

04/25/2003

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

RIGHT NUMBER: 29-13525

NAME AND ADDRESS: PETER T ANESTOS
9589 W POCATELLO CREEK RD
POCATELLO ID 83201

THERESA J ANESTOS
9589 W POCATELLO CREEK RD
POCATELLO ID 83201

SOURCE: POCATELLO CREEK

TRIBUTARY: PORTNEUF RIVER

QUANTITY: 0.090 CFS

PRIORITY DATE: 09/09/1904

POINT OF DIVERSION:

T06S R35E S19 SWSENE Within BANNOCK County Source: POCATELLO CREEK

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.090 CFS
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: IRRIGATION Within BANNOCK County

T06S R35E S18 Lot 4 SWSW 0.4 T06S R35E S18 SESW 4.0

STOCKWATER same as IRRIGATION

4.4 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

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

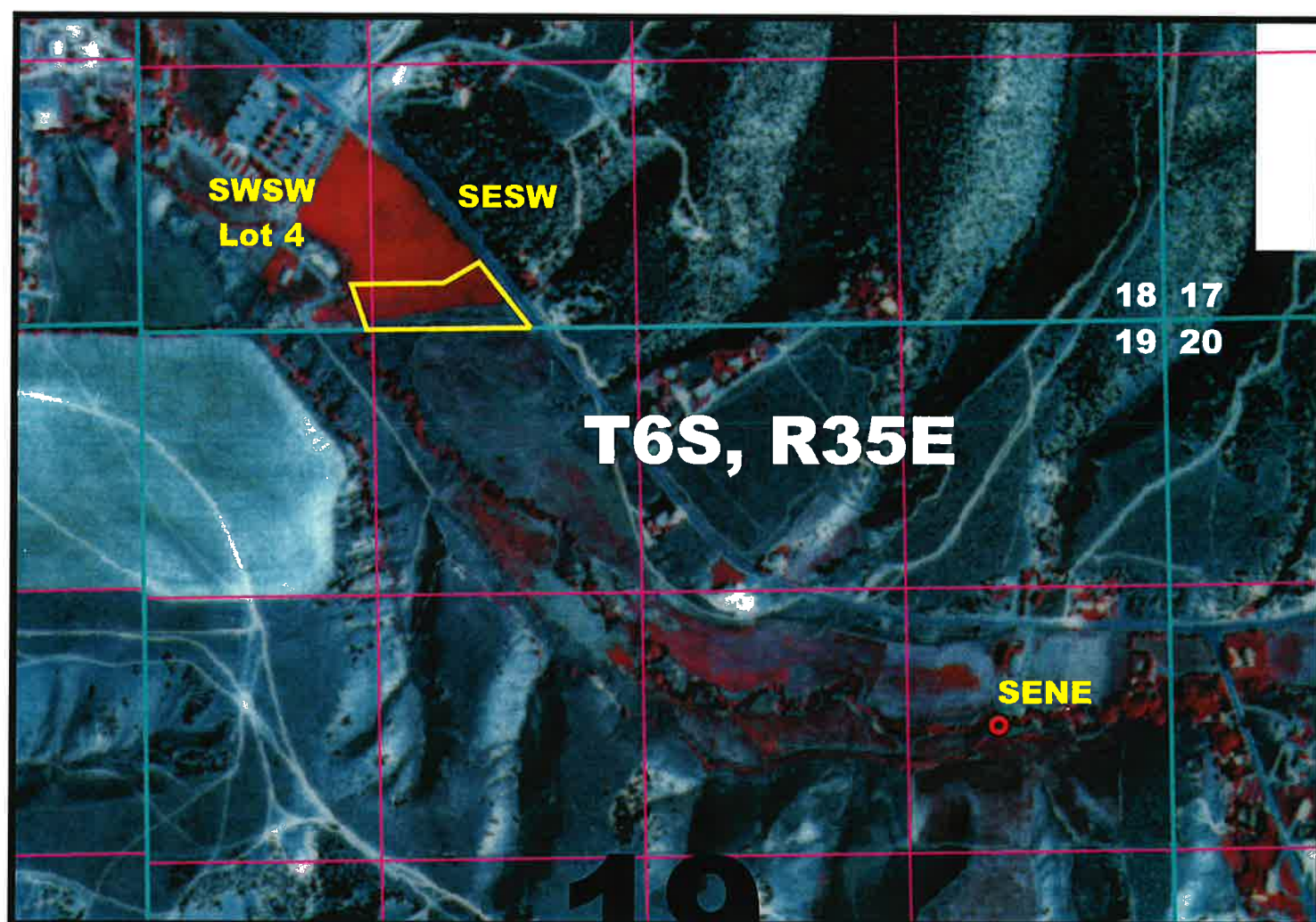
Stockwater use is for 3 head.



STATE OF IDAHO

Department of Water Resources
Eastern Region

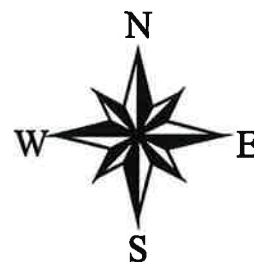
Water Right(s): 29-13525



1320 0 1320 Feet

Total Irrigated Acres: 4.4

-  Point(s) of Diversion
-  Place of Use
-  Quarter Quarter Lines
-  Section Lines



GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: C. Saxton
Date: April 2003

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 29-13525 V1

WATER RIGHT NUMBER: 29-13525 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	PETER T ANESTOS 9589 W POCATELLO CREEK RD POCATELLO, ID 83201 (208)232-8994
Current Owner	THERESA J ANESTOS 9589 W POCATELLO CREEK RD POCATELLO, ID 83201 (208) 232-8994

Priority Date: 09/09/1904

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
POCATELLO CREEK	PORTNEUF RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01 to 10/31	0.090 CFS	
STOCKWATER	01/01 to 12/31	0.020 CFS	
<u>Total Diversion:</u>		0.090 CFS	

Location of Point(s) of Diversion

POCATELLO CREEK	SW1/4SE1/4NE1/4	Sec. 19, Twp 06S, Rge 35E, 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	
06S	35E	18											.4	4.0					4.4
													L 4						

Total Acres: 4.4

STOCKWATER same as IRRIGATION

Conditions of Approval:

1. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE 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.
3. X02 Stockwater use is for 3 head.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES
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Comments:

1. csaxton 4/25/2003 C05

Comment: Majority of POU falls outside of the POU defined in original decreed right 29-00446. But I feel it is logical to assume that this claim is for a portion for that decreed right. Historical aerial photos support use. Add C05.

2. csaxton 4/25/2003 POU

Comment: 1987 NAPP shows red on only a portion of the property but I feel this is a rectification of the photo error. Recommend 4.4 acres.

3. csaxton 4/25/2003 POD

Comment: Actual location of the current POU is T6S, R35E, Section 18, Government lot 4, SESWSW. However, this POU was put in place in 1988 so a transfer needs to be filed to change the POD.

4. csaxton 4/25/2003 Stock

Comment: Stock was mentioned in the Pocatello Creek decree as a use so IDWR can recommend year round use.

5. csaxton 4/25/2003 Diversion Rate

Comment: Recommend 1 inch per acre since decree is silent to duty of water.

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: 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

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Contacts	4/25/2003 10:18:54 AM	csaxton			Active
Priority Date	4/25/2003 10:20:03 AM	csaxton			Active
POD	4/25/2003 10:20:22 AM	csaxton			Active
POU	4/25/2003 10:24:54 AM	csaxton			Active
Use	4/25/2003 10:29:56 AM	csaxton			Active
Season	4/25/2003 11:07:49 AM	csaxton			Active
Quantity	4/25/2003 11:10:21 AM	csaxton			Active
Summary			04/25/2003	csaxton	Active
Source	4/25/2003 12:17:46 PM	csaxton			Active

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Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
Use	4/25/2003 10:29:56 AM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License 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?
POD	4/25/2003 10:20:22 AM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (No) 4. Does the Decree or License have a POD? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?
POD	4/25/2003 10:20:44 AM	csaxton	Edited point location
POU	4/25/2003 10:25:24 AM	csaxton	Edited shape boundary
Contacts	4/25/2003 10:18:55 AM	csaxton	(No) 1. Do you want to schedule an appointment? Comment for 1: Desk top Review
Source	4/25/2003 12:17:46 PM	csaxton	(Yes) 1. Is the basis of claim Decree or License?
Priority Date	4/25/2003 10:20:03 AM	csaxton	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (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?

IDAHO DEPARTMENT OF WATER RESOURCES

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POU	4/25/2003 10:24:54 AM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 2a. Is the POU required? (Yes) 5. Does the Decree or License have a POU? (No) 6. Can the claimed POU be verified using the water right file? (Yes) 7. Is there evidence that there has been a change in the POU? (Yes) 8. Can the claim be verified as an accomplished transfer? (Yes) 13. Does the file contain all the necessary information to verify the POU? (No) 14. Is a POU remark and/or condition required? Description for Question 8 - Part of the recommended POU not described in the original Decree. Historical aerial photos show change at least back to 1972. Description for Question 13 - 1987 NAPP photography
POU	4/25/2003 10:26:04 AM	csaxton	Edited PLS
Season	4/25/2003 11:07:49 AM	csaxton	(Yes) 1. Is the basis of claim Decree or License? (No) 4. Does the Decree or License 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?
Quantity	4/25/2003 11:10:21 AM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License 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?

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Adjudication Recommendation Report 29-13525 V1

Summary	4/25/2003 11:12:01 AM	csaxton	(Yes) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture? (No) 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?
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State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 25, 2003

PETER T ANESTOS
THERESA JA ANESTOS
9589 W POCATELLO CK RD
POCATELLO ID 83201

RE: Recommendations For Snake River Basin Adjudication (SRBA) claims 29-13525 and 29-13526.

Dear Mr. and Ms. Anestos,

The Idaho Dept. of Water Resources reviewed SRBA claims 29-13525 and 29-13526. Enclosed are preliminary recommendations for the claims.

As previously discussed, for irrigation claim 29-13525 you claimed 1.5 inches per acre. I stated over a conference call with Ms. Anestos and Roger Warner that it would not hurt to claim 1.5 inches per acre but I would have to review the files to see if I could recommend that amount. After reviewing the files and the Pocatello Creek decree, evidence indicates that the intent of the decree was to assign a duty of water as 1 inch per acre as reflected in the recommendation.

Please look over the recommendations and if satisfied, no further action needs to be taken. You will be notified by the SRBA court at the time the Directors report is issued.

Please feel free to contact me with any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Craig L. Saxton'.

Craig L. Saxton
Sr. Water Resource Agent
Adjudication Bureau

4-25-03: Majority of POU falls outside of QD defined
as POU in decreed Right 22-00446. But
I feel it is logical to assume that this
claim is for a portion of that decreed right
L75

i see Notes in ECUR



1972

RECEIVED

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO
IN AND FOR THE COUNTY OF TWIN FALLS

APR 21 2003

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER **WATER RESOURCES
WESTERN REGION**

Ident. Number 29-13525
Date Received: 4/17/2003
Receipt No: *EV 28678*
Received By: *JC*

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

1. Name of Claimant(s)

PETER T ANESTOS Phone: (208)232-8994

9589 W POCATELLO CREEK RD
POCATELLO ID USA 83201

THERESA J ANESTOS Phone: (208) 232-8994

9589 W POCATELLO CREEK RD
POCATELLO ID USA 83201

2. Date of Priority: 09/09/1904

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

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
06S	35E	19	SW SE NE	BANNOCK	

5. Description of diverting works:

DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	0.132	
STOCKWATER	01/01	12/31	0.02	

7. Total Quantity Appropriated is:

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	18	SE SE	SW SW	IRRIGATION STOCKWATER	4.4
					Section Acres	4.4
					Total Acres	4.4

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:

This water right is a portion of water right 29-446 decreed in the Tommy - Woodland Decree.

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) *[Signature]* Date: 4-17-03

Date:

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this

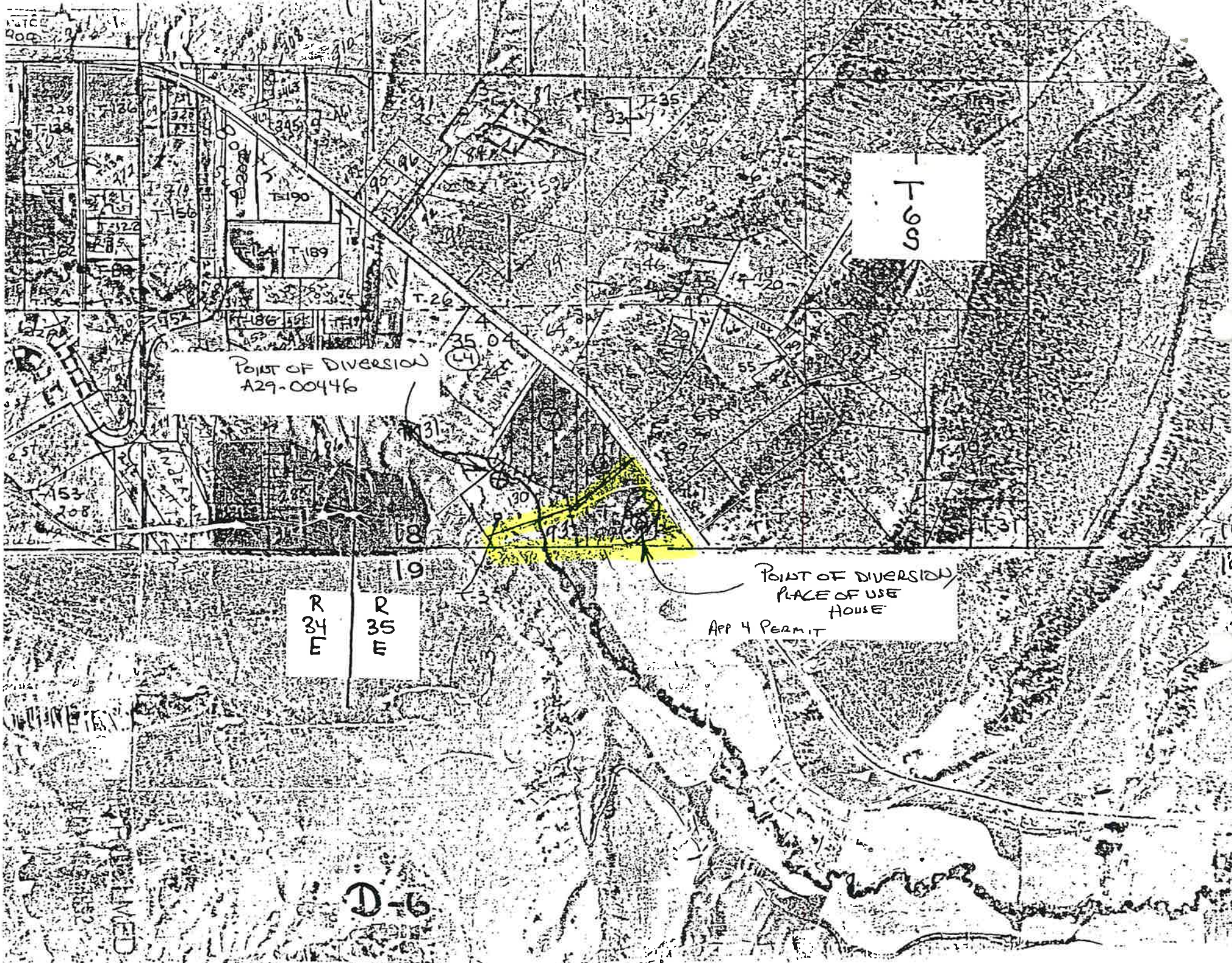
of April 2003

17th
Jennifer Crabtree
Notary Public

Residing at Idaho Falls

My commission Expires 9-23-03





POINT OF DIVERSION
A29-00446

T
36
S

R
34
E

R
35
E

POINT OF DIVERSION,
PLACE OF USE
HOUSE
APP 4 PERMIT

D-6

Warranty Deed

2-1

96002023

For Value Received

ROBERT D. REECE AND VICTORIA L. REECE, HUSBAND AND WIFE.

the grantorS, do hereby grant, bargain, sell and convey unto
 PETER T. ANESTOS AND THERESA J. ANESTOS, HUSBAND AND WIFE.

whose current address is
 9589 WEST POCA TELLO CREEK ROAD, POCA TELLO, ID 83201

the grantees, the following described premises, in BANNOCK County Idaho, to wit:
 SEE ATTACHED EXHIBIT "A"

SUBJECT TO: ALL existing patent reservations, easements, rights of way, protective covenants, zoning ordinances and applicable building codes, laws and regulations.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said GranteeS,
 AND THEIR heirs and assigns forever. And the said Grantor S do hereby covenant to and with the said
 Grantee S, that They the ownerS in fee simple of said premises; that they are free from all incumbrances
 ARE

and that he y will warrant and defend the same from all lawful claims whatsoever.

Dated: February 6, 1996

Robert D. Reece
 ROBERT D. REECE

Victoria L. Reece
 VICTORIA L. REECE

STATE OF IDAHO, COUNTY OF BANNOCK
 On this 6th day of FEBRUARY, 1996,
 before me, a notary public in and for said State, personally appeared

ROBERT D. REECE
 VICTORIA L. REECE

NOTARY SEAL

known to me to be the person S whose name S ARE
 subscribed to the within instrument, and acknowledged to me that
 THEY executed the same.

Seri S. Pence
 POCA TELLO

Notary Public

Residing at 12/10/99
 Comm. Expires

No. 96002023
 Recorded at request of
 ALLIANCE TITLE & ESCROW
 Date: 2-7-96 3:45P
 Official Record Book 658
 Bannock County Recorder
 Fee 6.00 Deputy *[Signature]*

EXHIBIT A

96002023

PARCEL 1:

2-2

A TRACT OF LAND IN THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 6 SOUTH, RANGE 35 E.B.M., DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 18, TOWNSHIP 6 SOUTH, RANGE 35 E.B.M.; THENCE SOUTH $89^{\circ}56'00''$ EAST ALONG THE SOUTH LINE OF SECTION 18, FOR A DISTANCE OF 1126.83 TO THE SOUTHWEST CORNER OF THE LAND DEPICTED ON THE RECORD OF SURVEY MAP RECORDED IN THE RECORDS OF BANNOCK COUNTY, AS INSTRUMENT 814914, THE TRUE POINT OF BEGINNING; THENCE NORTH $18^{\circ}34'55''$ WEST ALONG THE WEST BOUNDARY OF THE SAID LAND FOR A DISTANCE OF 240.12 FEET; THENCE SOUTH $89^{\circ}55'43''$ EAST FOR A DISTANCE OF 469.42 FEET; THENCE NORTH $59^{\circ}58'51''$ EAST FOR A DISTANCE OF 216.08 FEET TO AN INTERSECTION WITH THE WEST RIGHT OF WAY LINE OF POCATELLO CREEK ROAD; THENCE SOUTH $36^{\circ}34'52''$ EAST ALONG THE WEST RIGHT OF WAY LINE OF POCATELLO CREEK ROAD, FOR A DISTANCE OF 418.56 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF SECTION 18; THENCE NORTH $89^{\circ}56'00''$ WEST ALONG THE SAID SOUTH LINE, FOR A DISTANCE OF 829.48 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

A UTILITY AND ACCESS EASEMENT, EXTENDING SOUTHEASTERLY ALONG THE WEST BOUNDARY OF THE LAND DEPICTED ON THE SURVEY MAP RECORDED IN THE RECORDS OF BANNOCK COUNTY AS INSTRUMENT 814914, FROM CLIFFORD DRIVE TO THE NORTH BOUNDARY OF THE AFORE DESCRIBED TRACT, SAID EASEMENT BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 18, TOWNSHIP 6 SOUTH, RANGE 35 E.B.M.; THENCE SOUTH $89^{\circ}56'00''$ EAST ALONG THE SOUTH LINE OF SECTION 18, FOR A DISTANCE OF 1126.83 FEET TO THE SOUTHWESTERLY CORNER OF THE LAND DEPICTED ON THE RECORD OF SURVEY MAP RECORDED IN THE RECORDS OF BANNOCK COUNTY AS INSTRUMENT 814914; THENCE NORTH $18^{\circ}34'55''$ WEST ALONG THE WEST BOUNDARY OF THE SAID LAND, FOR A DISTANCE OF 240.12 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG THE SAID WEST BOUNDARY FOR THE FIVE (5) COURSES:

- (1) NORTH $08^{\circ}57'31''$ WEST FOR A DISTANCE OF 123.96 FEET; THENCE
- (2) NORTH $43^{\circ}46'35''$ WEST FOR A DISTANCE OF 111.59 FEET; THENCE
- (3) NORTH $56^{\circ}44'57''$ WEST FOR A DISTANCE OF 90.64 FEET; THENCE
- (4) NORTH $48^{\circ}06'57''$ WEST FOR A DISTANCE OF 69.80 FEET; THENCE
- (5) NORTH $86^{\circ}40'49''$ WEST FOR A DISTANCE OF 23.59 FEET TO THE NORTHWEST CORNER OF THE SAID LAND, THENCE NORTH $30^{\circ}31'56''$ EAST ALONG THE NORTH BOUNDARY OF THE SAID LAND, THE SAME BEING THE SOUTH RIGHT OF WAY LINE OF CLIFFORD DRIVE, FOR A DISTANCE OF 95.90 FEET; THENCE SOUTH $33^{\circ}17'25''$ EAST FOR A DISTANCE OF 108.53 FEET; THENCE SOUTH $49^{\circ}34'38''$ EAST FOR A DISTANCE OF 206.65 FEET; THENCE SOUTH $66^{\circ}04'10''$ EAST FOR A DISTANCE OF 392.08 FEET TO THE NORTH BOUNDARY OF THE AFORE DESCRIBED TRACT; THENCE NORTH $89^{\circ}55'43''$ WEST FOR A DISTANCE OF 376.16 FEET TO THE POINT OF BEGINNING.