

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

12/04/2001

NAME AND ADDRESS: LELAND AVERY
12200 S DEMPSEY
LAVA HOT SPRINGS ID 83246

SOURCE: DEMPSEY CREEK
EAST CREEK

TRIBUTARY: PORTNEUF RIVER
TRIBUTARY: DEMPSEY CREEK

QUANTITY: 0.64 CFS

PRIORITY DATE: 05/01/1881

POINT OF DIVERSION:

T10S R38E S4 NESWSW Within BANNOCK County

T10S R38E S4 SENWSE Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 09/15	0.640 CFS
THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS APRIL 1 AND MAY CONTINUE TO AS LATE AS OCTOBER 31, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE [APRIL 15] AND AFTER [SEPTEMBER 15] UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.		

PLACE OF USE: IRRIGATION Within BANNOCK County

T10S R38E S03	NENW	1.0	T10S R38E S04 Lot 4	NWNW	14.0
T10S R38E S04	SWNW	13.0	T10S R38E S04	NWSW	6.0

34 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: Decreed

THIS RIGHT IS A PORTION OF FORMER DECREEED RIGHT 29-156.

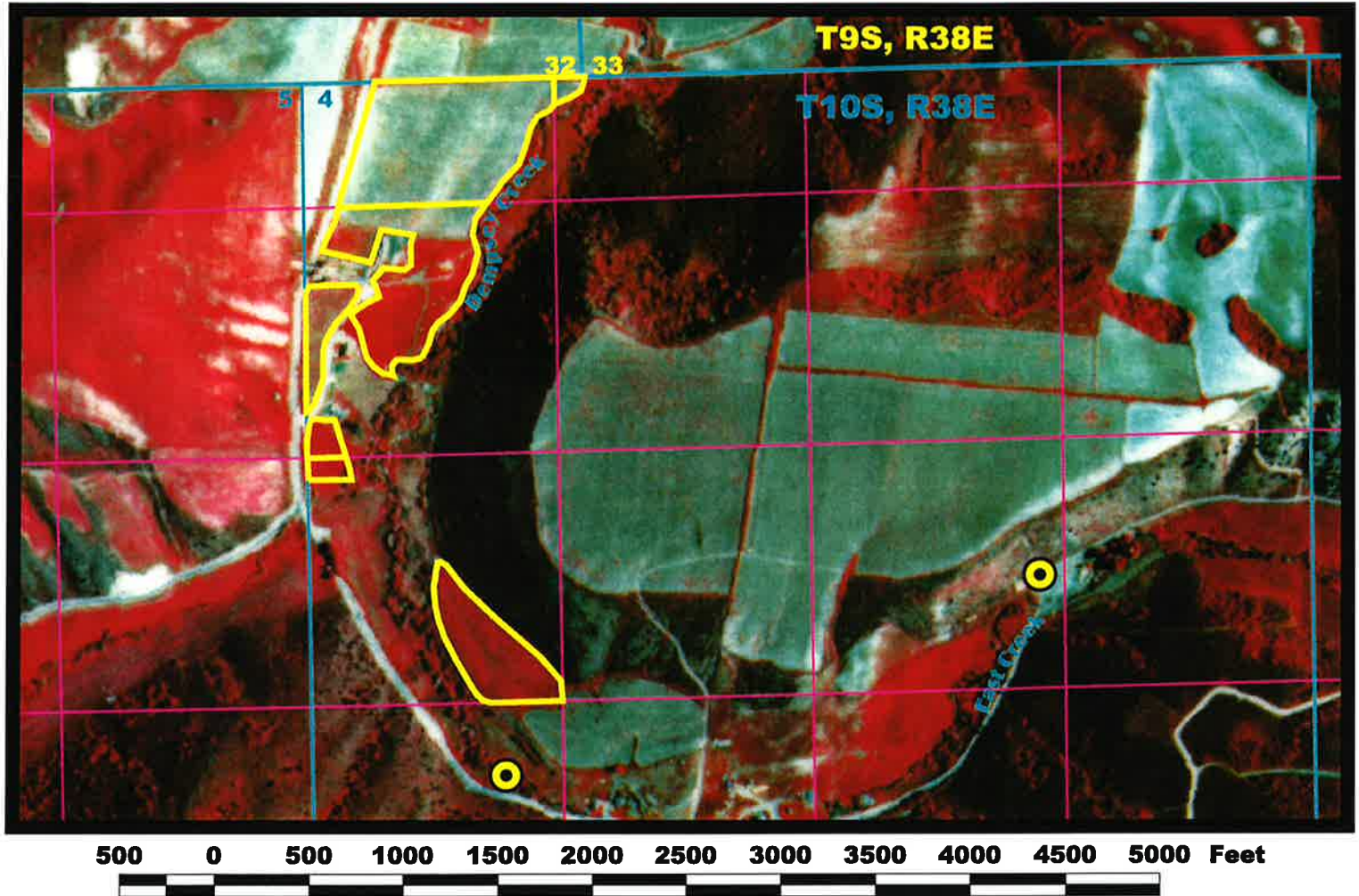


STATE OF IDAHO

Department of Water Resources

Eastern Region

Water Right(s): 29-13131



LEGEND



SESE Place of Use



Section



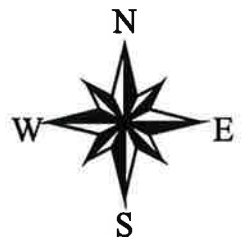
Quarter-Quarter



Point of Diversion

Place of Use: T10S, R38E
(parts of) Sec. 4 W2NW, SWNW

Point(s) of Diversion: T10S, R38E
Sec. 4 SENWSE, NESWSW



GIS Place of Use Illustration
1987/1988 NAPP photography
Prepared by: A. Ruberry
Date: November 2001

29-13131 This is a portion of Decree 29-156

I, ^{Amended} Claims 0.56 cfs on 34 ac. Decree unspecified
about Div. Rate/ac. Assessing also 29-12021 and
29-156A a portion was lost. i. Amended. Again. to
Δ cfs from 0.56 to 0.64 ⇒ it all works now
So 29-10921 for split details —

II Visited POC/PODs. Both sources; East ck &
Dumpsor Ch (through W. Dumpsor Ditch).

III, Claims extended soil ⇒ Sep 2 modified —



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

4 December 2001

Karen Davis (L. Avery Rep.) **A29-13131**
1178 Chesterfield Rd.
Bancroft, ID 83217

Re; Error of calculation for split portions of 29-00156

Dear Mrs. Davis:

This is a long story, but the abridged version is that I discovered an error in MY calculations regarding the split of the 29-00156 decreed right. Basically, this letter is to offer an amendment to add an additional increment of water to the Diversion Rate as discussed in our telephone conversation today. I will attempt to show the calculation as follows;

As Decreed:

29-00156, 0.78 cfs, decree does not specify acres. However,
SRBA claims show a total of 41.5 acres claimed. Therefore,
 $0.78 \text{ cfs} / 41.4 \text{ ac} = 0.018795... >>> 0.0188 \text{ cfs/ac}$

So,

A29-00156A, 2.5 acres, recommended at 0.05 cfs from 0.04 cfs.

A29-12021, 5.0 acres, recommended at 0.09 cfs from 0.08 cfs.

A29-13131, 34 acres, amend from 0.56 cfs to 0.64 cfs.

Neither 29-12021 nor 29-00156A require amendments since they are both over claimed anyway. They will be reduced to the increased diversion rate per acre as shown above.

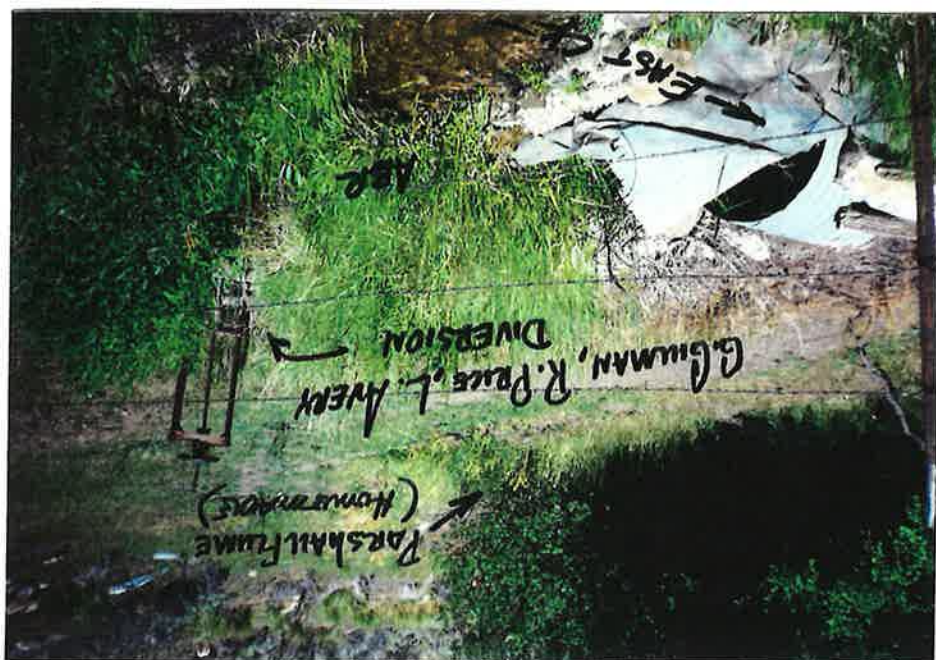
I apologize for any inconvenience this may cause but in the interest of preserving water rights I encourage you to sign the amendment enclosed. I look forward to your timely response. Should you have additional questions or concerns please contact this office.

Respectfully submitted,

Allen B. Ruberry
Sr. Water Resource Agent
Adjudication Bureau

Cc: file

Enclosure; Amended 29-13131



29-12021 (R. P. Ave.)

29-1564 (G. Gullman)

29-13131 (L. Ave.)

T9S, R38E

T10S, R38E

32 33

**NWNW
Lot 4
14**

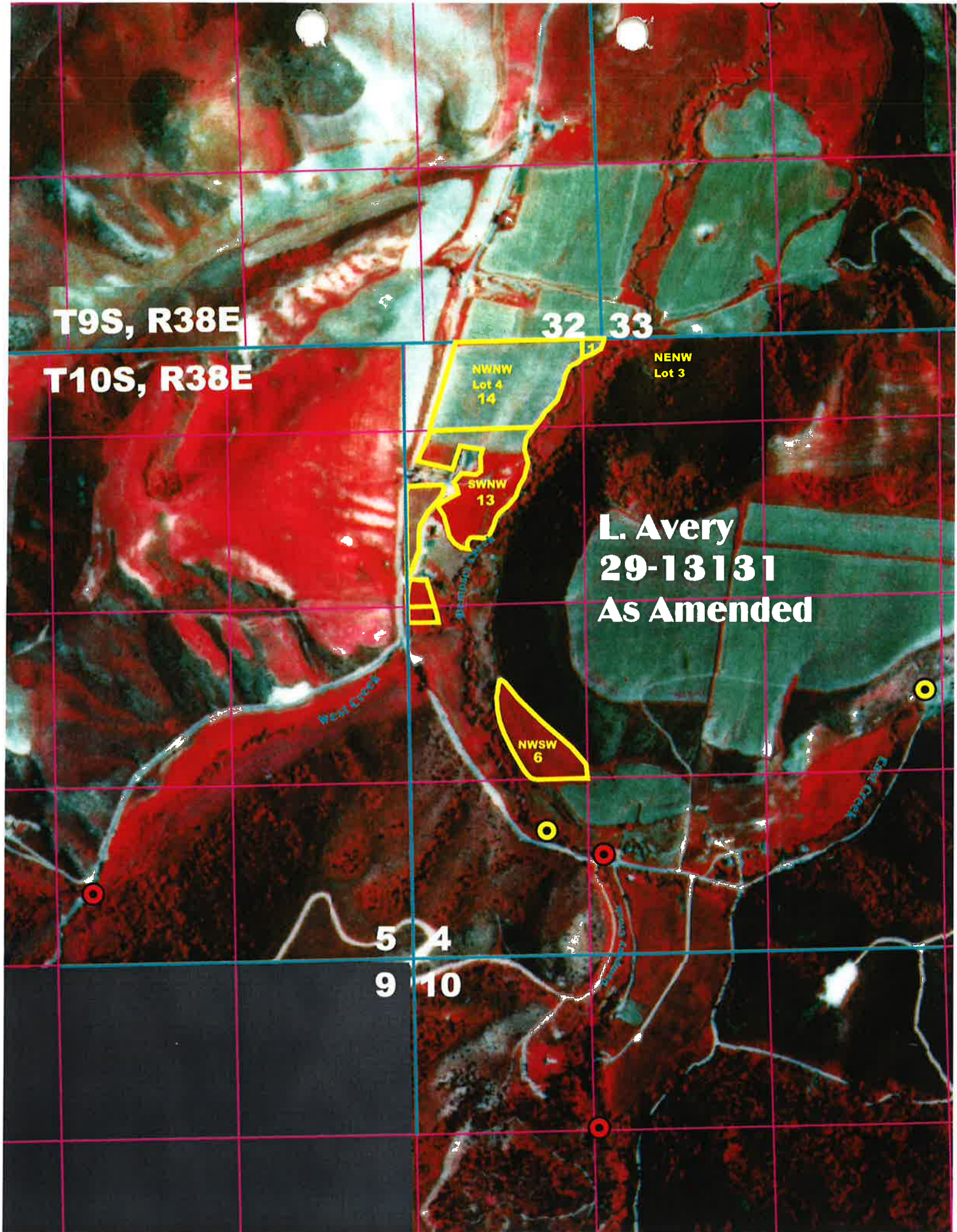
**NENW
Lot 3**

**SWNW
13**

**L. Avery
29-13131
As Amended**

**NWSW
6**

**5 4
9 10**



T9S, R38E

T10S, R38E

32 33

5 4

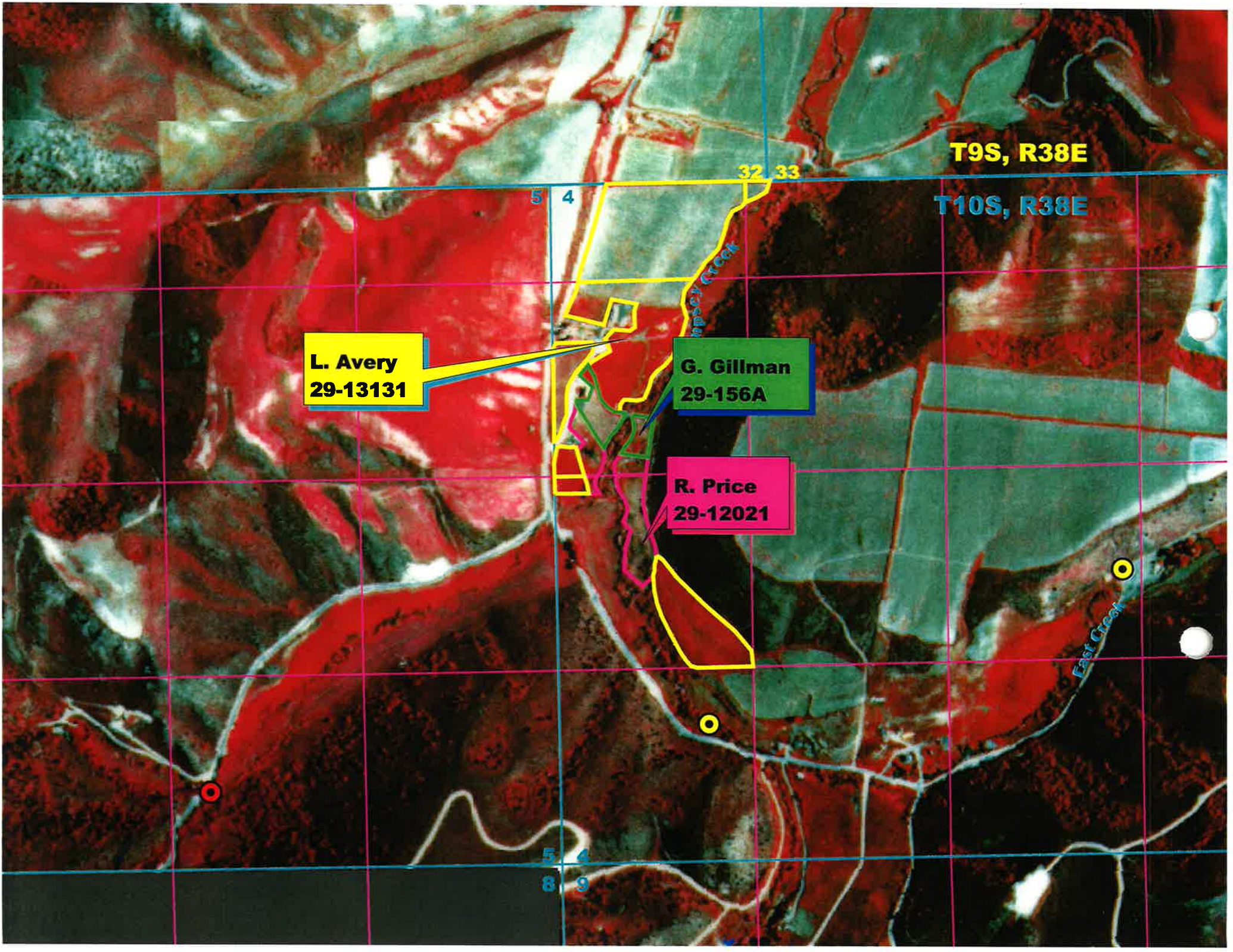
L. Avery
29-13131

G. Gillman
29-156A

R. Price
29-12021

East Creek

8 9



L. AVERY
A29-10291
COMBINES DECREED RTS.
29-00156 (0.78) AND 29-
00164 (0.29).

TOTAL Q = 1.07 cfs
PRIORITY: 5/1/1881

SPLIT BY C/O'S
W/ DEED AS:

AS DECREED

SPLIT PORTION OF 29-00156
0.78 cfs 05/01/1881

R. TILLOTSON
A29-00164

CLAIMED AS ORIGINAL DECREE
0.29 cfs 04/01/1881
DEED SPECIFIES ALL OF #124

SEC 32 S8S8 T9S R38E
SEC 33 SWSW
DEMPSEY CREEK

L. AVERY
A29-13131

0.56 cfs 5/01/1881
34 AC.

SEE GIS
DEMPSEY CREEK
AMENDED TO 0.64

G. GILLMAN
A29-00156A

0.84 cfs 5/01/1881
REDUCED FROM 0.05
0.22 cfs TO 0.84 cfs
5.0 AC. TO 2.5 AC.
EAST CREEK

R. PRICE
A29-12021

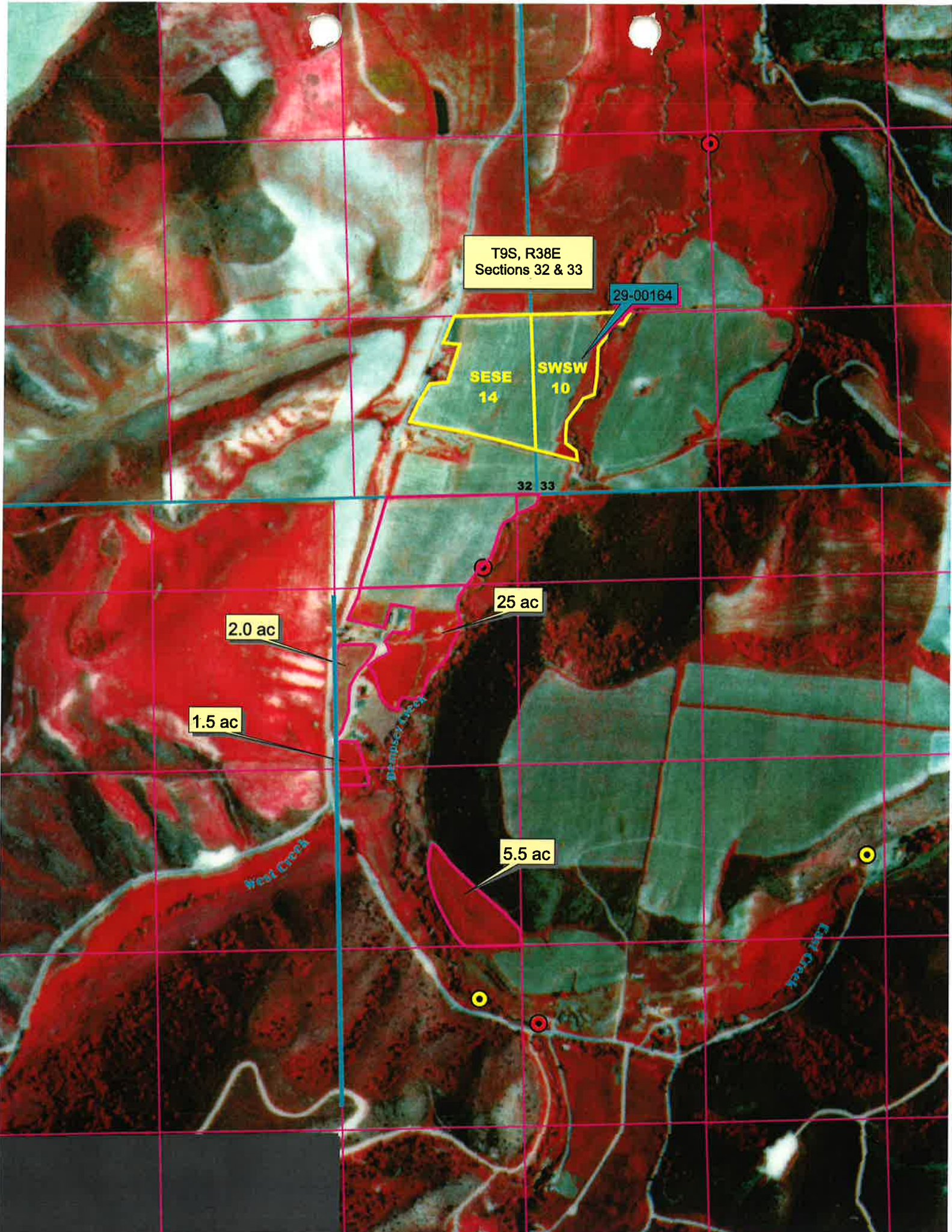
0.08 cfs 5/01/1881
REDUCED FROM: 0.09
0.31 cfs TO 0.08 cfs
6.0 AC. TO 5.0 AC.
EAST CREEK

NOTE: SEE SPLIT CALCULATIONS
IN A29-10291.

DELIVERY THROUGH WEST
DEMPSEY CANAL

8/15/01 GAVO AMENDED CLAIM to
DAN'S WIFE TO PASS ON to
DAN'S MOTHER for SIGNATURE. She
HAS POA for LUCIANO AVERY. I
ALSO REQUESTED cc of POA for FWS.

ALL PORTION OF 156
AMENDED TO ADD THE
DEMPSEY CHANGES



T9S, R38E
Sections 32 & 33

29-00164

SESE
14

SWSW
10

32 33

2.0 ac

1.5 ac

25 ac

5.5 ac

West Creek

East Creek

MEMORANDUM

To: A29-10291
A29-13131
A29-13132
Fr: Bryce Contor
Date: 12/11/2000

Bryce

Re: Priority Date of Claim

Today Mr. Tillotson, owner of split A29-13132, came in with some concerns. According to Mr. Tillotson:

1. The original claim A29-10291 was combined from two decreed rights, one with priority 4-1-1881 and one with priority 5-1-1881. In filing as a combined claim, the priority of the senior right was reduced.
2. The agreement with the seller was that Mr. Tillotson purchased all of the 4-1-1881 right and a proportionate part of the 5-1-1881 right. Mr. Tillotson points to reference in the deed to "specifically right #124 on the Dempsey Creek water" as evidence of this intent.
3. The seller is elderly and not very strong, and may not be able to indicate his intent.
4. The reference "#124" refers not to IDWR number 29-124, but to the watermaster's numbering system.
5. Mr. Tillotson will contact the watermaster, Mr. Olsen, for documentation that "#124" does indeed refer to the 4-1-1881 right.
6. If the watermaster's documentation does not seem adequate, Mr. Tillotson will approach Mr. Avery's attorney for clarification of the intent.

Because Mr. Avery originally claimed 5-1-1881, it appears he will not be injured if I restore the 4-1-1881 priority to part of Mr. Tillotson's right. If the watermaster's documentation appears adequate, I plan to prepare a new claim A31-164 for the 4-1-1881 water, and an amended claim 31-13132 for only a portion of the 5-1-1881 water, for Mr. Tillotson's signature.

I still plan to require convincing documentation, because if Mr. Avery's actual intent were to split both rights proportionally, referencing the claimed PPU, I instead ought to invite Avery to file a new claim for a proportionate part of 29-164.

*This SPLIT PLAN OF
29-10291 WAS DONE INCORRECTLY.
DEEDS SPECIFY CONVEYANCES.
TILLOTSON GETS ALL OF #124 (29-00164)
AVERY, et al GET Splits OF #119 (29-00156)
(NOT 29-00157)
Pricc
Gulman
uncertain*



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

November 27, 2000

LELAND AVERY
12000 S DEMPSEY
LAVA HOT SPRINGS ID 83246

RE: CHANGE IN OWNERSHIP FOR 29-10291

Dear Mr. Avery:

The request for Change in Ownership for a portion of the above-referenced Notice(s) of Claim has been processed with the new Notice(s) reflecting you as one of the claimants.

Since the Change in Ownership involved just a portion of the Notice(s) of Claim, the right was split as follows:

29-13131, 0.52 CFS ON 28 ACRES, AVERY
29-13132, 0.55 CFS ON 30 ACRES, TILLOTSON

Enclosed for your records is a typed Notice(s) reflecting your portion of the right. Review the Notice(s) and if you have other corrections or questions, please contact this office.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jennifer Crabtree".

Jennifer Crabtree
Technical Records Specialist

Enclosure

RECEIVED
DEC 14 2001
Department of Water Resources
Eastern Region

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 29-13131
Date Received: 11/8/2000
Receipt No:
Received By:

AMENDED

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

LELAND AVERY Phone: (208) 776-5234

12200 S DEMPSEY
LAVA HOT SPRINGS ID USA 83246

2. Date of Priority: 05/01/1881

3. Source: DEMPSEY CREEK , EAST CREEK Trib. to: PORTNEUF RIVER , DEMPSEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot			County	Type
10S	38E	4	NE	SW	SW	BANNOCK	
10S	38E	4	SE	NW	SE	BANNOCK	

5. Description of diverting works:

HEADGATES/ PIPELINE TO SPRINKLER SYSTEM. ALSO DELIVERED BY THE W. DEMPSEY CANAL.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	11/01	0.64	

7. Total Quantity Appropriated is:
0.64 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	
10S	38E	4	NE	NW	3	IRRIGATION	1
			SW	NW		IRRIGATION	13
			NW	SW		IRRIGATION	6
			NW	NW	4	IRRIGATION	14
						Section Acres	34
						Total Acres	34

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:

See file 29-10291 for original signature, fees paid under receipt E011922. Original claim 29-10291 was claimed based on decreed rights 29-156 and 29-164. Split by change of ownership 11/8/2000. Split retained all PDs on both parts of split pending investigation of physical layout of distribution system. BContor 11/8/2000.

CLAIM AMENDED 8/14/01 TO CORRECT ACRES, CFS & PODS. CLAIM AMENDED 12/4/01 TO ADD 0.08 CFS. THIS CLAIM REPRESENTS A SPLIT PORTION OF 29-00156.

15. Basis of Claim: Decreed

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): Karen J. Davis Date: 12/14/01

_____ 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
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Receipt No:
Received By:

AMENDED

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

LELAND AVERY Phone: (208)776-5234

12200 S DEMPSEY
LAVA HOT SPRINGS ID USA 83246

2. Date of Priority: 05/01/1881

3. Source: DEMPSEY CREEK , EAST CREEK Trib. to: PORTNEUF RIVER , DEMPSEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
10S	38E	4	NE SW SW	BANNOCK	
10S	38E	4	SE NW SE	BANNOCK	

5. Description of diverting works:

HEADGATES/ PIPELINE TO SPRINKLER SYSTEM. ALSO DELIVERED BY THE W. DEMPSEY
CANAL.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	11/01	0.64	

7. Total Quantity Appropriated is:
0.64 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	
10S	38E	4	NE	NW	3	IRRIGATION	1
			SW	NW		IRRIGATION	13
			NW	SW		IRRIGATION	6
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Section Acres						34	
Total Acres						34	

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:

See file 29-10291 for original signature, fees paid under receipt E011922. Original claim 29-10291 was claimed based on decreed rights 29-156 and 29-164. Split by change of ownership 11/8/2000. Split retained all PDs on both parts of split pending investigation of physical layout of distribution system. BContor 11/8/2000.

CLAIM AMENDED 8/14/01 TO CORRECT ACRES, CFS & PODS. CLAIM AMENDED 12/4/01 TO ADD 0.08 CFS. THIS CLAIM REPRESENTS A SPLIT PORTION OF 29-00156.

15. Basis of Claim: Decreed

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: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this

of _____ 20__

Notary Public

Residing at _____

My commission Expires _____

SEP 06 2001

Department of Water Resources
Eastern RegionIN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
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AMENDED

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

LELAND AVERY Phone: (208)776-5234

12200 S DEMPSEY
LAVA HOT SPRINGS ID USA 83246

2. Date of Priority: 05/01/1881

3. Source: DEMPSEY CREEK , EAST CREEK Trib. to: PORTNEUF RIVER , DEMPSEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
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5. Description of diverting works:

HEADGATES/ PIPELINE TO SPRINKLER SYSTEM. ALSO DELIVERED BY THE W. DEMPSEY
CANAL.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	11/01	0.56	

7. Total Quantity Appropriated is:
0.56 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
----------	-------	---------	----------------	-----	-------

10S	38E	4	NE	NW	3	IRRIGATION	1
			SW	NW		IRRIGATION	13
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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): Karen W. Davids POA Date: 9/5/01

Date:

State of Idaho)
County of Caribou) SS.

Subscribed and sworn (or affirmed) before me this 5th
of September 2001

Thomas J. Jude
Notary Public

Residing at Love Hot Springs Id.
My commission Expires 7/22/02



T9S, R38E

T10S, R38E

32 33

**NWNW
Lot 4
14**

**NENW
Lot 3**

**SWNW
13**

**L. Avery
29-13131
As Amended**

**NWSW
6**

**5 4
9 10**

GENERAL POWER OF ATTORNEY

I, Leland Avery, residing at 12200 South Dempsey Creek Road, Lava Hot Springs, Idaho 83246, hereby appoint Karen Sue Davids of 1178 Chesterfield Road, Bancroft, Idaho 83217, as my attorney-in-fact ("Agent") to exercise the powers and discretions described below.

My Agent shall have full power and authority to act on my behalf. This power and authority shall authorize my Agent to manage and conduct all of my affairs and to exercise all of my legal rights and powers, including all rights and powers that I may acquire in the future. My Agent's powers shall include, but not be limited to, the power to:

1. Open, maintain or close bank accounts (including, but not limited to, checking accounts, savings accounts, and certificates of deposit), brokerage accounts, retirement plan accounts, and other similar accounts with financial institutions.
 - a. Conduct any business with any banking or financial institution with respect to any of my accounts, including, but not limited to, making deposits and withdrawals, negotiating or endorsing any checks or other instruments with respect to any such accounts, obtaining bank statements, passbooks, drafts, money orders, warrants, and certificates or vouchers payable to me by any person, firm, corporation or political entity.
 - b. Perform any act necessary to deposit, negotiate, sell or transfer any note, security, or draft of the United States of America, including U.S. Treasury Securities.
 - c. Have access to any safe deposit box that I might own, including its contents.
2. Sell, exchange, buy, invest, or reinvest any assets or property owned by me. Such assets or property may include income producing or non-income producing assets and property.
3. Purchase and/or maintain insurance and annuity contracts, including life insurance upon my life or the life of any other appropriate person.
4. Take any and all legal steps necessary to collect any amount or debt owed to me, or to settle any claim, whether made against me or asserted on my behalf against any other person or entity.
5. Enter into binding contracts on my behalf.
6. Exercise all stock rights on my behalf as my proxy, including all rights with respect to stocks, bonds, debentures, commodities, options or other investments.

Initials: L-11-

7. Maintain and/or operate any business that I may own.

8. Employ professional and business assistance as may be appropriate, including attorneys, accountants, and real estate agents.

9. Sell, convey, lease, mortgage, manage, insure, improve, repair, or perform any other act with respect to any of my property (now owned or later acquired) including, but not limited to, real estate and real estate rights (including the right to remove tenants and to recover possession). This includes the right to sell or encumber any homestead that I now own or may own in the future.

10. Prepare, sign, and file documents with any governmental body or agency, including, but not limited to, authorization to:

a. Prepare, sign and file income and other tax returns with federal, state, local, and other governmental bodies.

b. Obtain information or documents from any government or its agencies, and represent me in all tax matters, including the authority to negotiate, compromise, or settle any matter with such government or agency.

c. Prepare applications, provide information, and perform any other act reasonably requested by any government or its agencies in connection with governmental benefits (including medical, military and social security benefits), and to appoint anyone, including my Agent, to act as my "Representative Payee" for the purpose of receiving Social Security benefits.

11. Make gifts from my assets to members of my family and to such other persons or charitable organizations with whom I have an established pattern of giving, to file state and federal gift tax returns, and to file a tax election to split gifts with my spouse, if any. However, my Agent shall be prohibited, except as specifically authorized in this instrument, from (a) gifting, appointing, assigning or designating any of my assets, interests or rights, directly or indirectly, to my Agent, my Agent's estate or creditors, or the creditors of my Agent's estate, (b) exercising any powers of appointment I may hold in favor of my Agent, my Agent's estate or creditors, or the creditors of my Agent's estate, or (c) using my assets to discharge any of my Agent's legal obligations, including any obligations of support which my Agent may owe to others, excluding those whom I am legally obligated to support.

This Power of Attorney shall be construed broadly as a General Power of Attorney. The listing of specific powers is not intended to limit or restrict the general powers granted in this Power of Attorney in any manner.

Any power or authority granted to my Agent under this document shall be limited to the extent

necessary to prevent this Power of Attorney from causing: (i) my income to be taxable to my Agent, (ii) my assets to be subject to a general power of appointment by my Agent, or (iii) my Agent to have any incidents of ownership with respect to any life insurance policies that I may own on the life of my Agent.

My Agent shall not be liable for any loss that results from a judgment error that was made in good faith. However, my Agent shall be liable for willful misconduct or the failure to act in good faith while acting under the authority of this Power of Attorney. A successor Agent shall not be liable for acts of a prior Agent.

No person who relies in good faith on the authority of my Agent under this instrument shall incur any liability to me, my estate or my personal representative. I authorize my Agent to indemnify and hold harmless any third party who accepts and acts under this document.

If any part of any provision of this instrument shall be invalid or unenforceable under applicable law, such part shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of such provision or the remaining provisions of this instrument.

My Agent shall not be entitled to any compensation, during my lifetime or upon my death, for any services provided as my Agent. My Agent shall be entitled to reimbursement of all reasonable expenses incurred as a result of carrying out any provision of this Power of Attorney.

My Agent shall provide an accounting for all funds handled and all acts performed as my Agent, but only if I so request or if such a request is made by any authorized personal representative or fiduciary acting on my behalf.

This Power of Attorney shall become effective immediately, and shall not be affected by my disability or lack of mental competence, except as may be provided otherwise by an applicable state statute. This is a Durable Power of Attorney. This Power of Attorney shall continue effective until my death. This Power of Attorney may be revoked by me at any time by providing written notice to my Agent.

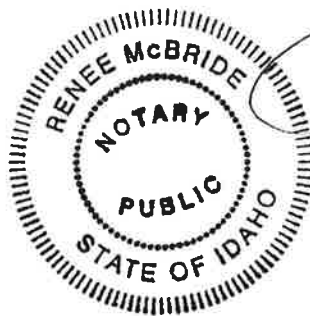
Dated June 7th, 1961, at Lava Hot Springs, Idaho.

Leland Avery
Leland Avery

STATE OF IDAHO, COUNTY OF Bannock, ss:

On this 17 day of January, 2000, before me,
Renée McBride, personally appeared Leland Avery, known to me (or
satisfactorily proven) to be the person whose name is subscribed to the within instrument and
acknowledged that he/she executed the same as for the purposes therein contained.

In witness whereof I hereunto set my hand and
official seal.



Renée McBride
Notary Public

My commission expires May 31, 2006

Notary Address:

146 E. Main
Laurel Hot Springs Id 83246

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 29-13131
Date Received: 11/8/00
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

A2913131



1. Name of Claimant(s)

LELAND AVERY Phone: (208)776-5234

12200 S DEMPSEY
LAVA HOT SPRINGS ID USA 83246

2. Date of Priority: 05/01/1881

3. Source: DEMPSEY CREEK Trib. to: PORTNEUF RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
10S	38E	4	NE SW <i>SW</i>	BANNOCK	<i>w. Dempsey Canal</i>
09S	38E	32	<i>SE</i> SE	BANNOCK	<i>SOLD TO THURSON</i>
10S	38E	4	<i>SE</i> NW SW <i>SE</i>	BANNOCK	<i>w. CR. portion</i>

5. Description of diverting works:

HEADGATES/ PIPELINE TO SPRINKLER SYSTEM

6. Water is used for the following purposes:

Purpose
IRRIGATION

From To C.F.S.
04/01 11/01 0.52

(or) A.F.A

7. Total Quantity Appropriated is:
0.52 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
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10S	38E	4	SW	NW		IRRIGATION	5
			NW	SW		IRRIGATION	8
			NW	NW	4	IRRIGATION	15

Section Acres 28

Total Acres ~~28~~ 34

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:

See file 29-10291 for original signature, fees paid under receipt E011922.

Original claim 29-10291 was claimed based on decreed rights 29-156 and 29-164. Split by change of ownership 11/8/2000. Split retained all PDs on both parts of split pending investigation of physical layout of distribution system. Other split is 29-13132. BContor 11/8/2000.

*This Claim portion Represents a part of
only 29-00156.*

15. Basis of Claim: Decreed

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:

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this
of _____ 20____

Notary Public

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 29-13131
Date Received: 11/8/00
Receipt No:
Received By:

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

LELAND AVERY Phone: (208)776-5234

12200 S DEMPSEY
LAVA HOT SPRINGS ID USA 83246

2. Date of Priority: 05/01/1881

3. Source: DEMPSEY CREEK Trib. to: PORTNEUF RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County
10S	38E	4	NE SW	BANNOCK
09S	38E	32	SE SE	BANNOCK
10S	38E	4	NW SW	BANNOCK

5. Description of diverting works:

HEADGATES/ PIPELINE TO SPRINKLER SYSTEM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	11/01	0.52	

7. Total Quantity Appropriated is:
0.52 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
----------	-------	---------	----------------	-----	-------

10S	38E	4	SW	NW		IRRIGATION	5
			NW	SW		IRRIGATION	8
			NW	NW	4	IRRIGATION	15
Section Acres							28
Total Acres							28

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:

See file 29-10291 for original signature, fees paid under receipt E011922.

Original claim 29-10291 was claimed based on decreed rights 29-156 and 29-164. Split by change of ownership 11/8/2000. Split retained all PDs on both parts of split pending investigation of physical layout of distribution system. Other split is 29-13132. BContor 11/8/2000.

15. Basis of Claim: Decreed

16. Signature(s)