

02/26/2003

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

RIGHT NUMBER: 29-13412

NAME AND ADDRESS: DONALD R PETERSEN
11751 S HENDERSON RD
MC CAMMON ID 83250

DONNA L PETERSEN
11751 S HENDERSON RD
MC CAMMON ID 83250

SOURCE: BIRCH CREEK

TRIBUTARY: MARSH CREEK

QUANTITY: 1.200 CFS

PRIORITY DATE: 07/01/1879

POINT OF DIVERSION:

T09S R36E S29 SENESW 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	1.200 CFS

PLACE OF USE: IRRIGATION Within BANNOCK County

T09S R36E S28	SESW	30.0	T09S R36E S32	NENE	39.0
T09S R36E S32	NWNE	30.0	T09S R36E S32	SENE	34.0
T09S R36E S32	NESE	33.0	T09S R36E S33	NENW	36.0
T09S R36E S33	NWNW	39.0	T09S R36E S33	SWNW	40.0
T09S R36E S33	SENW	28.0	T09S R36E S33	NESW	38.0
T09S R36E S33	NWSW	32.0	T09S R36E S33	SWSW	38.0
T09S R36E S33	SESW	39.0			

456 ACRES TOTAL

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 60 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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.

THE RIGHTS LISTED BELOW ARE ALL DIVERTED THROUGH THE POINT OF
DIVERSION DESCRIBED ABOVE: 29-333, 29-336, 29-337, 29-13412,
29-13413 & 29-13414.

THIS RIGHT IS A COMBINATION OF OLD RIGHT NOS. 29-334 & 29-335.

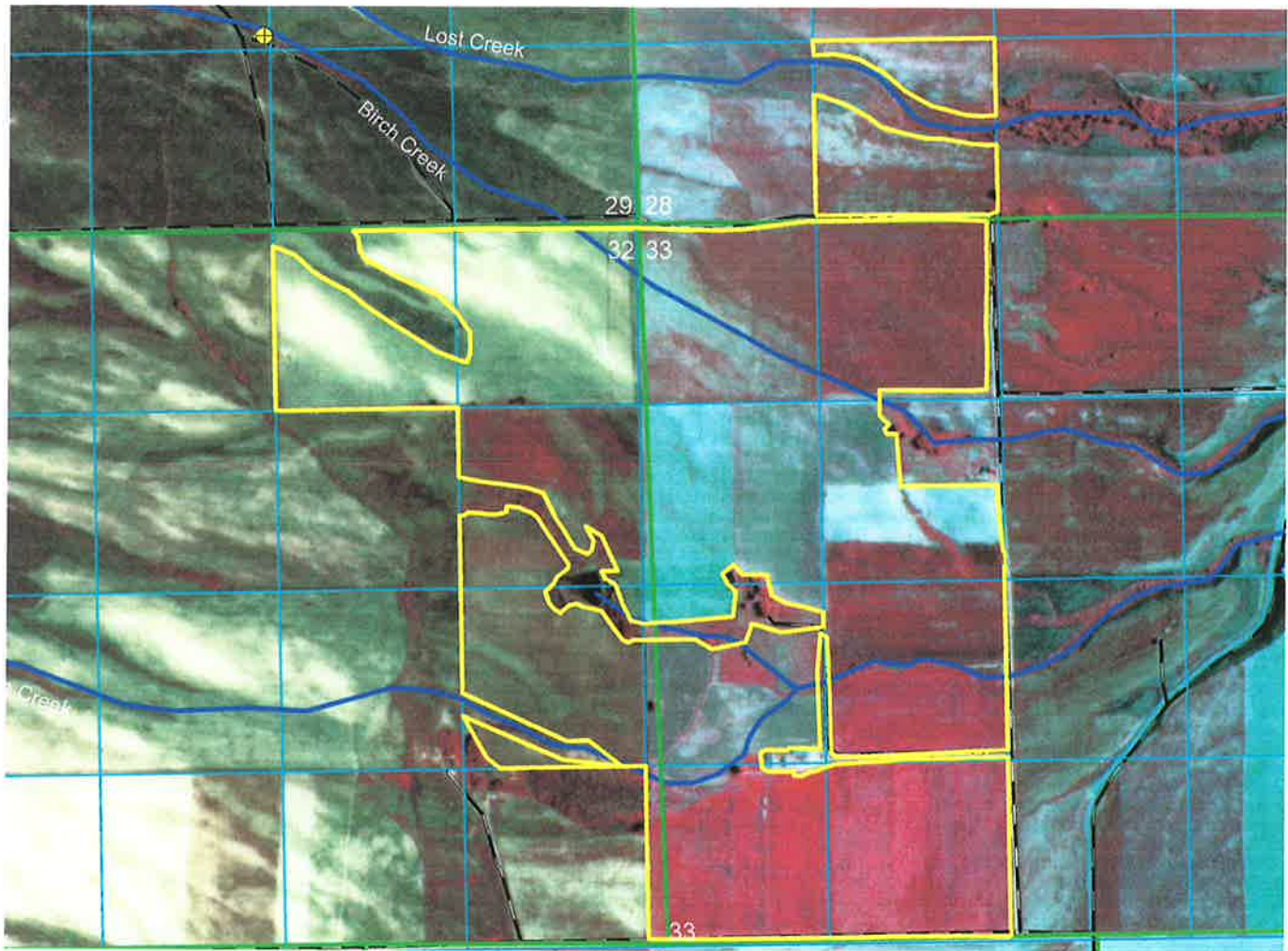
THIS RIGHT IS A SPLIT FROM FORMER RIGHT 29-335.



STATE OF IDAHO

Department of Water Resources
Eastern Region

**Water Rights: 29-333, 29-336, 29-337,
29-13412, 29-13413 & 29-13414**



0.3 0 0.3 0.6 Miles

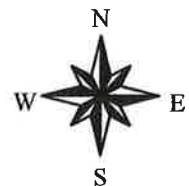
IRRIGATED ACRES 456

LEGEND

-  Point of Diversion
-  Place of Use
-  STREETS
-  SECTIONS
-  QUATER-QUATERS
-  STREAMS

Place of Use: T9S, R36E,
(part of) Sections 28, 32. and 33.

Points of Diversion: T9S, R36E,
Sec. 29 SENESW



GIS Place of Use Illustration
1987/88 NAPP PHOTOGRAPHY
Prepared by C. Bird
Date: FEBRUARY 2003

Cindy

02/27/2003

NOTICE OF ERROR
REPLY

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: 29-13412

DONALD R PETERSEN
11751 S HENDERSON RD
MC CAMMON ID 83250
Telephone Number: (208)254-3930

DONNA L PETERSEN
11751 S HENDERSON RD
MC CAMMON ID 83250
Telephone Number: (208) 254-3930

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.

DATE: 4-15-03

SIGNATURE:

Donald R Peterson

Please print your name:

Donald R Peterson

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

RECEIVED

APR 23 2003

De:

Lowell Peterson, Director

Summary Data Entry Form

Claim No.: 29-13412

Remarks and Conditions (Include Type, Category and Code if applicable):

C18

P15 29-334 & 29-335

P21 29-335

K06 60 acres

F06

C05

Split or Combined Right Analysis:

Attached Field Notes or Other Documents:

POD GPS'd: BIRCHP 42.6062765 - 112.2708667
(9/3/02) Theme: Waypoints.shp (1basin29/shapes/)
edited the GPS file to put the pt on Birch

Claim No.: 29-13412.

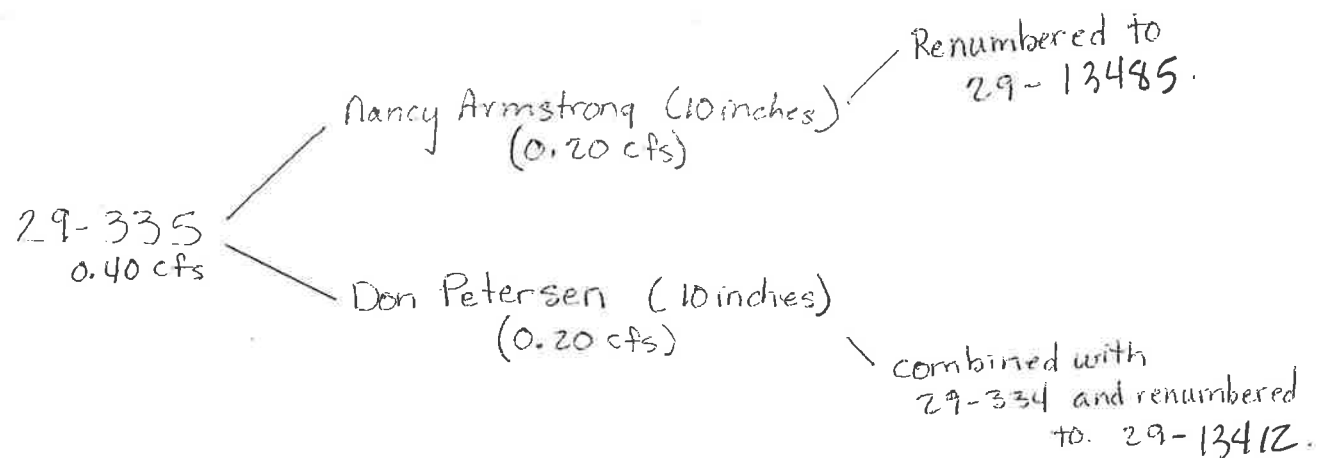
Reviewer CB

Date 2/21/03^{CR}

Notes

2/24/03. Set the claim to active and going to have Eric link the Pou shape.

- Pou has been linked
- Complete Summary after Pou is linked



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF IDAHO
IN AND FOR THE COUNTY OF BANNOCK

James Henderson, Benjamin W. Henderson,
and James Henderson Jr., partners under the firm
name and style of James Henderson & Sons, and
Melvin Henderson,

Plaintiffs

vs.

Thomas Marley, Mark R. Lawrence, William
Stinger, Mary Davis, and Gwenlion Marley
(intervenor),

Defendants.

DECREE.

This case having been commenced on May 7th. 1901, and there after all the parties having duly entered their appearance, W. T. Reeves Esq., and F. S. Dietrich Esq., appearing for the plaintiffs. S. C. Winters Esq., appearing for Thomas Marley, William Stinger and the intervenor, Gwenlion Marley, and Messers Terrell and Guheen appearing for the defendants-Mark R. Lawrence and Mary Davis.

And thereafter it was stipulated by the counsel for the respective parties that the cross complaints and the complaint in intervention should be deemed and treated as duly denied with the same force and effect as if verified answers thereto were duly filed.

And thereafter, the court having heard the evidence adduced by the several parties in support of their respective claims, and the counsel for the respective parties having made their arguments, and the court being fully advised in the premises and having made and filed herein its findings of fact and conclusions of law.

Now therefore in accordance with its findings and conclusions it is ordered, adjudged and decreed that the waters of Birch creek and of Lost Creek both of which said creeks are situate in Bannock county, State of Idaho, be, and the same are hereby,

MAY 16 1906
MAY 1 1906

distributed and decreed to the several parties to this suit for beneficial purposes and uses in amounts and of the dates with priority of rights as follows, to wit

29 0337 To James Henderson, Benjamin W. Henderson and James Henderson Jr., partners under the firm name and style of James Henderson & Sons, all of the waters of said lost creek, and one and one-tenth cubic feet per sec. of the water of Birch creek, dating from July 1st, 1879.

29 0334 To Melvin Henderson one cubic foot of water per second of the waters of Birch Creek dating from July 1 1879

29 0335 To the intervenor Gwenlison Marley two fifths of a cubic foot per second of the water of Birch creek, dating from July 1 1879

29 0338 To Mary Davis three tenths of a cubic foot per second of the water of Birch creek dating from April 1 1881:

29 0337 To Mark R. Lawrence, one tenth of a cubic foot per second of the water of Birch Creek dating from July 1 1888

29 0338 To Thomas Marley three tenths of a cubic foot per second of the water of Birch creek dating from July 1, 1889

That William Stinger is not entitled to any of the waters of the said Birch Creek.

That the several amounts of water above decreed be measured and distributed to the said parties at their several points of diversion from the natural channel of the said Birch creek, excepting the right decreed in the said Lost creek.

That the said waters of Birch creek be measured under the weir system in cubic feet per second of time.

It is further ordered that each of the said parties to this suit construct and maintain at their several points of diversion respectively substantial and uniform boxes head gates and weirs for the measurement of their said water.

It is further ordered, adjudged and decreed, that each and every of the parties to this suit, their agents, attorneys, assignees, and grantees be and they are hereby restrained & perpetually enjoined from in any manner interfering with the waters of the said Birch creek and of the said Lost creek, or exercising any other or greater rights

MAY 16 1996

with reference to the said waters than is herein decreed to the said parties respectively.

It is further ordered that each party to this suit pay his own costs.

Dated this 13th day of March 1902

Joseph C. Rich

Judge of the District Court.

STATE OF IDAHO,)
 (SS.
County of Bannock.)

I, E. G. Gallet, Clerk of the District Court in and for said County and State, hereby certify the within and foregoing to be a full true and correct copy of the original decree as recorded at page 118 of Judgement Book No. 2 records of said County.

In testimony whereof I have hereunto set my hand and affixed the seal of said Court this 11th day of May, A.D.1903.

E. G. Gallet,
Clerk of said Court

(SEAL)

By D.N.Campbell, Deputy.

RECORDED

MAY 16 1906

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 29-334

WATER RIGHT NUMBER: 29-334

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	MELVIN HENDERSON
	, ZZ

Priority Date: 07/01/1879

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BIRCH CREEK	MARSH CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	/	to /	1.000 CFS	
	Total Diversion:		1.000 CFS	

Location of Point(s) of Diversion

BIRCH CREEK

Place of UseConditions of Approval:Remarks:

- General P/D & P/U INCOMPLETE.
SOURCE LOCATION APPROX. T9S, R36E.

Comments:Dates and Other Information:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 29-334

Dates and Other Information:

Licensed Date:
Decreed Date: 3/13/1902
Water Supply Bank Enrollment Accepted:
Water Supply Bank Enrollment Removed:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant: Thomas Marley, et al
Decree Plaintiff: James Henderson, et al
Civil Case Number:
Judicial District: Fifth District
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 29-335

WATER RIGHT NUMBER: 29-335

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	GWENLION MARLEY

, ID

Priority Date: 07/01/1879

Basis: Decreed

Status: Active

Source

BIRCH CREEK

Tributary

MARSH CREEK

Beneficial Use

IRRIGATION

From To

/ to /

Diversion Rate

0.400 CFS

Annual VolumeTotal Diversion: 0.400 CFSLocation of Point(s) of Diversion

BIRCH CREEK

Place of UseConditions of Approval:Remarks:

1. General P/D & P/U INCOMPLETE.
SOURCE LOCATION APPROX. T9S, R36E.

Comments:Dates and Other Information:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 29-335

Dates and Other Information:

Licensed Date:
Decreed Date: 3/13/1902
Water Supply Bank Enrollment Accepted:
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Generic Max Rate Per Acre:
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Decree Defendant: Thomas Marley, et al
Decree Plaintiff: James Henderson, et al
Civil Case Number:
Judicial District: Fifth District
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

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 29-13412
Date Received: 10/24/2002
Receipt No: E028260
Received By: SBR 10/24/02

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

1. Name of Claimant(s)

DONALD R PETERSEN Phone: (208)254-3930

11751 S HENDERSON RD
MC CAMMON ID USA 83250

DONNA L PETERSEN Phone: (208) 254-3930

11751 S HENDERSON RD
MC CAMMON ID USA 83250

2. Date of Priority: 07/01/1879 ✓

3. Source: BIRCH CREEK ✓ Trib. to: MARSH CREEK ✓

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
09S	36E	29	NE ~~SW~~ SE	BANNOCK	

SE NE SW

5. Description of diverting works:

CONCRETE BOX TO PIPE FOR GRAVITY SPRINKLER SYSTEM.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION ✓	04/01	10/31	1.2 ✓	

600 acres

7. Total Quantity Appropriated is:
1.2 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
09S	36E	32	NE	SE	IRRIGATION	38
					Section Acres	38
09S	36E	33	NE	NW	IRRIGATION	38
			SE	NW	IRRIGATION	29
			NE	SW	IRRIGATION	38
			NW	SW	IRRIGATION	38
			SW	SW	IRRIGATION	38
			SE	SW	IRRIGATION	39
					Section Acres	220
					Total Acres	258

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:
USED WITH 29-00333.

14. Remarks:

THIS CLAIM COMBINES 29-00334 AND 1/2 OF 29-00335.

15. Basis of Claim:

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this

of _____ 20__

Notary Public

Residing at _____

My commission Expires _____

TO 24-61
 Birch and Lost Creeks

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF IDAHO
 IN AND FOR THE COUNTY OF BANNOCK

James Henderson, Benjamin W. Henderson,
 and James Henderson Jr., partners under the firm
 name and style of James Henderson & Sons, and
 Melvin Henderson,

Plaintiffs

vs.

Thomas Marley, Mark R. Lawrence, William
 Stinger, Mary Davis, and Gwenlion Marley
 (intervenor),

Defendants.

DEGREE.

This case having been commenced on May 7th. 1901, and there after all the parties having duly entered their appearance, W. T. Reeves Esq., and F. S. Dietrich Esq., appearing for the plaintiffs. S. C. Winters Esq., appearing for Thomas Marley, William Stinger and the intervener, Gwenlion Marley, and Messers Terrell and Guheen appearing for the defendants-Mark R. Lawrence and Mary Davis.

And thereafter it was stipulated by the counsel for the respective parties that the cross complaints and the complaint in intervention should be deemed and treated as duly denied with the same force and effect as if verified answers thereto were duly filed.

And thereafter, the court having heard the evidence adduced by the several parties in support of their respective claims, and the counsel for the respective parties having made their arguments, and the court being fully advised in the premises and having made and filed herein its findings of fact and conclusions of law.

Now therefore in accordance with its findings and conclusions it is ordered, adjudged and decreed that the waters of Birch creek and of Lost Creek both of which said creeks are situate in Bannock county, State of Idaho, be, and the same are hereby,

MAY 16 1906

distributed and decreed to the several parties to this suit for beneficial purposes and uses in amounts and of the dates with priority of rights as follows, to wit

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It is further ordered that each of the said parties to this suit construct and maintain at their several points of diversion respectively substantial and uniform boxes head gates and weirs for the measurement of their said water.

It is further ordered, adjudged and decreed, that each and every of the parties to this suit, their agents, attorneys, assignees, and grantees be and they are hereby restrained & perpetually enjoined from in any manner interfering with the waters of the said Birch creek and of the said Lost creek, or exercising any other or greater rights

MAY 16 1996

with reference to the said waters than is herein decreed to the said parties respectively.

It is further ordered that each party to this suit pay his own costs.

Dated this 13th day of March 1902

Joseph C. Rich

Judge of the District Court.

STATE OF IDAHO,)
 (SS.
County of Bannock.)

I, E. G. Gallet, Clerk of the District Court in and for said County and State, hereby certify the within and foregoing to be a full true and correct copy of the original decree as recorded at page 118 of Judgement Book No. 2 records of said County.

In testimony whereof I have hereunto set my hand and affixed the seal of said Court this 11th day of May, A.D. 1903.

E. G. Gallet,
Clerk of said Court

(SEAL)

By D. M. Campbell, Deputy.

RECORDED

MAY 16 1903

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 29-13412

Date Received _____

Receipt Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Donald R Petersen or Donna L. Petersen. Phone (208) 254-3930.
Mailing Address 11751 S. Henderson Rd. Zip 83250
McCammon.
2. Date of Priority (Only one (1) per claim) 7-1-1879
3. Source of water supply (a) Birch Creek
which is tributary to (b) Marsh Creek
4. a. Location of existing point of diversion is: Township 9S Range 36E Section 29,
NE 1/4 of SW 1/4 of SE 1/4, Govt. Lot, _____ B.M., County of Bannock.

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____
_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, 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. concrete box, pipe (16-18")

steel and decreases down the system, gravity flow.
sprinklers, dam + pond.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from 4/1 to 10/31 amount 1.2 cfs or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1.2 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
<u>9S</u>	<u>36E</u>	<u>32</u>													<u>38</u>				<u>38</u>
		<u>33</u>					<u>38</u>			<u>29</u>	<u>38</u>	<u>38</u>	<u>38</u>	<u>39</u>					<u>220</u>

Total number of acres irrigated 258

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 ☒ 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.
29-333 or None ()

14. Remarks: Combined rights 29-334 and 1/2 29-335

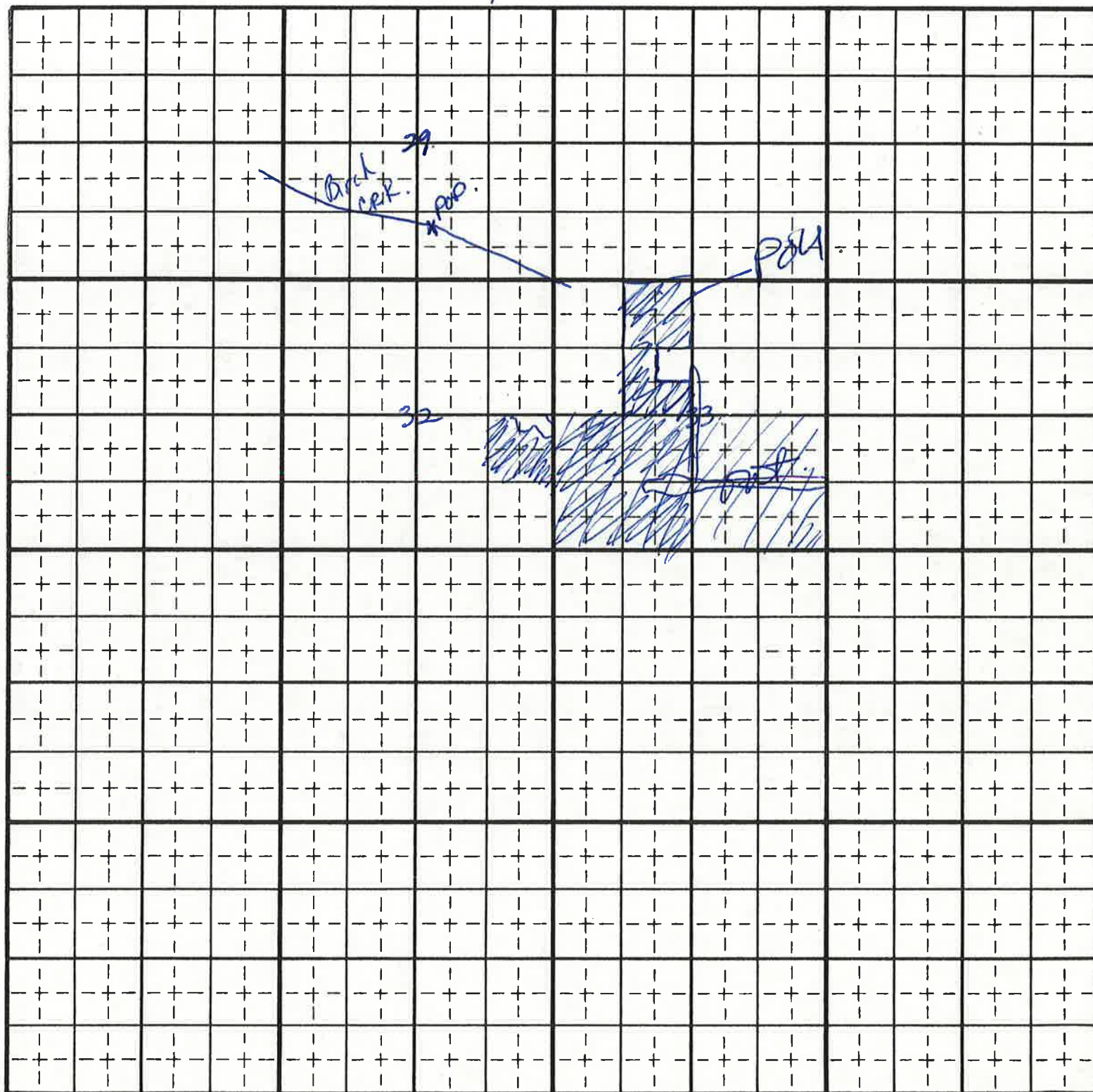
Last Name Petersen Ident No. _____

Copies: White -State, Yellow-Claimant

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

9S 36E



Last Name

Petersen

Ident No.

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree ☒

If applicable provide IDWR Water Right Number _____

Court _____ Case Number _____ Decree Date 3/13/1902
Plaintiff vs Defendant James Henderson -vs- Thomas Marley

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 0

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) Donald A. Petersen Date 10-22-2002

Date _____

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

Title
of _____, that I have signed the foregoing
Organization

document in the space below as _____ of _____
Title Organization

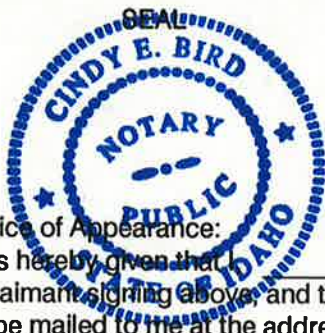
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

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

Subscribed and sworn (or affirmed) before me this 22nd day of October 19 2002



Notary Public Cindy E Bird

Residing at Lava Hot Springs

My Commission Expires 5-1-2007

Please Print Name

17. Notice of Appearance:

Notice is hereby given that _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name Petersen Ident. Number _____