

08/13/2007

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

RIGHT NUMBER: 37-4366

NAME AND ADDRESS: HARDY PROPERTIES LP
1301 VISTA AVE
BOISE ID 83705

SOURCE: BIRCH CREEK

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.500 CFS

Right nos. 37-4365 and 37-4366 are limited to a total combined diversion rate of 0.50 cfs.

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>
	IRRIGATION	03/15 11/15	0.500 CFS
PLACE OF USE:	<u>IRRIGATION in GOODING County</u>		
	T07S R13E S02 Lot 2 SWNE	5.00	

5 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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

03/04/2005

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

RIGHT NUMBER: 37-4366

NAME AND ADDRESS: EARL M HARDY
1301 VISTA AVE
BOISE ID 83705

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.

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>
IRRIGATION	03/15 11/15	0.300 CFS

PLACE OF USE: IRRIGATION Within GOODING County
T07S R13E S02 Lot 2 SWNE 5.0

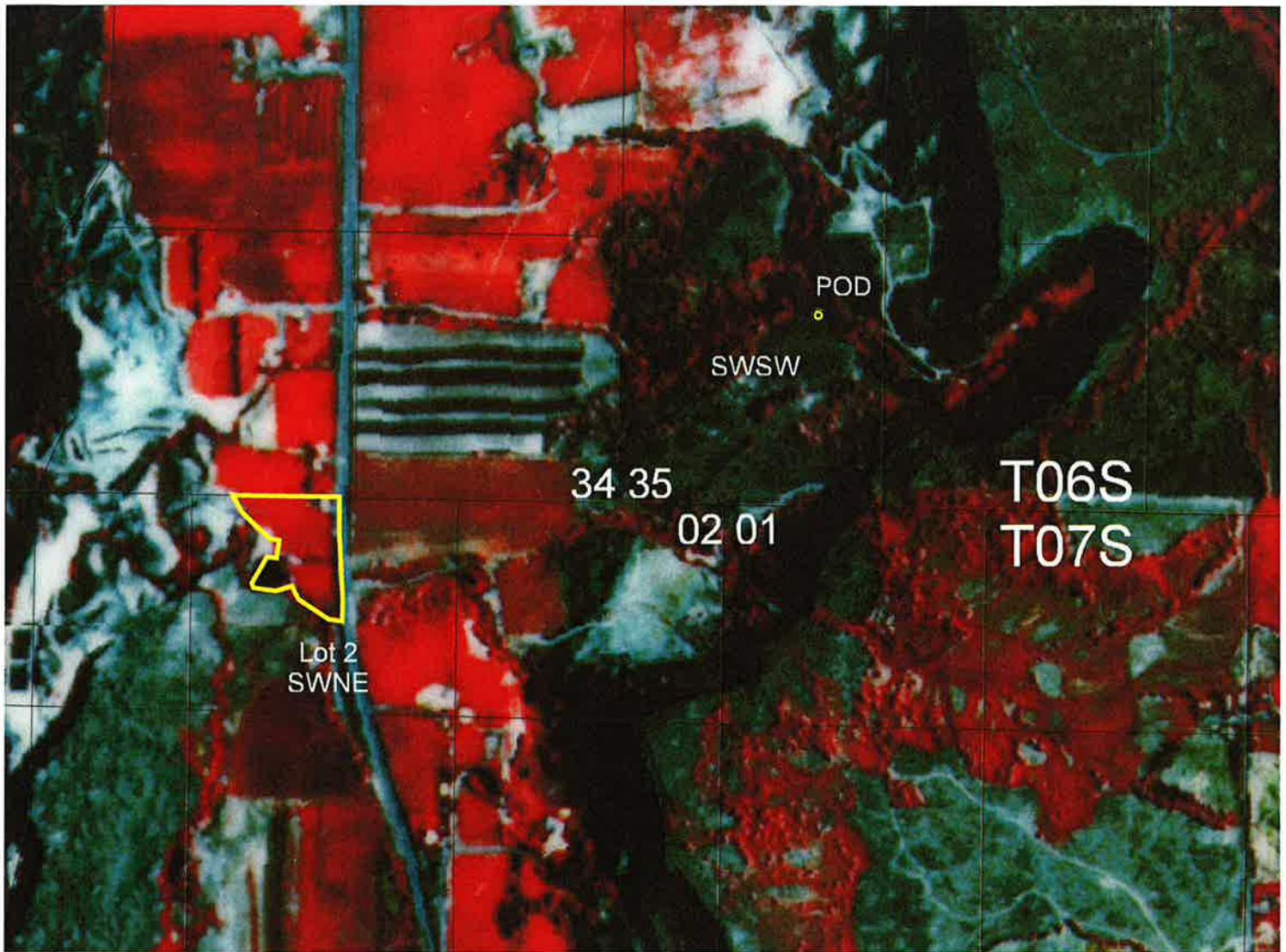
5 ACRES TOTAL

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.

EXPLANATORY MATERIAL: Beneficial Use

37-4366

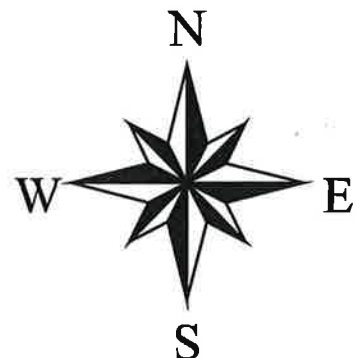


700 0 700 1400 2100 2800 Feet

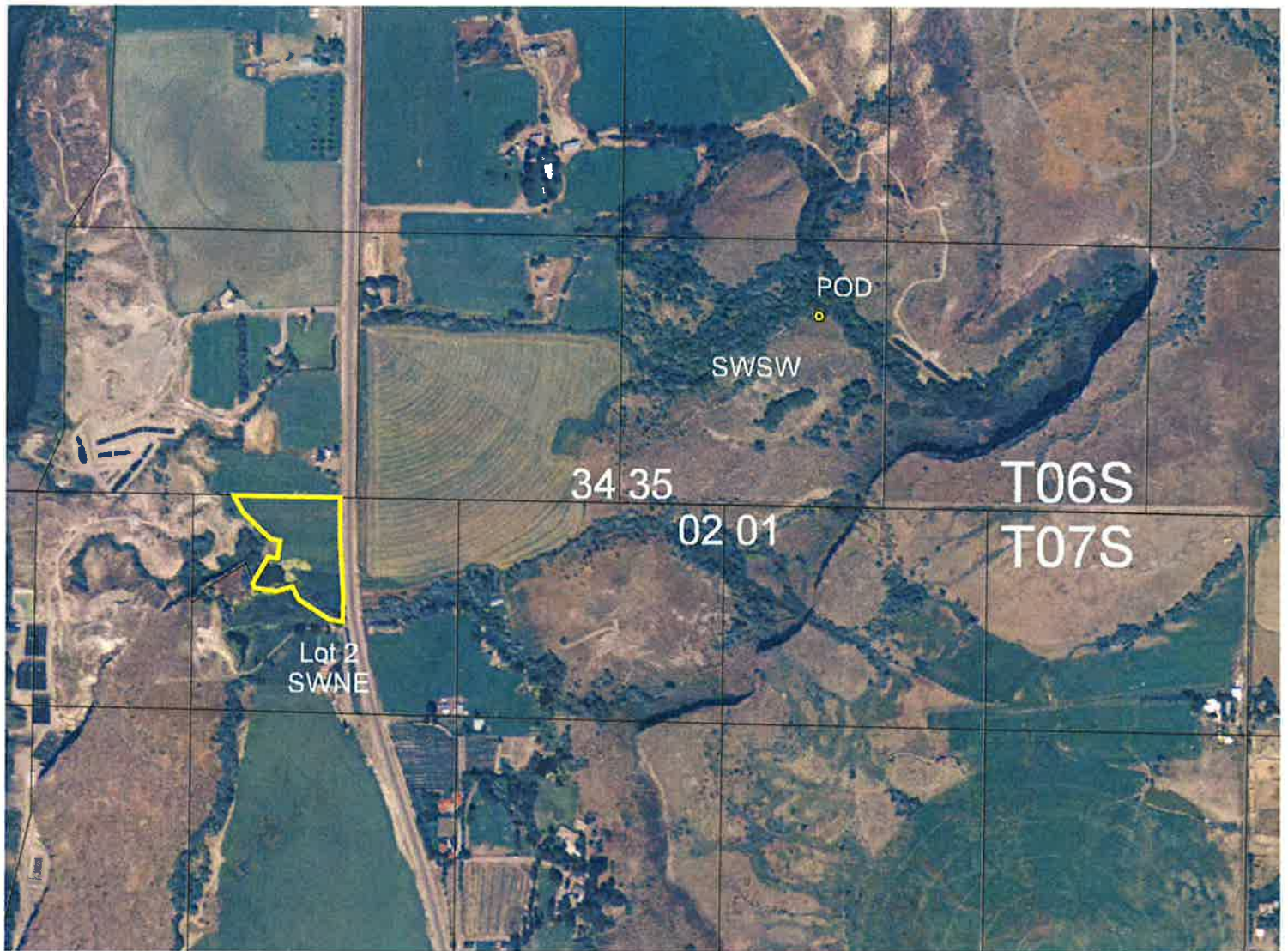
T06S R13E S35 - POD

T07S R13E S02 - POU

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



37-4366



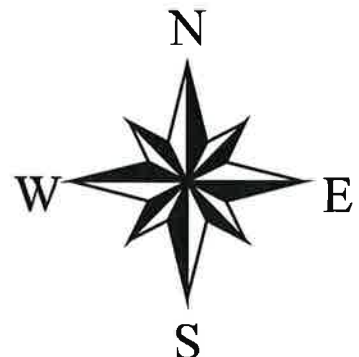
700 0 700 1400 2100 2800 Feet

T06S R13E S35 - POD

T07S R13E S02 - POU

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

Reprinted with 2004 NAIP Photography



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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT



Under the provisions of Section 42-243, **Idaho Code**, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), **Idaho Code**. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that Elgan/ Douglas L. Elgan
(Name of Claimant)
P. O. Box 82, Gooding, ID 83330 Telephone No. 934-4509
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use) 1890

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Unnamed Stream tributary to Birch Creek

(8) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs, af)		(Domestic, Irrigation, Stock, Etc.)		(Both dates inclusive)	
				(Mo., Day)	(Mo., Day)
Quantity	<u>0.50 cfs</u>	Use	<u>Irrigation</u>	Period of Use From <u>Apr 1</u>	To <u>Nov 1</u>
Quantity	<u> </u>	Use	<u> </u>	Period of Use From <u> </u>	To <u> </u>
Quantity	<u> </u>	Use	<u> </u>	Period of Use From <u> </u>	To <u> </u>
Quantity	<u> </u>	Use	<u> </u>	Period of Use From <u> </u>	To <u> </u>
Quantity	<u> </u>	Use	<u> </u>	Period of Use From <u> </u>	To <u> </u>

(4) 0.50 cfs TOTAL QUANTITY USED.
(cfs, af)

(5) A) Point of diversion: (Location of point where water is diverted from its source)
SW ¼ SW ¼, Sec. 35 Twp. 6S Rge. 13E B.M., County of Gooding
 Additional points of diversion:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Check dam & pipeline replaced original headgate & ditch in about 1970.
Same land is still watered (no acreage increase).

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

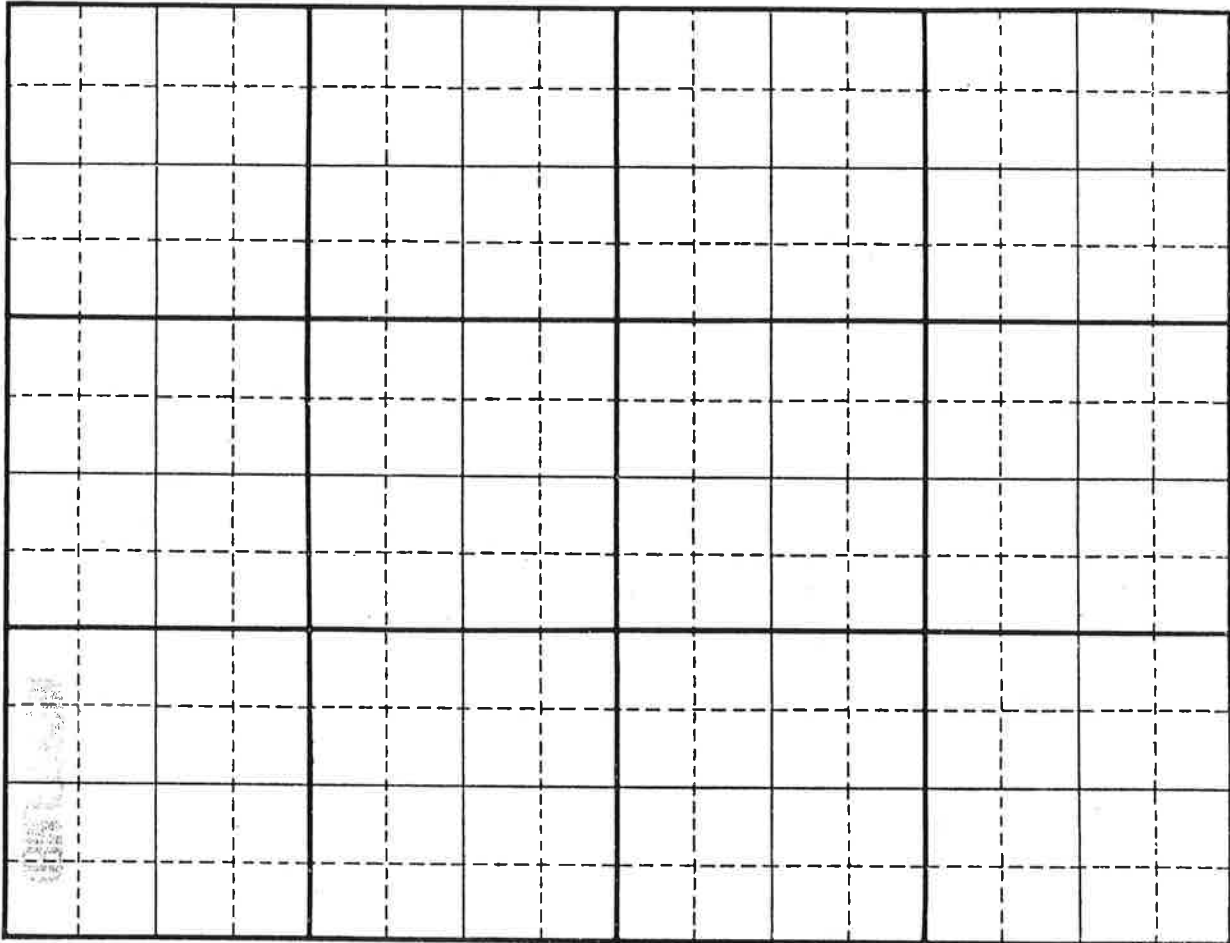
No. of acres 7

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: _____

NOTE: Include here the type and number of stock watered: _____

(7) If you are claiming water as a member of an organization, list name of organization: _____

(8) Remarks Flow rate is based on 20 11/64" Rainbird nozzles at 50 psi (gravity sprinkler system).



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.

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

Douglas J. E. Egan
(Claimant)

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

My commission expires Life

FOR DEPARTMENT USE ONLY

Received by J. E. Egan Date 6-29-83 Exception filed by: _____ Forwarded to _____ Date _____
Prelim. check by J. E. Egan Date 6/30/83
\$30.00 fee received by J. E. Egan Date 6-29-83 #29065
Published in Gooding Co. Record
Dates 8/31 9/1/83

HAGERMAN QUADRANGLE

IDAHO

7.5 MINUTE SERIES (TOPOGRAPHIC)

3069 IV NE
(GOODING BUTTE)

670 55' GLENN'S FERRY 25 MI.
BLISS 4.4 MI.

A. 13E

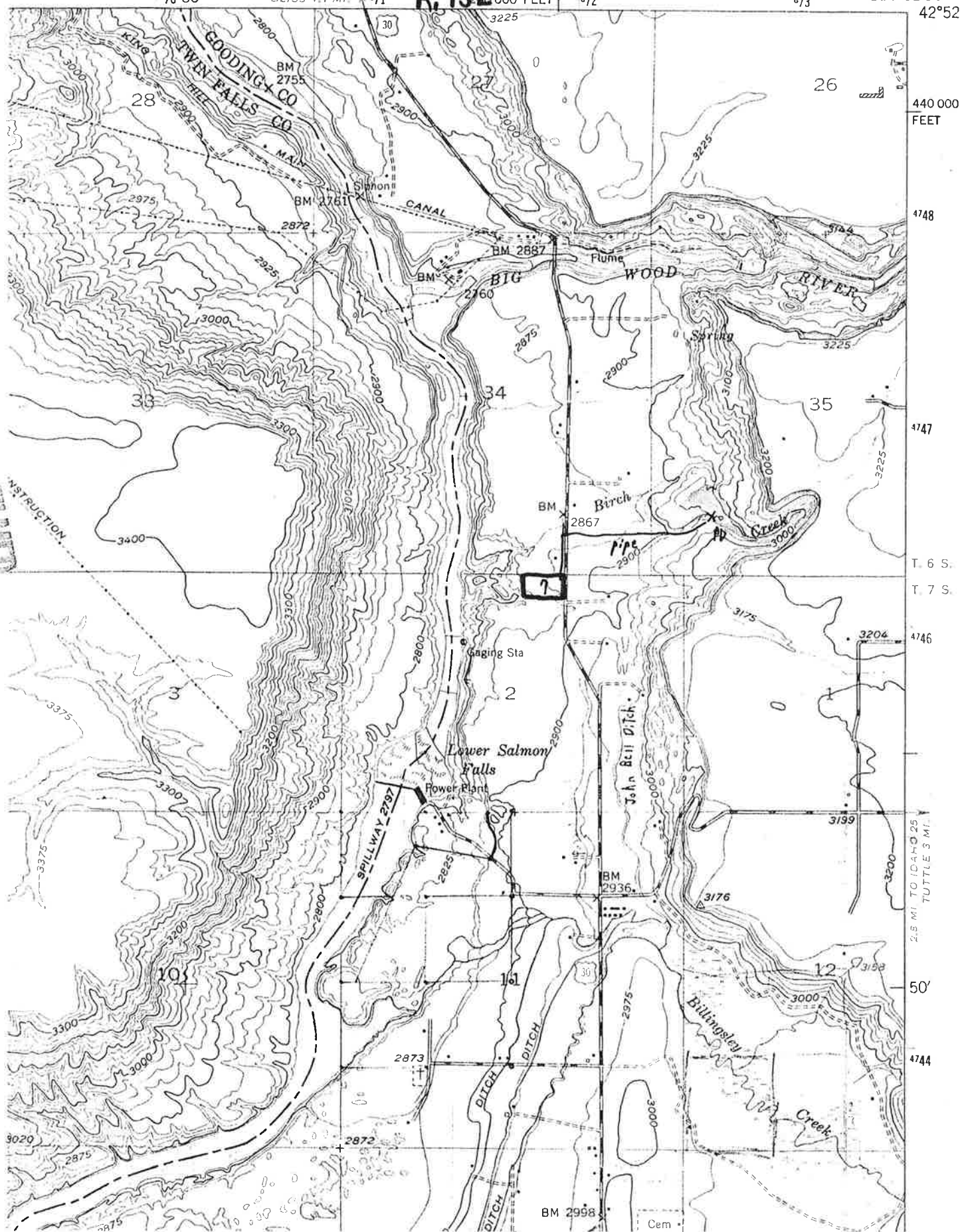
671 0000 FEET

672

673

114°52'30"

42°52'30"



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: A37-04366
Date Received: 8/23/1988
Receipt No: S001638
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: EARL M HARDY 208-342-0090
Address: 1301 VISTA AVE
BOISE, ID 83705

2. Date of Priority: JUN 1, 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	SW		GOODING

5. Description of diverting works:
CHECK DAM, PIPELINE

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		

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:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	2	SW	NE	2	IRR	7.0

Section Acres 7.0

Total Acres 7.0

A37-04366

Page 1

Date: 08/21/91

MICROFILMED
FEB 24 1993

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

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

MICROFILMED
FEB 24 1993



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see instructions on back of page)

RECEIVED

AUG 21 1991

Department of Water Resources

DATE OF CLOSING: _____

LEGAL DESCRIPTION OF PROPERTY: Township _____ Range _____
 Section _____, 1/4 of _____ 1/4 of _____ 1/4 Govt. Lot _____, BM.
 Lot _____, Block _____, Subdivision/Townsite _____
 If you have additional legal descriptions, please attach separate sheet.

☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)

☐ Water Right Number(s) 37-14265 - Renumbered
 Assigned by IDWR: A 36-10912 and A 37-04366

☐ Name and Address of Former Owner/Claimant(s)(Seller): Douglas Eigan
Box 82

☐ New Owner/Claimant (Purchaser): Gooding, Idaho
Earl Hardy

☐ New Mailing Address: 1301 Vista Ave
Boise, Idaho 83705

☐ New Telephone Number: (208) 342-0090

☐ Does the change in ownership result in a splitting of the water right owned/claimed? yes ☒ no
 If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

☐ Attach proof of ownership, describe proof attached: Copy of warranty Deed

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

☐ Signature of New Owner/Claimant(s) Earl Hardy Date 8/19/91

Date

☐ Signature of Former Owner/Claimant(s): _____ Date _____

Date

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: 8-21-91 By: JB

Further Action Needed:

Further Action Taken

Date: 8-21-91 By: JB

Final Review and Data-Entry

Date: 8-21-91 By: JB

Claim Numbers of Split, if any:

Original to be mailed to Idaho Department of Water Resources
 Copies to Former Owner and New Owner

MICROFILMED
 FEB 24 1993

Change claim 36-10912 to 37-14265 (claimed in wrong Basin)

WARRANTY DEED

RECEIVED
AUG 21 1991

For Value Received

DOUGLAS L. ELGAN and CLARELYN ELGAN, husband and wife Department of Water Resources

the grantors, do hereby grant, bargain, sell and convey unto

EARL M. HARDY, a married man as his sole and separate property
the grantee, whose current address is 1301 Vista Avenue, Boise, Idaho 83705

the following described premises, in Gooding County Idaho, to-wit:

"SEE ATTACHED EXHIBIT A"
(Consisting of 1 Page)

Together with Grantors one-half remaining interest in and to the
irrigation water main pipe lines and Grantors one-third remaining
interest in and to the domestic water main pipe lines all situated
on or appurtenant to Parcel no. 1, together with Grantors interest
in and to the water rights associated with said main pipe lines.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee,
his heirs and assigns forever. And the Grantors do hereby covenant to and
with the said Grantee, that they are the owners in fee simple of said premises; that they are free from all
taxes, levies and assessments, and except

MICROFILMED
FEB 24 1993

EXHIBIT A

Parcel No. 1

Township 7 South, Range 13 East of the Boise Meridian,
Gooding County, Idaho.

Section 2: Part of Lot 2 described as follows:

BEGINNING at the North quarter corner of Section 2, the true point
of beginning;
Thence N 89°47'20" E, 739.22 feet along the North boundary of Section 2
to the Westerly Right-of-way of U.S. Highway 30, State Highway
Project No. F 2361(18);
Thence S 0°42'29" E, 191.80 feet to a concrete Right-of-way monument,
marked "50' Rt. Sta. 221 + 97.10 P.S.C.";
Thence S 4°17'29" E, 313.53 feet along the chord of a 1°30' curve left
having a radius of 3869.17 and an arc length of 313.61 to a concrete
Right-of-way monument marked "50' Rt. Sta. 225 + 07";
Thence S 0°15'57" W, 112.82 feet to a point on the Westerly Right-of-way
of said Highway;
Thence N 82°05'32" W, 68.11 feet to the center of a certain stream;
Thence continuing along said stream the following courses:
N 58°07'45" W, 179.13 feet;
N 28°10'07" W, 73.71 feet;
S 72°29'05" W, 83.65 feet;
N 82°48'56" W, 111.87 feet;
N 21°03'11" W, 131.78 feet;
Thence departing from center of said stream S 53°13'39" W, 66.55 feet
along the top of a rim rock;
Thence S 58°06'45" W, 164.96 feet along said rim rock;
Thence S 41°06'12" W, 113.94 feet along said rim rock to a point in
the Westerly boundary of Lot 2;
Thence N 0°24'56" W, 546.67 feet along said Westerly boundary of Lot 2
to the true point of beginning.

Parcel No. 2

Easement for ingress and egress for benefit of Parcel (1) as created by
deed by the State of Idaho, recorded May 23, 1974 as microfilmed instrument
No. 50419, records of Gooding County, over and upon the following described
land: A parcel of land 30.0 feet in width, to, from, and between the right
of way of the public way identified as U.S. Highway No. 30, Project No.
F-2361(18) Highway Survey as described in that certain Warranty Deed
dated July 6, 1962, recorded August 3, 1962, as microfilmed instrument No.
5263, records of Gooding County, State of Idaho, and the abutting property
being on the right (Westerly) side of the Highway opposite and centering
on Station 220+88 of said Highway Survey, and that no additional approaches
will be allowed between Station 220+13.6 (Northerly property line) and
Station 226+35 (Southerly property line) of said Highway Survey.

IN THE COUNTY OF GOODING, STATE OF IDAHO

Together with all water and water rights, ditches and ditch rights used
thereon or appurtenant thereto including but not limited to NOTICE OF
CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW Ident. Number A36-10912
and NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW Ident.
Number A37-04366 in accordance with the general adjudication of rights
to the use of water from the Snake River Basin Water System.

MICROFILMED
FEB 24 1983
16 DEC 1980
DJE

TELEPHONE & VISITOR LOG

Date: 8-19-91

Time: _____

Call ☒ Visit ☐

Name: EARL M. HARDY

Address: 1301 Nista Ave
Boise ID 83705

Phone No.: 342-0090

Claim No(s): A37-14265 A37-04366 A65-10316 A65-10317

=====

RE: DO NOT INCLUDE IN "NOTICE OF APPEARANCE" for Bill Ringert

Conversation: Mr. Hardy stated to me that the above
4 Claims should NOT be included in ^a ~~any~~ Notice
of Appearance at this time. He wished that
all correspondence and Notices be sent to him
personally.

=====

Action Required:

file copy of this Phone log in each file **B**

MICROFILMED
FEB 24 1993



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

August 22, 1991

R. KEITH HIGGINSON
DIRECTOR

Earl M. Hardy
1301 Vista Ave.
Boise, ID 83705

RE: Snake River Basin Adjudication (SRBA)
Gooding County - Notices of Claim #A37-14265
and A37-04366

Dear Mr. Hardy:

Thank you for returning the change of ownership for the Notices of Claim to the property you recently purchased from Mr. Douglas Elgan. I have completed the processing of the ownership change and copies of the two Claims are enclosed. As we discussed during our phone conversation August 19, 1991, I have changed the Identification number for your Notice of Claim to a Water Right #A36-10912. The new number for this claim is now A37-14265.

The Idaho Department of Water Resources assigns "administrative basin numbers" that represent a particular geographic area within the state. The "basin number" is used as a part of the identification number of the water right and is determined by the location of the point of diversion. During review of your change of ownership, it was discovered that your water right is diverted in "Basin 37" instead of "Basin 36". This change does not affect your claim in any other way.

I did notice that your Warranty deed references this Notice of Claim to a Water Right under the "Basin 36" number. You may wish to make a note about the change to the above "Basin 37" number. In all future inquiries or correspondence please refer to the new identification number. Please do not hesitate to contact me if you have any questions.

Sincerely,

Anna Baumhoff
Sr. Water Resource Agent
Adjudication Bureau

ALB:sf:south
Enclosures:

Copies of Claim #A37-04366
and A37-14265

MICROFILMED
FEB 24 1993

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: A37-04366
Date Received: 8/23/1988
Receipt No: S001638
Received By: lw

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DOUGLAS L. ELGAN 208-934-4509
Address: P.O. BOX 82
GOODING, ID 83330

AND/OR

Name: CLARELYN ELGAN 208-934-4509
Address: P.O. BOX 82
GOODING, ID 83330

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

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		

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:

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07S	13E	2	SW NE	2	IRR	7.0
Section Acres						7.0
Total Acres						7.0

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:

14. Remarks:

15. Basis of Claim: STATUTORY CLAIM

MICROFILMED
FEB 24 1993

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): *Deafes J. Egan* Date: 23 Aug '88
Date:

State of Idaho)
County of TF) SS.

Subscribed and sworn (or affirmed) before me this 23rd day
of August 19 88 *Tom White*
Notary Public

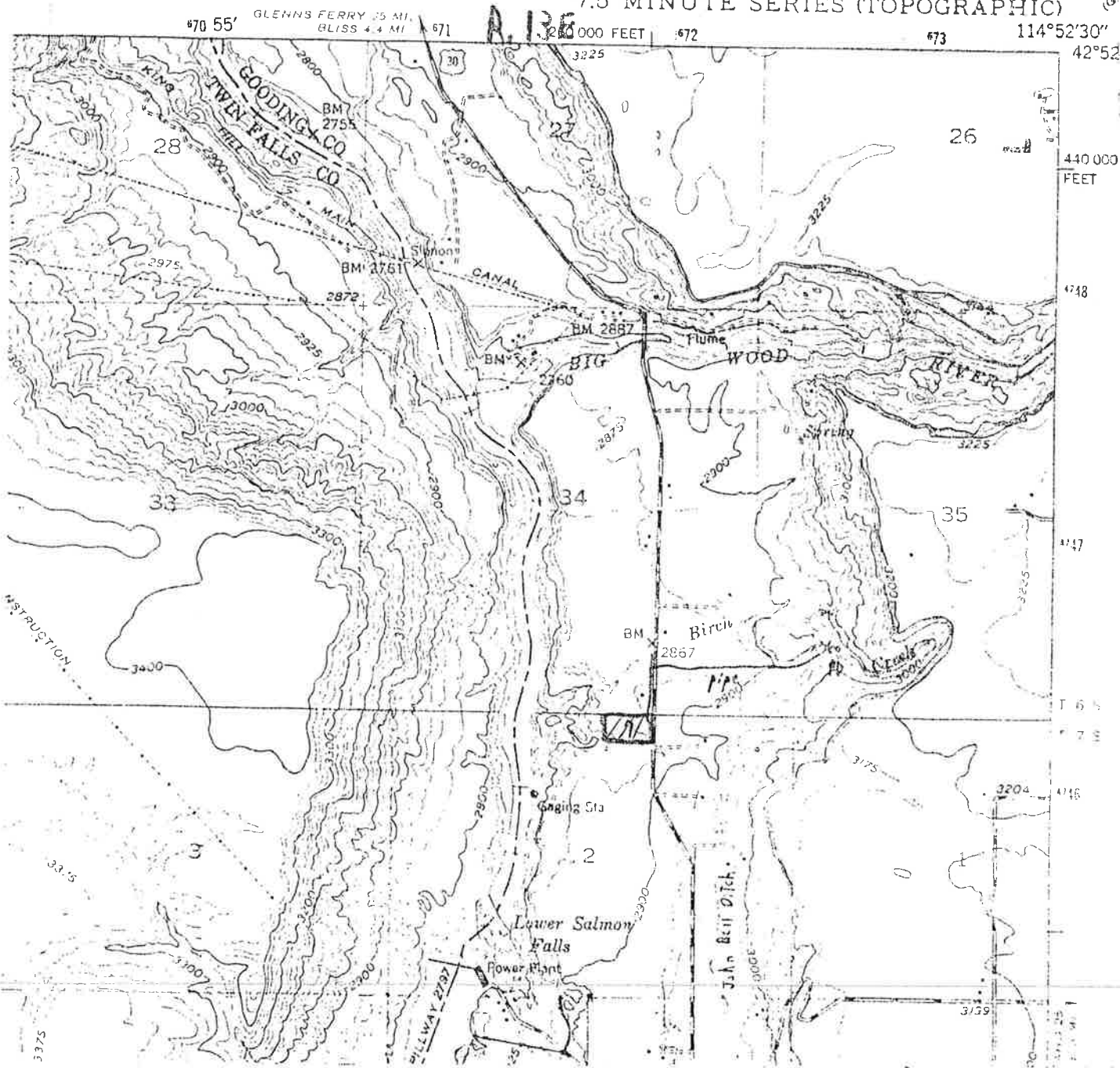
Seal

Residing at TF
My Commission Expires 5/95

37-41366

HAGERMAN QUADRANGLE
IDAHO

7.5 MINUTE SERIES (TOPOGRAPHIC)



State of Idaho

County of Twin Falls

MICROFILMED
FEB 24 1993

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.

[Handwritten signature]
(Claimant)