

01/05/2004

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

RIGHT NUMBER: 34-13560

NAME AND ADDRESS: MARILYN HOWARD
5313 N RIFFLE WAY
BOISE ID 83714

SOURCE: CRESTO SPRING

TRIBUTARY: BIG LOST RIVER

QUANTITY: 0.104 CFS

PRIORITY DATE: 06/01/1935

POINT OF DIVERSION:

T07N R24E S18 NWSWNE Rediversion Within CUSTER County

T07N R24E S18 NWSWNE Rediversion Within CUSTER County

T07N R24E S18 NWSWNE Within CUSTER County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.020 CFS
IRRIGATION	04/01 10/31	0.104 CFS

PLACE OF USE: STOCKWATER Within CUSTER County

T07N R24E S18 SWNE

IRRIGATION Within CUSTER County

T07N R24E S18 SWNE 5.2

5.2 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: Beneficial Use

PARCEL NUMBER RP07N24E181210A

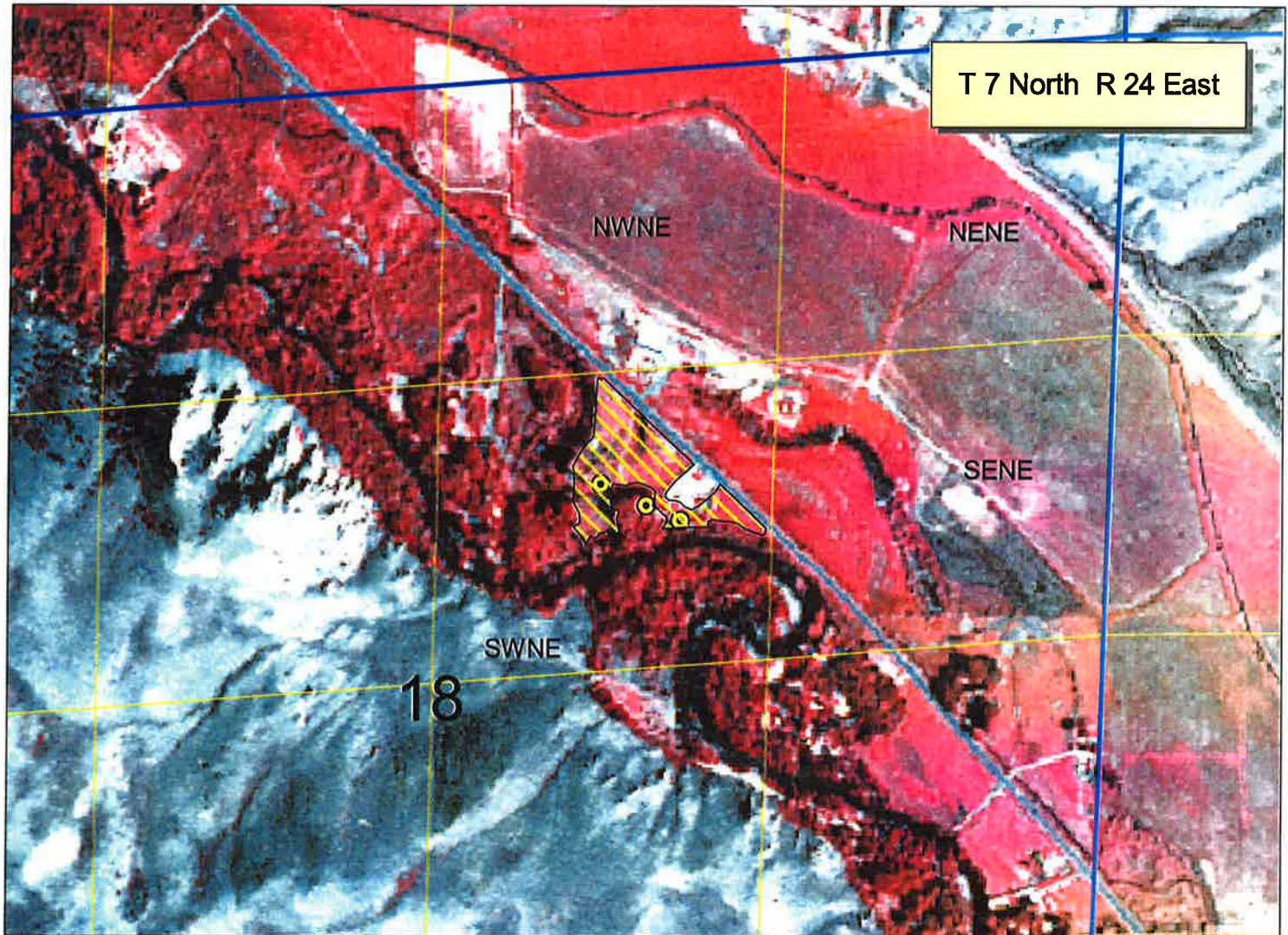


State of Idaho

Division of Water Resources

Eastern Region

Water Right(s): 34-13560



1320 0 1320 Feet



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

SCANNED
FEB 06 2008

GIS Place of Use Illustration
1987/1988 NAPP photography
Prepared by R. Mikesell
Date: January 2004

Ryan Mikesell
Idaho Department of Water Resources
900 North Skyline, Suite A
Idaho Falls, ID 83402

October 20, 2003

Marilyn Howard
5313 N Riffle Way
Boise, ID 83714

Dear Marilyn:

Here a copy of the map that I mentioned over the phone. This is a map of the SW NE quarter quarter of section 18 (the yellow lines). I drew a blue line around the area on your property that I am guessing is being irrigated. You are claiming that you are irrigating 22.3 acres of property and my guess shows that you are irrigating 5.5 acres. Could you please correct my line and return this map to me so I can make the correct recommendation? I also need to mention that for this claim we need to know what was being irrigated in 1987, not what is currently being irrigated. Thank you so much for your assistance in this matter.

Sincerely,

J. Ryan Mikesell
Water Resource Agent

SCANNED
FEB 11 6 2009

RECEIVED

OCT 23 2001

Department of Water Resources

Brent R. King
Attorney at Law
270 W. 17th
Idaho Falls, ID. 83402
(208) 557-0334
blrk933@cs.com

Roxanne Brown
Sr. Water Agent
IDWR Adjudication Bureau
1301 N. Orchard St.
Boise, ID. 83706-2237

October 21, 2001

Re: *Water Right No. 34-13560*

Dear Roxanne:

I have been informed that Mr. Francis Smith died this last summer. Therefore, I'm afraid his affidavit is the only evidence we will be able to get from him. If there are any questions or comments, please do not hesitate to contact me. Also, please say "hi" to Nick and Susan for me.

Sincerely,



Brent King

SCANNED
FEB 06 2003

RECEIVED

MAY - 4 2001

Department of Water Resources

Brent R. King
Attorney at Law
3155 Dal Ave.
Ammon, ID. 83406
(208) 557-0334
blrk933@cs.com

Roxanne Brown
Sr. Water Agent
IDWR Adjudication Bureau
1301 N. Orchard St.
Boise, ID. 83706-2237

Re: *Water Right No. 34-13560*

Dear Roxanne:

Hope everything is well at IDWR. Enclosed, please find the signed affidavit of Francis Smith, which, among other things, includes evidence of priority date of the above-entitled water right. My notes indicate that I sent the affidavit to Mr. Smith in 1998. Mr. Smith was quite elderly then and, despite a letter of instruction to the contrary, sent back the affidavit signed, but not notarized. Unsure what to do with it, I kept the affidavit and tried to contact Mr. Smith but was unable to do so before moving to northern Idaho later that year. Having recently relocated back to southern Idaho, I have made inquiries and found out that Mr. Smith is currently in his 90's and in the hospital in Arco, Idaho. I have tried to contact him and was unable to do so because he was too weak to talk.

My concern is Mr. Smith's age and health. I am trying to contact him so that I can tape record a conversation regarding his memory of irrigation on the relevant property. However, it may be that I will be unable to do so before his death. I would presume that IDWR would give the affidavit the same weight as any other documentary evidence such as records of water use, letters, and the like. If there is some problem with the affidavit requiring further documentation of priority, please contact me regarding IDWR's position on the signed but un-notarized affidavit and any suggestions you may have to satisfactorily document the evidence in Mr. Smith's mind. Also, please say "hi" to Nick and Susan for me.

Sincerely,



Brent King

SCANNED
FEB 06 2003

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern District Office
900 N. Skyline Dr., Suite A
Idaho Falls, ID 83702-1718

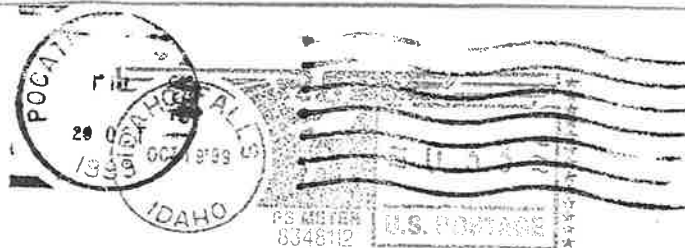
RETURN SERVICE REQUESTED

*Evidence
of Priority
Letter*

RECEIVED

NOV 01 1999

Department of Water Resources
Eastern Region



Marilyn Howard
434 RIDGE RD

HOWA434 838432002 1599 05 10/23/99
RETURN TO SENDER
HOWARD MARILYN L
5313 N RIFFLE WAY
BOISE ID 83703-1987

RETURN TO SENDER

838432002

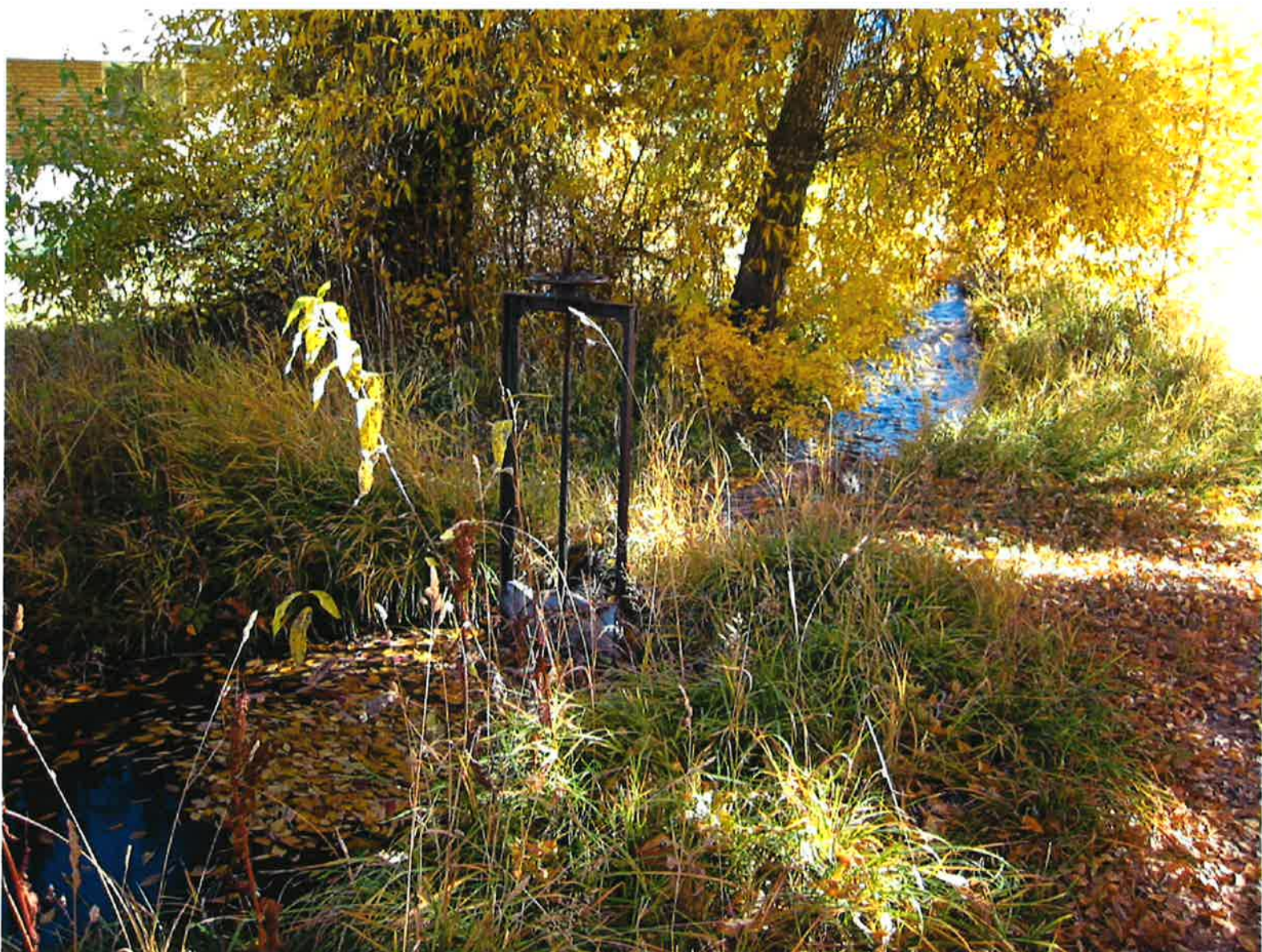


SCANNED
FEB 06 2000

SCANNED
FEB 06 2008



Water banded up by headgate and diverted back to River through culvert, or
Walker can be released back down ditch - 2 pictures
Overview theme Pod 3



SCANNED
FEB 06 2000



Sitted in headgate the leads to the SE - ditch system in place but very little use in last 10 years

arcview theme PoD 1

SCANNED
FEB 05 2003

Diversion from ~~the~~ ditch that leads to series of ditches on NE Side of Property
arcview theme POP #2 - this is the main P.O.



SCANNED
FEB 06 2013

Brent R. King
RACINE, OLSON, NYE, COOPER
& BUDGE, CHARTERED
P. O. Box 1391/Center Plaza
Pocatello, Idaho 83204-1391
Telephone: (208) 232-6101
Fax: (208) 232-6109

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	)	AFFIDAVIT OF FRANCIS SMITH
	)	
Case No. 39576,	)	SUBCASE NOS. A34-13560
	)	
	)	
	)	
	)	
	)	

STATE OF IDAHO)
):ss.
County of Custer)

I, Francis Smith, upon my oath, depose and state as follows:

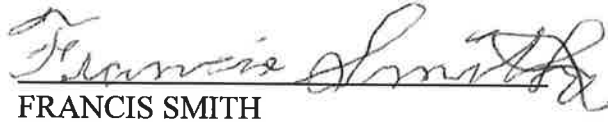
1. I reside at 105 W. Custard, Mackay, Idaho 83251.
2. I have lived in Mackay all of my life. I am familiar with water use on the property now owned by Marilyn Howard.
3. I remember water being used upon Marilyn's property starting in approximately 1935. The reason that I remember is because that is the approximate year that the highway which goes past Marilyn's property was finished. I remember the property being irrigated as I went past that property going northward.
4. It is my memory that irrigation has continued unto the present.

AFFIDAVIT OF FRANCIS SMITH- 1

SCANNED
FEB 08 2003

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this ____ day of May, 1998.


FRANCIS SMITH

SUBSCRIBED AND SWORN TO before me this ____ day of May, 1998.

(SEAL)

NOTARY PUBLIC FOR IDAHO

Residing at:

My Commission Expires:

COPIED
FEB 10 1999



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

November 26, 1997

KARL J. DREHER
DIRECTOR

MARILYN HOWARD
434 RIDGE RD
MOSCOW ID 83843

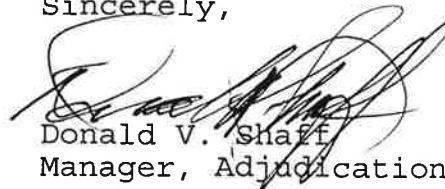
RE: Snake River Basin Adjudication (SRBA)
Notice of Claim #A34-13560

Dear Claimant:

Your Notice of Claim to a Water Right was received from the SRBA Court recently. We have enclosed receipt #C040739 for the filing fees. Please retain the receipt for your records.

Your Notice of Claim will be investigated and reported to the Court in a future supplemental Director's Report. Please contact me at 208/327-7932 if you have any questions.

Sincerely,



Donald V. Shaff
Manager, Adjudication Section

DVS:ss:region
Enclosures:
Receipt #C040739

SCANNED
FEB 06 2000

DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
STATE OF IDAHO



RECEIVED

NOV 25 1997

Department of Water Resources

DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
(208) 736-3011
FAX (208) 736-2121

SRBA CHAMBERS
P.O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

November 20, 1997

Dave Tuthill
P O Box 83720
Boise, ID 83720-0098

RE: Motions to File Late Notice of Claim in Subcases 34-13560 and 34-07220

Dear Dave,

Enclosed, please find Orders granting the above *Motions*, Notices of Claim for both water rights, a check from John A. Eaton in the amount of \$115.00 and a check from Dr. Marilyn Howard in the amount of \$202.30.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ami Alberdi".

Ami Alberdi
Snake River Basin Adjudication

Enclosures

COPIES
FEB 08 1998

RECEIVED

NOV 25 1997

Department of Water Resources

1997 NOV 20 PM 3:33

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO

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

) Subcase No. 34-13560

Case No. 39576

)
) ORDER GRANTING MOTION TO
) FILE LATE NOTICE OF CLAIM
)

On August 11, 1997, a *Motion to File a Late Notice of Claim* was filed by Brent King on behalf of Dr. Marliyn Howard. The *Motion* was heard at the monthly status conference on November 18, 1997.

The motion is **GRANTED**.

IT IS SO ORDERED.

DATED November 20, 1997.



DANIEL C. HURLBUTT, JR.

Presiding Judge

Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the **ORDER GRANTING MOTION TO FILE LATE CLAIM** was mailed on November 20, 1997, with sufficient first-class postage to the following:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

US Department of Justice
Environment and Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

Brent King
Racine Olson Nye Cooper & Budge
P O Box 1391
Pocatello, ID 83204-1391



Deputy Clerk

NOV 25 1997

Department of Water Resources

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: A34-13560
Date Received: 4/19/1996
Receipt No: 1045739
Received By: h.s.

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name: MARILYN HOWARD
Address: 434 RIDGE RD
MOSCOW ID

83843

2. Date of Priority: MAR 16, 1923

3. Source: CRESTO SPRING

Trib. to: BIG LOST RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07N	24E	18	NW	SW	NE		CUSTER

5. Description of diverting works:
SPRING DIVERTED INTO DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	05/01	10/15	0.446		
STOCKWATER	01/01	12/31	0.020		
AESTHETIC	01/01	12/31	0.800		

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

A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER, AESTHETICS, WETLAND

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07N	24E	18	NW	NE		AES	
			SW	NE		IRR	22.3

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07N	24E	18	SW	NE		STOCK	
			SW	NE		AES	

Section Acres 22.3

Total Acres 22.3

11. Place of use in counties: CUSTER

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

13. Other Water Rights Used:
NONE

14. Remarks:
PARCEL NUMBER RP07N24E181210A

15. Basis of Claim: BENEFICIAL USE

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): Marilyn Howard Date: 9/19/97

Date: _____

State of Idaho)
County of Latah) SS.

Subscribed and sworn (or affirmed) before me this 19th day
of September 19 97

[Signature]
Notary Public

Seal

Residing at Moscow

My Commission Expires 11/97

