

12/11/2002

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

RIGHT NUMBER: 29-11681

NAME AND ADDRESS: COLLEEN L ANDRUS
6948 E OLD OREGON TRAIL RD
LAVA HOT SPRINGS ID 83246

KENNETH D ANDRUS
6948 E OLD OREGON TRAIL RD
LAVA HOT SPRINGS ID 83246

JIM ANDRUS
6948 E OLD OREGON TRAIL RD
LAVA HOT SPRINGS ID 83246

SOURCE: EAST BOB SMITH CREEK
SPRINGS

TRIBUTARY: PORTNEUF RIVER
TRIBUTARY: EAST BOB SMITH CREEK

QUANTITY: 6.550 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 6.55 CFS. COMBINED RIGHT NOS.: 29-187, 29-188,
29-191, 29-193, 29-11678, 29-11681.

THIS RIGHT WHEN COMBINED WITH RIGHT NO. 29-187, 29-188, 29-191, 29-193,
29-11678, AND 29-11681 SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE.

PRIORITY DATE: 08/07/1932

POINT OF DIVERSION:

T09S R37E S12 NESESW Within BANNOCK County

T09S R37E S13 NWSWNW Within BANNOCK County

T09S R37E S13 SESWNW 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	6.550 CFS

PLACE OF USE: IRRIGATION Within BANNOCK County

T09S R37E S12	SWSW	3.1	T09S R37E S12	SESW	5.5
T09S R37E S13	NENW	0.1	T09S R37E S13	NWNW	11.0
T09S R37E S13	SWNW	28.0	T09S R37E S13	NWSW	21.0
T09S R37E S13	SWSW	17.0	T09S R37E S14	NENE	0.7
T09S R37E S14	SENE	23.0	T09S R37E S14	NESE	34.0
T09S R37E S14	SESE	34.0	T09S R37E S23	NENE	33.0
T09S R37E S23	NWNE	20.0	T09S R37E S23 Lot 1	SENE	22.0
T09S R37E S23	NENW	32.0	T09S R37E S23	NWNW	12.0
T09S R37E S24	NWNW	31.0			

327.4 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 327.4 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-187, 29-188, 29-191,
29-193, 29-11678, 29-11681.

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

12/11/2002

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

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

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINTS OF DIVERSION DESCRIBED ABOVE FOR SPRINGS: 29-193, 29-11681.

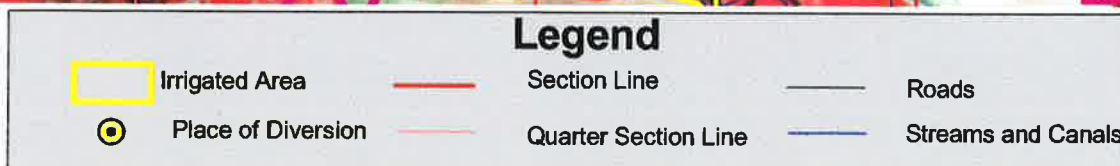
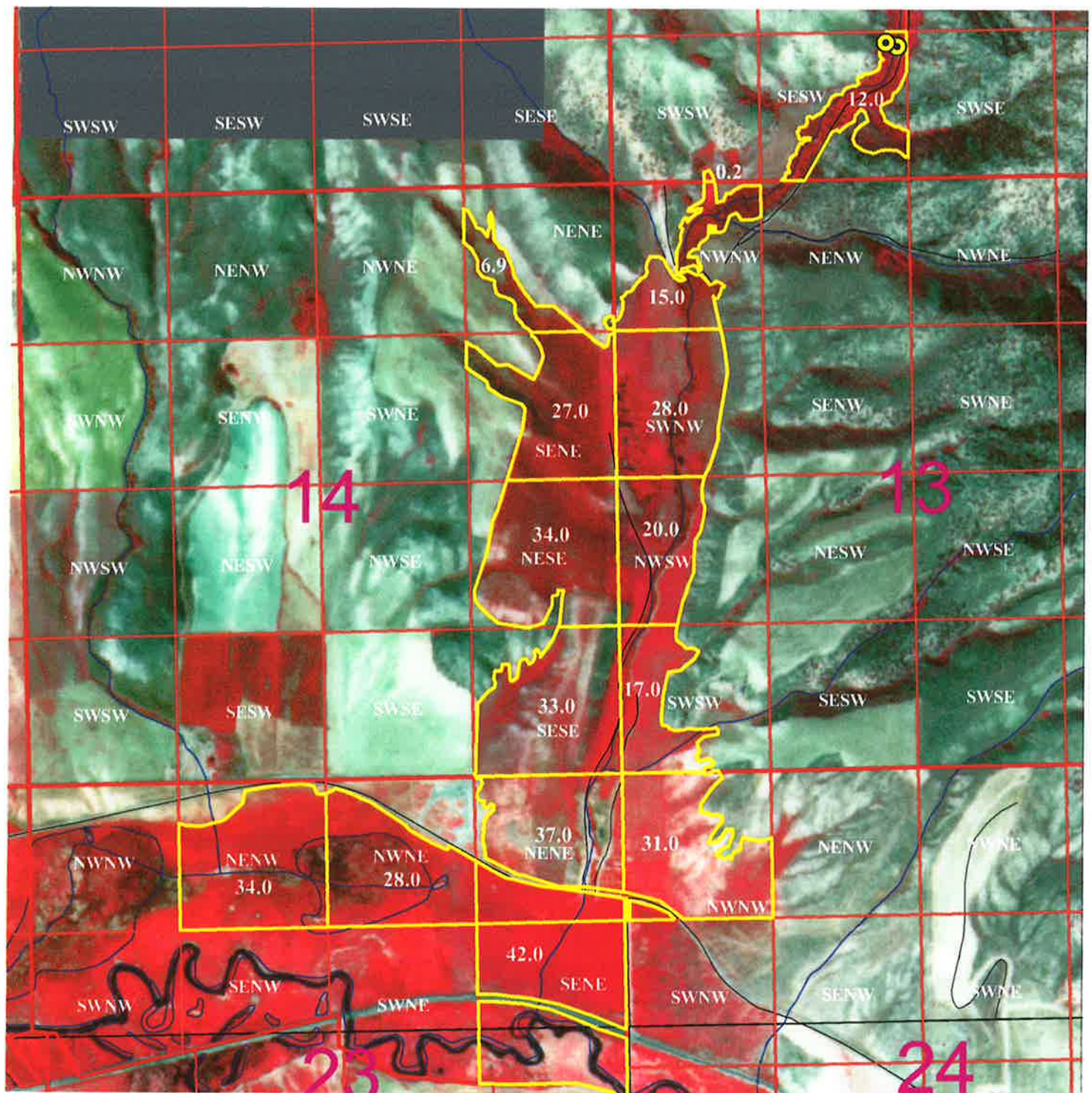
RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.

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

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE FOR EAST BOB SMITH CREEK: 29-187, 29-188, 29-191, 29-193, 29-11678, 29-11681.

Water Right Claim Number A29-11681
Township , 9S37E

09/12/2000



1000 0 1000 2000 Feet





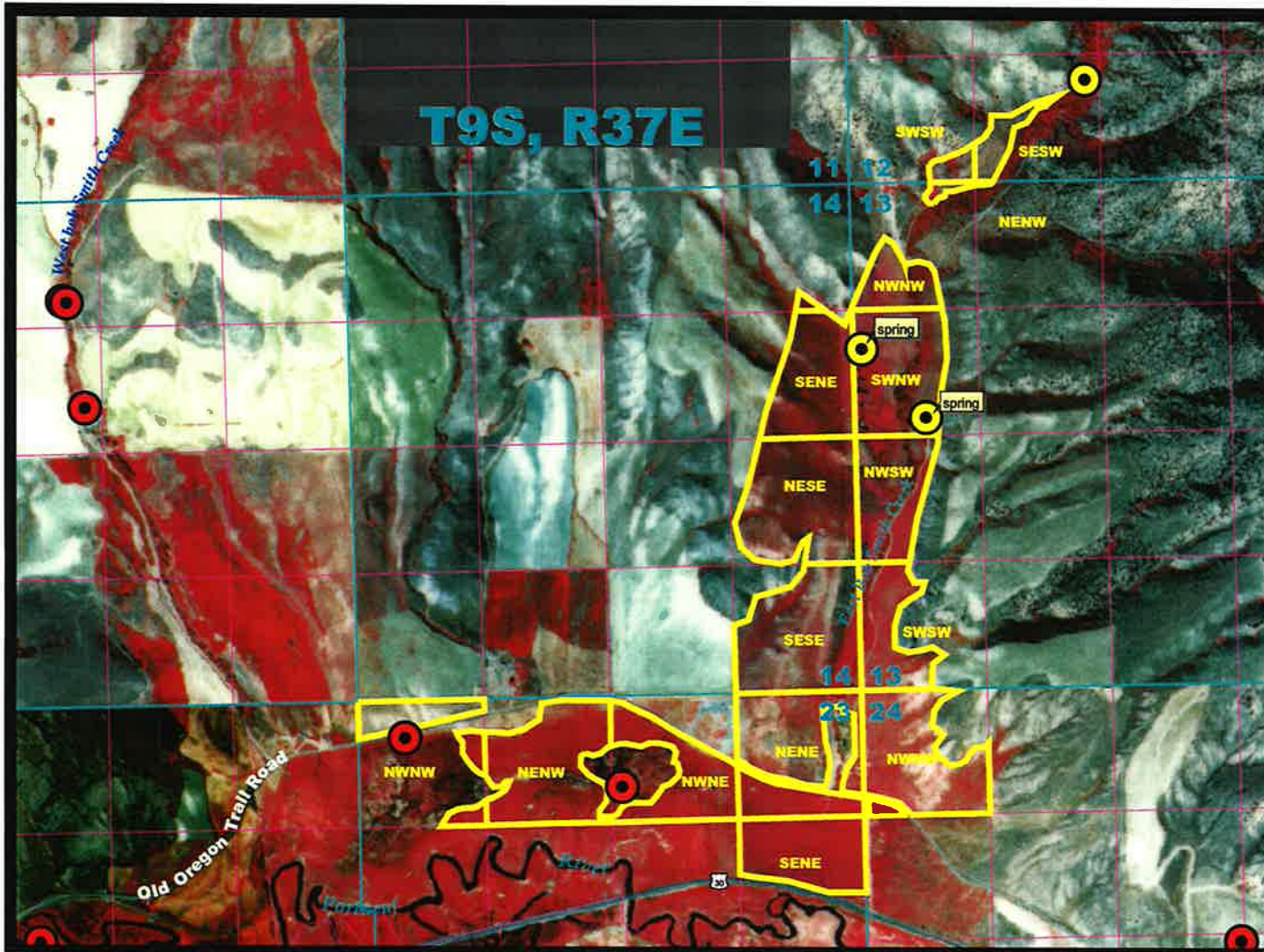
JUL 01 2004

SCANNED

State of Idaho

Department of Water Resources

Eastern Region



Water Right(s):

29-00187, 29-00188,
29-00191, 29-00193,
29-11678, 29-11681

Place of Use: (parts of) T9S, R37E
Sec. 12 S2SW, Sec. 13 W2W2, NENW,
Sec. 14 E2E2, Sec. 23 N2N2, SENE,
Sec. 24 NWNW

Point(s) of Diversion: T9S, R37E
Sec. 12 NESES (E.B.S.C.)
Sec. 13 NWSWNW, SESWNW (spgs)



LEGEND

-  Point of Diversion
-  SESE Place of Use
-  Section
-  Quarter-Quarter

GIS Place of Use Illustration
1967/1988 NAPP Photography
Prepared by: A. Ruberry
Date: December 2002

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

RIGHT NUMBER: 29-11681

NAME AND ADDRESS:

COLLEEN L ANDRUS
6948 E OLD OREGON TRAIL RD
LAVA HOT SPRINGS ID 83246

JIM ANDRUS
6948 E OLD OREGON TRAIL RD
LAVA HOT SPRINGS ID 83246

KENNETH D ANDRUS
6948 E OLD OREGON TRAIL RD
LAVA HOT SPRINGS ID 83246

SOURCE:

Source:

EAST BOB SMITH CREEK
SPRINGS

Tributary:

PORTNEUF RIVER
EAST BOB SMITH CREEK

QUANTITY:

6.550 CFS

0.000 AFY

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 6.55 CFS. COMBINED RIGHT NOS.: 29-187,
29-188, 29-191, 29-193, 29-11678, 29-11681.
THIS RIGHT WHEN COMBINED WITH RIGHT NO. 29-187, 29-188, 29-191, 29-193,
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PRIORITY DATE: 08/07/1932

POINT OF DIVERSION:

T09S R37E S12 NESESW Within BANNOCK County
T09S R37E S13 NWSWNW Within BANNOCK County
T09S R37E S13 SESWNW Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION

04/01 10/31

6.550 CFS

PLACE OF USE:

IRRIGATION

within BANNOCK County

T09S R37E S12 SWSW 3.2

~~T09S R37E S12 SWSW 3.1~~

T09S R37E S12 SESW 5.5

~~T09S R37E S13 NENW 0.1~~

T09S R37E S13 NWNW 11.0

T09S R37E S13 SWNW 28.0

T09S R37E S13 NWSW 21.0

T09S R37E S13 SWSW 17.0

T09S R37E S14 NENE 0.7

Sm³
Emc

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

T09S R37E S14 SENE 23.0
T09S R37E S14 NESE 34.0
T09S R37E S14 SESE 34.0
T09S R37E S23 NENE 33.0
T09S R37E S23 NWNE 20.0
T09S R37E S23 SENE Lot 1 22.0
T09S R37E S23 NENW 32.0
T09S R37E S23 NWNW 12.0
T09S R37E S24 NWNW 31.0

327.4 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 327.4 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-187, 29-188, 29-191, 29-193, 29-11678, 29-11681.

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

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE SPRINGS: 29-193, 29-11681.
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.
THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE FOR EAST BOB SMISTH CREEK: 29-187, 29-188, 29-191, 29-11678, 29-11681.

Sm^e
Emc

SCANNED

MAY 18 2001

Log for claim A29-11681

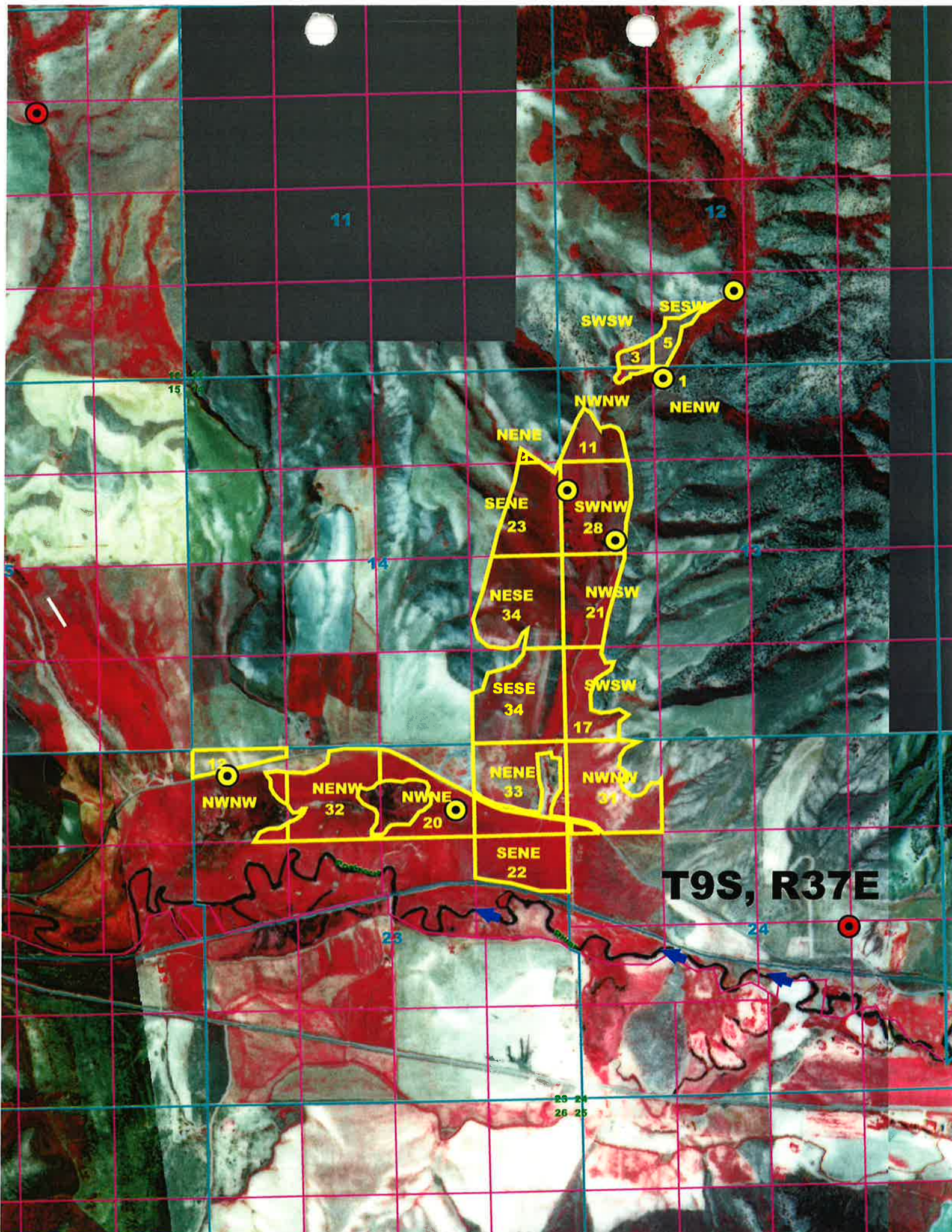
Spatial Dynamics PJM

9/12/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
09s37e	12	SWSW	10	0.2	
09s37e	12	SESW	10	12	
09s37e	13	NWNW	30	15	
09s37e	13	SWNW	30	28	
09s37e	13	NWSW	30	20	
09s37e	13	SWSW	30	17	
09s37e	14	NENE	13	6.9	
09s37e	14	SENE	30	27	
09s37e	14	NESE	35	34	
09s37e	14	SESE	35	33	
09s37e	23	NENE	20	37	
09s37e	23	NWNE	20	28	
09s37e	23	SENE	30	42	Indiscernible
09s37e	23	NENW	15	34	Indiscernible
09s37e	24	NWNW	10	31	Indiscernible
Totals:			348	365.1	

SCANNED

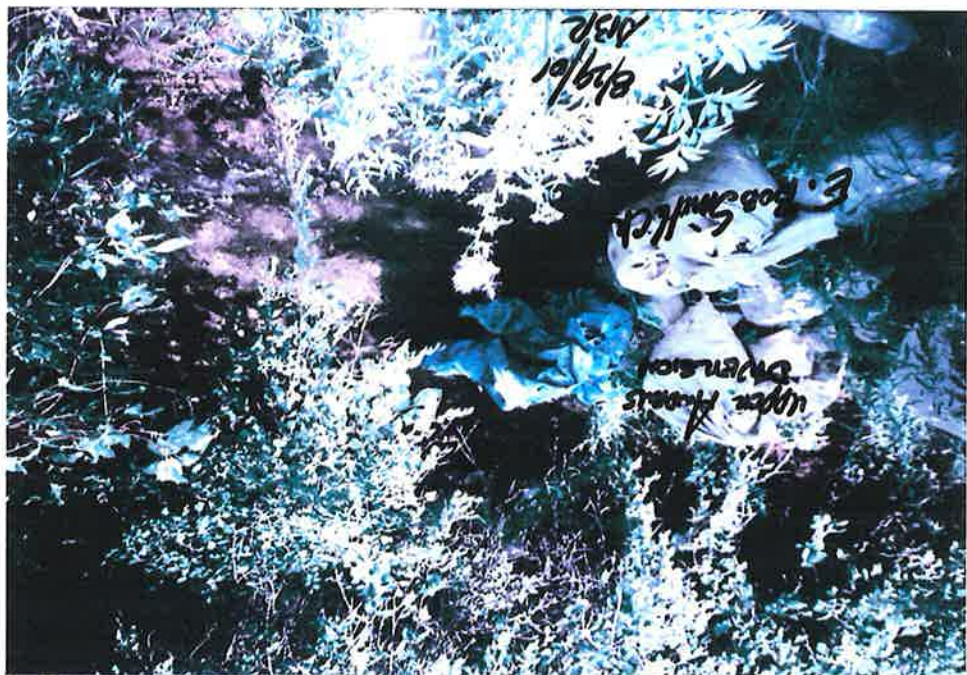
JUL 01 2004



Old Lower Div.
 Not used since
 Sprinkler System
 was installed.



Upper Division -
 Prior to coming
 into the pipeline.



Contacts Data Entry Form

29-11681 Bu

Owner Type _____ Full Name _____ Address _____ City _____ State _____ Zip _____ Phone _____

Current Owner ANORUS Jim & Kon

Name connector: and _____, or _____, and/or _____

Current Owner _____

Current Owner _____

Representing Attorney: _____ Phone Number: _____

Accompanied By: Jim Phone Number: _____

Relationship to Claimant: Owner

Date of Field Exam: 8/29/01 Time: _____

Directions to Property (if different from above) and/or update owner information:

VISITED w/ Jim - DISCUSSED THE HISTORIC USE OF
E.B.S. CR. VISITED PODS (CR & SPGS) ALSO VISITED AND
DISCUSSED THE MILL AND DELIVERY OF WATER

THIS IS INTENDED TO BE AN OUTSIDE SEASON OR
USE OF THE WATERS: i. THIS CLAIM WILL BE SO
RECOMMENDED AS AN EXTENDED SEASON OR USE
CLAIM USED IN COMBINATION W/ OTHER CLAIMS FROM
CRICK AND SPGS

Reviewer: _____

Date: _____

Priority Date Data Entry Form

Claim Number: _____

Water Right Priority Date: _____ Water Right Basis: _____

Claimed Priority Date: _____ Claimed Basis: _____

Recommended Priority Date: _____ Recommended Basis: _____

☐ Use Claimed Priority Date and Basis as Recommended Priority Date and Basis

Document the evidence submitted/reviewed for the priority date claimed, include your analysis of the evidence:

Reviewer: _____

Date: _____

Point of Diversion and Source Data Entry Form

Claim Number: _____

Water Right Point of Diversion: T____, R____, Sec. _____, _____, _____, _____. County: _____

Source: _____ Tributary: _____

Claimed Point of Diversion: T____, R____, Sec. _____, _____, _____, _____. County: _____

Source: _____ Tributary: _____

Recommended Point of Diversion: T____, R____, Sec. _____, _____, _____, _____. County: _____

Source: _____ Tributary: _____

_____ Use Claimed POD and Source as Recommended POD and Source

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source
_____	_____	_____	_____	_____	_____	_____
GPS Coordinates: _____						
_____	_____	_____	_____	_____	_____	_____
GPS Coordinates: _____						
_____	_____	_____	_____	_____	_____	_____
GPS Coordinates: _____						
_____	_____	_____	_____	_____	_____	_____
GPS Coordinates: _____						
_____	_____	_____	_____	_____	_____	_____
GPS Coordinates: _____						
_____	_____	_____	_____	_____	_____	_____
GPS Coordinates: _____						

Other rights from this POD? _____

Document how the POD and Source were verified and/or Pump and Motor data:

Transfers Changing POD _____

Reviewer: _____

Date: _____

Place Of Use Data Entry Form

Claim Number: _____

_____ Use Claimed POU as Recommended POU

Claimed Place of Use

Twp	Rge	Sec	QQ	Q	County	Lot Num	Acres	Purpose of Use

Total Acres _____

Recommended Place of Use

Twp	Rge	Sec	QQ	Q	County	Lot Num	Acres	Purpose of Use

Total Acres _____

Document how the POU was verified:

Transfers Changing POU _____

Reviewer: _____

Date: _____

Period of Use and Quantity Data Entry Form

Claim Number: _____

☐ Use Claimed Period of Use and Quantity as Recommended Period of Use and Quantity

Water Right Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Overall Diversion Rate _____ Overall Diversion Volume _____

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Overall Diversion Rate _____ Overall Diversion Volume _____

Recommended Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Overall Diversion Rate _____ Overall Diversion Volume _____

Document how the Period of Use and/or Diversion Rate were verified:

Reviewer: _____

Date: _____

RECEIVED

APR 21 2004

Department of Water Resources

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

2004 APR 16 PM 2 46

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

Case No. 39576

) ORDER VACATING INITIAL
) HEARING

) WATER RIGHT NO.: 29-187, 29-188,
) 29-191, 29-193, 29-11678, and 29-11681
)

IT IS ORDERED that the Initial Hearing set for April 21, 2004 at 10:00 a.m. is
vacated. The Initial hearing set on April 21, 2004 at 9:00 a.m. for Water Right 29-11681
is still going forward.

DATED: April 16, 2004.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER VACATING INITIAL HEARING was mailed on April 16, 2004, with sufficient first-class postage to the following:

MARSH VALLEY DEVELOPMENT INC

Represented by:
RANDALL C BUDGE
PO BOX 1391
201 E CENTER, STE A2
POCATELLO, ID 83204-1391
Phone: 208-232-6101

USDI BLM

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

DIRECTOR OF IDWR

PO BOX 83720
BOISE, ID 83720-0098

COLLEEN L ANDRUS

JIM ANDRUS

KENNETH ANDRUS

KENNETH D ANDRUS

6948 E OLD OREGON TRAIL RD
LAVA HOT SPRINGS, ID 83246
Phone: 208-776-5380



IDAHO DEPARTMENT OF WATER RESOURCES

SNAKE RIVER BASIN ADJUDICATION - BASIN 29

RIGHT ID 29 11681
POD ID 206485
Quad Haystack Mountain
Claim Type L
Easting 657759
Northing 173846
GPSID A0012759

Diversion Description

DITCH. ALSO, PORTABLE PUMP INTO SPRINKLER SYSTEM AT VARIOUS PTS. Diversion from stream into a 2' x 2' ditch. Water is running at 0.50 feet deep at a slope of approximately 0.5%. Head structure is a combination of sand bags, boulders, old tin/corrugated metal, and an assortment of old carpet, rubber raft, and plastic tarp. Placed GPS ID tag on pine tree @ base of trunk. Pine tree is next to access road just above the POD. Most trees in the area are a variety of juniper and birch. Not many other pine trees in the area.

Assumptions

Slope of approximately 0.5%.

Invoice #

Phase-0 (No Attention)
Phase-I (Ready to Go to Field)
Phase-II (Site Visit - Data Missin)
Phase-III (Complete w/issues)
Phase-IV (Total Complete)

Linked

POD ID 206485 01.jpg POD ID 206485 03.jpg

Photos

POD ID 206485 02.jpg

EPE (ft)

Date (M/D/Y)

Time

Flow Rate (CFS)

5.00286923011656

Open Channel Flow

☒ Complete one box from both Area and Calculation sections

Cross Sectional Area

☐ Circular Channel

- ☐ Less than half full
☐ Half full
☐ More than half full
☐ Full

Diameter 0

Depth 0.5

☒ Rectangular Channel

Width 2

Depth 0.5

Flow Calculation

☐ Continuity

Velocity 1

☐ Orifice

(Use only for head over a pipe flowing full with free discharge)

Depth of Water above orifice centerline

☐ Weir

(Use only for water flowing freely over weir)

Height of water above nappe

Width of weir

☐ Manning (If used, include photo of representative channel section)

Channel Slope 0.05

Channel Description

Concrete lined .016
Smooth earth .025
Earth .033
Rough bed, weeds on sides .04
Smooth natural stream .033
Rough natural stream .1

Pumped System

HP

Pressure Head (psi)

Elevation Head (ft)

Motor Mfg

Motor Serial #

Pump Type

Pump Mfg

Pump Serial#

New Contact Information

New Contact Comments

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IDAHO DEPARTMENT OF WATER RESOURCES

SNAKE RIVER BASIN ADJUDICATION - BASIN 29



RIGHT ID
POD ID
Quad
Claim Type
Easting
Northing
GPSID

Diversion Description

DITCH; ALSO, PORTABLE PUMP INTO SPRINKLER SYSTEM AT VARIOUS PTS.

Assumptions

Invoice #

Phase-0 (No Attention)
Phase-I (Ready to Go to Field)
Phase-II (Site Visit - Data Missin)
Phase-III (Complete w/issues)
Phase-IV (Total Complete)

Linked
Photos

EPE (ft)

Date (M/D/Y)

Time

Flow Rate (CFS)

0

Open Channel Flow

☐ Complete one box from both Area and Calculation sections

Cross Sectional Area

☐ Circular Channel

- ☐ Less than half full
- ☐ Half full
- ☐ More than half full
- ☐ Full

Diameter

Depth

☐ Rectangular Channel

Width

Depth

Flow Calculation

☐ Continuity

Velocity

☐ Orifice

(Use only for head over a pipe flowing full with free discharge)

Depth of Water above orifice centerline

☐ Weir

(Use only for water flowing freely over weir)

Height of water above nappe

Width of weir

☐ Manning (If used, include photo of representative channel section)

Channel Slope

Channel Description	Concrete lined	.016
	Smooth earth	.025
	Earth	.033
	Rough bed, weeds on sides	.04
	Smooth natural stream	.033
	Rough natural stream	.1

Pumped System

☐

HP

Pressure Head (psi)

Elevation Head (ft)

Motor Mfg

Motor Serial #

Pump Type

Pump Mfg

Pump Serial#

New Contact Information

☐

New Contact Comments

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MEMO

9 December 2002

To: The file of 29-11681 (Andrus)

From: A. B. Ruberry

Subject: Intent of filing and recommendation

Today, I spoke to Jim Andrus regarding the purpose and intent of the above referenced claim to a water right. The discussion was centered around the purpose of the claim and how I could recommend it.

The first matter discussed was that of the advice extended by Andrus' attorney, Mr Jerry Rigby. Apparently, Mr. Rigby has advised them not to amend the claim for outside season of use. In Mr. Rigby's opinion, thereby voiding the opportunity of a successful recommendation. I am not sure I fully understand the discussion or logic behind this matter. IDWR legal staff is communicating with Mr. Rigby to discuss this detail.

The Filed Claim

29-11681 was filed as a Beneficial Use claim for outside season of use, from 9/15 to 4/15. This manner of filing the extended season of use is highly unusual; most are filed as 4/1 to 10/31. Thereby overlapping the decreed season of 4/15 to 9/15, as set forth in Union Grain and Elevator vs McCammon Ditch Co, (final amendment) August 6, 1932. Also claimed are 6.96 cfs, and 348 acres (based presumably on 0.02 cfs/ac), with a Priority Date of July 1, 1902.

Assessment of the claim is such that the elements are inconsistent with usual claim standards. For example, the Season of Use should be 4/1 to 10/31 (IDWR standard irrigation season for this area for beneficial use of irrigation), then, the Priority Date cannot be behind the 1932 decree date (earliest is August 7, 1932) and must be accompanied by supporting evidence; Andrus' have submitted several statements which tend to support the early and later use. While it is well understood, and, recognized by IDWR, this outside season use of irrigation practice has 'always' been the practice in the area, but the fact remains the decree is specific in defining the season of use as 4/15 to 9/15. Andrus' bought the ranch in 1959 and have every year since used the water, as available, for pre and post season of use irrigation as well as livestock watering. Livestock watering is not a claimed element of this claim, but should be. Irrigated acres are claimed as 348. Calculated GIS acres are 327.4. The claimed Place of Use acres have a few minor inconsistencies where some tracts are not owner by Andrus'.

The Recommendation

I explained to Jim Andrus that the claim elements could only be recommended as follows: August 7, 1932 priority date, one day after the Decree date at best, 327.4 acres (correcting ownership of certain parcels) with 6.55 cfs (@ 0.02 cfs/ ac.). Further, I explained that I would recommend the 29-11681 claim as above and mail them the Preliminary Director's Reports early in hopes of offsetting any unsettled or questioned issues.

I further asked Jim to write a chronological history, with Ken, of the ranch and the development of the current system and usage of the water. He will undertake this effort.

12/10/02

Season or use comments 00000

See "My Docs": Andrus' 29-11681

Ruberry, Allen

From: Tuthill, Dave
Sent: Wednesday, November 06, 2002 12:46 PM
To: McHugh, Candice; Ruberry, Allen
Subject: RE: B29 Ext SOU

I'll be seeing Jerry on another matter on Fri. I'll try to add this to our discussion.

Dave

-----Original Message-----

From: McHugh, Candice
Sent: Wednesday, November 06, 2002 12:45 PM
To: Ruberry, Allen
Cc: Tuthill, Dave
Subject: RE: B29 Ext SOU

Dave,

Do you think we should talk to Jerry directly and find out his thoughts? It might save us some objection battles later on. I would like to find out what he's thinking.

-----Original Message-----

From: Ruberry, Allen
Sent: Wednesday, November 06, 2002 12:42 PM
To: McHugh, Candice
Cc: Tuthill, Dave
Subject: B29 Ext SOU

Just got off the phone with Ken Andrus. He and his brother are claimants in B29. My discussion was that Mr. Andrus has a claim that appears to claim the extended season of use (claim filed 4/24/1990), he was a little ahead of the curve.

I suggested he allow me to amend this claim to correct the priority date from 1902 to 1932 (it won't realize a 1902 date anyway) and correct the Extended Season of Use per our standard and directive; 4/1 to 10/31. He tells me he has been advised by Jerry Rigby NOT to allow IDWR to file this claim in accordance with our standard; 1932, and 4/1-10/31.

You might want to contact Mr. Rigby and jerk his chain.

8/29/01 Met w/ Jim and Kenneth Andrews. Discussed AOSHD, Process and time tables. Also discussed historic use of Rts (Deerwood) and now BIL claims (the Contractor will be along to do GPS, Photo, Measure, etc. ...)

Toured PODs w/ Jim. Far upper is the only one used now which goes to a pipeline for sprinkler irrigation both East and West over rolling terrain. Jim also showed me a POD to a ditch which runs off the creek to the East (not used since $\approx$ 1987 or so) will add to Amendment of claims and BIL claim. GPS'd & photo'd both

POD's

Also discussed the purchase of — CUTLER DITCH RIGHT(S) which they claim are old Indian Rts dating to 1868, thus according to the Ft. Bridger Treaty of 1868. Some references to 29-0247 and 29-0248 (not included in the USGE Deeds, circa 1932). More research is needed on this matter.

Apparently, there is some connection to the Cutler Ditch Rts.

which were supposedly Tx'd Down River to McCammon. I advised they contact Atty Ray Rigby (their choice), to explain the situation. If favorable, contact IDWR for a Temp Tx until a PD is issued on Rts on E.B.S. CL then file a formal Tx to move the 1868 Rts where they need them — All they want is the priority date of the 1868 Rts.

NAME OF CLAIMANT and
DATE OF PRIORITY

AMOUNT IN
SECOND FEET

POINT OF DIVERSION AND
PLACE OF USE

140. *Martin, D. A. M.*

1902—July 1

.80 c.f.s.

1903—March 1

1.1 c.f.s.

1903—March 1

.36 c.f.s.

1903—Nov. 1

2.06 c.f.s.

1903—March 1

1.54 c.f.s.

1902—July 2

1.0 c.f.s.

(50 miners inches)

source being that cer-
tain Spring which rises
700 feet East of the
West quarter corner of
Section 13, Township
9 South, Range 38 East

6.8665

portions of the South half of the South-
west quarter, Section 13, and the North
half of the Northwest quarter, Section 24,
Township 9 South, Range 37 E. B. M., not
hereinafter described as belonging to D. A.
M. Martin.

Said waters to be diverted through the fol-
lowing described ditches:

Through a ditch having its intake North
15 degrees West, 1090 feet from the
South quarter corner of Section 12, Town-
ship 9 South, Range 37 E. B. M.

Through a ditch having its intake South
86 degrees and 30 minutes East, 1275 feet
from the Northwest corner of Section 13,
same Township and Range.

Through a ditch having its intake South
34 degrees and 30 minutes East, 330 feet
from the West quarter corner of said Sec-
tion 13, same Township and Range.

Through a ditch having its intake South
25 degrees East, 770 feet from the West
quarter corner of Section 13, same Town-
ship and Range.

Through a ditch having its intake North
2 degrees East, 960 feet from the South-
west corner of Section 13, same Township
and Range.

Through a ditch having its intake 700 feet
East of the West quarter corner of Sec-
tion 13, same Township and Range.

For the irrigation of two parcels of land
described as follows: Beginning at the
South 1-16 section corner on the section
line between Sections 13 and 14, thence
South along section line of Sections 13
and 14, 262.5 feet, thence North 20 degrees
and 34 minutes East, 280.5 feet to the
South 1-16 Section line of said Section 13,
thence West along the 1-16 section line of
said Section 13, 98.5 feet to the place of
beginning; Also, the Northeast quarter,
the North half of the Southeast quarter,
the Southeast quarter of the Southeast



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

September 16, 1988

Lyndon Green
105 E 16th Street
McCammon, ID 83250

Re: Water District 29, Portneuf River

Dear Mr. Green:

In your telephone call of September 14, 1988, you stated that the irrigation season in Water District 29 under the Portneuf River decree ends on September 15. You asked me what action, if any, should be taken by the watermaster after that date.

The historical practice on the Portneuf is for the watermaster to stop delivering water rights under the decree on September 15. After that date it has been the practice of the waterusers to divert water as needed irrespective of the priorities under the decree.

It is the normal duty of a watermaster to delivery water rights on a stream in accordance with the terms of the applicable decrees. Consistent with court decree, it has been the long-standing practice on the Portneuf for the formal irrigation season to end on September 15 and for the watermaster to discontinue delivering irrigation water rights after that date. I do not find it appropriate to order the watermaster to alter that longstanding practice this year.

Waterusers who have historically diverted water and put it to beneficial use after September 15 each year may have established legal rights to continue that practice. The extent of any such rights will be determined in the pending Snake River basin water rights adjudication.

I hope this letter has adequately answered your question.

Sincerely,


R. KEITH HIGGINSON
Director

cc: Eastern Region
Tom Bloxham

NOV 14 1988

My family moved from Utah and purchased this property in 1959. The water right has an interesting history. The property was once a part of the Fort Hall Indian Reservation. Tradition has it and it has been told to us by neighbors who are now dead that an Indian named Bob Smith was given this property by his commanding officer in payment for some scouting services he had performed for the army. Mr. Smith irrigated some of the land along Bob Smith Creek; he raised cattle and horses. Subsequently the government did not recognize his (Mr. Smith's) right to the land, but he wouldn't move off. One winter Mr. Smith went to the Washakie Reservation near Portage, Utah. He contracted pneumonia and died. Some of his family also died there; the remainder of them never returned.

In 1902 the land was opened for homesteading and has a 1902 decreed water right.

Bob Smith's grandson, Chester Ottogary visited our place about 1976 and confirmed the above story and said he was going to establish an Indian water right for the property. He never did and is also now deceased.

Carrol Willmore, a neighbor who died in 1993 at age 85 stated on several occasions that he knew and worked with Hen Monroe and Bill Godfrey, the three of them all being employed by Dave Monroe, the man who owned and homesteaded this property, that these men conversed with common knowledge about the Indians irrigating this property prior to 1902.

Because of the water right date recognized by the Idaho Department of Water Resources rather than the traditional use right established by Bob Smith, it is necessary to irrigate and use water on this property outside of the normal irrigation season of Apr. 15 to Sept. 15. This is a common practice of land owners along the Portneuf river or its tributaries. Bob Smith ^{Creek} being one of those tributaries. This has been the case on this property since 1902 when it was homesteaded by Dave Monroe.

NOV 14 1996

AT 5809 NP
No. A29-11681
On meet years and especially during drought years we use the water from Fort Smith Creek for irrigation purposes both before and after the irrigation season ends on Sept. 15th. We have done this since my family acquired this farm in 1959. Many neighbors also do the same especially those with later cleared water rights.

Have Monroe (matron) lamented this farm in 1963. I saw and talked with him before he died (about 1960-62) at One, Idaho. He reminded to me and my father that he used the water only time of the year he wanted regardless of the designated irrigation season some people even talk of irrigating the snow off from the fields in this form

Small Ordian

Love the dogs, Idaho 83346

Agreed before the 30th day of March, 1995.

Sherry Doyle, Notary Public
My commission expires 9/4/96.

RECEIVED
MAR 30 1995

Department of Water
Eastern District Office

NOV 14 1990

INFORMATION

NOV 14 1995

RECEIVED

MAR 30 1995
Department of Water Resources
Eastern District Office

Agreed before the this 28th day
of March, 1995.
Sherry Kingle, Mayor Public
My Commissioner expires 9/2/96

Alayne River

No. 429-10332 No. 429-11621 455809NP
28 March 1995
I Alayne River know that Andrew have used water for
treatment before and after the migration season. This is a common
practice in this area for people with a late water right.
It is my understanding that this was a practice that has
went on since the ground was irrigated.

Lava Hot Springs Idaho
April 9, 1990

Idaho State Water
Resources Board:

I am writing this as a member
of The Lava Irrigation Co., or the
Sunny Side Ditch as it is commonly
known; and also as a member of
the Kidd family. We are the only
family to still own our original
homesteads. All the rest have changed
ownership times without number.
I am the oldest living person to have
known constantly about the
irrigation situation in this
community.

I went to college with Elmo
Hjgenon, in Pocatello in 1929 and
1930. He was your hydrologist
and I believe his son is your
hydrologist now.

Our project is small, only slightly
more than a thousand acres in
the beginning, Highway 30 has

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NOV 16 1992

Taken away some of our land.
There was plenty of water, for
everyone in the beginning. They
turned what water they needed
into our canal and turned it
back into the river when they were
through using it. They always tried
to keep some water in the canal
through the winters for livestock.
Sheep men would buy hay from the
farmers and feed the sheep in the
fields and have canal water
for the sheep to drink.

They built the reservoir at
Chesterfield, they tried turning the
stored water down the Portneuf
River, which would not carry the
extra water. They paid damages
for several years to farmers
downstream for flooding the fields.
They then built the long outlet canal
to bypass the farms. In the beginning,
the canal would not carry the

water, but the canal started with
we have the bad situation we

have today.

The McCombs will need to

get the water, and they won't be
launched, and a clear view.

handed down about the various

water rights. Since then, the

McCombs will add the water

right, a better illustration the

McCombs Canal Co. is to some

of its members.

Ever since our project has had

less and less water, as we have

tried to get water into our canal.

Before the irrigation season began,

and also after the irrigation season

had ended, to make up our fields

for the next season. I personally

have several fields when several

inches of snow were on the ground.

It has been this all through.

my life time. Nobody has ever

tried to stop me, and I feel that

4

we have established a right to do this.

Now, companies have planned to build hydropower plants in the river, and they intend to demand the entire river flow when the irrigation season ends until the spring when the season begins again. The way things are shaping up, we will have scarcely any water at all. They should not be allowed to do this to us. The plants are not needed at all, and the Federal Government should never have approved their building.

Sincerely,

P.O. Box 137 William Kidd
Lava Hot Springs
Idaho, 83246

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NOV 16 1992

STATE OF IDAHO, COUNTY OF BANNOCK

On this 9th day of APRIL, 1990, before me, a notary public in
and for said State, personally appeared

WILLIAM KIDD

Known to me to be the person whose name IS subscribed to the within
instrument, and acknowledged to me that HE executed the same.

Robert Bergendorf
NOTARY PUBLIC

Residing at LAWA HOT SPRINGS, Idaho

Commission Expires LIFETIME.

NOV 16 1992

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TO WHOM IT MAY CONCERN:

I, Fred G. Walker, would like to say, I was born and raised on the Walker Ranch located near Lava Hot Springs, Idaho, and lived there until February 1953. I was also the Ditch Checker for one summer while living there. There was plenty of water for all of the ranches in the area before the Chesterfield Dam was constructed, no one in the area had any water problem until after the construction of that Dam. Then the situation seemed to change a very great deal. The Sunnyside Ditch Company had plenty of water for all users at the beginning as well as at the ending of the season. They all irrigated and used the water all season until it froze up in the winter. We had all the water for all the ranchers in the area all season long. Everyone had all the water needed to irrigate their land from early in the spring until it all froze up with the winter. My folks before me had plenty and I had plenty for the same acres and the same farm from early spring until it froze up with the winter.

Signed Fred G. Walker
Fred G. Walker

Subscribed and sworn to before me this 4th day of April 1990, at Cokeville, Lincoln County, State of Wyoming.

My Commission expires: Dec. 1, 1993

Marcel L. Reed
Notary Public

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NOV 16 1992

APPENDAGE TO THE FILING OF WATER OF Kenneth, Colleen, & Jim Andrus

Our present decreed water rights are jeopardized by

1. Illegal loss free transportation of storage water in the river channel. We ask the adjudication process to correct this situation by requiring the users of the storage water to stand the loss or require all the water users in the river district to share in the loss on a percentage basis according to the cubic feet of water they have decreed to them.
2. Many years after established use rights and decreed rights numerous wells have been allowed in the upper basin area, draining the aquifer. We ask an in depth study be made to determine the affect on the river flow before a decision is made.

Historically the amount of our water has been cut down during the irrigation season because there is not enough water to fill all the rights. Of necessity we have used the water at any time during the non irrigating season in any amount needed first come first serve down the river. We request this use right recognized and established as a legitimate water right.

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NOV 16 1992

MAY 18 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: A29-11681
Date Received: 4/24/1990
Receipt No: EC13584
Received By: WAT

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: KENNETH ANDRUS 208-776-5380
Address: 6948 E. OLD OREGON TRAIL RD.
LAVA HOT SPRINGS, ID 83246

AND/OR

Name: COLLEEN L. ANDRUS 208-776-5380
Address: 6948 E. OLD OREGON TRAIL RD.
LAVA HOT SPRINGS, ID 83246

AND/OR

Name: JIM ANDRUS 208-776-5380
Address: 6948 E. OLD OREGON TRAIL RD.
LAVA HOT SPRINGS, ID 83246

2. Date of Priority: JUL 01, 1902

Brought Rights in 1989

3. Source: EAST BOB SMITH CREEK Trib. to: PORTNEUF RIVER
Springs East Bob Smith Creek

4. Point of Diversion:

2 Ponds/LPS

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
09S	37E	12	NE	SE	SW		BANNOCK
			NW	SW	NW		

5. Description of diverting works: *SE SW NW* DITCH; ALSO, PORTABLE PUMP INTO SPRINKLER SYSTEM AT VARIOUS PTS.

*SPG. #1 } Sec. 13
SPG. #2 }*

6. Water is used for the following purposes:

6.86

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	09/15	04/15	6.960		
<i>Stock Water</i>	<i>01/01</i>	<i>12/31</i>	<i>60.2</i>		<i>14.5 Acre</i>

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

A.F.A.

8. Total consumptive use is 870.0 Acre Feet Per Annum.

9. Non-irrigation uses:

A29-11681

Page 1

Date: 04/24/90

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NOV 16 1992

A2911681



10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres	
09S	37E	12	SW	SW		IRR	10.0	
			SE	SW		IRR	10.0	
							Section Acres	20.0
		13	NW	NW		IRR	30.0	
			SW	NW		IRR	30.0	
			NW	SW		IRR	30.0	
			SW	SW		IRR	30.0	
							Section Acres	120.0
		14	NE	NE		IRR	13.0	
			SE	NE		IRR	30.0	
NE	SE			IRR	35.0			
SE	SE			IRR	35.0			
					Section Acres	113.0		
23	NE	NE		IRR	20.0			
	NW	NE		IRR	20.0			
	SE	NE		IRR	30.0			
	NE	NW		IRR	15.0			
					Section Acres	85.0		
24	NW	NW		IRR	10.0			
	<i>Sw</i>	<i>NW</i>						
					Section Acres	10.0		
					Total Acres	348.0		

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:

A29-11679, 29-11678, 00188, 00191, 00193

14. Remarks:

THE DECREE RECOGNIZED AN IRRIGATION SEASON OF APRIL 15 TO SEPT. 15. THE ACTUAL IRRIGATION PRACTICE ON THESE ACRES HISTORICALLY HAS BEEN TO USE THE WATER ANY TIME NEEDED DURING THE NON-IRRIGATION SEASON, ON A FIRST COME, FIRST SERVE BASIS. THE PURPOSE OF THIS CLAIM IS TO ESTABLISH THIS HISTORICAL PRACTICE AS A LEGITIMATE WATER RIGHT AS USED, DATED BACK TO THE BEGINNING OF OUR DECREED WATER RIGHTS.

15. Basis of Claim: BENEFICIAL USE

(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.

For Individuals:

Signature of Claimant(s):

Date: 24 Jan. 1990

Date:

State of Idaho

County of

SS.

Subscribed and sworn (or affirmed) before me this 24th day

of April 19 90

Notary Public

Seal

Residing at ~~Helen Harrington, Notary Public~~

Residing at Boise, Idaho

My Commission Expires December 1, 1994

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Produced by the Geological Survey
in cooperation with the Forest Service

Orthophotograph prepared from 1:78 000-scale
aerial photographs taken August 7, 1976

Projection and 10,000-foot grid ticks: Idaho coordinate
system, east zone and transverse Mercator
1000-meter Universal Transverse Mercator grid ticks,
zone 12. 1927 North American datum

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