

06/26/2003

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

RIGHT NUMBER: 29-298B

NAME AND ADDRESS: CORWIN P WHITWORTH
493 E JACKSON CREEK RD
INKOM ID 83245

SOURCE: RAPID CREEK

TRIBUTARY: PORTNEUF RIVER

QUANTITY: 0.070 CFS

USE OF THIS RIGHT WITH RIGHT NO. 29-00311B IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 0.07 CFS.

PRIORITY DATE: 06/23/1902

POINT OF DIVERSION:

T06S R36E S34 SESW Within BANNOCK County

T06S R36E S34 SWSE Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

STOCKWATER

06/15 10/31

0.070 CFS

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

PLACE OF USE:

STOCKWATER Within BANNOCK County

T06S R36E S34

NESW

T06S R36E S34

NWSE

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.

Stockwater use is for 300 range cattle.

06/26/2003

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

RIGHT NUMBER: 29-298B

NAME AND ADDRESS: CORWIN P WHITWORTH
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TRIBUTARY: PORTNEUF RIVER

QUANTITY: 0.070 CFS

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COMBINED DIVERSION RATE OF 0.07 CFS.

PRIORITY DATE: 06/23/1902

POINT OF DIVERSION:

T06S R36E S34 SESW Within BANNOCK County

T06S R36E S34 SWSE Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

STOCKWATER

06/15 10/31

0.070 CFS

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

PLACE OF USE:

STOCKWATER Within BANNOCK County

T06S R36E S34

NESW

T06S R36E S34

NWSE

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.

Stockwater use is for 300 range cattle.

02/18/2003

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

RIGHT NUMBER: 29-298B

NAME AND ADDRESS: CORWIN P WHITWORTH
493 E JACKSON CREEK RD
INKOM ID 83245

SOURCE: RAPID CREEK

TRIBUTARY: PORTNEUF RIVER

QUANTITY: 0.603 CFS

PRIORITY DATE: 06/23/1902

POINT OF DIVERSION:
T06S R36E S34 SESW 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	0.603 CFS

PLACE OF USE: IRRIGATION Within BANNOCK County

T06S R36E S34	NESW	23.0	T06S R36E S34	NWSE	26.0
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49 ACRES TOTAL

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

FORFEITED/ABANDONED: This is included for a claim based on a decree or license that is PROPOSED to be disallowed on the basis that the water right no longer exists because forfeiture of the right by nonuse was confirmed and a defense to forfeiture was not confirmed, or because abandonment of the right was confirmed.

FORFEITED/ABANDONED DUE TO NON-USE FROM 1981 TO 2002.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

OK, EXCEPT
stockwater use
continuous to date

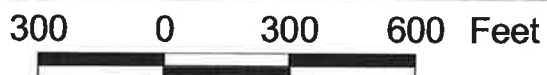
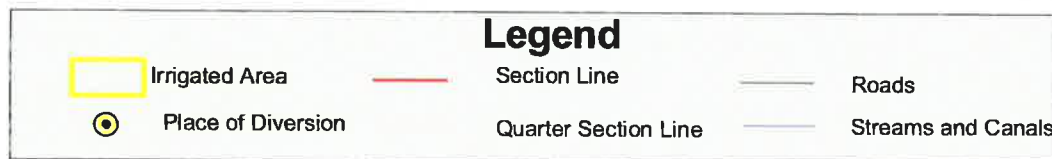
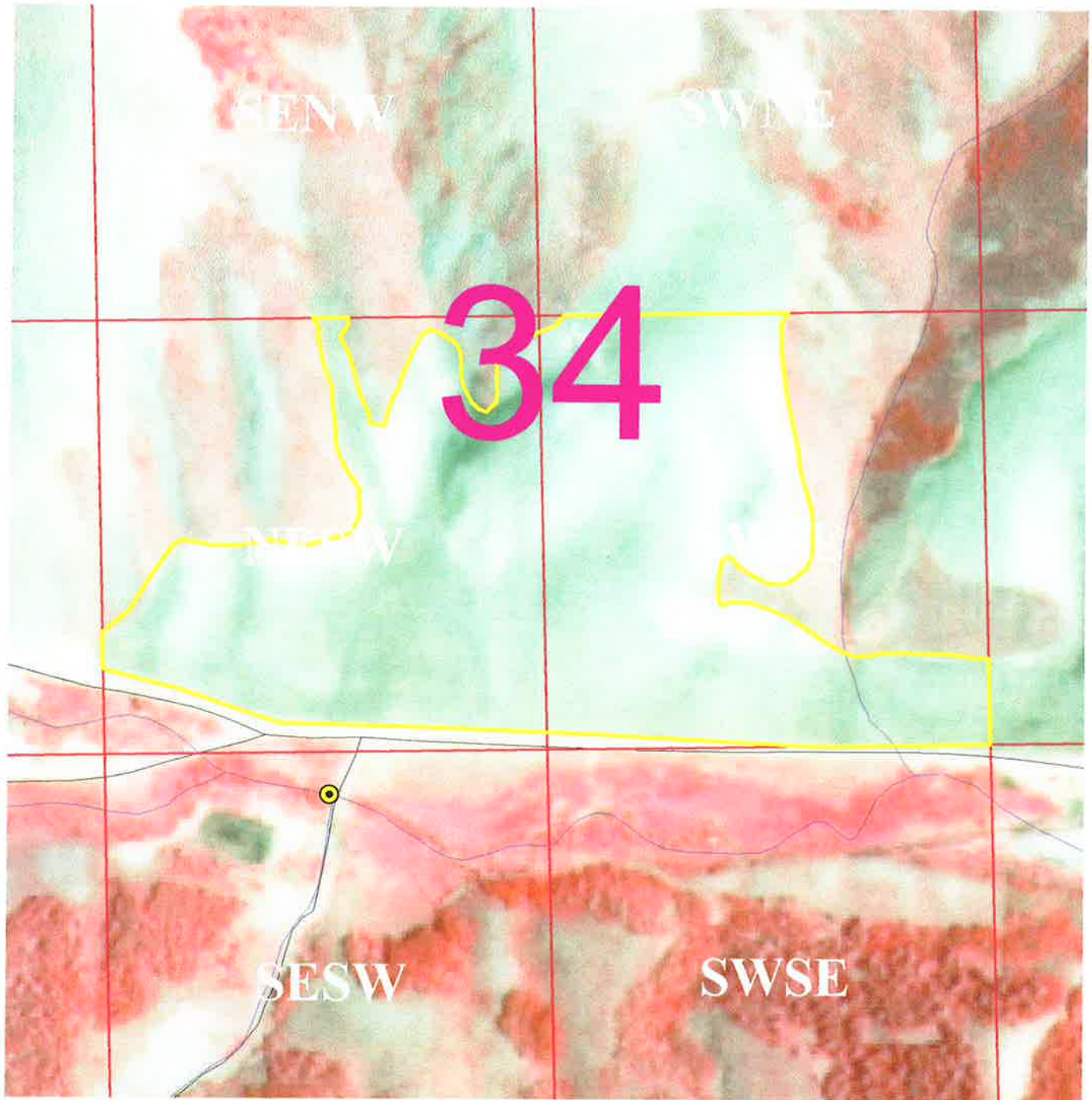
Pump from creek to
water trough

PROFILED

SCANNED
JUL 27 2005

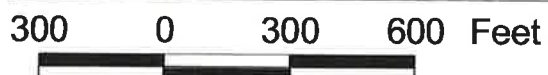
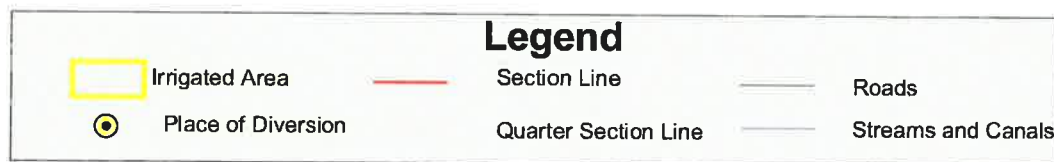
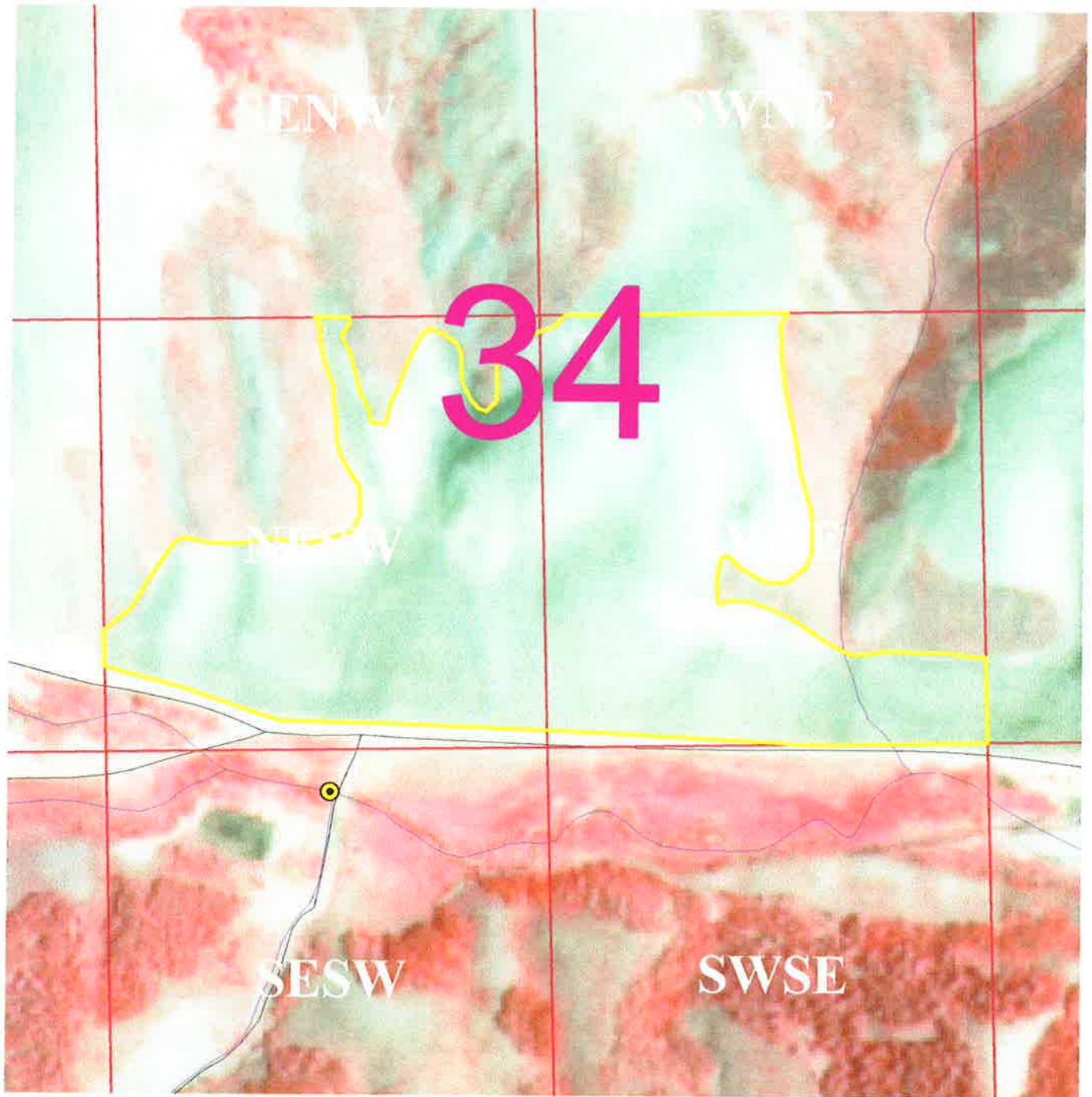
Water Right Claim Number A29-00298B
Township , 6S36E

08/25/2000



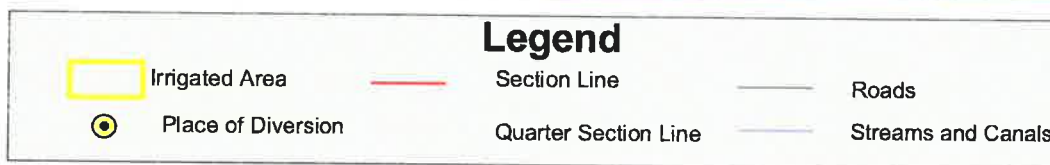
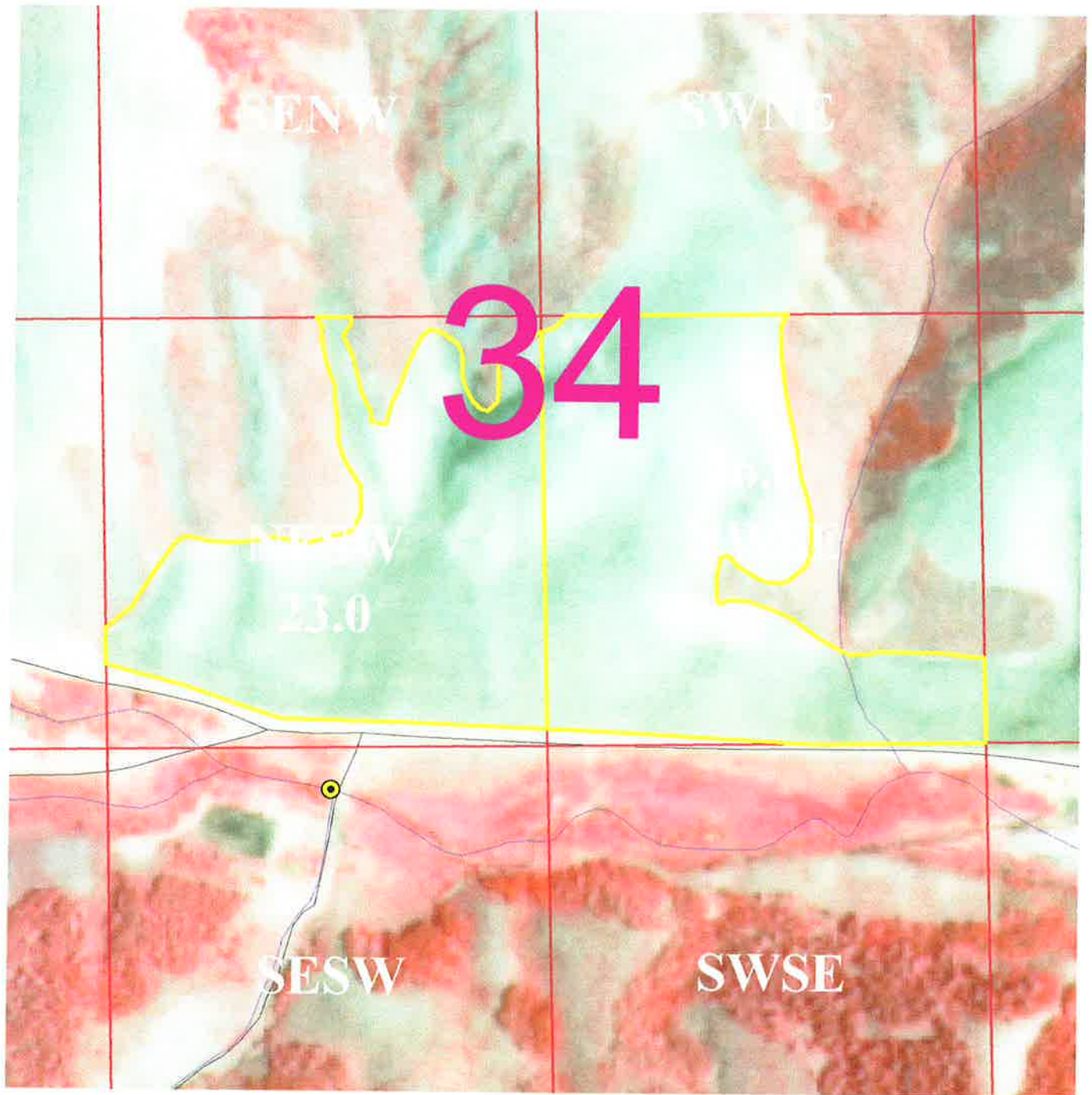
Water Right Claim Number A29-00298B
Township , 6S36E

08/25/2000



Water Right Claim Number A29-00298B
Township , 6S36E

08/25/2000



IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-298B V1

WATER RIGHT NUMBER: 29-298B V1

<u>Owner Type</u>	<u>Name and Address</u>
Attorney	RACINE OLSON NYE COOPER BUDGE PO BOX 4229 POCATELLO, ID 83205 (208)232-6101
Current Owner	CORWIN P WHITWORTH 493 E JACKSON CREEK RD INKOM, ID 83245 (208)775-3563
Original Owner	RICHARD HOFFINE

, ZZ

Priority Date: 06/23/1902

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
RAPID CREEK	PORTNEUF RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	06/15 to 10/31	0.070 CFS	
	<u>Total Diversion:</u>	0.070 CFS	

Location of Point(s) of Diversion

RAPID CREEK	SW1/4SE1/4	Sec. 34, Twp 06S, Rge 36E, B.M.
BANNOCK County		
RAPID CREEK	SE1/4SW1/4	Sec. 34, Twp 06S, Rge 36E, B.M.
BANNOCK County		

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	36E	34																	

Conditions of Approval:

1. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. C04 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PURPOSE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-298B V1

3. C18 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.
4. X02 Stockwater use is for 300 range cattle.

Remarks:

1. Quantity USE OF THIS RIGHT WITH RIGHT NO. 29-00311B IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.07 CFS.

Comments:

1. csaxton 6/26/2003 Amended Claim

Comment: Originally claimed irrigation but recommended as disallowed due to forfeiture. Claimant amended the claim to show stockwater rather than irrigation because he does actually use the claimed source for stock water purposes.

Dates and Other Information:

Decreed Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Defendant:
 Plaintiff:
 Civil Case Number:
 Judicial District:
 Notice of Error Flag:
 State or Federal: S
 Owner Name Connector:
 Water District Number: 29F
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Summary			07/24/2002	csaxton	Active
Contacts	6/26/2003 11:23:24 AM	csaxton			Active
Priority Date	6/26/2003 11:24:01 AM	csaxton			Active
POD	6/26/2003 11:26:49 AM	csaxton			Active
Source	6/26/2003 11:34:29 AM	csaxton			Active
POU	6/26/2003 11:34:46 AM	csaxton			Active
Use	6/26/2003 11:40:31 AM	csaxton			Active
Season	6/26/2003 11:41:42 AM	csaxton			Active
Quantity	6/26/2003 11:42:29 AM	csaxton			Active
Summary			06/26/2003	csaxton	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
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IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-298B V1

Contacts	7/24/2002 8:52:54 AM	csaxton	(No) 1. Do you want to schedule an appointment? Comment for 1: Met with claimant on 11/1/02
POU	7/24/2002 8:54:16 AM	csaxton	Edited shape boundary
POU	7/24/2002 8:54:37 AM	csaxton	Edited PLS
Summary	7/24/2002 9:05:24 AM	csaxton	(Yes) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture? (No) 4. Is any portion of the claim be recommended? (Yes) 5. Is an additional remark and/or condition required? (Yes) 6. Would you like to view the recommended right? (Yes) 7. Is this a split or combined right? (No) 8. Do you have documents you would like to attach or link to the file? (Yes) 9. Would you like to set the verification date?
Contacts	6/26/2003 11:23:24 AM	csaxton	(No) 1. Do you want to schedule an appointment? Comment for 1: Contact with claimants attorney on June 23, 2003
Priority Date	6/26/2003 11:24:02 AM	csaxton	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (Yes) 4. Is the basis of claim decree or license? (Yes) 5. Does the decree or license have a Priority Date? (Yes) 6. Did the Claimant claim the decreed or licensed Priority Date ? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required?
Use	6/26/2003 11:40:31 AM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a Purpose of Use? (No) 5. Can the claimed Purpose of Use be verified using the water right file? (Yes) 6. Is there evidence that there has been a change in the Purpose of Use? (Yes) 7. Can the change be verified as an accomplished transfer? (Yes) 11. Does the file contain all the necessary information to verify the Water Use? (No) 13. Is a Purpose of Use remark and/or condition required? Description for Question 7 - Purpose of use has been stockwater since at least 1981. Description for Question 10,11,12 - Claimant contact and FE on 10/10/01

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-298B V1

Summary	6/26/2003 11:45:01 AM	csaxton	(Yes) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture? (Yes) 5. Is an additional remark and/or condition required? (Yes) 6. Would you like to view the recommended right? (Yes) 7. Is this a split or combined right? (No) 8. Do you have documents you would like to attach or link to the file? (Yes) 9. Would you like to set the verification date?
POD	6/26/2003 11:34:00 AM	csaxton	Edited point location
Source	6/26/2003 11:34:30 AM	csaxton	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a source? (Yes) 5. Can the claimed source be verified using the water right file? (No) 11. Is a Source remark and/or condition required?
POU	6/26/2003 11:34:47 AM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 2a. Is the POU required? (Yes) 5. Does the Decree or License have a POU? (Yes) 6. Can the claimed POU be verified using the water right file? (No) 14. Is a POU remark and/or condition required?
POU	6/26/2003 11:37:14 AM	csaxton	Created polygon from PLS
Season	6/26/2003 11:41:43 AM	csaxton	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a Period of Use? (Yes) 5. Can the claimed Period of Use be verified using the water right file? (No) 14. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?
POD	6/26/2003 11:33:43 AM	csaxton	Edited point location
POD	6/26/2003 11:26:50 AM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (No) 4. Does the Decree or License have a POD? (Yes) 6. Is there evidence that there has been a change in the POD? (Yes) 7. Can the change be verified as an accomplished transfer? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required? Description for Question 6 - POD in place since 1981.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-298B V1

Quantity	6/26/2003 11:42:29 AM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a diversion rate and/or volume? (Yes) 5. Can the claimed diversion rate and/or volume be verified using the water right file? (No) 8. Does the parent right have an annual diversion volume limit? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (Yes) 12. Is a Quantity remark or condition required?
POU	6/26/2003 11:35:18 AM	csaxton	Created polygon from PLS

Saxton, Craig

From: Saxton, Craig
Sent: Thursday, June 26, 2003 1:32 PM
To: 'rcb@racinelaw.net'
Subject: Corwin Pat Whitworth SRBA Recommendations 29-02034B, 29-00298B, and 29-00311B

Dear Mr. Budge,

Thanks for addressing the issues for Pat Whitworth's SRBA recommendations so quickly. Since we have been having problems catching each other on the phone I thought I would drop you a quick E-mail to address some of the issues you brought up in you June 23, 2003 letter.

29-00298B and 29-00311B:

I recommended both points of diversion (POD) and the entire place of use on both 29-00298B and 29-00311B. I feel that the intention of the decree and the later transfer 2570 intended the rights to be overlapping. This will give Mr. Whitworth the flexibility to use both POD's to divert for stockwatering purposes as lower flows in the creek start to cause water rights to be curtailed.

You addressed the question of adding the condition "PURSUANT TO A CALL IN TIMES OF SCARCITY, THIS RIGHT IS SENIOR TO WATER RIGHTS DIVERTED FROM RAPID CREEK AND TRIBUTARIES" to rights 29-00298B and 29-00311B. This condition is not applicable to the above mentioned rights because these rights were included in the 1906 Rapid Creek decree. At the time of the Rapid Creek decree, rights 29-00298 and 29-00311 were decreed with the source as the North Fork of Rapid Creek. Later Transfer 2570 signed in 1981 defined the source for these two rights as Rapid Creek trib to the Portneuf River as it currently exists. The difference with Mr. Whitworth's Jackson creek right is that it was not included in the decree. The fact that it wasn't included in the decree, has a priority date that dates into the decree, and the evidence that Mr. Whitworth submitted, supports that Jackson Creek at that time might not have been tributary to Rapid Creek. But there doesn't seem to be a question that Rapid Creek has always been trib to the Portneuf river. Thus the above condition was not added to the recommendations (attached).

Note that since 29-00298B and 29-00311B only had one POD defined in TR 2570, and accomplished change in POD remark was added to the recommendations. In addition, since TR 2570 defined the purpose of use as irrigation, an accomplished change in purpose of use remark was added to the recommendations.

29-02034B:

In your letter you stated that you felt the source should be recommended as Rapid Creek trib to the Portneuf. IDWR has to recommend the source and tributary as it is. The source is Jackson Creek and at this time it is tributary to Rapid Creek. Because evidence indicates that Jackson Creek was not historically trib to Rapid Creek is why we added the previously mentioned condition because at that time it could have been regulated separately from the Rapid Creek rights. But at this time we need to recommend the source as it exists.

Please feel free to drop me a line if you have any questions.

Thanks again for your quick attention to these matters. It makes things easier as the deadline for basin 29 approaches quickly.

Respectfully submitted,

Craig L. Saxton
Sr. Water Resource Agent
Adjudication Bureau
(208) 331-2190
csaxton@idwr.state.id.us

SCANNED
JUL 27 2005

PROFILED

LAW OFFICES OF

**RACINE, OLSON, NYE, BUDGE &
BAILEY
CHARTERED**

CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101
FACSIMILE (208) 232-6109

SENDER'S E-MAIL ADDRESS: rcb@racinelaw.net

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL
JOHN B. INGELSTROM
DANIEL C. GREEN
BRENT O. ROCHE
KIRK B. HADLEY
FRED J. LEWIS
MITCHELL W. BROWN
ERIC L. OLSEN
DAVID E. ALEXANDER
LISA M. CHRISTON
RICHARD A. HEARN, M.D.
LANE V. ERICKSON
PATRICK N. GEORGE
SCOTT J. SMITH
LISA A. WOOD, CPA
STEPHEN J. MUHONEN

BOISE OFFICE

CONRAD J. AIKEN
THEODORE C. PETERS
DEBORAH L. LEHOSIT

101 SOUTH CAPITOL
BOULEVARD
U.S. BANK PLAZA, SUITE 202
BOISE, IDAHO 83702
TELEPHONE: (208) 395-0011
FACSIMILE: (208) 433-0167

June 23, 2003

RECEIVED

JUN 25 2003

WATER RESOURCES
WESTERN REGION

Craig L. Saxton
Senior Water Resource Agent
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

*Re: Notice of Error Reply for SRBA Preliminary Recommendations
29-00298B, 29-00311B, and 29-02034B for Corwin Pat Whitworth*

Dear Craig:

Thank you for your letter of June 4, 2003 and enclosures pertaining to the above-referenced water rights, which I have reviewed with the claimant, Corwin Pat Whitworth. The revised Recommendations for each of these claims are approved.

Enclosed please find signed original Notice of Claim Nos. 29-311B and 29-298B for stock water. The description of the diverting works has been inserted on each. The points of diversion and place of use have been reflected on the attached map. Since both places of use are reflected in each claim, I have added the additional point of diversion reflected so that both points of diversion are reflected on both claims. Mr. Whitworth has no objection should prefer to separate these to reflect a single point of diversion and place of use on each claim.

The revised Preliminary Recommendation for Right No. 29-2034B is approved and I am enclosing a copy. Reflecting the source as Rapid Creek rather than Jackson Creek, since Jackson Creek is now tributary to Rapid Creek, is acceptable based upon the added condition: "pursuant to a call in times of scarcity, this right is senior to water rights diverted from Rapid Creek and tributaries." This condition would in fact protect Mr. Whitworth from a priority call from Rapid Creek in times of shortage, which was a

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JUL 27 2005

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Craig L. Saxton
June 23, 2003
Page 2

major concern. I note, however, that on Right No. 29-2034B the source is still reflected as Jackson Creek, tributary to Rapid Creek, and I wondered if it should not be changed to reflect the source as Rapid Creek, tributary to the Portneuf River, with the new condition added.

Also, I note that on Right No. 29-311B and 29-298B, the source is reflected as Rapid Creek tributary to the Portneuf River (rather than Jackson Creek tributary to Rapid Creek). Accordingly, the same condition reflected in 29-2034B should be reflected on the stock water rights, i.e., "pursuant to a call in time of scarcity, this right is senior to water rights diverted from Rapid Creek and tributaries."

With these changes, Mr. Whitworth approves of each of these recommended rights as revised. Please contact me if you have any questions.

Sincerely,



RANDALL C. BUDGE

RCB:rr
Enclosures
cc: Pat Whitworth (w/encls.)

PROFILED

SCANNED
JUL 27 2005



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 4, 2003

ATTN: RANDALL BUDGE
RACINE OLSON NYE BUDGE & BAILEY CHTD
PO BOX 1391
POCATELLO ID 83204-1391

RE: Notice of Error Reply for Snake River Basin Adjudication (SRBA) preliminary recommendations 29-00298B, 29-00311B, and 29-02034B for Mr. Corwin Pat Whitworth.

Dear Mr. Budge,

This office received the Notice of Error (NOE) reply you submitted on behalf of Corwin Pat Whitworth on March 24, 2003. I will address your clients concerns below:

29-00298B and 29-00311B:

I feel I can support recommending the claims for stockwater use within the season of use you described in the NOE reply you submitted but I am in the process of discussing this with our legal staff. None-the-less, as you stated in your letter, stockwater was not claimed as a purpose of use. To even pursue claiming stockwater use to be recommended as part of these historical decreed rights, the two claims will need to be amended to reflect stockwater as a claimed purpose of use.

Enclosed are amended claims for the two above revered water rights. Based on your letter that agreed that the irrigation water right has been forfeited, I removed irrigation from the amended claims. However, if your client wishes to still claim irrigation as well as stockwater, feel free to add that in or create a new amended claim. Note that the diversion rate shown on the amended claims is the standard rate for 300 beef cattle.

In addition, during a field exam on 11/1/01 where I met with Mr. Whitworth, I understood that Mr. Whitworth fills a water truck from Rapid Creek and then pumps it into his watering troughs. If this is correct, then I need to know the location(s) the water is taken from Rapid Creek as that will be defined as the point of diversion. Enclosed is a map of the area for your convenience. Please indicate the location of the point of diversion and return it with the signed amended claims.

Please look over the claims and have Mr. Whitworth initial any changes he wishes to make. When satisfied, have Mr. Whitworth sign the claims in front of a notary and return them to this office by **June 20, 2003**.

SCANNED

JUL 27 2005

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29-02034B:

Issue 1 and 2: You stated that additional irrigate acreage should be added to the recommendation and the quantity of water should be increased proportionately to match.

Based on the map you provided and your request, I have added in additional acreage totaling 46 acres per GIS. I have adjusted the diversion rate to reflect this additional acreage.

Please look over the revised preliminary recommendation and feel free to contact me with further questions.

Issue 3: You stated that the preliminary recommendation should state that Jackson Creek as tributary to sinks rather than tributary to Rapid Creek.

In preparing the preliminary recommendation, evidence was reviewed by myself, my supervisor Ernie Carlsen, and our legal representative for basin 29 Candice McHugh. Since Jackson Creek is now tributary to Rapid Creek, we had to recommend the source as tributary to Rapid Creek. But, in order to address Mr. Whitworth's concerns about his right being called out by earlier priority rights on Rapid Creek, a condition was added stating:

PURSUANT TO A CALL IN TIMES OF SCARCITY, THIS RIGHT IS SENIOR TO WATER RIGHTS DIVERTED FROM RAPID CREEK AND TRIBUTARIES.

This condition was added to protect Mr. Whitworth from a priority call when water levels in the drainage start to diminish.

I would encourage you to direct further questions regarding this issue to Deputy Attorney General Candice McHugh at (208) 327-7900.

Conclusion:

I hope this helps to address Mr. Whitworth's concerns regarding the preliminary recommendations made on his SRBA claims.

Please feel free to contact me with further questions.

Respectfully submitted,



Craig L. Saxton
Sr. Water Resource Agent
Adjudication Bureau

SCANNED
JUL 27 2005

PROFILED

Craig

LAW OFFICES OF

**RACINE, OLSON, NYE, BUDGE &
BAILEY
CHARTERED**

LOUIS F. RACINE, JR.
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W. MARCUS W. NYE
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CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101
FACSIMILE (208) 232-6109

SENDER'S E-MAIL ADDRESS: rcb@racinelaw.net

BOISE OFFICE

CONRAD J. AIKEN
THEODORE C. PETERS
DEBORAH L. LEHOSIT

101 SOUTH CAPITOL
BOULEVARD
U.S. BANK PLAZA, SUITE 202
BOISE, IDAHO 83702
TELEPHONE: (208) 395-0011
FACSIMILE: (208) 433-0167

March 11, 2003

Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Re: *Corwin Pat Whitworth*
Water Right Nos. 29-311B, 29-298B, 29-2034B

To Whom It May Concern:

Enclosed please find Claimant Corwin P. Whitworth's Notice of Error Reply pertaining to Water Right Nos. 29-298B, 29-311B, and 29-2034B.

With respect to numbers 29-298B and 29-311B, the Claimant Mr. Whitworth agrees with the recommendation that the irrigation water right be forfeited by reason of non-use. However, he disagrees that any forfeiture should occur with respect to his stock watering right on the same property. Although this was not separately identified on the original Notice of Claim, these two water rights have been continuously to date to provide stock water for up to 300 head of beef cattle. The period of use is right after the first crop hay is removed, being approximately June 15 each year, through October 31. Mr. Whitworth seeks to amend these claims to assert this stock water right. If it is necessary to file a separate late filed claim on the stock water right, please advise and we'll promptly do so.

Regarding Water Right No. 29-2034B, there are four areas of disagreement:

1. The irrigated acres should be 36 acres in the SW1/4 NE1/4 and 12 acres in the SE1/4 NE1/4 of Section 23, Township 7 South, Range 36 East, B.M., Bannock County. I am enclosing a map reflecting the additional acres, which the claimant requests be included.

PROFILED

SCANNED

JUL 27 2005

RECEIVED
MAR 17 2003
Department of Water Resources
Eastern Region

RECEIVED
MAR 24 2003
WATER RESOURCES
WESTERN REGION

March 11, 2003

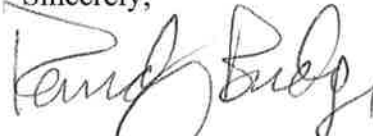
Page 2

This is the hash-marked area, which has always been irrigated from the identified ditch, which runs from the point of diversion in a southwesterly direction to a gravity flow sprinkler system.

2. The quantity of water should be increased proportionately for the additional 48 acres.
3. The source reflects that Jackson Creek is a tributary to Rapid Creek. Presently that is the case. However, it was not the case when this water right was initially established in 1905. At that time Jackson Creek was tributary to sinks and did not flow into Rapid Creek. This is significant, because this right otherwise could be called out by earlier priority rights on Rapid Creek. In support of this assertion are the enclosed sworn statements of Francis M. Whitworth dated March 19, 1991, R. W. Barren, dated March 19, 1991, and Narcisse Sorrell, dated July 2, 1920. At that time, Jackson Creek was commonly known as Indian Creek. This date was based upon Water License No. 1330 issued June 8, 1906, by State Engineer Jason Stevenson, Jr., Bannock County Recorder's Instrument No. 29-2034, copy of which is enclosed. Our copy is hardly legible, but I assume the Department has available a legible copy. It does not appear that any indication is given in this license that Indian Creek (Jackson Creek) was tributary to Rapid Creek.

Thank you for your consideration. If you have any questions, please contact me.

Sincerely,



RANDALL C. BUDGE

RCB:rr

Enclosures

cc: Pat Whitworth (w/encls.)

PROFILED

SCANNED
JUL 27 2005

Craig
02/18/2003

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: 29-298B

CORWIN P WHITWORTH
493 E JACKSON CREEK RD
INKOM ID 83245
Telephone Number: (208)775-3563

RECEIVED
MAR 24 2003

WATER RESOURCES
WESTERN REGION

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

Agree to forfeiture of irrigation for non-use.
However, right continuously used for stockwater for up to 300 head
beef cattle from 6/15 - 10/31.

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

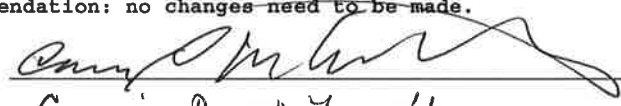
See No. 1 above. Right for stockwater not forfeited
as use has been continuous to date.

3. Give a brief explanation as to why you disagree with these portions:

Same use as stockwater claim on Right No. 29-311B

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

DATE: 3/7/03

SIGNATURE: 

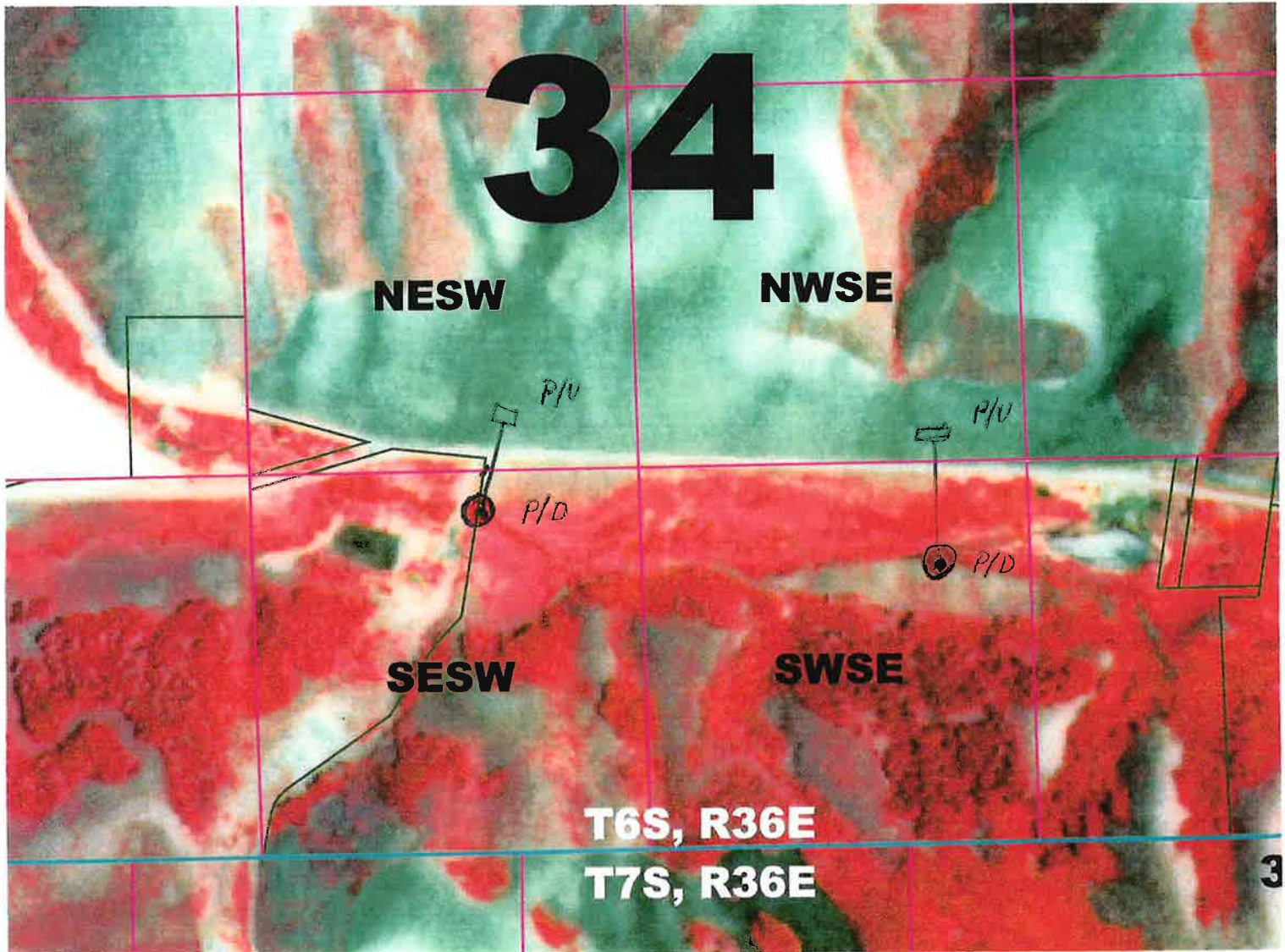
Please print your name: Corwin P. Whitworth

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

PROFILED

SCANNED
JUL 27 2005

POD location Map for Stock Water use 29-00298B and 29-00311B



Point of Diversion

Irrigated Acres = N/A



Bannock Co Tax Lot Data



Place of Use - N/A



N/A

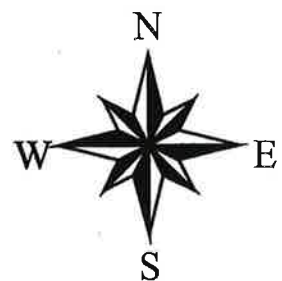


Section Lines

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JUL 27 2005



Prepared By: Craig Saxton

10-10-01 : POU Looks Dry Firmed-I see NO way water can reach POU.

10-30-01: Called and spoke with Mrs Whitworth. Asked to Have Corwin Call me back.

Mrs Whitworth said they have never used rights.

10-31-01 : Pat (Corwin) Called Back and asked me to Give him a Call tomorrow (Thurs) when I am in the Field

11-1-01 : NO USE confirmed by Clairmont
FE Never Been Used and NO way to Get Rapid Creek water to POU.

7-24-02 : See additional Notes in 29-00311B

PROFILED

SCANNED
JUL 27 2005

*If this had been used and not forfeited
Below is how it would be recommended*

07/24/2002

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 29-298B

WATER RIGHT NUMBER: 29-298B

<u>Owner Type</u>	<u>Name and Address</u>
Attorney	RANDY BUDGE RACINE OLSON NYE BUDGE & BAILEY CHTD <i>OK</i> PO BOX 1391 POCATELLO, ID 83204-1391 (208)232-6101
Current Owner	CORWIN P WHITWORTH <i>OK</i> 493 E JACKSON CREEK RD INKOM, ID 83245 (208)775-3563
Original Owner	RICHARD HOFFINE

, ZZ

Priority Date: 06/23/1902 *OK*Basis: Decreed *OK*Status: Active *OK*

<u>Source</u>	<u>Tributary</u>
RAPID CREEK <i>OK</i>	PORTNEUF RIVER <i>OK</i>

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION <i>OK</i>	3/15 to 11/15 4/1 10/31		0.603 CFS <i>OK</i>	
	<u>Total Diversion:</u>		0.603 CFS	

Location of Point(s) of Diversion

RAPID CREEK <i>OK</i>	SE1/4SW1/4	Sec. 34, Twp 06S, Rge 36E, B.M.
BANNOCK County	<i>? no known PDD</i>	

Place of UseIRRIGATION *OK*

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	36E	34									20.0						29.0		49.0 <i>OK</i>
											23						36		

Total Acres: 49 *OK*Conditions of Approval:*1) C18**2) This Right and Right 29-00311B is limited to 49 acres of Irrigation in a single sou.*Remarks:

- General AS PER TRANS. # 2570.

SCANNED

JUL 27 2005

PROFILED

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report 29-298B

Comments:

Dates and Other Information:

Claim Received Date: 2/23/1990
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal: S
Owner Name Connector:
Water District Number: 29F
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

PROFILED

SCANNED
JUL 27 2005

29-00298 B + 29-00311 B

FE: 10/10/01



Looking N. From Rd @ claimed POW Dry Farmed - Per claimant statements

PROFILED

SCANNED

JUL 27 2005

29-00298B + 29-00311 B

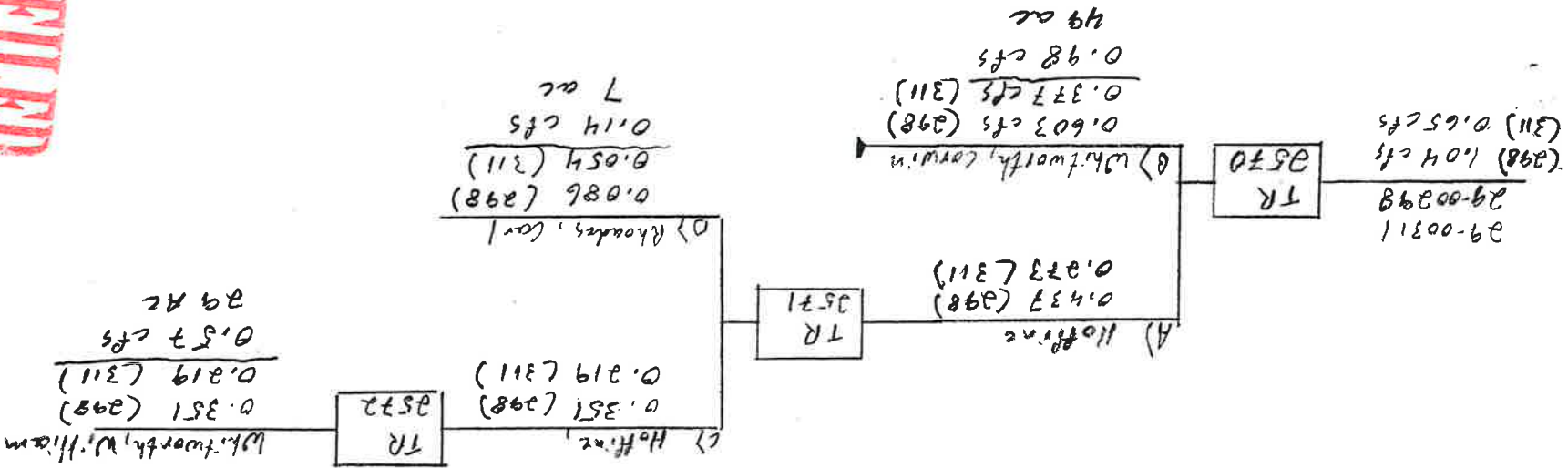
FE: 10/10/01



Looking N From Rd @ Claimed POU. Dry farmed - Per Claimant's statement

PROFILED

SCANNED
JUL 27 2005



WR Split History for 29-00298 + 29-00311

2 of splits = Decreed diversion Rate
 All Claims match WR Database

C. Sullivan
 9/7/01

PROFILED

SCANNED

JUL 27 2005

Water Right Report 29-298B

WATER RIGHT NUMBER: 29-298B

Original Owner **, ZZ**
RICHARD HOFFINE

Status: Active

RAPID CREEK

PORTNEUF RIVER

Annual Volume

3/15 to 11/15

0.603 CFS

Total Diversion: 0.603 CFS

Location of Point(s) of Diversion

RAPID CREEK

SE1/4SW1/4

Sec. 34, Twp 06S, Rge 36E, B.M.

BANNOCK County

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	Totals
06S	36E	34									20.0					29.0			49.0

Total Acres: 49

Conditions of Approval:

Remarks:

1. General AS PER TRANS. # 2570.^^^

Comments:

Dates and Other Information:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 29-298B

Dates and Other Information:

Licensed Date:
Decreed Date: 6/22/1906
Water Supply Bank Enrollment Accepted:
Water Supply Bank Enrollment Removed:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector:
Water District Number: 29F
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number:
Judicial District:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 29-298B

WATER RIGHT NUMBER: 29-298B

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CORWIN P WHITWORTH
	, ZZ
Original Owner	RICHARD HOFFINE
	, ZZ

Priority Date: 06/23/1902

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
RAPID CREEK	PORTNEUF RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/15 to 11/15	0.603 CFS	
	<u>Total Diversion:</u>	0.603 CFS	

Location of Point(s) of Diversion

RAPID CREEK	SE1/4SW1/4	Sec. 34, Twp 06S, Rge 36E, B.M.
BANNOCK County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
06S	36E	34									20.0						29.0		49.0

Total Acres: 49

Conditions of Approval:Remarks:

- General AS PER TRANS. # 2570.

Comments:Dates and Other Information:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 29-298B

Dates and Other Information:

Licensed Date:
Decreed Date: 6/22/1906
Water Supply Bank Enrollment Accepted:
Water Supply Bank Enrollment Removed:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Formal Action Date:
State or Federal:
Owner Name Connector:
Water District Number: 29F
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number:
Judicial District:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

SCANNED

JUN 11 2001

Log for claim A29-00298B

Spatial Dynamics LTD

8/25/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
06s36e	34	NESW	20	23	
06s36e	34	NWSE	29	26	
Totals:			49	49	

TRANSFER NO.	NAME	AMOUNT C.F.S.	BALANCE C.F.S.	RIGHT NO.
	~~Hoffine, Richard~~	~~1.04~~		29-0298
2570	Whitworth, Corwin P.	0.603		29-0298 B
	~~Hoffine, Richard~~	~~0.437~~		29-2098 A
2571	Rhoades, Carl Jim & Michelle	0.086		29-0298 D
	~~Hoffine, Richard~~	~~0.351~~		29-0298 C
2572	^{William} Whitworth, Corwin P.	0.351		29-0298 C

T

R

A

N

S

F

° E

Transfer No. 2570

Water Right No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
To Change the Point of Diversion and/or the Place of Use

APPROVEDName of applicant Corwin P. Whitworth Phone 775-3563Post Office address Route #1 Box 4-a Inkom, Idaho 83245**A. DESCRIPTION OF RIGHT AS RECORDED****1. Right evidenced by:**

a. Decree No. 29-0298 Decreed to Richard Hoffine
(Name)
in case of Charles E. Stewart et al vs A.J. Damron et al
dated in 23 June 1906 in Fifth Judicial Dst. county of Bannock
(Name of court)

b. License No. _____ issued by the Idaho Department of Water Resources

c. Claim No. _____ on file with the Idaho Department of Water Resources

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant purchased land
to which water is appurtenant _____

3. Source of water Rapid Creek tributary to Portneuf River4. Date of priority 29-0311- 23 June 1906 (see remarks)**5. Water is used for the following purposes:**29-0298 amount 1.04 cfs for Irrigation purposes from Not specified in decree

29-0311 amount 0.65 cfs for Irrigation purposes from Not specified in decree
amount _____ for _____ purposes from _____ to _____
(month/day — both dates inclusive)

6. Total amount of water under right: a. 1.69 cubic feet per second
&/or
b. _____ acre feet per annum

7. Location of original point of diversion is Not specified in decree % of Section _____

Township _____ Range _____, B.M., in _____ County

Additional points of diversion, if any _____

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
6S	36E	34									X			X		X	X		

Total number of acres to be irrigated Not specified in Decree

9. Describe any other water rights used for the same purpose as described above None

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? No If yes, describe in item D, REMARKS

D. REMARKS

Date of priority for decree 29-0311 not specified in decree;
therefore, date of decree is being used as date of priority.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willfull misrepresentations made in this application may result in voiding its approval.

X Conrad P. Whitman H
(Signature of Applicant)

Subscribed and sworn to before me this 1 day of June, 19 81.

Sherry Helmanclaw
(Notary Public)

My commission expires October, 1983

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 29-0298 B/29-0311 B
and said application is hereby approved, subject to the following limitations and conditions:

A measuring device and lockable controlling works of a type acceptable to the
department shall be permanently installed and maintained as part of the diverting
works.

Use of water under this right is subject to control by the watermaster of State
Water District # 29-F, Rapid Creek.

Witness my hand this 29th day of July, 19 81.

L. Glen Saxton
L. GLEN SAXTON

Chief, Operations Bureau

FOR DEPARTMENT USE ONLY

Received by CW Date 6/3/81 Protest filed by _____

Prelim. check by _____ Fee 50.00

Received by CW Date 6/4/81 #17704

Published in Idaho State Journal Copies of protest forwarded by _____

Pub. dates 6/18 & 6/25/81 Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for approval denial

6/22 rec'd. 6/30 by EMC Jim Det

Stage: DECREED

Audit: 02/23/90 DCARLSON 04/04/94 THOMPSON 03/29/95 POST-STD

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 29-298B
Date Received: 2/23/1990
Receipt No: E012142
Received By:

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name of Claimant(s)

CORWIN P WHITWORTH Phone: (208)775-3563

493 E JACKSON CREEK RD
INKOM ID USA 83245

2. Date of Priority: 06/23/1902

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

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
06S	36E	34	SE SW	BANNOCK	
"	"	"	SW SE		

5. Description of diverting works:

1 hp electric motor and centrifugal pump immersed in Rapid Creek
w/ 1 1/4" plastic pipe to water trough

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
STOCKWATER	6/15	10/31	0.07	

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

8. Total consumptive use:

9. Non-irrigation uses:

300 HEAD OF BEEF CATTLE

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
06S	36E	34	NE SW NW SE	STOCKWATER STOCKWATER	

Section Acres

Total Acres

11. Place of use in counties: BANNOCK

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

13. Other Water Rights Used:

29-00311B, 29-02034B

14. Remarks:

CLAIM AMENDED TO SHOW STOCKWATER AS USE.

15. Basis of Claim: Decreed

16. Signature(s)

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

Number of attachments: 1 - map

For Individuals:

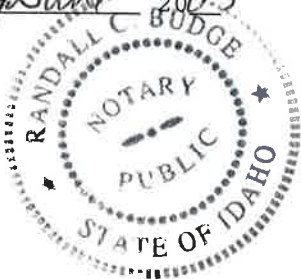
I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): [Signature] Date: 6/23/03

Date: _____

State of Idaho)
County of Bannock) SS.

Subscribed and sworn (or affirmed) before me this 23rd
of September 2003



Notary Public

Residing at Randall C. Budge

My commission Expires 10/11/2006

SCANNED

JUL 27 2005

JUN 11 2001

99 X

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: A29-00298B
Date Received: 2/23/1990
Receipt No: EO12142
Received By: DC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ^{pat} CORWIN P. WHITWORTH 208-775-3563
Address: RT 1 BOX 9900
INKOM, ID 83245

2. Date of Priority: JUN 23, 1902

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

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
06S	36E	34		SE	SW		BANNOCK

5. Description of diverting works:
HEADGATE/PUMP TO SPRINKLER SYSTEM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.603		

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

8. Total consumptive use is 75.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
06S	36E	34	NE	SW		IRR	20.0
			NW	SE		IRR	29.0
Section Acres							49.0

A29-00298B

Page 1

Date: 02/23/90

MICROFILMED

NOV 13 1992



10. Place of Use: Continued

Total Acres 49.0

11. Place of use in counties: BANNOCK

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

13. Other Water Rights Used:
29-0311B

14. Remarks:
AS PER TRANS. # 2570.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

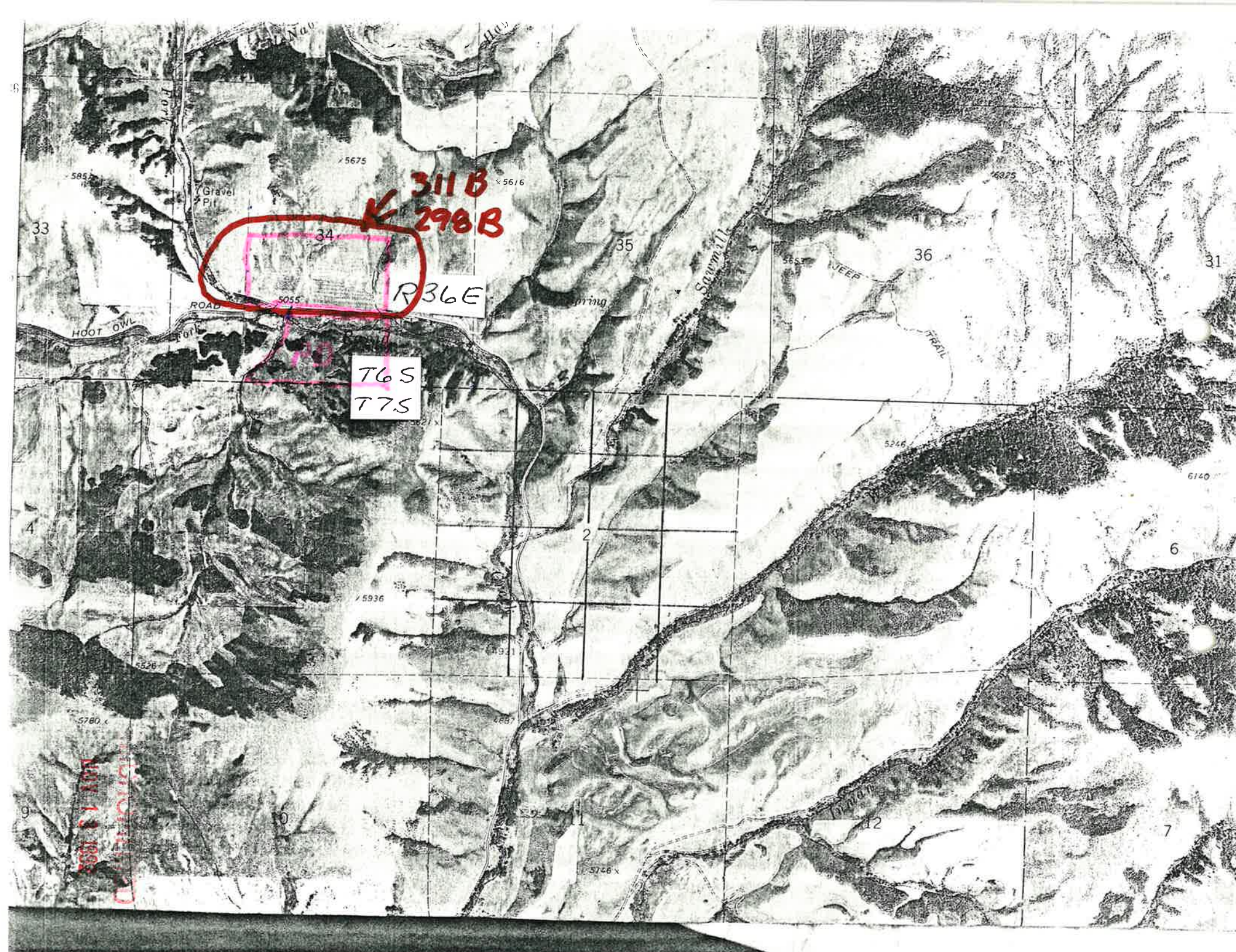
CHARLES E. STEWART, ET. AL.
Decree Plaintiff

vs

A. J. DAMRON, ET. AL.
Decree Defendant

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

NOV 13 1992



NOV 13 1992

CONFIDENTIAL

