

06/04/2003

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

RIGHT NUMBER: 29-2034B

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

SOURCE: JACKSON CREEK

TRIBUTARY: RAPID CREEK

QUANTITY: 0.630 CFS
184.000 AFY

PRIORITY DATE: 08/31/1905

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

POINT OF DIVERSION:

T07S R36E S23 NESENE 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	0.920 CFS 184.00 AFY
DOMESTIC	04/01 10/31	0.040 CFS
Domestic use is for lawn and garden.		

PLACE OF USE: IRRIGATION Within BANNOCK County

T07S R36E S23 SWNE 33.0 T07S R36E S23 SENE 13.0

DOMESTIC same as IRRIGATION

46 ACRES TOTAL

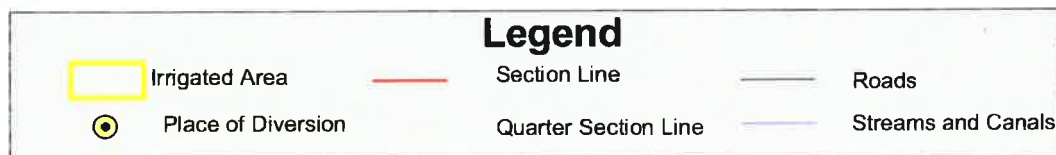
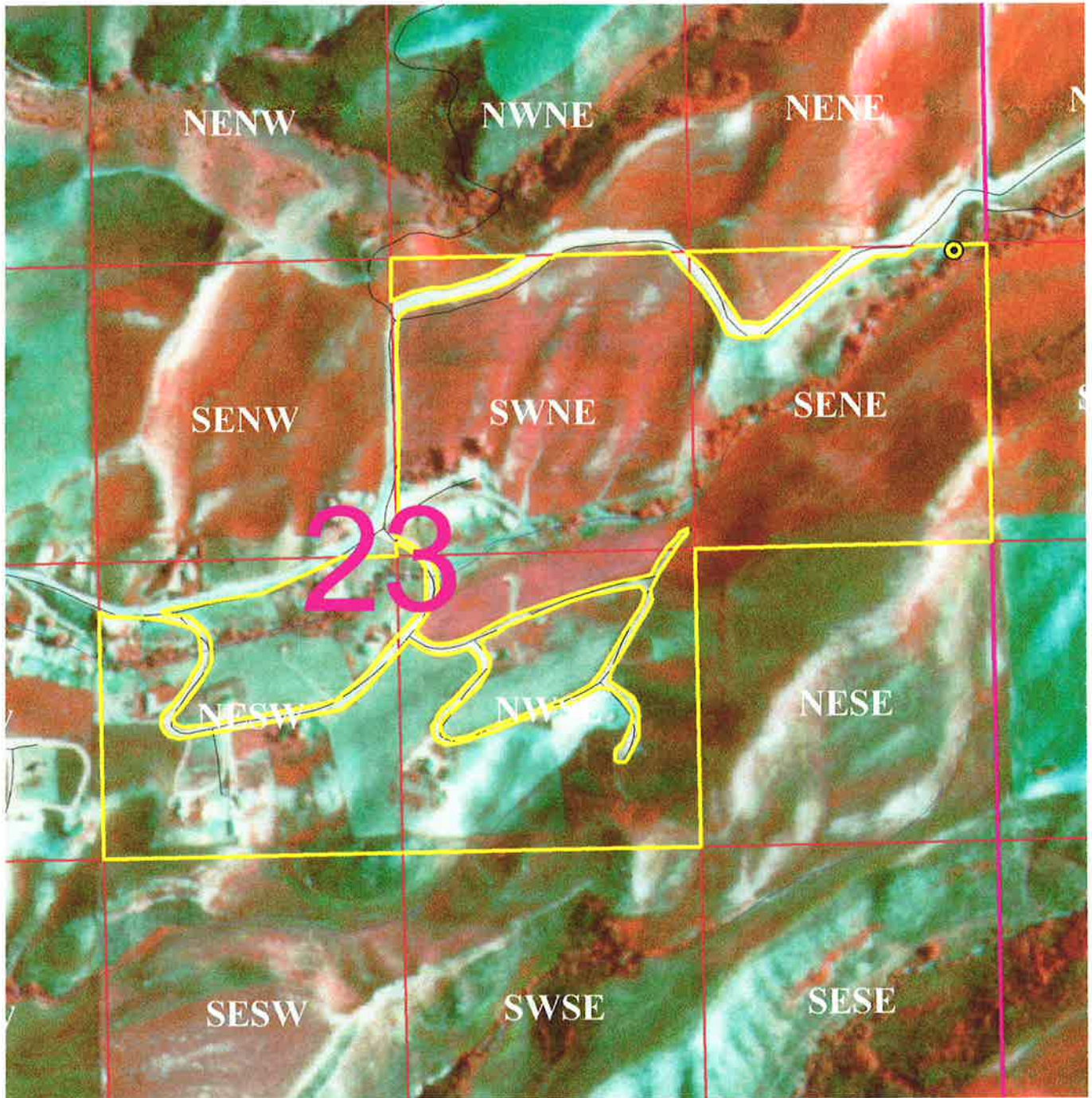
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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: License

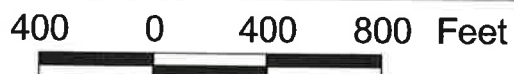
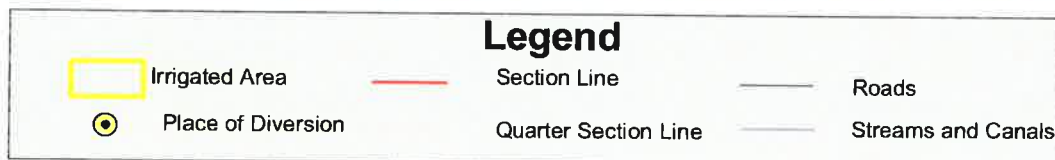
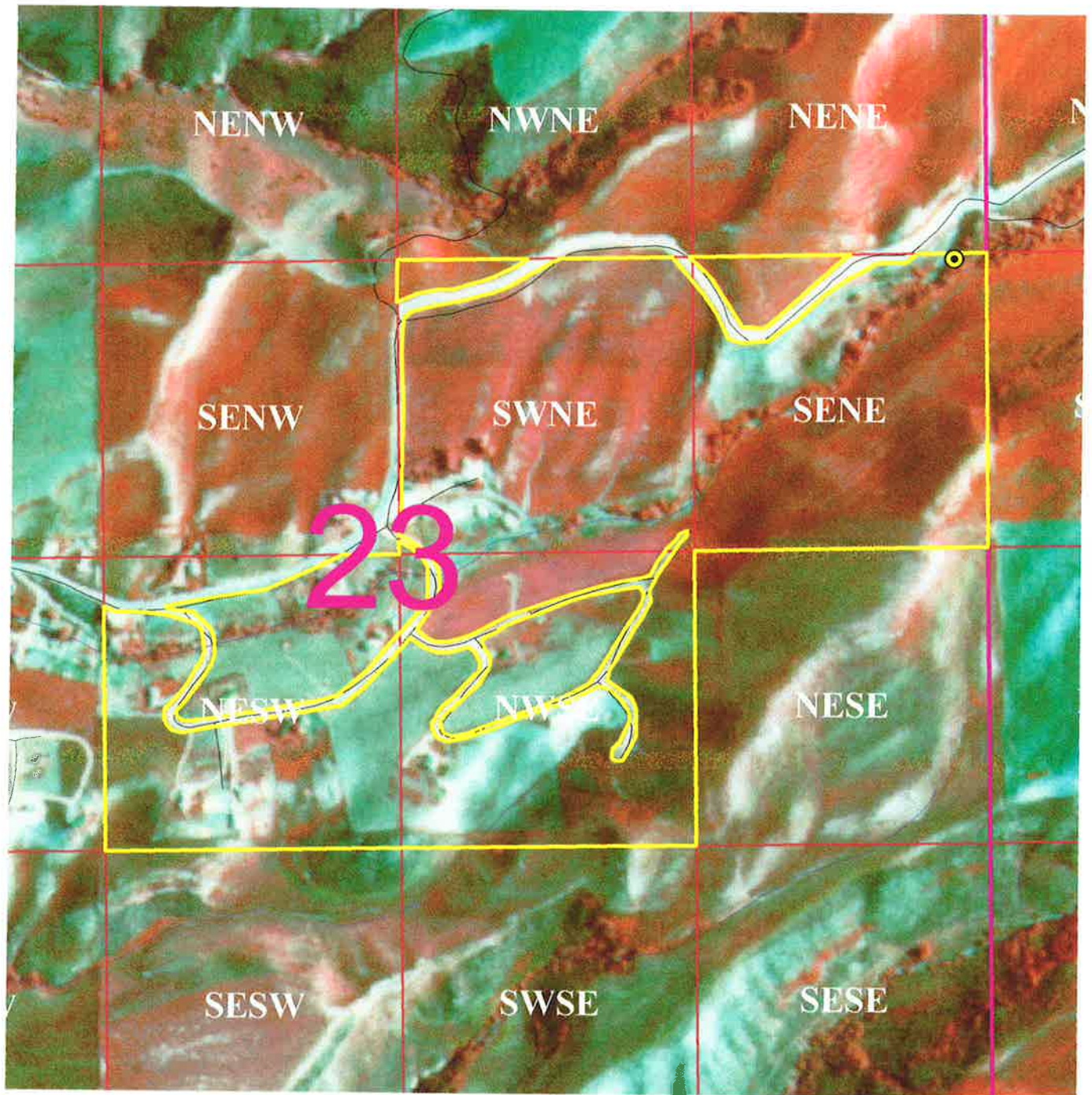
Water Right Claim Number A29-02034
Township , 7S36E

08/28/2000



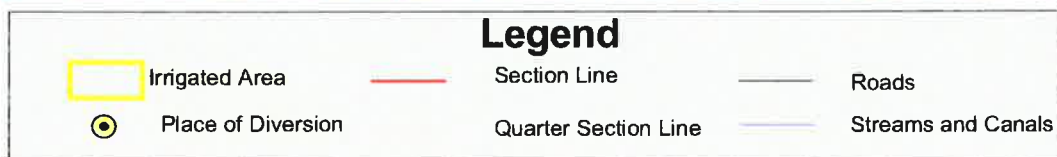
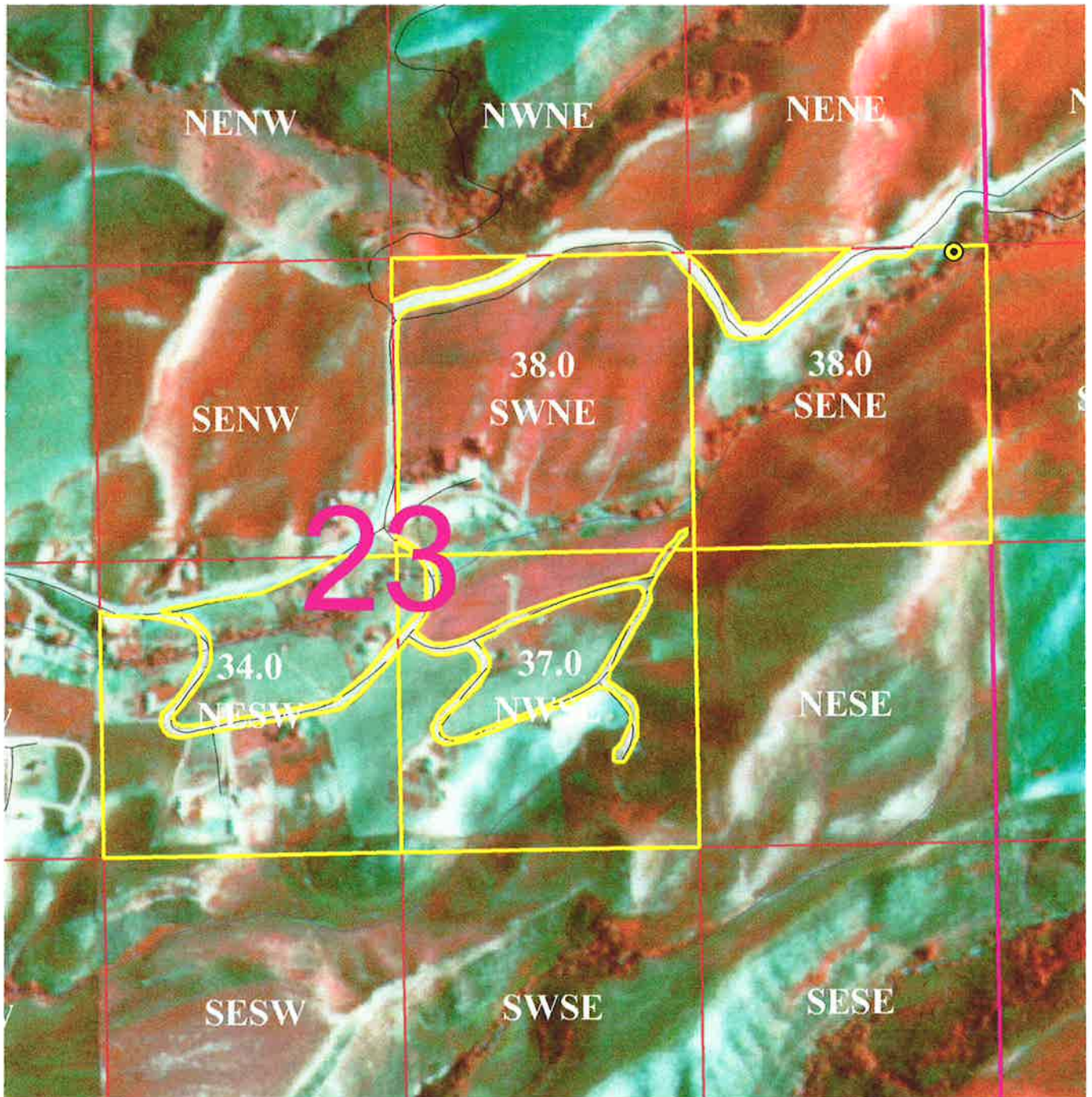
Water Right Claim Number A29-02034
Township , 7S36E

08/28/2000



Water Right Claim Number A29-02034
Township , 7S36E

08/28/2000



IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-2034B V1

WATER RIGHT NUMBER: 29-2034B 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

Priority Date: 08/31/1905

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
JACKSON CREEK	RAPID CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01	10/31	0.920 CFS	184.00 AF
DOMESTIC	04/01	10/31	0.040 CFS	
	<u>Total Diversion:</u>		0.630 CFS	184.00 AF

Location of Point(s) of Diversion

JACKSON CREEK	NE1/4SE1/4NE1/4	Sec. 23, Twp 07S, Rge 36E, B.M.
BANNOCK County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	36E	23			33.0	13.0													46.0

Total Acres: 46

DOMESTIC same as IRRIGATIONConditions of Approval:

1. PURSUANT TO A CALL IN TIMES OF SCARCITY, THIS RIGHT IS SENIOR TO WATER RIGHTS DIVERTED FROM RAPID CREEK AND TRIBUTARIES.
2. 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.
3. X01 Domestic use is for lawn and garden.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 29-2034B V1

Comments:

1. csaxton 12/20/2002 SOU
Comment: SOU not defined in license. Recommended as IDWR standard as 4/1 - 10/31.
2. csaxton 12/20/2002 Purpose of Use
Comment: Licensed with Irrigation and Domestic use. Domestic use described by claimant is for irrigation of lawn and garden. This use is in conjunction with a household. Recommend Domestic.
3. csaxton 12/20/2002 POU
Comment: Acreage determined using USGS DOQQ photos since the NAPP seems to be off compared to GCDB and Bannock County Tax Lot Data.
4. csaxton 12/20/2002 Diversion Rate
Comment: Diversion rate recommended at 1 inch per acre.
5. csaxton 6/4/2003 Acreage
Comment: Claimants NOE states recommended POU should be 48 acres. I found 46 acres using GIS. 1976 USGS orthoquad maps support that not more that 46 acres was irrigated at that time.

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:
 Owner Name Connector:
 Water District Number:
 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>
Contacts	12/20/2002 2:01:25 PM	csaxton			Active
Priority Date	12/20/2002 2:01:43 PM	csaxton			Active
POD	12/20/2002 2:02:33 PM	csaxton			Active
Source	12/20/2002 2:06:16 PM	csaxton			Active
POU	12/20/2002 2:07:07 PM	csaxton			Active
Use	12/20/2002 2:08:33 PM	csaxton			Active
Season	12/20/2002 2:09:05 PM	csaxton			Active
Quantity	12/20/2002 2:11:27 PM	csaxton			Active
Summary			12/20/2002	csaxton	Active

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 29-2034B V1

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
POU	6/4/2003 1:32:49 PM	csaxton	Edited PLS
POU	6/4/2003 1:32:21 PM	csaxton	Edited shape boundary
Contacts	12/20/2002 2:01:26 PM	csaxton	(No) 1. Do you want to schedule an appointment? Comment for 1: FE 11/1/01
POD	12/20/2002 2:02:34 PM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a POD? (Yes) 5. Can the claimed POD be verified using the water right file? (No) 10. Is a POD remark and/or condition required?
Use	12/20/2002 2:08:34 PM	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? (Yes) 5. Can the claimed Purpose of Use be verified using the water right file? (No) 13. Is a Purpose of Use remark and/or condition required?
Priority Date	12/20/2002 2:01:44 PM	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?
POD	12/20/2002 2:03:02 PM	csaxton	Edited point location
POD	12/20/2002 2:03:20 PM	csaxton	Edited PLS
Source	12/20/2002 2:06:17 PM	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) 7. Is there evidence that there has been a change in the source? (Yes) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-2034B V1

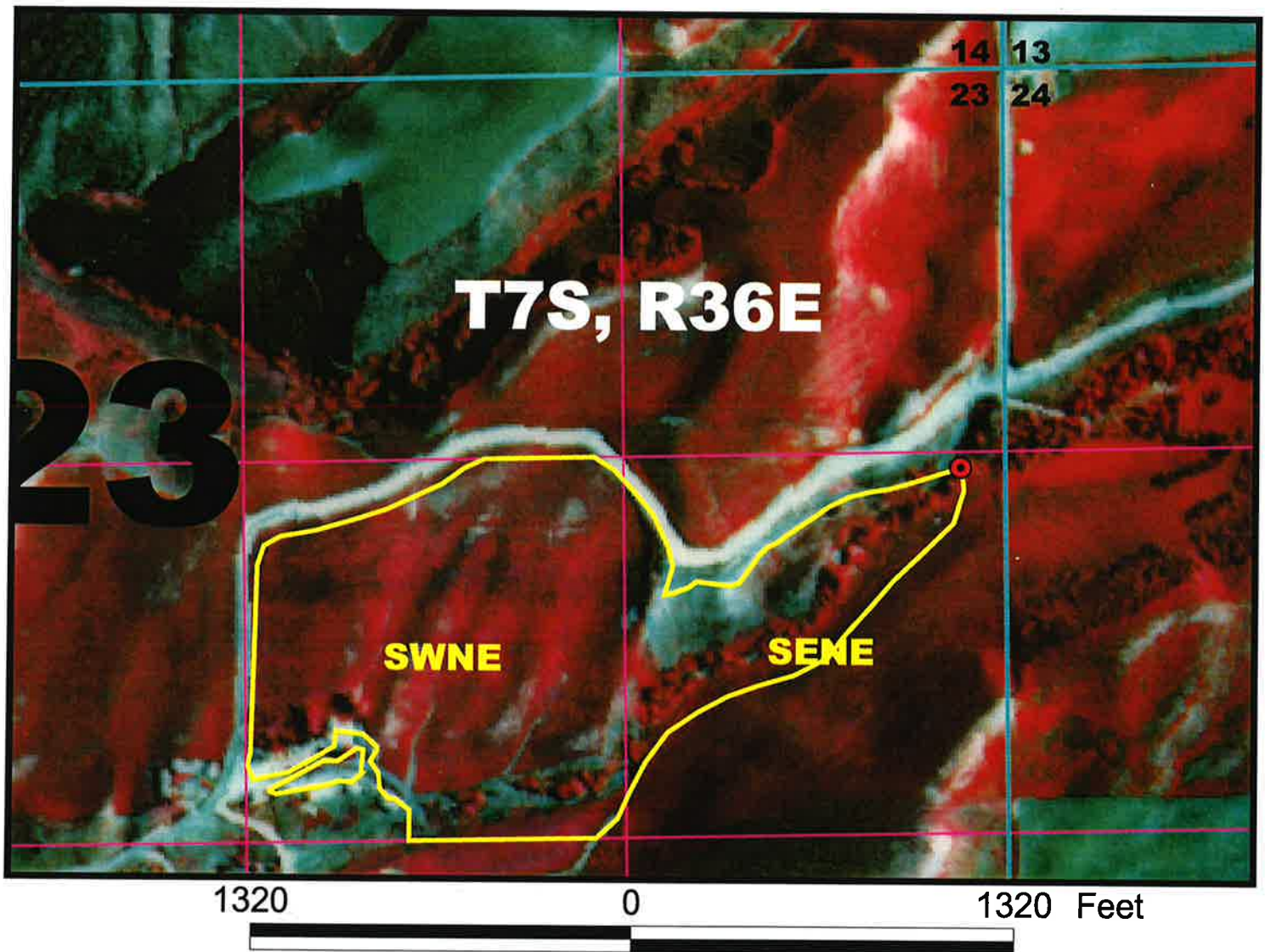
POU	12/20/2002 2:07:09 PM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 2a. Is the POU required? (Yes) 5. Does the Decree or License have a POU? (Yes) 6. Can the claimed POU be verified using the water right file? (No) 14. Is a POU remark and/or condition required?
POU	12/20/2002 2:07:33 PM	csaxton	Edited shape boundary
POU	12/20/2002 2:07:52 PM	csaxton	Edited PLS
Season	12/20/2002 2:09:06 PM	csaxton	(Yes) 1. Is the basis of claim Decree or License? (No) 4. Does the Decree or License have a Period of Use? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined? (Yes) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?
Quantity	12/20/2002 2:11:28 PM	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? (Yes) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (Yes) 10. Is a irrigation a purpose of use? (No) 12. Is a Quantity remark or condition required? Description for Question 10 - IDWR standard for the area of 4.0 af/acre.
Summary	12/20/2002 2:21:22 PM	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?



STATE OF IDAHO

Department of Water Resources
Eastern Region

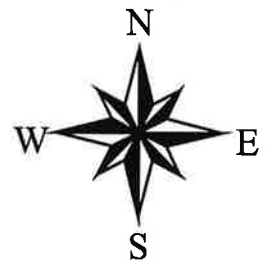
Water Right(s): 29-02034B



Total Irrigated Acres: 46.0

-  Point(s) of Diversion
-  Place of Use
-  Quarter Quarter Lines
-  Section Lines

PROFILE
SCANNED
DEC 20 2005



GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: C. Saxton
Date: June 2003

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

PROFILED

SCANNED
DEC 20 2005

LAW OFFICES OF

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

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

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

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

PROFILED

SCANNED

DEC 20 2005

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.)

SCANNED
DEC 20 2005

REVISED
"OK" RLB

06/04/2003

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

RIGHT NUMBER: 29-2034B

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

SOURCE: JACKSON CREEK

TRIBUTARY: RAPID CREEK

QUANTITY: 0.630 CFS
184.000 AFY

PRIORITY DATE: 08/31/1905

* ||

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

RECEIVED

JUN 25 2003

WATER RESOURCES
WESTERN REGION

POINT OF DIVERSION:

T07S R36E S23 NESENE 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	0.920 CFS 184.00 AFY
DOMESTIC	04/01 10/31	0.040 CFS
Domestic use is for lawn and garden.		

PLACE OF USE: IRRIGATION Within BANNOCK County

T07S R36E S23 SWNE 33.0 T07S R36E S23 SENE 13.0

DOMESTIC same as IRRIGATION

46 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: License

Water Right 29-2034B

SCANNED¹
DEC 20 2005

3

33.0

13.0

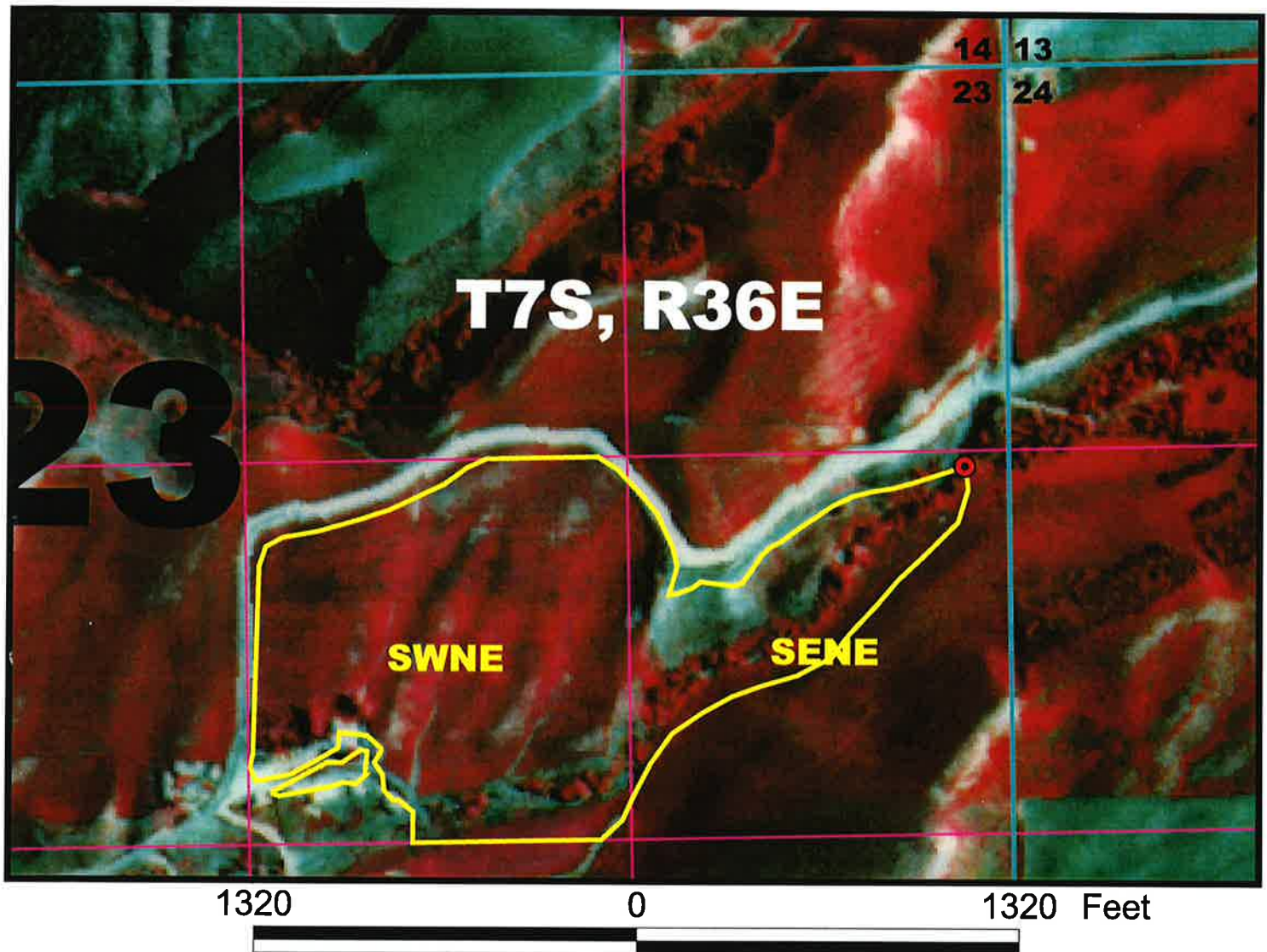
STATION 13+00
100' X 100' AREA



STATE OF IDAHO

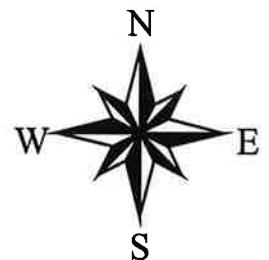
Department of Water Resources
Eastern Region

Water Right(s): 29-02034B



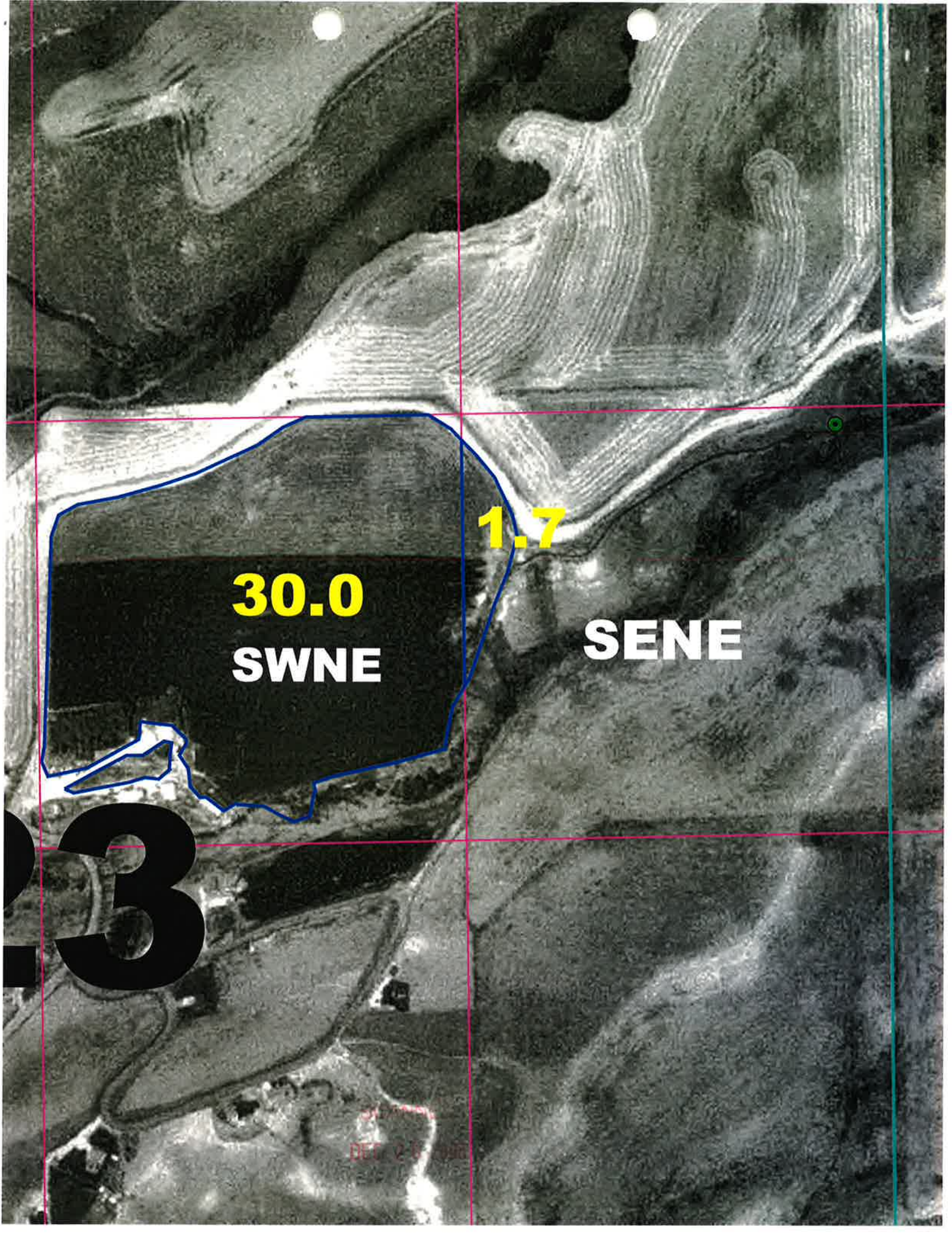
Total Irrigated Acres: 46.0

-  Point(s) of Diversion
-  Place of Use
-  Quarter Quarter Lines
-  Section Lines



SCANNED
DEC 20 2005

GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: C. Saxton
Date: June 2003



30.0
SWNE

1.7

SENE

23

DEC 2 6 1996



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.**

PROFILED

SCANNED
DEC 20 2005

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.

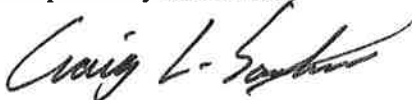
I would encourage you to direct further questions regarding this issue to Deputy Attorney General Candice McHugh at (208) 327-7900.

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
DEC 20 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

RECEIVED

Water right number: 29-2034B

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

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):

- ① Irrigated acres should be 36 ac. in SWNE, Sec. 23 + 12 ac. in SENE, Sec. 23 per attached map.
② Quantity should be increased proportionately for additional acres.
③ Source of Jackson Cr. historically "sinker" and was not tributary to Rapid Creek.
④ Right should include stock water for 50 beef cattle + 10 horses.
(See #1 above)

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

- ① ~~The~~ The land described is irrigated by sprinkler - gravity flow system
② Total acres irrigated = 48 acres
③ When right was established, Jackson creek never was tributary to Rapid Creek. See attached affidavits.
④ Continuous stock water use.

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

DATE: 3/7/03

SIGNATURE:

Corwin P. Whitworth

Please print your name:

Corwin P. Whitworth

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

SCANNED

DEC 20 2005

PROFILED

Craig

LAW OFFICES OF

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

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

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.

RECEIVED
MAR 17 2003
Department of Water Resources
Eastern Region

RECEIVED
MAR 24 2003
WATER RESOURCES
WESTERN REGION

SCANNED
DEC 20 2005

March 11, 2003

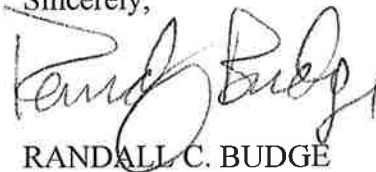
Page 2

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.)

SCANNED

DEC 20 2005

STATE OF IDAHO)
)
BANNOCK COUNTY) SS.

Narcisse Sorrell, being first duly sworn, deposes and says: That he has resided in the vicinity of Inkom, Idaho for thirty four years; that he is and has been during all that time familiar with the natural countour and streams of that vicinity, and especially in Township 7 South of Ranges 36 and 37, as shown by the accompanying map; that he knows of his own knowledge that the course of Jackson Creek, as shown on said map is the natural course of said stream, and that said stream is and was a tributary of the Portneuf River, and not a tributary of Rapid Creek. Affiant further says that the Jackson Creek as shown on the accompanying map was sometimes known as Indian Creek.

Narcisse Sorrell

Subscribed and sworn to before me this 2nd day of July, 1920.

Henry C. Leary
Notary Public, Bannock County,
Idaho, residing at Pocatello,
said county and state.

SCANNED

DEC 20 2005

Inkom, Idaho

March 1991

STATE OF IDAHO

BANNOCK COUNTY

Francis M. Whitworth in this notarized statement says; That he has been acquainted with the area of Inkom Idaho for all of his life, 82 years, and that he is, and has been during that time familiar with most of the natural contour and the streams of that vicinity, including those in Township 7 South, Range 36 and 37. This does include the area shown on the accompanying map.

He states that he knows of his own knowledge that the course of Jackson Creek, as shown on said map is indeed the direction of the stream bed of Jackson Creek.

He also states that during the first nine years of his life he lived within one mile of Jackson Creek, and during this time Jackson Creek was a dry stream bed in its lower area.

He also states that during the early years of his life he was an employee of A.M. Newton. Dr. Newton leased the property where the Jackson Creek stream bed existed from Joe Jackson. During the time of this employment it was his job to level the stream bed and make the area farmable. This task was done with a wooden land leveling device,

Francis M. Whitworth

Subscribed and sworn to before me this 12 day of March, 1991.

SCANNED

DEC 20 2005

Sherry Helmandollar
Notary Public
Inkom, Idaho 83245
Residing at:

INKOM, IDAHO

STATE OF IDAHO

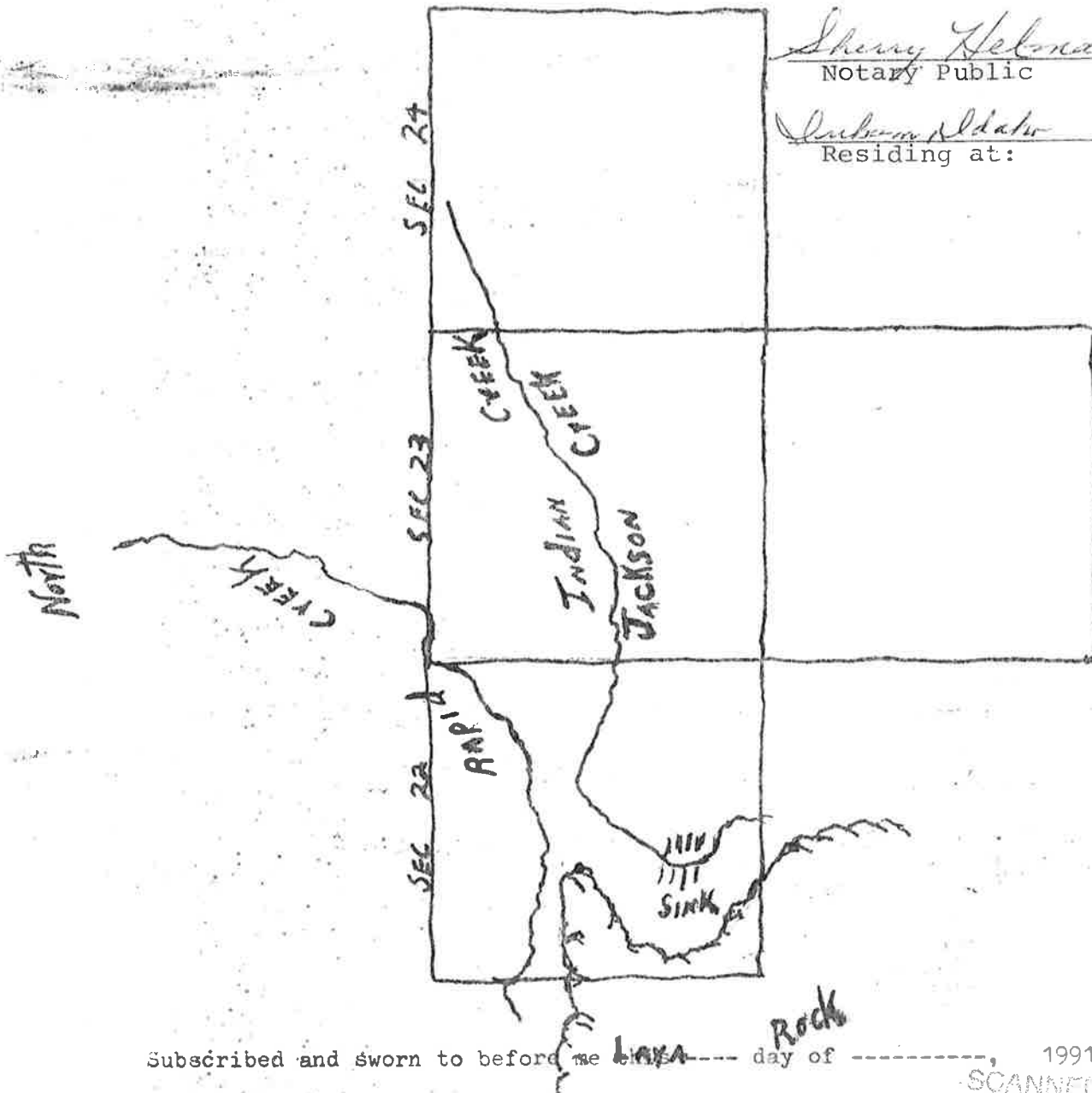
BANNOCK COUNTY

Francis Whitworth states that he knows of his own knowledge that this map clearly indicates the direction of the stream bed of Jackson Creek during his childhood and younger life.

Francis W. Whitworth

Sherry Helman
Notary Public

Idaho
Residing at:



Subscribed and sworn to before me this 1st day of May, 1991.

SCANNED

DEC 20 2005

Inkom, Idaho
March, 1991

STATE OF IDAHO
BENNECK COUNTY

R.W. Barron in this notarized statement says; That he has been acquainted with the area of Inkom Idaho for 38 of his almost 91 years, and that he is, and has been during the time familiar with most of the natural contour and the streams of that vicinity, including those in Township 7 South Ranges 36 and 37 East. This does include the area shown on the accompanying map.

He states that he knows of his own knowledge that the course of Jackson Creek, as shown on said map was toward the Portneuf River and not to Rapid Creek.

He also states that as a young man he recalls that various farmers would divert Jackson Creek from its natural stream bed into Rapid Creek so that the land on and around the natural stream bed could be farmed.

RW Barron

Subscribed and sworn to before me this 19 day of March, 1991.

Sherry Helmandollar
Notary Public

Inkom, Idaho 83245
Residing at:

SCANNED

DEC 20 2005

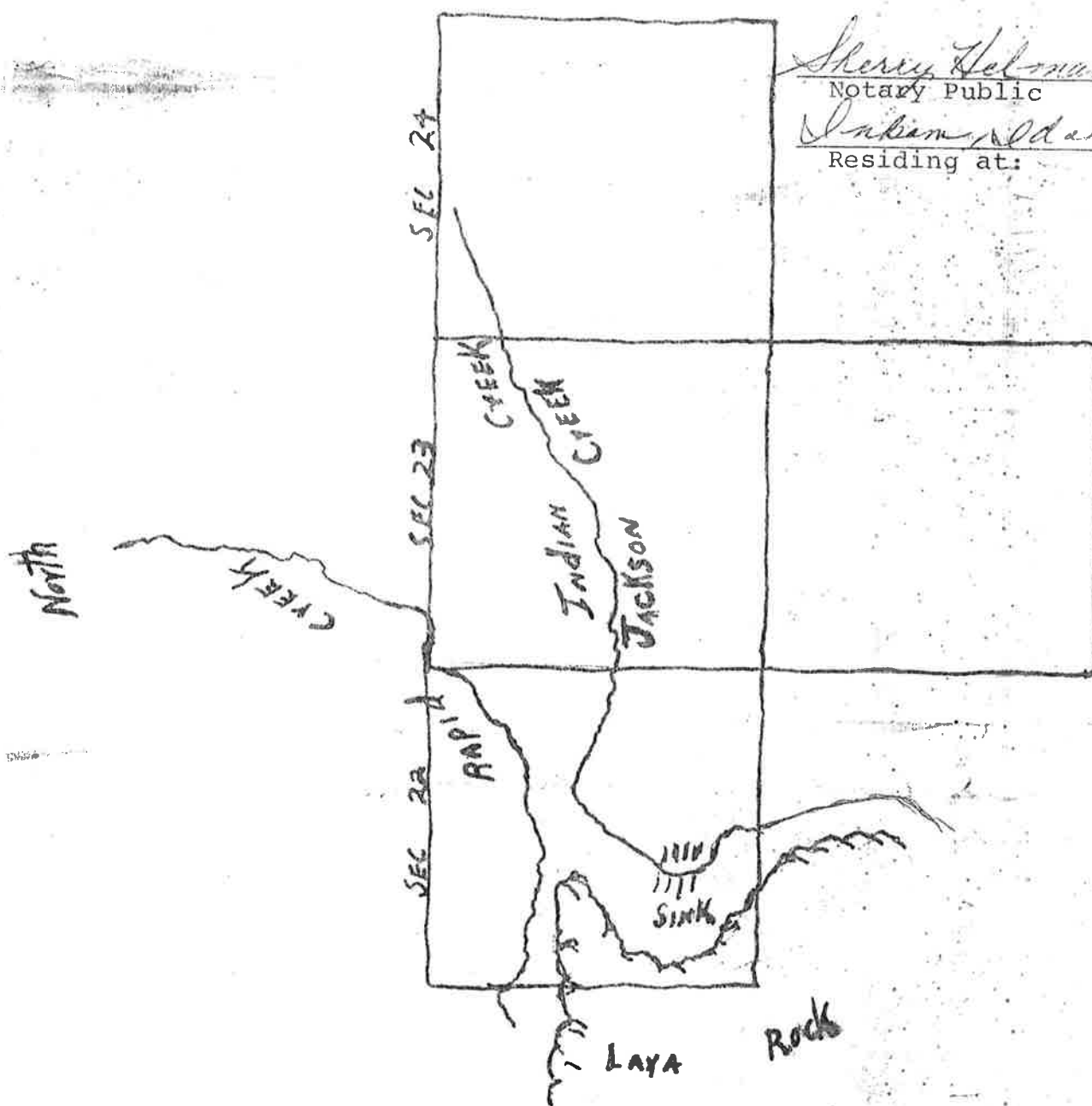
STATE OF IDAHO
BANNOCK COUNTY

INKOM. IDAHO

R. W. Barron states of his own knowledge he knows that this map does show the direction of the flow of Jackson Creek during his childhood years.

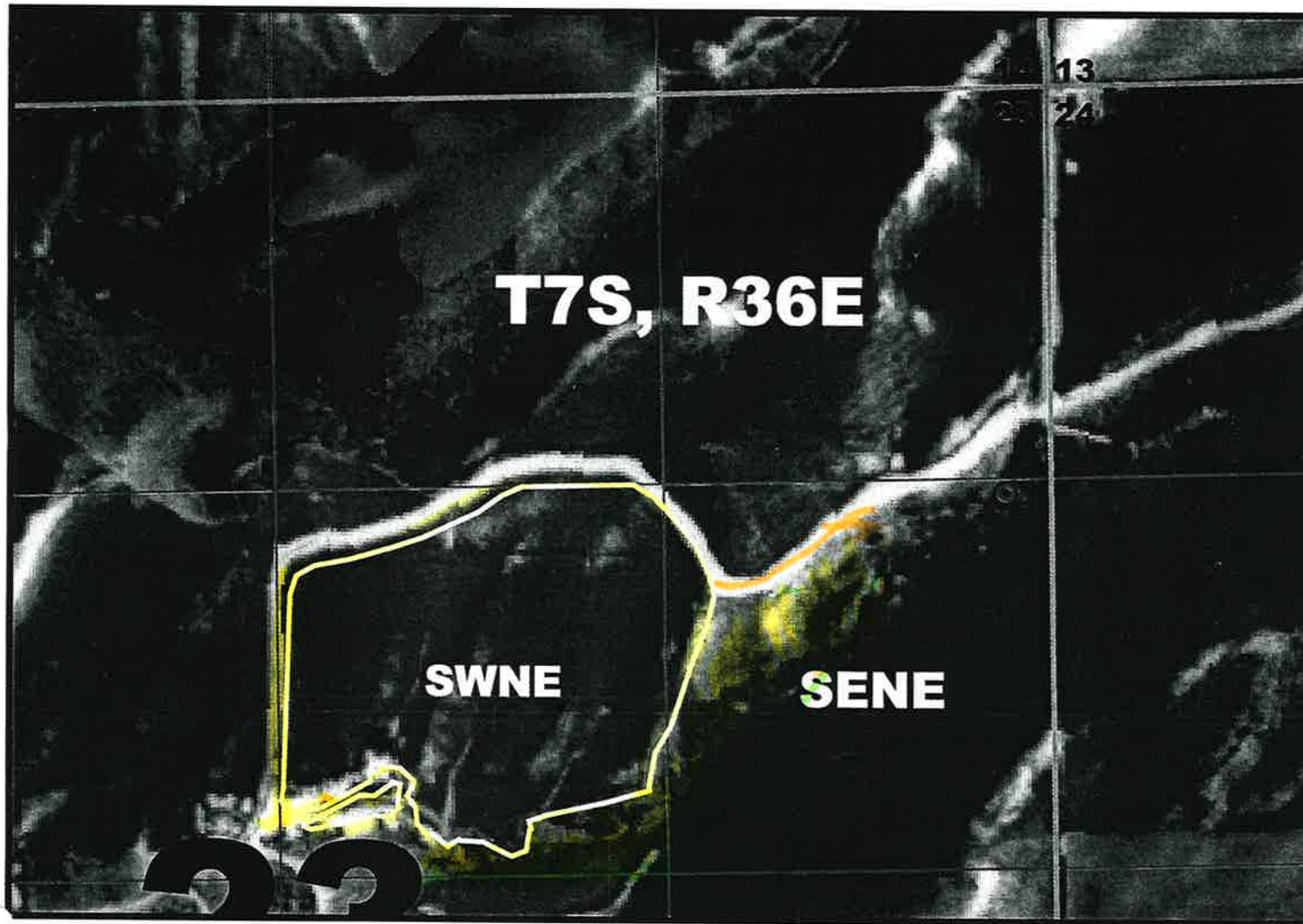
Subscribed and sworn to this 19 day of March, 1991.

Sherry Helmandarian
Notary Public
Idaho, Idaho
Residing at:



SCANNED

DEC 20 2005



SCANNED
DEC 20 2005

Total Irrigated Acres: 31.7

● Point(s) of Diversion

Place of Use

□ Quarter Quarter Lines

□ Section Lines



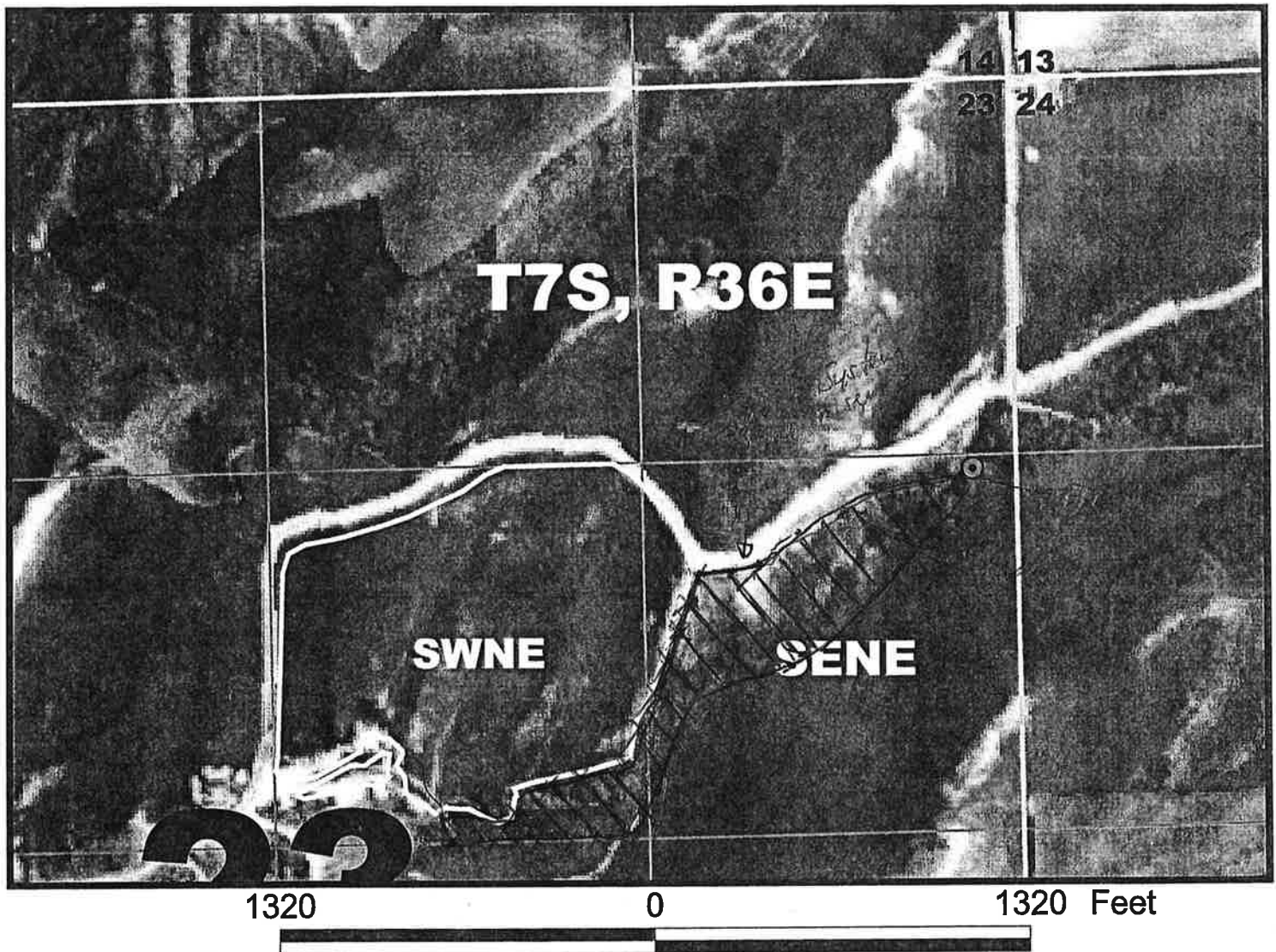
GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: C. Saxton
Date: December 2002



STATE OF IDAHO

Department of Water Resources
Eastern Region

Water Right(s): 29-02034B



Total Irrigated Acres: 31.7

● Point(s) of Diversion

Place of Use



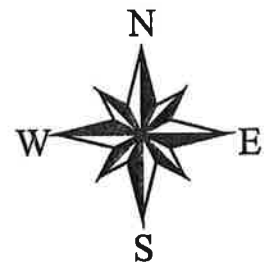
Quarter Quarter Lines



Section Lines

SCANNED

DEC 20 2005



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

02/18/2003

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

RIGHT NUMBER: 29-2034B
NAME AND ADDRESS: CORWIN P WHITWORTH
493 E JACKSON CREEK RD
INKOM ID 83245

✓ SOURCE: JACKSON CREEK

TRIBUTARY: RAPID CREEK

now

QUANTITY: 0.630 CFS
126.80 AFY

(Previously "5 m/c")

✓ PRIORITY DATE: 08/31/1905

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

✓ POINT OF DIVERSION:
T07S R36E S23 NESENE 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	0.630 CFS
✓ DOMESTIC	04/01 10/31	126.80 AFY
✓ Domestic use is for lawn and garden.		0.040 CFS, <i>OK domestic</i>

OK - claim 3/15 - 11/15

PLACE OF USE: IRRIGATION Within BANNOCK County

T07S R36E S23 SWNE 30.0 T07S R36E S23 SENE 1.7

DOMESTIC same as IRRIGATION

31.7 ACRES TOTAL

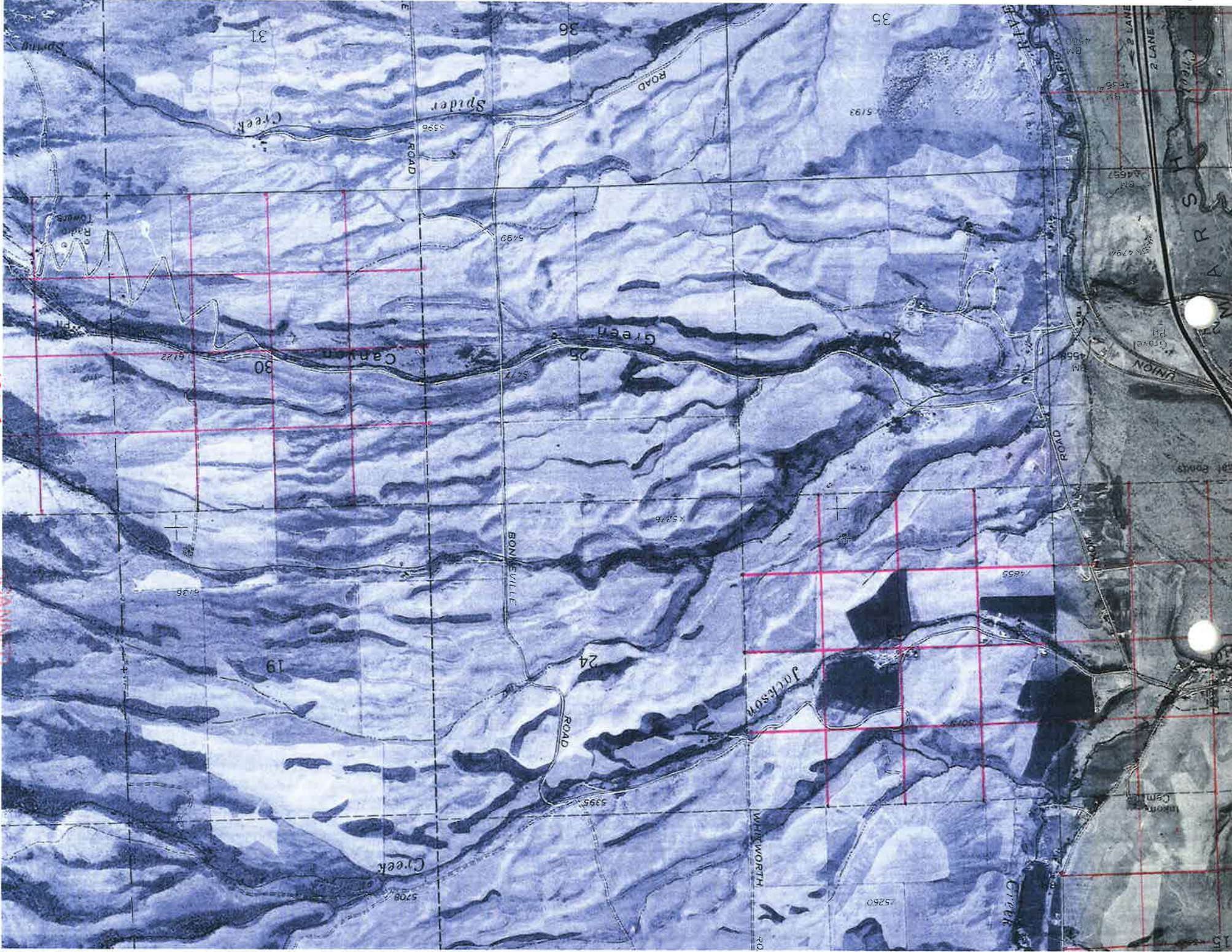
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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: BASIS OF CLAIM - License

SCANNED

DEC 20 2005



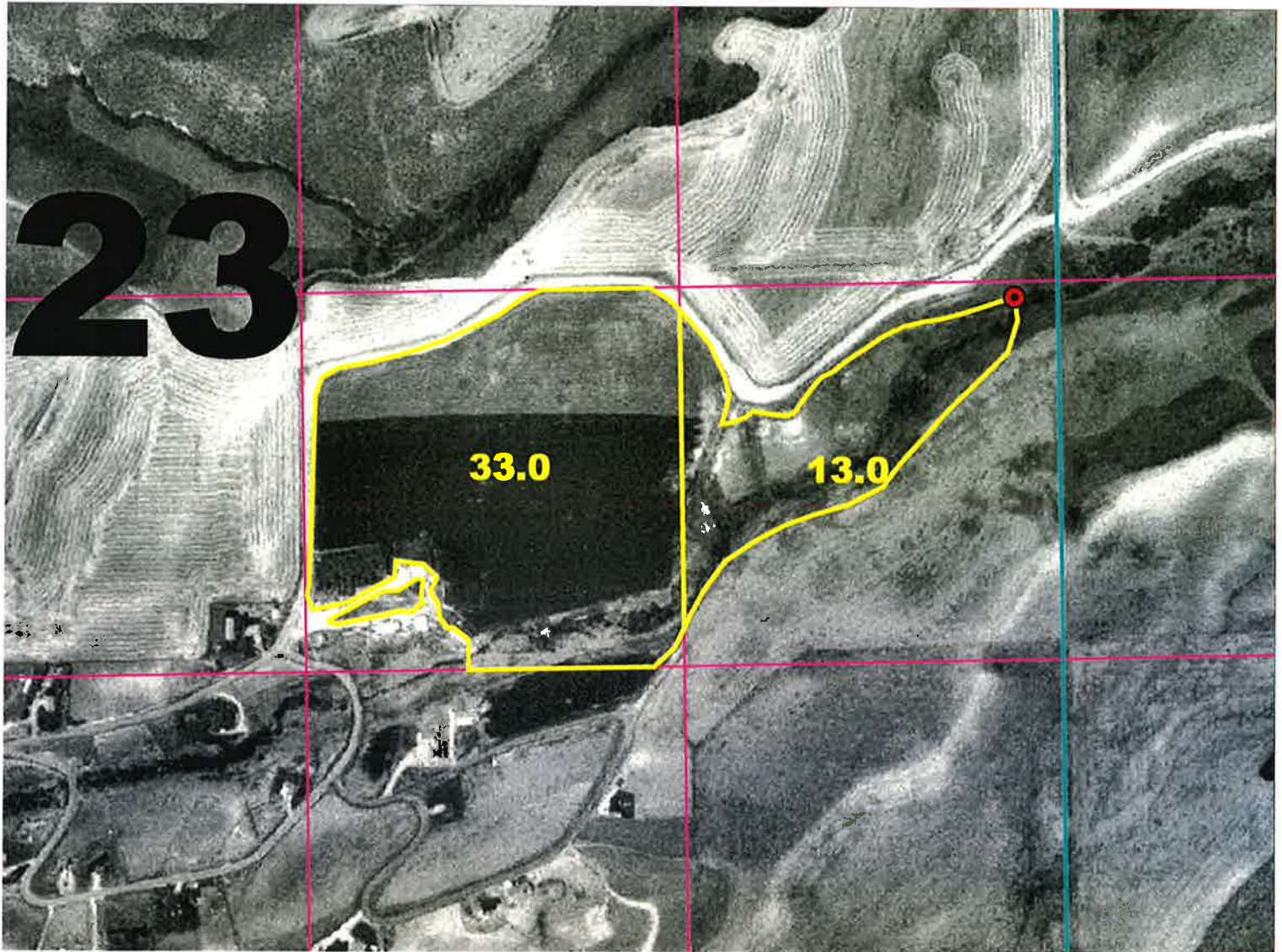
1976

DEC 20 2005

SCANNED

Acreage Calculation Map

29-02034B



Point of Diversion

Recommended Irrigated Acres = 46.0



Bannock Co Tax Lot Data



Place of Use



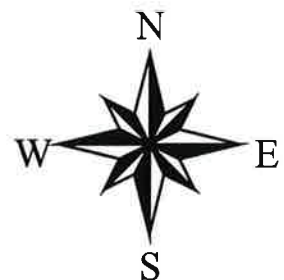
N/A



Section Lines



Quarter Quarter Lines



SCANNED

DEC 20 2005

Prepared By: Craig Saxton
June 2003

RECEIVED
MAR 17 2003
Department of Water Resources
Eastern Region

Inkom, Idaho

March 1991

STATE OF IDAHO

BANNOCK COUNTY

Francis M. Whitworth in this notarized statement says; That he has been acquainted with the area of Inkom Idaho for all of his life, 82 years, and that he is, and has been during that time familiar with most of the natural contour and the streams of that vicinity, including those in Township 7 South, Range 36 and 37. This does include the area shown on the accompanying map.

He states that he knows of his own knowledge that the course of Jackson Creek, as shown on said map is indeed the direction of the stream bed of Jackson Creek.

He also states that during the first nine years of his life he lived within one mile of Jackson Creek, and during this time Jackson Creek was a dry stream bed in its lower area.

He also states that during the early years of his life he was an employee of A.M. Newton. Dr. Newton leased the property where the Jackson Creek stream bed existed from Joe Jackson. During the time of this employment it was his job to level the stream bed and make the area farmable. This task was done with a wooden land leveling device,

Francis M. Whitworth

Subscribed and sworn to before me this 12 day of March, 1991.

Sherry Helman
Notary Public
Inkom, Idaho 83245
Residing at:

INCOM, TWO

STATE OF IDAHO

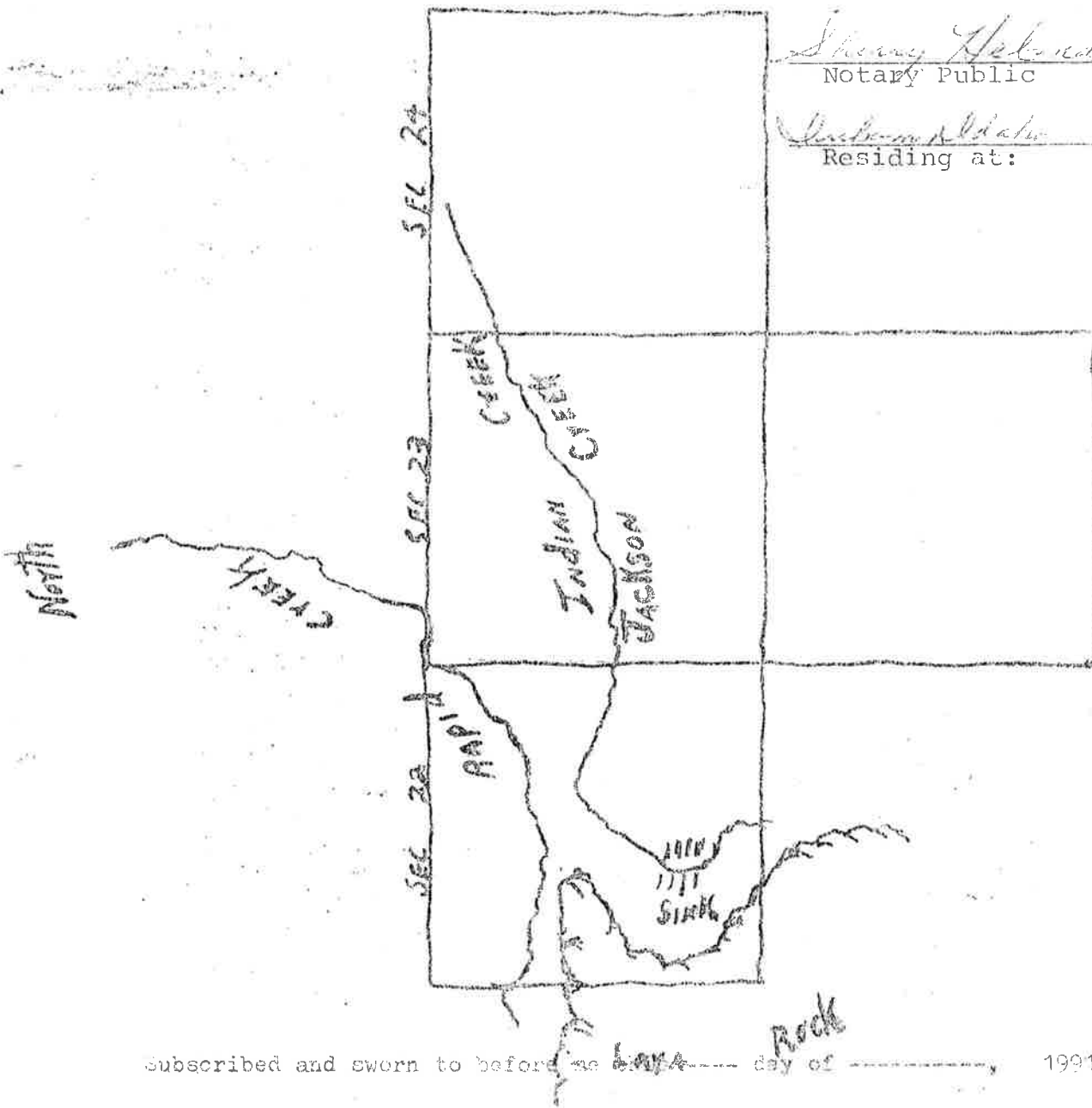
BANNOCK COUNTY

Francis Whitworth states that he knows of his own knowledge that this map clearly indicates the direction of the stream bed of Jackson Creek during his childhood and younger life.

Francis W. Whitworth

Henry H. H. H. H. H.
Notary Public

Residing at:



Subscribed and sworn to before me this 1st day of May, 1991.

Inkom, Idaho
March, 1991

STATE OF IDAHO
BANNOCK COUNTY

R.W. Barron in this notarized statement says; That he has been acquainted with the area of Inkom Idaho for 38 of his almost 91 years, and that he is, and has been during the time familiar with most of the natural contour and the streams of that vicinity, including those in Township 7 South Ranges 36 and 37 East. This does include the area shown on the accompanying map.

He states that he knows of his own knowledge that the course of Jackson Creek, as shown on said map was toward the Portneuf River and not to Rapid Creek.

He also states that as a young man he recalls that various farmers would divert Jackson Creek from its natural stream bed into Rapid Creek so that the land on and around the natural stream bed could be farmed.

R.W. Barron

Subscribed and sworn to before me this 19 day of March, 1991.

Sherry Helmsandollar
Notary Public

Shoshone, Idaho S3245
Residing at:

STATE OF IDAHO
BANNOCK COUNTY

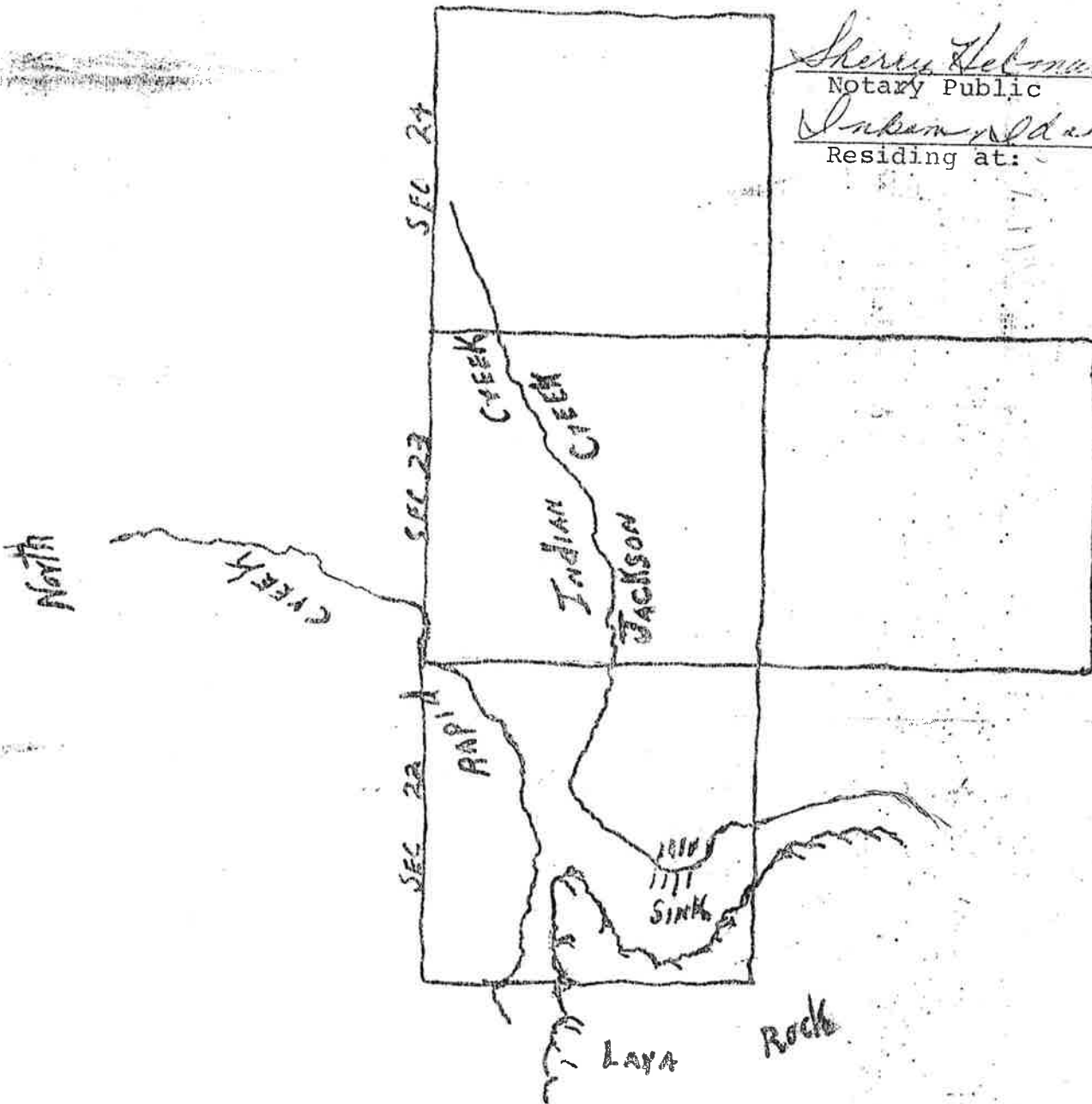
INKOM. IDAHO

R. W. Barron states of his own knowledge he knows that this map does show the direction of the flow of Jackson Creek during his childhood years.

R. W. Barron

Subscribed and sworn to this 19 day of March, 1991.

Sherry Helmandarian
Notary Public
Idaho
Residing at:



STATE OF IDAHO)
) SS.
BANNOCK COUNTY)

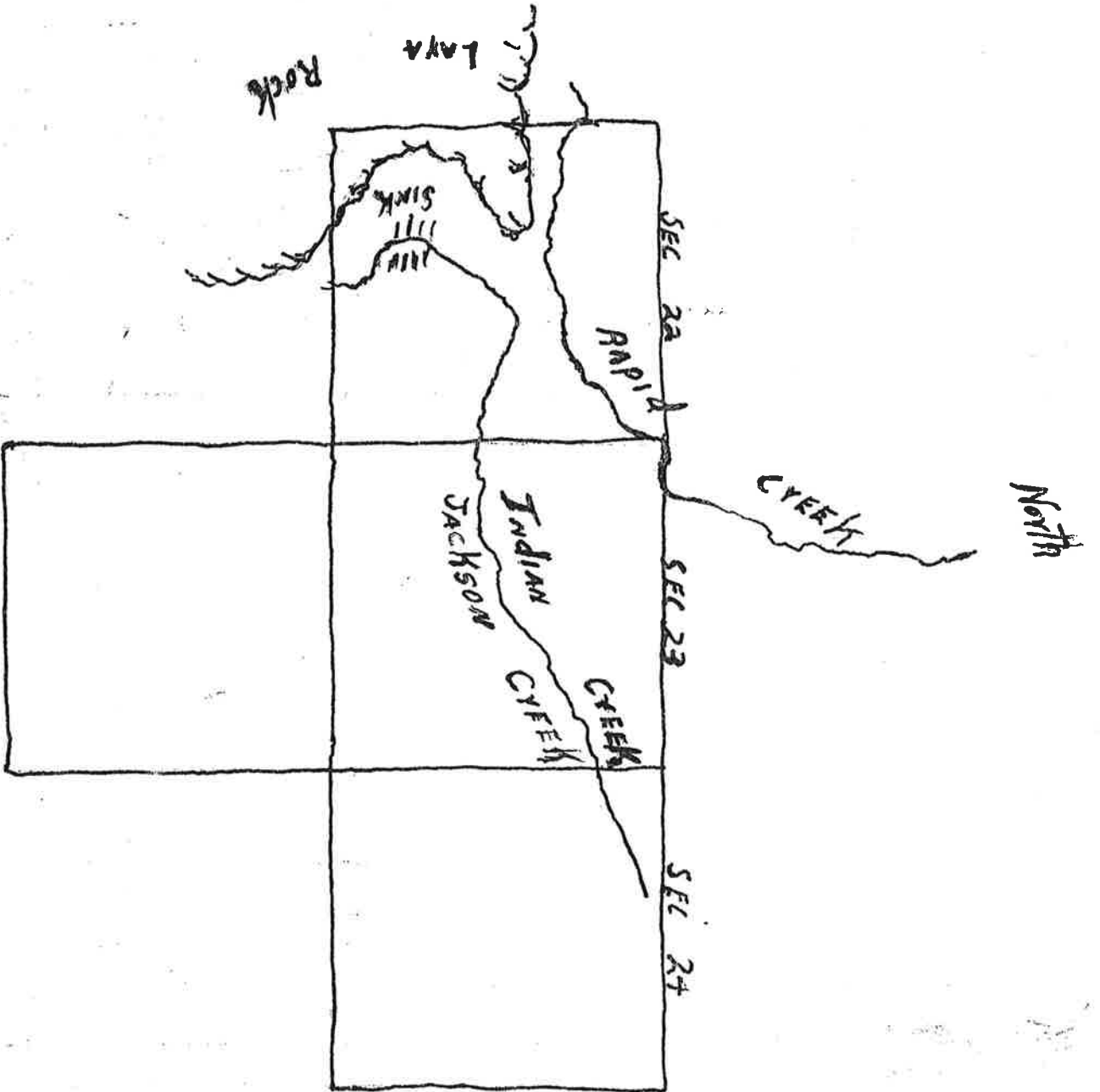
Narcisse Sorrell, being first duly sworn, deposes and says: That he has resided in the vicinity of Inkom, Idaho for thirty four years; that he is and has been during all that time familiar with the natural countour and streams of that vicinity, and especially in Township 7 South of Ranges 36 and 37, as shown by the accompanying map; that he knows of his own knowledge that the course of Jackson Creek, as shown on said map is the natural course of said stream, and that said stream is and was a tributary of the Portneuf River, and not a tributary of Rapid Creek. Affiant further says that the Jackson Creek as shown on the accompanying map was sometimes known as Indian Creek.

Narcisse Sorrell

Subscribed and sworn to before me this 2nd day of July, 1920.

Henry Leary
Notary Public, Bannock County,
Idaho, residing at Pocatello,
said county and state.

Maple - Bayle



5-11-01 : Pat "Corwin" Whitworth called and would like
To be present during time of Field. Call Him

12-12-01 : Called Pat and left message Giving him our
address. so he can send letter adding Attorney
as representative.

7-24-02 : No other SRBA claims From Jackson etc with an
Earlier Priority date than this claim and
29-02034A.

PROFILED

SCANNED

DEC 20 2005

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 29-2034B

WATER RIGHT NUMBER: 29-2034B

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

Priority Date: 08/31/1905 ✓

Basis: License ✓

Status: Active ✓

<u>Source</u>	<u>Tributary</u>
JACKSON CREEK ✓	~~SINKS~~ Rapid Creek

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	4/1 to 10/31	2.800 CFS	126.8
DOMESTIC	03/15 to 11/15	4/1 to 10/31	0.040 CFS	
			0.04	
		<u>Total Diversion:</u>	2.800 CFS	
			0.63	126.8

<u>Location of Point(s) of Diversion</u>	
JACKSON CREEK ✓	NE SE1/4NE1/4
BANNOCK County ✓	Sec. 23, Twp 07S, Rge 36E, B.M. ✓

Place of Use ✓
IRRIGATION ✓

Twp	Rge	Sec	NE				NW				SW				SE				Totals
07S	36E	23	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
					40.0	40.0					20.0						40.0		140.0
					30.0	1.7													31.7

Total Acres: 140 31.7

DOMESTIC same as IRRIGATION

- Domestic 1 Home
- Parcel #: R4015018002

Conditions of Approval:

- Pursuant to a call intones of scarcity, this Right is 5R to WR's diverted From Rapid Creek

Remarks:

1. General LIC. DESCRIBES SOURCE AS INDIAN CK.
2. Explanatory RIGHT RENUMBERED TO RECOGNIZE THAT THIS RIGHT HAS BEEN SPLIT (CSAXTON 12/20/02)
3. General NON IRRIGATION USES: D/ WATER FOR LAWN AND GARDEN

SCANNED

DEC 20 2005

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 29-2034B

Comments:

Dates and Other Information:

Claim Received Date: 12/20/2002

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

State or Federal:

Owner Name Connector:

Water District Number:

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

SCANNED

DEC 20 2005

MEMORANDUM

Date: January 20, 2002

From: Craig Saxton

Subject: Administration of Right 29-02034 (SRBA claims 29-02034A and 29-02034B)

Findings of Fact:

29-02034 was licensed on June 12, 1906 for use of Indian Creek water for Irrigation and Domestic purposes.

A statement from Narcisse Sorrell sworn on July 2, 1920 states that what is currently known as Jackson Creek was historically known as Indian Creek and was historically tributary to the Portneuf river and not Rapid Creek.

Rapid Creek Decree 29-F - Stewart vs. Damron was signed on June 22, 1906. This decree included Rapid creek and all its tributaries.

Decree 29-F did not include irrigation of the POU licensed under right 29-02034. Nor did it specifically state Jackson or Indian creek as a source included in this decree.

Jackson Creek (Indian Creek) is currently tributary to Rapid creek.

Conclusion:

Based on the above information, available evidence indicates that Jackson Creek was not historically tributary to Rapid Creek.

Since Jackson Creek is currently tributary to Rapid Creek, but at the time of licensing, apparently was not, recommend source for SRBA claims 29-02034A and 29-02034B as:

Jackson Creek tributary to Rapid Creek

Add remark:

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

PROFILED

SCANNED
DEC 20 2005

LAW OFFICES OF

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

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 S. HUNN
DAVID E. ALEXANDER
LISA M. CHRISTON
RICHARD A. HEARN, M.D.
ERIC L. OLSEN
LANE V. ERICKSON
PATRICK N. GEORGE
SCOTT J. SMITH

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

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

December 18, 2001

RECEIVED
DEC 19 2001

Department of Water Resources
Eastern Region

Craig Saxton
Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive
Idaho Falls, Idaho 83402

Re: *Corwin Pat Whitworth SRBA Claim -
License No. 1530
Water Right No. 29-2034A(?)*

Dear Craig:

Per your request, this letter will serve as my notice of appearance as attorney of record for Pat Whitworth. With regard to Mr. Whitworth's pending SRBA claims, please provide me with a duplicate of all future correspondence, notices, reports and other documents relating to the administrative processing and adjudication of these claims. Thank you.

Sincerely,



RANDALL C. BUDGE

RCB:rr

cc: Pat Whitworth

PROFILED

SCANNED

DEC 20 2005

Saxton, Craig

From: Saxton, Craig
Sent: Wednesday, July 24, 2002 2:36 PM
To: Carlsen, Ernie; McHugh, Candice
Subject: 29-02034 Jackson/Rapid

Hello,

I have been doing some additional work on the Jackson Creek issue of weather it was historically trib to Jackson Creek. I will summarize what we have discussed.

The original issue is Corwin (Pat) Whitworth (29-02034) claims that Jackson Creek (historically called Indian Creek) was not historically tributary to Rapid creek until sometime in the 1920's. The 1920's date may be new information, but I found it in a letter from Mr. Whitworth's lawyer Randy Budge.

I think it has been decided to recommend the right as Jackson Creek trib to Rapid Creek. However, there was discussion of weather we would put some sort of condition/remark that the right was to be administered separately. I have not got a confirmation on this at this time.

The monkey wrench I am going to add now, is that another water user has claimed a portion of 29-02034. This is 29-02034A and appears to be valid. After discovering this, I did searches for any other rights claimed from Jackson Creek with a priority date claimed earlier than historical license 29-02034. There are none.

Historical License:

29-02034: 2.8 cfs, POU listed as only 4 - 40 acre tracts, Dan McGinnis

Claims:

29-02034: 2.8 cfs, 140 acres, Corwin P. Whitworth
 29-02034A: 0.04 cfs, 2 acres, Gordon and Linda Brown

Potential Recommendations:

29-02034 (to be renumbered to 29-02034B): 0.63 cfs, 30.7 acres, Pat Whitworth
 29-02034A: 0.03 cfs, 1 acre, Claimant unknown - NCO requested

Thus the right would be under recommended for 2.15 cfs. Now this number could change a little if Mr. Whitworth argues Ditch loss since water is conveyed through roughly 1200 feet of ditch.

Conclusion:

If late claims come in there is plenty of the historical license to distribute among users.

If we are basing our recommendation of weather Jackson Ck was historically trib to Rapid Creek on the evidence at hand, based on affidavits provided in Whitworths claim file, I would think we would have to support that it historically wasn't trib to Rapid CK.

Regarding Ernie's observation that Jackson Ck is a different water district, my first question is are we sure that isn't Joe Jackson Creek just south of there in Ruberry's area. It is my understanding that Joe Jackson Creek was historically called Jackson Creek, but was changed when Indian Ck started being referred to Jackson Creek. Did that make sense?

Since Jackson CK is trib to Rapid Ck now, I think we should recommend it as trib to Rapid, and put a remark that it is to be administered separately.

PROFILED

SCANNED

DEC 20 2005

7/24/2002

In addition, I don't see any other users on Jackson Creek that will have a recommended priority date prior to 1930 except a US right for Stockwater that has already been PD'd - 29-12352. So, since they were established after the theoretical change in the natural stream pattern, they wouldn't get the remark like 29-02034 would.

What do you think?

Craig

PROFILED

SCANNED
DEC 20 2005

7/24/2002

RECEIVED

DEC 13 2001

Department of Water Resources
Eastern Region

LAW OFFICES OF

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

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODSELL
JOHN B. INGELSTROM
DANIEL C. GREEN
BRENT O. ROCHE
KIRK B. HADLEY
FRED J. LEWIS
MITCHELL W. BROWN
ERIC S. HUNN
DAVID E. ALEXANDER
LISA M. CHRISTON
RICHARD A. HEARN, M.D.
ERIC L. OLSEN
LANE V. ERICKSON

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

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

May 22, 2001

Ernie Carlsen
Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive
Idaho Falls, Idaho 83402

*Re: Corwin Pat Whitworth SRBA Claim -
License No. 1530
Water Right No. 29-2034A(?)*

Dear Mr. Carlsen:

Corwin Pat Whitworth, whose address is 493 E. Jackson Creek Road, Inkom, Idaho 83245, has consulted with me regarding his water rights on Jackson Creek. His water rights are identified by License No. 1530 for 2.8 cfs with a priority of 8/31/1905. The license reflects a point of diversion near the northeast corner of the SE1/4 of NE1/4 of Section 23, Township 7 South, Range 36 East, B.M., with the place of use being the S1/2 NE1/4, NW1/4 SE1/4 and NE1/4 SW1/4 of Section 25, Township 7 South, Range 36 East, B.M., Bannock County.

Mr. Whitworth indicated he filed an SRBA Claim and had jotted down the number 29-2034 which may be the current number of his claim. Would you kindly provide me with a copy of Mr. Whitworth's SRBA Claim. Additionally, would you provide a copy of any objections that have been filed to his claim together with copies of all other water right claims on Jackson Creek.

Jackson Creek was formerly known as Indian Creek and is reflected as such on some maps. It historically was a direct tributary of the Portneuf River. However, in the 1920's it was diverted in the lower reach into Rapid Creek and has since been a tributary of Rapid Creek.

Mr. Whitworth apparently filed other SRBA Claims on Rapid Creek as well pertaining to other water rights and I would appreciate receiving copies of them as well.

PROFILED

SCANNED
DEC. 20 2005

Ernie Carlsen
May 22, 2001
Page 2

Thank you for your assistance.

Sincerely,

RANDALL C. BUDGE

RCB:rr
cc: Pat Whitworth

Craig -

Please enter this request from
Mr Budge in my file

- Thank You



SCANNED
DEC 20 2005



Jackson, W. H. 158

Portneuf Mountains, lying to the east of the canyon. They are covered with a thick mantle of snow, which fell during the night of the 2nd of July. Bannock County, Idaho. 1872.

JUN 11 2001

Log for claim A29-02034

Spatial Dynamics LTD

8/28/00

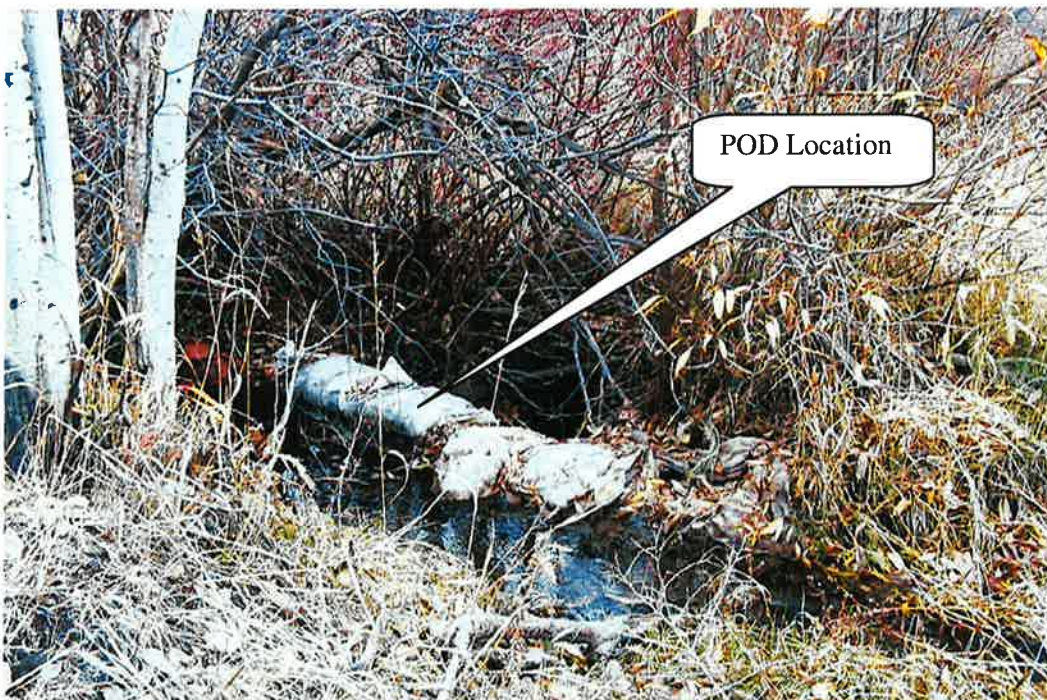
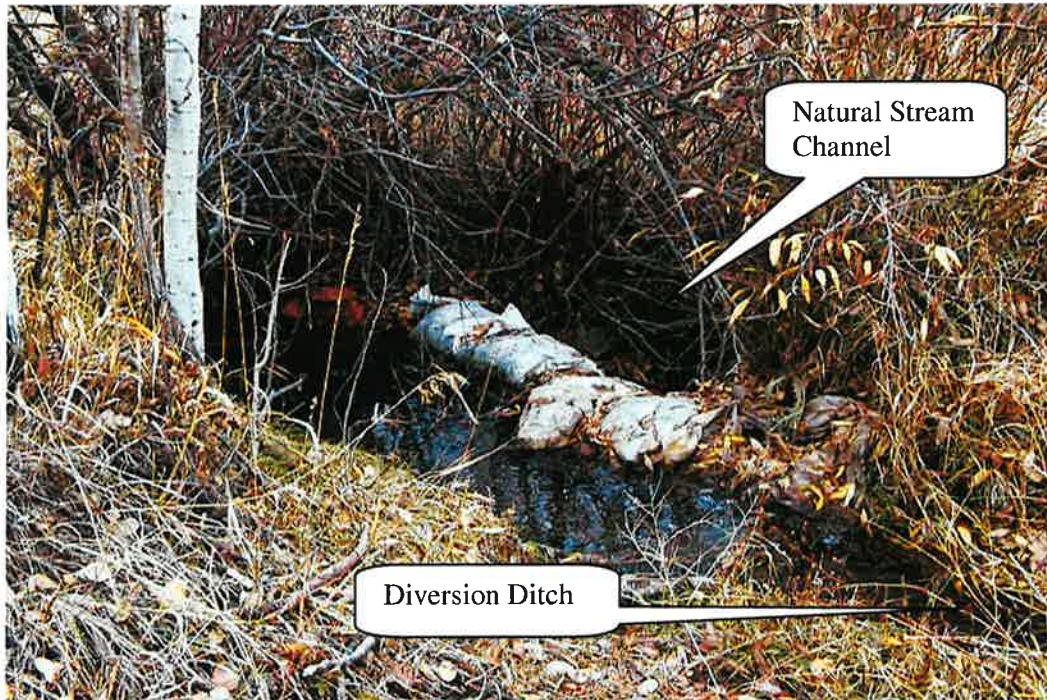
TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
07s36e	23	SWNE	40	38	
07s36e	23	SENE	40	38	
07s36e	23	NESW	20	34	Indiscernible
07s36e	23	NWSE	40	37	
Totals:			140	147	

5/14/01 Pat "Conwin" Wibworth called and would like
to be present during the field Exam.
Call Him.

29-02034

POD

Field Exam 11/01/01



Looking at POD. Water is diverted into a ditch that runs along the North side of Jackson creek. (csaxton 11/02/01).

29-02034

POD

Field Exam 11/01/01



Looking East at ditch that carries water along the North side of Jackson Creek. Jackson creek to the left of the picture and POU just over the hill (csaxton 11/02/01).

29-02034

Stream name appears to have
been changed to Jackson Cr.
According to Census Map. 188-91

for

S T A T E O F I D A H O

Water License No. 1530

WHEREAS, On the 31st day of August, A. D. 1905, Dan McGinnis of Inkom, County of Bannock, and state of Idaho, duly made application (No. 2113) to me for a permit to use two and eight-tenths cubic feet per second of the waters of Indian Creek, County of Bannock, state of Idaho, for irrigation and domestic purposes; and,

WHEREAS, On the 7th day of September, A. D. 1905, Permit No. 1530 was issued to said applicant for the diversion of said water, and providing for the completion of the works of diversion therein described on or before the 7th day of March, A. D. 1906, and for the application to beneficial use of said water on or before the 7th day of March, A. D. 1906; and,

WHEREAS, On the 1st day of February, A. D. 1906, the holder of said permit duly made proof of the completion of adequate works for the diversion of two and eight-tenths cubic feet per second of said waters, as evidenced by my Certificate No. 1530, dated June 8, 1906, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use two and eight-tenths cubic feet per second of water, with date of priority of August 31, 1905, and,

WHEREAS, On the 1st day of February, A. D. 1906 proof was duly made of the application to beneficial use of two and eight-tenths cubic feet per second of said water;

NOW, THEREFORE, By virtue of the authority vested in me by the laws of the State of Idaho, I hereby grant and confirm to DAN MCGINNIS of Inkom, Idaho, the holder and owner of said Permit No. 1530 a perpetual right, dating from August 31, 1905, to the use of two and eight-tenths cubic feet per second of the waters of Indian Creek, in the County of Bannock, and state of Idaho, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at a point near N. E. corner of SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of section 23, Tp. 7 S., R. 36 E. B.M., and conducted to and upon the (SE $\frac{1}{4}$ of NE $\frac{1}{4}$, NW $\frac{1}{4}$ of SE $\frac{1}{4}$ and NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 23, Tp. 7 S., R. 36 E. B. M., for the purpose of irrigation and domestic use, subject, however, to the laws of the state of Idaho applicable to a license for the use of the waters of the state, and subject, also, to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS My hand and the seal of my office, at Boise, Idaho, this eighth day of June, A. D., Ninteen Hundred and six.

Jas. Stephenson, Jr.

(seal)

State Engineer.

1. Name of applicant - DAN MCGINNIS

Postoffice address: P. O. - Inkona, Idaho.

County - Bannock.

2. The quantity of water claimed is 2.8 cubic feet per second.

3. Source of water supply - Indian Creek.

County of Bannock

4. Location of points of diversion - One ditch north of creek near N. E. cor. of SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sect. 23, T. S. 7 S. R. 36 E. & One ditch south of creek near N. E. Cor. of SE $\frac{1}{4}$ of of the NE $\frac{1}{4}$ of Sect. 23, T. S. 7 S., R. 36 E.

5. To be used for:

I. Irrigation and domestic use:

(a) Number of acres to be irrigated 140 acres.

(b) In the following legal subdivisions - The S $\frac{1}{2}$ of the NE $\frac{1}{4}$ of Sect.

23, NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sect. 23, NE $\frac{1}{4}$ SW $\frac{1}{4}$ sect. 23, T. 7 S., R. 36 E.

6. Estimated cost of works - One Hundred Dollars.

7. Description of Works for Diversion:

I. Kinds of works - Two ditches.

II. Dimensions of Works:

(d) Ditch (flume or pipe) width at bottom one foot, width at water line 1 $\frac{1}{2}$ feet, depth of water one foot. Average grade per mile is 10 feet. Length of ditch is combined $\frac{3}{4}$ miles, and it crosses the following quarter sections - The NE $\frac{1}{4}$ of Sect. 23, T. S. 7 S., R. 36 E., to forties in 23, which is the point of intended use.

8. Time required for the completion of the construction of such work is 60 days from date, or about Oct. 25, 1905.

9. Time required for the complete application of the water to the proposed use is 60 days from date, or about Oct. 25, 1905.

Approval of State Engineer.

The number of this permit is 1530

Date of first receipt of application 1 p. m. August 31st, 1905.

Returned to applicant for correction August 31st, 1905.

Corrected application received September 5th, 1905.

Recorded in Book 5, page 1530. Approved September 7, 1905.

This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho and hereby grant the same, subject to the following limitations and conditions:

Work to begin on or before November 6, 1905, and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.

One-fifth of the work specified to be completed on or before December 7, 1905.

The whole of said work to be completed on or before March 7, 1906.

The time for the proof of beneficial use of water appropriated in accordance herewith, to extend to March 7, 1906.

Witness my hand this 7th day of September, 1905.

Jas. Stephenson, Jr.

State Engineer

Form 103, Notice of Proof of Completion of Works, and form 121, Notice of proof of Application of Water to Beneficial Use, mailed applicant September 9, 1905.

Notice of Proof of Completion of Works and Notice of Proof of Application of water to Beneficial Use received in due time and mailed for publication December 22, 1905, to the Pocatello Tribune, the date of proof being set for February 1, 1906, and the place Inkom, Idaho. Deposition blanks mailed applicant same date.

Mr. Jasper Munn of Inkom, Idaho, authorized January 8, 1906 to make examination of works.

Fee of \$5.00 for proof of completion of Works and fee of \$8.00 for proof of application of water to beneficial use, and depositions of permit holder and two witnesses received February 2, 1906.

Affidavit of publication of notice received February 20, 1906.

Report of examining surveyor received June 8, 1906.

Report and depositions show that works have been constructed of a capacity to divert and convey to the place of use the amount of water for which application was made, and that the full amount has been applied to beneficial use.

Certificate of Completion of Works and License issued June 8, 1906.

Permit No. 1530

C E R T I F I C A T E O F C O M P L E T I O N O F W O R K S

To All Whom It May Concern:

This is to certify that DAN MCGINNIS of Inkom, County of Bannock, and State of Idaho, the holder of Permit No. 1530, issued upon Application No. 2113, bearing date of priority of August 31, 1905, issued upon Application No. 2113, bearing date of priority of August 31, 1905, authorizing the diversion of two and eight-tenths second-feet of the waters of Indian Creek, County of Bannock, State of Idaho, at a point near the N. E. Corner of SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of section 23, Tp. 7 S., R. 36 E. B. M., for irrigation and domestic purposes, has fully complied with the provisions of the laws of the state of Idaho relating to the proof of completion of the works of diversion set out and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use two and eight-tenths second-feet of water; and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: S $\frac{1}{2}$ of NE $\frac{1}{4}$, NW $\frac{1}{4}$ of SE $\frac{1}{4}$, and NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of section 23, Tp. 7 S., R. 36 E. B. M.

Witness my hand this eighth day of June, A. D. 1906.

Jas. Stephenson, Jr.

License issued for 2⁸/₁₀ second feet

State Engineer of the state of Idaho.

THIS INDENTURE, Made the 21st day of May in the year of our Lord One Thousand Nine Hundred and eight between Donald McGinnis and Annie McGinnis, his wife, of Inkom, County of Bannock, State of Idaho, the parties of the first part, and McNichols & Wright, a partnership composed of J. C. McNichols and A. T. Wright, of Pocatello, County of Bannock, State of Idaho, the parties of the second part.

WITNESSETH: That the said parties of the first part, for and in consideration of the sum of Fifty-six Hundred Dollars, lawful money of the United States of America, to them in hand paid by the said parties of the second part, the receipt whereof is hereby acknowledged, do by these presents, Grant, Bargain, Sell and Convey and Confirm unto said parties of the second part, and to their heirs and assigns forever: All those certain lots, pieces or parcels of land situate, lying and being in the county of Bannock, State of Idaho, bounded and more particularly described as follows, to-wit:

The south one-half ($\frac{1}{2}$) of the northeast quarter ($\frac{1}{4}$), the northwest quarter ($\frac{1}{4}$) of the southeast quarter ($\frac{1}{4}$) and the northeast quarter ($\frac{1}{4}$) of the southwest quarter ($\frac{1}{4}$) of Section twenty-three (23), Township seven (7) south, Range thirty-six (36) East of the Boise Meridian and containing one hundred sixty (160) acres.

Together with all ditches, water and water rights belonging or appertaining to said land, and particularly two and eight-tenths (2.8) cubic feet per second of the waters of Indian Creek as shown by water license No. 1530, issued to Dan McGinnis by the State Engineer of the State of Idaho.

Together with all and singular, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular, the said premises, together with the appurtenances and privileges thereunto incident, unto the said parties of the second part, and to their heirs and assigns forever. And the said parties of the first part, and their heirs the said premises in the quiet and peaceable possession of the said parties of the second part, their heirs and assigns against the said parties of the first part, and their heirs and against all and every person or persons whosoever, lawfully claiming or to claim the same, shall and will warrant and by these presents forever defend.

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

Signed, Sealed and Delivered in the presence of

Earle C. White.

Donald McGinnis (Seal)

Annie McGinnis (Seal)

STATE OF IDAHO,)
) ss.
 County of Bannock.)

On this 21st day of May in the year 1908, before me, Earle C. White, a notary public in and for said County, personally appeared Donald McGinnis and Annie McGinnis, his wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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

(SEAL)

Earle C. White.
 Notary Public.

Received and filed for record in the office
 of the State Engineer at Boise, Idaho, at
 9:00 A.M., June 10, 1912.

A. E. Robinson.

State Engineer.

W

THIS INDENTURE, Made the twenty-third day of October in the year of our Lord One Thousand Nine Hundred and eight, between McNichols & Wright a partnership composed of J. C. McNichols and A. T. Wright, and Alice M. Wright wife of the said A. T. Wright, of Locatello, County of Bannock, State of Idaho, the parties of the first part, and John Richardson of Inkom, County of Bannock, State of Idaho, the party of the second part,

WITNESSETH: That the said parties of the first part, for and in consideration of the sum of Fifty-six Hundred Dollars, lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do by these presents, Grant, Bargain, Sell and Convey and Confirm unto said party of the second part, and to his heirs and assigns forever: All those certain lots, pieces or parcels of land situate, lying and being in the county of Bannock, State of Idaho, bounded and more particularly described as follows, to-wit:

The south one-half ($\frac{1}{2}$) of the northeast quarter ($\frac{1}{4}$), the northwest quarter ($\frac{1}{4}$) of the southeast quarter ($\frac{1}{4}$) and the northeast quarter ($\frac{1}{4}$) of the southwest quarter ($\frac{1}{4}$) of Section twenty-three (23), Township seven (7) south, Range thirty-six (36) East of the Boise Meridian and containing one hundred sixty (160) acres.

Together with all ditches, water and water rights belonging or appertaining to said land, and particularly two and eight-tenths (2.8) cubic feet per second of the waters of Indian Creek as shown by water license No. 1530, issued to Dan McGinnis by the State Engineer of the State of Idaho.

Together with all and singular, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular, the said premises, together with the appurtenances and privileges thereunto incident, unto the said party of the second part, and to his heirs and assigns forever. And the said parties of the first part, and their heirs the said premises in the

the said parties of the first part, and their heirs and against all and every person or persons whomsoever, lawfully claiming or to claim the same, shall and will warrant and by these presents forever defend.

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

Signed, Sealed and Delivered in the Presence of

Earle C. White.

McNichols & Wright.

J. C. McNichols (Seal)

A. T. Wright (Seal)

Alice M. Wright (Seal)

STATE OF IDAHO,)
County of Bannock.) ss.

On this 25rd day of October, in the year 1908, before me, Earle C. White, a notary public in and for said County, personally appeared J. C. McNichols, A. T. Wright and Alice M. Wright, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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

Earle C. White.

Received and filed for record in the
office of the State Engineer at Boise,
Idaho, at 9:00 A.M., May 31, 1912.

A. E. Robinson.

State Engineer.

STATE OF IDAHO,)
County of Bannock.) ss.

John Richardson, being first duly sworn, upon his oath deposes and says:

That he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho No. 1530.

That he intends to change the point of diversion, as described in said decree or permit, to the following described point:

Point of Diversion No. 1 commences at a point 30 rds. east of the SE Corner of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$, Sec. 13, Tp. 7 S., R. 36 E.B.M. Point No. 2 commences near the center of the NW $\frac{1}{4}$, Sec. 24, Tp. 7 S., R. 36 E.B.M.

That such change will be made for the following reasons, to-wit:

To save watter, also, to use watter to a better advantage on the land that hold permit 1530.

That no one will be injured by such change and that deponent will make such change at his own risk.

And further deponent saith not.

John Richardson.

Subscribed and sworn to before me this 27th day of May, 1912.

(SEAL)

Wm. H. Jackson, Jr.
Notary Public.

My commission expires Jan. 11, 1915.

Received and filed for record in the office
of the State Engineer at Boise, Idaho, at
9:00 A.M., May 31, 1912.

A. E. Robinson.

State Engineer.

AJ5809NP
No. A29-02034

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 05/18/00
PAGE: 104

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	CORWIN P WHITWORTH RT 1 BOX 9900 INKOM ID 83245 (208) 775-3563	08/31/1905	IRRIGATION DOMESTIC	03-15 11-15 03-15 11-15	2.800 CFS 0.040 CFS	
TOTAL DIVERSION:					2.800 CFS	
CONSUMPTIVE USE:						350.00 AFA

Water Source: JACKSON CREEK

Tributary to: SINKS

Stage: LICENSE

Point(s) of Diversion: T07S R36E S23 SENE BANNOCK County

Place of use Legal Description for: IRRIGATION

NE				NW				SW				SE										
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM
07S	36E	23	:			40		40	:			20	:			40					:	140.0
																			TOTAL ACRES	:	140.0	

Place of use location for DOMESTIC is the same location as described for: IRRIGATION

POU County: BANNOCK

Non-Irrigation Uses: D/ WATER FOR LAWN AND GARDEN

Other Rights: NONE

Other Water Rights Listing Overlapping Place(s) of Use:
A29-02034A

Remarks: GEN LIC. DESCRIBES SOURCE AS INDIAN CK.

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

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

Audit: 02/23/90 DCARLSON 06/01/94 COX 03/29/95 POST-STD

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL*
JOHN B. INGELSTROM
DANIEL C. GREEN
REED W. LARSEN
BRENT O. ROCHE
FRED J. LEWIS
KIRK B. HADLEY
MITCHELL W. BROWN
ERIC S. HUNN

*ALSO MEMBER ILLINOIS BAR

LAW OFFICES OF
RACINE, OLSON, NYE, COOPER & BUDGE
CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-0391

TELEPHONE
AREA CODE 208
232-6101

TELEX
208-232-6109

RECEIVED

SEP 20 1991

Department of Water Resources
Eastern District Office

September 19, 1991

Water Resource Board
150 Shoup Avenue, Suite 15
Idaho Falls, ID 83402

RE: Corwin "Pat" Whitworth

TO WHOM IT MAY CONCERN:

Our office represents Pat Whitworth in regard to his water resource claims. Mr. Whitworth informs us that there is some confusion and that he has been very concerned at comments made at some of the meetings held by the Water Resource Board. Mr. Whitworth's water comes from Jackson Creek. Apparently, the Water Resource Board is taking the position that Jackson Creek is part of Rapid Creek. Mr. Whitworth is of the opinion and has the factual proof to show that Jackson Creek was never part of Rapid Creek. I have a number of documents that show Rapid Creek and Jackson Creek were never originally part of the same drainage.

I think it important for the State to understand Mr. Whitworth's position as it can certainly affect his water rights. Jackson Creek used to be referred to as Indian Creek. The maps and documents in my possession clearly indicate that Jackson Creek (Indian Creek) never was part of Rapid Creek. We will be happy to provide this information to the Water Resource Board. We would also be happy to discuss this matter in the future to insure that everyone is operating under the same assumptions. If you have any questions, please don't hesitate to call.

Sincerely,


REED W. LARSEN

RWL:cr
cc: Pat Whitworth

MICROFILMED

NOV 13 1992

May 31, 1948

Mr. A. L. Merrill,
Attorney at Law
Pocatello, Idaho

Dear Mr. Merrill:

In reply to your letter of May 29th, in regard to water rights on Indian Creek, our records show the following:

License No. 9450- to Ella Francis- priority June 12, 1913- for 0.5 second foot-
points of diversion in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 18, Twp. 7 S., Range 37 E., B.M., and NW $\frac{1}{4}$ NE $\frac{1}{4}$
Section 23, Twp. 7 S., Range 36 E., B.M., for irrigation of 25 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ and
NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 23, Twp. 7 S., Range 36 E., B.M.

License No. 1530- to Dan McGinnis- priority August 31, 1905- for 2.8 second feet-
point of diversion in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 23, Twp. 7 S., Range 36 E., B.M.- for irrigation
of S $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 23, Twp. 7 S., Range 36 E., B.M. Later
assigned to John Richardson, and point of diversion changed to "30 rods East of S E
corner SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, and near the center of NW $\frac{1}{4}$ Section 24, Twp. 7 S., Range
36 E., B.M."

Other filings on this stream are as follows:

License No. 4055- to Mrs. Nancy Hawkins- priority Oct. 8, 1903- for 0.42-nd second foot
from Portneuf River, Indian Creek, and a spring- point of diversion in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section
2, Twp. 7 South, Range 36 E., B.M., for irrigation of SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 36, Twp. 6 S.,
Range 34 E., B.M.

License No. 7731- to Arthur J. Damron- priority August 26, 1911- for 0.8 sec. ft.
from Indian Creek- point of diversion in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 33, Twp. 7 S., Range 36 E.,
B.M., for irrigation of SE $\frac{1}{4}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 28, same twp and range.

License No. 8547- to Christian S. Skeem and Henry M. Bishop- priority July 26, 1912-
for 1.65 sec. ft. from Indian Creek- point of diversion in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 6, Twp. 8 N.,
Range 36 E., B.M., for irrigation of Lots 3 & 4 Sec. 4, Twp. 8 S., Range 36 E., B.M.
and SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 33 and SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 32, Twp. 7 S., Range 36 E., B.M.

License No. 10749- to Marcus Skeem- priority October 21, 1914- for 1.1 sec. ft.-
point of diversion NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 33, Twp. 7 S., Range 36 E., B.M., for irrigation of
SW $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 28, Twp. 7 S., Range 36 E., B.M.

Permit No. 8768- filed August 21, 1912, by Mrs. Sarah M. Francis, for 1 sec. ft.
from Indian Creek- point of diversion in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 15, Twp/ 7 S, Range 36 E., B.M.
for irrigation of E $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 23, same township and range. Proof of completion of
works was made on Sept. 15, 1913, and certificate of completion of works issued.
Beneficial use proof due October 12, 1914- but not made.

9450

A. L. Merrill
May 31, 1946
Page 2

We have no record of any decrees on this stream.

According to the map, this seems to be a tributary of Rapid Creek, thence Portneuf River, but we have searched the decrees on these streams, and do not find Indian Creek mentioned.

For your own information, these decrees, as you doubtless know, are those rendered in the following cases:

On Portneuf River- Union Grain Elevator Co. vs. McCammon Ditch Co.- decree rendered by Judge O. R. Baum- dated June 29, 1921.

On Rapid Creek- Chas. E. Stewart et al., vs. A. J. Darnon, et al.- decree rendered by Judge Alfred Budge- dated June 22, 1906.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

9450

County, Bannock
Stream, Indian Creek & Unnamed Stream.
Amount, .5 of 1 Sec. 17.
Use, Irrigation
Priority, 6/12/13.

STATE OF IDAHO

Water License No. 9450
Water District No. 17 E.

WHEREAS, On the 12th day of June, A.D. 1913,

Ella Francis
of Inkorn, County of Bannock, State of Idaho, duly made application (No. 14165) to me for a permit to use .9 of 1 cubic foot per second of the waters of Indian Creek and .1 of 1 cubic foot per second of the waters of an unnamed stream, in Water District No. 17 E., State of Idaho, for irrigation and domestic purposes, and

WHEREAS, On the 14th day of July, A.D. 1913 Permit No. 9450 was issued to said applicant for the diversion of said water and providing for the completion of the works of diversion therein described on or before the 15th day of July, A.D. 1915, and for the application to beneficial use of said water on or before the 15th day of July, A.D. 1916, and

WHEREAS, On the 10th day of July, A.D. 1915,

Ella Francis

the holder of said permit, duly made proof of the completion of adequate works for the diversion of one (1) cubic foot per second of said waters, as evidenced by my Certificate No. 9450 dated July 24, 1915, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use one (1) cubic foot per second of said waters with date of priority of June 12, 1913, and

WHEREAS, On the 13th day of July, A.D. 1916,

Ella Francis

the holder of said permit, duly made proof of the application to beneficial use of .5 of 1 cubic foot per second of said water.

NOW, THEREFORE, By virtue of authority vested in me by the laws of the State of Idaho, I hereby grant and confirm to

Ella Francis

of Inkorn, County of Bannock, State of Idaho, the holder and owner of said Permit No. 9450, a perpetual right, dating from June 12, 1913 to the use of .5 of 1 cubic foot per second of the waters of Indian Creek and an unnamed spring

in the County of Bannock and State of Idaho, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at points as follows: #1, in the SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec. 18, T. 7 S., R. 37 E. B. M.; #2, in the NW $\frac{1}{4}$ of NE $\frac{1}{4}$, Sec. 23, T. 7 S., R. 36 E. B. M.

and conducted to and upon 25 acres of land, divided as follows: 8 acres in NE $\frac{1}{4}$ of NE $\frac{1}{4}$, and 17 acres in NW $\frac{1}{4}$ of NE $\frac{1}{4}$, Sec. 23, T. 7 S., R. 36 E. B. M.

for the purpose of irrigation and domestic use, subject, however, to the laws of the State of Idaho, applicable to a license for the use of the waters of the State, and subject, also, to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS, My hand and the seal of my office at Boise, Idaho, this 22nd day of August A.D., nineteen hundred and seventeen.

J. H. Smith,

(Seal)

State Engineer.

This license is not applicable to Pat W. Twoorth's property.

OTCSP 36E 13 mm.

SEC Found M 1530



Van McStennis

Drake

Drake

1530

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 29-2034B
Date Received: 12/20/2002
Receipt No: E012142
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

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: 08/31/1905

3. Source: JACKSON CREEK Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
07S	36E	23	SE NE	BANNOCK	

5. Description of diverting works:

HEADGATE/DITCHES TO SPRINKLER IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	2.8	
DOMESTIC	03/15	11/15	0.04	

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

8. Total consumptive use:

9. Non-irrigation uses:

SCANNED

DEC 20 2005

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07S	36E	23	SW	NE	IRRIGATION	40
			SE	NE	IRRIGATION	40
			NE	SW	IRRIGATION	20
			NW	SE	IRRIGATION	40
Section Acres						140
Total Acres						140

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:

14. Remarks:

LIC. DESCRIBES SOURCE AS INDIAN CK.

RIGHT RENUMBERED TO RECOGNIZE THAT THIS RIGHT HAS BEEN SPLIT (CSAXTON 12/20/02)

NON IRRIGATION USES: D/ WATER FOR LAWN AND GARDEN

15. Basis of Claim: License

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): _____ Date: _____

Date:

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this

of _____ 20__

Notary Public

Residing at _____

My commission Expires _____

SCANNED

DEC 20 2005