

04/09/2001

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

RIGHT NUMBER: 29-408

NAME AND ADDRESS: DAVID E NESTOR
DONNA L NESTOR
1789 W STINGER RD
MC CAMMON, ID 83250

SOURCE: GARDEN CREEK TRIBUTARY: MARSH CREEK

QUANTITY: 1 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 1.75 CFS. COMBINED RIGHT
NOS.: 29-00407, 29-00408, 29-07433

PRIORITY DATE: 05/01/1904

POINT OF DIVERSION: T10S R36E S7 LOT 1 NWNW 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	1.00 CFS

PLACE OF USE:

<u>IRRIGATION Within BANNOCK County</u>							
T10S R36E S4	LOT 3	NENW	14	T10S R36E S4	LOT 4	NWNW	15
T10S R36E S5	LOT 1	NENE	14	T10S R36E S5	LOT 2	NWNE	15

58 ACRES TOTAL

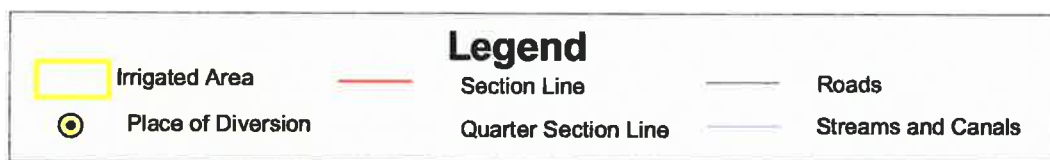
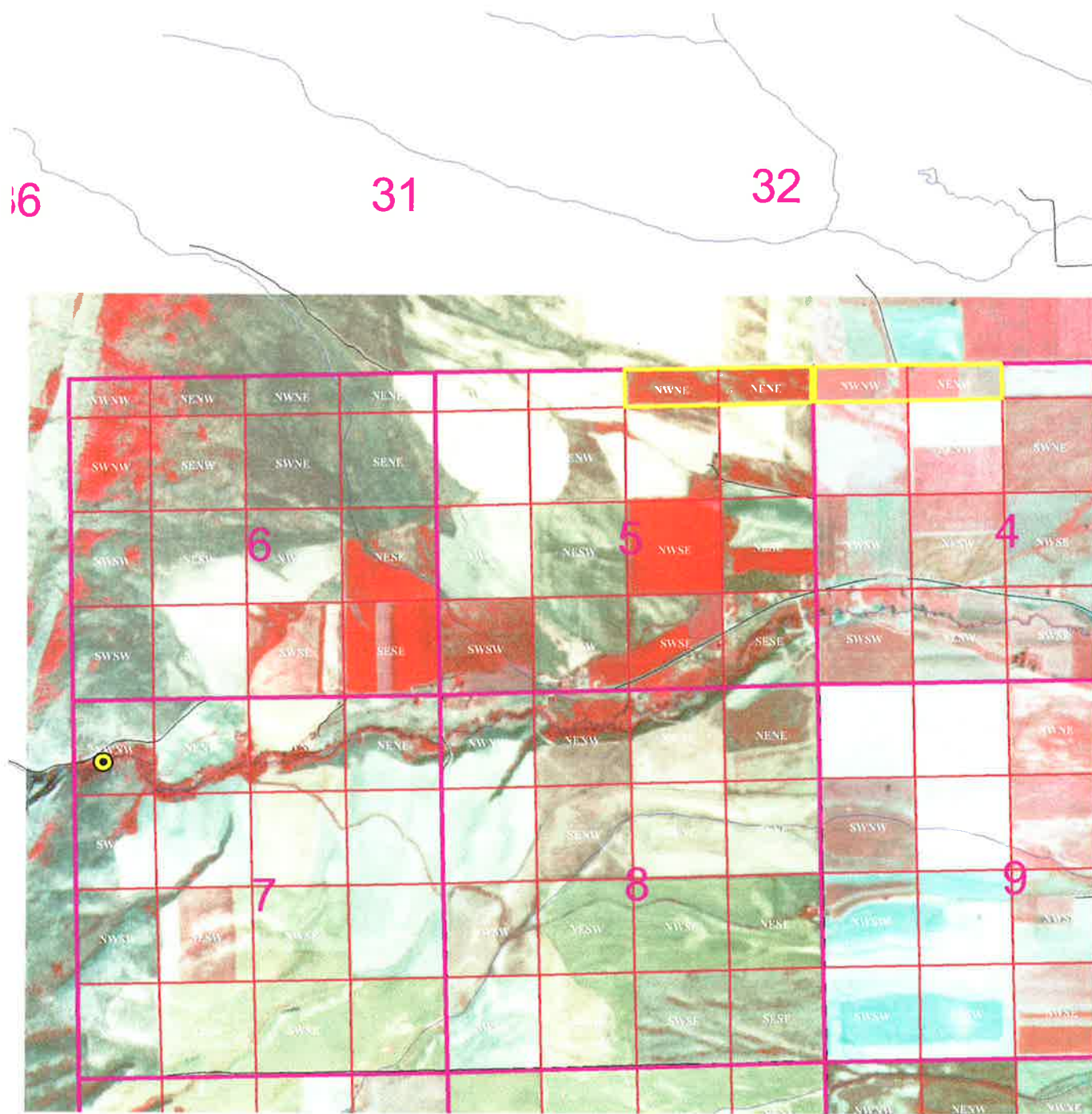
USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED
TO THE IRRIGATION OF A COMBINED TOTAL OF 58 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-00407, 29-00408,
29-07433

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: BASIS OF CLAIM - Decreed

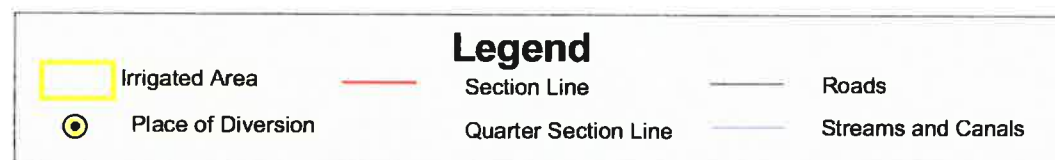
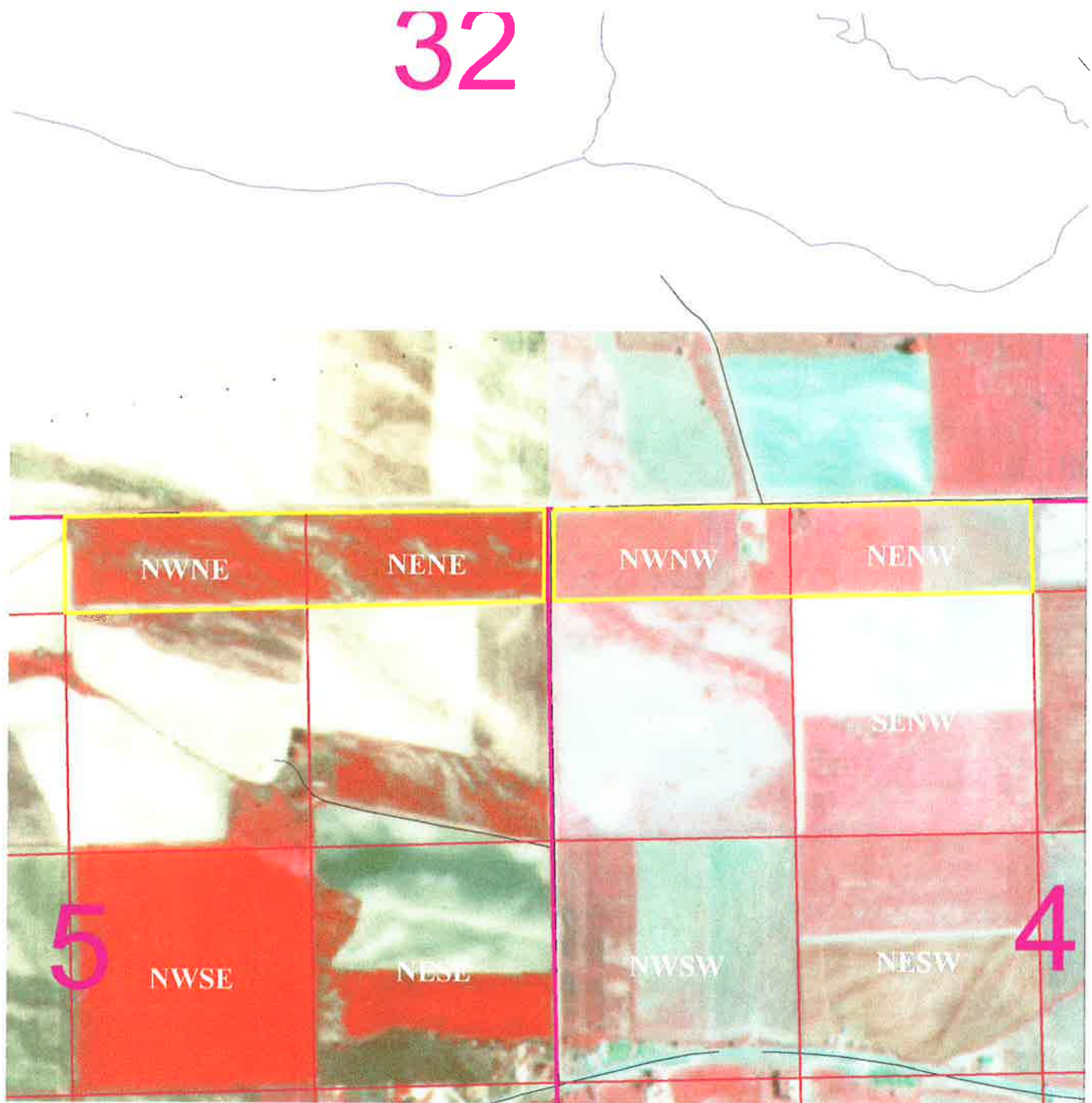
Township , 10S36E



1000 0 1000 2000 Feet



32

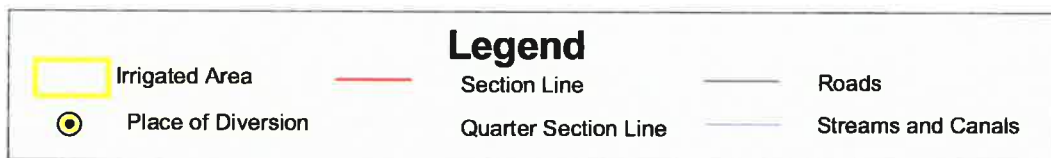


400 0 400 800 Feet



Township , 10S36E

32

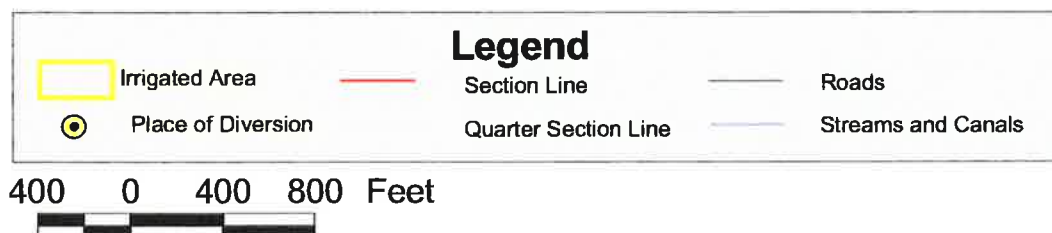


400 0 400 800 Feet



Township , 10S36E

32

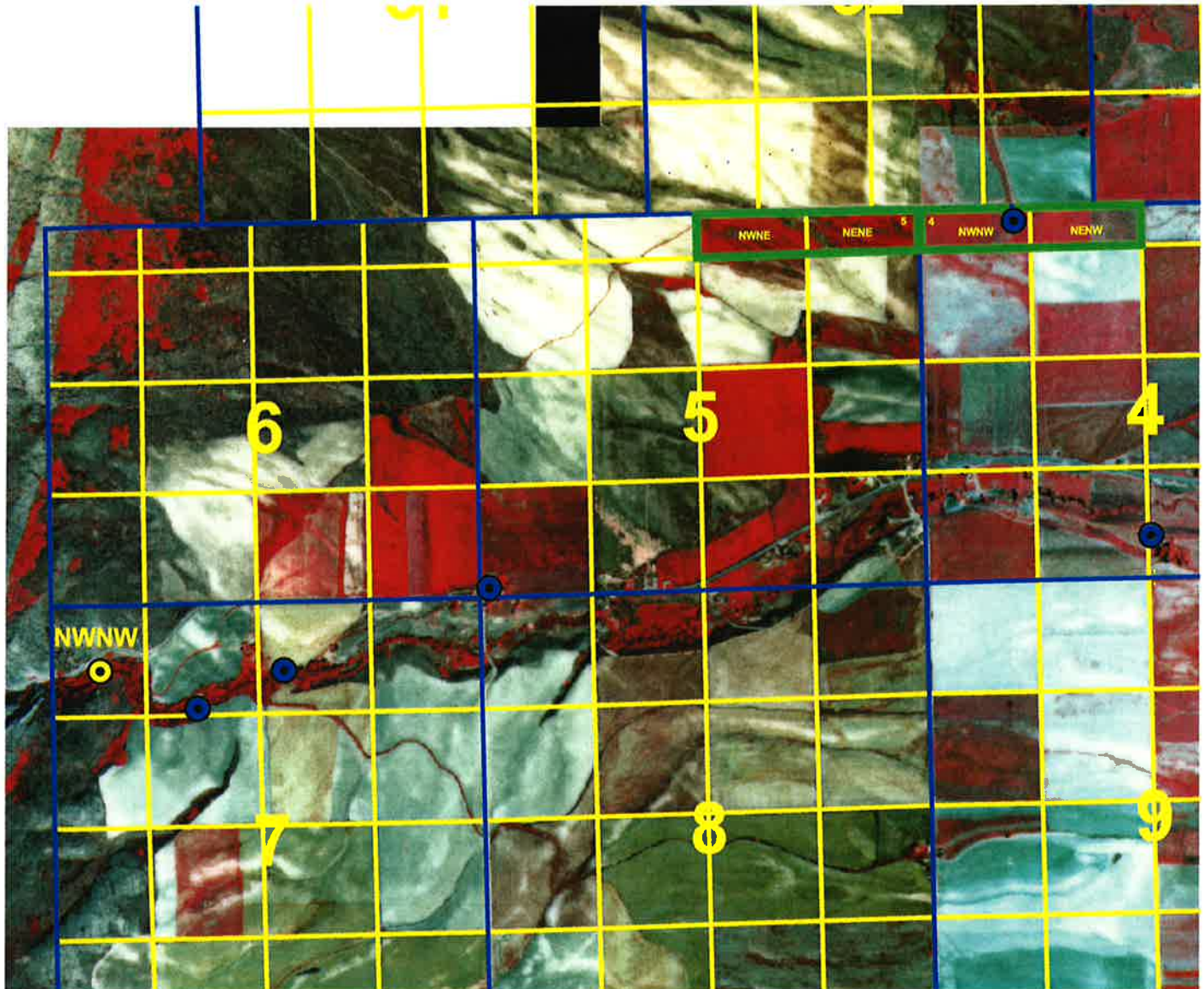


MAY 22 2001

IDAHO DEPARTMENT OF WATER RESOURCES

29-00407, 29-00408, 29-07433

T10S, R36E SEC 4, 5



ACRES IRRIGATED- 58



POINT OF DIVERSION



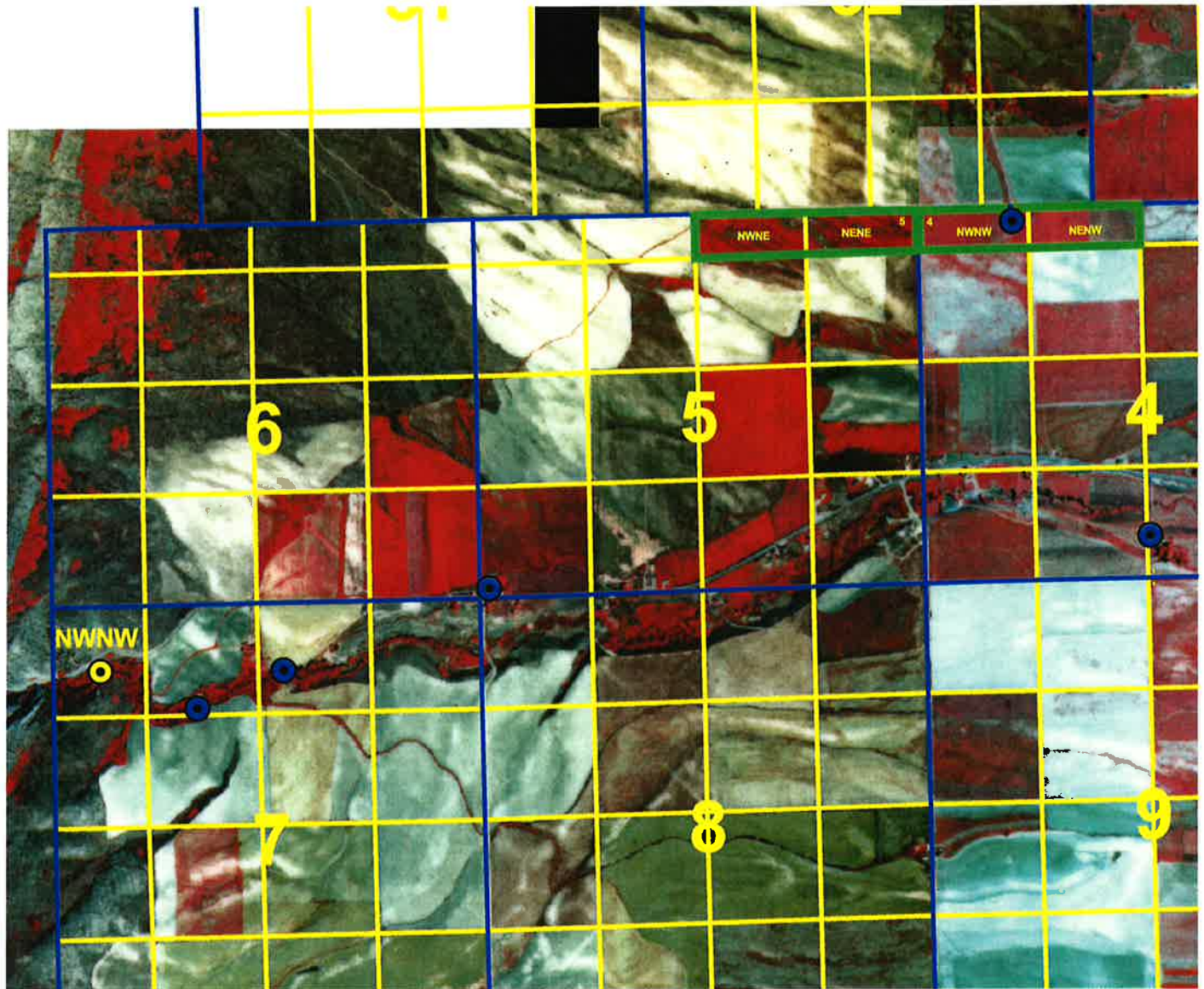
PLACE OF USE

GIS: PLACE OF USE
POINT OF DIVERSION
1987/1988 NAPP PHOTOS
DAVE CARLSON

IDAHO DEPARTMENT OF WATER RESOURCES

29-00407, 29-00408, 29-07433

T10S, R36E SEC 4, 5



ACRES IRRIGATED- 58



POINT OF DIVERSION



PLACE OF USE

**GIS: PLACE OF USE
POINT OF DIVERSION
1987/1988 NAPP PHOTOS
DAVE CARLSON**



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

January 17, 2002

KARL J. DREHER
DIRECTOR

DAVID EMERY NESTOR
1789 W STINGER RD
MC CAMMON ID 83250

RECEIVED

JAN 22 2002

Department of Water Resources
Eastern Region

RE: Snake River Basin Adjudication (SRBA)
Notices of Claim to a Water Right - #29-407, 29-408, 29-7433

Dear Mr. Nestor:

It was nice talking with you this morning. I have enclosed a DRAFT copy of your water rights as we intend at this time to recommend them to the SRBA Court. I telephoned Dave Carlson to let him know we talked and that I was sending you a copy of the recommendations.

You mentioned you want your name to read David Emery Nestor instead of David E. Nestor. We can do that if you and Donna will please use the enclosed document or a suitable variation, sign it in front of a Notary Public using your full name, and send it to me.

Sincerely,

Sally Sherman
Technical Records Specialist
Adjudication Bureau

SS:region

Enclosures:

"Draft" Copies of Recommendations Referenced Above
Amended Claims for Name Change Form

cc: Dave Carlson

SCANNED
NOV 04 2005

PROFILED

02/13/2003

Dave

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: 29-408

DAVID E NESTOR
1789 W STINGER RD
MC CAMMON ID 83250
Telephone Number: (208)254-3388

DONNA L NESTOR
1789 W STINGER RD
MC CAMMON ID 83250
Telephone Number: (208)254-3388

RECEIVED
APR 07 2003
Department of Water Resources
Eastern Region

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:

3/27/03

SIGNATURE:

David E Nestor & Donna L Nestor

Please print your name:

David E Nestor & Donna L Nestor

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

SCANNED

NOV 04 2005

PROFILER

- 397 To Hyrum Chatterton, three-fourths second foot of water to date from the 1st day of May, 1900, and one second foot of water to date from the 1st day of May, 1904, to be used on the North half of the S. E. 1/4 and the South half of the N. E. 1/4 Sec. 15, Township 10 South of Range 36 E. B. M.
- 29 0400 To James Chatterton, three-fourths second foot of water to date from the 1st day of May, 1900, 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. 15, Township 10 South of Range 36 E. B. M.
- 29 0401 To George Glover, three-fourths second foot of water to date from the 1st day of May, 1902, 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. 33, Township 9, South of Range 36 E. B. M.
- 29 0403 To George J. Allen, 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, to be used upon the N. E. 1/4 of the N. W. 1/4 of Sec. 5; also the West half of the N. W. 1/4 of Sec. 5, Township 10 South of Range 36 E. B. M.
- 29 0405 To William C. Smith, 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. W. 1/4 of Sec. 7, Township 10 South of Range 36 E. B. M.
- 29 0407 To J. W. Stinger, 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 lots three and four in sec. 4, and lots one and two in Sec. 5, Township 10 South of Range 36 E. B. M.
- 29 0409 To George A. Smith, three-fourths second foot of water to date from the 1st day of May, 1891, 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 east half of the N. W. 1/4 of Sec. 10, Township 10 South of Range 36 E. B. M.
- 29 0411 To J. H. Curtis, three-eighths of second foot of water to date from the 1st day of May, 1894, and three-eighths 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 East half of the N. E. 1/4 of Sec. 7, Township 10 South of Range 36 E. B. M.
- 29 0414 To A. M. Curtis, three-eighths second foot of water to date from the 1st day of May, 1894 and three-eighths 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 West half of the N. E. 1/4 Sec. 7, Township 10, South of Range 36 E. B. M.
- 29 0417 To Nannie B. Rollison, 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 S. E. 1/4 and the North half of the S. W. 1/4 and the S. E. 1/4 of the N. W. 1/4 of Sec. 4, Township 10 South of Range 36 E. B. M.
- 29 0419 To William P. Burton, 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 North half of the S. E. 1/4 and the East half of the S. W. 1/4 of Sec. 8, Township 10 South of Range 36 E. B. M.
- 29 0421 To John B. Chedgzy, three-fourths second foot of water to date from the 1st day of May, 1891 and one second foot of water to date from the 1st day of May, 1904 to be used on the N. E. 1/4 of Sec. 9, Township 10, South of Range 36 E. B. M.
- 29 0423 To William H. Allen, three-fourths second foot of water to date from the 1st day of May 1903 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 the S. E. 1/4 of Sec. 31 and the S. W. 1/4 of the S. W. 1/4 Sec. 32 in Township 9, South of Range 36 E. B. M.
- 29 0425 To Laura T. Toler, three-eighths second foot of water to date from the 1st day of May, 1895 and one-half second foot of water to date from the 1st day of May 1904, to be used on the North half of the S. W. 1/4 of Sec. 9, Township 10 South of Range 36 E. B. M.
- 29 0427 To E. R. Kendall, three-sixteenths second foot of water to date from the 1st day of May, 1895, and one-fourth second foot of water to date from the 1st day of May, 1904, to be used on the S. E. 1/4 of the S. E. 1/4 of Sec. 9, Township 10 South of Range 36 E. B. M.
- 29 0429 To Truman Rowe, one and three-fourths second foot of water to date from the 1st day of May, 1904, to be used on lots one and two in Sec. 4, Township 10, South of Range 36 E. B. M.

All of the above described lands being in Bannock County, State of Idaho.
It is further adjudged and decreed that the plaintiff and any of its stock-

Log for claim A29-00408

Spatial Dynamics LTD

6/23/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
10s36e	4	NENW	14	15	
10s36e	4	NWNW	15	15	
10s36e	5	NENE	14	15	
10s36e	5	NWNE	15	16	
Totals:			58	61	

AJ5809NP
No. A29-00408

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 04/27/00
PAGE: 39

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	DAVID E NESTOR	05/01/1904	IRRIGATION	03-15 11-15	1.000 CFS	
C	DONNA L NESTOR					
	1789 W STINGER RD					
	MC CAMMON ID 83250			TOTAL DIVERSION:	1.000 CFS	
	(208) 254-3388			CONSUMPTIVE USE:		145.00 AFA

Water Source: GARDEN CREEK

Tributary to: MARSH CREEK

Stage: DECREED

Point(s) of Diversion: T10S R36E S07 NWNW

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		
10S	36E	4	:					:	03-14	04-15			:					:					:	29.0
10S	36E	5	:	01-14	02-15			:					:					:					:	29.0
																							TOTAL ACRES	58.0

POU County: BANNOCK

Non-Irrigation Uses: S/ INC. STOCKWATER

Other Rights: 29-0407, 07433

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

29-11703	A29-00362	A29-00363	A29-00385	A29-00393	A29-00394	A29-00401	A29-00402	A29-00403	A29-00404
A29-00405	A29-00406	A29-00407	A29-00411	A29-00412	A29-11431	A29-11703			

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

A29-00407 A29-07433

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

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

Audit: 03/21/90 DCARLSON 06/01/94 COX 03/29/95 POST-STD

MAY 22 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: A29-00408

Date Received: 3/21/1990

Receipt No: E012475

Received By: DC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DAVID E. NESTOR 208-254-3388
Address: 1789 W. STINGER RD
MC CAMMON, ID 83250

Name: DONNA L. NESTOR 208-254-3388
Address: 1789 W. STINGER RD
MC CAMMON, ID 83250

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	NW			BANNOCK

5. Description of diverting works:
HEADGATES/ DITCH TO FLOOD IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	1.000		

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

8. Total consumptive use is 145.0 Acre Feet Per Annum.

9. Non-irrigation uses:
S/ INC. STOCKWATER

A29-00408

Page 1

Date: 03/21/90

A2900408



MICROFILMED

NOV 13 1992

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
10S	36E	4	NE		NW	3	IRR	14.0
			NW		NW	4	IRR	15.0
							Section Acres	29.0
		5	NE		NE	1	IRR	14.0
			NW		NE	2	IRR	15.0
							Section Acres	29.0
							Total Acres	58.0

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:
29-0407, 07433

14. Remarks:

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

GARDEN CREEK IRRIGATION CO.
Decree Plaintiff

vs

THOMAS E. WOLVERTON, 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 X do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

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): David E. Nestor Date: 3/21/90
Donna L. Nestor Date: 3/21/90

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 21 day
of March 19 90 Dave Cook
Notary Public

Seal

Residing at Heise, Id
My Commission Expires 2/26/96

A. ROOT WATER RIGHT NUMBERS: A29-00408

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
10S	36E	4	NE	NW	3	NESTOR, DAVID E	A29-00408 / 14.0	- /	14.0		
			NE	NW	3	NESTOR, DONNA L	A29-07433 / 15.0	29-07433 / 15.0			
			NE	NW	3	NESTOR, DAVID E	A29-00407 / 14.0	- /			
			NE	NW	3	STINGER, J. W.		29-02050 / 15.0			
10S	36E	4	NW	NW	4	NESTOR, DAVID E	A29-00408 / 15.0	- /	13.0		
			NW	NW	4	NESTOR, DONNA L	A29-07433 / 14.0	29-07433 / 14.0			
			NW	NW	4	NESTOR, DAVID E	A29-00407 / 15.0	- /			
			NW	NW	4	STINGER, J. W.		29-02050 / 15.0			
10S	36E	5	NE	NE	1	NESTOR, DAVID E	A29-00408 / 14.0	- /	12.0		
			NE	NE	1	NESTOR, DAVID E	A29-00407 / 14.0	- /			
10S	36E	5	NW	NE	2	NESTOR, DAVID E	A29-00408 / 15.0	- /	13.0		
			NW	NE	2	NESTOR, DAVID E	A29-00407 / 15.0	- /			

ADDITIONAL POU FOUND

TOTAL ACRES A29-00408

58.00

52.00

POU COUNTY: BANNOCK

C. IS WATER USAGE FOUND IN TRACTS OTHER THAN THOSE CLAIMED?

Y() N()

* IF YES, ARE THESE TRACTS LISTED ABOVE (), OR ARE THEY LISTED ON AN ATTACHED SHEET ()

LIST OF ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE

CLAIM NO.	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A29-00408	GARDEN CREEK	NESTOR, DAVID E	1.000	0.017		
A29-00407	GARDEN CREEK	NESTOR, DAVID E	0.750	0.012		
A29-07433	GROUNDWATER	NESTOR, DONNA L	0.100	0.003	52.50	1.81

NO RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION

D. ARE OTHER WATER RIGHTS USED FOR THE SAME PURPOSE?

Y() N()

* IF YES, COMPLETE OVERLAP REVIEW:

OTHER RIGHTS LISTED IN CLAIM: 29-0407, 07433

E. IS THE CLAIMED POU THE SAME AS DESCRIBED IN THE WATER RIGHT FILE?

N/A() Y() N()

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN POU, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

F. CAN THE CLAIMED POU BE VERIFIED USING THE WATER RIGHT FILE AND AVAILABLE AERIAL PHOTOS?

N/A() Y() N()

G. SHOULD THE CLAIMED POU BE VERIFIED BY FIELD EXAM?

Y() N()

H. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE OF THIS RIGHT, OR ANY PORTION OF THIS RIGHT?

Y() N()

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	POD FLAG	COUNTY	DIVERSION NAME	DIVERSION NUMBER
A29-00408	10S	36E	7		NW	NW			BANNOCK		

OTHER AJ CLAIMS WITH SAME AJ POD

WR RECORDS IN SAME 40 ACRE TRACT

A PREFIX

R PREFIX

*

29-11703

NONE

* 16 A PREFIX CLAIMS WITH THIS POD

SOURCE: GARDEN CREEK

TRIB: MARSH CREEK

B. WR POINT OF DIVERSION AND SOURCE:

2900408 THERE IS NO POD ASSOCIATED WITH THIS WATER RIGHT NUMBER

SOURCE: GARDEN CREEK

TRIB: MARSH CREEK

C. IS THE CLAIMED POD WITHIN THE SAME 40 ACRE TRACT THAT IS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y() N()

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN POD, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

D. CAN THE CLAIMED POD BE VERIFIED USING THE WATER RIGHT FILE OR GPS DATA? N/A() Y() N()

E. SHOULD THE CLAIMED POD BE VERIFIED BY FIELD EXAM? Y() N()

F. IS THE CLAIMED SOURCE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y() N()

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN SOURCE, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

G. CAN THE CLAIMED SOURCE BE VERIFIED USING THE WATER RIGHT FILE? Y() N()

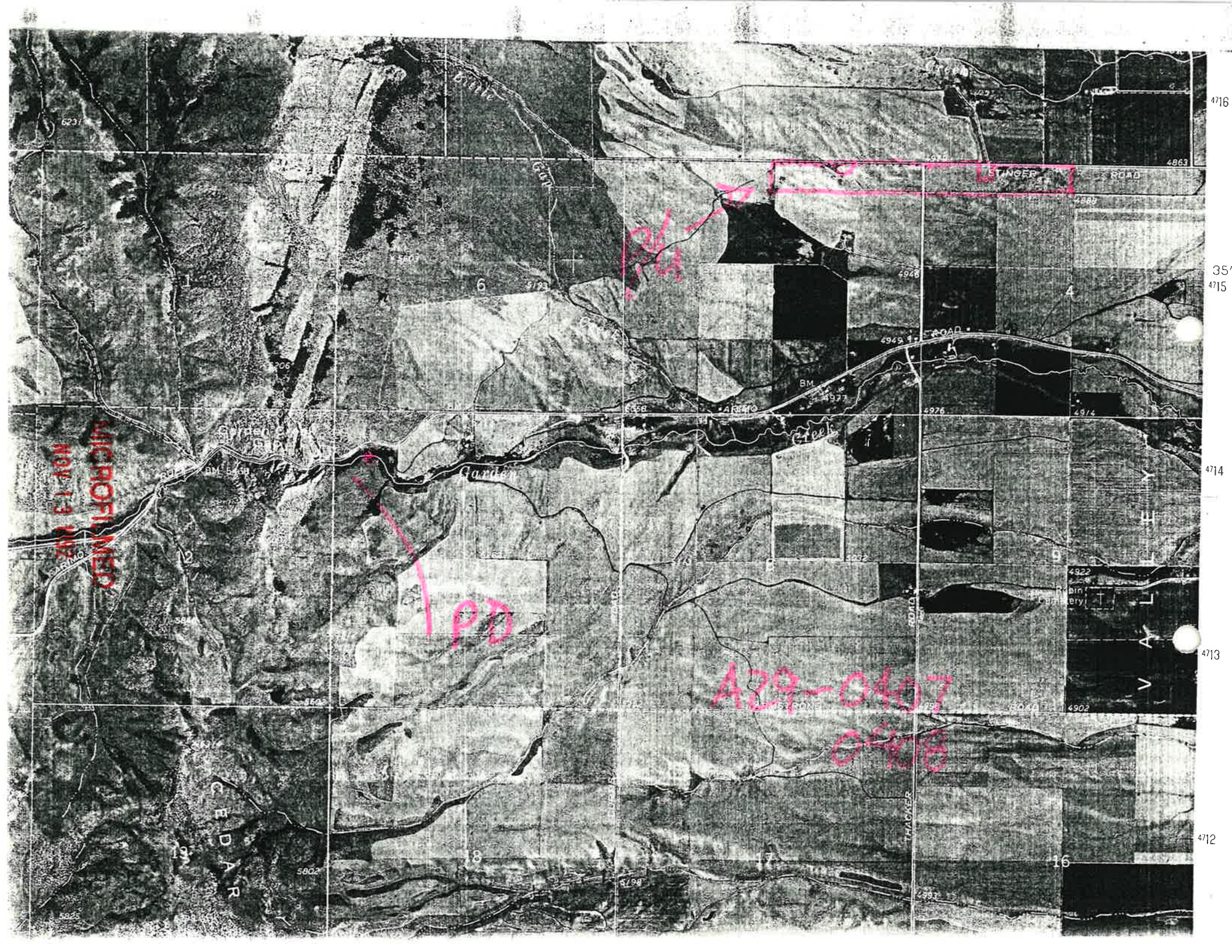
H. SHOULD THE CLAIMED SOURCE BE VERIFIED BY FIELD EXAM? Y() N()

I. HOW WAS THE POD AND SOURCE VERIFIED?

LICENSING FIELD EXAM (DATE OF FIELD EXAM) Y() N()

AJ FIELD EXAM (DATE OF FIELD EXAM) NAME OF EXAMINER) Y() N()

OTHER (DESCRIBE IN NOTES BELOW)



MICROFILMED
NOV 13 1982

PD

A29-0407
0408

LETINGER ROAD

CEDAR

Garden Creek

BM

ROAD

THACKER

BIN

L

A

V

4716

35
4715

4714

4713

4712