

12/11/2006

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

RIGHT NUMBER: 75-4042

NAME AND ADDRESS: UPPER GIBBONSVILLE WATER ASSOC
C/O IRA D. TAYLOR
82 GIBBONSVILLE ROAD
GIBBONSVILLE ID 83463

SOURCE: DAHLONEGA CREEK

TRIBUTARY: NORTH FORK SALMON RIVER

QUANTITY: 0.400 CFS

PRIORITY DATE: 10/09/1901

POINT OF DIVERSION:

T26N R21E S25 SENE Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	1/01 12/31	0.400 CFS

PLACE OF USE: DOMESTIC in LEMHI County

T26N R21E S25	SWNE	T26N R21E S25	SENW
---------------	------	---------------	------

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

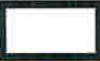


Idaho Department of Water Resources

SRBA Claim:

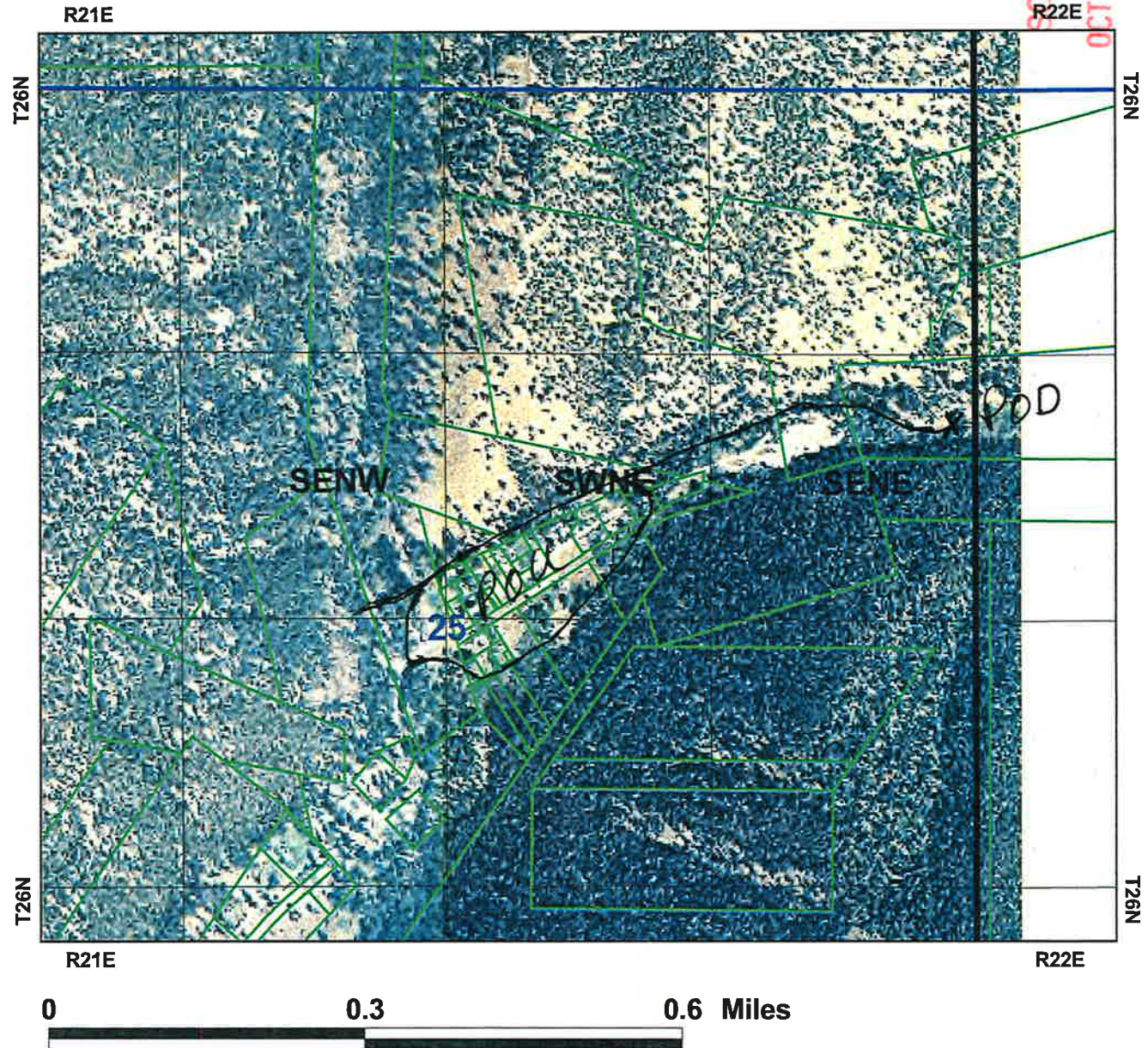
75-4042

Legend

-  Townships
-  PLS Sections
-  Quarter Quarters
-  Parcels



Lemhi County
IDWR Basin 75



Prepared by R. Brown
On Friday, May 19, 2006
1987/88 Aerial Photography

SRBA

SUBCASE SUMMARY REPORT 75-04042

[Return to SRBA Home Page](#)

SRBA
10-31-2006

SUBCASE SUMMARY REPORT

HTML12

SUBCASE: 75-04042 FILE#: 00153
CLAIMANT: UPPER GIBBONSVILLE WATER ASSOC
C/O WAYNE RANDOLPH
BOX 1

GIBBONSVILLE ID 83463
STATUS: WAITING DIR'S RPT SPECIAL MASTER: MELANSON, JOHN M
WATER SOURCE: DAHLONEGA CREEK TRIBUTARY: SALMON RIVER, NORTH FORK

**** PARTIES INVOLVED ****

NO ACTIVE PARTIES TO THE SUBCASE

**** ROA ENTRIES ****

09-15-2000	PARTIAL DECREE FILED		09-15-2000
11-24-2000	CORRESPONDENCE FROM IDWR		
11-30-2000	COPY OF CORRESPONDENCE TO CLAIMANT FROM IDWR RE: NECESSITY OF WRITTEN REQUEST TO CORRECT PARTIAL DECREE		
12-06-2000	MOTION TO SET ASIDE PARTIAL DECREE	MG	03-23-2001
12-18-2000	NOTICE SETTING HEARING ON MOTION TO SET ASIDE P/D LOCATION-----AMERICAN FALLS	HV	03-20-2001 0130
01-10-2001	NOTICE RESETTING HEARING: MOTION TO SET ASIDE	HS	03-22-2001 0130
03-22-2001	HEARING HELD ON MOTION TO SET ASIDE PARTIAL	HH	03-22-2001 0130
03-23-2001	ORDER SETTING ASIDE PARTIAL DECREE IRCP 60A		
03-23-2001	ORDER REQUESTING DIRECTOR'S REPORT	ZZ	12-31-2004 0500

[Return to SRBA Home Page](#)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WESTERN REGION ADJUDICATION SECTION
CLAIM VERIFICATION FIELD EXAM SHEET
(Use with the ECVR)

CLAIM NO(s). A75 04042

1. ☒ No Change NAME IS SAME

☐ NEW OWNER:

☐ No Change ADDRESS

☒ NEW ADDRESS:

2. ☐ No Change - DATE OF PRIORITY: Completed evidence submitted

☐ Incomplete - Claimant should be asked during the exam when was water first used and submit proof of date of priority.

Priority date, per claimant, is: _____

(If the priority date, based on your exam, seems questionable, explain below.)

3. ☒ No Change — SAME SOURCE

☐ Source is different than that claimed:

Source found: _____

4. ☒ No Change — POINT OF DIVERSION

☐ Point of diversion is different than the claim and/or new P/D's:

Township A0017075 Range GPS 112 Section 1/4 1/4 1/4

Township Range Section 1/4 1/4 1/4

5. ☒ No Change - DESCRIPTION OF DIVERTING WORKS

☐ Incomplete description, list below:

Recommendation
Version # 2

6. ☒ No Change - WATER USES
☐ Different uses, (list uses found):

Use _____	From _____	To _____	Amount _____	CFS _____	AFA _____
Use _____	From _____	To _____	Amount _____	CFS _____	AFA _____
Use _____	From _____	To _____	Amount _____	CFS _____	AFA _____

7. ☐ No Change - TOTAL VOLUME

☐ Incomplete on claim, the total is, Amount _____ CFS _____ AFA

☐ Changes found, the new total is, Amount _____ CFS _____ AFA

8. ☒ No Change - NON-IRRIGATION USES:

☐ Changes Exam found:

Domestic # of homes: _____ Stock # _____ List types: _____

Additional comments: _____

9. ☒ No Change — PLACE OF USE: (If changed, list below.)

Use: _____	Township _____	Range _____	Section _____	1/4 _____	1/4 _____
Use: _____	Township _____	Range _____	Section _____	1/4 _____	1/4 _____
Use: _____	Township _____	Range _____	Section _____	1/4 _____	1/4 _____
Use: _____	Township _____	Range _____	Section _____	1/4 _____	1/4 _____

Remarks: (Comments pertinent to field examination) ☐ See additional attachment

Irrigation of Lawns and gardens for the people in Upper Gibbonsville

☐ SYSTEM DIAGRAM INCLUDED ☐ NA

☐ Shown on GIS Layout

☐ CK IF IN OFFICE EXAM

DATE EXAM CONDUCTED: _____

FIELD EXAMINER: _____

Print Name
Jack F. Ellis
Signature

SCANNED

OCT 22 2009

SCANNED

OCT 05 2001 RECEIVED

MAR 26 2001

East
File

2001 MAR 23 PM 3:48

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
Department of Water Resources
FILED T-SRBA
CO., IDAHO

In Re SRBA	)	Subcase: <u>75-04042</u>
	)	
	)	ORDER SETTING-ASIDE PARTIAL
	)	DECREE
Case No. 39576	)	
	)	ORDER REQUESTING
	)	DIRECTOR'S REPORT

I.

PROCEDURAL HISTORY

1. On September 15, 2000, this Court issued a *Partial Decree Pursuant to I.R.C.P. 54(b) for Water Right 75-04042*, attached hereto as Exhibit A. This water right had been reported by the Idaho Department of Water Resources in the *Director's Report for Domestic and Stockwater, Reporting Area 23, IDWR Basin 75*, filed with the Court on December 7, 1998. Since no objections were filed to the *Director's Report* for this water right, the *Partial Decree* was issued as a matter of course pursuant to Idaho Code § 42-1412(7).

2. On November 24, 2000, this Court received a letter from Candice McHugh, Deputy Attorney General with the Idaho Department of Water Resources regarding the above-captioned water right number. The letter stated that "this water right was erroneously reported in the director's report for domestic and stockwater for basin 75 and should have been investigated as an irrigation and other right."

3. On November 30, 2000, this Court received a copy of a letter from Candice McHugh to the Upper Gibbonsville Water Association (claimant of the above-captioned water right), C/O Wayne Randolph, which informed the claimant that the water right had been erroneously reported and requested that the claimant write to the Snake River Basin Adjudication Court to advise the Court of the problem.

4. On December 6, 2000, this Court received a letter from Cathleen R. Bigelow, on behalf of her parents Julia I. Randolph and Wayne A. Randolph, stating among other things that the above-captioned water right "was established for multiple property owners in Upper Gibsonville, eight in all, including my father." Although not styled as such, this Court considers Ms. Bigelow's letter to be a motion to set aside the aforementioned partial decree.
5. On March 20, 2001, a hearing on the matter was held.

III.

ORDER

Based upon the representations made in the correspondence described above and GOOD CAUSE APPEARING THEREIN, it is HEREBY ORDERED:

1. That the *Partial Decree Pursuant to I.R.C.P. 54(b) for Water Right 75-04042*, issued on September 15, 2000, is set-aside.
2. That the recommendation for water right 75-04042 found in the Director's *Report for Domestic and Stockwater, Reporting Area 23, IDWR Basin 75* (filed on December 7, 1998) at page A-94, is declared to be without effect.
3. That the claim for water right 75-04042 shall be investigated and reported by IDWR in the forthcoming director's report for irrigation and other water rights in basin 75, which is scheduled to be filed in 2004.

IT IS SO ORDERED:

DATED: 3-23-01


Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

CERTIFICATE OF MAILING

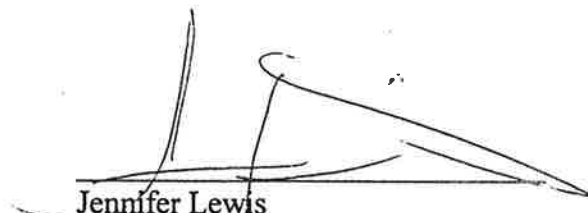
I certify that true and correct copies of the **ORDER SETTING-ASIDE PARTIAL DECREE/ ORER REQUESTING DIRECTOR'S REPORT** were mailed on March 23, 2001, with sufficient first-class postage, to the following:

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

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

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

Upper Gibbonsville Water Association
C/o Wayne Randolph
PO Box 1
Gibbonsville, ID 83463



Jennifer Lewis
Deputy Clerk of the Court
Snake River Basin Adjudication

RECEIVED

Jan. 31, 2001

FEB - 5 2001

Department of Water Resources

Idaho Dept. of Water Resources
1301 North Orchard St., P. O. Box 83720
Boise, Idaho 83720-0098
Attn: IDWR Eastern Region Adjudication Supervisor Ernie Carlsen

Re: Water Right 75-04042

Dear Mr. Carlsen,

Water Right 75-04042 is an "irrigation and other" water right held by the Upper Gibbonsville Water Association. Please be advised of the following changes in names of said Association.

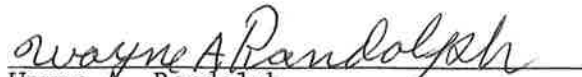
1) Original persons in Association, April 1990:

Boyd CLARK(moved)
Jim JOHNSON
Arthur BEVAN(now deceased)
Frances MACK(moved)
Bob MILLER(now deceased)
Ira TAYLOR
Roger STOVER
Leslie BEAVERS
Wayne RANDOLPH

2) Please add to the list of participants in the Upper Gibbonsville Water Association:

Brad FROEMKE
Owen LEMASTER
Brian SOPATYK
Candis Donicht

Sincerely,


Wayne A. Randolph
80 Gibbonsville Rd.
Gibbonsville, Idaho 83463

RECEIVED

FEB 08 2001

Department of Water Resources
Eastern Region

MEMORANDUM

TO: CANDICE MC HUGH
FROM: ERNIE CARLSEN
DATE: NOVEMBER 21, 2000
RE: 75-04042, PARTIAL DECREE

On October 4, 2000, Mrs. Randolph contacted me concerned that the partial decree for 74-04042 contained a remark limiting the domestic use to 13,000 gallons per day in association with one home. The rate of diversion for the domestic use was decreed at 0.40 cfs (ten times the typical rate of diversion for domestic use). At Mrs. Randolph's request I verified that the SRBA Claim as originally filed did not show one home nor the 13,000 gallon a day limitation. In talking with Mrs. Randolph she confirmed the water from Dahlonga Creek was used to irrigate several residential lots in Gibbonsville. For this reason she felt IDWR should remove the reference to 1 home and the 13,000 gpd limitation. I explained that changing the record was now driven by procedures established by the SRBA Court and suggested she contact the Court for instructions on requesting the partial decree be set aside. I also advised her that if the water was being used to irrigate several residential lots of different ownership that the use should be changed to irrigation, especially if the amount of irrigation exceeded ½ acre. She expressed opposition to such a change.

Subsequent to this telephone conversation, I researched IDWR records and located a Claim to Water Right filed under Section 42-243, Idaho Code. The claim identified by number 75-04042 was filed in 1985 in the name of Gibbonsville Improvement Assn. The was filed for 0.40 cfs used for domestic purposes with the explanation that domestic use included drinking water for livestock and irrigation of lawns, gardens etc. Item 6 lists the total number of acres as 200. Though it is unclear if that means 200 irrigated acres or the area serviced contains 200 acres. The number of residential lots receiving water is not identified on the claim. Because this claim was based on beneficial use, IDWR did not investigate the its accuracy.

In retrospect this claim should not have been reported to the Court for partial decree. Eastern Region utilized a contractor to review the domestic and stock water claims. However only claims for diversion rates of 0.24 cfs were to be reviewed and efforts were made to exclude claims with diversion rates greater than this amount. Unfortunately, this claim was somehow not excluded for those given to the contractor. In his examination of thousands of claims it is reasonable for him to look at 0.40 cfs and register 0.04 cfs. At 0.04 cfs 99.9% of the claims were for a single household. Consequently, the claim number was added to a list of claims that programmatically were modified to list "1 home" under non-irrigation uses and contain the remark limiting the daily usage to 13,000 gallons.

I concur with Mrs. Randolph that the partial decree should be set aside and reference to 1 home and the 13,000 gpd limitation removed. However, with a diversion rate of 0.40 cfs and water being used on several residential lots owned by different individuals, the purpose of use should also be modified to state irrigation.

CONVERSATION MEMO

October 4, 2000

To: 75-04042

From: Ernie Carlsen

Re: Error in Partial Decree

Mrs. Randolph called with a concern about the remarks listed on the partial decree for 75-04042. This claim was filed to record the use of 0.4 cfs of water from Dahlonga Creek for irrigation of lots in Gibbonsville. The use listed on the claim is domestic and with a fee of \$90.00. The partial decree say incorrectly states domestic 1 home with a 13,000 gpd limit. I suggested Mrs. Randolph call the SRBA Court to find out how she can initiate changing the partial decree. My opinion is the claim should be for irrigation not domestic.

SCANNED

OCT 05 2001

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: A75-04042

Date Received: 4/18/1990

Receipt No: MO06664

Received By: DC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: UPPER GIBBONSVILLE WATER ASSOC. 208-865-2261
Address: C/O WAYNE RANDOLPH
BOX 1
GIBBONSVILLE, ID 83463

2. Date of Priority: OCT 09, 1901

3. Source: DAHLONEGA CREEK Trib. to: SALMON RIVER, NORTH FORK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
26N	21E	25	SE	NE			LEMHI

5. Description of diverting works:
DAM TO DITCHES TO GRAVITY SPRINKLER SYSTEM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.400		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
D/ LAWN GARDEN IRRIGATION

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
26N	21E	25	SW	NE		DOMEST	
			SE	NW		DOMEST	

A75-04042

Page 1

Date: 04/18/90



MICROFILMED

DEC 15 1992

11. Place of use in counties: LEMHI

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

Number of attachments: 1

For Organizations:

I do solemnly swear or affirm that I am The Water Master of
Upper Gibbonsville Title
Water Assn Organization, that I have signed the foregoing
document in the space below as The Water Master of
Upper Gibbonsville Title
Water Assn Organization and that the statements contained in the
foregoing document are true and correct.

Wayne A Randolph
Signature of Authorized Agent
Upper Gibbonsville
Water Assn
Title and Organization
4-18-1990
Date

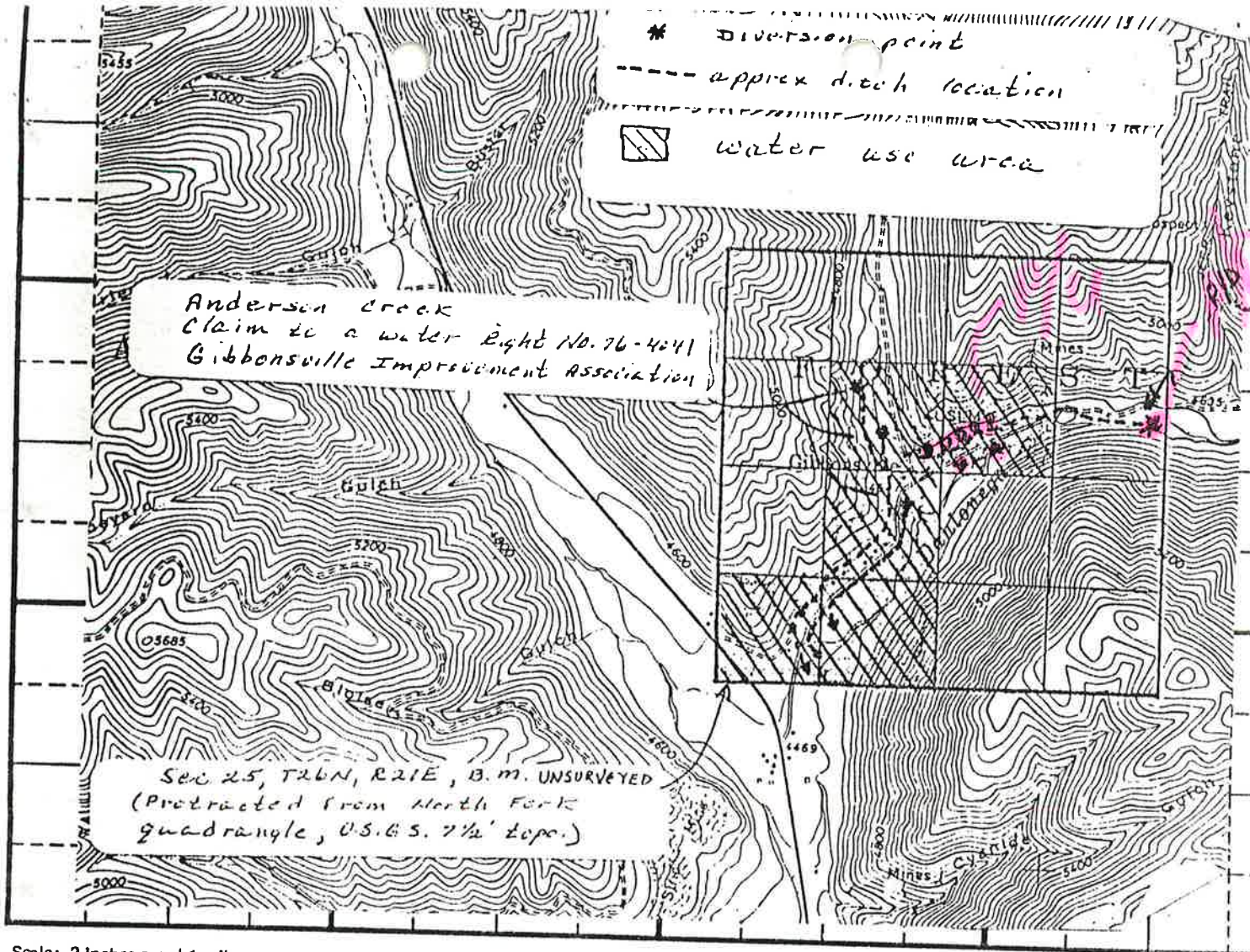
State of Idaho)
County of Lamhi) SS.

Subscribed and sworn (or affirmed) before me this 18 day
of April 1990

Dane Carls
Notary Public

Seal

Residing at Heise, Id
My Commission Expires 2/26/96



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 Lemhi) 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 16 day of September, 1985.

Max B. Ray
(Claimant)

Alberta McVerrick
Notary Public
Residing at Salmon

My commission expires 6/14/86

MICROFILMED
DEC 15 1992

FOR DEPARTMENT USE ONLY
Received by nee Date 9-23-85 Exception filed by: _____ Forwarded to claimant by: _____
Prelim. check by Ln Date 9-23-85 Date _____
~~\$30.00~~ fee received by Ln Date _____

AJ0749NP
No. R75-04042

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 09/21/98
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	UPPER GIBBONSVILLE WATER ASSOC C/O WAYNE RANDOLPH BOX 1 GIBBONSVILLE ID 83463 (208) 865-2261	10/09/1901	DOMESTIC	01-01 12-31	0.40 CFS	
				TOTAL DIVERSION:	0.40 CFS	

Water Source: DAHLONEGA CREEK

Tributary to: SALMON RIVER, NORTH FORK

Stage: BENEFICIAL USE

Point(s) of Diversion: T26N R21E S25

SENE

LEMHI County

Place of use Legal Description for: DOMESTIC

		NE				NW				SW				SE			
T	R S	NENE Lt Ac	NWNE Lt Ac	SWNE Lt Ac	SENE Lt Ac	NENW Lt Ac	NWNW Lt Ac	SWNW Lt Ac	SENW Lt Ac	NESW Lt Ac	NWSW Lt Ac	SWSW Lt Ac	SESW Lt Ac	NESE Lt Ac	NWSE Lt Ac	SWSE Lt Ac	SESE Lt Ac
26N	21E 25			D					D								

POU County: LEMHI

Non-Irrigation Uses: 1 HOME

Other Rights: NONE

Conditions of Approval:

- N11 - THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
- DETERMINATION OF HISTORICAL BENEFICIAL USE.
- N13 - THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
- GALLONS PER DAY.

Remarks: EXP PARCEL NO. F00520000010

Dates: Exam Made Date: Verified Date: 09/21/1998 Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

Audit: 09/21/98 DSMITH

AJ5856NP

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

DATE: FEB-12-1998

PAGE: A-41

RIGHT NUMBER: 75-04042

NAME & ADDRESS: UPPER GIBBONSVILLE WATER ASSOC
C/O WAYNE RANDOLPH
BOX 1
GIBBONSVILLE ID 83463

SOURCE: DAHLONEGA CREEK TRIBUTARY: SALMON RIVER, NORTH FORK

QUANTITY: 0.4 CFS

PRIORITY DATE: 10/09/1901

POINT OF DIVERSION: T26N R21E S25 SENE Within LEMHI County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	DOMESTIC D/ LAWN GARDEN IRRIGATION	01-01 12-31	0.4 CFS

PLACE OF USE: DOMESTIC Within LEMHI County
T26N R21E S25 SWNE SENW

EXPLANATORY MATERIAL: BASIS OF CLAIM - STATUTORY CLAIM

F00520000010

Verified by: DMS Date: 9/8/98
Verification Source: 92 City Alpha