

03/04/2005

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

RIGHT NUMBER: 37-4365

NAME AND ADDRESS: EUGENE P SWENSON
STAR RT BOX 34
BLISS ID 83314

MARILYN SWENSON
STAR RT BOX 34
BLISS ID 83314

SOURCE: BIRCH CREEK

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.300 CFS

Right nos. 37-4365 and 37-4366 are limited to a total combined diversion rate of 0.30 cfs.

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

PRIORITY DATE: 03/15/1928

POINT OF DIVERSION:

T06S R13E S35 SWSW Within GOODING County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.020 CFS
IRRIGATION	03/15 11/15	0.300 CFS

PLACE OF USE: IRRIGATION Within GOODING County

T06S R13E S34 Lot 4 SESW 6.9

STOCKWATER same as IRRIGATION

6.9 ACRES TOTAL

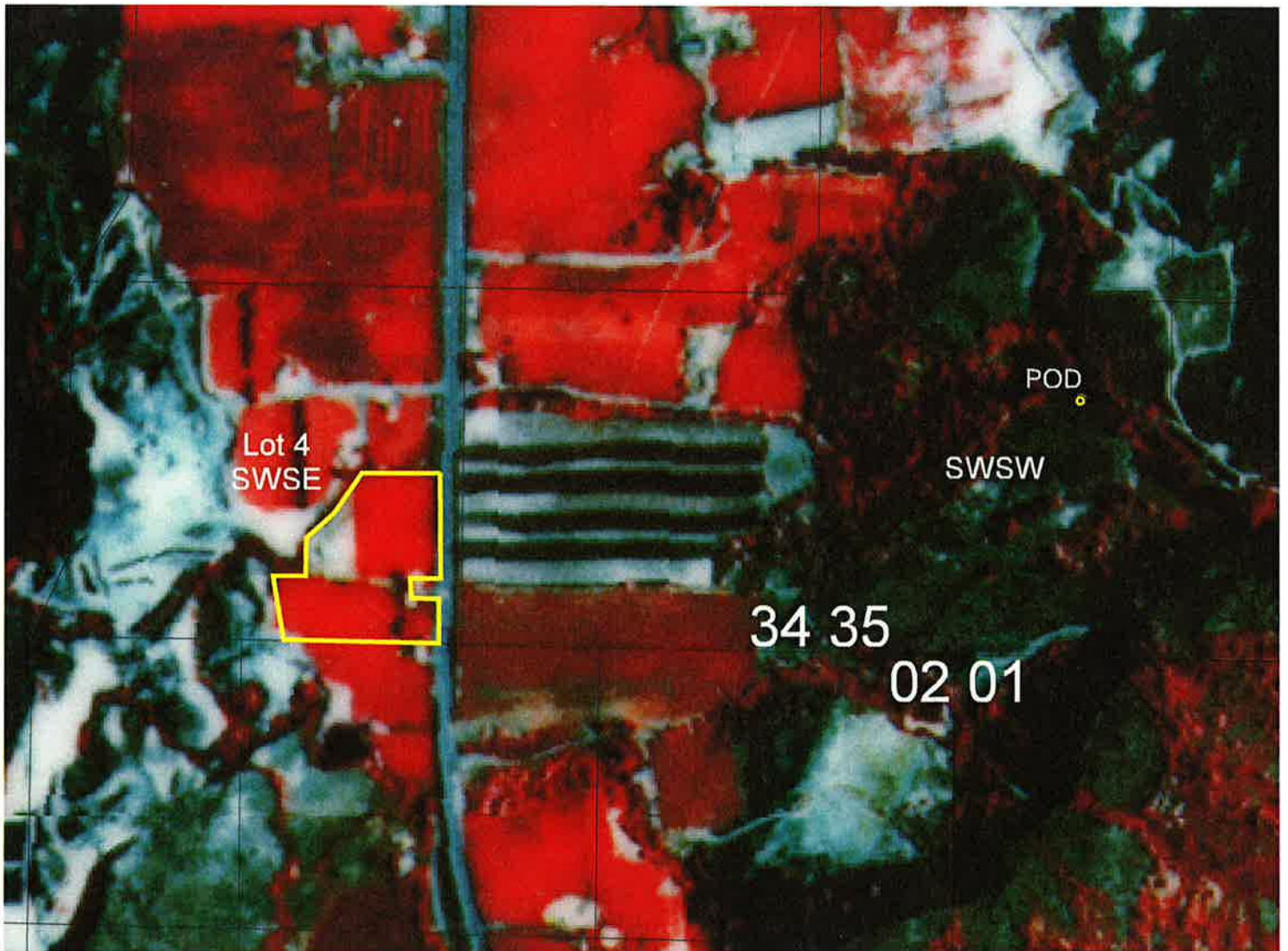
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

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

EXPLANATORY MATERIAL: Beneficial Use

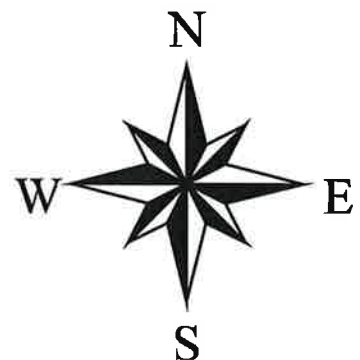
37-4365



600 0 600 1200 1800 2400 Feet

T06S R13E S34

Map prepared by: Carter Fritschle
Date prepared: 03/04/05
1987-1988 NAPP photography
Idaho Department of Water Resources



From: Knowles, Corbin
Sent: Thursday, March 03, 2005 3:53 PM
To: Fritschle, Carter
Subject: RE: 37-4365 Swenson

I have found 3 measurements,

1- date of 10-23-03 Q= .51 or 231 gpm (open discharge)

2- date of 4-6-04 Q= .58 or 261 gpm (open discharge)

3- date of 4-6-04 Q =.29 cfs or 130 gpm (under pressure). This was based on a ten minute run off of the owners' meter and after the accuracy check was done. Accuracy was figured in to the mix.

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

From: Fritschle, Carter
Sent: Thursday, March 03, 2005 3:38 PM
To: Knowles, Corbin
Subject: RE: 37-4365 Swenson

Corbin,

Are you saying Swenson uses WMIS POD numbers 410233 and/or 410234? If so, I can find a volume measurement, but no diversion rate.

Thanks, Carter

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

From: Knowles, Corbin
Sent: Thursday, March 03, 2005 2:58 PM
To: Fritschle, Carter
Subject: RE: 37-4365 Swenson

Carter-

That sounds like the right approach on the source as Birch Creek. Swenson and Hardy share the pipe line that comes across Mike Fleming's place, I can tell you where the head of the pipe line is but I do know that the source is ditched a distance (I never did trace it to the head due to growth and topography) I think that water is taken out of the tail race of the upper Simms' fish ponds? I know that there are fish in the system due to flow meter failing on a regular basis from fish trying to use the pipe. I have measurement data on the gravity fed system West of HWY 30.

Corbin

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

From: Fritschle, Carter
Sent: Thursday, March 03, 2005 2:49 PM
To: Yenter, Cindy (Hodges); Knowles, Corbin
Subject: 37-4365 Swenson

Hi Cindy and Corbin,

Do we have any information on 37-4365 (Swenson)? It looks like his source should be Birch Creek, and they are possibly sharing the same POD as the Simms' irrigation diversion.

Thanks, Carter

AFFIDAVIT

State of Idaho)
) SS
County of Gooding)

Before me this day personally appeared C. Everand Jensen, who, being first duly sworn, deposes and says:

That I, C. Everand Jensen of 17825 B, U. S. Highway #30, Bliss, Idaho 83314, am very familiar with the property now owed by Eugene P. and Marilyn Swenson and the water rights described in Idaho Department of Water Resources water right #37-4365.

My father and mother, Henry and Erma Jensen, sold the subject property to William Green on February 18, 1928. William Green was my mother's father, my grandfather, and at the time I would have been 16 years old. I remember at that time, the property west of the home was in pasture and that north of the home & pasture was in alfalfa. This is very clear in my mind because my grandfather only had one arm and I would watch him cut the entire field of alfalfa with a hand sickle. At that time, the irrigation water was transported via an open irrigation ditch that ran across the property to the east. I think it was Ben Taylor that constructed the gravity irrigation system that is presently on the property.

I am not sure about the time between the priority date on #37-4365 and when my father sold to William Green. The priority date claimed of June 1, 1890 could very well be the correct date because all of the property irrigated in the same general area had priority dates of between 1878 to 1896.

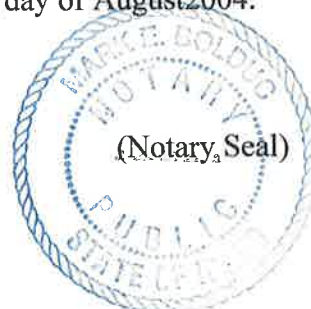
I am attaching a copy of the Warranty Deed from Henry & Erma Jensen to William Green and a copy of the water decree, dated December 14, 1917, concerning priority dates of adjoining properties. I presently still live on the balance of the property that my parents purchased in 1925 which is located just north of the Swenson property.


C. Everand Jensen

Sworn to and subscribed before me this 16 day of August 2004.



Notary Public for the State of Idaho
Residing at Hagerman, Idaho
My Bond Expires: 08-08-06



Henry Jensen and Erma
Jensen, husband and wife

-to-

William Green.

45347
WARRANTY DEED.
Dated, February 18, 1928
Recorded, February 27, 1928, 3:15 PM
Book 19 Deeds Page 589
Consideration \$1000.00

The first parties hereto in consideration of \$1000.00 do hereby grant, bargain, sell, convey and confirm unto the second party the following real estate in Gooding County, Idaho:

That certain tract of land situate in Lot 4 in Sec. 34, Twp. 6 S. R. 13 East B.M. containing 10 acres more or less, and described by metes and bounds as follows: Beginning at the S.E. corner of said Lot 4; thence south $89^{\circ} 25'$ west 659 feet; thence north $12^{\circ} 35'$ west 246 feet; thence due north to the center of the channel of Birch Creek; thence in a general northeasterly direction along the center of the channel of Birch Creek to the point where said Birch Creek crosses the east boundary line of said Lot 4; thence south to the place of beginning, excepting therefrom a small parcel of ground situate in the NE corner of the above described tract which portion so excepted is described as follows:

"Commencing at a point 632 feet north of the southeast corner of said Lot 4; thence west to the center of the channel of Birch Creek; thence northeasterly along the center line of said Birch Creek to the point where it crosses the east boundary line of said Lot 4; thence south to the place of beginning."

The parties of the first part agree that that certain partition fence situate just north of and adjacent to said Birch Creek shall be and remain as a partition fence between the property hereby conveyed to the party of the second part and the property belonging to the parties of the first part lying to the north and adjacent thereto.

Together with the tenements, hereditaments, and appurtenances thereunto belonging and the reversions, remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to said property, as well in law as in equity, of the first parties.

Covenants: Regular Warranty.

Properly signed and acknowledged.

- - - - -

AUG 31 2004

Department of Water Resources

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 37-4365
Date Received: 8/17/1988
Receipt No: S001523
Received By:

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

1. Name of Claimant(s)

EUGENE P SWENSON Phone: (208)837-6144
STAR RT BOX 34
BLISS ID 83314

MARILYN SWENSON Phone: (208)837-6144
STAR RT BOX 34
BLISS ID 83314

2. Date of Priority: 06/01/1890

3. Source: UNNAMED STREAM Trib. to: BIRCH CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
06S	13E	35	SW SW	GOODING	

5. Description of diverting works:

CHECK DAM, PIPELINE, SPRINKLER,

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	11/01	0.5	
STOCKWATER	1/01	12/31	0.02	
DOMESTIC	1/01	12/31	0.04	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
06S	13E	34	SW	SE	IRRIGATION	9
Section Acres						9
Total Acres						9

11. Place of use in counties: GOODING

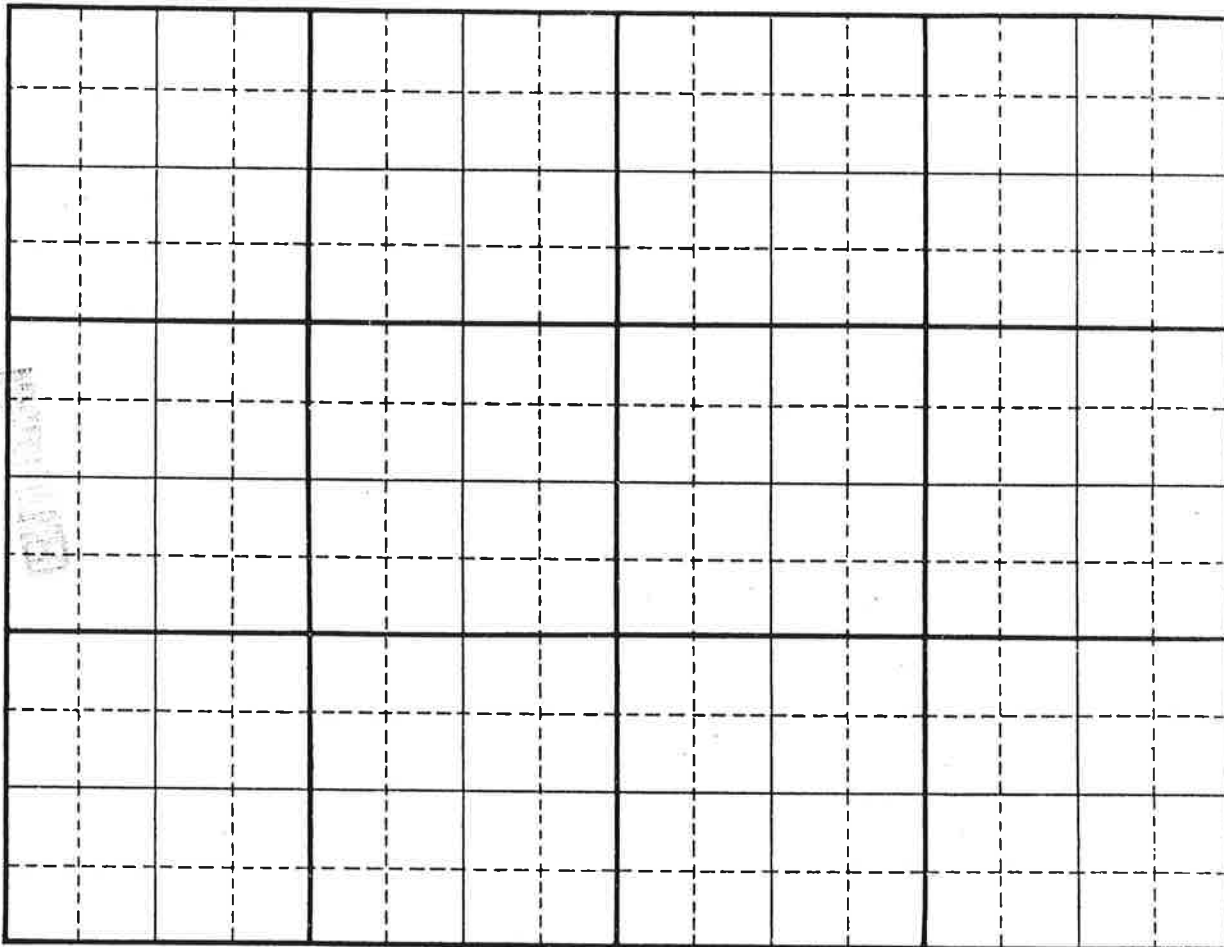
12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Statutory Claim

(8) Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Twin Falls) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Eugene P. Swenson
(Claimant)

Sworn to before me this 29th day of June, 19 83.

Loren O. Halmer
Notary Public
Residing at Twin Falls, ID

My commission expires Life

FOR DEPARTMENT USE ONLY

Received by <u>JF Stanton</u>	Date <u>6-29-83</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>JPC</u>	Date <u>6/30/83</u>		claimant by:	
\$30.00 fee received by <u>JPC</u>	Date <u>6-29-83 #29064</u>			
Published in <u>Gooding Co. Leader</u>				
Dates <u>8/31 & 9/2/83</u>				

HAGERMAN QUADRANGLE

IDAHO

7.5 MINUTE SERIES (TOPOGRAPHIC)

3069 IV NE
(GOODING BUTTE)

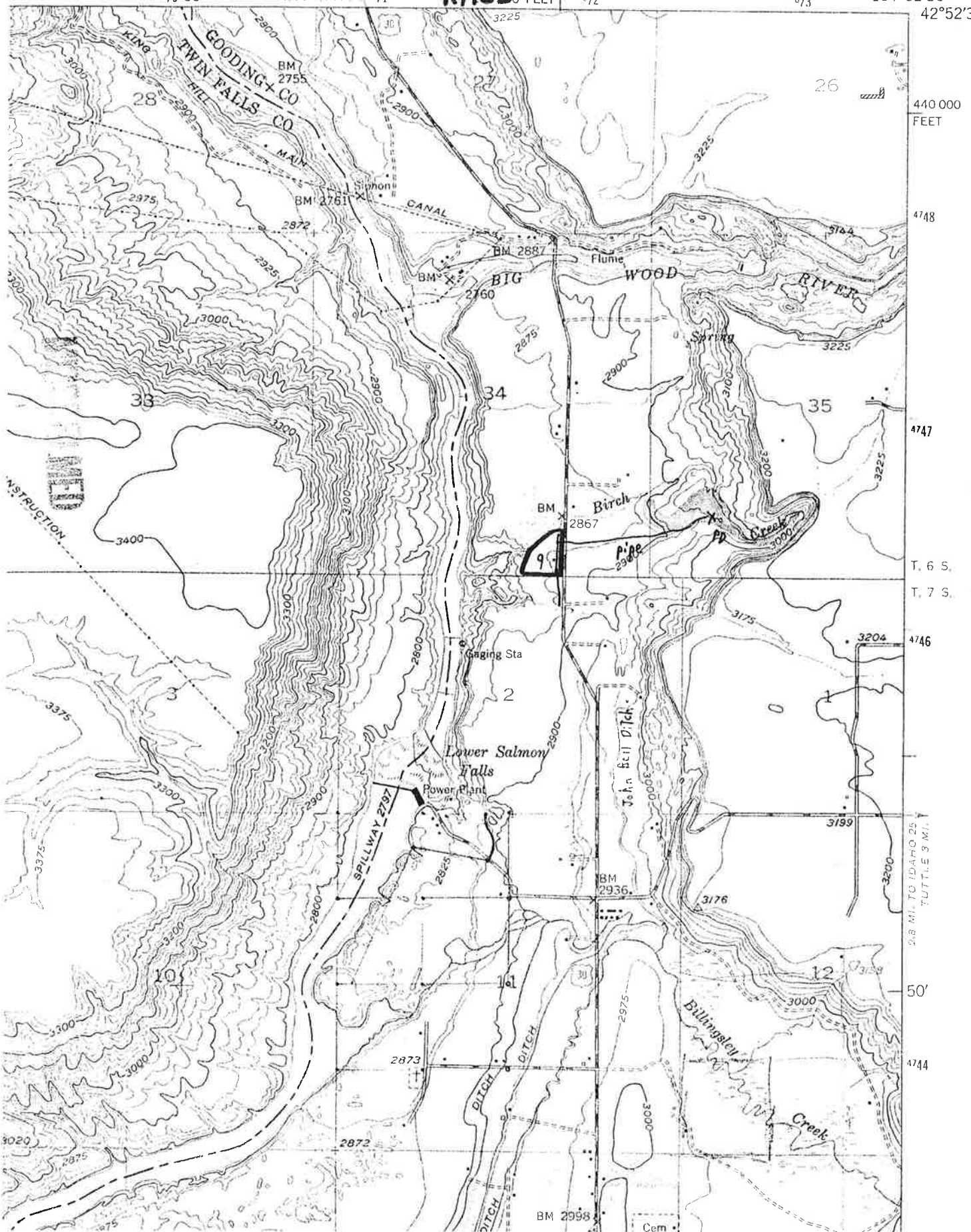
670 55' GLENN'S FERRY 35 MI.
BLISS 4.9 MI. 671

R. 13E

672

673

114°52'30"
42°52'30"



State of Idaho

License and Certificate of Water Right

Water License No. 17931

Amount 0.2 second foot

Water District No.

Priority May 26, 1944

THIS IS TO CERTIFY that MARTIN GREEN

of Bliss, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated May 18, 1934; that Permit No. 17931 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 0.2 second feet, was issued thereunder on July 16, 1935, showing that said works were completed on the 8th day of July, 1935; and that on the 23rd day of May, 1945,

RAYMOND A. SCOTT, Assignee

of Bliss, State of Idaho, made proof to the satisfaction of the State Reclamation Engineer of Idaho, of the right to use the waters of South fork of Birch Creek, a tributary of Birch Creek, for the purpose of irrigation and domestic use, under Use Permit No. 17931 of the Department of Reclamation and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume 7 of Licenses, at page 4275, on the 24th day of December, 1945;

The right hereby confirmed dates from May 28, 1944;

The Point of Diversion is located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 35, Tp. 6 S., R. 13 E., B. M. Gooding County

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 0.2 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
6 S.	13 E.	34	SW $\frac{1}{4}$ SE $\frac{1}{4}$	10	10

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer of Idaho, affixed at Boise, Idaho, this 24th day of December, 1945

MARK R. KULP

Commissioner of Reclamation -
State Reclamation Engineer

(SEAL)

47-2800

37-3157

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

REPORT OF ENGINEER

Permit No. 17931

This proof is for Beneficial use In Water District No. _____

1. Name of applicant Raymond A. Scott, Bliss, Idaho
2. Source of water supply South fork Birch Creek
3. Location of point of diversion: Is in the SW¹₄ SW¹₄ of Section 35
T. 6 S. R. 13 E. County of Gooding (Just below fork of Creek)
4. Describe works as they exist, giving dimensions and capacities of same: A diversion dam built of rocks, and a ditch of 18" width and 12" depth
5. Water is used for: Irrigation and domestic purposes
6. State whether or not water has been turned into works of diversion: Yes
7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation): SW¹₄ SE¹₄ Section 34, Township 6 South, Range 13 East, B.M.

Rock 20 ft high

(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach? Snake River

Remarks _____

This examination was made on the 27th day of July, 1945

(Signed)

Fred A. Robinson

T6S. - R13E. B.M.

Snake River

Malady

Point of Diversion

John Bell's Road

Possible actual Location

First Standard Parallel

South

33 34 35

4 3 2 1

724 794

Claim 10 ft. minimum (B.M.) 10 ft. S. of bank a. + west of highway

Possible activities

Chambers
10th assigned
(B.U.) 10th 500
March 2nd + most of
fig. 100.

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: A37-04365
Date Received: 8/17/1988
Receipt No: S001523
Received By: lw

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: EUGENE P. SWENSON 208-837-6144
Address: STAR RT. BOX 34
BLISS, ID 83314

AND/OR

Name: MARILYN SWENSON 208-837-6144
Address: STAR RT. BOX 34
BLISS, ID 83314

2. Date of Priority: JUN 01, 1890

3. Source: UNNAMED STREAM Trib. to: BIRCH CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
06S	13E	35	SW	SW			GOODING

5. Description of diverting works:
CHECK DAM, PIPELINE, SPRINKLER,

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.500		
DOMESTIC	01/01	12/31	0.040		
STOCKWATER	01/01	12/31	0.020		

7. Total Quantity Appropriated is:
0.500 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
D/1 HOUSE, S/20 BEEF STOCK

A37-04365

Page

1

Date: 08/17/88

MICROFILMED
FEB 24 1993

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
06S	13E	34	SW	SE		IRR	9.0
Section Acres							9.0
Total Acres							9.0

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:
NONE

14. Remarks:

15. Basis of Claim: STATUTORY CLAIM

16. Signature(s)

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

Number of attachments: 1

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): *Argene Anderson* Date: 8-17-1988
Date:

State of Idaho)
County of TF) SS.

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

of August 19 88

Lon White
Notary Public

Seal

Residing at TF

My Commission Expires 5/95

MICROFILMED
FEB 24 1993

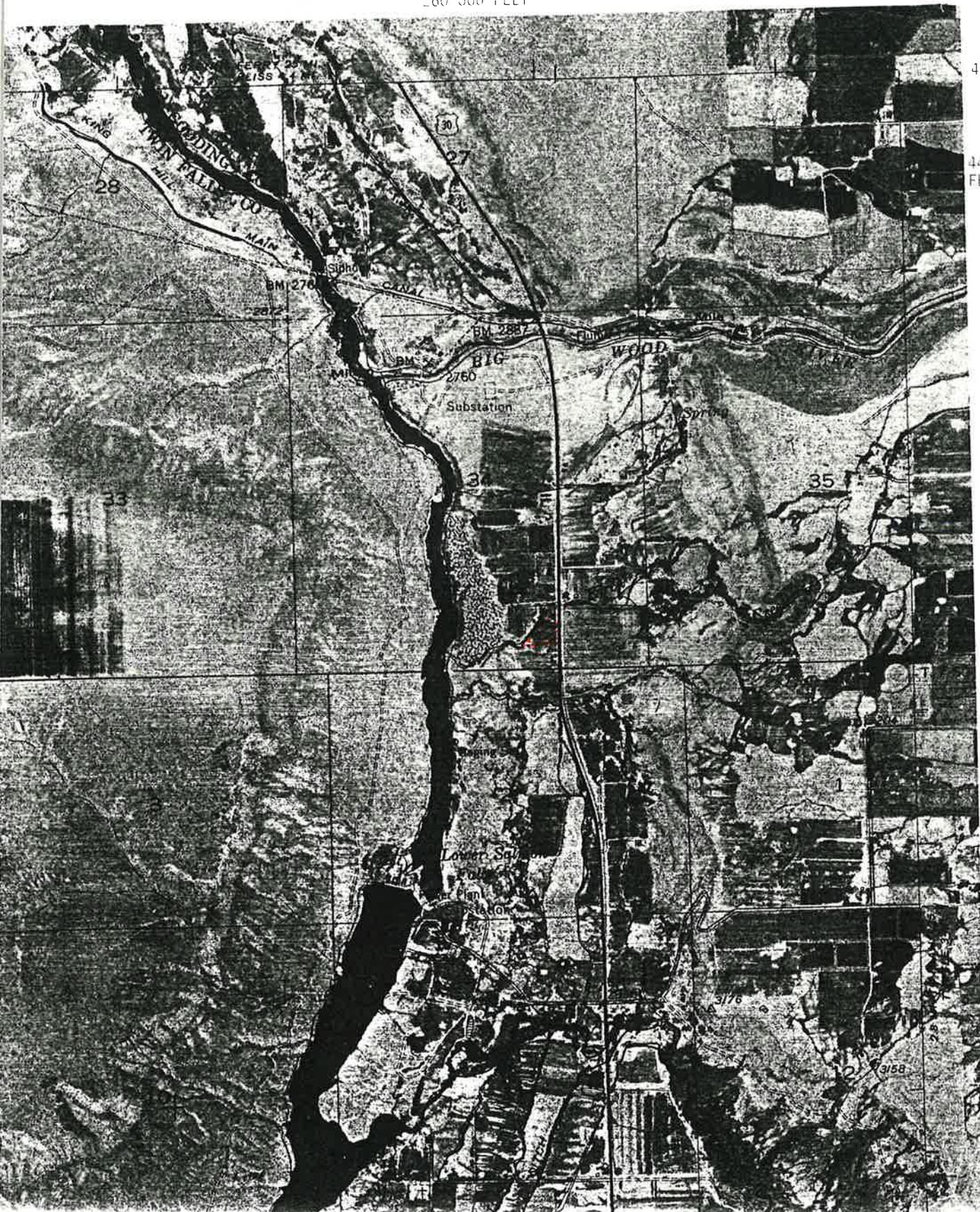
HAGERMAN ORTHOPHOTOQUAD
IDAHO

260 000 FEET

114°52'30"

42°52'30"

440 000
FEET



9 acres