

02/19/2002

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

RIGHT NUMBER: 29-13087
NAME AND ADDRESS: SIDNEY C KENT
PO BOX 143
ARIMO ID 83214

MELANIE F KENT
PO BOX 143
ARIMO ID 83214

SOURCE: SPRING TRIBUTARY:
QUANTITY: 0.02 CFS
PRIORITY DATE: 12/31/1919
POINT OF DIVERSION:

T10S R37E S17 SENWNW Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/15	0.022 CFS 3.50 AFY
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: IRRIGATION Within BANNOCK County
T10S R37E S17 SWNW 1.0
STOCKWATER same as IRRIGATION

1 ACRES TOTAL

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

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

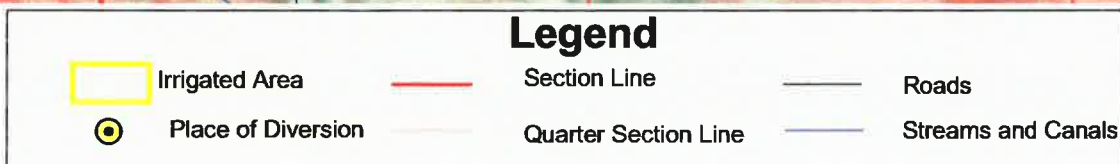
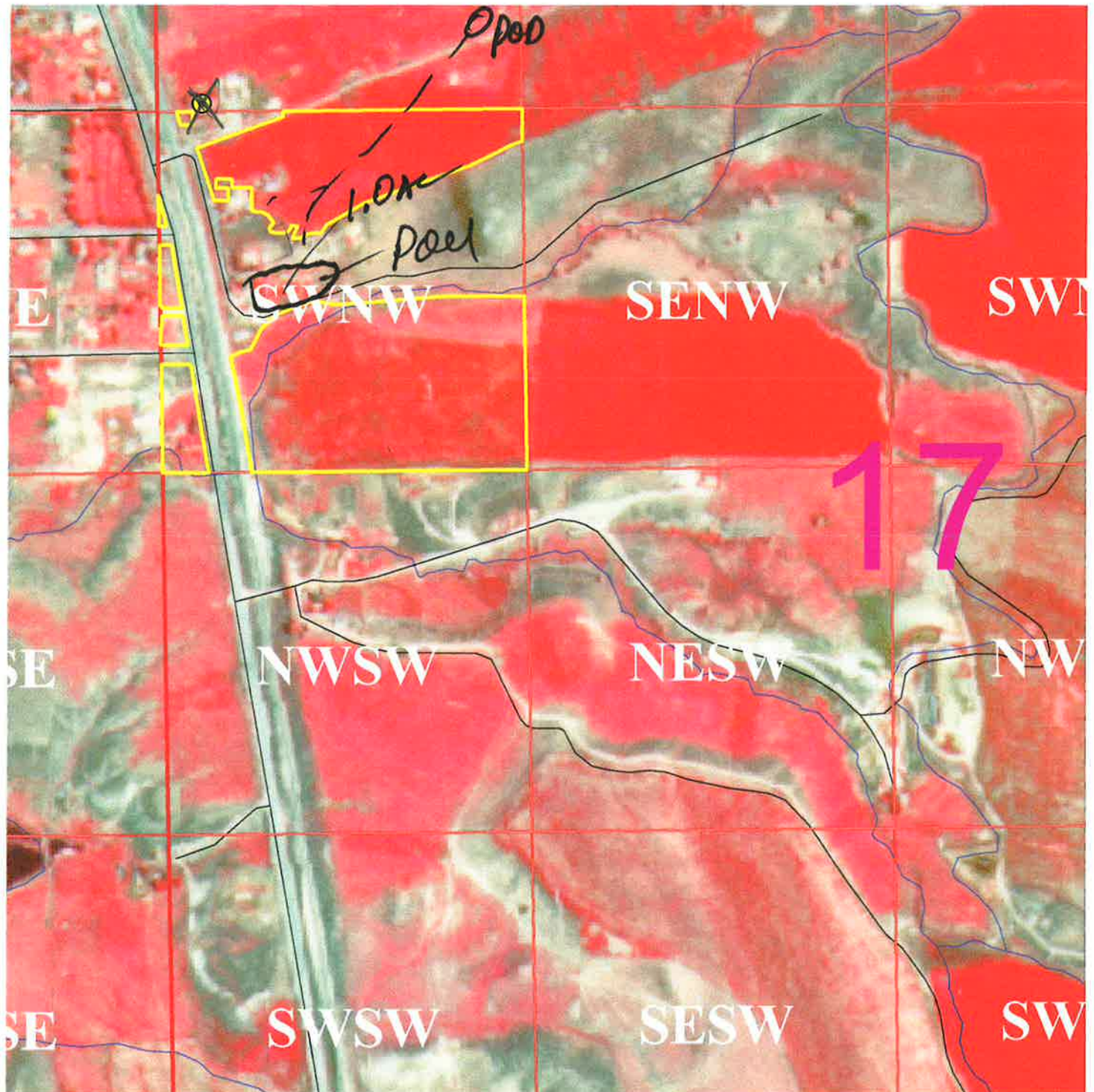
EXPLANATORY MATERIAL: Beneficial Use

RIGHT NO. 29-13085 IS ALSO DIVERTED THROUGH POINT OF DIVERSION
DESCRIBED ABOVE.

Water Right Claim Number A29-13087

09/05/2000

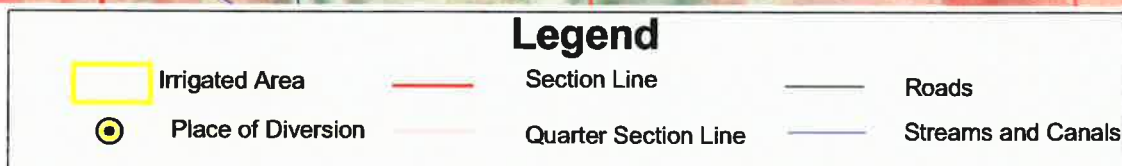
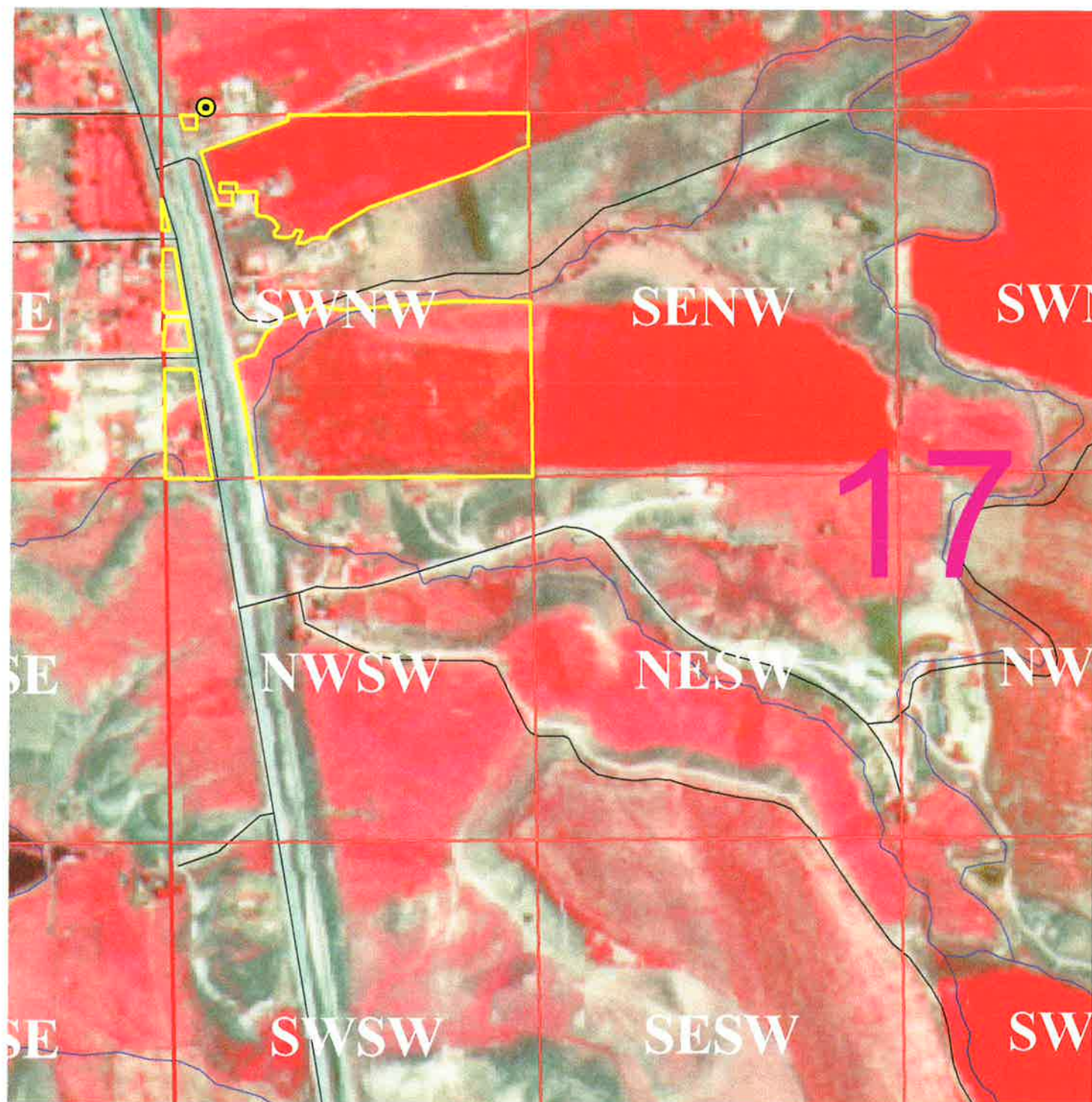
Township , 10S37E



Water Right Claim Number A29-13087

09/05/2000

Township , 10S37E

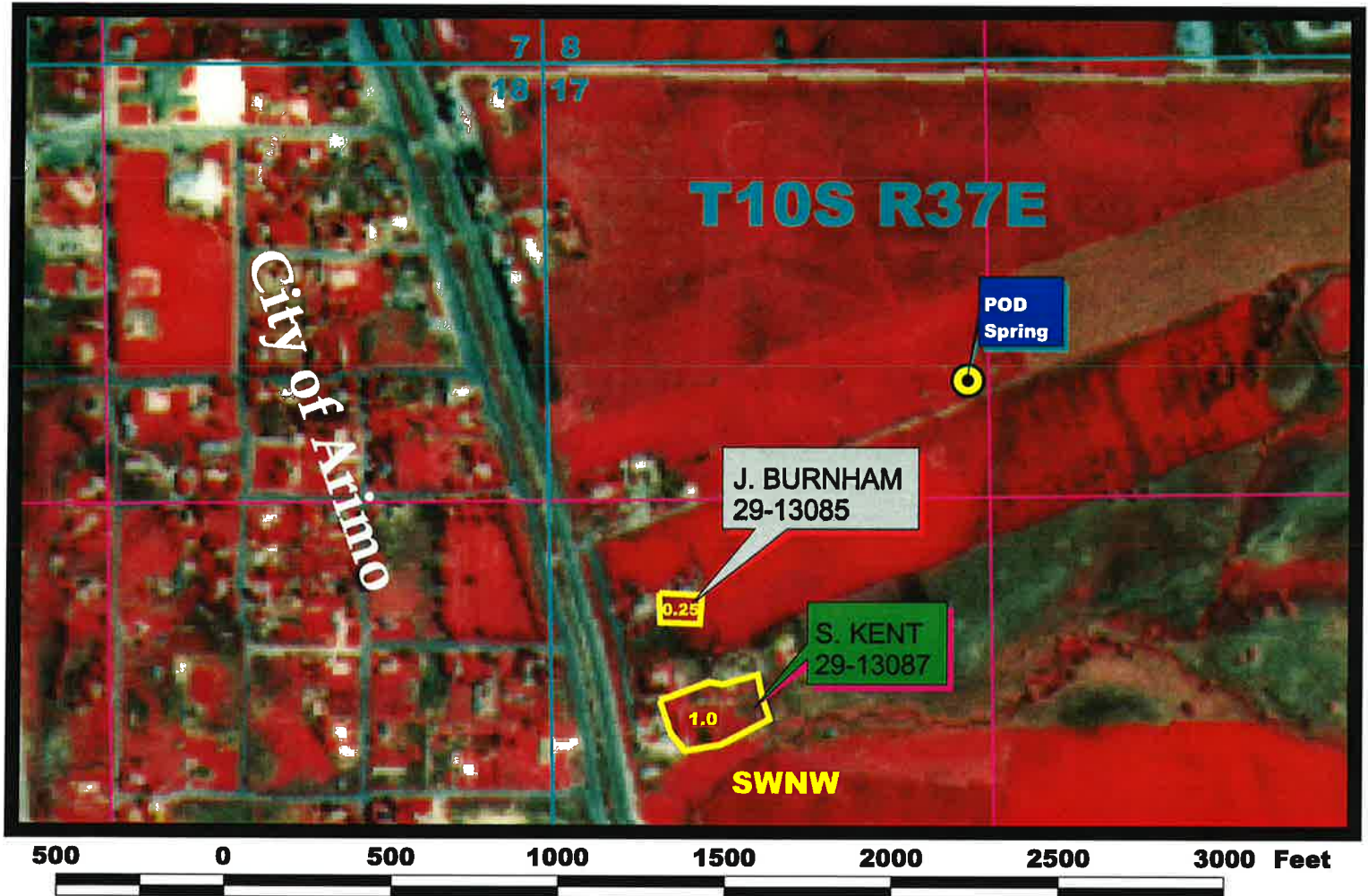




STATE OF IDAHO

Department of Water Resources
Eastern Region

Water Right(s): 29-13085 29-13087



LEGEND

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

Place of Use: T10S, R37E
(part of) Sec. 17 SWNW

Point(s) of Diversion: T10S, R37E
Sec. 17 SENWNW



GIS Place of Use Illustration
1987/1988 NAPP photography
Prepared by: A. Ruberry
Date: February 2002

MEMORANDUM

To: 29-13085
29-13087 ✓
Fri Bryce Center
Date: 2/18/01

Re: Tibbitts attorney

Mr. & Mrs. Tibbitts own the land on which
the source for these claims is located.
They believe the claims should be
disallowed.

Their attorney is Tom Lyons 232-2286

BAC

7 8
18 17

T10S R37E

City of Arimo

POD
Spring

J. BURNHAM
29-13085

0.25

S. KENT
29-13087

1.0

SWNW

MAY 18 2001

Log for claim A29-13087

Spatial Dynamics PJM

9/5/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
10s37e	17	SWNW	1	24	Indiscernible
Totals:			1	24	

11/05/01 Visited Property (POU) and Source/POD.

Claims Priority Date to Dec. 31, 1919 - OK

No FE measurements done - 1" pipe

Contractor picked wrong spot for POD & measurements?

POU's ARE CONNECTED TO SPRING VIA PIPELINE WHICH
REDUCES TO 1"





IDAHO DEPARTMENT OF WATER RESOURCES

SNAKE RIVER BASIN ADJUDICATION - BASIN 29



RIGHT ID
POD ID
Quad
Claim Type
Easting
Northing
GPSID

Diversion Description

Seep/spring to sub irrigate pasture and provide stockwater. Shallow flow, pasture has ditches to carry water from spring. Tag placed on fencepost at interior corner of L shaped pasture.

*SPRING COLLECTION BOX TO PIPESWAST.
SERVES BURNHAM AND KENT. GRAVITY SYSTEM.*

Assumptions

Slope, and same as POD ID 472948.

*NO!
See photo*

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)

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

ABR

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A. L. MERRILL (1888-1961)
R. D. MERRILL (1893-1972)
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STEPHEN S. DUNN
D. RUSSELL WIGHT
DAVID C. NYE
KENT L. HAWKINS*
THOMAS W. CLARK
THOMAS J. LYONS
BRENDON C. TAYLOR
*ALSO ADMITTED IN UTAH

MERRILL & MERRILL
CHARTERED
COUNSELORS AND ATTORNEYS AT LAW
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P.O. BOX 991
POCATELLO, ID 83204-0991

TELEPHONE
208-232-2286
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E-MAIL
MMLAW@MERRILLANDMERRILL.COM

August 28, 2001

RECEIVED

AUG 30 2001

Candice McHugh
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Department of Water Resources

Re: Water Right Numbers A29-13087; A29-13085; & A29-02217

Kent

Burnham

Tippets

⇒ COPIES IN
THIS FILE.
[Signature]

Dear Ms. McHugh:

This letter is written relating to the claims made by Sidney K. Kent and Melanie F. Kent and James L. Burnham and Arlene Burnham in the spring that is located on the real property owned by Wilson and Merle Tippets. I have enclosed a copy of the Agreement regarding the use of the spring water between the predecessors in interest to the Tippets and the adjacent landowners for your review. I have enclosed a copy of the Deed of Conveyance from Merle and Wilson Tippets to the City of Arimo dated May 14, 1947 and a copy of the Warranty Deed from the City of Arimo returning the subject property to Wilson and Merle Tippets dated September 9, 1978.

It is the position of Wilson and Merle Tippets that James and Arlene Burnham do not have any valid right to the use of the spring water as they are not descendants or heirs of the original parties to the Agreement and do not have any valid basis for their claim of water right in the spring water. As to Sidney and Melanie Kent, it appears that they may be descendants or heirs of one of the original signatories to the enclosed Agreement. However, the Kent's water rights should certainly be limited to the use set forth in the Agreement and should not be allowed to be expanded.

Please consider the enclosed documents as part of your review of the subject water rights of the various parties. Furthermore, if you desire to have additional information from Wilson and Merle Tippets, please do not hesitate to contact them directly or myself.

Very truly yours,

MERRILL & MERRILL, CHARTERED

Thomas J. Lyons
Thomas J. Lyons
TJL/mb/3563
Enclosures

c: Dave Carlson
Allen Ruberry
Wilson and Merle Tippets

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 29-13087

WATER RIGHT NUMBER: 29-13087

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	SIDNEY C KENT PO BOX 143 ARIMO, ID 83214 (208)254-3662
Current Owner	MELANIE F KENT PO BOX 143 ARIMO, ID 83214 (208)254-3662

Priority Date: 12/31/1919

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
SPRING	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/15 to 10/15	0.022 CFS	3.50 AF
STOCKWATER	1/01 to 12/31	0.020 CFS	
<u>Total Diversion:</u>		0.042 CFS	

Location of Point(s) of Diversion

SPRING	SE1/4NW1/4NW1/4	Sec. 17, Twp 10S, Rge 37E, B.M.
BANNOCK County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10S	37E	17							1.0										1.0

Total Acres: 1

STOCKWATER same as IRRIGATIONConditions of Approval:Remarks:

- General SOURCE IS LOCALLY KNOWN AS ARIMO SPRING PROOF OF PRIORITY IS FURNISHED BY CLAIMANT SHOWING 1919.^^
- Explanatory STOCKWATER, 2 HORSES, 3 CALVES, 6 PIGS, 2 SHEEP

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report 29-13087

Comments:

Dates and Other Information:

Claim Received Date: 6/9/1998
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal: S
Owner Name Connector: AND
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

MEMORANDUM

To: 29-13085, 29-13087
cc: Wilson D. Tibbitts
355 East Street
Arimo, Idaho 83214
Fr: Bryce Contor *Bryce A. Contor*
Date: 6/21/2001
Re: Phone conversation memo.

Today Mrs. Wilson Tibbitts called regarding these two claims. She is very concerned. The source of water claimed is a spring located on the Tibbitts property.

The history is that in 1919 Mr. Wilson's parents developed a spring on their property. Sometime later they made an agreement allowing Joseph Smith and John Worley to each use one miner's inch of water from the spring. The agreement clearly spelled out that the use of water was only for Smith and Worley and their heirs. It also had conditions describing the use Smith and Worley were entitled to, and had provisions for payment to Tibbitts if the uses were to change. Smiths and Worleys, along with Tibbitts, continued to use the water for many years.

At one point the City of Arimo threatened to condemn the water right if Tibbitts did not sell, and the water was owned by the city for a period of time. On September 9, 1978, the city sold the water back to Tibbitts. Tibbitts have been using the spring ever since, for household uses and 10 acres of irrigation. Mrs. Tibbitts has conferred with Dave Carlson and believes that the Tibbitts claims are in order.

Smith also used water after 1978. Claimant Kent (29-13087) is a grandson (great grandson?) of Smith.

Claimant Burnham (29-13085) purchased his property on 4/11/1995, and moved in a few years later. I'm not certain whether this was part of the Smith property or the Worley property, but Burnham is not a descendent of any of the parties to the original agreement. There has been considerable friction with Burnham over the use of the spring and over an easement for access to the spring and to the Arimo Ditch. The easement has been used for years not only by Tibbitts but by the City of Arimo and other users of water from the Arimo Ditch. Apparently the easement issue was settled in court.

Mrs. Tibbitts is concerned that these claims will injure her own rights to the spring. I told Mrs. Tibbitts that if the agreement authorizes either Kent or Burnham to continue using water, it was appropriate for them to file claims, to preserve the intent of the agreement. I wasn't certain whether Mrs. Tibbitts felt that Kent's use was authorized, but she clearly believes Burnham's use is not authorized.

I asked Mrs. Tibbitts to send us a copy of the agreement, with a letter requesting that the copy be put in file 29-13085 and 29-13087. I also told her that when the Directors Report is submitted to the court in one or two years, the "Objection Period" will begin. At that time, Mr. and Mrs. Tibbitts can file an objection against those two claims and have an opportunity to present the agreement to the court and explain why the rights should not be allowed.

To whom it may concern

Feb. 18, 1998

My name is Alton G Smith. My birth date is Dec. 1, 1930. My Father is Clinton E Smith and his birth date is July 9, 1905. My Grandfather was Joseph O Smith his birth date was May 22, 1875.

This is to certify that I and my Grandfather had use of water from a spring, we called "Arimo Spring" that flows from the property of Wilson & Merle Toppetts in Arimo.

This water flows through a plastic pipe of about 2" or 2.5" Diameter and the water flows year round. It terminates at a faucet located on the property now owned by Clifford and Melane Kent and another faucet on the property now owned by James L & Arlene Burnham.

My understanding is that my grandfather (Joseph O Smith) and Mr Tippetts (Wilson Tippetts) father and Less Preslar piped the water to the three houses in about 1919 to have running water in there homes. I remember the water tanks back of the wood stoves. And when Arimo put in the city water system the spring water was taken out of the houses and the spring water was used for watering live stock and gardens and lawns.

When the old pipes rusted out I put in the plastic pipes to the out side taps. Clinton E Smith got the Preslar home now owned by Clifford and Melanie Kent. James L and Arlene Burnham now owns the property that grandpa Smith and I had.

I used faucet to water livestock and a small pasture and garden area. Total flow was about 15 gallons per minute and 5 gallon per min. At my place.

This is a true and accurate accounting to the best of my knowledge.

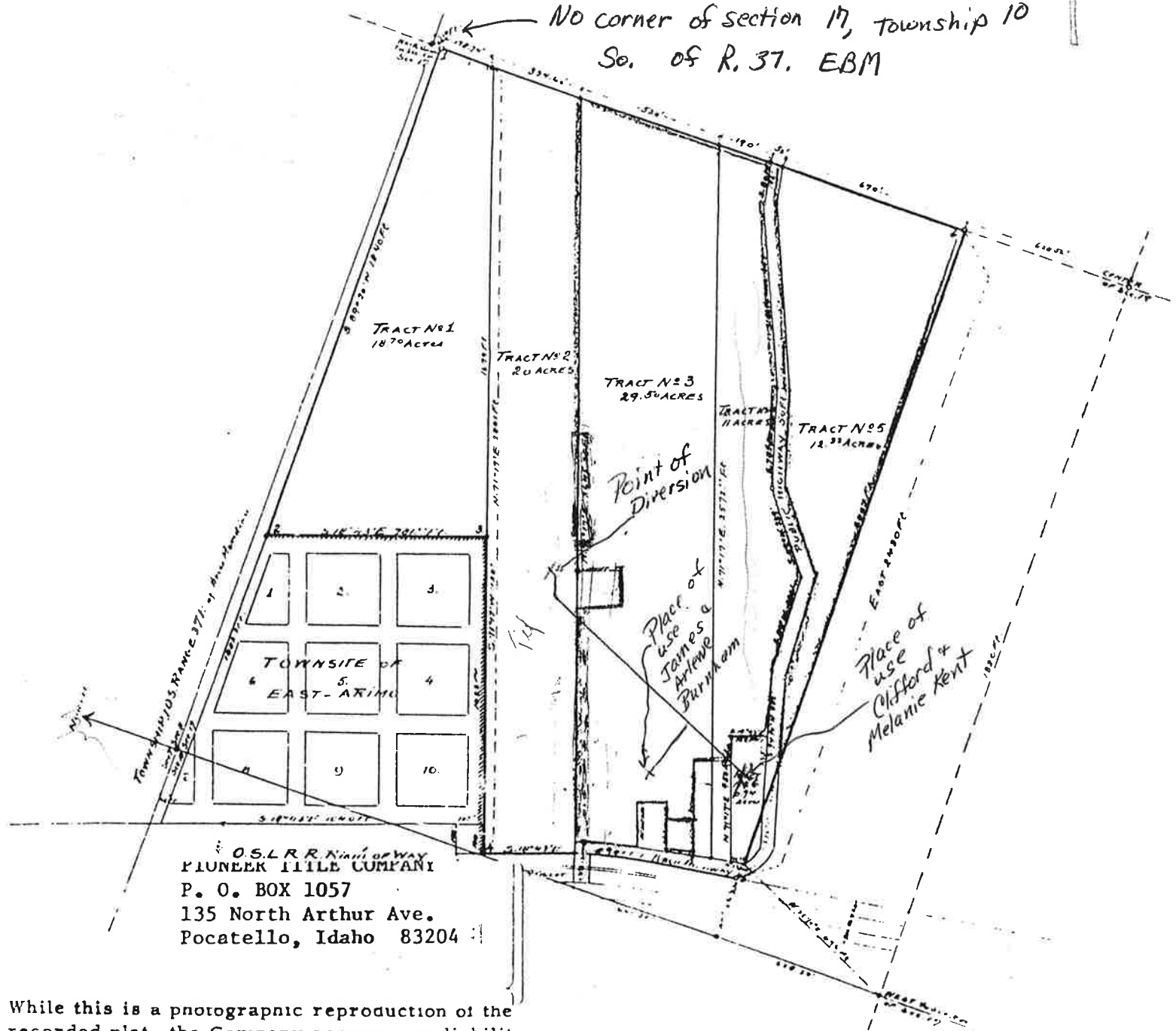
Signature Alton G Smith Date 2/23/98
address 810 E 2nd St Soda Springs
Phone no. 547-4473 83276

Notary signature [Signature]
Expiration date of notary 7/17/2001
Date 2/23/98

MAP
OF
ACREAGE-TRACTS
adjacent to
TOWNSITE OF EAST-ARIMO

Scale 1" = 518.29 Ft

No corner of section 17, Township 10
So. of R. 37. EBM



While this is a photogrammetric reproduction of the recorded plat, the Company assumes no liability for variations, if any, with a re-survey.

to whom it may concern

This is to certify that I own
property formerly owned by my
grandfather, Clinton & Ruth and great
grandfather Joseph & Ruth.
The property is described as

I have owned the property since I (Ruth) had a
constant well from 1890 through an under
ground pipe from the a spring
located on property of William and
make steps. I see this water,
their floor (see cover), to water
live stock, ~~that~~ a small pasture
area and a garden.

It has always been used for
agriculture purposes to ~~my~~ ^{my} farm large & my
mother, Joseph & Ruth, recalls this also
as for back on her memory to 1936
This is my mother of living for
the water applied to be ground for
continued agriculture use and
in our memory as described to the

property is
located in
Box 100
Aurora, Ill.

I Certify that the above is true to
the best of my knowledge.

Signer

me
witness

Glenn
witness

notary signature

date

signature date of notary

AJ5809NP
No. A29-13087

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 05/22/00
PAGE: 253

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	SIDNEY C KENT	12/31/1919	IRRIGATION	04-15 10-15	0.022 CFS	3.50 AFA
C	MELANIE F KENT		STOCKWATER	01-01 12-31	0.020 CFS	
	PO BOX 143					
	ARIMO ID 83214					
	(208) 254-3662			TOTAL DIVERSION:	0.042 CFS	

Water Source: SPRING

Tributary to:

Stage: BENEFICIAL USE

Point(s) of Diversion:

T10S R37E S17

SENWNW

BANNOCK County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE					
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM
10S	37E	17	:								01									:	1.0
																				TOTAL ACRES	1.0

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

POU County: BANNOCK

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):
A29-02217 A29-13085

Other Water Rights Listing Overlapping Place(s) of Use:
A29-00051 A29-11277 A29-13085

Remarks: GEN SOURCE IS LOCALLY KNOWN AS ARIMO SPRING
PROOF OF PRIORITY IS FURNISHED BY CLAIMANT SHOWING 1919.

EXP STOCKWATER, 2 HORSES, 3 CALVES, 6 PIGS, 2 SHEEP

Dates: Exam Made Date:

Verified Date:

Objection Filed Date:

Misc: Water District Number:

Field Inspection Flag:
Presumption Flag:

Audit: 06/10/98 ARUBERRY

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: **A29-13087**
Date Received: 6/ 9/1998
Receipt No: E024170
Received By: SPR

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

A2913087



1. Name: SIDNEY C KENT 208-254-3662
Address: PO BOX 143
ARIMO ID 83214
AND/OR
Name: MELANIE F KENT 208-254-3662
Address: PO BOX 143
ARIMO ID 83214

2. Date of Priority: DEC 31, 1919 *See Affidavit cc*
3. Source: SPRING Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
10S	37E	17	SE	NW	NW		BANNOCK

5. Description of diverting works:
BUILDING WITH PIPELINES TO PLACES OF USE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/15	10/15	0.022		3.50
STOCKWATER	01/01	12/31	0.020		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
10S	37E	17	SW NW		IRR	1.0
Section Acres						1.0
Total Acres						1.0

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:

14. Remarks:

SOURCE IS LOCALLY KNOWN AS ARIMO SPRING
PROOF OF PRIORITY IS FURNISHED BY CLAIMANT SHOWING 1919.
STOCKWATER, 2 HORSES, 3 CALVES, 6 PIGS, 2 SHEEP

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: 3

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): Melanie Kent Date: June 9, 1998

Date: _____

State of Idaho)
County of BONNEVILLE) SS.

Subscribed and sworn (or affirmed) before me this 9th day
of JUNE 19 98

ALLEN B. RUBERRY
Notary Public

Seal



Residing at PO BOX 1000 ED

My Commission Expires 09/23/03

S.C KENT
A29-13087

00
BB-91

