

03/04/2003

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

RIGHT NUMBER: 29-147

NAME AND ADDRESS: FISH CREEK IRRIGATING CO
C/O WALLACE WHITEHEAD
PO BOX 152
LAVA HOT SPRINGS ID 83246

SOURCE: FISH CREEK

TRIBUTARY: PORTNEUF RIVER

QUANTITY: 6.000 CFS

PRIORITY DATE: 03/01/1893

POINT OF DIVERSION:

T09S R38E S26 NWNWNW Within BANNOCK County Source: FISH CREEK

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 09/15	4.900 CFS

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS APRIL 1 AND MAY CONTINUE TO AS LATE AS OCTOBER 31, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 15 AND AFTER SEPTEMBER 15 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE:

LARGE PLACE OF USE

243.3 ACRES TOTAL

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: Decreed

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.

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

WATER IS DELIVERED THROUGH FISH CREEK IRRIGATING CO. CANAL. SHARED WITH DEMPSEY-TOPAZ CANAL AND PRIVATE RIGHTS.

RIGHT NO. 29-11774 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

03/20/2002

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

RIGHT NUMBER: 29-147

NAME AND ADDRESS: FISH CREEK IRRIGATING CO
C/O WALLACE WHITEHEAD
PO BOX 152
LAVA HOT SPRINGS ID 83246

SOURCE: FISH CREEK

TRIBUTARY: PORTNEUF RIVER

QUANTITY: 6.00 CFS

PRIORITY DATE: 03/01/1893

POINT OF DIVERSION:

T09S R38E S26 NWNWNW Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	4.900 CFS

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS APRIL 1 AND MAY CONTINUE TO AS LATE AS OCTOBER 31, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 15 AND AFTER SEPTEMBER 15 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE: IRRIGATION Within BANNOCK County

T09S R38e S20 Lot 3	SESW	20.4	T09S R38e S20 Lot 1	NESE	19.6
T09S R38e S20 Lot 2	NWSE	20.3	T09S R38e S20	SWSE	29.6
T09S R38e S20	SESE	26.3	T09S R38e S21 Lot 4	NWSW	21.3
T09S R38e S21	SWSW	24.9	T09S R38e S28	NWNW	21.5
T09S R38e S29	NENE	38.8	T09S R38e S29	NWNE	19.9
T09S R38e S29	NENW	0.7			

243.3 ACRES TOTAL

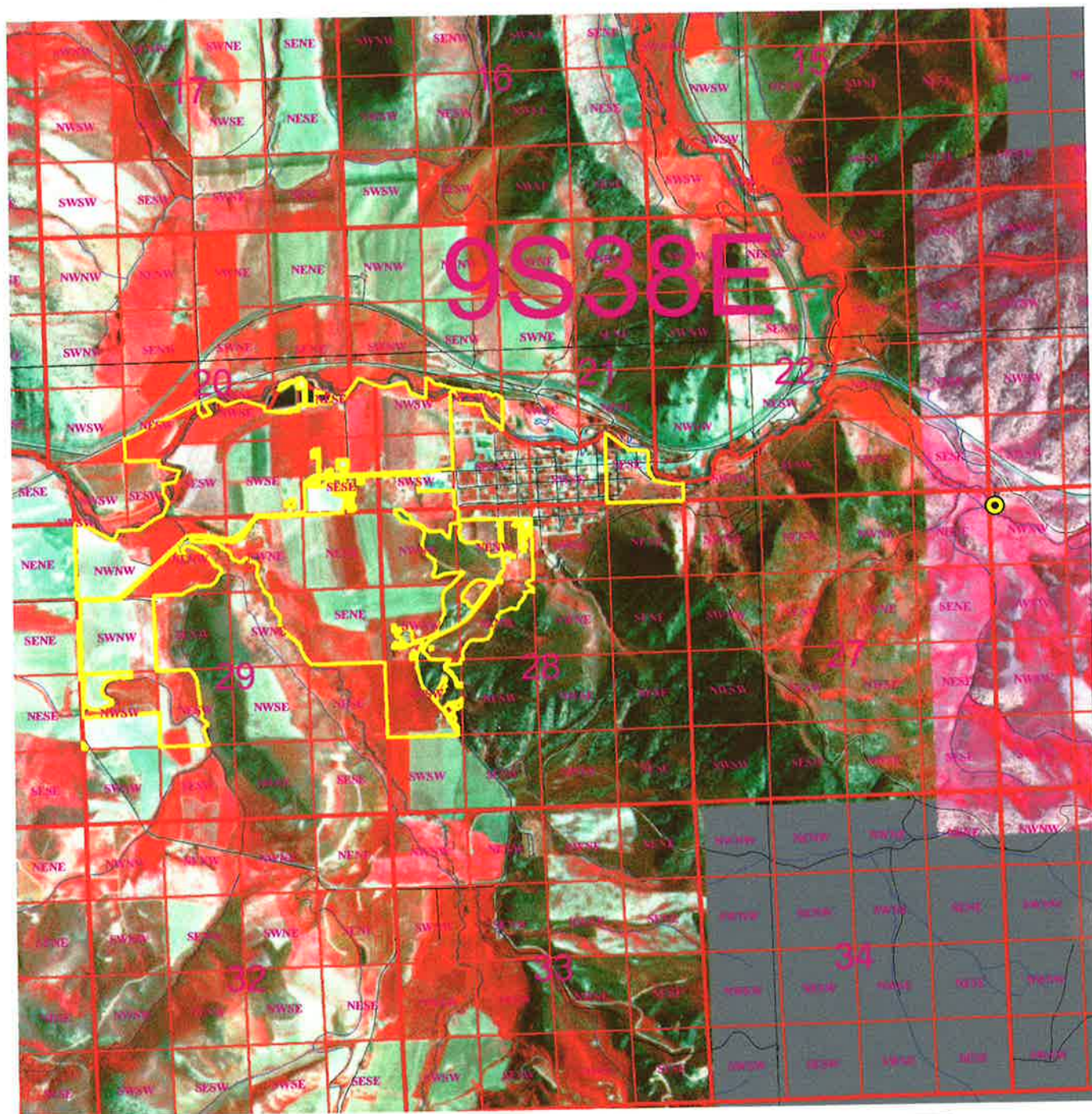
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

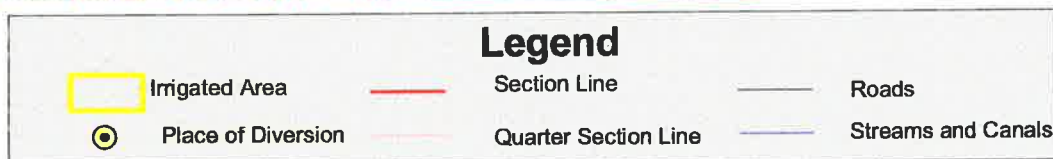
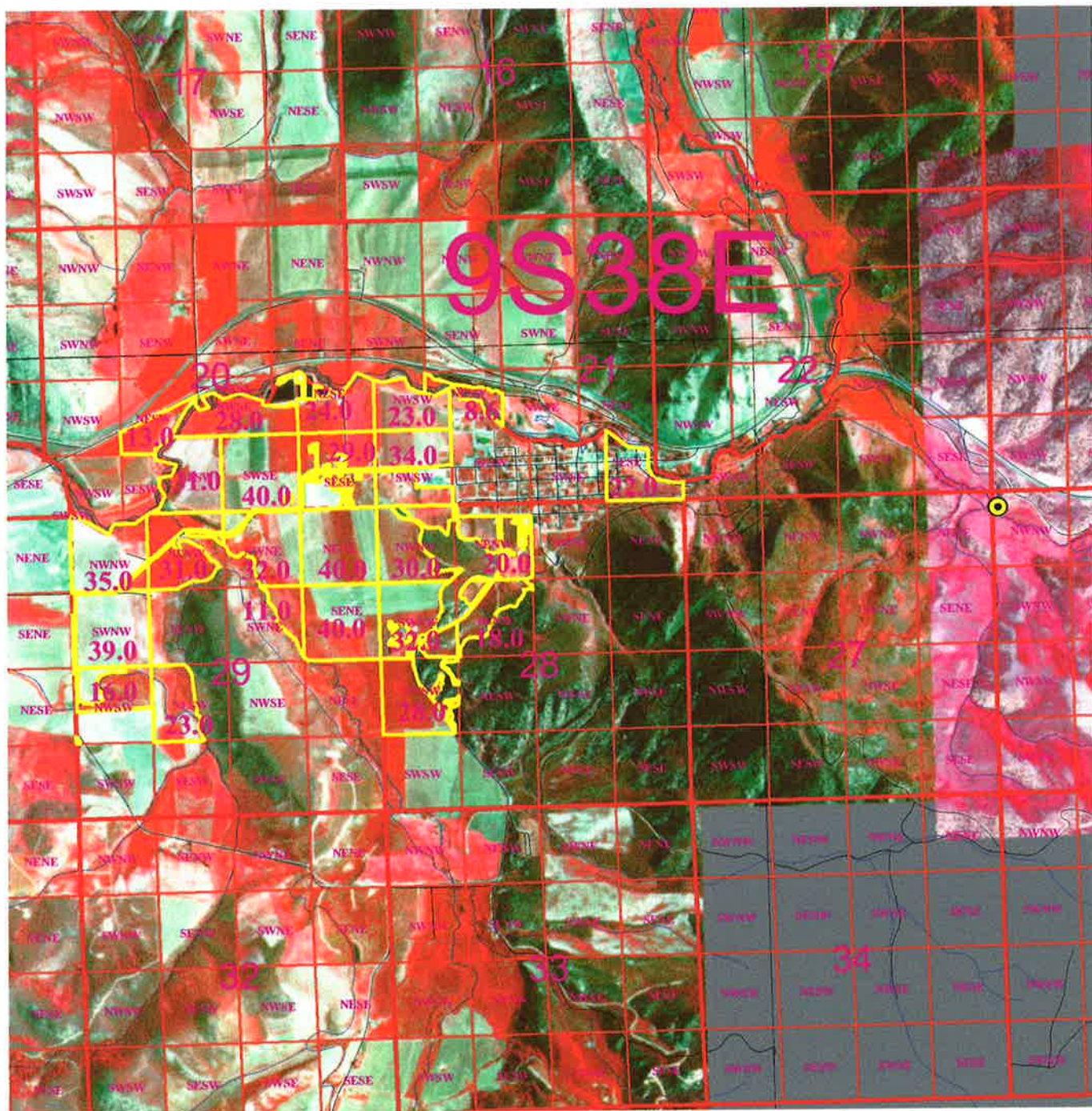
EXPLANATORY MATERIAL: Decreed

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
WATER IS DELIVERED THROUGH FISH CREEK IRRIGATING CO. CANAL. SHARED WITH DEMPSEY-TOPAZ CANAL AND PRIVATE RIGHTS.
RIGHT NO. 29-11774 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

Township , 9S38E



Township , 9S38E



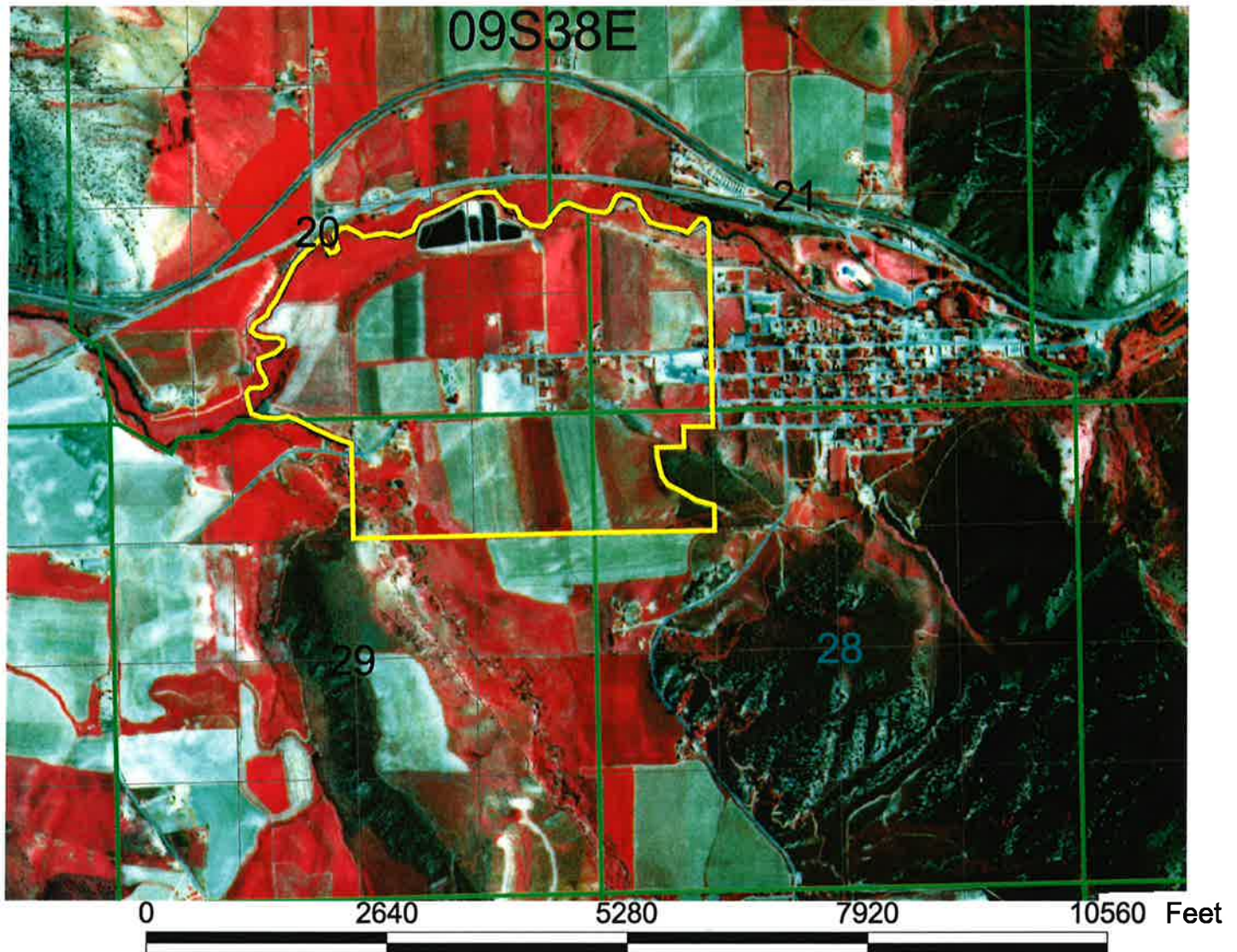
2000 0 2000 4000 Feet





Department of Water Resources

Claim No,: 29-147

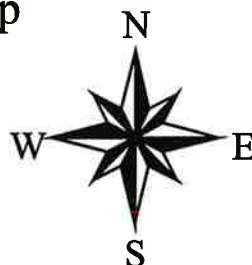


Irrigated Acres = 243.3

PROFIT

-  Company boundary.shp
-  Townships
-  Sections
-  QQ

SCANNED
JUN 28 2005



GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepare by: A. Ruberry
Date: February 2003

FISH CREEK IRRIGATION COMPANY
Service Area Boundary

- Place of Use
- Township/Range
- Section
- Quarter/Quarter



1987-88 NAPP Photography
Date Prepared: November 19, 2001

0.1 0 0.1 0.2 0.3 0.4 Miles

20

22

29

09S38E

SCANNED

JUN 28 2005

T9S R38E

L2
NWSE
20.3

L1
NESE
19.6

Lot 4
NWSW
21.3

SWSE
29.6

SESE
26.3

SWSW
24.9

L3
SESW
20.4

NENW
0.7

20 **21**
29 **28**

Fish Creek Irrig. Co.
POU 243.3 acres

NWNE
19.9

NENE
38.8

NWNW
21.5

20

21

29

FISH CREEK IRRIGATION COMPANY
Preliminary Boundary, draft
1987-88 NAPP Photography
Date Prepared: July 10, 2000
Prepared by: Mark Larson
Idaho Department of Water Resources

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: April 21, 2003

Water right number: 29-147

FISH CREEK IRRIGATING CO
C/O WALLACE WHITEHEAD
PO BOX 152
LAVA HOT SPRINGS ID 83246
Telephone Number: (208)776-5253

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

A SCOB 4/15 to 9/15 ok

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

DELETE SCOB remark ok

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:

3/3/03

SIGNATURE

Wallace K Whitehead

Please print your name:

WALLACE K WHITEHEAD

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

*Done
3/4/03
pm*

PROVIDED

SCANNED

JUN 28 2005

29-00147

DESCRIBED

RISH CROOK FARM, Co.

I. CLAIM REFERENCES #13. OTHER WATER RIGHTS USED: AS
"29-00036, 00037," BOTH OF WHICH ARE HELD
BY DUMPSY TOPAZ CANAL.

A.) RISH CR IRRIG AND DUMPSY CANAL SHARE THE
SAME CANAL FOR AWAYS. THEY ALSO CARRY PRIVATE
RTS AND TOPAZ WATER, WHETHER 00036 OR 00037
ARE CONSIDERED W/ THIS RT (CLAIM) OR 29-11774.
(EXT SOL CLAIM),

II. NO PDU W/ 29-11774 DUE TO SOL FIRMING

A.) NO OTHER RIGHTS FOR RISH CR FARM.

III. GRS ACRES = 243^3 ; CHAINS 532^0 $\Rightarrow$ C ϕ 5

IV. POD IS MOVED UPSTREAM FROM DOWNWOOD POD $\Rightarrow$ C ϕ 3 (Prior 83)

V. SOL CLAIMS DOWNWOOD 4/15 TO 9/15 - THUS SOL 29-11774 -

VI. CHAINS 6^0 cfs $\Rightarrow @ .02 \times 243^3 \text{ AC} = 4.866 \Rightarrow 4.9 \text{ cfs}$ FOR
IRRIG - ANNUAL 1.1 cfs CONVOY LOSS FROM POD.

SCANNED

JUN 28 2005

PROFILE



PROFILED

SCANNED
JUN 28 2005



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

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

**DIRK KEMPTHORNE
GOVERNOR**

**KARL J. DREHER
DIRECTOR**

July 10, 2000

Fish Creek Irrigation Company
Wallace Whitehead
P O BOX 125
Lava Hot Springs, ID 83246

Subject: Fish Creek Irrigation Company Service Area

Dear Wallace;

I received the map with the service area boundary. Please take a look at the map enclosed. If this boundary is right, call me and let me know. If I still need to make adjustments, indicate them and send the map back to me. Thanks again for your cooperation.

If you have any questions, please don't hesitate to call me at (208) 327-7998.

Sincerely,

Mark Larson
GIS Specialist
Adjudication Technical Section

PROFIT

SCANNED
JUN 28 2005

JUN 08 2001

Log for claim A29-00147

Spatial Dynamics AMH

8/4/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
09s38e	20	NESW	10	13	
09s38e	20	SESW	23	31	
09s38e	20	NESE	20	24	
09s38e	20	NWSE	21	28	
09s38e	20	SWSE	38	40	
09s38e	20	SESE	29	29	
09s38e	21	NESW	5	8.6	
09s38e	21	NWSW	20	23	
09s38e	21	SWSW	32	34	
09s38e	21	SESE	16	22	
09s38e	28	NENW	6	20	
09s38e	28	NWNW	24	30	
09s38e	28	SWNW	27	32	
09s38e	28	SENW	10	18	
09s38e	28	NWSW	3	28	
09s38e	29	NENE	40	40	
09s38e	29	NWNE	35	32	
09s38e	29	SWNE	15	11	
09s38e	29	SENE	40	40	
09s38e	29	NENW	23	31	
09s38e	29	NWNW	30	35	
09s38e	29	SWNW	40	39	
09s38e	29	NESW	10	23	
09s38e	29	NWSW	16	16	
Totals:			533	647.6	

Water Right Number - 29-00147

Prefix Translation: WATER RIGHT

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***

FISH CREEK IRRIGATING CO.

1 -

2 -

3 -

City-

State-

Zip-

Phone -

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
03/01/1893 15 EASTERN D - DECREED+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
FISH CREEK PORTNEUF RIVER+ - - - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County Diversion Name Diversion Rate Diversion No.

09S 38E 22 SE SE (5) BANNOCK

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume

01 - IRRIGATION 04/15 09/15 6.000

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
6.000 0.0+ - - - - Place of Use - - - - - +
TwN Rng Sec Tract Lot Acres Code Description County

09S	38E	20	SE SW	3		01	IRRIGATION	(5) BANNOCK
09S	38E	20	NE SE	1		01	IRRIGATION	(5) BANNOCK
09S	38E	20	SE SE			01	IRRIGATION	(5) BANNOCK
09S	38E	21	NW SW	4		01	IRRIGATION	(5) BANNOCK
09S	38E	21	SW SW			01	IRRIGATION	(5) BANNOCK
09S	38E	21	SE SW	3		01	IRRIGATION	(5) BANNOCK
09S	38E	21	SW SE	2		01	IRRIGATION	(5) BANNOCK
09S	38E	21	SE SE	1		01	IRRIGATION	(5) BANNOCK
09S	38E	22	SW SW	6		01	IRRIGATION	(5) BANNOCK
09S	38E	28	NE NW			01	IRRIGATION	(5) BANNOCK
09S	38E	28	NW NW			01	IRRIGATION	(5) BANNOCK
09S	38E	29	NE NE			01	IRRIGATION	(5) BANNOCK
09S	38E	29	NW NE			01	IRRIGATION	(5) BANNOCK
09S	38E	29	NE NW	1		01	IRRIGATION	(5) BANNOCK

+ - - Diversion Means -

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use -

Proof Due Date	- 00/00/0000	Field Exam Made	- 00/00/0000	Field Exam Fee	-
Approved/Denied	- 00/00/0000	Protested Date	- 00/00/0000	Swan Falls	-
Proof Made Date	- 00/00/0000	Hearing Date	- 00/00/0000	Temporary Right	- P
Exam to S.O. Date	- 00/00/0000	Verified Date	- 07/15/1985	DLE/Carey Act	-
Order Show Cause	- 00/00/0000	Receipt Number	-	Water District	- 29
Licensed Date	- 00/00/0000	Appl Received	- 00/00/0000	Transfer/Amended	-
Presumption Flag	-	Name Connector	-	POU Ownership Flag	-
SRBA Decreed Flag	-				

AJ5809NP
No. A29-00147

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 05/22/00
PAGE: 40

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	FISH CREEK IRRIGATING CO C/O WALLACE WHITEHEAD PO BOX 152 LAVA HOT SPRINGS ID 83246 (208) 776-5253	03/01/1893	IRRIGATION	04-15 09-15	6.000 CFS	
TOTAL DIVERSION:					6.000 CFS	
CONSUMPTIVE USE:						1330.00 AFA

Water Source: FISH CREEK

Tributary to: PORTNEUF RIVER

Stage: DECREED

Point(s) of Diversion:

T09S R38E S26

NWNWNW

BANNOCK County

Place of use Legal Description for: IRRIGATION

NE												NW				SW				SE															
T	R	S	NENE		NWNE		SWNE		SENE		NENW		NWNW		SWNW		SENW		NESW		NWSW		SWSW		SESW		NESE		NWSE		SWSE		SESE		SUM
---	---	---	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	---		
09S	38E	20	:								:								:	10					23	:	20	21	38	29			141.0		
09S	38E	21	:								:								:	05	20		32			:				15			72.0		
09S	38E	28	:								:	06	24		27		10		:		03					:							70.0		
09S	38E	29	:	40		35		15		40	:	23	30		40				:	10	16					:							249.0		
TOTAL ACRES																												532.0							

POU County: BANNOCK

Non-Irrigation Uses: INCIDENTAL STOCKWATERING

Other Rights: 29-00036, 00037

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):
A29-00152A A29-00153A A29-11774

Other Water Rights Listing Overlapping Place(s) of Use:

A29-00036	A29-00037	A29-00158	A29-00158A	A29-00158B	A29-00158C	A29-00158D	A29-00158E	A29-00159	A29-00159A
A29-00159B	A29-00159C	A29-00160	A29-00160A	A29-00180	A29-00182	A29-00182A	A29-00182B	A29-00183	A29-00184
A29-02378	A29-07393	A29-07530	A29-10848	A29-11773	A29-11774				

Remarks: GEN ** COMPANY IS RESPONSIBLE FOR DELIVERING WATER TO SHAREHOLDERS.

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

Misc: Water District Number: 29 Field Inspection Flag:
Presumption Flag: D

Audit: 04/04/90 VERNER 04/04/94 THOMPSON 03/29/95 POST-STD

APPENDAGE TO THE FILING OF WATER OF

Our present decreed water rights are jeopardized by

1. Illegal loss free transportation of storage water in the river channel. We ask the adjudication process to correct this situation by requiring the users of the storage water to stand the loss or require all the water users in the river district to share in the loss on a percentage basis according to the cubic feet of water they have decreed to them.
2. Many years after established use rights and decreed rights numerous wells have been allowed in the upper basin area, draining the aquifer. We ask an in depth study be made to determine the affect on the river flow before a decision is made.

Historically the amount of our water has been cut down during the irrigation season because there is not enough water to fill all the rights. Of necessity we have used the water at any time during the non irrigating season in any amount needed first come first serve down the river. We request this use right recognized and established as a legitimate water right.

Wallace K. Whitehead
Sr.
Fish Creek Irrig Co.

Earl H. Smith
Sr.
Dampney Irrig Co.

MICROFILMED

NOV 13 1992

JUN 08 2001

50
A29-00036

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: A29-00147
Date Received: 4/04/1990
Receipt No: E012795
Received By: SN

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: FISH CREEK IRRIGATING CO.
Address: C/O WALLACE WHITEHEAD
P.O. BOX 152
LAVA HOT SPRINGS, ID 83246
208-776-5253

2. Date of Priority: MAR 01, 1893

3. Source: FISH CREEK Trib. to: PORTNEUF RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
09S	38E	26	NW NW NW		BANNOCK

5. Description of diverting works:
FLOW OF CREEK IS DIVERTED INTO DEMPSEY/TOPAZ CANAL SYSTEM.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/15	09/15	6.000		

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

8. Total consumptive use is 1330.0 Acre Feet Per Annum.

9. Non-irrigation uses:
INCIDENTAL STOCKWATERING

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
09S	38E	20	NE SW		IRR	10.0
			SE SW		IRR	23.0

A29-00147

Page 1

Date: 04/04/90

MICROFILMED
NOV 13 1992

A2900147



10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09S	38E	20	NE	SE		IRR	20.0
			NW	SE		IRR	21.0
			SW	SE		IRR	38.0
			SE	SE		IRR	29.0
						Section Acres	141.0
		21	NE	SW		IRR	5.0
			NW	SW		IRR	20.0
			SW	SW		IRR	32.0
			SE	SE		IRR	15.0
						Section Acres	72.0
		28	NE	NW		IRR	6.0
			NW	NW		IRR	24.0
			SW	NW		IRR	27.0
			SE	NW		IRR	10.0
			NW	SW		IRR	3.0
						Section Acres	70.0
		29	NE	NE		IRR	40.0
			NW	NE		IRR	35.0
			SW	NE		IRR	15.0
			SE	NE		IRR	40.0
			NE	NW		IRR	23.0
			NW	NW		IRR	30.0
			SW	NW		IRR	40.0
			NE	SW		IRR	10.0
			NW	SW		IRR	16.0
						Section Acres	249.0
						Total Acres	532.0

11. Place of use in counties: BANNOCK

12. Do you own the property listed above as place of use? NO

13. Other Water Rights Used:
29-00036, 00037

14. Remarks:
** COMPANY IS RESPONSIBLE FOR DELIVERING WATER TO SHAREHOLDERS.

14. Remarks: Continued

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 7/01/1921

UNION GRAIN & ELEVATOR CO.

Decree Plaintiff

vs

MCCAMMON DITCH CO. ET. AL.

Decree Defendant

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do do not ✓ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments:

For Organizations:

I do solemnly swear or affirm that I am SECRETARY of

Title

FISH CREEK IRRIGATING CO. that I have signed the foregoing

Organization

document in the space below as SECRETARY of

Title

FISH CREEK IRRIGATING CO. and that the statements contained in the

Organization

foregoing document are true and correct.

Wallace K. Whitehead
Signature of Authorized Agent

SECRETARY, FISH IRRIGATING CO.
Title and Organization

W.K.W. APRIL 4, 1990
Date

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 4 day

of April 19 90

Seal

[Signature]
Notary Public

Residing at Salida Falls, B.

My Commission Expires 22 Aug 1994

