

03/15/2005

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

RIGHT NUMBER: 37-4320

NAME AND ADDRESS: REX DALTON
1650 STATE HWY 46
GOODING ID 83330

ELAINE DALTON
1650 STATE HWY 46
GOODING ID 83330

SOURCE: WASTE WATER TRIBUTARY: DRY CREEK

QUANTITY: 0.020 CFS

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 06/01/1940

POINT OF DIVERSION:

T05S R14E S11 SESE Within GOODING County
T05S R14E S11 SESE Within GOODING County

PURPOSE AND PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	03/15 11/15	0.020 CFS

PLACE OF USE: STOCKWATER Within GOODING County

T05S R14E S11 SESE

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

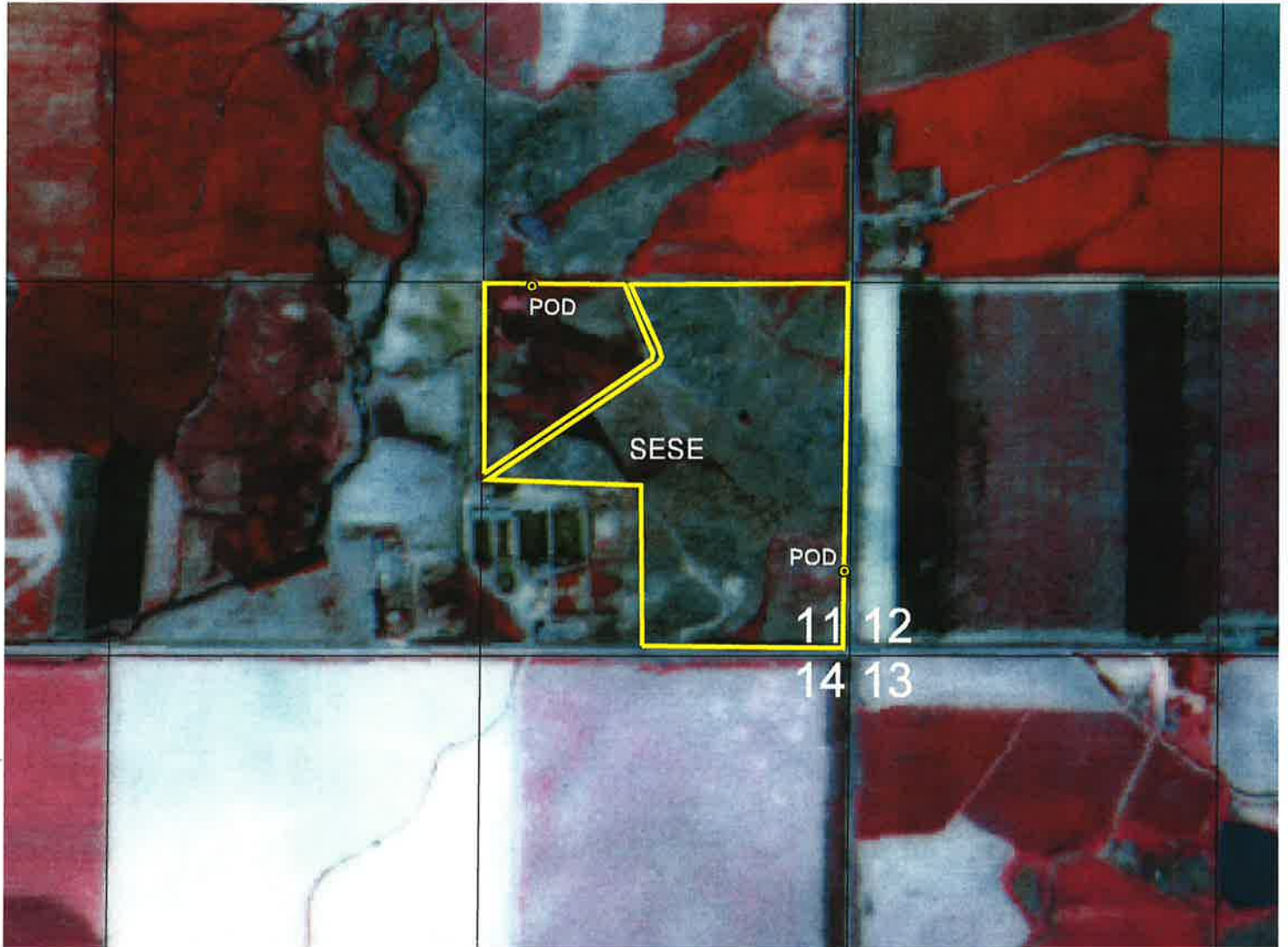
This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

The quantity of water decreed for this water right is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: Beneficial Use

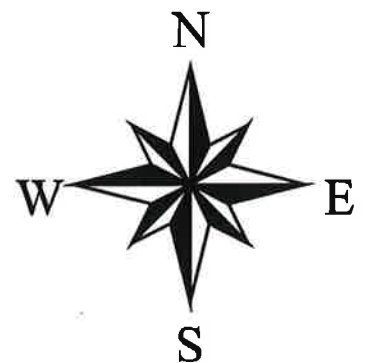
The source of this right is waste water originally diverted by Big Wood Canal Co.

37-4320



700 0 700 1400 Feet

T05S R14E S11



Map prepared by: Carter Fritschle
Date prepared: 12/03/04
1987-1988 NAPP photography
Idaho Department of Water Resources

934-5635

37-4320



LEE R. PETERSON
234 S View Rd.
Jerome, ID 83338

07/23/2004

IDWR Field Exam Form

Contacts Data Entry Form

Owner Type	Full Name	Address	City	State	Zip	Phone
Current Owner	REX DALTON	1650 STATE HWY 46	GOODING	ID	83330	934-5635 Home
Current Owner	ELAINE DALTON	1650 STATE HWY 46	GOODING	ID	83330	539-5679 Cell

Date of Field Exam: 8-3-04 Time: 3:30 P

Accompanied By: Rex Phone Number: _____

Relationship to Claimant: None

Directions to Property (if different from above) and/or update owner information:

Home 1650 State Highway 46 - 1/2 North of Gooding
Farm is on NW corner 1700 E - 1400 S of Gooding

Reviewer:

[Signature]

Date:

8-3-04

Point of Diversion and Source Data Entry Form

Claim Number 37-4320

Claimed Point of Diversion and Source

T05S R14E S11 SESE Within GOODING County Source: WASTE WATER DRY CREEK

T05S R14E S13 NWNW Within GOODING County Source: WASTE WATER DRY CREEK

☐ Use Claimed POD and Source as Recommended POD and Source

Water Right Point of Diversion and Source

Recommended Point of Diversion and Source

Source Information

Source

Tributary To

① waste ditchDry Creek② live & wasteLive - End of Robertson ditch

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source
<u>55</u>	<u>14E</u>	<u>11</u>				

Other rights from this POD? NONE - Just waste - They sold all other land

Document how the POD and Source were verified:

I went Dalton home met Rex visited briefly then
proceeded out to 40 ac land they remain owning
and where this water right applies.

GPS

- ① Rex Dalton 1 - REX-1 2438674 1311026 10013744 1020262
 ② " " 2 - " -2 2438334 1311334 745 263

Reviewer: Date: 8-3-04

Place Of Use Data Entry Form

Claim Number 37-4320

Claimed Place Of Use

T05S R14E S11 SESE 30.0

Total Acres 30
17719☐ Use Claimed POU as Recommended POU

Water Right Place Of Use

Dalton owns the 40 ac corner - see colored
Photo SE 1/4

Recommended Place of Use

☐ See corrections to claimed POU above

Twp	Rge	Sec	QQ	Q	County	Lot Num	Acres	Purpose of Use
53	14E	11						

Total Acres 40

Document how the POU was verified:

This is Per Rev Dalton - they only own
this 40 they sold all other part of farm

Reviewer: Date: 8-3-04

Period of Use and Quantity Data Entry Form

Claim Number 37-4320

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
IRRIGATION	04/15	10/15	1	
STOCKWATER	04/15	10/15	0.02	
Overall Diversion Rate	1	Overall Diversion Volume		

 Use Claimed Period of Use and Quantity as Recommended Period of Use and Quantity

Water Right Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
Overall Diversion Rate		Overall Diversion Volume		

Recommended Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
	VARIES		VARIES	
	EACH YEAR			

Overall Diversion Rate _____ Overall Diversion Volume _____

Document how the Period of Use and/or Diversion Rate were verified:

The time and amount of water varies
each year and it varies each year the past
few years have been bad

Reviewer: _____


Date: 8-3-04

37-4320 PODs

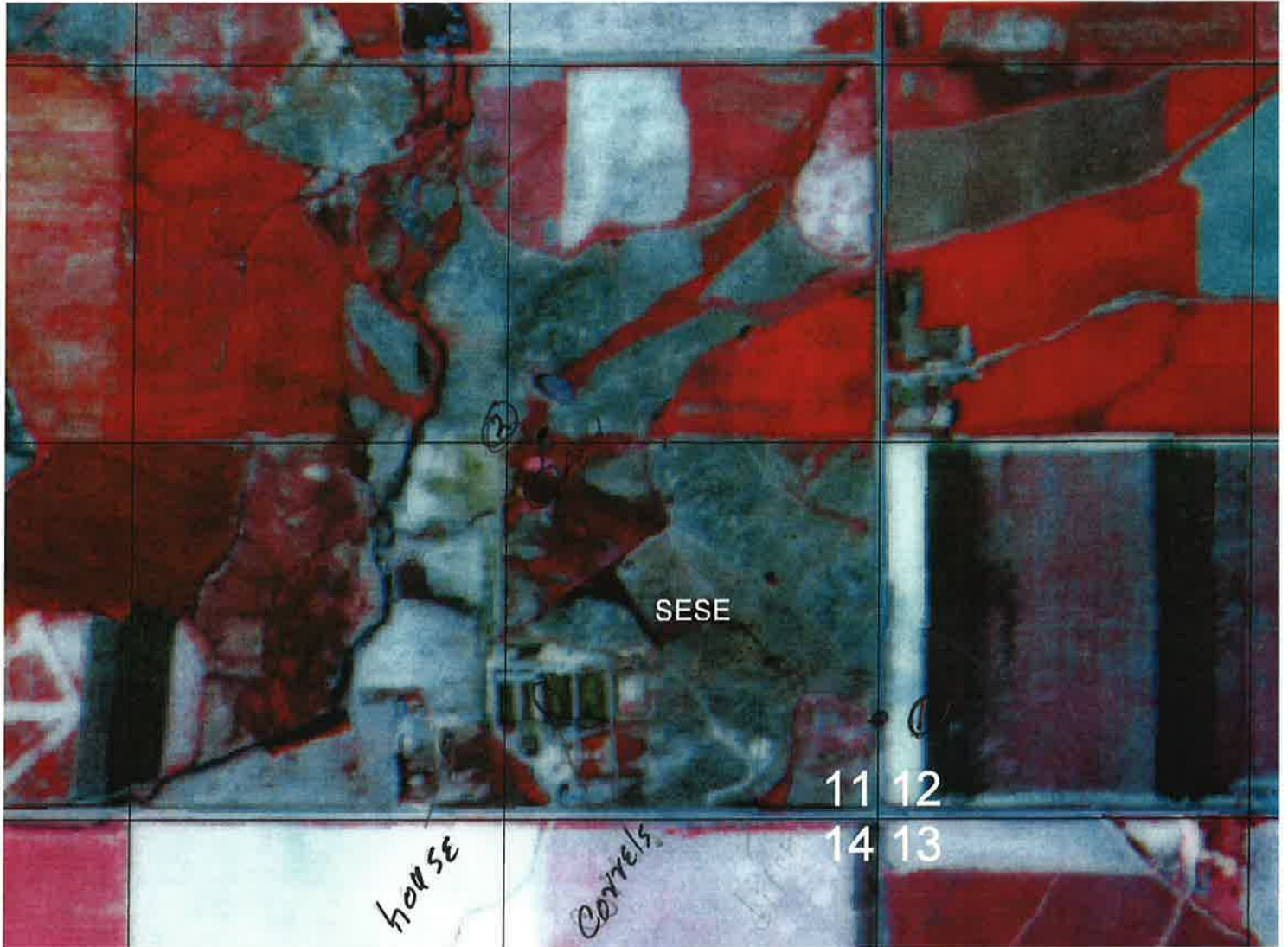


POD on north side of property. Lee Peterson photo 08-03-04



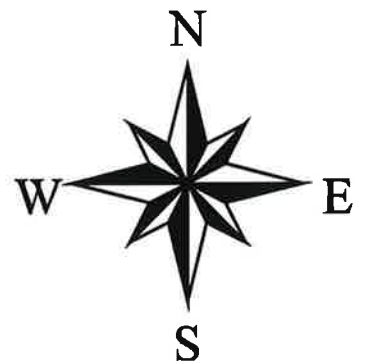
POD on east side of property. Lee Peterson photo 08-03-04

37-4320



1000 0 1000 2000 Feet

T05S R14E S11





State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866 www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 23, 2004

37-4320
REX DALTON
ELAINE DALTON
1650 STATE HWY 46
GOODING ID 83330

Re: Evidence of Priority Date

Dear Claimant:

RESPONSE DEADLINE
AUGUST 20, 2004

The Notice of Claim to a Water Right (claim) identified with the number shown above your name has been filed in the Snake River Basin Adjudication (SRBA). The claim indicates your water usage is based on "Beneficial Use" or a "Statutory Claim." Water rights of this type are established by the historic use of water, dating back to when water was first used for the purpose claimed, and are termed beneficial use rights. The date of first use, known as the priority date, has not been confirmed by a License, Decree or Permit. Since the priority date and historic use of a beneficial use right cannot be confirmed by field examination, **proof must be provided by the claimant** supporting the priority date claimed and the historic use of the water.

If you no longer own the property to which the claim is appurtenant please forward this correspondence to the present owner, or return it to Idaho Department of Water Resources (IDWR). If you have received this correspondence from the previous owner of the property it is recommended that you file a Change of Ownership form with IDWR in order to receive future mailings and to participate in the adjudication.

Enclosed you will find a computer printout of your claim and the pamphlet entitled "Evidence of Priority." The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement.

PLEASE NOTE: IDWR will recommend the SRBA Court decree the claim disallowed if no evidence of the priority date and of the historic use is submitted. It will be to your advantage to provide clear and convincing evidence. If you choose to submit statements from individuals as evidence, the statement should be in the form of a notarized affidavit.

Please submit the required evidence supporting the priority date and the historic use by the date shown above, referencing all documents with the corresponding claim number. If you have questions not covered by this letter or the enclosed pamphlet, please contact this office. Our toll free number is 1-800-451-4129.

Sincerely,

Carter Fritschle
Water Rights Supervisor

Enclosures

8-3
Rex said he would
try to get info

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 37-4320
Date Received: 3/17/2003
Receipt No:
Received By:

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

1. Name of Claimant(s)

REX DALTON Phone: (208)934 5635

1650 STATE HWY 46
GOODING ID USA 83330

ELAINE DALTON Phone: (208)937 5635

1650 STATE HWY 46
GOODING ID USA 83330

RECEIVED
MAR 19 2003

Department of Water Resources

2. Date of Priority: 06/01/1940

3. Source: WASTE WATER Trib. to: DRY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
05S	14E	11	SE SE	GOODING	
05S	14E	13	NW NW	GOODING	

5. Description of diverting works:

DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/15	1	
STOCKWATER	04/15	10/15	0.02	

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

8. Total consumptive use:

9. Non-irrigation uses:
Number of other uses: 200

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
05S	14E	11	SE	SE	IRRIGATION	30
Section Acres						30
Total Acres						30

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:

14. Remarks:

THE NUMBER OF COWS VARIES BUT THE MAXIMUM HAS BEEN 200 SINCE CURRENT CLAIMANT OWNED PROPERTY. CLAIMANT HAS NOT USED RIGHT FOR IRRIGATION BUT FEELS IT REPRESENTS THE HISTORICAL USE THAT EXISTED IN 1987, WHICH HE WOULD LIKE TO RESUME. CURRENT CLAIMANT PURCHASED IN APPROX 1992.

15. Basis of Claim: Beneficial Use

16. Signature(s)

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): Ray W Dalton Date: 3-17-03

Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 17th day of
of March 2003

Vikie Hancock
Notary Public

Residing at Buhl Idaho

My commission Expires 5-7-2003



Idaho Department of Water Resources Receipt

Receipt ID S025574

Payment Amount Date Received Region Status

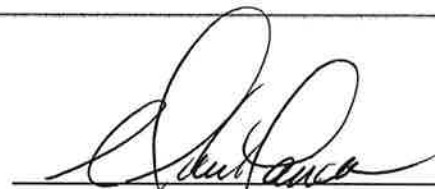
Payment Type Check Number

Payer

Comment

Fee Detail

Amount	Description	Fund	FD	PCA	SO
\$80.00	ADJUDICATION FILING FEE	0337	44503	1155	


Signature Line (Dept. Representative)

COMMUNICATION DOCUMENTATION

From: Vikie Hancock

March 18, 2003

Regarding:

Customer:

37-4320

Rex Dalton

Mr. Dalton came into IDWR because he had concerns about a change made by other water users to a conveyance ditch that runs through his property and that had, until recently, provided water to a pond on his land. Mr. Dalton uses the pond for stockwater. Mr. Dalton owns the SESE Section 11, T05S, R14E.

In the course of doing research for water rights that may be appurtenant to his property, Mr. Dalton and Jim Stanton found statutory claim 45-4320 that had not been claimed in the adjudication. This claim was filed in 1983 for waste water tributary to Dry Creek, with a priority date of 1940, for irrigation of 30 acres.

During my conversation with Mr. Dalton I explained the history of Statutory claims, the nature of waste water claims, and the fact that any claim filed in the SRBA was subject to review to assess validity. Mr. Dalton decided to file an adjudication claim for irrigation use and also stockwater.

Mr. Dalton described his recent use of this water as stock water from a pond that is located in the NW corner of the SESE. He purchased the property in 1992 (approx) and has not used water for irrigation since that time. He referred to the ditch that runs through his property as the Robertson Ditch and said that all the users of the ditch were downstream of his property. He said that there was also water that entered his property at the SE corner as shown on the map submitted with the Statutory Claim.

I told Mr. Dalton that a more in-depth review of the historical and recent use of this right was needed before a decision could be made as to exactly what kind of right he might have to the water he described, if any. I advised him that he should immediately attempt to find historical information to substantiate the water use on his land and to contact Carter Fritchle in Boise who was currently reviewing SRBA claims in his area.

Note that the shape file in SDE was not created with any input from the current claimant but is representative of the 1983 Stat claim.