

08/16/2001

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

RIGHT NUMBER: 29-10756

NAME AND ADDRESS: DALE B KIRKHAM JR
8503 BUCKSKIN RD
POCATELLO, ID 83201

DALE B KIRKHAM
PO BOX 4026
POCATELLO, ID 83201

QUANTITY: 0.04 CFS

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

PRIORITY DATE: 06/01/1946

POINT OF DIVERSION: T06S R34E S21 SESENE 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
T06S R34E S21 SENE

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: RPCPP045600

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 29-10756 V1

WATER RIGHT NUMBER: 29-10756 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DALE B KIRKHAM PO BOX 4026 POCATELLO, ID 83201 (208)232-6886
Current Owner	DALE B KIRKHAM JR 8503 BUCKSKIN RD POCATELLO, ID 83201 (208)233-1463

Priority Date: 06/01/1946
Basis: Beneficial Use
Status: Active

<u>Source</u>	<u>Tributary</u>
---------------	------------------

<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

Place of Use

COMMERCIAL Within BANNOCK County

T06S R34E S21 SENE

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: RPCPP045600

Comments:

1. 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.

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 29-10756 V1

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	8/10/01 2:26:59 PM	csaxton			Active
Priority Date	8/10/01 2:29:46 PM	csaxton			Active
POD	8/10/01 2:30:04 PM	csaxton			Active
Source	8/10/01 2:30:59 PM	csaxton			Active
POU	8/10/01 2:31:17 PM	csaxton			Active
Use	8/10/01 2:31:57 PM	csaxton			Active
Season	8/10/01 2:32:31 PM	csaxton			Active
Quantity	8/10/01 2:33:03 PM	csaxton			Active
Summary	8/10/01 2:41:42 PM	csaxton	8/10/01 2:41:42 PM	csaxton	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
Source	8/10/01 2:30:57 PM	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.
Priority Date	8/10/01 2:29:44 PM	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.

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 29-10756 V1

Use	8/10/01 2:31:55 PM	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.
Season	8/10/01 2:32:29 PM	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: YEAR ROUND COMMERCIAL 15. (NO) Period of Use remark was not required. 16. (NO) Period of Use condition was not required.
Quantity	8/10/01 2:33:01 PM	csaxton	1. (YES) The basis of claim is beneficial use. 5. (NO) A flow measurement was not required. 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. Comment for 8: LIMITED TO LESS THAN 2500 GALLONS PER DAY 9. (NO) Quantity remark was not required. 10. (NO) Quantity condition was not required.
Summary	8/10/01 2:41:39 PM	csaxton	1. (YES) The basis of the claim is beneficial use. 2. (YES) All the water being used for all the purposes is being claimed and to the extent it was claimed. 5. (NO) General remark was not required. 6. (NO) Explanatory remark was not required. 7. (YES) Additional condition was required. 8. (YES) Wanted to view the recommended right. 9. (NO) This is not a split right. 10. (NO) This is not a combined right. 11. (NO) Documents were not linked or attached to this file. 12. (YES) Set the verification date.
POU	8/10/01 2:31:15 PM	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.
Contacts	8/10/01 2:26:56 PM	csaxton	1. Appointment has not been scheduled. Comment for 1: SPOKE WITH KIRK KIRKHAM ON SEVERAL OCCASIONS.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-10756 V1

POD	8/10/01 2:30:02 PM	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.
POD	8/10/01 2:33:18 PM	csaxton	Edited point location
POD	8/10/01 2:33:56 PM	csaxton	Edited polygons

02/13/2003

Craig

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: 29-10756

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

DALE B KIRKHAM JR
8503 BUCKSKIN RD
POCATELLO ID 83201
Telephone Number: (208)233-1463

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. 21, 03 SIGNATURE: Dale B Kirkham Jr
Please print your name: DALE B Kirkham Jr

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

RECEIVED

FEB 28 2003

Department of Water Resources
Idaho Falls, ID

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 to you concerning water right no. 29-10756, known as 2800 N. Main, Pocatello, or Auto Pro. The best information that we have to justify our priority date on this well comes from two sources.

The building was an old slaughter house built in the 1940's. Mrs. George Hynes moved into the area in 1946 and remembered old slaughter house was there when she arrived.

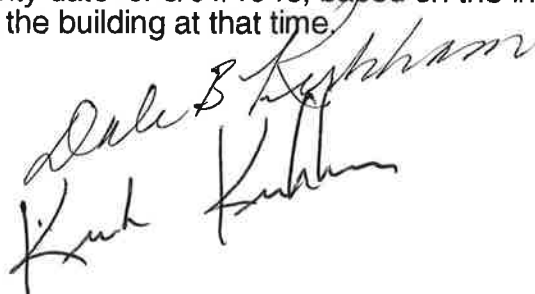
Jo Lynn Anderson, from the assessors office in Bannock County, identified the parcel and on a 1946 aerial photograph, and the building in question is clearly visible on the photograph.

The building has been a commercial use since that time.

We have submitted a priority date of 6/01/1946, based on the information available to us to prove the existence of the building at that time.

Sincerely,

Dale and Kirk Kirkham

Handwritten signatures of Dale B. Kirkham and Kirk Kirkham. The signature of Dale B. Kirkham is written in cursive and is positioned above the signature of Kirk Kirkham, which is also in cursive.

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report

05/22/2001

WATER RIGHT NO. 29-10756

Owner Type
Current Owner
Name and Address
DALE B KIRKHAM JR
8503 BUCKSKIN RD
POCATELLO, ID 83201
(208)233-1463

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

Priority Date: 06/01/1946
Basis: Beneficial Use
Status: Active

Source
GROUND WATER

Tributary to

N. MAIN
Cinder Block
Zweigant - 275-3009
RPP 45600

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
COMMERCIAL	1/01	12/31	0.08 CFS		
Total Diversion			0.08 CFS		

Location of Point(s) of Diversion:

GROUND WATER SENE Sec. 21 Township 06S Range 34E 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>
06S	34E	21		SENE										

Remarks:

1. General COMMERCIAL USE IS FOR LESS THAN 2500 GAL PER DAY

Dates:	Licensed Date:	Water District Number:
	Claim Received Date:	Generic Max Rate per Acre:
	Decreed Date:	Generic Max Volume per Acre:
	Enlargement Use Priority Date:	Civil Case Number:
	Enlargement Statute Priority Date:	Old Case Number:
		Decree Plaintiff:
		Decree Defendant:
		Swan Falls Trust or Nontrust:
		Swan Falls Dismissed:
Other Information:	Receipt Number(s): E012536	DLE Act Number:
	State or Federal: S	Cary Act Number:
	Owner Name Connector: OR	Mitigation Plan: False

June 10, 2001

To Whom It May Concern,

Bannock County has in its maps a photograph from 1946 that shows a building at the location that is now Kraft Road and North Main Extension. On this photograph, the roads as they exist today are not there, but the building in question is clearly visible.



BANNOCK COUNTY
POCATELLO, IDAHO

JO LYNN ANDERSON

Cadastral Technician

BANNOCK COUNTY ASSESSOR'S OFFICE

P.O. Box 4969
Pocatello, ID 83205-4969

OFFICE: (208) 236-7263
FAX: (208) 236-7033

JUNE 10, 2001

To Whom it may concern,

I have lived in the area of the old Zweigart Slaughter house since I moved here in 1946. The building was here before I got here. They used a lot of water from the well they had to process the meat. They used to let the blood run into the river in those days. They used alot of water to wash it down, so I know they had a good well.

Mrs. George Hynes
396 Gathe Dr
Pocatello, Idaho
83201

M. George Hynes



Bodell S. Kirkham
expires 3-16-05

JUN 15 2001

May 22, 2001

29-10745, 29-10750, 29-10754, 29-10756, 29-10758
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.

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 29-10745, 29-10750, 29-10754, 29-10756, 29-10758

May 22, 2001

29-10745, 29-10750, 29-10754, 29-10756, 29-10758
DALE B KIRKHAM JR
8503 BUCKSKIN RD
POCATELLO ID 83201

RE: EVIDENCE OF PRIORITY

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Respectfully submitted,

Craig L. Saxton
Water Resource Agent
Adjudication Bureau

Enclosure: Brochure on "Evidence of Priority"
 Notice of Claim 29-10745, 29-10750, 29-10754, 29-10756, 29-10758

JUN 15 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: A29-10756
Date Received: 3/26/1990
Receipt No: E012536
Received By: Kew

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

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

OR

Name: DALE B. KIRKHAM, JR. 208-233-1463
Address: 8503 BUCKSKIN ROAD
POCATELLO, ID 83201

2. Date of Priority: JUN 01, 1946

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
06S	34E	21	SE NE		BANNOCK

5. Description of diverting works:
WELL PUMP MAINLINE TO RAPAIR SHOP

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/REPAIR SHOP FOR BATHROOM & STEAM CLEANING

A29-10756

Page 1

Date: 03/26/90

MICROFILMED
NOV 16 1992



10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
06S	34E	21	SE NE		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:
COMMERCIAL USE 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): Dale B. Kukha Date: Mar. 26, 1990
_____ Date: _____

State of Idaho)
County of Bonneville) SS.

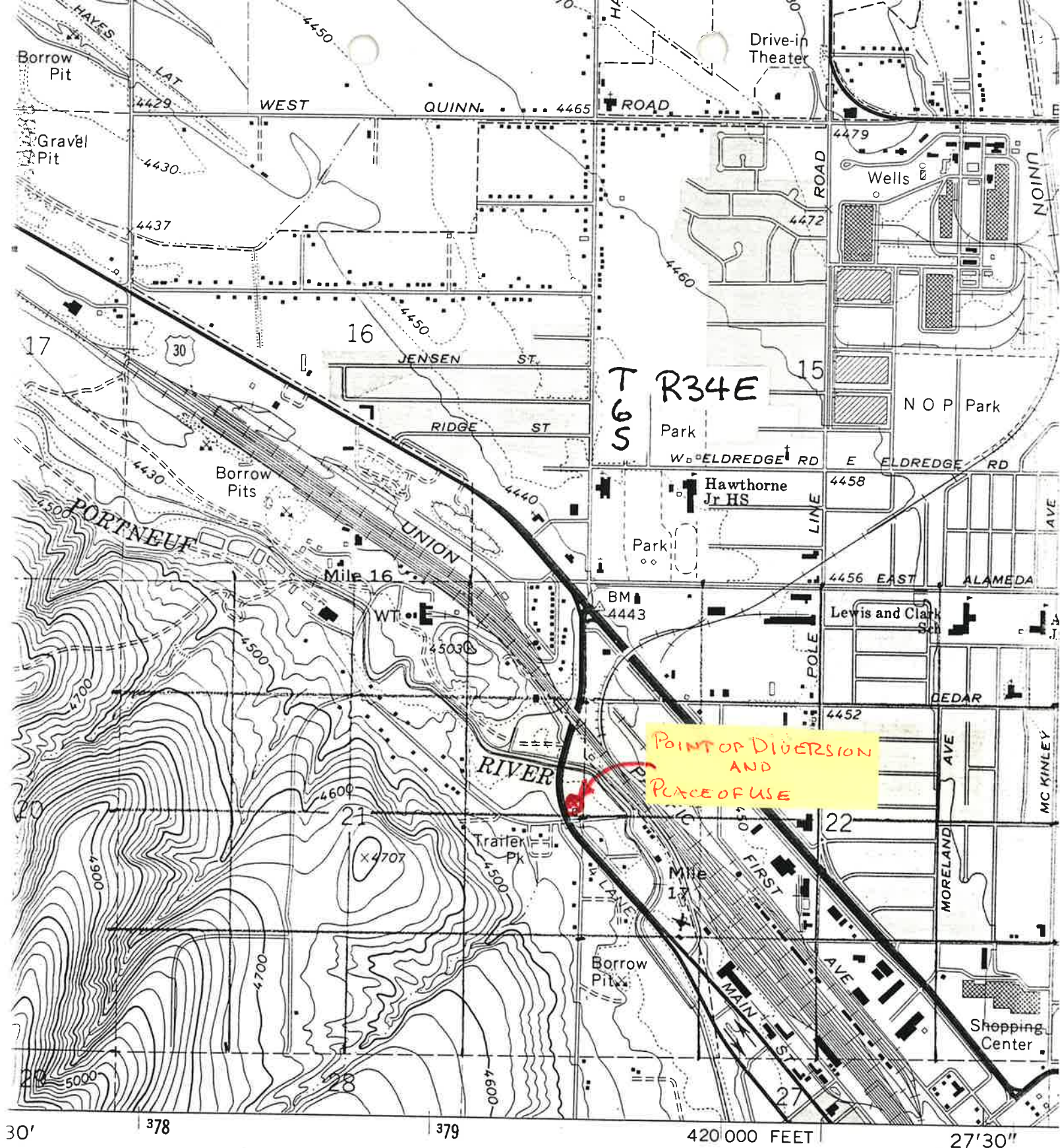
Subscribed and sworn (or affirmed) before me this 26 day
of Mar 19 90

Betty J. Thompson
Notary Public

Seal

Residing at BETTY J. THOMPSON, NOTARY PUBLIC

My Commission Expires RESIDING AT IDAHO FALLS, ID 83400
MY COMMISSION EXPIRES: 6-30-94



mapped, edited, and published by the Geological Survey
 control by USGS and USC&GS

topography by photogrammetric methods from aerial
 photographs taken 1969. Field checked 1971

projection and 10,000-foot grid ticks: Idaho coordinate
 system, east zone (transverse Mercator)

1000-meter Universal Transverse Mercator grid ticks,
 line 12, shown in blue. 1927 North American datum

A29-10752

MICROFILMED

NOV 16 1992

0°59'
 17 MILS

17°
 302 MILS

3.4 MI. TO INT