

RECEIVED

JUL 1 2006

DEPARTMENT OF
WATER RESOURCES

\$55 fee to IDWR

+ map

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 67-4425

Date Received:

Receipt No:

Received By:

C081828

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

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AUG 01 2006

DEPARTMENT OF
WATER RESOURCES

1. Name of Claimant(s)

ELBERT C APPLGATE Phone: (208)549-3251
406 RIVERDOCK RD
WEISER ID USA 83672

MARCIA M APPLGATE Phone: (208)549-3251
406 RIVERDOCK RD
WEISER ID USA 83672

2. Date of Priority: 06/01/1939

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
10N	05W	9	SW SW	WASHINGTON	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	11/01	0.1	
DOMESTIC	1/01	12/31	0.04	

7. Total Quantity Appropriated is:
0.14 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
67-4425			06/12/2006		

SCANNED

JUL 06 2006

10N 05W 9 SW SW IRRIGATION 5
Section Acres 5
Total Acres 5.89 M.A.

11. Place of use in counties: WASHINGTON

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

13. Other Water Rights Used:

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: _____

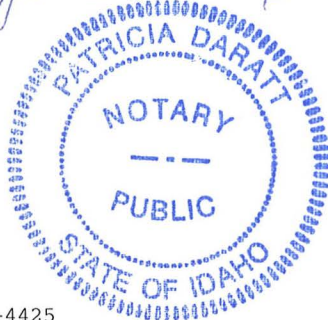
For Individuals:

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

Signature of Claimant(s): Marcia M. Applegate Date: 6-30-06
_____ Date: _____

State of Idaho)
County of Washington) SS.

Subscribed and sworn (or affirmed) before me this 30th
of June 2006 Patricia Daratt



Notary Public
Residing at Heiser, Id
My commission Expires 9-7-07

NORTH (BASIS OF BEARING- G.L.O.)

County Road

S8

Sec Cor.

S17

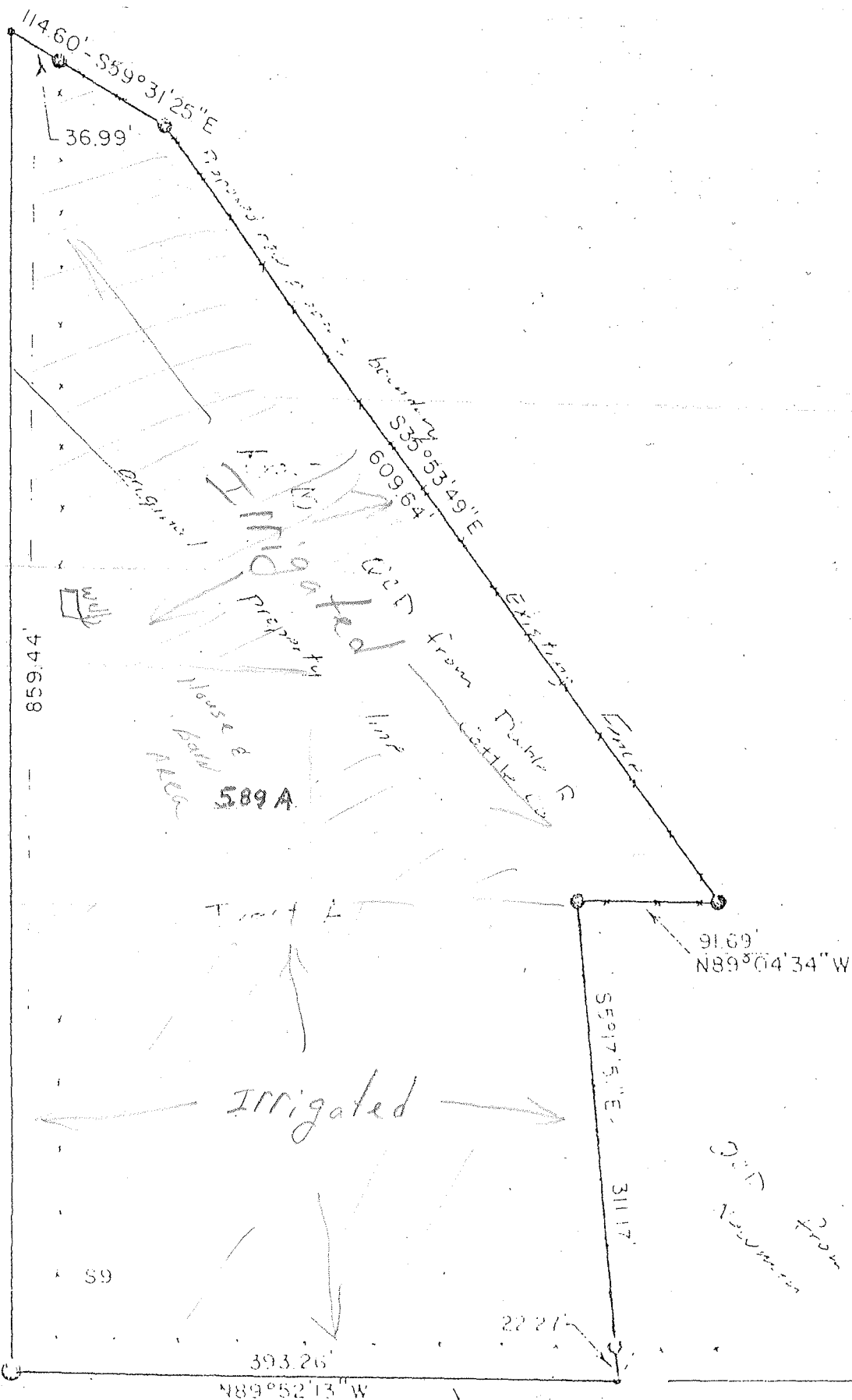
S16

County Road

CONTRACT OF SALE - 20 ** EXHIBIT "B"

SCANNED

JUL 06 2006



10/23/2006

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

RIGHT NUMBER: 67-4425

NAME AND ADDRESS: ELBERT C APPEGATE
406 RIVERDOCK RD
WEISER ID 83672

MARCIA M APPEGATE
406 RIVERDOCK RD
WEISER ID 83672

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.120 CFS
22.500 AFY

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

PRIORITY DATE: 06/01/1939

POINT OF DIVERSION:

T10N R05W S9 SWSW Within WASHINGTON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	0.020 CFS
IRRIGATION	04/01 11/01	0.100 CFS
		22.50 AFY

Domestic use is for 1 home.

PLACE OF USE: IRRIGATION Within WASHINGTON County

T10N R05W S09 SWSW 5.00

DOMESTIC Within WASHINGTON County

T10N R05W S09 SWSW

5 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.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Parcel #: RP10N05W096320A



Idaho Department of Water Resources

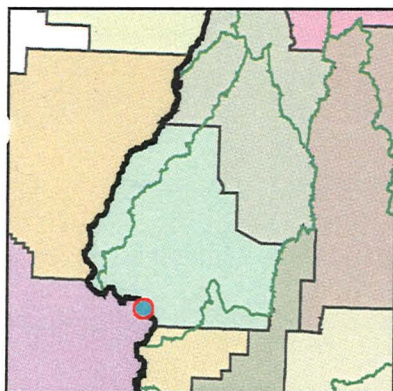
SRBA Recommendation:

67-4425

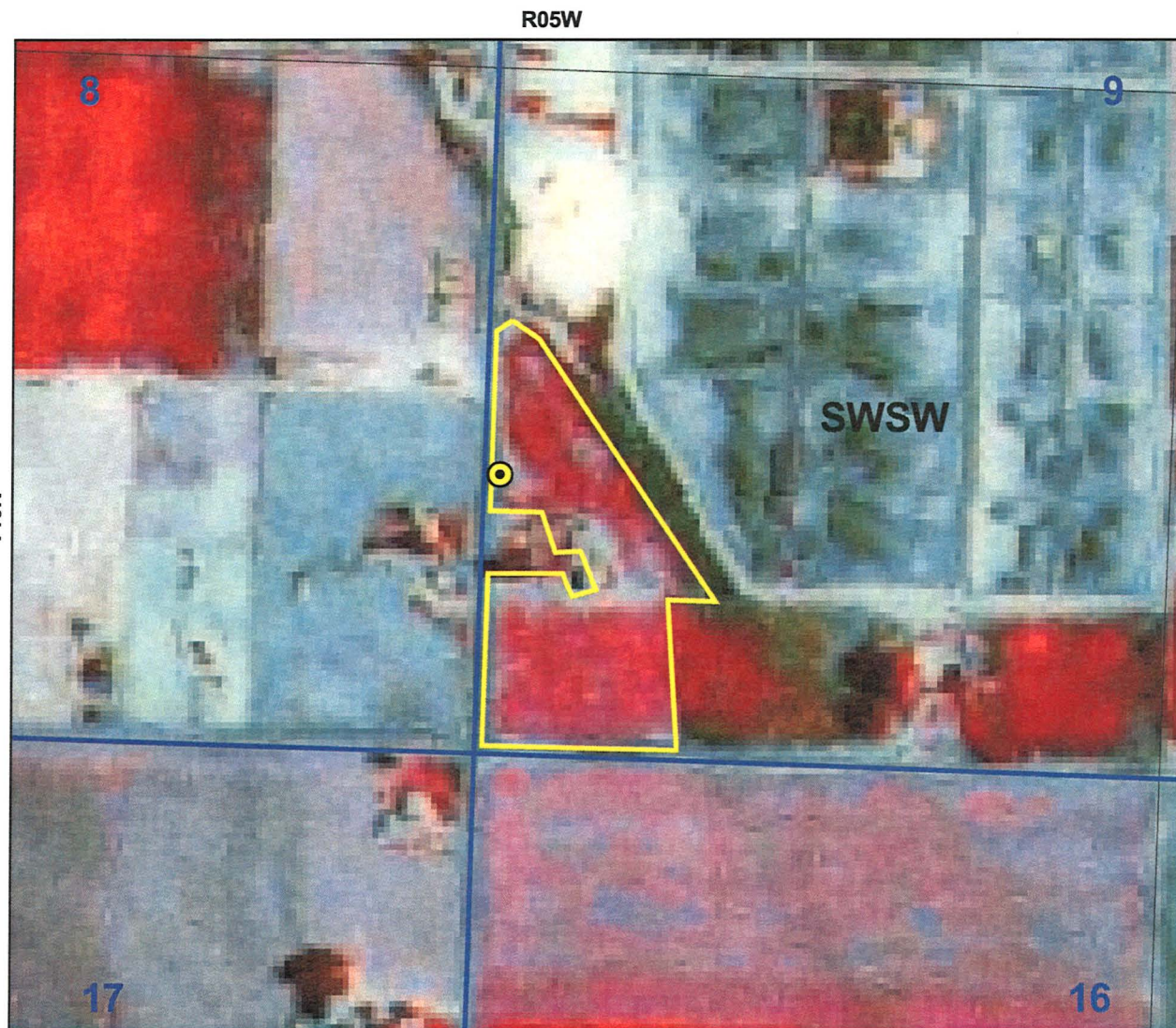
(Irrigation)

Legend

-  **Point of Diversion**
-  **Place of Use**
-  **Townships**
-  **PLS Sections**
-  **Quarter Quarters**



Washington County
IDWR Basin 67



0 0.1 0.2 Miles



Prepared by C. Saxton
On Monday, October 23, 2006
1987/88 Aerial Photography

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4425 V1

WATER RIGHT NUMBER: 67-4425 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ELBERT C APPELGATE 406 RIVERDOCK RD WEISER, ID 83672 (208)549-3251
Current Owner	MARCIA M APPELGATE 406 RIVERDOCK RD WEISER, ID 83672 (208)549-3251
Original Owner	ROBERT L NEWMAN PO BOX 650 THE DALLES, OR 97058

Priority Date: 06/01/1939

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
DOMESTIC	01/01 to 12/31	0.020 CFS	
IRRIGATION	04/01 to 11/01	0.100 CFS	22.50 AF
	<u>Total Diversion:</u>	0.120 CFS	22.50 AF

Location of Point(s) of Diversion

GROUND WATER	SW1/4SW1/4	Sec. 9, Twp 10N, Rge 05W, B.M.
WASHINGTON County		

Place of Use

DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
10N	05W	9											X						

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
10N	05W	9											5.0						5.0

Total Acres: 5

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4425 V1

Conditions of Approval:

1. X01 Domestic use is for 1 home.
2. Parcel #: RP10N05W096320A
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. N09 The quantity of water decreed for this water right for domestic use and stockwater use is not a determination of historical beneficial use.
5. N12 The quantity of water under this right for domestic use shall not exceed 13,000 gallons per day.

Remarks:Comments:

1. csaxton 10/23/2006 POU

Comment: Property is 5.85 acres but am recommending 5 acres of actual irrigation ground.

2. csaxton 10/23/2006 Domestic Diversion

Comment: Domestic Diversion rate reduced to 0.02 as the irrigation portion of Domestic is covered under the irrigation purpose of use.

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:
 Owner Name Connector: OR
 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>
Contacts	10/23/2006 4:57:14 PM	csaxton			Active
Priority Date	10/23/2006 4:58:22 PM	csaxton			Active
POD	10/23/2006 4:58:38 PM	csaxton			Active
Source	10/23/2006 5:00:11 PM	csaxton			Active
POU	10/23/2006 5:00:33 PM	csaxton			Active

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4425 V1

Use	10/23/2006 5:02:25 PM	csaxton	Active
Season	10/23/2006 5:02:33 PM	csaxton	Active
Quantity	10/23/2006 5:04:34 PM	csaxton	Active
Summary	10/23/2006	csaxton	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
POD	10/23/2006 4:59:59 PM	csaxton	Updated PLS
POU	10/23/2006 5:01:09 PM	csaxton	Updated shape for Active POU
POU	10/23/2006 5:01:18 PM	csaxton	Updated PLS for Active POU
POU	10/23/2006 5:02:03 PM	csaxton	Updated PLS for Active POU
Quantity	10/23/2006 5:04:50 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? (No) 7. Is a flow measurement required? (Yes) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (Yes) 10. Is a irrigation a purpose of use? (No) 12. Is a Quantity remark or condition required? Description for Question 7 - Recommendations for 0.20 cfs or less do not require measurement. Description for Question 10 - (5 acres)(4.5 af per acre) = 22.5 afa
Summary	10/23/2006 5:07:59 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? (No) 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? (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?
Contacts	10/23/2006 4:57:29 PM	csaxton	(No) 1. Do you want to schedule an appointment? Comment for 1: Desktop Review

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4425 V1

General	10/23/2006 4:58:38 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 neighbor.
POD	10/23/2006 4:58:53 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	10/23/2006 4:59:46 PM	csaxton	Updated shape
POU	10/23/2006 5:01:56 PM	csaxton	Updated shape for Active POU
Source	10/23/2006 5:00:26 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 - Affidavit from neighbor.
POU	10/23/2006 5:00:49 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? (No) 14. Is a POU remark and/or condition required? Description for Question 13 - Aerial photography.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4425 V1

Use	10/23/2006 5:02:41 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 - Desktop Review
Season	10/23/2006 5:02:49 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?

Water Supply Bank:

Oct 10th 2006

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OCT 12 2006

To Whom it may concern

We bought the Newman place in 1982 from the Newmans. The Newmans were the ones who had the place from the 1939 date you have in your letter and even before that, according to Mr Andersen. They irrigated it up till the time we bought it.

Marcia Applegate

claim # 67-4425

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OCT 12 2006

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DEPARTMENT
WATER RESOURCES

To whom it may concern,

My name is Lynn Anderson. I have lived in Weiser, Idaho since 1928, in the Sunnyside Area. I personally helped dig several wells in this ~~area~~ vicinity. In regards to the applegate well I am aware since 1936 it has been used to irrigate the property.

Lynn Anderson

claim # 67-4425

SCANNED

OCT 12 2006



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

JAMES E. RISCH
Governor

KARL J. DREHER
Director

September 25, 2006

67-4425

ELBERT C APPELEGATE
MARCIA M APPELEGATE
406 RIVERDOCK RD
WEISER ID 83672

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 can not 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 **October 9, 2006** **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) 287-4800.

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,



Craig L. Saxton
Sr. Water Resource Agent
Adjudication Bureau

Enclosure: Brochure on "Evidence of Priority"
 Notice of Claim 67-4425

Receipt Details for ID C081828

Status	Adjustment Type	Version
		1

General Information:

Date Received	Date Deposited	Region	Total Amount	Payment Type
8/1/2006 12:56:08 PM	8/1/2006 1:21:58 PM	STATE	\$112.00	Check
Payer		APPLEGATE, ELBERT C. & MARCIA M		

Account Information:

Check #	Account #	Credit Card Name	Authorization #
5696			
Card Expiration Date	Credit Card Transaction #		

Comment 67-4425**Fee Detail:**

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$112.00	ADJUDICATION FILING FEE	41503	0337			1155

Refund(s):

Amount	Payee	Date	Document Number
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Water Right Information:

Basin Number	Sequence Number	Split Suffix	Amount	Type
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[Print Report](#)



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.

JAMES E. RISCH
Governor

KARL J. DREHER
Director

July 6, 2006

ELBERT AND MARCIA APPLGATE
406 RIVERDOCK RD
WEISER ID 83672

RE: Snake River Basin Adjudication (SRBA)
Incomplete Notice of Claim to a Water Right #67-4425

Dear Claimants:

I am returning the Notice of Claim referenced above. Before we can continue, we need fees in the amount of \$56.00 (\$50 claim filing fee plus \$1.00/acre for 5.89 acres).

Please return the claim with the fees to my attention.

Please call me at 208/287-4922 if you have any questions or concerns.

Sincerely,

Sally Sherman
Technical Records Specialist
Adjudication Bureau

SS:state

Enclosure:

Incomplete Notice of Claim to a Water Right

SCANNED

JUL 09 2006