

09/08/2003

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 29-4112

NAME AND ADDRESS: MARILYN MIKKELSON
2433 E HAWKINS
DOWNEY ID 83234

JOHN WILLIAM HART
2435 E HAWKINS
DOWNEY ID 83234

SOURCE: UNNAMED STREAM TRIBUTARY: PECK CREEK
RIGHT INCLUDES ACCOMPLISHED CHANGE IN SOURCE PURSUANT TO SECTION
42-1425, IDAHO CODE.

QUANTITY: 1.270 CFS

PRIORITY DATE: 04/01/1953

POINT OF
DIVERSION: T11S R37E S6 SWNE 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	1.270 CFS

PLACE OF USE: IRRIGATION Within BANNOCK County

T11S R37E S06 Lot 3 NENW	4.0	T11S R37E S06 Lot 5 SWNW	22.0
T11S R37E S06 SENW	30.0	T11S R37E S06 NESW	34.0
T11S R37E S06 Lot 6 NWSW	28.0		

118 ACRES TOTAL

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 255 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-04112, 29-07183

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 88 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

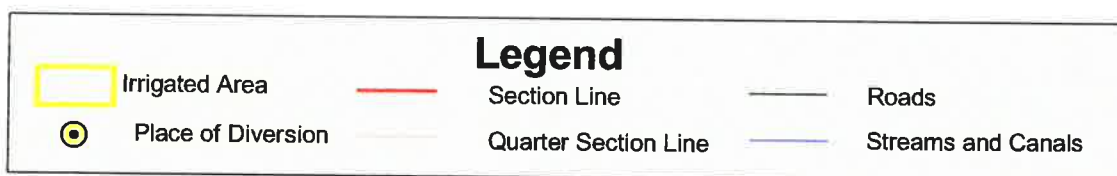
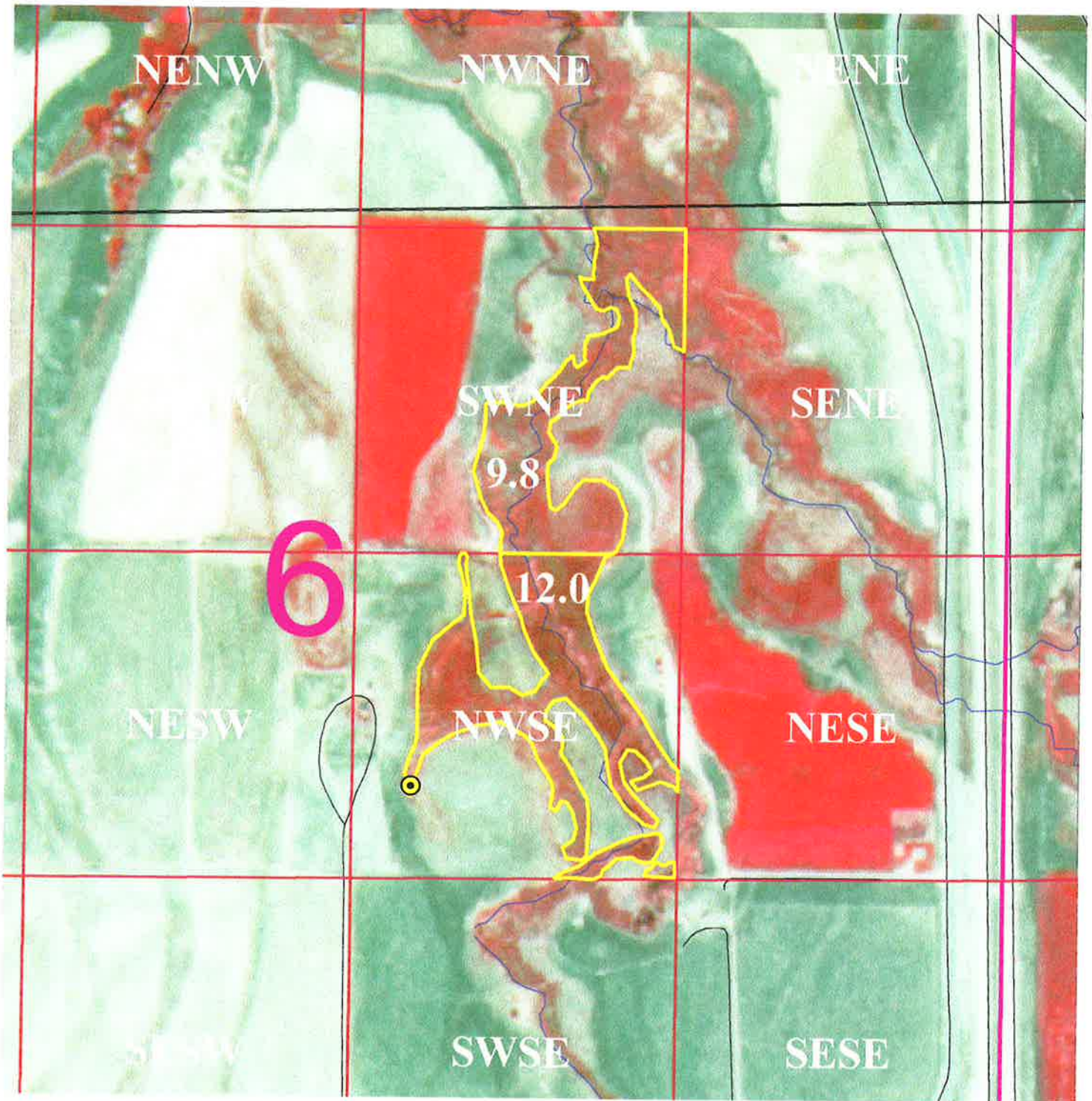
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

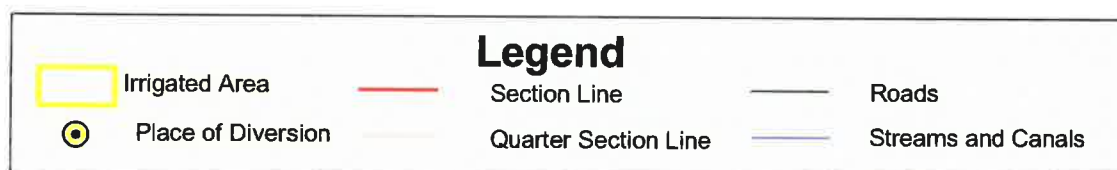
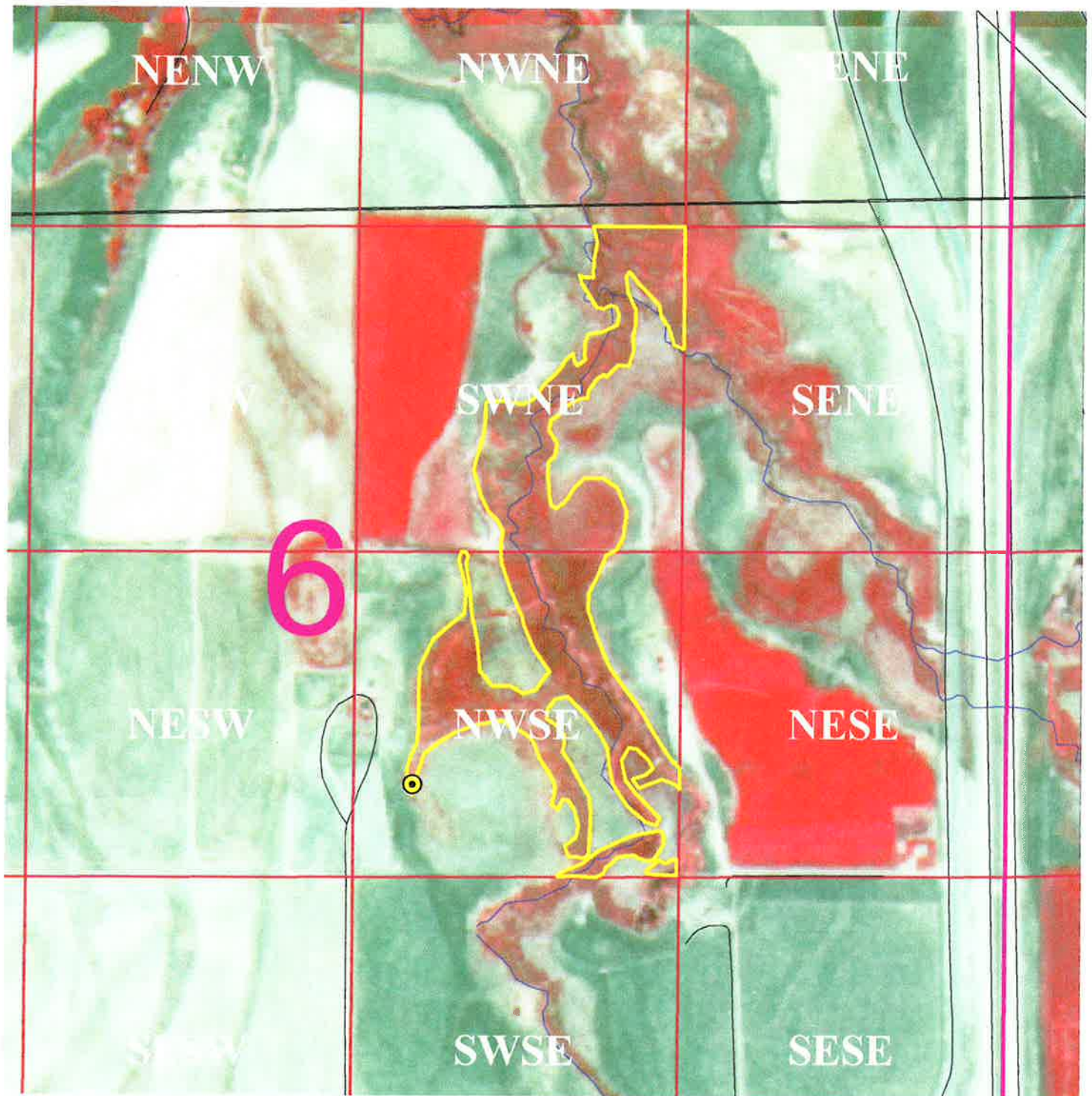
RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.

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

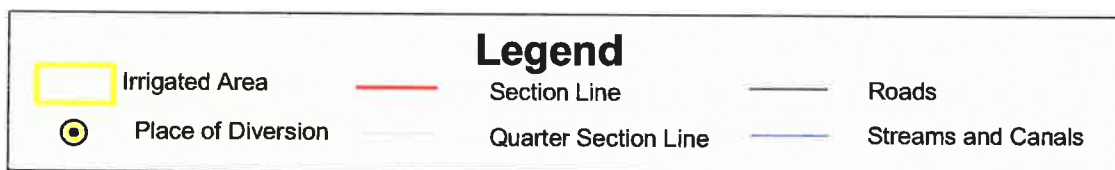
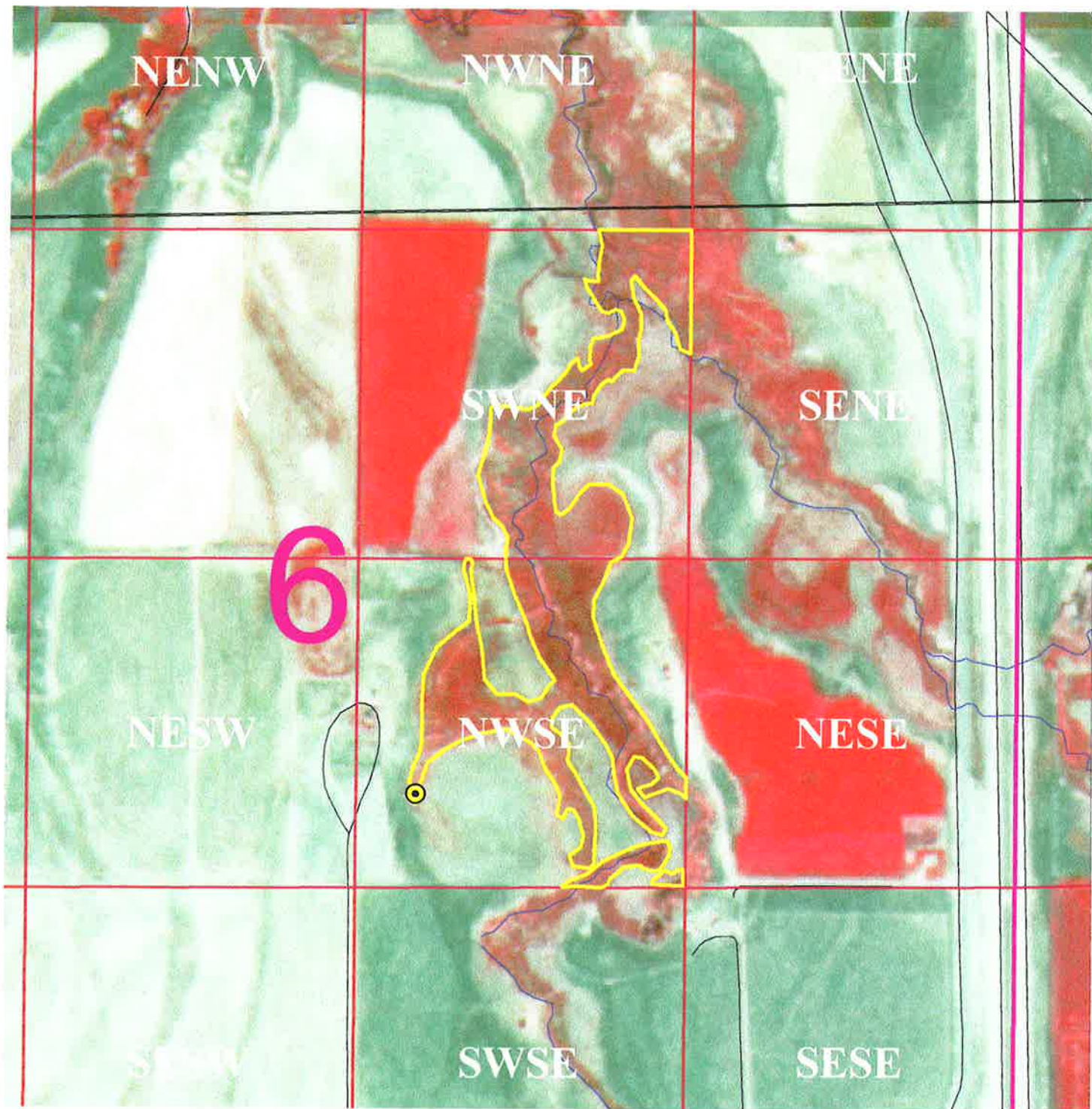
Township , 11S37E



Township , 11S37E



Township , 11S37E





State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 12, 2003

MARILYN MIKKELSON
2433 E HAWKINS
DOWNEY ID 83234

RE: Notice of Change of Water Right Ownership (NCO) for 29-4109, 29-4110, 29-4111, 29-4112 and Notice of Completed Administrative Proceeding (NCAP)

Dear Sir/Madam:

On September 9, 2003, the Idaho Department of Water Resources (IDWR) received an NCO changing the right holder for the above referenced water right(s). Based on this NCO, IDWR water right records for the Snake River Basin Adjudication (SRBA) have been updated.

Furthermore, as directed by the SRBA Court, this office mailed a copy of the updated water right record(s) to each party listed on the enclosed NCAP. The intent of this mailing is to ensure each party has a current record of water right(s) as recorded in the SRBA.

Please feel free to contact me if you have any questions concerning this matter.

Respectfully,

Kristen Forsgren
Office Specialist 1

Enclosure

cc: JOHN WILLIAM HART

PROFILED

SCANNED

MAR 16 2006



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

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September 12, 2003

JOHN WILLIAM HART
2435 E HAWKINS
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Please feel free to contact me if you have any questions concerning this matter.

Respectfully,

Kristen Forsgren
Office Specialist 1

Enclosure

cc:

SCANNED

MAR 16 2006

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

In Re SRBA

)

Water Rights: 29-4109, 29-4110, 29-4111, 29-4112

Case No. 39576

)

)

NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING

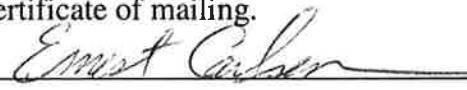
IDWR has completed the following Administrative proceeding:

- ☐ Address change
- ☒ Substitution of Party
- ☐ I.C. § 42-222 transfer
 - ☐ point of diversion ☐ place of use
 - ☐ period of use ☐ nature of use
 - ☐ split of water right ☐ change in ownership

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: 9 Sept. 2003



Signature of IDWR Representative

SCANNED
MAR 15 2004

CERTIFICATE OF MAILING

I certify that on 9-12-03, 2003, I mailed the original and copies of this form to the following persons, postage prepaid by regular mail and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707

2. One copy to:

Claimant/Seller for Substitution of Party or attorney of record:
JOHN WILLIAM HART & JENNIE HART
2435 E HAWKINS
DOWNEY ID 83234

3. One copy to:

Claimant/Purchaser for Substitution of Party, or attorney of record:
JOHN WILLIAM HART
2435 E HAWKINS
DOWNEY ID 83234

MARILYN MIKKELSON
2433 E HAWKINS
DOWNEY ID 83234

4. One copy to:

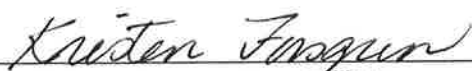
Each party in the subcase, or attorney of record
JOHN WILLIAM HART
2435 E HAWKINS
DOWNEY ID 83234

5. One copy each to:

Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise ID 83711-4449

6. One Copy to:

United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724



Signature of person or attorney mailing the form

SCANNED
MAR 16 2003

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

OK JC
 9/5/03
 RECEIVED
 SEP 05 2003

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

Department of Water Resources
 Eastern Region

Please list the **water right** number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided, if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
	29-4109				
	29-4111				
	29-4112				
	29-4110				

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) are for ten or more acres of irrigation, you must submit a **USDA Farm Service Agency AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s)

John William Hart Jennie Hart
2435 E Hawkins Downey ID 83234

4. New Owner/Claimant(s)

John William Hart Marilyn Mikkelsen
 Name Connector (Check one): ☐ and, ☐ or, ☒ and/or

New Mailing Address

2435 E Hawkins 2433 E Hawkins

City, State and ZIP Code

Downey ID 83234 Downey ID. 83234

New Telephone Number

(208) 897-5743 (208) 897-9918.

5. Date you acquired the property

NA.

PROFILED

SCANNED
 MAR 16 2006

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

INSTRUCTIONS FOR FILING NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

This form has been prepared to assist all claimants and owners of water rights to comply with the requirements of Sections 42-248 and 42-9(6), Idaho Code. All claimants and owners of water rights are required to notify the Department of Water Resources (IDWR) of any change in mailing address or change in ownership of all or part of a water right. In addition, all purchasers of water rights within a pending adjudication area must inquire whether a notice of claim has been filed and, if not, shall file a notice of claim if necessary.

Separate brochures are available from IDWR describing the adjudication of water rights and the requirement to notify IDWR of changes in ownership. Please contact your nearest IDWR office, or call 1-800-451-4129, if you would like more information or need help completing this form. Please attach additional sheets to the form if you require additional space to describe or explain any of the items on the form.

If there are water rights associated with the property, the seller should be able to provide you with the water right or adjudication claim number(s). Please enter the number(s) at Item 1. Corresponding water right and adjudication claim numbers should be listed next to each other on the form. You may have purchased only a portion of the water right(s) held by the seller. If so, the water right(s) held by the seller may need to be "split" to provide you your share of each right. Indicate if a split is required by checking in the space provided next to each water right.

If you receive water from a municipal provider, an irrigation district or other water delivery organization, where the water rights are held by the organization, please do not use this form to record a change. You may need to contact the water delivery organization to determine if any action is necessary.

If you or the seller believes there are water rights for the property but the numbers are unknown, you may wish to contact IDWR for assistance in identifying the water rights for the property in question. If adjudication claims for the rights are required and have not been filed, IDWR will so advise you.

The information described at Item 2 is required, since IDWR cannot process the requested change without documentation of ownership. The preferred types of documentation are shown; contact IDWR if you have difficulty obtaining this information. Do not obtain a new survey for purposes of this form before contacting IDWR.

3. Please provide the name and address of the former owner/claimant(s) of the water right(s) at Item 3.
4. The name, mailing address, and telephone numbers of the new owner/claimant(s) is entered at Item 4. Please indicate the relationship between multiple owners by using the connector "and", "or", or "and/or." If an "and" is used, all parties must sign this form. If an "and/or" or "or" is used, all parties may sign; however, only one of the named parties is required to sign.
5. At Item 5, please provide the date the property in question was acquired. This may be the date of "closing" in the case of a real estate transaction or the date of court order for other types of ownership changes.
6. You may have purchased only a portion of the water right(s) held by the seller. If this change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. For each water right requiring a split between owners, fill in the appropriate spaces in the box(es) at Item 6. Copy the page as many times as necessary to fully describe each water right after the change. Include documentation as necessary to describe nonstandard agreements or arrangements regarding division of the water right(s). If the water right(s) will not be split, skip Item 6 and go to Item 7.
7. The new owner(s) must sign the form in the space(s) provided at Item 7. If an "and" connector is used at Item 4, all parties must sign this form. If an "and/or" or "or" connector is used, all parties may sign; however, only one of the named parties is required to sign. If someone other than the owner signs the notice, evidence of authority to sign for the owner must be attached. If the new owner is a corporation or other organization, the person signing the notice must be an officer of the corporation or otherwise have authority to sign for the organization and must include their title with the signature.
8. The filing fee is \$25 per water right, except for those water rights which will be divided as a result of the change in ownership. The filing fee for division of a water right is \$100 per water right to be divided. When complete, you should retain a copy and return the original of the form to the IDWR office nearest you:

MAILED
JUL 16 2000

RTIFICATION OF VITAL RECORD

STATE OF IDAHO

IDAHO DEPARTMENT OF HEALTH AND WELFARE
CENTER FOR VITAL STATISTICS AND HEALTH POLICY

State of Idaho

CERTIFICATE OF DEATH

ONLY A COPY OF THIS DOCUMENT CERTIFIED BY THE STATE REGISTRAR, WITH THE DEPT. OF HEALTH & WELFARE RAISED SEAL, SHALL BE USED AS PRIMA FACIE EVIDENCE OF THIS DEATH UNDER IDAHO CODE 39-2411 & 39-27

State File No.

Local Reg. No. 6-545

DECEDENT

TYPE OR
PRINT IN
PERMANENT
BLACK INK
DO NOT USE
FELT TIP PENNAME OF DECEDENT
For use by Physician or Institution

DECEDENT — NAME FIRST MIDDLE LAST
JENNIE MARIE DUNTON HART
SEX FEMALE
DATE OF DEATH (Month, Day, Year) NOV. 17, 1999
SOCIAL SECURITY NUMBER 320-148-2395
AGE — Last Birthday (M, D, Y) 64
UNDER 1 YEAR MONTHS DAYS UNDER 1 DAY HOURS MINS
DATE OF BIRTH (Month, Day, Year) MAY 30, 1935
BIRTHPLACE (City and State or Foreign Country) ONTARIO, OREGON

WAS DECEDENT EVER IN U.S. ARMED FORCES? ☐ Yes ☒ No
PLACE OF DEATH (Check only one)
HOSPITAL (1) ☐ Inpatient (2) ☐ ER/Outpatient (3) ☐ DOA
OTHER (4) ☐ Long-Term Care Facility (5) ☒ Own Residence (6) ☐ Other Private Residence (7) ☐ Other (Specify)

FACILITY NAME AND ADDRESS (if not a hospital, enter name of place, street and number) 2435 E. HAWKINS RD.
CITY, TOWN OR LOCATION OF DEATH DOWNEY
COUNTY OF DEATH BANNOCK

MARITAL STATUS — Married, Never Married, Widowed, Divorced (Specify) MARRIED
SURVIVING SPOUSE (If wife, give maiden name) JOHN WILLIAM HART
DECEDENT'S USUAL OCCUPATION (Give kind of work done during most of working life. Do not use retired.) HOUSEWIFE
KIND OF BUSINESS / INDUSTRY HOMEMAKING

RESIDENCE STATE IDAHO COUNTY BANNOCK CITY, TOWN OR LOCATION DOWNEY STREET AND NUMBER 2435 E. HAWKINS RD. ZIP CODE 83234

INSIDE CITY LIMITS? ☐ Yes ☒ No
WAS DECEDENT OF HISPANIC ORIGIN? (Specify No or Yes — if yes, specify Cuban, Mexican, Puerto Rican, etc.) ☐ Yes ☒ No
RACE — American Indian, Black, Japanese, White, etc. (Specify) WHITE
16. DECEDENT'S EDUCATION (Specify only highest grade completed)
Elementary/Secondary (0-12) College (14 or 5+) 3

PARENTS

FATHER — NAME HARVEY DUNTON BIRTHPLACE UTAH MOTHER — FULL MAIDEN NAME VIRGINIA WHITE BIRTHPLACE OREGON

INFORMANT

INFORMANT'S NAME (Type/Print) JOHN WILLIAM HART MAILING ADDRESS (Street and Number or Rural Route Number, City or Town, State, Zip Code) 2435 W. HAWKINS RD. DOWNEY, IDAHO 83234

DISPOSITION

METHOD OF DISPOSITION ☒ Burial ☐ Cremation ☐ Removal from Idaho
PLACE OF DISPOSITION (Name of cemetery, crematory, or other place) MARSH CENTER CEMETERY
LOCATION — City or Town, State VIRGINIA, IDAHO

SIGNATURE OF FUNERAL SERVICE LICENSEE OR PERSON ACTING AS SUCH *[Signature]* LICENSE NUMBER (of License) M-607 132 NAME AND ADDRESS OF FACILITY HORSLEY FUNERAL HOMES
W. 300 N. MALAD CITY, IDAHO 83252

TIME OF DEATH 0430 DATE PRONOUNCED DEAD (Month, Day, Year) NOV. 17, 1999
MANNER OF DEATH (Check One) ☒ Natural ☐ Homicide ☐ Suicide ☐ Accident
☐ Pending Investigation ☐ Could Not Be Determined

27. PART I. Enter the diseases, injuries, or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock, or heart failure. List only one cause on each line.

IMMEDIATE CAUSE (Final disease or condition resulting in death) a. Metastatic Breast Cancer
DUE TO (or as a consequence of) 10 months

CAUSE OF DEATH

Sequentially list conditions, if any, leading to immediate cause. Enter UNDERLYING CAUSE (disease or injury that initiated events resulting in death) LAST

b. DUE TO (or as a consequence of):
c. DUE TO (or as a consequence of):
d.

27. PART II. Other Significant Conditions contributing to death but not resulting in the underlying cause given in Part I.

WAS AN AUTOPSY PERFORMED? ☐ Yes ☒ No
WERE AUTOPSY FINDINGS AVAILABLE PRIOR TO COMPLETION OF CAUSE OF DEATH? ☐ Yes ☐ No

CERTIFIER

IF DEATH WAS DUE TO OTHER THAN NATURAL CAUSES, THE CORONER MUST COMPLETE AND SIGN THE CERTIFICATE

CERTIFIER (Check only one) ☒ PHYSICIAN — To the best of my knowledge, death occurred at the time, date, and place, and due to the cause(s) and manner as stated.
☐ CORONER — On the basis of examination and/or investigation, in my opinion, death occurred at the time, date, and place, and due to the cause(s) and manner as stated.

SIGNATURE AND TITLE OF CERTIFIER *[Signature]* LICENSE NUMBER M5725 DATE SIGNED (Month, Day, Year) 11/24/99

NAME AND ADDRESS OF CERTIFIER (Type/Print) DR. LYNN ESKELSON 37 N. 1st E. PRESTON, IDAHO

DATE OF INJURY (Mo., Day, Yr.) HOUR OF INJURY DESCRIBE HOW INJURY OCCURRED

TO BE USED FOR EXTERNAL CAUSES ONLY

INJURY AT WORK? ☐ Yes ☐ No
IF TRANSPORTATION ACCIDENT, Specify ☐ Driver ☐ Passenger ☐ Pedestrian ☐ Other
PLACE OF INJURY — At home, farm, street, factory, office building, etc. (Specify)
LOCATION (Street or Route Number, City/Town, or County, and State)

CORONER'S REVIEW AREA

CORONER'S ACTION CORONER'S SIGNATURE DATE SIGNED (Month, Day, Year)

REGISTRAR'S SIGNATURE *[Signature]* DATE FILED (Month, Day, Year) Dec. 6, 1999

This is a true and correct reproduction of the document officially registered and placed on file with the IDAHO CENTER FOR VITAL STATISTICS AND HEALTH POLICY.

DATE ISSUED: Dec. 6, 1999

This copy is not valid unless prepared on engraved border displaying state seal and signature of the Registrar.

JANE S. SMITH
STATE REGISTRAR

BK8663PG0755

WARRANTY DEED

For Value Received Ten Dollars and other valuable consideration

Herman Reisner

94016225

the grantor, do hereby grant, bargain, sell and convey unto

John W. Hart and Jennie Hart, husband and wife

the grantees, the following described premises, in Bannock County Idaho, to wit:

Lot 5 - 54.24 Acres; Lot 4 - 55.57 Acres Tr. Lot 3 & SE 1/4 NW 1/4 Tax 12- 68.53
Acers Section 6 Township 11 South Range 37 E. B. M.
NE 1/4 SE 1/4 40 Acres.

Section 1 Township 11 South Range 36 E. B. M.

Of better discribed as follows:

Lot 5 and Lot 4, Section 6, Township 11 South, Range 37 E. B. M., Bannock
County, Idaho, and Lot 3 and SE 1/4 NW 1/4 of Section 6, Township 11 South, Range
37 E. B. M., Bannock County, Idaho, Except the Following described tract:
Beginning at the Southwest corner of the SE 1/4 NW 1/4 of Section 6, Township 11
South, Range 37 E. B. M., thence East 20 Rods, thence North 100 Rods, thence
West 20 Rods, thence South 100 Rods to the point of Beginning. NE 1/4 SE 1/4
Section 1, Township 11 South, Range 36, E. B. M., Bannock Sounty, Idaho...

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee s,
Their heirs and assigns forever. And the said Grantor do so hereby covenant to and
with the said Grantee, that he is the owner in fee simple of said premises; that they are free
from all incumbrances none

and that he will warrant and defend the same from all lawful claims whatsoever.

Dated: December 6, 1966

Herman Reisner

STATE OF IDAHO, COUNTY OF

On this 6 day of December, 1966,
before me, a notary public in and for said State, personally
appeared Herman Reisner

NOTARY SEAL

94016225

NO. 94016225
RECORDED AT REQUEST OF
JOHN W. HART

'94 SEP -6 P 4:12

OFFICIAL RECORD BOOK NO. 1023
BANNOCK COUNTY IDAHO
LARRY L. GRIFFIN RECORDER
EE. 30 DEPUTY

known to me to be the person whose name
subscribed to the within instrument, and acknowledged to
me that he executed the same.

John B. Downey
Notary Public
Residing at Downey, Idaho
Comm. Expires Oct. 25, 1968

Furnished by the FOCATELLO TITLE CO.

SCANNED

MAR 16 2006

WARRANTY DEED

565940

For Value Received HERMAN H. REISNER and BEATRICE V. REISNER,
husband and wife,

the grantor s, do hereby grant, bargain, sell and convey unto
JOHN W. HART and JENNIE D. HART,
husband and wife,

whose current address is Rural Route, Downey, Idaho 83234

the grantee s, the following described premises, in Bannock County Idaho, to wit:

Township 10 South, Range 37 East of the Boise Meridian

Section 31: Commencing at a brass cap marker which is the Southwest corner of Section 31, and running thence North across the Virginia Highway to the North Bank of the channel of Marsh Creek 1027 feet, more or less, thence North 77°05' East 200 feet along said channel, thence North 47°50' East 400 feet, more or less, thence East 20.08 feet, thence South across the Virginia Highway 1340.20 feet, more or less, to the South line of Section 31, thence West 31 rods, more or less, to the place of beginning, and being a portion of LOT SEVEN (7), Township 10 South, Range 37 East of the Boise Meridian. EXCEPTING THEREFROM those portions of above-described premises falling within the bounds of the Virginia Highway.

ALSO, Commencing at the Northeast corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of LOT EIGHT (8), Section 31, and running thence West 80 rods to the East boundary line of LOT SEVEN (7), thence South 729 feet, more or less, to the North boundary line of the Virginia Highway, thence Easterly following the North boundary of the said highway to a point 686 feet South along the East line of Lot 8, thence North 686 feet along the East line of Lot 8 to the place of beginning.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee s, their heirs and assigns forever. And the said Grantor s do hereby covenant to and with the said Grantee s, that they are the owners in fee simple of said premises; that they are free from all incumbrances

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: November 22, 1976

Herman H. Reisner
Beatrice V. Reisner

STATE OF IDAHO, COUNTY OF

On this 22nd day of November, 1976,
before me, a notary public in and for said State, personally
appeared

HERMAN H. REISNER and
BEATRICE V. REISNER, husband
and wife,

known to me to be the person s whose names are
subscribed to the within instrument, and acknowledged to
me that they executed the same.

John B. Brown
Notary Public
Residing at Downey, Idaho
Comm. Expires Oct. 25, 1980

565940

NO. 296
RECORDED AT REQUEST OF

John Hart

Nov 24 4 30 PM '76

296
BANNOCK COUNTY, IDAHO
TIM ERIKSEN, RECORDER
FEE 1.00 PRIVITY 1n

NOTARY SEAL

WARRANTY DEED

565941

For Value Received HERMAN H. REISNER and BEATRICE V. REISNER,
husband and wife,

the grantor s do hereby grant, bargain, sell and convey unto

JOHN W. HART and JENNIE D. HART,
husband and wife,

whose current address is Rural Route, Downey, Idaho 83234

the grantees , the following described premises, in...Bannock.....County Idaho, to wit:

Township 10 South, Range 37 East of the Boise Meridian

Section 31: Commencing at the Southeast corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of
LOT EIGHT (8), Section 31; and running thence West
300 feet along the section line, thence North 677.88
feet to the South boundary line of the Virginia Highway,
thence South 72 $^{\circ}$ 27' East 314.65 feet along said highway,
thence South 583 feet to the place of beginning.

ALSO, Commencing at a point 256 feet North of the Southwest
corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of LOT EIGHT (8), Section 31; and
running thence North 280 feet, more or less, to the South
Boundary Line of the Virginia Highway, thence Easterly
325 feet along said Highway, thence South 280 feet,
thence Westerly 325 feet to the point of beginning.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee s,
their heirs and assigns forever. And the said Grantor s do hereby covenant to and
with the said Grantee s, that the y are the owners in fee simple of said premises; that they are free
from all incumbrances

and that the y will warrant and defend the same from all lawful claims whatsoever.

Dated: November 22, 1976

STATE OF IDAHO, COUNTY OF

On this 22nd day of Nov., 1976,
before me, a notary public in and for said State, personally
appeared

HERMAN H. REISNER and
BEATRICE V. REISNER, husband
and wife,

known to me to be the person s whose names are
subscribed to the within instrument, and acknowledged to
me that they executed the same.

Notary Public

Residing at Downey, Idaho
Comm. Expires Oct. 25, 1980

565941
NO. RECORDED AT REQUEST

John Hart

NOV 24 4 30 PM '76

296
BANNOCK COUNTY, IDAHO
KIM M. BARNES, RECORDER
FEE \$1.00 DEEDITY 1n

NOTARY SEAL

MAR 16 2006

02/08/2003

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: April 21, 2003

Water right number: 29-4112

JOHN WILLIAM HART
2435 E HAWKINS
DOWNEY ID 83234
Telephone Number: (208)897-5743

JENNIE HART
2435 E HAWKINS
DOWNEY ID 83234
Telephone Number: (208)897-5743

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

*the total of the land marked in green is larger than 88 acres
the drawing is correct but the acres are wrong*

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

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

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

DATE: 8-1-03 SIGNATURE: John Hart
Please print your name: John HART

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

Sorry I am late but I was not at home when the came.

PROFILED

SCANNED
MAR 15 2006

RECEIVED
AUG 11 2003
Department of Water Resources
Eastern Region

IDAHO DEPARTMENT OF WATER RESOURCES 10/15/2001
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

NAME AND ADDRESS: JOHN WILLIAM HART
2435 E HAWKINS
DOWNEY ID 83234

JENNIE HART
2435 E HAWKINS
DOWNEY ID 83234

SOURCE: UNNAMED STREAM TRIBUTARY: PECK CREEK
RIGHT INCLUDES ACCOMPLISHED CHANGE IN SOURCE PURSUANT TO SECTION
42-1425, IDAHO CODE.

QUANTITY: 1.27 CFS

PRIORITY DATE: 04/01/1953

POINT OF DIVERSION:
T11S R37E S6 SWNE 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	1.270 CFS

PLACE OF USE: IRRIGATION Within BANNOCK County

T11S R37E S06 Lot 3 NENW	4.0	T11S R37E S06 Lot 5 SWNW	22.0
T11S R37E S06 SENW	30.0	T11S R37E S06 NESW	34.0
T11S R37E S06 Lot 6 NWSW	28.0		

118 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 255 ACRES IN A SINGLE IRRIGATION
SEASON. COMBINED RIGHT NOS.: 29-04112, 29-07183

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 88 ACRES WITHIN THE PLACE OF USE
DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: Beneficial Use

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

*pump in creek
60 hp US electrical Motor
mainline to sprinklers*

CLAIMS 29-04112 and 29-04111 John Hart
Dave Carlson
10-2001

These two claims are for water rights developed from a spring source. See Finding of Facts hearing 1969 in the two files. Reisner Vs Stewart.

In that hearing, it was determined that the ditch or flood irrigation Originated in 1930, and irrigated a POU below the existing ditch to the, north of the spring area 1.81 cfs total. Some land belongs to Mr Hart, some does not.

In 1953 a pump was installed into the ditch and water was pump up on the flat area to the west of the ditch. About 88 acres and 1.27 cfs All appears to be Mr Harts land now

29-04111 as filed, represents both the ditch and the pump irrigation and 29-04112 is an earlier filing for the same spring.

RECOMMENDATIONS

29-04111 is recommended for the 1930 water rights from the spring diverted in the ditch only and not for the water pumped up onto the flat to the west.

29-04112 is totally changed to the 1953 water rights pumped out of the ditch to the pou above to the west. See recommendation map. Note the POD and source of this water right was changed in the 1970's to the unnamed stream trib to Peck Creek
Mr Hart made these similar statements to me 10/2001 DC

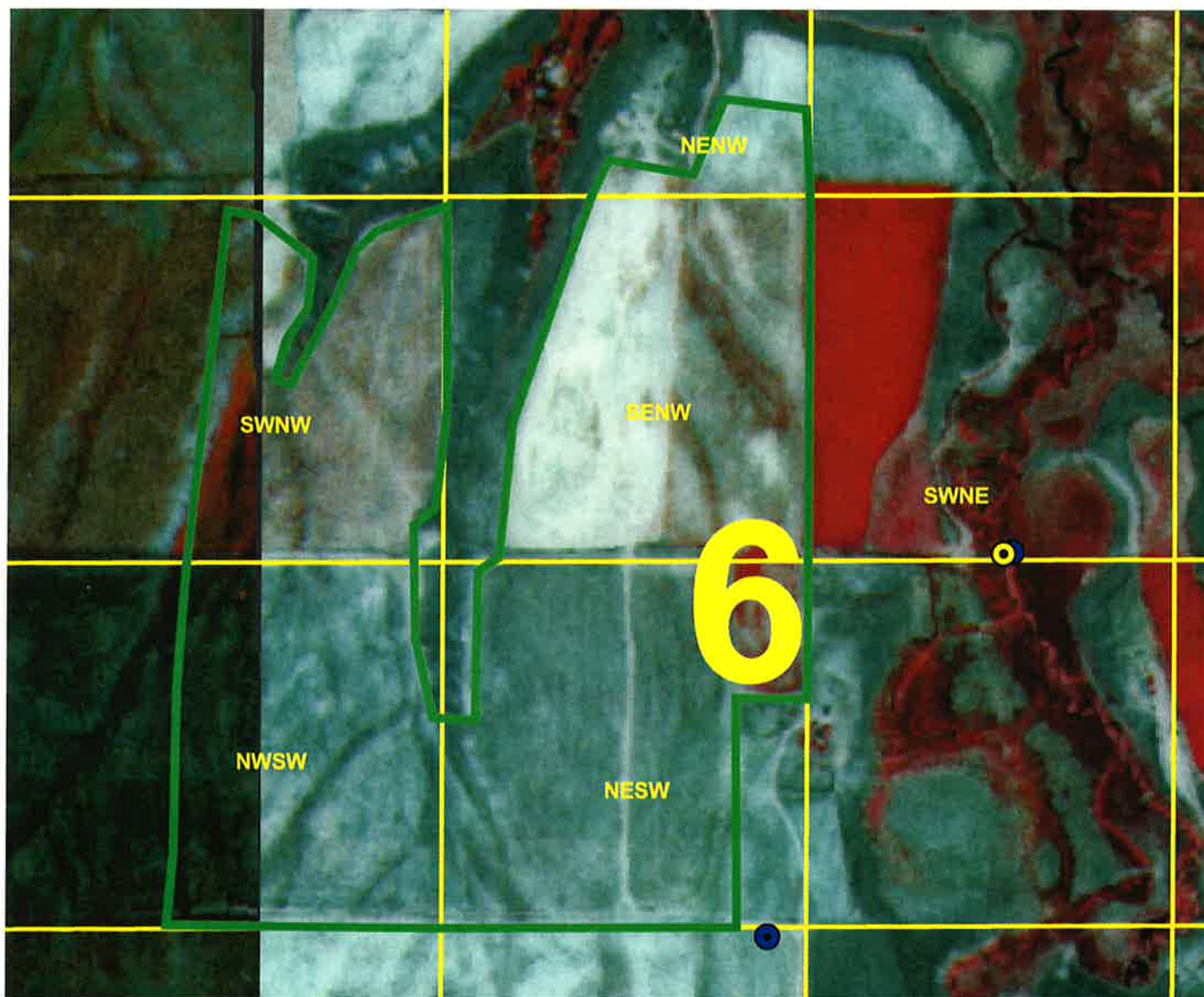
SCANNED
MAR 15 2006

PROFILED

IDAHO DEPARTMENT OF WATER RESOURCES

29-04112

T11S, R37E SEC 6



ACRES IRRIGATED- 88



POINT OF DIVERSION



PLACE OF USE

PROFILED

SCANNED

MAR 16 2006

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



10/2001 DC

pump out of unnamed stream
trib to Peck Creek

60hp ALS Electrical Motor
mainline to sprinklers

was pumped from ditch in 1953

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SCANNED
MAR 16 2003

BEFORE THE LOCAL GROUND-WATER BOARD FOR BANNOCK COUNTY

STATE OF IDAHO

RECEIVED

AUG 16 1979

Department of Water Resources
Eastern District Office

HERMAN REISNER, THELMA REISNER,
JOHN HART, FRED HART, KEITH BENNETT
ALICE DENNY, AND JULIA BLANCHARD

Claimants

FINDINGS OF FACT,

CONCLUSIONS OF LAW AND ORDER

REID STEWART

Respondent

This matter came on regularly for hearing on January 29, 1969, before the Local Ground-Water Board for Bannock County, consisting of Mr. Jack A. Barnett, Deputy State Reclamation Engineer, Chairman; Mr. Marshall K. Corbett, a geologist appointed by the Judge of the District Court; and Mr. Boyd Gunter, a resident irrigation farmer of Bannock County, who was selected by the other two Board members.

Claimants were represented by their attorneys, Merrill K. Gee and Howard L. Armstrong. Respondent was represented by attorney R. D. Merrill. The hearing was held in the afternoon of January 29 and the morning of January 30. It was intended to continue with the hearing in the afternoon of January 30. However, during the noon recess, attorney R. D. Merrill was unexpectedly taken seriously ill. The remainder of the hearing was continued until March 28, 1969. Upon reconvening the hearing, the Board was informed that at this and future hearings, the respondent, Reid S. Stewart, would be represented by himself and his engineer, Frank W. Haws.

At the conclusion of the hearing on March 23, 1969, a request was made by claimants' counsel that the names Alice Denny and Julia Blanchard be added to the names of the claimants in this case. With the stipulation that the claimants' case would stand with the data and facts already submitted and additional testimony would not be required to represent the additional claimants' position, and hearing no objections, the two names were added to the list of claimants.

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MAR 15 2006

Following the hearing, the Board found that the claimants and respondents had failed to provide the Board with enough facts and data to decide the case. With this in mind and following the urging of both parties, the Board requested by letter of April 4, 1969, that the Idaho Department of Reclamation conduct an investigation to determine the ground-water hydrology of the area and the use made of the spring waters and ground waters by the claimants and respondents. A subsequent hearing was held on December 16, 1969, for the Board to hear the results of the requested investigation.

Having heard and reviewed all the evidence presented to the Board and having consulted all of the County, State and Federal Government records that the Board felt necessary, as agreed to by the parties, and having reviewed the transcript of a previous court action on the matter which has been designated Civil No. 23583, as agreed to by the parties, the Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

A. WATER RIGHTS

The Ground-Water Board finds that there are three types of rights to water from the spring referred to in the hearing as the Reisner Spring. The first type (I) is surface flood irrigation rights; the second type (II) is domestic rights; and the third type (III) is pumped sprinkler irrigation rights. The Board also finds ground-water rights (IV) to pump from two wells.

I. Surface Flood Irrigation Rights

The Board finds that all of the surface flood irrigation using spring water was initiated in about 1930. The diversion of water is from the spring area that was referred to as the Reisner Springs at the Board's hearings, and is located in the NW 1/4 of Section 6, T. 11 S., R. 37 E. The water is diverted from the natural spring stream channel in the above-described area near the spring issuance. The Board finds that all right holders to this type of right have an equal priority dating 1930. The Board also finds that individuals holding this type of right are entitled to as much as an inch to the acre for irrigation and additional waters for conveyance loss in the long canal used to deliver the water. Testimony was given that as much as another inch to the acre is required to deliver the water to the end of the two-mile-long canal. With this in mind, the Board finds that the individuals are

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entitled to conveyance water in proportion to the distance down the canal from the springs that their diversion occurs. That is to say that an individual diverting one-half mile down the canal would be entitled to one-fourth inch per acre of additional conveyance water. The Board then finds that the rights to divert out of the Reisner Spring by gravity means with a 1930 priority are listed as follows in order of their diversion:

- a. T. Levere Juchao, c/o Keith Bennett, 7.1 acres of irrigation in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6, T. 11 S., R. 37 E.; 7.1 inches irrigation water plus 1.4 inches conveyance water make a total diversion at the spring of 8.5 inches (.16 c.f.s.).
- b. Ettna E. Gilbert (not a party of the Ground-Water Board), 10.2 acres of irrigation in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6, T. 11 S., R. 37 E.; 10.2 inches irrigation water plus 3.0 inches of conveyance water make a total diversion at the spring of 13.2 inches (.26 c.f.s.).
- c. Herman Reisner, 20.4 acres of irrigation in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 6, T. 11 S., R. 37 E.; 20.4 inches irrigation water plus 14.2 inches of conveyance water make a total diversion at the spring of 34.6 inches (.69 c.f.s.).
- d. H. Vance Polk, c/o Richard Butnaster (not a party of the Ground-Water Board), 5.3 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31, T. 10 S., R. 37 E.; 5.3 inches irrigation water plus 4.2 inches of conveyance water, making a total of 9.5 inches (.19 c.f.s.).
- e. Herman Reisner, 12.8 acres of irrigation in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31, T. 10 S., R. 37 E.; 12.8 inches irrigation water plus 12.8 inches of conveyance water, making a total of 25.6 inches (.51 c.f.s.).

Total surface flood irrigation rights: 1.81 c.f.s.

II. Domestic Rights

The Board finds that Thelma Reisner Ramey (widow of Wilford Reisner) is entitled to a total of .06 c.f.s. (25 gallons per minute) to be pumped from the head of the spring with a 1932 priority, to be used for a home

(.69 cfs) (20.4 ac)

.51 cfs (12.8 ac)

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MAR 16 2000

located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 6, T. 11 S., R. 37 E. Said water is also to be used for incidental yard irrigation, including up to one-fourth acre of garden.

Total domestic rights: .06 c.f.s.

III. Sprinkler Irrigation

The Board finds that individuals have been using waters from the springs for pumping and sprinkler irrigation since 1953 and such rights have a priority as of that year. The Board finds that the pump diversion, located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6, is sufficiently close to the spring area that conveyance waters are not required, and the Board determines that irrigation practices require no more than .8 inches of water per acre. With this in mind, the Board finds the following rights:

- a. Herman Reisner, 35.7 acres of irrigation in the E $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 6, T. 11 S., R. 37 E.; total diversion of 28.6 inches (.47 c.f.s.).
 - b. Herman Reisner, 15.6 acres of irrigation in the S $\frac{1}{2}$ NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 6, T. 11 S., R. 37 E.; total diversion of 12.5 inches (.25 c.f.s.).
 - c. Thelma Reisner Ramey, 15.4 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 6, T. 11 S., R. 37 E.; total diversion of 12.3 inches (.25 c.f.s.).
 - d. Thelma Reisner Ramey, 20.0 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 6, T. 11 S., R. 37 E.; total diversion of 16.0 inches (.30 c.f.s.).
- Total pumped diversion: 1.27 c.f.s.

The Board therefore finds that there is a total right of 3.14 c.f.s.

from the Reisner Springs.

IV. Ground-Water Rights

- a. The Board finds that the claimants Julia Blanchard and Alice Denny are entitled to the licensed right issued in the name of Edward Denny by virtue of their ownership of Lots 3 and 4 in Section 7, T. 11 S., R. 37 E. This licensed right has been designated by the number 23673 (29-2330) in the records of the Idaho Department of Reclamation. It has a priority of

pumped
diversion

(36.6AC)

(16)

15.4

88AC

20.0

SCANNED

MAR 10 2009

February 27, 1953, to divert 1.2 c.f.s. from a well located in Lot 3 of said Section 7. The right is to irrigate up to 90 acres of ground in Lots 3 and 4 of the Section (W $\frac{1}{2}$ SW $\frac{1}{4}$).

b. The Ground-Water Board finds that Reid Stewart has a licensed right, which has been given the number 25728 (29-2366), to divert water from a well located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 7, T. 11 S., R. 37 E., (referred to as Stewart Well #1). This right was originally in the name of Mark Dunford Weston and Lois L. Weston. Mr. Stewart has a right to use these waters by virtue of his ownership of the lands upon which the well is located and the lands that are irrigated from it. This licensed right has a priority of May 26, 1955, to irrigate 120 acres from the well. The lands to be irrigated are in the E $\frac{1}{2}$ NW $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 7.

c. The Board finds that Application No. 30723 (29-2466), filed with the Idaho Department of Reclamation to pump water from the well before-mentioned (Stewart Well #1) in Section 7, is in the name of Reid Stewart; that, in fact, a water right has been established to irrigate up to as much as 200 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ and E $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 18, T. 11 S., R. 37 E. This established right is to divert up to as much as an additional 4.0 c.f.s. from this well. The license for this right has not been issued, pending the decision of the Ground-Water Board.

The Board finds that this license, when issued, should be limited to the actual amount diverted and used prior to the time that the proof of beneficial use of the waters was submitted and the lands irrigated should likewise be limited. The priority date of this second right on the well, referred to in the Ground-Water Board hearing as the Reid Stewart Well #1, should be September 14, 1962.

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MAR 16 2006

B. GROUND-WATER HYDROLOGY

The Board finds that the ground water in the area of the Reisner Spring, the Alice Denny Well and the Stewart Well is of a common source. Hydrologic data, dye tests, and the testimony by scientists studying the occurrence and movement of the water has led the Board to conclude that this is a common source. The water is flowing from the southeast to the northwest, and the aquifers encountered in the Stewart Well and the Alice Denny Well, and other wells in the general area, are the same aquifers that carry the water that issues at the Reisner Springs. The Reisner Spring area represents a natural overflow to the ground-water system and the amount of discharge from the springs is very sensitive to small water-level changes in the aquifer.

The Ground-Water Board finds from evidence and testimony that the flow of the Reisner Springs has decreased over the years. The Ground-Water Board determines that the decrease in flow has been brought about by at least three factors:

I. The flow of the springs varies to a certain extent seasonally and from season to season, as precipitation varies. Precipitation is one of the sources of recharge to the aquifer and therefore to the springs.

II. The spring flow has decreased because of reduction in surface-water irrigations in the area, starting back at least as early as 1941 and continuing to the present. Most of the surface water irrigation on the bench lands above the spring level has been with waters imported into the area from the Portneuf River by the Portneuf-Marsh Valley Canal. Some of the water from this source percolated down to the aquifer and recharged the aquifer, hence adding to the flow of the spring. Stopping of this irrigation practice has thereby decreased the flow of the spring. Both the claimants and the respondents, as well as others in the area, have stopped their use of these surface waters over the years.

III. The Ground-Water Board finds that the pumping of the Stewart Well and several other wells in the immediate region has taken water from the aquifer and thereby reduced the discharge of the spring. The Board further finds, however, that there was not sufficient evidence introduced by the claimants in the case, nor was there sufficient evidence presented at a later date by the Idaho Department of Reclamation, for the Board to determine whether the effect of the Stewart Well alone was appreciable and could be measured.

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MAR 16 2006

The Ground-Water Board finds that the testimony given demonstrates that the pumping of the Stewart Well has, to some undetermined extent, lowered the water in the Alice Denny Well and thereby reduced the production of the well owned by claimants Alice Denny and Julia Blanchard. Both of these wells are diverting water from the same aquifer system. The Board further finds, however, that the construction of the well referred to as the Alice Denny Well is such that only the top few feet of water in this aquifer are available to the pump. Lowering of the water levels in the aquifer only a portion of a foot can affect this well, and minimum drawdown caused by pumping of the Alice Denny Well itself is significant to the production of the well.

CONCLUSIONS OF LAW

The Ground-Water Board finds that, in the case of the alleged interference of the Stewart Well with the Reisner Spring, the burden of proof of the interference must rest with the accusing party. The Ground-Water Board finds that, with the data submitted to it by the parties and the additional data supplied by the Idaho Department of Reclamation, it is not able to determine whether or not the damages alleged by the claimants are significant and real; therefore, the Board is not able to award any relief to the claimants. Because of this, the Board finds that the claimants have failed to make the showing to the Board that is required of them as accusing parties, if they are to prevail in the matter.

The Board also finds that the development of the well by the claimants Alice Denny and Julia Blanchard does not represent a reasonable effort to develop the ground-water resources of the aquifer. With respect to the claim of the well owners, the Board wishes to cite a portion of Section 42-226 of the Idaho Code:

"...and, while the doctrine of 'first in time is first in right' is recognized, a reasonable exercise of this right shall not block full economic development of underground water resources, but early appropriators of underground water shall be protected in the maintenance of reasonable ground water pumping levels as may be established by the state reclamation engineer as herein provided."

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters herein its order as follows:

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MAR 16 2006

1. That the respondent Reid Stewart be allowed to continue to pump his well within the rights set forth in the Findings of Fact, without regard to interference with the Reisner Springs until such time as the right holders in the spring have conclusively demonstrated the extent of the alleged interference with their rights specified in these findings before a court of law or a Local Ground-Water Board, and/or until the claimants Julia Blanchard and Alice Denny have proceeded with reasonable diligence and effort to develop the ground-water resources under their property and demonstrated this before a court of law or a Local Ground-Water Board.

2. That the respondent Reid Stewart immediately proceed with the installation of a measuring device on his system that will allow the Idaho Department of Reclamation within the next 60 days to measure the total discharge of his well and observe the irrigation from this well. The water rights established under Water License No. 25728 and Application No. 30723 should be limited to the amount of water actually being produced, and that he should not be allowed to irrigate lands in addition to those described in his licensed right or in addition to land actually irrigated prior to the submission of proof under the pending license. The measuring device is to be accessible for inspection by the Idaho Department of Reclamation at any reasonable time.

3. That within 90 days the claimants, Herman Reisner, Thelma Reisner Ramey, John Hart, Fred Hart, and Keith Bennett, proceed to install a measuring device on the springs that is of a standard type to be approved by the Department of Reclamation, and which can measure the amount of water issuing from the springs. Said measuring device is to be accessible for inspection by the Idaho Department of Reclamation at any reasonable time.

4. That Alice Denny and Julia Blanchard be allowed to continue to pump their well in a manner that they see fit, within the rights set forth here, but should not be allowed to produce water from a deepened or improved well until such time as a measuring device approved by the Idaho Department of Reclamation is installed so that the actual production of their improved well can be monitored.

SCANNED

MAR 16 2006

Dated this 1st day of July, 1970.

LOCAL GROUND-WATER BOARD FOR BANNOCK COUNTY

Jack A. Barnett
Jack A. Barnett

Marshall K. Corbett
Marshall K. Corbett

Boyd Gunter
Boyd Gunter

SCANNED

MAR 16 2006

JUN 04 2001

Log for claim A29-04112

Spatial Dynamics TWB

5/24/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
11s37e	6	SWNE	7	9.8	
11s37e	6	NWSE	17	12	
Totals:			24	21.8	

Pipe / ditch / drop pipe / by House

N42	30	7.1	4825
W112	10	49.0	

WOODEN
BOX

N42	29	38.0
W112	10	41.5
		4819

Ditch starts
concrete box

30hp was in
ditch

pump in creek
60hp
US Elec Motor

N42	29	46.1	4798
W112	10	35.5	

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that John William Hart &/or Jennie Hart
(Name of Claimant)

Rt. #2, Downey Idaho 83234 Telephone No. 897-5743
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use) October 29, 1912

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Unnamed Spring tributary to Peck Creek
- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Quantity	(cfs, gpd, AFA)	Use	(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive)	
				(Mo., Day)	(Mo., Day)
Quantity <u>0.5</u>		Use <u>Irrigation</u>		Period of Use From <u>April 1</u>	To <u>Nov. 1</u>
Quantity _____		Use _____		Period of Use From _____	To _____
Quantity _____		Use _____		Period of Use From _____	To _____
Quantity _____		Use _____		Period of Use From _____	To _____
Quantity <u>0.5</u>		Use _____		Period of Use From _____	To _____

- (4) 0.5 TOTAL QUANTITY USED.

(cfs, gpd, AFA)

- (5) A) Point of diversion: (Location of point where water is diverted from its source)
NW ¼ SE ¼, Sec. 6 Twp. 11S Rge. 37E B.M., County of Bannock
Additional points of diversion: _____

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Earth fill dam and open ditch

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
<u>11S</u>	<u>37E</u>	<u>6</u>			<u>7</u>											<u>10</u>			<u>17</u>

No. of acres 17

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: _____

NOTE: Include here the type and number of stock watered: _____

- (7) If you are claiming water as a member of an organization, list name of organization: _____

MICROFILMED

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	JOHN WILLIAM HART	10/29/1912	IRRIGATION	04-01 11-01	0.500 CFS	
C	JENNIE HART 2435 E HAWKINS DOWNEY ID 83234 (208) 897-5743					
				TOTAL DIVERSION: CONSUMPTIVE USE:	0.500 CFS	42.50 AFA

Stage: STATUTORY CLAIM

BANNOCK County

				NE				NW				SW				SE										
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:			
			:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM
11S	37E	6	:				07	:					:					:						:		
			:					:					:					:		10				:	17.0	
			:					:					:					:		TOTAL ACRES			:	17.0		

Other Water Rights Listing Overlapping Place(s) of Use:
A29-04039 A29-04320

Audit: 05/22/90 DCARLSON 07/19/94 THOMPSON 03/29/95 POST-STD

JUN 04 2001

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: A29-04112
Date Received: 4/26/1990
Receipt No: E013753
Received By: DC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JOHN WILLIAM HART 208-897-5743
Address: 2435 E. HAWKINS
DOWNEY, ID 83234

AND/OR

Name: JENNIE HART 208-897-5743
Address: 2435 E. HAWKINS
DOWNEY, ID 83234

2. Date of Priority: OCT 29, 1912

3. Source: SPRING Trib. to: PECK CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
11S	37E	6	NW	SE			BANNOCK

5. Description of diverting works:
DAM & DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.500		

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

8. Total consumptive use is 42.5 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

A2904112



10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
11S	37E	6	SW	NE		IRR	7.0
			NW	SE		IRR	10.0
Section Acres							17.0
Total Acres							17.0

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 _____ 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: _____

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
A29-04112	11S	37E	6		NW	SE			BANNOCK		

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
A29-04111 NONE

WR RECORDS IN SAME 40 ACRE TRACT

29-04039
29-04111

SOURCE: SPRING

TRIB: PECK CREEK

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
29-04112	11S	37E	6		NW	SE			BANNOCK		

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX

29-04039
29-04111

A29-04111 NONE

SOURCE: SPRING

TRIB: PECK CREEK

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

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

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

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

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

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

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

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

I. HOW WAS THE POD AND SOURCE VERIFIED?

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

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

OTHER (DESCRIBE IN NOTES BELOW)

NOTES: _____

=====

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

TWP. 11S	RGE. 37E	SEC. 6	1/4	1/4 NW	1/4 SE	LOT	POD FLAG	COUNTY BANNOCK	DIVERSION NAME	DIVERSION NBR
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____

SOURCE: SPRING

TRIB: PECK CREEK

REVIEWED BY: _____ DATE: _____

=====

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

A. ROOT WATER RIGHT NUMBERS: A29-04112

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
11S	37E	6	SW	NE		HART, JOHN WILLIAM	A29-04112 / 7.0	29-04112 / 7.0	39.0		
			SW	NE		BENNETT FARMS	A29-04039 / 21.0	29-04039 / 40.0			
			SW	NE		BENNETT FARMS	A29-04320 / 5.0	29-04320 / 5.0			
11S	37E	6	NW	SE		HART, JOHN WILLIAM	A29-04112 / 10.0	29-04112 / 10.0	36.0		

ADDITIONAL POU FOUND

TOTAL ACRES A29-04112 17.00 17.00 75.00

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
A29-04112	SPRING	HART, JOHN WILLIAM	0.500	0.029		
A29-04039	PECK CREEK	BENNETT FARMS	0.780	0.020		
A29-04320	UNNAMED STREAM	BENNETT FARMS	0.500	0.020		

NO RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION

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

Y() N()

* IF YES, COMPLETE OVERLAP REVIEW:

OTHER RIGHTS LISTED IN CLAIM: 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()

67⁰⁰

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 A29-04112
Date Received 4-26-90
Receipt Number 2013753

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) John William Hart &/or Jennie Hart Phone (209) 897-5743
Mailing Address 2435 E. Hawkins Downey, Ida Zip 83234

2. Date of Priority (Only one (1) per claim) Oct 29, 1912

3. Source of water supply (a) Unnamed Spring
which is tributary to (b) Peck Creek

4. a. Location of existing point of diversion is: Township 11S Range 37E Section 6,
NW 1/4 of SE 1/4 of 1/4, Govt. Lot, B.M., County of Bannock

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township 11S Range 37E Section 6, NW 1/4 of SE 1/4 of 1/4,
Govt. Lot B.M., County of Bannock

ending point is: Township 11S Range 37E Section 6, SW 1/4 of NE 1/4 of
1/4, Govt. Lot B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. Earth Fill Dam and

Open Ditch

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6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from April to Nov amount 0.5 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.5 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
11S	37E	6			7											10			17

Total number of acres irrigated 17

11. In which county (ies) are lands listed above as place of use located? Bannock

12. Do you own the property listed above as place of use? Yes ☒ No ☐
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
_____ or None (X)

14. Remarks:

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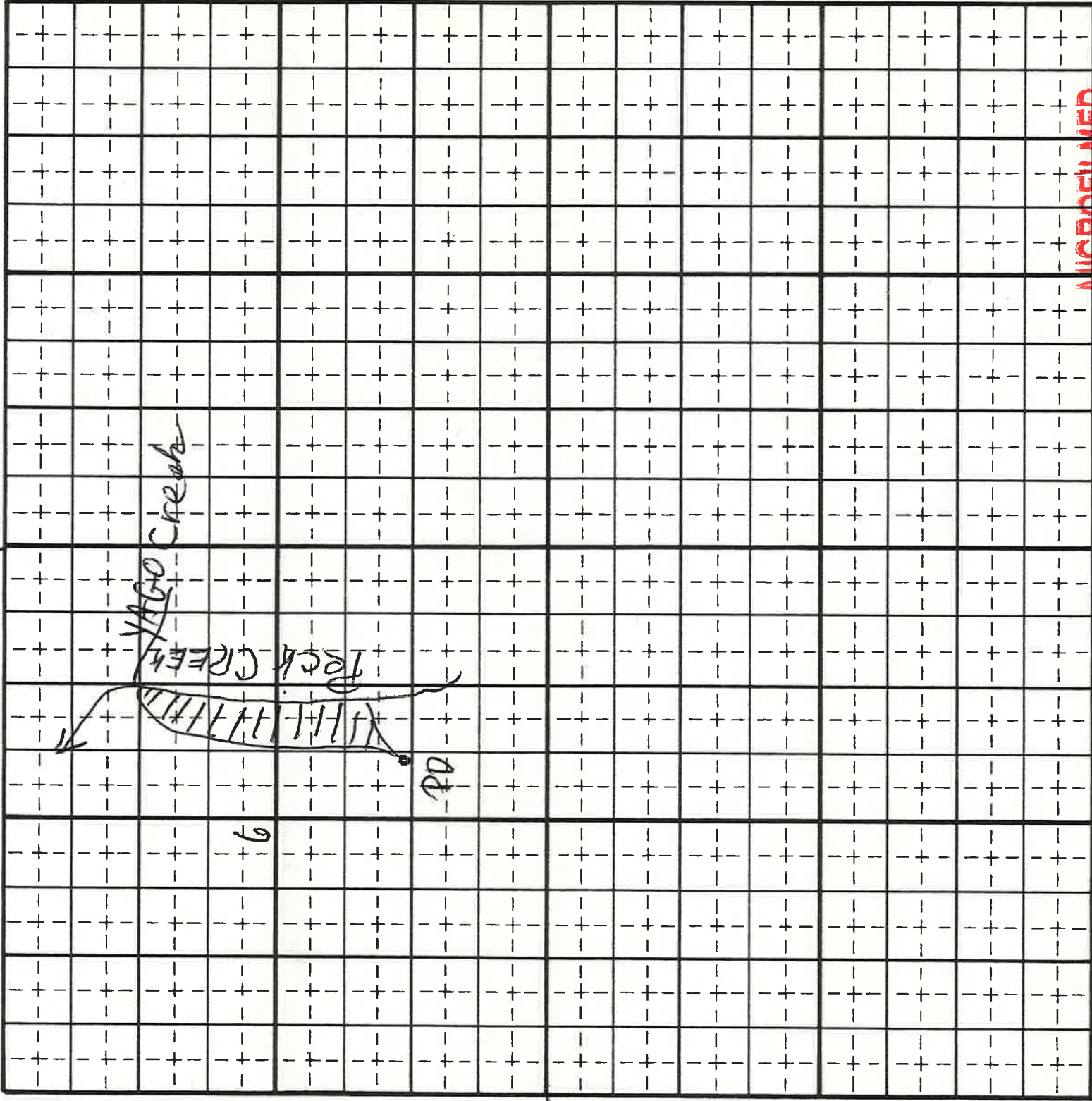
Last Name _____ Ident No. _____

Copies: White -State, Yellow-Claimant

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

Scale: 2 inches equals 1 mile

R 37 E



HART

NOV 13 1992

Last Name 29-4112 Ident No. 29-4112

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License X Permit _____

Decree _____

If applicable provide IDWR Water Right Number 29-4112

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

16. Signature (s)

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

Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____

Date 4-25-90

Date 4-26-90

For Organizations: I do solemnly swear or affirm that I am _____

Title _____

of _____, that I have signed the foregoing

Organization

document in the space below as _____ of _____

Title

Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____

Date _____

State of Idaho/or _____)

County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 26 day of April, 19 90

SEAL

Notary Public _____

Residing at 206 Falls Dr.

My Commission Expires 22 Aug 1994

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

MICROFILMED

NOV 13 1992

Last Name _____ Ident. Number _____

Copies White-State, Yellow-Claimant