

OK

11/14/2006

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: December 8, 2006

Water right number: 67-4113

DONALD E HARVEY

2216 HWY 95

COUNCIL ID 83612

Telephone Number: (208)253-4257

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

☒ I AGREE with this proposed recommendation: no changes need to be made.

DATE:

12/04/06

SIGNATURE:

Donald E Harvey

Please print your name:

Donald E Harvey

IDWR Regional Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, 2082874800

SCANNED
DEC - 6 2006

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: A67-04113

Date Received: 9/19/1989

Receipt No: C011704

Received By: [Signature]

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DONALD HARVEY
Address: HC 62 BOX 1315
COUNCIL, ID 83612
208-253-4257

2. Date of Priority: JUN 01, 1930

3. Source: MILL CREEK Trib. to: WEISER RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
17N	01W	36	SE	NE	SE		ADAMS
			NW	NW	SE	R	ADAMS

5. Description of diverting works:
DITCH FROM MILL CREEK TO 2ND FORK MILL CREEK THENCE TO PLACE USE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.300		
STOCKWATER	01/01	12/31	0.020		

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

8. Total consumptive use is 48.0 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCK-75 HEAD RANGE CATTLE

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
17N	01W	36	SW	NW		IRR	15.0

Section Acres 15.0

A67-04113

Page 1

Date: 09/19/89

MICROFILMED

OCT 02 1992

SCANNED
MAY 10 2004

10. Place of Use: Continued

Total Acres 15.0

11. Place of use in counties: ADAMS

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

13. Other Water Rights Used:
63-00363

14. Remarks:

15. Basis of Claim: BENEFICIAL USE

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 _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Donald Harvey Date: _____
_____ Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 19 day
of September 19 89

Seal

[Signature]
Notary Public

Residing at Boise, ID

My Commission Expires June 10, 1994

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 67-4113
Date Received: 9/19/1989
Receipt No: C011704
Received By:

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

1. Name of Claimant(s)

DONALD E HARVEY Phone: (208)253-4257

2216 HWY 95
COUNCIL ID USA 83612

*4/21/05:
note new
address*

2. Date of Priority: 06/01/1930

3. Source: MILL CREEK , MILL CREEK Trib. to: WEISER RIVER , WEISER RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
17N	01W	36	NW NW SE	ADAMS R	
17N	01W	36	SE NE SE	ADAMS	

5. Description of diverting works:

DITCH FROM MILL CREEK TO 2ND FORK MILL CREEK THENCE TO PLACE USE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/15	0.3	
STOCKWATER	1/01	12/31	0.02	

7. Total Quantity Appropriated is:
0.32 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
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11/28/2005

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

RIGHT NUMBER: 67-4113

NAME AND ADDRESS: DONALD E HARVEY
2216 HWY 95
COUNCIL ID 83612

SOURCE: MILL CREEK

TRIBUTARY: WEISER RIVER

QUANTITY: 0.320 CFS

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 06/01/1930 *1941 CS 11-28-05*

POINT OF DIVERSION:

T17N R01W S36 NWNESE Rediversion Within ADAMS County

T17N R01W S36 NENWSW Within ADAMS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.300 CFS
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: IRRIGATION Within ADAMS County

T17N R01W S36 SWNW 15.0

STOCKWATER same as IRRIGATION

15 ACRES TOTAL

Right Nos. 67-363E and 67-4113 are limited to the irrigation of a combined total of 23.3 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.

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use
Stockwater use is for 100 range cattle.



Idaho Department of Water Resources

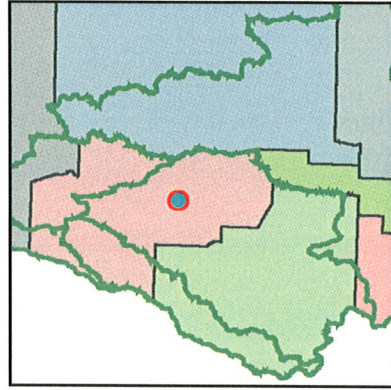
67-4113

Adjudication Claim Number:

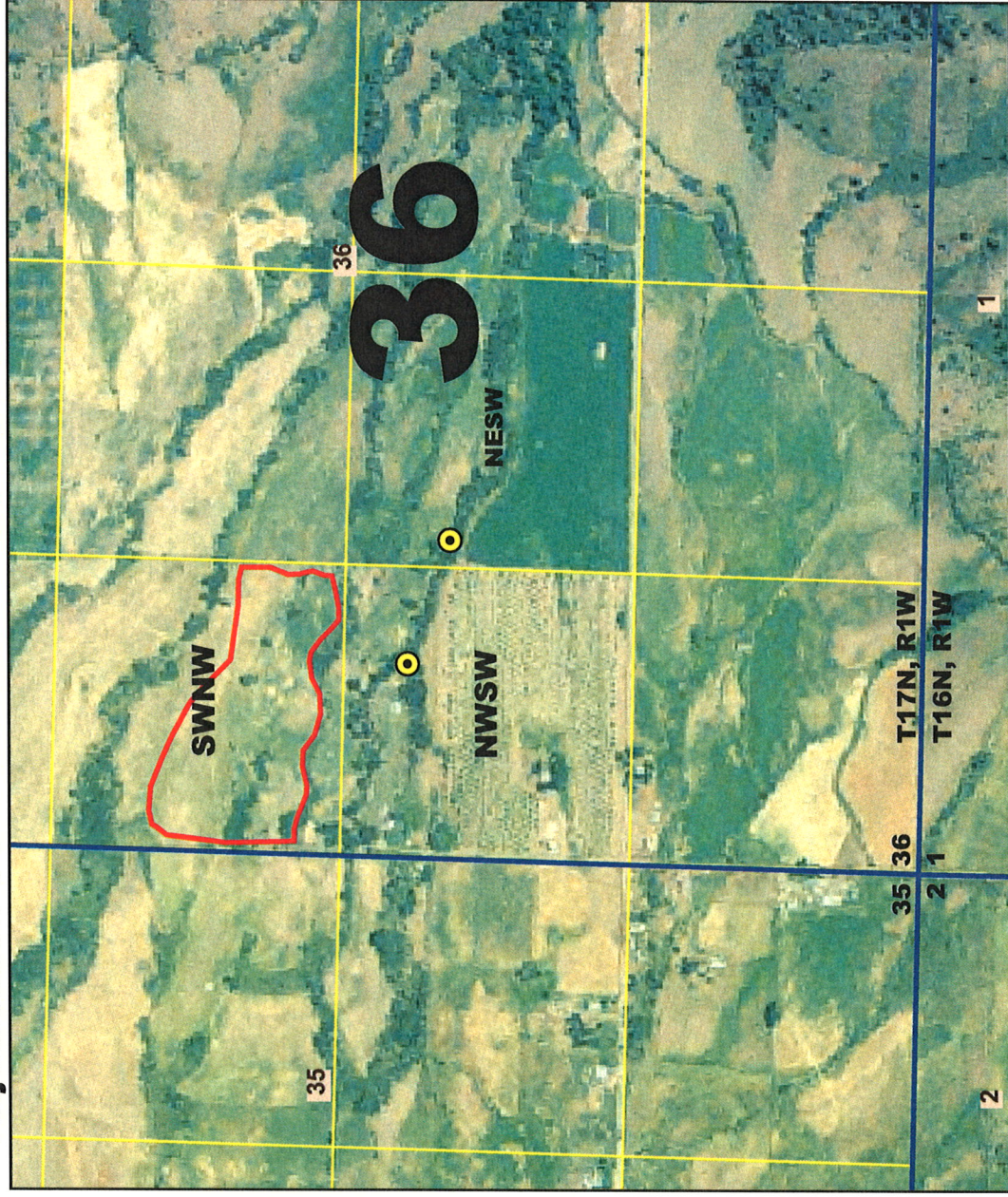
T16N R01W
T17N R01W

Legend

- Point of Diversion
- Place of Use
- B67 sections.shp
- T17n01w.shp



Adams County
IDWR Basin 67



1000 0 1000 Feet

Prepared by C. Saxton
On Monday, November 28, 2005
1987 Aerial Photography

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4113 V1

WATER RIGHT NUMBER: 67-4113 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DONALD E HARVEY 2216 HWY 95 COUNCIL, ID 83612 (208)253-4257

Priority Date: 06/01/1930 *1941 CS 11-28-05*

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
MILL CREEK	WEISER RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	0.300 CFS	
STOCKWATER	01/01 to 12/31	0.020 CFS	
	<u>Total Diversion:</u>	0.320 CFS	

Location of Point(s) of Diversion

MILL CREEK	NW1/4NE1/4SW1/4	Sec. 36, Twp 17N, Rge 01W, B.M.
ADAMS County	(Rediversion)	
MILL CREEK	NE1/4NW1/4SW1/4	Sec. 36, Twp 17N, Rge 01W, B.M.
ADAMS County		

Place of Use

IRRIGATION

Twp Rge Sec	NE	NW	SW	SE	Totals
17N 01W 36	NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE	15.0

Total Acres: 15

STOCKWATER same as IRRIGATIONConditions of Approval:

1. N05 The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
2. X02 Stockwater use is for 100 range cattle.
3. C18 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.
4. E55 Right Nos. 67-363E and 67-4113 are limited to the irrigation of a combined total of 23.3 acres in a single irrigation season.
5. N08 The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 67-4113 V1

Remarks:Comments:

1. mvining 4/27/2005 priority date

Comment: Claim needs additional evidence of priority. Sent letter to claimants 4/27/05.

2. mvining 4/27/2005 period of use

Comment: period of use listed in 1975 claim is shorter than period listed in most recent (1989) claim; however, current listed period of use is consistent with irrigation season map for that area, so looks OK.

3. csaxton 11/28/2005 Priority

Comment: Affidavit supports priority claimed.

Dates and Other Information:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Defendant:

Plaintiff:

Civil Case Number:

Judicial District:

Notice of Error Flag:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
POU	4/21/2005 10:13:55 AM	mvining			Active
POD	4/21/2005 10:16:31 AM	mvining			Active
POD	4/21/2005 10:16:37 AM	mvining			Active
Priority Date	4/27/2005 1:48:29 PM	mvining			Active
Source	4/27/2005 1:50:06 PM	mvining			Active
Use	4/27/2005 1:50:43 PM	mvining			Active
Season	4/27/2005 1:52:27 PM	mvining			Active
Quantity	4/27/2005 1:55:03 PM	mvining			Active
Summary			04/27/2005	mvining	Active
POD	4/27/2005 2:35:35 PM	mvining			Active
POU	4/27/2005 2:35:37 PM	mvining			Active
Contacts	11/28/2005 12:33:22 PM	csaxton			Active
Priority Date	11/28/2005 12:34:06 PM	csaxton			Active

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4113 V1

POD	11/28/2005 12:34:30 PM	csaxton	Active
Source	11/28/2005 12:36:09 PM	csaxton	Active
POU	11/28/2005 12:36:41 PM	csaxton	Active
Use	11/28/2005 12:38:08 PM	csaxton	Active
Season	11/28/2005 12:39:47 PM	csaxton	Active
Quantity	11/28/2005 12:40:36 PM	csaxton	Active
Summary	11/28/2005	csaxton	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
POD	4/21/2005 10:16:31 AM	mvining	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD?
POD	4/21/2005 10:16:37 AM	mvining	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?
POU	4/21/2005 10:13:13 AM	mvining	Edited shape boundary
POD	4/21/2005 10:16:14 AM	mvining	Edited point location
POU	4/21/2005 10:13:56 AM	mvining	(No) 1. Is the basis of this claim a Decree or License? (Yes) 2b. Is the POU required? (No) 3. Is the basis of claim a Application or Permit? (No) 7. Is there evidence that there has been a change in the POU? (Yes) 13. Does the file contain all the necessary information to verify the POU? (No) 14. Is a POU remark and/or condition required? Description for Question 13 - Map in file

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4113 V1

Summary	11/28/2005 12:42:49 PM	csaxton	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (Yes) 5. Does this right have any combined use limits with other rights? (Yes) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (Yes) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?
POD	11/28/2005 12:35:14 PM	csaxton	Updated shape
POD	11/28/2005 12:35:25 PM	csaxton	Updated PLS
POU	11/28/2005 12:37:27 PM	csaxton	Updated shape for Active POU
POD	11/28/2005 12:35:59 PM	csaxton	Updated PLS
POU	11/28/2005 12:37:39 PM	csaxton	Updated PLS for Active POU
Season	11/28/2005 12:39:57 PM	csaxton	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined? (Yes) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?
Quantity	11/28/2005 12:40:46 PM	csaxton	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is the basis of claim a posted notice? (Yes) 7. Is a flow measurement required? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (No) 12. Is a Quantity remark or condition required? Description for Question 7 - Per Water Master Bosco Bosler, diversion works can support 0.30 cfs or greater.
Contacts	11/28/2005 12:33:31 PM	csaxton	(No) 1. Do you want to schedule an appointment? Comment for 1: FE by M. Vining on 7/7/05

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4113 V1

General	11/28/2005 12:34:15 PM	csaxton	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (No) 9. Is the Priority Date of this water use after the date a permit is required for the source and the water use? (Yes) 12. Does the claim file contain sufficient evidence of Priority Date? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required? Description for Question 12/13 - Affidavit from Claimant.
POD	11/28/2005 12:34:39 PM	csaxton	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?
POD	11/28/2005 12:35:48 PM	csaxton	Updated shape
Source	11/28/2005 12:36:19 PM	csaxton	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim an Application or Permit? (No) 6. Is the basis of claim a Posted Notice? (No) 7. Is there evidence that there has been a change in the source? (Yes) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required? Description for Question 10 - FE by M. Vining on 7/7/05
POU	11/28/2005 12:36:50 PM	csaxton	(No) 1. Is the basis of this claim a Decree or License? (Yes) 2b. Is the POU required? (No) 3. Is the basis of claim a Application or Permit? (No) 7. Is there evidence that there has been a change in the POU? (Yes) 13. Does the file contain all the necessary information to verify the POU? (Yes) 14. Is a POU remark and/or condition required? Description for Question 13 - FE by M. Vining on 7/7/05

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4113 V1

Use	11/28/2005 12:38:17 PM	csaxton	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Purpose of Use? (Yes) 11. Does the file contain all the necessary information to verify the Water Use? (No) 13. Is a Purpose of Use remark and/or condition required? Description for Question 10,11,12 - FE by M. Vining on 7/7/05
Priority Date	4/27/2005 1:48:30 PM	mvining	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (No) 9. Is the Priority Date claimed after the date a permit is required for the source and the water use? (No) 12. Does the claim file contain sufficient evidence of Priority Date? (No) 13. Has additional evidence of priority date been submitted? (Yes) 14. Can any portion of the claim be recommended as a valid water right? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required? Description for Question 12/13 - Sent request for evidence of priority 4/27/05
Source	4/27/2005 1:50:07 PM	mvining	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim an Application or Permit? (No) 6. Is the basis of claim a Posted Notice? (No) 7. Is there evidence that there has been a change in the source? (Yes) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required? Description for Question 10 - aerial photo verifies source close to irrigated property
Use	4/27/2005 1:50:43 PM	mvining	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Purpose of Use? (Yes) 11. Does the file contain all the necessary information to verify the Water Use? (No) 13. Is a Purpose of Use remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4113 V1

Quantity	4/27/2005 1:55:03 PM	mvining	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is the basis of claim a posted notice? (Yes) 7. Is a flow measurement required? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (No) 12. Is a Quantity remark or condition required? Description for Question 7 - measurement will be taken summer 2005
Season	4/27/2005 1:52:28 PM	mvining	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Period of Use? (No) 9. Was an enlargment claim filed? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administrativly determined? (Yes) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?
POU	4/27/2005 2:35:38 PM	mvining	(No) 1. Is the basis of this claim a Decree or License?
Summary	4/27/2005 1:55:55 PM	mvining	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (No) 5. Does this right have any combined use limits with other rights? (No) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?
POD	4/27/2005 2:35:36 PM	mvining	(No) 1. Is the basis of this claim a Decree or License?

Water Supply Bank:

Claim:

<u>Basin</u>	<u>Sequence</u>	<u>Suffix</u>	<u>Basis</u>	<u>Status</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Acres</u>	<u>Source</u>	<u>Water Use(s)</u>	<u>Owner(s)</u>	<u>Source Table</u>
67	363	E	Decreed	Active	1889-05-01	0.32	38	MILL CREEK	IRRIGATION	HARVEY, C	wrAdjudicationClaim
67	4113		Beneficial I	Active	6/1/1930	0.32	15	MILL CREEK	IRRIGATION, S	HARVEY, C	wrAdjudicationClaim

Recommendation:

<u>Basin</u>	<u>Sequence</u>	<u>Suffix</u>	<u>Basis</u>	<u>Status</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Acres</u>	<u>Source</u>	<u>Water Use(s)</u>	<u>Owner(s)</u>	<u>Source Table</u>
67	363	E	Decreed	Active	1889-05-01	0.225	18	MILL CREEK	IRRIGATION	HARVEY, C	wrAdjudicationClaim
					Inches =	11.25					
					@5/8" =	18					

67 4113 Beneficial I Active 6/1/1930 0.3 15 MILL CREEK IRRIGATION, S HARVEY, C wrAdjudicationClaim
67-363E and 67-4113 are not claimed as a PPU, but 67-363E must overlap 67-4113 just by the lay of the land and how
the acreage was claimed.

<u>Watermaster Record</u>		<u>Inches</u>		<u>Priority</u>	
22	7N01W363 HARV	\$ 9.20	\$8.06	11.5	363 1TON/SP 5/12/89

Other Water Rights:

67	82 E	Decreed	Disallowed	5/27/1910	15	LOST VALLEY IRRIGATION F	HARVEY, C	Recommendation
67	353 A	Decreed	Active	1882-05-01	0.14	MILL CREEK IRRIGATION	HARVEY, C	wrAdjudicationClaim
67	7363	License	Active	10/26/1977	0.32	WEISER RIVE IRRIGATION	HARVEY, C	wrAdjudicationClaim
67	14348	Beneficial I	Active	6/1/1952	0.1	WASTE WATE IRRIGATION	HARVEY, C	wrAdjudicationClaim

RECEIVED

SEP 14 2005

Department of Water Resources

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IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 67-4113

WATER RIGHT NUMBER: 67-4113

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DONALD E HARVEY 2216 HWY 95 COUNCIL, ID 83612 (208)253-4257

Priority Date: 06/01/1930
Basis: Beneficial Use
Status: Active

<u>Source</u>	<u>Tributary</u>
MILL CREEK	WEISER RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	1/01 to 12/31	0.020 CFS	
IRRIGATION	3/15 to 11/15	0.300 CFS	
	<u>Total Diversion:</u>	0.320 CFS	

Location of Point(s) of Diversion

MILL CREEK	NW1/4NW1/4SE1/4	Sec. 36, Twp 17N, Rge 01W, B.M.
ADAMS County	(Rediversion)	
MILL CREEK	SE1/4NE1/4SE1/4	Sec. 36, Twp 17N, Rge 01W, B.M.
ADAMS County		

Place of UseIRRIGATION Within ADAMS County

T17N R01W S36 SWNW 15.0

Total Acres: 15

STOCKWATER same as IRRIGATIONConditions of Approval:Remarks:

SCANNED

SEP 15 2005

IN THE MATTER OF)
NOTICE OF CLAIM TO)
A WATER RIGHT NO.(S))

AFFIDAVIT

67-4413)
)
)
State of Idaho)
County of Adams)

DONALD E. HARVEY

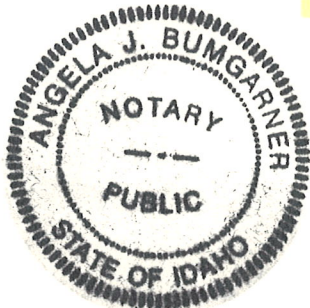
being first duly sworn,

deposes and says:

In 1928, my folks moved onto the
property concerning this water right claim. As a youngster, I
saw the irrigation system being used and I believe it was in place
before 1928.

My operation of it began when I was in my teens; 1950. Some of the
old system is still in place.

affidavit good to 1950
(Donald Harvey is 68 in 2005 -
see affidavit for 14348).
claimed 1930.



SEAL

Donald E. Harvey
(Signature)

Subscribed and sworn to before me this
day 13th of September, 2005 19.

Angela J. Bumgarner
(Notary Public)

Residing at Cambridge, Idaho.

My Commission Expires 5-8-09.

SCANNED

SEP 15 2005

Idaho Department of Water Resources



67-4113

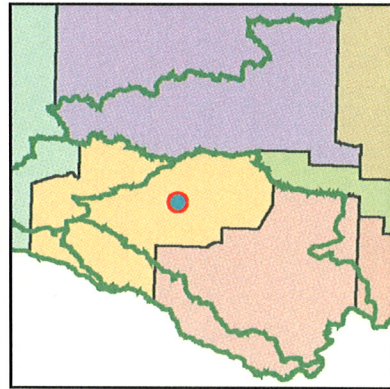
Adjudication Claim Number:

T17N R01W

SCANNED
SEP 15 2005

Legend

- PLS Sections
- GCDB Quarter Quarters



Adams County
IDWR Basin 67



0.2 Miles

0.1

0

Prepared by M. Van Bussum
On Wednesday, August 31, 2005
1987 Aerial Photography

7/7/05

Notes

67-14348 - no flow measurement needed
($< .200$ cfs)

POD: GPS pts 67-14348-1
(2) 67-14348-2

7307834
1509373

2807835
1509475

POU - outline on map
5 acres

See ArcView shape

67-4113 ask Basco re: flow measurement

171101W36 NWSE — POD # A0014041 GPS'd by Basco 8/04
" " WESE — # A0014039 " "
photo named "Lower Hervey"
photo named "Upper Hervey"

POU: outline on map

15 acres

Shape is greater than 15 acres, but subtract
small ditches (not farmable) w/in, = closer to 15 acres.

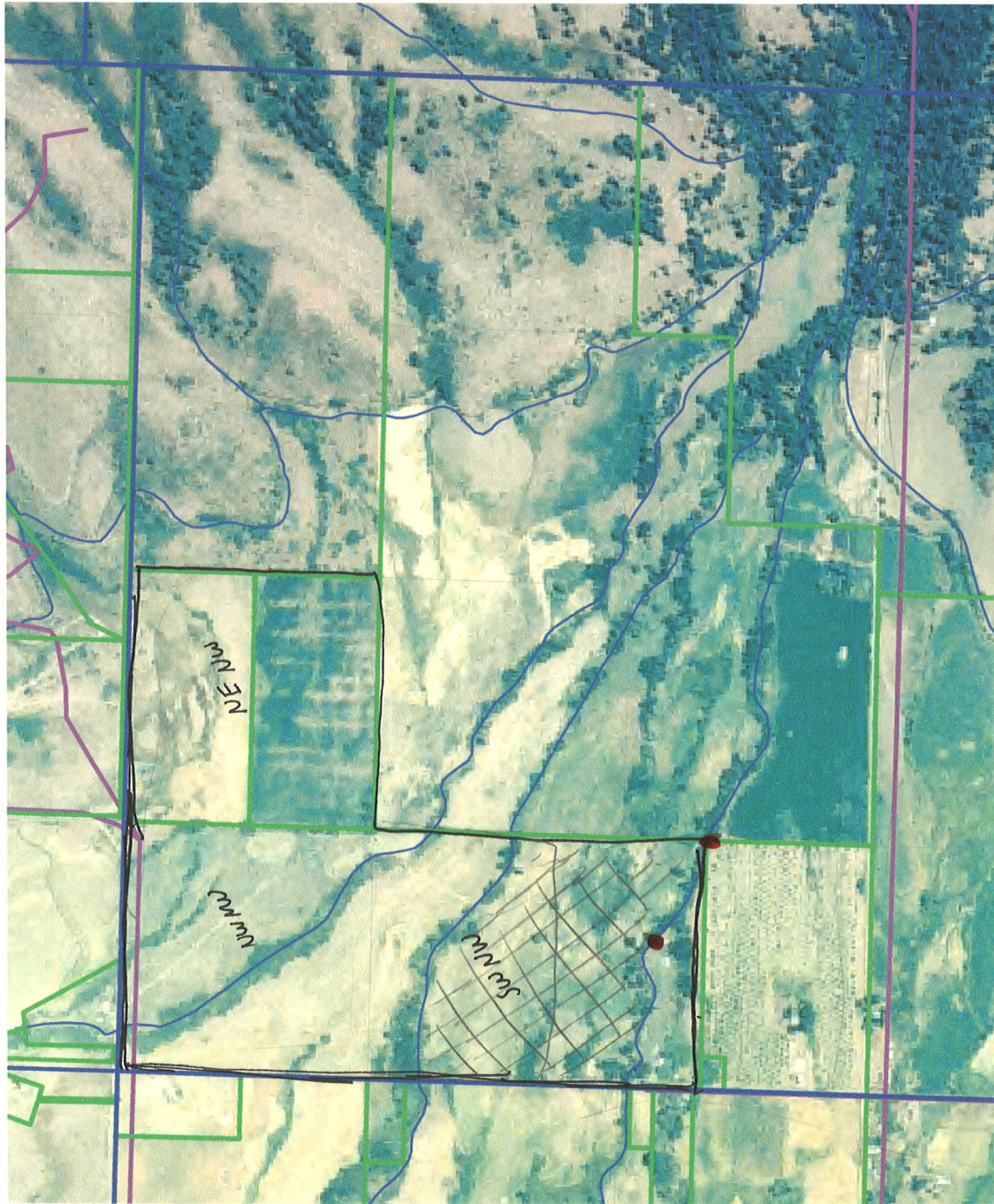
67-4113

Source: Mill Creek

Basin GPS'd

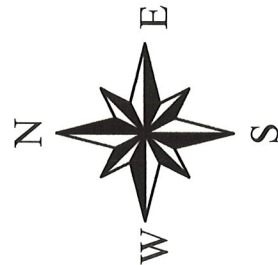
Need for

15 acres



Note: East fork water also comes out of upper pool

- T_r_sections.shp
- Parcels.shp
- Quarterquarters.shp
- Roads.shp
- Streams.shp
- Basinoutlines.shp



Notes

- ~~Needs flow measurement~~
- ~~CPS POU~~

Sent letter requesting evidence of priority 4/27/05

5/16/05 per watermaster (Bosco Bosler) ditch is more than capable of carrying 7.32 cfs, and ~~can~~ has ~~handle~~ capacity ^{to carry} of all users' water.

see Quantity Notes in FE writeup

POU - looks a bit larger than 15 acres claimed, but w/ subtraction of ^(ditchside) creek side brushy areas, is close.

Priority Date Data Entry Form

Claim Number 67-4113

Claimed Priority Date: 6/1/1930

Claimed Basis: Beneficial Use

☐ Use Claimed Priority Date and Basis as Recommended Priority Date and Basis

Water Right Priority Date: 6/1/1930

Water Right Basis: Statutory Claim

Recommended Priority Date Recommended Basis

Document the evidence submitted/reviewed for the priority date claimed, include your analysis of the evidence:

claimant will submit evidence of priority

Reviewer: mvDate: 7/7/05

Point of Diversion and Source Data Entry Form

Claim Number 67-4113

Claimed Point of Diversion and Source

T17N R01W S36 SENESE Within ADAMS County Source: MILL CREEK WEISER RIVER

T17N R01W S36 NWNWE Rediversion Within ADAMS County Source: MILL CREEK WEISER RIVER

☒ Use Claimed POD and Source as Recommended POD and Source

Water Right Point of Diversion and Source

T17N R01W S36 NESE Within ADAMS County

Recommended Point of Diversion and Source

Source Information

Source

Tributary To

_____	_____
_____	_____
_____	_____

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source

Other rights from this POD? _____

Document how the POD and Source were verified:

Bosco GPSd # A0014041
A0014039
claimant confirmed on map (see map)

Reviewer: MVDate: 7/7/05

Place Of Use Data Entry Form

Claim Number 67-4113

Claimed Place Of Use

T17N R01W S36 SWNW 15.0

Total Acres 15

☒ Use Claimed POU as Recommended POU

Water Right Place Of Use

T17N R01W S36 SWNW 15.0

Total Acres 15

Recommended Place of Use

_____ See corrections to claimed POU above

Tw	Rge	Sec	QQ	Q	County	Lot Num	Acres	Purpose of Use

Total Acres _____

Document how the POU was verified:

aerial photos, claimant confirmed
 may be slightly larger than 15 acres - see shape
 as drawn by claimant

Reviewer: mwDate: 7/7/05

Purpose of Use Data Entry Form

Claim Number 67-4113

Claimed Purpose of Use

Water Use

Number of Homes

Number of Stock

Acre Limit

STOCKWATER
IRRIGATION☒ Use Claimed Purpose of Use as Recommended Purpose of Use

Water Right Purpose of Use

Water Use

Number of Homes

Number of Stock

Acre Limit

STOCKWATER
IRRIGATION

Recommended Purpose of Use

Water Use

Number of Homes

Number of Stock

Acre Limit

Number of Other

--	--	--	--	--

--	--	--	--	--

--	--	--	--	--

Document how the Purpose of Use was verified:

aerial photos, conversation w/ claimant

Reviewer: mmDate: 7/7/05

Period of Use and Quantity Data Entry Form

Claim Number 67-4113

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
IRRIGATION	3/15	11/15	0.3	
STOCKWATER	1/01	12/31	0.02	
Overall Diversion Rate	0.32	Overall Diversion Volume		

☐ Use Claimed Period of Use and Quantity as Recommended Period of Use and Quantity

Water Right Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
IRRIGATION	4/01	9/15	0.3	
STOCKWATER	1/01	12/31	0.02	
Overall Diversion Rate	0.32	Overall Diversion Volume		

Recommended Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume

Overall Diversion Rate _____ Overall Diversion Volume _____

Document how the Period of Use and/or Diversion Rate were verified:

IDWR reviewer - please confirm season of use

Quantity: per watermaster, westernmost POD capable of
delivering up to 40" ; easternmost capable of delivering
up to 100". No flow measurement needed.

Reviewer: MMV

Date: 7/7/05

Contacts Data Entry Form

Owner Type	Full Name	Address	City	State	Zip	Phone
Current Owner	DONALD E HARVEY	2216 HWY 95	COUNCIL	ID	83612	(208)253-4257

Date of Field Exam: 7/7/05 Time: 1pm

Accompanied By: _____ Phone Number: _____

Relationship to Claimant: _____

Directions to Property (if different from above) and/or update owner information:

all correct

Reviewer: MVDate: 7/7/05

copy

April 27, 2005

67-04113
DONALD HARVEY
2216 HWY 95
COUNCIL ID 83612

RE: EVIDENCE OF PRIORITY

Dear Claimant (s):

The Idaho Department of Water Resources has begun its water right review in Basin 67. 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 the entire 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**".

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 cannot recommend the Notice be decreed by the court if no evidence of a priority date is submitted.
.....

Please submit the documentation supporting the priority date by **May 22, 2005** **referencing all documents with the corresponding Notice number.** If you have any questions not covered by this letter or the enclosed pamphlet, please feel free to contact me at (208) 287-4907.

In addition, a contractor employed by The Idaho Department of Water Resources may be contacting you to set up a field exam in order to verify the elements of your water right.

Respectfully submitted,

Melanie L. Vining
IDWR Contract Field Examiner
Adjudication Bureau

Enclosure: Brochure on “Evidence of Priority”
 Notice of Claim 67-04113

~~Draft~~

04/27/2005

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

RIGHT NUMBER: 67-4113

NAME AND ADDRESS: DONALD E HARVEY
2216 HWY 95
COUNCIL ID 83612

SOURCE: MILL CREEK

TRIBUTARY: WEISER RIVER

QUANTITY: 0.320 CFS

PRIORITY DATE: 06/01/1930

POINT OF DIVERSION:

T17N R01W S36 SENESE Within ADAMS County

T17N R01W S36 NWNWSE Rediversion Within ADAMS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	3/15 11/15	0.300 CFS
STOCKWATER	1/01 12/31	0.020 CFS

PLACE OF USE: IRRIGATION Within ADAMS County

T17N R01W S36 SWNW 15.0

STOCKWATER same as IRRIGATION

15 ACRES TOTAL

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

rights as This partial decree is subject to such general provisions necessary for the
definition of the rights or for the efficient administration of the water
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:

Water Right 67-4113

Draft

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4113 V1

WATER RIGHT NUMBER: 67-4113 V1

Owner Type Name and Address
Current Owner DONALD E HARVEY
 2216 HWY 95
 COUNCIL, ID 83612
 (208)253-4257

Priority Date: 06/01/1930

Basis:

Status: Active

Source Tributary
MILL CREEK WEISER RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/15 to 11/15	0.300 CFS	
STOCKWATER	1/01 to 12/31	0.020 CFS	
	<u>Total Diversion:</u>	0.320 CFS	

Location of Point(s) of Diversion

MILL CREEK	NW1/4NW1/4SE1/4	Sec. 36, Twp 17N, Rge 01W, B.M.
ADAMS County	(Rediversion)	
MILL CREEK	SE1/4NE1/4SE1/4	Sec. 36, Twp 17N, Rge 01W, B.M.
ADAMS County		

Place of Use

IRRIGATION

Twp Rge Sec	NE	NW	SW	SE	Totals
17N 01W 36	NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE	15.0
		15.0			15.0

Total Acres: 15

STOCKWATER same as IRRIGATION

Conditions of Approval:

1. C18 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.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4113 V1

POD	4/21/2005 10:16:37 AM	mvining	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?
POU	4/21/2005 10:13:13 AM	mvining	Edited shape boundary
POD	4/21/2005 10:16:14 AM	mvining	Edited point location
POU	4/21/2005 10:13:56 AM	mvining	(No) 1. Is the basis of this claim a Decree or License? (Yes) 2b. Is the POU required? (No) 3. Is the basis of claim a Application or Permit? (No) 7. Is there evidence that there has been a change in the POU? (Yes) 13. Does the file contain all the necessary information to verify the POU? (No) 14. Is a POU remark and/or condition required? Description for Question 13 - Map in file
Priority Date	4/27/2005 1:48:30 PM	mvining	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (No) 9. Is the Priority Date claimed after the date a permit is required for the source and the water use? (No) 12. Does the claim file contain sufficient evidence of Priority Date? (No) 13. Has additional evidence of priority date been submitted? (Yes) 14. Can any portion of the claim be recommended as a valid water right? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required? Description for Question 12/13 - Sent request for evidence of priority 4/27/05
Source	4/27/2005 1:50:07 PM	mvining	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim an Application or Permit? (No) 6. Is the basis of claim a Posted Notice? (No) 7. Is there evidence that there has been a change in the source? (Yes) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required? Description for Question 10 - aerial photo verifies source close to irrigated property

.n. 27-4113
57B

(7) If you are claiming water as a member of an organization, list name of organization: _____

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Section 42-225a, Idaho Code

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. **The filing of this claim does not confirm the water right but will serve for information purposes only.** It may, however, become the basis for future adjudication of the water right by the Court.

Notice is hereby given that Gillian Harvey (name of claimant)
of Council, Ida. 83612, claims a right to the diversion and beneficial use of
(mailing address)
the public water of the State of Idaho

The extent and nature of said claim is as follows:

- (1) Describe source of water: (name of stream, lake, spring, etc., or ground water) Mill Creek, tributary to, Wissler River
- (2) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Amount <u>32</u>	Use <u>Irr. + Stock</u>	Period of Use: From <u>May 1</u> To <u>July 15</u>
Amount _____	Use _____	Period of Use: From _____ To _____
Amount _____	Use _____	Period of Use: From _____ To _____
(cfs, gpm or a/f)	(dom., irri., stock, etc.)	(both dates inclusive)

- (3) Total quantity of water claimed: _____ cubic feet per second, or 0.32 acre feet per annum, and/or _____ gallons per minute.

- (4) Priority claimed: (the date water was first applied to beneficial use) 5-1-87

A claim is not acceptable on a ground-water source with a priority later than March 25, 1963 or on a surface-water source with a priority later than May 20, 1971. An exception to this rule is that a claim may be filed on domestic use from a ground-water source.

- (5) A) Point of diversion: (give location of point where water is diverted from its source)
NE ¼, SE ¼, Sec. 36 Twp. 17N Rge. 1W B. M. County of Adams
 Additional points of diversion:

B) Describe means of diversion of water: (pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.) Give sizes and capacities; be as specific as possible. Over Flow and drainage from Mill Creek

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

Total No. of acres 15

- B) If the water is used for other than irrigation, fully describe that use, being as specific as possible: _____

- (7) If you are claiming water as a member of an organization, list name of organization: _____

MICROFILMED

Council, Ida.

Mar. 1, 1977

Depart. of Water Resources
92 South Cole Road
Boise, Ida.

MAR 3 1977

Department of Water Resources
Western Regional Office

Sirs,

On Claim No. 67-4113, a note
period of use is from May 1
to July 5. Would it be possible
to set that date up to Apr. 1
and extend it as long as there
is water there, which varies
from year to year. I do keep
cattle on pasture there in
summer and use as a feed
lot in winter, in addition for
irrigation purposes.

Sincerely,

Lillian Harvey

NOTICE OF CLAIM TO A WATER RIGHT

NO. 67-4113

Notice is hereby given that Lillian Harvey of Council, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 0.32 cubic feet per second of water from Mill Creek tributary of Weiser River with the point of diversion in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 36, T17N-R1W B.M., Adams County.

The water is claimed to be used from May 1 to July 15 for stockwater and irrigation of 15 acres with a priority of May 1, 1889; the place of use is within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec 36 T17N-R1W B.M.

The claim holder now proposes to amend the claim by changing the priority date to 1930.

Any exception to this claim of water right may be filed with the Director of the Idaho Department of Water Resources, 92 S. Cole Road, Boise, Idaho 83705.

C. STEPHEN ALLRED

Director

Published in the Adams County Leader, Council, Idaho on June 16 & 23, 1977.

MICROFILMED