

NOV 20 2001

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DISTRICT COURT-SRBA
TWINFALLS CO., IDAHO
FILED *J.C.*



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

September 27, 2001

RAY SAUER
HC 63 BOX 2130
MONTEVIEW ID 83435

RE: Application for Transfer #69414 (31-160B, 31-161B, 31-4011C
AND OVERLAPPING RIGHTS 31-160A, 31-161A, 31-2299, 31-
2415, 4011B, 31-4012, 31-7320 AND 31-10652) and Notice of
Administrative Proceeding (NAP)

Dear Mr. Sauer:

The Idaho Department of Water Resources (IDWR) received an
Application for Transfer for the above referenced water right(s).

In response to the Application, this office is sending the enclosed NAP
to the SRBA Court and other parties listed on page 2 of the form. The
intent of this mailing is to notify those parties of the requested change.

Please feel free to contact me if you have any questions concerning this
matter.

Respectfully,

Cheri Vandermeulen
Records Clerk

Enclosure

In Re SRBA

Case No. 39576

DATED:

Page 1

CERTIFICATE OF MAILING

I certify that on Sept. 28, 2001, I mailed the original and copies of this form to the following persons, postage prepaid and addressed as follows:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707
2. One copy to:
Claimant/Seller for Substitution of Party or attorney of record:
RAY SAUER
HC 63 BOX 2130
MONTEVIEW ID 83435
3. One copy to:
Claimant/Purchaser for Substitution of Party, or attorney of record:
4. One copy to:
Each party in the subcase, or attorney of record
5. One copy each to:
Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise ID 83711-4449
6. One Copy to:
United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724

Cheri Undermeulen

Signature of person or attorney mailing the form



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

September 5, 2001

NEAL SAUER
HC 63 BOX 2137
MONTEVIEW ID 83435

RE: Application for Transfer #69360 (31-160A, 31-161A, 31-4011B, 31-4012, 31-10652 and overlapping rights 31-160b, 31-161b, 31-4011c, 31-2299, 31-2415, 31-7131, 31-7320) and Notice of Administrative Proceeding (NAP)

Dear Mr. Sauer:

The Idaho Department of Water Resources (IDWR) received an Application for Transfer for the above referenced water right(s).

In response to the Application, this office is sending the enclosed NAP to the SRBA Court and other parties listed on page 2 of the form. The intent of this mailing is to notify those parties of the requested change.

Please feel free to contact me if you have any questions concerning this matter.

Respectfully,

Cheri Vandermeulen
Records Clerk

Enclosure

In Re SRBA

Case No. 39576

Page 1

CERTIFICATE OF MAILING

I certify that on Sept. 7, 2001, I mailed the original and copies of this form to the following persons, postage prepaid and addressed as follows:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707
2. One copy to:
Claimant/Seller for Substitution of Party or attorney of record:
NEAL SAUER
HC 63 BOX 2137
MONTEVIEW ID 83435
3. One copy to:
Claimant/Purchaser for Substitution of Party, or attorney of record:
4. One copy to:
Each party in the subcase, or attorney of record
5. One copy each to:
Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise ID 83711-4449
6. One Copy to:
United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724

Cheri Undermeulen

Signature of person or attorney mailing the form

NOTICE OF ADMINISTRATIVE PROCEEDING

RECEIVED

AUG 08 2001

Department of Water Resources
Eastern Region

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

In Re SRBA

A: Subcase

31-161A

(insert water right number)

Case No. 39576

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B: NAME AND ADDRESS OF PERSON OBJECTING

Name:

Neal Sauer

Address:

HC 63 Box 2137

Montevideo ID 83435

Daytime Phone:

208 657 2221

Name & Address of Attorney, if any:

C: CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name:

Neal Sauer

Address:

HC 63 Box 2137

Montevideo ID 83435

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ Name and Address

Should be: _____

2. ☐ Source

Should be: _____

3. ☒ Quantity

Should be: The restriction of 12.00 cfs on two wells in 7N 34E S5 NESE should be removed from the recommendation.

4. ☐ Priority Date

Should be: _____

5. ☐ Point(s) of Diversion

Should be: _____

6. ☐ Instream Flow Description

Should be: _____

7. ☐ Purpose(s) of Use

Should be: _____

8. ☐ Period of Year

Should be: _____

9. ☐ Place of Use

Should be: _____

11. I object because:

☐ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S): Restriction was added to prevent injury to Hartwell, but attached ditch agreement with Hartwell shows authorization for 816 inches. This is consistent with Water Measurement district measurements.

F:

VERIFICATION (Must be Completed)

State of Idaho)
County of Bonneville)ss.

Neal Sauer, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Neal Sauer
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

June 15, 2001

Bryce A. Contor

Notary Public for Idaho

Residing at: Mod Lake

My Commission Expires: 10/14/2005



INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. FAX filings will not be accepted. You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on June 15, ²⁰⁰¹~~199~~, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name:

Neal Sauer

Address:

3. Copies to:

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

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

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

Neal Sauer

Signature of Objector or attorney
mailing on Objector's behalf

AGREEMENT AND EASEMENT

THIS AGREEMENT, made and entered into this 24th day of October, 1985, by and between JOE HARTWELL and MILLIE E. HARTWELL, husband and wife, of Jefferson County, Idaho, hereinafter referred to as "Hartwell" and SAUER ENTERPRISES, an Idaho partnership having as a general partner Neal Sauer, hereinafter referred to as "Sauer",

WITNESSETH:

WHEREAS, Hartwell is the owner of real property situate in Section 5, 8 and 17 of Township 7 North, Range 34 E.B.M. in the County of Jefferson, State of Idaho.

WHEREAS Sauer owns certain real property situate in the County of Jefferson, State of Idaho, which real property is within Section 13 of Township 7 North, Range 33 East Boise Meridian and within Section 18 of Township 7 North, Range 34 East Boise Meridian.

WHEREAS Sauer's predecessors in interest have drilled two (2) irrigation wells in the Northeast Quarter of the Southeast Quarter, Section 5, Township 7 North, Range 34 East Boise Meridian, which property is owned by Hartwell, and have used water from those wells for irrigating the land now owned by Sauer, which wells are shown on the map attached hereto as Exhibit "A" and incorporated herein by reference.

WHEREAS Sauer and his predecessors in interest have transported the irrigation water from the above described wells through two ditches commonly referred to as the McKevitt Ditch and the Mitchell Ditch, which ditches are shown on Exhibit "A" attached hereto.

WHEREAS Sauer now desires to connect the two wells described above by a new irrigation ditch and use the Mitchell Ditch as the sole means of delivering water to the lands owned and irrigated by Sauer.

WHEREAS the parties desire to enter this Agreement to govern the use of the two irrigation wells, the Mitchell Ditch and to define the easement accompanying the Mitchell Ditch.

NOW, THEREFORE, it is mutually agreed that for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, paid to each of the parties by the

other parties, the receipt whereof is hereby acknowledged, and in further consideration of the mutual covenants and agreements hereafter contained, the parties do hereby agree as follows:

1. Hartwell does hereby grant to Sauer, its heirs and assigns, the perpetual right and privilege to draw water, subject to the ditch flow limitation described below, from the two existing irrigation wells located in the Northeast Quarter of the Southeast Quarter, Section 5, Township 7 North, Range 34 East Boise Meridian, Jefferson County, Idaho, which two wells are shown on the attached map and are designated as the West Well and East Well.

2. Hartwell further grants to Sauer, its heirs and assigns, an easement 40 feet in width between the East Well and West Well for the construction, use and maintenance of a new irrigation ditch through which water flowing from the West Well will be transferred to the head of the Mitchell Ditch located at the West Well, and Hartwell further grants to Sauer permission to construct said ditch along the most direct practical route between the two wells. When so constructed, the ditch shall serve as the center line for the 40 foot wide easement described herein.

3. Hartwell further grants to Sauer, its heirs and assigns, an easement 40 feet in width having as its center line that portion of the existing Mitchell Ditch lying in Sections 5, 8 and 17 of Township 7 North, Range 34 East Boise Meridian. The easement in the Mitchell Ditch as described herein shall be subject to the limitation that no more than 816 inches of water (16.32 cfs) may be taken from the two wells described in paragraph 1 above and transported through the Mitchell Ditch to the Sauer property. The parties further agree that the use of the easement for the delivery of any water in excess of the amount stated above shall be an excessive burden upon the easement and is prohibited by this agreement.

4. Sauer shall have the right to use and enter upon the easements described above for the purpose of maintaining, repairing or replacing the ditches, pumps, motors, or other equipment. All such maintenance, replacements or repairs shall be at Sauer's sole expense, and Sauer hereby indemnifies and holds harmless Hartwell, his heirs and assigns from any and all labor or material liens which may arise for maintenance or construction operations conducted on Hartwell's property. Sauer shall have the right to construct a road along the Mitchell Ditch and the new ditch to be constructed between the East and West wells, so long as those roads lie within the easements granted to Sauer herein.

5. Hartwell and Sauer hereby agree that Sauer may continue to use both the Mitchell and the McKevitt Ditches for the 1985 irrigation season. After the 1985 irrigation season, all delivery of water from the two wells described in paragraph 1 above to the Sauer property shall be made through the Mitchell Ditch, and Sauer hereby abandons all right, title and interest, if any, which they may have in the McKevitt Ditch.

6. This agreement is intended to fully define the rights of Sauer in the real property owned by Hartwell. As such, it supersedes any and all prior agreements, whether oral or written, easements, prescriptive easement, or any other documents between the parties hereto or their predecessors in interest.

DATED this 24th day of October, 1985.

Joe Hartwell
Joe Hartwell

Millie E. Hartwell
Millie E. Hartwell

SAUER ENTERPRISES

BY: Neal Sauer
General Partner

We, the undersigned, have read the foregoing Easement Agreement, consent to it and agree that the Agreement shall be binding upon us.

Earl Hunter
Earl Hunter

HETTIE Hunter
HETTIE Hunter

STATE OF IDAHO)
) ss.
County of Bonneville)

On the 24th day of October, in the year of 1985, before me, the undersigned, a Notary Public, in and for the State of Idaho, personally appeared JOE HARTWELL and MILLIE E. HARTWELL, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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

(seal)

Shirley C. Bush Montevideo, Id.
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 1/20/87

STATE OF IDAHO)
) ss.
County of Bonneville)

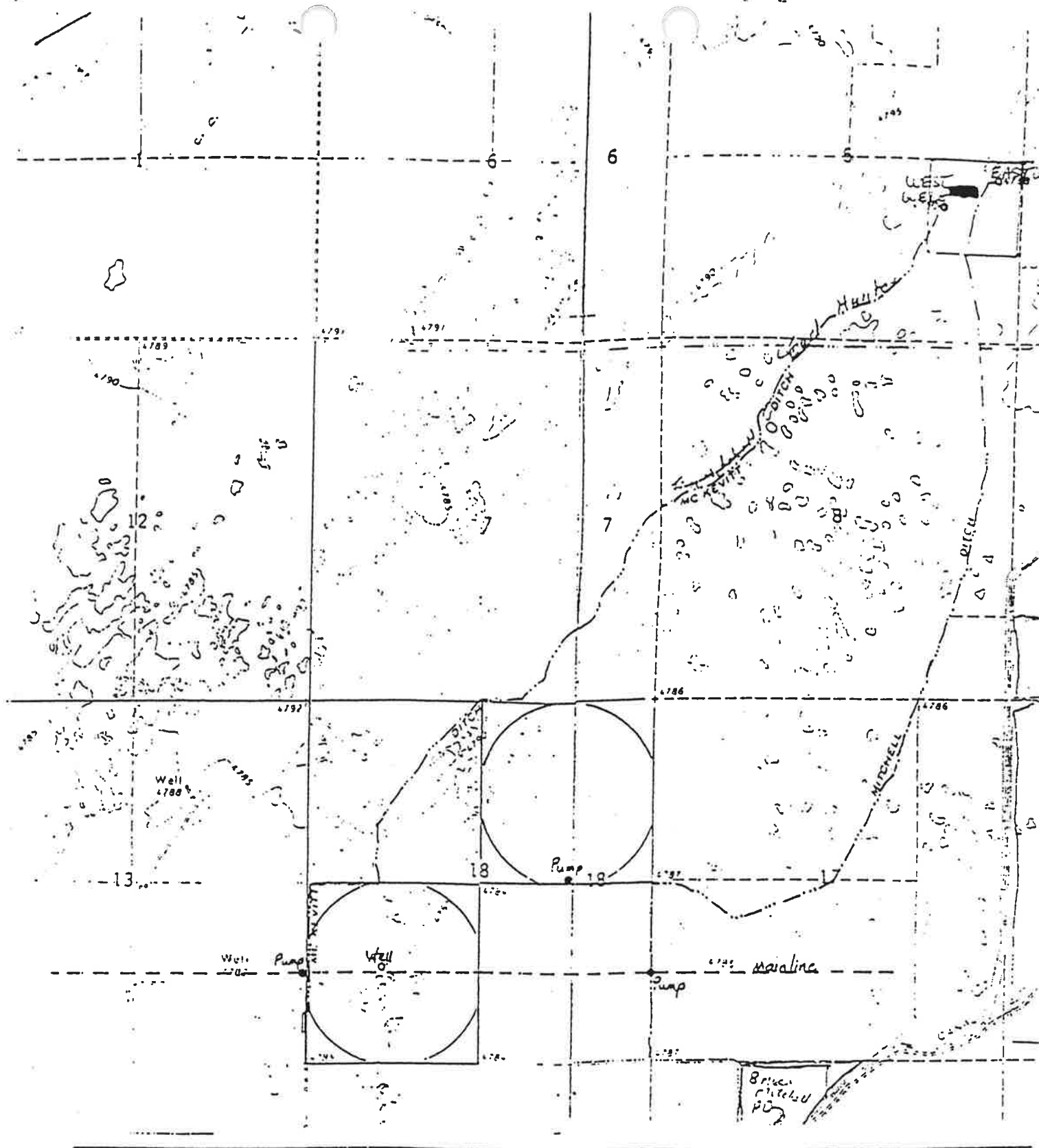
On this 20th day of September, in the year of 1985, before me the undersigned, a Notary Public in and for said State, personally appeared EARL HUNTER and HETTIE HUNTER, husband and wife, known or identified to me to be the partners in the partnership of SAUER ENTERPRISES, an Idaho Partnership, and the partners who subscribed said partnership name to the foregoing instrument, and acknowledged to me that they executed the same in said partnership name.

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

Val L. Bush
Notary Public for Idaho
Residing at: Paris, Idaho
My commission expires: life

5229c/rs

EXHIBIT "A"





State of Idaho
DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

April 30, 1998

NEAL SAUER
HC 63 BOX 2137
MONTEVIEW ID 83435

RE: CHANGE IN OWNERSHIP FOR A31-04011A, A31-00160,
A31-00161

Dear Mr. Sauer:

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:

A31-04011B, 2.51 cfs on 310 acres, Neal Sauer
A31-04011C, 1.75 cfs on 392 acres, Ray Sauer

A31-00160A, 1.79 cfs on 93 acres, Neal Sauer
A31-00160B, 0.75 cfs on 39 acres, Ray Sauer

A31-00161A, 2.77 cfs on 137 acres, Neal Sauer
A31-00161B, 2.03 cfs on 100 acres, Ray Sauer

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,

Jennifer Hoagland
Technical Records Specialist

Enclosure

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

RECEIVED
APR 03 1998
Department of Water Resources
Eastern Region

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

1. Water Right No(s).: _____
 Adjudication Claim No(s).: A31-04011A ^{SPLIT} A31-00160 ^{SPLIT} A31-00161 ^{SPLIT} 

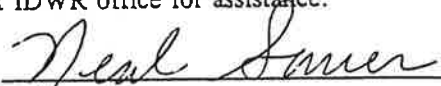
2. The following REQUIRED information must be submitted with this form:
 - A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.
AND
 - B. PLAT OF PROPERTY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

3. Name and Address of Former Owner/Claimant SAUER ENTERPRISES

4. New Owner/Claimant(s) NEAL SAUER
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
 New Mailing Address HC 63 BOX 2137
 City, State and ZIP Code MONTEVIEW ID 83435
 New Telephone Number (208) 657-2221

5. Date you acquired the property 1 July 1994

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 you irrigate 310 of 702 Number and type of stock _____
 Diversion rate in CFS 2.51 Number of homes _____ Other uses _____
 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 or Claimant(s) 
NEAL SAUER
 (Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign form.)

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

RECEIVED

APR 03 1998

Department of Water Resources
Eastern RegionSTATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

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

1. Water Right No(s).:

Adjudication Claim No(s).:

A31-04011A, A31-00160 ^{SPLIT} A31-00161 ^{SPLIT}

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 attached to your deed or on file with the county.)

OR

C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and Address of Former
Owner/ClaimantSAUER ENTERPRISES

4. New Owner/Claimant(s)

RAY SAUER

Name Connector (Check one): [] and, [] or, [] and/or

New Mailing Address

HC 63 BOX 2130

City, State and ZIP Code

MONTEVIEW ID 83435

New Telephone Number

(208) 657-2258

5. Date you acquired the property

1 July 1994

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 you irrigate 392 Number and type of stock _____Diversion rate in CFS 1.75 Number of homes _____ Other uses _____

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
or Claimant(s)RAY SAUER

(Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign form.)

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

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: A31-00161A
Date Received: 4/ 1/1988
Receipt No: X777777
Received By: _____

COPY FOR
YOUR FILES

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

COPY FOR
YOUR FILES

1. Name: NEAL SAUER
Address: HC 63 BOX 2137
MONTEVIEW ID

83435

208-657-2221

A3100161A



2. Date of Priority: SEP 8, 1913

3. Source: GROUNDWATER

Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
07N	34E	5	NE	NE	SE		JEFFERSON

5. Description of diverting works:
WELL & PUMP TO DITCH TO SPRINKLER SYSTEM.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	2.770		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
07N	34E	19	NE	NE		IRR	17.0
			NW	NE		IRR	40.0
			SW	NE		IRR	40.0
			SE	NE		IRR	40.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	137.0
					Total Acres	137.0

11. Place of use in counties: JEFFERSON

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

13. Other Water Rights Used:

14. Remarks:

SOURCE IN DECREE IS SHOWN AS SPRING LAKE. AS THE GROUNDWATER TABLE DIMINISHED OVER THE YEARS THE SOURCE WAS GRADUALLY SHIFTED TO GROUNDWATER. THE SOURCE IS NOW GROUNDWATER FROM A WELL WITH A PUMP WITH NO CHANGE IN ANY OTHER PARTS OF THE WATER RIGHT.
CHANGED OWNERSHIP 2/10/95/JT/GT
CHANGED OWNERSHIP 4/23/97/JT/AR
**CHANGED OWNERSHIP 4/13/98/GT

15. Basis of Claim: DECREED

Case Number: 635

Court :

Decree date: 11/ 1/1930

ERNEST SAUVE

Decree Plaintiff

W.H. ABBOTT

vs Decree Defendant