

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

RIGHT NUMBER: 34-2460

NAME AND ADDRESS:

CHARLES B ISOM
3199 W 2200 N
ARCO ID 83213

FERN A ISOM
3199 W 2200 N
ARCO ID 83213

SOURCE: Source:
GROUND WATER

Tributary:

QUANTITY: 4.170 CFS

833.000 AFY

0.000 AFY

The rights listed below are limited to a total combined annual diversion volume of 8441.5 af. Combined Right Nos.: 34-2459, 34-2460, 34-2461, 34-2462, 34-7037, 34-7138 and 34-10925.

The rights listed below are limited to a total combined diversion rate of 12.5 cfs. Combined Right Nos.: 34-2459, 34-2460, 34-2461, 34-2462 and 34-10925.

The rights listed below are limited to a total combined diversion rate of 24.5 cfs. Combined Right Nos.: 34-2459, 34-2460, 34-2461, 34-2462, 34-10925 and 34-7037.

~~USE OF THIS RIGHT WITH RIGHT NOS. 34-02459, 34-02461, 34-02462 AND 34-10925 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 12.50 CFS.~~

~~USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 8441.5 AF.~~

~~COMBINED RIGHT NOS.: 34-07138, 34-02459, 34-02461, 34-02462, 34-07037 AND 34-10925.~~

PRIORITY DATE: 04/19/1965

Pursuant to a call, in times of scarcity, the diversion of water under this right from the two wells in T05N R26E S34 SENWSW and T04N R26E S3 NESENW has a priority date of May 18, 1982.

POINT OF DIVERSION:

T03N R26E S2 SWSNW
Within BUTTE County

T03N R26E S2 SENESW
Within BUTTE County

T04N R26E S3 NESENW
Within BUTTE County

T04N R26E S26 NWNWNW Injection
Within BUTTE County

T04N R26E S26 NWNWNW Rediversion
Within BUTTE County

T05N R26E S34 SENWSW
Within BUTTE County

Groundwater diverted from the points of diversion in T05N R26E S34 SENWSW and T04N R26E S3 NESENW is comingled with the Island Canal then injected into the Big Lost River at the point of injection and rediverted into the Munsey Canal at the point of rediversion.

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
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PURPOSE AND PERIOD OF USE:	Purpose of use	Period of use:	Quantity:
	IRRIGATION	04/01 11/01	4.170 CFS <u>833.00 AFY</u>

PLACE OF USE:	IRRIGATION within BUTTE County
----------------------	---

T03N R26E S14 NENW 39.0
T03N R26E S14 NWNW 36.0
T03N R26E S14 SWNW 40.0
T03N R26E S14 SENW 40.0
T03N R26E S14 NESW 40.0
T03N R26E S14 NWSW 40.0
T03N R26E S14 SWSW 40.0
T03N R26E S14 SESW 40.0
T03N R26E S15 NENE 39.0
T03N R26E S15 NWNE 40.0
T03N R26E S15 SWNE 40.0
T03N R26E S15 SENE 40.0
T03N R26E S15 NENW 39.0
T03N R26E S15 NWNW 39.0
T03N R26E S15 SWNW 40.0
T03N R26E S15 SENW 40.0
T03N R26E S15 NESW 40.0
T03N R26E S15 NWSW 40.0
T03N R26E S15 SWSW 40.0
T03N R26E S15 SESW 40.0
T03N R26E S15 NESE 40.0
T03N R26E S15 NWSE 40.0
T03N R26E S15 SWSE 40.0
T03N R26E S15 SESE 40.0
T03N R26E S16 NENE 39.0
T03N R26E S16 NWNE 39.0
T03N R26E S16 SWNE 40.0
T03N R26E S16 SENE 40.0
T03N R26E S16 NESE 40.0
T03N R26E S16 NWSE 40.0
T03N R26E S16 SWSE 39.0
T03N R26E S16 SESE 39.0
T03N R26E S22 NENE 40.0
T03N R26E S22 NWNE 40.0
T03N R26E S22 SWNE 40.0
T03N R26E S22 SENE 40.0
T03N R26E S22 NENW 40.0
T03N R26E S22 NWNW 40.0
T03N R26E S22 SWNW 40.0
T03N R26E S22 SENW 40.0

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WATER RIGHTS ACQUIRED UNDER STATE LAW

T03N R26E S23 NENW 40.0
T03N R26E S23 NWNW 40.0
T03N R26E S23 SWNW 40.0
T03N R26E S23 SENW 40.0
T03N R26E S23 NESW 40.0
T03N R26E S23 SESW 33.0
T03N R26E S23 NESE 39.0
T03N R26E S23 NWSE 40.0
T03N R26E S23 SWSE 40.0
T03N R26E S23 SESE 40.0

1980 ACRES TOTAL

This right is limited to the irrigation of 238 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 714 acres in single irrigation season. Combined Right Nos.: 34-2459, 34-2460, 34-2461 and 34-2462.

The rights listed below are limited to the irrigation of a combined total of 1740 acres in single irrigation season. Combined Right Nos.: 34-2459, 34-2460, 34-2461, 34-2462 and 34-10925.

The rights listed below are limited to the irrigation of a combined total of 1664 acres in single irrigation season. Combined Right Nos.: 34-2459, 34-2460, 34-2461, 34-2462, 34-7037 and 34-7138.

The rights listed below are limited to the irrigation of a combined total of 1980 acres in single irrigation season. Combined Right Nos.: 34-2459, 34-2460, 34-2461, 34-2462, 34-7037, 34-7138 and 34-10925.

~~USE OF THIS RIGHT WITH RIGHT NOS.: 34-02459, 34-02461, 34-02462 AND 34-07037 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 1664 ACRES IN A SINGLE IRRIGATION SEASON.~~

~~USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 1980 ACRES IN A SINGLE IRRIGATION SEASON.~~

~~COMBINED RIGHT NOS.: 34-07138, 34-02459, 34-02461, 34-02462, 34-07037 AND 34-10925.~~

~~THIS RIGHT IS LIMITED TO THE IRRIGATION OF 238 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.~~

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

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

~~THIS 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.~~

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

EXPLANATORY MATERIAL:

BASIS OF CLAIM - License

BASIS OF CLAIM - Deceit

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

Right No. 34-10925 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.

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

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

~~RIGHT NOS. 34-02459, 34-02461, 34-02462 AND 34-10925 ARE ALSO DIVERTED
THROUGH POINT OF DIVERSION DESCRIBED ABOVE.~~

~~RIGHT NO. 34-10925 IS AN ENLARGEMENT OF THIS RIGHT PURSUANT TO
SECTION 42-1426, IDAHO CODE.~~



Holden Kidwell
Hahn & Crapo P.L.L.C.
LAW OFFICES

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405

Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com

E-mail: rharris@holdenlegal.com

September 18, 2009

RECEIVED

SEP 21 2009

Department of Water Resources
Eastern Region

Ernie Carlsen
Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

RE: Amended Notices of Claim for Water Right Nos. 34-2462, 34-2461, 34-2460, 34-2459, and 34-10925.

Enclosed you will find Amended Notices of Claim for the Charles Isom water rights located in Butte County. As you may recall, the issues surrounding these cases is whether or not the Island wells should be added as points of diversion to these water rights. The SRBA Court recently determined that there was a clerical error in the filing of these claims, and that additional evidence regarding use of the Island wells on these claims could be considered. We previously provided to you information relative to this issue, and in particular, documents attached to pleadings filed in the SRBA Court on these subcases. I suspect the Department has them in their files, but if you do not, please let me know, and I will be happy to provide additional copies.

If you have any questions or concerns, please let me know.

Best Regards,

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures

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SEP 21 2009

Established in 1896

Robert L. Harris, Esq. (ISB # 7018)
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
1000 Riverwalk Dr., Ste. 200
P.O. Box 50130
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518

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

In Re SRBA

Case No. 39576

Subcase Nos.: 34-2459, 34-2460, 34-
2461, 34-2462, 34-10925 and 34-7037

**AFFIDAVIT OF
CHARLES B. ISOM**

STATE OF IDAHO)
) ss.
County of Bonneville)

I, Charles B. Isom, do solemnly swear (or affirm) that the testimony given in this sworn statement is the truth, the whole truth, and nothing but the truth, that it is made on my personal knowledge, and that I would so testify in open court if called upon to do so.

And being so sworn I depose and say:

1. I am over the age of eighteen (18) and competent to testify as to the matters contained herein.
2. I am the current owner of Water Right Nos. 34-2459, 34-2460, 34-2461, 34-2462, 34-10925 and 34-7037 (the "Water Rights").

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3. As listed on the partial decrees, Water Right Nos. 34-2459, 34-2460, 34-2461, 34-2462, and 34-10925 share two common points of diversion which are located in the SWSENW and the SENESW, both in Section 2, T3N., R26E. These wells are commonly referred to as the "Airport Wells".
4. As listed on the partial decrees, Water Right No. 34-7037 is diverted through two wells found in the NESENW of Section 3, T4N., R26E., and the SENWSW of Section 34, T5N., R26E. These wells are commonly referred to as the "Island Wells", and these wells divert into the Island Canal to be delivered to the same place of use as water from the Airport Wells are delivered.
5. The Water Rights, as they are currently listed on the partial decrees for the Water Rights, do not accurately reflect my historic irrigation practices.
6. Historically, at times during each irrigation season since I owned the property to which the Water Rights are appurtenant, I have diverted the allowed diversion rate of all of the Water Rights, up to 24.5 cfs, from the Island Wells only to irrigate my property when the Airport Wells were not producing sufficient amounts of water. Thus, at times, the entirety of the Water Rights were diverted from the Island Wells only.
7. It is my understanding from Mr. Bell, who is now deceased, that this practice was undertaken previous to 1987. The Island Wells were drilled in 1982, and since that time, the wells were used interchangeably depending on the time of the year to divert the entirety of the 24.5 cfs of ground water authorized under the Water Rights.
8. I have continued this historic practice, such that when the Airport wells are not producing sufficient amounts of water, the entirety of the Water Rights are diverted from the Island

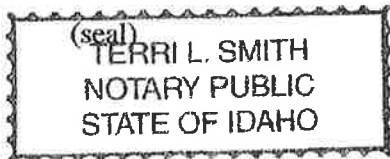
Wells. It was my belief and understanding that this practice was documented in the current partial decrees, but I now understand that it is not.

9. In my view, the partial decrees for the Water Rights should be changed so that the Water Right Nos. 34-2459, 34-2460, 34-2461, 34-2462, and 34-10925 should include two additional points of diversion in NESENW of Section 3, T4N., R26E., and the SENWSW of Section 34, T5N., R26E. A spreadsheet of how the water rights should be corrected is attached hereto as Exhibit A.

DATED this 23 day of March, 2009.

Charles B. Isom
Charles B. Isom

SUBSCRIBED AND SWORN TO before me this 23rd day of March, 2009.



[Signature]
Notary Public for Idaho
Residing at Burley, Idaho
My Commission Expires: 8/2/14

CERTIFICATE OF MAILING

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

1. Original to:

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

2. Copies to:

Charles B. & Fern A. Isom
3199 W. 2200 N.
Arco, ID 83213

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

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

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

Robert L. Harris

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EXHIBIT A

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CHARLES AND FERN ISOM WATER RIGHT SUMMARY

Owner	Water Right No.	Basis	Priority Date	Source	Individual Diversion Rate	Combined Diversion Rate (cfs)	Individual Volume Limitation	Combined Volume Diversion Limitation (Acre-feet per year)	Individual Acre Limitation	Combined Acres Limitation	Point of Diversion	Comments
Charles B. Isom Fern A Isom	34-2459	Partial Decree	April 19, 1955	Ground Water	4.17	12.5	None	8441.5	238	1980	SWSESW, 3N, 28E, Sec. 2 SESESW, 3N, 26E, Sec. 2 NESESW, 4N, 28E, Sec. 3 SENWSW, 5N, 28E, Sec. 34	The "Airport Wells" are the top two PODs, and the "Island Wells" are the bottom two PODs.
	34-2460	Partial Decree	April 19, 1966	Ground Water	4.17		None		238			
	34-2461	Partial Decree	May 3, 1965	Ground Water	2.08		None		119			
	34-2462	Partial Decree	May 3, 1966	Ground Water	2.08		None		119			
	34-10925	Partial Decree	May 1, 1982	Ground Water	7.6		None		536 (enlargement)			
	34-7037	Partial Decree	May 4, 1973	Ground Water	12	None	None		1664			
	34-7138	Partial Decree	May 5, 1976	Big Lost River	16	None	None		1664		NESESW, 4N, 28E, Sec. 3 SENWSW, 5N, 26E, Sec. 34	The "Island Wells"

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February 12, 2009

Mr. Ernest Carlsen
Idaho Department of Water Resources
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

Re: Charles B Isom's Water Rights 34-2459, 34-2460, 34-2461, 34-2462 and
34-10925

Dear Ernie:

This letter is a follow up to our telephone conversations regarding the use of the 4 wells used to supply Mr. Isom's above referenced water rights. For convenience the older wells near the airport will be referred to as the **airport wells** and the newer wells that pump into the Island Canal will be referred to as the **island wells**.

As of 2007 the airport wells were equipped with a 125 hp pump and a 200 hp pump. The first record of the 200 hp pump being in place is 2001 when a new pole number was assigned. The new pole number could mean the electrical service was changed, perhaps to supply power to a larger pump. The original horsepower prior to 2001 has not been confirmed.

As of 2007 the island wells were equipped with a 200 hp pump and a 250 hp pump. There is no indication the horsepower of either of these wells has been changed.

Power records for 1984 through 1987 when Bells owned the property were obtained and power records for 1998 through 2007 when Isoms owned the property were obtained. Obtaining the old records is more difficult because of the effort required by the Lost River Electric staff. In retrospect the years 1984 through 1987 were not particularly good years for analysis because of the availability of surface water. The records indicate no ground water was pumped in 1984 and only a small amount was pumped in 1986.

Figure 1 is a monthly comparison of the airport wells and island wells use based upon the average monthly power consumption for the period 1984 through 1987. The figure shows the continuing use of the island wells later into the season and a higher rate of use for the airport wells earlier in the season. Of the period 1984 through 1987 the last year, 1987, showed the largest use of ground water. Figure 2 is a comparison of the average power use by month comparing the airport wells to the island wells. The peak use of the airport wells occurred in May and the peak use of the island wells was in July and August. The island wells continued to be used later in the season than the airport wells, apparently as the airport well supply diminished.

Figure 3 is the monthly comparison of the airport wells and island wells based upon the average monthly power consumption for the period 1998 through 2007. The figure

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shows the airport well use peaks in July but the island well peak is not until September after the airport well use has reduced significantly. Figure 3 shows notably higher power consumption than either Figures 1 or 2. Information is not currently available to know if that increased power use translates into more water being diverted or increased pumping levels and the increased energy required to maintain the same water supply. Likewise, the power use comparison between the sets of wells is instructive to show when each set is used most heavily during the year but the comparison of the values between the 2 sets is not necessarily a comparison of the relative amount of water pumped from each set of wells.

All 3 figures show the use of the island wells later in the season than the airport wells indicating the airport well supply is likely diminished toward the end of the season. Even though both sets of wells are used to meet the typical July peak water requirement, the 2 sets of wells do not peak simultaneously except in Figure 1 and I am not sure the Figure 1 averages are representative because of the short record and some years without any or only limited ground water use.

I hope this information helps resolve the issue of the island wells be alternate points of diversion for the airport wells. If you have any questions or need additional information, please let me know.

Yours truly,

David B. Shaw

Enc.

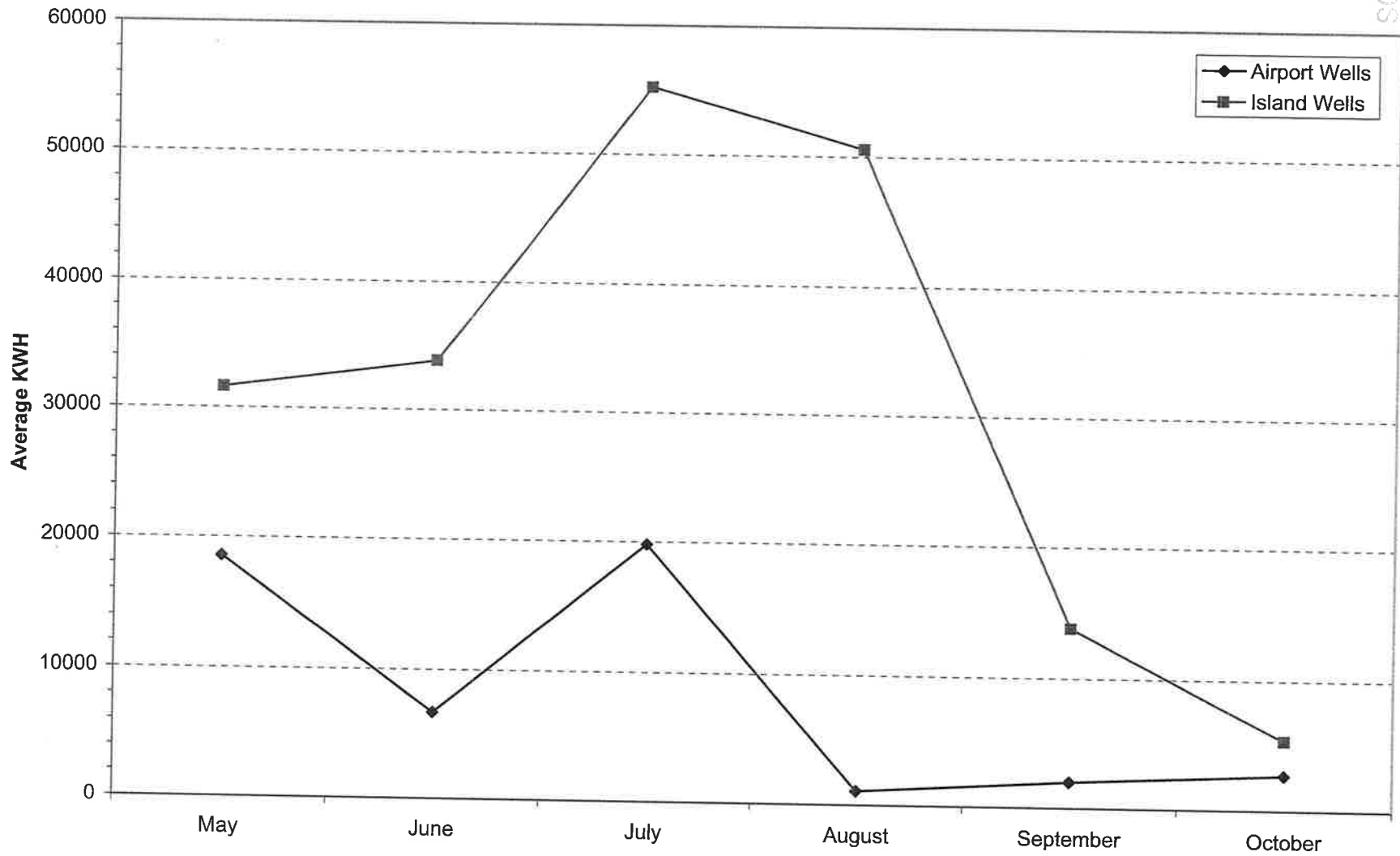
cc: Charles B. Isom

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Figure 1

Airport Wells Diversions Compared to Island Wells Diversions 1984 - 1987



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Figure 2

Airport Wells Diversions Compared to Island Wells Diversions 1987

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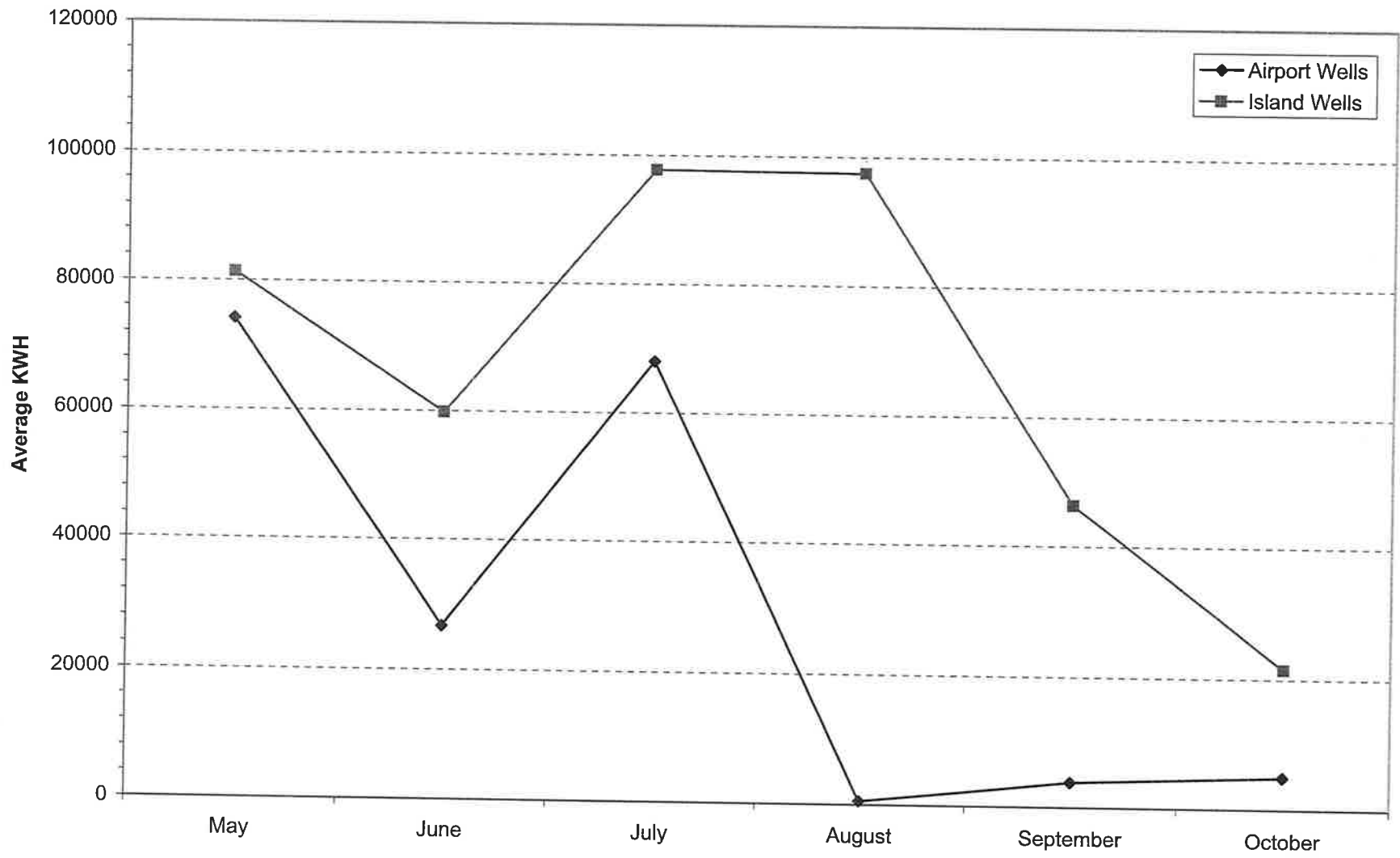
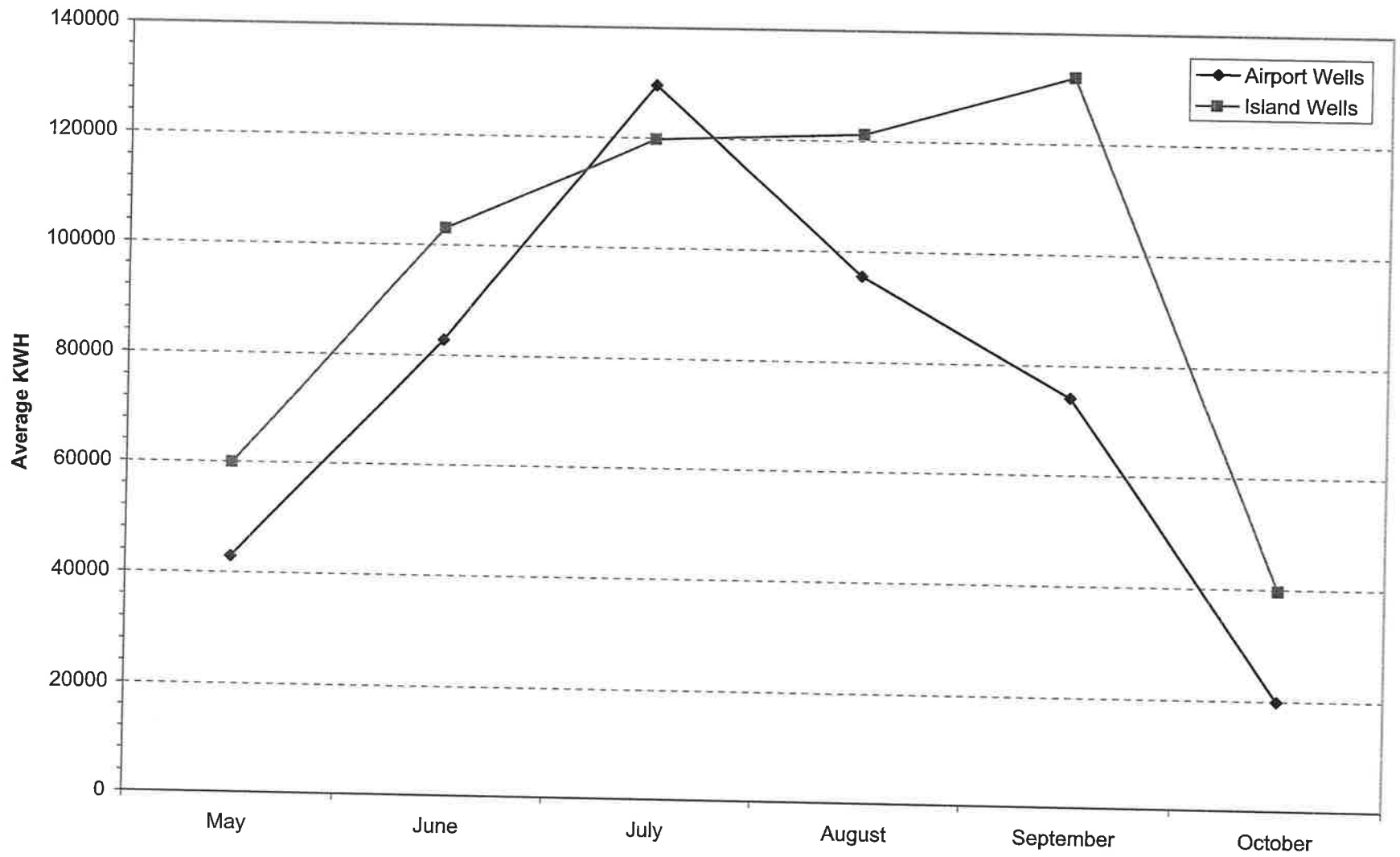


Figure 3

Airport Wells Diversions Compared to Island Wells Diversions 1998 - 2007



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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 34-2460
Date Received _____
Receipt Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s) Charles B. Isom. Phone (208) 768-2204
Mailing Address 3199 W. 2200 N., Arco, ID Zip 83213
2. Date of Priority (Only (1) per claim) April 19, 1965
3. Source of water supply (a) Groundwater
which is tributary to (b) _____

- 4.a. Location of existing point of diversion is:
Township 3N Range 26E Section 2, SW 1/4 of SE 1/4 of NW 1/4, Govt. Lot _____,
Township 3N Range 26E Section 2, SE 1/4 of NE 1/4 of SW 1/4, Govt. Lot _____,
Township 4N Range 26E Section 3, NE 1/4 of SE 1/4 of NW 1/4, Govt. Lot _____,
Township 5N Range 26E Section 34, SE 1/4 of NW 1/4 of SW 1/4, Govt. Lot _____,
County of Butte County
Parcel (PIN) No. _____

Additional points of diversion if any: _____
If Available, GPS Coordinates: _____

- b. If instream flow, beginning point of claimed instream flow is:
Township _____ Range _____ Section _____, 1/4 of _____ 1/4 of _____ 1/4, Govt. Lot _____ B.M., County of _____
ending point is: Township _____ Range _____ Section _____, 1/4 of _____ 1/4 of _____ 1/4 Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. _____

Water is claimed for the following purposes: _____ (Both dates are inclusive) (cfs) (acre feet)
or Irrigation purposes from 04/01 to 11/01 amount 4.17 cfs or _____
Total quantity claimed (a) 4.17 (cfs) and/or (b) _____ (acre feet)

Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of stock Etc.) _____

9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3N	26E	14					39	36	40	40	40	40	40	40					315
		15	39	40	40	40	39	39	40	40	40	40	40	40	40	40	40	40	637
		16	39	39	40	40									40	40	39	39	316
		22	40	40	40	40	40	40	40	40									320
		23					40	40	40	40	40	33	39	40			40	40	392

Parcel (PIN) No(s). _____

Total number of acres irrigated 1980

10. In which county(ies) are lands listed above as place of use located? Butte

11. Do you own the property listed above as place of use? Yes ☒ No ☐
If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.
_____ or None ()

13. Remarks:

14. Basis of Claim (Check one) Beneficial Use ☐ Posted Notice ☐ Permit ☐ Decree ☐ License ☒
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

15. 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 under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) Charles B. Isom Date 9-10-09

_____ Date _____

Last Name _____ Ident. Number _____

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DEC 07 2009

17. Notice of Appearance:

Notice is hereby given that I, Robert L. James will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Robert L. James
Address PO Box 50130 Idaho Falls, ID 83405
Date Sept. 13, 2009

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Last Name _____ Ident. Number _____

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