

11/01/2007

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

RIGHT NUMBER: 29-13726

NAME AND ADDRESS: JEDD R VAN KAMPEN
166 E 350 S
LOGAN UT 84321

NANCY VAN KAMPEN
166 E 350 S
LOGAN UT 84321

DISALLOWED

SOURCE: DEMPSEY CREEK

TRIBUTARY: PORTNEUF RIVER

QUANTITY: 1.000 CFS

PRIORITY DATE: 08/07/1932

POINT OF DIVERSION: T10S R38E S4 NESWSW

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	1.000 CFS

PLACE OF USE: IRRIGATION in BANNOCK County

T09S R38E S29	SESE	2.20	T09S R38E S32	NENE	14.00
T09S R38E S32	SENE	23.00	T09S R38E S33	NENW	11.00
T09S R38E S33	NWNW	31.00			

81.2 ACRES TOTAL

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

No beneficial use found.

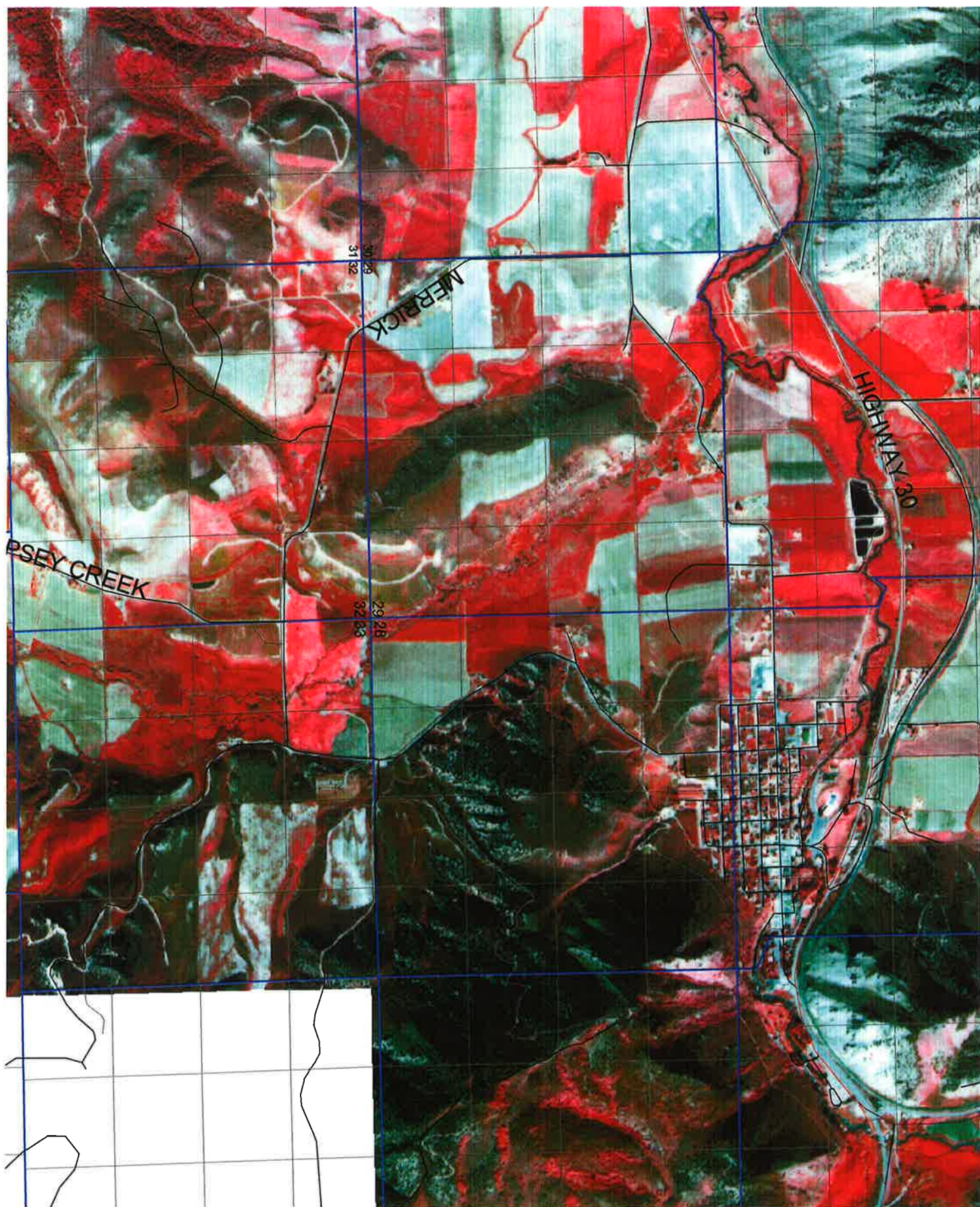
Other water rights used at the same place and for the same purpose:
29-170, 29-171 and 29-12064

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

No beneficial use found: This is included for a claim based on beneficial use that is proposed to be disallowed because beneficial use of water was not confirmed by IDWRs field examination or by other evidence submitted by the claimant.

29	28
32	33

795 R38 E



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

RIGHT NUMBER: 29-13726

NAME AND ADDRESS: NANCY VAN KAMPEN TRUST
166 E 350 S
LOGAN UT 84321

SOURCE: DEMPSEY CREEK

TRIBUTARY: PORTNEUF RIVER

QUANTITY: 1.620 CFS

The rights listed below are limited to a total combined diversion rate of 1.62 cfs. Combined Right Nos.: 29-170, 29-171, 29-12064, and 29-13726.

PRIORITY DATE: 08/07/1932

POINT OF
DIVERSION:

T10S R38E S4 NESWSW 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	1.620 CFS
PLACE OF USE:	<u>IRRIGATION in BANNOCK County</u>		

T09S R38E S29	SESE	2.20	T09S R38E S32	NENE	14.00
T09S R38E S32	SENE	23.00	T09S R38E S33	NENW	11.00
T09S R38E S33	NWNW	31.00			

81.2 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 81.2 acres in a single irrigation season. Combined Right Nos.: 29-170, 29-171, 29-12064, and 29-13726.

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

The operation and administration of this water right is subject to the terms and conditions of the Portneuf River Settlement Agreement, Basin 29: Portneuf River filed with the SRBA District Court April 22, 2005, and the addendum to the agreement filed December 17, 2007.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Water is delivered through West Dempsey Ditch.

Sherman, Sally

From: Sherman, Sally
Sent: Tuesday, March 06, 2007 3:26 PM
To: 'rharris@holdenlegal.com'
Subject: Late Claim 29-13726 - Nancy Van Kampen

Hello Robert. I've not had a response to my email sent to you on 12-18-2006 re the receipt number for fees paid on this claim. We can't move forward without it.

Thank you.
Sally Sherman
Technical Records Specialist
Adjudication Technical Section
1/800-451-4129

3-6-07 3⁴⁰p Robert Harris called.
Will send ✓ to my attn today.

not COB 3/6/07
will 3-8-07
JS

Sherman, Sally

From: Sherman, Sally
Sent: Monday, December 18, 2006 1:57 PM
To: 'rharris@holdenlegal.com'
Subject: Notice of Claim to a Water Right #29-13726

Hello. Would you please email the receipt no. for the fees you or your client paid for this claim? I've not been successful at finding one.

Thank you.
Sally Sherman
Technical Records Specialist
Adjudication Technical Section
1/800/451-4129

SCANNED
MAR - 6 2007

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

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ROBERT E. FARNAM
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Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel
Fred J. Hahn

**Also Licensed in Missouri & Kansas

October 24, 2006

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

Re: Amended Notice of Claim for Water Right 29-13726, in the name of Nancy Van Kampen

Dear Clerk:

Enclosed is an Amended Notice of Claim for Water Right No. 29-13726. In a status conference held last month, we discussed this Amended Notice with the Court. It now accurately reflects the place of use for the claimed Water Right. If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,



Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosure

G:\WPDATA\RLH\13608 Van Kampen, Kurtis\SRBA Court ltr 102406.wpd:cdv

SCANNED

DEC 16 2006

10/15/07 phone discussion with Steve Wilson,

watermark in barn 29.

He said they are currently moving the water after 9/15 but he doesn't know how long they have needed the water for the extended 800.

10/23/07. Rob Harris's letter.

Partial Decrees 29-171 & 120al

Have the POD. NESUSU sec. 4 T10S, R38E.

while 29-170 just at 00.

SEUSU sec. 4, T10S, R38E.

- The recommended POD is linked to NESUSU of sec. 4.

Allen Rubery, said (noted) all the POD are the 30, 7 appears that the PLS wasn't updated on the recommendation.

- I guess Rob will have to ask to have the partial decree set aside.

Bird, Cindy

From: Rob Harris [rharris@holdenlegal.com]
Sent: Thursday, October 25, 2007 4:15 PM
To: Bird, Cindy
Cc: kvk@input-tech.com
Subject: RE: Van Kampen Rights

Cindy:

Thanks for your letter and your emailed suggestion regarding Water Right No. 29-13726. You correctly point out that the partial decrees that have already been entered do contain a provision that allows for the early and late season use of water, but there is additional language that subordinates that right to other rights that have a decree for the late and early season priority date. We are concerned that without a late season right, the property will not be able to be irrigated as it has been historically.

Before I sent my October 22, 2007 letter to you, I tried to contact Gene Fagnant, a neighbor to the Van Kampen property, and a person who is familiar with the historical irrigation of property in the Lava Hot Springs area. I was not able to get in touch with him then, but I was just able to visit with him on the telephone. Similar to his family's property (the Fagnant property) and the Casperson property, he remembers that the previous owners of the Van Kampen property did use early and late season water, but that they used about 1 cfs (50 miner's inches), which is less than the 1.62 cfs we have claimed. Mr. Fagnant submitted letters and other information to support the Fagnant and Casperson rights, and we can get a statement concerning the Van Kampen property from him if you would like. If you would like to ask additional questions of him directly, his phone number is 776-5290.

With his recollection, along with the proximity of the Casperson and Fagnant property to the Van Kampen property, and along with the information conveyed to the Van Kampen's when they purchased the property, we believe this evidence does provide proof of beneficial use for the claimed priority date.

You mentioned that it may be helpful to obtain aerial photos of the property to support our claim. I'm not sure how that may help, especially because we are trying to prove early and late season water use. I think the photos will clearly show the Van Kampen property as being irrigated because they received a decree in 1932 for three water rights with 1880-1882 priority dates. If there is something other than irrigated acreage that the photos may show that may be helpful, please let me know.

Thanks for your prompt response to my letter. I appreciate all of your efforts, and look forward to hearing back from you.

Robert L. Harris
Holden, Kidwell, Hahn & Crapo, PLLC
1000 Riverwalk Drive, Suite 200
P.O. Box 50130
Idaho Falls, ID 83405-0130
Phone: (208) 523-0620
Fax: (208) 523-9518
E-Mail: rharris@holdenlegal.com

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to other than the intended recipient is strictly prohibited. If you have received this communication in error, please notify us immediately by reply email to the sender or collect telephone call to (208) 523-0620. Thank you.

-----Original Message-----

From: Bird, Cindy [mailto:Cindy.Bird@idwr.idaho.gov]
Sent: Wednesday, October 24, 2007 3:16 PM
To: Rob Harris
Cc: Williams, Ray; Bromley, Chris
Subject: RE: Van Kampen Rights

Rob,

Attached is my response to your letter that went out in today's mail. One suggestion that I would offer for your clients would be to contact the USAD FHA Aerial Photography field office in Salt Lake City concerning a 1932 or later 10"x10" aerial photograph. We have used this before as evidence when no other evidence was available.

Cindy

-----Original Message-----

From: Rob Harris [mailto:rharris@holdenlegal.com]
Sent: Monday, October 22, 2007 6:29 PM
To: Bird, Cindy
Subject: Van Kampen Rights

Cindy:

Attached is a letter that went out in the mail today.

Robert L. Harris
Holden, Kidwell, Hahn & Crapo, PLLC
1000 Riverwalk Drive, Suite 200
P.O. Box 50130
Idaho Falls, ID 83405-0130
Phone: (208) 523-0620
Fax: (208) 523-9518
E-Mail: rharris@holdenlegal.com

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-----Original Message-----

From: North Copier [mailto:northcopier@holdenlegal.com]
Sent: Monday, October 22, 2007 4:36 AM
To: rharris@holdenlegal.com
Subject: Scanned from MFP-00024504 [Single Side_E-MAIL] 10/22/2007 03:35

Scanned from MFP-00024504.

Rob Harris

Single Side_E-MAIL

Date: 10/22/2007 03:35

Pages:16

Resolution:200x200 DPI

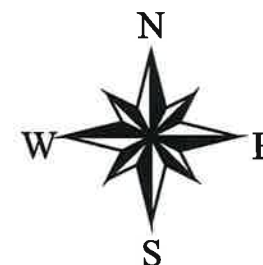
29-13726

2006 Imagery



0.3 0 0.3 0.6 Miles

- Sections
- GCDB10S38E GCDB
- GCDB09S38E GCDB
- Claim POD
- Administrative BasinsAdminbas.shp



Bird, Cindy

From: Rob Harris [rharris@holdenlegal.com]
Sent: Friday, October 12, 2007 2:06 PM
To: Bird, Cindy
Subject: RE: Nancy Van Kampen

Cindy:

Thanks for the reminder. I kind of let this one slip through the cracks. I will get you some information soon on this. Thanks again,

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC
1000 Riverwalk Drive, Suite 200
P.O. Box 50130
Idaho Falls, ID 83405-0130
Phone: (208) 523-0620
Fax: (208) 523-9518
E-Mail: rharris@holdenlegal.com

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From: Bird, Cindy [mailto:Cindy.Bird@idwr.idaho.gov]
Sent: Thursday, October 11, 2007 4:11 PM
To: rharris@holdenlegal.com
Subject: Nancy Van Kampen

hi Rob,

I got a notice today that the recommendation on this is due by the end of the month. I know when we spoke on the Toner/Porter claims you said you were going to get me some evidence of the priority. Also, I think the 11 acres claimed in section 33 in the NWNE is incorrect. I think it should be the NENW of section 33, T9S, R38E.

thanks,
Cindy

10/12/2007



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WARDEN

October 26, 2007

Hon. John Melanson
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

RE: Subcase No. 29-170 (Van Kampen)

Dear Judge Melanson:

A Partial Decree was issued for the above-referenced water right on March 22, 2004. While investigating a late claim for water right no. 29-13726, which is owned by the same claimant, an error was discovered in the point of diversion element for water right 29-170. The Director's Report for water right 29-170 erroneously described the point of diversion as T10S R38E S04 SENWSW. The proper description for the point of diversion is T10S R38 S04 NESWSW. Water right numbers 29-170, 29-171 and 29-12064 share combined use limits and have the same point of diversion. Water right numbers 29-171 and 29-12064 were also partially decreed on March 22, 2004, but with the proper point of diversion identified. It appears by reviewing the attached Notice of Claim, that the clerical error occurred when the legal description was transposed on the claim form. I am also attaching a revised recommendation containing the proper point of diversion description for this water right.

I am also sending a copy of this correspondence to claimant's counsel so that he is aware of this issue.

If you should have any questions, please feel free to contact me at 287-4809.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Bromley", is written over a horizontal line.

Chris Bromley
Deputy Attorney General, IDWR

Enclosures

cc: Rob Harris
Cindy Bird

Natural Resources Division - Water Resources Section
P.O. Box 83720 Boise Idaho 83720-0088
Telephone: (208) 287-4801; Legal FAX: (208) 287-6700

VAN KAMPEN WATER RIGHTS

Water Right No.	Basis	Priority Date	Source	Individual Diversion Rate (cfs)	Combined Diversion Rate (cfs)	Point of Diversion	Individual Acre Limitation	Combined Acre Limitation	Season of Use	
29-170	Decreed	July 1, 1881	Dempsey Ck.	0.4	1.62	SENWSW, 4, 10S, 38E	20	81	04/15 to 09/15	
29-171	Decreed	April 1, 1882	Dempsey Ck.	0.3		NENWSW, 4, 10S, 38E	15		04/15 to 09/15	
29-12064	Decreed	April 1, 1880	Dempsey Ck.	1.2		NENWSW, 4, 10S, 38E	60		04/15 to 09/15	
29-13726	Claimed	Aug. 7, 1932	Dempsey Ck.	1.62	None	NESWSW, 4, 10S, 38E	None	81	04/01 to 10/31	

The recommended combined diversion rate of 1.62 cfs was arrived at by multiplying .02 cfs by 81 acres, which equals 1.62.
 The Point of Diversion for all of these rights appears to be incorrect, as all the water right recommendations indicate that water is delivered through the West Dempsey Ditch. According to a map prepared by Al Ruberry, the point of diversion for the West Dempsey Ditch is NESWSW of Section 4, Twp. 10S, R 38E.

29-170

SE NW SW Sec. 4

29-171

NESWSW Sec. 4 ✓

Pickett Ranch & Sheep Co. ?

29-12064

NESWSW Sec. 4 ✓

1. Where are the extended SOU rights? Have they been decreed?
2. 27-170, 171 & 12064 has the extended SOU remark.
3. Casperson rights ^{that} he refers to don't have that remark
4. Should that have been taken off the ~~partial~~ recommendation?
5. Agreement.?

Map

NESWSW Sec 4 T10S R 38E

29.170.171 & 12064 DECEED

I. All Rfs are diverted at same PDD in Sec 4 105/300
NOT AS CLAIMED — C#3 (WITH OTHER Rfs)

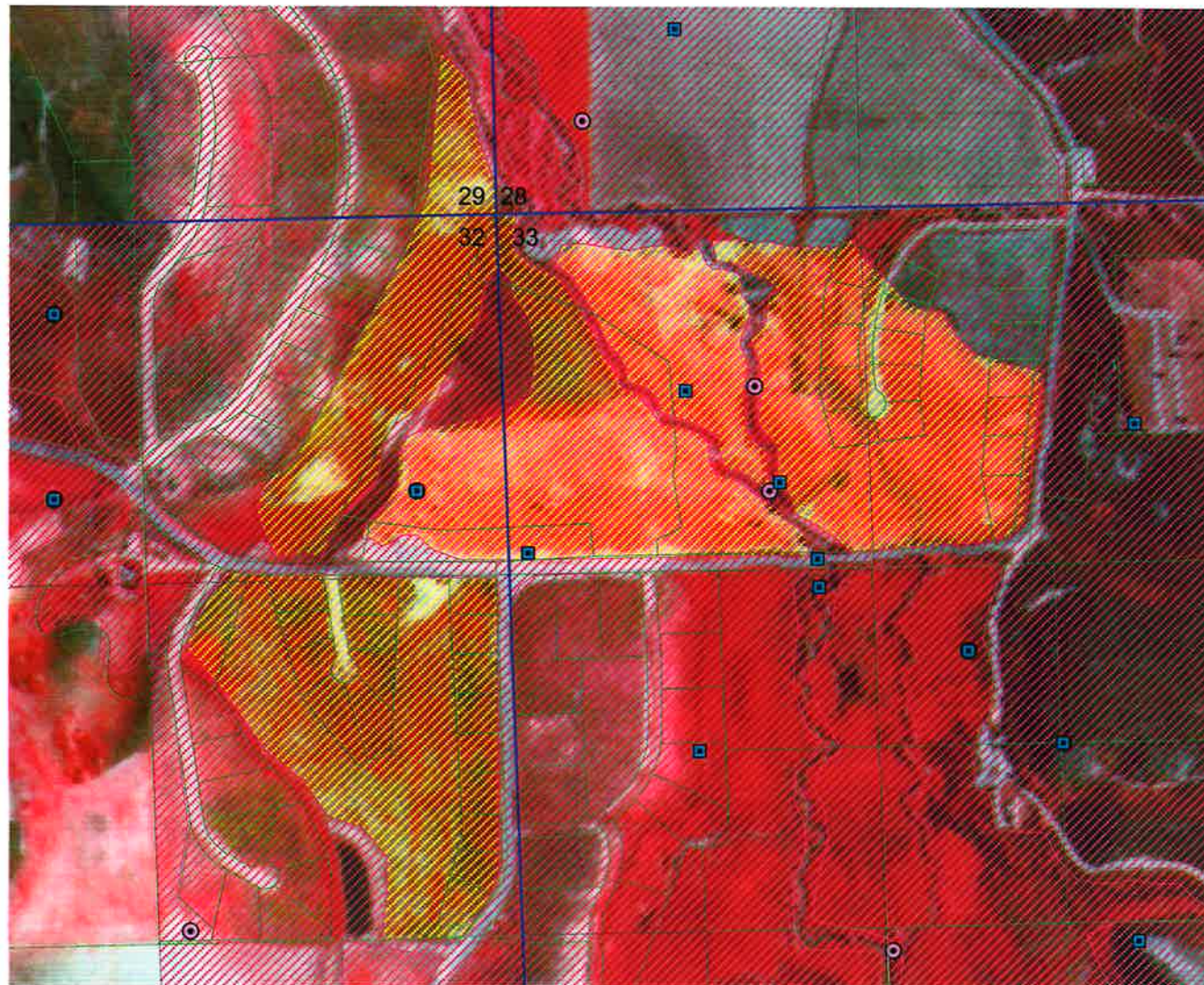
II. Water from above PDD is delivered through
West Damsay Ditch. Flows North to a Pond from
which water is put into a pipeline for gravity
irrigation.

III. All Rfs are used as PDD. All acres. Each has
Acres limits based on 0.02 cfs/acre for 42-202 & 220
I.C. and a $E_{ac} = 81$. C is also limited as about
at 162 cfs when all Rfs are on.

IV. Since Rfs are PDD by common system C#5
is appropriate

I. A subdivision is plotted in E2NE Sec 32 and also
NE1/4 of Sec 33. Although few houses are built.
Of the few built no C#s have been surveyed.
C#s is recommended to all acres — (81)

29-170, 29-171, 29-12064 and 29-13726



0.2 0 0.2 0.4 Miles

-  Sections
-  Claim POD
-  Bannock taxdots
-  GCDB09S38E GCDB
-  Right POD
-  Right POU
-  Administrative BasinsAdminbas.shp



Robert L. Harris, Esq. (ISB # 7018)
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
P.O. Box 50130
1000 Riverwalk Dr., Ste. 200
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518

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

Case No. 39576

Subcase No. 29-13726

AFFIDAVIT OF GENE FAGNANT

STATE OF IDAHO)
County of Bannock) ss.
County of Bannock)

I, Gene Fagnant, do solemnly swear (or affirm) that the testimony given in this sworn statement is the truth, the whole truth, and nothing but the truth, that it is made on my personal knowledge, and that I would so testify in open court if called upon to do so.

And being so sworn I depose and say:

1. I am over the age of eighteen (18) years old and competent to testify as the matters contained herein, having been born on January 15, 1929. I am also currently the secretary of the Topaz Irrigation Company.
2. I was asked by Robert L. Harris, the attorney for Nancy Van Kampen, to explain my observations as to how water was historically used on the Van Kampen's property (which

is now the Thunder Canyon Golf Course), and specifically how water was used early in the season (before April 15th) and late in the season (after September 15th).

29-183
29-184
29-2378
3. An entity with which I am associated, Fagnant & Olsen Ranch, LLC, owns Water Right No. 29-13310. This water right has a season of use of April 1st through October 31st, and a priority date of August 7, 1932. The property to which it is appurtenant is near the Thunder Canyon Gold Course.

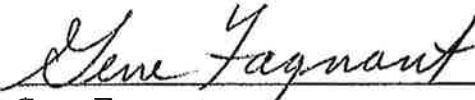
4. It is my understanding that the claim for Water Right No. 29-13726, which was filed by Jedd and Nancy Van Kampen, is a claim for a water right similar to Water Right 29-13310. It is my understanding that the Van Kampen's claim is for a water right which would allow diversion of 1.62 cfs from April 1st to October 31st of each year to irrigate the gold course property.

5. I recall that in the early 1940s, I observed water being diverted and used from the West Dempsey Canal on the Van Kampen property both before April 15th and after September 15th. I did not take actual measurements of the amount diverted, but based upon my familiarity with water use, it appeared to be approximately 1 cfs in a normal year, and perhaps 1.5 cfs in a good year.

6. While I did not observe water being used in 1932 on the property, which is the priority date claimed by the Van Kampens, I know that this early and late season water use was common in the area, and in fact, I have received a water right for the Fagnant & Olsen Ranch, LLC property documenting this practice with the August 7, 1932 priority date. Further, I provided evidence supporting claims made for Water Rights 29-13406 and 29-13407, which were claimed by Brett and Nancy Casperson, and recommended with those elements in the SRBA. *ernie* ✓2

7. It is my belief that the water right claim made by the Van Kampens is a legitimate claim that should be recommended to the SRBA court for adjudication.

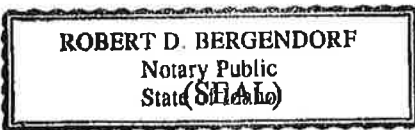
DATED this 5-9-08 day of May, 2008.

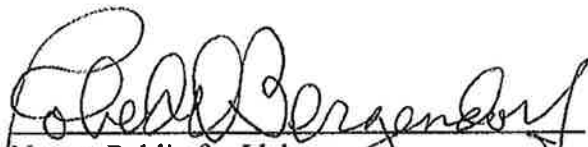

Gene Fagnant

STATE OF IDAHO)
)ss.
County of Bannock)

On this 9th day of May, 2008, before me, the undersigned, a notary public, in and for said State, personally appeared GENE FAGNANT, known or identified to me to be the persons whose name is subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.




Notary Public for Idaho
Residing at LAVA HOT SPRINGS Idaho
My Commission Expires: FEB 28, 2011

G:\WPDATA\RLIN13608 Van Kampen, Kurtis\Affidavit.Gene Fagnant.wpd:cdv

Notes

5/5/08. I spoke with Rob Harris,
523-0620 And he is going to
try and get a affidavit from Gene
Famquist and sent it in.



State of Idaho

DEPARTMENT OF WATER RESOURCES

168 South Main Street • P.O. Box 935 • Soda Springs, Idaho 83276

Phone: (208) 547-3993 • Fax: (208) 547-3939 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

October 23, 2007

Robert L. Harris
Holden, Kidwell, Hahn & Crapo, P.L.L.C.
1000 Riverwalk Drive, Ste 200
Idaho Falls, ID 83405

REF: Late SRBA Claim on 29-13726

Subject: Evidence of Priority and point of diversion

Dear Rob,

I received your letter dated October 22, 2007 in reference to evidence of priority on the late claim for the extended season of use. After reviewing the evidence I've determined that your documentation isn't sufficient to prove beneficial use of the water. Having the ditch go past their property isn't sufficient evidence to prove that they put it to beneficial use. Their partial decrees were issued with a remark that would allow them to divert the water as early as April 1 and as late as October 31st provided other elements of the right are not exceeded.

According to the partial decrees that were issued on 29-170, 29-171 and 29-12064 only the point of diversion under 29-170 is incorrect. When I researched the point of diversion I discovered that the recommended spatial information was correct and that Allen Ruberry's notes in the file indicated that all three points should be the same. I spoke to Ray Williams to see if we could correct this under a clerical error. Ray is going to write a letter to the court explaining the problem and ask that they set the partial decree aside so we can amend the director's report to reflect the correct point of diversion.

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

Respectfully,

Cindy E. Bird

Cc: Chris Bromley, Deputy District Attorney
Ray Williams, Paralegal

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

KENT W. FOSTER
ROBERT E. FARNAM
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1000 RIVERWALK DRIVE, SUITE 200
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
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(1877-1967)
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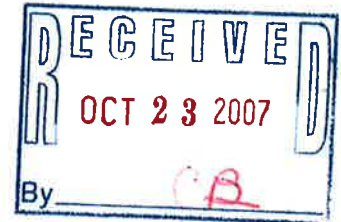
Of Counsel
Fred J. Hahn
Marie T. Tyler

*Also licensed in Wyoming

*Also licensed in Missouri and Kansas

October 22, 2007

Cindy Bird
Idaho Department of Water Resources
PO Box 935
Soda Springs, Id 83276-0935



Re: Evidence of Priority for Van Kampen Water Right, Claim No. 29-13726

Dear Cindy:

This letter contains evidence of the claimed August 7, 1932 priority date which we have claimed for Water Right No. 29-13726. As you are well aware, there have been a number of water right claims with this priority date claimed in the Portneuf River drainage. The large number of claims with this priority date relates to a practice in the area which essentially allowed the water users to use water after September 15th of each year. This has resulted in a number of water right claims and recommendations with decrees for certain water rights with a season of use between April 15th to September 15th of each year, and then companion beneficial use water rights with a priority date of August 7, 1932, with a season of use from April 1st to October 31st of each year. The beneficial use right essentially allows the water right holder to use water either early in the year, or more importantly, in the latter parts of the year when water is available.

My clients, the Van Kampens, have recently purchased the Thunder Canyon golf course. In the course of their investigation into purchasing the golf course, it was their understanding that the practice of irrigating after September 15th of each year was a practice that had been ongoing for as long as anyone could remember. Unfortunately, the Van Kampens' predecessors in interest did not file a claim on the late season beneficial use right as they should have. When the VanKamepens initially contacted our office, we assisted them with amending their beneficial use claim to ensure that it was accurate.

In visiting with the Van Kampens, they are recent landowners in the Lava Hot Springs area, and do not know many people who have lived there, or have farmed nearby. Nevertheless, they receive water from the West Dempsey Canal, which diverts from Dempsey Creek. Enclosed with this letter is a GIS map which we have prepared that shows the place of use for the Van Kampens' decreed water rights (29-170, 29-171, and 29-12064). As you can see on the map, their place of use is depicted in yellow single hatching. Down from the Van Kampens along the West Dempsey Canal

Cindy Bird
Idaho Department of Water Resources
October 22, 2007
Page 2 of 3



are two pieces of property which have received partial decrees for the late season use. The place of use depicted in red single hatching is for Water Right No. 29-13310, which is owned by the Fagnant and Olson Ranch, LLC. The blue single hatching depicts the place of use for land owned by Brett and Nancy Casperson. Both of these properties have received partial decrees for this late season use water right. Given the historic practice of diverting after the September 15th decreed date in the entire Portneuf Drainage, and the historic use of the late season water on Dempsey Creek itself from the West Dempsey Canal, it appears that the information provided to the Van Kampens that their property had historically received water after the September 15th decreed date is consistent with neighboring properties, which is evidence to support their claimed priority date.

We have enclosed letters that were contained in the adjudication backfile for the Brett Casperson water right. Both letters support the early and late season use of water on their properties. We have visited personally with Nancy Casperson about this particular information. She informed us that she had provided journal entries from a journal of one of the Caspersons' predecessors-in-interest. It is unclear at this point whether or not that journal covered the Van Kampens' property, but we request that you review that information as it appears to support our claimed priority date.

To the extent you need additional information relating to the priority date, please let us know. However, based on our review of the evidence, and the neighboring claims which were eventually partially decreed, it is our opinion that the above evidence is adequate to prove the priority date which we have claimed.

Lastly, we would note one additional issue relating to the Van Kampens' water rights. We have enclosed a map which was prepared by Mr. Allen Ruberry in November of 2002, which depicts the West Dempsey Ditch, and its point of diversion which is apparently located in the NESWSW of Sec. 4, T10S., R38E. We based our late season claim upon the point of diversion depicted on the map. For reasons that are not entirely clear, the partial decrees for Water Right No. 29-170, 29-171, and 29-12064 are all different points of diversion than that listed on the map. Yet, these water right partial decrees clearly state that the water is diverted through the West Dempsey Ditch. It appears that this was a mistake made either in the claim or in the recommendation process. We would appreciate your advice on how we should proceed. It appears to us that we may need to file a motion to set aside these partial decrees in order to fix the description of the point of diversion. If you can think of any other way where this could be fixed without filing such a motion, we would be happy to discuss this alternative approach with you. Further, it is not entirely clear at this point to us whether or not the map prepared by Mr. Ruberry is correct. We request you verify the location of the canal heading of the West Dempsey Ditch. Once that is confirmed, we can compare the correct point of diversion with those that have either been partially decreed or claimed. As you can see on the enclosed Van Kampen Water Rights Summary, Water Right No. 29-171 and 29-12064 have the same point of diversion listed. Water Right Nos. 29-170 and 29-13726 are different, which means

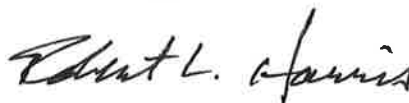
Cindy Bird
Idaho Department of Water Resources
October 22, 2007
Page 3 of 3

we have three claimed points of diversion for a single canal heading. We think now is the time to address these issues.

Also, in a recent letter from you, you correctly pointed out an inaccuracy in our claim. The 11 acres claimed in Section 33 in the NWNE, is incorrect. It should be 11 acres in the NENW of Section 33. Thank you for pointing that out.

We appreciate very much your assistance in this matter. If we can answer any questions, or provide any additional information, please let us know.

Sincerely,



Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures
c: Van Kampens

G:\WPDATA\RLH\13608 Van Kampen, Kurtis\Cindy Bird ltr 102207.wpd:cdv

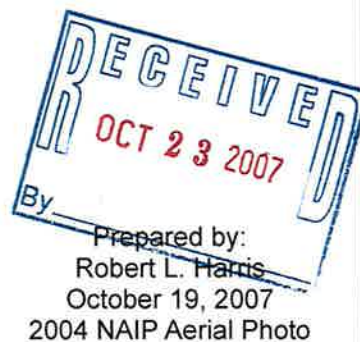


VAN KAMPEN LATE SEASON OF USE CLAIM



Legend

-  29-13406,13407
-  29-13310
-  29-170,171,12064
-  Section
-  Quarter-quarter
-  Rivers



0 0.2 0.4 0.8 Miles

VAN KAMPEN WATER RIGHTS

Water Right No.	Basis	Priority Date	Source	Individual Diversion Rate (cfs)	Combined Diversion Rate (cfs)	Point of Diversion	Individual Acre Limitation	Combined Acre Limitation	Season of Use	
29-170	Decreed	July 1, 1881	Dempsey Ck.	0.4	1.62	SENWSW, 4, 10S, 38E	20	81	04/15 to 09/15	
29-171	Decreed	April 1, 1882	Dempsey Ck.	0.3		NENWSW, 4, 10S, 38E	15		04/15 to 09/15	
29-12064	Decreed	April 1, 1880	Dempsey Ck.	1.2		NENWSW, 4, 10S, 38E	60		04/15 to 09/15	
29-13726	Claimed	Aug. 7, 1932	Dempsey Ck.	1.62	None	NESWSW, 4, 10S, 38E	None	81	04/01 to 10/31	

The recommended combined diversion rate of 1.62 cfs was arrived at by multiplying .02 cfs by 81 acres, which equals 1.62.
The Point of Diversion for all of these rights appears to be incorrect, as all the water right recommendations indicate that water is delivered through the West Dempsey Ditch. According to a map prepared by Al Ruberry, the point of diversion for the West Dempsey Ditch is NESWSW of Section 4, Twp. 10S, R 38E.

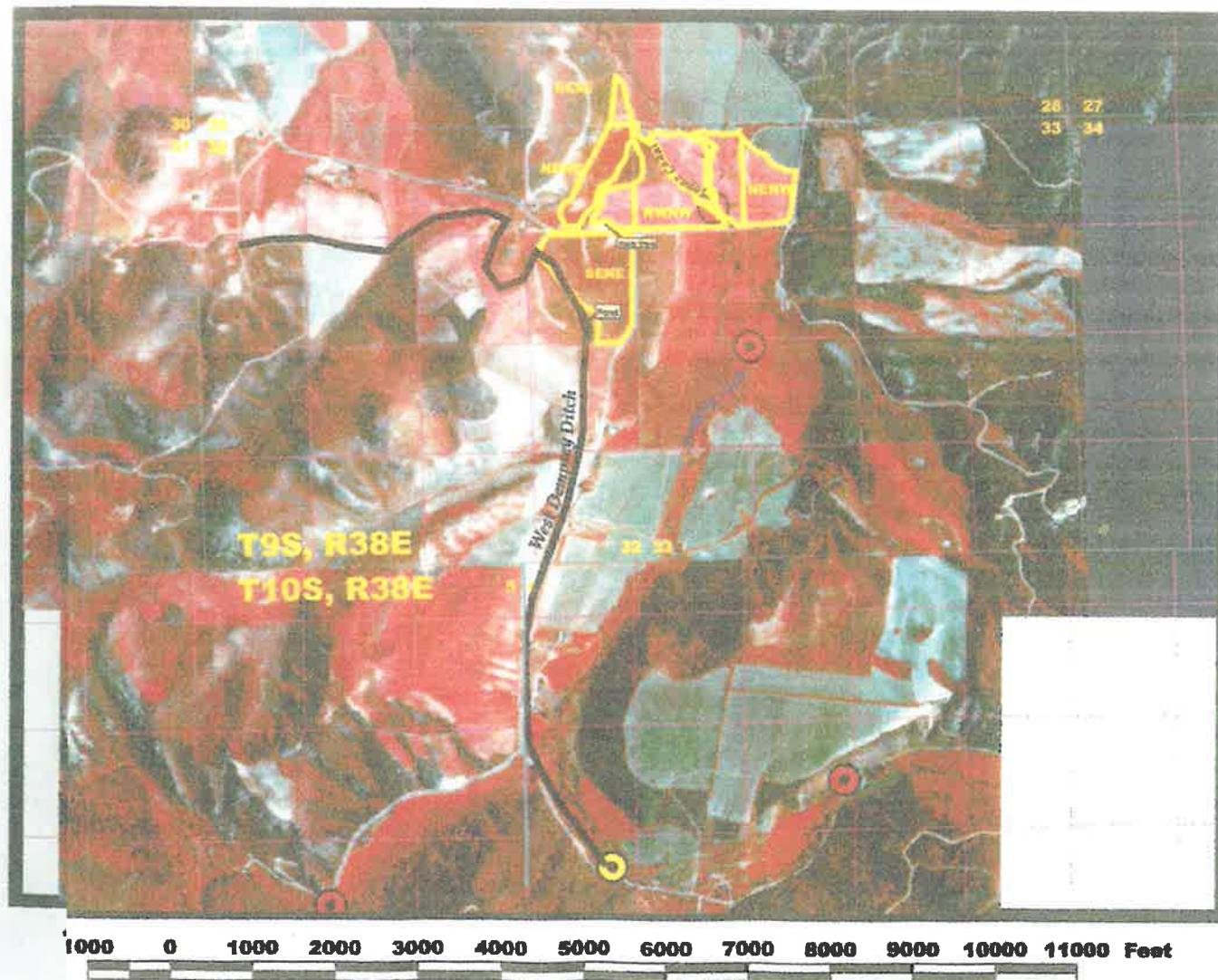




State of Idaho

Department of Water Resources

Eastern Region



Water Right(s):
29-00170,
29-00171,
29-12064

Place of Use: (parts of) T9S, R38E
Sec. 29 SESE, Sec. 32 E2NE,
Sec. 33 N2NW

Point(s) of Diversion: T10S, R38E
Sec. 4 NESWSW (Dempsey Ck)

Delivery through W. Dempsey Ditch



LEGEND



Point of Diversion

SESE

Place of Use



Section



Quarter-Quarter

GIS Place of Use Illustration
1987/1988 NAAPP Photography
Prepared by: A. Ruberry
Date: November 2002

IDWR Water Right and Adjudication Search

Note: This search tool identifies active water rights and active transfers. If you want to search both active and inactive water rights, please check the box below.

☐ Search for both active and inactive water right records.

Search Results

Type of Query

USAGE INSTRUCTION

☒ All SRBA & Water Rights

Water Rights

SRBA

☐ Claims

☐ Recommendations

☐ Both

☐ Applications

☐ Permits

☐ Decrees, Licenses and Statutory Claims

☐ Transfers

☐ All of the above

Basin

Who

What

When

Where

Clear

Search

Help

Query parameters:

basinFrom = 29

PriorityDateFrom = 08/07/1932

PriorityDateTo = 08/07/1932

Search for: active Records

POD = 1



Information for type: Claim

	Record	Basin	Sequence	Suffix	Version	Basis	Status	Priority Date	Diversion Rate	Source List	Water Uses	Owner List
Details Pedigree Related Documents General Provision	1	29	4364			Statutory Claim	Active	1932-08-07	0.46	WEST CREEK	IRRIGATION, STOCKWATER	PERKINS, I GLENN (Current); PERKINS, MARY D (Current)
Details Related Documents General Provision	2	29	4467			Statutory Claim	Active	1932-08-07	20.5	PORTNEUF RIVER	IRRIGATION, STOCKWATER	LAVA IRRIGATION CO INC (Current)
Details Related Documents General Provision	3	29	10816			Beneficial Use	Active	1932-08-07	2.26	PORTNEUF RIVER	IRRIGATION, STOCKWATER	LAVA IRRIGATION CO INC (Current)
Details Related Documents General Provision	4	29	11681			Beneficial Use	Active	1932-08-07	6.55	EAST BOB SMITH CREEK, SPRINGS	IRRIGATION	ANDRUS, COLLEEN L (Current); ANDRUS, JIM (Current); ANDRUS, KENNETH D (Current)
Details Related Documents General Provision	5	29	13213			Beneficial Use	Active	1932-08-07	0.045	PORTNEUF RIVER	IRRIGATION	KEVAN, BARBARA W (Current)
Details Related Documents General Provision	6	29	13279			Beneficial Use	Active	1932-08-07	0.3	PORTNEUF RIVER	IRRIGATION	SYMONS, CANDICE (Current); SYMONS, LYNDEN (Current)
Details Related Documents General Provision	7	29	13289			Beneficial Use	Active	1932-08-07	0.06	DEMPSEY CREEK	IRRIGATION, STOCKWATER	LOSEE, DAVID LEE (Current)
												STEWART,

Details	8	29	13299			Beneficial Use	Active	1932-08-07	0.1	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	LYNN W (Current); STEWART, MARGIE H (Current)
Related Documents												
General Provision												
Details	9	29	13310			Beneficial Use	Active	1932-08-07	0.2	DEMPSEY CREEK	IRRIGATION	FAGNANT, FRANCIS G (Current); OLSON, RUTH ANN (Current)
Related Documents												
General Provision												
Details	10	29	13311			Beneficial Use	Active	1932-08-07	50	PORTNEUF RIVER	IRRIGATION, STOCKWATER	MC CAMMON DITCH CO LTD (Current)
Related Documents												
General Provision												
Details	11	29	13363			Beneficial Use	Active	1932-08-07	2.89	PORTNEUF RIVER	IRRIGATION	INDIAN FALLS PROPERTY ASSN (Current); INDIAN FALLS WATER USERS ASSOC (Current)
Related Documents												
General Provision												
Details	12	29	13407			Beneficial Use	Active	1932-08-07	1.2	DEMPSEY CREEK	IRRIGATION, STOCKWATER	CASPERSON, BRETT (Current); CASPERSON, NANCY (Current)
Related Documents												
General Provision												
Details	13	29	13581			Beneficial Use	Active	1932-08-07	3.54	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	HALL, MAX W (Current)
Pedigree												
Related Documents												
Details	14	29	13582			Beneficial Use	Active	1932-08-07	3.54	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	HALL, MAX W (Current)
Pedigree												
Related Documents												
Details	15	29	13583			Beneficial Use	Active	1932-08-07	3.54	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	HALL, MAX W (Current)
Pedigree												
Related Documents												
Details	16	29	13584			Beneficial Use	Active	1932-08-07	3.54	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	HALL, MAX W (Current)
Pedigree												
Related Documents												
Details	17	29	13586			Beneficial Use	Active	1932-08-07	3.54	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	HALL, MAX W (Current)
Pedigree												
Related Documents												
Details	18	29	13726			Beneficial Use	Active	1932-08-07	1.62	DEMPSEY CREEK	IRRIGATION	VAN KAMPEN, JEDD R (Current); VAN KAMPEN, NANCY (Current)
Related Documents												
General Provision												
Details	19	29	13741			Beneficial Use	Active	1932-08-07	2.566	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	HALL, MAX W (Current)
Pedigree												
General Provision												
Details	20	29	13742			Beneficial Use	Active	1932-08-07	3.54	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	HALL, MAX W (Current)
Pedigree												
General Provision												

Information for type: Recommendation

	Record	Basin	Sequence	Suffix	Version	Basis	Status	Priority Date	Diversion Rate	Source List	Water Uses	Owner List
Details Pedigree Related Documents General Provision	21	29	4364		1	Beneficial Use	Active	1932-08-07	0.26	WEST CREEK	IRRIGATION, STOCKWATER	PERKINS, I GLENN (Current); PERKINS, MARY D (Current)
Details Related Documents General Provision	22	29	4467		1	Beneficial Use	Active	1932-08-07	20.5	PORTNEUF RIVER	IRRIGATION, STOCKWATER	LAVA IRRIGATION CO INC (Current)
Details Related Documents General Provision	23	29	10816		1	Beneficial Use	Active	1932-08-07	2.26	PORTNEUF RIVER	IRRIGATION, STOCKWATER	LAVA IRRIGATION CO INC (Current)
Details Related Documents General Provision	24	29	11277		2	Beneficial Use	Active	1932-08-07	55	PORTNEUF RIVER	IRRIGATION, STOCKWATER	PORTNEUF IRRIGATING CO (Current)
Details Related Documents General Provision	25	29	11681		2	Beneficial Use	Active	1932-08-07	6.55	EAST BOB SMITH CREEK, SPRINGS	IRRIGATION	ANDRUS, COLLEEN L (Current); ANDRUS, JIM (Current); ANDRUS, KENNETH D (Current)
Details Related Documents General Provision	26	29	11773		2	Beneficial Use	Active	1932-08-07	32	PORTNEUF RIVER	IRRIGATION	DEMPSEY IRRIGATING CO (Current); TOPAZ IRRIGATION CO (Current)
Details Related Documents General Provision	27	29	11774		1	Beneficial Use	Active	1932-08-07	6	FISH CREEK	IRRIGATION	FISH CREEK IRRIGATING CO (Current)
Details Related Documents General Provision	28	29	13213		1	Beneficial Use	Active	1932-08-07	0.045	PORTNEUF RIVER	IRRIGATION	KEVAN, BARBARA W (Current)
Details Related Documents General Provision	29	29	13279		1	Beneficial Use	Active	1932-08-07	0.3	PORTNEUF RIVER	IRRIGATION	SYMONS, CANDICE (Current); SYMONS, LYNDEN (Current)
Details Related Documents General Provision	30	29	13289		1	Beneficial Use	Active	1932-08-07	0.06	DEMPSEY CREEK	IRRIGATION, STOCKWATER	LOSEE, DAVID LEE (Current)
Details Related Documents General Provision	31	29	13299		1	Beneficial Use	Active	1932-08-07	0.1	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	STEWART, LYNN W (Current); STEWART, MARGIE H (Current)
Details Related Documents General Provision	32	29	13310		1	Beneficial Use	Active	1932-08-07	1.2	DEMPSEY CREEK	IRRIGATION	FAGNANT & OLSON RANCH LLC (Current)
Details Related Documents General Provision	33	29	13311		2	Beneficial Use	Active	1932-08-07	50	PORTNEUF RIVER	IRRIGATION, STOCKWATER	MC CAMMON DITCH CO LTD (Current)
Details												MC CAMMON

Related Documents General Provision	34	29	13317		2	Beneficial Use	Active	1932-08-07	18.95	PORTNEUF RIVER	IRRIGATION	DITCH CO LTD (Current)
Details Related Documents General Provision	35	29	13318		2	Beneficial Use	Active	1932-08-07	176.85	PORTNEUF RIVER	IRRIGATION	PORTNEUF MARSH VALLEY CANAL CO LTD (Current)
Details Related Documents General Provision	36	29	13363		1	Beneficial Use	Active	1932-08-07	2.88	PORTNEUF RIVER	IRRIGATION	INDIAN FALLS PROPERTY ASSN (Current); INDIAN FALLS WATER USERS ASSOC (Current)
Details Related Documents General Provision	37	29	13407		2	Beneficial Use	Active	1932-08-07	2.4	DEMPSEY CREEK	IRRIGATION, STOCKWATER	CASPERSON, BRETT (Current); CASPERSON, NANCY (Current)
Details Pedigree Related Documents General Provision	38	29	13521		1	Beneficial Use	Active	1932-08-07	0.096	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	RUSH, EVELEE HILL (Current); RUSH, ROBERT E (Current)
Details Pedigree Related Documents General Provision	39	29	13535		1	Beneficial Use	Active	1932-08-07	0.06	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	HALL, AMBER (Current); HALL, JASON (Current)
Details Pedigree Related Documents General Provision	40	29	13536		1	Beneficial Use	Active	1932-08-07	0.06	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	GUNTER, NATALIE (Current); GUNTER, RUSSELL (Current)

Information for type: Recommendation

	Record	Basin	Sequence	Suffix	Version	Basis	Status	Priority Date	Diversion Rate	Source List	Water Uses	Owner List
Details Pedigree Related Documents General Provision	41	29	13581		1	Beneficial Use	Active	1932-08-07	0.104	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	HARRIS, JEFFERY F (Current)
Details Pedigree Related Documents General Provision	42	29	13582		1	Beneficial Use	Active	1932-08-07	0.104	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	HARRIS, JEFFERY F (Current)
Details Pedigree Related Documents General Provision	43	29	13583		1	Beneficial Use	Active	1932-08-07	0.105	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	HARRIS, JEFFERY F (Current)
Details Pedigree Related Documents General Provision	44	29	13584		1	Beneficial Use	Active	1932-08-07	0.075	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	MADSEN, MARK J (Current)
Details Pedigree Related Documents General Provision	45	29	13586		1	Beneficial Use	Active	1932-08-07	0.1	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	HULL, ROBIN (Current)

Details	46	29	13741	1	Beneficial Use	Active	1932-08-07	2.566	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	HALL, MAX W (Current)
Pedigree											
General Provision											
Details	47	29	13742	1	Beneficial Use	Active	1932-08-07	0.106	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	BRUDERER, DEL (Current)
Pedigree											
General Provision											

Information for type: Statutory Claim, Decree and License

	Record	Basin	Sequence	Suffix	Version	Basis	Status	Priority Date	Diversion Rate	Source List	Water Uses	Owner List
Details	48	29	13272			Decreed	Active	1932-08-07	0.16	SPRING	IRRIGATION, STOCKWATER	ESTATE OF WALTER J AND MAUD LARSEN (Current)
Related Documents												
General Provision												
Details	49	29	13295			Decreed	Active	1932-08-07	0.02	PORTNEUF RIVER	STOCKWATER	CHRISTIENSEN, ELLIS M (Current)
Related Documents												
General Provision												
Details	50	29	13320			Decreed	Active	1932-08-07	3.84	PORTNEUF RIVER	IRRIGATION	PHILLIPS, CARL L (Current); PHILLIPS, NOLA RAE (Current)
Related Documents												
General Provision												
Details	51	29	13321			Decreed	Active	1932-08-07	3.43	PORTNEUF RIVER	IRRIGATION, STOCKWATER	PHILLIPS, CARL L (Current); PHILLIPS, NOLA RAE (Current)
Related Documents												
General Provision												
Details	52	29	13334			Decreed	Active	1932-08-07	2.94	EAST CREEK	IRRIGATION	TILLOTSON, RONNIE D (Current); TILLOTSON, SHERRIL (Current)
Related Documents												
General Provision												
Details	53	29	13439			Decreed	Active	1932-08-07	0.04	PORTNEUF RIVER	STOCKWATER	CRANDALL FARMS INC (Current)
Related Documents												
General Provision												
Details	54	29	13440			Decreed	Active	1932-08-07	0.02	TOPONCE CREEK	STOCKWATER	CRANDALL FARMS INC (Current)
Related Documents												
General Provision												
Details	55	29	13441			Decreed	Active	1932-08-07	0.04	TWENTYFOUR MILE CREEK	STOCKWATER	CRANDALL FARMS INC (Current)
Related Documents												
General Provision												
Details	56	29	13698			Decreed	Active	1932-08-07	6	DEMPSEY CREEK	IRRIGATION	TOPAZ IRRIGATION CO (Current)
Related Documents												
General Provision												
Details	57	29	13785			Decreed	Active	1932-08-07	0.66	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	CARROLL AND IONE WILLMORE ESTATE (Current)
Pedigree												
Related Documents												
General Provision												
Details	58	29	13786			Decreed	Active	1932-08-07	0.48	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	KNOWLES, KENNETH (Current); KNOWLES, SHARON (Current)
Pedigree												
Related Documents												
General Provision												
Details	59	29	13787			Decreed	Active	1932-08-07	0.47	WEST BOB SMITH CREEK	IRRIGATION, STOCKWATER	DEJULIS, TIMOTHY M
Pedigree												

Related Documents
General Provision

(Current)

Information for type: Transfer

	Record	Application ID	Applicant	Existing Water Right Nos.	Proposed Water Right Nos.	Status	Received Date	Total Div. Rate (cfs)	Total Div. Vol (af)	Total Acres	Protest Deadline
Details Related Documents General Provision	60	72275	CARL L PHILLIPS (Transfer Applicant), NOLA RAE PHILLIPS (Transfer Applicant),	29-30, 29-31, 29-13320, 29-13321,	29-30, 29-31, 29-13320, 29-13321,	Active	9/13/2005	7.27		382.2	
Details Related Documents General Provision	61	72806	RONNIE D TILLOTSON (Transfer Applicant), SHERRIL TILLOTSON (Transfer Applicant),	29-167, 29-168, 29-178, 29-179, 29-13333, 29-13334,	29-167, 29-168, 29-178, 29-179, 29-13333, 29-13334,	Active	4/11/2006	2.94		199.7	

Number of records = 61

Dec. 18, 2002

To whom it may concern:

The farm owned by, Brett Casperson located at 8893 E. Maughan RD. Lava Hot Springs, ID. 83246, has historically been operated as a farm and dairy since it was homesteaded by the Maughan brothers. Nathan Maughan Casperson, (Brett's father and a younger cousin to the Maughan Brothers) recalls thinning beets in the fields here while a teenager. That would have been in the late 1920's.

Water was used early in the spring and into the late fall. Prior to April 15th and past September 15th, or for as long as the weather permitted. *Nathan M. Casperson*

This is to certify that I can recall the Maughans using water early in the irrigating seasons from the ditch now known as the West Dempsey Canal in the mid. 1940's and then Nathan Casperson doing likewise in the mid to late 1960's until the ditch was abandoned.

*Signed
Gene Yagnaut
12-18-02*

RECEIVED
DEC 19 2002
Department of Water Resources
Eastern Region



29-13406

Mr. Brett Casperson
8893 E. Maughan Road
Lava Hot Springs, Idaho
83246

J. Lowell Maughan
3665 Marigold Way
St. George, Utah
84790

To Whom it may Concern:

Re: use of irrigation water on the "high ground"
from the "high ditch" on the "Maughan" farm prior
to 1932. (This ditch came through Art Fagan's home)

I, J. Lowell Maughan, son of John Raymond Maughan,
personally assisted my Dad to irrigate this acreage
each fall after 15 September & prior to 15 May
each spring.

My Dad used this water each year from
the time he purchased this property in 1917 to
1948 when he leased it to me. From 1948 to 1958 he
assisted me to irrigate the same.

Since that time the water has been
use by the Casperson family - Brett being the
present owner/operator.

Sincerely,
J. Lowell Maughan
J. Lowell Maughan

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommended Right Report

10/19/2007

WATER RIGHT NO. 29-13310

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	FAGNANT & OLSON RANCH LLC PO BOX 293 LAVA HOT SPRINGS, ID 83246 (208)776-5290
Original Owner	FRANCIS G FAGNANT PO BOX 293 LAVA HOT SPRINGS, ID 83246 (208)776-5289
Original Owner	RUTH ANN OLSON PO BOX 644 LAVA HOT SPRINGS, ID 83246 (208)776-5290

Priority Date: 08/07/1932

Basis: Beneficial Use

Status: Active

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

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	1.2 CFS	
Total Diversion			1.2 CFS	

Location of Point(s) of Diversion:

DEMPSEY CREEK	NESWSW	Sec. 04	Township 10S	Range 38E	BANNOCK County
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Place(s) of use:

Place of Use Legal Description: IRRIGATION BANNOCK County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
09S	38E	29		NESW	11		SWSW	1		SESW	32			
		32		NENW	20		NWNW	12						

Total Acres: 76

Conditions of Approval:

1.	F01	WATER IS DELIVERED THROUGH WEST DEMPSEY DITCH.
2.	E52	USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 1.52 CFS. COMBINED RIGHT NOS.: 29-183, 29-184, 29-2378, 29-13310.
3.	E56	USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 76.0 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-183, 29-184, 29-2378, 29-13310.
4.	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.

Dates:

Other Information:

State or Federal:

Owner Name Connector: AND

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

file



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.
Interim Director

April 13, 2007

Robert Harris
Holden, Kidwell, Hahn & Crapo
P.O. Box 50130
Idaho Falls, ID 83405

Re: Snake River Basin Adjudication (SRBA)
Claim 29-13726
Van Kampen

Subject: EVIDENCE OF PRIORITY

Dear Claimant (s):

The Idaho Department of Water Resources has received a late claim for the extended season of use of water from Dempsey Creek for review in Basin 29.

The Notice(s) of Claim identified with the numbers shown above, has been filed in the Snake River Basin Adjudication (SRBA). The Notice indicates water usage is based on "Beneficial Use". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Notice. The date the water was first put to use, known as the priority date, has not been confirmed by a license, Decree, or Permit. For this reason, proof must be provided supporting the priority date. **As the claimant, you are responsible for submitting the necessary proof to support the priority date.**

It is important that each element of the Notice be substantiated. For instance, regarding claims for irrigation, the evidence should tend to show that diversion works were in place, that they

were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place of use on or before the claimed priority date.

For your reference, I have enclosed the pamphlet entitled "**Evidence of Priority**". The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement. While I encourage you to read the entire pamphlet, I direct your attention to the two sections entitled "**What Kind of Evidence is required**" and "**Some examples of Documents Which May Be Evidence of the Priority Date**".

It is our goal to recommend historical water rights within the Snake River Basin as accurately as possible.

.....
The Department cannot recommend the court decree the Notice if no evidence of a priority date is submitted.
.....

Please submit the documentation supporting the priority date by the above cited response date. If you have any questions not covered by this letter, please feel free to contact me at 547-3993.

Respectfully,

Cindy E. Bird
Adjudication Bureau

CEB/

Enclosure: Brochure on "Evidence of Priority"

IMS
Claim No(s). 29-13726

29-13726

[illegible]

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

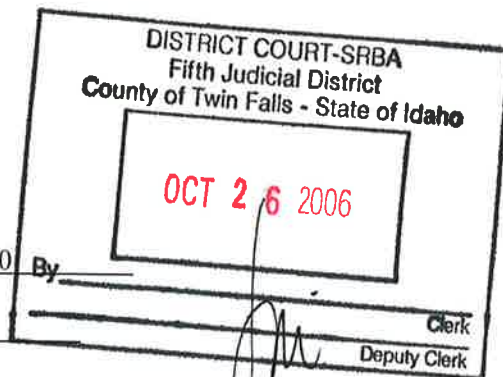
Ident. Number 29-13726

Date Received

Receipt Number C083463

DE AD
12-16-06

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



1. Name of Claimant(s) Nancy Van Kampen Phone (801) 752-7740 By _____
Mailing Address 166 E. 350 S., Logan, UT Zip 84321 Clerk _____
Deputy Clerk _____
2. Date of Priority (Only (1) per claim) August 7, 1932
3. Source of water supply (a) Dempsey Creek
which is tributary to (b) Portneuf River
- 4.a. Location of existing point of diversion is:
Township 10S Range 38E. Section 4, NE 1/4 of SW 1/4 of SW 1/4, Govt. Lot _____,
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. _____

6. Water is claimed for the following purposes: _____ (Both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 04/01 to 10/31 amount 1.62 or _____

7. Total quantity claimed (a) 1.62 (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.) _____

SCANNED

DEC 16 2006

10. Description of place of use:
- If water is for irrigation, state acreage in each subdivision in the table below.
 - If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S	38E	29																2.2	2.2
		32	14			23													37
		33		11				31											42

Total number of acres irrigated 81.2

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 ☐
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.
29-170, 29-171, 29-12064 or None ()

14. Remarks:

15. Basis of Claim (Check one) Beneficial Use ☒ Posted Notice ☐ Permit ☐ Decree ☐ License ☐
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature(s)

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

Signature of Claimant(s) Nancy Van Kampen Date 10-18-06
Nancy Van Kampen

State of Utah)
) ss.
County of CACHE)

Subscribed and sworn (or affirmed) before me this 18 day of OCTOBER, 2006.



Quinn Vellinga
Notary Public QUINN VELLINGA
Residing at CACHE COUNTY, UTAH
My Commission Expires 05-19-2008

SCANNED

Last Name Van Kampen, Nancy Ident. Number 29-13726 **DEC 16 2006**

17. Notice of Appearance:

Notice is hereby given that I, Robert L. Harris 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 Robert L. Harris

Address PO Box 50130, Idaho Falls, ID 83405

Date OCT. 23, 2006

G:\WPDATA\RLH\13608 Van Kampen, Kurtis\Amended Claim.wpd:cdv

SCANNED

Last Name Van Kampen, Nancy Ident. Number 29-13726 DEC 16 2006

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

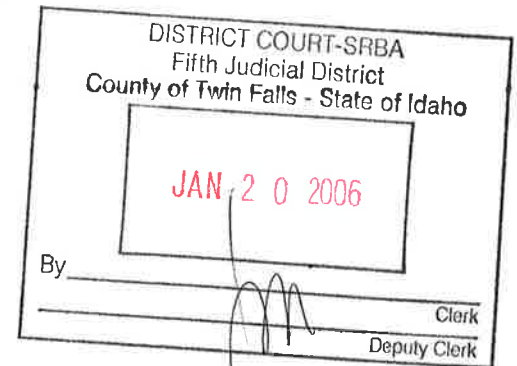
Ident. Number 29-13726
Date Received: 10/27/2005
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

JEDD R VAN KAMPEN Phone: (801)752-7740
166 E 350 S
LOGAN UT USA 84321

NANCY VAN KAMPEN Phone: (801)752-7740
4301 W 600 S
LOGAN UT USA 84321



2. Date of Priority: 08/07/1932

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

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
10S	38E	4	NE SW SW	BANNOCK	

5. Description of diverting works:

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	
STOCKWATER	04/01	10/31	0.04	

7. Total Quantity Appropriated is:
1.2 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

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DEC 16 2006

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
09S	38E	30	NW	NE	IRRIGATION	2.7
			SW	NE	IRRIGATION	37
			SE	NE	IRRIGATION	33
			NE	SE	IRRIGATION	33
			NW	SE	IRRIGATION	39
			SW	SE	IRRIGATION	18
			SE	SE	IRRIGATION	17
					Section Acres	179.7
					Total Acres	179.7

11. Place of use in counties: BANNOCK

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

Stockwater use same as irrigation.

15. Basis of Claim: Beneficial Use

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: _____

SCANNED
DEC 16 2006

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):

Joseph B Van Kampen
Nancy Van Kampen

Date: 1-16-06

Date: 1-16-06

State of UTAH

County of Cache

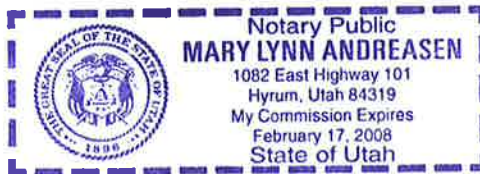
) SS.
)

Subscribed and sworn (or affirmed) before me this 16th day of January 2006

Notary Public

Mary Lynn Andreasen
Residing at _____

My commission Expires _____



SCANNED

DEC 16 2006

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
DEC 13 2006	
By _____	Clerk
_____	Deputy Clerk

**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

Case No. 39576

**ORDER GRANTING MOTION TO
FILE LATE NOTICE OF CLAIM**

For Water Right Claim: 29-13726

**I.
PROCEDURAL BACKGROUND**

This matter came before the Court pursuant to a *Motion to File a Late Notice of Claim* filed by Claimant Nancy Van Kampen on January 20, 2006. A hearing was held on the *Motion* August 29, 2006. No party filed an objection or appeared in opposition to the *Motion*. The matter was then referred to a special master to make findings and issue a recommendation in accordance with late claim standard of I.R.C.P. 55(c) on May 2, 2006. Specifically, the Court was concerned whether the late claim would result in prejudice to other parties who timely adjudicated their claims.

On September 29, 2006, Special Master Brigitte Bilyeu issued a *Special Master's Report and Recommendation Regarding Motion to File Late Claim* recommending that the late claim be granted on the condition that the claim be amended, accordingly. On October 26, 2006 an

Amended Notice of Claim was submitted to the Court with the requisite changes made. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

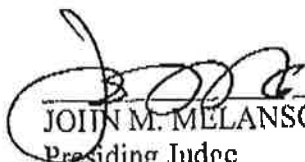
Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and the *Amended Notice of Claim* and wholly adopts them as its own.

**II.
ORDER**

THEREFORE, IT IS ORDERED, that the *Motion to File a Late Notice of Claim* for water right 29-13726 be **granted**. The original *Notice of Claim*, as well as any filing fee submitted, and a copy of this *Order* will be forwarded to the Idaho Department of Water Resources for further action consistent with this *Order*.

IT IS SO ORDERED

Dated: December 11, 2006


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

Amended Notice of Claim was submitted to the Court with the requisite changes made. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and the *Amended Notice of Claim* and wholly adopts them as its own.

II. ORDER

THEREFORE, IT IS ORDERED, that the *Motion to File a Late Notice of Claim* for water right 29-13683 be **granted**. The original *Notice of Claim*, as well as any filing fee submitted, and a copy of this *Order* will be forwarded to the Idaho Department of Water Resources for further action consistent with this *Order*.

IT IS SO ORDERED

Dated: December 11, 2006



JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO FILE LATE NOTICE OF CLAIM was mailed on December 13, 2006, with sufficient first-class postage to the following:

JEDD R VAN KAMPEN

NANCY VAN KAMPEN

Represented by:

ROBERT L HARRIS

1000 RIVERWALK DR, STE 200

PO BOX 50130

IDAHO FALLS, ID 83405

Phone: 208-523-0620

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

ORDER

Page 1 12/13/06

FILE COPY FOR 00484

Deputy Clerk

Julie Murphy
DECEMBER 16 2006