

08/16/2001

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

RIGHT NUMBER: 29-10744

NAME AND ADDRESS: GW BEAN FAMILY TRUST
5675 S 5TH AVE
POCATELLO, ID 83204

DALE B KIRKHAM
PO BOX 4026
POCATELLO, ID 83201

SOURCE: GROUND WATER

QUANTITY: 0.04 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED
2,500 GALLONS PER DAY.

PRIORITY DATE: 06/01/1948

POINT OF DIVERSION: T07S R35E S8 NESW Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
COMMERCIAL	01-01 12-31	0.04 CFS

PLACE OF USE:

COMMERCIAL Within BANNOCK County
T07S R35E S8 NESW

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.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

PARCEL NO: R4013007302

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-10744 V1

WATER RIGHT NUMBER: 29-10744 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DALE B KIRKHAM PO BOX 4026 POCATELLO, ID 83201 (208)232-6886
Original Owner	W ALLAN SONIUS 2467 FAIRWAY DR POCATELLO, ID 83201 (208)237-6112
Current Owner	GW BEAN FAMILY TRUST 5675 S 5TH AVE POCATELLO, ID 83204

Priority Date: 06/01/1948

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
COMMERCIAL	01/01 to 12/31	0.040 CFS	
	<u>Total Diversion:</u>	0.040 CFS	

Location of Point(s) of Diversion

GROUND WATER	NE1/4SW1/4	Sec. 8, Twp 07S, Rge 35E, B.M.
BANNOCK County		

Place of UseCOMMERCIAL Within BANNOCK County

T07S R35E S08 NESW

Total Acres: 0

Conditions of Approval:

1. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
2. N11 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
3. N06 THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 2,500 GALLONS PER DAY.

Remarks:

1. Explanatory PARCEL NO: R4013007302

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 29-10744 V1

Comments:

1. csaxton 8/14/01 Priority Evidence

Comment: Priority evidence provided even though this right uses less than 2500 gallons per day.

2. csaxton 8/16/01 Diversion Rate

Comment: Diversion Rate Reduced. Spoke with Claimant on 8/15/01 and he said that the only reason he claimed 0.08 cfs was because that is what he was told to do. He confirmed that his wells do not have the capacity to pump that much.

Dates and Other Information:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Defendant:

Plaintiff:

Civil Case Number:

Judicial District:

Notice of Error Flag:

State or Federal: S

Owner Name Connector: OR

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Contacts	8/14/01 11:17:47 AM	csaxton			Active
Contacts	8/14/01 11:18:11 AM	csaxton			Active
Priority Date	8/14/01 11:22:00 AM	csaxton			Active
POD	8/14/01 11:22:13 AM	csaxton			Active
Source	8/14/01 11:23:12 AM	csaxton			Active
POU	8/14/01 11:26:31 AM	csaxton			Active
Use	8/14/01 11:27:55 AM	csaxton			Active
Season	8/14/01 11:28:20 AM	csaxton			Active
Quantity	8/14/01 12:32:14 PM	csaxton			Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
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IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-10744 V1

Season	8/14/01 11:28:18 AM	csaxton	1. (YES) The basis of claim is beneficial use. 4. (NO) There is not evidence that there has been a change to the period of use. 9. (YES) The file contains all the necessary information to verify the period of use. 11. (NO) The basis of is not a decree, license, or a transferred beneficial use right that has had the period of use administratively determined. 13. (NO) Irrigation is not the purposed use. Comment for 13: Commercial Year Round. 15. (NO) Period of Use remark was not required. 16. (NO) Period of Use condition was not required.
Contacts	8/14/01 11:17:38 AM	csaxton	1. Appointment has not been scheduled. Comment for 1: Met with Kirk on several occasions.
Contacts	8/14/01 11:17:54 AM	csaxton	1. Appointment has not been scheduled. Comment for 1: Spoke with Kirk on several occasions.
Priority Date	8/14/01 11:21:58 AM	csaxton	1. (NO) There has not been a later court decree of the water right(s) from the water source. 4. (YES) The basis of claim is beneficial use. 4b. (NO) The priority date was not claimed after the date a permit was required for the source and water use. 10. (YES) The claim file contains sufficient evidence of priority date. 12. (YES) The claim is recommended. 13. (YES) The claim is coded correctly. 14. (NO) Priority remark was not required. 15. (NO) Priority condition was not required.
POD	8/14/01 11:22:11 AM	csaxton	1. (YES) The basis is beneficial use. 4. (NO) There is not evidence that there has been a change in the Point of Diversion. 6. (YES) The file contains all the necessary information to verify the POD. 8. (NO) Point of Diversion remark was not required. 9. (NO) Point of Diversion condition was not required.
Source	8/14/01 11:23:10 AM	csaxton	1. (YES) The basis is beneficial use. 4. (NO) There is not evidence that there has been a change in the Source. 7. (YES) The file contains all of the necessary information to verify the source. 8. (NO) The source is not surface water. 10. (NO) Source remark was not required. 11. (NO) Source condition was not required.
POU	8/14/01 11:26:28 AM	csaxton	1. (YES) The POU is required. 2. (YES) The basis of claim is beneficial use. 5. (NO) There is no evidence that there has been a change in the POU. 9. (YES) The file contains all the necessary information to verify the POU. 12. (NO) POU remark was not required. 13. (NO) POU condition was not required.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-10744 V1

Use	8/14/01 11:27:53 AM	csaxton	1. (YES) The basis of claim is beneficial use. 4. (NO) There is not evidence that there has been a change to the purpose of use. 9. (YES) The file contains all the necessary information to verify the purpose of use. 11. (NO) Purpose of Use remark was not required. 12. (NO) Purpose of Use condition was not required.
Quantity	8/14/01 12:32:12 PM	csaxton	1. (YES) The basis of claim is beneficial use. 5. (NO) A flow measurement was not required. Comment for 5: Less than 2500 gallons per day. 6. (YES) The source is ground water and the purpose of use requires a diversion volume limit. 8. (NO) Irrigation is not a purpose of use. 9. (NO) Quantity remark was not required. 10. (NO) Quantity condition was not required.

02/25/2003

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: 29-10744

DALE B KIRKHAM
PO BOX 4026
POCATELLO ID 83201
Telephone Number: (208) 232-6886

G W BEAN FAMILY TRUST
5675 S 5TH AVE
POCATELLO ID 83204
Telephone Number: (208) 239-0667

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

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

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

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

DATE: 3-31-03 SIGNATURE: MW Bean
Please print your name: Michael W. Bean.

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

RECEIVED
APR 9 2003
Department of Water Resources
Eastern Region

02/25/2003

NOTICE OF ERROR
REPLY

E Clerk

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.

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Telephone Number: (208) 239-0667

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

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

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

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

DATE:

Feb. 25, 03

SIGNATURE:

Dale B. Kirkham Jr
DALE B. KIRKHAM JR

Please print your name:

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

DELOG CS
7/27/01
OK
RECEIVED
JUL 27 2001

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

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

1. 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
	29-10744				

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

A. The appropriate **FILING FEE**. See instructions for fee amounts. *NO Fee*

☒ 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)

W Allan Sonius

4. ☒ New Owner/Claimant(s)

Name Connector (Check one): [] and, [] or, [] and/or

☒ New Mailing Address

5675 50 5TH AVE.

☒ City, State and ZIP Code

POCATELLO, ID. 83204

☒ New Telephone Number

208 239-0667

5. Date you acquired the property

11/1/99 Appx

Form 42-228642-1-07/01 July, 2000

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the 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. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest DWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation		
Stock		
Domestic		
Other		
Total		

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation		
Stock		
Domestic		
Other		
Total		

7. ☒ Signature of New Owner(s) or Claimant(s)
(include title if applicable)

[Handwritten Signature]

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish DWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____ Date _____ Fee _____
 Reprinted by _____ Date _____ Receipt No. _____
 Processed by _____ AJ Date _____ WR _____ Date _____



A Pioneer Company

PIONEER TITLE COMPANY
OF BANNOCK COUNTY135 North Arthur Avenue / P.O. Box 1057 / Pocatello, Idaho 83204 / Telephone (208) 233-9595
FAX (208) 234-0621The G.W. Bean Family Trust
4375 Old Highway 91
Pocatello, ID 83201

November 22, 1999

Re: File No. 54640TA-BKN
Policy No. SV 3080783

Dear Sirs:

Enclosed is your Original Recorded Warranty Deed and Title Insurance Policy. These documents contain important information about the property that you have just purchased. The Warranty Deed will need to be taken to the County Assessors Office to apply for the homeowners exemption. The policy is your guarantee of ownership, please read it and retain it with your other valuable papers.

A complete and permanent file of the records concerning your transaction will be maintained in our office under the assigned Policy and File number. These records will assure prompt processing of future work and save much valuable time should you wish to sell or obtain a loan on your property.

We appreciate the opportunity of serving you and will be glad to assist you in any way in regard to your future escrow or title service needs.

Sincerely,


Bobette Norton
Title Officer

"THANK YOU" for the privilege of serving you. Please remember to designate Pioneer Title Company in your next title or escrow closing transaction.

Parcel # 546401K = LK - Bldg
R402007302



A Pioneer Company

PIONEER TITLE COMPANY
OF BANNOCK COUNTY

135 North Arthur Avenue / P.O. Box 1057 / Pocatello, Idaho 83204 / Telephone (208) 233-9595

For Value Received

W. ALAN SONTUS AND DRENA B. SONTUS, HUSBAND AND WIFE

hereinafter referred to as Grantor, does hereby grant, bargain, sell, and convey unto

THE G.W. BEAN FAMILY TRUST, UTAD 4/1/91 AS AMENDED 11/7/97

hereinafter referred to as Grantee, whose current address is

4375 OLD HIGHWAY 91, POCA TELLO, ID 83201

the following described premises, to-wit:

EXHIBIT A ATTACHED

To HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that 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: November 17, 1999.

W. Alan Sonius
W. ALAN SONIUS

Drena B. Sonius
DRENA B. SONIUS

STATE OF IDAHO)
COUNTY OF BANNOCK)

On This 17 day of November, in the year 1999, before me, a Notary Public in and for said State, personally appeared W. ALAN SONIUS AND DRENA B. SONIUS, 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.



Notary Public of Idaho
Residing at BOGATELLO, IDAHO
Commission expires: 08-29-04 2-27-2001

99022457
NO. _____
RECORDED AT REQUEST OF
PIONEER TITLE
*99 NOV 18 PM 1 40
OFFICIAL RECORD BOOK NO. _____
BANKHOCK COUNTY IDAHO
LARRY W. CHAN RECORDER
FEE 6.00 DEPUTY 6

99022457

EXHIBIT A

The South 202 feet, more or less, of the following described parcel:

Commencing at the center of Section 8, Township 7 South, Range 35 East, Boise Meridian, Bannock County, Idaho; thence South $89^{\circ}48'$ West 1191.34 feet along the latitudinal centerline of said Section 8 to the intersection of said line with the Southwesterly right of way line of U.S. Highway 30 North, the place of beginning;

Thence in a Southeasterly direction along said right of way around a curve to the left having a central angle of $4^{\circ}52'$ and a radius of 5730.0 feet, a distance of 81.90 feet; thence South $47^{\circ}38'$ East a distance of 631.38 feet along said right of way line; thence South $42^{\circ}22'$ West a distance of 521.05 feet; thence North $47^{\circ}38'$ West a distance of 1281.63 feet to the intersection with the latitudinal centerline of said Section 8;

Thence North $89^{\circ}48'$ East along said centerline to the intersection with the Southwesterly right of way line of U.S. Highway 30 North a distance of 771.49 feet, more or less, to the point of beginning.



WESTERN WHOLESALE SUPPLY, INC.

POCATELLO • IDAHO FALLS

ACCOUSTIC TILE • OVERHEAD DOORS • DRYWALL • STEEL STUDS

7-25-01

Mr. Saxton,

Enclosed is the signed Notice
of Water Right Ownership change form.
Thank you for all your
assistance.

Best Regards,
Mannul Valencia

July 13, 2001

WESTERN WHOLESALE SUPPLY CO
ATTN: MANNY VALENCIA
5675 S 5TH AVENUE
POCATELLO ID 83204

RE: Notice of Change of Water Right Ownership

Dear Mr. Valencia,

I received the copy of the deed submitted that shows the change of ownership from Sonius to The GW Bean Family Trust.

If you are a trustee of the GW Bean Family Trust, and the water right should be in the trust's name, simply complete the enclosed Notice of Change of Water Right Ownership. I have highlighted in yellow the areas of the form that need to be completed.

If The GW Bean Family Trust is a previous owner, and you are now the individual owner of the water right, you need to complete the Notice of Change of Water Right ownership form. Please return it to this office with the deed that indicates conveyance of the property from The GW Bean Family Trust to yourself.

I apologize for the confusion on this manner. Please feel free to contact me if you have any questions.

Respectfully Submitted,

Craig L. Saxton
Water Resource Agent
Adjudication Bureau

Dale B. Kirkham
Dale B. "Kirk" Kirkham Jr.
Box 4026
Pocatello, Idaho
83201

RECEIVED

JUN 14 2001

Department of Water Resources
Eastern Region

Craig L. Saxton
Water Resource Agent
Adjudication Bureau
Department of Water Resources
900 N. Skyline Dr., Suite A
Idaho Falls, Idaho
83402-1718

Dear Craig,

June 11, 2001

We are writing you concerning water right no. 29-10744, known to us as a shared commercial well which currently is located at 5675 S. 5th Ave. or Western Wholesale Supply.

This diversion was done when the building was built in 1948 and not 1942 as the original application states.

Willard Stedman, a long time resident of the area and lived in the house to the south of the building in question always told us that the quonset huts or buildings were World War 2 surplus buildings. Willard past away 3 years ago.

Dale Kirkham has owned property in the area since 1959. (I am enclosing a copy of a purchase and sale agreement to proof his time in the area.) He said that there were three original commercial structures built in the late 40's that were quonset type of construction. Dale owned two of them. Two were built and used as commercial buildings and one was a house. The building across the street which Dale Kirkham bought was an tractor and implement dealer and was ran as a branch store from a Soda Springs firm. Dale Kirkham ran a salvage yard directly across the street from the Western Wholesale building for 20 years and the then sold the property to the county. The county tore down the two quonset type buildings that Dale had owned.

The first user of the building was used by Layne Pump company and catered to the farm business. The were in the building for many years.

When the freeway was built in 1965 Rogers construction bought the Western Wholesale building, and build a new cinder block shop and used the well from the old quonset for water for the new building the built.

Mr. Sonius bought the building was told by several people that came into his place of business that the quonset buildings were surplus World War 2 buildings.

Dale still owns property across the street known as Meridale park and also purchased the cinder block building that Rogers Construction and still owns it as well. At the time he first started business in the area, the three quonset style buildings, Frontier truck stop and two other gas stations, and the old owl club bar, and the motel that was next door to Western's building and Willard Stedman's house to the south of the motel, were the only structures in

the area. They were using those quonset buildings as promotional buildings to try and sell them in the area, and the Western Wholesale building was built first. The original dome shaped quonset building has since been covered by a modern gabled roofed building, but the old original quonset is still there covered completely by this new building and is still used today.

The well at the site was later shared with another building that was built by Bob Rost just north of the Western building.

In our research of this property, we have determined that the 1942 priority date is not correct, and we like to submit for a priority date of 6/1/1948 for water right no. 29-10744.

Sincerely,

Dale and Kirk Kirkham

The block contains two handwritten signatures. The first signature, 'Dale B. Kirkham', is written in a cursive style. The second signature, 'Kirk Kirkham', is also in cursive and appears to be written below the first one.

P.S. Jennifer from your office has also sent to Western Wholesale an application to change the ownership from Mr. Sonius to Western.

Parcel #
R4013007302

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report

05/22/2001

WATER RIGHT NO. 29-10744

Owner Type
Current Owner

Name and Address
W ALLAN SONIUS
2467 FAIRWAY DR
POCATELLO, ID 83201
(208)237-6112

Current Owner

DALE B KIRKHAM
PO BOX 4026
POCATELLO, ID 83201
(208)232-6886

Priority Date: 06/01/1942
Basis: Beneficial Use
Status: Active

Source
GROUND WATER

Tributary to

Beneficial Use
COMMERCIAL

From
1/01

To
12/31

Diversion Rate
0.08 CFS

Volume

Subuse Code

Total Diversion

0.08 CFS

Location of Point(s) of Diversion:

GROUND WATER

NESW

Sec. 08

Township 07S

Range 35E

BANNOCK County

Place(s) of use:

Place of Use Legal Description: COMMERCIAL

BANNOCK County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
07S	35E	8		NESW										

Remarks:

1. General

THIS FILING IS FOR TWO OF THE THREE COMMERCIAL BUILDINGS THAT ARE ON THIS WELL. THE THIRD COMMERCIAL BUILDING WAS ADDED IN ABOUT 1983 AND HAS MADE A SEPARATE FILING.

WATER USE FOR THESE TWO COMMERCIAL BUSINESSES IS FOR LESS THAN 2500 GAL PER DAY.

Dates:

Licensed Date:
Claim Received Date:
Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:

Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Other Information:

Receipt Number(s): E012536
State or Federal: S
Owner Name Connector: OR

Water Right 29-10744

ALLAN SONIUS - WESTERN

941-2000

ESCROW AGREEMENT

To: LARGILLIERE COMPANY BANKERS
SODA SPRINGS, IDAHO

WHEREAS, HARRY W. RHEAD AND ORA MAE RHEAD, OF SODA SPRINGS, IDAHO, HAVE ENTERED INTO A REAL ESTATE AGREEMENT WITH DALE B. KIRKHAM AND BODELL S. KIRKHAM, OF POCA TELLO, IDAHO, WHEREBY THE RHEADS ARE SELLING CERTAIN PROPERTY IN BANNOCK COUNTY, IDAHO, TO THE KIRKHAMS, AND

WHEREAS, HARRY W. RHEAD AND ORA MAE RHEAD HAVE SOLD AND ASSIGNED THEIR INTEREST IN SAID CONTRACT TO ONE JOHN W. LAURITSON, OF SODA SPRINGS, IDAHO, AND

WHEREAS, THERE ARE THREE (3) SEPARATE PARTIES (AND THEIR SPOUSES) TO THIS ESCROW AGREEMENT, TO-WIT:

- (1) THE VENDORS, HARRY W. RHEAD AND WIFE;
- (2) THE VENDEES, DALE B. KIRKHAM AND WIFE;
- (3) THE ASSIGNEE OF VENDOR, JOHN W. LAURITSON;

NOW, THEREFORE, THE UNDERSIGNED VENDORS, VENDEES AND ASSIGNEE HERewith DELIVER TO YOU, THE LARGILLIERE COMPANY BANKERS, OF SODA SPRINGS, IDAHO, IN ESCROW THE DOCUMENTS AND PROPERTY HEREINAFTER DESCRIBED TO BE HELD AND DISPOSED OF BY YOU IN ACCORDANCE WITH THE INSTRUCTIONS AND UPON THE TERMS HEREIN SET FORTH, AND NOT OTHERWISE, TO ALL OF WHICH THE UNDERSIGNED AND THE BANK HEREBY AGREE. SAID DOCUMENTS AND PROPERTY ARE DESCRIBED AS FOLLOWS:

REAL PROPERTY:

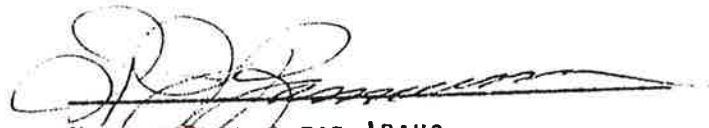
COMMENCING AT THE WEST 1/16 CORNER OF SEC. 8, T 7 S, R. 35 EBM, THENCE N. 0°-05' E. ALONG THE WEST 1/16 LINE OF THE SAID SEC. 8, 235.1 FEET TO THE NORTHEASTERLY RIGHT OF WAY LINE OF THE OLD OREGON TRAIL HIGHWAY, THE POINT OF BEGINNING; THENCE NORTHWESTERLY ALONG SAID RIGHT OF WAY WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 5,690 FEET AND A CENTRAL ANGLE OF 4°-52', 23.6 FEET; THENCE N. 59°-34' E. 940 FEET ON A LINE PARALLEL TO AND 50 FEET SOUTHERLY FROM, MEASURED AT RIGHT ANGLES TO THE C. L. YELTON PROPERTY LINE, THENCE S. 44°-32' E. 407.7 FEET TO THE NORTHERLY CORNER OF MERRIDELL PARK; THENCE S. 42°-58' W. ALONG THE NORTHWESTERLY LINE OF MERRIDELL PARK 300 FEET; THENCE S. 59°-34' W. 615 FEET TO THE NORTHEASTERLY RIGHT OF WAY LINE OF THE OLD OREGON TRAIL HIGHWAY; THENCE IN A NORTHWESTERLY DIRECTION ALONG SAID RIGHT OF WAY LINE 141.96

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that
ble

STATE OF IDAHO)
 : ss.
COUNTY OF CARIBOU)

ON THIS 29TH DAY OF APRIL, 1959, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED HARRY W. RHEAD, DALE B. KIRKHAM, BODELL S. KIRKHAM, JOHN W. LAURITSON AND VIOLA LAURITSON, KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL, THE DAY AND YEAR FIRST IN THIS CERTIFICATE WRITTEN.


NOTARY PUBLIC FOR IDAHO
RESIDING AT SODA SPRINGS, IDAHO

(SEAL)

THE UNDERSIGNED BANK, LARGILLIERE COMPANY BANKERS, OF SODA SPRINGS, IDAHO, HEREBY ACKNOWLEDGES RECEIPT OF THE DOCUMENTS AND PROPERTY DESCRIBED IN THE FOREGOING AGREEMENT, AND AGREES TO HOLD AND DISPOSE OF THE SAME IN ACCORDANCE WITH THE INSTRUCTIONS AND UPON THE TERMS AND CONDITIONS ABOVE SET FORTH.



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

June 14, 2001

MIKE BEAU
WESTERN WHOLESALE SUPPLY
3833 S YELLOWSTONE HWY
IDAHO FALLS ID 83402

RE: CHANGE IN OWNERSHIP FOR A29-10744

Dear Mr. Beau:

It has come to our attention that you may have recently purchased a tract of land in Bannock County. The property to which I am referring was most recently owned by W Allan Sonius and still currently owned by Dale Kirkham. The legal description is as follows:

T07S R35E S8 NE1/4 SW1/4

This property was filed on in the Snake River Basin Adjudication (SRBA), and we recommend that if, in fact, you now own the property in question, you file a "Change in Ownership" with this department in order that we may send all further correspondence to the appropriate owner(s).

Enclosed is a Change in Ownership form. Please fill out the form completely, sign and date it and return it to my attention along with a "copy" of your Warranty Deed and legal description of the property you have purchased.

If you have any questions regarding this matter, please call 525-7161.

Respectfully submitted,

Cheri Vandermeulen
Records Clerk

Enclosure(s)

May 22, 2001

29-10744
W ALLAN SONIUS
2467 FAIRWAY DR
POCATELLO ID 83201

RE: EVIDENCE OF PRIORITY

Dear Claimant (s):

The Idaho Department of Water Resources has recently begun its water right review in Basin 29. The Notice(s) of Claim identified with the number shown above in the "address" label and at the "end" of this letter has been filed in the Snake River Basin Adjudication (SRBA). The Notice indicates water usage is based on "Beneficial Use". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Notice. The date the water was first put to use, known as the priority date, has not been confirmed by a license, Decree, or Permit. For this reason, proof must be provided supporting the priority date. As the claimant, you are responsible for submitting the necessary proof to support the priority date.

It is important that each element of the Notice be substantiated. For instance, regarding claims for irrigation, the evidence should tend to show that diversion works were in place, that they were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place of use on or before the claimed priority date.

For your reference, I have provided a printout of your Notice and the pamphlet entitled **"Evidence of Priority"**. The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement. While I encourage you to read the entire pamphlet, I direct your attention to the two sections entitled **"What Kind of Evidence is Required"** and **"Some examples of Documents Which May Be Evidence of the Priority Date"**.

It is our goal to recommend historical water rights within the Snake River Basin as accurately as possible. Field exams to verify other items of the Notice have been or soon will be conducted by Department personnel.

.....
The Department can not recommend the Notice be decreed by the court if no evidence of a priority date is submitted.
.....

Please submit the documentation supporting the priority date by June 22, 2001, referencing all documents with the corresponding Notice number. If you have any questions not covered by this letter or the enclosed pamphlet, please feel free to contact me at 525-7161.

Respectfully submitted,

Craig L. Saxton
Water Resource Agent
Adjudication Bureau

Enclosure: Brochure on "Evidence of Priority"
 Notice of Claim 29-10744

May 22, 2001

29-10744
DALE B KIRKHAM
PO BOX 4026
POCATELLO ID 83201

RE: EVIDENCE OF PRIORITY

Dear Claimant (s):

The Idaho Department of Water Resources has recently begun its water right review in Basin 29. The Notice(s) of Claim identified with the number shown above in the "address" label and at the "end" of this letter has been filed in the Snake River Basin Adjudication (SRBA). The Notice indicates water usage is based on "Beneficial Use". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Notice. The date the water was first put to use, known as the priority date, has not been confirmed by a license, Decree, or Permit. For this reason, proof must be provided supporting the priority date. As the claimant, you are responsible for submitting the necessary proof to support the priority date.

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It is our goal to recommend historical water rights within the Snake River Basin as accurately as possible. Field exams to verify other items of the Notice have been or soon will be conducted by Department personnel.

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The Department can not recommend the Notice be decreed by the court if no evidence of a priority date is submitted.
.....

Please submit the documentation supporting the priority date by June 22, 2001, **referencing all documents with the corresponding Notice number.** If you have any questions not covered by this letter or the enclosed pamphlet, please feel free to contact me at 525-7161.

Respectfully submitted,

Craig L. Saxton
Water Resource Agent
Adjudication Bureau

Enclosure: Brochure on "Evidence of Priority"
 Notice of Claim 29-10744

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

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

CIVIL CASE NUMBER: 39576

Ident. Number 29-10744
Date Received: 3/26/90
Receipt No: E012536
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

DALE B KIRKHAM Phone: (208)232-6886

PO BOX 4026
POCATELLO ID USA 83201

GW BEAN FAMILY TRUST Phone:

5675 S 5TH AVE
POCATELLO ID USA 83204

2. Date of Priority: 06/01/1942

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
07S	35E	8	NE SW	BANNOCK	

5. Description of diverting works:

WELL PUMP MAINLINE TO THREE COMMERCIAL BUILDINGS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
COMMERCIAL	1/01	12/31	0.08	

7. Total Quantity Appropriated is:

0.08 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07S	35E	8	NE	SW	COMMERCIAL	

11. Place of use in counties: BANNOCK

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

THIS FILING IS FOR TWO OF THE THREE COMMERCIAL BUILDINGS THAT ARE ON THIS WELL. THE THIRD COMMERCIAL BUILDING WAS ADDED IN ABOUT 1983 AND HAS MADE A SEPARATE FILING

WATER USE FOR THESE TWO COMMERCIAL BUSINESSES IS FOR LESS THAN 2500 GAL PER DAY

CHANGED OWNERSHIP PER CLAIMANT REQUEST (8/9/01 CSAXTON)

15. Basis of Claim: Beneficial Use

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: _____

For Organizations:

I do solemnly swear or affirm that I am _____ of
_____ Title
_____, that I have signed the foregoing
Organization
document in the space below as _____ of
_____ Title
_____ and that the statements contained in the
Organization
foregoing document are true and correct. _____
Signature of Authorized Agent

Title and Organization

Date

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this

of _____ 20__

Notary Public

Residing at _____

My commission Expires _____

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

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

CIVIL CASE NUMBER: 39576

Ident. Number 29-10744
Date Received: 3/26/90
Receipt No: E012536
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

DALE B KIRKHAM Phone: (208)232-6886

PO BOX 4026
POCATELLO ID USA 83201

GW BEAN FAMILY TRUST Phone:

5675 S 5TH AVE
POCATELLO ID USA 83204

2. Date of Priority: 06/01/1942

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
07S	35E	8	NE SW	BANNOCK	

5. Description of diverting works:

WELL PUMP MAINLINE TO THREE COMMERCIAL BUILDINGS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
COMMERCIAL	1/01	12/31	0.08	

7. Total Quantity Appropriated is:

0.08 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07S	35E	8	NE	SW	COMMERCIAL	

11. Place of use in counties: BANNOCK

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

THIS FILING IS FOR TWO OF THE THREE COMMERCIAL BUILDINGS THAT ARE ON THIS WELL. THE THIRD COMMERCIAL BUILDING WAS ADDED IN ABOUT 1983 AND HAS MADE A SEPARATE FILING

WATER USE FOR THESE TWO COMMERCIAL BUSINESSES IS FOR LESS THAN 2500 GAL PER DAY

CHANGED OWNERSHIP PER CLAIMANT REQUEST (8/9/01 CSAXTON)

15. Basis of Claim: Beneficial Use

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: _____

For Organizations:

I do solemnly swear or affirm that I am _____ of
_____ Title
_____, that I have signed the foregoing
Organization
document in the space below as _____ of
_____ Title
_____ and that the statements contained in the
Organization
foregoing document are true and correct. _____
Signature of Authorized Agent

Title and Organization

Date

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this

of _____ 20__

Notary Public

Residing at _____

My commission Expires _____

JUN 19 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: A29-10744

Date Received: 3/26/1990

Receipt No: E012536

Received By: Kew

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: W. ALLAN SONIUS 208-237-6112
Address: 2467 FAIRWAY DRIVE
POCATELLO, ID 83201

OR

Name: DALE B. KIRKHAM 208-232-6886
Address: P.O. BOX 4026
POCATELLO, ID 83201

2. Date of Priority: JUN 01, 1942

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07S	35E	8	NE	SW			BANNOCK

5. Description of diverting works:
WELL PUMP MAINLINE TO THREE COMMERCIAL BUILDINGS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
COMMERCIAL	01/01	12/31	0.080		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
C/TWO COMMERCIAL BUILDINGS

A29-10744

Page 1

Date: 03/26/90

A2910744



MICROFILMED

NOV 16 1992

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07S	35E	8	NE SW		COMMER	

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:

THIS FILING IS FOR TWO OF THE THREE COMMERCIAL BUILDINGS THAT ARE ON THIS WELL. THE THIRD COMMERCIAL BUILDING WAS ADDED IN ABOUT 1983 AND HAS MADE A SEPARATE FILING.

WATER USE FOR THESE TWO COMMERCIAL BUSINESSES IS FOR LESS THAN 2500 GAL PER DAY.

15. Basis of Claim: BENEFICIAL USE

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): *Dele B. Kirkham* Date: 3/26/90
_____ Date: _____

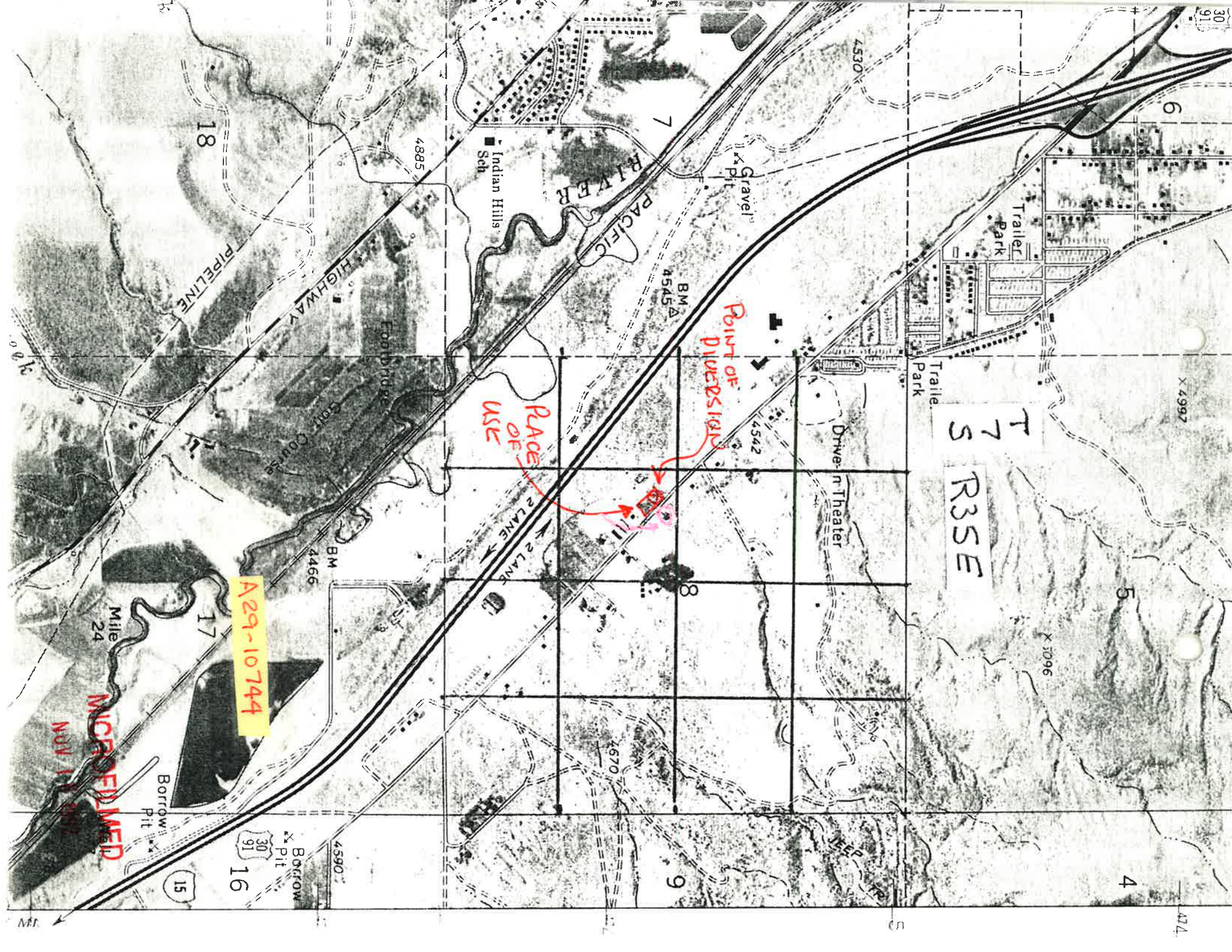
State of Idaho)
County of Bonneville) SS.

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

Betty J. Thompson
Notary Public

Seal

BETTY J. THOMPSON, NOTARY PUBLIC
Residing at RESIDING AT IDAHO FALLS, IDAHO
My Commission Expires MY COMMISSION EXPIRES: 6-30-94



T 7 S
R 35 E

Point of
Diversion

Place
of
Use

A29-10744

MICROFILMED
NOV 11 2007

PIPELINE

HIGHWAY

PACIFIC RIVER

Indian Hills
Sch

Gravel
Pit

Trailer
Park

Trailer
Park

Drive-in Theater

Golf Course

BM
4466

BM
4545

4542

8

4570

7

6

5

4

9

18

17

16

15

Borrow
Pit

Borrow
Pit

Mile
24