

10/12/2007

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

RIGHT NUMBER: 29-13679

NAME AND ADDRESS: CITY OF LAVA HOT SPRINGS
PO BOX 187
LAVA HOT SPRINGS ID 83246

DISALLOWED

SOURCE: FISH CREEK

TRIBUTARY: PORTNEUF RIVER

QUANTITY: 0.830 CFS
1,123.000 AFY

PRIORITY DATE: 05/01/1893

POINT OF DIVERSION:

T09S R38E S26 NWNWNW Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/15	0.830 CFS

PLACE OF USE: IRRIGATION in BANNOCK County

T09S R38E S21	NESW	38.70	T09S R38E S21	SESW	38.69
T09S R38E S21	NESE	38.69	T09S R38E S21	NWSE	38.69
T09S R38E S21	SWSE	38.69	T09S R38E S21	SESE	38.69
T09S R38E S22	SWNW	40.00	T09S R38E S22	NESW	24.27
T09S R38E S22	NWSW	24.26	T09S R38E S22	SWSW	24.26
T09S R38E S22	SESW	24.26	T09S R38E S28	NWNE	40.00
T09S R38E S28	NENW	40.00			

449.2 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

Change in use; insufficient evidence of date of change.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Change in use, insufficient evidence of date of change: This is included for a claim that is proposed to be disallowed because use of the water right was changed without prior IDWR approval and the claimant did not submit sufficient evidence from which the date of the change could be determined. The date of change is necessary to determine if the right may be claimed as changed without prior IDWR approval, and if the change will result in injury to other water right holders.

This right is a split from former right 29-153.





IN THE DISTRICT 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 _____

Date Received _____

Receipt Number _____

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

Please type or print clearly

1. Name of Claimant (s) City of Lava Hot Springs Phone 208-766-5820
Mailing Address P.O. Box 187, Lava Hot Springs, Idaho Zip 83246
2. Date of Priority (only one (1) per claim) March 1, 1889
3. Source of water supply (a) Fish Creek
Which is tributary to (b) Portneuf River
4. a. Location of existing point of diversion is: Township 9S Range 38 EBM Section 26
NW¼ of NW ¼ of NW ¼, gov't lot B.M., County of Bannock
Additional points of diversion if any: N/A

b. If instream flow, beginning point of claimed instream flow is:
Township Range Section , ¼ of ¼ of ¼
Gov't lot B.M., county of

Ending point is:
Township Range Section , ¼ of ¼ of ¼
Gov't 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.
Cement box across Fish Creek that is controlled with boards to regulate and divert the flow of water into the Dempsey Canal.

6. Water is claimed for the following purposes:

For Municipal purposes from 4/15 to 9/15 amount 0.83 cfs or acre-feet

7. Total quantity claimed (a) .83 cfs and/or (b) acre-feet

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

9. Non-irrigation uses; described fully (eg. Domestic: give number of households served; stockwater: type and number of livestock, etc)

Municipal use for City of Lava Hot Springs

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 ¼				NW ¼				SW ¼				SE ¼				TOTALS
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NE ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
9	38	21									M			M	M	M	M	M	
9	38	22									M	M	M	M					
9	38	28		M			M												

Total number of acres irrigated

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 ☒

13. Describe any other water rights used at the same place and for the same purposes as described above.

Municipal use rights 29-4229, 29-4230, 29-7346, 29-8056, 29-13297

14. Remarks:

This water right has historically been used for municipal purposes and should be decreed as a municipal use water right.

Last Name _____ Ident No. _____

29-13678, 29-13679

Created: December 27, 2007



WR 29-13678
WR 29-13679

Place of Use
Point of Diversion

- Legend
- Major Roads
- Interstate
 - U.S. Highway
 - State Highway
 - Other
 - Lakes
 - Major Rivers
 - Rivers
 - Canals
 - Rivers
 - Small streams
 - Streams
 - PLS - Section
 - PLS - quarter quarter
 - Cities
 - Counties
 - State
 - High Res. NAIP (2006)



Prepared by the ArcGIS Map Server at:



Idaho Department of Water Resources
322 East Front Street, P.O. Box 83720
Boise, Idaho 83720-8098
Ph: (208) 287-4800
www.idwr.idaho.gov

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15. Basis of claim (check one) Beneficial use ☐ Posted Notice ☐ License ☐ Permit ☐ Decree ☒
If applicable provide IDWR Water Right Number 117
Court _____ Case Number _____ Decree Date _____

v.

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

Signature of Claimant (s) _____ Date _____

_____ Date _____

For Organizations:

I do solemnly swear or affirm that I am Thomas J. Budge of the firm of Racine, Olson, Nyë, Budge & Bailey, that I have signed the foregoing document in the space below as attorney for the City of Lava Hot Springs, Idaho, and that statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Thomas J. Budge, Attorney for Claimant

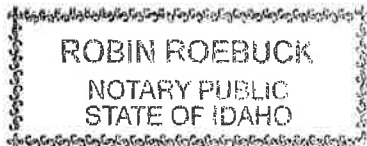
Title and Organization Attorney for City of Lava Hot Springs Date 1/2/08

State of Idaho)

ss

County of Bannock)

Subscribed and sworn (or affirmed) before me this 2nd day of January 2008



Notary Public Robin Roebuck

Residing at Pocatello

My Commission Expires 8/18/2012

17. Notice of Appearance

Notice is hereby given that I, _____ 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 _____ Ident No. _____

LAW OFFICES OF

**RACINE OLSON NYE BUDGE & BAILEY
CHARTERED**

201 EAST CENTER STREET
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101
FACSIMILE (208) 232-6109

www.racinelaw.net

SENDER'S E-MAIL ADDRESS: tjb@racinelaw.net

W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL
JOHN B. INGELSTROM
DANIEL C. GREEN
BRENT O. ROCHE
KIRK B. HADLEY
FRED J. LEWIS
MITCHELL W. BROWN
ERIC L. OLSEN
CONRAD J. AIKEN
RICHARD A. HEARN, M.D.
DAVID E. ALEXANDER
LANE V. ERICKSON
PATRICK N. GEORGE
SCOTT J. SMITH
STEPHEN J. MUHONEN
BRENT L. WHITING
JUSTIN R. ELLIS
JOSHUA D. JOHNSON
JONATHAN S. BYINGTON
DAVE BAGLEY
CAROL TIPPI VOLYN
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CANDICE M. MCHUGH
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BOISE OFFICE
101 SOUTH CAPITOL
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IDAHO FALLS OFFICE
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IDAHO FALLS, ID 83402
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COEUR D'ALENE OFFICE
250 NORTHWEST
BOULEVARD, SUITE 106A
COEUR D'ALENE, ID 83814
TELEPHONE: (208) 765-6888

ALL OFFICES TOLL FREE
(877) 232-6101

LOUIS F. RACINE (1917-2008)
WILLIAM D. OLSON, OF COUNSEL

June 30, 2008

Ernie Carlson
IDWR, Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Re: *City of Lava Hot Springs Water Right Nos. 29-13678 and 29-13679*

Dear Ernie:

I am writing on behalf of the City of Lava Hot Springs in relation to their Water Rights Nos. 29-13678 and 29-13679 for which Special Master Bilyeu today granted our Motion to Amend the Claims from "irrigation" to "municipal" use in the SRBA Court. I would like to arrange a time to sit down with you to review the historic use of these water rights and attempt to resolve the City's objection in a collaborative fashion. Please let me know when you might be available for such a meeting.

Sincerely,



THOMAS J. BUDGE

TJB:rr

cc: City of Lava Hot Springs
Mayor Burgin
Canda Dimick

RECEIVED
SCANNED JUL 02 2008
Department of Water Resources
Eastern Region
JAN 29 2009

LAW OFFICES OF

**RACINE OLSON NYE BUDGE & BAILEY
CHARTERED**

201 EAST CENTER STREET
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SENDER'S E-MAIL ADDRESS: tjb@racinelaw.net.

W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL
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ALL OFFICES TOLL FREE
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LOUIS F. RACINE (1917-2005)
WILLIAM D. OLSON, OF COUNSEL

July 16, 2008

Ernie Carlson
IDWR, Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Re: *City of Lava Hot Springs Water Right Nos. 29-13678 and 29-13679*

Dear Ernie:

Please give me a call at your convenience to discuss the above-identified water rights which have been amended from irrigation to municipal use in the SRBA:

Sincerely,


THOMAS J. BUDGE

TJB:rr

Enclosure

cc: City of Lava Hot Springs
Mayor Burgin
Canda Dimick

RECEIVED

JUL 17 2008

Department of Water Resources
Eastern Region

TS
2008 JUL 14 PM 12:44

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

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

In Re SRBA	)	ORDER GRANTING MOTION TO
	)	FILE AMENDED NOTICE OF CLAIM
Case No. 39576	)	AND SETTING SUBCASE DEADLINES
	)	AND STATUS CONFERENCE
_____	)	SUBCASE NO.: 29-13678, AND 29-13679

I. PROCEDURAL BACKGROUND

A *Motion to File Amended Notice of Claim* was filed by City of Lava Hot Springs on January 3, 2008. The *Motion* seeks to amend the notice of claim for this water right by changing the claimed purpose of use to municipal. A hearing was held on the *Motion* on June 30, 2008.

II. STANDARD OF REVIEW

The SRBA Court administrative rules establish that motions to amend claims "shall be freely given when justice so requires." *SRBA Administrative Order 1 (A01)* § 4d (2) (k)

III. FINDINGS

The City of Lava Hot Springs explained that the purpose of use should be more accurately described as municipal purposes. There was no opposition to the *Motion*. Therefore, the *Motion to File Amended Notice of Claim* is **granted**.

IT IS ORDERED that the following deadlines shall govern further proceedings:

September 30, 2008	5:00 pm	Deadline to file Amended Director's Report
October 28, 2008	5:00 pm	Deadline to file Objection
November 14, 2008	5:00 pm	Deadline to file Response

RECEIVED
JUL 17 2008
Department of Water Resources
Eastern Region

ORDER GRANTING MOTION TO FILE AMENDED NOTICE
OF CLAIM AND SETTING SUBCASE DEADLINES
G:/basin folders/29ORDERS/13678.13679.MOTNGRANT AMENDCLAIM.SETDLINES
7/7/08

RECEIVED
JUL 15 2008
By _____

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO FILE AMENDED NOTICE OF CLAIM AND SETTING SUBCASE DEADLINES AND STATUS CONFERENCE was mailed on July 14, 2008, with sufficient first-class postage to the following:

CITY OF LAVA HOT SPRINGS

Represented by:

BUDGE, THOMAS J

201 E CENTER ST

PO BOX 1391

POCATELLO, ID 83204-1391

Phone: 208-232-6101

CITY OF LAVA HOT SPRINGS

PO BOX 187

LAVA HOT SPRINGS, ID 83246

Phone: 208-776-5831

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

Comments:

CITY OF LAVA HOT SPRINGS

LATE CLAIMS: 29-13678 & 29-13679



IMG 1545

Photo number

Photo Rename

5/11/07

Date

11:03

Time

AM

PM

Met with Raymond Bailey; Mayor for the City of Lava Hot Springs; two maintenance guys and Canda L. Dimick, City Clerk at City Hall before going out to see the pod. Looking west at diversion off Fish Creek

5-11-07 *CS*



2" pipe

campground

NAME OF CLAIMANT and
DATE OF PRIORITY

AMOUNT IN
SECOND FEET

POINT OF DIVERSION AND
PLACE OF USE

✓ 117. *Cooper, W. W.*
1889—March 1
1893—May 1
Alley Iris pt
City of Lava

2 c. f. s.
1.2 c. f. s.

East 203.6 feet to Portneuf River, thence Southeast up said stream to a point due north of place of beginning, thence South 363.8 feet to place of beginning.

Said water to be diverted through a ditch taken out at point which bears South 59 degrees 25 minutes East, 1740 feet from the Northwest corner of Section 26, Township 9 South, Range 38 E. B. M., for the irrigation of Lots 1, 2, 3 and 4, and the Southwest quarter of the Southeast quarter, Section 22, Township 9 South, Range 38 E. B. M. and Lot 3, Section 15, Township 9 South, Range 38 E. B. M.

118. *Frank Warner, Francis*
Dewey Warner, Florence
Grace Potter, Katherine
Theresa Warner, the heirs of Cora
Warner, deceased.
1889—June 1
1893—March 1

.8 c. f. s.
.8 c. f. s.

Said water to be diverted through a ditch taken out at point which bears South 66 degrees 30 minutes East, 2070 feet from the Northwest corner of Section 26, Township 9 South, Range 38 E. B. M., for the irrigation of the Northeast quarter of the Northeast quarter, Section 27, the Northwest quarter of the Northwest quarter, Section 26, the Southeast quarter of the Southeast quarter, and the Northeast quarter of the Southeast quarter, Section 22, Township 9 South, Range 38 E. B. M.

DEMPSEY CREEK, TRIBUTARY TO THE PORTNEUF RIVER

✓ 119. *Godfrey, William R.*
1881—May 1
1882—May 1

.78 c. f. s.
.70 c. f. s.

Avery Leland
Tillotson Ron

Said water to be diverted through a ditch having intake in the East half of the Northwest quarter, Section 9, Township 10 South, Range 38 E. B. M.; also through another ditch having intake in the Northwest quarter of the Southeast quarter of Section 4, Township 10 South, Range 38 E. B. M.; also through another ditch having intake North 53 degrees East 1550 feet from the Southwest corner of Section 4; also through two ditches in West Creek (tributary of Dempsey Creek) in the Northeast quarter of the Southeast quarter, Section 5, Township 10 South, Range 38 E. B. M., for the irrigation of the Northeast quarter of the Northwest quarter

29-13678, 29-13679



Place of Use

Point of Diversion



Prepared by the ArcIMS Map Server at:



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322 East Front Street, P.O. Box 83720
Boise, Idaho 83720-0098
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State of Idaho

DEPARTMENT OF WATER RESOURCES

15 W Center Street, Soda Springs, Idaho 83276-1575

Phone: (208) 547-3993 FAX: (208) 547-3939 www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

April 19, 2007

COPY

City of Lava Hot Springs
P.O. BOX 187
Lava Hot Springs, ID 83246

REF: Snake River Basin Adjudication (SRBA) late Claims
29-13678 and 29-13679

Subject: Change in point of diversion (POD) and place of use (POU)
Water rights ownership.

RESPONSE DATE: MAY 10TH, 2007

Dear Claimants:

IDWR is in the process of reviewing your SRBA late claims referenced above on Fish Creek for irrigation within the City of Lava Hot Springs. I have some additional questions that need to be clarified by the above referenced date.

Under your SRBA late claims it appears that these rights come from decreed rights 29-152 and 29-153? Which were originally decreed in the Union Grain and Elevator decree in August of 1932 to W.W. Cooper. When and how did the City of Lava Hot Springs acquire these private rights?

The decreed point of diversion was in the SWNENW of section 26 and your claimed point of diversion is in the NWNW of section 26, all within township 9 south, range 38 east of the B.M.

The decree place of use was in lots 1-4, SWSE of section 22 and lot 3 in section 15, and your claimed place of use is in sections 21, 22 and 28 all within township 9 south, range 38 east of the B.M. The SRBA claimed POU in section 22 is **not** the same as under the original decree POU.

Under Idaho law (42-222) when a point of diversion or place of use is changed it requires that a transfer be filed with the Department of Water Resources. There are no records of a transfer

ever being filed with us. However, we may be able to recognize the change in the SRBA if the change occurred prior to **November 19, 1987** (42-1406A) and it does not injure another user. If the change occurred prior to November 19, 1987 then please provide us with the month, day and year that the change occurred **along with evidence** to support when the changes were made. If the change occurred after November 19, 1987 then the month and day is not required.

Our goal is to recommend these rights to the SRBA court as accurately as possible so your immediate attention to this matter is important. If my office does not receive a response by the above referenced date then these claims to water from Fish Creek may be recommended as **DISALLOWED** to the court.

If you have any questions please don't hesitate giving me a call at 547-3993.

Respectfully,

COPY

Cindy E. Bird
Senior Water Resource Agent

117. COOPER, W. W.
-0152 1889 Mar. 1 2 c.f.s.
-0153 1893 May 1 1.2 c.f.s.

SOURCE: FISH CREEK

POD: SW NE NW Sec. 26

*POU: Lots 1-4, SWSW
Sec. 22 and*

Lot 3 Sec. 15

Said water to be diverted through a ditch
taken out at point which bears South 59 de-
grees 25 minutes East, 1740 feet from the
Northwest corner of Section 26, Township 9
South, Range 38 E.B.M., for the irrigation
of Lots 1, 2, 3, and 4, and the Southwest
quarter of the Southeast quarter, Section
22, Township 9 South, Range 38 E.B.M., and
Lot 3, Section 15, Township 9 South, Range
38 E.B.M.

A29-13679
Claim no. A29-13678

Claimant Contact Log

Date	Remarks	Agent initials
------	---------	----------------

10-5-2004

Remarks

Agent initials

thf

I visited with Canda Dimick, City Clerk/Treasurer of the City of Lava Hot Springs. She stated that the City & Iris Alley had each purchased a portion of Deeds 29-152 & 29-153 prior to her starting employment with the City in 1986.

Iris Alley filed claims A29-152A & A29-153A for her portion.

Canda Dimick states that the City used their portion of 29-152 & 29-153 from a ditch out of the Fish Creek Irrigation Canal but that ditch is now gone.

An affidavit from Bruce Hansen states he has leased those rights from the city since 1987. See Acre View map attached for general place of use.

The original rights were for 6 40 acre units or portions thereof. In that light, no more than 240 acres was ever irrigated & probably less as the original Plans of use looks to have some slope on it.

The City claim for 449.2 acres is then an expansion & Canda Dimick told me she just put in the acres the City covers for a claim place of use.

At present, Fish Creek Irrigation has a canal thru Lava Hot Springs & delivers at least 3 private rights to residents in the City. They are Elvett Rush, Mt. View Trailer Court & School District #21

Pg 2

Claim no. A29-13679
A29-13678

Claimant Contact Log

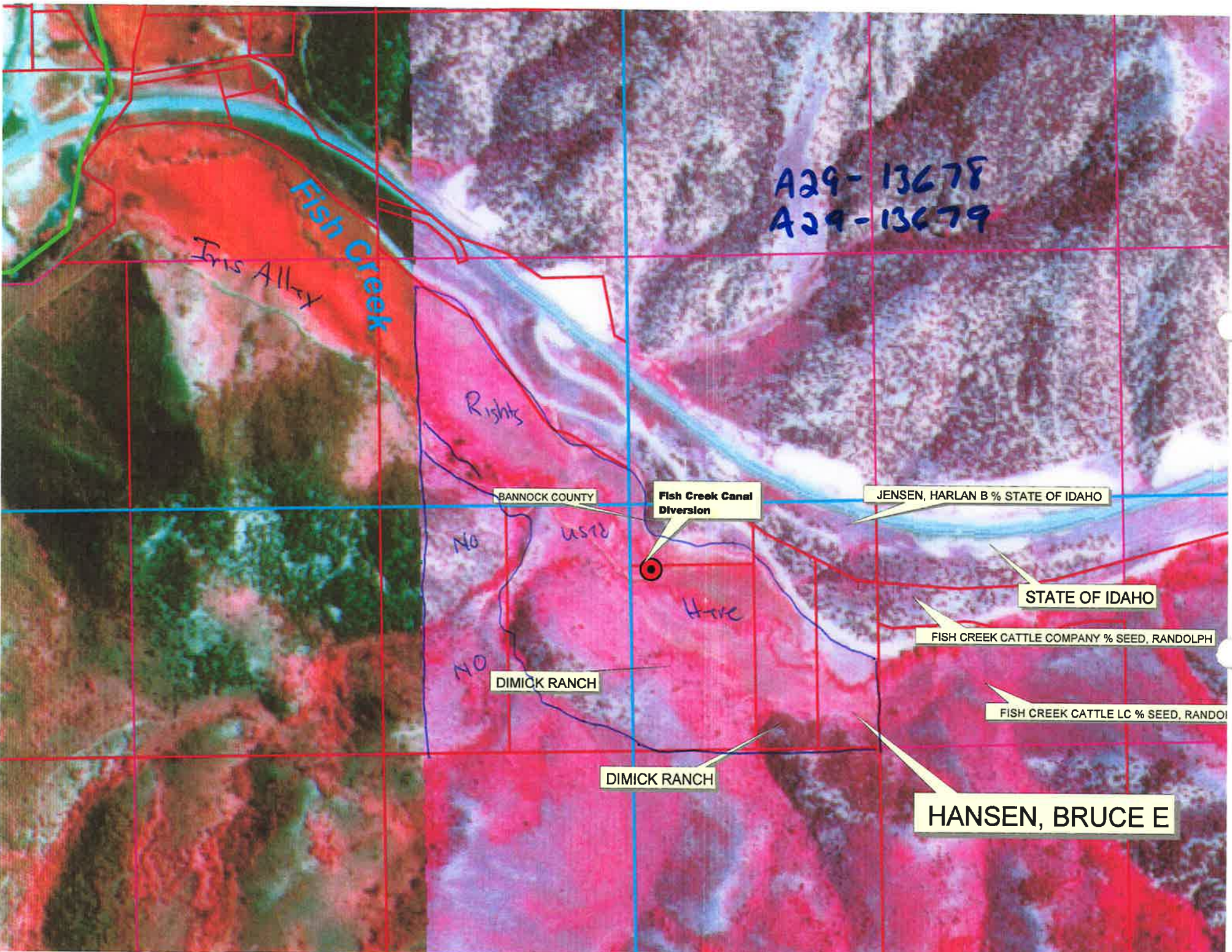
Date	Remarks	Agent initials
------	---------	----------------

10-5-2004

Shuf

The valid places of use seem to be the Bruce Hansen + Dimick Farms + that may be a distinct problem in issuing the Deeds to the City of Lava Hot Springs for use in the city. Possibly a transfer would be needed after the Deeds.

For the water to be used in the city, a pipeline would have to be built to bring water down to the residents. This project has not yet been started.



A29-13678
A29-13679

Fish Creek
Iris Alley

Rights

No

used

Have

BANNOCK COUNTY

Fish Creek Canal
Diversion

JENSEN, HARLAN B % STATE OF IDAHO

STATE OF IDAHO

FISH CREEK CATTLE COMPANY % SEED, RANDOLPH

FISH CREEK CATTLE LC % SEED, RANDOLPH

DIMICK RANCH

DIMICK RANCH

HANSEN, BRUCE E

Said water to be diverted through a ditch
 taken out at a point which bears South 59
 degrees 25 minutes East 1740 feet from the
 Northwest corner of Section 26, Township 9
 South, Range 38 E. Boise Meridian for the
 irrigation of lots 1, 2, 3 and 4 and the
 Southwest Quarter of the Southeast Quarter
 Section 22, Township 9, South Range 38 E.
 B. M. and Lot 3, Section 15, Township 9
 South, Range 38 E. B. M.

1889 - March - 2 C.F.S.
 1893 - May - 1.2 C.F.S.

1117 Cooper, W.W.

Copy from Alvin Olson Walter Master
 book. circa, mid 1980's or
 earlier

AFFIDAVIT

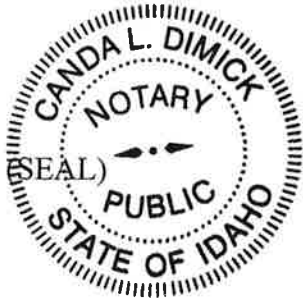
I, **Bruce E. Hansen**, hereby acknowledge that by a verbal agreement with the City of Lava Hot Springs, Idaho, I have cash leased and used the City of Lava Hot Springs Fish Creek water on property that I owned or leased since the 1987 irrigation season to the present.



Bruce E. Hansen
12233 East Fish Creek Rd.
Lava Hot Springs, ID 83246

STATE OF IDAHO)
) ss.
COUNTY OF BANNOCK)

Subscribed and sworn (or affirmed) before me this 1st day of April, 2004



NOTARY PUBLIC FOR IDAHO

Residing at Lava Hot Springs

My Commission Expires: 5/27/2009

AGREEMENT

The Fish Creek Irrigation Company hereby formally agrees to continue transporting the City of Lava Hot Springs, Idaho, Fish Creek water. The water has been transported through the system in the past and any excess has been used by the users in the Fish Creek Irrigation system. The City of Lava Hot Springs hereby formally grants Fish Creek Irrigation Company the privilege to continue using any excess water that is not being leased or used by the city for transporting services.

Signed: Dean Day
Dean Day, President
Fish Creek Irrigation Company

Signed: Raymond E. Bailey
Raymond E. Bailey, Mayor
City of Lava Hot Springs

ATTEST:

Canda L. Dimick
Canda L. Dimick, City Clerk

STATE OF IDAHO)
 : ss
COUNTY OF BANNOCK)

On this 1st day of April, 2004, before me, the undersigned Notary Public. Personally appeared Raymond E. Bailey and Canda Dimick, known to me to be the Mayor and Clerk of the City of Lava Hot Springs, Idaho, and acknowledged to me that they executed the foregoing instrument on behalf of the City.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



Renee McBride
NOTARY PUBLIC FOR IDAHO
Residing at Lava Hot Springs
Commission Expires: May 31, 2006

)

)

Candace Annick
 NOTARY PUBLIC FOR IDAHO
 Residing at Law Hot Springs
 Commission Expires: 5/27/2009

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 29-153

WATER RIGHT NUMBER: 29-153

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	W W COOPER
	, ID

Priority Date: 05/01/1893

Basis: Decreed

Status: Active

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

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/15 to	9/15	1.200 CFS	
	<u>Total Diversion:</u>		1.200 CFS	

Location of Point(s) of Diversion

FISH CREEK	NE1/4NW1/4	Sec. 26, Twp 09S, Rge 38E, 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	
09S	38E	15																X L 3	
09S	38E	22		X L 1	X L 3		X L 2										X L 4	X	

Conditions of Approval:Remarks:

- General P/U INCOMPLETE.

Comments:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 29-152

WATER RIGHT NUMBER: 29-152

Owner Type Name and Address

Current Owner W W COOPER

, ID

Priority Date: 03/01/1889

Basis: Decreed

Status: Active

Source

FISH CREEK

Tributary

PORTNEUF RIVER

Beneficial Use

IRRIGATION

From To

4/15 to 9/15

Diversion Rate

2.000 CFS

Annual VolumeTotal Diversion:

2.000 CFS

Location of Point(s) of Diversion

FISH CREEK

NE1/4NW1/4

Sec. 26, Twp 09S, Rge 38E, 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	
09S	38E	15												X L 3					
09S	38E	22		X L 1	X L 3		X L 2									X L 4	X		

Conditions of Approval:Remarks:

- General P/U INCOMPLETE.

Comments:

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 29-13679
Date Received: 4/2/2004
Receipt No:
Received By:

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

1. Name of Claimant(s)

CITY OF LAVA HOT SPRINGS Phone: (208)776-5820
PO BOX 187
LAVA HOT SPRINGS ID USA 83246

2. Date of Priority: 05/01/1893

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

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
09S	38E	26	NW NW NW	BANNOCK	

5. Description of diverting works:

CEMENT BOX ACROSS FISH CREEK THAT IS CONTROLLED WITH BOARDS TO REGULATE AND
DIVERT THE FLOW OF WATER INTO THE DEMPSEY CANAL.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/15	0.83	

7. Total Quantity Appropriated is:
0.83 C.F.S. and/or 1123 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
09S	38E	21	NE SW	IRRIGATION	38.7
			SE SW	IRRIGATION	38.69
			NE SE	IRRIGATION	38.69

			NW	SE	IRRIGATION	38.69
			SW	SE	IRRIGATION	38.69
			SE	SE	IRRIGATION	38.69
					Section Acres	232.15
09S	38E	22	SW	NW	IRRIGATION	40
			NE	SW	IRRIGATION	24.27
			NW	SW	IRRIGATION	24.26
			SW	SW	IRRIGATION	24.26
			SE	SW	IRRIGATION	24.26
					Section Acres	137.05
09S	38E	28	NW	NE	IRRIGATION	40
			NE	NW	IRRIGATION	40
					Section Acres	80
					Total Acres	449.2

11. Place of use in counties: BANNOCK

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

MUNICIPAL USE RIGHTS: 29-4229, 29-4230, 29-7346, 29-8056, 29-13297

GOVERNING BODY MUNICIPALITY

15. Basis of Claim: Decreed

RECEIVED

JUL 23 2004

DEPARTMENT OF
WATER RESOURCESIN 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: 39576

Ident. Number 29-13679Date Received 7-23-04Receipt Number 00746040075041 late feeNOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

29-153

Please type or print clearly

1. Name of Claimant (s) City of Lava Hot Springs Phone (208) 776-5820Mailing Address P.O. Box 187, Lava Hot Springs, ID Zip 832462. Date of Priority (Only one (1) per claim) May 1, 18933. Source of water supply (a) Fish Creek
which is tributary to (b) Portneuf River4. a. Location of existing point of diversion is: Township 9S Range 38 E Section 26,
NW 1/4 of NW 1/4 of NW 1/4, Govt. Lot, B.M., County of BannockAdditional points of diversion if any: N/A

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. Cement box across Fish Creek
that is controlled with boards to regulate and divert the flow
of water into the Dempsey Canal.

SCANNED

DEC - 5 2006

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from 4/15 to 10/15 amount .83 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .83 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 1,123 acre feet per annum.

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

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	
9	38	21									Lots 1, 2, 3, 4, 6, 7 & 8								232.15
9	38	22							40		Lots 4, 5, 6, 9 & 10								137.05
9	38	28		40			40												80

Total number of acres irrigated 449.2

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 X

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.

Municipal Use Rights #29-4229, 29-4230, 29-7346, 29-8056 & 29-13297 or None ()

14. Remarks: Governing Body municipality

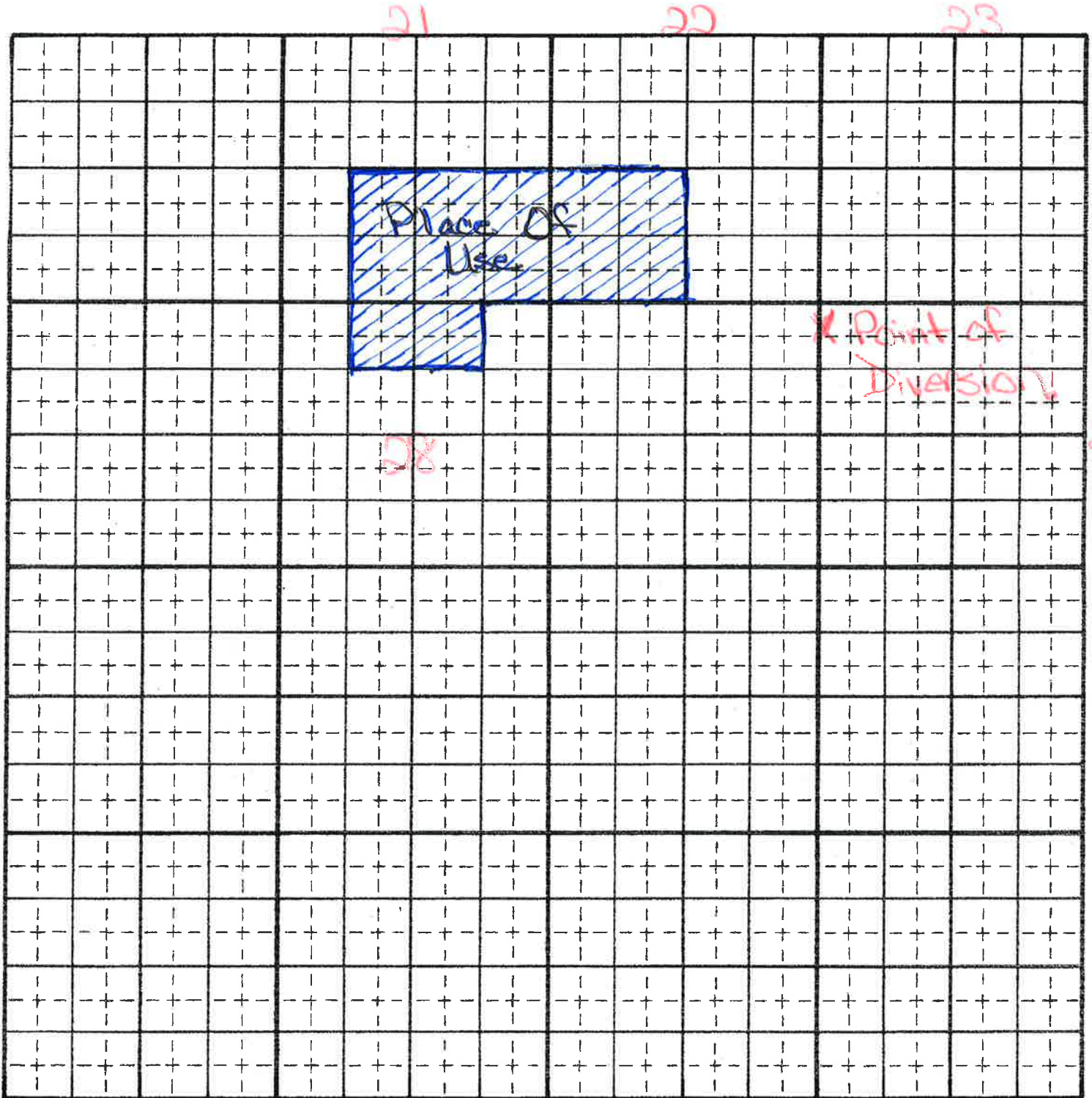
Last Name Lava Hot Springs Ident No. _____

SCANNED
DEC - 5 2006

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

Scale: 2 inches equals 1 mile

T9S R38 EBM.



Last Name Lava Hot Springs Ident No. _____

SCANNED
DEC - 5 2006

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

Decree X

If applicable provide IDWR Water Right Number 117

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments 4

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

Signature of Claimant (s) _____ Date _____

_____ Date _____

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

Title

of City of Lava Hot Springs _____, that I have signed the foregoing
Organization

document in the space below as Mayor _____ of City of Lava Hot Springs _____
Title Organization

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

Signature of Authorized Agent _____

Title and Organization Mayor, City of Lava Hot Springs Date 3/30/04

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

Subscribed and sworn (or affirmed) before me this 30th day of March XX2004



Notary Public Candace L. Dimick

Residing at Lava Hot Springs, Idaho

My Commission Expires 5/27/09

Please Print Name

17. Notice of Appearance

Notice is hereby given that I, _____ 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 Lava Hot Springs Ident. Number _____

SCANNED

DEC - 5 2006

CERTIFICATE OF MAILING

I certify that on April 1, ²⁰⁰⁴~~1999~~, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.

(Insert Names/address of parties)

Canda L. Dimick, City Clerk/Treasurer
Signature of person or attorney mailing the form

AFFIDAVIT

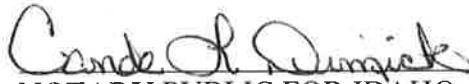
I, **Bruce E. Hansen**, hereby acknowledge that by a verbal agreement with the City of Lava Hot Springs, Idaho, I have cash leased and used the City of Lava Hot Springs Fish Creek water on property that I owned or leased since the 1987 irrigation season to the present.



Bruce E. Hansen
12233 East Fish Creek Rd.
Lava Hot Springs, ID 83246

STATE OF IDAHO)
) ss.
COUNTY OF BANNOCK)

Subscribed and sworn (or affirmed) before me this 1st day of April, 2004



NOTARY PUBLIC FOR IDAHO
Residing at Lava Hot Springs
My Commission Expires: 5/27/2009

AGREEMENT

The Fish Creek Irrigation Company hereby formally agrees to continue transporting the City of Lava Hot Springs, Idaho, Fish Creek water. The water has been transported through the system in the past and any excess has been used by the users in the Fish Creek Irrigation system. The City of Lava Hot Springs hereby formally grants Fish Creek Irrigation Company the privilege to continue using any excess water that is not being leased or used by the city for transporting services.

Signed:

Dean Day
Dean Day, President
Fish Creek Irrigation Company

Signed:

Raymond E. Bailey
Raymond E. Bailey, Mayor
City of Lava Hot Springs

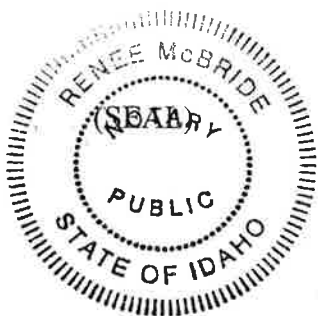
ATTEST:

Canda L. Dimick
Canda L. Dimick, City Clerk

STATE OF IDAHO)
 : ss
COUNTY OF BANNOCK)

On this 1st day of April, 2004, before me, the undersigned Notary Public, Personally appeared Raymond E. Bailey and Canda Dimick, known to me to be the Mayor and Clerk of the City of Lava Hot Springs, Idaho, and acknowledged to me that they executed the foregoing instrument on behalf of the City.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



Renee McBride
NOTARY PUBLIC FOR IDAHO
Residing at Lava Hot Springs
Commission Expires: May 31, 2006

SCANNED

DEC - 5 2006

STATE OF IDAHO)
 :SS
COUNTY OF BANNOCK)

On this 1st day of April, 2004, before me, the undersigned Notary Public, personally appeared Dean Day, known to me to be the President of the Fish Creek Irrigation Company, and acknowledged to me that he executed the foregoing instrument on behalf of the Fish Creek Irrigation Company.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



Candace L. Dimick
NOTARY PUBLIC FOR IDAHO
Residing at Law Hot Springs
Commission Expires: 5/27/2009



City of Lava Hot Springs 1996 Comprehensive Plan



Prepared in consultation with
Bannock Planning Organization and the
Southeast Idaho Council of Governments
280 South Arthur Avenue
Pocatello, ID 83204
(208)233-4032

Version Date January 3, 1996

SCANNED
DEC - 5 2006

- b. To draft and adopt amendments to the zoning ordinance that enables the city to influence the location of building envelopes in aesthetically sensitive areas so as to preserve views.
- c. See Community Design.
- 4. To encourage conservation of energy through efficient use of present resources and consider any new types of energy conservation in the future.
 - a. To draft and adopt an energy resource code.
 - b. To promote the development of geothermal energy technology to increase energy efficiency and decrease dependency on petroleum based energy sources.
 - c. To educate people at the time of building permit application about the energy benefits of properly siting a building on the lot and appropriately landscaping the lot.
- 5. To maintain a high quality environment where urban development is compatible with the natural and built environment and takes special notice of the unique environmental qualities of the rivers and streams within and around the city.

Public Services, Facilities and Utilities

The Local Land Use Planning Act intends for this element to show general plans for sewage, drainage, utility corridors, fire stations, schools, and other facilities. The critical issues in Lava Hot Springs are water capacity and police services. The **sewer system** uses aeration lagoon treatment with permitted discharge into the Portneuf and, additionally in the summer, spray onto adjacent fields. Its design capacity of 343,000 gallons per day (gpd) discharge in the winter will support a population of 3,430 persons (assuming 230 gpd per household and 2.3 persons per household). Summer field applications permit 9 million gallons between May and October. This supports an additional 213 households averaged daily, however, the usage is likely to peak on mid-summer weekends. The spray discharge rate of .71 cubic feet per second can discharge 458,853 cubic feet of water in a 24 hour period. This volume will service 1,995 households or approximately 4,588 people. Each system will sustain projected population growth and a healthy tourism population. The **water system** in Lava consists of 11 springs and two wells. Several of the springs may be surface water impacted and need to be taken off line. The wells produce a total of 150 gallons per minute. Assuming daily household use at 349 gallons, the wells alone can service 620 households or approximately 1,423 people. With the springs and 410,000 gallon storage reservoir Lava can service its existing and tourist populations. However, moderate population growth combined with strong tourism growth will push the system beyond capacity within the next five to ten years. Lava Hot Spring's **police services** are provided under contract by the Bannock County Sheriff's Office. The sheriff provides 80 hours per week with additional service on the Fourth of July holiday. During the summer, when tourists increase the population above 3,000, law enforcement capacity may be stretched to the thin. A 24-hour police presence would be more effective, at least during the summer months.

Goals and objectives

General policy statement: *To provide community services and facilities in an orderly, efficient and equitable manner, according to the city's needs and ability to finance.*

1. Minimize the costs of providing public services through the use of intergovernmental cooperation, privatization or other cost saving methods appropriate to Lava Hot Springs.
2. Sanitation: To maintain current sanitation services at present or better levels and prices.
3. Recycling: To cooperate with and encourage the service provider to provide a centralized pickup point for recyclables.
4. Fire Protection: To keep fire protection consistent with the growth of the community and encourage cooperation with other entities in the area to establish and maintain joint protection agreements with McCammon and Inkom for all community citizens.
 - a. To consider special development and building requirements in heavily wooded areas where wildfire is a continuing threat.
5. Police Protection: To improve and maintain relations with the Bannock County Sheriff's Department to increase the efficiency of police protection within the Lava Hot Spring's community.
 - a. To explore the possibility of training local reserve officers to assist with patrols in town.
 - b. To explore the possibility of implementing a business watch program similar to Pocatello's to improve watchfulness in town.
6. Water: To maintain and protect water quality at present quantities that are consistent with the growth of the community as well as encourage an ongoing program to maintain clean water as described by the Clean Water Act of 1992 and any subsequent amendments. (see Water and Sewer Map)
 - a. To plan for additional well capacity of 150 to 200 gallons per minute within the five years.
7. Roads: To maintain a roadway system that encourages the best and most efficient use for traffic flow patterns in the city.
 - a. To explore various finance options for installing Curb, Gutter, and Sidewalk including subdivision and building code requirements in certain areas.
8. Sewer:
 - a. To maintain sanitary sewer capacity at present quantities that are consistent with the growth of the community.
 - b. To require state and federal requirements be upheld. (see Water and Sewer Map).
 - c. To work with developers and property owners to extend sewer lines to development areas south and west of the current city limits. (see Development Map).

RESOLUTION 1996-1

WHEREAS, the City of Lava Hot Springs has undertaken the research and commissioned analyses to constitute a new comprehensive plan; and,

WHEREAS, the City of Lava Hot Springs Comprehensive Advisory Committee and consulting planner guided the development of the plan; and,

WHEREAS, the Lava Hot Springs City Council held a public hearing, March 14, 1996 at the Lava City Hall, heard testimony, and responded to input from the public; and,

NOW, THEREFORE, BE IT RESOLVED, in a motion made by Councilman, F.L. Duke Walden and seconded by Councilman, Leon Gates, that the City of Lava Hot Springs Comprehensive Plan of 1996 be adopted.

PASSED by the Council and **APPROVED** by the Mayor this 14th day of March, 1996.


Mayor, City of Lava Hot Springs

ATTEST:


City Clerk

LAVA HOT SPRINGS
CORPORATE LIMIT DESCRIPTION
AS CLARIFIED 7/28/82

BEGINNING AT THE CENTER 1/4 CORNER OF SECTION 21, T. 9 S.,
R. 38 E., B.M. ;

THENCE SOUTH ALONG THE MERIDIONAL CENTERLINE TO THE SE
CORNER OF LOT 6, SECTION 21, SAID CORNER LYING ON THE NORTH
BANK OF THE PORTNEUF RIVER;

THENCE WESTERLY ACROSS AND ALONG THE PORTNEUF RIVER TO
THE NW CORNER OF LOT 3, SECTION 21, SAID CORNER LYING ON THE
SOUTH BANK OF THE PORTNEUF RIVER;

THENCE SOUTH ALONG THE 1/16 LINE TO THE SW CORNER OF THE
NE 1/4, NW 1/4, SECTION 28, T. 9 S., R. 38 E., B.M.;

THENCE EAST ALONG THE 1/16 LINE TO THE SE CORNER OF THE
NW 1/4, NE 1/4, SECTION 28;

THENCE NORTH ALONG THE 1/16 LINE TO THE SW CORNER OF LOT 1,
SECTION 21, T. 9 S., R. 38 E., B.M.:

THENCE EAST ALONG THE SECTION LINE TO THE SE CORNER OF LOT 5,
SECTION 22, T. 9 S., R. 38 E., B.M., SAID CORNER, ALSO, BEING THE
S 1/4 CORNER OF SECTION 22;

THENCE NORTH ALONG THE PROJECTED MERIDIONAL CENTERLINE TO
THE NE CORNER OF LOT 9, SECTION 22, SAID CORNER, ALSO, LYING ON
THE WEST BANK OF THE PORTNEUF RIVER;

THENCE WEST ALONG THE LATITUDINAL CENTERLINE TO THE CENTER 1/4
CORNER OF SECTION 21, T. 9 S., R. 38 E., B.M., SAID CORNER BEING
THE POINT OF BEGINNING, CONTAINING APPROXIMATELY 420 ACRES ACCORDING
TO ACCEPTED SURVEY GENERALS OFFICE PLATS DATED 1896 AND 1901.

1982-8
ORDINANCE # 1982-8

AN ORDINANCE ALTERING THE LEGAL DESCRIPTION OF THE CITY OF LAVA HOT SPRINGS TO CONFORM TO THE ACTUAL CORPORATE BOUNDARIES OF THE CITY; MADE PURSUANT TO IDAHO CODE SECTION 50-223, PROVIDING FOR REPEAL OF ORDINANCES INCONSISTENT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

PREAMBLE

WHEREAS, the ~~City~~^{Village} of Lava Hot Springs, Idaho was duly incorporated under the laws of the State of Idaho on the 24th day of July, 1915; and,

WHEREAS, the legal description contained in the Incorporation Petition of said date, Book #3, Page 350 of the Bannock County Commissioner's records was and is unclear and incorrect; and,

WHEREAS, the City Council of the City of Lava Hot Springs wishes to correct said incorrect legal description.

THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Lava Hot Springs, Idaho:

SECTION 1: That the legal description contained in the Bannock County Commissioner's Records, Book #3, Page 350 be and hereby is altered to conform to the actual boundaries of the City of Lava Hot Springs; to wit:

(SEE LEGAL DESCRIPTION AND MAP ATTACHED HERETO
AS EXHIBITS A & B)

SCANNED
DEC - 5 2006

SECTION 2: The map or plat attached to this Ordinance is an accurate map of the re-defined boundaries of the City of Lava Hot Springs as set out in Section 1 above. The map is hereby adopted as the official map and plat of the territory hereby annexed.

SECTION 3: The Mayor of the City of Lava Hot Springs is hereby authorized and directed to certify that the map is an accurate map under the provisions of this Ordinance.

SECTION 4: This Ordinance with a certified copy of the official map attached hereto, shall be recorded in the office of the County Recorder of the County of Bannock, State of Idaho, and make all other necessary recordings pursuant to Idaho Code §63-2215.

SECTION 5: If any provision of this Ordinance shall be held invalid, its invalidity shall not effect any other provisions of this Ordinance that can be given effect without the invalid provision. For this purpose the provisions of this Ordinance are hereby declared to be severable.

SECTION 6: Since the immediate operation of the provisions of the Ordinance is necessary for the preservation of public peace, health, and safety, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage by the City Council, approved by the Mayor, and publication and posting as required by law.

SECTION 7: That all Ordinances or parts thereof which are inconsistent with this Ordinance are hereby repealed.

PASSED UNDER SUSPENSION OF THE RULES BY THE CITY
COUNSEL THIS 21 DAY OF July, 1982.

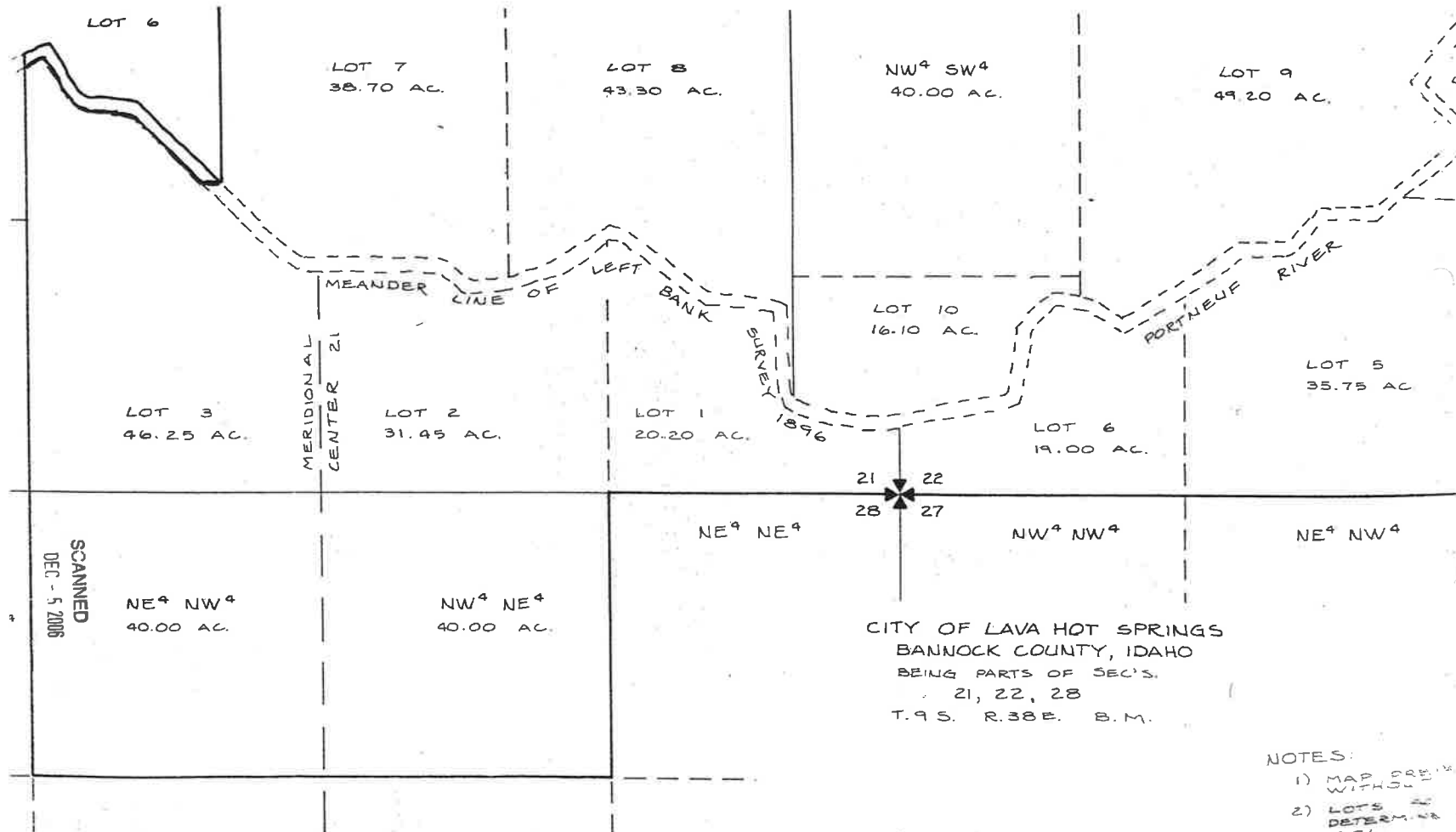
Dean Ware
MAYOR DEAN WARE

ATTEST:

Susan Jagmont
CITY CLERK

APPROVED AS TO FORM BY THE CITY
ATTORNEY:

James E. Harward
JAMES E. HARWARD



- NOTES:
- 1) MAP PREPARED WITHOUT
 - 2) LOTS 21, 22, 28 DETERMINED 1896.
 - 3) LOTS 21, 22, 28 DETERMINED

AN ORDINANCE ANNEXING CERTAIN LANDS TO THE CITY OF LAVA HOT SPRINGS; DESCRIBING SAID LANDS AND DECLARING THE SAME A PART OF THE CITY OF LAVA HOT SPRINGS, BANNOCK COUNTY, IDAHO.

WHEREAS, the land hereinafter described is continuous and adjacent to the City of Lava Hot Springs and is subject to annexation to the City of Lava Hot Springs under and pursuant to the provisions of Section 50-222, Idaho Code, as amended, and

WHEREAS, it appears to the Mayor and City Council of the City of Lava Hot Springs, that said land should be annexed to, and become a part of the City of Lava Hot Springs;

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LAVA HOT SPRINGS, AS FOLLOWS:

SECTION 1. That the following described land situated in Bannock County, Idaho, to wit:

Parcel #1

All of government Lot 6 Section 21, T.9S, R.38E, B.M., and that portion of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 21, T.9S, R.38E, B.M. being South of the Union Pacific Railroad right-of-way. Property owners included in the above description are as shown on record in the Bannock County Courthouse, Pocatello, Idaho and are listed as follows:

TAX #	INSTR. #	OWNER
45	464153	Harlin Jensen & Marshall Burgin
46	480312	Marshall Burgin
58	480312	Marshall Burgin
70	480312	Marshall Burgin
69	464152	Marshall Burgin
16	480312	Marshall Burgin
28	615835	Francis Brown
17	238864	State of Idaho
53 & 59	529846	Fern Byington
79 & 80	641610	William G. Katsilometes
67	654995	John D. & William G. Katsilometes

Parcel #2

A parcel of land located in the SW $\frac{1}{4}$ of Section 21, T.9S, R.38E, B.M., more particularly described as follows: beginning at the intersection of the Southerly right-of-way of Maughn Road and the Westerly right-of-way of 6th Street, the true point of beginning; Thence West along South right-of-way of Maughn Road 858 feet more or less to the NW corner of the Peyron, Zaccardi, Barnes property (Inst. # 636162); Thence South along the West line of said property 330 feet more or less to the SW corner of said property; Thence East 858 feet more or less to the West line of 6th Street; Thence North along the West right-of-way of 6th Street 330 feet more or less to the true point of beginning. It is the intention of this description to include the following parcels of land as on record at the Bannock County Courthouse, Pocatello, Idaho.

TAX #	INSTR. #	OWNER
75	636162	Robert Peyron, Orie Zaccardi & Michael Barnes
95	727044	Utah Power & Light
81	727096	Utah Power & Light
73	524095	Utah Power & Light
96	570471	Kenneth & Sharon Knowles

(SEE MAP ATTACHED HERETO AS EXHIBIT A)

shall be, and the same hereby, is, annexed to the City of Lava Hot Springs and shall be, and hereby declared to be, a part of the City of Lava Hot Springs, Idaho.

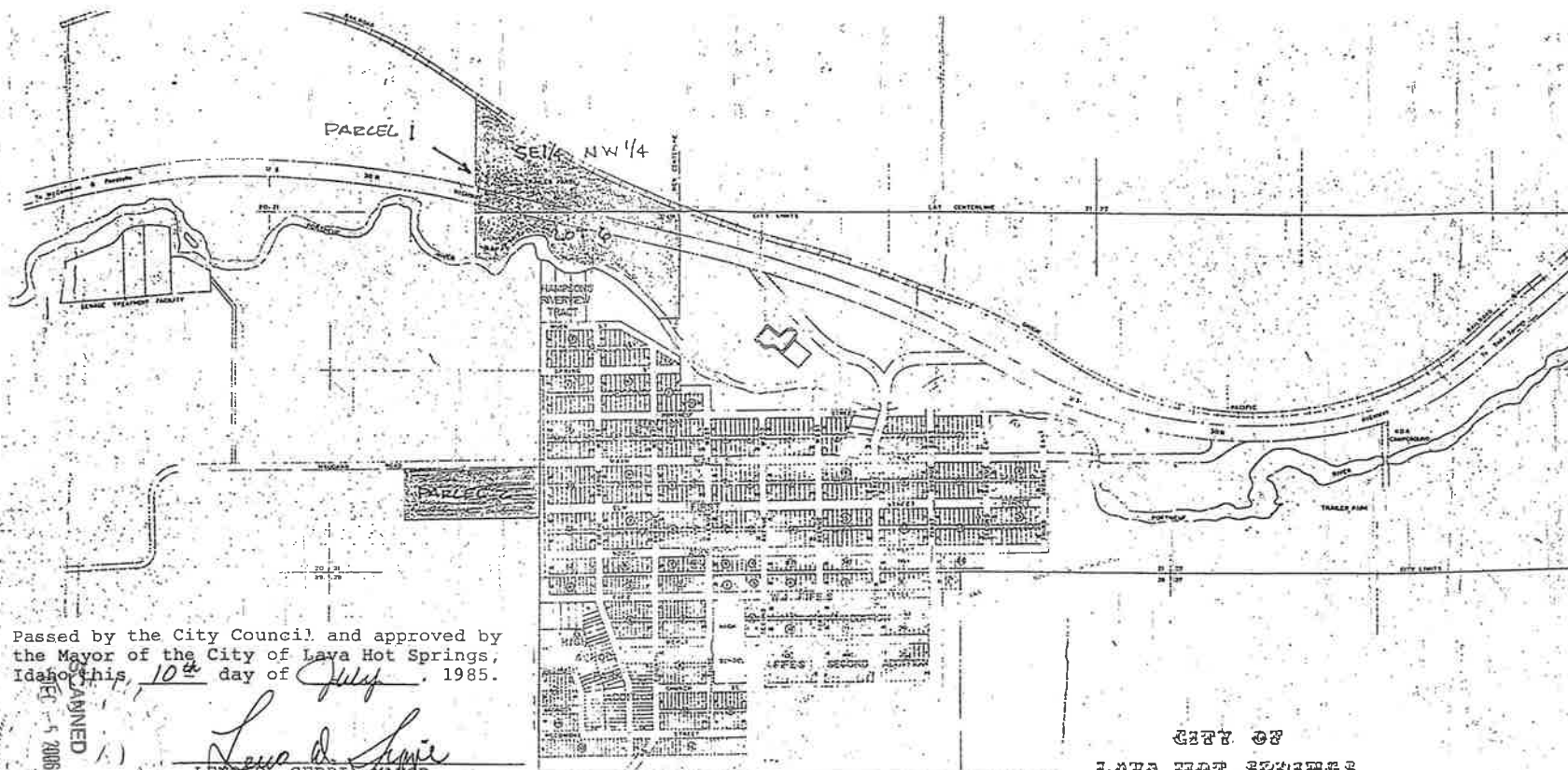
SECTION 2. The rule requiring Ordinances to be read on three (3) separate occasions is hereby dispensed with and this Ordinance shall be in full force and effect from and after its passage, approval, due publication, and filing of a certified copy thereof with the County Recorder of Bannock County, Idaho as provided by law.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF LAVA HOT SPRINGS, IDAHO, THIS 10th DAY OF July, 1985.


Leno D. Seppi
LENO D. SEPPI, MAYOR

ATTEST:

Janet Anderson
JANET ANDERSON, CITY CLERK



Passed by the City Council and approved by
the Mayor of the City of Lava Hot Springs,
Idaho, this 10th day of July, 1985.

RECEIVED
JUL 15 1985
LENO D. SEPPI, MAYOR

ATTEST:
JANET ANDERSON, CITY CLERK

CITY OF
LAVA HOT SPRINGS
BANKS COUNTY, IDAHO
TS 15, R 38 E64
FEBRUARY 12, 1985

(EXHIBIT A) CITY OF LAVA HOT SPRINGS
ANNEXATION ORDINANCE # 1985-1