

12/20/2002

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

RIGHT NUMBER: 29-390
NAME AND ADDRESS: HELEN TOLER
231 E GLOVER RD
ARIMO ID 83214

MAURICE A TOLER
231 E GLOVER RD
ARIMO ID 83214

SOURCE: GARDEN CREEK TRIBUTARY: MARSH CREEK

QUANTITY: 1.000 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 2.34 CFS. COMBINED RIGHT NOS.: 29-376, 29-377,
29-389, AND 29-390.

PRIORITY DATE: 05/01/1904

POINT OF DIVERSION:

T10S R36E S7 SENWNE Within BANNOCK County
T10S R36E S11 SWSNW 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	1.000 CFS

PLACE OF USE: IRRIGATION Within BANNOCK County

T10S R36E S02	SWNE	7.3	T10S R36E S02	SENW	1.4
T10S R36E S02	NESW	23.0	T10S R36E S02	SWSW	5.4
T10S R36E S02	SESW	19.0	T10S R36E S02	NWSE	3.8
T10S R36E S11	NENW	4.4	T10S R36E S11	NWNW	15.0
T10S R36E S11	SWNW	26.0	T10S R36E S11	SENW	1.9
T10S R36E S11	NWSW	10.0			

117.2 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 117.2 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-376, 29-377, 29-389,
AND 29-390.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 50.0 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

12/20/2002

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

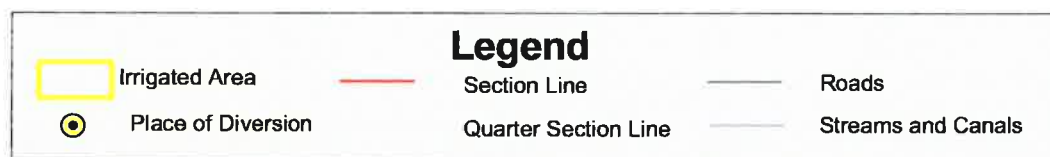
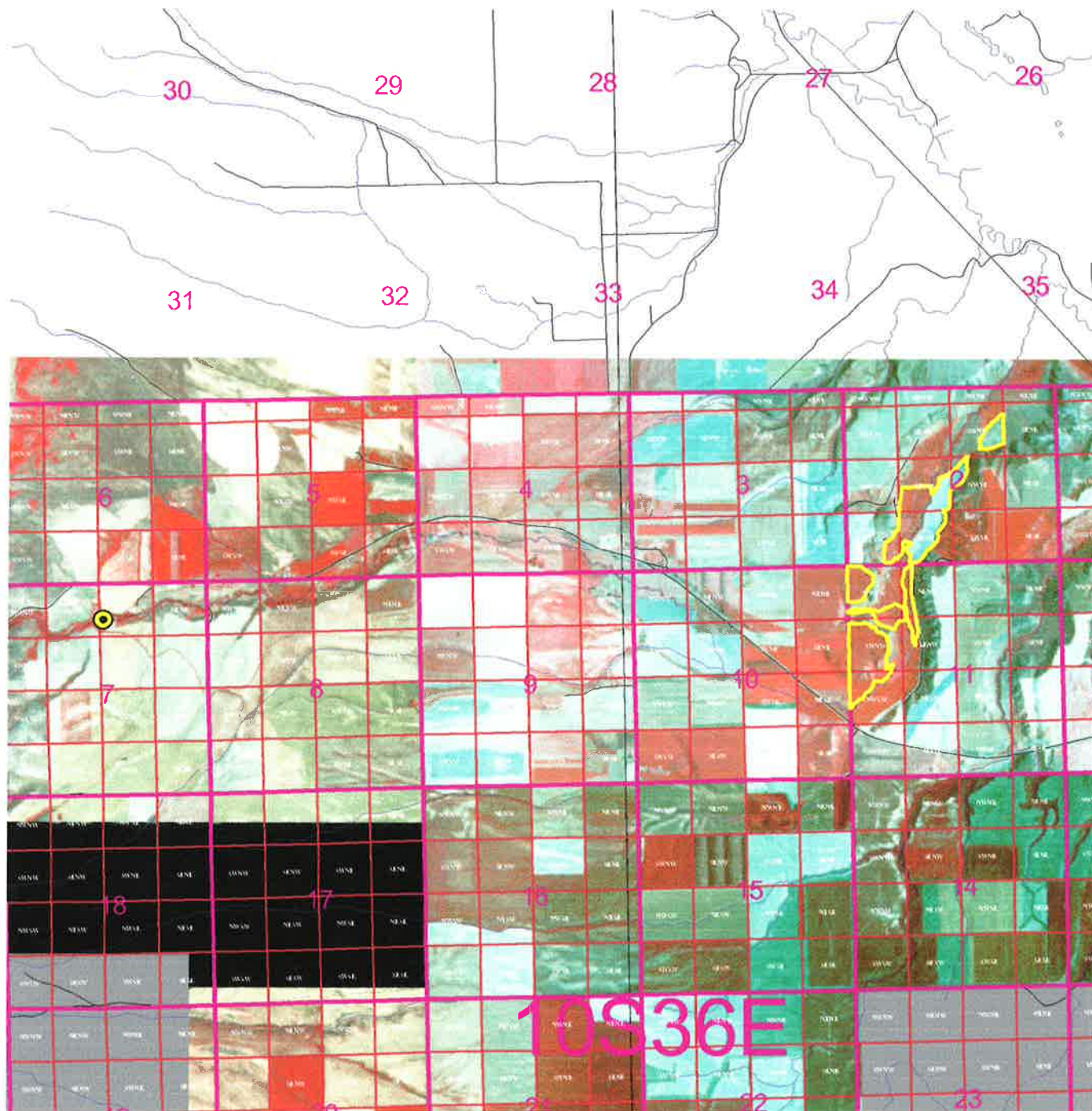
RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE.

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

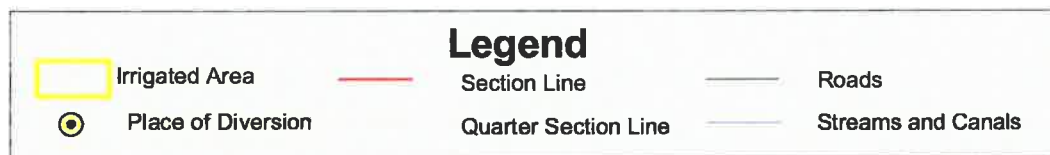
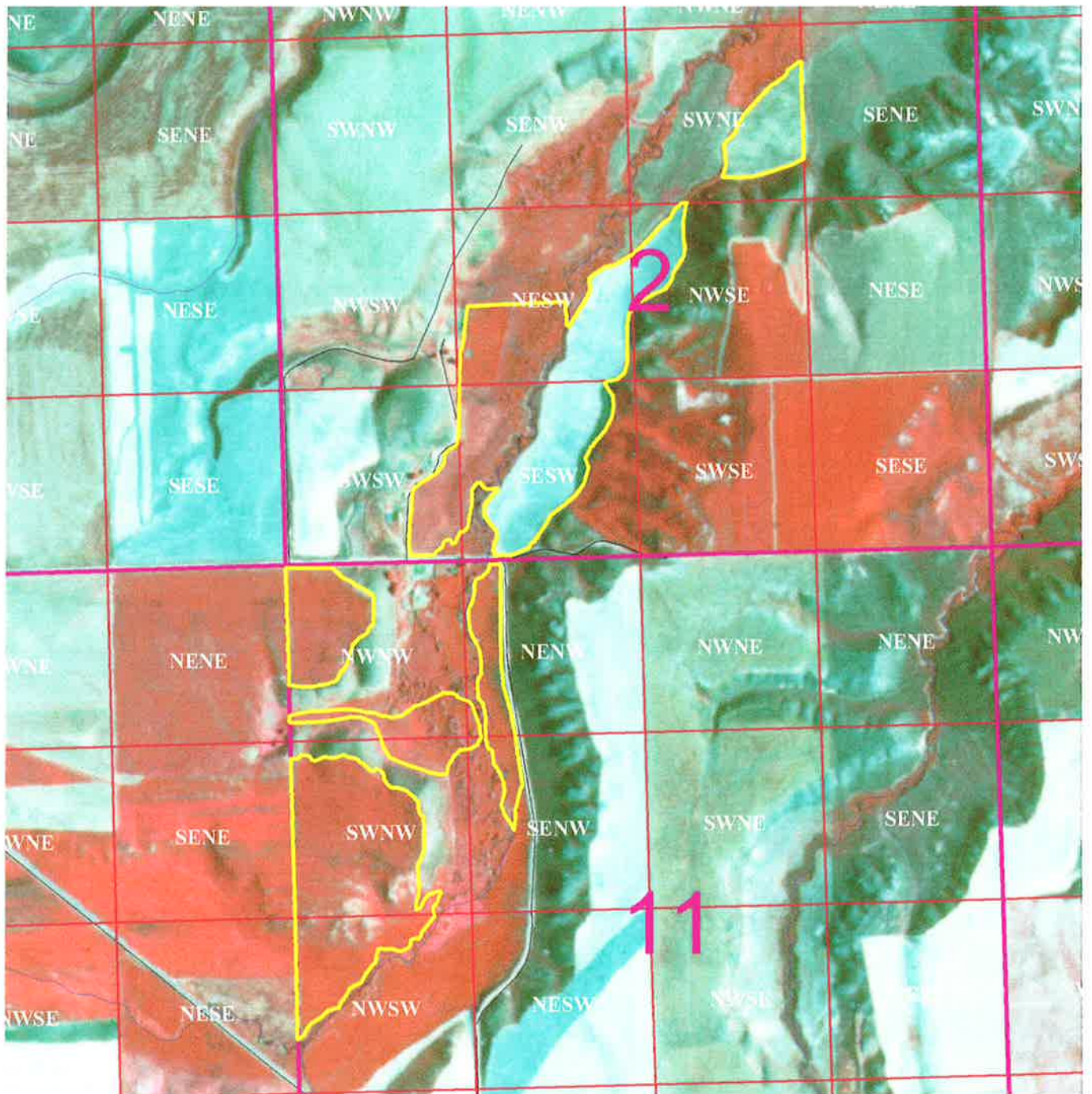
USE OF THIS RIGHT IS COMBINED WITH WATER FROM GARDEN CREEK
IRRIGATION CO.

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE: 29-376, 29-377, 29-389, AND 29-390.

Township , 10S36E



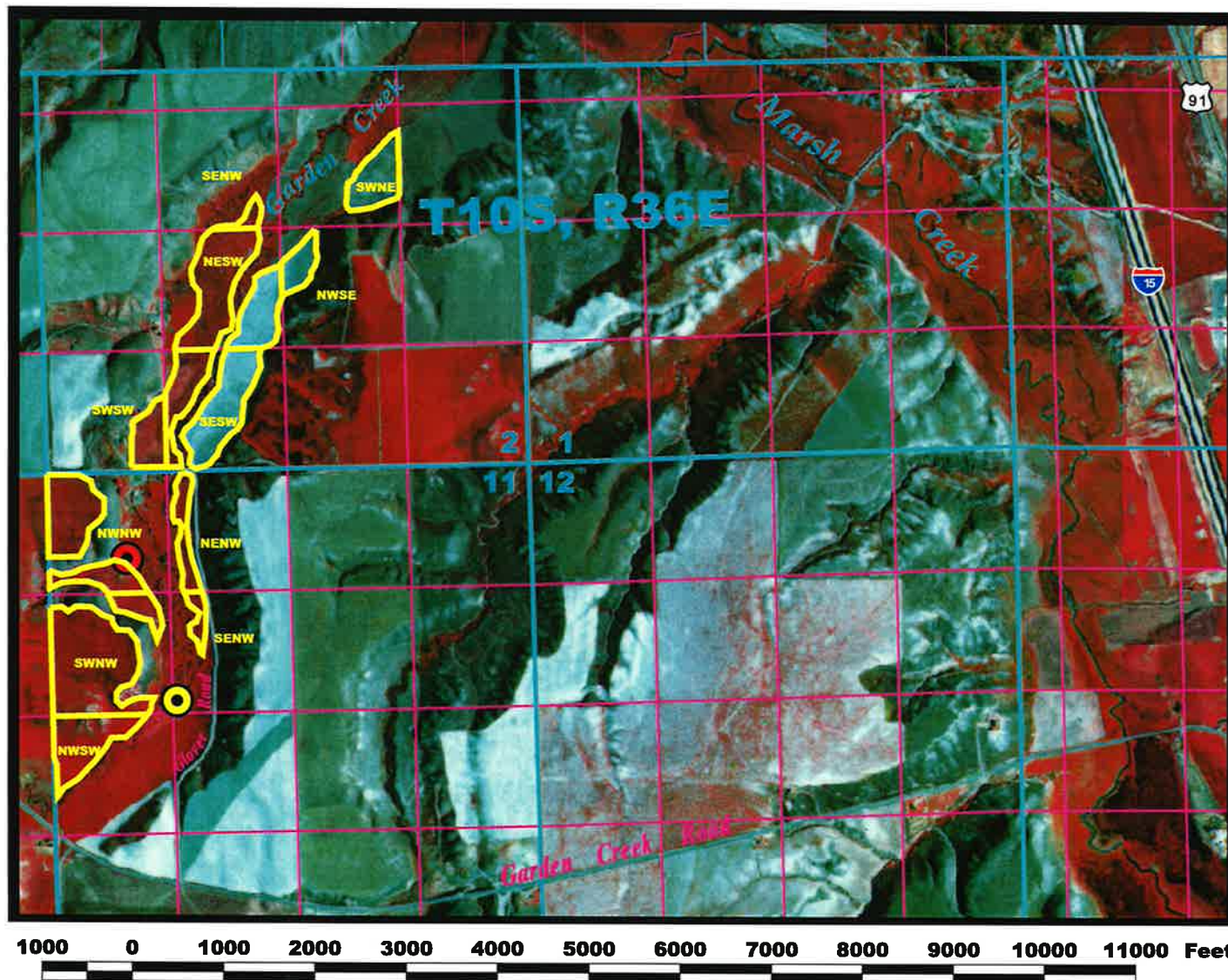
Township , 10S36E





Department of Water Resources

Eastern Region



**29-00376, 29-00377,
29-00389, 29-00390**

**Place of Use: (parts of) T10S, R36E
Sec. 2 S2SW, NESW, SENW, W2NE,
Sec. 11 NW, NWSW**

Point(s) of Diversion: T10S, R36E
Sec. 7 SWNWNE (not shown)
Sec. 11 SWSNW



LEGEND

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

GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: A. Ruberry
Date: December 2002

Contacts Data Entry Form

29-390
D&P/2050

Owner Type	Full Name	Address	City	State	Zip	Phone
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Current Owner M. Tovar

Name connector: and ____, or ____, and/or ____

Current Owner _____

Current Owner _____

Representing Attorney: _____ Phone Number: _____

Accompanied By: _____ Phone Number: _____

Relationship to Claimant: _____

Date of Field Exam: _____ Time: _____

Directions to Property (if different from above) and/or update owner information:

Gordon Crook Tovar vs Wolverston et al, 15 Sept 1906
EXCERPT ATTACHEDFB: 8/8/02 w/ MR. TovarFB INDICATED - POD, MED, OVERLAP 389

Reviewer: _____

Date: _____

SCANNED

JUN 29 2004

Priority Date Data Entry Form

Claim Number: _____

Water Right Priority Date: 1 May 1904

Water Right Basis: DISPUTED

Claimed Priority Date: _____

Claimed Basis: _____

Recommended Priority Date: _____

Recommended Basis _____

 Use Claimed Priority Date and Basis as Recommended Priority Date and Basis

Document the evidence submitted/reviewed for the priority date claimed, include your analysis of the evidence:

Priority matches Doerus

Reviewer: _____

Date: _____

Point of Diversion and Source Data Entry Form

Claim Number: _____

Water Right Point of Diversion: T____, R____, Sec.____,____,____,____. County: _____

Source: _____ Tributary: _____

Claimed Point of Diversion: T 10S, R 36E, Sec. 7,____,____,____. County: Bann.Source: GARDON CR Tributary: MANSH CREEK

Recommended Point of Diversion: T____, R____, Sec.____,____,____,____. County: _____

Source: _____ Tributary: _____

____ Use Claimed POD and Source as Recommended POD and Source

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source
<u>10S</u>	<u>36E</u>	<u>7</u>		<u>2K/NW/NE</u>	<u>Bann</u>	<u>GARDON CR</u>

GPS Coordinates: _____

		<u>11</u>		<u>SWSE/NW</u>	<u>Bann</u>	<u>GARDON CR</u>
--	--	-----------	--	----------------	-------------	------------------

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

Other rights from this POD? _____

Document how the POD and Source were verified and/or Pump and Motor data:

POD NOT SPECIFIED BY DECADOTHER R/S SAME POD'SOverlap w/ GARDON CR BRING SHAW'S

Transfers Changing POD _____

Reviewer: _____

Date: _____

TRUB:
MANSH CR
CP 3

Place Of Use Data Entry Form

Claim Number: _____

_____ Use Claimed POU as Recommended POU

Claimed Place of Use

Twp	Rge	Sec	QQ	Q	County	Lot Num	Acres	Purpose of Use
105	368	2					53 ⁹	Panig
		"					63 ⁴	Panig.

Total Acres 117³

Recommended Place of Use

Twp	Rge	Sec	QQ	Q	County	Lot Num	Acres	Purpose of Use

Total Acres 118² 508/25

Document how the POU was verified:

DIVE POLL THAN DESCRIBED $\Rightarrow$ COS when FORSITOR ?
 CLAIMS 117³ AC - GRS POLL shows 118² AC - OVERLAP CFS
 OF ALL PTS INCLUDING 29-4079 (SPRING)
 SAME 'DESCRIBED' POU AS 29-389 BUT CHANGED SOMEWHAT - CFS

Overlap w/ 389, 377, 376 ?

Transfers Changing POU _____

Reviewer: _____

Date: _____

Period of Use and Quantity Data Entry Form

Claim Number: _____

☐ Use Claimed Period of Use and Quantity as Recommended Period of Use and Quantity

Water Right Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
<i>Permit</i>	<i>Not</i>	<i>Spec.</i>	<i>12</i>	

Overall Diversion Rate _____

Overall Diversion Volume _____

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
<i>Permit</i>	<i>4/1</i>	<i>11/01</i>	<i>12</i>	

Overall Diversion Rate _____

Overall Diversion Volume _____

Recommended Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
<i>Permit</i>	<i>4/1</i>	<i>10/31</i>	<i>12</i>	

Overall Diversion Rate _____

Overall Diversion Volume _____

Document how the Period of Use and/or Diversion Rate were verified:

*Still not spec. by DWR - 1/15 DWR STD 4/1 to 10/31.**Q Decided as 12 cfs - ✓*

Reviewer: _____

Date: _____

MAY 31 2001

Log for claim A29-00390

Spatial Dynamics LTD

6/23/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
10s36e	2	SWNE	8	7.5	
10s36e	2	NESW	11	19	Indiscernible
10s36e	2	SWSW	5	5.2	
10s36e	2	SESW	24	24	
10s36e	2	NWSE	4	4.1	
10s36e	11	NENW	7	6.1	
10s36e	11	NWNW	17	15	
10s36e	11	SWNW	25	27	
10s36e	11	SENW	3	2.4	
10s36e	11	NWSW	11	11	
Totals:			115	121.3	

02/18/2003

Allen

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: 29-390

HELEN TOLER
231 E GLOVER RD
ARIMO ID 83214
Telephone Number: (208)254-3361

MAURICE A TOLER
231 E GLOVER RD
ARIMO ID 83214
Telephone Number: (208)254-3361

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:

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

DATE: *4-4-03*

SIGNATURE: *Heleen Toler*

Please print your name:

HELEN TOLER
MAURICE A. TOLER

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

RECEIVED
APR 10 2003
Department of Water Resources
Eastern Region

WATER RIGHT CLAIM

SOURCE

CFS

PRIORITY

STAGE

① 29-376	GARDEN CK	0.75	5/01/1887	DECREE
② 29-377	GARDEN CK	1.00	5/01/1904	DECREE
③ 29-389	GARDEN CK	0.75	5/01/1896	DECREE
④ 29-390	GARDEN CK	1.00	5/01/1904	DECREE
⑤ 29-4079	SPRINGS	1.00	4/01/1921	STATUTORY
⑥ 29-4080	GARDEN CK	1.50	7/08/1895	STATUTORY

EQ 6.0 cfs

POLL: THERE ARE BASICALLY TWO SYSTEMS: AN UPPER AND A LOWER. MOST OF THE UPPER POLL IS IN CRP. A GOOD CHOICE SINCE GARDEN CK WATER IS BASICALLY UNAVAILABLE. THE LOWER IS SERVED BY GARDEN CK (NOT CANAL) AND SPRINGS THAT ARE COLLECTED BY DITCHES AND CONVEYED TO VARIOUS POLLS ON DOWNSTREAM. $A \Sigma_{AC} = 117\frac{1}{2}$. AT 0.02 cfs/ac A MAX. OF 2.36 CAN BE USED (§ 42-202 IC), AND GIVEN PRIORITIES AN ADEQUATE Q IS OVERCLAIMED, AS ABOVE. $117\frac{1}{2} AC \times 0.02 cfs/ac = 2.34 cfs$ #2 AND #4, 1904 PRIORITIES ARE VERY RARE IN DELIVERY AND IF AVAILABLE... LASTS ABOUT 30 MINUTES. CLAIMS #1 AND #3 ARE GOOD RIGHTS (GIVEN GARDEN CK TRAIL HAS AN 1877 DATE). THEREFORE, GIVEN #1, #2, #3 & #4 THERE IS MORE Q THAN CAN BE USED ON 117 $\frac{1}{2}$ AC. PLUS, MR. TOLOR HAS GARDEN CK IN SHARES UNDER THE 1877 PRIORITY.

RECOMMEND AS #1, #2, #3, #4 & #5 WITH APPROPRIATE LIMITS.
CLAIM #6 IS DISALLOWED.

1904, said water to be used upon the S.W. 1/4 of the N.W. 1/4 of Sec. 4, and the N. Half of the S.E. 1/4 of Sec. 9 in Township 10, South of Range 36 E.B.M.

29 0365 To John Morley, three-fourths second foot of water to date from the 1st day of May, 1886, and one second foot of water to date from the 1st day of May, 1904, to be used on the E. half of the N.W. 1/4, Sec. 8, the S.E. 1/4 of the S.E. 1/4 of Sec. 5, and the S.W. 1/4 of the N.W. 1/4 of Sec. 9, in Township 10 South of Range 36 E. B. M.:—

29 0367 To Thomas C. Smith, three-fourths second foot of water to date from the 1st day of May, 1890 and one second foot of water to date from the 1st day of May, 1904, to be used on the N.W. 1/4 of Sec. 10, Township 10 South of Range 36 E.B.M.:—

29 0369 To William J. Millard, three-fourths second foot of water to date from the 1st day of May, 1893, and one second foot of water to date from the 1st day of May, 1904, to be used on the S.E. 1/4 of Sec. 3, Township 10 South of Range 36 E.B.M.:—

29 0371 To Albert Evans, three-eighths second foot of water to date from the 1st day of May, 1893, and three-eighths second foot of water to date from the 1st day of May, 1898; also one second foot of water to date from the 1st day of May, 1904, to be used on the East half of the N.W. 1/4 of Sec. 8, Township 10 South of Range 36 E.B.M.:—

29 0374 To L. S. Whitney three-eighths second foot of water to date from the 1st day of May, 1893, and three-eighths second foot of water to date from the 1st day of May, 1904, to be used on the West half of the N.W. 1/4 of Sec. 8, Township 10, South of Range 36 E.B.M.

29 0376 To J. S. Wheeler, three-fourths second foot of water to date from the 1st day of May, 1887 and one second foot of water to date from the 1st day of May, 1904, to be used on the East half of the S. W. 1/4, and the N.W. 1/4 of the S.E. 1/4 and S.W. 1/4 of the N.E. 1/4 in Sec. 2, Township 10, South of Range 36 E. B. M.:— Also the S.W. 1/4 of the N. W. 1/4 and the West half of the S. W. 1/4 of Sec. 2, Township 10 South of Range 36 E.B.M.:—

29 0378 To David Armstrong, three-fourths second foot of water to date from the 1st day of May, 1895, and one second foot of water to date from the 1st day of May, 1904, to be used on the S.W. 1/4 of Sec. 10; also three-sixteenths second foot of water to date from the 1st day of May, 1895, and one-fourth of second foot of water to date from the 1st day of May, 1904, to be used on the S. W. 1/4 of the S.E. 1/4 of Sec. 9, all in Township 10, South of Range 36 E.B.M.:—

29 0381 To Andrew N. Thacker, three-fourths second foot of water to date from the 1st day of May, 1895 and one second foot of water to date from the 1st day of May, 1904, to be used upon the S. W. 1/4 of Sec. 9; also three-fourths second foot of water to date from the 1st day of May 1895, and one second foot of water to date from the 1st day of May, 1904, to be used on the West half of the N.W. 1/4 and the N.W. 1/4 of the S.W. 1/4 of Sec. 8, Township 10, South, of Range 36 E. B. M.

29 0385 To Thomas Exeter, three-fourths second foot of water to date from the 1st day of May, 1895, and one second foot of water to date from the 1st day of May, 1904, to be used on the South half of the S. E. 1/4 Sec. 8, and the North half of the N.E. 1/4 Sec. 17, Township 10 South of Range 36 E. B. M.

29 0387 To William Jenkins, Jr., three-fourths second foot of water to date from the 1st day of May, 1895, and one second foot of water to date from the 1st day of May, 1904, to be used on the East half of the N. E. 1/4 and the East half of the S. E. 1/4 Sec. 10, Township 10, South of Range 36 E. B. M.:—

29 0389 To P. M. Larson, three-fourths second foot of water to date from the 1st day of May, 1896, and one second foot of water to date from the 1st day of May, 1904, and to be used on the East half of the N. W. 1/4 and the East half of the S. W. 1/4 Sec. 11 Township 10, South of Range 36 E. B. M.

29 0391 To Annie Crowshaw, three-fourths second foot of water to date from the 1st day of May, 1898, and one second foot of water to date from the 1st day of May, 1904, to be used on the N.W. 1/4 of Sec. 15, Township 10 South of Range 36 E. B. M.:—

29 0393 To Mads Christensen, three-fourths second foot of water to date from the 1st day of May, 1892 and one second foot of water to date from the 1st day of May, 1904, to be used on the S. W. 1/4 of the S. E. 1/4 and the East half of the S. E. 1/4 of Section 6 and the S. W. 1/4 of the S. W. 1/4 of Sec. 5, Township 10 South, of Range 36 E.B.M.

29 0395 To Ben Lockyer, Three-fourths second foot of water to date from the 1st day of May, 1901, and one second foot of water to date from the 1st day of May 1904, to be used on the North half of the N. E. 1/4 of Sec. 15 Township 10 South of Range 36 E.B.M.

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	MAURICE A TOLER	05/01/1904	IRRIGATION	04-01 11-01	1.000 CFS	
C	HELEN TOLER					
	231 E GLOVER RD					
	ARIMO ID 83214					
	(208) 254-3361					
				TOTAL DIVERSION:	1.000 CFS	
				CONSUMPTIVE USE:		293.30 AFA

Stage: DECREED

Audit: 04/18/90 WILSON 05/24/94 COX 03/29/95 POST-STD

MAY 31 2001

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: A29-00390
Date Received: 4/18/1990
Receipt No: E013276
Received By: Kaw

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MAURICE A. TOLER 208-254-3361
Address: 231 EAST GLOVER ROAD
ARIMO, ID 83214

OR
Name: HELEN TOLER 208-254-3361
Address: 231 EAST GLOVER ROAD
ARIMO, ID 83214

2. Date of Priority: MAY 01, 1904

3. Source: GARDEN CREEK Trib. to: MARSH CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
10S	36E	7	NW	NE			BANNOCK

5. Description of diverting works:
HEADGATE MIDDLE DITCH FOR IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	1.000		

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

8. Total consumptive use is 293.3 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

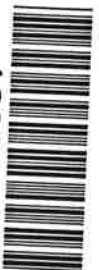
A29-00390

Page 1

Date: 04/18/90

MICROFILMED
NOV 13 1992

A2900390



10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
10S	36E	2	SW	NE		IRR	8.1
			NE	SW		IRR	11.1
			SW	SW		IRR	5.7
			SE	SW		IRR	24.5
			NW	SE		IRR	4.5

Section Acres 53.9

11	NE	NW	IRR	7.4
	NW	NW	IRR	17.0
	SW	NW	IRR	25.0
	SE	NW	IRR	3.0
	NW	SW	IRR	11.0

Section Acres 63.4

Total Acres 117.3

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:
29-00376/00377/00389

14. Remarks:

P/U SAME AS 29-00376/00377/00389

P/U FOR SOME ACRES ARE THE SAME AS 29-04079/04080

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

GARDEN CREEK IRRIG. CO.

Decree Plaintiff

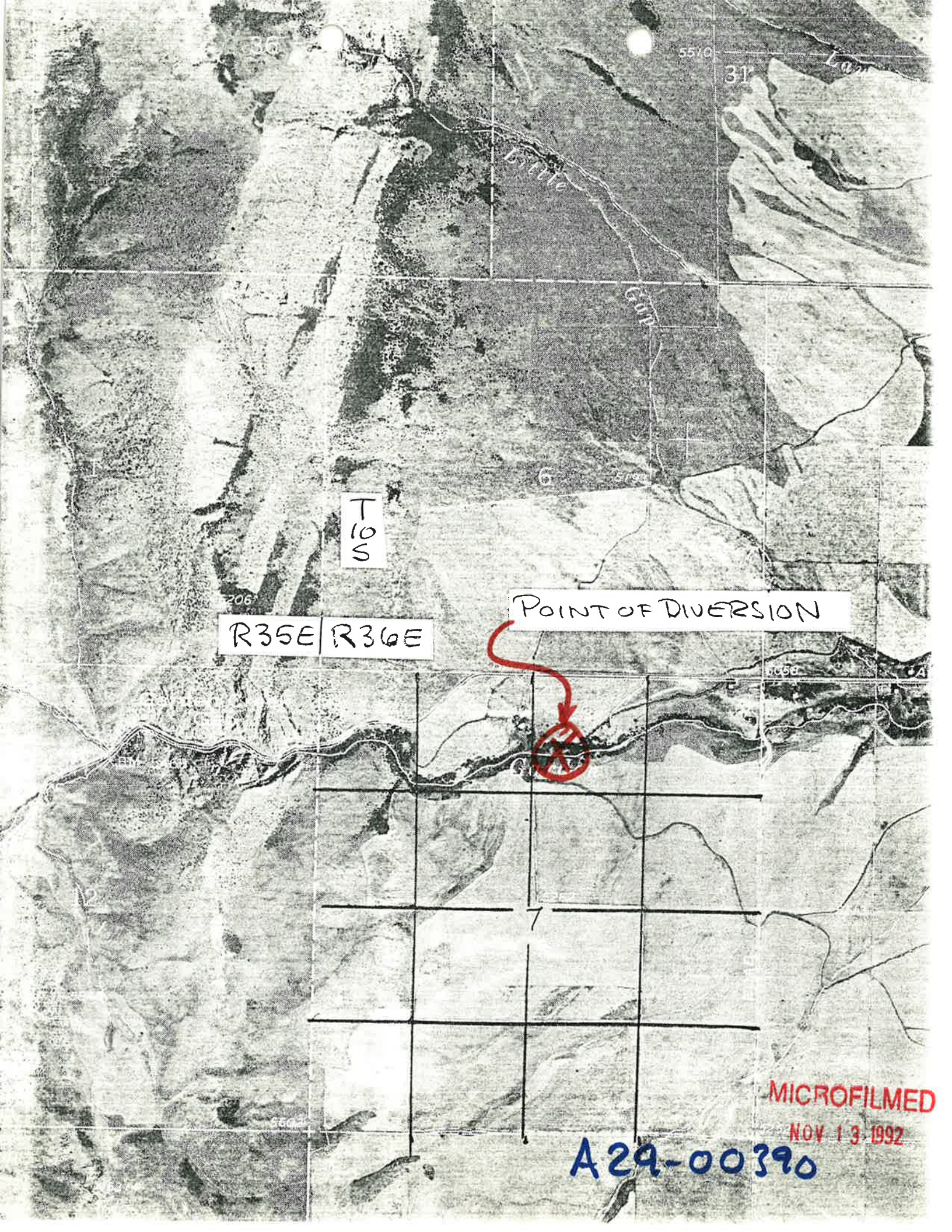
vs

THOMAS E. WOLVERTON, 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 ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

MICROFILMED
NOV 13 1992



35

55/0

31

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Little

600

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S

R35E/R36E

POINT OF DIVERSION

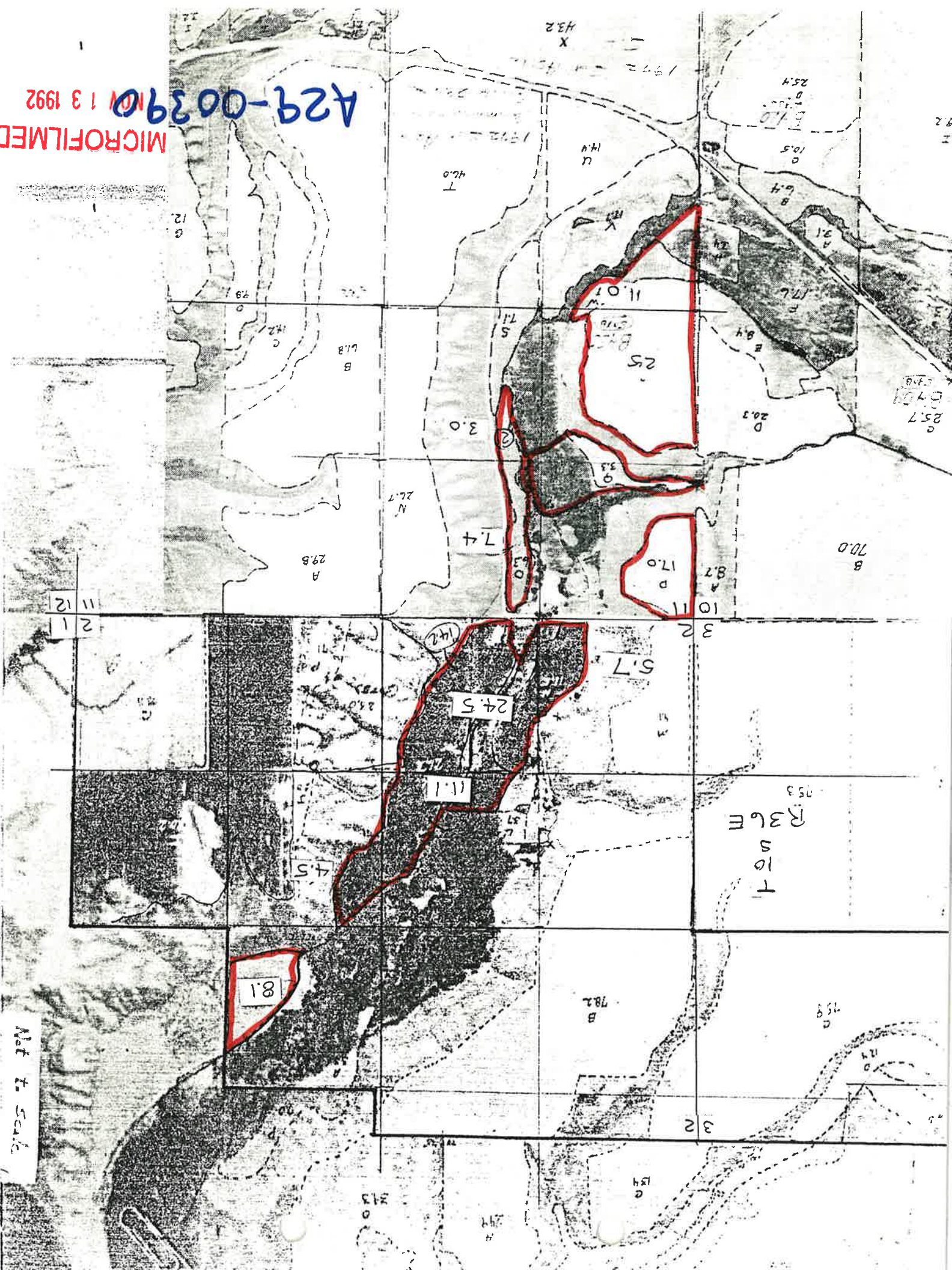


MICROFILMED

NOV 13 1992

A29-00390

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NOV 13 1992
A29-00390



Not to Scale