

11/02/2006

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

RIGHT NUMBER: 75-14032

NAME AND ADDRESS: KEVIN ALLEN AVERY
51 HWY 28
SALMON ID 83467

ANDREA C AVERY
51 HWY 28
SALMON ID 83467

SOURCE: GOLWAY GULCH CREEK

TRIBUTARY: FREEMAN CREEK

QUANTITY: 0.320 CFS
48.150 AFY

PRIORITY DATE: 10/02/1960

POINT OF DIVERSION:

T23N R23E S33 NENW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/01	0.320 CFS 48.15 AFY

PLACE OF USE: IRRIGATION in LEMHI County

T23N R23E S31 NWSW 12.00

12 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 - License

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 75-14014.

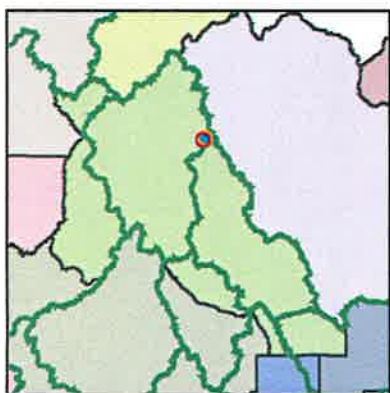


Idaho Department of Water Resources

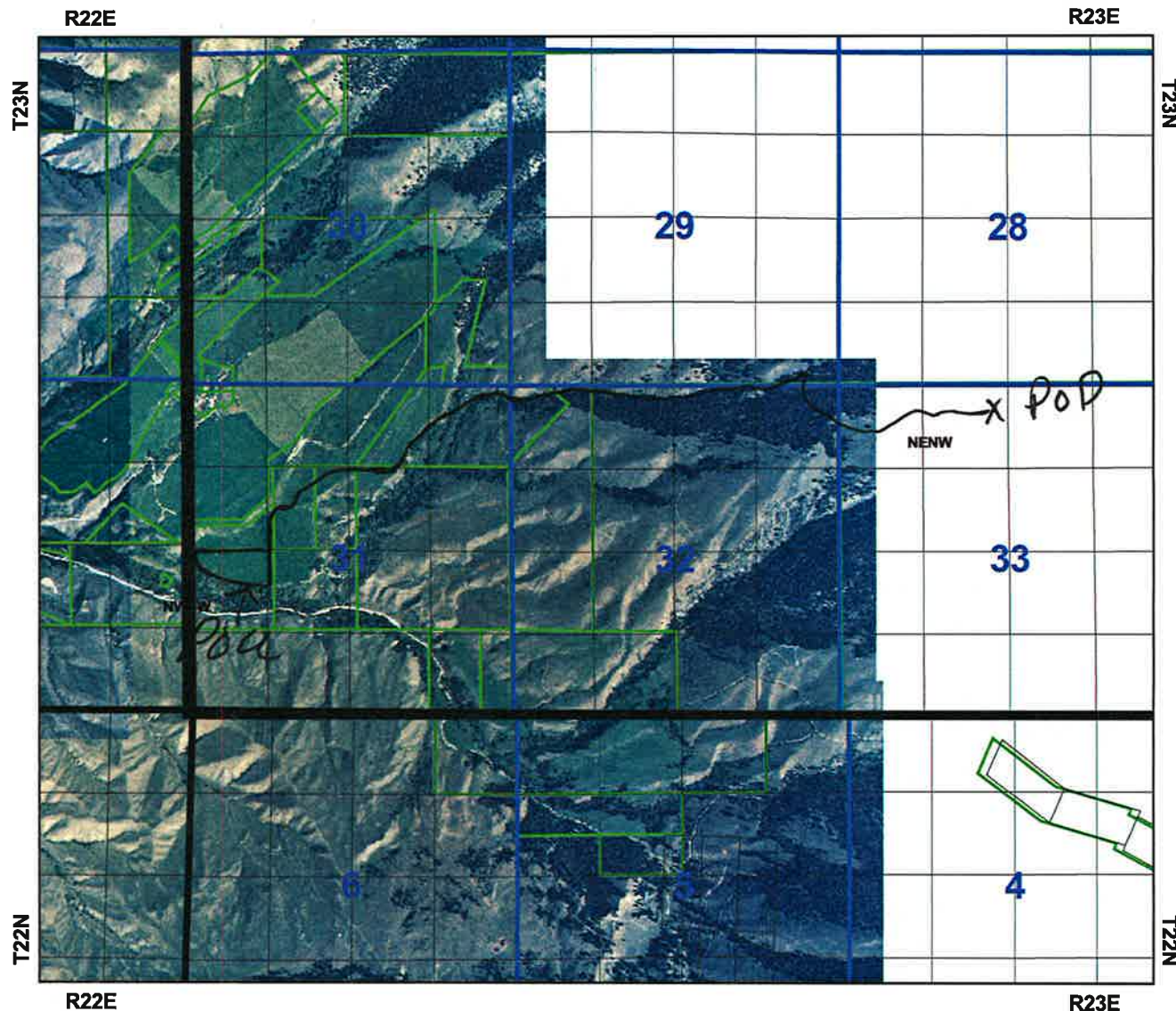
SRBA Claim:
75-14032

Legend

-  Townships
-  PLS Sections
-  Quarter Quarters
-  Parcels



Lemhi County
IDWR Basin 75



0 1 2 Miles

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

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

CLAIM NO(s). A75 14032

1. ☐ No Change NAME IS SAME
☒ NEW OWNER: Name Andrea C. Clifton
☒ 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:

A0014995
Township _____ Range _____ 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:

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

☐ SYSTEM DIAGRAM INCLUDED ☐ NA

☐ Shown on GIS Layout

☐ CK IF IN OFFICE EXAM

DATE EXAM CONDUCTED: _____

FIELD EXAMINER: _____

	Print Name _____
	Signature _____

Pedigree Search (History of Water Right Number splits)

Adjudication Pedigree for 75-2140 *1.26 - 471 0.02*

-- Water Right Number / Status /Reason for split

--75-2140 /PARENT /Ownership Change

--75-14006 /PARENT /Ownership Change *1 - 34.1*

--75-14014 /Parent /Ownership Change *.76 - 28.4*

--75-14031 /Active /Ownership Change *.44 - 16.4*

--75-14032 /Active /Ownership Change *.32 - 12.00*

--75-14015 /Active /Ownership Change *.15 - 5.7*

--75-14007 /Active /Ownership Change *.26 - 13*

Water Right Pedigree for 75-2140

PAUL B. WITHERS, ESQ.
WITHERS LAW OFFICE, Chartered
1301 Main Street, Suite 6
Salmon, Idaho 83467
Telephone: (208) 756-2009
Facsimile: (208) 756-2046

March 3, 2006

State of Idaho
Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

RECEIVED
MAR 10 2006
DEPARTMENT OF
WATER RESOURCES

ATTN: Roxanne Brown

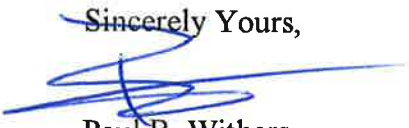
Re: Water Right #s 75-14032 & 75-14034

Dear Ms. Brown:

I was contacted recently by a client, Andrea Avery, who owns real property with an associated water right on Golway Gulch Creek, which is a tributary of Freeman Creek. It is my understanding that the information related to this water right and the other associated rights on Golway Gulch Creek/Freeman Creek has previously been forwarded to your department from other individuals with water rights on the creek. If that is not the case, or if you need further information please contact me at your earliest convenience. I have enclosed a copy of the Department's basic water right information to this letter for your convenience.

I appreciate your help in this matter.

Sincerely Yours,



Paul B. Withers
PBW/ljs

cc: client

SCANNED
MAR 10 2006

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report

02/28/2006

WATER RIGHT NO. 75-14032

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ANDREA C AVERY 51 HWY 28 SALMON, ID 83467 (208)756-3587
Current Owner	KEVIN ALLEN AVERY 51 HWY 28 SALMON , ID 83467 (208)756-3587

Priority Date: 10/02/1960

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
GOLWAY GULCH CREEK	FREEMAN CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/01	0.32 CFS	40.98 AFA
Total Diversion			0.32 CFS	

Location of Point(s) of Diversion:

GOLWAY GULCH CREEK	NENENW	Sec. 33	Township 23N	Range 23E	LEMHI County
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SCANNED

MAR 10 2006

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
23N	23E	31		NWSW	12									

Total Acres: 12

Conditions of Approval:

1.	P21	THIS RIGHT IS A SPLIT FROM FORMER RIGHT 75-14014.
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Dates:

Licensed Date:

Claim Received Date:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

SCANNED
MAR 10 2006

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report

02/28/2006

WATER RIGHT NO. 75-14034

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ANDREA C AVERY 51 HWY 28 SALMON, ID 83467 (208)756-3587
Current Owner	KEVIN ALLEN AVERY 51 HWY 28 SALMON , ID 83467 (208)756-3587

Priority Date: 09/07/1940

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
SMOUT CREEK	FREEMAN CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	11/01	0.24 CFS	29.99 AFA
Total Diversion			0.24 CFS	

Location of Point(s) of Diversion:

SMOUT CREEK	SWNE	Sec. 31	Township 23N	Range 23E	LEMHI County
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SCANNED
MAR 10 2006

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
23N	23E	31		NWSW	12									

Total Acres: 12

Conditions of Approval:

1.	P21	THIS RIGHT IS A SPLIT FROM FORMER RIGHT 75-14016.
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Dates:

Licensed Date:

Claim Received Date:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

SCANNED
MAR 10 2006



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

November 19, 2001

KEVIN ALLEN & ANDREA C AVERY
51 HWY 28
SALMON ID 83467

RE: CHANGE IN OWNERSHIP FOR A75-14014 AND A75-14016

Dear Mr. & Mrs. Avery:

The request for Change in Ownership for a portion of the above referenced Notice(s) of Claim has been processed with the new Notice(s) reflecting you as one of the claimants.

Since the Change in Ownership involved just a portion of the Notice(s) of Claim, the right was split as follows:

A75-14014 split into
A75-14031: 0.44 CFS, 65.81 AFA, 16.4 ACRES: ELLIS
A75-14032: 0.32 CFS, 48.15 AFA, 12 ACRES: AVERY

A75-14016 split into:
A75-14033: 0.32 CFS, 4098 AFA, 16.4 ACRES: ELLIS
A75-14034: 0.24 CFA, 29.99 AFA, 12 ACRES: AVERY

Enclosed for your records is a typed Notice(s) reflecting your portion of the right. Review the Notice(s) and if you have other corrections or questions, please contact this office.

Respectfully submitted,

Cheri Vandermeulen
Records Clerk

Enclosure(s)

OK JC
11-19-01

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

RECEIVED
NOV 13 2001

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

Department of Water Resources
Eastern Region

- 75-14014 75-14016
1. Water Right Number(s) LICENSED PERMITS NO'S: 75-2097 & 75-2140 (THE INTENT IS TO TRANSFER 24.0 % OF THE ABOVE PERMITS)
Adjudication Claim Number(s) _____

 2. The following **REQUIRED** information must be submitted with this form.
 - A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE, or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.
 - AND
 - B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually on file with the county.)
 - OR
 - C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency (formerly ASCS) AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

 3. Name and Address of Former Owner/Claimant(s) JACK F. ELLIS AND DIANE L. ELLIS
P.O. BOX 301, SALMON, IDAHO 83467

 4. New Owner/Claimant(s) KEVIN ALLEN AVERY AND ANDREA C. AVERY, HUSBAND & WIFE
 Name connector (Check one): ☐ AND, ☐ OR, ☒ AND/OR
 New Mailing Address 51 HIGHWAY 28,
 City, State and ZIP Code SALMON, IDAHO 83467
 New Telephone Number (208) 756 - 3587

 5. Date you acquired the property OCTOBER 9, 2001

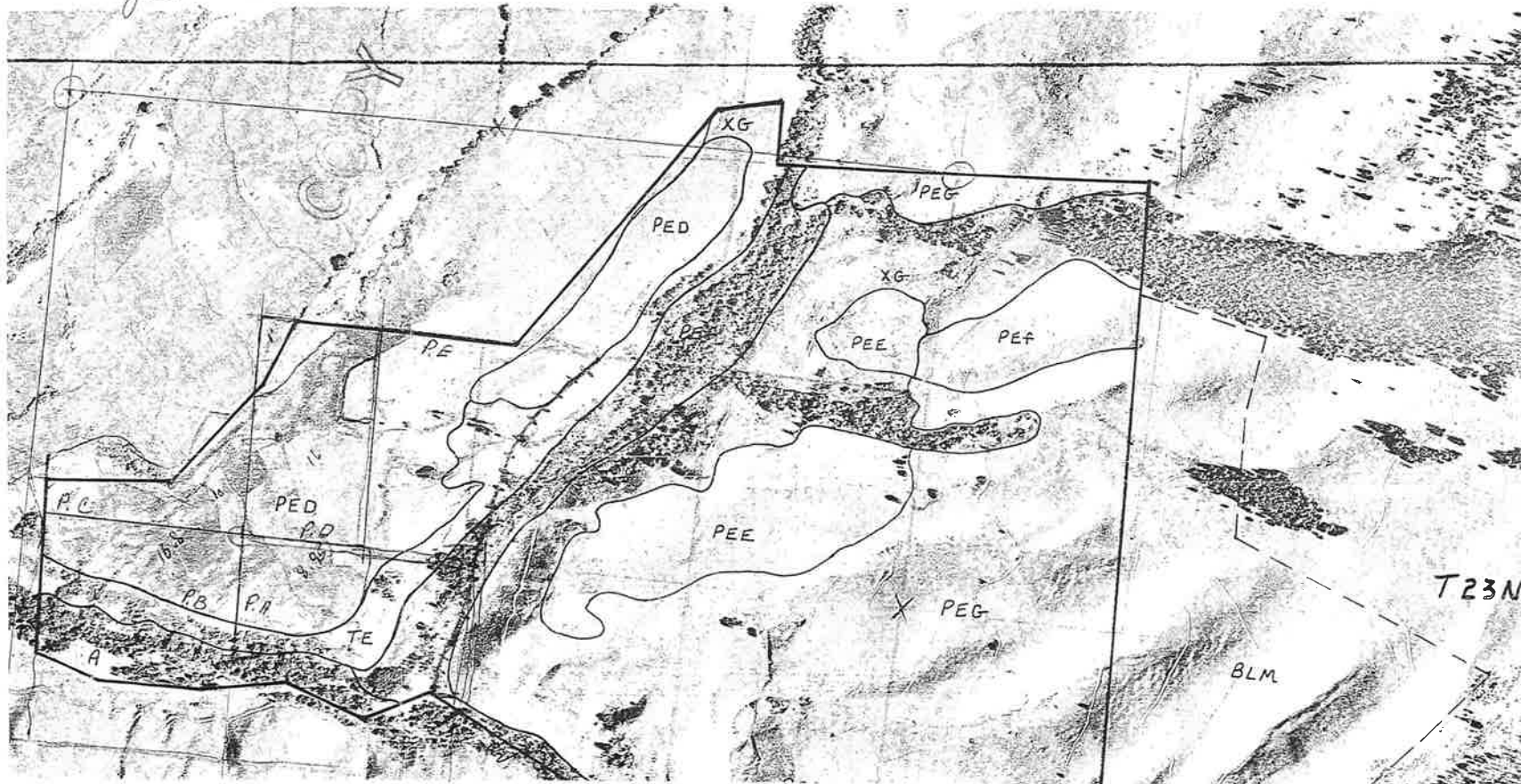
 6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.
 Number of acres actually irrigated 16.8 Number and type of stock _____
 Diversion rate in CFS _____ Number of homes _____ Other uses _____
cubic feet per second
 If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

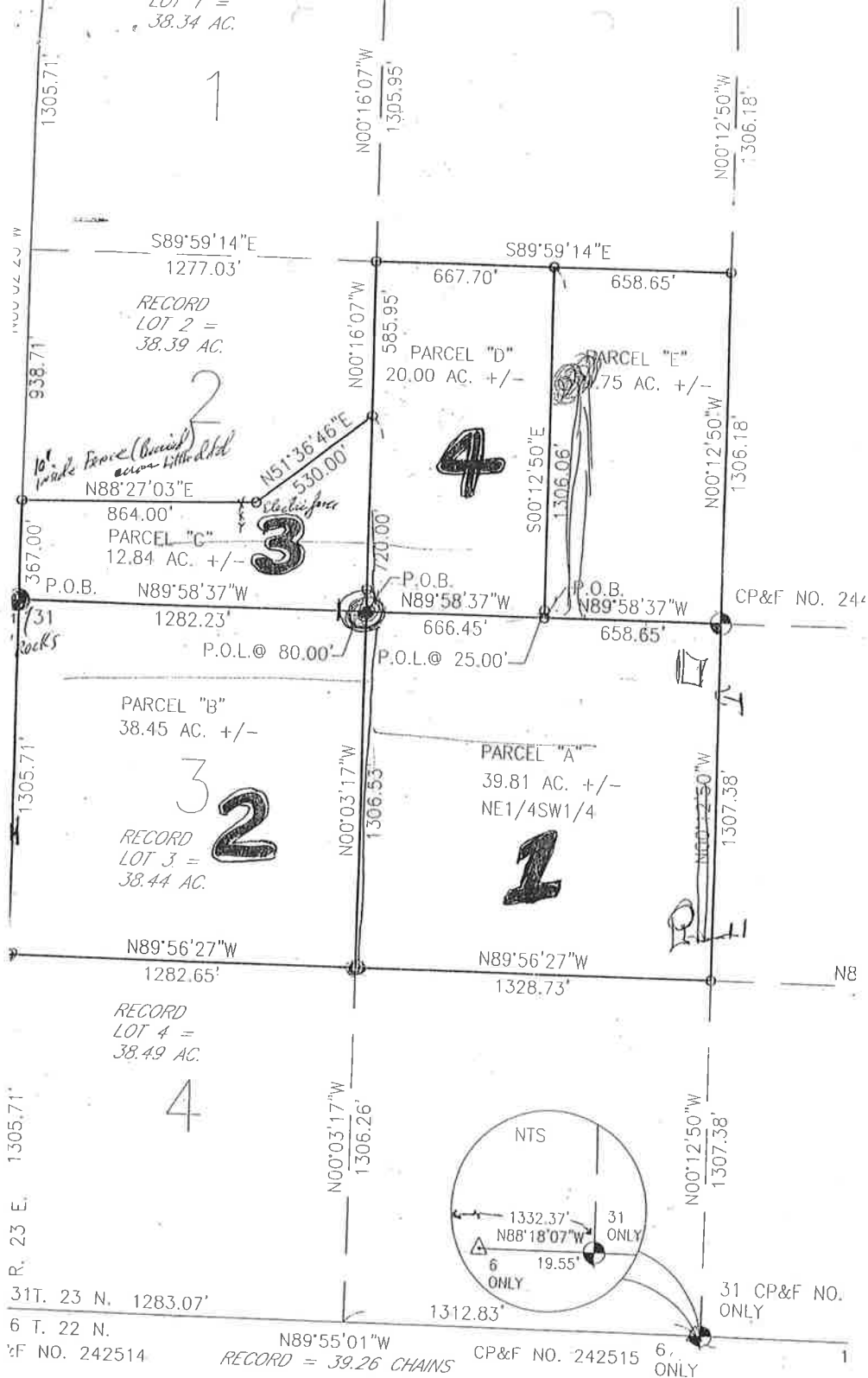
 7. Signature of New Owner/Claimant(s) Kevin Allen Avery Date 10-9-01
Andrea C. Avery Date 10-9-01

 8. For Snake River Basin Adjudication Claims: If you are represented by an attorney and you want IDWR to correspond directly with your attorney for all matters related to your claims, please attach a Notice of Appearance completed by your attorney.

Approximate acres _____ Approximate scale 8" = 1 MILE
Cooperating with LEMHI Conservation District
Plan identification _____ Photo number EGK-7JJ-33
Assisted by R.L. KANE USDA Soil Conservation Service

Jack Ellis





WARRANTY DEED

For Value Received JACK F. ELLIS AND DIANE L. ELLIS, HUSBAND
AND WIFE.

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

KEVIN ALLEN AVERY AND ANDREA C. AVERY, HUSBAND AND WIFE
51 HIGHWAY 28, SALMON, IDAHO 83467

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

SEE ATTACHED EXHIBIT "A"

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee^s,
their heirs and assigns forever. And the said Grantor^s do hereby covenant to
and with the said Grantee, that they are the owner^s 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: AUGUST 23, 2001

Jack F. Ellis
JACK F. ELLIS

Diane L. Ellis
DIANE ELLIS

STATE OF IDAHO, COUNTY OF LEMHI

On this day of OCTOBER 9, 2001

before me, a Notary Public in and for said State, personally
known to me to be the persons whose names ARE
JACK F. ELLIS & DIANE L. ELLIS

known to me to be the persons whose names ARE
within instrument, and acknowledged
to me that THEY executed the same.

Residing at SALMON, Idaho
Comm. Expires 10-6-05

STATE OF IDAHO, COUNTY OF Lemhi

I hereby certify that this instrument was filed for re-
cord at the request of Lemhi Title

at 30 minutes past 11 o'clock A.M.,
this 10TH day of October
2001, in my office, and duly recorded in Book
of Deeds at page

Teri J. Morton
Ex-Officio Recorder

By Anna Eagle Deputy.

Fees \$ 6.00
Mail to:

INSTRUMENT NO. 248488

248488

EXHIBIT "A"
PARCEL "B"

A portion of Section 31, T. 23 N., R. 23 E., Boise Meridian, Lemhi County, Idaho more particularly described as follows:

Lot 3 of said Section 31.

Together with and subject to an ingress and egress easement filed as Instrument No. 244871, dated 7/27/00 records of Lemhi County, Idaho.

Also subject to and together with a perpetual right-of-way for an existing road over and across a strip of land 60 feet wide for public access and use known as Freeman Creek Road.

Also subject to and together with a strip of land 10 feet wide for the maintenance and use of existing power and phone lines.

Zero (0) lot splits remain.

Parcel contains 38.45 acres more or less.

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 75-14032
Date Received: 11/19/2001
Receipt No:
Received By:

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

1. Name of Claimant(s)

KEVIN ALLEN AVERY Phone: (208) 756-3587

51 HWY 28
SALMON ID USA 83467

ANDREA C AVERY Phone: (208) 756-3587

51 HWY 28
SALMON ID USA 83467

2. Date of Priority: 10/02/1960

3. Source: GOLWAY GULCH CREEK Trib. to: FREEMAN CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
23N	23E	33	NE NE NW	LEMHI	

5. Description of diverting works:

HEADGATES/DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	10/01	0.32	40.98

7. Total Quantity Appropriated is:
0.32 C.F.S. and/or 40.98 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

A7514032



Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
23N	23E	31	NW	SW	IRRIGATION	12
					Section Acres	12
					Total Acres	12

11. Place of use in counties: LEMHI

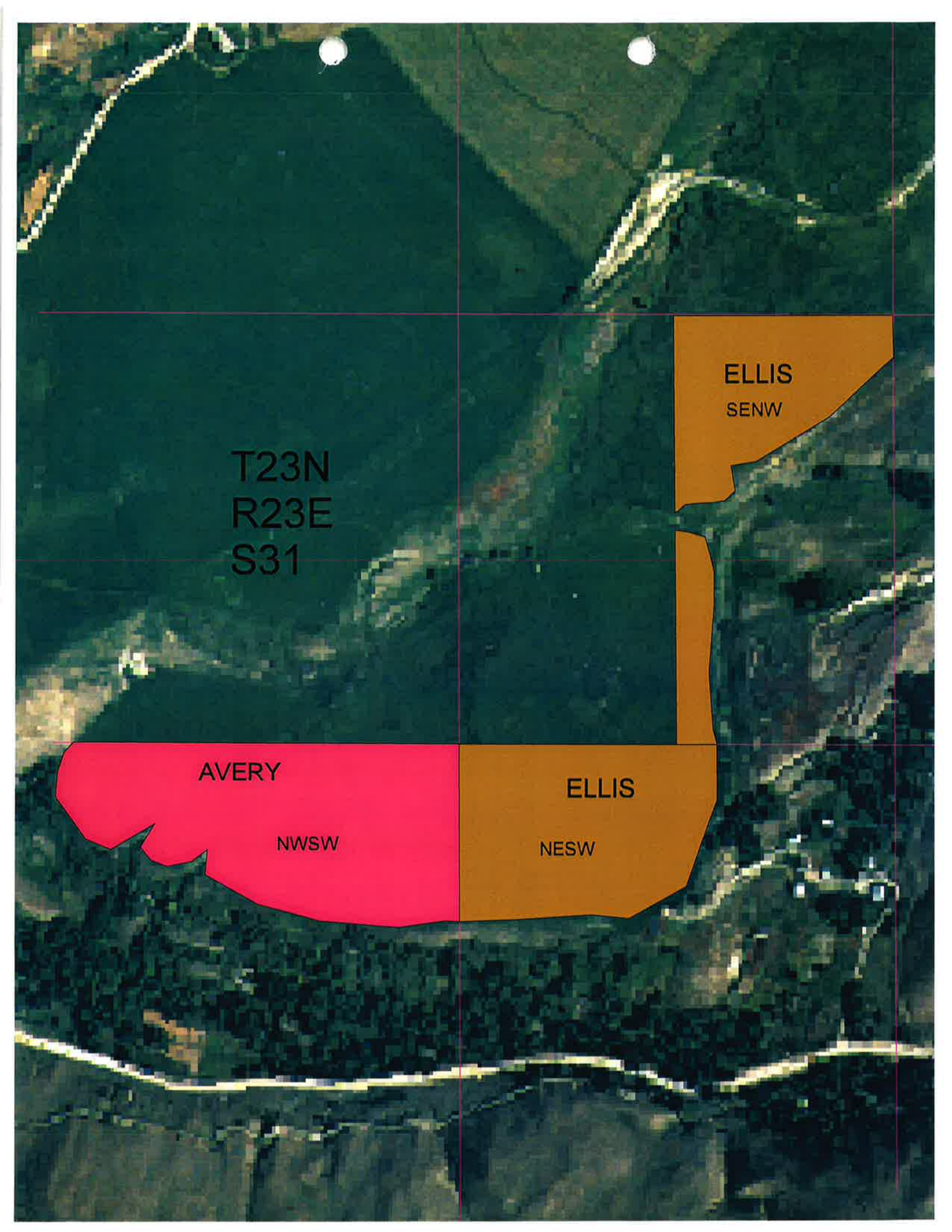
12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 75-14014.

15. Basis of Claim: License

An aerial photograph of a landscape, possibly a wetland or marsh, with a grid of thin red lines. Overlaid on the image are several colored regions: a large orange region in the upper right, a pink region in the lower left, and two smaller orange regions in the lower right. Text labels are placed within these regions and in the upper left. Two white circular punch holes are visible at the top of the page.

T23N
R23E
S31

ELLIS
SESW

AVERY

NWSW

ELLIS

NESW