

RIGHT NUMBER: 29-4071
NAME AND ADDRESS: MAUREEN C MACK
24359 S HWY 91
DOWNEY ID 83234

SOURCE: MARSH CREEK TRIBUTARY: PORTNEUF RIVER
QUANTITY: 1.88 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 1.88 CFS. COMBINED RIGHT NOS.: 29-02223,
29-04071

PRIORITY DATE: 08/01/1873

POINT OF DIVERSION:
T12S R37E S10 NENE Within BANNOCK County
T12S R37E S10 NENE 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	1.880 CFS

PLACE OF USE:

IRRIGATION Within BANNOCK County

T12S R37E S02	NWSW	16.0	T12S R37E S02	SWSW	33.0
T12S R37E S02	SESW	19.0	T12S R37E S03	NESE	3.0
T12S R37E S03	SWSE	5.0	T12S R37E S03	SESE	18.0

94 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 94 ACRES IN A SINGLE IRRIGATION
SEASON. COMBINED RIGHT NOS.: 29-02223, 29-04071

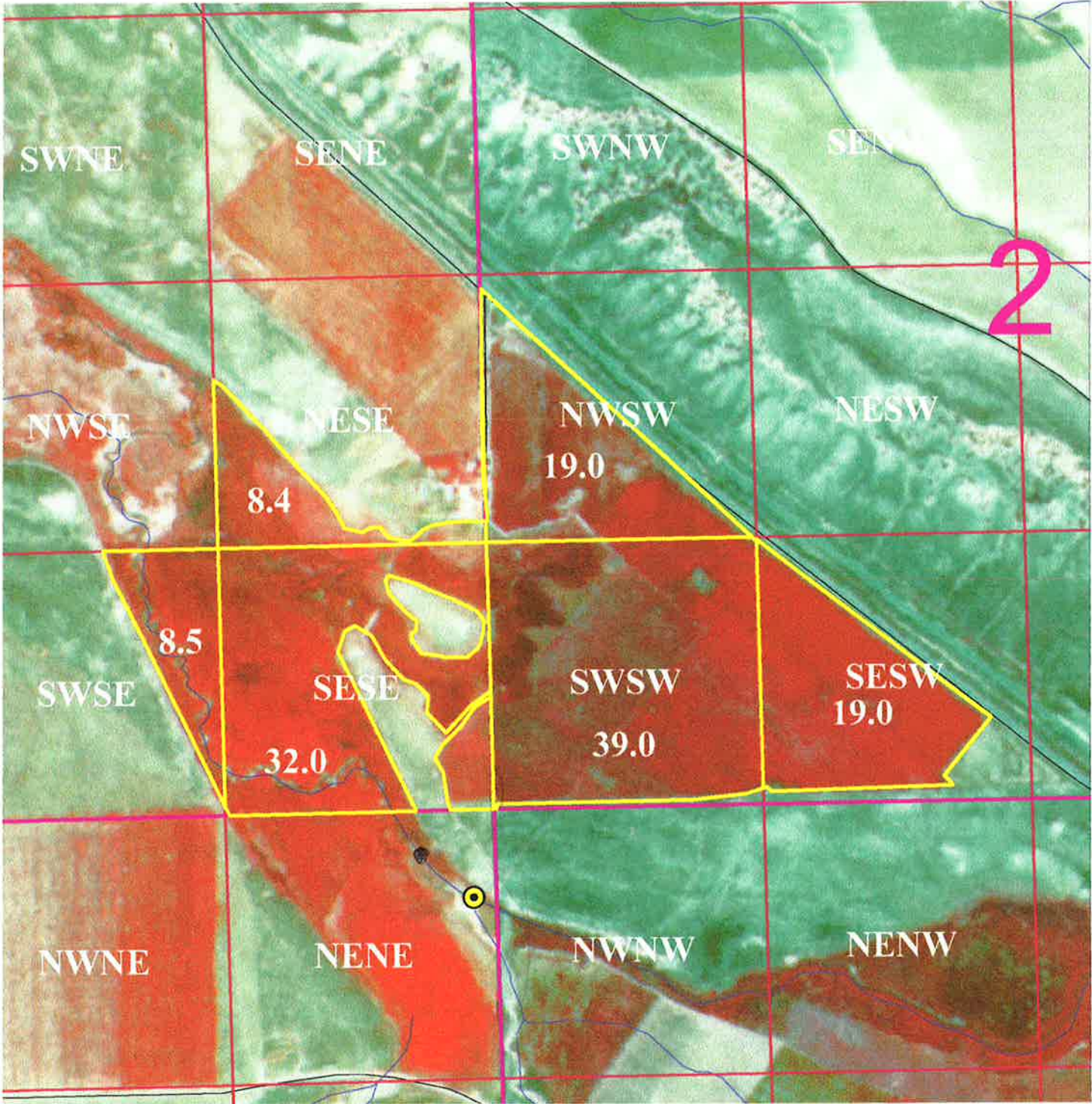
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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: Beneficial Use

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

Township , 12S37E



Irrigated Area

Place of Diversion

Legend

Section Line

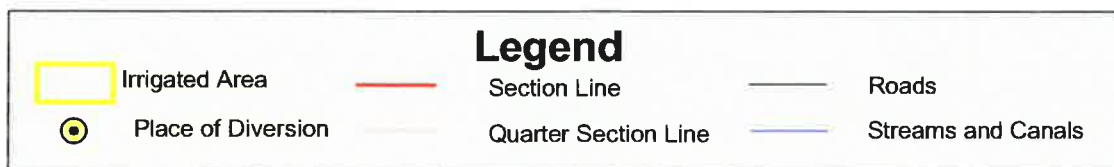
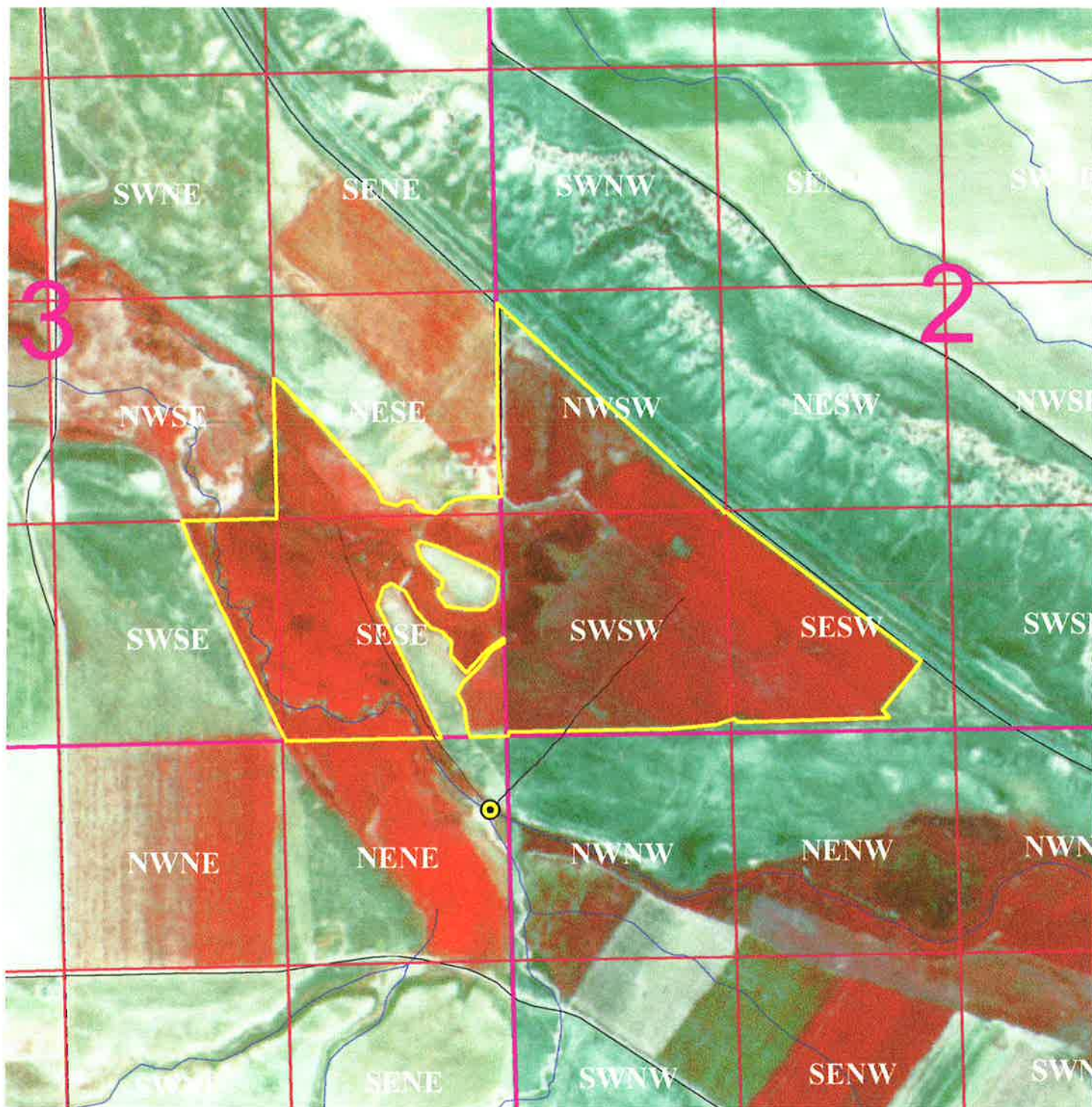
Quarter Section Line

Roads

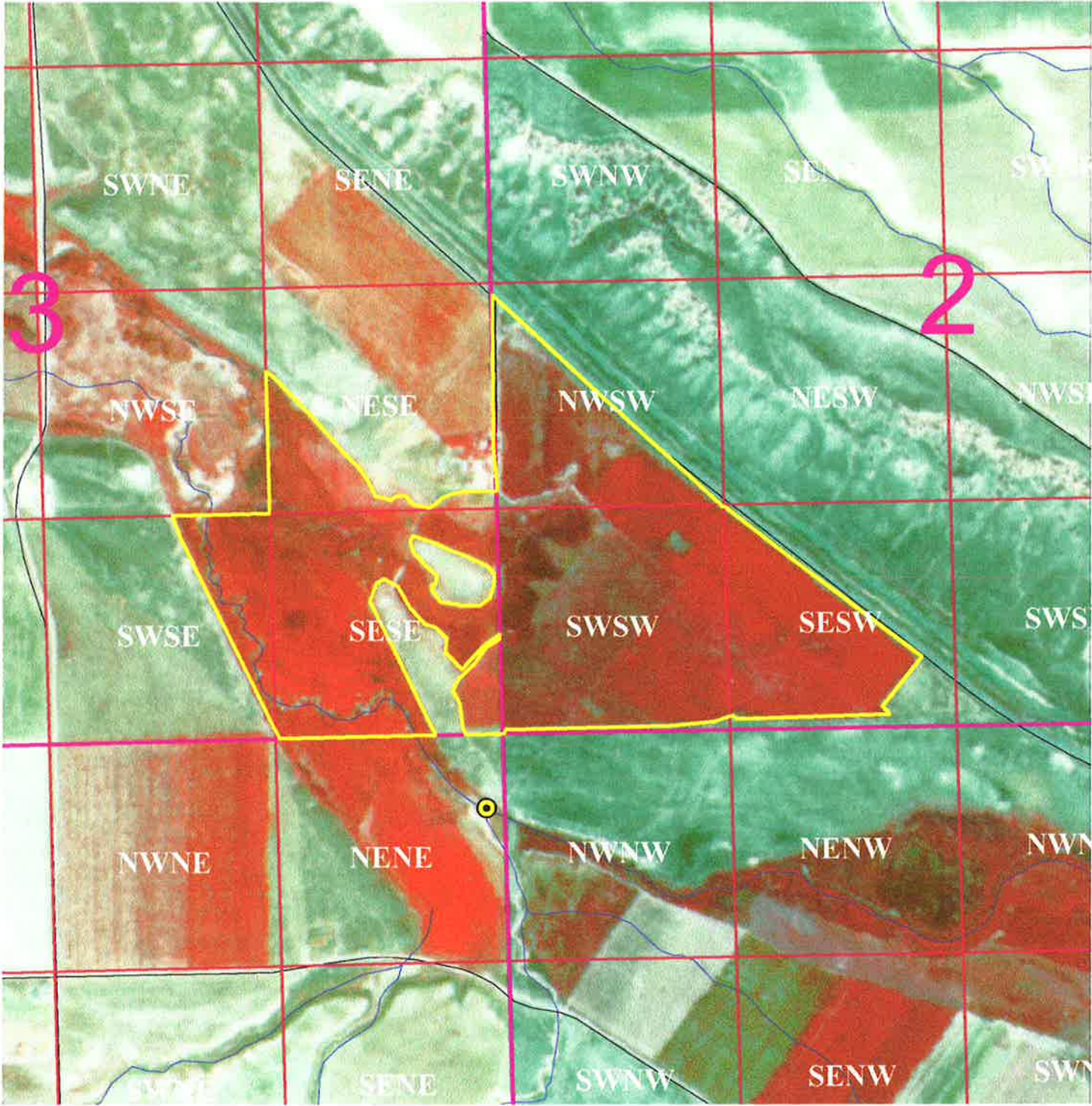
Streams and Canals



Township , 12S37E



Township , 12S37E



 Irrigated Area

 Place of Diversion

Legend

 Section Line

 Quarter Section Line

 Roads

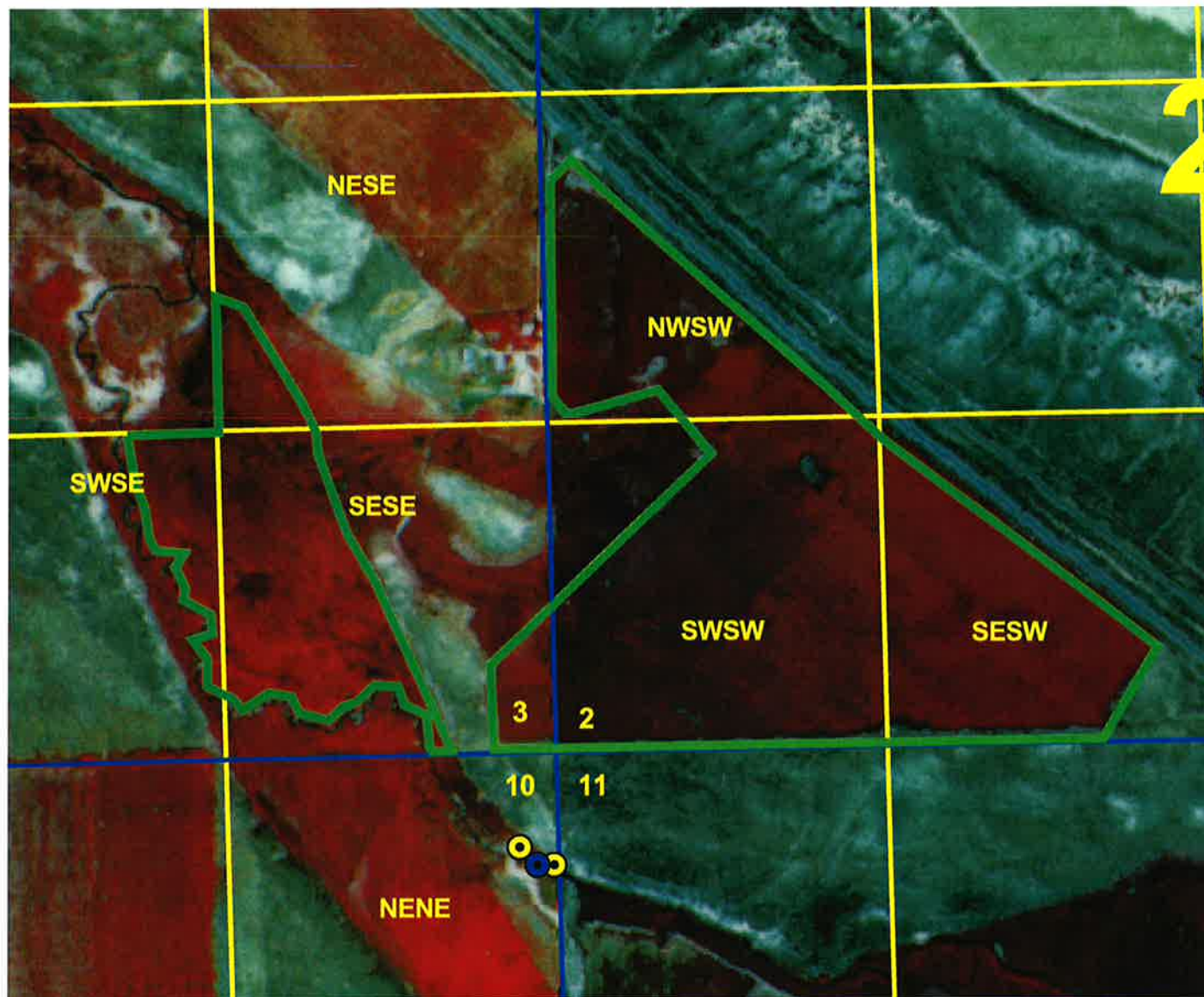
 Streams and Canals



IDAHO DEPARTMENT OF WATER RESOURCES

29-02223, 29-04071

T12S, R37E SEC 2. 3



ACRES IRRIGATED- 94



POINT OF DIVERSION



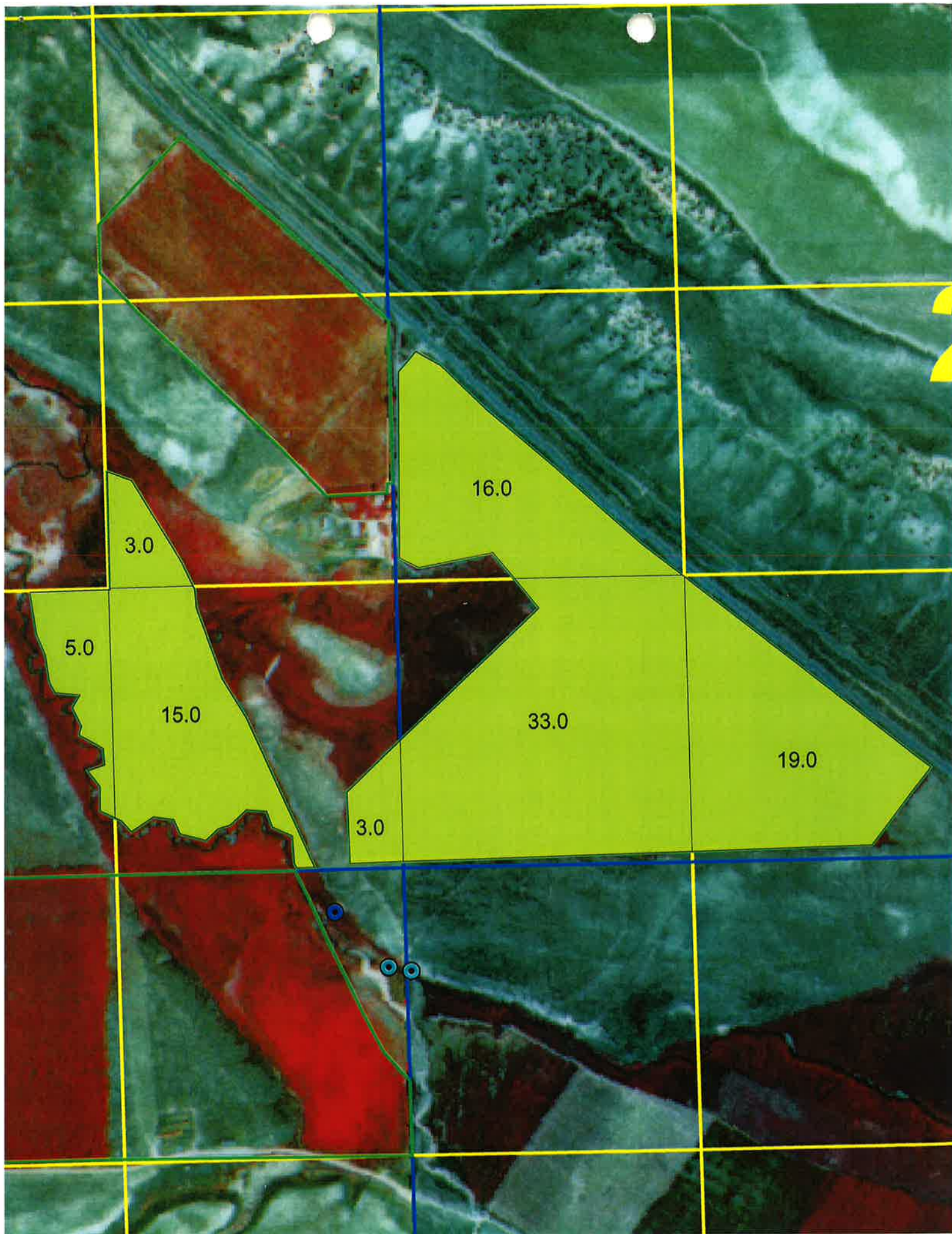
PLACE OF USE

SCANNED

MAR 10 2006

PROFILED

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





Summer 2001

one of the ~~potholes~~ 29-7339
29-2223
29-4071

pump in ditch off Marsh Creek

PROFILED

SCANNED
MAR 10 2006

DEED RECORD.

Instrument No. 53.

THIS INDENTURE, Made the Tenth day of September is the year of our Lord one thousand nine hundred and two (1902) between Joseph H. Byington and Rosetta Byington his wife of Downey County of

Bannock State of Idaho the part Y. of the first part, and Ada Haff of Hill Creek County of Salt Lake State of Utah the part Y. of the second part.

WITNESSETH: That the said part Y. of the first part, for and in consideration of the sum of Two Thousand Dollars,

lawful money of the United States of America, to him in hand paid by the said part Y. of the second part, the receipt whereof is hereby acknowledged, do hereby by these presents grant, bargain, sell and convey and confirm unto the said part Y. of the second part and to his heirs and assigns forever: All that certain lot, piece or parcel of land, situate, lying and being in the County of Bannock, and State of Idaho, bounded and more particularly described as follows, to wit:

Commencing at a point thirty five (35) rods east of the north-west corner of the north-west quarter of South East quarter of Section numbered three (3) in Township twelve (12) South of Range thirty-seven (37) East of Boise Meridian in Idaho, and running thence east on quarter section line one hundred and twenty five (125) Rods, thence South eighty (80) Rods, thence east eighty (80) Rods, thence South Eighty (80) Rods thence West one hundred and sixty (160) Rods, thence north eighty (80) Rods, thence west eighty (80) Rods, thence North fifty (50) Rods, thence North easterly forty (40) Rods, thence north thirteen (13) Rods to place of beginning and containing in all one hundred and fifty five and three tenths acres (155.3) all being in Sections 2 and 3 in Township twelve (12) South of Range thirty seven (37) east of Boise Meridian in Idaho.

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

TO HAVE AND TO HOLD, all and singular the said premises, together with the appurtenances and privileges thereunto incident, unto the said part Y. of the second part and to his heirs and assigns forever. And the said part Y. of the first part, and his heirs, the said premises in the quiet and peaceable possession of the said part Y. of the second part, his heirs and assigns, against the said part Y. of the first part, and his 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 part Y. of the first part has hereunto set their hand and seal the day and year first above written.

Signed, sealed and delivered in the presence of

Wm. F. Fisher,

Wm. Clogg,

Joseph H. Byington,

Rosetta Byington,

STATE OF IDAHO,

County of Bannock ss. On this Tenth day of September in the year 1902 before me, William F. Fisher, a Notary Public, in and for said County, personally appeared Joseph H. Byington and his wife Rosetta Byington,

known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same, and on this 10th day of September in the year 1902, before me the officer above described, personally appeared Rosetta Byington wife of said Joseph H. Byington, known to me to be the person whose name is subscribed to the within instrument, described as a married woman; and upon an examination without the hearing of her husband, I made her acquainted with the contents of the instrument, and thereupon she acknowledged to me that she executed the same, and that she does not wish to retract such execution.

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

William F. Fisher,

(L. S.)
(SEAL)

Notary Public.

My Commission expires Dec. A. D. 1902.

Recorded at the request of Bannock Abst. Co. this 26th day of March, A. D. 1902, at 21 minutes past 2 o'clock A. M.

R. G. Gallet,

Recorder.

Fee \$1.50

By D. H. Campbell,

Deputy.

PROFILED

SCANNED
MAR 10 2016

In Witness Whereof, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Fred C. Caldwell,
Notary Public.

(Seal)
Recorded at request of Bannock Abak. Co. at 10.32 o'clock A.M. March 28th 1905.

By D.L. Campbell,

E.G. Gallet,
Recorder.

Deputy.
Instrument No. 89.

Fee \$1.50

Deed to Water and Water Right.

3

THIS INSTRUMENT:

Made the 25th day of March A.D. 1905, between Joseph H. Byington and Rosetta Byington, his wife, of Bannock, in the County of Bannock and State of Idaho, parties of the first part, and Amos Hoff, of Mill Creek, County of Salt Lake in the State of Utah, party of the second part,

WITNESSETH:

That the said parties of the first part, for and in consideration of the sum of One (\$1.00) dollar, and other good and valuable consideration, 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, demise, release and forever Quitclaim unto the said party of the second part, and to his heirs and assigns, all that certain water and water right, situated and being in the County of Bannock and State of Idaho, particularly described as follows, to-wit: Three and one-fifth (3, 1/5) cubic feet per second of time of the waters of Marsh Creek diverted at a point near the South line of the North West Quarter (1/4) of the North West Quarter (1/4) of Section Eleven (11), in Township Twelve (12), South of Range Thirty-seven (37) East of the Boise Meridian in Bannock County, State of Idaho, and conducted thence in a North Westerly direction by means of a ditch Three feet wide at the bottom, three feet and six feet wide at the top to the lands formerly owned by the grantor herein and now owned by the said grantees, to-wit: The South West Quarter (1/4) of the South West Quarter of Section Two (2), and the East half of the South East Quarter (1/4) and the North West Quarter (1/4) of the South East Quarter (1/4), of Section Three (3), in Township Twelve (12) South of Range Thirty-seven (37) East of the Boise Meridian in Idaho, together with the right to use said water upon the lands last above described,

Which said water was located and diverted by means of said described ditch by John Kyle during or about the year 1873 and used continuously by him up to the time of the purchase of the same by the grantor herein, to-wit: some time during the year 1907, and said water and ditch have been in continuous use by the grantor herein since said year 1907 up to the present time, but which said water right has not been recorded by the said grantor Joseph H. Byington or the said John Kyle in said Bannock County.

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

To have and to hold all and singular the said premises together with the appurtenances unto the said party of the second part, and to his heirs and assigns forever, either to said water, water rights, and the ditch whereby said water is conveyed to and upon the lands described herein.

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 presence of
W.H. Hillman,
S.E. Byington,

Joseph H. Byington, (Seal)
Rosetta Byington, (Seal)

STATE OF IDAHO,) ss.
BANNOCK COUNTY.)

On this 27 day of March A.D. 1905, before me William Laurensen a Notary Public in and for Bannock County, State of Idaho, personally appeared Joseph H. Byington, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same; and on this 27 day of March, A.D. 1905, before me, the officer above described, personally appeared Rosetta Byington, wife of the said Joseph H. Byington, known to me to be the person whose name is subscribed to the within instrument, described as a married woman; and upon an examination without the hearing of her husband, I made her acquainted with the contents of the instrument, and thereupon she acknowledged to me that she executed the same and that she does not wish to retract such execution.

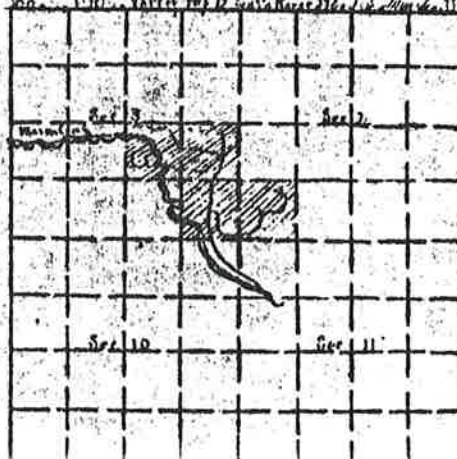
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL) Commission Expires Dec. 1, 1905. This is a full and complete Notary Public.

William Laurensen,

PLAT

Showing Canal and Point of diversion. General Direction, &c. of Waters of MARSH CREEK Appropriated by John Kyle about the year 1873 and Canal and Ditch constructed and waters diverted and used by him and by Joseph H. Byington (who purchased same from him in 1907) continuously up to the present time to irrigate the lands in the South West Quarter of the South West Quarter of Section 2 and the East half of the South East Quarter and the North West Quarter of the South East Quarter of Section 3, Twp. 12 S., R. 37 E., S. 11



SCANNED

MAR 10

in Bannock Co. Idaho, said waters
Diverted at a point near South line of North West Quarter of North West Quarter of Section 11
Twp. 12 S. R. 37 E. S. 1. Canal and Point of Diversion shown in Red.

Recorded at request of Bannock Abnt. Co. at 9.50 o'clock A.M. March 30th 1903.

By D.H. Campbell,

Deputy.

Fee

E.O. Gallet,

Recorder.

Instrument No. 92.

This Indenture, made the 30th day of March, in the year of our Lord one thousand nine hundred and three between O.A. Rice of Pocatello, Bannock County State of Idaho, the party of the first part, and Great Western Mining, Milling and Smelting Company, Limited, of same place the party of the second part, Witnesseth, that the said party of the first part, for and in consideration of the sum of One Thousand Seven Hundred and Fifty Dollars, lawful money of the United States of America, to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has GRANTED, BARGAINED, SOLD, RELEASED, and FOREVER QUITCLAIMED, and by these presents do grant, bargain, sell, remise, release and forever quitclaim unto the said party of the second part, and to its successors and assigns, all of that certain mining claim, being fifteen hundred feet long by six hundred feet wide and situate in Port Hall Mining District Bannock County State of Idaho and named and known as the "LUCKY BOY" vein or lode, the same being recorded in Book 2 of mining records at page 269, of the records of the office of the County Recorder of said Bannock County.

Together with all dips, spurs and angles, and also all thomats, ores, gold and silver bearing quartz, rocks and earth thereon; and all rights, privileges and franchises thereto incident, appendant and appurtenant, or therewith usually had and enjoyed; and, also, all and singular the tenements, hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the rents, issues and profits thereof; and, also, all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in or to said premises and every part and parcel thereof, with the appurtenances.

To Have and to Hold, all and singular the said premises, together with the appurtenances and privileges thereto incident, unto the said party of the second part, its successors and assigns forever. It is expressly covenanted that it is intended hereby to convey any and all right, title, interest and estate which may hereafter be acquired to said premises, or any part thereof, by virtue of any patent which may hereafter be issued by the United States Government therefor under proceedings heretofore instituted in that behalf by the said party of the first or his grantors.

In Witness Whereof, The said party of the first part has hereunto set his hand and seal the day and year first above written.

Signed, Sealed and delivered)
in the presence of)

O.A. Rice,

(Seal)

State of Idaho,)

(SS.

County of Bannock.)

On this 30th day of March 1903, before me S.C. Winters a Notary Public; said County, personally appeared O.A. Rice, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he 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.

S.C. Winters,

Notary Public.

(Seal)

Recorded at request of O.D. Hovey, at 4.20 o'clock P.M. March 30th 1903.

By D.H. Campbell,

Deputy.

Fee \$1.00

E.O. Gallet,

Recorder.

Instrument No. 117.

THIS INDENTURE, made this 15th day of March, 1902 between the OREGON SHORT LINE RAILROAD COMPANY, a corporation of the state of Utah, party of the first part, and Reuben J. Wiedrick of Bannock County, Idaho, party of the second part, WITNESSETH:

That the said party of the first part, for and in consideration of the sum of Thirty seven & 50/ (57.50) Dollars, to it in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold, aliened, remise, released, conveyed and confirmed, and by these presents do grant, bargain, sell, alien, remise, release, convey and confirm unto the said party of the second part his heirs and assigns forever, the following described real estate situate in the County of Bannock, State of Idaho, to wit: the South one half of lots No. Five and Six (5 & 6) in Block No. Eleven (11) of the village of Soda Springs, as platted and recorded; together with all and singular the tenements, hereditaments and appurtenances thereto belonging or in any wise appertaining, and the rents, issues and profits thereof; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of said party of the first part, of, in or to the said premises and every part and parcel thereof, with the appurtenances.

TO HAVE AND TO HOLD, all and singular the said premises, together with the appurtenances unto the said party of the second part, his heirs and assigns forever.

IN WITNESS WHEREOF, said party of the first part hath caused these presents to be sealed with its corporate seal and signed by its Vice President, and attested by its Secretary, the day and year first above written.

OREGON SHORT LINE RAILROAD COMPANY.

By Wm. D. Smith,

Vice President.

(CORPORATE SEAL)

In presence of

G.T. Brooks,

Attest:

Alex. Miller,

Secretary.

SCANNED

MAR 10 2006

MAY 31 2001

Log for claim A29-04071

Spatial Dynamics TWB

5/24/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
12s37e	2	NWSW	12	19	
12s37e	2	SWSW	27	39	
12s37e	2	SESW	20	19	
12s37e	3	NESE	5	8.4	
12s37e	3	SWSE	7	8.5	
12s37e	3	SESE	11	32	
Totals:			82	125.9	

AKJ130495
GE
40hp

pod
pump: ditell

pump in
ditch

N42 24 0.7
W112 06 36.5

4787

8/2001

N42 24 00.8

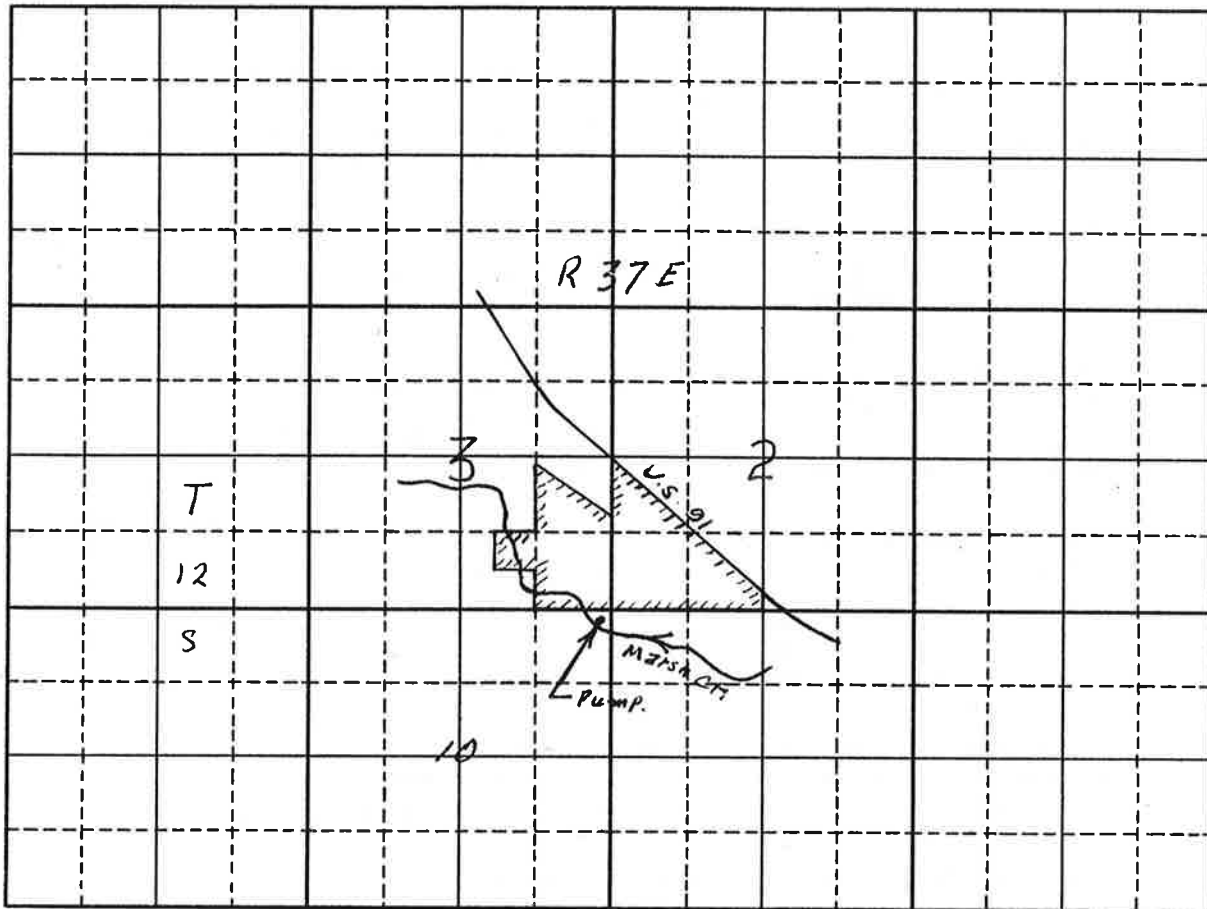
W112 06 36.9 D

POB

N42 24 00.6 u(4768)

W112 06 35.5

(8) Remarks SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 2 and SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 3, are also covered by
License No. 29-2223; 1.30 c.f.s. with priority of 10-04-1919



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Lamar) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

Sworn to before me this 5 day of November, 1976

R. L. Bodkin
(Claimant)

Notary Public

Residing at Noway, Idaho

My commission expires 3-11-76

For Department Use Only

Received by <u>me</u>	Date <u>11-22-76</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>me</u>	Date <u>11-9-76</u>		claimant by:	
\$10.00 fee received by <u>me</u>	Date <u>11-22-76</u>			
Approved for publication by <u>me</u>	Date <u>12-20-76</u>			
Published in <u>Idaho State Journal</u>				
Dates <u>December 2 & 9, 1976</u>				

AJ5809NP
No. A29-04071

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 04/24/00
PAGE: 97

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	MAUREEN C MACK 24359 S HWY 91 DOWNEY ID 83234 (208) 897-5166	08/01/1865	IRRIGATION	04-01 11-01	3.300 CFS	
TOTAL DIVERSION: CONSUMPTIVE USE:					3.300 CFS	412.50 AFA

Water Source: MARSH CREEK

Tributary to: PORTNEUF RIVER

Stage: STATUTORY CLAIM

Point(s) of Diversion: T12S R37E S10 NENE

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			
12S	37E	2	:					:					:			12	27	20	:					:	59.0
12S	37E	3	:					:					:						:	05		07	11	:	23.0
TOTAL ACRES																							:	82.0	

POU County: BANNOCK

Non-Irrigation Uses: NONE

Other Rights: NONE

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):
A29-02396 A29-07339

Other Water Rights Listing Overlapping Place(s) of Use:
A29-07339

Remarks: GEN CHANGED OWNERSHIP 3/14/95/JT/GJT

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

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

Audit: 04/28/90 DCARLSON 03/14/95 JTHOMPSO 03/29/95 POST-STD



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - FAX: (208) 525-7177

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

MARCH 15, 1995

MAUREEN C MACK
24359 S HWY 91
DOWNEY ID 83234

RE: CHANGE IN OWNERSHIP FOR A29-07339, A29-04071, AND
A29-11798

Dear Ms. Mack:

The request for Change in Ownership concerning the
Notice(s) of Claim in the above reference has been
processed and the Notice(s) modified to reflect you as
the new owner.

Enclosed are typed Notices with your name shown as the
current owner. Review the forms and if there are other
corrections or questions, feel free to contact this
office.

If there are no questions or corrections, please keep
these Notices for your records.

Respectfully submitted,

Jo Thompson
Adjudication Secretary

Enclosure: Notice of Claim

60010FILMS
NOV 13 1995



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

RECEIVED

Please print or type
(see instructions on back of page)

MAR 14 1995

DATE OF CLOSING: 1/17/95

Department of Water Resources
Eastern District Office

LEGAL DESCRIPTION OF PROPERTY: Township _____ Range _____
Section _____, 1/4 of _____ 1/4 of _____ 1/4, Govt. Lot _____, BM.
Lot _____, Block _____, Subdivision/Townsite _____.

If you have additional legal descriptions, please attach separate sheet.

☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)

☐ Water Right Number(s)
Assigned by IDWR:

A-29-07339, A29-04071, A29-11798

☐ Name and Address of Former
Owner/Claimant(s)(Seller):

DEWANE DOWNS

24359 S. Hwy 91

Downey, ID.

☐ New Owner/Claimant
(Purchaser):

MAUREEN C. MACK

☐ New Mailing Address:

24359 S. Hwy 91

Downey Idaho 83234

☐ New Telephone Number:

(208) 897-5166
208

☐ Does the change in ownership result in a splitting of the water right owned/claimed? yes X no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

☐ Attach proof of
ownership, describe
proof attached:

WARRANTY DEED

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

☐ Signature of New
Owner/Claimant(s)

Maureen C. Mack

Date 3/8/95

Date _____

☐ Signature of Former
Owner/Claimant(s):

Dewane Downs

Date Jan 17, 1995

Mary Ann Downs

Date Jan 17, 1995

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: _____ By: _____

Further Action Needed:

Further Action Taken

Date: _____ By: _____

Final Review and Data-Entry

Date: _____ By: _____

Claim Numbers of Split, if any:

MICROFILMED

NOV 13 1995

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner

WARRANTY DEED

95000627

For Value Received **DEWANE DOWNS and MARY LOU DOWNS, husband and wife**

mm

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

MAUREEN C. MACK, AN UNMARRIED PERSON

whose address is: 24359 South Highway 91, Downey, Idaho 83234

Hereinafter called the Grantee, the following described premises situated in BANNOCK County, Idaho, to-wit:

A parcel of land in Sections 2 and 3, Township 12 South, Range 37 EAST, BOISE MERIDIAN, BANNOCK COUNTY, IDAHO, described as follows:

Beginning at the South quarter corner of Section 2, Township 12 South, Range

37 EAST BOISE MERIDIAN, BANNOCK COUNTY, IDAHO, thence Westerly along the South Section line of said Section 2, 2643.63 feet to the Southwest corner of said Section, thence Westerly along the South Section line of Section 3, Township 12 South, Range 37 EAST BOISE MERIDIAN, 1317.2 feet to the East 1/16 corner of the South line of said Section 3, thence Northwesterly to the South 1/16 corner of said Section, thence Easterly to the Southeast 1/16 corner of said Section, thence Northerly along the East 1/16 line 2507 feet, more or less, to the intersection with the Southerly right of way line of US Highway 91, thence Southeasterly along said right of way line 5338 feet, more or less, to the intersection with the Easterly boundary of the South West quarter of Section 2, thence South along said Boundary 206 feet more or less to the POINT OF BEGINNING.

EXCEPTING THEREFROM:

A part of the Northeast Quarter of Section 3, Township 12 South, Range 37 East of the BOISE MERIDIAN, BANNOCK COUNTY, IDAHO described as follows: Beginning at the Southeast corner of Section 3 and running West 1,317.20 feet and North 3,827.00 feet to the TRUE POINT OF BEGINNING; thence S. 34°58'E 290.00 feet along the South right-of-way line of U.S. Highway 91, thence S 44°13'E 255.00 feet along said line; thence S 37°37'W 532.00 feet; thence N 1°18'50"W along an existing fence line to the TRUE POINT OF BEGINNING.

SUBJECT TO all easements, right of ways, covenants, restrictions, reservations, applicable building and zoning ordinances and use regulations and restrictions of record, and payment of accruing present year taxes and assessments as agreed to by parties above.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated: January 17, 1995

Dewane Downs
DEWANE DOWNS

Mary Lou Downs
MARY LOU DOWNS

NOV 13 1995

STATE OF IDAHO)

: ss

COUNTY OF BANNOCK)

and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated: January 17, 1995

DEWANE DOWNS

MARY LOU DOWNS

STATE OF IDAHO)

: ss

COUNTY OF BANNOCK)

On This 17TH day of JANUARY, in the year 1995, before me, a Notary Public in and for said State, personally appeared DEWANE DOWNS and MARY LOU DOWNS, known or identified to me to be the person(s) whose name(s) ARE subscribed to the within Instrument, and acknowledged to me that THEY executed the same.



NO. 35000627
RECORDED AT REQUEST OF
FIRST AMERICAN TITLE
'95 JAN 17 P4:25

[Signature]
Residing at POCA TELLO, ID.
Commission Expires: 4-28-99

OFFICIAL RECORD BOOK NO. 1032
BANNOCK COUNTY IDAHO
LARRY L. HARRIS, RECORDER
EE 3.00 DEPUTY [Signature]

RECORDED
NOV 13 1995

R-37E

T
12
S.



Land Subdivisions 2

As shown on map - 40 acres are irrigated

Quantity of Water 24.4 Miners Inches as measured by sprinkler pressures.

Sub. Division = 2

Area = 40

$Q = 25$ inches

3 ft

Line Number	Nozzle size in.	Number of Nozzles	gpm per Nozzle	Line flow gpm
1	1/64	13	52	10.85
2	1/64	12	52	6.17
Total				24.69 gpm
Waste at pump				15.00 "
TOTAL -				24.4 "
				24.4 Miners Inches

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO
REPORT OF ENGINEER

Permit No. G-25196

This proof is for Completion of Works & Beneficial Use In Water District No.

1. Name of applicant: Thomas W. Hadley
2. Source of water supply: Subterranean flow from a well
3. Location of point of diversion: Is in the NE 1/4 of Section 3
T. 12 S. R. 37 E. B.M. County of Bannock
4. Describe works as they exist, giving dimensions and capacities of same Drilled Well - 16 1/2' x 12"
Pump: Fairbanks Morse PL 1806 - Motor GE # PD 37R - P 15
Booster Pump: Ingersoll Rand # C 44506 T - Horizontal - Motor GE # WA 4315 - P 10
Motor GE # 30 570 N 34 - Demand 0.4 x 40
Sprinkler
5. Water is used for: Irrigation
6. State whether or not water has been turned into works of diversion: Yes
7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if other than irrigation):
SE 1/4 of Sec. 3, Twp. 12 S., Rge. 37 E., B.M.
NW 1/4 of Sec. 2, Twp. 12 S., Rge. 37 E., B.M.

(Submit map on attached plat, showing location and details of above description.)

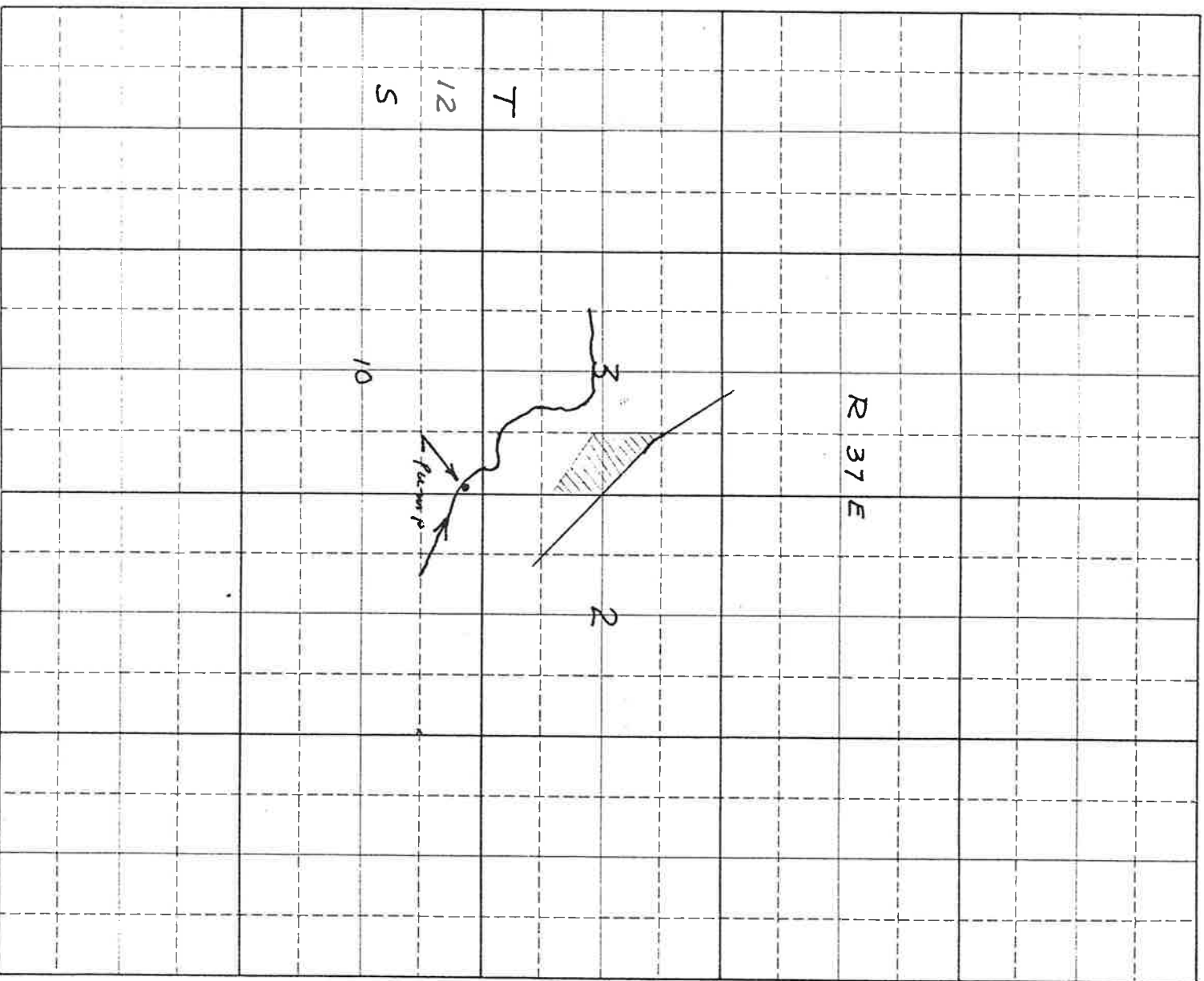
8. What large stream would the water here appropriated finally reach?

Remarks:

This examination was made on the 17th day of July, 1957(Signed) James H. Hahn

Examiner.

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

R J Bodkin
(Applicant)

DATE OF EXAM 6/12/78

ACREAGE
Found 28 Ac. ✓
Recommended 28 Ac. ✓

Irrigation Requirement 3.5 Ac Ft/Ac

USE
Irrigation Q = 1.56 c.f.s. V = 98 AF/Ann. from April 1 to Nov. 1
Domestic Q = _____ c.f.s. V = _____ AF/Ann. from _____ to _____
Livestock Q = _____ c.f.s. V = _____ AF/Ann. from _____ to _____

Is water co-mingled? yes _____ no X

Name source: N/a
Twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____ County _____

Exchange? yes _____ no X

Name source exchanged with: _____
Twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____ County _____

Point of injection:
Twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____ County _____

Point of exchange:
Twp. _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____ County _____

Total Q measured 1.68 cfs Method of measurement rectangular weir

Total Q recommended 1.56 Meter No. _____ Type _____ Condition _____

Total V recommended 98 Ac-ft/Ac.

Recommended Amendments:

P.D. _____
Place of Use _____
Other _____
None _____

MEASUREMENT CALCULATION:

P.D. calculation weir length = 1.89', head = .415', App. vel. 1.89 ft/sec. $Q = 3.33[(1.415 + .015)^{3/2} - (.015)^{3/2}](1.89 - .083)$
 $Q = 3.33(1.279)(1.807) = 1.68 \text{ cfs.}$

redirection with 40hp G.E. motor running 75 nozzle at 4.5 gpm per nozzle = $337.5 \text{ gpm} \div 448 \text{ gpm} = .75 \text{ cfs.}$
 $V = 3.5 \text{ cfs.} \times 28 \text{ ac.} = 98 \text{ ac-ft/Ac.}$ ✓ $\text{loss} \times 1.9835 \text{ ft} \times 2.15 \text{ day} = 255.87 \text{ ac-ft/Ac.}$

$Q = \text{Allow } .02 \text{ cfs ACRR} = 28 \text{ AC} \times .02 = .56 \text{ cfs}$ ✓

SYSTEM DESCRIPTION:

Point of diversion is a rectangular weir, length 1.89', head .415', App. vel. 1.89 ft/sec which is redirected with a 40hp, 3 phase G.E. motor 5/8 AHJ 130495 with a 2 stage + Bowley turbine pump 7/8 45267 to a 3/4 mile mainline with handlines and 35 nozzle with 5/32 dia.

REMARKS:

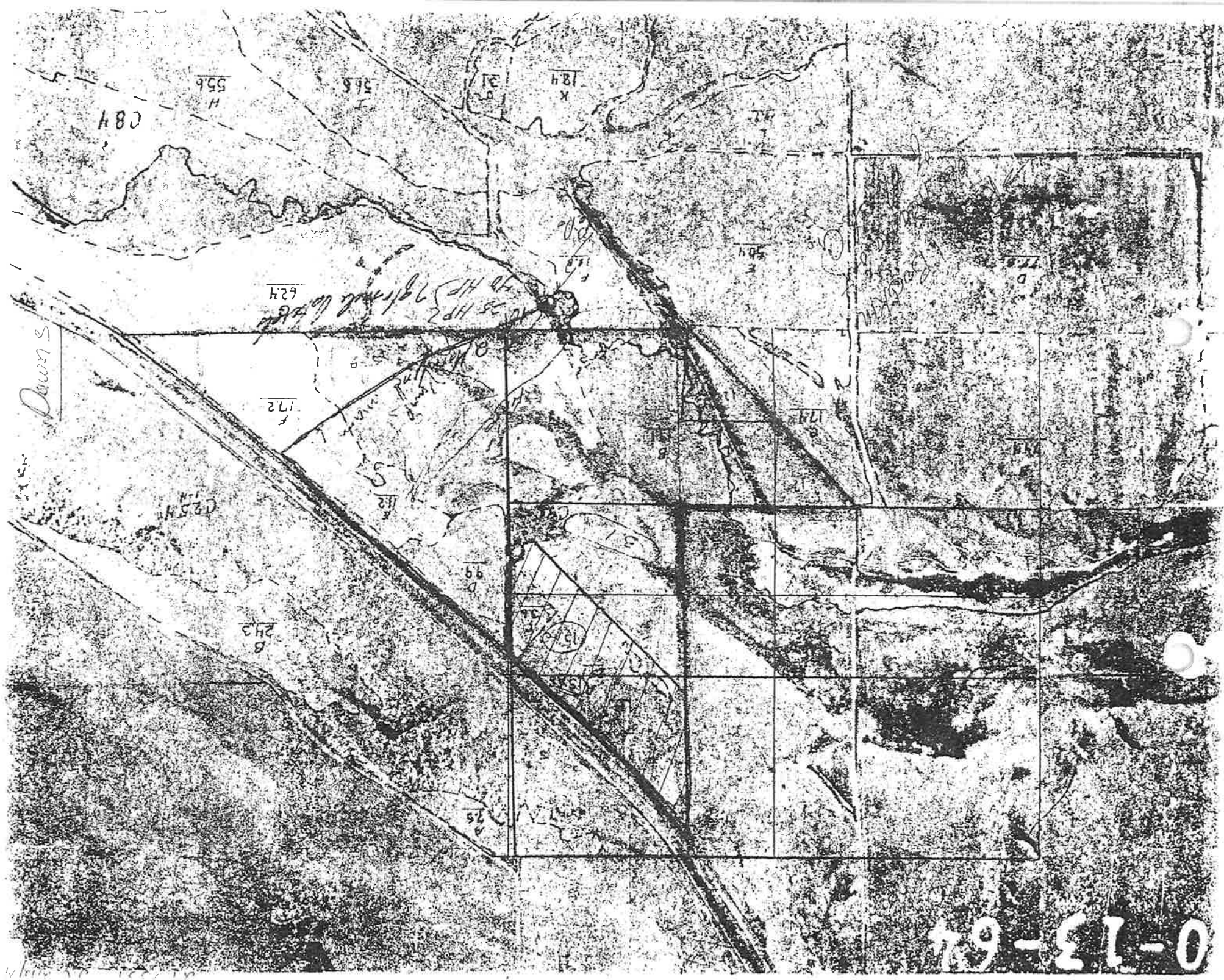
Claim 29-4071 same P.D. but place of use is different

Examiner's Signature Ernest Carlson Date 2/12/79

Checked by John L. Carlson Date 2/14/79

Approved by [Signature] Date 3/11/1981

APPROVED BY [Stamp]



MAY 31 2001

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM. 94

CIVIL CASE NUMBER: 39576

Ident. Number: A29-04071
Date Received: 4/26/1990
Receipt No: E013777
Received By: DC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DEWANE DOWNS 208-897-5128
Address: 24359 S HWY 91
DOWNEY, ID 83234

2. Date of Priority: AUG 01, 1865

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

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
12S	37E	10	NE	NE			BANNOCK

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

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	3.300		

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

8. Total consumptive use is 412.5 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
12S	37E	2	NW	SW		IRR	12.0
			SW	SW		IRR	27.0
			SE	SW		IRR	20.0

A29-04071

Page 1

Date: 04/27/90

MICROFILMED

NOV 13 1992

A2904071



3
12
50
65

82
12

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
						Section Acres	59.0
		3	NE	SE		IRR	5.0
			SW	SE		IRR	7.0
			SE	SE		IRR	11.0
						Section Acres	23.0
						Total Acres	82.0

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:
NONE

14. Remarks:

15. Basis of Claim: STATUTORY CLAIM

16. Signature(s)

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

Number of attachments: 1

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): William Doudna Date: 4/27/90
 _____ Date: _____

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 27 day
of April 19 90 Dave C. [Signature]
Notary Public

Seal

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

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
A29-04071	12S	37E	10		NE	NE			BANNOCK		
OTHER AJ CLAIMS WITH SAME AJ POD				WR RECORDS IN SAME 40 ACRE TRACT							
A PREFIX				R PREFIX							
A29-02396				NONE				29-02396			
A29-07339								29-07339			

SOURCE: MARSH CREEK

TRIB: PORTNEUF RIVER

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	POD FLAG	COUNTY	DIVERSION NAME	DIVERSION NUMBER
29-04071	12S	37E	10		NE	NE			BANNOCK		
OTHER WR RECORDS WITH SAME WR POD				AJ CLAIMS IN SAME 40 ACRE TRACT							
				A PREFIX				R PREFIX			
29-02396				A29-02396				NONE			
29-07339				A29-07339							

SOURCE: MARSH CREEK

TRIB: PORTNEUF RIVER

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)

NOTES: _____

=====

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE: CHECK HERE IF RECOMMENDED AS CLAIMED (___)

TWP. 12S	RGE. 37E	SEC. 10	1/4	1/4 NE	1/4 NE	LOT	POD FLAG	COUNTY BANNOCK	DIVERSION NAME	DIVERSION NBR
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____

SOURCE: MARSH CREEK

TRIB: PORTNEUF RIVER

REVIEWED BY: _____ DATE: _____

=====

SYSTEM DESCRIPTION: DESCRIBED BELOW (___), SEE LICENSE FILE (___), OR SEE ATTACHMENT (___)

A. ROOT WATER RIGHT NUMBERS: A29-04071

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
12S	37E	2	NW	SW		MACK, MAUREEN C	A29-04071 / 12.0	29-04071 / 20.0	9.0		
			NW	SW		HADLEY, THOMAS W.		29-02355 / 25.0			
12S	37E	2	SW	SW		MACK, MAUREEN C	A29-04071 / 27.0	29-04071 / 40.0	33.0		
			SW	SW		CHRISTIENSEN, PETER		29-02223 / 35.0			
12S	37E	2	SE	SW		MACK, MAUREEN C	A29-04071 / 20.0	29-04071 / 30.0	11.0		
12S	37E	3	NE	SE		MACK, MAUREEN C	A29-04071 / 5.0	29-04071 / 25.0	39.0		
			NE	SE		MACK, MAUREEN C	A29-07339 / 15.0	29-07339 / 15.0			
			NE	SE		MACK, MAUREEN C	A29-11798 /	- /			
			NE	SE		MACK, MAUREEN C	29-11798 /	- /			
12S	37E	3	SW	SE		MACK, MAUREEN C	A29-04071 / 7.0	29-04071 / 10.0	19.0		
			SW	SE		ALLEN, ROLAND G.		29-02396 / 20.0			
12S	37E	3	SE	SE		MACK, MAUREEN C	A29-04071 / 11.0	29-04071 / 40.0	38.0		
			SE	SE		CHRISTIENSEN, PETER		29-02223 / 30.0			

ADDITIONAL POU FOUND

TOTAL ACRES	A29-04071	82.00	165.00	149.00
-------------	-----------	-------	--------	--------

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
A29-04071	MARSH CREEK	MACK, MAUREEN C	3.300	0.040		
A29-07339	MARSH CREEK	MACK, MAUREEN C	0.560	0.022	98.00	3.92

LIST ALL RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION.

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A29-11798	DOMESTIC	MACK, MAUREEN C	FROM 01-01 TO 12-31	0.060 CFS	
A29-11798	STOCKWATER	MACK, MAUREEN C	FROM 01-01 TO 12-31	0.020 CFS	
29-11798	DOMESTIC	MACK, MAUREEN C	FROM 01-01 TO 12-31	0.060 CFS	
29-11798	STOCKWATER	MACK, MAUREEN C	FROM 01-01 TO 12-31	0.020 CFS	

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

Y() N()

* IF YES, COMPLETE OVERLAP REVIEW:

OTHER RIGHTS LISTED IN CLAIM: NONE

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()

CHECK DOCUMENTS USED TO VERIFY POU: () ORTHOPHOTOQUAD, IDWR NO. _____; () TOPOGRAPHIC QUAD, IDWR NO. _____;
() NAPP, IDWR NO. _____; () ASCS PHOTO; () OTHER _____

[illegible]

RECOMMENDATIONS:

TOTAL ACRES: _____ N/A(____)

REVIEWED BY: _____ DATE: _____

[illegible]

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: **A29-04071**
Date Received: 4/27/1990
Receipt No: E013777
Received By: _____

**COPY FOR
YOUR FILES**

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

**COPY FOR
YOUR FILES**

1. Name: MAUREEN C MACK
Address: 24359 S HWY 91
DOWNEY ID 83234 208-897-5166

2. Date of Priority: AUG 1, 1865

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

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
12S	37E	10	NE	NE	NE		BANNOCK

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

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	3.300		

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

8. Total consumptive use is 412.5 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
12S	37E	2	NW	SW		IRR	12.0
			SW	SW		IRR	20.0
			SE	SW		IRR	20.0

APPROPRIATED

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	59.0
		3	NE	SE	IRR	5.0
			SW	SE	IRR	7.0
			SE	SE	IRR	11.0
					Section Acres	23.0
					Total Acres	82.0

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:
NONE

14. Remarks:
CHANGED OWNERSHIP 3/14/95/JT/GJT

15. Basis of Claim: STATUTORY CLAIM

RECEIVED
NOV 13 1995

NOT TO SCALE

FEB
1989

K21B



MICROFILMED

NOV 13 1992

July 19, 1936

RECEIVED

NOV 22 1936

Department of Water Resources
Eastern District Office

Mr. Eli Barnes
Donkey
Idaho

Dear Mr. Barnes:

In answer to your letter of July 18, 1936, in which you state that you are not getting your water filed on from the waters of Marsh Creek due to the interference of other users above with an inferior filing with later priority of right.

Providing water rights as shown on the enclosed list were decreed by the Court this Department could appoint you a Watermaster to administer said rights and distribute the waters of Marsh Creek according to priority of right. According to statute the Department of Reclamation cannot supervise the delivery of water by the Appointment of a Watermaster on an unadjudicated stream.

We are mailing a copy of an Abstract of all Permits and licensed Water Rights filed with this Department to each user so that each water user will have knowledge of the various filings and dates of priorities on Marsh Creek.

We suggest that the water users of Marsh Creek try and get together and work out your own water problems by agreement, by respecting each others right in priority.

We regret that the Department cannot supervise the delivery from Marsh Creek by appointment of a Watermaster.

Please feel free to write us again upon any suggestions that may arise.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By


Roy W. Thompson
Supervisor of Water Distribution

Tien
Enc.

CC: Joseph Barnes

Ann Barnes

W.H. Jensen

cc

Ed H. McDaniel

John T. Sharp

H. Leigh Giffins

Peter Christiansen

Fred R. Bishoff

Law Carlile

D.F.M. & M. Drig. System

Vasial & Leon Jensen

D. O. Barnes

COPY

Jones, Pomerooy & Jones
Lawyers
CENTRAL BLDG.
Pocatello, Idaho

March 23, 1955

T. D. JONES, DECEASED
S. W. POMEROY, DECEASED
RALPH H. JONES

Mr. T. W. Hadley
Downey, Idaho

Dear Mr. Hadley:

We have examined Abstract No. 1294 insofar as it concerns the following described property:

Southwest Quarter of Southwest Quarter, Section 2, Township 12 South, Range 37 E.B.M., and Northeast Quarter of Southeast Quarter, Section 3, Township 12 South, Range 37 E.B.M., excepting therefrom a strip of land described as follows: Beginning at Northeast corner of Southeast Quarter of Southeast Quarter of Section 3, Township 12 South, Range 37 East of Boise Meridian; running thence West 375 feet; thence North 100 feet; thence East 375 feet; thence South 100 feet to place of beginning.

Said abstract was certified the 3rd day of October, 1939. As of said time, Will Evans of Downey was the record owner of the above described property. The examination of said abstract was made particularly for the purpose of determining the water rights appurtenant to the above described land. Wish to say that there is no Decree from the court decreeing any waters to this particular land. Wish to say further, however, that a good many of the water rights in Idaho are dependent upon appropriation and use, and that a good many of the small streams and tributaries in Idaho have never been decreed. Notwithstanding this fact, a great number of valuable rights are appurtenant to particular property by reason of long continuous use, and if the question ever becomes one of litigation the important thing to determine is how long the water has been used upon the particular land in question.

In respect to the real estate above described, wish to state there is an important document filed for record in Bannock County being a Quit Claim Deed from Joseph H. Byington and Rosetta Byington, his wife, to Amos Neff which deed was dated in 1903 by the terms of which deed the grantors conveyed to the grantee certain water rights in Marsh Creek which deed reads as follows:

T. W. Hadley
March 23, 1955
Page 2

"...diverted at a point near the South line of the Northwest Quarter of the Northwest Quarter of Section 11, in Township 12 South, of Range 37 East of the Boise Meridian, in Bannock County, State of Idaho, and conducted thence in a Southwesterly direction by means of a ditch three feet wide at the bottom, three feet deep and six feet wide at the top to the lands formerly owned by the grantor herein and now owned by the said grantee, to-wit:

The Southwest Quarter of the Southwest Quarter of Section 2, and the East Half of the Southeast Quarter and the Northwest Quarter of the Southeast Quarter of Section 3, in Township 12 South, of Range 37 East of the Boise Meridian, in Idaho, together with the right to use said water upon the lands last above described. Which said water was located and diverted by means of said described ditch by John Kyle, during or about the year 1873, and used continuously by him up to the time of the purchase of the same by the grantor herein, to-wit: Some time during the year 1887, and said water and ditch have been in continuous use by the grantor herein since said year 1887 up to the present time, but which said water right has not been recorded by said Grantor Joseph H. Byington or said John Kyle in said Bannock County."

It will be observed from the language of said deed that the waters have been used upon the lands described in said deed since the year 1873, and as we understand it from our conversation with you, continuously since said date. This being true, this would be very good evidence that there is good water right with this land.

There is of record in Bannock County, however, a water decree dated the 30th day of March, 1896 found in Judgment Record No. 1 at Page 408 which decreed the waters of Marsh Creek to certain parties mentioned in said decree, the date of their water right being August, 1865. None of the predecessors in interest of the lands now owned by Mr. Evans appear to have been involved in this litigation, and apparently from the information I obtained from you, none of the parties to this litigation have interfered with the use of the waters by Will Evans and his predecessors in interest upon the lands described in this letter. This is very important also for the reason that if there are any rights prior in time to the predecessors in interest of Will Evans, and they have permitted the predecessors in

T. W. Hadley
March 23, 1955
Page 3

interest of Will Evans, and Will Evans himself, to use the waters openly, notoriously and adverse to them for more than five years, they would lose their rights.

First time you are in Pocatello, I will be glad to go over this matter in more detail with you, and when you call at the office, you can pick up the abstract which you left with me in connection with this matter.

Yours truly,

JONES, POMEROY & JONES

BY:

Ralph H. Jones

RHJ:ig

WR5809NP
No. 29-02223

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 06/25/01
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	PETER CHRISTIANSEN	10/04/1919	IRRIGATION DOMESTIC	00/00 00/00 00/00 00/00	1.300 CFS	
TOTAL DIVERSION:					1.300 CFS	

Water Source: MARSH CREEK

Tributary to: PORTNEUF RIVER

Stage: LICENSE

Point(s) of Diversion: T12S R37E S11

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		
12S	37E	2	:					:					:					:					:	35.0
12S	37E	3	:					:					:					:					:	30.0
TOTAL ACRES																						65.0		

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

Pou County: BANNOCK

Dates:	App. Received:	Priority Date:	10/04/1919
	Proof Due Date:	Proof Made Date:	
	Exam Made Date:	Exam Sent to S.O.:	
	Licensed Date:		08/14/1979

Misc: Water District Number: 29H Field Exam Fee:

Audit: 03/26/85 05/22/88 CONVERT

DATE: 06/25/01
PAGE: 2

Audit: 02/26/85 05/22/88 CONVERT

POD FOR 29-2223, 4071, 7339 // 2001 DCARLSON

