

07/12/2004

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

RIGHT NUMBER: 25-4034A

NAME AND ADDRESS: RAYMOND H OSTLER
226 GREYS LAKE RD
WAYAN ID 83285

VONEAL OSTLER
226 GREYS LAKE RD
WAYAN ID 83285

SOURCE: EAGLE CREEK

TRIBUTARY: GRAYS LAKE

QUANTITY: 0.620 CFS

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 05/01/1886

POINT OF DIVERSION:

T04S R43E S23 NENE Within BONNEVILLE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 10/31	0.620 CFS
STOCKWATER	05/01 11/01	0.050 CFS

PLACE OF USE: IRRIGATION Within BONNEVILLE County

T04S R43E S23 SWSE 31.0

STOCKWATER Within BONNEVILLE County

T04S R43E S23 SWSE

31 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.

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: Posted Notice

Right No. 25-4034B is also diverted through point of diversion described above.

Stockwater use is for 200 range cattle.

Water Right 25-4034A

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Department of Water Resources

Claim No.: 25-04034A

T4S R43E S23.



0 1320 2640 3960 5280 Feet



Place of Use



GCDB04S43E GCDB



Point of diversion

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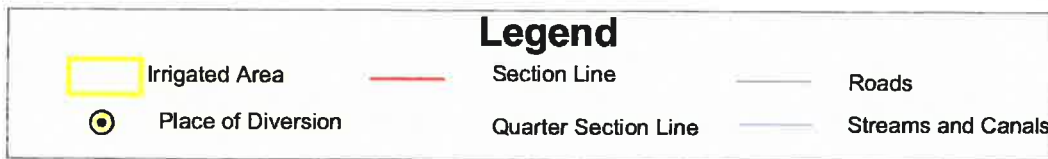
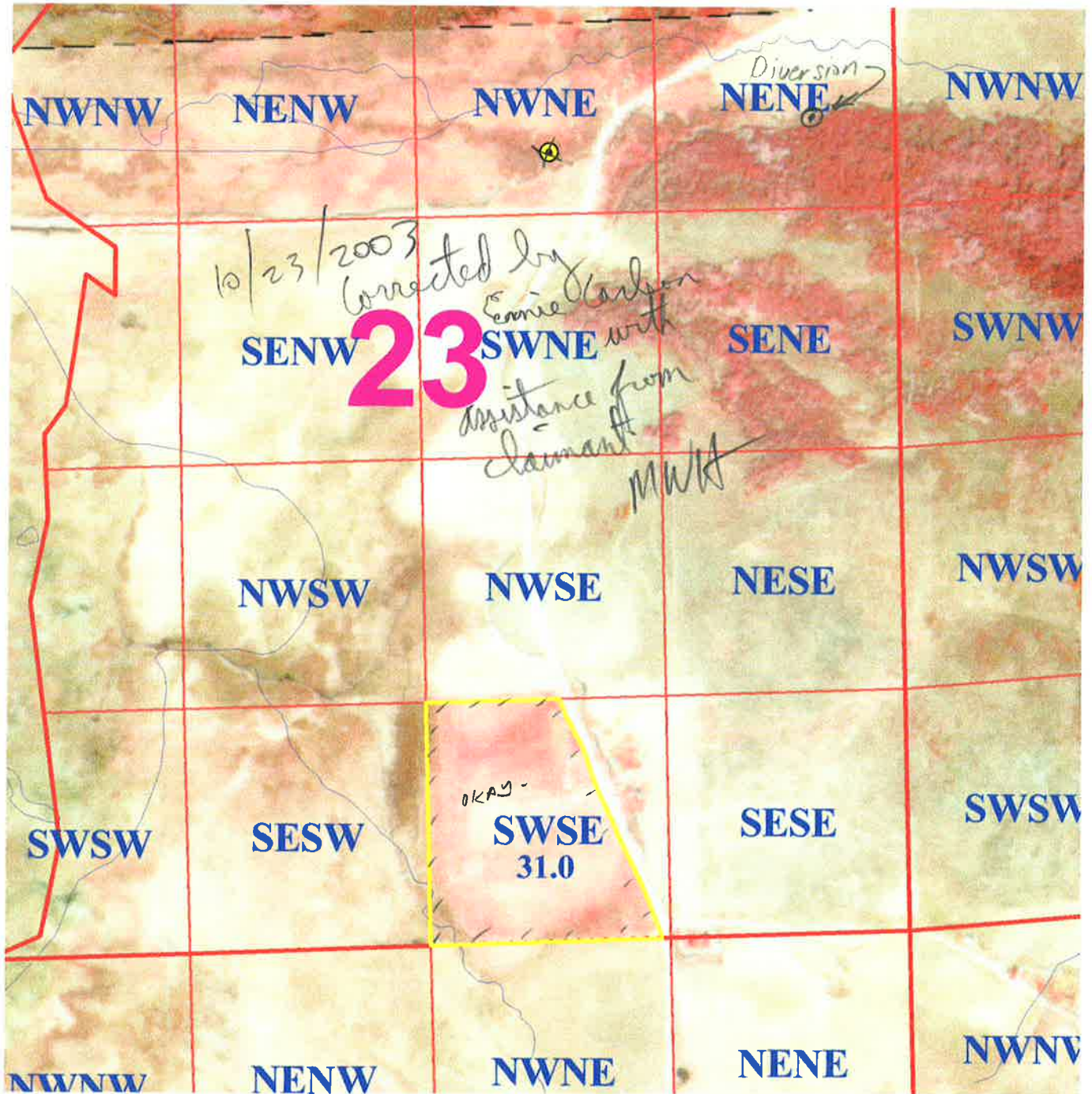


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GIS Place of Use Illustration
1987/88 NAPP Photography
Prepared by M. Holliday
Date: July 2004

Water Right Claim Number 25-04034A
Township , 4S43E

11/15/2000



SPATIAL DYNAMICS



Holliday, Michael

From: Bromley, Chris
Sent: Friday, July 09, 2004 4:07 PM
To: Holliday, Michael
Subject: RE: Posted Notice Recording Date

OK, I think you could go with the notary date, February 28, 1886, and recommend it as a posted notice right assuming the purpose hasn't changed.

Chris

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

From: Holliday, Michael
Sent: Friday, July 09, 2004 3:43 PM
To: Bromley, Chris
Subject: RE: Posted Notice Recording Date

hi chris. according to the bingham county clerk's office, the notice was recorded on march 5, 1886 at 11 a.m.

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

From: Bromley, Chris
Sent: Friday, July 09, 2004 3:12 PM
To: Holliday, Michael
Subject: Posted Notice Recording Date

Michael, in thinking about this again I realized that you didn't tell me when the posted notice was recorded. The date that it was recorded is very important in determining whether it's a valid posted notice right.

The right at issue was posted either January 28, 1886 (date on top right corner of document) or February 28, 1886 (date document was notarized stating it was posted in a conspicuous place). In order for an 1886 posted notice right to be valid, it must have been recorded within 15 days of posting at the recorder's office.

Therefore, if the notice was posted on February 28, 1886, the notice must have been recorded before March 14/15 1886 (not sure whether February 1886 was a leap year), to be valid. If the posted notice was not recorded within 15 days of posting, the posted notice claim cannot be recognized and the claim should proceed as a claim for beneficial use.

I'd be interested to know the date the notice was recorded.

Thanks,

Chris

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

From: Bromley, Chris
Sent: Friday, July 09, 2004 2:15 PM
To: Holliday, Michael
Subject: RE: Priority for 25-4034A

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One more thing I would recommend on this is to make sure that the posted notice purpose, "domestic and agricultural," is the same as the claimed purpose.

According to the Claims Investigation Manual, "If the claimed purpose of use is the same as the purpose of use shown on a . . . posted notice . . . then no further review of this item is generally required. If the agent's review reveals that the claimed purpose of use is inaccurate, the agent may wish to contact the claimant to verify the purpose of use information."

If the purpose is no longer consistent with the posted notice, you should treat the claim as one for beneficial use.

FILED

Chris

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

From: Bromley, Chris
Sent: Wednesday, July 07, 2004 10:46 AM
To: Holliday, Michael
Subject: RE: Priority for 25-4034A

If you have a record that it was actually recorded, then I would say that it meets the requirements of the posted notice statute and can be recommended as a posted notice right.

Chris

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

From: Holliday, Michael
Sent: Thursday, July 01, 2004 4:47 PM
To: Bromley, Chris
Subject: RE: Priority for 25-4034A

hi chris. you said that the notice was not recorded with the county recorder. according to a warranty deed found in the file, the notice of water location is "shown upon the Records of Bingham County, Idaho in Record of Water Location, page 195 thereof."

based on the .pdf files that were sent, do we have enough evidence to recommend a priority date, or do i need to solicit additional evidence? obviously, obtaining affidavits from individuals with personal knowledge back to the 19th century is out of the question. thanks for your help. michael

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

From: Bromley, Chris
Sent: Wednesday, June 23, 2004 4:15 PM
To: Holliday, Michael
Subject: FW: Priority for 25-4034A

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

From: Bromley, Chris
Sent: Wednesday, June 23, 2004 11:47 AM
To: Carlsen, Ernie
Cc: McHugh, Candice; Music, Vicky
Subject: RE: Priority for 25-4034A

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While the posted notice seems to meet most of the statutory requirements, it does not appear that the notice was ever recorded with the county recorder of the county in which the land was located at the time the notice was posted. (Contrast this document with the Dewey posted notice that Michael sent me, which was signed by the county recorder, acknowledging that it was duly recorded. Also, the heading of that document is "Water Location Record."). Therefore, the notice does not comply with the statutory requirements and should be considered a claim for beneficial use.

According to the Claim's Manual, "A posted notice is evidence of the intent to appropriate water, but it is not evidence of application of water to beneficial use nor due diligence in completing the appropriation. Some evidence of completion of the appropriation within a reasonable time after the date of posting will therefore be required before a claim may be recommended. Completion within 5 years will be deemed reasonable; the reasonableness of longer periods will depend on the circumstances."

While that statement applies to posted notice claims, it would appear that the posted notice document should not be treated as de facto proof of beneficial use. You will need to conduct further research into the right to ensure that the diversion structures were completed and the extent of the appropriation. However, the posted notice document can be used as a part of your analysis in determining the priority date, just not the entire basis.

As for priority of the beneficial use claim, the posted notice document alleges that the claimant

PROFILE

"ha[s] this day claimed and appropriated and do hereby claim and appropriate five hundred inches of water" Based on the tense, it could be argued that an appropriation was made and the water put to a beneficial use the date the document was signed, January 28, 1886.

The other document you gave me, the Patent, does not specifically state whether there were diversion structures or ditches on the property. Instead, the second paragraph in "Description and Remarks" appears to use general boilerplate statements that the property is "[s]ubject to any vested and accrued water rights" Therefore, it does not appear that the Patent could be used as evidence of priority.

Based on the documents you've given to me, I would say that the best evidence you have of a priority date is the posted notice, which states that water was put to use sometime in the late 19th century. It appears that a site analysis may be needed to determine the age of the diversion structures, as well as having the claimants obtain affidavits from individuals in the area with personal knowledge of when the water was put to use.

Let me know if that answered your question or if you need further comment.

Thanks,

Chris

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

From: Carlsen, Ernie
Sent: Tuesday, June 01, 2004 11:57 AM
To: McHugh, Candice
Cc: Holliday, Michael
Subject: Priority for 25-4034A

Candice the attached PDF file contains three documents from claim 25-4034A. One of the documents is a copy of a posted notice that appears to comply with all the requirements of a posted notice as outlined in the claims review manual, and which was posted by James Sibbetts on 28 February 1886. The other document indicates James Sibbetts acquired patent to the property on 30 August 1904. The third page is simply a map of the property in question, included under SRBA claims 25-4034A and 25-4034B. There are no other documents that indicate when beneficial use first occurred. The question we have is whether or not the 18 years between the posting of the posted notice and the patent date is greater than what we could consider to be due diligence in development of the irrigation system? What priority date should we recommend?

<< File: 0001 (2).PDF >>

Ernie

AGREEMENT

THIS AGREEMENT, Made and entered into the **First** day of **April** in the year of our Lord one thousand nine hundred and **sixty** (1960) between **Earl Sibbett and Elaine Sibbett, husband and wife** of **Soda Springs**, County of **Caribou**, State of **Idaho** part **ies** of the first part, and **HERMAN WAKEMAN and VERDA WAKEMAN, husband and wife** of **Soda Springs**, County of **Caribou**, State of **Idaho** the part **ies** of the second part.

WITNESSETH, That the said part **ies** of the first part, in consideration of the covenants and agreements on the part of the said part **ies** of the second part, hereinafter contained, agree to sell and convey unto the said part **ies** of the second part, and the second part **ies** agree to buy all that certain lot, piece or parcel of land, situate, lying and being in **Bonneville** County of the **State of Idaho**, and bounded and particularly described as follows, to-wit:

The East Half of the Southwest Quarter (E $\frac{1}{2}$ -SW $\frac{1}{4}$); Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ -SE $\frac{1}{4}$) of Section Twenty-three (23); the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ -NW $\frac{1}{4}$) of Section Twenty-six (26); Township Four (4) South, Range Forty-three (43) East of the Boise Meridian, in Bonneville County, State of Idaho:

Together with all water and ditch rights of every nature and kind, including culinary water, however evidenced, used on said lands and premises, or in connection therewith, INCLUDING, but not limited to, all water, ditch and canal rights used under that certain Notice of Water Location, dated January 28th, 1886 upon the waters of Eagle Creek as shown upon the Records of Bingham County, Idaho in Record of Water Locations, page 195 thereof; and ALSO all water and transmission system used under Permit No. 11963, as approved by the State Engineer of the State of Idaho and recorded in Boise, Idaho in Book 41, Page 11963 and approved by said State Engineer under date of February 26, 1916.

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MAY 26 2004

Department of Water Resources
Eastern Region

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10/23/2003

NE
↑

P/D from Eagle Creek.

↑
ditch

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State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 28, 2003

Dear Claimant in the Snake River Basin Adjudication (SRBA):

About 13 years ago you or your predecessor filed with the Idaho Department of Water Resources a claim to water right in the Snake River Basin. The investigation phase of this process is now focused on your area, Basin 25.

You are invited to attend a **public meeting to be held on March 10 at 7:00 p.m. in the West Coast/Red Lion Hotel, 475 River Parkway, Idaho Falls, Targhee and Bonneville Rooms.** The purpose of this meeting is for (1) the Department to update you on how the adjudication process works, and (2) for you, the claimant, to express concerns or discuss problems relating to water delivery in your area. This will help us to understand from an historical perspective the use and delivery of your water right.

Throughout this summer our adjudication staff, primarily from our Eastern Regional Office but also at times from Boise, will be contacting various water users in Basin 25. We ask for your cooperation in this process – the better we understand your water rights the better chance of you receiving an accurate decree from the SRBA Court that fully describes your water rights.

This investigation effort is being conducted by an experienced and successful staff. During recent years, this staff has accurately investigated and reported water rights in neighboring basins including the Big Lost River, the Little Lost River, Birch Creek, Camas Creek and the Portneuf River.

Please contact the Idaho Falls Office with any questions.

Sincerely,

Ernest Carlsen
Adjudication Supervisor, Eastern Region

Enclosure: Information Brochure



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JUL 30 2007

Log for claim 25-04034A

Spatial Dynamics CAT

11/15/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
04s43e	23	SWSE	35	31	
Totals:			35	31	

10/23/2003

25-4034 A

Met with claimant. Address is correct.

Observed P/D and POU. See corrected map.

P/D

N 221350

E 713787

7/9/2004

According to Bingham Co. clerk's office,
the notice of water location was
recorded on March 5, 1886 at
11:00 a.m.

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April 8, 1978
Cheyenne, Idaho
83285-

Dear Mr. Rhoads -

Enclosed is a copy
of the original notice
of water location on the
Eagle Water. Please put
it with my file.

Sincerely Yours
Raymond A. Carter

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APR 10 1978

Department of Water Resources
Eastern District Office

MICROFILMED
NOV 10 1992

RECEIVED

APR 10 1878

Department of Water Resources
Eastern District Office

25-4034A

Notice of Water Location

January 28th 1886

Notice is hereby given that I the undersigned have this day Claimed and appropriated and do hereby Claim and appropriate five hundred inches of Water measured under a four inch pressure or so much thereof as there may be, of the Waters of Eagle Creek remaining unclaimed.

Said Water is to be diverted from said Creek by placing a dam across the Creek at a point about one mile in a North-easterly direction from the House now owned and occupied by the undersigned James Sibbett.

The Water is to be used for domestic and Agricultural purposes on the land now settled on and claimed by the undersigned James Sibbett.

The Water is to be conducted to said land by means of a ditch four foot wide at top and one foot deep with a fall equal to the natural fall of the land
James Sibbett

Territory of Idaho }
County of Bingham } SS

James Sibbetts, first being duly sworn deposes and says that he posted a full true and correct copy of the foregoing Notice in a conspicuous place at the place stated therein as the point of diversion on the 28th day of February A.D. 1886

James Sibbett
Subscribed and sworn to before me this 3rd day of March A.D. 1886

Wm. Clustro
Justice of the Peace

MICROFILMED
NOV 10 1992

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Section 42-225a, Idaho Code

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. **The filing of this claim does not confirm the water right but will serve for information purposes only.** It may, however, become the basis for future adjudication of the water right by the Court.

Notice is hereby given that Raymond H. Ostler,
(name of claimant)
of Wayan, Idaho 83285, claims a right to the diversion and beneficial use of
(mailing address)
the public water of the State of Idaho

The extent and nature of said claim is as follows:

- (1) Describe source of water: (name of stream, lake, spring, etc., or ground water) Eagle Creek (South Fork Of)
, tributary to, Grays Lake
- (2) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:
- | | | | | | | | | |
|--------|----------------------|-----|-------------------------------|----------------|------|---------------|----|------------------------|
| Amount | <u>5.00</u> | Use | <u>Irrigation</u> | Period of Use: | From | <u>June 1</u> | To | <u>Nov. 1</u> |
| Amount | <u>0.05</u> | Use | <u>Stockwater</u> | Period of Use: | From | <u>May 1</u> | To | <u>Nov. 1</u> |
| Amount | <u></u> | Use | <u></u> | Period of Use: | From | <u></u> | To | <u></u> |
| | (cfs, gpm
or a/f) | | (dom., irri.,
stock, etc.) | | | | | (both dates inclusive) |

- (3) Total quantity of water claimed: 5.05 cubic feet per second, or _____ acre feet per annum, and/or _____ gallons per minute.
- (4) Priority claimed: (the date water was first applied to beneficial use) May 1, 1886

A claim is not acceptable on a ground-water source with a priority later than March 25, 1963 or on a surface-water source with a priority later than May 20, 1971. An exception to this rule is that a claim may be filed on domestic use from a ground-water source.

- (5) A) Point of diversion: (give location of point where water is diverted from its source)
SE ¼ SE ¼, Sec. 14 Twp. 4S Rge. 43E B. M. County of Bonneville
 Additional points of diversion: _____

B) Describe means of diversion of water: (pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.) Give sizes and capacities; be as specific as possible. dam across creek into a ditch to the place of use, 4' wide x 2' deep

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

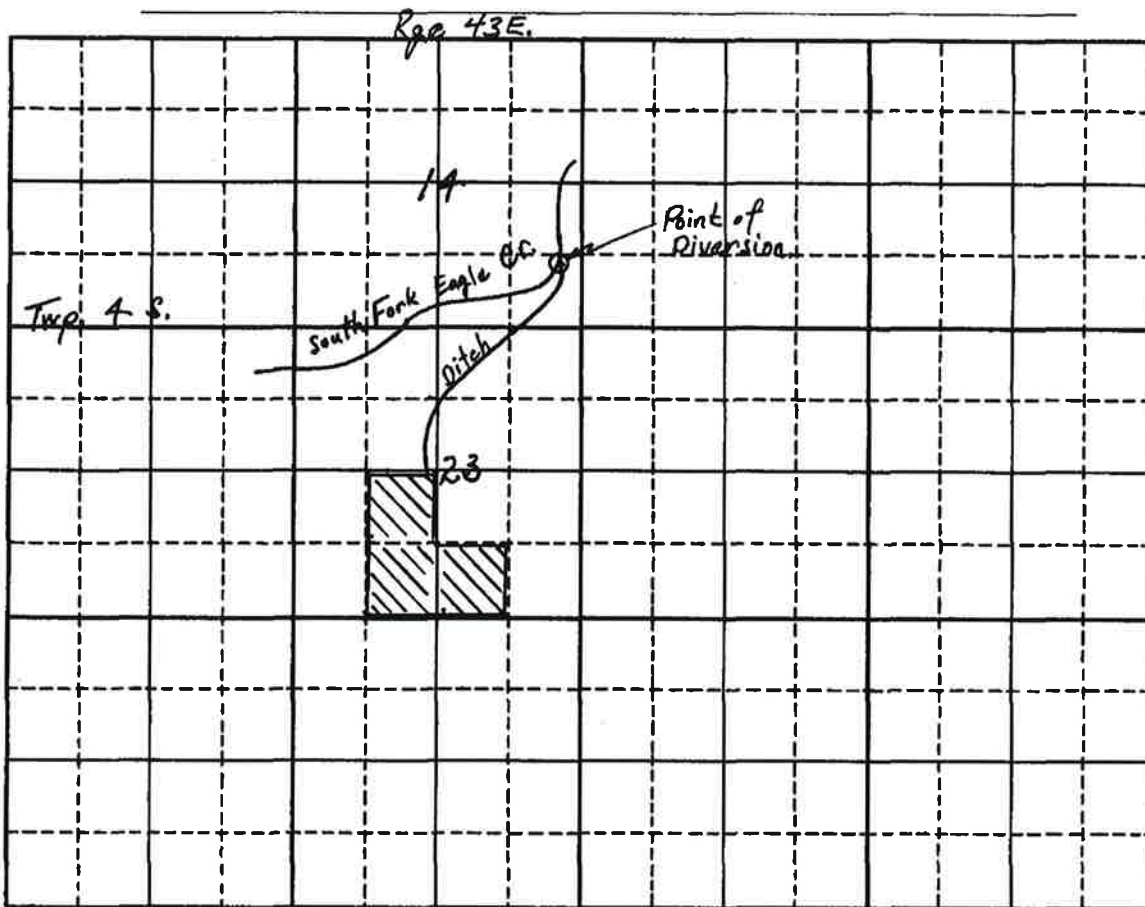
[illegible]

Total No. of acres 120

- B) If the water is used for other than irrigation, fully describe that use, being as specific as possible: stockwater for 200 head beef cattle
- (7) If you are claiming water as a member of an organization, list name of organization: _____

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(8) Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)

County of) ss.

Carbon

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

Sworn to before me this 23rd day of

May

19 78.

Raymond H. Carter
(Claimant)

John L. Rhodes
Notary Public

Residing at Soda Springs, ID

My commission expires 5-13-81

For Department Use Only

5-25-78

Received by BR

Date 4-7-78

Exception filed by:

Forwarded to

Date

Prelim. check by LHJ

Date 4-10-78

claimant by:

\$10.00 fee received by BR

Date 4-7-78 #9922

Approved for publication by cw 5-09-78

Published in Post Register

Dates April 20 & 27, 1978

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No. 13,153

ABSTRACT OF TITLE

to

The following described Real Estate:

The East Half of the Southwest Quarter ($E\frac{1}{2} SW\frac{1}{4}$); Southwest Quarter of the Southeast Quarter ($SW\frac{1}{4} SE\frac{1}{4}$); of Section Twenty-three (23); the Northeast Quarter of the Northwest Quarter ($NE\frac{1}{4} NW\frac{1}{4}$) of Section Twenty-six (26); Township Four (4) South, Range Forty-three (43) East, Boise Meridian.

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MAY 26 2004

Department of Water Resources
Eastern Region

IDAHO TITLE AND TRUST COMPANY
IDAHO FALLS, IDAHO

IDAHO TITLE AND TRUST COMPANY

THE UNITED STATES OF AMERICA
By the President: T. Roosevelt
F. M. McKean, Secretary.
C. H. Brush, Recorder of the General
Land Office.

(SEAL)

Grantors

TO

JAMES SIBBETT,

Grantees

Instrument— U. S. PATENT.

Date— August 30, 1904.

Recorded— July 27, 1934 at 9:12 A.M.

Book 33 of Deeds, at Page 471
Records of Bonneville County, Idaho

Transcribed from Book Page
Records of Bingham County, Idaho

Consideration— Full payment.

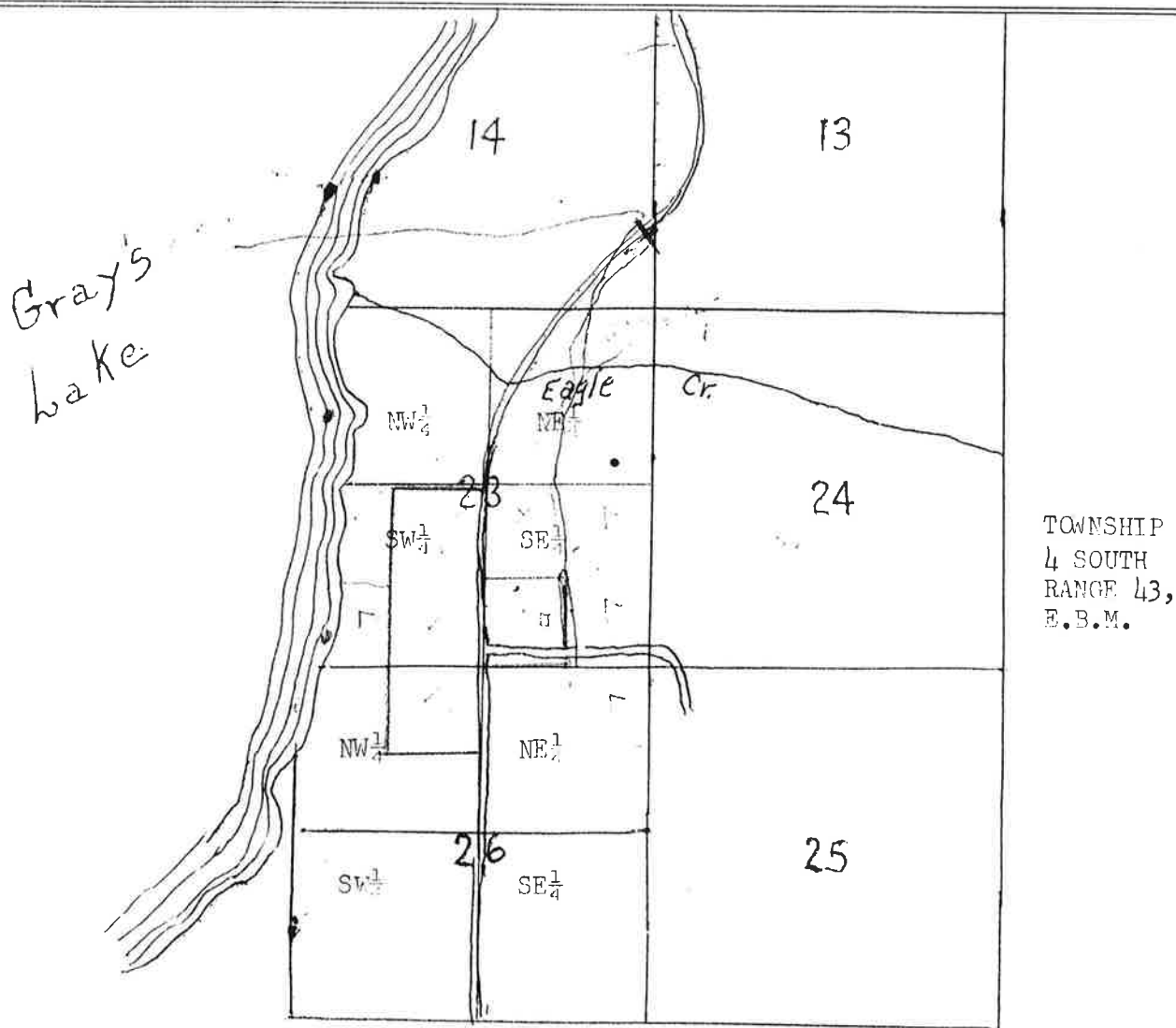
Date of Acknowledgment— None.
Name and Title of Officer—
Address of Officer—
Official Seal Attached?
Is Wife Separately Examined
Granting Words—
Covenants—
Conditions, Limitations and Recitals—

Description and Remarks

The E $\frac{1}{2}$ of the SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 23, and the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 26, in Township 4 South of Range 43, East of Boise Meridian in Idaho, containing 160 acres according to the Official Plat of the Survey of the said Land, returned to the General Land Office by the Surveyor General:

Subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law. And there is reserved from the land hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IDAHO TITLE & TRUST COMPANY



The E $\frac{1}{2}$ of the SW $\frac{1}{4}$; SW $\frac{1}{4}$ of the SE $\frac{1}{4}$; of Section 23; the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 26; Township 4 South, Range 43, East, Boise Meridian.

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IDAHO TITLE AND TRUST COMPANY

JAMES SIBBETT, SR., and wife ALMEDA
SIBBETT,

Grantors

TO

ALMEDA SIBBETT,

Grantees

Instrument— Warranty Deed.

Date— June 21, 1922.

Recorded— June 23, 1922 at 9:10 A.M.

Book 12 of Deeds, at Page 469
Records of Bonneville County, Idaho

Transcribed from Book Page
Records of Bingham County, Idaho

Consideration— \$1.00 o.v.c.

No. I.R.S. attached.

Date of Acknowledgment— June 21, 1922.
Name and Title of Officer— J. T. Torgesen, Notary Public for Caribou County, Idaho.
Address of Officer— Soda Springs, Idaho.
Official Seal Attached? Yes.
Is Wife Separately Examined
Granting Words— Grant, bargain, sell, convey and confirm.
Covenants— Warrant and defend.
Conditions, Limitations and Recitals—

Description and Remarks

The $E\frac{1}{2}$ of the $SW\frac{1}{4}$; the $SW\frac{1}{4}$ of the $SE\frac{1}{4}$ of Section 23, the
 $NE\frac{1}{4}$ of the $NW\frac{1}{4}$ of Section 26, Township 4 South, Range 43,
East Boise Meridian. Containing 160 acres.

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IDAHO TITLE AND TRUST COMPANY

ALMEDA SIBBETT, a widow,

Grantors

TO

FARL SIBBETT,

Grantees

Instrument— Warranty Deed.

Date— June 16, 1936.

Recorded— June 19, 1936 at 3:20 P.M.

Book 37 of Deeds, at Page 375
Records of Bonneville County, Idaho

Transcribed from Book Page
Records of Bingham County, Idaho

Consideration— \$1.00 o.v.c.

No. I.R.S. attached.

Date of Acknowledgment— June 16, 1936.

Name and Title of Officer— D. K. McLean, Notary Public for Caribou County, State of Idaho.

Address of Officer— Soda Springs, Idaho.

Official Seal Attached? Yes.

Is Wife Separately Examined

Granting Words— Grant, bargain, sell, convey and confirm.

Covenants— Warrant and defend.

Conditions, Limitations and Recitals—

Description and Remarks

The $E\frac{1}{2}$ of the $SW\frac{1}{4}$; $SW\frac{1}{4}$ of the $SE\frac{1}{4}$; of Section 23; the $NE\frac{1}{4}$ of the $NW\frac{1}{4}$ of Section 26; Township 4 South, Range 43, East, Boise Meridian, and containing 160 acres.

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OCT 13 2004

IDAHO TITLE & TRUST COMPANY

TAX REPORT.

Taxes for 1958 and prior years are paid.

Taxes for 1959 are now a lien, but not yet due or payable.

SPECIAL ASSESSMENTS.

We do not certify as to Irrigation District Assessments or Special Assessments of any nature.

- - - - -

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SEP 13 2004

IDAHO TITLE & TRUST COMPANY

TAX REPORT

Taxes for 1959 and prior years are paid.

Taxes for 1960 are a lien, but not yet due or payable.

IRRIGATION DISTRICT ASSESSMENTS

We do not certify as to irrigation district assessments or special assessments of any nature.

SCANNED

OCT 13 2004

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IDAHO TITLE AND TRUST COMPANY

Certificate of Abstracter

No. 13,153

STATE OF IDAHO }
County of Bonneville } ss.

Idaho Title and Trust Company, Abstracters of Titles in and for said County, does hereby certify that the foregoing abstract, consisting of -6- entries, numbered from -1- to -6- inclusive, sets forth a true and correct abstract of the records in the office of the County Recorder of Bonneville County, Idaho, which in any way affect the title to the property described in the caption of this abstract. to-wit: The E $\frac{1}{2}$ of the SW $\frac{1}{4}$; SW $\frac{1}{4}$ of the SE $\frac{1}{4}$; of Section 23; the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 26; Township 4 South, Range 43, East, Boise Meridian.

We further certify that there are no judgments or other liens of record in the office of the Recorder or Clerk of the District Court of said County, which are a lien against the said lands described in caption of this abstract, except as herein shown. Further, that there are no taxes due and unpaid upon the lands described in the caption of this abstract at the date hereof, except:

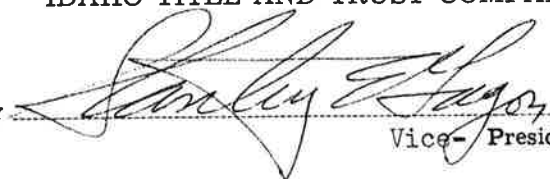
As shown herein.

~~Further, that there are no special assessments by the City of Idaho Falls, Idaho, against the property described in the caption of this Abstract, at the date hereof, appearing of record in the office of the County Treasurer of Bonneville County, Idaho, or in the office of the Clerk or Treasurer of the City of Idaho Falls, Idaho, except:~~

This certificate is made to EARL SIBBETT.
at the request of EARL SIBBETT.
Witness our hands this 14th day of SEPTEMBER, 1959, at 8:00 o'clock A.M.

IDAHO TITLE AND TRUST COMPANY

By



Vice-President

PROFILED **SCANNED**
OCT 13 2004

IDAHO TITLE AND TRUST COMPANY

Certificate of Abstracter

No. 13,285

STATE OF IDAHO }
County of Bonneville } ss.

Idaho Title and Trust Company, Abstracters of Titles in and for said County, does hereby certify that the foregoing abstract, consisting of -1- entries, numbered from -7- to -7- inclusive, sets forth a true and correct abstract of the records in the office of the County Recorder of Bonneville County, Idaho, which in any way affect the title to the property described in the caption of this abstract. to-wit: The E $\frac{1}{2}$ of the SW $\frac{1}{4}$, SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 23; the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 26; Township 4 South, Range 43 East, Boise Meridian.

Since last certificate dated September 14, 1959, at 8:00 A.M.

We further certify that there are no judgments or other liens of record in the office of the Recorder or Clerk of the District Court of said County, which are a lien against the said lands described in caption of this abstract, except as herein shown. Further, that there are no taxes due and unpaid upon the lands described in the caption of this abstract at the date hereof, except:

As Shown Herein.

~~Further, that there are no special assessments by the City of Idaho Falls, Idaho, against the property described in the caption of this Abstract, at the date hereof, appearing of record in the office of the County Treasurer of Bonneville County, Idaho, or in the office of the Clerk or Treasurer of the City of Idaho Falls, Idaho, except:~~

This certificate is made to EARL SIBBETT
at the request of BETTILYON'S, INC.
Witness our hands this 10th day of October, 1960, at 8:00 o'clock A.M.

IDAHO TITLE AND TRUST COMPANY

By Norma Ford
Secretary President

PROFILED SCANNED
OCT 13 2004

Warranty Deed

THIS INDENTURE, Made this First day of April in the year of our Lord One Thousand Nine Hundred and sixty, between EARL GIBBETT and ELAINE GIBBETT, his wife of Soda Springs, County of Caribou, State of Idaho the part ies of the first part, and HERMAN WAKEMAN and VERDA WAKEMAN, husband and wife

of Soda Springs, County of Caribou, State of Idaho the part ies of the second part:

WITNESSETH: That the said part ies of the first part, for and in consideration of the sum of Twenty-four thousand five hundred and No/100ths - - - - - DOLLARS, lawful money of the United States of America, to them in hand paid by the said part ies of the second part, the receipt whereof is hereby acknowledged

, do by these presents, Grant, Bargain, Sell and Convey and Confirm unto said part ies of the second part, and to their heirs and assigns forever: All th a certain lot piece or parcel of land situate, lying and being in the County of Bonneville, State of Idaho, bounded and more particularly described as follows, to-wit:

The East Half of the Southwest Quarter (E $\frac{1}{2}$ -SW $\frac{1}{4}$); Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ -SE $\frac{1}{4}$) of Section Twenty-three (23); the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ -NW $\frac{1}{4}$) of Section Twenty-six (26); Township Four (4) South, Range Forty-three (43) East of the Boise Meridian; in Bonneville County, State of Idaho: Together with all water and ditch rights of every nature and kind, including culinary water, however evidenced, used on said lands and premises, for in connection therewith, INCLUDING, but not limited to, all water, ditch and canal rights used under that certain Notice of Water Location, dated January 28th, 1886 upon the waters of Eagle Creek as shown upon the Records of Bingham County, Idaho in Record of Water Locations, page 195 thereof, and ALSO all water and transmission system used under Permit No. 11963, as approved by the State Engineer of the State of Idaho and recorded in Boise, Idaho in Book 41, Page 11963 and approved by said State Engineer under date of February 26, 1916.

Subject to taxes for the Year 1960 and subsequent years. 25-2061

Together with all and singular, the tenements, hereditaments and appurtenances therunto belonging or in anywise appertaining, and the rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular, the said premises, together with the appurtenances and privileges thereunto incident unto the said part ies of the second part, and to their heirs and assigns forever. And the said part ies of the first part, and their heirs the said premises in the quiet and peaceable possession of the said part ies of the second part their heirs and assigns against the said part ies of the first part, and their heirs and against all and every person or persons whomsoever, lawfully claiming or to claim the same, shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF, The said part ies of the first part have hereunto set their hands and seal s the day and year first above written.

Signed, Sealed and Delivered in the Presence of

[Signature]) Earl Gibbett [Seal]
[Signature]) Elaine Gibbett [Seal]
[Signature]) [Signature] [Seal]
[Signature]) [Signature] [Seal]

THIS INDENTURE, Made this 16th. day of June
 in the year of our Lord one thousand nine hundred and thirty-six
 between Almeda Sibbett, a widow
 of Gray, County of Bonneville
 State of Idaho, the part Y of the first part, and
Earl Sibbett
 of Gray, County of Bonneville
 State of Idaho, the part Y of the second part:

WITNESSETH, That the said part Y of the first part, for and in consideration of the sum of
One Dollar and other valuable considerations
lawful money of the United States of America, to her in hand paid by the
 said part Y of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and
 sold, and by these presents does grant, bargain, sell, convey and confirm unto the said part Y of the second
 part, and to his heirs and assigns forever, all the following described real estate, situated
 in County of Bonneville
 State of Idaho, to-wit: The East Half of the Southwest quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$); South-
west quarter of the Southeast quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$); of Section Twenty-three
(23); the Northeast quarter of the Northwest quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section
Twenty-six (26); Township Four (4) South, Range Forty-three (43) East,
Boise Meridian, and containing 160 acres.

TOGETHER With all and singular the tenements, hereditaments and appurtenances thereunto belonging
 or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits
 thereof, and all estate, right, title and interest in and to the said property, as well in law as in equity, of the
 said part Y of the first part:

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with
 the appurtenances, unto the part Y of the second part, and to his heirs and assigns forever. And
 the said part Y of the first part, and her heirs, the said premises in the quiet and peaceable pos-
 session of the said part Y of the second part, his heirs and assigns, against the said part Y of
 the first part, and her heirs, and against all and every person and persons whomsoever, lawfully
 claiming or to claim the same, shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, The said part Y of the first part has hereunto set her hand
 and seal the day and year first above written.

Signed, Sealed and Delivered in the Presence of:

Mrs Almeda Sibbett [SEAL]
 [SEAL]
 [SEAL]
 [SEAL]

PROFILED

SCANNED
 OCT 13 2004

6004 E THATCHER RD
THATCHER, ID 83283

427-6383

no answer, sub. #

AJ5809NP
No. A25-04034A

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 10/18/00
PAGE: 37

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	RAYMOND H OSTLER	05/01/1886	IRRIGATION	04-01 11-01	0.700 CFS	
C	VONEAL OSTLER		STOCKWATER	05-01 11-01	0.050 CFS	
	226 GREYS LAKE RD					
	WAYAN ID 83285					
	(208) 574-2180					
				TOTAL DIVERSION:	0.700 CFS	
				CONSUMPTIVE USE:		87.50 AFA

Water Source: EAGLE CREEK, SOUTH FORK

Tributary to: GRAYS LAKE

Stage: BENEFICIAL USE

Point(s) of Diversion: T04S R43E S23

~~SE 1/4~~ NENE

BONNEVILLE County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE								
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	SUM
			:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	
04S	43E	23	:					:					:					:					:	35.0
																							TOTAL ACRES	35.0

Place of use Legal Description for: STOCKWATER

				NE				NW				SW				SE								
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	
			:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	
04S	43E	23	:					:					:					:					:	
														S	S									

POU County: BONNEVILLE

Non-Irrigation Uses: 200 HEAD OF RANGE CATTLE

Other Rights: 25-04033. ADDITIONAL STOCKWATERING

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):
A25-04005 A25-04261

Remarks: GEN OTHER PORTION OF RIGHT HAS BEEN SOLD, WITH PROPERTY TO U.S.
FISH AND WILDLIFE.

Dates: Exam Made Date: Verified Date: Objection Filed Date:

Misc: Water District Number: Field Inspection Flag;
Presumption Flag:

Audit: 09/21/89 VERNER 03/29/95 POST-STD

Review built
1889

PROFILED

SCANNED

OCT 13 2004

RECEIVED

SEP 17 2004

07/12/2004

NOTICE OF ERROR
REPLY

Department of Water Resources
Eastern Region

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: 25-4034A

RAYMOND H OSTLER
226 GREYS LAKE RD
WAYAN ID 83285
Telephone Number: (208)574-2180

VONEAL OSTLER
226 GREYS LAKE RD
WAYAN ID 83285
Telephone Number: (208)574-2180

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:

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

DATE:

9-9-2004

SIGNATURE:

Voneal Ostler Raymond H Ostler

Please print your name:

Voneal Ostler Raymond H OSTLER

IDWR Regional Office, 900 N Skyline Dr Ste A, Idaho Falls, ID 83402, 2085257161

PROFILED

SCANNED

SEP 17 2004

JUL 30 2001

8800

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: A25-04034A
Date Received: 9/21/1989
Receipt No: 6010733
Received By: SEN

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: RAYMOND H. OSTLER 208-574-2180
Address: 226 GREYS LAKE RD.
WAYAN, ID 83285

OR
Name: VONEAL OSTLER 208-574-2180
Address: 226 GREYS LAKE RD.
WAYAN, ID 83285

2. Date of Priority: MAY 01, 1886

3. Source: EAGLE CREEK, SOUTH FORK Trib. to: GRAYS LAKE

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04S	43E	23	SE	NW	NE		BONNEVILLE

5. Description of diverting works:
ROCK DIVERSION DAM IN STREAM TO DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.700		
STOCKWATER	05/01	11/01	0.050		

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

8. Total consumptive use is 87.5 Acre Feet Per Annum.

9. Non-irrigation uses:
200 HEAD OF RANGE CATTLE

A25-04034A

Page 1

Date: 09/21/89

MICROFILMED
NOV 10 1992

A2504034A



10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
04S	43E	23	NW	SW	STOCK	
			SW	SW	IRR	35.0
			SW	SW	STOCK	
					Section Acres	35.0
					Total Acres	35.0

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:
25-04033. ADDITIONAL STOCKWATERING

14. Remarks:
OTHER PORTION OF RIGHT HAS BEEN SOLD, WITH PROPERTY TO U.S.
FISH AND WILDLIFE.

15. Basis of Claim: BENEFICIAL USE

MICROFILMED
NOV 10 1992

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: 2

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. Oster Date: 9/21/89
Harold J. Oster Date: 9-21-89

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 21 day
of September 19 89

E. J. Jones
Notary Public

Residing at Salida Falls, Co.

My Commission Expires 22 Aug 1994

Seal



CONSERVATION PLAN MAP

Prepared by UNITED STATES DEPARTMENT of AGRICULTURE ★ SOIL CONSERVATION SERVICE

cooperating with
Caribou
S. C. DISTRICT

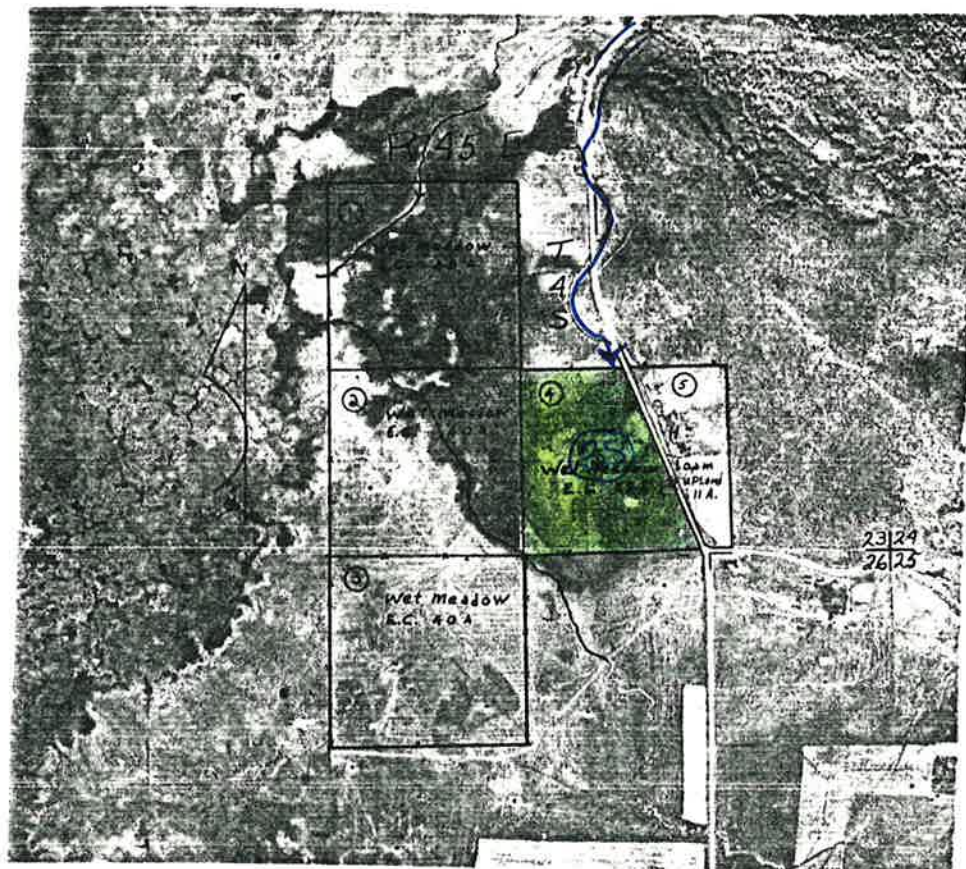
OWNER *RAY Ostler*

FARM No. _____ DATE *7/63*

OPERATOR *Bonneville*
COUNTY

Idaho
STATE

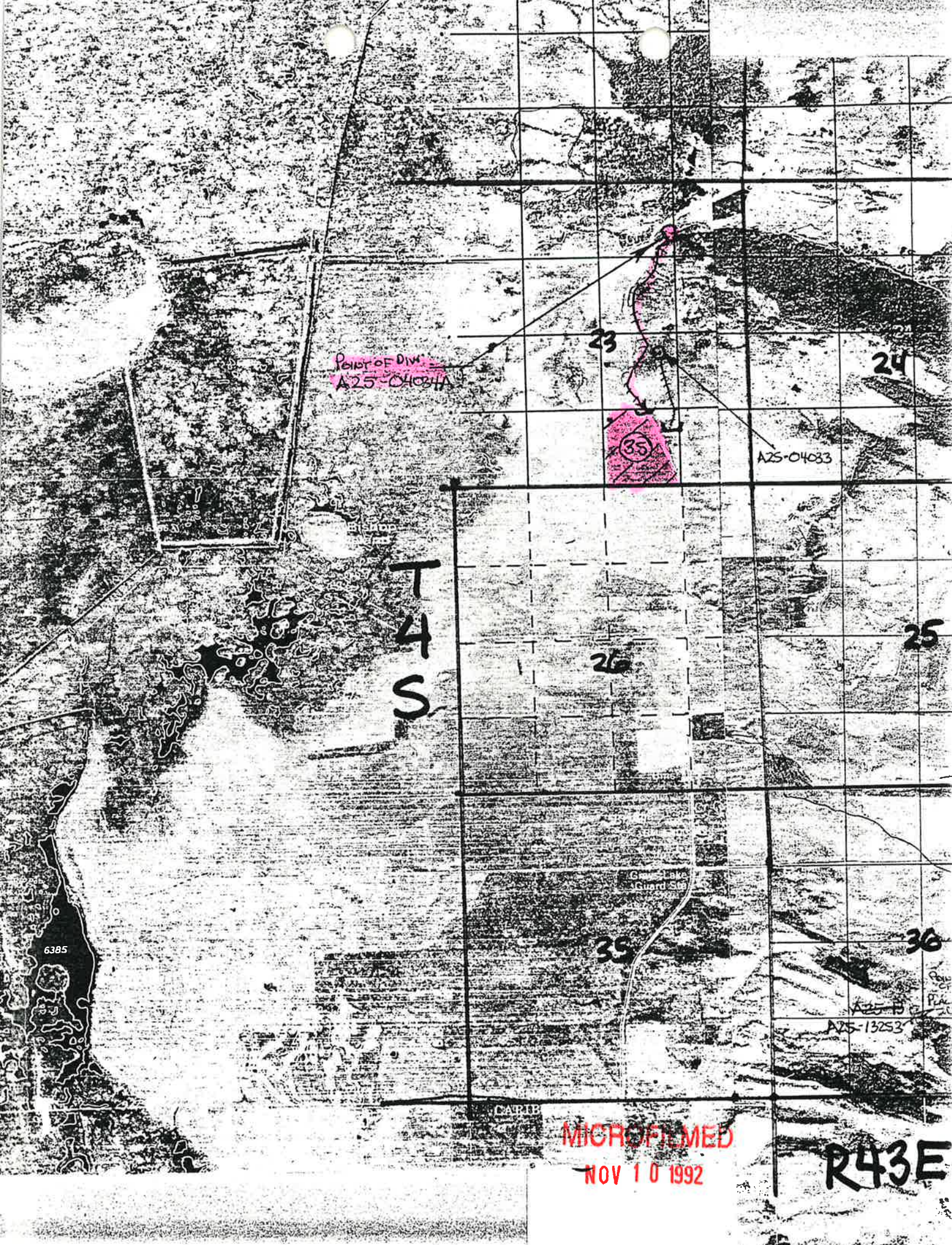
SCALE *4" = 1 mi* ACRES *160*
APPROXIMATE
PHOTO No. *5R-50*



A25-O4034A
0.70 cfs
35'

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NOV 1 U 1992





POINT OF DIV.
A25-04084

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A25-04033

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A25-13253

MICROFILMED
NOV 10 1992

R43E

6385

GUARD STATION