

12/21/2006

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

RIGHT NUMBER: 75-14036
NAME AND ADDRESS: KORD S SMITH
781 CEDAR RIDGE DR
IDAHO FALLS ID 83404

MARY ANN H SMITH
781 CEDAR RIDGE DR
IDAHO FALLS ID 83404

SOURCE: TOWER CREEK TRIBUTARY: SALMON CREEK
QUANTITY: 0.440 CFS
PRIORITY DATE: 12/10/1909
POINT OF DIVERSION:

T23N R22E S4 NENW Within LEMHI County
T23N R22E S4 NENW Within LEMHI County
T24N R22E S33 SWSE 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	0.440 CFS

PLACE OF USE:

<u>IRRIGATION in LEMHI County</u>					
T23N R22E S04	NENW	2.80	T23N R22E S04	SENEW	15.00
T23N R22E S04	NESW	4.10			

21.9 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

08/01/2006

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

RIGHT NUMBER: 75-14036
NAME AND ADDRESS: KORD S SMITH
781 CEDAR RIDGE DR
IDAHO FALLS ID 83404

MARY ANN H SMITH
781 CEDAR RIDGE DR
IDAHO FALLS ID 83404

SOURCE: TOWER CREEK
QUANTITY: 0.440 CFS
PRIORITY DATE: 04/01/1899
POINT OF DIVERSION:

TRIBUTARY: SALMON CREEK

T23N R22E S4 NENW Within LEMHI County
T23N R22E S4 NENW Within LEMHI County
T24N R22E S33 SWSE 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	0.440 CFS

PLACE OF USE: IRRIGATION Within LEMHI County

T23N R22E S04	NENW	2.80	T23N R22E S04	SENE	15.00
T23N R22E S04	NESW	4.10			

21.9 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

WATER RIGHT NO.:

75-14036

T23N R22E Sec. 4

LEGEND



Point(s) of Diversion



Place(s) of Use

#

Lot Numbers



Quarter Quarter Lines



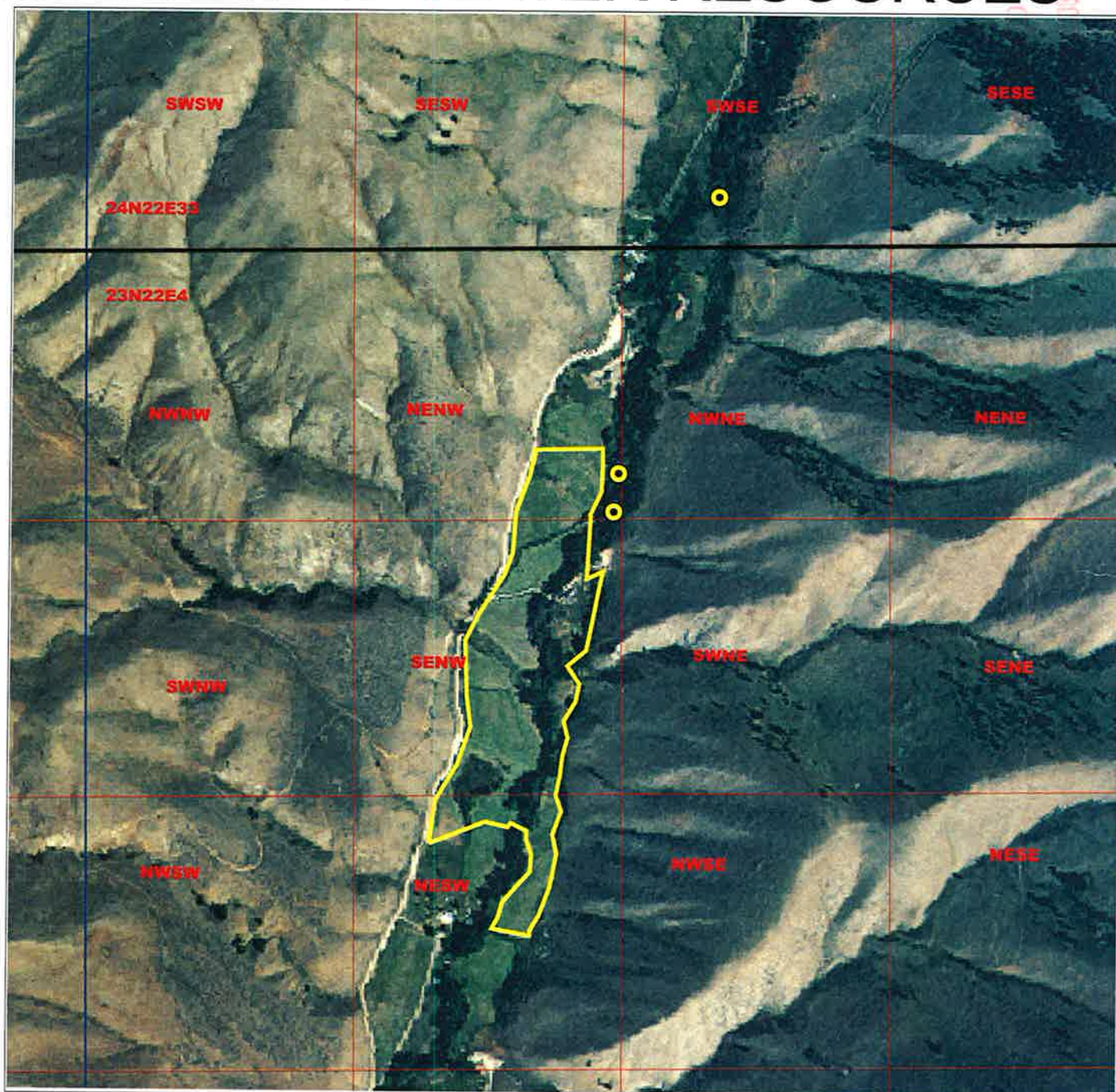
Section Lines

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.:

75-14036

T23N R22E Sec. 4

LEGEND



Point(s) of Diversion



Place(s) of Use



Lot Numbers



Quarter Quarter Lines



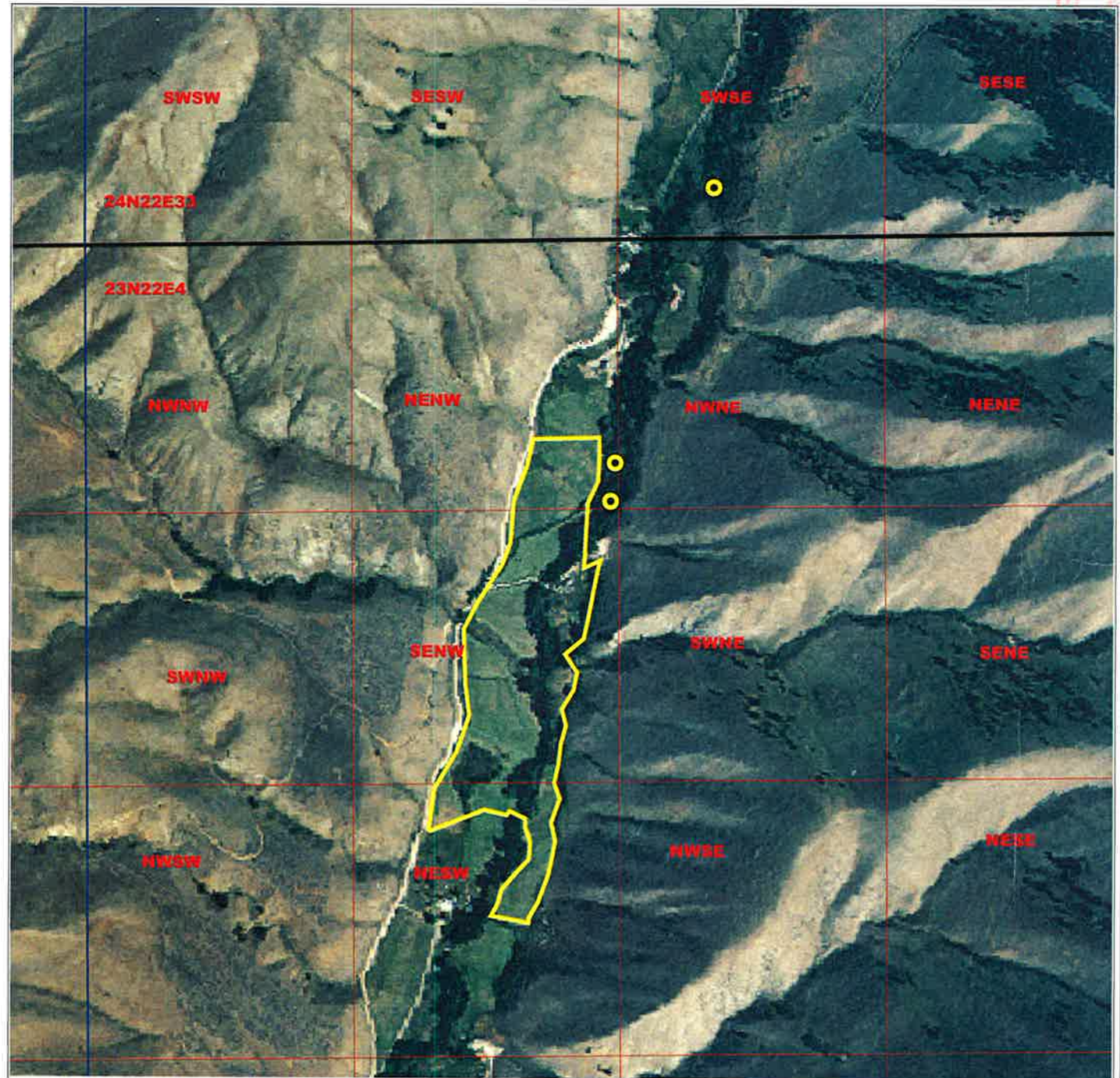
Section Lines

IMAGE

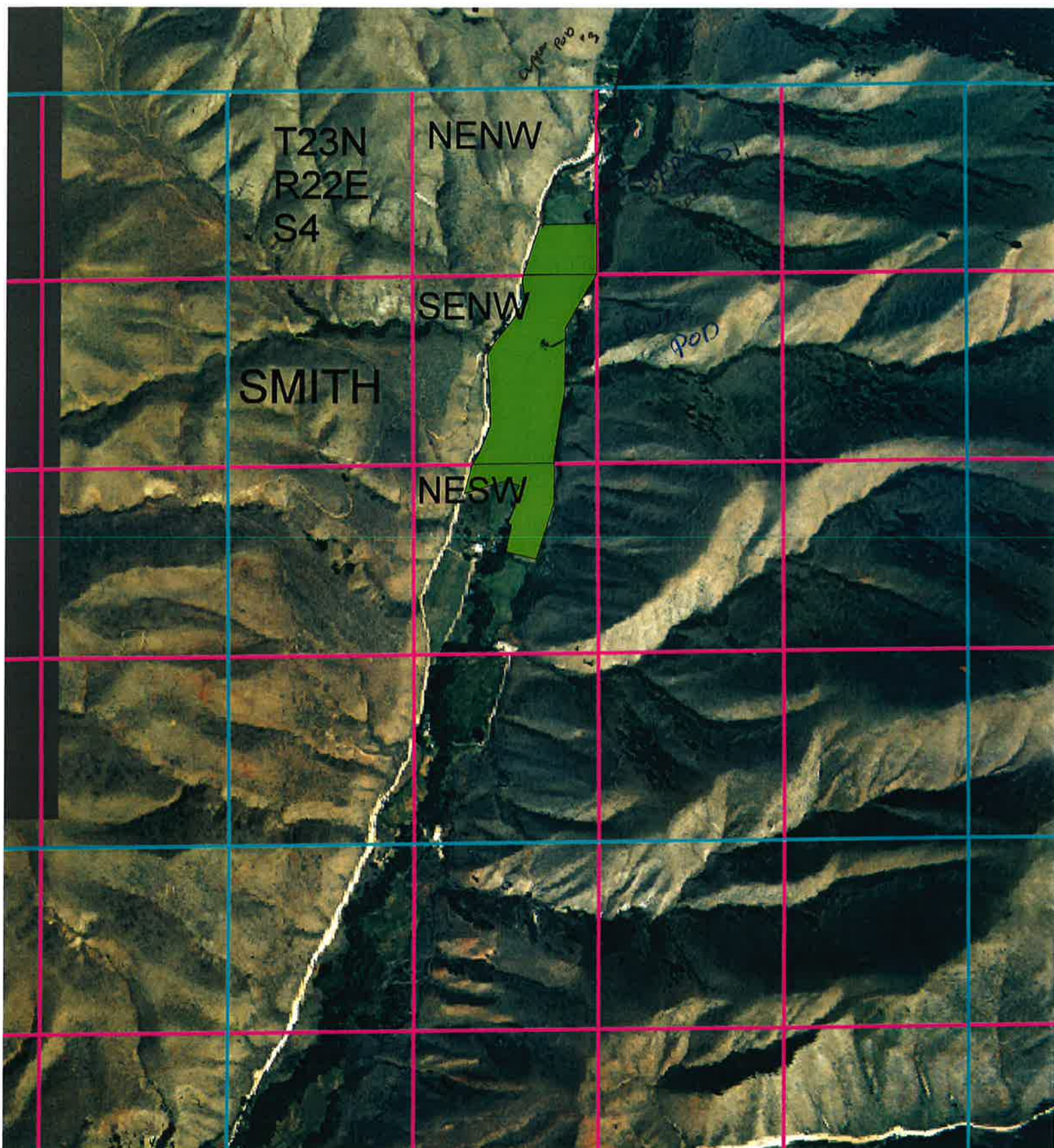
1993 True Color



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
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 75-14516
NAME AND ADDRESS: KORD S SMITH
781 CEDAR RIDGE DR
IDAHO FALLS ID 83404

MARY ANN H SMITH
781 CEDAR RIDGE DR
IDAHO FALLS ID 83404

SOURCE: TOWER CREEK
QUANTITY: 0.340 CFS
PRIORITY DATE: 06/29/1899

TRIBUTARY: SALMON CREEK

POINT OF
DIVERSION: T23N R22E S4 NENW Within LEMHI County
T23N R22E S4 NENW Within LEMHI County
T24N R22E S33 SWSE 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	0.340 CFS

PLACE OF USE: IRRIGATION in LEMHI County

T23N R22E S04	NENW	2.80	T23N R22E S04	SENE	15.00
T23N R22E S04	NESW	4.10			

21.9 ACRES TOTAL

Place of use does not include federal public lands.

Right Nos. 75-14516 and 75-14517 are limited to the irrigation of a combined total of 21.9 acres in a single irrigation season.

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
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 75-14517
NAME AND ADDRESS: KORD S SMITH
781 CEDAR RIDGE DR
IDAHO FALLS ID 83404

MARY ANN H SMITH
781 CEDAR RIDGE DR
IDAHO FALLS ID 83404

SOURCE: TOWER CREEK
QUANTITY: 0.100 CFS
PRIORITY DATE: 12/10/1909
POINT OF
DIVERSION: T23N R22E S4 NENW Within LEMHI County
T23N R22E S4 NENW Within LEMHI County
T24N R22E S33 SWSE Within LEMHI County

TRIBUTARY: SALMON CREEK

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.100 CFS

PLACE OF USE: IRRIGATION in LEMHI County

T23N R22E S04	NENW	2.80	T23N R22E S04	SENE	15.00
T23N R22E S04	NESW	4.10			

21.9 ACRES TOTAL

Place of use does not include federal public lands.

Right Nos. 75-14516 and 75-14517 are limited to the irrigation of a combined total of 21.9 acres in a single irrigation season.

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

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

CLAIM NO(s). 75-14036

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.: A0015049, A0015050, A0015054 GPS file T061919A
no measurement T061920A
Township 23N Range 22E Section 4 1/4 SE 1/4 NE 1/4 NW T062416A
Township _____ Range _____ Section _____ 1/4 _____ 1/4 _____ 1/4 _____

5. ☐ No Change - DESCRIPTION OF DIVERTING WORKS

☐ Incomplete description, list below:

diversion dams 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

ditches ^{are} at capacity, no water was being diverted from diversion in T24 R22E S33 SW SW SE.

claims 75-4295A, 75-4432, and 75-14035 are diverted at POD in SW SW SE 24N 22E S33

☐ SYSTEM DIAGRAM INCLUDED

☐ NA

☒ Shown on GIS Layout

☐ CK IF IN OFFICE EXAM

DATE EXAM CONDUCTED: 6-19-05

FIELD EXAMINER: Bob Foster
Print Name

Bob Foster
Signature

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

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

A0015054

A0015054

Note to user:
Make entries in cells without shading.

Note to user:
Make entries in cells without shading.

Note to user:
Make entries in cells without shading.

Note to user:
Make entries in cells without shading.

Note to user:
Make entries in cells without shading.

SCANNED
JAN 29 2008

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

Measurement done by: B. Foster

Upper

Global Inputs:

Note to user:

Make entries in cells without shading.

readings (ft):

SCANNED
JAN 29 2008

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

Measurement done by: B. Foster

Location of measurement: Tower Creek 75-14036

Date if measurment: 6/19/2005

REW value: 1.00

LEW value: 2.80

Space between

readings (ft): 0.30

Note to user:

Make entries in cells without shading.

SCANNED
JAN 29 2003

ASSESSMENT ROLL FOR THE YEAR 19112

REAL PROPERTY

[illegible]



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

KORD S & MARY ANN H SMITH
781 CEDAR RIDGE DR
IDAHO FALLS ID 83404

Re: Tower Creek Adjudication Recommendation

Dear Mr. & Mrs. Smith:

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

SCANNED

JAN 29 2008



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

February 9, 2006

Kord Smith
781 Cedar Ridge Dr.
Idaho Falls, ID 83404

Re: Snake River Basin Adjudication (SRBA)
Investigation of Claim No(s). 75-14036

Dear Claimants,

We are currently reviewing the water right claim noted above and need your assistance.

You have done extensive work to provide evidence of your priority date on Tower Creek, and it appears an earlier priority date is warranted. Making this change requires an amended claim. We have enclosed a claim form for your use, making only the change discussed in this letter. Please sign the form, have your signature notarized, and return it as soon as possible. You may use the enclosed return envelope.

Please feel free to contact me at (208) 287-4914 if you have additional questions or concerns. You may also reach me using email: roxanne.brown@idwr.idaho.gov.

Sincerely,

Roxanne Brown
Adjudication Bureau
Idaho Dept. of Water Resources

Enclosures

SCANNED

JAN 29 2006

SCANNED
JAN 2 2007

MEETING EVALUATION

Meeting Date & Time: December 6, 2006 Meeting Place: Stagecoach Inn Conference Room, Salmon, ID

Please Circle Response

	EXCELLENT	AVERAGE	POOR
1. Rate your contact with a department water resource agent within the last year regarding your water right(s)?	10 9 8	7 6 5 4	3 2 1 NA
2. Rate the information that was mailed to you on your water right for this meeting as to how easy the information is to understand.	10 9 8	7 6 5 4	3 2 1 NA
3. Rate the presentation and information you received at this meeting. Has it been helpful?	10 9 8	7 6 5 4	3 2 1 NA
4. Rate the assistance you have received from the department staff at this meeting.	10 9 8	7 6 5 4	3 2 1 NA
5. Overall rating of the adjudication process	10 9 8	7 6 5 4	3 2 1 NA

Comment on your contact with a water resource agent: _____

Comments about the information that was mailed to you: _____

Comments about the presentation and information you received today: _____

Comments about the department assistance you received today: _____

How can we make the SRBA adjudication easier for you? _____



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 20, 2001

KORD S & MARY ANN H SMITH
781 CEDAR RIDGE DR
IDAHO FALLS ID 83404

RE: CHANGE IN OWNERSHIP FOR A75-04295B AND A75-10501

Dear Mr. & Mrs. Smith:

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:

75-14035: 0.21 CFS, 10.26 ACRES, DUNPHY
75-14036: 0.47 CFS, 23.74 ACRES, SMITH

Water right A75-10501 will be processed and mailed to you in a different mailing.

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)

SCANNED

JAN 29 2003

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

Department of Water Resources
 Eastern Region

RECEIVED

NOV 19 2001

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
75-04295B - split		—			—
75-10501 - \$25-		—			—
		—			—
		—			—
		—			—

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)

Michael & Dorene Dunphy
 PO Box 412 Salmon ID 83467

4. New Owner/Claimant(s)

Kend S & Mary Ann H. Smith

Name Connector (Check one): ☐ and, ☐ or, ☐ and/or

New Mailing Address

781 Cedar Ridge Drive

City, State and ZIP Code

IDAHO Falls, ID 83404

New Telephone Number

(208) 522-1184 (208) 756-2338

5. Date you acquired the property

6-15-01

SCANNED

JAN 29 2003

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) Karl J. [Signature]
(include title if applicable) _____

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 gc Date 11-19-01 Fee 25 -
 Received by gc Date 11-19-01 Receipt No. E027289
 Processed by _____ AJ Date _____ WR _____ Date _____

SCANNED

JAN 29 2003

WARRANTY DEED

Order No.:307010715L-G

FOR VALUE RECEIVED

Michael D. Dunphy, a single person

the grantor(s), do(es) hereby grant, bargain, sell and convey unto

Kord S. Smith and Mary Ann H. Smith, Husband and Wife

whose current address is

781 Cedar Ridge Dr., Idaho Falls, ID 83404

the grantee(s), the following described premises, in Lemhi County, Idaho, TO WIT:

State of Idaho
County of Lemhi) SS No. 247369

This instrument was filed for record at the request
of Alliance Title
at 3:23 clock P.m. 6-15 2001
and duly filed and indexed in the records of Lemhi
County: Teri J. Morton
Ex-Officio Recorder
By Spina Eagle Deputy
Fee 6.00
Return to A.T.

**A PARCEL OF LAND LOCATED IN THE N1/2, SECTION 4, T. 23 N., R. 22 E.,
BOISE MERIDIAN, LEMHI COUNTY, IDAHO, MORE PARTICULARLY
DESCRIBED AS FOLLOWS:**

**BEGINNING AT THE SW CORNER OF THE NW1/4NE1/4SE1/4NW1/4 OF SAID
SECTION RUN THENCE N. 00° 13' 30" E. THE BASIS OF BEARING OF THIS
DESCRIPTION, A DISTANCE OF 327.58 FT. TO THE NW CORNER OF SAID
NW1/4NE1/4SE1/4NW1/4;**

**THENCE N. 00° 12' 14" E. ALONG THE WESTERLY BOUNDARY OF
GOVERNMENT LOT 13 OF SAID SECTION A DISTANCE OF 50.55 FT. TO THE
SOUTHWESTERLY CORNER OF THE PROPERTY SHOWN ON RECORD OF
SURVEY INSTRUMENT NUMBER 233417 AS RECORDED IN THE LEMHI COUNTY
COURTHOUSE.**

THENCE N. 35° 16' 54" E. ALONG SAID PROPERTY A DISTANCE OF 393.04 FT.

**THENCE CONTINUING ALONG SAID PROPERTY N. 89° 32' 44" E. A DISTANCE
OF 396.35 FT. TO A POINT ON THE CENTERLINE OF TOWER CREEK;**

**THENCE THE FOLLOWING COURSES AND DISTANCES ALONG SAID
CENTERLINE;**

N. 17° 38' 44" W., 10.15 FT.; N. 10° 06' 07" E., 134.03 FT.;

N. 09° 45' 49" W., 78.87 FT.; N. 25° 15' 21" E., 32.74 FT.;

**N. 35° 05' 43" W., 39.62 FT. TO A POINT ON THE NORTHERLY BOUNDARY OF
GOVERNMENT LOT 12;**

**THENCE N. 89° 52' 08" E. ALONG SAID BOUNDARY 38.33 FT. TO THE NE
CORNER OF SAID LOT 12;**

**THENCE S. 89° 40' 02" E. A DISTANCE OF 656.32 FT. TO A POINT ON THE
EASTERLY BOUNDARY OF GOVERNMENT LOT 6;**

**THENCE S. 00° 15' 32" W. ALONG SAID BOUNDARY 649.66 FT. TO THE NE
CORNER OF THE NE1/4NW1/4SW1/4NE1/4;**

**THENCE S. 00° 14' 30" W. ALONG THE EASTERLY BOUNDARY OF SAID
NE1/4NW1/4SW1/4NE1/4 328.45 FT. TO THE SE CORNER OF SAID
NE1/4NW1/4SW1/4NE1/4;**

**THENCE S. 89° 54' 43" W. ALONG THE SOUTHERLY BOUNDARY OF SAID
NE1/4NW1/4SW1/4NE1/4 327.72 FT. TO THE NE CORNER OF THE
SW1/4NW1/4SW1/4NE1/4;**

**THENCE S. 00° 18' 07" W. ALONG THE EASTERLY BOUNDARY OF THE
SW1/4NW1/4SW1/4NE1/4 327.70 FT. TO THE SE CORNER OF SAID
SW1/4NW1/4SW1/4NE1/4;**

**THENCE S. 89° 55' 36" W. ALONG THE SOUTHERLY BOUNDARY OF SAID
SW1/4NW1/4SW1/4NE1/4 327.95 FT. TO THE SW CORNER OF SAID
SW1/4NW1/4SW1/4NE1/4 AND A POINT ON THE EASTERLY BOUNDARY OF THE
NW1/4;**

THENCE S. 00° 13' 29" W. ALONG SAID BOUNDARY 135.92 FT.;

**THENCE S. 89° 55' 38" W. A DISTANCE OF 770.27 FT. TO A POINT ON THE
EASTERLY RIGHT-OF-WAY OF TOWER CREEK ROAD;**

**THENCE THE FOLLOWING COURSES AND DISTANCES ALONG SAID RIGHT-
OF-WAY;**

SCANNED

JAN 29 2009

247569

N. 01° 24' 37" E., 236.64 FT.; 91.84 FT. ALONG A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 36° 56' 44", A RADIUS OF 142.43 FT. AND A CHORD BEARING OF N. 16° 20' 14" E. FOR A DISTANCE OF 90.26 FT.;

N. 38° 21' 21" E., 62.17 FT.; N. 25° 58' 58" E., 102.34 FT. TO THE POINT OF BEGINNING.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee(s), that (s)he is/are the owner(s) in fee simple of said premises; that they are free from all encumbrances Except: Current Year Taxes, conditions, covenants, restrictions, reservations, easements, rights and rights of way, apparent or of record.

And that (s)he will warrant and defend the same from all lawful claims whatsoever.

Dated: 6/15/2001

Michael D. Dunphy
Michael D. Dunphy

State of Idaho

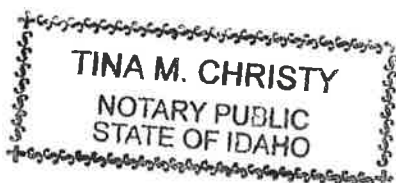
}
} ss.
}

County of Lemhi

On this June 15, 2001, before me, a Notary Public in and for said state, personally appeared Michael D. Dunphy

known or identified to me to be the person(s) whose name(s) subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.

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



Tina M. Christy
Notary Public for the State of Idaho
Residing at: SALMON, ID
Commission Expires: 2/6/2004

State of Idaho) SS No. 247569
County of Lemhi)

This Instrument was filed for record at the request of Alliance Title

at 10:20 o'clock A m 9 July 2001

and duly filmed and indexed in the records of Lemhi County

Terri J. Morton
Ex-Officio Recorder

By Baron Baumbach Deputy

Fee 6.00

Return to Lund delivered

SCANNED

JAN 29 2003

WARRANTY DEED

Order No.:307010781L-G

FOR VALUE RECEIVED

Michael D. Dunphy, an unmarried person

the grantor(s), do(es) hereby grant, bargain, sell and convey unto

Kord S. Smith and Mary Ann H. Smith, Husband and Wife

whose current address is

781 Cedar Ridge Dr., Idaho Falls, ID 83404

the grantee(s), the following described premises, in Lemhi County, Idaho, TO WIT:

A PARCEL OF LAND LOCATED IN THE W1/2, SECTION 4, T. 23 N., R 22 E., BOISE MERIDIAN, LEMHI COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE C $\frac{1}{4}$ CORNER OF SECTION 4, FROM WHICH THE SW CORNER, SW1/4NW1/4SW1/4NE1/4 OF SECTION 4 BEARS N. 00° 13' 29" E., A DISTANCE OF 657.98 FT., THE BASIS OF BEARING OF THIS DESCRIPTION, RUN THENCE S. 00° 10' 15" W., CONTINUING ALONG THE CENTER LINE OF SAID SECTION 4, A DISTANCE OF 792.65 FT. TO A POINT ON AN EXISTING FENCE LINE;

THENCE THE FOLLOWING COURSES AND DISTANCES ALONG SAID FENCE LINE:

N. 77° 28' 11" W., 661.55 FT.;

N. 11° 58' 48" E., 199.48 FT.;

N. 57° 14' 39" W., 21.67 FT.;

N. 21° 31' 35" E., 130.64 FT.;

N. 07° 22' 27" W., 78.23 FT.;

N. 14° 53' 22" E., 86.54 FT.;

N. 77° 25' 01" W., 95.32 FT.;

S. 71° 24' 34" W., 348.83 FT. TO A POINT ON THE CENTERLINE OF THE TOWER CREEK ROAD;

THENCE THE FOLLOWING COURSES AND DISTANCES ALONG SAID CENTERLINE:

N. 17° 42' 02" E., 114.57 FT.;

N. 08° 40' 52" E., 138.62 FT.;

N. 30° 24' 53" E., 149.05 FT.;

N. 22° 28' 28" E., 102.75 FT.;

N. 12° 59' 44" E., 84.34 FT.;

N. 01° 31' 38" E., 219.24 FT.;

THENCE N. 89° 55' 38" E., A DISTANCE OF 795.27 FT. TO A POINT ON THE CENTERLINE OF SECTION 4;

THENCE S. 00° 13' 29" W., CONTINUING ALONG SAID CENTERLINE A DISTANCE OF 522.06 FT. TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, THAT PORTION OF THE ABOVE DESCRIBED REAL PROPERTY LYING WITHIN TOWER CREEK ROAD.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee(s), that (s)he is/are the owner(s) in fee simple of said premises; that they are free from all encumbrances Except: Current Year Taxes, conditions, covenants, restrictions, reservations, easements, rights and rights of way, apparent or of record.

And that (s)he will warrant and defend the same from all lawful claims whatsoever.

SCANNED

JAN 29 2003

Dated: 7/19/2001

Michael D. Dunphy
Michael D. Dunphy

State of Idaho

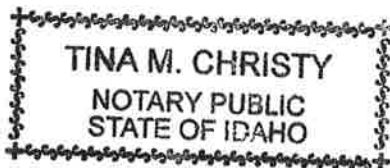
County of Lemhi

}
} ss.
}

On this July 20, 2001, before me, a Notary Public in and for said state, personally appeared Michael D. Dunphy

known or identified to me to be the person(s) whose name(s) subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.

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



Tina M. Christy
Notary Public for the State of Idaho
Residing at: SALMON, ID
Commission Expires: 2/6/2004

State of Idaho
County of Lemhi)

SS No. 247683

This Instrument was filed for record at the request
of alliance

at 11:40 o'clock A m 20 July 2001

and duly filmed and indexed in the records of Lemhi
County

Terri J. Morton
Ex-Officio Recorder

By ICB Deputy

Fee 6.00

Return to Hand Delivered

SCANNED

JAN 29 2003

RECEIVED

OCT 19 2005

Department of Water Resources

Kord S. Smith
781 Cedar Ridge Dr
Idaho Falls, ID 83404
Oct.15, 2005

Idaho Department of Water Resources
Adjudication Bureau
P.O. Box 83720
Boise, ID 83720

**SUBJECT: Water Priority Evidence for the Homestead of Margaret Baer
(Homestead No. 05662)**

Dear Sir,

As indicated in my letter of July 23, 2005, my application to the National Archives for documents pertaining to the Homestead of Frank and Margaret Baer was under review. Since that time, I have received numerous documents from the National Archives - clearly indicating that Frank Baer began his Tower Creek homestead in 1899. Given the contents of these documents (which I am attaching here), I wish **to revise my Evidence of Water Priority to 1899**, rather than 1907, as previously requested.

Three specific documents for the Final Proof of Homestead are attached:

- 1) The Sworn Affidavit of Samuel E. Bowler
- 2) The Sworn Affidavit of Fredrick W. Niemann
- 3) The Sworn Affidavit of Margaret Baer

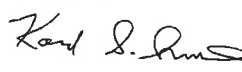
All three of these Affidavits attest to the fact that Frank Baer established residence in Tower Creek and substantial improvements to the property in 1899. At least 50 acres (see Bowler Affidavit) were cultivated, with fruit, vegetables, and hay crops were being harvested in 1899. Irrigation ditches are also explicitly mentioned in all three Affidavits, and Niemann's Affidavit identifies irrigation improvements and crops harvested in 1899.

The facts presented here clearly substantiate a water priority date of 1899 for the Baer Homestead properties.

I would be happy to answer any questions that might arise. Feel free to contact me at 208-522-1755 (work) or 208-522-1184 (home).

Thanks for your assistance,

Kord S. Smith


Kord Smith
2005.10.17 08:00:36
-06'00'

SCANNED
OCT 19 2005

QUESTION 5. Describe the land embraced in above entry by legal subdivisions, showing fully the character of same, and kind and amount of timber, if any.

ANSWER.

Subdivision.	Acres cultivable.	Acres timbered.	Foot timber.
Bottom land, bar and hill	at least 80 and.	No timber - only brush	

QUESTION 6. State by subdivisions the number of acres cultivated, kind of crops planted, and amount harvested, each year. How many acres of the claim are now cleared, or broken, and under cultivation? If used for grazing only, state number and kind of stock grazed each year and by whom owned.

ANSWER: At least 40 acres of the land are cleared, broken and under cultivation. The land has been cultivated since 1897. Limber and clover, growing 2 tons of hay to the acre have been raised. Vegetables and fruit also. There is no better orchard in Lemhi County, than the one on this land.

QUESTION 7. Describe fully and in detail the amount and kind of improvements on each subdivision: State total value of improvements on the claim.

ANSWER.

Subdivision.	Character of Improvements.	
The improvements are mostly on the SE 1/4 NE 1/4, SW 1/4 of Sec. 4	House 1000.00	2475.00
	Cellar 100	Chicken House 25
	Ditch 2.50	3.400
	Orchard 8.00	
	Barn 3.00	
	Corral 25	
		2.475

QUESTION 8. Are there any indications of coal, salines, or minerals of any kind on the land? If so, describe what they are.

ANSWER: Not that I know of

QUESTION 9. Have you any knowledge of information that claimant has sold or contracted to sell, optioned, mortgaged, or agreed to option or mortgage this land? If so, give full details as to whom, for what purpose, and in what amount.

ANSWER: I have not

SCANNED

OCT 19 2005

QUESTION 10. (a) Have you personal knowledge, from your own observation, that claimant and his family (if any) actually resided upon and cultivated this land each year in accordance with your above testimony?

ANSWER. Yes.

(b) How many times each year have you seen this land, and the claimant and his family residing thereon; and what other personal knowledge have you upon which your answers are based?

ANSWER: I have seen claimant and family residing on the land every year since 1899.

QUESTION 11. Are you interested in this claim, or related to the claimant? If so, how?

ANSWER. I am not interested in this claim, or related to claimant.

Samuel E. Bowler
(Sign plainly, with full Christian name.)

NOTE 1.—The officer before whom the proof is made will see that all answers are complete and responsive to the questions.

NOTE 2.—The officer before whom the deposition is taken should call the attention of the witness to section 5392 of the Revised Statutes (below), and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

I HEREBY CERTIFY that the deponent was examined separately and apart from the other witnesses in the case; that the foregoing deposition was read to ~~or by~~ deponent in my presence before deponent affixed signature thereto; that deponent is to me personally known ~~(or has been satisfied~~

~~fully identified before me by~~ _____);
(Give full name and post-office address.)

that I verily believe deponent to be the identical person hereinbefore described, and that said deposition was duly subscribed and sworn to

before me at my office, in Salmon, Lemhi County, Idaho,
(Town, county, and State.)

within the Hailey, Idaho land district,

this 24th day of March, 1910.

Frank P. McCracken

Probate Judge and Clerk of the Probate Court
(Official designation required.)

REVISED STATUTES OF THE UNITED STATES. TITLE LXX.—CRIMES.—CHAP. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years; and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See Sec. 1750.)

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OCT 19 2005

QUESTION 5. Describe the land embraced in above entry by legal subdivisions, showing fully the character of same, and kind and amount of timber, if any.

ANSWER.

Subdivision.	Acres cultivable.	Acres timbered.	Feet timber.
Bottom, hill and bar land	65 acres at	no timber	nothing but
	East	brush along	creek.

QUESTION 6. State by subdivisions the number of acres cultivated, kind of crop planted, and amount harvested, each year. How many acres of the claim are now cleared, or broken, and under cultivation? If used for grazing only, state number and kind of stock grazed each year and by whom owned.

ANSWER. 50 acres of the land are now cleared, broken and under

cultivation, and the land has been cultivated every year since 1899. Crops of timothy and clover yielding 2 1/2 tons of hay to the acre have been raised. Also vegetables and fruit.

QUESTION 7. Describe fully and in detail the amount and kind of improvements on each subdivision. State total value of improvements on the claim.

ANSWER.

Subdivision.	Character of improvements.		
The improvements are principally on the 1/4 NW 1/4 SW 1/4 of Sec. 14	House	1000	2675
	Cellar		100
	Barn	500	
	Orchard	500	200
	Chicken House	50	
	Pen	300	
	Corral	25	2675
			7,975

QUESTION 8. Are there any indications of coal, salines, or minerals of any kind on the land? If so, describe what they are.

ANSWER. Not that I know of

QUESTION 9. Have you any knowledge or information that claimant has sold or contracted to sell, optioned, mortgaged, or agreed to option or mortgage this land? If so, give full details as to whom, for what purpose, and in what amount.

ANSWER. I have not

SCANNED

OCT 19 2005

QUESTION 10. (a) Have you personal knowledge, from your own observation, that claimant and ~~his~~^{her} family (if any) actually resided upon and cultivated this land each year in accordance with your above testimony?

ANSWER. Yes

(b) How many times each year have you seen this land, and the claimant and ~~his~~^{her} family residing thereon; and what other personal knowledge have you upon which your answers are based?

ANSWER. I have lived within 3 miles of that land since 1899, and have seen claimant and family residing thereon, every week since 1899.

QUESTION 11. Are you interested in this claim, or related to the claimant? If so, how?

ANSWER. I am not interested in this claim, or related to claimant

Fredrick H. Niemann
(Sign plainly, with full Christian name.)

NOTE 1.—The officer before whom the proof is made will see that all answers are complete and responsive to the questions.

NOTE 2.—The officer before whom the deposition is taken should call the attention of the witness to section 5392 of the Revised Statutes (below), and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

I HEREBY CERTIFY that the deponent was examined separately and apart from the other witnesses in the case; that the foregoing deposition was read to ~~the~~^{deponent} deponent in my presence before deponent affixed signature thereto; that deponent is to me personally known ~~for has been satisfactorily identified before me by~~ _____;

(Give full name and post-office address.)

that I verily believe deponent to be the identical person hereinbefore described, and that said deposition was duly subscribed and sworn to before me at my office, in Salmon, Lemhi County, Idaho, within the Hailey, Idaho land district, this 24th day of March, 1910.

(Town, county, and State.)

Frank P. McCracken

Probate Judge and Clerk of the Probate Court
(Official designation of officer.)

REVISED STATUTES OF THE UNITED STATES. TITLE LXX.—CRIMES.—CHAP. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years; and shall, moreover, thereafter be incapable of holding testimony in any court of the United States until such time as he shall have been pardoned by the President.

SCANNED

OCT 19 2005

Mail 118

78-165/8
4-369.

SERIAL No. 00001

Form approved by the Secretary of the Interior November 23, 1908.

DEPARTMENT OF THE INTERIOR.

RECEIPT No. 369481

HOMESTEAD ENTRY.

U. S. LAND OFFICE, HAILEY, IDAHO. NO. 05662

FINAL PROOF.

RECEIPT No. 369481

TESTIMONY OF CLAIMANT.

QUESTION 1. What is your full name, age, and post-office address?

ANSWER. Margaret Bae 41 years, Carmen, Idaho

QUESTION 2. Are you a native-born citizen of the United States, and if so, in what State or Territory were you born? (If foreign born, see Note 1.)

ANSWER. I am, and I was born in the State of Michigan

QUESTION 3. Are you the same person who made Homestead Entry No. 55101

in No. 05662, at the Hailey, Idaho Land Office on the

9th day of April, 1909, for the
W1/2 NW1/4 NE1/4, NW1/4 NE1/4, NE1/4 NW1/4, NW1/4 NW1/4, SE1/4 NW1/4, NW1/4 SE1/4, NE1/4 SE1/4, SE1/4 SE1/4 of
Section 16, Township 13 North, Range 22 East of Boise Meridian?

Township 13 North, Range 22 East of Boise Meridian?

ANSWER. I am

QUESTION 4. (a) Are you married or single? ANSWER. I am the widow of Frank Bae
(b) If married, of whom does your family consist?

ANSWER. Myself and one child.

(c) If a married woman, state whether your husband now has an unperfected homestead entry, and during what time he has resided on this land with you.

ANSWER. My husband had an unperfected homestead entry. He resided with me on the land until his death, July 14, 1908.

QUESTION 5. (a) When did you first establish actual residence upon this land?

ANSWER. My husband established actual residence in 1899. I was married to him April 16, 1906.

(b) When was your house built on this land?

ANSWER. My husband lived in a cabin from 1899 to 1906, then the present home was built.

(c) Have either you or your family ever been absent from the homestead since establishing residence?

ANSWER. No.

(d) If there has been such absence, give the dates covered by each absence; and as to each absence, state whether you, your family, or both, were thus absent and the reason for each such absence.

ANSWER.

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QUESTION 6. Describe the land embraced in above entry by legal subdivisions, showing fully the character of same, and kind and amount of timber, if any.

ANSWER.

Subdivision.	Acres cultivable.	Acres timbered.	Feet timber.
Mont 70 acres Valley land	Mont 120	No timber.	nothing but
90 " Bar land	acres	brush on Creek	

QUESTION 7. State by subdivisions the number of acres cultivated, kind of crop planted, and amount harvested, each year. How many acres of the claim are now cleared, or broken, and under cultivation? If used for grazing only, state number and kind of stock grazed each year and by whom owned.

ANSWER. 50 acres have been cleared broken and under cultivation.

Immering and clover yielding 1500 to the acre had been raised. Also wheat vegetables and fruit.

QUESTION 8. Describe fully and in detail the amount and kind of improvements on each subdivision. State total value of improvements on the claim.

ANSWER.

Subdivision.	Character of improvements.		
4000 Most improvements are on the SE 1/4 NE 1/4	House	1000	Disches 26.25
30 1/4 of desert	Orchard	500	Pollar 100
	Barn	200	\$ 8.00
	Corral	25	
	Chicken House	50	
	Fenced (Barbed)	450	
		\$ 762.50	

QUESTION 9. Is your present claim within the limits of an incorporated town or selected site of a city or town, or used in any way for trade or business?

ANSWER. No

QUESTION 10. Are there any indications of coal, salines, or minerals of any kind on the land? If so, describe what they are.

ANSWER. Not to my knowledge

QUESTION 11. Have you ever made any other homestead entry? If so, describe the same.

ANSWER. I have made

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OCT 19 2005

QUESTION 12. Have you sold, conveyed, or agreed to sell or convey any portion of the land; if so, to whom and for what purpose?

ANSWER. *I have not*

QUESTION 13. Have you optioned, mortgaged, or agreed to option or mortgage, or convey this land, or any part thereof; if so, when, to whom, and for what purpose and in what amount?

ANSWER. *I have not*

QUESTION 14. Have you any personal property of any kind elsewhere than on this claim? If so, describe the same, and state where the same is kept.

ANSWER. *No*

QUESTION 15. Describe by legal subdivisions, or by number, kind of entry, and office where made, any other entry or filing (not mineral) made by you since August 30, 1890.

ANSWER. *I have not made any*

Margaret Baer
(Sign here, with full Christian name.)

NOTE 1.—If applicant is alien born, he should state the fact and file evidence of citizenship in due form, either a certificate of his own naturalization in a court of competent jurisdiction, or, if claiming to be a citizen by virtue of his father's naturalization, and his own minority and residence in the United States at the date thereof, or, if a married woman claiming citizenship by virtue of her husband's nativity or naturalization, then record evidence of the naturalization of the father, or husband, or an affidavit as to the nativity of the latter.

NOTE 2.—The officer before whom the proof is made will see that all answers are complete and responsive to the questions.

NOTE 3.—The officer before whom the deposition is taken should call the attention of the witness to section 8392 of the Revised Statutes (over), and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

I HEREBY CERTIFY that the deponent was examined separately and apart from the other witnesses in the case; that the foregoing deposition was read to ~~by~~ deponent in my presence before deponent affixed signature thereto; that deponent is to me personally known ~~for has been satisfied~~ ~~temporarily identified before me by~~

(Give full name and post-office address.)

that I verily believe deponent to be the identical person hereinbefore described, and that said deposition was duly subscribed and sworn to before me at my office, in *Salmon, Lemhi County, Idaho*

(Town, county, and State.)

within the *Hailey, Idaho* land district,
this *24th* day of *March*, 19*10*

SCANNED

OCT 19 2005

FINAL AFFIDAVIT REQUIRED OF HOMESTEAD CLAIMANTS

I, Margaret Baer, having made a homestead entry of
the 1/4 Sec. 34, T. 2 N., R. 12 E., S. 14 N.,
Section 14,
Township 2 North, Range 12 East of Boise Meridian,
Boise, Idaho,
subject to the Revised Statutes of the United States, do now
apply to perfect my claim thereto by virtue of section No. 2289
of the Revised Statutes of the United States, and for that purpose
solemnly swear that I am a native-born citizen of the United States;
that I have made actual settlement upon and have cultivated and resided
upon said land since the 1899 day of
the month of March,
except as provided in section 2288 of the Revised Statutes, but that I
am the sole bona fide owner as an actual settler; that I will bear true
allegiance to the Government of the United States; and further, that I
have not heretofore perfected or abandoned an entry made under the home-
stead laws of the United States, except

Margaret Baer
(This plenty; with full Christian name.)

NOTE.—Every person swearing falsely to the above affidavit will be punished as provided by law for such offense. (See Sec. 5392 R. S., below.)

I HEREBY CERTIFY that the foregoing affidavit was read to or by
affiant in my presence before affiant affixed signature thereto; that
affiant is to me personally known (or has been satisfactorily identified
before me by
that I verify believe affiant to be a credible person and the identical
person heretofore described, and that said affidavit was duly subscribed
and sworn to before me, at my office, in Salmon
Lemhi County, Idaho (County and State.) this 24th day
of March, 1910. (Town.)
Frank P. McRae
Probate Judge and Clerk of the Probate Court.
(Official designation of officer.)

REVISED STATUTES OF THE UNITED STATES. TITLE LXX.—CRIMES.—CHAP. 4.
SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years; and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the indictment against him shall have been returned.

Kord S. Smith
781 Cedar Ridge Dr.
Idaho Falls, ID 83404
(208-522-1184)
July 28, 2005

Idaho Department of Water Resources
Adjudication Bureau
P.O. Box 83720
Boise, ID 83707

**SUBJECT: Water Priority Evidence for Water Right Number 75-14036
(Kord and Mary Ann Smith, Section 4, T24N, R22E)**

Dear Sir/Madame,

This letter is submitted in response to your request of June 29, 2005 for proof of water priority date for our land in Tower Creek of Lemhi County (Salmon) Idaho.

We have located many of the historical documents that are attached here as a general claim for all of the properties of the former Homestead of Frank and Margaret Baer, successfully patented in 1911.

Given the short notice (30 days) we have yet to locate the original Homestead application of Frank Baer – but we have a request pending with the National Archives in Washington DC (to be processed within 60-90 days). When that information is located, we may choose to update this claim for **water priority date earlier than the date of 1907, requested here.**

We also have an outstanding issue with respect to IDWR splitting of the water rights at the time of our land purchase (part to us and part remaining with the previous owner, Michael Dunphy) as Mr. Dunphy owns no land in Tower Creek. Settlement of this issue may be a natural part of your adjudication process, and it is not the principle issue of this letter.

Please call with any questions that you might have. My work number is 208-522-1755.

Thank you for your assistance.



Kord S. Smith
2005.07.28 13:23:17 -
06'00'

Kord S. Smith

SCANNED
AUG 02 2005

Kord S. Smith
781 Cedar Ridge Dr
Idaho Falls, ID 83404
July 28, 2005

Idaho Department of Water Resources
Adjudication Bureau
P.O. Box 83720
Boise, ID 83720

SUBJECT: Water Priority Evidence for the Homestead of Margaret Baer

Dear Sir/Madame,

This letter outlines the proof of priority date for those parties (myself included) whose existing water rights have been derived from the original Homestead water rights of Ms. Margaret Baer of Carmen (Lemhi County) Idaho.

Three legal documents supporting our claim that the priority date for irrigation on the Baer Homestead **should be declared to be 1907** (and perhaps earlier) accompany this letter:

1. Probate Court document: Instrument No. 9729 (Record R-408 in Lemhi County Courthouse), filed April 5, 1910. This document establishes a) that Margaret Baer's husband (Frank Baer who had initiated the Homestead application on an unknown date) **died in Salmon, Idaho on July 14, 1908**, and b) that at the time of Frank's death he was in possession of 60 ton of hay which was subsequently inherited by Margaret Baer.
2. The Homestead patent document: Instrument No. 11268 (Record R-550 in Lemhi County Courthouse) **dated August 21, 1911**. This document consummates the Homestead Patent in the name of Margaret Baer for the property in Section 4 of Township 23 North of Range 22 East, East of the Boise Meridian. The patent Number is 214494.
3. Bill of Sale Instrument No. 24106 (Record R-432 in Lemhi County Courthouse), dated August 17, 1920. This document establishes that all irrigation ditches and water rights are transferred from Margaret Baer to the new property purchaser, Verna Kellogg, *et. al.*

Our argument for a priority date of 1907 is based on the fact that Frank Baer probably established his Homestead no latter than 1906 (5 years prior to the patent date of 1911). It is well known in the dry climate of Lemhi County that significant quantity of hay can not be grown without irrigation. Consequently, the fact that Frank Baer was in

SCANNED

AUG 02 2005

possession of 60 ton of hay at the time of his death (in July of 1908) makes it reasonable to assume that this hay was carried over from production in 1907. Thus, it is reasonable to assume that irrigation from Tower Creek was in place at that time.

This argument for early irrigation is further bolstered by the fact that the subsequent sale of the property specifically refers to the irrigation ditches as part of the sale.

A further substantiation of the early irrigation is obvious when one looks at the current distribution of trees on the property. The old growth Cottonwood trees follow the irrigation ditches, and they exist nowhere else on the property – except by Tower Creek itself. Given that many of these large trees have already died and many more are well on their way to death, it is clear that the ditches have existed for the complete life cycle of a Cottonwood tree. We attach here a web link to a document that substantiates the lifetime of a Cottonwood tree to be 100 years.

(http://people.westminstercollege.edu/faculty/tharrison/CityCreek/Riparian_Trees/cottonwoods.html)

This indirect evidence of near-death Cottonwood trees at the irrigation ditches also supports a priority date prior to 1907.

The facts presented here clearly substantiate a water priority date of 1907, at the latest, for the Baer Homestead properties.

Should Frank Baer's original Homestead application be located, we will subsequently argue that the priority date should be declared to be the year following his original Homestead application. This argument stems from the fact that no successful farming/ranching can be done on the Baer Homestead properties without diversion of Tower Creek for irrigation purposes.

I would be happy to answer any questions that might arise. Feel free to contact me at 208-522-1755 (work) or 208-522-1184 (home).

Thanks for your assistance.



Kord S. Smith
2005.07.28 13:23:43 -
06'00'

Kord S. Smith

SCANNED

AUG 02 2005

In the Matter of the Estate of)
Frank Baer) DECREE OF DISTRIBUTION OF ESTATE
Deceased.)

That the said estate is Real and Personal property,

That all claims against said estate are fully paid; that all taxes due from said estate have been paid; that since the rendition of her said final accounts, the sum of no Dollars has come into the hands of said Executrix and the sum of no Dollars has been expended by said Executrix as necessary expenses of administration, the vouchers whereof, together with a statement of such receipts and disbursements, are now presented and filed, and the payments are approved by this Court; and that the estimated expenses of closing said estate will amount to the sum of \$18.15, Eighteen and 15/100 Dollars.

Now on this, the said 5th day of April, 1910. of

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, That the residue of said estate of Frank Baer, deceased, hereinafter particularly described, and now remaining in the hands of said Executrix and any other property not now known or discovered, which may belong to said estate, or in which the said estate may have an interest, he and the same is hereby distributed as follows, to wit:

The following is a particular description of said residue of said estate referred to in this decree, and of which distribution is ordered, adjudged and decreed as aforesaid, to wit:

REAL ESTATE

[illegible]

Valued at \$1500.00

PERSONAL PROPERTY

Cash in hand of Executrix	\$300.00
Sixty Ton of Hay	\$180.00
One Cow	40.00
Three Steers	60.00
Farming Tools and Implements	50.00
	<u>\$2130.00</u>

Done in Open Court April 5th. 1910

Frank P. McCracken

Probate Judge

I, Frank P. McGracken Probate Judge and Clerk of Probate Court in and for Lemhi County Idaho hereby certify this to be a true and correct copy of the Decree of Distribution in the matter of the Estate of Frank Baer deceased, as shown by the files and now, remaining on file and of record in my office at Salmon, Idaho.

Frank P. McCracken
Probate Judge

Seal

Filed April 5th 1910

Frank P. McCracken

Clerk of Probate Court

Recorded at the request of F.P. McCracken, June 8th, 1910 at 10 minutes past 9 o'clock A.M., in Book R of Deeds page 408 Records of Lemhi County, Idaho.

SCANNED

AUG 02 2005

County Recorder.

B. K. K. K.

Hailey 05662. THE UNITED STATES OF AMERICA,
TO ALL TO WHOM THESE PRESENTS SHALL COME, Greeting:

Whereas, a Certificate of the Register of the Land Office at Hailey, Idaho, has been deposited in the General Land Office, whereby it appears that, pursuant to the Act of Congress of May 20, 1862, "To Secure Homesteads to Actual Settlers on the Public Domain", and the acts supplemental thereto, the claim of Margaret Baer has been established and duly consummated, in conformity to law, for the North Half of the Northwest Quarter of the Southwest Quarter of the Northeast Quarter, the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of the Northeast Quarter, the East Half of the Southeast Quarter of the Northwest Quarter, the Lots six, eleven, and twelve, the Southwest Quarter of the Southeast Quarter of the Northwest Quarter, the South Half of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter, the Southeast Quarter of the Southwest Quarter of the Northwest Quarter, the South Half of the Northeast Quarter of the Southwest Quarter of the Northwest Quarter, the East Half of the Northwest Quarter of the Southwest Quarter, the Northeast Quarter of the Southwest Quarter, the Northwest Quarter of the Southeast Quarter of the Southwest Quarter, and the West Half of the Northeast Quarter of the Southeast Quarter of the Southwest Quarter of Section Four in Township Twenty-three North of Range Twenty-two East of the Boise Meridian, Idaho, containing one hundred fifty-nine and seventy-nine-hundredths acres, according to the Official Plat of the Survey of the said Land, returned to the General Land Office, by the Surveyor-General:

NOW KNOW YE, That there is, therefore, granted by the United States unto the said claimant the tract of Land above described; TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States; reserving, also, to the United States all coal in the lands so granted, and to it, or persons authorized by it, the right to prospect for, mine, and remove coal from the same upon compliance with the conditions of and subject to the limitations of the Act of March 3, 1909 -- 35 Stat., 844--

IN TESTIMONY WHEREOF, I, William H. Taft, President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the Third day of July in the year of our Lord one thousand nine hundred and eleven and of the Independence of the United States the one hundred and Thirty-fifth.

By the President: Wm. H. Taft.

By M.P. LeRoy, Secretary.

John O'Connell

Recorded: Patent Number 214494.

Acting Recorder of the General Land Office.

Recorded at the request of Margaret Baer, August 21st, 1911, at 30 minutes past 11 o'clock A.M., in Book R of Deeds page 550, Records of Lemhi County, Idaho.



County Recorder



Deputy.

RECEIVED

FEB 17 2006

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO
IN AND FOR THE COUNTY OF TWIN FALLS

DEPARTMENT OF
WATER RESOURCES

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 75-14036
Date Received: 11/20/2001
Receipt No: n/a
Received By:

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

1. Name of Claimant(s)

KORD S SMITH Phone: (208) 522-1184
781 CEDAR RIDGE DR
IDAHO FALLS ID USA 83404

MARY ANN H SMITH Phone: (208) 522-1184
781 CEDAR RIDGE DR
IDAHO FALLS ID USA 83404

AMENDED

2. Date of Priority: 04/01/1899

3. Source: TOWER CREEK NORTH FORK Trib. to: SALMON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
24N	22E	4	SE NE NW 3	LEMHI	
24N	22E	33	SW SW SE	LEMHI	
23N	22E	4	NW NW NE 2	LEMHI	

5. Description of diverting works:

DIVERSION DAMS & DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	11/01	0.68	

7. Total Quantity Appropriated is:
0.68 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
23N	22E	4	NE	NW	3	IRRIGATION	3.74
			SE	NW		IRRIGATION	15
			NE	SW		IRRIGATION	5
						Section Acres	23.74
						Total Acres	23.74

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 75-04295B.

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: 0

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): Karl J. Davis Date: 2/14/06

Mary Ann H. Smith 2-14-06 Date:

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this

of February 2006

14th day
Carolyn J. Davis

Notary Public

Residing at

Idaho Falls, ID

My commission Expires

6/10/2010



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
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781 CEDAR RIDGE DR
IDAHO FALLS ID USA 83404

MARY ANN H SMITH Phone: (208) 522-1184

781 CEDAR RIDGE DR
IDAHO FALLS ID USA 83404

2. Date of Priority: 05/01/1908

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

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 Lot	County	Type
24N	22E	4	SE	NE	NW 3	LEMHI	
24N	22E	33	SW	SW	SE	LEMHI	
23N	22E	4	NW	NW	NE 2	LEMHI	

5. Description of diverting works:

DIVERSION DAMS & DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.
IRRIGATION	04/01	11/01	0.68	

7. Total Quantity Appropriated is:
0.47 C.F.S.

8. Total consumptive use:



9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres	
23N	22E	4	NE	NW	3	IRRIGATION	3.74
			SE	NW		IRRIGATION	15
			NE	SW		IRRIGATION	5
						Section Acres	23.74
						Total Acres	23.74

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 75-04295B.

15. Basis of Claim: Statutory Claim