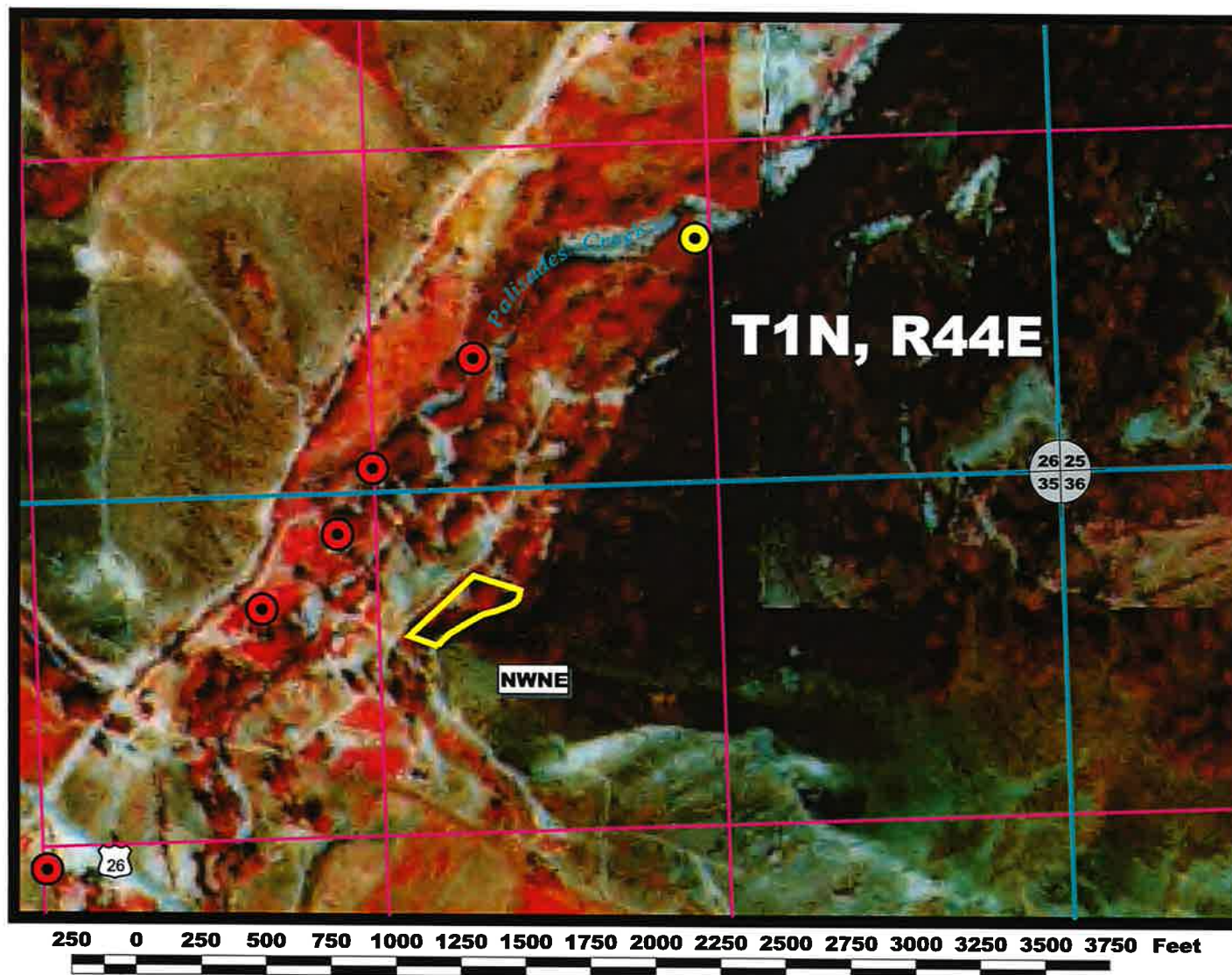
JUL 07 2004

SCANNED

State of Idaho

Department of Water Resources

Eastern Region



Water Right(s):

23-00055D

Place of Use: (part of)

T1N, R44E

Sec. 25 NWNE

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: March 2004

Log for claim 23-00055D

Spatial Dynamics BTD

5/29/01

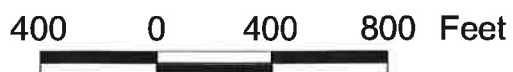
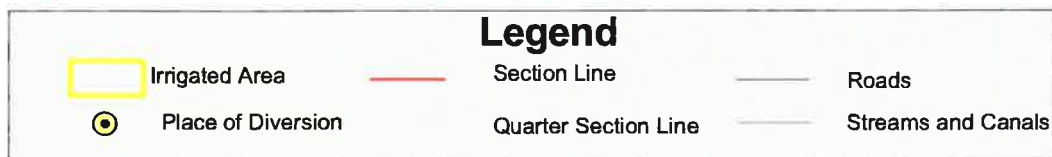
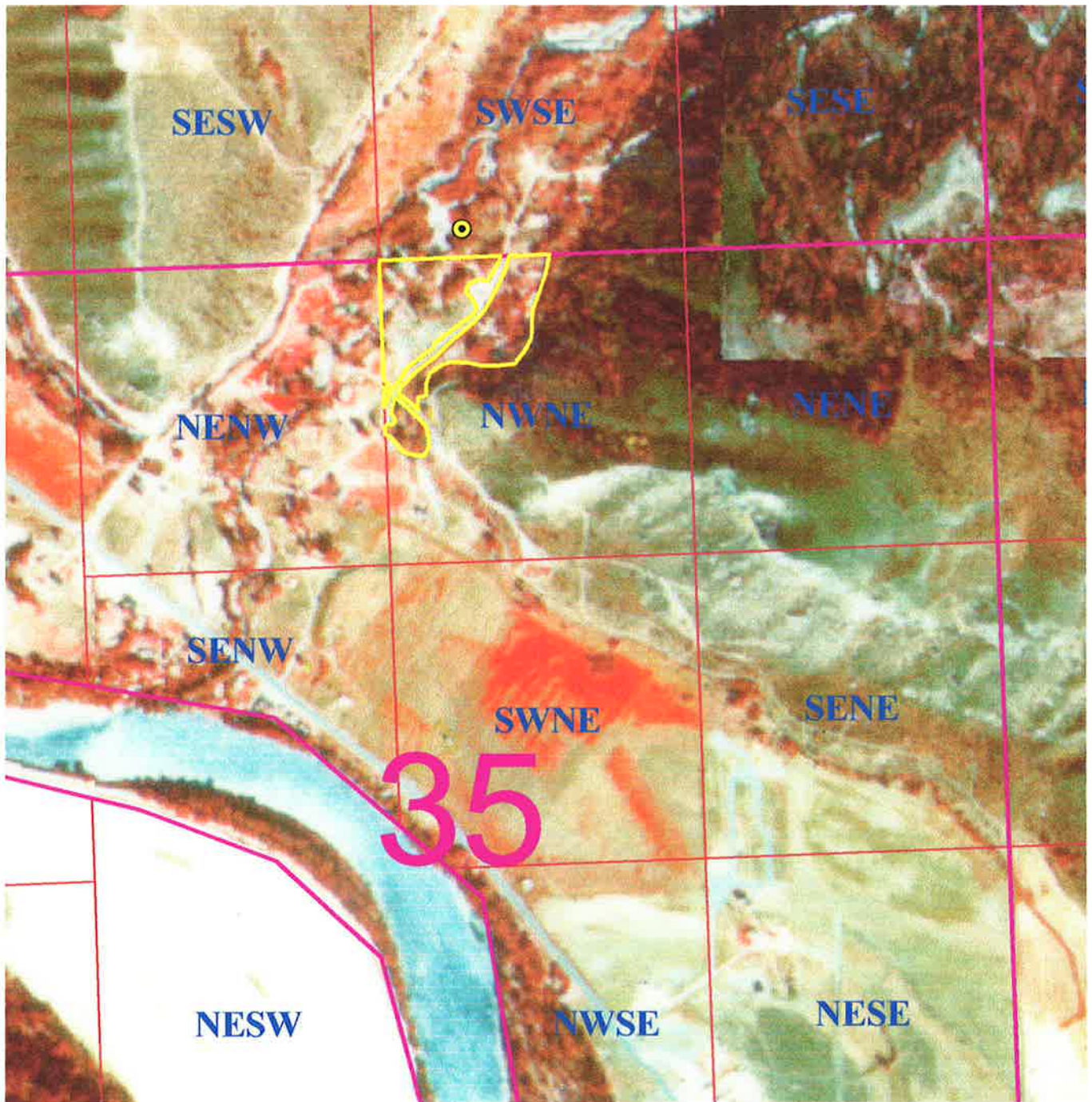
TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
01n44e	35	NWNE	5	7.6	Indiscernible
Totals:			5	7.6	

SCANNED

JUL 07 2004

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

05/29/2001



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



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.

01/08/2004

**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: 23-55D

RAYMOND N HENKEN
PO BOX 237
IRWIN ID 83428
Telephone Number: (208)483-2049

ELAINE L HENKEN
PO BOX 237
IRWIN ID 83428
Telephone Number: (208)483-2049

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

SEE ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED

DISAGREE
I DISAGREE with this proposed recommendation: that no changes need to be made.
DATE: 3-16-2004 SIGNATURE: Raymond N. Henken
Please print your name: RAYMOND N. HENKEN

IDWR Regional Office,

3/31/04 Recommended w/ all elements as appropriate.



Water in the ditch was not abandoned in 1986

Water in the ditch was used until 1992
or 1993 when Fish and Game dredged
Palisades Creek.

Fish and Game dredged and Silted the Creek
down to install a fish trap. the purpose
of the trap was to prevent Rainbow
 Trout from spawning up Palisades Creek.

As a result of Fish and Game reporting the
Creek it left our ditch head gate high
and dry.

We were warned not to touch anything
in Palisades Creek that would return fish
to the ditch

We fished for water rights in good faith
with the then Water Master approved.

We have waited for arbitration to address
this wrong. We were willing to move
the head gate up over water 25 feet and
return fish to the ditch

When the recent flood year occurred, the dredged creek floor increased property erosion down stream from the fish trap. If the floor could have been partially diked, as it was, prior to the fish trap installation, less property damage would have occurred.

It occurs to me that the fish trap has not worked, or, catch and keep all Rainbow trout and year round access to the Snake River up to Pelican Dam would not be necessary.

Perhaps the fish trap expense could have been avoided if the present catch and keep ^{all} Rainbow trout have been in effect since 1992-93.

Not to be old fashioned, it is my belief that a true fisherman catches and keeps fish (only enough fish) to eat! If this were true then the catchment trout would not be endangered!

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resources

Receipt No:

E023938

Date:

Time: 3/ 5/1998
15:11:09

Received

From:

HENKEN, RAYMOND

Type of Payment

Program A cct

Amount

ADJUDICATION FEE

41503

337

1155

55.00

Total

\$

55.00

CHECK

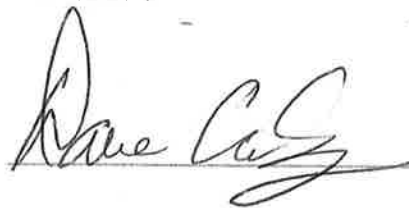
1023

A23-00055D

Water Right Numbers

Region: EASTERN

Signature:



Dennis Bitton
1705 Mountainview Drive
McCammon, ID 83250

17 March 2004

To Whom It May Concern:

I was water master for the Swan Valley area, which included Palisades Creek, from 1976 to 1999. I can attest that water was run down the ditch that was headgated on the east side of Palisade Creek and ran through property belonging to Harry J. Taylor, Greg L. Taylor and Raymond Henken from 1976 until 1997. All of these individuals were allowed to divert or pump water from the ditch in all the years before 1997 because my understanding was they had purchased the appropriate portion of water rights when they purchased the property. The water was used virtually every year until 1997 when the flooding changed several headgate conditions.

If you have any questions concerning this matter please contact me at one of the following phone numbers: home: (208) 254-9821; cell (208) 317-1447.

Sincerely

A handwritten signature in cursive script that reads "Dennis Bitton". The signature is written in dark ink and is positioned below the word "Sincerely".

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.

*Disallowed: Claimed from 1998. No use between
1986 and 1998.*

Cons/Remh

P04

Water Right Split History Analysis

23-00055A R.J. JONES ✓

0.08 cfs

23-55B R.T. HUSKEY ✓

0.15 cfs

23-55C D.N. DENNING ✓

0.52 cfs

23-55D R. HENKEN

0.10 cfs

J.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: ASRDate: 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: A23-00055D
Date Received: 1/1
Receipt No: E023938
Received By: DC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW



1. Name: RAYMOND N HENKEN 208-483-2049
Address: PO BOX 237
IRWIN ID 83428
OR
Name: ELAINE L HENKEN 208-483-2049
Address: PO BOX 237
IRWIN ID 83428
2. Date of Priority: AUG 20, 1890
3. Source: PALISADES CREEK Trib. to: SNAKE RIVER, SOUTH FORK
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:
CREEK DIVERSON TO DITCH/ FLOOD IRR
6. Water is used for the following purposes:
- | Purpose | From | To | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| IRRIGATION | 04/01 | 10/31 | 0.100 | | |
7. Total Quantity Appropriated is:
0.100 C.F.S. (and/or) A.F.A.
8. Total consumptive use is Acre Feet Per Annum.
9. Non-irrigation uses:
10. Place of Use:
- | Township | Range | Section | 1/4 of | 1/4 | Lot | Use | Acres |
|----------|-------|---------|--------|-----|-----|-----|-------|
| 01N | 44E | 35 | NW | NE | | IRR | 5.0 |

10. Place of Use: Continued

Section Acres 5.0

Total Acres 5.0

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:

14. Remarks:

STOCKWATER, 2 HORSES

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 12/16/1910

REXBURG IRR. CO. ET AL

Decree Plaintiff

TETON IRRIGATION CANAL CO. ET

vs 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):

Raymond H. Hecker

Date: 3-5-98

Elaine S. Henken

Date: 3-5-98

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 5 day
of MARCH 19 98
Dane Cook
Notary Public

Seal

Residing at Rigny, Id
My Commission Expires 4/26/2002

530 000
FEET

43°12'30"

Top IN Rge 44E

Handline

Place of H. B.

111°15'

750 000 FEET

Produced and published by the Geological Survey

BONNEVILLE **A PORTION OF THE N. 1/2 OF SECTION 35 T. 1 N. R. 44 E. S. 1 M.** **ELLSWORTH ENGINEERING, INC.** **IDAHO FALLS, IDAHO**

SURV
 I Garth R. Cunningham
 Registered Land Surveyor
 described in the Boui
 that said tract has
 according to the Sta
 STATE OF IDAHO
 CERTIFICATE NO. 827

OWNER:
 KNOWN ALL MEN BY THESE PRESENTS: th
 tract of land described in the Boui
 the same to be subdivided into E
 be hereafter known as the PARK
 dedicate this utility easement
 IN WITNESS WHEREOF, we have here
 A.D. 1980

ACKNOWLEDGEMENT
 I, Garth R. Cunningham
 Registered Land Surveyor
 do hereby certify that the foregoing
 is a true and correct copy of the
 original as the same appears of
 record in my office.

BOUNDARY DESCRIPTION
 Beginning at a point that is N. 89° 39' 08" E., along the section line 801.21 feet from the No
 Township 1 North, Range 44 East of the Boise Meridian; running thence S. 24° 48' 54" W., 461.52
 feet; thence S. 49° 19' 31" W., 453.89 feet to a point of curve with a radius of 75.00
 feet; thence S. 37° 39' 59" W., 73.13 feet; thence S. 28° 33' 19" W., 107.38 feet; thence N. 61° 26' 1
 along said centerline the following two approximate courses: N. 20° 33' 45" E., 120.00 feet and
 leaving said Parkades Creek, S. 59° 05' E., 250.32 feet; thence N. 55° 58' 42" E., 234.59 feet and
 of 75.00 feet; thence to the left along said curve 46.35 feet; thence N. 20° 33' 45" E., 126
 the centerline of Parkades Creek computed to be 296.95 feet; thence N. 57° 00' E., 37.00 feet; th
 approximate courses: N. 62° E., 165.84 feet, N. 50° 30' E., 116.00 feet, N. 34° E., 97.00 feet, a
 to the North line of said Section 35 computed to be 300.00 feet; thence leaving sa
 along said section line 525 feet more or less to the point of beginning computed to be
 acres more or less.

