

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 47-4247  
Date Received: 12/8/1988  
Receipt No: S004350  
Received By:

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

1. Name of Claimant(s)

TOLBERT FAMILY LTD PARTNERSHIP Phone: (208)733-8230  
C/O PAUL SLIGAR  
3975 N 2600 E  
TWIN FALLS ID USA 83301

2. Date of Priority: 03/15/1951

3. Source: LP COULEE Trib. to: ROCK CREEK

4. Point of Diversion:

| Township | Range | Section | 1/4 of 1/4 of 1/4 Lot | County     | Type |
|----------|-------|---------|-----------------------|------------|------|
| 11S      | 16E   | 11      | NE NW SE              | TWIN FALLS |      |

5. Description of diverting works:

DIVERSION DAM, DITCHES

6. Water is used for the following purposes:

| Purpose    | From | To    | C.F.S. | (or) A.F.A |
|------------|------|-------|--------|------------|
| IRRIGATION | 3/15 | 11/15 | 3.2    |            |
| STOCKWATER | 1/01 | 12/31 | 0.07   |            |

7. Total Quantity Appropriated is:  
3.27 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

| Township | Range | Section | 1/4 of 1/4 Lot | Use           | Acres |
|----------|-------|---------|----------------|---------------|-------|
| 10S      | 16E   | 11      | NE NE          | IRRIGATION    | 40    |
|          |       |         | NW NE          | IRRIGATION    | 40    |
|          |       |         | SW NE          | IRRIGATION    | 40    |
|          |       |         | SE NE          | IRRIGATION    | 40    |
|          |       |         |                | Section Acres | 160   |
|          |       |         |                | Total Acres   | 160   |

11. Place of use in counties: TWIN FALLS

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

13. Other Water Rights Used:

14. Remarks:

Authority for claim claimed by Bert M Tolbert, general partner of Tolbert Family limited Partnership.

Beneficial use of this water was started from earliest years of the Twin Falls irrigation Tract as shown by early now-filled-in ditches. Power line remnants are present for pump use from circa 1942. Permit use granted 1961, extended 1981, file for 1988

AUTHORITY FOR CLAIM CLAIMED BY BERT M. TOLBERT, GENERAL PARTNER OF TOLBERT PARTNERSHIP AND TRUSTEE OF ESTHER LILAH EWING TRUST, THE OWNER OF THE PROPERTY.

BENEFICIAL USE OF THIS WATER WAS STARTED CIRCA 1942. PERMIT USE WAS GRANTED IN 1961 AND EXTENDED IN 1981.

DWR NOTE\*\*243 CLAIM ONLY SHOWS 3.20 CFS.

ALSO CLAIMED PREVIOUSLY UNDER WR# 47-02351.

15. Basis of Claim: Statutory Claim

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,  
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IN RE THE GENERAL ADJUDICATION  
OF RIGHTS TO THE USE OF WATER FROM  
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NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

TOLBERT FAMILY LTD PARTNERSHIP Phone: (303)447-8532  
444 KALMIA AVE  
BOULDER CO 80304-1732

2. Date of Priority: 03/29/1961

3. Source: LP COULEE Trib. to: ROCK CREEK

4. Point of Diversion:

| Township | Range | Section | 1/4 of 1/4 of 1/4 Lot | County     | Type |
|----------|-------|---------|-----------------------|------------|------|
| 11S      | 16E   | 11      | NE NW SE              | TWIN FALLS |      |

5. Description of diverting works:

DIVERSION DAM, DITCHES

6. Water is used for the following purposes:

| Purpose    | From | To    | C.F.S. | (or) A.F.A |
|------------|------|-------|--------|------------|
| IRRIGATION | 3/15 | 11/15 | 3.2    |            |
| STOCKWATER | 1/01 | 12/31 | 0.07   |            |

7. Total Quantity Appropriated is:  
3.27 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

| Township | Range | Section | 1/4 of 1/4 | Lot | Use           | Acres |
|----------|-------|---------|------------|-----|---------------|-------|
| 10S      | 16E   | 11      | NE         | NE  | IRRIGATION    | 40    |
|          |       |         | NW         | NE  | IRRIGATION    | 40    |
|          |       |         | SW         | NE  | IRRIGATION    | 40    |
|          |       |         | SE         | NE  | IRRIGATION    | 40    |
|          |       |         |            |     | Section Acres | 160   |
|          |       |         |            |     | Total Acres   | 160   |

11. Place of use in counties: TWIN FALLS

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

13. Other Water Rights Used:

14. Remarks:

AUTHORITY FOR CLAIM CLAIMED BY BERT M. TOLBERT, GENERAL PARTNER OF TOLBERT PARTNERSHIP AND TRUSTEE OF ESTHER LILAH EWING TRUST, THE OWNER OF THE PROPERTY. BENEFICIAL USE OF THIS WATER WAS STARTED CIRCA 1942. PERMIT USE WAS GRANTED IN 1961 AND EXTENDED IN 1981.

DWR NOTE\*\*243 CLAIM ONLY SHOWS 3.20 CFS.  
ALSO CLAIMED PREVIOUSLY UNDER WR# 47-02351.

15. Basis of Claim: Statutory Claim

RECEIVED

MAY 19 2004

**STATE OF IDAHO**  
**DEPARTMENT OF WATER RESOURCES**  
**NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP**

Department of Water Resources  
Southern Region

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.  
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

| Water<br>Right No(s). | Adjudication<br>Claim No(s). | Split                    | Water<br>Right No(s). | Adjudication<br>Claim No(s). | Split                    |
|-----------------------|------------------------------|--------------------------|-----------------------|------------------------------|--------------------------|
|                       | <u>47-4247</u>               | <input type="checkbox"/> | <u>47-12118</u>       |                              | <input type="checkbox"/> |
|                       | <u>47-12116</u>              | <input type="checkbox"/> | <u>47-12119</u>       |                              | <input type="checkbox"/> |
|                       |                              | <input type="checkbox"/> | <u>47-12120</u>       |                              | <input type="checkbox"/> |
|                       |                              | <input type="checkbox"/> | <u>47-12121</u>       |                              | <input type="checkbox"/> |
|                       |                              | <input type="checkbox"/> | <u>47-12122</u>       |                              | <input type="checkbox"/> |
|                       |                              | <input type="checkbox"/> | <u>47-12123</u>       |                              | <input type="checkbox"/> |

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):  
**PLAT OF PROPERTY** or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).  
**OR**  
If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Tolbert Partnership
4. New Owner/Claimant(s) Esther Lilah Ewing Trust
- Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address Kalmia
- 444 Kalmia Ave
- City, State and ZIP Code Boulder, Co 80304-1732
- New Telephone Number (303) 447-8532
5. Date you acquired the property \_\_\_\_\_

**SUPPORT DATA**  
**IN FILE # 47-4247**

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7.** If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

| DESCRIPTION OF YOUR PORTION OF WATER RIGHT<br>(If the right(s) will not be split, skip this area and proceed to item 7) |                                                                            |                                                              |
|-------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|--------------------------------------------------------------|
| Water Right and/or Adjudication Claim Number _____                                                                      |                                                                            |                                                              |
| Water Use                                                                                                               | Diversion Rate or Volume<br>(cubic feet per second or acre-feet per annum) | Description<br>(acres, number and type of stock, homes, etc) |
| Irrigation                                                                                                              | _____                                                                      | _____                                                        |
| Stock                                                                                                                   | _____                                                                      | _____                                                        |
| Domestic                                                                                                                | _____                                                                      | _____                                                        |
| Other _____                                                                                                             | _____                                                                      | _____                                                        |
| <b>Total</b>                                                                                                            | _____                                                                      | _____                                                        |

| DESCRIPTION OF YOUR PORTION OF WATER RIGHT<br>(If the right(s) will not be split, skip this area and proceed to item 7) |                                                                            |                                                              |
|-------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|--------------------------------------------------------------|
| Water Right and/or Adjudication Claim Number _____                                                                      |                                                                            |                                                              |
| Water Use                                                                                                               | Diversion Rate or Volume<br>(cubic feet per second or acre-feet per annum) | Description<br>(acres, number and type of stock, homes, etc) |
| Irrigation                                                                                                              | _____                                                                      | _____                                                        |
| Stock                                                                                                                   | _____                                                                      | _____                                                        |
| Domestic                                                                                                                | _____                                                                      | _____                                                        |
| Other _____                                                                                                             | _____                                                                      | _____                                                        |
| <b>Total</b>                                                                                                            | _____                                                                      | _____                                                        |

7. Signature of New Owner(s) or Claimant(s) ~~x~~ West M. Tolbert  
(include title if applicable)
- \_\_\_\_\_

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

**For Office Use Only**

Received by \_\_\_\_\_ Date \_\_\_\_\_ Fee \_\_\_\_\_  
 Received by \_\_\_\_\_ Date \_\_\_\_\_ Receipt No. \_\_\_\_\_  
 Processed by \_\_\_\_\_ AJ Date \_\_\_\_\_ WR \_\_\_\_\_ Date \_\_\_\_\_

STEPHAN, KVANVIG, STONE & TRAINOR  
Russell G. Kvanvig  
P. O. Box 83  
Twin Falls, Idaho 83303-0083  
Telephone: 208-733-2721  
Facsimile: 208-733-3619  
ISB #1847  
Attorney for Plaintiff  
10811/qt-ord/jk

Twin Falls County, Idaho  
Recorded for:  
STEPHAN & KVANVIG  
04:18pm Oct.09,2002  
**2002 - 020966**  
No. of Pages: 6 Fee: \$18.00  
ROBERT S. FORT (Ex-Officio Recorder)  
Deputy: CD

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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

---

TOLBERT FAMILY LIMITED )  
PARTNERSHIP, an Idaho Limited )  
Partnership, )

Plaintiff, )

vs. )

TOLBERT FAMILY LIMITED )  
PARTNERSHIP; BERT M. TOLBERT; )  
MARIAN TOLBERT CHILDS; )  
JUANITA J. EWING; HELEN )  
ELIZABETH TOLBERT; CAROL L. )  
TOLBERT; JAMES N. TOLBERT; )  
DAVID J. HOWLAND; ELIZABETH )  
D. TOLBERT; MARGARET A. )  
TOLBERT; CAROLINE J. TOLBERT; )  
SARAH H. TOLBERT; L. ALAN )  
EWING; LILAH EWING BRUCE; )  
CHARLES E. EWING; KENNETH H. )  
EWING; ROBERT E. CHILDS; )  
MARY E. CHILDS WALKER; )  
RUTH E. CHILDS READE; AMY E. )  
CHILDS; ELEANOR TOLBERT; )  
THE ESTATE OF MORRIS E. )  
CHILDS; THE ESTATE OF NATHAN )  
E. TOLBERT; THE ESTATE OF )  
ED TOLBERT; ESTHER LILAH )  
EWING TRUST; AND ALL OTHERS )  
KNOWN OR UNKNOWN WHO MAY )  
CLAIM AN INTEREST ADVERSE )  
TO THAT OF THE PLAINTIFF, )

Defendants. )

Case No. CV 01-3733

ORDER QUIETING TITLE IN  
TOLBERT FAMILY LIMITED  
PARTNERSHIP, AN IDAHO  
LIMITED PARTNERSHIP

COPY

The Petition to Quiet Title came before this Court for hearing at 1:30 p.m. on Monday, September 9, 2002. The Plaintiff appeared through its attorney of record, Russell G. Kvanvig of the law firm of Stephan, Kvanvig, Stone & Trainor. No other parties appeared. Based upon the files, records and pleadings in this matter and being fully advised in the premises,

IT IS HEREBY ORDERED ADJUDGED AND DECREED:

1. The Plaintiff herein is the owner in fee simple and entitled to the quiet title and peaceful possession of the real property and water rights appurtenant thereto as described in Exhibit "A" attached hereto. Defendants, and each of them and all persons claiming under them, have no estate right, title, lien or interest in or to the property or any part thereof.

2. Defendants, and each of them and all persons claiming under them, are permanently enjoined from asserting any adverse claims to Plaintiff's title to the property.

DATED This 9th day of October, 2002

**John C. Hohnhorst**

Nathan Higer,  
District Judge

State of Idaho  
County of Twin Falls,  
I hereby certify the foregoing to be a full, true  
and correct copy of the original on file in the  
above entitled action.

ROBERT S. PORT  
CLERK OF THE DISTRICT COURT

*Teresa A. [Signature]*  
COURT SERVICES

## EXHIBIT "A"

### PARCEL NO. 1

Township 10 South, Range 16 East, Boise Meridian, Twin Falls County, Idaho  
Section 11:

NE $\frac{1}{4}$

AND that part of the NW $\frac{1}{4}$ SE $\frac{1}{4}$  more particularly described as follows:

BEGINNING at the Northeast corner of said NW $\frac{1}{4}$ SE $\frac{1}{4}$ , running;

THENCE South along the East boundary line thereof a distance of 320 feet;

THENCE West parallel to the North boundary of said NW $\frac{1}{4}$ SE $\frac{1}{4}$  a distance of 100 feet;

THENCE North parallel to the East boundary line of said NW $\frac{1}{4}$ SE $\frac{1}{4}$  a distance of 320 feet;

THENCE East along the North boundary line of said NW $\frac{1}{4}$ SE $\frac{1}{4}$  a distance of 100 feet to the POINT OF BEGINNING.

### PARCEL NO. 2

Township 10 South, Range 16 East, Boise Meridian, Twin Falls County, Idaho

Section 11: A portion of the W $\frac{1}{2}$ SE $\frac{1}{4}$  described as follows:

BEGINNING at a point 995 feet East and 25 feet North from the Southwest corner of said SE $\frac{1}{4}$  of Section 11, said POINT OF BEGINNING being on the North right-of-way boundary of U.S. Highway 30;

THENCE along the West bank of the Coulee by the following courses and distances:

North 25°54' East 215 feet;

North 15°59' East 401 feet;

North 21°54' West 151 feet;

North 57°08' West 222 feet

North 00°10' West 393 feet;

North 13°23' West 159.5 feet;

North 2°45' East 284.5 feet;

North 6°38' East 417 feet;

North 53°22' East 256 feet;

North 39°28' East 85 feet;

THENCE West 27 feet;

THENCE North 320 feet to the North line of the W $\frac{1}{2}$ SE $\frac{1}{4}$  of Section 11;

THENCE West along the North line of said Section 11, 1220 feet to the Northwest corner of said Section 11;

THENCE South 2615 feet to a point 25 feet North of the Southwest corner of said Section 11;

THENCE East 995 feet to the POINT OF BEGINNING.

### **EXCEPTING THEREFROM:**

BEGINNING at a point on the North right-of-way boundary of U.S. Highway No. 30 at 1655 feet West from the Southeast corner of Section 11;

THENCE West 284.3 feet along the highway boundary;

THENCE North 00°33' East 218 feet along irrigation ditch;

THENCE North 86°04' East 71 feet;

THENCE North 24°05' East 189 feet;

THENCE North 38°32' East 425 feet to West side of Canal Company Coulee;

THENCE South 57°08' East 20 feet along West side of Coulee;

THENCE South 21°54' East 151 feet;

THENCE South 15°59' West 401 feet;

THENCE South 25°54' West 215 feet to highway boundary, the POINT OF BEGINNING.

**FURTHER EXCEPTING THEREFROM:**

Township 10 South, Range 16 East, Boise Meridian, Twin Falls County, Idaho

Section 11: COMMENCING at the East quarter corner of Section 11;

THENCE North 89°36'26" West 1318.47 feet to the Northeast corner of the NW¼SE¼ of said Section 11;

THENCE South 0°05'18" West 215.42 feet along the Easterly boundary of the NW¼SE¼ of said Section 11;

THENCE South 39°28'00" West 214.22 feet to a point which is 320.00 feet South of the Northerly boundary of the NW¼SE¼ of said Section 11, said point being the REAL POINT OF BEGINNING;

THENCE South 39°28'00" West 79.50 feet along the Westerly boundary of Clear Brook Subdivision;

THENCE North 30°21'22" East 71.24 feet to a point which is 320.00 feet South of the Northerly boundary of the NW¼SE¼ of said Section 11;

THENCE South 89°36'26" East 14.53 feet along a line being parallel to the Northerly boundary of the NW¼SE¼ of said Section 11 to the REAL POINT OF BEGINNING.

**AND FURTHER EXCEPTING THEREFROM:**

Parcel 1: COMMENCING at a point which lies 995 feet East and 25 feet North of the Southwest corner of the said SE¼ of Section 11, being a point on the North right-of-way boundary of U.S. Highway 30;

THENCE along the West boundary of an irrigation coulee the following courses and distances:

North 25°54'00" East 215.00 feet;

North 15°59'00" East 401.00 feet;

North 21°54'00" West 151.00 feet;

North 57°08'00" West 20.00 feet;

THENCE leaving the West boundary of said coulee South 38°32'00" West 86.77 feet to the REAL POINT OF BEGINNING;

THENCE continuing South 38°32'00" West 338.23 feet along an irrigation ditch;

THENCE along said ditch the following courses and distances:

South 24°05'00" West 189.00 feet;

South 86°04'00" West 71.00 feet;

South 0°33'00" West 218.00 feet to a point on the North boundary of U.S. Highway 30;

THENCE West along the North boundary of U.S. Highway 30, 710.70 feet, more or less, to a point 25 feet North of the Southwest corner of the SE¼ of said Section 11;

THENCE North along the West line thereof 660.00 feet;

THENCE East 1071.47 feet to the POINT OF BEGINNING.

Parcel 2: An easement for ingress, egress, irrigation facilities and incidentals thereto and for public utilities appurtenant to Parcel 1, over and across the West 50 feet of the following described parcel of land:

Township 10 South, Range 16 East, Boise Meridian, Twin Falls County, Idaho

Section 11: That portion of the W¼SE¼ described as follows:

COMMENCING at a point which lies 995 feet East and 25 feet North of the Southwest corner of the said SE¼ of Section 11, being a point on the North right-of-way boundary of U.S. Highway 30;

THENCE along the West boundary of an irrigation coulee the following courses and distances:

North 25°54'00" East 215.00 feet;

North 15°59'00" East 401.00 feet;

North 21°54'00" West 151.00 feet;

North 57°08'00" West 20.00 feet;

THENCE leaving the West boundary of said coulee South 38°32'00" West 86.77 feet to the REAL POINT OF BEGINNING;

THENCE continuing South 38°32'00" West 338.23 feet along an irrigation ditch;

THENCE along said ditch the following courses and distances:

South 24°05'00" West 189.00 feet;

South 86°04'00" West 71.00 feet;

South 0°33'00" West 218.00 feet to a point on the North boundary of U.S. Highway 30;

THENCE West along the North boundary of U.S. Highway 30, 710.70 feet, more or less, to a point 25 feet North of the Southwest corner of the SE¼ of said Section 11;

THENCE North along the West line thereof 660.00 feet;

THENCE East 1071.47 feet to the POINT OF BEGINNING.

**PARCEL NO. 3**

Township 10 South, Range 16 East, Boise Meridian, Twin Falls County, Idaho

Section 12: NE¼ South and West and lying above the rim rock of Rock Creek Canyon.

**EXCEPT** the East 55 feet for highway.

**AND EXCEPT** Township 10 South, Range 16 East, Boise Meridian, Twin Falls County, Idaho

Section 12: A portion of the NW¼NE¼ described as follows:

BEGINNING at a point on the North section line of said Section and a distance of 3503 feet East of the Northwest corner of said Section, which POINT OF BEGINNING is marked with an iron pipe and witnesses 23 feet North by stake;

THENCE East along said North Section line a distance of 260 feet to a point on the West side of Rock Creek Canyon, which point is marked with an iron pipe together with a large stake and pile of rock;

THENCE in a Southerly direction along said rim rock a distance of 513 feet to a point under a certain East and West fence and 10 feet back from the rim rock;

THENCE in a Northwesterly direction a distance of 591 feet to the POINT OF BEGINNING.

**AND ALSO EXCEPT** Township 10 South, Range 16 East, Boise Meridian, Twin Falls County, Idaho

Section 12: A triangular parcel of land situated in the SE¼NE¼ more particularly described as follows:

COMMENCING at the Southeast corner of said SE¼NE¼ of Section 12;

THENCE Northerly along the Easterly boundary of said SE¼NE¼ North 00°00'00" West 843.24 feet to its intersection with the Northeasterly boundary of Twin Falls Highway District road property and the TRUE POINT OF BEGINNING;

THENCE continuing Northerly along the Easterly boundary of said SE¼NE¼ North 00°00'00" West 367.00 feet to the top of the rim rock of Rock Creek Canyon;

THENCE Westerly along the top of said rim rock and its meander to a point;

THENCE South 41°40' West 20.00 feet to the Northeasterly boundary of Twin Falls Highway District road property;

THENCE Southeasterly along said Highway District road property South 48°20'00" East 439.08 feet to a point of curvature;

THENCE continuing Southeasterly along said Highway District road property 92.70 feet on the arc of a curve to the right having a central angle of 20°29'37", a radius of 259.18 feet, and a chord which bears South 38°05'10" East 92.21 feet to the TRUE POINT OF BEGINNING.

SUBJECT TO the rights of a public road which affects the Easterly 25.00 feet.

**PARCEL NO. 4**

Township 10 South, Range 16 East, Boise Meridian, Twin Falls County, Idaho  
Section 12: SW¼

**SUBJECT TO:** Twin Falls Highway District right of way.

**EXCEPT** Township 10 South, Range 16 East, Boise Meridian, Twin Falls County, Idaho

Section 12: A parcel of land in the SW¼ being on both sides of the centerline of U.S. Highway No. 30, Project No. NH-F-2391(55) Highway Survey as shown on the plans thereof now on file in the office of the Idaho Transportation Department, described as follows, to-wit:

**BEGINNING** at the Southwest corner of said Section 12, a point that bears South 1°28'53" West 36.85 feet from Station 615+17.81 of said Highway Survey and being the **REAL POINT OF BEGINNING**;

**THENCE** North 0°13'51" East along the West line of said Section 12 a distance of 221.31 feet to a point that bears North 1°27'26" East 184.31 feet from Station 615+13.06 of said Highway Survey;

**THENCE** South 89°46'09" East 25.00 feet to a point that bears North 1°34'49" East 184.97 feet from Station 615+37.65;

**THENCE** South 5°27'58" East 100.74 feet to a point that bears North 1°38'30" East 85.0 feet from Station 615+49.92;

**THENCE** Southeasterly 599.23 feet along an 11,544.16-foot radius curve left that has a chord that bears South 86°52'17" East 599.17 feet to a point that bears North 4°36'57" East 85.0 feet from P.C. Station 621+44.74 of said Highway Survey;

**THENCE** South 85°23'03" East 151.87 feet to a point that bears North 4°36'57" East 85.0 feet from P.C. Station 622+96.61 of said Highway Survey;

**THENCE** Southeasterly 841.84 feet along an 11,374.16-foot radius curve left that has a chord that bears South 87°30'17" East 841.65 feet to a point that bears North 0°22'30" East 85.0 feet from P.T. Station 631+44.74 of said Highway Survey;

**THENCE** South 89°37'30" East 1012.42 feet to a point on the East line of the SE¼SW¼ of said Section 12 that bears North 0°22'30" East 85.0 feet from Station 641+57.16 of said Highway Survey;

**THENCE** South 0°19'26" West along said East line of SE¼SW¼ of Section 12 a distance of 50.0 feet to the South quarter corner of said Section 12, which point bears North 0°22'30" East 35.0 feet from Station 641+57.21 of said Highway Survey;

**THENCE** North 89°37'30" West along the South line of said Section 12 a distance of 2638.16 feet to the **REAL POINT OF BEGINNING**.

Highway Station Reference: 615+17.81 to 641+57.21

**PARCEL NO. 5**

That portion of Lot 13, **CLEAR BROOK ACRES SUBDIVISION**, Twin Falls County, Idaho, according to the official plat thereof recorded in Book 8 of Plats, page 21, records of Twin Falls County, Idaho, lying within the following described property:

Township 10 South, Range 16 East, Boise Meridian, Twin Falls County, Idaho

Section 11: That part of the NW¼SE¼ described as follows:

**BEGINNING** at the Northeast corner of said NW¼SE¼;

**THENCE** South along the East boundary line thereof 320 feet;

**THENCE** West parallel to the North boundary of said NW¼SE¼ 100 feet;

**THENCE** North parallel to the West boundary line of said NW¼SE¼ 320 feet;

**THENCE** East along the North boundary line of said NW¼SE¼ 100 feet to the **POINT OF BEGINNING**.

CERTIFICATE OF LIMITED PARTNERSHIP  
OF TOLBERT FAMILY LIMITED PARTNERSHIP

STATE OF IDAHO                    )  
                                      : ss.  
County of Twin Falls            )

The undersigned, parties desiring to form a limited partnership, do hereby swear and certify as follows:

(a) The name of the partnership is TOLBERT FAMILY LIMITED PARTNERSHIP.

(b) The character of the business of the partnership shall be to acquire, hold, operate, manage and dispose of, as liquidity is desired, the real and personal property owned by the partnership as set forth on Schedule A attached hereto and incorporated herein by reference and to hold, lease, exchange, sell, dispose of and otherwise deal with such property in any manner whatsoever and to carry on any and all business activities incident thereto, all for the purpose of which this partnership was formed.

(c) The location of the principal place of business of the partnership is Route 4, Twin Falls, Idaho 83301. The resident agent is Robert W. Stephan at 102 Main Avenue South, P. O. Box 83, Twin Falls, Idaho 83303-0083.

(d) The name and place of residence of the general partners are as follows:

| <u>NAME</u>           | <u>PLACE OF RESIDENCE</u>                 |
|-----------------------|-------------------------------------------|
| NATHAN EDWARD TOLBERT | 350 Winterberry<br>Okemos, Michigan 48864 |

BERT M. TOLBERT

444 Kalmia  
Boulder, Colorado 80302

MARIAN TOLBERT CHILDS

7857 56th Place, N.E.  
Seattle, Washington 98115

(e) The name and place of residence of each of the limited partners in the partnership is as follows:

| <u>NAME</u>           | <u>PLACE OF RESIDENCE</u>           |
|-----------------------|-------------------------------------|
| HELEN ESTELLE TOLBERT | Route #4<br>Twin Falls, Idaho 83301 |

(f) The Partnership shall exist indefinitely from the date hereof until terminated pursuant to the terms of this agreement.

(g) The amount of cash and a description of and the agreed values of the other property contributed by each partner and each Limited Partner are as follows:

| <u>NAME</u>           | <u>DESCRIPTION</u> | <u>VALUE</u> |
|-----------------------|--------------------|--------------|
| NATHAN EDWARD TOLBERT | see Exhibit "A"    | \$214,525.69 |
| BERT M. TOLBERT       | see Exhibit "A"    | \$214,525.69 |
| MARIAN TOLBERT CHILDS | see Exhibit "A"    | \$214,525.69 |
| HELEN ESTELLE TOLBERT | see Exhibit "A"    | \$185,814.94 |

(h) The general partners shall be required to make additional capital contributions if additional capital is needed to maintain partnership operations. The Limited Partners shall not be required to make additional contributions to the partnership unless they agree to do so.

(i) Cash available for distribution shall be determined on a cash basis for federal income tax purposes

adding back to this item all depreciation and any other noncash expenses items and subtracting all cash expenditures of the partnership not taken into account in determining taxable income. The cash available for distribution shall then be distributed annually to the partners in proportion to the number of interests that each partner has in his or her respective capital account to the total interests of the combined capital accounts of all partners.

(j) A limited partner may not assign or encumber all or any part of his interest in the partnership.

(k) A limited partner may not withdraw in whole or in part from the partnership. The general partner shall not withdraw from the partnership at any time if such withdrawal shall result in a termination of the partnership. Notwithstanding anything herein to the contrary, the representative of a deceased limited partner desiring to sell their interest in the partnership upon the death of a limited partner shall first offer the interest of the deceased limited partner to the partnership. The purchase price shall be defined to mean that partner's interest as determined by the percentage of that partner's capital account to the total of all capital accounts and the fair market value of the net assets of the partnership. If the partnership fails for whatever reason to purchase any or all of the limited partner's interest offered for sale within 90

days the remaining limited partners, if any, shall have the next option to purchase the limited partner's interest offered at the purchase price; said option to purchase to limited partners shall be for 60 days from the first date of offer to the limited partner. If the limited partner's interest offered for purchase remains unsold at the expiration of the option period set forth herein, then it may not be sold but the said deceased limited partner's interest shall be liquidated and paid to the estate of said deceased limited partner.

(1) Only upon termination of the partnership shall a partner be entitled to receive or a general partner be entitled to make distributions to a partner which include a return of all or any part of the partners contribution.

(m) The partnership shall be dissolved upon the occurrence of any of the following:

(1) The election of the General Partners to dissolve and terminate the Partnership; provided, that in such case the Limited Partners shall have the right to continue the Partnership upon approval of all of the Limited Partners by electing to convert the Partnership to a General Partnership.

(2) The final disposition of all interest in the assets of the Partnership.

(3) The death of the last of the Limited

Partners shall terminate the Partnership, but the executor, administrator or a trustee acting pursuant to a trust or Last Will and Testament of such deceased Limited Partner shall have all of the rights of the deceased Limited Partner for the purpose of settling his or her estate; and such executor, administrator or trustee, shall have full power to constitute himself or his assigns a substituted Limited Partner solely for purposes of winding up the Limited Partner's affairs. The Limited Partners expressly agree to provide in their estate planning vehicles that the partnership assets or liabilities shall be distributed equally to their surviving children, under the condition that the General Partner have an option of buying the interest of each such surviving child by paying such the pro rata share of the capital account of the deceased Limited Partner to which said surviving child would otherwise be entitled.

(4) The death, retirement, dissolution or insanity of the last surviving General Partner shall operate as a dissolution of the Partnership.

(5) Any other event causing termination of Limited Partnerships generally at law unless the partners unanimously and specifically provide to the contrary.

(m) Upon the death or incapacity of a general partner, the remaining general partners shall have the right

to continue the partnership business or to wind up and liquidate the partnership. If the general partners elect to dissolve and terminate the partnership, the limited partners shall have the right to continue the partnership upon approval of all of the limited partners -ing to convert the partnership to a general partners.

IN WITNESS WHEREOF, the undersigned have ex-  
this certificate effective the 22 -

Subscribed and sworn to before me, this

30 day of January, A. D. 1985  
Salvatore Mark Guastella  
Notary Public, County, Michigan  
My Commission expires 6-20-87

Nathan Edward Tolbert

SALVATORE MARK GUASTELLA  
Notary Public, Ingham County, MI  
My Commission Expires June 20, 1987

BERT M. TOLBERT

Marian Tolbert Childs  
MARIAN TOLBERT CHILDS

"General Partners"

Helen Estelle Tolbert  
HELEN ESTELLE TOLBERT

"Limited Partner"

STATE OF Colorado )  
County of Boulder ) : ss.

THE UNDERSIGNED, being first duly sworn on oath, state that they are the persons named in the foregoing CERTIFICATE OF LIMITED PARTNERSHIP, that they have read the same and know the contents thereof, and believe the same to be just, correct and true.

Subscribed and sworn to before me, this  
30 day of January, A. D. 1985  
Salvatore Mark Guastella  
Notary Public, County, Michigan  
My Commission expires 6-20-87

Notary Edward Tolbert  
SALVATORE MARK GUASTELLA  
Notary Public, Ingham County, MI  
MY Commission Expires June 20, 1986.

Marian Tolbert Childs  
MARIAN TOLBERT CHILDS

Helen Estelle Tolbert  
HELEN ESTELLE TOLBERT

SUBSCRIBED AND SWORN to before me this 17<sup>th</sup> day of  
December, 1984.  
JANUARY 1985

STATE OF WASHINGTON }  
County of KING } ss.

On this 15th day of January, A. D. 1985, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared Marian Tolbert Childs and Helen Estelle Tolbert to me known to be the individual S described in and who executed the foregoing instrument, and acknowledged to me that they signed and sealed the said instrument as my free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Winston C. Campbell  
Notary Public in and for the State of Washington  
residing at Seattle

No. 100952

TOLBERT FAMILY LIMITED PARTNERSHIP

Certificate of Limited Partnership

STATE OF IDAHO  
Department of State  
Boise, Idaho  
Approved, filed and admitted to the  
corporation records of the State of  
Idaho  
Date June 17, 1985  
Time 10:26 a.m.

FEES PAID \$ \$60.00

Pete T. Cenarrusa

SECRETARY OF STATE

By: *Stephan Slavin*

Invoice # 51933

CCR # 6025

Filing Party

Stephan, Slavin, Kvanvi & Greenwood  
P. O. Box 83  
Twin Falls, Idaho 83303-3083

SCHEDULE "A"

- Parcel No. 1: Northeast Quarter and Northeast .7 acres of Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$ ) of Section 11, Township 10 South, Range 16 E.B.M., Twin Falls County, State of Idaho.
- Parcel No. 2: Southwest Quarter including Tax No. 338 of Section 12, Township 10 South, Range 16 E.B.M., Twin Falls County, State of Idaho.
- Parcel No. 3: Northeast Quarter (NE $\frac{1}{4}$ ) South and West of Canyon EXCEPT Northeast 1.5 acres of the Northeast Quarter of the Northwest Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ ) and EXCEPT East 55 feet of highway and EXCEPT Northeast 1.50 acres of the Southeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$ ) of Section 12, Township 10 South, Range 16 E.B.M., Twin Falls County, State of Idaho.
- Parcel No. 4: North forty (40) feet of Lot 31, Township 10 South, Range 16 E.B.M., Twin Falls County, State of Idaho.

Farming Operation Assets:

1. 3/4 share of the assets of the operating partnership, Tolbert Agents.
2. Operating assets of the Helen Tolbert farm held in the Idaho First National Bank, Twin Falls, Idaho.
3. 3/4 share of all produce held by the Tolbert Agents partnership.
4. All Idaho farm produce held by Helen E. Tolbert.
5. Other contributions.
  - (a) \$170.00 cash

STEPHAN, SLAVIN, KVANVIG & GREENWOOD

ATTORNEYS AT LAW

FRANK L. STEPHAN 1886-1952

TWIN FALLS BANK AND TRUST CO. BUILDING

OFFICE ADMINISTRATOR

TWIN FALLS, IDAHO 83303-0083

ESTHER BOPP

ROBERT W. STEPHAN

P. O. Box 83

OF COUNSEL

DANIEL A. SLAVIN

TELEPHONE 208/733-2722

WILLIAM J. LANGLEY, P.A.

RUSSELL G. KVANVIG, P.A.

TELEPHONE 208/733-8452

RICHARD D. GREENWOOD

June 27, 1985

Mr. Bert M. Tolbert  
444 Kalmia  
Boulder, CO 80302

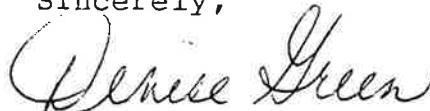
Re: Tolbert Family Limited Partnership

Dear Mr. Tolbert:

Enclosed please find a Certificate of Limited Partnership for the Tolbert Family Limited Partnership which have been filed with the Secretary of State's office in Boise. We have kept a copy for our file and the original is on file in Boise.

If you have any questions please feel free to contact our office.

Sincerely,



Denise Green

Sec. to Russell Kvanvig

Enclosure

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 47-4247

Date Received \_\_\_\_\_

Receipt Number \_\_\_\_\_

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

Please type or print clearly

1. Name of Claimant (s) TOLBERT FAMILY LTD PARTNERSHIP Phone (303) 447-8532Mailing Address c/o PAUL SLIGAR 3957 N 2600 E TWIN FALLS, ID Zip 83301-0191x 2. Date of Priority (Only one (1) per claim) march 15, 19513. Source of water supply (a) L.P. Cowlee, water from drainage Tunnel, Spring  
which is tributary to (b) Rock Creek To Snake River4. a. Location of existing point of diversion is: Township 10S Range 16E Section 11,  
NE 1/4 of NW 1/4 of SE 1/4, Govt. Lot, \_\_\_\_\_ B.M., County of Twin Falls

Additional points of diversion if any: \_\_\_\_\_

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.Concrete diversion dam in L.P. Cowlee, 1950318 feet of ditches to irrigation ditch, 1950Pipeline To SE quarter of SE quarter of NE quarter of SECTION 11, 1961pump and pipeline To SW quarter of SW quarter of NE quarter  
of SECTION 11, 1988

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Supplemental irrigation purposes from 3/15 to 11/15 amount 3.20 or \_\_\_\_\_

For Stock water purposes from 1/1 to 12/31 amount 0.07 or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

7. Total quantity claimed (a) 3.27 (cfs) and/or (b) \_\_\_\_\_ (acre feet)

8. Total consumptive use claimed is 400 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) NO HOUSEHOLD, 75 CATTLE, or 200 Sheep

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

| TWP | RNG | SEC | NE 1/4 |       |       |       | NW 1/4 |       |       |       | SW 1/4 |       |       |       | SE 1/4 |       |       |       | Totals |
|-----|-----|-----|--------|-------|-------|-------|--------|-------|-------|-------|--------|-------|-------|-------|--------|-------|-------|-------|--------|
|     |     |     | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 |        |
| 10S | 16E | 11  | 40     | 40    | 40    | 40    |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |

Total number of acres irrigated 160

11. In which county (ies) are lands listed above as place of use located? Twin Falls

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

13. Describe any other water rights used at the same place and for the same purposes as described above.  
Twin Falls Canal Company water rights or None ( )

14. Remarks:  
\* Authority for claim claimed by Bert M. Tolbert, General Partner of Tolbert Family Limited Partnership  
\*\* Beneficial use of this water was started from earliest years of the Twin Falls irrigation Tract as shown by early now-filled-in ditches. Power line remnants are present for pump use from circa 1942, Permit use granted 1961; extended 1981, file for 1988

Last Name \_\_\_\_\_ Ident No. \_\_\_\_\_

Copies: White -State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use X Posted Notice \_\_\_\_\_ License \_\_\_\_\_ Permit XX

Decree \_\_\_\_\_  
If applicable provide IDWR Water Right Number 47-4247 and 29627  
Court \_\_\_\_\_ Case Number \_\_\_\_\_ Decree Date \_\_\_\_\_  
Plaintiff vs 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 X do not \_\_\_\_\_ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments \_\_\_\_\_

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_\_

For Organizations: I do solemnly swear or affirm that I am General Partner Title \_\_\_\_\_

of Tolbert Family LTD Partnership Organization \_\_\_\_\_, that I have signed the foregoing

document in the space below as General Partner Title \_\_\_\_\_ of Tolbert Family LTD Partnership Organization \_\_\_\_\_

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Brent M. Tolbert

Title and Organization General Partner, Tolbert Family LTD Partnership Date ship

State of Idaho/or \_\_\_\_\_ )  
County of Twin Falls ) SS.

Subscribed and sworn (or affirmed) before me this 26<sup>th</sup> day of October 2004



Notary Public Kelly K. Christensen

Residing at Twin Falls, ID

My Commission Expires 4-2-2010

Please Print Name

17. Notice of Appearance

Notice is hereby given that I, \_\_\_\_\_ 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 \_\_\_\_\_

Address \_\_\_\_\_

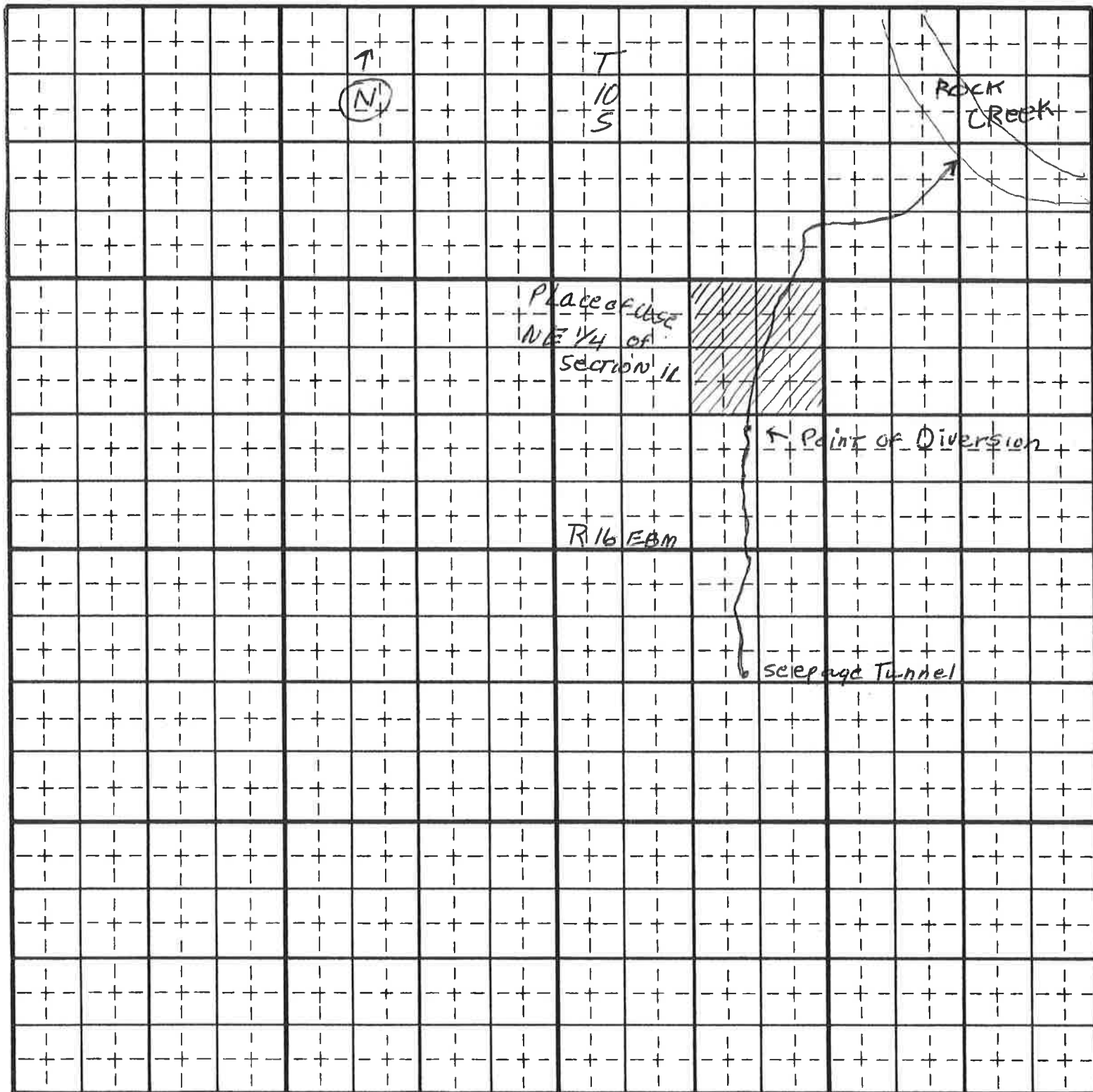
Date \_\_\_\_\_

Last Name \_\_\_\_\_ Ident. Number \_\_\_\_\_

Copies White-State, Yellow-Claimant

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



Last Name TOLBERT Family LTD Ident No. \_\_\_\_\_  
PARTNERSHIP

Copies: White-State, Yellow-Claimant

SCANNED

MAR 11 2012

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: A47-04247  
Date Received: 12/08/1988  
Receipt No: S004350  
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name: TOLBERT PARTNERSHIP 208-733-8230  
Address: C/O PAUL SLIGAR  
RT. 4  
TWIN FALLS, ID 83301

AND

Name: ESTHER LILAH EWING TRUST  
Address: C/O PAUL SLIGAR  
RT. 4  
TWIN FALLS, ID 83301

2. Date of Priority: MAR 29, 1961

3. Source: L. P. COULEE Trib. to: ROCK CREEK

4. Point of Diversion:

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 of | Lot | County     |
|----------|-------|---------|--------|--------|--------|-----|------------|
| 11S      | 16E   | 11      | NE     | NW     | SE     |     | TWIN FALLS |

5. Description of diverting works:  
DIVERSION DAM, DITCHES

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| IRRIGATION | 03/15 | 11/15 | 3.200  |      |        |
| STOCKWATER | 01/01 | 12/31 | 0.070  |      |        |

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

8. Total consumptive use is 480.0 Acre Feet Per Annum.

9. Non-irrigation uses:  
S/75 BEEF 200 SHEEP

A47-04247

Page 1

Date: 12/08/88

MICROFILMED

MAR 11 1993

10. Place of Use:

| Township | Range | Section | 1/4 | of | 1/4 | Lot | Use           | Acres |
|----------|-------|---------|-----|----|-----|-----|---------------|-------|
| 10S      | 16E   | 11      | NE  |    | NE  |     | IRR           | 40.0  |
|          |       |         | NW  |    | NE  |     | IRR           | 40.0  |
|          |       |         | SW  |    | NE  |     | IRR           | 40.0  |
|          |       |         | SE  |    | NE  |     | IRR           | 40.0  |
|          |       |         |     |    |     |     |               |       |
|          |       |         |     |    |     |     | Section Acres | 160.0 |
|          |       |         |     |    |     |     | Total Acres   | 160.0 |

11. Place of use in counties: TWIN FALLS

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

13. Other Water Rights Used:  
TFCC SHARES

14. Remarks:

AUTHORITY FOR CLAIM CLAIMED BY BERT M. TOLBERT, GENERAL PARTNER OF TOLBERT PARTNERSHIP AND TRUSTEE OF ESTHER LILAH EWING TRUST, THE OWNER OF THE PROPERTY.  
BENEFICIAL USE OF THIS WATER WAS STARTED CIRCA 1942. PERMIT USE WAS GRANTED IN 1961 AND EXTENDED IN 1981.  
DWR NOTE\*\*243 CLAIM ONLY SHOWS 3.20 CFS.  
ALSO CLAIMED PREVIOUSLY UNDER WR# 47-02351.

15. Basis of Claim: STATUTORY CLAIM

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): \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_ Date: \_\_\_\_\_

State of Idaho )  
County of \_\_\_\_\_ ) SS.

Subscribed and sworn (or affirmed) before me this \_\_\_\_\_ day  
of \_\_\_\_\_ 19 \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Seal

Residing at \_\_\_\_\_

My Commission Expires \_\_\_\_\_

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

Date Received

Receipt Number

447-04247

5004350

see

NOTICE OF CLAIM  
TO A  
WATER RIGHT  
ACQUIRED UNDER STATE LAW

RECEIVED

DEC 8 1988

Department of Water Resources  
Southern Region Office

## Please type or print clearly

1. Name of Claimant (s) Tolbert Partnership and  
Esther Lilah Ewing Trust Phone (208) 733-8230

Mailing Address c/o Paul Sligar, Route 4, Twin Falls, Idaho Zip 83301

2. Date of Priority (Only one (1) per claim) March 29, 1961

3. Source of water supply (a) Drainage L.P. Coulee, water from drainage tunnel.  
which is tributary to (b) Rock Creek to Snake River

4. a. Location of existing point of diversion is: Township 10 South Range 16 EBM Section 11,  
NE 1/4 of NW 1/4 of SE 1/4, Govt. Lot, B.M., County of Twin Falls

Additional points of diversion if any: \_\_\_\_\_

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.

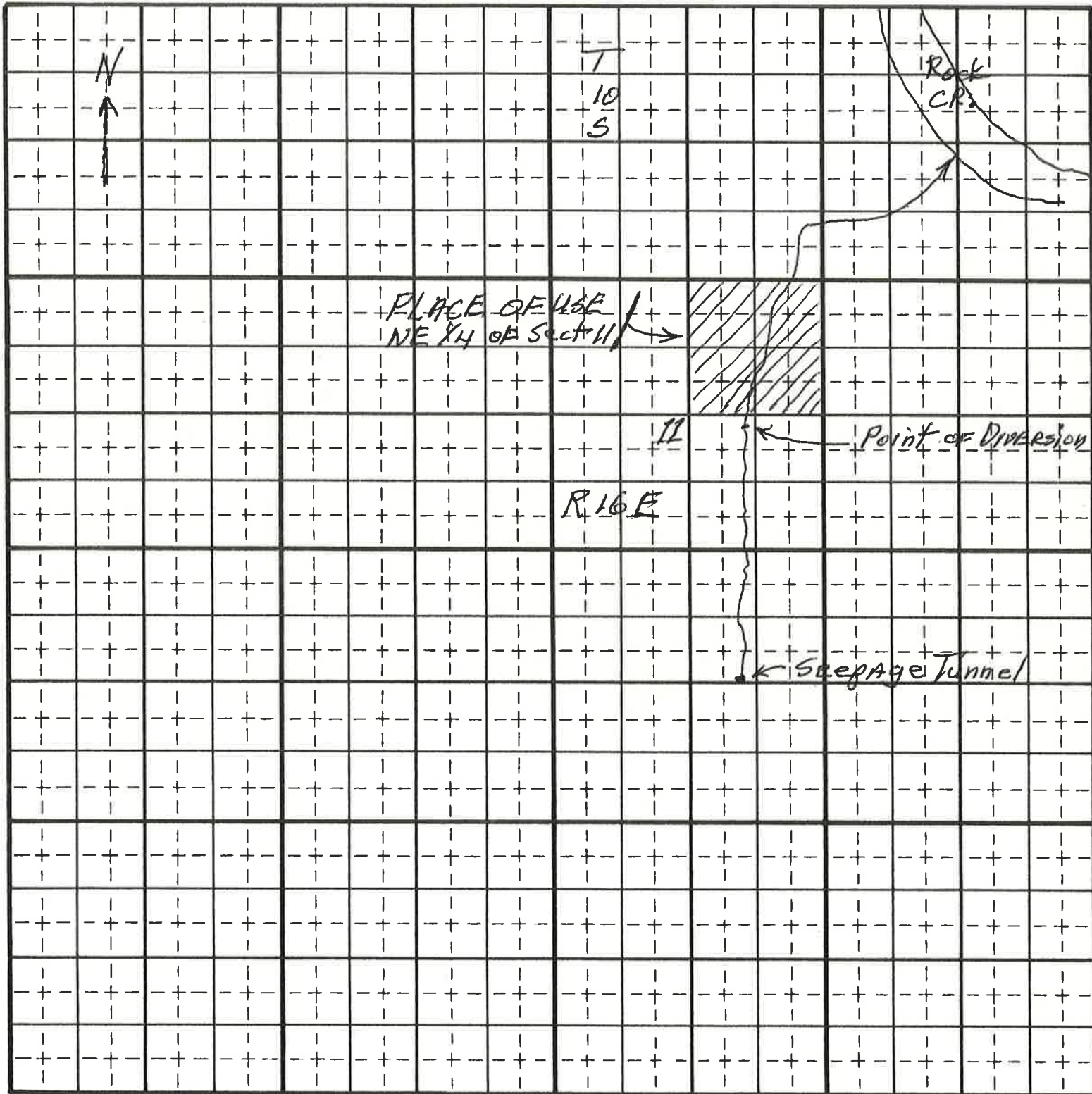
concrete diversion dam in coulee, 318 feet of ditch to irrigation ditches.

MICROFILMED

MAR 11 1993

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



MICROFILMED

MAR 11 1993

Last Name TOLBERT PARTNERSHIP

Ident No. A47-04247

Copies: White-State, Yellow-Claimant

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For supplemental irrigation purposes from 3/15 to 11/15 amount 3.20 or \_\_\_\_\_

For stockwater purposes from 1/1 to 12/31 amount 0.07 or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

7. Total quantity claimed (a) 3.27 (cfs) and/or (b) \_\_\_\_\_ (acre feet)

8. Total consumptive use claimed is 400 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) no household, 75 cattle or 200 sheep

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

| TWP | RNG | SEC | NE 1/4 |       |       |       | NW 1/4 |       |       |       | SW 1/4 |       |       |       | SE 1/4 |       |       |       | Totals |
|-----|-----|-----|--------|-------|-------|-------|--------|-------|-------|-------|--------|-------|-------|-------|--------|-------|-------|-------|--------|
|     |     |     | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 |        |
| 10S | 16E | 11  | 40     | 40    | 40    | 40    |        |       |       |       |        |       |       |       |        |       |       |       | 160    |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |

Total number of acres irrigated 160

11. In which county (ies) are lands listed above as place of use located? Twin Falls

12. Do you own the property listed above as place of use? \* Yes xx No \_\_\_\_\_

If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

Twin Falls Canal Company water rights or None ( )

14. Remarks: \* Authority for claim claimed by Bert M. Tolbert, General Partner of Tolbert

Partnership and Trustee of Esther Lilah Ewing Trust, the owner of the property.

\*\* Beneficial use of this water was started circa 1942. Permit use was granted  
in 1961 and extended in 1981.

**MICROFILMED**

Last Name TOLBERT PARTNERSHIP Ident No. A47-04247

**MAR 11 1993**  
Copies: White -State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use \_\_\_\_\_ Posted Notice \_\_\_\_\_ License \_\_\_\_\_ Permit XX  
Decree \_\_\_\_\_  
If applicable provide IDWR Water Right Number 47-4247 and 29627  
Court \_\_\_\_\_ Case Number \_\_\_\_\_ Decree Date \_\_\_\_\_  
Plaintiff vs 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 X do not \_\_\_\_\_ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments \_\_\_\_\_

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) \_\_\_\_\_ Date \_\_\_\_\_  
\_\_\_\_\_ Date \_\_\_\_\_

For Organizations: I do solemnly swear or affirm that I am General Partner and Trustee  
Title  
of Tolbert Partnership and Esther Lilah Ewing Trust, that I have signed the foregoing  
Organization  
document in the space below as Partner and Trustee of Tolbert Partnership and ELE Trust  
Title Organization  
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Bert M Tolbert

Title and Organization Partner and Trustee, Tolbert Partnership & Esther Lilah Ewing Trust Date Nov 16, 1988

State of Idaho or Colorado )  
County of Boulder ) SS.

Subscribed and sworn to before me this 16<sup>th</sup> day of November 19 88



Notary Public Emily B. Kaune

Residing at 1215 Spruce, Boulder, Co 80302

My Commission Expires 6/19/90

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, \_\_\_\_\_ 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 \_\_\_\_\_

Address \_\_\_\_\_

Date \_\_\_\_\_

Last Name TOLBERT PARTNERSHIP Ident. Number A47-04247

Copies White-State, Yellow-Claimant

S . A T E   O F   I D A H O  
DEPARTMENT OF WATER RESOURCES  
Southern Region

---

1041 Blue Lakes Blvd. N.  
Twin Falls, Idaho 83301  
(208) 734-3578

JUNE 23, 1981

NATHAN E. TOLBERT  
BERT M. TOLBERT  
MARIAN E. CHILDS  
ESTHER EWING TRUST  
C/O PAUL SLIGAR  
RT. 4  
TWIN FALLS

ID 83301

RE: Claim No. 47-4247

Dear Claimant:

The Department of Water Resources has completed the advertising of your claim to a water right, and no further action is authorized under Section 42-243 and 42-244, IDAHO CODE. Your claim will be retained in our files and will be available at any time for use by you or the court.

The filing and advertising of the claim does not confirm the water right claimed, but will serve to record and preserve the information and the evidence which you included in your claim.

If, at a later date, you find that you have additional information or supporting evidence that you would like to have included with the claim, you may have that information or evidence added at any time. Please refer to the claim identification number when corresponding with this office.

We are enclosing a copy of your claim for your records. If you have questions, or if this office may be of further assistance, please feel free to contact us.

Yours truly,

  
LOREN O. HOLMES  
Southern Region Supervisor

Enclosure

MICROFILMED

MAR 11 1993

A47-04247

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT



Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that Nathan E. Tolbert, Bert M. Tolbert, Marian E. Childs, Esther Ewing  
Trust & Paul Sligar, R. R. 4, Twin Falls (Name of Claimant)  
Idaho 83301 (Mailing Address) Telephone No. 733-8230 (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use) March 29, 1961

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 is that a claim may be filed on single family domestic use from a ground water source.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

Drainage, L.P. Coulee tributary to Rock Creek

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

| Quantity             | (cfs, gpd, AFA) | Use                   | (Domestic, Irrigation, Stock, Etc.) | (Both dates inclusive)         |                 |
|----------------------|-----------------|-----------------------|-------------------------------------|--------------------------------|-----------------|
|                      |                 |                       |                                     | (Mo., Day)                     | (Mo., Day)      |
| Quantity <u>3.20</u> |                 | Use <u>irrigation</u> |                                     | Period of Use From <u>3/15</u> | To <u>11/15</u> |
| Quantity <u>.07</u>  |                 | Use <u>stockwater</u> |                                     | Period of Use From <u>1/1</u>  | To <u>12/31</u> |
| Quantity _____       |                 | Use _____             |                                     | Period of Use From _____       | To _____        |
| Quantity _____       |                 | Use _____             |                                     | Period of Use From _____       | To _____        |
| Quantity _____       |                 | Use _____             |                                     | Period of Use From _____       | To _____        |

(4) 3.20 TOTAL QUANTITY USED.

(cfs, gpd, AFA)

(5) A) Point of diversion: (Location of point where water is diverted from its source)

NW ¼ SE ¼, Sec. 11 Twp. 11-S Rge. 16E B.M., County of Twin Falls

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. Describe any changes in the system and give the date of the change. diversion dam, 318' ditch to irrigation ditches

(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.

| T   | R   | SEC. | NE¼ |     |     |     | NW¼ |     |     |     | SW¼ |     |     |     | SE¼ |     |     |     | TOTAL |
|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-------|
|     |     |      | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ |       |
| 10S | 16E | 11   | 40  | 40  | 40  | 40  |     |     |     |     |     |     |     |     |     |     |     |     | 160   |
|     |     |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |       |
|     |     |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |       |
|     |     |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |       |
|     |     |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |       |
|     |     |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |       |
|     |     |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |       |
|     |     |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |       |
|     |     |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |       |
|     |     |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |       |

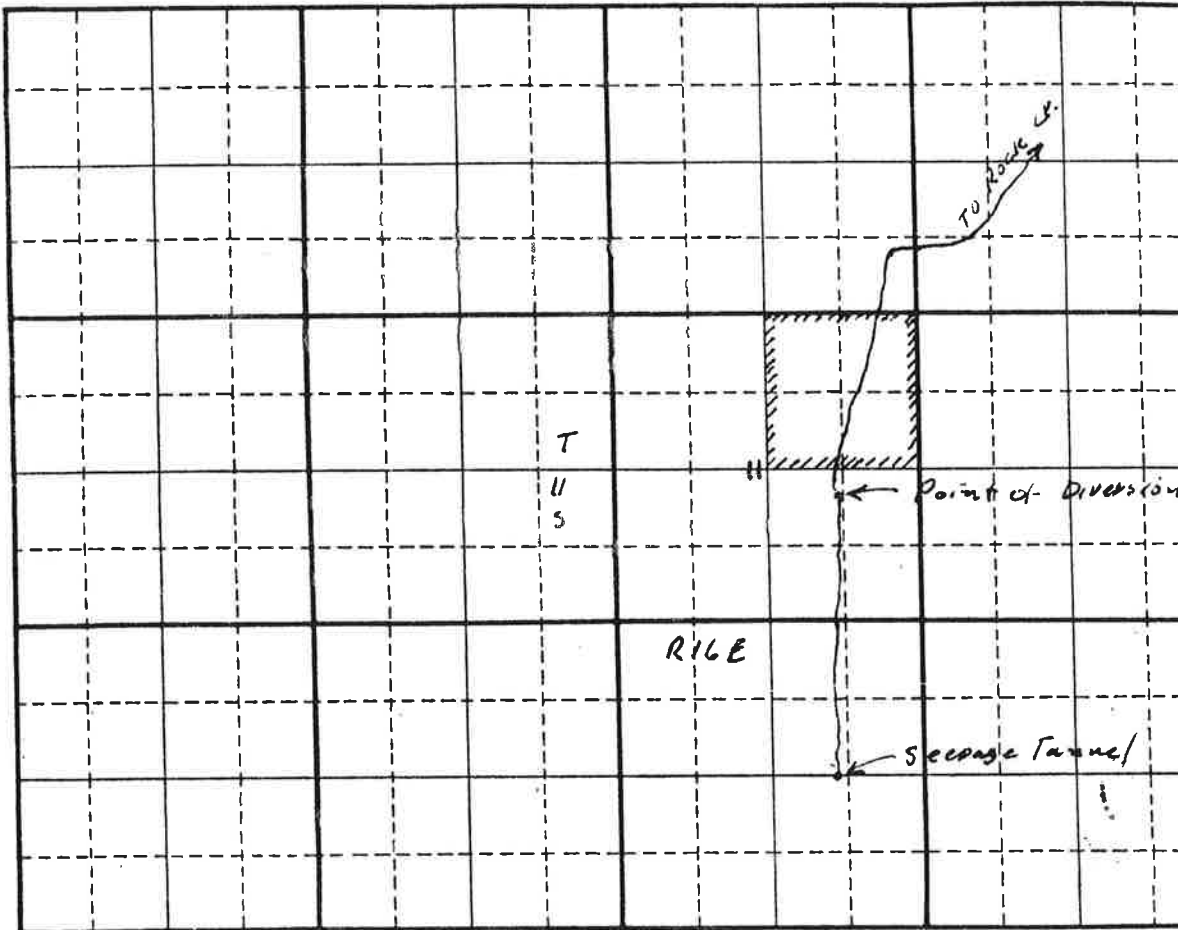
No. of acres 160

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: irrigation plus stock water

NOTE: Include here the type and number of stock watered: 150-300 head cow-calf pairs

(7) If you are claiming water as a member of an organization, list name of organization: \_\_\_\_\_

(8) Remarks The present farmers have been using 160 inches of water since 1969 for farm and cattle uses - 60 inches of the 160 claimed has been patented under License 47-2351



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 Twin Falls ) ss.

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 affiant's knowledge.

Bert M. Tolbert

(Claimant)

Sworn to before me this 22 day of May, 1981.

Loren O. Hansen

Notary Public

Residing at Twin Falls, Idaho 83301

My commission expires life

FOR DEPARTMENT USE ONLY

Received by LA Date 5/22/81 Exception filed by: \_\_\_\_\_ Date \_\_\_\_\_  
Prelim. check by JA Date 5-26-81 Forwarded to claimant by: \_\_\_\_\_  
\$30.00 fee received by maria Date 5/22/81 #18624  
Published in Times-June  
Dates 6-4-81



RECEIVED

MAR 29 1961

Address all communications to 875 G. 777.  
Department of Reclamation

(Form No. 1)

P. O. \_\_\_\_\_

# APPLICATION FOR PERMIT

TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO

Application No. 37604

Permit No. 29627

District No. \_\_\_\_\_ (Nathan E., and Bert M. Tolbert, Mrs.

1. Name of applicant: Ed Tolbert, Agent for (Merion E. Childs and Mrs. Esther L. Childs) Ewing

Post office address Route 3, T.F. County Twin Falls State Idaho

I. If applicant is a corporation, give:

(a) Date and place of incorporation: \_\_\_\_\_

(b) Amount of Capital stock: \$ \_\_\_\_\_ (c) Amount paid in: \$ \_\_\_\_\_

(d) Names and addresses of directors: \_\_\_\_\_

II. The financial resources of the applicant are: (a) Cash on hand: \$ Cash

(b) Treasury stock: \_\_\_\_\_ (c) Bonds to be issued: \_\_\_\_\_

(d) Other resources: \_\_\_\_\_

2. Quantity of water claimed: 1 1/2 cubic feet per second

3. Source of water supply: Drainage on West side of L.H. Coalee  
which is tributary of \_\_\_\_\_

4. Location of point of diversion: 2340 feet distant from the S.E. corner of Section 11, T. 10S R. 16E, B. M., and is in the NW 1/4 of the SE 1/4 of Section 11, T. 10S R. 16E, B. M., County of Twin Falls.

5. Water is to be used for: Supplemental irrigation

6. If for mining, milling, power or manufacturing purposes, give:

(a) Point of use of water: \_\_\_\_\_ feet distant from \_\_\_\_\_ corner of Section \_\_\_\_\_

T. \_\_\_\_\_, R. \_\_\_\_\_, B. M., in the \_\_\_\_\_ of Section \_\_\_\_\_, T. \_\_\_\_\_, R. \_\_\_\_\_, B. M.

(b) Amount of power generated: \_\_\_\_\_ H. P., under \_\_\_\_\_ feet head.

(c) Water is to be returned to \_\_\_\_\_ at a point \_\_\_\_\_ feet

distant from the \_\_\_\_\_ corner of Section \_\_\_\_\_, T. \_\_\_\_\_, R. \_\_\_\_\_, B. M., in the

\_\_\_\_\_ of Section \_\_\_\_\_, T. \_\_\_\_\_, R. \_\_\_\_\_, B. M.

7. Estimated cost of works: \$ 5000

8. Kind of works: Cement check in Coalee  
(Reservoir, dam, ditch, flume, pipe, etc.)

9. Height of dam 2 1/2 feet; length of dam at top \_\_\_\_\_ feet; length of dam at bottom \_\_\_\_\_ feet;  
(If height of dam will exceed 10 feet or will store more than 100 acre feet of water, send to Department of Reclamation for regulations.)  
feet; material used in dam Cement

10. Size of headgate: Width 12" in feet; Height 12" in feet

11. Ditch: Width at bottom 1/2 feet; Width at water line 2 feet; Depth of water 1 feet;

Dimensions of flume \_\_\_\_\_; Diameter of pipe \_\_\_\_\_ inches;

Length of conduit \_\_\_\_\_ miles. Average grade per mile 1.5 feet.

14. The land to be irrigated is described in the following tabulation:  
(Give irrigable acreage in each 40-acre subdivision)

Total Number of Acres to be Irrigated 34

15. Existing water rights and/or valid permits appurtenant to the lands to be irrigated are: 5/11 in 1944

16. (a) Is reservoir to be used? ..... (If so, fill in (b) and (c) below.)

(b) Name of reservoir and number of Storage Permit: .....

(c) Date of filing of Application for Storage Permit and Name of Applicant: .....

Remarks: .....

BE IT KNOWN That the undersigned hereby makes application for permit to appropriate the public waters of the  
State of Idaho as herein set forth. Nathan E., and Bert M. Tolbert and Mrs.  
Marian E. Childs & Mrs. Esther L. Ewing  
Applicant.

By Ed Tolbert, Agent

## Affidavit of Permission to File on Springs

(Not to be used when spring is situated on lands owned by applicant.)

I, \_\_\_\_\_, of \_\_\_\_\_, County of \_\_\_\_\_,  
State of \_\_\_\_\_, do hereby certify that I am the owner  
of the land on which the spring mentioned in the application of \_\_\_\_\_ is  
located, to-wit: \_\_\_\_\_  
and that I do hereby grant unto the said \_\_\_\_\_ permission to file on the said spring  
as set forth in the foregoing application.

STATE OF IDAHO  
County of \_\_\_\_\_ } ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 195\_\_\_\_, before me, a Notary Public for the State of Idaho, residing  
at \_\_\_\_\_, personally appeared \_\_\_\_\_  
known to me to be the person whose name \_\_\_\_\_ subscribed to the foregoing certificate, and acknowledged to  
me that he executed the same.

Witness my hand and seal, the day and year in this certificate first above written.

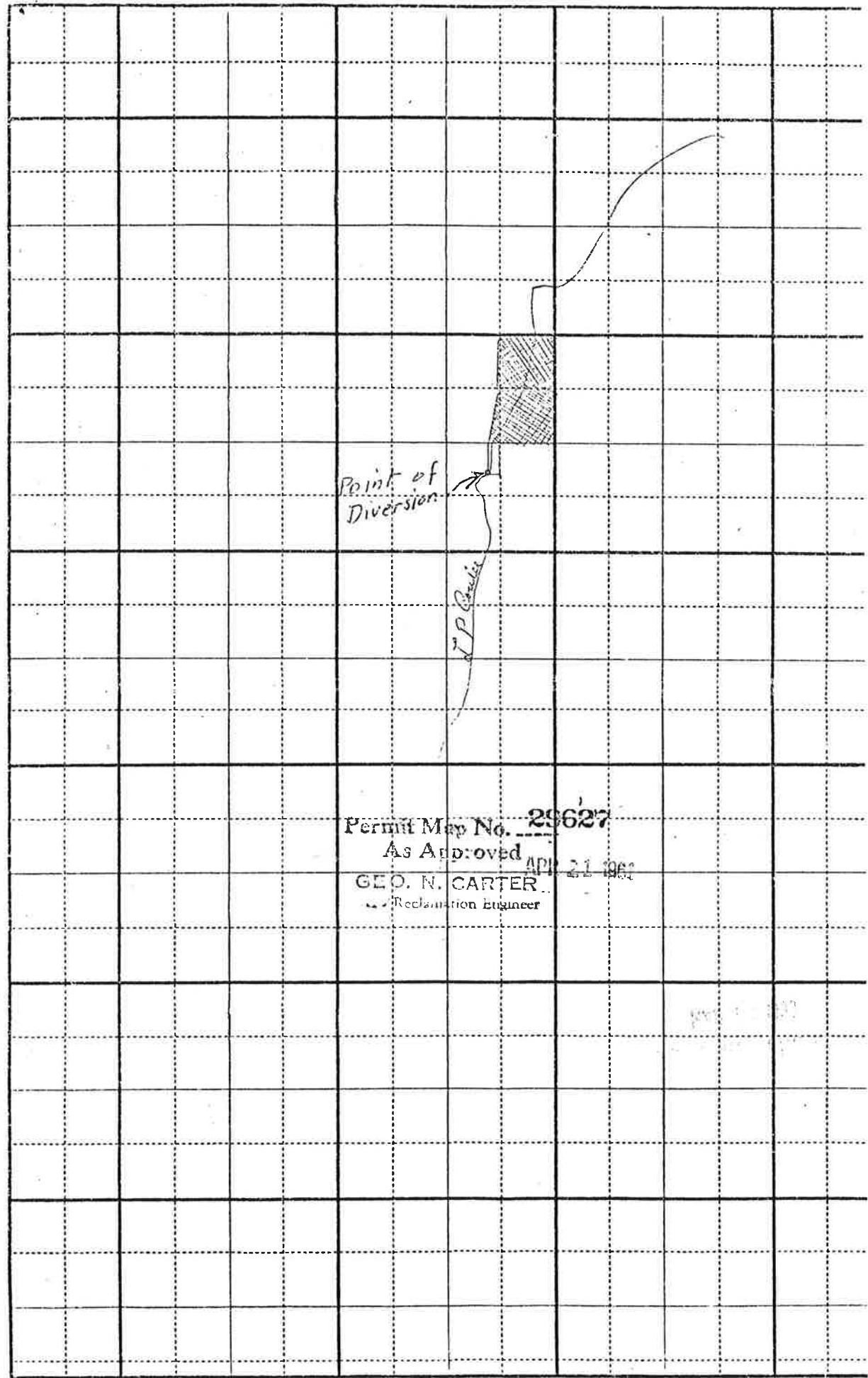
My commission expires \_\_\_\_\_

Notary Public.

Submitted by: E. Childs and Mrs. Esther L. Iwing  
Ed. Tolbert, Agent

NAME OF APPLICANT.....

Form No



Permit Map No. 29627  
As Approved APR 21 1961  
GEO. N. CARTER  
Reclamation Engineer

SCALE: 2 Inches Equal 1 Mile. Draw Plan In Ink.



Governor PHILIP E. BATT

R. KEITH HIGGINSON  
Director

January 10, 1995

A47-04247  
TOLBERT PARTNERSHIP  
C/O PAUL SLIGAR  
RT. 4  
TWIN FALLS

ID 83301

A47-04247  
ESTHER LILAH EWING TRUST  
C/O PAUL SLIGAR  
RT. 4  
TWIN FALLS  
ID 83301

RE: Evidence of Priority

Dear Claimant:

\*\*\*\*\*  
\* RESPONSE DEADLINE \*  
\* MARCH 15, 1995 \*  
\*\*\*\*\*

The Notice of Claim identified with the number shown above your name on the mailing label has been filed in the Snake River Basin Adjudication (SRBA). The Notice indicates your water usage is based on "Beneficial Use" or a "Statutory Claim". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed. The date of first use, known as the priority date, has not been confirmed by a License, Decree or Permit. The Department will, at a later date, conduct reviews &/or field exams for the claims in your area. Since the priority date of a beneficial use water right can not be confirmed by field examination, **proof must be provided by the claimant** supporting the priority date claimed.

If you no longer own the property to which the claim is appurtenant please forward this correspondence to the present owner, or return it to the department. If you have received this correspondence from the previous owner of the property it is recommended that you file a Change of Ownership form with the Department in order to receive future mailings and to continue to be a party in the adjudication.

Please find enclosed a computer printout of your Notice of Claim and the pamphlet entitled "Evidence of Priority". The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement.

**SPECIAL NOTE:** The Department will not recommend the Notice be decreed by the court as claimed if no evidence of a priority date is submitted. It will be to your advantage to provide clear and convincing evidence. If you choose to submit statements from individuals as evidence, the statement must be in the form of a

January 10, 1995  
page 2

notarized affidavit.

Please submit the required evidence supporting the priority date by March 15, 1995, referencing all documents with the corresponding Notice number. If you have any questions not covered by this letter or the enclosed pamphlet, please contact this office.

Sincerely,

  
Douglas Jones, P.E.  
Water Rights Supervisor

Enc.

MICROFILMED  
NOV 29 1996

02/25/2005

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

RIGHT NUMBER: 47-4247

NAME AND ADDRESS: TOLBERT FAMILY LTD PARTNERSHIP  
C/O PAUL SLIGAR  
3975 N 2600 E  
TWIN FALLS ID 83301

VERIFIED BY *KKC*

SOURCE: UNNAMED STREAM

TRIBUTARY: ROCK CREEK

QUANTITY: 1.190 CFS

PRIORITY DATE: 03/29/1961

POINT OF DIVERSION:

T10S R16E S11 NENWSE Within TWIN FALLS 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            | 03/15 11/15          | 1.170 CFS       |

PLACE OF USE: IRRIGATION Within TWIN FALLS County

|               |      |      |               |      |     |
|---------------|------|------|---------------|------|-----|
| T10S R16E S11 | NENE | 37.0 | T10S R16E S11 | SWNE | 8.0 |
| T10S R16E S11 | SENE | 36.0 |               |      |     |

STOCKWATER same as IRRIGATION

81 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A  
COMBINED TOTAL OF 81 ACRES IN A SINGLE IRRIGATION SEASON.  
COMBINED RIGHT NOS. 47-2351 and 47-4247

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

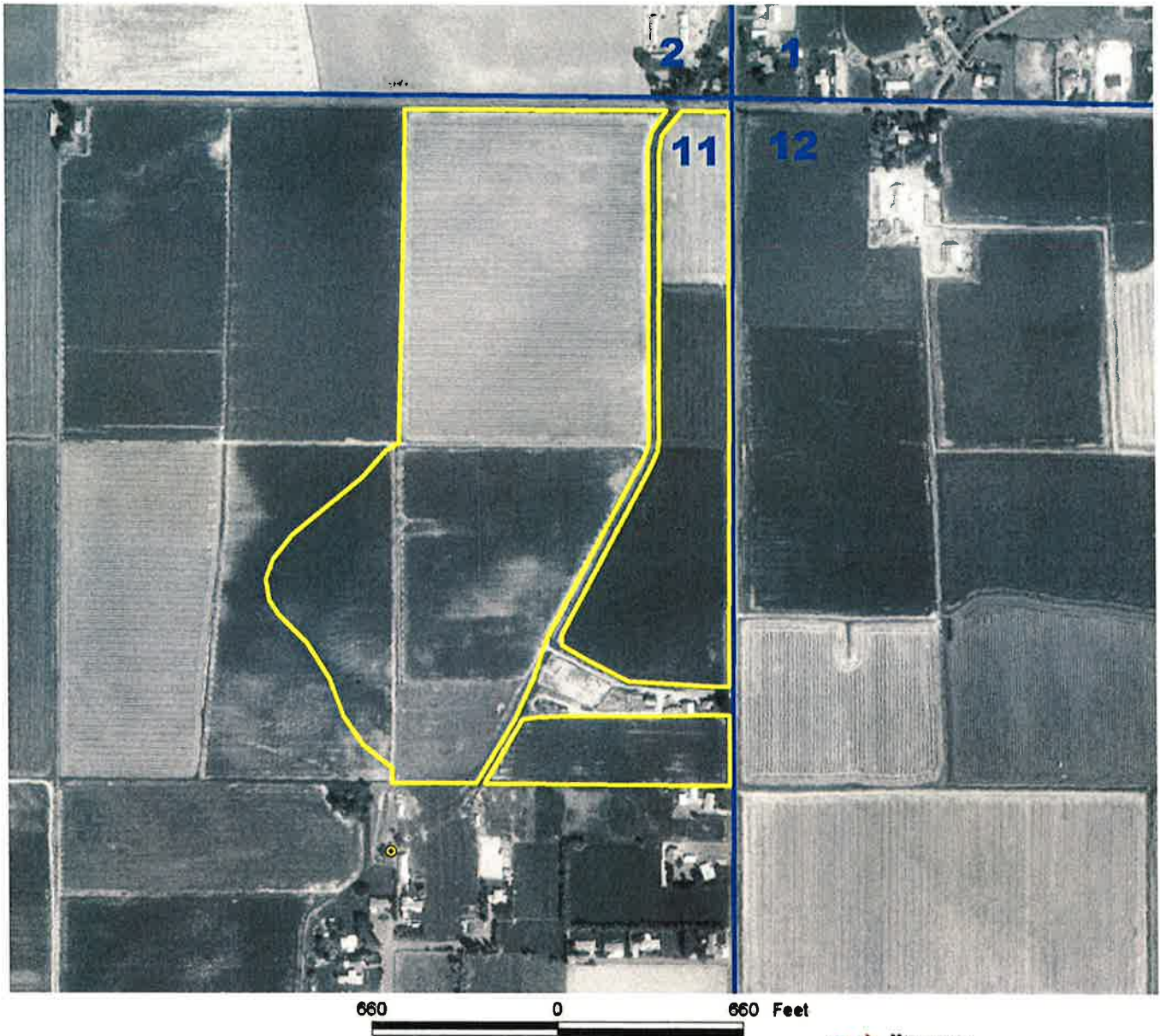
SOURCE IS ALSO KNOWN AS THE P COULEE.

THIS RIGHT REMAINS SUBJECT TO THE RIGHT OF THE ORIGINAL  
APPROPRIATOR, IN GOOD FAITH AND IN COMPLIANCE WITH STATE LAWS  
GOVERNING CHANGES IN USE AND/OR EXPANSION OF WATER RIGHTS,  
TO CEASE WASTING WATER, TO CHANGE THE PLACE OR MANNER OF  
WASTING IT, OR TO RECAPTURE IT.

USE OF THIS RIGHT IS COMBINED WITH WATER FROM TWIN FALLS CANAL  
CO.

Idaho Department of Water Resources

RECOMMENDED PLACE OF USE FOR  
47-4247



**PLACE OF USE**  
**TWP 10S, RNG 16E, SEC 11**  
Data entry on February 14, 2005



⊙ RECOMMENDED POINT OF DIVERSION

RECOMMENDED PLACE OF USE

LOCATION IN BASIN

TOWNSHIP LINES

SECTION LINES

QUARTER/QUARTER LINES

GIS PLACE OF USE PRESENTATION  
1993 ORTHO AERIAL PHOTOGRAPHY  
DATA ENTRY BY KELLY K CHRISTENSEN

02/25/2005

**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: See cover letter**

Water right number: 47-4247

TOLBERT FAMILY LTD PARTNERSHIP  
C/O PAUL SLIGAR  
3975 N 2600 E  
TWIN FALLS ID 83301  
Telephone Number: (208) 733-8230

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: 11/1/06 SIGNATURE: Tolbert Family Limited Partnership  
Please print your name: by Marvian Tolbert Childs, Gen Part

IDWR Regional Office, 1341 Fillmore St, Suite 200, Twin Falls, ID 83301, 2087363033

MDA

02/14/2005

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

RIGHT NUMBER: 47-4247

NAME AND ADDRESS: TOLBERT FAMILY LTD PARTNERSHIP  
C/O PAUL SLIGAR  
3975 N 2600 E  
TWIN FALLS ID 83301

SOURCE: LP COULEE

TRIBUTARY: ROCK CREEK

QUANTITY: 1.620 CFS

PRIORITY DATE: 03/29/1961

POINT OF DIVERSION:

T10S R16E S11 NENWSE Within TWIN FALLS 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            | 03/15 11/15          | 1.600 CFS       |

PLACE OF USE: IRRIGATION Within TWIN FALLS County

|               |      |      |               |      |     |
|---------------|------|------|---------------|------|-----|
| T10S R16E S11 | NENE | 37.2 | T10S R16E S11 | SWNE | 7.6 |
| T10S R16E S11 | SENE | 35.5 |               |      |     |

STOCKWATER same as IRRIGATION

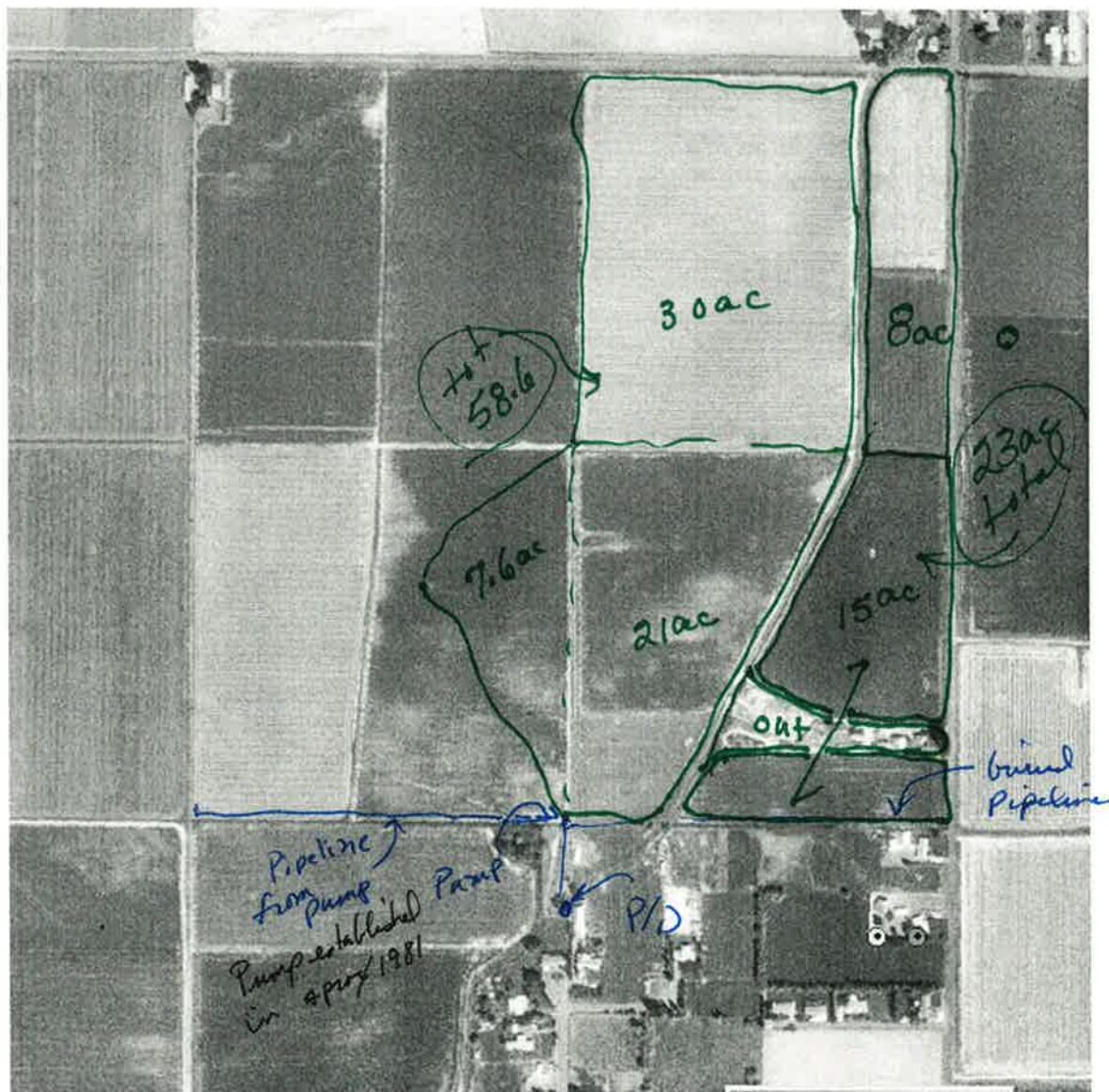
81.3 ACRES TOTAL

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

EXPLANATORY MATERIAL: Statutory Claim

Matt's Notes:

- 1) I used your POU, but modified it slightly so it matched the photo better - this caused the acreage to go from 81.6 acres to 80.3 acres. I had to approximate the acreages by QQ because of the GCDB problem. I digitized the POD in ArcView based on the sketch by Bert Tolbert in the file.
- 2) They claimed a priority date of 3/15/1951. I recommended a date of 3/29/1961 based on the letter by Jim Sharp and the license for supplemental water with a priority of 3/29/1961.
- 3) They claimed rates of 3.2 for irrigation and 0.07 for stockwater. I recommended 1.6 for irrigation and 0.02 for stockwater.
- 4) I created the a final layout.



info from Office visit  
on October 26, 2004  
By Bert Tolbert.

XX.X = found acres using arc view

47- 4247 } share same P/D  
2351 }

Oct 28, 04

To whom it may concern:

I started farming the Tolbert Farm, 160 A. of the N. E. quarter of section 11, T 10 S, 16 E B.M. county of Twin Falls. We moved on the farm the 1<sup>st</sup> of September of 1968.

At that time a pipeline ran along the south fence line from the L. P. coulee to the south east corner of the Tolbert Farm. The pipeline provided water to irrigate the east side of the farm.

From my experience with putting in pipelines, I would calculate that it was laid at least 3 yr. before we moved here. The ground was completely sodded over and was smooth.

Paul Shiga  
3957 N 2600 E  
Twin Falls, Idaho

RECEIVED  
OCT 29 2004  
Department of Water Resources  
Southern Region

for file 47-4247

To Robert Family Limited Partnership  
And to whom it may concern.

I was farming the 160 acre Farm  
of the NE quarter of Section 11, T10S, 16E B.M.  
County of Twin Falls, from 1961 thru 1967.  
In the fall of 1964 a pipeline was  
installed to transfer water from L. P.  
Coulter Diversion Point to the Southeast  
Corner of the Farm for irrigation of the  
East portion of the Farm. This pipeline  
was installed by Triple C Concrete of  
Twin Falls.

Jim Shay 10-28-04  
2600 E 4254 N  
Filer, Idaho 83328

RECEIVED  
OCT 29 2004  
Department of Water Resources  
Southern Region

for file 47-4247

Tolbert Family Limited Partnership  
Bert M. Tolbert, General Partner  
c/o Paul Sligar, 3957 N 2600 E, Twin Falls, ID 83301-0191  
Telephone 303-447-8432, email [bert.tolbert@colorado.edu](mailto:bert.tolbert@colorado.edu)

47-4247

Application for Permit for Appropriation of Water in the State of Idaho  
For use as supplemental irrigation water from the LP Coulee fed by a natural spring and a drainage tunnel and in summer, waste water.  
Use on 160 acre farm of the NE quarter of Section 11, T 10S, 16E B.M.,  
County of Twin Falls.

Kind of Works: Cement check in coulee, a pump station to raise water to higher land on the West, underground pipe lines for feed to the west and for gravity flow to the east.

In 1953 Ed and Helen Tolbert bought this 160 acre farm from the Bermeosolo Estate, which included an additional 100 x 320 foot area on the south side of the farm that allowed diversion of water from the LP Coulee to more than half the farm. See Deed Record No 180, Instrument No 432630 attached. Bermeosolo had purchased this addition to the 160 acres in 1950 which allowed a higher diversion point for the water for irrigation. See Deed Record No 169, attached.

There is evidence from old ditches that water from the LP Coulee, fed by a natural spring, had been used for supplemental irrigation for this farm from the earliest days of the Twin Falls irrigation track. A pump station had been installed prior to Tolbert's purchase of the land, which was later supplemented by underground pipe line. In 1988 a more modern pump station allowed this natural spring water to be used as supplemental irrigation water for the entire farm. During the recent drought years this water has been increasingly critical in raising crops on this farm.

In 1959 and subsequent years this farm was given by Ed and Helen Tolbert to their children: Nathan, Bert, Esther and Marian. Later these children transferred this property title to the Tolbert Family Limited Partnership to simplify ownership and management operations. Thus the farm has been continuously operated by the Tolbert family for over 50 years.

In 1961 Ed Tolbert, as Agent for his children, filed for a Permit for the LP Coulee water for about one half the farm. This Permit, No 29627, was approved by the State Reclamation Engineer on Apr 21, 1961. A copy of this Permit is attached.

In the 1988 this claim was updated following the construction of further diversion ditches and then the installation of a pump to raise the water to the high point of this property, the southwest corner. This enable the diversion water to be used as supplemental irrigation water for the whole farm, with a claim for 3.27 cfs and a total consumptive use of 400 acre feet.

TOLBERT FAMILY LTD. PARTNERSHIP

CIVIL CASE# NO. 39576

SEC 11, T10S, 16E BM

47-4247



← DIVERSION  
DITCH

CONCRETE  
CHECK ON  
LP COWLEE

Looking NORTH

DIVERSION DITCH  
(RIGHT)

PUMPING POND  
(LEFT)



18

# TWIN FALLS COUNTY

Instrument No 432630

## ADMINISTRATOR'S DEED

This indenture, made on the 23rd day of November, 1953, by and between W B Rolfe as the duly appointed, qualified, and acting administrator of the estate of Vincente Bermeosolo, also known as Vincent Bermeosolo, deceased, late of Buhl, County of Twin Falls, State of Idaho, the party of the first part, and Ed Tolbert and Helen E Tolbert, husband and wife, of Twin Falls County, Idaho, the parties of the second part.

WITNESSETH, that, whereas, pursuant to legal notices given thereof, the said party of the first part, on the 15th day of August, 1953, at the time and place and in the manner specified in said notices, did offer for sale and sell, subject to confirmation by the Probate Court of the County of Twin Falls, State of Idaho, to the party of the second part, the said real estate hereinafter particularly described for the sum of SIXTY FIVE THOUSAND DOLLARS (\$65,000.00), he being the highest and best bidder, and that being the highest and best sum bid; and

WHEREAS, the said Probate Court, upon the due and legal return of the proceedings, made by the said party of the first part on the 28th day of September, 1953, and after due notice of hearing on said return given, did, on the 9th day of October, 1953, make an order decreeing said sale to be valid and confirming said sale, and directing a conveyance to be executed to the said parties of the second part, a certified copy of which order of confirmation was recorded in the office of the county recorder of the County of Twin Falls, within which the said land sold is situate, which said order of confirmation is now on file and of record in said county recorder's office of Twin Falls County, which said record thereof in said recorder's office is hereby referred to for greater certainty.

Now, therefore, the said W B Rolfe, as administrator of the estate of Vincente Bermeosolo, also known as Vincent Bermeosolo, deceased, as aforesaid, the party of the first part, pursuant to the order aforesaid of the said Probate Court, for and in consideration of the sum of SIXTY FIVE THOUSAND DOLLARS (\$65,000) to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto the said party of the second part, their heirs and assigns forever, all the right, title, interest and estate of the said Vincente Bermeosolo, also known as Vincent Bermeosolo, deceased, at the time of his death, and also all the right, title and interest that the said estate, by operation of law or otherwise, may have acquired, other than or in addition to that of said intestate at the time of his death, in and to all that certain lot, piece, or parcel of land lying and being in said County of Twin Falls, State of Idaho, and bounded and particularly described as follows, to-wit:

The Northeast Quarter (NE $\frac{1}{4}$ ) of Section Eleven (11) Township Ten (10) South, Range Sixteen (16), East of the Boise Meridian; together with the water and water rights appurtenant to said premises and heretofore used in connection with the irrigation thereof, namely one hundred sixty (160) shares of the capital stock of the Twin Falls Canal Company.

That part of the Northwest Quarter (NW $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of Section Eleven (11), Township Ten (10) South, Range Sixteen (16), East of the Boise Meridian, particularly described as follows: Beginning at the NE corner of said NW $\frac{1}{4}$ SE $\frac{1}{4}$  running thence South along the E Boundary line thereof, a distance of 320 feet; thence West parallel to the North boundary of said NW $\frac{1}{4}$ SE $\frac{1}{4}$ , a distance of 100 feet; thence North

TOLBERT  
FAMILY  
LTD.  
PARTNERSHIP

47-4247

parallel to East boundary line of said NW $\frac{1}{4}$  SE $\frac{1}{4}$ , a distance of 320 feet; thence East along the North boundary line of said NW $\frac{1}{4}$  SE $\frac{1}{4}$ , a distance of 100 feet to point of beginning.

together with all the tenements, hereditament\_, and appurtenances, whatsoever to the same belonging, or in anywise appertaining.

To have and to hold, all and singular, the above mentioned and described premises, together with the appurtenances, unto the said party of the second part, their heirs and assigns, forever.

IN WITNESS WHEREOF, the said party of the first part, as administrator of the estate of said deceased, as aforesaid, has executed these presents the day and year first above written.

(\$71.50 doc stamps cancelled)

W B Rolfe  
Administrator of the Estate of Vincente Bermeosolo also known as Vincent Bermosolo, deceased.

STATE OF IDAHO }  
County of Twin Falls } ss.

On this 24th day of November, 1953, before me, the undersigned, a Notary Public in and for said State, personally appeared W B Rolfe, administrator of the estate of Vincente Bermeosolo, also known as Vincent Bermosolo, deceased, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same as such administrator.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(John C Hepworth)  
(Notary Public )  
(State of Idaho )

John C Hepworth  
Notary Public for the State of Idaho  
Residing at Buhl, Idaho

My commission expires December 12, 1956

Filed for record at the request of TWIN FALLS TITLE & TRUST CO at 4:37 o'clock P M  
this 11th day of January, 1954

T W Stivers Recorder

Fee \$1.75

pa  
*mm*

## DEED RECORD No. 39, TWIN FALLS COUNTY, ID. 10

Instrument No 405894

## QUIT-CLAIM DEED

THIS INDENTURE, Made this 29th day of December, 1950, between CARL N ANDERSON and VICTORIA S ANDERSON, husband and wife, and KERNELL L ANDERSON and VIVIAN V CARLSON, of the City and County of Twin Falls, State of Idaho, the parties of the first part, and VINCENT BERMOSOLO of Twin Falls County, State of Idaho, the party of the second part,

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of TWO HUNDRED & No/100 DOLLARS (\$200.00), lawful money of the United States of America, to them in hand paid by the second part, the receipt whereof is hereby acknowledged, do by these presents Remise, Release and forever Quit-claim unto the party of the second part and to his heirs and assigns forever, all the following described real property situated in the County of Twin Falls, State of Idaho, to-wit:

That part of the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section Eleven (11) Township Ten (10) South, Range Sixteen (16) E B M, particularly described as follows:

Beginning at the Northeast corner of said NW $\frac{1}{4}$  SE $\frac{1}{4}$ , running thence South along the East boundary line thereof a distance of 320 ft; thence West parallel to the North boundary of said NW $\frac{1}{4}$  SE $\frac{1}{4}$ , a distance of 100 ft; thence North parallel to the East boundary line of said NW $\frac{1}{4}$  SE $\frac{1}{4}$ , a distance of 320 ft; thence East along the North boundary line of said NW $\frac{1}{4}$  SE $\frac{1}{4}$ , a distance of 100 ft to the point of beginning.

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.

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to his heirs and assigns forever.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

(\$ .55 doc stamps cancelled)

Carl N Anderson

Victoria S Anderson

Kernell L Anderson

Vivian V Carlson

STATE OF IDAHO            )  
County of Twin Falls    ) ss.

On this 29th day of December, in the year 1950, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared CARL N ANDERSON and VICTORIA S ANDERSON, husband and wife, and KERNELL L ANDERSON and VIVIAN V CARLSON, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(Harry Benoit, Notary Public)  
( State of Idaho )

Harry Benoit, Notary Public for Idaho  
residing at Twin Falls, Idaho.

Filed for record at the request of Vincent Bermosolo at 9:30 o'clock A M, Dec 30, 1950.

Fees, \$1.25 Paid

C A Bulles, Recorder

em  
my

By Helen Porterfield, Deputy

TOLBERT  
FAMILY  
LIMITED  
PARTNERSHIP  
47-4247



State of Idaho

## DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

May 28, 2004

TOLBERT FAMILY LTD PARTNERSHIP  
444 KALMIA AVE  
BOULDER CO 80304-1732

Re: SRBA Claim(s) 47-4247, 47-12116

Dear Mr. Tolbert:

Pursuant to the change in ownership request that has been submitted to the Department, we have changed the record of current ownership to you. Please find the enclosed copies of the computer records of the claim(s) noting the change in claimant. Review these records and if there is an error, or you have any questions, please contact this office.

Sincerely,

Trish Fawcett  
Technical Records Specialist

Enc.

SCANNED

MAY 15 2002

Log for claim 47-04247

Spatial Dynamics BTD

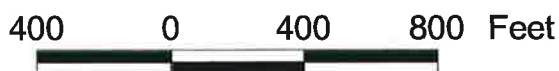
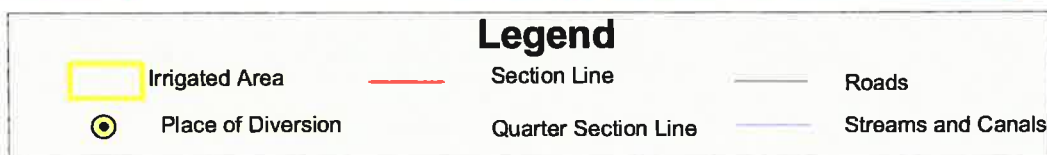
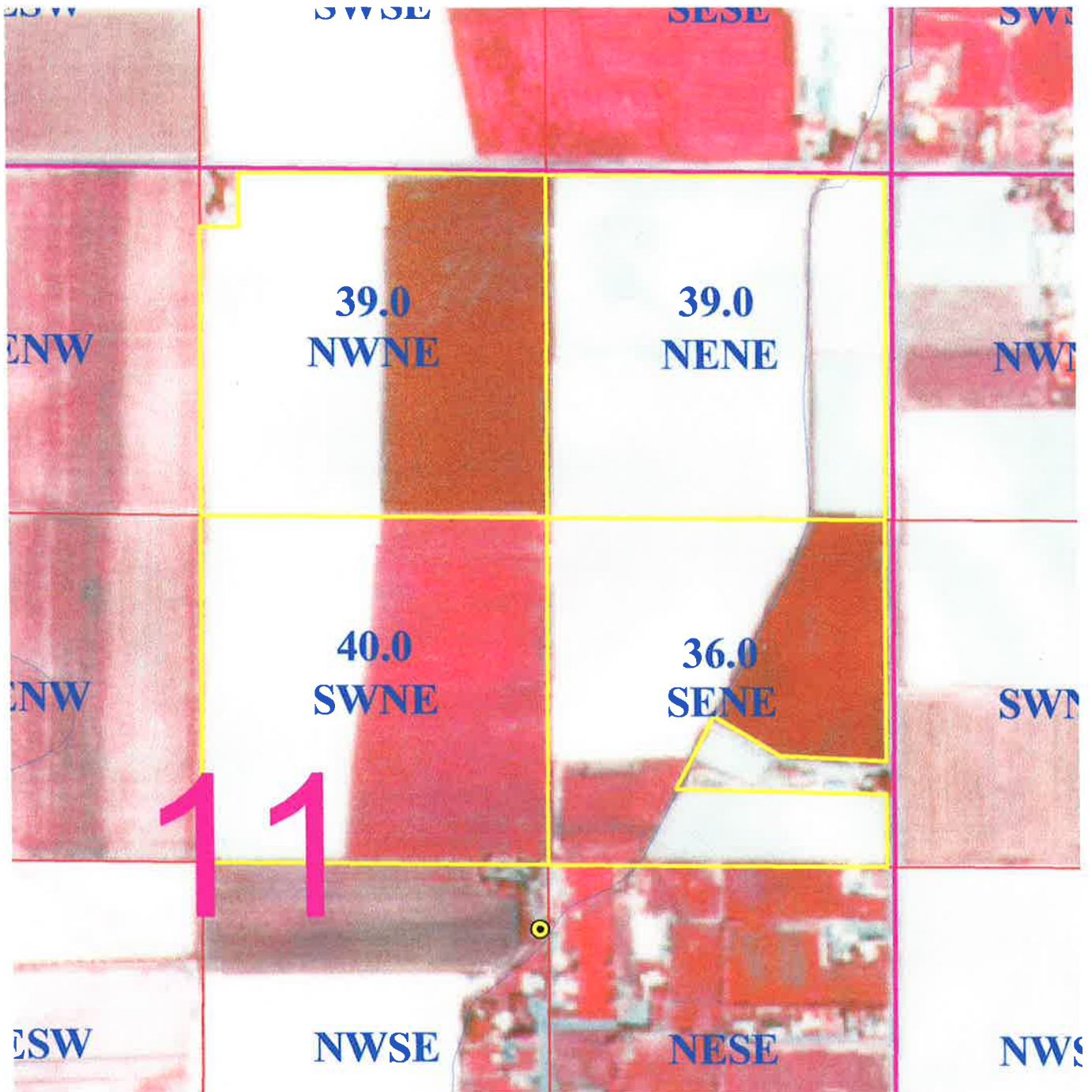
1/16/01

| TR      | SEC | QQ   | Acres<br>Claimed | Acres<br>Found | COMMENT |
|---------|-----|------|------------------|----------------|---------|
| 10s16e  | 11  | NENE | 40               | 39             |         |
| 10s16e  | 11  | NWNE | 40               | 39             |         |
| 10s16e  | 11  | SWNE | 40               | 40             |         |
| 10s16e  | 11  | SENE | 40               | 36             |         |
| Totals: |     |      | 160              | 154            |         |



Water Right Claim Number 47-04247  
Township , 10S16E

01/16/2001



State of Idaho  
License and Certificate of Water Right

Water License No. 29627 Amount .45 c.f.s.  
Water District No. ED TOLBERT, Agent for: NATHAN E., & BERT M. TOLBERT, MRS  
Priority March 29, 1961  
THIS IS TO CERTIFY that MARIAN E. CHILDS & MRS. ESTHER L. EWING

of Twin Falls, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated March 29, 1961; that Permit No. 29627 was issued under said application; that Certificate of Completion of works, with a carrying capacity of .45 second feet, was issued thereunder on June 24, 1963, showing that said works were completed on the 16th day of March, 1962; and that on the 16th day of March, 1962, ED TOLBERT, Agent for: NATHAN E., BERT M. TOLBERT, MRS. MARIAN E. CHILDS & MRS ESTHER L. EWING

of Twin Falls, State of Idaho, made proof to the satisfaction of the State Reclamation Engineer of Idaho, of the right to use the waters of drainage & waste, a tributary of L.P. Coulees, for the purpose of supplemental irrigation, under Use Permit No. 29627 of the Department of Reclamation and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume 12 of Licenses at page 7601, on the 24 day of June, 1963; The right hereby confirmed dates from March 29, 1961;

The Point of Diversion is located in the NW 1/4 SE 1/4, Sec. 11, Tp. 10 S. R. 16 E., B. M. County Twin Falls That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed .45 cubic feet per second.

Description and location of use:

| Twp.                                   | Range | Sec. | Forty-acre Tract | No. Acres Described in Permit | No. Acres Actually Irrigated |
|----------------------------------------|-------|------|------------------|-------------------------------|------------------------------|
| 10 S.                                  | 16 E. | 11   | NE 1/4 NE 1/4    | 40                            | 32                           |
|                                        |       |      | SE 1/4 NE 1/4    | 40                            | 20                           |
|                                        |       |      | SW 1/4 NE 1/4    | .6                            | 8                            |
| Total number of acres to be irrigated: |       |      |                  |                               | 60                           |

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this 24 day of June, 1963.

(SEAL) RALPH W. THOMAS  
Deputy State Reclamation Engineer.

## DEPARTMENT OF RECLAMATION

**ORDER, Dismissing Protest  
and Allowing Certificate of  
Completion of Works and  
License and Certificate of  
Water Right**

29627

STATE OF IDAHO  
DEPARTMENT OF RECLAMATION  
BOISE, IDAHO

✓ **REPORT OF ENGINEER**

Permit No. 29627

This proof is for Completion of Works & Beneficial Use In Water District No. \_\_\_\_\_

1. Name of applicant Ed Tolbert, Agent for: Nathan E. & Bert M. Tolbert, Mrs. Marian E. Childs, Mrs. Esther L. Ewing
2. Source of water supply: drainage and waste water

3. Location of point of diversion: Is in the NW 1/4 of Section 11  
T. 10 S. R. 16 E. County of Twin Falls

4. Describe works as they exist, giving dimensions and capacities of same: Concrete Check - 15' x 3' 4" x 8" thick wall, 4' x 16" opening, controlled with 2x4 - 6 flush boards. Headgate. 12" concrete pipe with Bell & Howell Metal slide gate, 9' x 12" concrete pipe to open ditch - 1' bottom x 3' top x 1.5' deep. Water line 1.0'

5. Water is used for: supplemental irrigation

6. State whether or not water has been turned into works of diversion: yes.

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if other than irrigation):

NE 1/4, S 1/4, Sec. 11, T. 10 S., R. 16 E., B. M.

(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach? Snake River

Remarks: Mr. Ed Tolbert, agent, along. Water not used at time of examination but had been used recently. Ditch capacity capable of conveying 1.5 cfs.

9 3/4" depth water flowing through 4' wide check opening estimated 400" - Reported by Tolbert to carry more during heavy irrigation season and will drop to approximately 200" during winter months.

Point out in File

Not measured into ditch - Dry

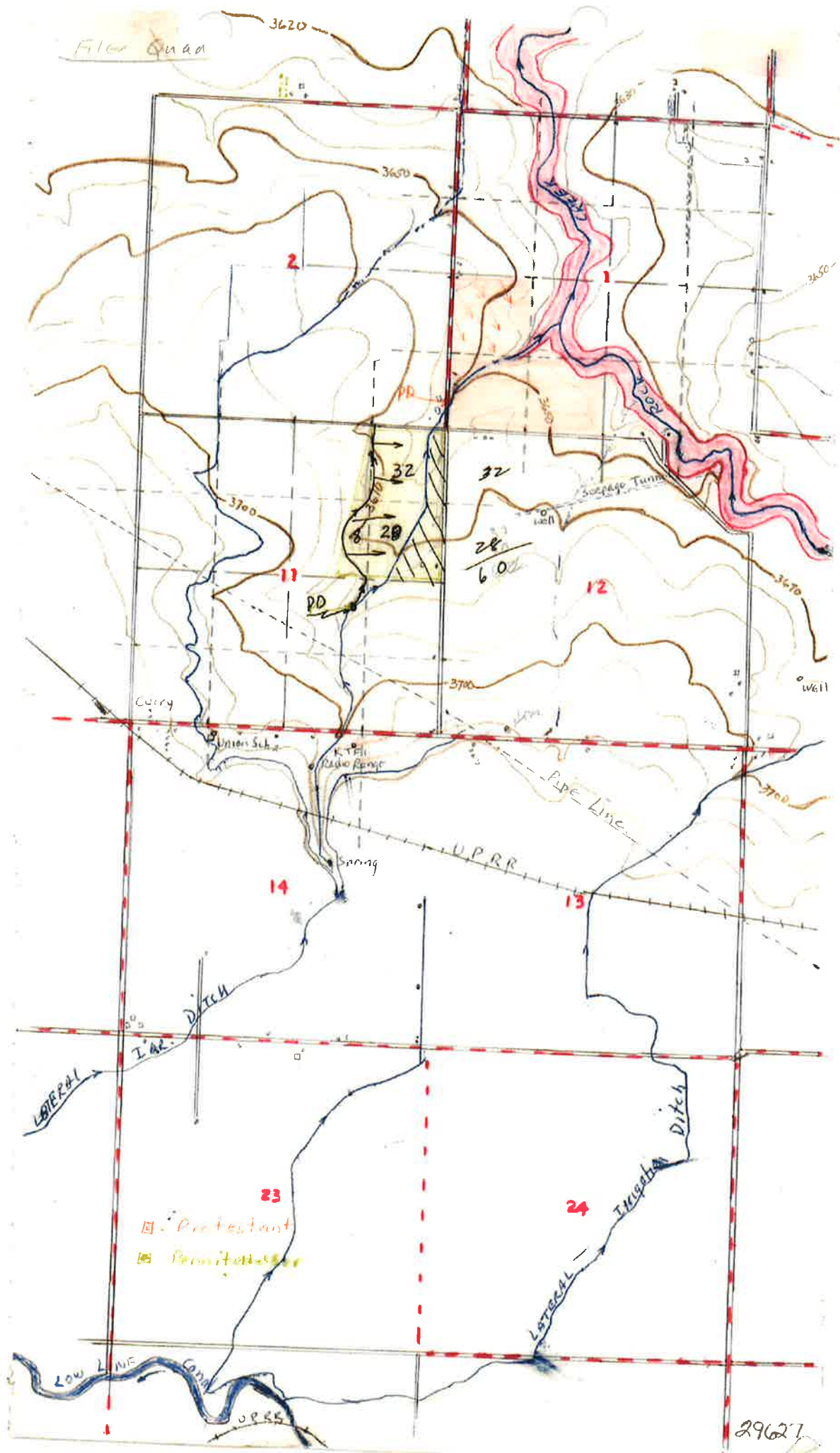
This examination was made on the 31st day of May, 1963

(Signed) Lloyd Johnson

Examiner.

The above amount flows through Protestants farm land and into Rock creek. see Map attached.

29627



STATE OF IDAHO  
DEPARTMENT OF RECLAMATION  
BOISE, IDAHO

MAR 19 1937  
Department of Reclamation

PERMIT NO. 29627

**Proof of Application of Water to Beneficial Use**

**Deposition of Witness and Completion of Works**

The deposition of two witnesses, on this form, taken separately, required in each case.

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. Alfred Peters, 57, Twin Falls, Idaho General Manager, T.F. Canal Co.

Henry Woodland, 56, Twin Falls, Idaho, Watermaster " " " "

Ques. 2. Are you acquainted with Ed Tolbert, the holder of Permit No. 29627? How long have you known him and where does he reside?

Ans. 20 years, Route 3, Twin Falls, Idaho

Ques. 3. Have you read or heard read said Permit No. 29627, and are you familiar with its provisions and conditions?

Ans. Yes

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. Drainage water from Twin Falls Canal Co., System in the Northwest Quarter of the Southeast Quarter of Section 11, 108-16 EBM

Check in Coulee to divert water into private ditch.

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. 1.5 Second feet

Ques. 6. State for what purpose water is used and at what place. (If for irrigation, give each subdivision in which water has been used and number of acres irrigated in each subdivision.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. Supplemental irrigation for 86 acres of cultivated land in Northeast Quarter Northeast Quarter, and South half of the Northeast Quarter of Sec. 11-108-16 EBM.

Check in private ditch

Ques. 7. If for power or other purposes than irrigation, state how water has been applied and to what extent.

Ans. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Ques. 8. If for irrigation, state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

Ans. Average farm land 1" per acre

Ques. 9. Have you any interest in the works, water or lands above mentioned? If so, in what way and to what extent?

Ans. No.

Ques. 10. State when, how, in what amount and to what extent you have witnessed the application to beneficial use of water diverted under said permit.

Ans. Inspecting coulees at regular intervals.

(Signed)

I hereby certify that the foregoing testimony was read to the above subscribers before its signing, that I believe <sup>them</sup> ~~him~~ to be the persons ~~he~~ represents himself to be, and that said testimony was subscribed and sworn to before me in Twin Falls, County of Twin Falls, State of Idaho, on this 16 day of March, A. D. 1962.

Marguerite D. Conant  
Notary Public.

My commission expires Nov 1 1963

## CLAIM TO A WATER RIGHT



The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

(Mailing Address)

(Zip Code)

Telephone No. 733-8230

(1) Date of priority: (When was the water first applied to a beneficial use) March 29, 1961  
A claim is not acceptable on a ground water source unless it is shown that the water was first applied to a beneficial use on the surface or ground water. The extent and nature of said claim is as follows:

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)  
Drainage, L.P. Coulee tributary to Rock Creek

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed: Drainage, L.P. Coulee tributary to Rock Creek

|                                                                                           |                                             |
|-------------------------------------------------------------------------------------------|---------------------------------------------|
| Quantity <u>3.20</u> Use <u>irrigation</u> Period of Use From <u>3/15</u> To <u>11/15</u> |                                             |
| Quantity <u>.07</u> Use <u>stockwater</u> Period of Use From <u>3/1</u> To <u>12/31</u>   |                                             |
| Quantity _____                                                                            | Use _____ Period of Use From _____ To _____ |
| Quantity _____                                                                            | Use _____ Period of Use From _____ To _____ |
| Quantity <u>3.20</u> Use _____ Period of Use From _____ To _____                          |                                             |
| TOTAL QUANTITY USED. _____                                                                |                                             |

(5) A) Point of diversion: (Location of point where water is diverted from its source)  
NW ¼ SE ¼, Sec. 11 Twp. 11-S Rge. 16E B.M., County of Twin Falls  
Additional points of diversion: \_\_\_\_\_

8) 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. Describe any changes in the system and give the date of the change. diversion dam, 318' ditch to irrigation ditches

(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]

No. of screen 160

8) If water is used for other than irrigation, fully describe that use, being as specific as possible: plus stock water No. of acres 160  
irrigation

NOTE: Include here the type and number of stock watered: 150-300 head cow-calf pairs

15. Basis of Claim (check one) Beneficial Use \_\_\_\_\_ Posted Notice \_\_\_\_\_ License \_\_\_\_\_ Permit XX  
Decree \_\_\_\_\_  
If applicable provide IDWR Water Right Number 47-4247 and 29627  
Court \_\_\_\_\_ Case Number \_\_\_\_\_ Decree Date \_\_\_\_\_  
Plaintiff vs 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 X do not  
wish to receive and pay a small annual fee for monthly copies of the docket sheet.  
Number of attachments \_\_\_\_\_  
For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true  
and correct.  
Signature of Claimant (s) \_\_\_\_\_ Date \_\_\_\_\_  
\_\_\_\_\_ Date \_\_\_\_\_

For Organizations: I do solemnly swear or affirm that I am General Partner and Trustee  
of Tolbert Partnership and Esther Lilah Ewing Trust Title \_\_\_\_\_ that I have signed the foregoing  
document in the space below as Partner and Trustee of Tolbert Partnership and ELE Trust  
and that the statements contained in the foregoing document are true and correct. Organization \_\_\_\_\_

Signature of Authorized Agent Bert McPolist  
Title and Organization Partner and Trustee, Tolbert Partnership & Esther Lilah Ewing Trust Date Nov 16, 1988

State of Idaho/or Colorado } 88.  
County of Boulder

Subscribed and sworn to before me this 16<sup>th</sup> day of November 19 88  
Notary Public Emily S. Karna  
Residing at 1215 Spruce, Boulder, Co 80302  
My Commission Expires 6/19/90  
Please Print Name \_\_\_\_\_



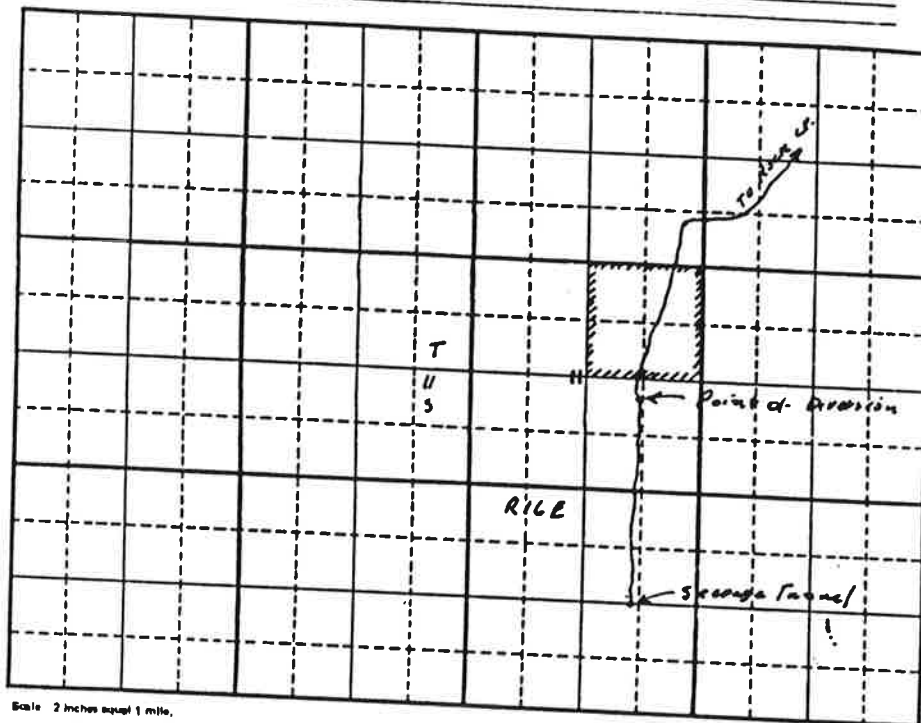
17. Notice of Appearance:  
Notice is hereby given that I, \_\_\_\_\_ will be acting as attorney at law on behalf  
of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above  
should be mailed to me at the address listed below.

Signature \_\_\_\_\_  
Address \_\_\_\_\_  
Date \_\_\_\_\_

Last Name TOLBERT PARTNERSHIP Ident. Number 47-04247

Copies: White-Stamp, Yellow-Claimant

(8) Remarks The present farmers have been using 160 inches of water since 1989 for farming and cattle uses - 60 inches of the 160 claimed has been patented under License 47-2351



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 Twin Falls

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 affiant's knowledge.

Sworn to before me this 22 day of May

Bert M. Tolbert

(Claimant)

19 81

Loren O. Tolbert

Notary Public

Residing at Twin Falls, Idaho 83301

My commission expires life

FOR DEPARTMENT USE ONLY

Received by JA Date 5/24/81  
 Prelim. check by JA Date 5-26-81  
 \$30.00 fee received by maap Date 5/26/81  
 Published in Journal Date 5/26/81  
 Dates 5/26/81

Forwarded to claimant by \_\_\_\_\_ Date \_\_\_\_\_