

01/11/2007

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

RIGHT NUMBER: 75-4088

NAME AND ADDRESS: FRANCES J WYLAND
197 TOWER CREEK RD
CARMEN ID 83462

WILFRED N WYLAND
197 TOWER CREEK RD
CARMEN ID 83462

SOURCE: TOWER CREEK

TRIBUTARY: SALMON RIVER

QUANTITY: 0.460 CFS

PRIORITY DATE: 03/19/1898

POINT OF DIVERSION:

T23N R22E S9 NWNW Within LEMHI County

T23N R22E S9 NWNW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/01 10/31

0.460 CFS

PLACE OF USE:

IRRIGATION in LEMHI County

T23N R22E S08

SENE

3.00

T23N R22E S09

SWNW

13.00

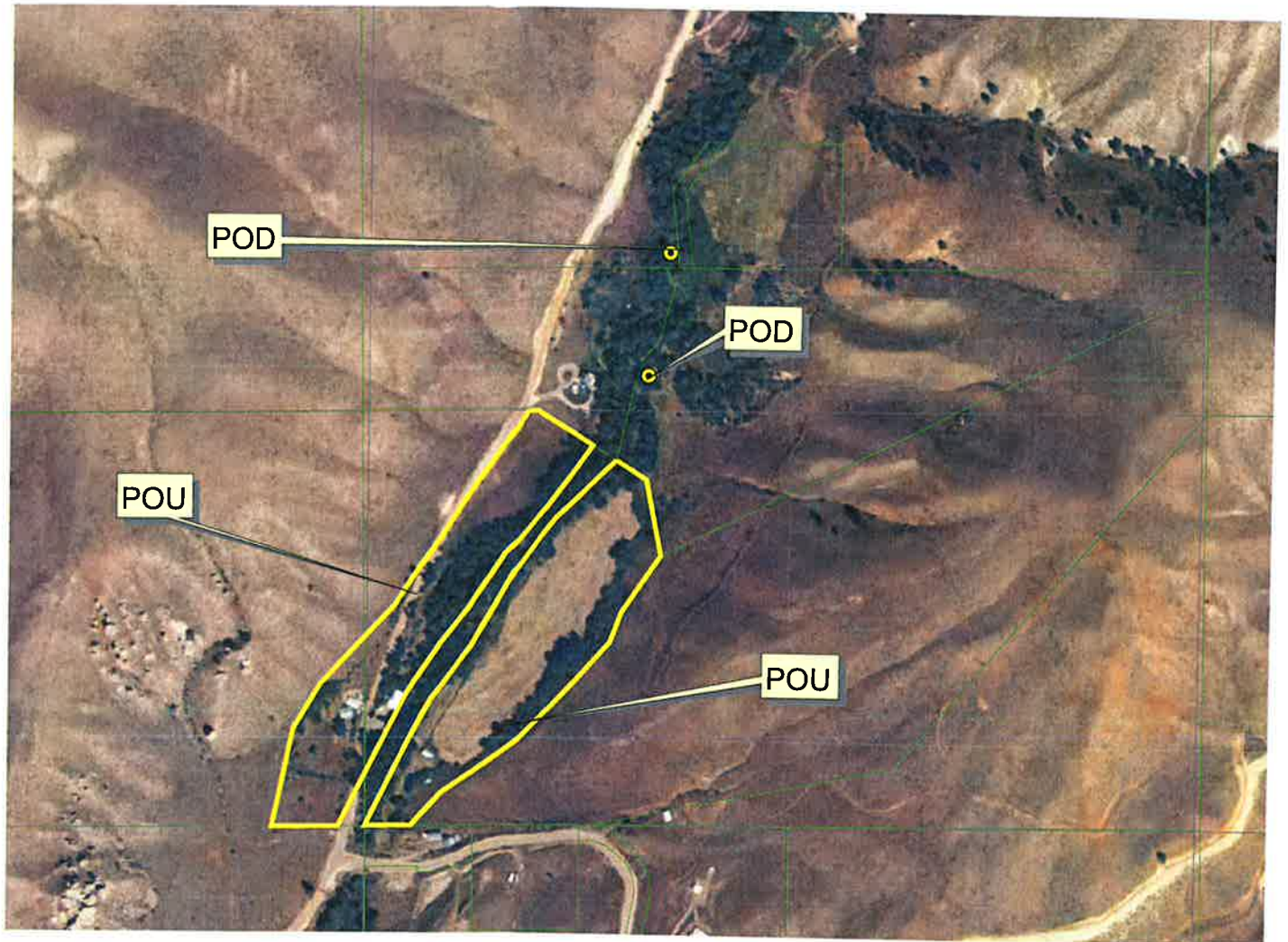
16 ACRES TOTAL

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.

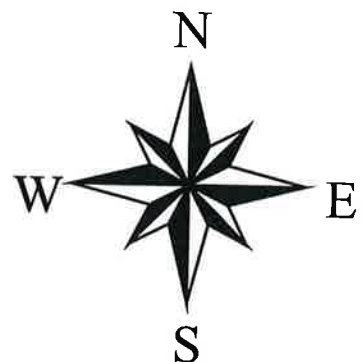
EXPLANATORY MATERIAL: BASIS OF CLAIM - Posted Notice

75-4088



0.2 0 0.2 0.4 Miles

-  Theme20.shp
-  Lemhi taxlots
-  GCDB23N22E GCDB
-  Theme19.shp
-  Foster.shp
-  Pod.shp
-  Administrative BasinsAdminbas.shp



IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT NO.:

75-4088

T23N R22E Sec. 8,9

LEGEND



Point(s) of Diversion



Place(s) of Use

#

Lot Numbers



Quarter Quarter Lines



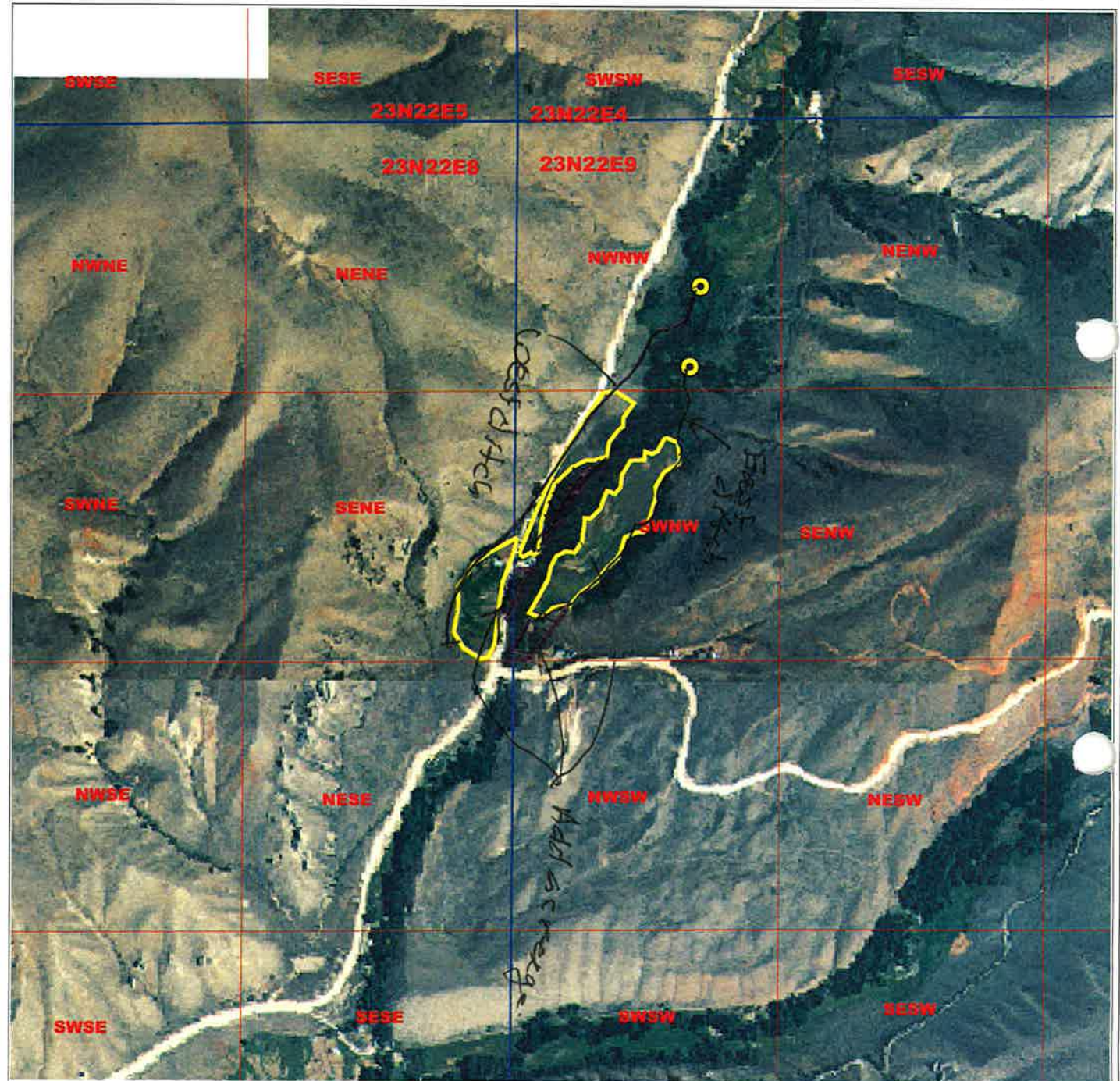
Section Lines

IMAGE

1993 True Color



Prepared By: Danielle Favreau
October 28, 2005



0.1 0 0.1 0.2 0.3 0.4 0.5 Miles

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT NO.:

75-4088

T23N R22E Sec. 8,9

LEGEND



Point(s) of Diversion



Place(s) of Use

#

Lot Numbers



Quarter Quarter Lines



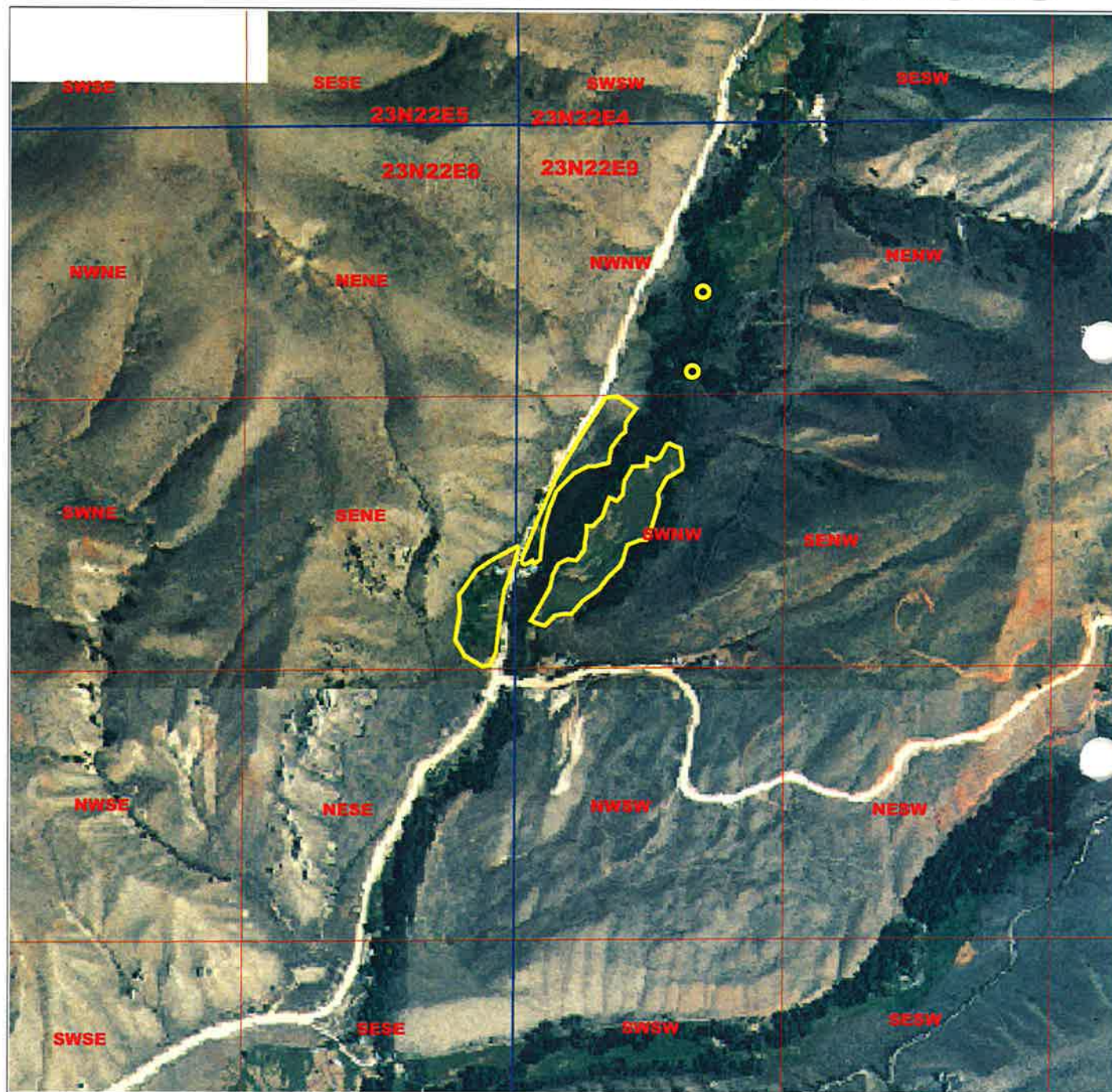
Section Lines

IMAGE

1993 True Color



Prepared By: Danielle Favreau
October 28, 2005



0.1 0 0.1 0.2 0.3 0.4 0.5 Miles



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800

Fax: (208) 762-2819

Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

January 11, 2007

FRANCES J & WILFRED N WYLAND
197 TOWER CREEK RD
CARMEN ID 83462

Re: Tower Creek Adjudication Recommendation

Dear Mr. & Mrs. Wyland:

Enclosed is a spreadsheet that summarizes recommendations filed with the SRBA court for claims for water from Tower Creek for properties that were settled in the 1890's or early 1900's. The claims had a wide array of priority dates and evidence in support of those priority dates was received. Some of you filed a Notice of Error in response to the Recommended Findings that were mailed out to claimants in November 2006. Some of you may have already received a response from us regarding your Notice of Error.

After looking at each right separately, we concluded that a more systematic approach to how recommendations were made was required. It seemed to us that it made sense to have the same priority date recommended for all of the property that was originally part of a single homestead. To that end we evaluated the Evidence of Priority information that was submitted and used the earliest date that we felt could be verified. In some cases documents were submitted that may reference dates earlier than what we have recommended, but the extent of development was not quantified. The spreadsheet lists the various water rights and the basis for the selection of the date used. Please note that you still have the option of filing an objection with the court if you disagree with these recommendations

If you have any questions please don't hesitate to contact us.

Sincerely


Robert G. Haynes P.E.
Regional Manager



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815
Phone: (208) 762-2800 Fax: (208) 762-2819 Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

December 10, 2006

Frances J. Wyland
197 Tower Rd.
Carmen, Idaho 83462

Re: Claim 75-4088

Dear Mr. Wyland:

Enclosed is a new map and a preliminary recommendation reflecting the comments you made on the Notice of Error Reply. After adjusting the boundary lines, the irrigated acreage increased from 12 to 16 acres. The diversion allowance also increased with the acreage, that includes a very liberal ditch loss allocation for 3,700 feet of ditch, constructed in porous gravelly soils. Only an overall diversion allocation of 0.46 cfs could be generated, not the 1.0 cfs as requested. Feel free to contact me if any of the changes are incorrect.

Sincerely,

Keith E. Franklin
Water Resources Agent

Encl/kf

West Ditch

Estimating Conveyance Loss using the Worstell Method

Claim No.

Formula: $S = (w)(i)(0.0667)$

Where: S = loss in cfs per mile

w = top width of the high water mark in feet

i = loss rate in feet per day (see Table)

Type of soil	i (ft/day)
medium clay loam	0.5 - 1.5
impervious clay	0.5
medium soils	1.0
somewhat pervious soils	1.5 - 2.0
gravels	2.5 - 5.0

Worksheet:

$$w = 12''$$

$$i = 2.0$$

$$\text{ditch length (mi.)} = 2100' = 0.4 \text{ miles}$$

Conveyance Loss:

$$S = (1)(3)(0.0667) = 0.20 \text{ cfs/mile}$$

$$\text{Loss} = 0.08 \text{ cfs}$$

$$(0.20 \text{ cfs/mile})(0.4 \text{ miles}) = 0.08 \text{ cfs}$$

$$(16.0 \text{ AC})(0.02 \text{ cfs/AC}) = 0.32 \text{ cfs}$$

$$\text{West ditch loss} = +0.08 \text{ cfs}$$

$$\text{East ditch loss} = +0.06 \text{ cfs}$$

$$\underline{\underline{0.46 \text{ cfs}}}$$

East Ditch

Estimating Conveyance Loss using the Worstell Method

Claim No.

Formula: $S = (w)(i)(0.0667)$

Where: S = loss in cfs per mile

w = top width of the high water mark in feet

i = loss rate in feet per day (see Table)

Type of soil	i (ft/day)
medium clay loam	0.5 - 1.5
impervious clay	0.5
medium soils	1.0
somewhat pervious soils	1.5 - 2.0
gravels	2.5 - 5.0

Worksheet:

$$w = 12'$$

$$i = 2.0 \text{ ft/day}$$

$$\text{ditch length (mi.)} = 1600' = 0.3 \text{ miles}$$

Conveyance Loss:

$$S = (1)(3)(0.0667) = 0.20 \text{ cfs/mile}$$

$$\text{Loss} = 0.06 \text{ cfs}$$

$$(0.20 \text{ cfs/mile})(0.3 \text{ miles}) = 0.06 \text{ cfs}$$

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: 12/13/2006

Water right number: 75-4088

FRANCES J WYLAND
197 TOWER CREEK RD
CARMEN ID 83462
Telephone Number: (208)756-2896

WILFRED N WYLAND
197 TOWER CREEK RD
CARMEN ID 83462
Telephone Number: (208)756-2896

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

A. QUANTITY, B. TOTAL ACRES

2. Describe the changes you wish to make in the proposed recommendation:

A. INCREASE TO 1.0 CFS

B. INCREASE TO 18 ACRES as per attached rate claim

C. ditch loss calculations

3. Give a brief explanation as to why you disagree with these portions:

SEE ATTACHED

____ I AGREE with this proposed recommendation: no changes need to be made.

DATE: *12-7-06*

SIGNATURE:

W. Wyland

Frances J. Wyland

Please print your name: *WILFRED N. WYLAND, FRANCES J. WYLAND*

197 Tower Creek Road
Carmen, ID 83462
Ph: (208) 756-2896
December 7, 2006

To: Idaho Dept. of Water Resources

Subject: Request IDWR to Change Recommendation on Water Rights 75-4088;

Thank you for the opportunity to respond to your "Preliminary Recommendation".

Background:

1. 1.50 cfs was awarded in 1898 to deedholder of property we now own. Over the years, the quantity was reduced to 0.5 cfs, the volume we had transferred to us in 1994. However, our research revealed that while annual irrigation was continually performed, the REQUIRED usage was never measured until June of 2005. At that time, a total of 1.48 cfs was in use. There has never been any complaints by neighboring water users.
2. Because it has not been possible to flow sufficient water to the southwest pasture (with all ditch diversions off), we have routinely applied bentonite to several areas with only limited and short-term success.
3. Since our purchase in 1994, we have planted over 450 trees and bushes, including many bearing fruit trees...all adding to the riparian value of the land. The property now attracts countless new bird species and harbors small mammals. Last year, we started a new 70'x50' vegetable garden, a small blue spruce tree farm and initiated a small grape vineyard.
4. We disagree with the preliminary figure of 0.27 fps on 12 acres.

Reasons for Disagreement:

1. We performed a simple sum of small areas exercise to estimate the total acreage needing irrigation. Granted it was not precise, but our result was approx. 18 acres.
2. The "rule of thumb" of 1 miner inch per acre we would believe is based on AVERAGE soil drainage, ditch lengths, area configuration, etc. Obviously all averages are based on a range, indicating that some irrigated areas would need less and some would need much more.
3. In our case, the long conveyance ditch for such a small quantity results in water losses to evaporation and above-average soil drainage (passing across several alluvial fans).
4. Additionally, the soils make up in the ditch, especially at the southern-most alluvial fan where the two southwest pastures are located have demonstrated serious water losses. Attempts to mitigate this problem (periodic digging/cutting out organic growth closer to the point diversion and employing bentonite where needed) have only helped a little. Obviously the lost water does not evaporate, but returns subterranean to Tower Creek.
5. We believe it would be a geophysical impossibility to flow 0.27 cfs from the upper diversion to the required southwest pastures to maintain adequate plant growth! All the 1 to 12 year old trees and plants would be lost! In addition, the greening of the east pasture would have to be limited to half its present acreage. Many trees would die off. We would have to quit summering a small amount of livestock. And obviously the riparian value would decline drastically on both sides, impacting the carrying capacity of wildlife throughout the year.

Conclusion:

We are proud to be good stewards of the land, and use our water resource wisely and without being wasteful. Our Riparian land value has been greatly increased over the years because of our research, diligence and constant hard work, adding incrementally to the beauty of our great State. We implore that you take all of the above facts into careful consideration in recommending our requested water needs of at least 1 cfs. Thank you.

Respectfully submitted,

Wilfred N. Wyland



Frances J. Wyland



197 Tower Creek Road
Carmen, ID 83462
Ph: (208) 756-2896
December 7, 2006

To: Idaho Dept. of Water Resources

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Frances J. Wyland



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Carmen, ID 83462
Ph: (208) 756-2896
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Respectfully submitted,

Wilfred N. Wyland



Frances J. Wyland



SNAKE RIVER BASIN ADJUDICATION
CHANGE IN ADDRESS OF NOTICE OF CLAIM

RECEIVED
SEP 02 2005
Department of Water Resources

Water Right Number(s): 75-04088

Previous Mailing Address: 2835 PARON LANE
IDAHO FALLS, ID 83402

New Mailing Address: 197 TOWER CREEK ROAD
CARMEN, ID 83462

Telephone Number: (208) 756-2896

Signature of all Claimant(s): Wilfred N. Wyland
WILFRED N. WYLAND

Please print your name below your signature.

Frances J. Wyland
FRANCES J. WYLAND

Please mail or FAX this completed form to the office nearest you:

Adjudication Bureau
Idaho Dept. of Water Resources
1910 Northwest Blvd., Ste. 210
Coeur d'Alene, ID 83814-2615
Ph. 208/769-1450 or
FAX 208/769-1454

Adjudication Bureau
Idaho Dept. of Water Resources
2735 Airport Way
Boise, ID 83705-5082
Ph. 208/334-2190 or
FAX 208/334-2348

Adjudication Bureau
Idaho Dept. of Water Resources
1341 Fillmore St., Ste. 200
Twin Falls, ID 83301-3380
Ph. 208/525-7161 or
FAX 208/736-3037

Adjudication Bureau
Idaho Dept. of Water Resources
900 N. Skyline, Ste. A
Idaho Falls, ID 83402-3653
Ph. 208/736-3033 or
FAX 208/525-7177

Adjudication Bureau
Idaho Dept. Of Water Resources
322 E. Front St.
P.O. Box 83720
Boise, Id 83720-0098
Ph 208/287-4800
FAX 208/287-6701

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

CLAIM NO(s). 75-4088

1. ☒ No Change NAME IS SAME

☐ NEW OWNER: _____

☐ No Change ADDRESS _____

☒ NEW ADDRESS: 197 Tower Creek RD. Carmen, ID 83462 208-756-2896

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:

GPS Site Tag No.: A0015053 Rps 66" T062115A A0015052 66" T062115B

Township 23N Range 22E Section 9 1/4 SE 1/4 SW 1/4 NW

Township 23N Range 22E Section 9 1/4 SE 1/4 SW 1/4 NW

5. ☒ No Change - DESCRIPTION OF DIVERTING WORKS

☐ Incomplete description, list below:

diversion in creek ditches to place of use

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 *See measurement*

☐ 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

☐ SYSTEM DIAGRAM INCLUDED

☐ NA

☒ Shown on GIS Layout

☐ CK IF IN OFFICE EXAM

DATE EXAM CONDUCTED: 6-21-05

FIELD EXAMINER:

Bob Foster

Print Name

Bob Foster

Signature

filename: c:\docs\forms\ditch flow computations upgraded.xls

Measurement done by: B. Foster

Location of measurement: Tower Creek 75-4088 Wyland lower diversion

Date of measurement: 6/21/2005

REW value: 1.00

LEW value: 3.10

Space between

readings (ft): 0.30

Note to user:

Make entries in cells without shading.

[illegible]

RECEIVED

SEP 02 2005

Department of Water Resources

197 Tower Creek Rd.
Carmen, ID 83462
August 29, 2005

Attn: R. Brown
Idaho Department of Water Resources
PO Box 83720
Boise, ID 83707-9815

RE: Priority Date Response

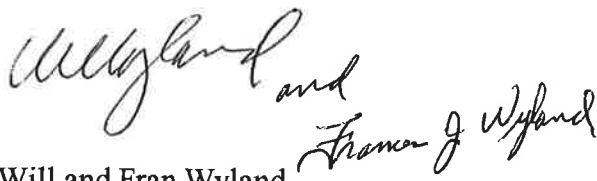
Dear Ms. Brown:

We just received your June 29th Evidence of Priority Date letter on August 27th, two days ago. It had been incorrectly sent to an old address. I had given Mr. Bob Foster my new address back on June 21st, but I have also enclosed the change of address form. Many times since mid-July we have requested a copy of the missing subject letter. Mr. Foster informed me that the Deadline would be extended. Thank you.

BECAUSE our research revealed a "posted" 1898 water right that was awarded to a 1905 purchaser of our existing property, we have been advised to file an AMENDED claim changing the priority date from 12/01/1911 to 3/19/1898. In addition, we have amended the water right category, volume, use by livestock and acres irrigated, all highlighted in yellow. An Affidavit from a grandson of the 1905 purchaser is provided to substantiate the pre-1905 development and beneficial use of the water. Copies of the 1898 water right, 1905 Deed, Affidavit, and a scaled map of irrigated acres are attached to the Amended claim forms.

THEREFORE, in response to your letter notifying us of the need to provide evidence to the priority date, we are amending our claim as indicated above, with evidence to support the earlier priority date. If this approach is improper or you have any questions, please call us as soon as possible. Our telephone number is: 208-756-2896. Thank you very much.

Respectfully submitted,


Will and Fran Wyland

Enclosures

SCANNED

SEP 06 2005

*(AMENDED
SUBMITTAL)

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 A75-04088
Date Received _____
Receipt Number _____

RECEIVED

SEP 02 2005

Department of Water Resources

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) WILFRED N. AND FRANCES J. WYLAND Phone (208) 756-2896

Mailing Address 197 TOWER CR. RD., CARMEN, ID Zip 83462

2. Date of Priority (Only one (1) per claim) MARCH 19, 1898

3. Source of water supply (a) TOWER CREEK
which is tributary to (b) SALMON RIVER

4. a. Location of existing point of diversion is: Township 23N Range 22E Section 9,
NW 1/4 of NW 1/4 of _____ 1/4, Govt. Lot, _____ B.M., County of LEMHI

Additional points of diversion if any: TOTAL of 2 DIVERSIONS

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. DITCHES

SCANNED

SEP 06 2005

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from 04/01 to 11/01 amount 1.5 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1.5 (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.) 5 COW/CALF PAIRS (STOCKWATER)

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
23N	22E	8				3.9													3.9
23N	22E	9						1.5	13										14.5

Total number of acres irrigated

18.4

SEE MAP
ATTACHED

11. In which county (ies) are lands listed above as place of use located? LEMHI

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.

or None (✓)

14. Remarks: THIS AMENDED SUBMITTAL IS BASED ON: a) 1898 WATER RIGHT (BOOK B, PAGE 273) AWARDED TO WM. THORNBURG OCT 24, 1907 (DEED # 6114, BOOK O, PAGE 190). b) HISTORIC BENEFICIAL USE IN 1905 CIRCA AND PRIOR AS DECLARED BY RONALD COOPER (MR. THORNBURG'S GRANDSON). COPIES ATTACHED.

Last Name WYLAND Ident No. 75-04088

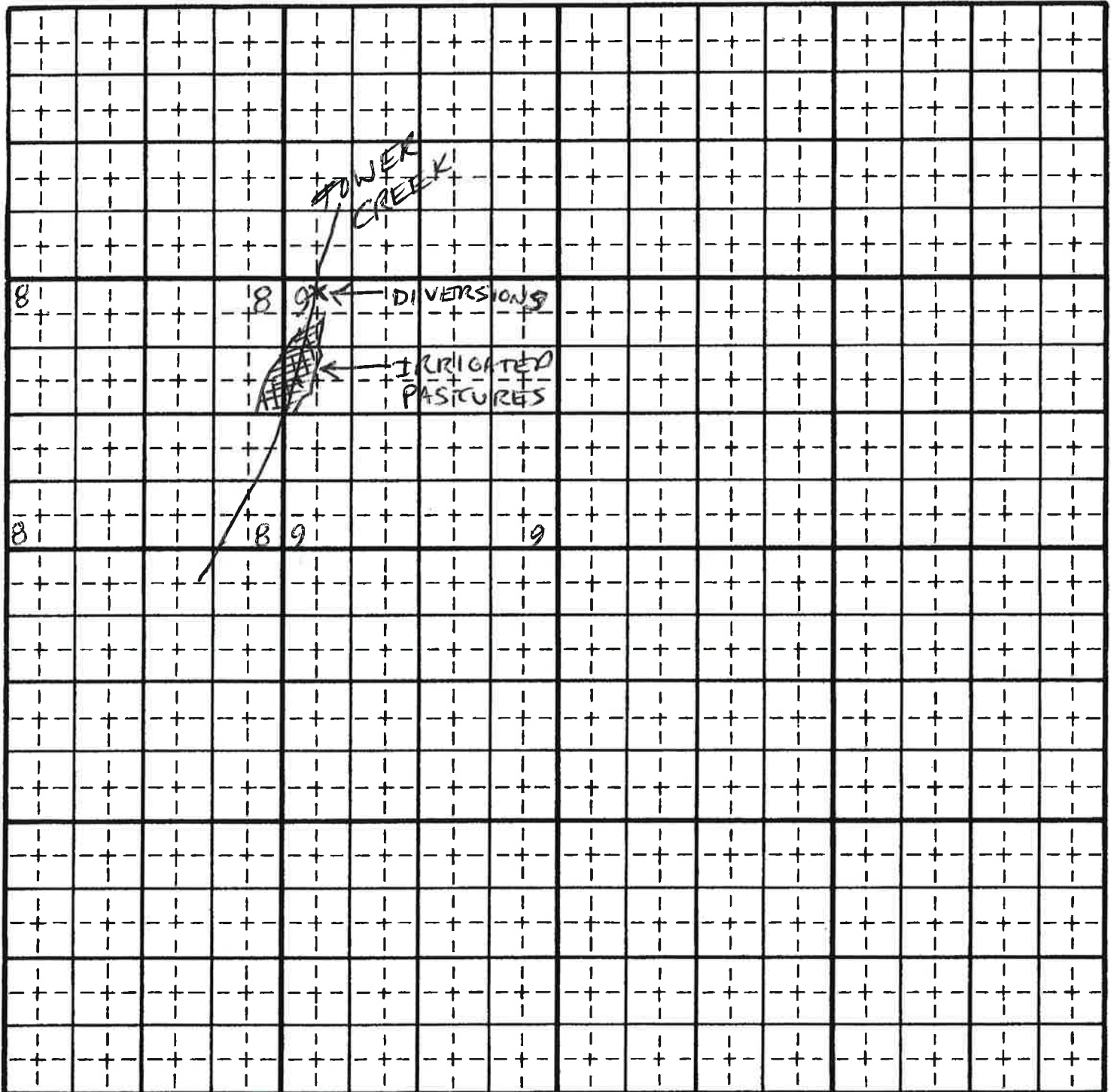
SCANNED

SEP 06 2005

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

TWP 23N, R 22E



*(SEE ALSO ATTACHED MAP)

Last Name WYLAND

Ident No. 75-04088

SCANNED

SEP 06 2005

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

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 4

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

Signature of Claimant (s)

Wilfred N. Wyland
Frances J. Wyland

Date

8-29-05

Date

8/29/05

For Organizations: I do solemnly swear or affirm that I am _____

Title

of _____, that I have signed the foregoing
Organization

document in the space below as _____ of _____

Title

Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____

Date _____

State of Idaho/or _____)
County of Lemhi) SS.

Subscribed and sworn (or affirmed) before me this _____

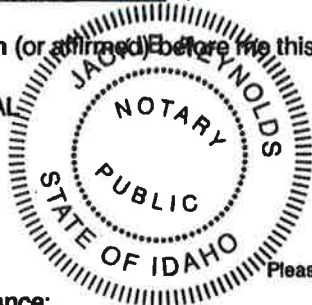
29th

day of

August

19 2005

SEAL



Notary Public

Residing at

Jackie L. Reynolds
Salmon, ID

My Commission Expires

8/27/2009

Please Print Name

Jackie L. Reynolds

17. Notice of Appearance:

Notice is hereby given that I, _____ 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 _____

Address _____

Date _____

Last Name

WYLAND

Ident. Number

75-04088

SCANNED

SEP 06 2005

5	4
8	9



SCANNED
SEP 18 2005

1" = 500'

1 in² = 5.7233 ACRES

1 TINY SQUARE = 0.057233 ACRES

TOTAL TINY SQUARES = 521.9

OR 18.4 ACRES

WILFRED & FRANCES WYLAND
BENEFICIAL WATER USAGE AREA
18.4 ACRES

JULY 15, 2005

AFFIDAVIT

I, Ronald L. Cooper of Anchorage, Alaska do solemnly swear that my below statement pertaining to the early surface water use history of property on the north fork of Tower Creek (Twp 23N, R 22E: SE ¼ of NE ¼ of Section 8, and SW ¼ and S ½ of NW ¼ of Section 9) is true:

"As I stated in "Centennial History of Lemhi County, Volume III" page 804, " In the late 1800's, Dan and Bill Thornburg, twin brothers from North Carolina, came to Boyle Creek and lived on the ranch one-half mile up the Left Fork." Dan Thornburg was my great-grandfather and to the best of my family recollection, that surface water usage for beneficial use was begun in approximately 1892. They farmed the land for hay, vegetable garden and started a large apple orchard, all of which required ditches for gravity irrigation from the creek. The original cabin was a log structure with a lean-to and was built west of the present barn and below the irrigation ditch. Bill's wife Sarah Saphronia died on the ranch December 19, 1905. On February 7, 1905, Dan's daughter (my grandmother Lula) married Erle Embley and they ranched the area at the head of the east fork. In 1910, my mother Thelma Embley was born.

Note: Tower Creek was first known as Cherry Creek, then Boyle Creek for many years until the Forest Service renamed it to conform to the name given it by the Lewis & Clark Expedition.

Because the Thornburg's had developed extensive irrigation ditches, hayfields, orchard and garden areas, it is believed that the twins applied for ownership of this property under the Homestead Act and "posted notice" of water rights in those early years, but I believe that records of those events were either not acted on or were misplaced in County filings. Sometime in early 1906, Orson and Verna Kellog (my grandfather's sister) purchased the Thornburg property and built the present-day two-story house from sawn lumber. Certificate of Register for the property was granted to the Kellog's a few years later."

IN WITNESS WHEREOF,

Ronald L. Cooper Date July 29, 2005

Ronald L. Cooper

State of Alaska)
 ss

County of _____

On this 29th day of July, 2005, before me, the undersigned a Notary Public in and for said State, personally appeared Ronald L. Cooper known to me the person whose name is subscribed to within instrument, and acknowledged to that they executed the same.

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

Susan M. Vancil
Notary Public for Alaska. Residing at Anchorage, AK
My Commission Expires: 9/13/06

Susan M. Vancil, Notary Public
State of Alaska

My Commission Expires 9/13/2006

SCANNED

SEP 06 2005

SCANNED

OCT 0 2001

JULY 28, 1994

WILFRED N WYLAND
2835 PARON LANE
IDAHO FALLS ID 83402

RE: CHANGE IN OWNERSHIP FOR A75-04088

Dear Mr. Wyland:

The request for Change in Ownership concerning your Notice(s) of Claim in the above reference has been processed and the Notice(s) modified to reflect you as the new owner.

Enclosed is a typed Notice with your name shown as the current owner. Review the forms and if there are other corrections or questions, feel free to contact this office.

If there are no questions or corrections, please keep this Notice for your records.

Respectfully submitted,

Jo Thompson
Secretary, Adjudications

Enclosure: Notice(s) of Claim

MICROFILMED

NOV 18 1996

State of Idaho } ss. To all concerned:
County of Lemhi } Notice is hereby given:
1st That H. O. Billings & Chas. E. Regier of Lemhi
County, State of Idaho, hereby claim the use of the waters of the North
fork of Boyle Creek to the extent of One & One 1/2 Cubic feet
per second. 2^d It is intended to divert said water at or near the
point where a copy of this notice is posted. & more definitely de-
scribed as follows: Four hundred & fifty-five & one half 455 1/2
rods north of the point where the North & South fork of Boyle Creek
join & eighteen rods more or less. South of Winchester house on
the North fork of Boyle Creek. 3^d The purpose for which said water
is intended to be used is for irrigation. The place of intended
use is along the North fork of Boyle Creek. 4th It is intended
to divert said water by means of Canal. The general course of
the proposed canal is South. The length of the proposed canal
is Three hundred & twenty (320) rods more or less.
It is intended to use said water for irrigating the following
described lands. One hundred & twenty (120) acres along
the North fork of Boyle Creek. 5th It is intended to have the
works for diversion & use of said water as aforesaid, complete
within two years.

Witness our hand at Boyle Creek, Idaho, this 19th
day of March 1898.

H. O. Billings } Co-claimants.
Chas. E. Regier. }

State of Idaho } ss.
County of Lemhi }
H. O. Billings being first duly sworn depose & say:
That he is of lawful age & out of the claimants of the Water
Right mentioned in the foregoing notice & whose name is
subscribed thereto. That the statements in said notice are true
& that the original notice of which the foregoing is a true
copy, was posted in a conspicuous place at or near the place
of intended diversion (as provided by law) on the 13th day of March
1898, at 19 minutes past 4 o'clock P.M.

H. O. Billings
Subscribed & sworn to before me this 1st day of April 1898.
And I further certify that on the date last above given personally
appeared before me the affiant above named. Known to me to
be the person whose name is subscribed to the within instrument.

acknowledged to me that he executed the same.
In Witness Whereof, I have hereunto set
my hand & affixed my seal the day & year
in this certificate first above written.

J. P. Clough
County Recorder.

SCANNED
SEP 06 2005

STATE OF IDAHO, } ss.
County of Lemhi }
I hereby certify that this instrument
Met for record at request of
H. O. Billings
at minutes past... o'clock
P. M., this 1st day of April
A. D. 1898, in my office, & is recorded
in book B of Water Rights 273.
J. P. Clough
Recorder.

Quitclaim Deed.

Instrument, No. 6114

This Indenture, Made the 24th day of October in the year of our Lord one thousand nine hundred and seven between
 William J. Thornburg
 of Boyle Creek County of Lemhi and State of Idaho, the part Y of the first part, and
 John H. Dryer
 County of Lemhi State of Idaho the party of the second part,

WITNESSETH, that the said part Y of the first part, for and in consideration of the sum of Five Hundred lawful money of the United States to him in hand paid by the said part Y of the second part, the receipt of which is hereby acknowledged, do REMISE, RELEASE and forever QUITCLAIM unto the said part Y of the second part, and to his heirs and assigns, the following described real estate, situated on Boyle Creek in the County of Lemhi and State of Idaho, to-wit:

That certain possessory claim on the public domain of the United States, known as the Hi Billings Ranch, and extending along Boyle Creek for a distance of one mile, between two and three miles from the public road extending along the Salmon River; together with the buildings, corrals, fencing and other improvements thereon, and also all ditches and water rights used in connection therewith, and particularly that certain water right from Boyle Creek, described in the notice thereof of record in Book "B" at page 273 of Water rights in the office of the Recd Recorder of Lemhi County, Idaho.

together with all the tenements, hereditaments and appurtenances thereunto belonging, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest property, possession, claim and demand whatsoever as well in law as in equity, of the said part Y of the first part, of, in or to the said premises, and every part and parcel thereof.

TO HAVE AND TO HOLD, all and singular the said premises, with the appurtenances

unto the said part Y of the second part, his heirs and assigns forever.

IN WITNESS WHEREOF, the said part Y of the first part has hereunto set his hand and seal the day and year first above written.

Signed, sealed and delivered in the presence of

W. C. Smith

William J. Thornburg (SEAL)

(SEAL)

STATE OF IDAHO,
 County of Lemhi

On this 24th day of October 1907, before me W. C. Smith
 a Clerk of the District Court in and for said County, personally appeared
 William J. Thornburg known to me to be the person whose name is subscribed
 to the within instrument, and acknowledged to me that he executed the same; and on this day of
 1907, before me, the officer above described, personally appeared

known to me to be the person whose name is subscribed to the within instrument, described as a married woman; and upon an examination without the hearing of her husband, I made her acquainted with the contents of the instrument, and thereupon she acknowledged to me that she executed the same, and that she does not wish to retract such execution.

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

W. C. Smith

Seal

Clerk of the District Court

STATE OF IDAHO,
 County of Lemhi

I hereby certify that this instrument was filed for record at request of John H. Dryer
 at minutes past 3 o'clock P. M., this 24th day of October A. D. 1907, in my
 office, and duly recorded in Book Q of Deeds at page 190

W. C. Smith

SCANNED

SEP 06 2005

Warranty Deed

For Value Received

RICHARD L. ALFORD AND MARILYN M. ALFORD, HUSBAND AND WIFE

the grantor S, do hereby grant, bargain, sell and convey unto

WILFRED N. WYLAND AND FRANCES J. WYLAND, HUSBAND AND WIFE

whose current address is

2835 Paron Lane
Idaho Falls, ID 83402

the grantees, the following described premises, in Lemhi County Idaho, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantee s, that they're the owners in fee simple of said premises; that they are free from all incumbrances

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: June 30, 1994

Richard L. Alford *Marilyn M. Alford*
Richard L. Alford Marilyn M. Alford



STATE OF IDAHO, COUNTY OF Lemhi
On this 30th day of June, 1994,
before me, a notary public in and for said State, personally appeared

Richard L. Alford &
Marilyn M. Alford

known to me to be the persons whose names S are
subscribed to the within instrument, and acknowledged to me that
executed the same.

Laurie M. Santee
Laurie M. Santee Notary Public
Residing at Salmon, Idaho
Comm. Expires 6/19/1995

State of Idaho) 223068
County of Lemhi) ss. Hc.

This instrument was filed for record at
the request of *American Land Title*
at 4:32 o'clock p.m. 6-30-94
and duly filmed and indexed in the
records of Lemhi County

Alberta Wiederick
Ex-Officio Recorder
Larry J. Motion Deputy
6-30-94

EXHIBIT "A"

ALL OF THE SE4NE4 SECTION 8, AND FRACTIONS OF THE S2N2NW4 AND THE SW4NW4 AND THE SE4NW4 OF SECTION 9, ALL IN TOWNSHIP 23 NORTH, RANGE 22 EAST, BOISE MERIDIAN, LEMHI COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE 1/4 CORNER COMMON TO SECTIONS 8 AND 9, RUNNING THENCE NORTH 89 DEGREES 54' EAST 706.6 FEET; THENCE NORTH 78 DEGREES 41' EAST 659.6 FEET; THENCE NORTH 79 DEGREES 10' EAST 302.6 FEET; THENCE NORTH 41 DEGREES 00' EAST 1506.7 FEET; THENCE NORTH 0 DEGREES 04' WEST 453.0 FEET; THENCE SOUTH 89 DEGREES 52' WEST 2640.6 FEET, MORE OR LESS TO A POINT ON THE SECTION LINE BETWEEN SECTIONS 8 AND 9; THENCE SOUTH 0 DEGREES 04' EAST 453.0 FEET; THENCE NORTH 89 DEGREES 59' WEST 1320.0 FEET; THENCE SOUTH 0 DEGREES 04' EAST 1320.0 FEET; THENCE SOUTH 89 DEGREES 59' EAST 1320.0 FEET TO THE POINT OF BEGINNING. ALL IN SECTION 8 AND 9, TOWNSHIP 23 NORTH RANGE 22 EAST, BOISE MERIDIAN, IDAHO.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL:

A PARCEL OF LAND LOCATED IN THE NW1/4 SECTION 9, T. 23 N., R. 22 E., BOISE MERIDIAN, LEMHI COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NW CORNER OF SAID SECTION 9 RUN THENCE S. 00 DEGREES 07' 47" W. ALONG THE WESTERLY BOUNDARY OF SECTION 9 A DISTANCE OF 867.00 FT. TO THE POINT OF BEGINNING;

THENCE S. 89 DEGREES 56' 13" E. A DISTANCE OF 2631.96 FT. TO A POINT ON THE EASTERLY BOUNDARY OF THE NW1/4;

THENCE S. 00 DEGREES 00' 22" E. ALONG SAID BOUNDARY A DISTANCE OF 62.51 FT.;

THENCE S. 63 DEGREES 39' 16" W. A DISTANCE OF 1919.59 FT.;

THENCE N. 11 DEGREES 01' 05" W. A DISTANCE OF 246.87 FT.;

THENCE N. 57 DEGREES 24' 39" W. A DISTANCE OF 421.50 FT.;

THENCE WEST A DISTANCE OF 510.45 FT. TO A POINT ON THE WESTERLY BOUNDARY OF SECTION 9;

THENCE N. 00 DEGREES 07' 45" E. ALONG SAID BOUNDARY A DISTANCE OF 447.95 FT. TO THE POINT OF BEGINNING.

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. No. A75-04088

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

Please type or print clearly:

Name of Claimant(s) RICHARD L. ALFORD
MARILYN M. ALFORD
NONE OTHER

Mailing Address (include Zip Code) Box 176
Tower Creek Road
Carmen, Idaho 83462

Phone Number (208) 756 - 3246

RECEIVED
APR 24 1990
Department of Water Resources
Eastern District Office
MICROFILMED
DEC 15 1992



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

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

RECEIVED

JUL 25 1994

Department of Water Resources

DATE OF CLOSING: 6-30-94

(PT. OF DIVERSION)

LEGAL DESCRIPTION OF PROPERTY: Township 23N Range 22ESection 9, 1/4 of NW 1/4 of NW 1/4, Govt. Lot - BMLot -, Block -, Subdivision/Townsite -

If you have additional legal descriptions, please attach separate sheet. (SEE ATTACHED)

[] 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) JUL 27 1994

Department of Water Resources
Eastern District Office

[] Water Right Number(s)
Assigned by IDWR:

A75-04088

[] Name and Address of Former
Owner/Claimant(s)(Seller):

RICHARD L. & MARILYN ALFORDBOX 176, CARMEN, IDAHO 83462 (OLD)65710 E. DESERT RISE DR, TUCSON, AZ 85737 (NEW)

[] New Owner/Claimant
(Purchaser):

WILFRED N. & FRANCES J. WYLAND

[] New Mailing Address:

2835 PARON LANEIDAHO FALLS, IDAHO 83402

[] New Telephone Number:

(208) 529-6979

[] 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:

WARRANTY DEED ALSO ATTACHED

(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)

Wilfred N. WylandDate 7-22-94Frances J. WylandDate 7/22-94

[] Signature of Former
Owner/Claimant(s):

R. L. AlfordDate 18 July 1994Marilyn M. AlfordDate 18 July 1994

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

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: By:

Further Action Needed:

Further Action Taken

Date: By:

Final Review and Data-Entry

Date: By:

Claim Numbers of Split, if any:

MICROFILMED

NOV 18 1996

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

SCANNED

DEC 10 2000

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: A75-04088
Date Received: 4/24/1990
Receipt No: E013593
Received By: _____

COPY FOR
YOUR FILES

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

COPY FOR
YOUR FILES

1. Name: WILFRED N WYLAND
Address: ~~2835 PARON LN 197 TOWER CK RD.~~
~~IDAHO FALLS ID CARMEN~~ 83402

208-529-6979
756-2896

AND

Name: FRANCES J WYLAND
Address: ~~2835 PARON LN 197 TOWER CK RD.~~
~~IDAHO FALLS ID CARMEN~~ 83402

208-529-6979
756-2896

2. Date of Priority: DEC 1, 1911

3. Source: TOWER CREEK

Trib. to: SALMON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
23N	22E	9	NW	NW			LEMHI

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	04/01	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
23N	22E	8	SE	NE		IRR	2.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	2.0
		9	SW	NW	IRR	10.0
					Section Acres	10.0
					Total Acres	12.0

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:

14. Remarks:

15. Basis of Claim: STATUTORY CLAIM

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: A75-04088
Date Received: 4/16/1990
Receipt No: E013593
Received By: DC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: RICHARD L. ALFORD
Address: ~~BOX 1062~~ BOX 176
~~SALMON, ID~~ CARMEN, ID

~~83467~~ 83462

Name: MARILYN M. ALFORD
Address: ~~BOX 1062~~ BOX 176
~~SALMON, ID~~ CARMEN, ID

~~83467~~ 83462

2. Date of Priority: DEC 01, 1911

3. Source: TOWER CREEK

Trib. to: SALMON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot
23N	22E	9	NW	NW	NW	

County
LEMHI

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	04/01	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:

RECEIVED

APR 24 1990

Department of Water Resources
Eastern District Office

A7504088



10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
23N	22E	8	SE	NE		IRR	2.0
						Section Acres	2.0
		9	SW	NW		IRR	10.0
						Section Acres	10.0
						Total Acres	12.0

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:

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: Check for \$62.00 (filing fee) and map .

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): *Richard L. Alford* Date: 23 April 1990
Marilyn M. Alford Date: 23 April 1990
RICHARD L. ALFORD
MARILYN M. ALFORD

State of Idaho)
County of LEMHI) SS.

Subscribed and sworn (or affirmed) before me this 23 day
of April 19 90.

Seal

[Signature]
Notary Public

Residing at *[Signature]*
My Commission Expires 6/16/92

MICROFILMED
DEC 15 1992

CIVIL CASE NUMBER: A75-04086
Ident. Number: 39576

Water claim of:
RICHARD L. ALFORD and
MARILYN M. ALFORD

T24N
T23N

