

12/21/2006

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

RIGHT NUMBER: 75-4433

NAME AND ADDRESS: JOSEPH A PROKSCH
823 UNION AVE
SALMON ID 83467

HALLIE H PROKSCH
823 UNION AVE
SALMON ID 83467

SOURCE: WARM SPRINGS
WASTE WATER

TRIBUTARY: SALMON RIVER
TRIBUTARY: SALMON RIVER

QUANTITY: 2.700 CFS

PRIORITY DATE: 05/10/1881

POINT OF DIVERSION:

T21N R22E S7 SENE Within LEMHI County
T21N R22E S7 SENE Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	04/01 12/31	0.020 CFS
IRRIGATION	04/01 10/31	2.700 CFS

PLACE OF USE: IRRIGATION in LEMHI County

T21N R22E S07	NENE	0.50	T21N R22E S07	NWNE	2.20
T21N R22E S07	SWNE	21.00	T21N R22E S07	SENE	37.00
T21N R22E S08	SWNW	1.40			

STOCKWATER same as IRRIGATION

62.1 ACRES TOTAL

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

This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

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

06/13/2006

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

RIGHT NUMBER: 75-4358

NAME AND ADDRESS: JOSEPH A PROKSCH
823 UNION AVE
SALMON ID 83467

COLLEEN A BENEDICT
823 UNION AVE
SALMON ID 83467

DIXIE L PUETT
823 UNION AVE
SALMON ID 83467

MONA J COCKRELL
237 LEMHI RD
SALMON ID 83467

SOURCE: NORTH FORK SALMON RIVER

TRIBUTARY: SALMON RIVER

QUANTITY: 0.400 CFS

PRIORITY DATE: 05/04/1917

POINT OF DIVERSION:

T26N R21E S26 SESE Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.400 CFS

PLACE OF USE: IRRIGATION Within LEMHI County

T26N R21E S25	SWSW	1.00	T26N R21E S26	SESE	1.00
T26N R21E S35	NENE	1.00	T26N R21E S36	NWNW	15.00
T26N R21E S36	SWNW	2.00			

20 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.

Property is within Homestead Entry Survey No. 98.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Shirley POU
Acreage OK

06/13/2006

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

RIGHT NUMBER: 75-4358

NAME AND ADDRESS: JOSEPH A PROKSCH
823 UNION AVE
SALMON ID 83467

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823 UNION AVE
SALMON ID 83467

DIXIE L PUETT
823 UNION AVE
SALMON ID 83467

MONA J COCKRELL
237 LEMHI RD
SALMON ID 83467

SOURCE: NORTH FORK SALMON RIVER TRIBUTARY: SALMON RIVER

QUANTITY: 0.400 CFS

PRIORITY DATE: 05/04/1917

POINT OF DIVERSION:

T26N R21E S26 SESE Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.400 CFS

PLACE OF USE: IRRIGATION Within LEMHI County

T26N R21E S25	SWSW	1.00	T26N R21E S26	SESE	1.00
T26N R21E S35	NENE	1.00	T26N R21E S36	NWNW	15.00
T26N R21E S36	SWNW	2.00			

20 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



Idaho Department of Water Resources

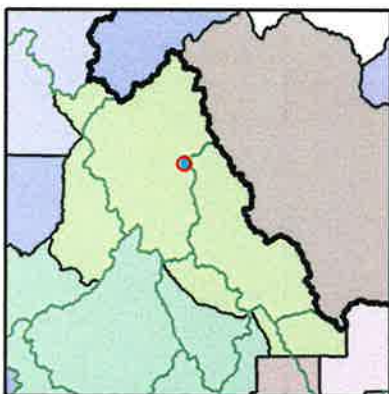
SRBA Recommendation:

75-4433

(Irrigation)

Legend

-  Point of Diversion
-  Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters



Lemhi County
IDWR Basin 75



0 0.2 0.4 Miles

Prepared by A. Warntjes
On Thursday, December 21, 2006
2004 Aerial Photography



Idaho Department of Water Resources

SRBA Recommendation:

75-4358

(Irrigation)

Legend

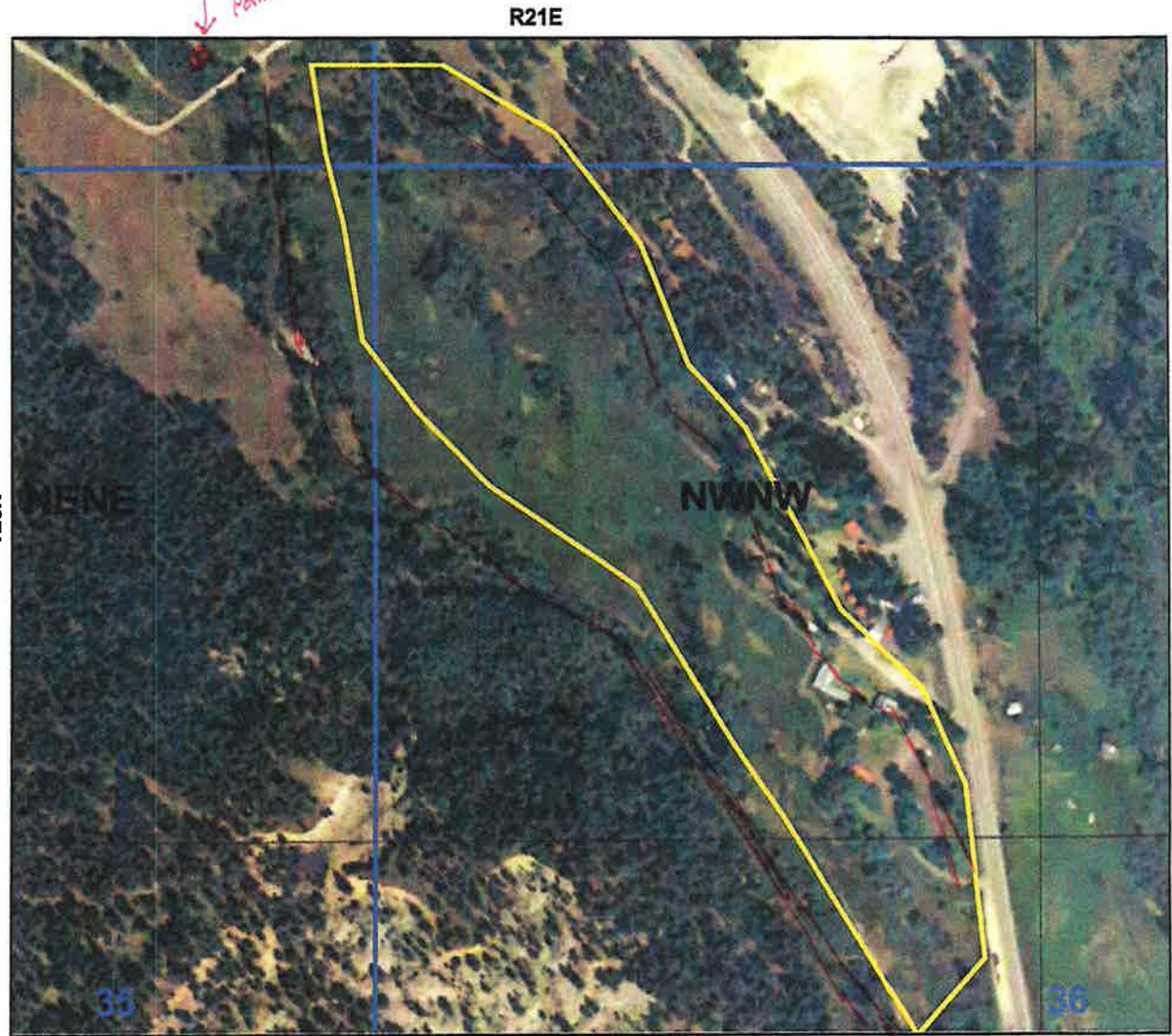
- Point of Diversion
- Place of Use
- Townships
- PLS Sections
- Quarter Quarters



Lemhi County
IDWR Basin 75



0 0.1 0.2 Miles



Prepared by M. Ciscell
On Monday, November 20, 2006
2004 Aerial Photography

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

CLAIM NO(s).

A75-04358

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:

GPS Site Tag No.: A0014975 GPS 081

Township 26N Range 21E Section 26 1/4 SE 1/4 SE 1/4 SE

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

5. ☒ No Change - DESCRIPTION OF DIVERTING WORKS

☐ Incomplete description, list below:

10 inches = 0.20 cfs page 1 exhibit 4

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

*This map is off a little so I think
the place of use is OK. There could
be some in the SE of NW*

☐ SYSTEM DIAGRAM INCLUDED ☐ NA

☐ Shown on GIS Layout

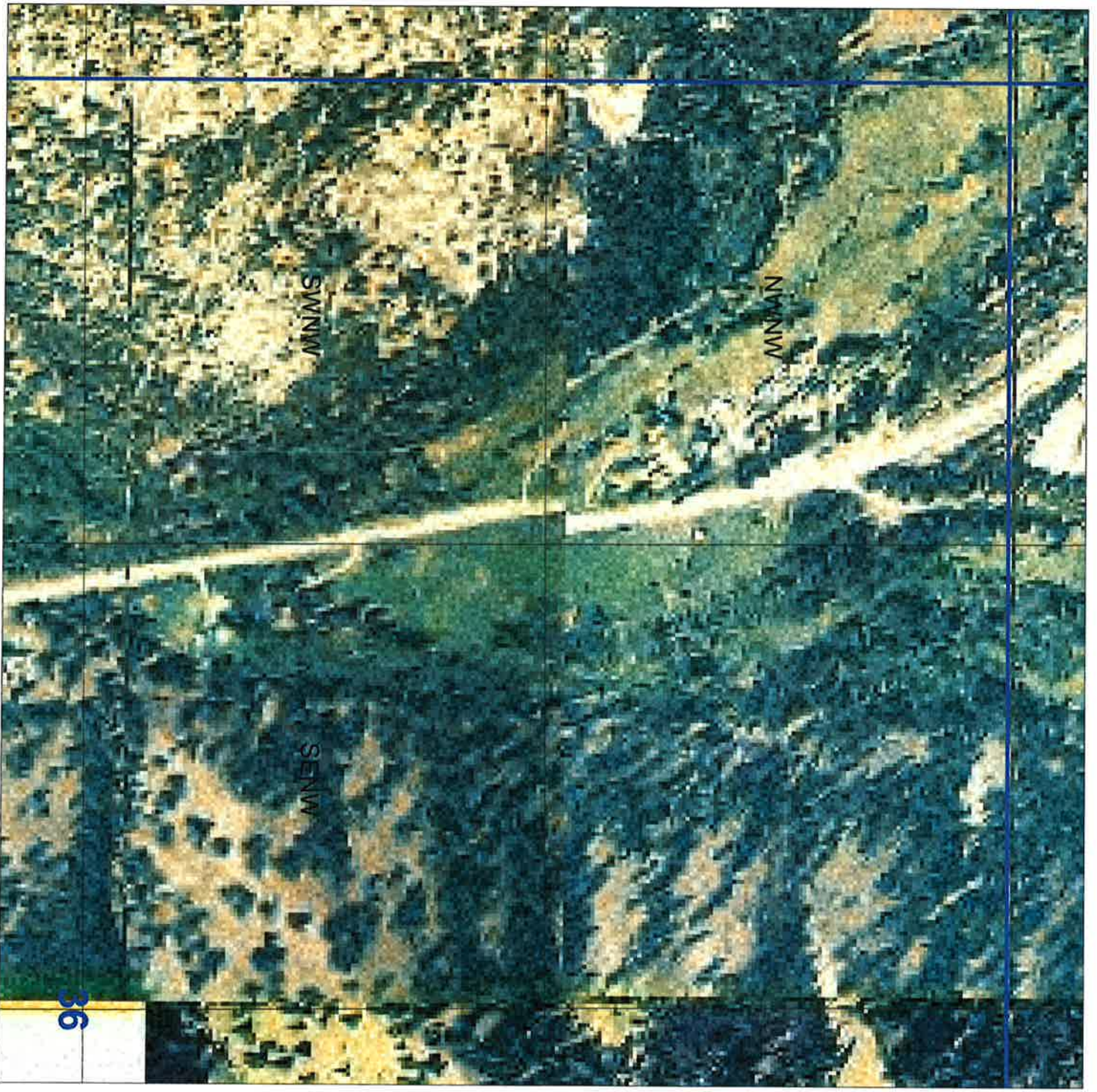
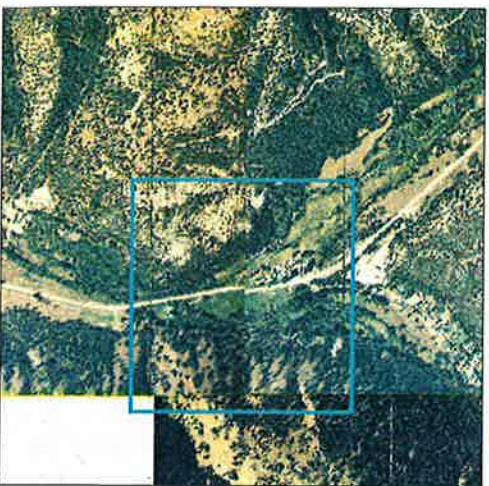
☐ CK IF IN OFFICE EXAM

DATE EXAM CONDUCTED: _____

FIELD EXAMINER: _____

Print Name
Jack F. Ellis
Signature

75-4358





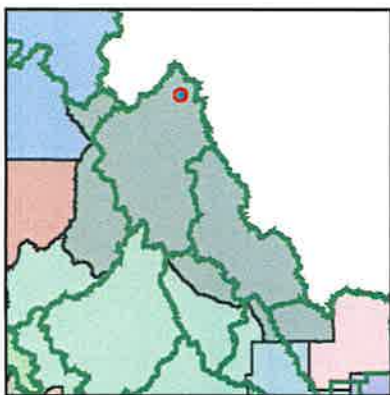
Idaho Department of Water Resources

Adjudication Claim:

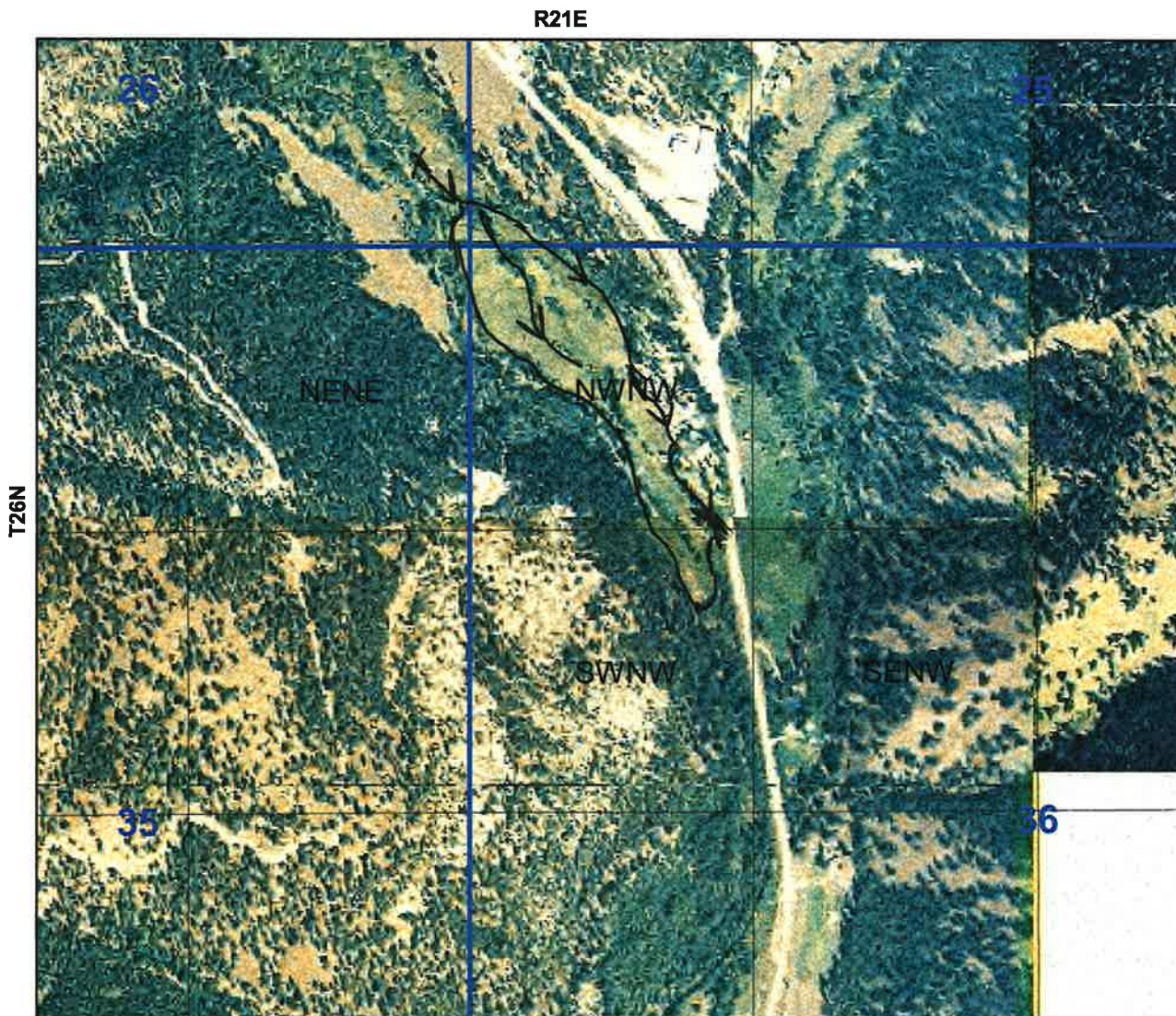
75-4358

Legend

-  Townships
-  PLS Sections
-  Quarter Quarters



Lemhi County
IDWR Basin 75



0 0.3 0.6 Miles



Prepared by R. Brown
On Sunday, March 5, 2006
1987/88 Aerial Photography

Owner: **JOSEPH A PROKSCH**

NOTE: Only one owner is listed. There may or may not be more than this in the IDWR database.

RECEIVED

AUG 08 2005

Department of Water Resources
Adjudication Bureau

Page 438

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report 75-4358

*WATER RIGHT NUMBER: 75-4358

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ANNIE PROKSCH 618 S SAINT CHARLES ST SALMON, ID 83467-6100
Current Owner	ALBERT PROKSCH 618 S SAINT CHARLES ST SALMON, ID 83467-6100

Priority Date: 05/04/1917
Basis: Statutory Claim
Status: Active

<u>Source</u>	<u>Tributary</u>
NORTH FORK SALMON RIVER	SALMON RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 11/01	0.800 CFS	
<u>Total Diversion:</u>		0.800 CFS	

<u>Location of Point(s) of Diversion</u>		
NORTH FORK SALMON RIVER	NE1/4NE1/4	Sec. 35, Twp 26N, Rge 21E, B.M.
LEMHI County		

Place of Use
IRRIGATION Within LEMHI County

T26N R21E S36	NWNW	10.0	T26N R21E S36	SWNW	5.0
T26N R21E S36	SENW	5.0			

Total Acres: 20

Conditions of Approval:

Remarks:

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AUG 09 2005

July 26, 2005

Joseph A. Proksch
823 Union Ave.
Salmon, Idaho 83467
Phone 208-756-2252

Idaho Department of Water Resources,

Subject: Evidence of Priority and beneficial use

WATER RIGHT NUMBER: 75-4358

Dear Sir or Madam:

I am enclosing some information that I feel will help to establish a priority date of beneficial use of water for #75-4358. Please review the exhibits for supporting facts:

- Exhibit #1 Metsker Map – Show Sec., Township, and Range of Property
- Exhibit #2 Map of HES 98 – Showing portion owned by Proksch family
- 2-28-1952 Exhibit #3 Affidavit – Joseph A. Proksch, irrigated since 2-28-1952
- 8-10-1-37 Exhibit #4 Abstract – sheet #30 – Kern to Holgate date 8-10-1937
referencing the sale from Sarrazin to Kern of 11-21-1921 excepting and
reserving from the deed 10 inches of water, and giving ditch rights. This
would suggest ditches and water rights existed in 1921. Also sheet 31
mentions the care of equipment, machinery, and livestock according the
customs and practices of the time.
- 1918 Exhibit #5 Real Property Assessment Rolls 1918 – Robert Demont
recorded the property in May 1918 and it became taxable and was
assessed. The Lemhi County assessment rolls show 15 irrigated acres and
43 acres of grazing land.
- 1917 Exhibit #6 Patent page 481 – The land was patent in 1917. I have
enclosed as Exhibit #7 the Homestead Act of May 20, 1862 which says
you can make application and pay a fee of \$10.00 which permits you to
enter the quantity of land specified. Provided, however no patent shall be
given until applicant lives on the land for FIVE years and
CULTIVATION is evident. The applicant has TWO years after the Five
year expiration to apply for patenting. This could mean occupancy could
be SEVEN years before patenting takes place. Our County only receives

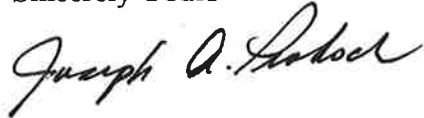
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about 9 inches of moisture a year and that's not enough to grow crops,
without irrigating.

I believe that beneficial use of water, would set the priority date between the years 1910
and 1917.

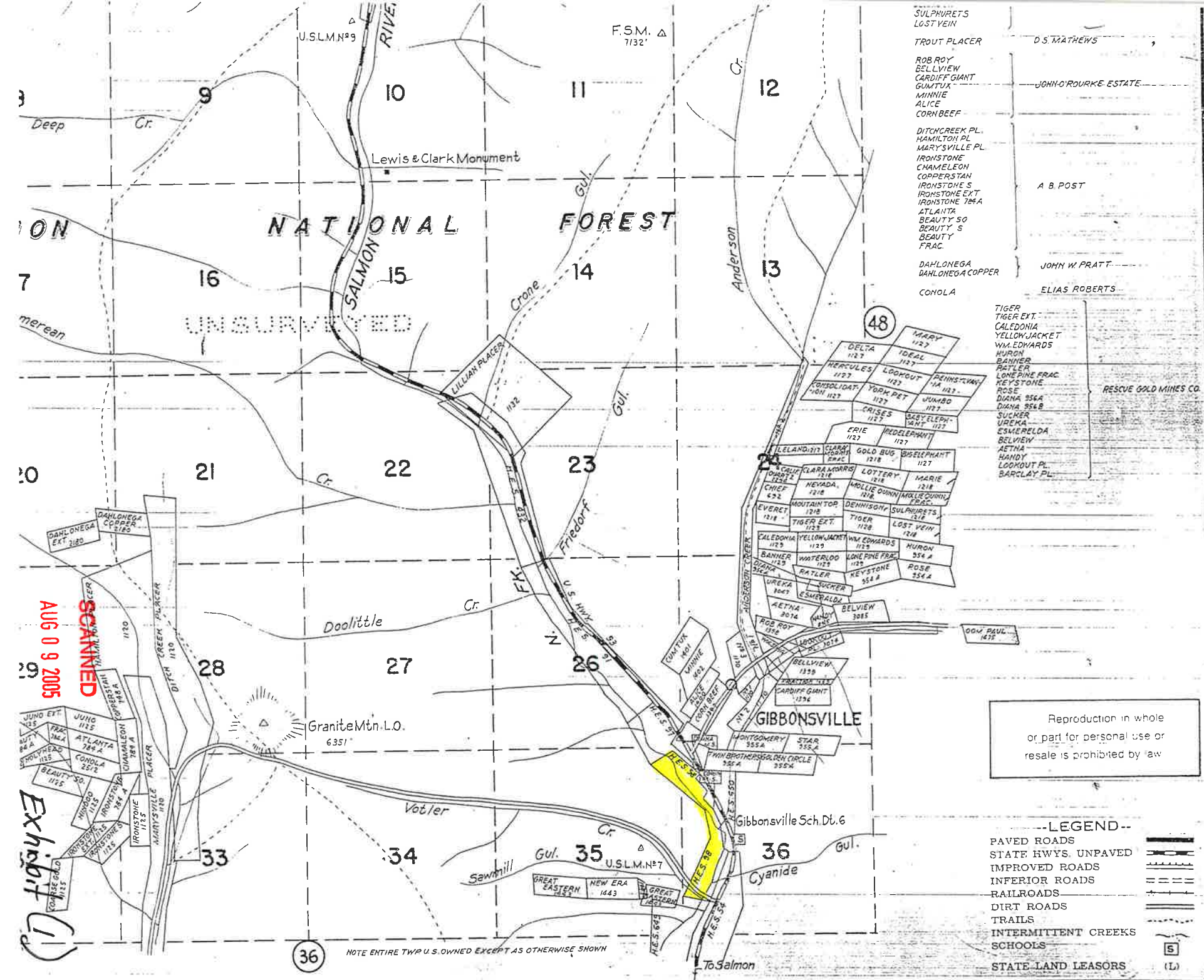
Sincerely Yours

A handwritten signature in black ink, appearing to read "Joseph A. Proksch". The signature is written in a cursive style with a large, stylized initial "J".

Joseph A. Proksch

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or part for personal use or
resale is prohibited by law.

---LEGEND---

PAVED ROADS
STATE HWYS. UNPAVED
IMPROVED ROADS
INFERIOR ROADS
RAILROADS
DIRT ROADS
TRAILS
INTERMITTENT CREEKS
SCHOOLS
STATE LAND LEASORS

July 26, 2005

Joseph A. Proksch
823 Union Ave.
Salmon, Idaho 83467
Phone 208-756-2252

Idaho Department of Water Resources,

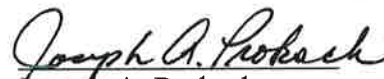
Subject: Evidence of Priority for beneficial use

WATER RIGHT NUMBER: 75-4358

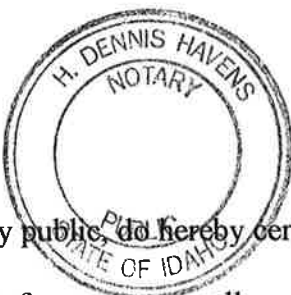
AFFIDAVIT:

Albert and Annie Proksch purchased the property irrigated under water right #75-4358 on February 28, 1952 from J M Stone. I, Joseph A. Proksch, as a boy remember irrigating the land from existing ditches, putting up hay, and pasturing cows on the property. My parents are deceased, and the children are the heirs and have continued to irrigate the land from February 28, 1952 to the present.

Be it known that the undersigned, being duly sworn, deposes and says that the matters and facts described in the above statement are true to the best of the affiant's knowledge.


Joseph A. Proksch

State of Idaho)
County of Lemhi) ss.



I, H. Dennis Havens, a notary public, do hereby certify that on this 26th day of July, of 2005, before me personally appeared JOSEPH A PROKSCH, known to me to be the person (s) whose name is subscribed to the within instrument, and acknowledged to me that he (they) executed the same.


H. Dennis Havens
Notary Public for Idaho
Residing at Salmon, Lemhi Co, Id.

My Commission expires Nov. 28, 2006

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AUG 09 2005

Exhibit (3)

CONTINUATION OF ABSTRACT OF TITLE
TO THE LANDS DESCRIBED IN THE CAPTION HERETO
LEMHI TITLE AND ABSTRACT COMPANY
SALMON, IDAHO

SHEET NO. 30

ABSTRACT NO.

ELISE KERN, a widow

~~GRANTORS~~
Party of 1st Part

and ~~##~~

J.D. HOLGATE

GRANTEES

Character of Instrument Agreement

Date of Instrument August 10th 1937

Date of Acknowledgment August 10th 1937

Date of ~~Record~~ Filed in Probate November 20, 194

Book --- of --- Page ---

Records of Lemhi County, State of Idaho

Consideration

Before Whom Acknowledged

Enoch W. Whitcomb

Notary Public for Idaho

Residing at Salmon, Idaho.

Is official seal attached? Yes

U. S. official stamps attached and cancelled

Granting words: Below

Covenants: Regular.

DESCRIPTION: Lands in Lemhi County, State of Idaho:

WITNESSETH:

That the party of the first part, for and in consideration of the covenants and agreements on the part and behalf of the party of the second part, herein, after contained, agrees to sell and convey unto the second party and the second party agrees to buy, subject to the terms and conditions herein, all of that certain real estate situated in Lemhi County, Idaho, known as H.E. S. No. 98, embracing a portion of the unsurveyed public domain, particularly described in that certain deed dated November 11th 1921 between Margaret Sarrazin and C.S. Sarrazin, her husband, parties of the first part and George Kern, party of the second part, and recorded in the office of the County Recorder of Lemhi County, Idaho, in Book X of Deeds at page 622 thereof on November 12th 1921, reference to which record is hereby made for a further description, excepting and reserving from said premises the right to the use of 10 inches or 1/5 cubic feet per second of time of water and a like interest in and to the ditch conveying the same for use upon the Clipper Placer Mining Claim and the right of and to the pipe line crossing said premises to the Clipper Placer Claim and an easement for a right of way therefor.

TOGETHER WITH CERTAIN PERSONAL PROPERTY.

For the sum of \$1400.00 payable as follows, to wit:-

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Exhibit (4)

\$25.00 on or before August 1, 1940 , and a like amount or or before the 1st day of each and every succeeding calendar month thereafter until the full purchase price is paid, with interest on all deferred payments at the rate of 6% per annum, payable annually.

The party of the second part is to have immediate possession of said premises and property is to occupy in all respects till said real estate in a good and farmerlike manner; is not to commit waste or suffer any to be done; is to keep the fences, ditches and buildings appurtenant to said premises in a good repair, reasonable use and wear thereof and damages by the elements excepted; is to keep the said tools, machinery, implements and equipment in a good state of repair, reasonable wear and use thereof excepted is to properly care for, feed, breed and run said livestock according to the custom and practice in the neighborhood and to care for the increase thereof in a like manner; is not to sublet or sublease said premises or any part thereof and is not to assign this lease without the written consent of the first party in writing first had and obtained.

The first party agrees that upon payment of the purchase price and the faithful performance of all of the covenants by the second party, she will make, execute, acknowledge and deliver to the second party, a good and sufficient deed and bill of sale for conveying title to the real and personal property to the said second party, free and clear of all incumbrances suffered or permitted by her.

It is mutually understood and agreed as follows, to wit:-

That in the event said premises and property are subleased then all of the rentals are to be paid to the first party as provided by the said sublease and the same are to be in lieu of the \$25.00 per month payments provided for herein, and such rentals are to apply upon the following items in the following order: Taxes, interest, principal, and if the said rentals on the sublease do not complete full payment of the installments during the period of said sublease, then the balance is to be paid as a part of the original purchase price. That in the event of an assignment of this agreement by the second party, the first party is to be paid money equivalent to all of the \$25.00 per month payments and interest so that this agreement will be put in good standing on the date of this sale as if each and every of the \$25.00 installments and interest had been paid at the time and in the manner as first hereinabove provided.

That the second party is to pay all taxes that are assessed and shall be hereafter assessed upon said premises and property during the full term and life of this agreement.

In case the said party of the second part shall want to sell any of said livestock because of age, or the increase thereof, or for any other reason, he shall be permitted to do so after first securing the consent of said party of the first part, conditioned that the said party of the second part shall substitute other stock of equivalent value to the stock so sold to be held as security under the terms of this agreement.

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Exhibit (4)

Township _____ Range _____ *Real property Assessment Rolls*
Lemhi County 3rd Floor

BYMS-YORK CO., PRINTERS & BINDERS, BOISE 45980

CLASSIFICATION OF LANDS AND IMPROVEMENTS

No. of Assessment List	No. of Tax- payer's Receipt	NAME AND ADDRESS OF OWNER, REPUTED OWNER OR UNKNOWN OWNER	SUBDIVISION OR TAX NUMBER	Section	Township N.	Range E.	IRRIGATED LAND				GRAZING LAND				WASTE LAND				M I
							A	Value	A	Value	A	Value	A	Value	A	Value	A	Value	

1	1669 141	Buster William D. Gibbonsville, Ida.	H. E. 010692		25	20	7	105	13	52	10	10							
		Hull Gilbert																	
2	1343 404	Northfork, Ida.	Tax #222		33	25	21	25	562	25	300	40	40						
		Hull C. M.																	
3	1407 433	Northfork, Ida.	Tax #219, 220					25	562	27	324	25	25						
		Sumnerland Park A. Winterowd F. B. F. E. #55																	
4	1738 1064	Northfork, Ida.	Tax #256					20	450	10	122	8	8						
		Dean Leslie V.	H. E. 06492	28															
				29															
5	1389 257	Northfork, Ida.	Tax #	33				15	338	30	360	42	42						
		Eldridge Elizabeth	H.E. 0654 A & B																
6	1397 292	Northfork, Ida.	Tax #250					30	750	34	384	10	10						
		Dean G. F.	Bonanza Placer																
7	1383	Northfork, Ida.	Surv. #1498					30	750	19	228	10	10						
		Carl Frederick W.	H.E. 010870	I															
				2															
8	1385 160	Northfork, Ida.		11				15	338	56	448	25	25						
		Ballinger Z. W.	F.E. #69																
9	1384 460	Northfork, Ida.	Tax #257					7	176	48	416	22	22						
		Pemble J.D.																	
10	1735 754	Northfork, Ida.	Tax #226		15	25	21	95	2375	30	360	33	33						
		Lantermann E.F.	F.E. #58																
11	1690 532	Northfork, Ida.	Tax #251					25	625	27	324	30	30						
		Taylor J. L.	H.E. 06518																
12	1388 480	Gibbonsville, Ida.	Tax #252					15	300	70	280								
		Demont Robert	H.E. 08691																
13	1859 232	Gibbonsville, Ida.	Tax #					15	300	43	172								
		Dunton Willard	H.E. 06589																
14	1858 100	Gibbonsville, Ida.	Tax #		26	21	15	300				73	73						
		Achord J. B.	H.E. 06588	3															
15	1386	Gibbonsville, Ida.	Tax #258		10	26	21	35	350										

Irrigated

Grazing

SCANNED

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Exhibit (5)

CONTINUATION OF ABSTRACT OF TITLE
TO THE LANDS DESCRIBED IN THE CAPTION HERETO
LEMHI TITLE AND ABSTRACT COMPANY
SALMON, IDAHO

Sheet No. 1

Abstract No. 5-87-1

United States

Grantors

To

Robert Demont

Grantees

Character of Instrument Patent

Date of Instrument May 4th, 1917,

Date of Record May 15th, 1918,

Book Y of Deeds

Page 481

Records of Lemhi County, State of Idaho

Consideration

Are signatures sealed?

Names of Witnesses

Date of Acknowledgment

Before Whom Acknowledged

Is wife separately examined in acknowledgment?

Is official seal attached?

U. S. Revenue Stamps attached and cancelled

Granting words:

Covenants:

Remarks:

DESCRIPTION: Lands in Lemhi County, State of Idaho:

B.E. Survey No. 98, embracing a portion of the unsurveyed Public Domain in Lemhi County, Idaho, more particularly described as follows: Beginning at Cor. No. 1, from which U.S. Mineral Monument No. 1, Taglonega Mining District bears N. 59° 2' E. 65.87 chains distant; thence S. 47° 55' E. 14.46 chains to Cor. No. 2; thence S. 30° 11' W. 2.61 chains to Cor. No. 3; thence S. 35° E. 4.81 chains to Cor. No. 4; thence S. 52° 5' E. 2.26 chains to Cor. No. 5; thence S. 30° 20' W. 3.89 chains to Cor. No. 6; thence S. 35° 33' E. 7.85 chains to Cor. No. 7; thence S. 22° 39' E. 7.3 chains to Cor. No. 8; thence S. 5° 40' E. 10 chains to Cor. No. 9; thence S. 72° 25' E. 2.17 chains to Cor. No. 10; thence S. 20° 33' W. 23 chains to Cor. No. 11; thence N. 76° 13' W. 11.4 chains to Cor. No. 12; thence N. 25° 30' E. 28 chains to Cor. No. 13; thence N. 16° 45' W. 12 chains to Cor. No. 14; thence N. 49° 43' W. 29.5 chains to Cor. No. 15; thence N. 60° E. 11.25 chains to Cor. No. 1, the place of beginning, containing 58.47 acres of land, according to the Official Plat of the Survey of the said land returned to the General Land Office by the Surveyor General.

SCANNED

AUG 09 2005

Exhibit (6)

Repeal of inconsistent laws.

SEC. 20. *And be it further enacted*, That all acts and parts of acts heretofore passed, which are inconsistent with any of the provisions of this act, are, for the purposes of this act, hereby repealed, so far as the same are inconsistent herewith.

APPROVED, May 17, 1862.

May 20, 1862.

CHAP. LXXV. — *An Act to secure Homesteads to actual Settlers on the Public Domain.*

Certain persons may enter certain quantities of certain unappropriated public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who shall have filed his declaration of intention to become such, as required by the naturalization laws of the United States, and who has never borne arms against the United States Government or given aid and comfort to its enemies, shall, from and after the first January, eighteen hundred and sixty-three, be entitled to enter one quarter section or a less quantity of unappropriated public lands, upon which said person may have filed a preëmption claim, or which may, at the time the application is made, be subject to preëmption at one dollar and twenty-five cents, or less, per acre; or eighty acres or less of such unappropriated lands, at two dollars and fifty cents per acre, to be located in a body, in conformity to the legal subdivisions of the public lands, and after the same shall have been surveyed: *Provided*, That any person owning and residing on land may, under the provisions of this act, enter other land lying contiguous to his or her said land, which shall not, with the land so already owned and occupied, exceed in the aggregate one hundred and sixty acres.

Such persons to make affidavit.

Contents of affidavit.

Certificates and patents, when to issue and upon what proof.

Affidavit.

Provision in case of death of applicant, &c.

SEC. 2. *And be it further enacted*, That the person applying for the benefit of this act shall, upon application to the register of the land office in which he or she is about to make such entry, make affidavit before the said register or receiver that he or she is the head of a family, or is twenty-one years or more of age, or shall have performed service in the army or navy of the United States, and that he has never borne arms against the Government of the United States or given aid and comfort to its enemies, and that such application is made for his or her exclusive use and benefit, and that said entry is made for the purpose of actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person or persons whomsoever; and upon filing the said affidavit with the register or receiver, and on payment of ten dollars, he or she shall thereupon be permitted to enter the quantity of land specified: *Provided, however*, That no certificate shall be given or patent issued therefor until the expiration of five years from the date of such entry; and if, at the expiration of such time, or at any time within two years thereafter, the person making such entry; or, if he be dead, his widow; or in case of her death, his heirs or devisee; or in case of a widow making such entry, her heirs or devisee, in case of her death; shall prove by two credible witnesses that he, she, or they have resided upon or cultivated the same for the term of five years immediately succeeding the time of filing the affidavit aforesaid, and shall make affidavit that no part of said land has been alienated, and that he has borne true allegiance to the Government of the United States; then, in such case, he, she, or they, if at that time a citizen of the United States, shall be entitled to a patent, as in other cases provided for by law: *And provided, further*, That in case of the death of both father and mother, leaving an infant child, or children, under twenty-one years of age, the right and fee shall enure to the benefit of said infant child or children; and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children for the time being have their domicile, sell

said land for the benefit of said infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States, on payment of the office fees and sum of money herein specified.

SEC. 3. *And be it further enacted*, That the register of the land office shall note all such applications on the tract books and plats of his office, and keep a register of all such entries, and make return thereof to the General Land Office, together with the proof upon which they have been founded. Record of applications to be made.

SEC. 4. *And be it further enacted*, That no lands acquired under the provisions of this act shall in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing of the patent therefor. Such lands not to be subject to prior debts.

SEC. 5. *And be it further enacted*, That if, at any time after the filing of the affidavit, as required in the second section of this act, and before the expiration of the five years aforesaid, it shall be proven, after due notice to the settler, to the satisfaction of the register of the land office, that the person having filed such affidavit shall have actually changed his or her residence, or abandoned the said land for more than six months at any time, then and in that event the land so entered shall revert to the government. When lands thus entered revert to government.

SEC. 6. *And be it further enacted*, That no individual shall be permitted to acquire title to more than one quarter section under the provisions of this act; and that the Commissioner of the General Land Office is hereby required to prepare and issue such rules and regulations, consistent with this act, as shall be necessary and proper to carry its provisions into effect; and that the registers and receivers of the several land offices shall be entitled to receive the same compensation for any lands entered under the provisions of this act that they are now entitled to receive when the same quantity of land is entered with money, one half to be paid by the person making the application at the time of so doing, and the other half on the issue of the certificate by the person to whom it may be issued; but this shall not be construed to enlarge the maximum of compensation now prescribed by law for any register or receiver: *Provided*, That nothing contained in this act shall be so construed as to impair or interfere in any manner whatever with existing preemption rights: *And provided, further*, That all persons who may have filed their applications for a preemption right prior to the passage of this act, shall be entitled to all privileges of this act: *Provided, further*, That no person who has served, or may hereafter serve, for a period of not less than fourteen days in the army or navy of the United States, either regular or volunteer, under the laws thereof, during the existence of an actual war, domestic or foreign, shall be deprived of the benefits of this act on account of not having attained the age of twenty-one years. Not over one quarter section can be thus acquired.
Rules and regulations of Land Office.
Fees of registers and receivers, when to be paid.
Existing preemption rights not impaired.

SEC. 7. *And be it further enacted*, That the fifth section of the act entitled "An act in addition to an act more effectually to provide for the punishment of certain crimes against the United States, and for other purposes," approved the third of March, in the year eighteen hundred and fifty-seven, shall extend to all oaths, affirmations, and affidavits, required or authorized by this act. Punishment for false swearing under this act.
1857, ch. 116, § 5.
Vol. xi. p. 250.

SEC. 8. *And be it further enacted*, That nothing in this act shall be so construed as to prevent any person who has availed him or herself of the benefits of the first section of this act, from paying the minimum price, or the price to which the same may have graduated, for the quantity of land so entered at any time before the expiration of the five years, and obtaining a patent therefor from the government, as in other cases provided by law, on making proof of settlement and cultivation as provided by existing laws granting preemption rights. Applicant may have the land upon paying minimum price, &c., before the five years expire.

APPROVED, May 20, 1862.

VOL. XII. PUB. — 50

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AUG 09 2005

Exhibit (7)



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 30, 2005

JOSEPH A PROKSCH
COLLEEN A BENEDICT
DIXIE L PUETT
MONA J COCKRELL
823 UNION AVE
SALMON ID 83467

RE: Snake River Basin Adjudication (SRBA)
Notice of Claim to a Water Right #75-4358

Dear Claimants:

We have processed your change in ownership of the Notice of Claim referenced above. Thank you for your patience.

Enclosed is a copy of your Notice of Claim for your file. Please refer to this record number in any future inquiries or correspondence.

If your mail delivery address changes in any form, please contact us in writing so we can update our records to assure you receive important notices concerning your claim.

Sincerely,

Sally Sherman
Technical Records Specialist
Adjudication Technical Section

SS:region
Enclosure:

Copy of Notice of Claim Referenced Above

SCANNED

SEP 30 2005

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
75-4358					

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Annie Proksch 618 Saint Charles St.
Albert Proksch Salmon, Idaho 83467
4. New Owner/Claimant(s) Joseph A. Proksch - Colleen A. Benedict + Dixie L. Puett
mona J. Cockrell
Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address 823 Union Ave
- City, State and ZIP Code Salmon Idaho 83467
- New Telephone Number (208) 756-2252
5. Date you acquired the property Oct 28, 1999 (Through Estate)

*D.K. to process
RBrown 9/1/05*

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AUG 09 2005

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SEP 30 2005

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7.** If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation		
Stock		
Domestic		
Other		
Total		

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation		
Stock		
Domestic		
Other		
Total		

7. Signature of New Owner(s) or Claimant(s)
(include title if applicable)

Joseph A. Liskowicz Colleen A. Benedict
Mona J. Cockrell Dorian L. Ruetz

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____ Date _____ Fee _____
 Receipted by _____ Date _____ Receipt No. _____
 Processed by *ashema* Date *9-30-05* WR _____ Date _____

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SEP 30 2005

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AUG 09 2005

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 75-4358

WATER RIGHT NUMBER: 75-4358

Owner Type Name and Address
 Current Owner ANNIE PROKSCH
 618 S SAINT CHARLES ST
 SALMON, ID 83467-6100
 Current Owner ALBERT PROKSCH
 618 S SAINT CHARLES ST
 SALMON, ID 83467-6100

*Name change - Estate to children
 Joseph A. Proksch, Colleen A. Benedict,
 Mona J. Cockrell & Dixie L. Puett*

*828 Union Ave
 Salmon, Idaho
 83467*

Priority Date: 05/04/1917
 Basis: Statutory Claim
 Status: Active

(1910 - 1917)

Source Tributary
 NORTH FORK SALMON RIVER SALMON RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 11/01	0.800 CFS	
	<u>Total Diversion:</u>	0.800 CFS	

Location of Point(s) of Diversion

NORTH FORK SALMON RIVER NE1/4NE1/4 Sec. 35, Twp 26N, Rge 21E, B.M.
 LEMHI County

Place of UseIRRIGATION Within LEMHI County

T26N R21E S36 NWNW 10.0 T26N R21E S36 SWNW 5.0

T26N R21E S36 SENW 5.0

Total Acres: 20

Conditions of Approval:Remarks:

SCANNED

AUG 09 2005

PERSONAL REPRESENTATIVE'S DEED

THIS DEED, made by JOSEPH A. PROKSCH, as Personal Representative of the Estate of ANNIE M. PROKSCH, deceased, Grantor, to JOSEPH A. PROKSCH, COLLEEN A. BENEDICT, MONA J. COCKRELL and DIXIE L. PUETT, married persons dealing with their sole and separate property, of 823 Union Avenue, Salmon, Idaho 83467, Grantees.

WHEREAS, Grantor is the qualified Personal Representative of said Estate, filed as Probate Number SP-98-117 Lemhi County, Idaho; and

THEREFORE, for valuable consideration received, Grantor hereby transfers/sells and conveys to Grantees one-fourth (1/4) in and to the following described real property in Lemhi County, Idaho:

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

Together with improvements thereon.

DATED: the 28th day of October 1999.

Joseph A. Proksch

JOSEPH A. PROKSCH

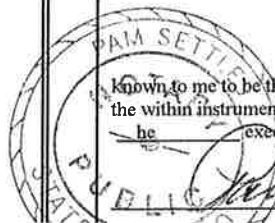
Personal Representative of the Estate of
ANNIE M. PROKSCH, deceased.

STATE OF IDAHO, COUNTY OF LEMHI

On this 28th Day of October 1999,
before me a Notary Public in and for Said State, personally appeared

JOSEPH A. PROKSCH

known to me to be the person whose name is subscribed to
the within instrument, and acknowledged to me that
he executed the same.



Notary Public for State of Idaho

THIS SPACE RESERVED FOR COUNTY RECORDER

State of Idaho) SS No. 242581
County of Lemhi)
This instrument was filed for record at the request
of Myrle A. Martin
at 3:15 o'clock p.m. 11-5 1999
and duly filed and indexed in the records of
County Terri J. Morton
By Terri J. Morton
Fee 90¢ **SCANNED**
AUG 09 2005

Parcel One:

242581

Lots Number Six (6) and Seven (7) in Block Five (5), Abbott and Preston Addition Number One (1), City of Salmon, County of Lemhi, State of Idaho

Parcel Two:

Lots Number Four (4) and Five (5), T-2054, in Block Five (5), Abbott and Preston Addition Number One (1), City of Salmon, County of Lemhi, State of Idaho

Parcel Three:

Lots Number Eight (8) and Nine (9) in Block Five (5), Abbott and Preston Addition Number One (1), City of Salmon, County of Lemhi, State of Idaho

Parcel Four: One-half interest

Lots Number Ten (10) and Eleven (11) in Block Five (5), Abbott and Preston Addition Number One (1), City of Salmon, County of Lemhi, State of Idaho

Parcel Five:

Lots Number One (1) and Two (2) in Block Six (6), Abbott and Preston Addition Number One (1), City of Salmon, County of Lemhi, State of Idaho

Parcel Six:

Lots Number Two (2), Three (3), Four (4), Five (5), Six (6) and Seven (7) in Block Nine (9), Abbott and Preston Addition Number One (1), City of Salmon, County of Lemhi, State of Idaho

Parcel Seven:

All of Block Thirteen of Finsturs Subdivision, City of Salmon, County of Lemhi, State of Idaho

Parcel Eight: Gibbonsville Property

That part and portion lying and being East and North of the North Fork of the Salmon River, comprising in all approximately twenty-four (24.849) acres, of Homestead Entry Survey No. 98, embracing a portion of the unsurveyed public domain, described in that certain deed dated November 11, 1921, between Margaret Sarrazin and C. S. Sarrazin, her husband, parties of the first part, and George Kern, party of the second part, recorded in the office of the County Recorder of Lemhi County, Idaho, in Book X of Deeds at page 622 thereof on November 12, 1921, to which reference is hereby made for a more particular description of said H.E.S. No. 98, with all buildings thereon.

Together with all water, water rights, ditches, and ditch rights, appertaining thereto or used in connection therewith.

With the further stipulation and agreement that approximately one (1) acre surrounding the "A" frame building owned by Joseph A. Proksch and Hallie Proksch, will be surveyed and deeded to Joseph A. Proksch and Hallie Proksch.

Parcel 9: One half interest in "The Lantern" 409 Main Stree more particularly described as follows:

Salmon Townsite

SCANNED

AUG 09 2005



SCANNED

OCT 10 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

RECEIVED

MAY 11 1990

Ident. Number: A75-04358

Date Received: 4/17/1990

Receipt No: E014433

Received By: PM 5-8-90/JP

Department of Water Resources
Eastern District Office

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ALBERT PROKSCH
Address: RT. 1, BOX 126
SALMON, ID 83467

OR

Name: ANNIE PROKSCH
Address: RT. 1, BOX 126
SALMON, ID 83467

2. Date of Priority: MAY 04, 1917

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

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
26N	21E	35	NE	NE			LEMHI

5. Description of diverting works:
HEADGATE & DITCH TO FLOOD IRR.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.800		

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

8. Total consumptive use is 50.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE



A75-04358

Page 1

Date: 04/17/90

MICROFILMED
DEC 15 1992

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
26N	21E	36	NW		NW		IRR	10.0
			SW		NW		IRR	5.0
			SE		NW		IRR	5.0
							Section Acres	20.0
							Total Acres	20.0

11. Place of use in counties: LEMHI

mail 700

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: _____

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): Cherie Probst Date: 5-8-90

Date: _____

State of Idaho)
County of LENAHI) SS.

Subscribed and sworn (or affirmed) before me this 8th day
of May 19 90

Don Allen
Notary Public

Seal

Residing at SALMON
My Commission Expires 2-19-91