

IDAHO DEPARTMENT OF WATER RESOURCES 12/21/2001
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

NAME AND ADDRESS: RICHARD L GRAY
7661 W BUCKSKIN RD
POCATELLO ID 83201

ROBIN R GRAY
7661 W BUCKSKIN RD
POCATELLO ID 83201

SOURCE: SOUTH FORK POCATELLO CREEK TRIBUTARY: POCATELLO CREEK

QUANTITY: 0.05 CFS

PRIORITY DATE: 03/06/1905

POINT OF DIVERSION:

T06S R35E S28 NESENW 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	0.050 CFS

PLACE OF USE: IRRIGATION Within BANNOCK County

T06S R35E S28 SENE 1.7

1.7 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: License

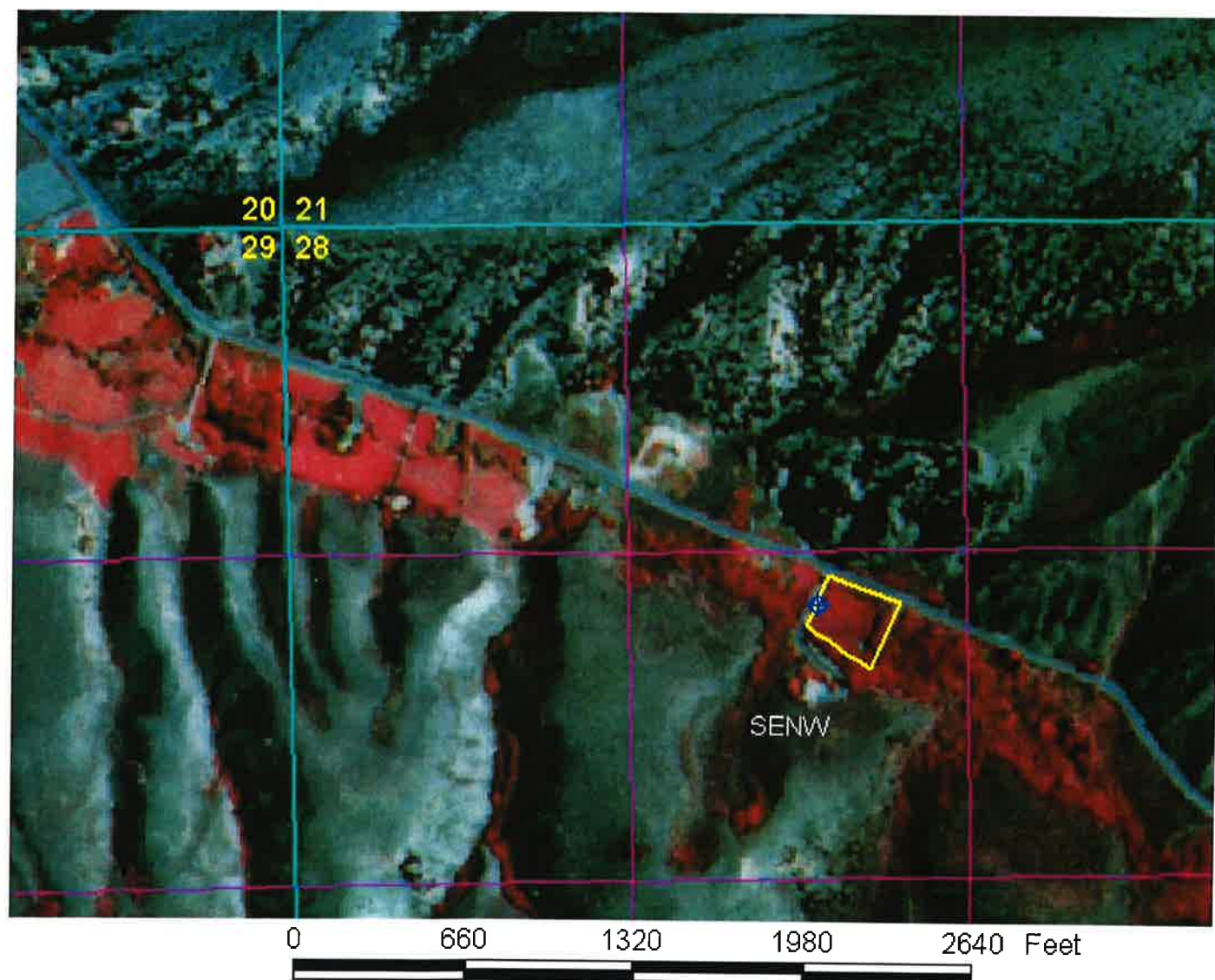
RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE.



Department of Water Resources

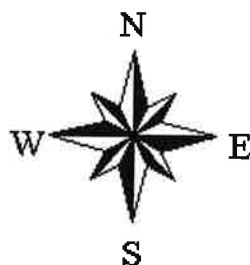
Claim No.: 29-13277

Twp 06S, Rge 35

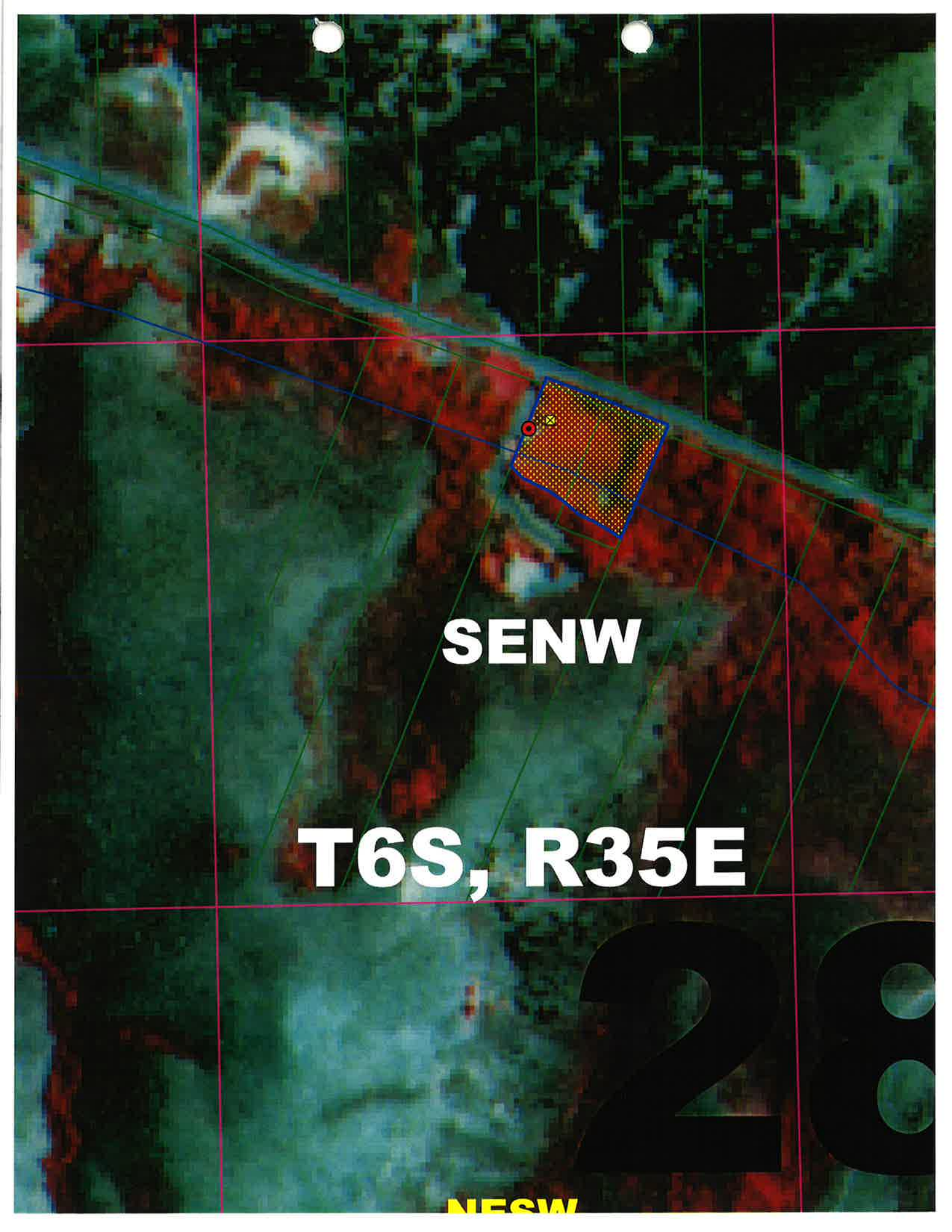


Irrigated Acres = 1.7

-  Diversion.shp
-  Place of use.shp
-  Sections
-  QQ



GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepare by: C. Saxton
Date: January 2002



SENW

T6S, R35E

28

NESW

08/19/2003

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

RIGHT NUMBER: 29-13277

NAME AND ADDRESS: RICHARD L GRAY
PO BOX 2025
POCATELLO ID 83206

ROBIN R GRAY
PO BOX 2025
POCATELLO ID 83206

SOURCE: SOUTH FORK POCATELLO CREEK

TRIBUTARY: POCATELLO CREEK

QUANTITY: 0.050 CFS

PRIORITY DATE: 03/06/1905

POINT OF
DIVERSION: T06S R35E S28 NESENW Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
04/01 10/31

QUANTITY
0.050 CFS

PLACE OF USE: IRRIGATION Within BANNOCK County

T06S R35E S28 SENE 1.7

1.7 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: BASIS OF CLAIM - License

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

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 29-13277 V1

WATER RIGHT NUMBER: 29-13277 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	RICHARD L GRAY 7661 W BUCKSKIN RD POCATELLO, ID 83201
Current Owner	ROBIN R GRAY 7661 W BUCKSKIN RD POCATELLO, ID 83201

Priority Date: 03/06/1905

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
SOUTH FORK POCATELLO CREEK	POCATELLO CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01 to 10/31	0.050 CFS	
	<u>Total Diversion:</u>	0.050 CFS	

Location of Point(s) of Diversion

SOUTH FORK POCATELLO CREEK NE1/4SE1/4NW1/4 Sec. 28, Twp 06S, Rge 35E, B.M.
BANNOCK County

Place of Use

IRRIGATION Within BANNOCK County

T06S R35E S28 SENE 1.7

Total Acres: 1.7

Conditions of Approval:

1. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. 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.

Remarks:

Comments:

Dates and Other Information:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 29-13277 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:
 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>
Priority Date	12/21/2001 8:57:43 AM	csaxton			Active
POD	12/21/2001 8:59:56 AM	csaxton			Active
Source	12/21/2001 9:01:29 AM	csaxton			Active
POU	12/21/2001 9:01:48 AM	csaxton			Active
Use	12/21/2001 9:02:43 AM	csaxton			Active
Season	12/21/2001 9:19:55 AM	csaxton			Active
Quantity	12/21/2001 9:20:28 AM	csaxton			Active
Summary	12/21/2001 9:22:16 AM	csaxton	12/21/2001 9:22:16 AM	csaxton	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
Contacts	12/21/2001 8:56:49 AM	csaxton	(No) 1. Do you want to schedule an appointment? Comment for 1: Met with claimant 12/20/01
Priority Date	12/21/2001 8:57:45 AM	csaxton	(Yes) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 2. Was the owner or the owners predecessor in interest of the place of use joined in the later decree? (Yes) 4. Is the basis of claim decree or license? (Yes) 5. Does the decree or license have a Priority Date? (Yes) 6. Did the Claimant claim the decreed or licensed Priority Date ? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required?
POU	12/21/2001 9:02:19 AM	csaxton	Edited shape boundary

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-13277 V1

POD	12/21/2001 8:59:58 AM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (No) 4. Does the parent right have a POD? (Yes) 6. Is there evidence that there has been a change in the POD? (Yes) 7. Can the change be verified as an accomplished transfer? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required? Description for Question 6 - Licensed in different QQ than current location. Based on claimant statement, previous owner pumped from same POD claimant pumps from and he was there since at least 1983.
POD	12/21/2001 9:00:59 AM	csaxton	Edited point location
Source	12/21/2001 9:01:31 AM	csaxton	(Yes) 1. Is the basis of claim decree or license? (Yes) 4. Does the parent right have a source? (Yes) 5. Can the claimed source be verified using the water right file? (No) 11. Is a Source remark and/or condition required?
POU	12/21/2001 9:01:50 AM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 2a. Is the POU required? (Yes) 5. Does the parent right have a POU? (Yes) 6. Can the claimed POU be verified using the water right file? (No) 14. Is a POU remark and/or condition required?
Use	12/21/2001 9:02:45 AM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the parent right have a Purpose of Use? (Yes) 5. Can the claimed Purpose of Use be verified using the water right file? (No) 13. Is a Purpose of Use remark and/or condition required?
Season	12/21/2001 9:19:57 AM	csaxton	(Yes) 1. Is the basis of claim decree or license? (No) 4. Does the parent right have a Period of Use? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined? (Yes) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-13277 V1

POD	12/21/2001 9:20:29 AM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the parent right have a diversion rate and/or volume? (Yes) 5. Can the claimed diversion rate and/or volume be verified using the water right file? (No) 8. Does the parent right have an annual diversion volume limit? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (No) 12. Is a Quantity remark or condition required?
Summary	12/21/2001 9:22:18 AM	csaxton	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (Yes) 5. Is an additional remark and/or condition required? (Yes) 6. Would you like to view the recommended right? (Yes) 7. Is this a split or combined right? (No) 8. Do you have documents you would like to attach or link to the file? (Yes) 9. Would you like to set the verification date?



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

August 22, 2003

RICHARD & ROBIN GRAY
PO BOX 2025
POCATELLO ID 83206

RE: Notice of Change of Address for 29-13277 & 29-13278 and
Notice of Completed Administrative Proceeding (NCAP)

Dear Mr. & Mrs. Gray:

On August 19, 2003, the Idaho Department of Water Resources (IDWR) received a change of address for the above referenced water right(s). Based on this change, IDWR water right records for the Snake River Basin Adjudication (SRBA) have been updated.

Furthermore, as directed by the SRBA Court, this office mailed a copy of the updated water right record(s) to each party listed on the enclosed NCAP. The intent of this mailing is to ensure each party has a current record of water right(s) as recorded in the SRBA.

Please feel free to contact me if you have any questions concerning this matter.

Respectfully,

Kristen Forsgren
Office Specialist 1

Enclosure

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

Water Rights: 29-13277 & 29-13278

Case No. 39576

NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING

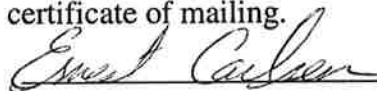
IDWR has completed the following Administrative proceeding:

- ☒ Address change
- ☐ Substitution of Party
- ☐ I.C. § 42-222 transfer
 - ☐ point of diversion ☐ place of use
 - ☐ period of use ☐ nature of use
 - ☐ split of water right ☐ change in ownership

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: Aug 19, 2003

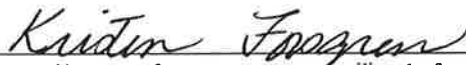


Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on August 22, 2003, I mailed the original and copies of this form to the following persons, postage prepaid by regular mail and addressed as follows:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707
2. One copy to:
Claimant/Seller for Substitution of Party or attorney of record:
N/A
3. One copy to:
Claimant/Purchaser for Substitution of Party, or attorney of record:
RICHARD & ROBIN GRAY
PO BOX 2025
POCATELLO ID 83206
4. One copy to:
Each party in the subcase, or attorney of record
5. One copy each to:
Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise ID 83711-4449
6. One Copy to:
United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724



Signature of person or attorney mailing the form

02/08/2003

NOTICE OF ERROR
REPLY

Craig

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: 29-13277

RICHARD L GRAY
7661 W BUCKSKIN RD
POCATELLO ID 83201

ROBIN R GRAY
7661 W BUCKSKIN RD
POCATELLO ID 83201

RECEIVED
FEB 11 2003
Department of Water Resources
Eastern Region

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.
2/20/2003

DATE: 2/21/03

SIGNATURE:

Richard L Gray
Richard L Gray
ROBIN R Gray

Please print your name:

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

Home 208 232 7360
Work 208 533 5555
Cell 208 251 7360

RECEIVED

FEB 28 2003

Department of Water Resources
Eastern Region

MEMORANDUM

Date: December 21, 2001

From: Craig L. Saxton

Subject: 29-13277

Met with Claimant Richard Gray on 12/20/01. 29-13277 claims a portion of original license 29-02031.

Conversation notes:

Saunders owned property – Clemmons owned property in 1988 when well was drilled (per Well Log)

November 8 1993, Gray purchased property. When Grey purchased the property there was black irrigation pipe everywhere.

Statement from claimant that Saunders had property back in at least 1983, and that the home was built in 1963.

South FK of Pocatello creek runs through the claimants property and leaves his property through a 2.5 foot steel pipe that runs under the road. Claimant blocks culvert and then pumps from a 1.5 hp pump to 12 rainbirds.

Status of License 29-02031:

Licensed in 1914 with a 1905 priority date. Pocatello Creek decree Taney Vs. Woodland signed in 1925. License owner was not party to the decree. Initial investigation would indicate that the Pocatello creek decree would nullify the license. However in 1958 the license was amended to correct the landlist under license 29-02031. Reference state Attorney General letter dated August 27, 1958.

The result of this amendment indicates that license 29-02031 was NOT superceded by the decree and is still a valid license.

Recommendation:

1987 NAPP photography shows irrigation of claimed POU. Water was being used in 1950's according to notes in the WR database. I see no signs of forfeiture. Recommend as claimed.

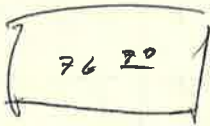
12/20/01: Saunders - irrigated ^{to} Clemmons owned Property in 1988 when
well drilled
Nov 8 1993 - Bought Property

- Saunders had it back in at least 1983
House built in 1963.

- 2 1/2 stainless steel pipe under Road - blocks
culvert till it ponds - then pumps to $\approx$ 12 rainbirds

1 1/2 Hp pump

Jdoynen 162@AOL.COM



County, Bannock
Stream, South Fork of Pocatello Creek
Amount, 35/50 of 1 cubic foot
Use, irrigation
Priority, March 6, 1905

STATE OF IDAHO

Water License No. 1152

(Amended: September 3, 1958)
(By ORDER in the Matter of
Water License No. 1152--list
of irrigated lands.)

WHEREAS, On the 6th day of March, A. D. 1905,
Dorcas B. Carlile

of Pocatello, County of Bannock, State of Idaho, duly made application
(No. 1581) to me for a permit to use two (2) cubic feet per second of the waters of
South Fork of Pocatello Creek

County of Bannock, State of Idaho, for irrigation and domestic purposes, and

WHEREAS, On the 8th day of March, A. D. 1905, Permit No. 1152 was issued
to said applicant for the diversion of said water and providing for the completion of the works of diversion
therein described on or before the 8th day of March, A. D. 1906, and for the application to ben-
eficial use of said water on or before the 8th day of March, A. D. 1907, and

WHEREAS, On the 6th day of March, A. D. 1906,
Dorcas B. Carlile

the holder of said permit, duly made proof of the completion of adequate works for the diversion of
two (2) cubic feet per second of said waters, as evidenced by my Certificate No. 1152
dated July 28, 1906, confirming the completion of works of sufficient capacity for diverting and
conveying to the place of intended use two (2) cubic feet per second of said water,
with date of priority of March 6, 1905, and

WHEREAS, On the 23rd day of September, A. D. 1913, Dorcas B. Carlile
transferred to Sylvester Carlile all his right, title and interest in and to
said permit, and

WHEREAS, On the 13th day of November, A. D. 1913,
Sylvester Carlile

the holder of said permit, duly made proof of the application to beneficial use of 35/50 of 1 cubic
foot per second of said water

NOW, THEREFORE, By virtue of authority vested in me by the laws of the State of Idaho, I
hereby grant and confirm to Sylvester Carlile

of Pocatello, County of Bannock, State of Idaho, the holder and owner
of said Permit No. 1152, a perpetual right, dating from March 6, 1905
to the use of 35/50 of 1 cubic foot per second of the waters of the South Fork of
Pocatello Creek

in the County of Bannock, and State of Idaho, or so much thereof as may be necessary for the
purposes hereinbelow mentioned, to be diverted at a point in the SE $\frac{1}{4}$ of NE $\frac{1}{4}$, Sec. 28, T.
6 S., R. 35 E., B. M.

and conducted to and upon 35 acres, divided as follows: 5 acres in the NW $\frac{1}{4}$ of SW $\frac{1}{4}$;
20 acres in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$; and 10 acres in the NW $\frac{1}{4}$ of SE $\frac{1}{4}$, all in Sec. 28, T.
6 S., R. 35 E., B. M.

for the purpose of irrigation and domestic use, subject, however, to the laws of the
State of Idaho, applicable to a license for the use of the waters of the State, and subject, also, to the local
or community customs, rules and regulations which have been or may be adopted from time to time by
a majority of the users from a common source of supply, canal or lateral from which such water may
be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS, My hand and the seal of my office at Boise, Idaho, this 31st day of March
A. D. nineteen hundred and fourteen.

F. P. KING,

(Seal)

State Engineer

(OVER)

29 2031

DEPARTMENT OF RECLAMATION

ORDER

In the Matter of Water License
No. 1152 - List of irrigated lands

WHEREAS, On March 6, 1905, Dorcas B. Carlisle filed Application for Permit to appropriate 2 cubic feet per second of the Public Waters of the State of Idaho from South Fork of Pocatello Creek, with point of diversion at or near the NE Corner of NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 28, Township 6 South, Range 35 East, B.M., to irrigate 120 acres of land in SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 28, Township 6 South, Range 35 East, B.M., said application being approved March 8, 1905, and Permit No. 1152 was issued to Dorcas B. Carlisle; and,

WHEREAS, On the 5th day of March, 1906, Dorcas B. Carlisle made proof of completion of works on Permit No. 1152, with point of diversion in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28, Township 6 South, Range 35 East, B.M., for irrigation of the SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 28, Township 6 South, Range 35 East, B.M.; and,

WHEREAS, On the 13th day of November, 1913, Sylvester Carlisle made proof of application of water to beneficial use for Permit No. 1152, with point of diversion in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28, Township 6 South, Range 35 East, B.M., for irrigation of 6 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 4 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ and 3 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 28, Township 6 South, Range 35 East, B.M.; and,

WHEREAS, On the 23rd day of March 1914, Report of an examining Engineer showed the lands to be irrigated as 5 acres of NW $\frac{1}{4}$ SW $\frac{1}{4}$, 20 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$, 10 acres of NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 28, all in Township 6 South, Range 35 East, B.M.; and,

WHEREAS, On the 31st day of March, 1914, the State Engineer issued Water License No. 1152, recorded in Volume 3 of Licenses at Page 1572, to Sylvester Carlisle for diversion of 35/50 of one cubic foot per second of the waters of the South Fork of Pocatello Creek, with priority of March 6, 1905, to irrigate 5 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 20 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 10 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, all in Section 28, Township 6 South, Range 35 East, B.M., accepting the description given in Report of the examining Engineer; and,

WHEREAS, A special investigative report upon Pocatello Creek, with respect to water rights, water supply and irrigated lands, made during June and July, 1915, by Samuel E. Vance, Jr., calls attention, among other things, to the erroneous description of lands irrigated under Water License No. 1152, in the following language:

"In looking over License No. 1152, I found that the land described as that upon which water is to be applied is described as NW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 28, Township 6 South, Range 35 East, B.M., and the land upon which water has always been used under this License is the SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28, Township 6 South, Range 35 East, B.M."; and,

WHEREAS, it appearing that License No. 1152 was issued with an erroneous list of lands to be irrigated under said license, and that the said erroneous listing was due to an error upon the part of the State of Idaho;

IT IS HEREBY ORDERED that License No. 1152, issued on the 31st day of March, 1914, to Sylvester Carlisle, should be and is hereby amended on this 4th day of September, 1958, and that said license shall hereinafter be limited solely to those lands to be irrigated as the 35 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 28, Township 6 South, Range 35 East, Boise Meridian, and all other parts of said amended license shall be as appears in the original License No. 1152.

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this 4th day of September, 1958.

/s/ Geo. N. Carter
GEO. N. CARTER
State Reclamation Engineer

WATER RIGHTS ON LITTLE AND BIG POCATELLO
CREEKS, PORTNEUF RIVER AND SPRINGS

DISTRICT 35.

Name	Amount Inches	Date	Kind of Right.
H. S. Woodland	15	prior to all others	Decree
Raphael Lavatta	25	6-1-87	"
Effie Lavatta	25	6-1-87	"
Isabelle Lavatta Maron	25	6-1-87	"
Margaret Lavatta La Salle	25	6-1-87	"
P. S. Taney	10	6-1-90	"
G. H. Perry	40	4-25-04	"
Thomas Hopper	50	9-9-04	"
D. V. Parks	10	9-9-04	"
Thomas Hopper	20	9-9-04	"
Robt. Crum	50	4-14-04	"
Carmena Gianchetta	25	9-5-06	"
H. S. Woodland	25	2-3-07	"
Sylvester Carlisle	35	3-6-05	License
Nathaniel M. Eldridge	80	7-2-08	"
A. A. Allen	80	9-9-04	"
C. Pfeifer	20	1-14-07	"
G. Gianchetta	11	9-5-06	"
G. H. Perry	40	8-6-04	"
C. H. Smith	17	7-13-05	"
Mary E. Brown	100	5-27-06	"
R. Johnson	2	6-26-10	"



RECEIVED
JUL 18 1958

Department of Reclamation

BEN H. LYON

Insurance

TELEPHONE: 240
585 WEST CLARK STREET
P. O. BOX 1125
POCATELLO, IDAHO

July 17, 1958

State of Idaho
Reclamation Department
Boise, Idaho.

Gentlemen:

Subject: Happnings, Pocatello Creek South fork.

Enclosed you will possible like to keep within your files to see what the racket is now on this Dry Stream, as we are in the middle, Now Pete Bistline and wife is on the West Digging large holes, into the land and Building a road dam across the stream, that the holes and cuts are drying up the subs from our lands, he claims all of the Stream and dry chamel, I make demands on you to make inspection now, we are trying to haul water with one leg from the City to try and save the trees and plants and three saddle horses we had 25 calves and had to sell them as they tell us we can not ven live up there and have to abond our place.

On the east Moon has sold many people above our lands, and dug wells on the stream and are using all the waters that come in above, we dug a well and the steams were on each side of the valley when I purchaed it in 1937, the well was not within the two streams just between some 100 feet, now that Woodland and Moon changed the stream to run the water of early spring into our well ruining our pump, and then put in old rotten meats and fish and hams, Etc. dead animals Etc. so we can not use any of its well waters.

We changed Attorneys as Terrells had something to do with Woodland by his brother or uncle in the suit with Standrod some years ago taking a indain right and giving it to H.S. Woodland that this humain Shooter that shot his wife its from one of his wives Andy Woodland, Moon is a gun man also.

There is one thing that I can not understand, the other can do as they please on the Creek, there must be some protection for them, or they are all in the same gam to

Rob. and destroy the tax payers, runs cars with 1955 licenses, pay no taxes on the stock they have and pay very little if any general tax, and are protected to rob people, with out guns by some fake suits Etc.

I beleive that as long as the State claims to have controll over the waters that they can do something in this matter and at least answer, Our Letter and also Mr. Merrill one way or the other.

Did we have the right to file on the well or not?

Thank you for reading my letter and When you get a copy of the letter sent you, if you feel like it would like an answer, as to if we have a right to decrees the 1152 25/35 Miners Inches of water even the creek being dry we want to stop this suing all the time, as this is a robbing rackets.

CC. to the Governor and the Lawinforcement, of our State.

B 1/co.



Thank you.
Ben Lyon

1150

I wanted to try and get to Boise, But I am sick and Crippld, we just ask ten to Russia it could not be any worse than here right in the United States if they set back and allow this to take place rob people without a gun, I honor a Gun man that comes out in the open and sayd he a hold up give me your money. Now The Old Attorneys tell the other Attorneys not to do a thing just steal the money.

DEPARTMENT OF RECLAMATION

ORDER

In the Matter of Water License
No. 1152—list of irrigated lands

WHEREAS, On March 6, 1905, Dorcas B. Carlisle filed Application for Permit to appropriate 2 cubic feet per second of the Public Waters of the State of Idaho from South Fork of Pocatello Creek, with point of diversion at or near the NE Corner of NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 28, Township 6 South, Range 35 East, B.M., to irrigate 120 acres of land in SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 28, Township 6 South, Range 35 East, B.M., said application being approved March 8, 1905, and Permit No. 1152 was issued to Dorcas B. Carlisle; and,

WHEREAS, On the 6th day of March, 1906, Dorcas B. Carlisle made proof of completion of works on Permit No. 1152, with point of diversion in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28, Township 6 South, Range 35 East, B.M., for irrigation of the SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 28, Township 6 South, Range 35 East, B.M.; and,

WHEREAS, On the 13th day of November, 1913, Sylvester Carlisle made proof of application of water to beneficial use for Permit No. 1152, with point of diversion in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28, Township 6 South, Range 35 East, B.M., for irrigation of 6 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 4 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ and 3 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 28, Township 6 South, Range 35 East, B.M.; and,

WHEREAS, On the 23rd day of March 1914, Report of an examining Engineer showed the lands to be irrigated as 5 acres of NW $\frac{1}{4}$ SW $\frac{1}{4}$, 20 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$, 10 acres of NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 28, all in Township 6 South, Range 35 East, B.M.; and,

WHEREAS, On the 31st day of March, 1914, the State Engineer issued Water License No. 1152, recorded in Volume 3 of Licenses at Page 1572, to Sylvester Carlisle for diversion of 35/50 of one cubic foot per second of the waters of the South Fork of Pocatello Creek, with priority of March 6, 1905, to irrigate 5 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 20 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 10 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, all in Section 28, Township 6 South, Range 35 East, B.M., accepting the description given in Report of the examining Engineer; and,

WHEREAS, A special investigation report upon Pocatello Creek, with respect to water rights, water supply and irrigated lands, made during June and July, 1925, by Samuel E. Vance, Jr., calls attention, among other things, to the erroneous description of lands irrigated under Water License No. 1152, in the following language:

"In looking over License No. 1152, I found that the land described as that upon which water is to be applied is described as NW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 28, Township 6 South, Range 35 East, B.M., and the land upon which water has always been used under this License is the SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28, Township 6 South, Range 35 East, B.M."; and,

WHEREAS, it appearing that License No. 1152 was issued with an erroneous list of lands to be irrigated under said license, and that the said erroneous listing was due to an error upon the part of the State of Idaho;

IT IS HEREBY ORDERED that License No. 1152, issued on the 31st day of March, 1914, to Sylvester Carlile, should be and is hereby amended on this 4th day of September, 1958, and that said license shall hereinafter be limited solely to those lands to be irrigated as the 35 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 28, Township 6 South, Range 35 East, Boise Meridian, and all other parts of said amended license shall be as appears in the original License No. 1152.

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this 4th day of September, 1958.

GEO. N. CARTER
State Reclamation Engineer



GRAYDON W. SMITH
ATTORNEY GENERAL
STATE OF IDAHO
BOISE

RECEIVED
AUG 29 1958

Department of Reclamation

August 27, 1958

Mr. George N. Carter
State Reclamation Engineer
Department of Reclamation
State of Idaho
Boise, Idaho

Dear Mr. Carter:

This office is in receipt of your letter of August 15, 1958, and the draft attached thereto relative to the amendment of Water License No. 1152 issued on the 31st day of March, 1914. It is the understanding of this office that the said license innocently misdescribed the lands to which the water right was appurtenant, and that the draft attached to your letter is an amendment of the same license and containing an accurate description of that landed interest to which the said water right is appurtenant.

The case of Basinger vs. Taylor, 36 Idaho 591, at page 598, lays down the rule that a water license describing land or lands upon which water is not used conveys no valid water right and one must depend upon the constitutional method to obtain his priority, to wit: actual diversion and application to a beneficial use. While this case should be cited for authority on the point of law for which it stands, it does not effect the case at bar if the intention of the Department of Reclamation is to amend a former license to correct a misdescription. It is the opinion of this office that the State Reclamation Engineer, an administrative officer of the State government, may order a former license amended to correctly state that area of land to which the

August 27, 1958

water right is appurtenant. This amended water license would then have as its priority date, the date of the original issuance and not the date of the amendment.

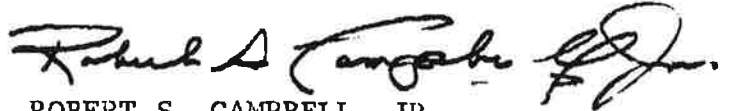
In order to accomplish this purpose, it is my opinion that the order of the Reclamation Engineer on page 2 of the draft should read:

WHEREAS, it appearing that License No. 1152 was issued with an erroneous list of lands to be irrigated under said license, and that the said erroneous listing was due to an error upon the part of the State of Idaho;

IT IS HEREBY ORDERED that License No. 1152, issued on the 31st day of March, 1914, to Sylvester Carlile, should be and is hereby amended on this _____ day of _____, 1958, and that said license shall hereinafter be limited solely to those lands to be irrigated as the 35 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 28, Township 6 South, Range 35 East, Boise Meridian, *add part in () from our draft of order.*

If this office can be of any further service in this matter, please feel free to contact us.

Sincerely yours,



ROBERT S. CAMPBELL, JR.
Assistant Attorney General

RSC:ajc

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 29-13277
Date Received: 12/20/2001
Receipt No: E027343
Received By: CS

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

RICHARD L GRAY Phone: (208)232-7360

7661 W BUCKSKIN RD
POCATELLO ID USA 83201

ROBIN R GRAY Phone: (208)232-7360

7661 W BUCKSKIN RD
POCATELLO ID USA 83201



2. Date of Priority: 03/06/1905

3. Source: POCATELLO CREEK SOUTH FORK Trib. to: POCATELLO CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
06S	35E	28	NE SE NW	BANNOCK	

5. Description of diverting works:

1.5 HP PUMP TO 12 RAINBIRDS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	10/31	0.05	

7. Total Quantity Appropriated is:

0.05 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
06S	35E	28	SE	NE	IRRIGATION	1.7
					Section Acres	1.7
					Total Acres	1.7

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: 29-13278 *Stu 12/20/2001*

14. Remarks:

THIS CLAIM IS BASED ON A PORTION OF ORIGINAL LICENSE 29-02031 (CSAXTON 12/20/01).

15. Basis of Claim: License

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): Richard L. By Date: 12/20/01

Date: _____

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 20th
of December 2001

Jennifer Crabtree

Notary Public

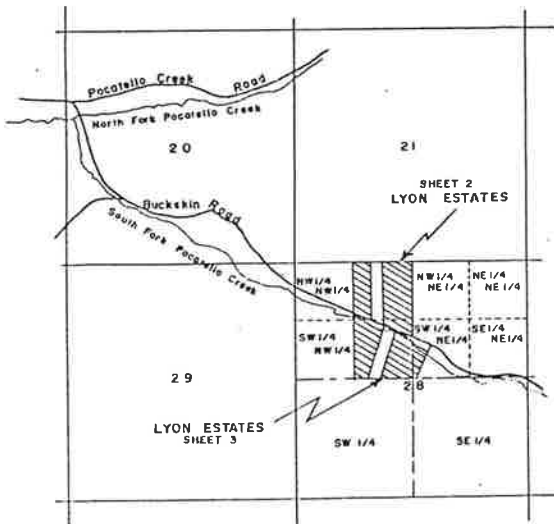
Residing at Idaho Falls, Idaho

My commission Expires 9/23/03



LYON ESTATES

A SUBDIVISION IN THE N 1/2 SECTION 28, TOWNSHIP 6 SOUTH,
RANGE 35 EAST OF THE BOISE MERIDIAN



VICINITY MAP
1"=2000'

SURVEYOR'S CERTIFICATE

I, J.E. BURCHAM JR., a licensed land surveyor of the State of Idaho, do hereby certify that a survey was made by me of the premises described in the owner's certificate and that the plot was made under my direction; the same known as LYON ESTATES, a subdivision in Bannock County, Idaho; that said plot correctly represents the lots and blocks as marked upon the ground; that the monumentation marking said lots, blocks and streets, conforms with that depicted on said plot and that the pertinent provisions of the statutes of the State of Idaho, together with all local ordinances pertaining thereto have been complied with.

J.E. BURCHAM, JR. L.S. 843

COUNTY COMMISSIONER'S ACCEPTANCE

This plot was duly accepted and approved by the Board of County Commissioners of the County of Bannock, Idaho, and that the dedication of the easements shown herein was accepted in behalf of the public by the said County Commissioners on this 18 day of September 1981.

G. NEIL ANDERSON

BILL HOWELL

COUNTY ENGINEER'S CERTIFICATE

I, LES. H. BALLIF, County Engineer for Bannock County, Idaho, have examined this plot and am satisfied that the Legal Description on the plot conforms to the drawing of the property subdivided.

LES. H. BALLIF

P.E. 399

LEGAL DESCRIPTION

Beginning at the N 1/4 Corner of Section 28, T. 6 S., R. 35 E. of the Boise Meridian; thence S 0°18'02"E 874.88 feet along the East line of the NW 1/4 of said section; thence S 66°23'21"E 833.63 feet; thence S 23°37'30"W 894.04 feet to a point on the South line of the North 1/2 of said section; thence N 89°04'50"W 867.21 feet along said South line; thence N 23°37'30"E 1173.58 feet; thence N 66°23'21"W 296.88 feet; thence N 89°46'44"W 532 feet; thence S 23°37'17"W 1209.00 feet to a point on the South line of the North 1/2 of said section; thence N 89°04'50"W 287.88 feet to the SW Corner of the E 1/2 NW 1/4 of said section; thence N 0°28'02"W 2086.32 feet along the West line of the E 1/2 NW 1/4 to a point on North line of said Section 28; thence S 89°55'30"E 500.11 feet along said North line; thence S 0°03'22"W 1241.43 feet; thence N 89°46'44"E 294.24 feet; thence N 0°03'22"E 1342.78 feet to a point on the North line of said Section 28; thence S 89°55'38"E 539.58 feet along said North line to the point of beginning.

OWNER'S CERTIFICATE

Know all men by these presents that we, the undersigned owners of the above described tract of land in the boundary description have caused the same to be subdivided into lots, blocks, and streets to be hereafter known as LYON ESTATES and do hereby warrant and save the City of Pocatello and the County of Bannock harmless from any existing easements or encumbrances and it is also the intention of said owners to include all of the above described premises in said plot and that said premises are to be divided into lots, blocks, and streets as shown and that the location and dimensions of said lots, blocks, and streets are as shown on said plot, and the dedication of streets on said plot are dedicated to the public, but the right to use said easements is hereby perpetually reserved for public utilities, drainage, roadway slope, or for any other uses designated herein, and no structures other than those for utilities are to be erected within the lines of said easements. The Private Driveway Access Roads are not dedicated to the public but are reserved for the use of the adjoining property owners.

BEN H. LYON

DOROTHY L. LYON

ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

On this 31st day of July, 1981, BEN H. and DOROTHY L. LYON, personally appeared before me, the undersigned, a Notary Public in and for the State of Idaho, and acknowledged to me that they executed the above instrument. In witness whereof, I hereunto set my hand and affixed my official seal this day.

NOTARY PUBLIC

My Commission expires 7-5-83

COUNTY RECORDER'S CERTIFICATE

This is to certify that this plot was filed for record in the Office of the Recorder of the County of Bannock, Idaho on this 18th day of September, 1981, at 11:20 A.M., at the request of JACK CONNERT, and was duly recorded in the record of plots in Book 11 page 35.

Reception number 675651

G. NEIL ANDERSON

COUNTY TREASURER'S CERTIFICATE

I certify that all property taxes have been paid on the property included in this plot through July 31 1981.

VIVIAN CROZIER

CITY'S ACCEPTANCE

This plot was hereby approved by the City of POCATELLO, IDAHO, on this 15 day of July 1981.

PETER MADONJALL

JOHN EVANS

JAY L. CORNELISON

LYON ESTATES

IN THE N 1/2 SECTION 28

T. 6 S., R. 35 E., B.M.

SNAKE RIVER LAND SURVEYORS

AMERICAN FALLS, IDAHO

Drawn By RRE

SCALE: 1"=100'

100.00' 100.00' 100.00' 100.00' 100.00' 100.00' 100.00' 100.00'	100.00' 100.00' 100.00' 100.00' 100.00' 100.00' 100.00' 100.00'	100.00' 100.00' 100.00' 100.00' 100.00' 100.00' 100.00' 100.00'	100.00' 100.00' 100.00' 100.00' 100.00' 100.00' 100.00' 100.00'
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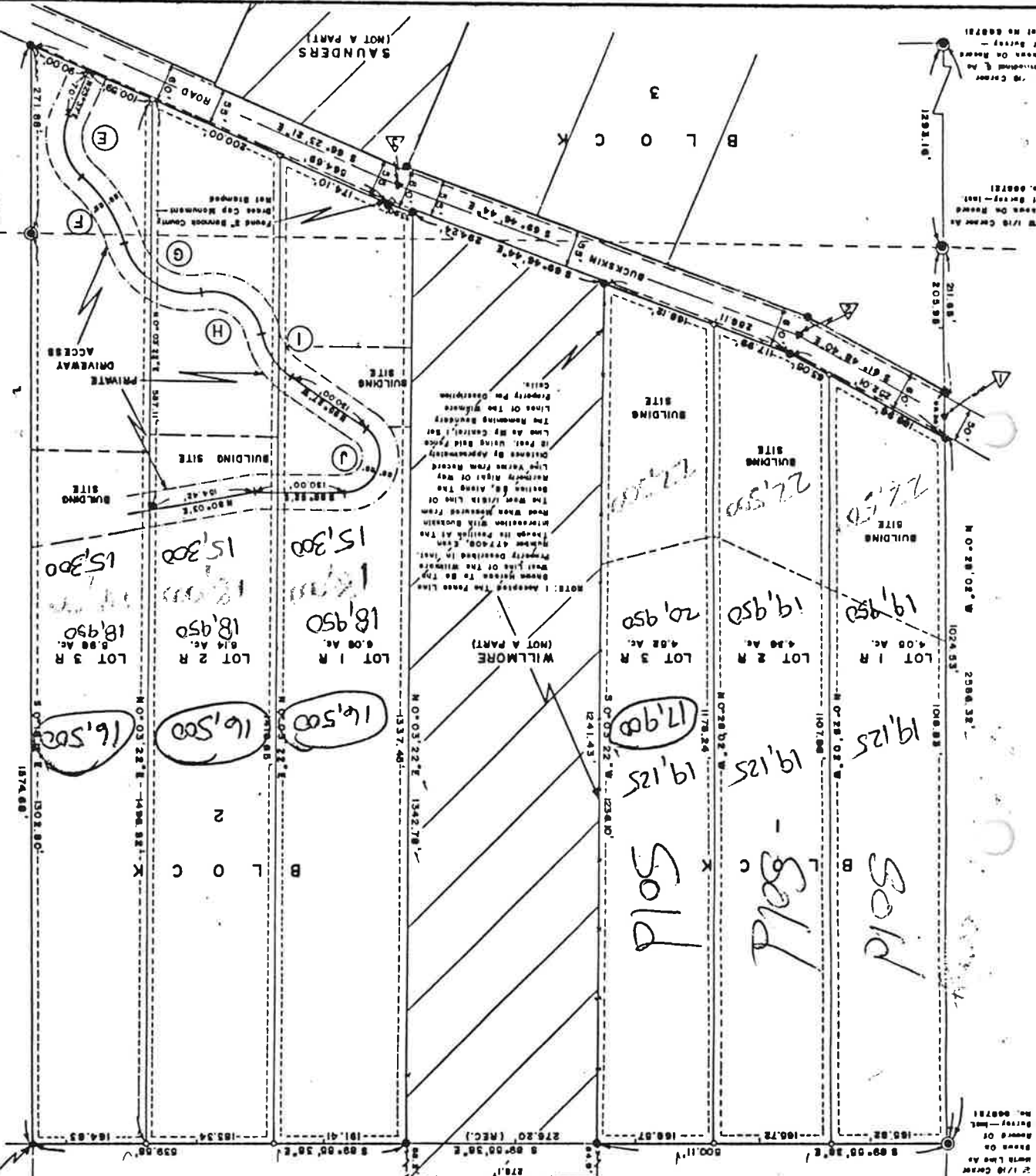
ACCESS ROAD CURVE DATA SUMMARY

- NOTES
- 1) Utility Easements On All Property Lines
 - 2) Driveway Widths Should Be No Greater Than 10% And Cut Into The Hillside At Little As Possible
 - 3) Better Options Cannot Be Located Within 300 Ft. Of The Creek
 - 4) Boundary Measurements In Force Under Title No. 30, CHAPTER 13 IDAHO CODE
 - 5) The BASIS OF BEARING FOR THIS PLAT IS THE WEST LINE OF THE NW 1/4
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 - 96) The BASIS OF BEARING FOR THIS PLAT IS THE WEST LINE OF THE NW 1/4
 - 97) The BASIS OF BEARING FOR THIS PLAT IS THE WEST LINE OF THE NW 1/4
 - 98) The BASIS OF BEARING FOR THIS PLAT IS THE WEST LINE OF THE NW 1/4
 - 99) The BASIS OF BEARING FOR THIS PLAT IS THE WEST LINE OF THE NW 1/4
 - 100) The BASIS OF BEARING FOR THIS PLAT IS THE WEST LINE OF THE NW 1/4

LEGEND

- Existing Boundary Fence
 --- Existing Buckskin Road Right-Of-Way
 --- Private Driveway Access
 --- Proposed Building Sites
 --- 15m Line
 --- Easement Lines
 * Set City Standard Monument With Identification (See Sheet 3 For IDENT. NOS. BOOK 388)
 * See RECORD OF SURVEY, INSTRUMENT NUMBER 588721.
 * Set 5/8" Iron Pin w/ 2" Aluminum Cap Stamped L.S. 843
 * Found 3" Bannock County Brass Cap As Per RECORD OF SURVEY, INSTRUMENT NUMBER 588721, BOOK 388.
 * Found 3" Bannock County Brass Cap
 * Set 5/8" Iron Pin w/ 2" Aluminum Cap Stamped L.S. 843
 * Set 1/2" Iron Pin w/ Plastic Cap Stamped L.S. 843
 * Reestablished Building Site, Contact BANNOCK COUNTY LAND BOARD

POINT OF BEGINNING
 N 1/2 Corner Section 28,
 T. 6 S., R. 35 E., S. 34
 Shown On Record Of Survey -
 M.L. No. 668721





IDENTIFICATION FOR STANDARD	
POCATELLO CITY MONUMENTS	
NO.	IDENTIFICATION NUMBER
1	47-8841-01
2	47-8841-02
3	47-8842-03
4	47-8813-04

R Restricted Building Site, Convert BANNOCK COUNTY LAND BOARD
 O Set 1/2" Iron Pin w/ Plastic Cap Stamped L.S. #43
 ● Set D/B "Iron Pin w/ E" Aluminum Cap Stamped L.S. #43
 ● Found 3 Bannock County Caps
 ● Set D/B "Iron Pin w/ E" Aluminum Cap Stamped L.S. #43
 ▲ See RECORD OF SURVEY, INSTRUMENT NO. 668721, BOOK 368
 Existing Boundary Fence
 Existing Buckskin Road Right-Of-Way
 Private Driveway Access
 Proposed Building Sites
 16 ft Line
 Reservoir Lines
 100 Year Floodplain Boundary

ACCESS ROADS CURVE DATA SUMMARY	(A) Δ: 109° 11' L: 160.89' R: 100.00'	(B) Δ: 68° 00' L: 44.08' L: 83.77' R: 100.00'
(C) Δ: 49° 00' L: 78.89' L: 137.44' R: 178.00'	(D) Δ: 68° 00' L: 90.11' L: 168.38' R: 180.00'	

