

05/21/2003

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

RIGHT NUMBER: 29-13464

NAME AND ADDRESS: THE 1994 RICHARD SPENCER LIVING TRUST
C/O RICHARD SPENCER
8409 PLACID ST
LAS VEGAS NV 89123

SOURCE: INDIAN CREEK

TRIBUTARY: PORTNEUF RIVER

QUANTITY: 0.108 CFS

PRIORITY DATE: 05/31/1908

POINT OF DIVERSION:

T07S R36E S28 NWNW Within BANNOCK County Source: INDIAN CREEK

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/01 10/31

0.108 CFS

PLACE OF USE: IRRIGATION Within BANNOCK County

T07S R36E S28

NWNW

2.9

T07S R36E S29

NENE

5.9

8.8 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

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

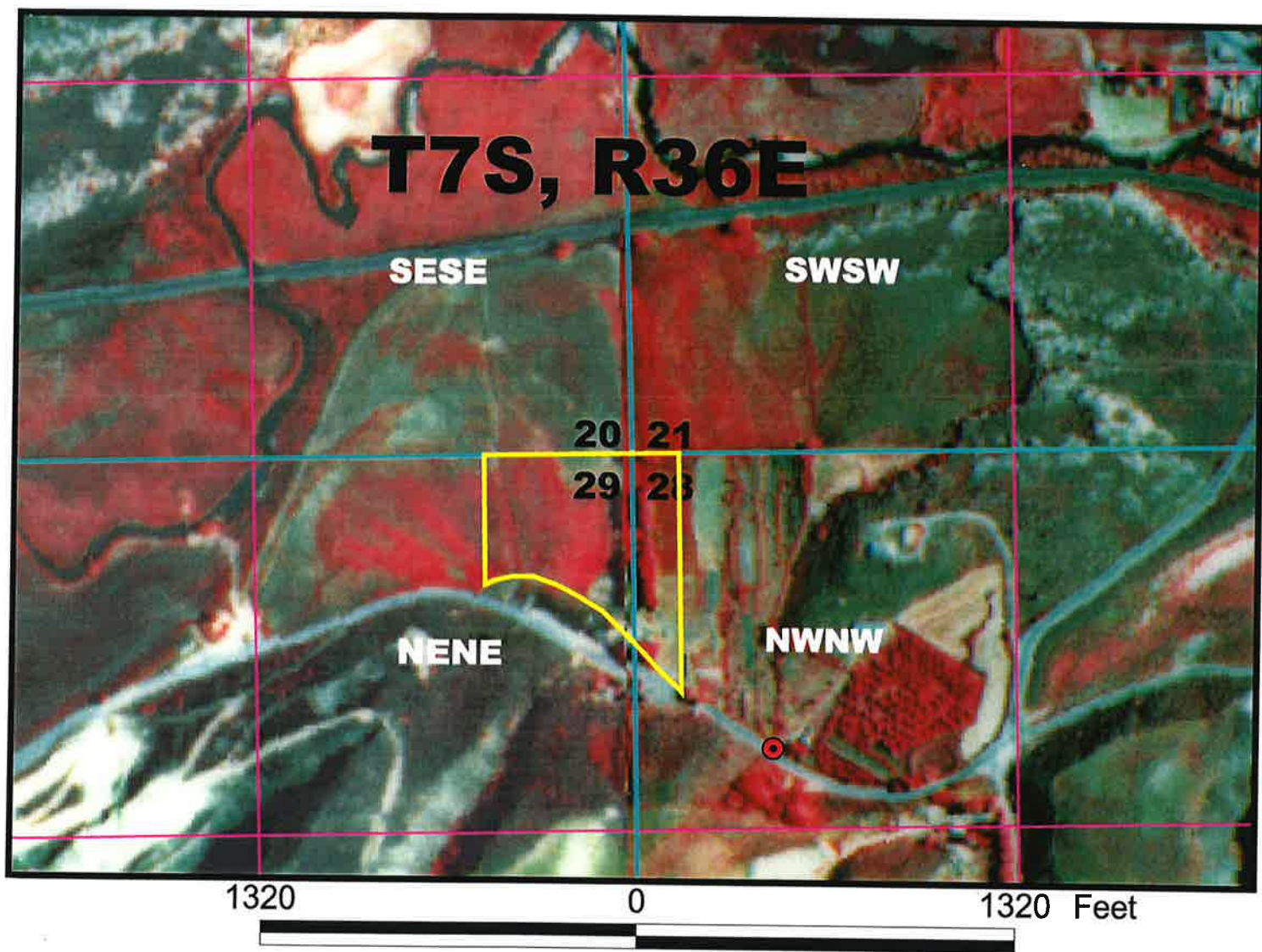
1



STATE OF IDAHO

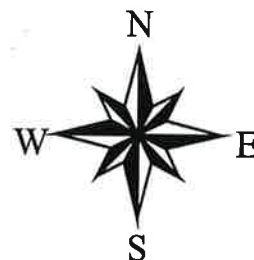
Department of Water Resources
Eastern Region

Water Right(s): 29-13464



Total Irrigated Acres: 8.8

-  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: May 2003



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

June 27, 2003

RICHARD W SPENCER
8409 PLACID ST
LAS VEGAS NV 89123

RE: Notice of Claim to a Water Right in the Snake River Basin Adjudication

Dear Mr. Spencer,

Per our conversation today, I am sending back the information packet you submitted. As requested, I made some notes on the original claim you sent. Based on this information, I took the liberty of creating a new stockwater claim. Note that this is your claim and you do not have to submit the claim as I have prepared it.

Please look over the claim and if it looks satisfactory to you, fill in the priority date you wish to claim, initial any changes you wish to make, and sign it in front of a notary. When completed, re-submit the information to the Eastern Regional office located in Idaho Falls at:

Idaho Dept. of Water Resources
900 N Skyline Dr. Suite A
Idaho Falls ID 83402-1718

I apologize for the inconvenience.

Respectfully submitted,

Craig L. Saxton
Sr. Water Resource Agent
Adjudication Bureau

Enclosure(s)



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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June 27, 2003

RICHARD W SPENCER
8409 PLACID ST
LAS VEGAS NV 89123

RE: Notice of Claim to a Water Right in the Snake River Basin Adjudication

Dear Mr. Spencer,

Our office received the Notice of Claim to a Water Right that you submitted on June 27, 2003. Unfortunately, two items were missing on the form.

- 1) The priority date was not completed. Please fill in the priority date under Item #2. This is the date you feel that water was first used for stockwatering purpose on your property.
- 2) The claim was not notarized.

I am returning the information you sent. Please fill in the priority date you wish to claim and sign the claim in front of a notary. When completed, re-submit the information to the Eastern Regional office located in Idaho Falls at:

Idaho Dept. of Water Resources
900 N Skyline Dr. Suite A
Idaho Falls ID 83402-1718

I apologize for the inconvenience.

Respectfully submitted,

Craig L. Saxton
Sr. Water Resource Agent
Adjudication Bureau

Enclosure(s)

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RICHARD W. SPENCER
PHONE 702-361-3316
8409 PLACID STREET
LAS VEGAS, NV 89123

94-7074 1753
3212
0835826950

DATE 6/6/03

STATE OF IDAHO - CUMULATIVE

\$ 25.00

AY TO THE ORDER OF

WELLS FARGO BANK, N.A.

2501 South Rainbow Boulevard
Las Vegas, NV 89146
www.wellsfargo.com

WELLS FARGO

Valued Customer Since 1989

DOLLARS

WELLS FARGO BANK, N.A.

+ 1 321 270 74 21 08 358 268 501 2960

Richard W. Spencer

Approved Signature

Form No. 42-1409 (2) b 9/88 (Internet Version)

IN 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
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39578

Identification No. _____

Date Received _____

Receipt Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT

ACQUIRED UNDER STATE LAW

For Domestic and/or Stockwater Purposes

Where Daily Use is less than 13,000 gallons per day.

RECEIVED

JUN 27 2003

WATER RESOURCES
WESTERN REGION

Filing Fee \$25

Please type or print clearly

1. Name of Claimant (s) RICHARD SPENCER Phone (702) 596-9237
Mailing Address 8409 PLACID ST, L.V., NV, Zip 89123

2. Date of Priority (Only one per claim) _____ Month/Day/Year

3. Source of water supply (Check one) () Groundwater or Other (X) (a) INDIAN CREEK
which is tributary to (b) PORTNEUE RIVER Name or kind of source4. Location of point of diversion is: Township 07S Range 36E
Section 28 NW 1/4 of NW 1/4 of _____ 1/4, Govt. Lot _____, BM.,
County of BANNOCK

Additional points of diversion if any: _____

5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate Etc.), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. _____

6. Water is claimed for the following: (limited to Domestic and/or Stockwater only. See Instructions.)

For STOCKWATER purposes from 1/1/03 to 12/13/03 amount (cfs) 108
(Both dates are inclusive)
For _____ purposes from _____ to _____ amount _____7. Total quantity claimed 108 (cfs)8. Total consumptive use claimed is de minimus

9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock)

APPROX. 10 HEAD OF HORSES

10. Place of use is: Township: 078 Range 36E
Section 28, NW 1/4 of NW 1/4, Govt. Lot _____ B.M.,
County of BANNOCK for (Circle One) Domestic Stock Domestic and Stock
Additional places of use, if any _____

11. In which county (ies) are lands listed above as place of use located? BANNOCK

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
NONE

14. Remarks: _____

15. Basis of Claim (Circle One) Beneficial Use Posted Notice License Permit Decree
Court # 39576 Decree Date 5/31/08 Plaintiff vs Defendant HORNE VS SKEEM
If applicable provide IDWR Water Right Number 29-13464

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understood 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 do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) Rebecca Spencer Date 6/26/03

Date _____

For Organizations: I do solemnly swear or affirm that I am _____

of _____ Title _____
Organization _____ that I have signed the foregoing
document in the space below as _____ of _____
Title _____ Organization _____
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Title and Organization _____

State of Idaho/or _____)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day of _____, 19 _____

SEAL

Notary Public _____

Residing at _____

My Commission Expires _____

Last Name _____ Ident No. _____

6/26/03

DEAR MR. SARTON

THANK YOU FOR BEING SO HELPFUL ON THE PHONE. I WISH TO CHANGE MY WATERED RIGHT CLAIM FROM IRRIGATION PURPOSE TO STOCK USE. THE REASON FOR THIS IS I PLAN ON KEEPING APPROXIMATELY 12 HEAD OF HORSES THERE.

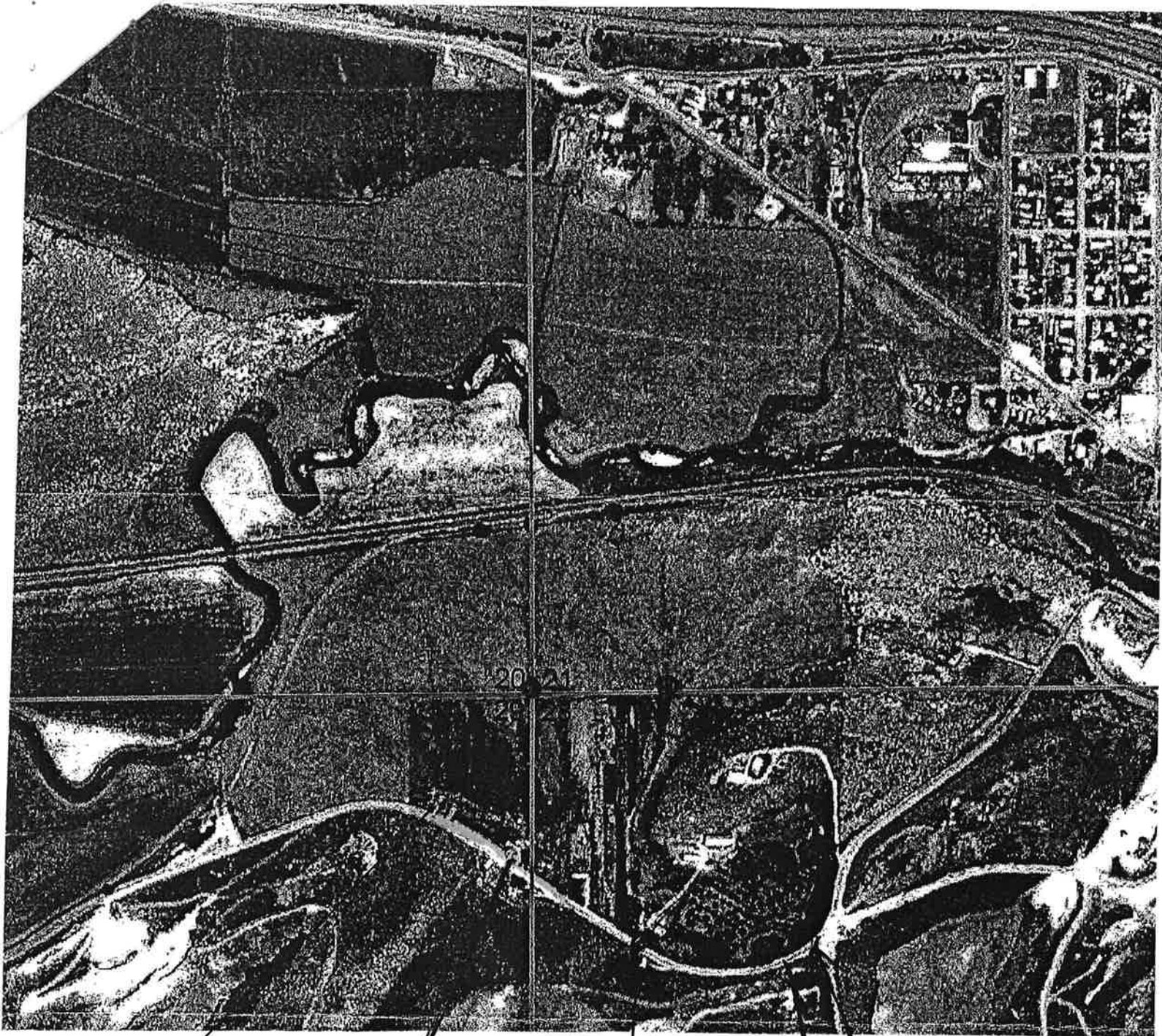
THE BASIS FOR MY CLAIM IS, THE PROPERTY I PURCHASED WAS PART OF THE ORIGINAL ARMOND HALL FARM. ON MY 10.5 ACRE PIECE SITS A 30x50 FOOT DAIRY STYLE BARN. IN TALKING WITH NEIGHBORS & ARMOND'S DAUGHTER BONNIE RAE HALL, THEY FEEL THE BARN WAS BUILT IN THE EARLY 40'S. IT WAS USED AS A DAIRY BARN AND A PIG FARM IN THE PAST. THE ONLY WAY TO WATER LIVESTOCK YEAR ROUND WAS FROM INDIAN CREEK. IF YOU LOOK AT THE BARN, THE CREEK BED, AND THE OLD LARGE WILLOWS YOU CAN TELL THE CREEK RAN THROUGH THIS PROPERTY FOR SOME TIME.

I DO NOT WISH TO HAVE THE COURSE OF THIS CREEK CHANGED OR SHUT DOWN DUE TO THIS NEW ADJUDICATION.

ANY HELP YOU CAN GIVE IN THIS MATTER WOULD BE GREATLY APPRECIATED

THANK YOU

RICHARD SPENCER



MY PROPERTY

OLD WHITE BARN
CREEK FLOWS
DOWN SECTION
LINE TOWARDS
R.R. TRACKS &
PORTNEUE RIVER
THIS HAS BEEN ITS FLOW
SINCE AT LEAST 1940

RON CARLSON
CLAIMS CREEK
FLOWED TOWARDS
R.R. TRACKS

INDIAN CR.
GOES UNDER
ROAD

WELLS
POND



IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-13464 V1

WATER RIGHT NUMBER: 29-13464 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	THE 1994 RICHARD SPENCER LIVING TRUST C/O RICHARD SPENCER 8409 PLACID ST LAS VEGAS, NV 89123 (702)361-3316

Priority Date: 05/31/1908

Basis: Decreed

Status: Active

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

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01	10/31	0.108 CFS	
	<u>Total Diversion:</u>		0.108 CFS	

Location of Point(s) of Diversion

INDIAN CREEK	NW1/4NW1/4	Sec. 28, Twp 07S, Rge 36E, B.M.
BANNOCK County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE	NW	SW	SE	Totals
07S	36E	28	2.9				2.9
07S	36E	29	5.9				5.9

Total Acres: 8.8

Conditions of Approval:

1. 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:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 29-13464 V1

Comments:

1. csaxton 12/10/2002 Renumbered

Comment: This right originally claimed as 29-00604D, a portion of Decreed right 29-00604. Right actually is a portion of 29-00603 and 29-00604. Renumbered to prevent confusion.

2. csaxton 12/10/2002 POD

Comment: No POD location defined in Decree.

3. csaxton 12/10/2002 From WR file - Priority date

Comment: PRIORITY DATE NOT GIVEN IN DECREE, BUT RT. 29-0603 IS SUPERIOR & PRIOR TO DEFENDANTS RTS. 29-0606 THRU 29-0610. (One day prior to priority for 29-00606 thru 29-00610 csaxton)

4. csaxton 12/10/2002 Diversion Rate analysis

Comment: See Excel analysis spreadsheet in file and memorandum.

5. csaxton 12/10/2002 Source

Comment: Source claimed as springs. Springs left off of source since springs seem to feed into Indian Creek and there is no apparent diversion directly from springs.

6. csaxton 4/15/2003 Diversion Rate

Comment: Diversion Rate adjusted per NOE filed that changed total acreage under this right, thus changing diversion rate per acre.

7. csaxton 5/21/2003 Source (2)

Comment: Source claimed as trib to the Portneuf River. USGS quad maps indicate that Indian Creek sinks. But since water still makes it to the Portneuf thru a man-made channel which is now assumed to be the natural channel, recommend as tributary to the Portneuf river.

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:

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	12/10/2002 5:24:45 PM	csaxton			Active
Priority Date	12/10/2002 5:25:09 PM	csaxton			Active
POD	12/10/2002 5:25:26 PM	csaxton			Active
Source	12/10/2002 5:26:27 PM	csaxton			Active
POU	12/10/2002 5:26:37 PM	csaxton			Active

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-13464 V1

Use	12/10/2002 5:27:45 PM	csaxton	Active
Season	12/10/2002 5:28:29 PM	csaxton	Active
Quantity	12/10/2002 5:29:28 PM	csaxton	Active
Summary	12/10/2002	csaxton	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
Contacts	12/10/2002 5:24:46 PM	csaxton	(No) 1. Do you want to schedule an appointment? Comment for 1: FE 8/27/02
Priority Date	12/10/2002 5:25:11 PM	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? (No) 5. Does the decree or license have a Priority Date? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required?
POD	12/10/2002 5:25:27 PM	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	12/10/2002 5:25:41 PM	csaxton	Edited point location
POD	12/10/2002 5:26:04 PM	csaxton	Edited PLS
Source	12/10/2002 5:26:28 PM	csaxton	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License 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	12/10/2002 5:26:38 PM	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? (Yes) 6. Can the claimed POU be verified using the water right file? (No) 14. Is a POU remark and/or condition required?
POU	12/10/2002 5:26:52 PM	csaxton	Edited shape boundary
POU	12/10/2002 5:27:11 PM	csaxton	Edited PLS

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-13464 V1

Use	12/10/2002 5:27:46 PM	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?
Season	12/10/2002 5:28:30 PM	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	12/10/2002 5:29:29 PM	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?
Summary	12/10/2002 5:30:22 PM	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?
POD	5/21/2003 4:48:10 PM	csaxton	Edited point location

May 22, 2003

Claimants of Decreed right 29-00603 and 29-00604 (Split portions 29-00603A, 29-00604A, 29-00604G, 29-00604E, 29-13122, 29-13123, 29-13124, 29-13464, and 29-13471)

RE: Amended preliminary recommendations

Dear Claimant,

In February of 2003 the Idaho Dept. of Water Resources sent out preliminary recommendations for Snake River Basin Adjudication (SRBA) claims in basin 29. Indian Creek water users were included in the review of Basin 29.

You claimed a portion of Decreed right 29-00604 and/or 29-00604 as defined in the Indian Creek decree, *United States of America and Turman J. Hofhine vs. C. S. Skeem, Marcus Skeem, S. H. Cotterel and L. L. Walker*.

Through the notice of error process, the department received additional information that resulted in a change to the preliminary recommendations.

Enclosed is a copy of your amended recommendation. Please look over the recommendation and if everything looks satisfactory, no further action needs to be taken. If you disagree with the recommendation, you will be notified at the time the directors report is issued and at that time will have an opportunity to object and be heard by the SRBA court.

Respectfully submitted,

Craig L. Saxton
Sr. Water Resource Agent
Adjudication Bureau

Cc; TODD GILBERT PO BOX 302 INKOM ID 83245	29-00603A
R SCOTT WELLS 1922 W PORTNEUF RD INKOM ID 83245	29-00604A
DAVID HAHN NATASHIA HAHN 1966 W PORTNEUF RD INKOM ID 83245	29-00604E
CHARLES FITZGIBBONS JOHANNA FITZGIBBONS PO BOX 94 INKOM ID 83245	29-00604G
RONALD D KARLSON JACKE L KARLSON 3061 W OLD HWY 91 INKOM ID 83245	29-13122
BRAD BURTON LORI BURTON 3435 SOMERSET DR POCATELLO ID 83201	29-13123
MATTHEW RENDACE JOYCE RENDACE 2204 PORTNEUF RD INKOM ID 83245	29-13124
THE 1994 RICHARD SPENCER LIVING TRUST C/O RICHARD SPENCER 8409 PLACID ST LAS VEGAS NV 89123	29-13464

8-26-02: only part of this right is in the decreed POA
on Indian lot 14. Majority claimed is in Lot 17

8-27-02: Conveyance from creek is filled with
FF

: Field is & can be irrigated.

: Spoke with Neighbor Johann
and she said It has been irrigated

17 Headgate - Orange Tank

27 Flood Ditch - wet

37 Flood Ditch - dry

DOB

001 - Fence cov In
Background

002 - House & RR Bridge
Background

003 - NO PIC

004 - NO PIC

005 - NO PIC

: Spoke with Johanna Fletcher - neighbor that watches the place
Johanna asked that I try to find Indian Creek Claim;

For: Armond G Ball

Rowena Hall

Phillips, Ridge

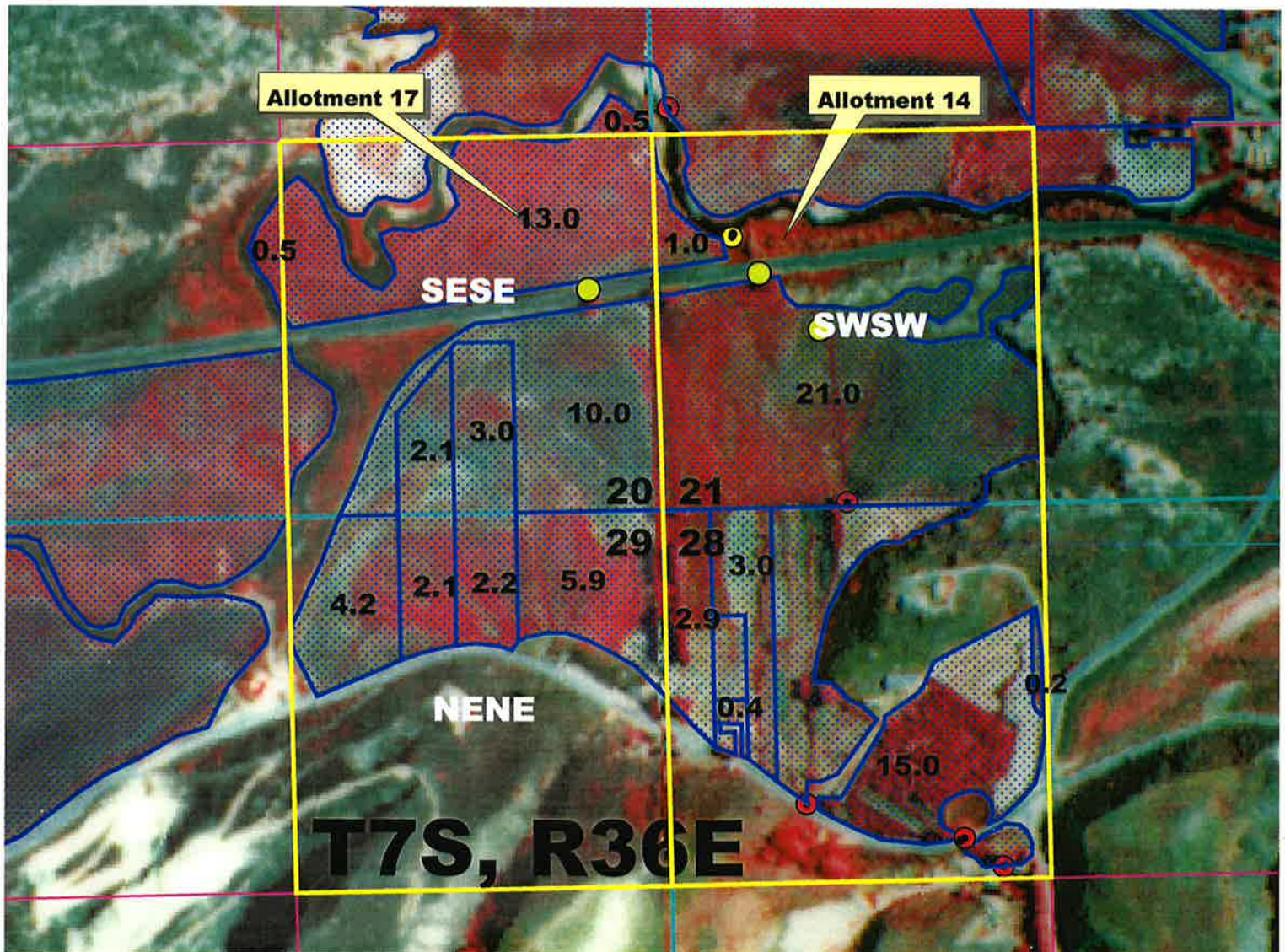
Dora I Wyedholz

Fletcher

Bonnie Ray Hall = Nothing Found. Letter sent
to Johanna on 8/23/02

: POB is same as 24-00604A

Recommended POU map for splits of 29-00603 and 29-00604



Point of Diversion - N/A

Total Acres:



City of Pocatello Tax Lot Data



Recommended POU



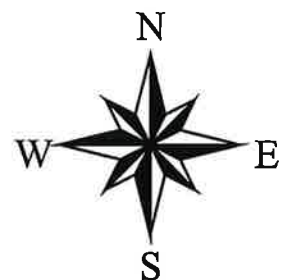
Indian Allotment Boundary N/A



Section Lines



Quarter Quarter Lines



Prepared By: Craig Saxton
April 2003

Memorandum

Date: June 12, 2003

To: File

From: Craig L. Saxton

Subject: Diversion rate break down splits of decreed right 29-00604 and Source.

Diversion Rate:

This right was divided by calculating the total irrigated acreage within Indian allotment #14 and then proportioning out the water accordingly. The diversion rate per acre for users of 29-00604 came to 0.018 cfs per acre.

One week before the deadline for the directors report for Basin 29 was issued. It was discovered that 29-12528 claimed 0.06 cfs based on 29-00604 and was partially decreed by the SRBA court on 6/24/1998. This right was not originally included in the proportionate split.

Thus, the result would be that the recommendation for split portions for 29-00604 is 0.06 cfs greater than the decreed diversion rate.

However, 29-00604C was recommended as disallowed. Despite that this claim was disallowed, the appropriate diversion rate was included in the proportioning of the right. Otherwise stated, I held out 0.054 cfs for this claim in case proof could be shown that this was a valid water right. At this time, no evidence has been provided.

So:

Total decreed diversion rate for 29-00604 = 0.80 cfs

If all claims were recommended, total recommended diversion rate would = 0.86 cfs

However, since 29-00604C was disallowed, the actual total recommended diversion rate = 0.806.

This right is over recommended by 0.006 cfs. Due to possible rounding error, the fact that this is such a small diversion rate, and the short time line, I did not re-proportion the diversion rate among the users.

If the claimant of 29-00604C files an objection, the diversion rate will have to be re-evaluated for all split portions of 29-00604 and all diversion rate recommendations will most likely need to be reduced.

Source:

IDWR paralegal Vicky Music found that the "decision" in U.S. v. Skeem and it specifically says that Indian creek during high water carries considerable volume of water and is continuous from its source to the Portneuf but that after approximately May 1 it ceases to flow past 1 mile from its source.

Source Recommended as Indian Creek Tributary to the Portneuf River.

Split history for Decreed Right 29-00603 & 604

WR

Claimed

Recommend

29-00603 0.4	29-00603A Gilbert	29-00603A Gilbert	Deed Silent		Not On Decreed POU Karlson says this is Gilberts Diversion Rate Calc for 14 ac
	0.2	0.2		0.14	
	15	15		15	
29-00604 0.8	29-10522 Karlson(?)	29-13122 Karlson	Approx 1/2 " hand written	0.513	POU 14 & 17 good
	0.2 (603)	0.72		35.2	
	0.67 (604)	43.1			
	52.5				
		29-13123 Burton	Approx 1/2 " hand written	0.049	POU 17 claimed water from 14 & 17
		0.08		5.2	
		5.2			
		29-13124 Rendace	Approx 1/2 " hand written	0.04	POU 17 claimed water from 14 & 17
		0.07		4.2	
		4.2			
	29-00604A Wells	29-00604A Wells	Conversation notes say he gets %52 of 604	0.271	POU 14 Good
	0.42	0.42		15	
	21	21			
		29-00604E Hahn	Deed Silent	0.021	POU 14 Good
		0.05		1.2	
		2.5			
		29-00604F Anderson	Deed Silent	Disallow	Covered by 29-00604C
		0.02			
		1			
	29-00604C Anderson	29-00604C Anderson	Deed Silent	0.054	Disallow Not enough evidence of use so far POU 14 Good
	0.075	0.075		3	
	3	3			
	29-00604D Spencer Renumbered	29-13464 Spencer	Deed Silent	0.108	Referred to 29-13464 POU 14 & 17 CO5
	0.235	0.235		8.8	
	12	12			
	29-00604G Derbidge	29-00604G Derbidge	No Deed in File	0.004	POU 14 Good
	0.02	0.02		0.2	
	29-12528 Hahn		Domestid Partial Decreed	0.06	Partially Decreed
	0.06	0.06		Domestic	
	Domestic	Domestic			

Sum Rec CFS=	1.26
Sum Rec Acre=	87.8

Un-accounted for CFS=	-0.06
Un-accounted for Acres=	N/A

* Both Rights over claimed. Decree doesn't mention duty of water. No claims deeds show deeded water.
 Since 29-00604D is disallowed, actual total recommended diversion rate is 0.806 cfs
 This right is over recommended by 0.006 cfs

Allotment 14: 29-00604	Allotment 17: 29-00603
------------------------	------------------------

Sum CFS & Acreage
for Rights

	1		13
	21		10
	2.9		2.1
	3		3
	0.4		4.2
	15		2.1
	0.2		2.2
	0.8	Not Recommended	5.9
0.8	44.3	0.4	42.5

Per Acre =	0.018059	0.00941176
------------	----------	------------

	Acreage	CFS		Acreage	CFS
29-00603A	1	0.018		13	0.122
29-00604A	15	0.271			
29-00604C	3	0.054			
29-00604D 29-13464 (renumbered)	2.9	0.052		5.9	0.056
29-00604E	1.2	0.022			
		0.021 actual			
29-00604F DISALLOW					
29-00604G	0.2	0.004			
29-13122	21	0.379		14.2	0.134
29-13123				5.2	0.049
29-13124				4.2	0.040
29-12528	Domestic	0.060			
Total Acres	44.3	0.860		42.5	0.400

CFS	Acreage
0.140	14
0.271	15
0.054	3
0.108	8.8
0.022	1.2
0.021 Actual	
0.004	0.2
0.513	35.2
0.049	5.2
0.040	4.2
0.060	Domestic
1.260	86.8

Since 29-00604D is disallowed, actual total recommended diversion rate is 0.806 cfs
This right is over recommended by 0.006 cfs

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-13464 V1

WATER RIGHT NUMBER: 29-13464 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	THE 1994 RICHARD SPENCER LIVING TRUST C/O RICHARD SPENCER 8409 PLACID ST LAS VEGAS, NV 89123 (702)361-3316

Priority Date: 05/31/1908

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
INDIAN CREEK	SINKS <i>Portneuf</i>

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01 to 10/31	~~0.104 CFS~~ <i>0.108</i>	
	<u>Total Diversion:</u>	~~0.104 CFS~~ <i>0.108</i>	

Location of Point(s) of Diversion

INDIAN CREEK	~~SE 1/4 NW 1/4 NW 1/4~~ <i>NW NW</i>	Sec. 28, Twp 07S, Rge 36E, 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	
07S	36E	28						2.9											2.9
07S	36E	29	5.9																5.9

Total Acres: 8.8

Conditions of Approval:

1. 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:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 29-13464 V1

Comments:

1. csaxton 12/10/2002 Renumbered

Comment: This right originally claimed as 29-00604D, a portion of Decreed right 29-00604. Right actually is a portion of 29-00603 and 29-00604. Renumbered to prevent confusion.

2. csaxton 12/10/2002 POD

Comment: ~~USGS quad shows that natural stream channel of Indian Creek stops on Wells property. Historically the POD went to Portneuf river. Recommend POD on Wells property for all users for rights downstream of wells property, or north of Portneuf RD. No POD location defined in Decree.~~

3. csaxton 12/10/2002 From WR file - Priority date

Comment: PRIORITY DATE NOT GIVEN IN DECREE, BUT RT. 29-0603 IS SUPERIOR & PRIOR TO DEFENDANTS RTS. 29-0606 THRU 29-0610. (One day prior to priority for 29-00606 thru 29-00610 csaxton)

4. csaxton 12/10/2002 Diversion Rate analysis

Comment: See Excel analysis spreadsheet in file and memorandum.

5. csaxton 12/10/2002 Source

Comment: Source claimed as springs. Springs left off of source since springs seem to feed into Indian Creek and there is no apparent diversion directly from springs.

6. csaxton 4/15/2003 Diversion Rate

Comment: Diversion Rate adjusted per NOE filed that changed total acreage under ¹this right, thus changing diversion rate per acre.

decreed Rights 29-00603 + 29-00604

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:
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	12/10/2002 5:24:45 PM	csaxton			Active
Priority Date	12/10/2002 5:25:09 PM	csaxton			Active
POD	12/10/2002 5:25:26 PM	csaxton			Active
Source	12/10/2002 5:26:27 PM	csaxton			Active
POU	12/10/2002 5:26:37 PM	csaxton			Active
Use	12/10/2002 5:27:45 PM	csaxton			Active
Season	12/10/2002 5:28:29 PM	csaxton			Active



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 21, 2003

Claimants of Decreed right 29-00604 (Split portions 29-00604A, 29-00604D, and 29-13122)

RE: Amended preliminary recommendations

Dear Claimant,

In February of 2003 the Idaho Dept. of Water Resources sent out preliminary recommendations for Snake River Basin Adjudication (SRBA) claims in basin 29. Indian Creek water users were included in the review of Basin 29.

You claimed a portion of Decreed right 29-00604 as defined in the Indian Creek decree, *United States of America and Turman J. Hofhine vs. C. S. Skeem, Marcus Skeem, S. H. Cotterel and L. L. Walker*.

Recommendations were made by determining the irrigated ground located within the decreed place of use that could have been flood irrigated under historical right 29-00604 and proportioning out the decreed diversion rate based upon ownership of that irrigated ground. You were given a chance to file a Notice of Error reply if you felt your water right was recommended inaccurately.

Through the notice of error process, the department received additional information that resulted in a change to the preliminary recommendations. Because the diversion rate was distributed proportionately amongst the water users, a change in one water right recommendation resulted in altering the recommendations for some of the users of 29-00604.

Enclosed is a copy of your amended recommendation. Please look over the recommendation and feel free to contact me with any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Craig L. Saxton', is written over a horizontal line.

Craig L. Saxton
Sr. Water Resource Agent
Adjudication Bureau

Cc; R SCOTT WELLS
1922 W PORTNEUF RD
INKOM ID 83245

29-00604A

THE 1994 RICHARD SPENCER LIVING TRUST
C/O RICHARD SPENCER
8409 PLACID ST
LAS VEGAS NV 89123

29-00604D

RONALD D KARLSON
JACKE L KARLSON
3061 W OLD HWY 91
INKOM ID 83245

29-13122



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 22, 2003

THE 1994 RICHARD SPENCER LIVING TRUST
C/O RICHARD SPENCER
8409 PLACID ST
LAS VEGAS NV 89123

RE: Notice of Error Reply for Snake River Basin Adjudication (SRBA) recommendation 29-13464.

Dear Mr. Spencer,

The Idaho Dept. of Water Resources received the notice of error (NOE) reply you submitted on April 9, 2003. I have reviewed your concerns and hope I can address them by explaining why the claim was recommended as it was.

1) You stated you disagreed with the total diversion rate recommended.

Miles Linder originally filed SRBA claim 29-00604D in 1992. Mr. Linder claimed irrigation on a portion the ground that was defined as irrigated ground under original decreed rights 29-00603 (Indian allotment 17) and 29-00604 (Indian allotment 14). Because this claim is for a portion of two different historically decreed rights, the claim was re-numbered to 29-13434 to prevent confusion.

29-00603 and 29-00604 was decreed with a defined diversion rate. Since there are several other users of these two historically decreed rights, the diversion rate was distributed proportionately among the users. This was done by determining the ground that was historically irrigated under these rights, and then determining a diversion rate per acre. 29-00603 was decreed with a diversion rate 0.40 cfs and 29-00604 was decreed with a diversion rate of 0.80 cfs.

I am sorry that you were mis-lead when you purchased the property with a SRBA claim that listed a greater diversion rate than was recommended. But a claim is all it was. Unfortunately this confusion happens more than you might think.

If you feel that a greater diversion rate has been historically used on your property, you have the option of filing a beneficial use claim for that additional diversion rate. For your convenience I am enclosing a claim form and instructions. You will need to submit evidence of when the practice of diverting a greater diversion rate commenced and any additional evidence that would support the claim.

2) You stated that you disagreed with the total acres recommended.

Bannock county tax lot data confirms that your property is 10.6 acres. However, I have to recommend this historical right only on irrigated ground.

On 8/27/02 I conducted a field exam and walked the ditch that runs through the top of your property. With the location of the ditch, the lay of the land, and reviewing historical aerial photographs, I determined that the property south of the ditch (higher ground) can not be flood irrigated from that ditch and was not historically irrigated. Thus that ground was not recommended as irrigated ground.

If you disagree with this, evidence needs to be provided to show how that higher ground is irrigated, and when it was last irrigated. Keep in mind that I am forced to recommend the right as it historically existed. Any new development or appropriation of water would be a new water right.

I realize this can be a complicated issue. Please feel free to contact me with any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Craig L. Saxton". The signature is fluid and cursive, with a long horizontal stroke at the end.

Craig L. Saxton
Sr. Water Resource Agent
Adjudication Bureau

Craig

02/18/2003

NOTICE OF ERROR
REPLY

RECEIVED
APR 09 2003
Department of Water Resources
Eastern Region

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: 29-13464

THE 1994 RICHARD SPENCER LIVING TRUST
C/O RICHARD SPENCER
8409 PLACID ST
LAS VEGAS NV 89123
Telephone Number: (702)361-3316

RECEIVED

APR 21 2003

WATER RESOURCES
WESTERN REGION

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

DISAGREE ON ACRES TOTAL + QUANTITY ALLOCATED (CFS)

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.

DATE: 4/2/03

SIGNATURE:

Richard Spencer

Please print your name:

RICHARD SPENCER

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

ON JAN. 2002 I PURCHASED THE FOLLOWING PROPERTY FROM MILES + TILL LINDAVER WITH THE FOLLOWING WATER RIGHT (A29-00604D). THE PROPERTY IS A TOTAL OF 10.6 ACRES WITH INDIAN CREEK RUNNING ACCROSS THE TOP PORTION. MY FUTURE PLANS ARE TO BUILD A HOME WEST OF THE WHITE BARN AND CLEAN-UP THE ENTIRE PROPERTY. THE MAIN REASON I PURCHASED THIS PROPERTY WAS BECAUSE IT CAME WITH WATER RIGHTS TO INDIAN CREEK. IF I READ YOUR RECOMMENDATION CORRECTLY YOU WANT TO CUT MY RIGHTS FROM 0.235 CFS TO 0.102 CFS AND MY ACREAGE FROM 10.6 TO 8.8 ACRES. I DO NOT AGREE WITH THIS AND WOULD NOT HAVE PURCHASED THIS PROPERTY HAD I KNOW THIS COULD BE CHANGED OVER

Memorandum

Analysis of Decreed rights 29-00603 and 29-00604 (Indian Creek)

This right was over claimed. Deeds do not show ownership of water.

How right was divided and recommended to respective claimants:

29-00603 was decreed to Indian allotment NO:17

29-00604 was decreed to Indian allotment NO: 14

POU that would be recommended for respective claims was calculated. Diversion rate was then proportioned out equally to users with POU within the Decreed POU.

If claimant claimed water decreed for allotment 14 and they only had a POU in allotment 17, the proportionate amount of recommended diversion rate was only taken from allotment 14 since there is no evidence of accomplished transfer.

29-00604D

Ditch

Field Exam: 8/27/02



Looking West at ditch system that carries water to flood irrigate the claimed POU (csaxton).



Looking NW at ditch system to divert water to the claimed POU (csaxton)

29-00604D

Ditch

Field Exam: 8/27/02



Looking SE at a point where the water is diverted from the main ditch system to flood irrigate the East side of the claimed POU (csaxton).



Looking E side of claimed POU. Ditch to the upper right hand of the picture (csaxton).

29-00604D

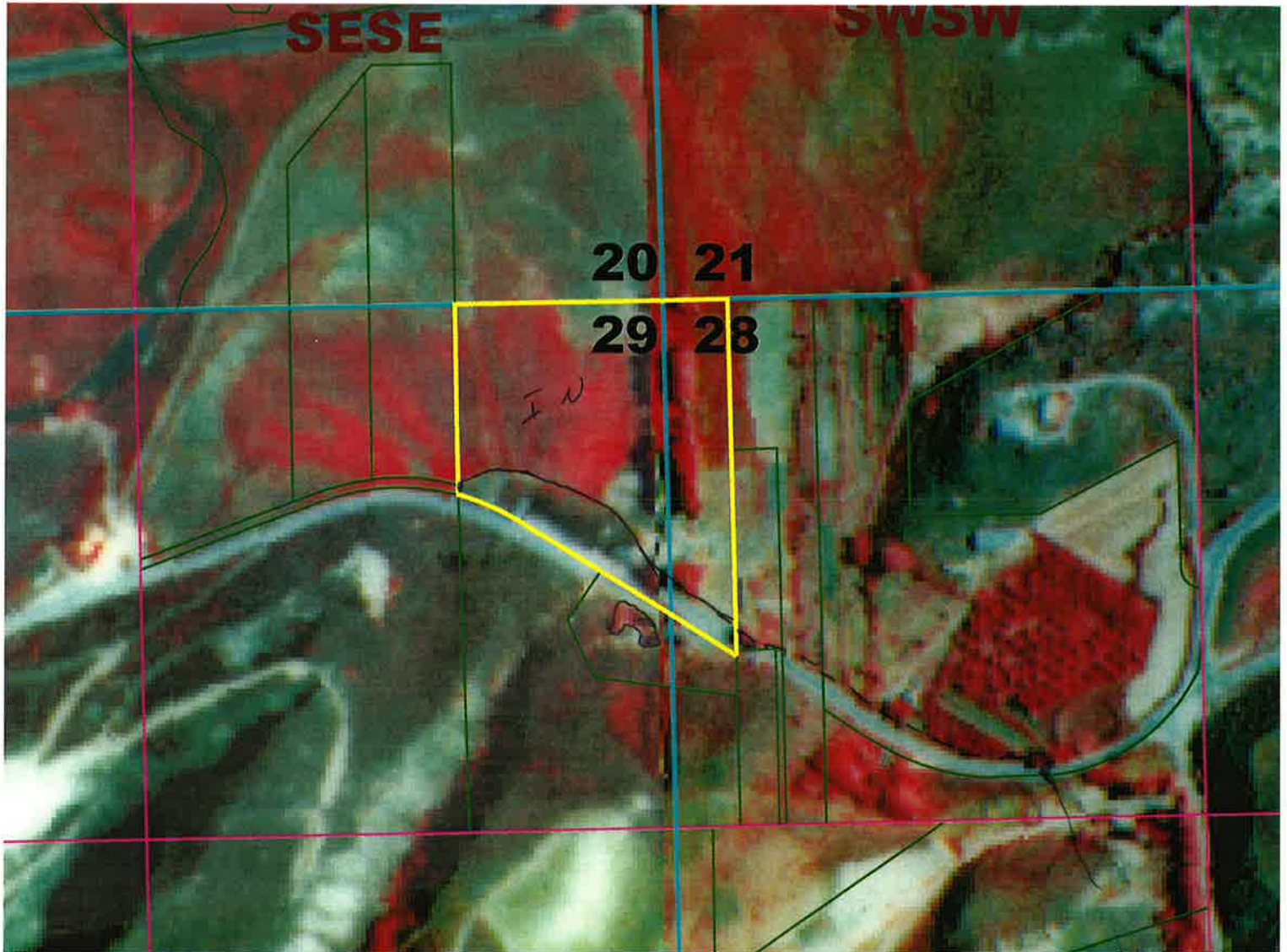
POU

Field Exam: 8/27/02



Looking North at the claimed POU (csaxton).

29-00604D - Spencer



Point of Diversion



Claimed Place of Use



Claimant Property Boundary



Bannock Co Tax Lot Data

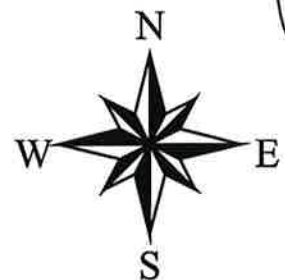


Section Lines

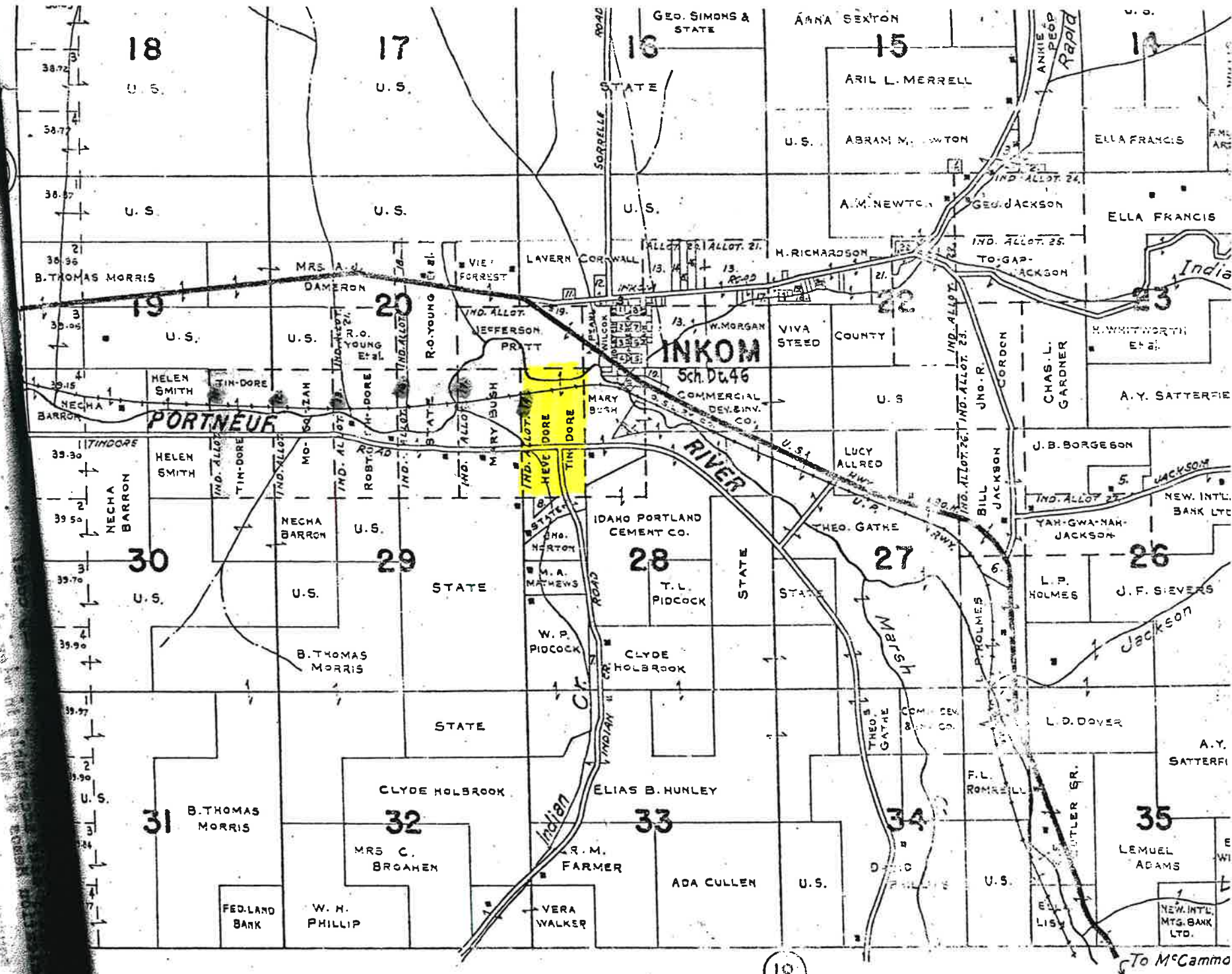


Quarter Quarter Lines

Property Acreage: 10.7



Prepared By: Craig Saxton
August 2002

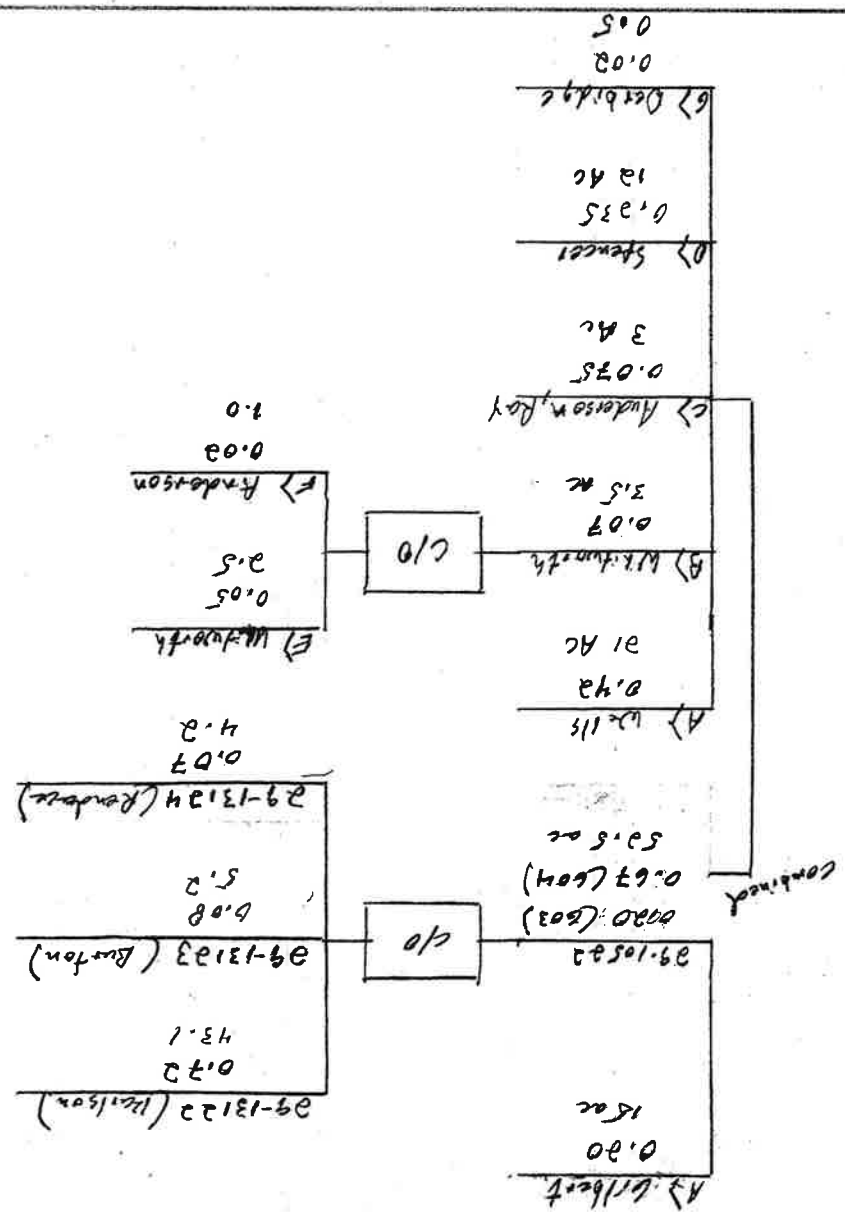


WB

AB

29-00603
0.4 cfs

29-00604
0.8 cfs



2 of cfs for 603 = Parent
2 of cfs for 604 = 1.49 cfs
This right is overbalanced
By 0.69 cfs



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

July 19, 2002

THE 1994 RICHARD SPENCER LIVING TRUST
C/O RICHARD SPENCER
8409 PLACID ST
LAS VEGAS NV 89123

Re: Notice of Claim to a Water Right No. 29-00604D

Dear Claimant(s):

Enclosed is a copy of the above referenced claim, which reflects the change in ownership of the land and appurtenant water rights covered under the original filing.

The Department will contact you in the future concerning any requirements that may be needed in order to process this claim for final court decree.

Thank you for your patience and cooperation, as we have had several water right changes to process. If you have any questions concerning the enclosed claim, please feel free to contact this office.

Sincerely,

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

Craig L. Saxton
Water Resource Agent
Adjudication Bureau

Enclosure

RECEIVED

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

JUL 01 2002

JUL 19 2002

WATER RESOURCES
WESTERN REGIONPlease print or type. Attach pages with additional information. Instructions are included at the end of this form. Department of Water Resources
Incomplete forms will be returned. Eastern District Office

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided, if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
A29-00604D					

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) are for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s)

MILES K. AND/OR TILL L. LINDAUER
P.O. Box 214 POCA TELLO, ID. 83245

4. New Owner/Claimant(s)

RICHARD SPENCER, THE 1994 RICHARD SPENCER
LIVING TRUST

Name Connector (Check one): ☐ and, ☐ or, ☐ and/or

New Mailing Address

8409 PLACID ST.

City, State and ZIP Code

LAS VEGAS, NV, 89123

New Telephone Number

() 702-361-3316

5. Date you acquired the property

JAN. 11, 2002

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	

7. Signature of New Owner(s) or Claimant(s) _____
(include title if applicable)

Richard Spencer

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____	Date _____	Fee _____
Receipted by _____	Date _____	Receipt No. _____
Processed by _____ AJ	Date _____	WR _____ Date _____

T 36 E, B M

Creek.



$\frac{4}{5-7-2}$

20 21

29 28

T-20

2 1/2



12/4/01 MAILED TO DAN - MY CO.

REAL ESTATE PURCHASE AND SALE AGREEMENT AND RECEIPT FOR EARNEST MONEY



THIS IS A LEGALLY BINDING CONTRACT, READ THE ENTIRE DOCUMENT, INCLUDING THE GENERAL PRINTED PROVISIONS AND ATTACHMENTS. IF YOU HAVE ANY QUESTIONS, CONSULT YOUR ATTORNEY AND/OR ACCOUNTANT BEFORE SIGNING

ID# 2556

1. REAL ESTATE OFFICES:

Listing Agency Keller Williams Realty

Office Fax # (208) 232-9036

E-Mail

Listing Agent Dan Bull

E-Mail

Selling Agency Keller Williams Realty

Office Fax # (208) 232-9036

E-Mail

Selling Agent Dan Bull

E-Mail

DATE 11-29-01

Office Phone # (208) 232-9010

Other Phone # 251-3165

Phone # (208) 232-9010

Office Phone # (208) 232-9010

Other Phone # 251-3165

Phone # 251-3165

2. BUYER:

Richard Spencer

agrees to purchase, and the undersigned SELLER agrees to sell the following described real estate hereinafter referred to as "PREMISES" COMMONLY KNOWN AS 00 West Portneuf Rd. City Teton County Bannock ID. Zip 83275

legally described as: ☒ TRNWYNW Tax 65 3.25 AC / TRNE4NE4 Tax 20 7.37 AC

CR ☐ Legal Description Attached as addendum #

(Addendum must accompany original offer)

3. TOTAL PURCHASE PRICE: One hundred thousand & 00/100 DOLLARS, payable upon the following TERMS AND CONDITIONS (Not including closing costs):

4. FINANCIAL TERMS: Note: A+C+D+E must add up to total purchase price, except for 100% financing.

A. EARNEST MONEY: Buyer hereby deposits One hundred DOLLARS as Earnest Money evidenced by: ☐ cash ☒ personal check ☐ cashier's check ☐ note due ☐ other and a receipt is hereby acknowledged. Earnest Money to be deposited in trust account upon acceptance by all parties and shall be held by: ☒ Listing Broker ☐ Selling Broker ☐ other for the benefit of the parties hereto, and Michael James Johnston (Broker) shall hold the completely executed Broker's copy of this Agreement. The responsible Broker shall be Michael James Johnston

B. ALL CASH OFFER: ☒ NO ☐ YES If this is an all cash offer do not complete lines 34 through 52, fill blanks with N/A (Not Applicable). FUNDS MAY NOT BE OBTAINED FROM FINANCING UNDER THIS OPTION. BUYER Agrees to provide SELLER within 7 business days from the date of this agreement, evidence of sufficient funds and/or proceeds necessary to close transaction. Acceptable documentation includes, but is not limited to a copy of a recent bank or financial statement or contract(s) for the sale of BUYER'S current residence or other property to be sold.

5. NEW LOAN PROCEEDS: This Agreement contingent upon BUYER obtaining: ☐ FHA ☐ VA ☐ CONVEN ☐ HEFA ☒ OTHER owner carry FIRST LOAN of \$ 49,381.00

interest not to exceed 9 % for a period of 10 year(s) at: ☒ fixed rate ☐ other BUYER shall pay no more than 0 point(s) plus origination fee if any. SELLER shall pay no more than 0 point(s). Any reduction in points shall first accrue to the benefit of the ☐ BUYER ☐ SELLER ☐ Divided Equally ☒ N/A

BUYER ☒ has ☐ shall apply for such loan within 7 business day(s) of SELLER's acceptance. Within 7 business days of final acceptance of all parties, BUYER agrees to furnish SELLER with a written loan commitment showing lender approval of credit report, income verification, debt ratios and subject only to satisfactory appraisal and final lender underwriting. If such written commitment is not received by SELLER(S) within the strict time allotted, SELLER(S) may at their option cancel this agreement by notifying BUYER(S) in writing of such cancellation. If an appraisal is required by lender, the property must appraise at not less than purchase price or BUYER's Earnest Money may be returned at BUYER's request.

FHA / VA. If applicable, it is expressly agreed that notwithstanding any other provisions of this contract, BUYER shall not be obligated to complete the purchase of the property described herein or to incur any penalty or forfeiture of Earnest Money deposits or otherwise unless BUYER has been given in accordance with HUD/FHA or VA requirements a written statement by the Federal Housing Commissioner, Veterans Administration or a Direct Endorsement lender setting forth the appraised value of the property of not less than the sales price as stated in the contract. BUYER shall have the privilege and option of proceeding with consummation of the contract without regard to the amount of the appraised valuation. The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value or the condition of the property. BUYER should satisfy himself/herself that the price and condition of the property are acceptable. It is agreed that any item included in section 7 is of nominal value less than \$100.

6. ADDITIONAL FINANCIAL TERMS:

☒ Additional financial terms are specified under the heading "OTHER TERMS AND/OR CONDITIONS" (Section 5).

☐ Additional financial terms are contained in a FINANCING ADDENDUM of same date, attached hereto, signed by both parties.

7. APPROXIMATE FUNDS DUE AT CLOSING: Cash at closing, not including closing costs, to be paid by BUYER at closing in GOOD FUNDS, which includes: cash, electronic transfer funds, certified check or cashier's check. Any net difference between the approximate balances of the loan(s) shown above, which are to be assumed or taken subject to, and the actual balances of said loan(s) at closing of escrow shall be adjusted in ☐ Cash ☒ Other: Cashiers check

BUYER and SELLER acknowledge receipt of copy of this page, which constitutes Page 1 of 6 Pages.

BUYER'S Initials RS Date 12/4/01 SELLER'S Initials MB Date 12/4/01

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USE BY ANY OTHER PERSON IS PROHIBITED.

Effective Date 08/01

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BROKER: Keller Williams Realty East AGENT: Keller Williams Realty

SIN: W10-6508

Printed using pcFCRMation™ Software

PROPERTY ADDRESS: 60 W. Portneuf Rd.

ID#: 2566

5. OTHER TERMS AND/OR CONDITION: Previous Owner contract to be transferred to new Buyer, water rights to be transferred to new owner. Buyer to split survey cost with seller after to first \$1000.00

6. OCCUPANCY: BUYER ☐ does ☐ does not intend to occupy property as BUYER'S primary residence.

7. ITEMS INCLUDED & EXCLUDED IN THIS SALE: All existing fixtures and fittings that are attached to the property are INCLUDED IN THE PURCHASE PRICE (unless excluded below), and shall be transferred free of liens. These include, but are not limited to, all attached floor coverings, attached television antennae, satellite dish and receiving equipment, attached plumbing, bathroom and lighting fixtures, window screens, screen doors, storm windows, storm doors, window coverings, garage door opener(s) and transmitter(s), exterior trees, plants or shrubbery, water heating apparatus and fixtures, attached fireplace equipment, awnings, ventilating, cooling and heating systems, built-in and "drop-in" ranges (but excepting all other ranges), fuel tanks and irrigation fixtures and equipment, all water systems, wells, springs, water, water rights, ditches and ditch rights, if any, that are appurtenant thereto that are now on or used in connection with the premises and shall be included in the sale unless otherwise provided herein.

The following additional items are specifically:

(A) INCLUDED IN THIS SALE: all fencing materials, Barn, any irrigation equipment, water rights

(B) EXCLUDED IN THIS SALE: all Personal property

8. TITLE CONVEYANCE: Title of SELLER is to be conveyed by warranty deed, unless otherwise provided, and is to be marketable and insurable except for rights reserved in federal patents, state or railroad deeds, building or use restrictions, building and zoning regulations and ordinances of any governmental unit, and rights of way and easements established or of record. Liens, encumbrances or defects to be discharged by SELLER may be paid out of purchase money at date of closing. No liens, encumbrances or defects, which are to be discharged or assumed by BUYER or to which title is taken subject to, exist unless otherwise specified in this Agreement.

9. TITLE INSURANCE:

(A) TITLE COMMITMENT: Prior to closing the transaction, ☒ SELLER or ☐ BUYER shall furnish to BUYER a commitment of a title insurance policy showing the condition of the title to said premises. BUYER shall have 5 business day(s) from receipt of the commitment or not less than twenty-four (24) hours prior to closing, within which to object in writing to the condition of the title as set forth in the commitment. If BUYER does not so object, BUYER shall be deemed to have accepted the conditions of the title. It is agreed that if the title of said premises is not marketable, or cannot be made so within business day(s) after notice containing a written statement of defect is delivered to SELLER, BUYER's Earnest Money deposit will be returned to BUYER and SELLER shall pay for the cost of title insurance cancellation fee, escrow and legal fees, if any.

(B) STANDARD COVERAGE OWNER'S POLICY: SELLER shall within a reasonable time after closing furnish to BUYER a title insurance policy in the amount of the purchase price of the premises showing marketable and insurable title subject to the liens, encumbrances and defects elsewhere set out in this Agreement to be discharged or assumed by BUYER. The risk assumed by the title company in the standard coverage policy is limited to matters of public record.

(C) EXTENDED COVERAGE LENDER'S POLICY (Mortgagee policy): The lender may require that BUYER (Borrower) furnish an Extended Coverage Lender's Policy. This extended coverage lender's policy considers matters of public record and additionally insures against certain matters not shown in the public record. This extended coverage lender's policy is solely for the benefit of the lender and only protects the lender.

(D) EXTENDED COVERAGE OWNER'S POLICY: A standard title policy does not cover certain potential problems or risks such as liens (i.e. a legal claim against premises for payment of some debt or obligation, boundary disputes, claims of easement and other matters of claims if they are not of public record at time of closing.) However, under Idaho law, such potential claims against the premises may have become legal obligations before the purchase of the home and yet may not be of public record until after the purchase. It is recommended that BUYER talk to a title company about what it offers in the way of extended coverage title policies and endorsements. This extended coverage owner's policy is for the benefit of the owner and provides similar coverage like provided by the extended coverage lender's policy.

Extended Coverage Owner's Policy requested ☐ Yes ☒ No. Additional premium paid by: ☐ BUYER ☐ SELLER.

BUYER and SELLER acknowledge receipt of copy of this page, which constitutes Page 2 of 6 Pages

BUYER'S Initials () Date 12/4/01 SELLER'S Initials () Date

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RE-21 Effective Date 08/01

3-1

WARRANTY DEED

58330 BKN

FOR VALUE RECEIVED

MILES K. LINDAUER AND JILL L. LINDAUER, HUSBAND AND WIFE

20200778

the grantors, do hereby grant, bargain, sell, and convey unto

THE 1994 RICHARD SPENCER LIVING TRUST

the grantee, whose current address is

8409 LAKE PLACID ST., LAS VEGAS, NV 89123

the following described premises, to-wit:

SEE ATTACHED EXHIBIT "A"

SUBJECT TO A DEED OF TRUST DATED JULY 10, 1996 IN THE AMOUNT OF \$62,000.00

GRANTOR: MILES K. LINDAUER AND JILL L. LINDAUER, HUSBAND AND WIFE

TRUSTEE: ALLIANCE TITLE & ESCROW CORP.

BENEFICIARY: RIDGE J. PHILLIPS AND BONNIE RAE HALL PHILLIPS

RECORDED: JULY 10, 1996 INSTRUMENT NO.: 96011264

WHICH DEED OF TRUST THE GRANTEE ASSUMES AND AGREES TO PAY

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantee, that they the owners in fee simple of said premises; that said premises are free from all incumbrances except as herein above set forth and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: **DECEMBER 28, 2001**

Miles K. Lindauer
MILES K. LINDAUER

Jill L. Lindauer
JILL L. LINDAUER

STATE OF IDAHO, COUNTY OF BANNOCK On this 28TH day of DECEMBER, 2001, before me, a notary public in and for said State, personally appeared MILES K. LINDAUER & JILL L. LINDAUER HUSBAND AND WIFE known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same. <u>Ron Bitton</u> Notary Public Residing at POCATELLO, Idaho Comm. Expires MAY 30, 2005	NO <u>20200778</u> RECORDED AT REQUEST OF PIONEER TITLE 2002 JAN 11 PM 1 52 OFFICIAL FEE BOOK NO <u>804</u> BANNOCK COUNTY IDAHO LARRY W. CHAN RECORDER FEE <u>9-</u> DEPUTY <u>M</u>
--	--

Township 7 South, Range 36 East, Boise Meridian, Bannock County, Idaho
Section 29: NE $\frac{1}{4}$ NE $\frac{1}{4}$

EXCEPTING THEREFROM:

The West 800 feet of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 29, lying North of the County Road all in Township 7 South, Range 36 East of the Boise Meridian

ALSO EXCEPTING:

A parcel of land located in the NE $\frac{1}{4}$ of Section 29 and the NW $\frac{1}{4}$ of Section 28, Township 7 South, Range 36 East, Boise Meridian, Bannock County, Idaho and more particularly described as follows:

Commencing at the Northwest corner of Section 28, thence South 0°15'45" East along the West line of Section 28, 973.85 feet to the TRUE POINT OF BEGINNING;

Thence South 81°59'26" East 166.73 feet to a point on a line that is 165.00 feet from the West line of Section 28 measured perpendicular to said line; thence South 0°15'45" East parallel to the West line of Section 28, 306.30 feet to the North 1/16 line of Section 28; thence South 89°21'37" West along said 1/16 line 165.00 feet to the North 1/16 corner common to Sections 28 and 29; thence South 89°30'55" West along the North 1/16 line of Section 29, 1322.02 feet to the NE 1/16 corner of Section 29; thence North 0°16'25" West along the East 1/16 line of Section 29, 655.52 feet to the centerline of Portneuf Road; thence North 69°57'49" East along said centerline 476.54 feet to the point of curvature of a 561.27 foot radius curve to the right having a central angle of 52°12'22" the radius point of which bears South 20°02'12" East; thence along said curve 511.41 feet to the point of tangency; thence South 57°49'50" East 246.61 feet; thence leaving said centerline South 34°34'17" West 148.53 feet; thence South 25°00'00" East 158.00 feet; thence South 81°59'26" East 195.41 feet to the TRUE POINT OF BEGINNING;

ALSO EXCEPTING:

A parcel of land located in the NE $\frac{1}{4}$ of Section 29 and the NW $\frac{1}{4}$ of Section 28, Township 7 South, Range 36 East, Boise Meridian, Bannock County, Idaho, and more particularly described as follows:

Commencing at the Northwest corner of Section 28; thence South 0°15'45" East along the West line of Section 28, 791.30 feet to the centerline of Portneuf Road, the TRUE POINT OF BEGINNING;

Thence South 57°49'50" East along said centerline 195.49 feet to a point on a line 165.00 feet East of the West line of Section 28 measured perpendicular to said line, thence South 0°15'45" East parallel to the West line of Section 28; 101.70 feet; thence North 81°59'26" West, 166.73 feet to the West line of Section 28; thence continuing North 89°59'26" West 195.41 feet; thence North 25°00'00" West 158.00 feet; thence North 34°34'17" East 148.53 feet to the centerline of Portneuf Road; thence along said centerline South 57°49'50" East 206.93 feet to the TRUE POINT OF BEGINNING.

ALSO

Section 28:

The West 165 feet of the NW $\frac{1}{4}$ NW $\frac{1}{4}$

20200778

EXCEPTING:

3-3

A parcel of land located in the NE¼ of Section 29 and the NW¼ of Section 28, Township 7 South, Range 36 East, Boise Meridian, Bannock County, Idaho, and more particularly described as follows:

Commencing at the Northwest corner of Section 28; thence South 0°15'45" East along the West line of Section 28, 791.30 feet to the centerline of Portneuf Road, the TRUE POINT OF BEGINNING;

Thence South 57°49'50" East along said centerline 195.49 feet to a point on a line 165.00 feet East of the West line of Section 28 measured perpendicular to said line, thence South 0°15'45" East parallel to the West line of Section 28, 101.70 feet; thence North 81°59'26" West 166.73 feet to the West line of Section 28; thence continuing North 89°59'26" West 195.41 feet; thence North 25°00'00" West 158.00 feet; thence North 34°34'17" East 148.53 feet to the centerline of Portneuf Road; thence along said centerline South 57°49'50" East 206.93 feet to the TRUE POINT OF BEGINNING;

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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

July 1, 2002

RICHARD SPENCER
8409 PLACID ST
LAS VEGAS NV 89123

RE: FEE FOR WATER RIGHT OWNERSHIP CHANGE FOR 29-604D

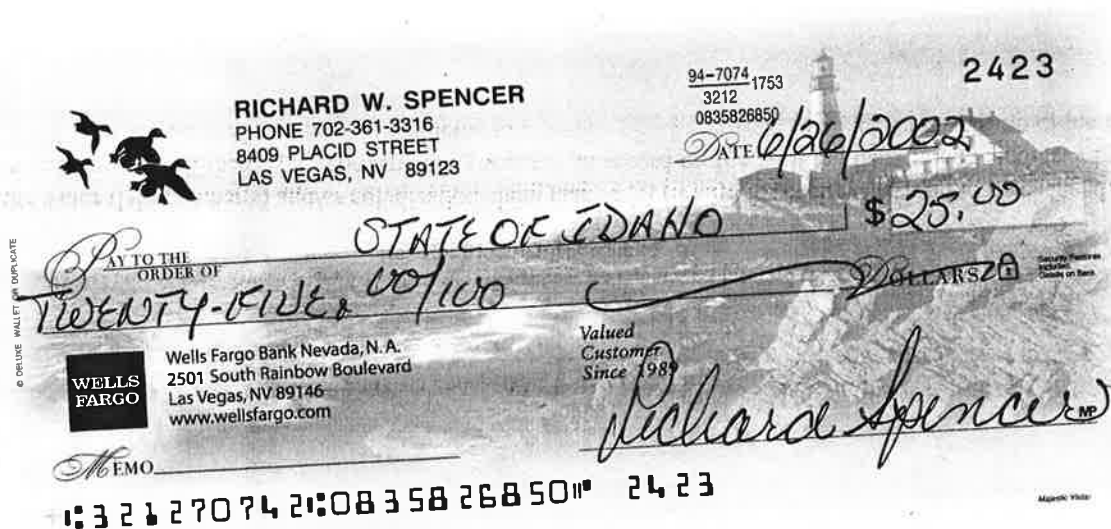
Dear Mr. Spencer:

I am returning check no. 2423 for \$25 because there is no fee to change ownership on an adjudication claim.

Sincerely,

Jennifer Crabtree
Technical Records Specialist

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

CIVIL CASE NUMBER: 39576

Renumbered To: A29-13464

Ident. Number 29-604D
Date Received: 6/12/1992
Receipt No: E017483
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

THE 1994 RICHARD SPENCER LIVING TRUST Phone: (702) 361-3316

C/O RICHARD SPENCER
8409 PLACID ST
LAS VEGAS NV USA 89123

2. Date of Priority: 05/31/1908

3. Source: INDIAN CREEK , SPRINGS Trib. to: SINKS , INDIAN CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
07S	36E	28	NW NW	BANNOCK	
07S	36E	28	NW NW	BANNOCK	

5. Description of diverting works:

HEADGATE TO DITCHES FOR FLOOD IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/15	10/15	0.235	

7. Total Quantity Appropriated is:
0.235 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
07S	36E	28	NW	NW	IRRIGATION	5
					Section Acres	5
07S	36E	29	NE	NE	IRRIGATION	7
					Section Acres	7
					Total Acres	12

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:

CHANGED OWNERSHIP PER CLAIMANT REQUEST (CSAXTON 7/19/02).

P/D & P/U NOT LISTED IN DECREE.

PRIORITY DATE NOT GIVEN IN DECREE, BUT RT. 29-0604 IS SUPERIOR & PRIOR TO DEFENDANTS RTS. 29-0606 THRU 29-0610.

SOURCES ARE INDIAN CK., TRIB. SINKS: ALL SPRINGS ARISING IN AND ADJACENT TO THE BED OR CHANNEL OF INDIAN CREEK.

CHANGED OWNERSHIP 7/24/96/JT/GT

15. Basis of Claim: Decreed