



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

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

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 31-10652

(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 g/s 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: Mud 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 th 24 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

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

STATE OF IDAHO)
) ss.
County of Bonneville)

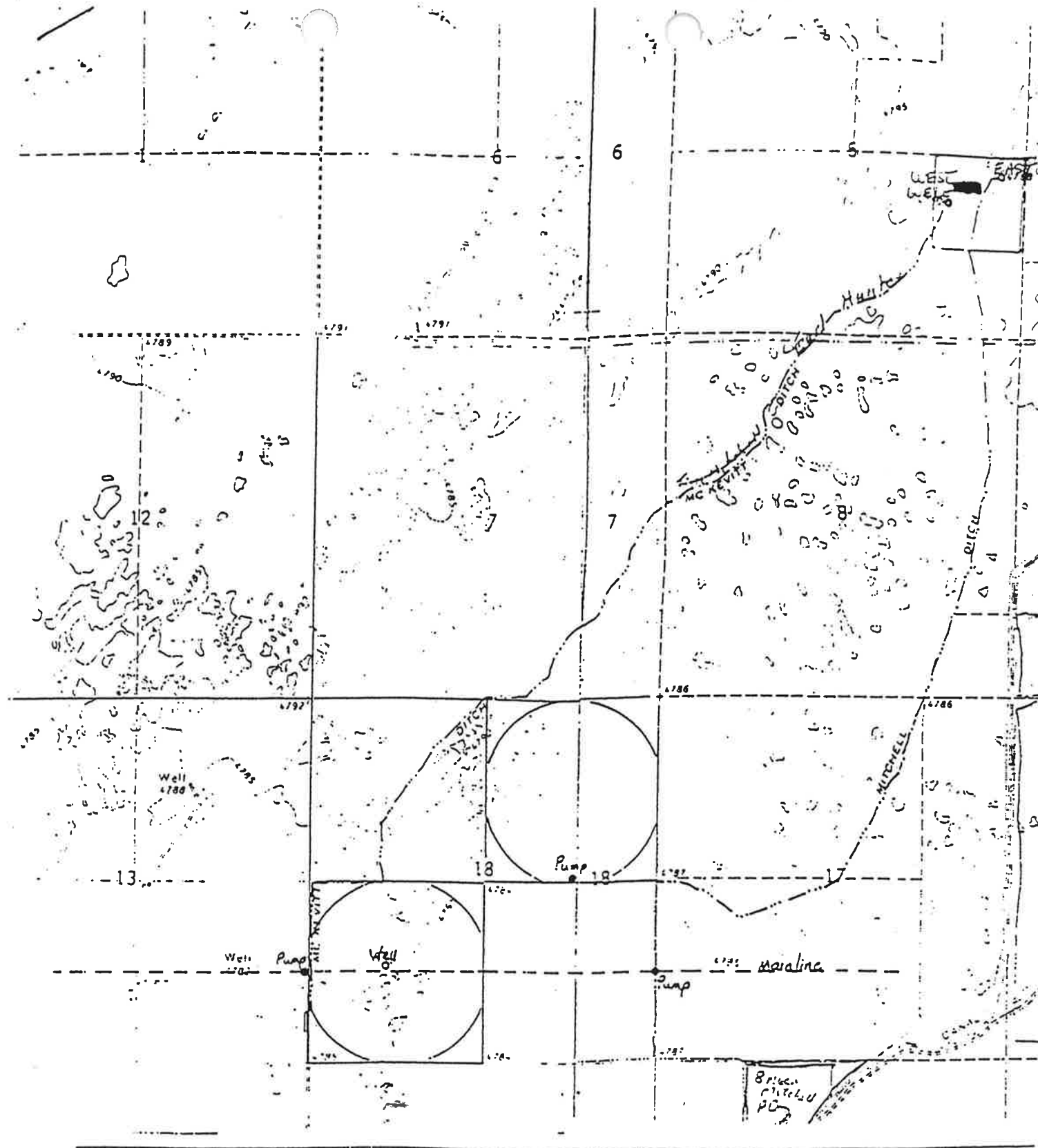
On this 20th day of September, in the year of 1985, before me the undersigned, a Notary Public in and for said State, personally appeared EARL HUNTER and HETTIE HUNTER, husband and wife, known or identified to me to be the partners in the partnership of SAUER ENTERPRISES, an Idaho Partnership, and the 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: Boise, 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 A31-04012, A31-10652

Dear Mr. Sauer:

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

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

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

Respectfully submitted,

Jennifer Hoagland
Technical Records Specialist

Enclosure: Notice(s) of Claim

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).: A31-04012^{OK}, A31-10652^{OK} AS
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 _____ Number and type of stock _____
 Diversion rate in CFS _____ 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
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..

March 5, 1993

Department of Water Resources

Water right numbers

A31-10652

This well was put in by Sandy Mitchell. Sandy is deceased. The farm has had several owners over the years, Earl Hunter purchased the farm. He is deceased. Sauer Enterprise purchased the farm ^{from} Earl Hunter.

The map from the power company shows that the line was constructed to Sandy Mitchell's well in 1936.

The big line is 60 feet poles and the pine poles that were put into Sandy Mitchell's well 30 feet poles put in in 1936.

I don't understand why the priority date wouldn't be earlier.

Phone# 657-2221

Sauer Enterprise
HC 63 Box 2137
Monteview, Idaho 83435

Neal Sauer

MICROFILMED

APR 15 1994



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
FEBRUARY 9, 1993

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

POOR ORIGINAL

RE: EVIDENCE OF PRIORITY

Dear Claimant(s):

The Notice(s) of Claim identified with the number shown above in the "address" label and at the "end" of this letter has been filed in the Snake River Basin Adjudication (SRBA). The Notice indicates water usage is based on "Beneficial Use". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Notice. The date the water was first put to use, known as the priority date, has not been confirmed by a License, Decree, or Permit. For this reason, proof must be provided supporting the priority date. As the claimant, you are responsible for submitting the necessary proof to support the priority date.

It is important that each element of the Notice be substantiated. For instance, regarding claims for irrigation, the evidence should tend to show that diversion works were in place, that they were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place of use on or before the claimed priority date.

For your reference, I have provided a printout of your Notice and the pamphlet entitled "Evidence of Priority". The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement. While I encourage you to read all of the pamphlet, I direct your attention to the two sections entitled "What Kind of Evidence is Required" and "Some examples of Documents Which May Be Evidence of the Priority Date".

EVIDENCE OF PRIORITY
Page - 2 -

It is our goal to recommend historical water rights within the Snake River Basin as accurately as possible. Field exams to verify other items of the Notice have been or soon will be conducted by Department personnel.

The Department will not recommend the Notice be decreed by the court if no evidence of a priority date is submitted.

Please submit the required evidence supporting the priority date by MARCH 9, 1993, referencing all documents with the corresponding Notice number. If you have any questions not covered by this letter or the enclosed pamphlet, please contact this office.

Respectfully submitted,

Eric Verner

Eric Verner
Senior Water Agent

EV:jt

Enclosure: Brochure on "Evidence of Priority"
Proof Report

Other Water Right Numbers Needing Evidence of Priority

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APR 15 1994

**IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)**

DATE: 04/30/98
PAGE: 1

Water Source: GROUNDWATER

Tributary to:

Stage: BENEFICIAL USE

Point(s) of Diversion:	T07N	R33E	S13	SWNESE	JEFFERSON County
	R34E	S05	NENESE	JEFFERSON County	
	S18		SENNSH	JEFFERSON County	
				NWNESE	

Place of use Legal Description for: IRRIGATION

T	R	S	NE				NW				SW				SE				SUM	
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE		
07N	33E	24	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	156.0
07N	34E	19	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	155.0
TOTAL ACRES			38				38				40				40				:	311.0

POU County: JEFFERSON

Non-Irrigation Uses: NONE

Other Rights: NONE

Remarks:	GEN	P/D'S SAME FOR A31-07131/02299/02415/07340/04011A
		CHANGED OWNERSHIP PER REQUEST/JH/4-30-98

Dates:	Exam Made Date:	Verified Date:	Objection Filed Date:
--------	-----------------	----------------	-----------------------

Misc: Water District Number: 31 Field Inspection Flag
Presumption Flag:

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: A31-10652
Date Received: 12/15/1988
Receipt No: E005223
Received By: Kaw

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: SAUER ENTERPRISES 208-522-5179
Address: C/O NEAL SAUER
5566 NORTH 49 WEST
IDAHO FALLS, ID 83402

2. Date of Priority: AUG 21, 1960

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07N	33E	13	SW	NE	SE		JEFFERSON
	34E	5	NE	NE	SE		JEFFERSON
			NW	NE	SE		JEFFERSON
		18	SE	NW	SW		JEFFERSON

5. Description of diverting works:
FOUR WELLS PUMPS MAINLINES PIVOTS DITCHES LATERALS W/SPRINKLERS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	6.220		

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

8. Total consumptive use is 777.5 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

A31-10652

Page 1

Date: 12/15/88

MICROFILMED

NOV 18 1992

A310652



10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07N	33E	24	NE	SE		IRR	38.0
			NW	SE		IRR	38.0
			SW	SE		IRR	40.0
			SE	SE		IRR	40.0
						Section Acres	156.0
	34E	19	NE	SW		IRR	38.0
			NW	SW	3	IRR	38.0
			SW	SW	4	IRR	39.0
			SE	SW		IRR	40.0
						Section Acres	155.0
						Total Acres	311.0

11. Place of use in counties: JEFFERSON

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

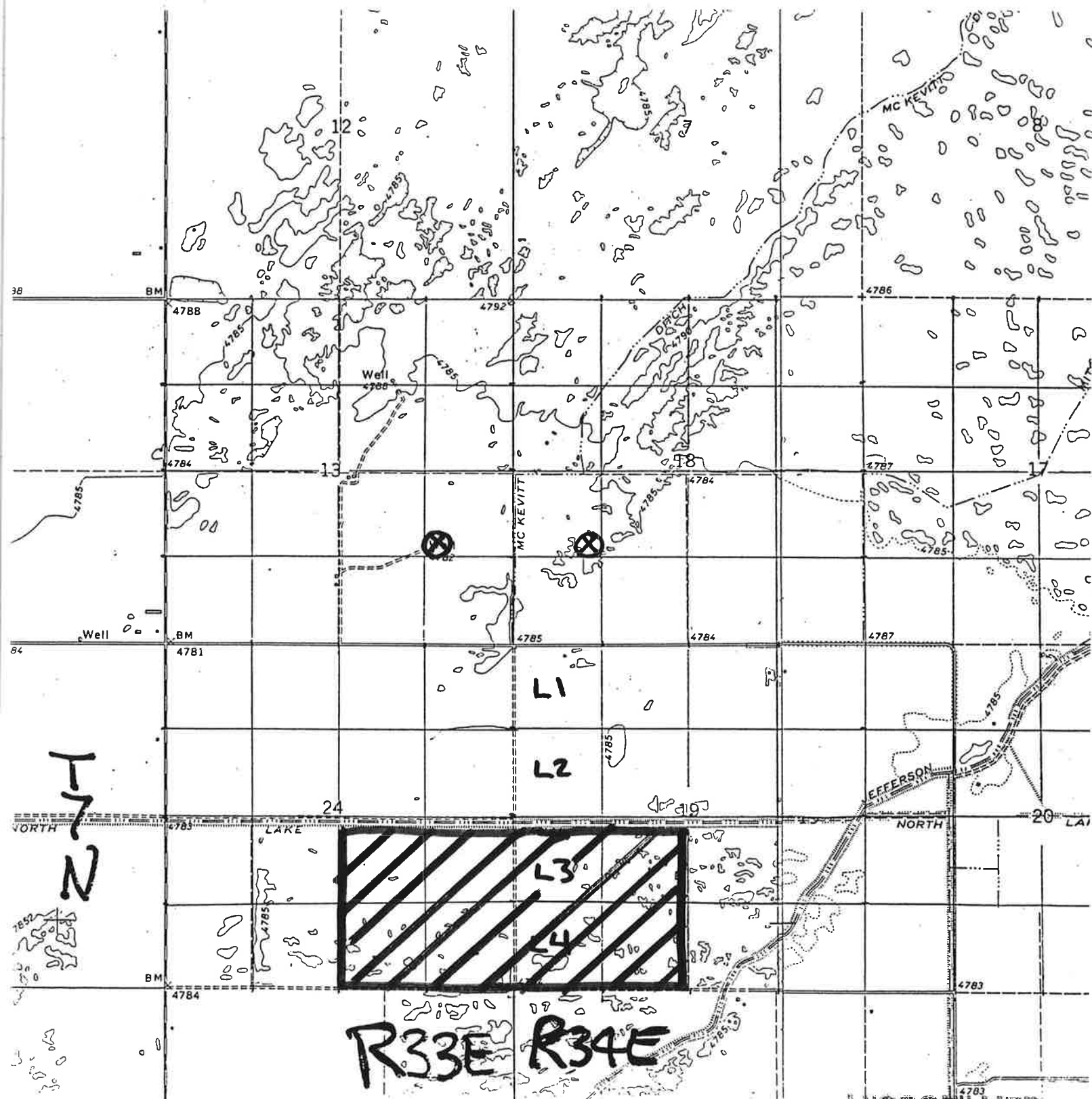
13. Other Water Rights Used:
NONE

14. Remarks:
P/D'S SAME FOR A31-07131/02299/02415/07340/04011A

15. Basis of Claim: BENEFICIAL USE

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

NOV 18 1992



MICROFILMED

A31-10652

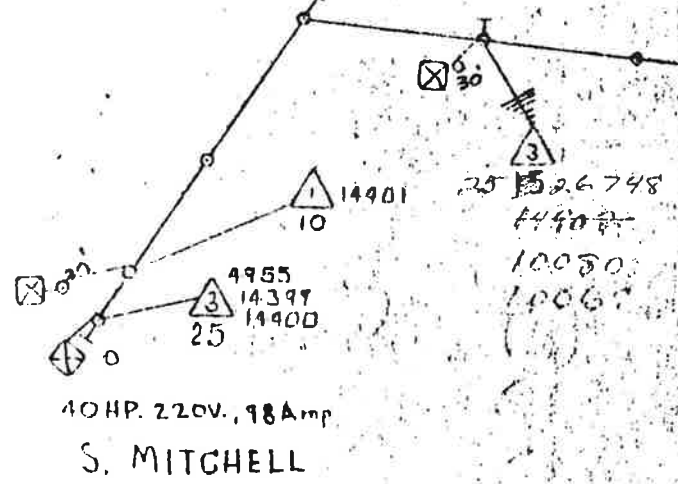
NOV 8 1992

POOR ORIGINAL

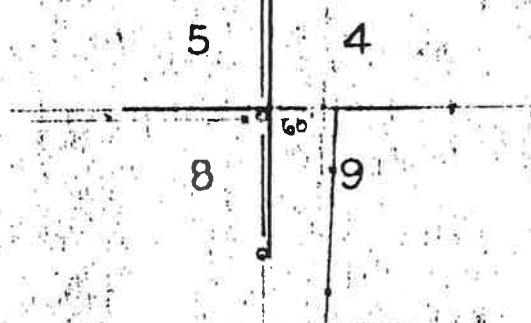
E.R. 13.2294
1962

B. MITCHELL
40HP, 240V, 98A.

DISTRIBUTION UNDERBUILT ON
MUDLAKE - EASTMONT 69KV LINE
SEE UD 39108



3*1/0 COPPER & 1" LBC.
12.3 KV



See UD-20400



Note: Creosoted Pine Poles; 30'; 1936.
Unless otherwise noted.