

11/14/2006

NOTICE OF ERROR  
REPLY

RECEIVED

DEC 8 2006

DEPARTMENT OF  
LAND RESOURCES

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: 67-11281

JOHNNIE H HARRINGTON  
2230 OLD HORNET RD  
COUNCIL ID 83612

Telephone Number: (208)253-4876

JACK RUBELT

2280 OLD HORNET RD  
COUNCIL ID 83612

Telephone Number: (208)253-6963

B-Use

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source): *what is the difference between 67-377A and 67-11281?*

2. Describe the changes you wish to make in the proposed recommendation:  
*67-11281 - the priority date should be 1880 on the acres in NWNE-1200 and in SWNE - 9.60 acres*

3. Give a brief explanation as to why you disagree with these portions:  
*Com bined total of 67-377A and 67-11281 Acres 35.1 right to irrigation 30.8 - why the difference of 4.3 acres?*

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

DATE: Dec. 7 2006 SIGNATURE: Jack Rubelt

Please print your name: Jack Rubelt

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

- 1) 67-11281 - date recommended is one day after Muir v. Allison decree - 5-1-1918 - no changes
- 2) POU acreage limitation - see Craig's note in QuickLook - flood water is limited to that of decreed acreage; because this is a direct overlap recommended w/ acreage limitation

SCANNED

DEC 11 2006

09/01/2006

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

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RIGHT NUMBER: 67-11281

NAME AND ADDRESS: JOHNNIE H HARRINGTON  
2230 OLD HORNET RD  
COUNCIL ID 83612

JACK RUBELT  
2280 OLD HORNET RD  
COUNCIL ID 83612

SOURCE: HORNET CREEK

TRIBUTARY: WEISER RIVER

QUANTITY: 0.231 CFS

PRIORITY DATE: 05/10/1918

POINT OF DIVERSION:

T17N R01W S30 SWSNW 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          | 0.231 CFS       |

PLACE OF USE: IRRIGATION Within ADAMS County

|               |      |       |               |      |       |
|---------------|------|-------|---------------|------|-------|
| T17N R01W S31 | NENE | 13.00 | T17N R01W S31 | NWNE | 12.00 |
| T17N R01W S31 | SWNE | 9.60  | T17N R01W S31 | SENE | 0.50  |

35.1 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 30.8 acres in a single irrigation season. Combined Right Nos.: 67-377A & 67-11281

This right is limited to the irrigation of 30.8 acres within the place of use described above in a single irrigation season.

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use



# Idaho Department of Water Resources

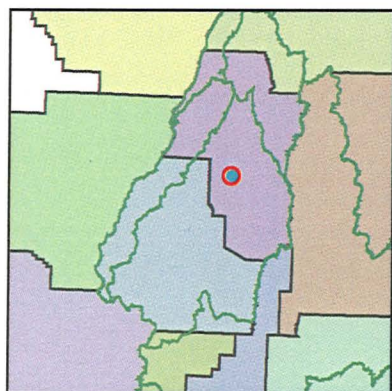
SRBA Recommendation:

**67-11281**

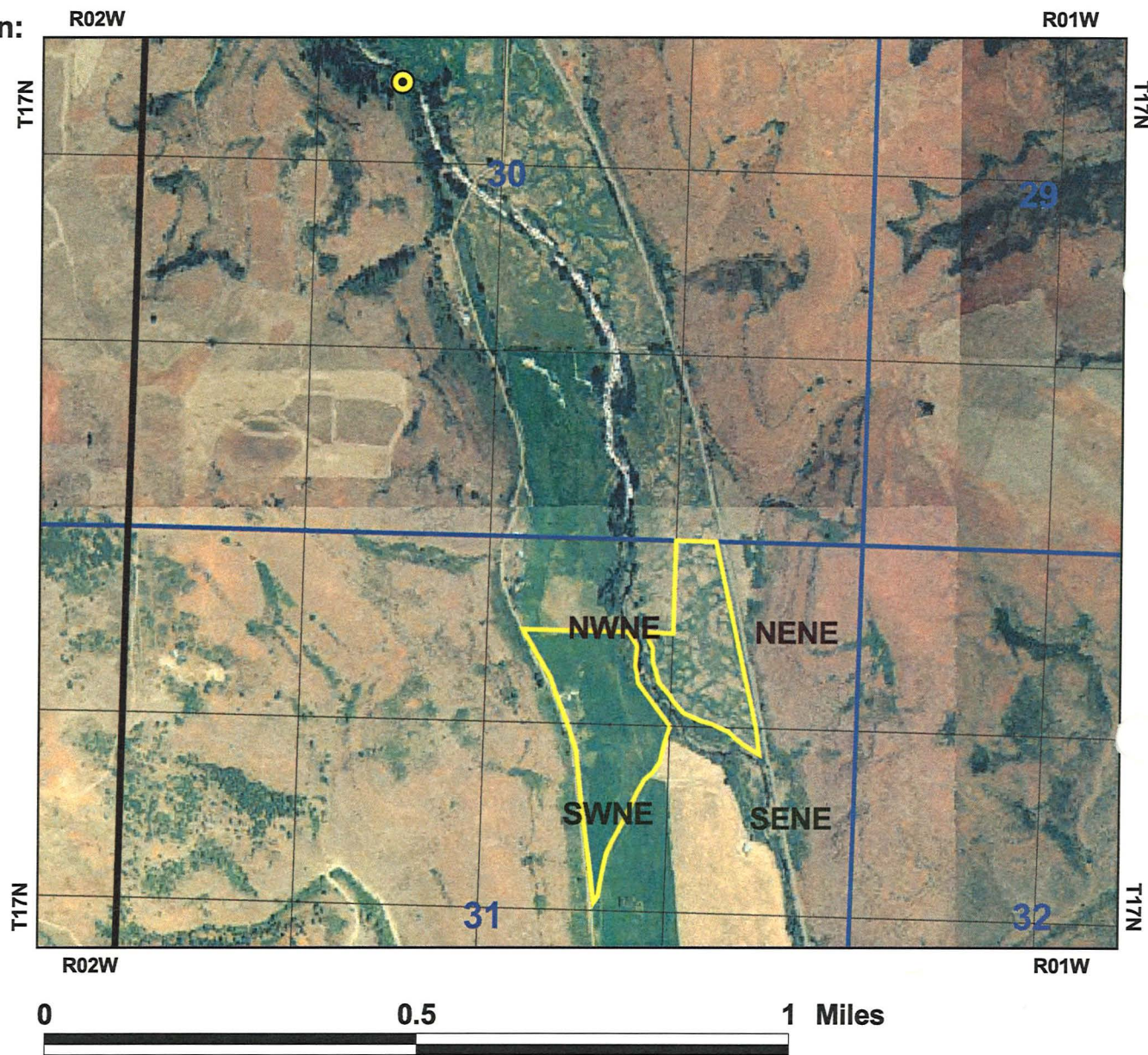
(Irrigation)

## Legend

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

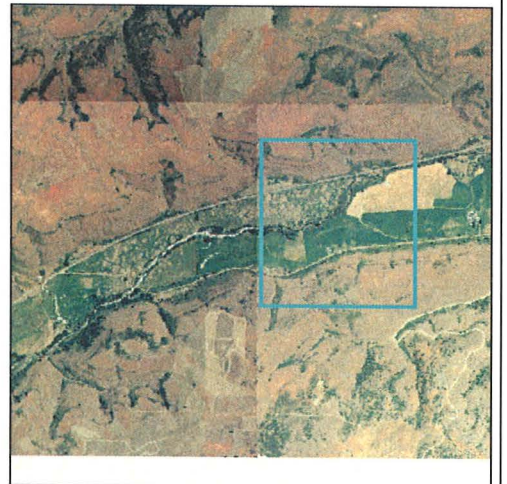
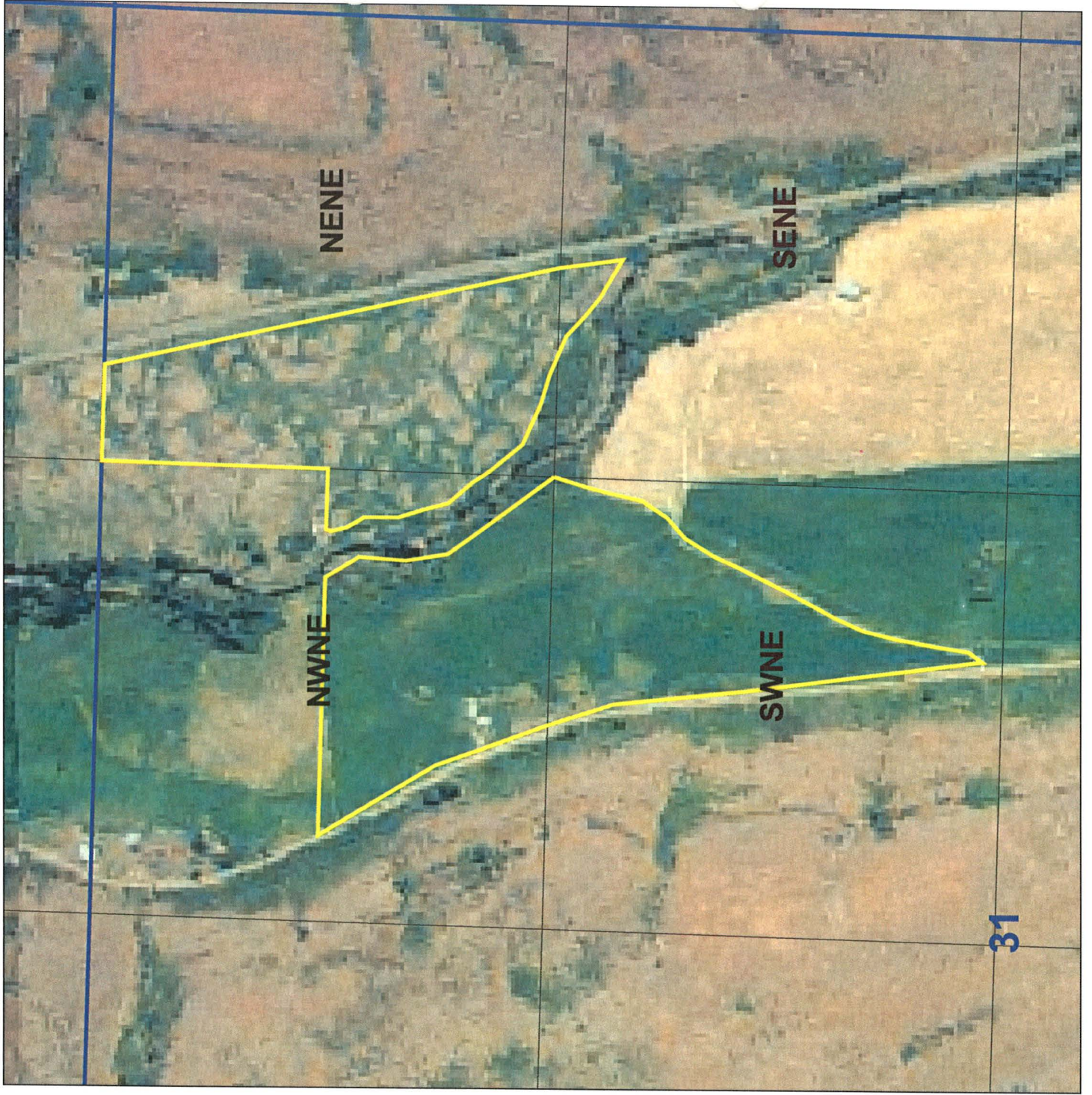


Adams County  
IDWR Basin 67



Prepared by C. Saxton  
On Friday, September 1, 2006  
1987/88 Aerial Photography

67-11281



## IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-11281 V1

WATER RIGHT NUMBER: 67-11281 V1

| <u>Owner Type</u> | <u>Name and Address</u>                                                          |
|-------------------|----------------------------------------------------------------------------------|
| Current Owner     | JOHNNIE H HARRINGTON<br>2230 OLD HORNET RD<br>COUNCIL, ID 83612<br>(208)253-4876 |
| Current Owner     | JACK RUBELT<br>2280 OLD HORNET RD<br>COUNCIL, ID 83612<br>(208)253-6963          |

Priority Date: 05/10/1918

Basis: Beneficial Use

Status: Active

| <u>Source</u> | <u>Tributary</u> |
|---------------|------------------|
| HORNET 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          | 0.231 CFS             |                      |
|                       | <u>Total Diversion:</u> | 0.231 CFS             |                      |

Location of Point(s) of Diversion

|              |                 |                                 |
|--------------|-----------------|---------------------------------|
| HORNET CREEK | SW1/4SE1/4NW1/4 | Sec. 30, Twp 17N, Rge 01W, B.M. |
| ADAMS County |                 |                                 |

Place of Use

IRRIGATION

| Twp | Rge | Sec | NE   |      |     |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|------|------|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE   | NW   | SW  | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 17N | 01W | 31  | 13.0 | 12.0 | 9.6 | .5 |    |    |    |    |    |    |    |    |    |    |    |    | 35.1   |

Total Acres: 35.1

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.
2. E56 The rights listed below are limited to the irrigation of a combined total of 30.8 acres in a single irrigation season. Combined Right Nos.: 67-377A & 67-11281
3. K06 This right is limited to the irrigation of 30.8 acres within the place of use described above in a single irrigation season.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES  
 Adjudication Recommendation Report 67-11281 V1

Comments:

## 1. csaxton 9/1/2006 POU

Comment: Affidavit from Jack Rubelt addresses not only his property, but property for Johnny Harrington and Robert Renfro. The affidavit addresses irrigation of the ground on the east side of Hornet Creek. The affidavit supports that there was historical irrigation on the east side of the creek but there is no concreated evidence of when this irrigation took place. In conversations with Johnnie and Lyle Harrington, they guessed it was in the 30s. However, Jack Rubelt can verify the irrigation of the acreage on the east side of the creek as of 1974. Recommend this as an accomplished change in POU, but limit the acreage to that decreed. Flood water is limited to that of the decreed acreage. Thus the total POU recommended will be larger than what can be irrigated with the recommended water rights. There is a possibility that if all acres are irrigated during a particular season, then storage water is used to irrigate the additional ground.

## 2. csaxton 9/1/2006 Diversion Rate

Comment: Diversion rate recommended is to bring use of this right and decreed right 67-377A up to one inch per acre.

## 3. csaxton 9/1/2006 From Claim (1)

Comment: THIS WATER IS SUPPLEMENTAL FLOOD WATER TO DECREED RIGHT A67-00377A. FOR MAP OF IRRIGATED LAND, SEE CLAIM A67-00377A.

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: 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:

| <u>Rate</u> | <u>Volume</u> | <u>Acres</u> |
|-------------|---------------|--------------|
|             |               | 30.8         |

Combined Water Rights: 67-377A , 67-11281

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       | 5/5/2005 8:19:40 AM       | mvining         |                           |                 | Active        |
| POD            | 5/5/2005 8:33:52 AM       | mvining         |                           |                 | Active        |
| POU            | 5/5/2005 8:46:18 AM       | mvining         |                           |                 | Active        |
| POD            | 5/5/2005 8:49:01 AM       | mvining         |                           |                 | Active        |
| POD            | 5/5/2005 8:49:20 AM       | mvining         |                           |                 | Active        |
| Source         | 5/5/2005 8:49:46 AM       | mvining         |                           |                 | Active        |
| Use            | 5/5/2005 8:50:19 AM       | mvining         |                           |                 | Active        |

## IDAHO DEPARTMENT OF WATER RESOURCES

## Adjudication Recommendation Report 67-11281 V1

|               |                      |                    |        |
|---------------|----------------------|--------------------|--------|
| Season        | 5/5/2005 8:51:04 AM  | mvining            | Active |
| Quantity      | 5/5/2005 8:51:42 AM  | mvining            | Active |
| Summary       |                      | 05/05/2005 mvining | Active |
| Priority Date | 5/5/2005 9:17:45 AM  | mvining            | Active |
| Contacts      | 9/1/2006 11:28:41 AM | csaxton            | Active |
| Priority Date | 9/1/2006 11:29:23 AM | csaxton            | Active |
| Priority Date | 9/1/2006 11:29:30 AM | csaxton            | Active |
| POD           | 9/1/2006 1:40:30 PM  | csaxton            | Active |
| Source        | 9/1/2006 1:43:43 PM  | csaxton            | Active |
| POU           | 9/1/2006 1:44:06 PM  | csaxton            | Active |
| Use           | 9/1/2006 1:46:32 PM  | csaxton            | Active |
| Season        | 9/1/2006 1:47:54 PM  | csaxton            | Active |
| Quantity      | 9/1/2006 1:48:17 PM  | csaxton            | Active |
| Summary       |                      | 09/01/2006 csaxton | Active |

Verification Log:

| <u>Element</u> | <u>Date Time Stamp</u> | <u>Reviewer</u> | <u>Log text</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|----------------|------------------------|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| POD            | 5/5/2005 8:33:53 AM    | mvining         | (No) 1. Is the basis of this claim a Decree or License?<br>(No) 2. Is the basis of this claim a Application or Permit?<br>(No) 6. Is there evidence that there has been a change in the POD?<br>(Yes) 9. Does the file contain all the necessary information to verify the POD?<br>(No) 10. Is a POD remark and/or condition required?                                                                                                                                                                                                                                             |
| Contacts       | 9/1/2006 11:28:49 AM   | csaxton         | (No) 1. Do you want to schedule an appointment?<br><br>Comment for 1: Deaktop Review                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| General        | 9/1/2006 11:29:31 AM   | csaxton         | (No) 1. Should this water use have been included in a later court decree of the water rights from this source?<br>(No) 4. Is the basis of claim decree or license?<br>(No) 7. Is the basis of claim a Application or Permit?<br>(No) 8. Is the basis of claim a posted notice?<br>(No) 9. Is the Priority Date of this water use after the date a permit is required for the source and the water use?<br>(Yes) 12. Does the claim file contain sufficient evidence of Priority Date?<br>Description for Question 12/13 - Direct overlap with decreed water. One day after decree. |

## IDAHO DEPARTMENT OF WATER RESOURCES

## Adjudication Recommendation Report 67-11281 V1

|          |                      |         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------|----------------------|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| General  | 9/1/2006 11:29:38 AM | csaxton | <p>(No) 1. Should this water use have been included in a later court decree of the water rights from this source?</p> <p>(No) 4. Is the basis of claim decree or license?</p> <p>(No) 7. Is the basis of claim a Application or Permit?</p> <p>(No) 8. Is the basis of claim a posted notice?</p> <p>(No) 9. Is the Priority Date of this water use after the date a permit is required for the source and the water use?</p> <p>(Yes) 12. Does the claim file contain sufficient evidence of Priority Date?</p> <p>(Yes) 15. Is the basis of claim coded correctly?</p> <p>(No) 16. Is a Priority Date remark and/or condition required?</p> <p>Description for Question 12/13 - Direct overlap with decreed water. One day after decree.</p> |
| Contacts | 5/5/2005 8:19:40 AM  | mvining | <p>(No) 1. Do you want to schedule an appointment?</p> <p>Comment for 1: sufficient data in file</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| POD      | 5/5/2005 8:49:01 AM  | mvining | <p>(No) 1. Is the basis of this claim a Decree or License?</p> <p>(No) 2. Is the basis of this claim a Application or Permit?</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| POU      | 5/5/2005 8:46:07 AM  | mvining | Edited shape boundary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| POU      | 5/5/2005 8:46:18 AM  | mvining | <p>(No) 1. Is the basis of this claim a Decree or License?</p> <p>(Yes) 2b. Is the POU required?</p> <p>(No) 3. Is the basis of claim a Application or Permit?</p> <p>(No) 7. Is there evidence that there has been a change in the POU?</p> <p>(Yes) 13. Does the file contain all the necessary information to verify the POU?</p> <p>(No) 14. Is a POU remark and/or condition required?</p> <p>Description for Question 13 - field exam to be conducted summer 2005</p>                                                                                                                                                                                                                                                                    |
| POD      | 5/5/2005 8:48:43 AM  | mvining | Edited point location                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| POD      | 5/5/2005 8:49:21 AM  | mvining | <p>(No) 1. Is the basis of this claim a Decree or License?</p> <p>(No) 2. Is the basis of this claim a Application or Permit?</p> <p>(No) 6. Is there evidence that there has been a change in the POD?</p> <p>(Yes) 9. Does the file contain all the necessary information to verify the POD?</p> <p>(No) 10. Is a POD remark and/or condition required?</p>                                                                                                                                                                                                                                                                                                                                                                                  |

## IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-11281 V1

|         |                     |         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|---------|---------------------|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Summary | 5/5/2005 8:52:31 AM | mvining | <p>(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice?</p> <p>(Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed?</p> <p>(No) 5. Does this right have any combined use limits with other rights?</p> <p>(No) 6. Is an additional remark and/or condition required?</p> <p>(Yes) 7. Would you like to view the recommended right?</p> <p>(No) 8. Is this a split or combined right?</p> <p>(No) 9. Do you have documents you would like to attach or link to the file?</p> <p>(Yes) 10. Would you like to set the verification date?</p> |
| Source  | 5/5/2005 8:49:47 AM | mvining | <p>(No) 1. Is the basis of claim Decree or License?</p> <p>(No) 2. Is the basis of claim an Application or Permit?</p> <p>(No) 6. Is the basis of claim a Posted Notice?</p> <p>(No) 7. Is there evidence that there has been a change in the source?</p> <p>(Yes) 10. Does the file contain all the necessary information to verify the source?</p> <p>(No) 11. Is a Source remark and/or condition required?</p> <p>Description for Question 10 - field exam to be conducted summer 2005</p>                                                                                                                          |
| Use     | 5/5/2005 8:50:19 AM | mvining | <p>(No) 1. Is the basis of this claim a Decree or License?</p> <p>(No) 2. Is the basis of this claim a Application or Permit?</p> <p>(No) 6. Is there evidence that there has been a change in the Purpose of Use?</p> <p>(Yes) 11. Does the file contain all the necessary information to verify the Water Use?</p> <p>(No) 13. Is a Purpose of Use remark and/or condition required?</p> <p>Description for Question 10,11,12 - aerial photography verifies that area is irrigated</p>                                                                                                                                |
| Season  | 5/5/2005 8:51:05 AM | mvining | <p>(No) 1. Is the basis of claim Decree or License?</p> <p>(No) 2. Is the basis of claim a Application or Permit?</p> <p>(No) 6. Is there evidence that there has been a change in the Period of Use?</p> <p>(Yes) 12. Does the file contain all the necessary information to verify the Period of Use?</p> <p>(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?</p> <p>(Yes) 15. Is irrigation claimed as a Purpose of Use?</p> <p>(No) 18. Is a Period of Use remark and/or condition required?</p>                 |

## IDAHO DEPARTMENT OF WATER RESOURCES

## Adjudication Recommendation Report 67-11281 V1

|          |                     |         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|----------|---------------------|---------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Quantity | 5/5/2005 8:51:42 AM | mvining | <p>(No) 1. Is the basis of this claim a Decree or License?</p> <p>(No) 2. Is the basis of this claim a Application or Permit?</p> <p>(No) 6. Is the basis of claim a posted notice?</p> <p>(Yes) 7. Is a flow measurement required?</p> <p>(No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit?</p> <p>(No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use?</p> <p>(No) 12. Is a Quantity remark or condition required?</p> <p>Description for Question 7 - flow measurement to be taken via field exam summer 2005</p>                                                                                                                                                                                                                                                                   |
| General  | 5/5/2005 9:17:45 AM | mvining | <p>(No) 1. Should this water use have been included in a later court decree of the water rights from this source?</p> <p>(No) 4. Is the basis of claim decree or license?</p> <p>(No) 7. Is the basis of claim a Application or Permit?</p> <p>(No) 8. Is the basis of claim a posted notice?</p> <p>(No) 9. Is the Priority Date claimed after the date a permit is required for the source and the water use?</p> <p>(No) 12. Does the claim file contain sufficient evidence of Priority Date?</p> <p>(No) 13. Has additional evidence of priority date been submitted?</p> <p>(Yes) 14. Can any portion of the claim be recommended as a valid water right?</p> <p>(Yes) 15. Is the basis of claim coded correctly?</p> <p>(No) 16. Is a Priority Date remark and/or condition required?</p> <p>Description for Question 12/13 - sent letter requesting evidence of priority 5-5-05</p> |
| POD      | 9/1/2006 1:39:56 PM | csaxton | Updated shape                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| POU      | 9/1/2006 1:44:35 PM | csaxton | Updated PLS for Active POU                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| POD      | 9/1/2006 1:40:29 PM | csaxton | <p>(No) 1. Is the basis of this claim a Decree or License?</p> <p>(No) 2. Is the basis of this claim a Application or Permit?</p> <p>(No) 6. Is there evidence that there has been a change in the POD?</p> <p>(No) 9. Does the file contain all the necessary information to verify the POD?</p> <p>(No) 10. Is a POD remark and/or condition required?</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| POD      | 9/1/2006 1:40:12 PM | csaxton | Updated PLS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

## IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-11281 V1

|        |                     |         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--------|---------------------|---------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Source | 9/1/2006 1:43:43 PM | csaxton | (No) 1. Is the basis of claim Decree or License?<br>(No) 2. Is the basis of claim an Application or Permit?<br>(No) 6. Is the basis of claim a Posted Notice?<br>(No) 7. Is there evidence that there has been a change in the source?<br>(Yes) 10. Does the file contain all the necessary information to verify the source?<br>(No) 11. Is a Source remark and/or condition required?<br>Description for Question 10 - Flood water on top of decreed water where source has been previously determined.                                                                |
| POU    | 9/1/2006 1:44:05 PM | csaxton | (No) 1. Is the basis of this claim a Decree or License?<br>(Yes) 2b. Is the POU required?<br>(No) 3. Is the basis of claim a Application or Permit?<br>(No) 7. Is there evidence that there has been a change in the POU?<br>(Yes) 13. Does the file contain all the necessary information to verify the POU?<br>(Yes) 14. Is a POU remark and/or condition required?<br>Description for Question 13 - Overlap with deceed water.                                                                                                                                        |
| POU    | 9/1/2006 1:44:24 PM | csaxton | Updated shape for Active POU                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Use    | 9/1/2006 1:46:32 PM | csaxton | (No) 1. Is the basis of this claim a Decree or License?<br>(No) 2. Is the basis of this claim a Application or Permit?<br>(No) 6. Is there evidence that there has been a change in the Purpose of Use?<br>(Yes) 11. Does the file contain all the necessary information to verify the Water Use?<br>(No) 13. Is a Purpose of Use remark and/or condition required?<br>Description for Question 10,11,12 - Direct overlap of decreed water where purpose of use has been previously determined.                                                                          |
| Season | 9/1/2006 1:47:53 PM | csaxton | (No) 1. Is the basis of claim Decree or License?<br>(No) 2. Is the basis of claim a Application or Permit?<br>(No) 6. Is there evidence that there has been a change in the Period of Use?<br>(Yes) 12. Does the file contain all the necessary information to verify the Period of Use?<br>(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?<br>(Yes) 15. Is irrigation claimed as a Purpose of Use?<br>(No) 18. Is a Period of Use remark and/or condition required? |

## IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-11281 V1

|          |                     |         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|----------|---------------------|---------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Quantity | 9/1/2006 1:48:17 PM | csaxton | (No) 1. Is the basis of this claim a Decree or License?<br>(No) 2. Is the basis of this claim a Application or Permit?<br>(No) 6. Is the basis of claim a posted notice?<br>(No) 7. Is a flow measurement required?<br>(No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit?<br>(No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use?<br>(No) 12. Is a Quantity remark or condition required?<br>Description for Question 7 - Direct flood water overlap does not require measurement. |
| Summary  | 9/1/2006 1:50:22 PM | csaxton | (No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice?<br>(Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed?<br>(Yes) 5. Does this right have any combined use limits with other rights?<br>(Yes) 6. Is an additional remark and/or condition required?<br>(Yes) 7. Would you like to view the recommended right?<br>(No) 8. Is this a split or combined right?<br>(No) 9. Do you have documents you would like to attach or link to the file?<br>(Yes) 10. Would you like to set the verification date? |

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>Acreage</u> | <u>Source</u>   | <u>Water Use(s)</u> | <u>Owner(s)</u>    | <u>Source Table</u> |
|--------------|-----------------|---------------|----------------|---------------|----------------------|------------------|----------------|-----------------|---------------------|--------------------|---------------------|
| 67           | 377             | A             | Decreed        | Active        | 1880-05-01           | 0.77             |                | HORNET CREEK    | IRRIGATION          | HARRINGTON, JOHNNI | Claim               |
| 67           | 388             |               | Decreed        | Active        | 1884-05-01           | 1                |                | 80 HORNET CREEK | IRRIGATION          | HARRINGTON, JOHNNI | Claim               |
| 67           | 4091            |               | Statutory Clai | Active        | 6/1/1900             | 0.84             |                | NORTH HORNE     | IRRIGATION          | HARRINGTON, JOHNNI | Claim               |
| 67           | 4111            |               | Statutory Clai | Active        | 6/1/1900             | 2                |                | HORNET CREEK    | IRRIGATION          | HARRINGTON, JOHNNI | Claim               |
| 67           | 11281           |               | Beneficial Use | Active        | 3/15/1900            | 1                |                | HORNET CREEK    | IRRIGATION          | HARRINGTON, JOHNNI | Claim               |

**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>Acreage</u> | <u>Source</u> | <u>Water Use(s)</u> | <u>Owner(s)</u>    | <u>Source Table</u> |
|--------------|-----------------|---------------|--------------|---------------|----------------------|------------------|----------------|---------------|---------------------|--------------------|---------------------|
| 67           | 377             | A             | Decreed      |               | 1880-05-01           | 0.385            | 30.8           | HORNET CREEK  | IRRIGATION          | HARRINGTON, JOHNNI | Recommendation      |
| 67           | 11281           |               |              | Active        | 3/15/1900            | 0.231            | 30.8           | HORNET CREEK  | IRRIGATION          | HARRINGTON, JOHNNI | Recommendation      |
|              |                 |               |              |               |                      | 0.62             | 35.1           |               |                     |                    |                     |
| 67           | 388             |               | Decreed      | Active        | 1884-05-01           | 1                | 70.4           | HORNET CREEK  | IRRIGATION          | HARRINGTON, JOHNNI | Recommendation      |
| 67           | 4111            |               | B-use        | Active        | 6/1/1900             | 0.41             | 70.4           | HORNET CREEK  | IRRIGATION          | HARRINGTON, JOHNNI | Recommendation      |
|              |                 |               |              |               |                      | 1.41             | 70.4           |               |                     |                    |                     |
| 67           | 4091            |               |              | Active        | 6/1/1900             | 0.84             |                | NORTH HORNE   | IRRIGATION          | HARRINGTON, JOHNNI | Recommendation      |

**WR**

| <u>Basin</u> | <u>Sequence</u> | <u>Suffix</u> | <u>Basis</u>   | <u>Status</u> | <u>Priority Date</u> | <u>Rate(cfs)</u> | <u>Volume(af)</u> | <u>Source</u> | <u>Water Use(s)</u> | <u>Owner(s)</u>       | <u>Source Table</u> |
|--------------|-----------------|---------------|----------------|---------------|----------------------|------------------|-------------------|---------------|---------------------|-----------------------|---------------------|
| 67           | 4091            |               | Statutory Clai | Active        | 6/1/1900             | 0.84             |                   | NORTH HORNE   | IRRIGATION          | HARRINGTON, JOHNNI    | wrWaterRight        |
| 67           | 4111            |               | Statutory Clai | Active        | 6/1/1900             | 2                |                   | HORNET CREEK  | IRRIGATION          | HARRINGTON, JOHNNI    | wrWaterRight        |
| 67           | 11283           |               | Decreed        | Active        | 9/30/1987            | 0.03             |                   | GROUND WATE   | STOCKWATER          | RUBELT, AVA E (Curren | wrWaterRight        |

**Water Master Records**

| <u>Parcel #</u> | <u>Name</u>        | <u>Inches</u> | <u>File #</u> | <u>Original Owner</u> | <u>Priority Date</u> |
|-----------------|--------------------|---------------|---------------|-----------------------|----------------------|
| RP17N01W310001  | HARRINGTON, JOHNNY | 50            | 388           | D DONNELLY            | 5/1/84               |
| RP17N01W310001  | HARRINGTON, JOHNNY | 19.25         | 377           | T STUTSMAN            | 5/1/80               |
| RP17N01W308400  | RENFRO, ROBERT     | 19.25         | 377           | STUTSMAN              | 5/1/80               |

State of Idaho  
Department of Water Resources  
322 East Front Street  
P.O. Box 83720  
Boise, Idaho 83720-0098

RECEIVED

SEP 27 2005

Department of Water Resources

September 19, 2005

Re: Right number 67-04111-67-11281.

To whom it may concern;

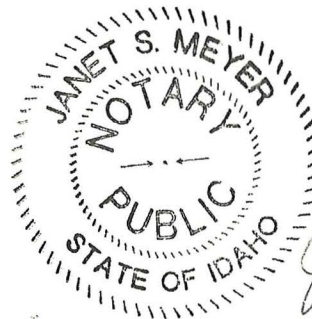
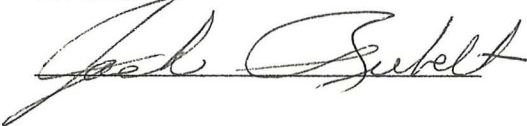
Statutory water rights on East side of hornet Creek- Bob Renfro- Jack Rubelt- Harrington Land LLC.

Per conversations with Johnnie Harrington years ago, he and his brother Lyle Harrington had built a wooden flume to take water from the west side of the ranch to the east side. The flume washed out from high water and deteriorated in time. I do not believe that there is any evidence left of the flume this was done in the middle nineteen thirties.

Both Johnnie and Lyle have died. There is NO concrete evidence of this having been done.

I—Jack Rubelt came here in 1973. The next year we bought ½ mile of hand line and a power take off pump that runs off a tractor. I pumped water on what on what is now Bob Renfro's and Jack Rubelt's-Harrington Land LLC. With the time constraints and labor expectations, I only use the system on new seeding, so it was only used every three or four years. Not continuously time, labor and the cost of fuel. The hand line is stored on the east side

Jack Rubelt



SCANNED

SEP 27 2005

RECEIVED

SEP 27 2005

Department of Water Resources

State of Idaho  
Department of Water Resources  
322 East Front Street  
P.O. Box 83720  
Boise, Idaho 83720-0098

September 19, 2005

Re: Right number 67-04111-67-11281.

To whom it may concern;

My name is Doris Harrington, I moved to Hornet Creek in 1939.

Jack Rubelt has asked me to write somethings I remember on a flume that crossed Hornet Creek on what is now Bob Renfro's place.

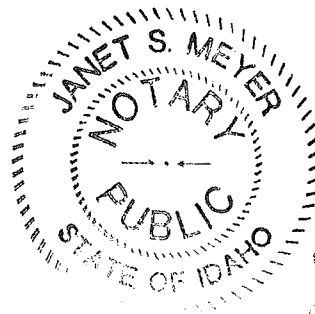
I can remember a flume crossing Hornet Creek. I remember pushing one of my brother-in-laws off the flume.

My husband Lyle and his brother Johnnie built the flume. It only lasted four or five years before high water washed it out.

The flume started on the west side of Hornet Creek and went to the East side. It was located right at the start of the property to the North.

Sincerely;

*Doris S. Harrington*  
Doris Harrington



*Janet S. Meyer*  
Sep 11/13/05

SCANNED

SEP 27 2005

## CONVERSATIONAL MEMORANDUM

Date: September 15, 2005

To: File 67-11281

From: Craig L. Saxton

Subject: Evidence of priority

Received a call from Jack Rubelt regarding the message I left him yesterday saying the he said he would send in evidence of priority for irrigation of the east side of the creek on August 25, 2005 and I haven't received it yet.

I called back and spoke with who I think was his wife. She asked about the Harrington place and I told her that as far as I could tell, those rights were in order.

I explained that stat claim 67-11281 is the claim for flood water on the East side of the creek and that was all I needed from her now. She said she would talk to Jack and get that into us.

## Notes

field exam for: flow measurement

POD - check w/ Jack Robert on  
accuracy?  
(GPS)

POU accuracy  
change of address

Sent letter requesting evid. of priority 5/5/05 (M.V.)

5/16/05 Per watermaster, ditch is capable of  
carrying/delivering  $> 1.00$  cfs -  
there is a weir on this ditch if a flow  
measurement needs to be done at a later  
date

5/19/05 Field exam

POD tag # A0014047 (GPS'd by Bosce  
Bosler)

see file G7-11281 edited for  
amended POU (as drawn by claimant)

## Priority Date Data Entry Form

Claim Number 67-11281

Claimed Priority Date: 3/15/1900

Claimed Basis: Beneficial Use

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

Water Right Priority Date:

Water Right Basis:

Recommended Priority Date

Recommended Basis

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

claims in process of writing affidavit to  
est. priority date - will mail to IDWR

Reviewer: mm

Date: 5/16/05

## Point of Diversion and Source Data Entry Form

Claim Number 67-11281

Claimed Point of Diversion and Source

T17N R01W S31 SESENW Within ADAMS County Source: HORNET CREEK WEISER RIVER

☐ Use Claimed POD and Source as Recommended POD and Source

Water Right Point of Diversion and Source

Recommended Point of Diversion and Source

Source Information

Source

Hornet Creek

Tributary To

Weiser River

| Tw  | Rge | Sec | Gov Lot | QQQ of QQ of Q      | County | Source       |
|-----|-----|-----|---------|---------------------|--------|--------------|
| 17N | 01W | 31  |         | SE SE NW<br>A NW NE | Adams  | Hornet Creek |
|     |     |     |         |                     |        |              |
|     |     |     |         |                     |        |              |

Other rights from this POD? ~~may~~<sup>may</sup> have decreed rights from this POD-67-~~388~~<sup>377A</sup>

Document how the POD and Source were verified:

field exam w/ claimant (Jack Robert)

⊛ POD in "claim" layer in ArcView is slightly northeast of actual location of headgate, which is on ~~#~~  
Hornet Creek, east side, just over section line 30-31 boundary

Reviewer:

WV

Date:

5/19/05

## Place Of Use Data Entry Form

Claim Number 67-11281

### Claimed Place Of Use

|               |      |      |               |      |      |
|---------------|------|------|---------------|------|------|
| T17N R01W S31 | NENE | 15.0 | T17N R01W S31 | NWNE | 20.0 |
| T17N R01W S31 | SWNE | 15.0 |               |      |      |

Total Acres 50

☐ Use Claimed POU as Recommended POU

### Water Right Place Of Use

### Recommended Place of Use

\_\_\_\_\_ See corrections to claimed POU above

| Twp | Rge | Sec | QQ | Q | County | Lot Num | Acres | Purpose of Use |
|-----|-----|-----|----|---|--------|---------|-------|----------------|
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |
|     |     |     |    |   |        |         |       |                |

Total Acres \_\_\_\_\_

Document how the POU was verified:

field exam w/ claimant - see notes  
POU as redrawn by claimant is larger than  
claimed POU

Reviewer: \_\_\_\_\_

*MV*

Date: \_\_\_\_\_

5/19/05

## Purpose of Use Data Entry Form

Claim Number 67-11281

Claimed Purpose of Use

Water Use

Number of Homes

Number of Stock

Acre Limit

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

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:

field exam

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Reviewer: mwDate: 5/19/05

**Period of Use and Quantity Data Entry Form**

Claim Number 67-11281

## Claimed Period of Use and Diversion Rate

| Water Use  | Start | End   | Rate | Volume |
|------------|-------|-------|------|--------|
| IRRIGATION | 3/15  | 11/15 | 1    |        |

Overall Diversion Rate 1 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 |
|-----------|-------|-----|------|--------|
|-----------|-------|-----|------|--------|

Overall Diversion Rate 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:

field exam & conversation w/ watermaster

Reviewer: mvDate: 5/19/05

**Contacts Data Entry Form**

| Owner Type    | Full Name            | Address               | City    | State | Zip   | Phone         |
|---------------|----------------------|-----------------------|---------|-------|-------|---------------|
| Current Owner | JOHNNIE H HARRINGTON | 2230 OLD HORNET<br>RD | COUNCIL | ID    | 83612 | (208)253-4876 |
| Current Owner | JACK RUBELT          | 2280 OLD HORNET<br>RD | COUNCIL | ID    | 83612 | (208)253-6963 |

Comment for 1: sufficient data in file

Date of Field Exam: 5/19/05 Time: 9:00 amAccompanied By: Jack Rubelt Phone Number: 253-6963Relationship to Claimant: claimant

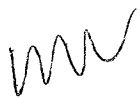
Directions to Property (if different from above) and/or update owner information:

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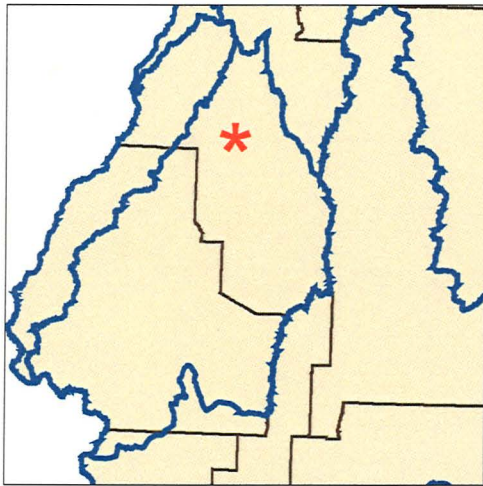
---

Reviewer: Date: 5/19/05

# Idaho Department of Water Resources



Adjudication Claim Number: **67-11281**



## Legend

- Point of Diversion
- Adams taxlots
- GCDB17N02W GCDB
- GCDB17N01W GCDB
- GCDB16N01W GCDB
- 67-11281.shp
- PLSS Section LinesGcdb\_sections.shp



Prepared by M. Vining  
On Thursday, May 5, 2005  
1987 Aerial Photography

Jack Ribbert this water  
irrigates shown outline (silver) pipe bottom (sown)  
0.6 Miles part of property -  
See inserted map  
See digital copy  
67-11281

copy

May 5, 2005

67-04111 and 67-11281  
VERA HARRINGTON  
C/O JACK RUBELT  
2230 OLD HORNET CREEK RD  
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 **June 6, 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 67-04111 and 67-11281

copy

May 5, 2005

67-04111 and 67-11281  
VERA HARRINGTON  
C/O JACK RUBELT  
2230 OLD HORNET CREEK RD  
COUNCIL ID 83612

RE: EVIDENCE OF PRIORITY

Dear Claimant (s):

Idaho Department of Water Resources (IDWR) is currently in the process of reviewing claims filed in the Snake River Basin Adjudication (SRBA). During IDWR's initial review of the Notice of Claim associated with the water right number listed above, it appears that no evidence of priority has been submitted. In this particular case, this filing claims a priority date that dates back into the Muir Vs. Allison decree signed May 9, 1918. Since the water use claimed was not defined in that decree, the court at the time did not recognize that this water right existed as of May 9, 1918.

Evidence of priority needs to be submitted for when this water was first put to beneficial use, and because the court did not recognize this right during the prior adjudication of 1918, the evidence indicates that this water right was established, and therefore the priority date of this water right would have to be, some date after May 9, 1918.

***Note:** You may have additional SRBA filings based on rights that were previously adjudicated in the Muir vs. Allison decree, however, this claim appears to be for additional water.*

In order for you to establish a new priority date for this statutory claim, you must provide evidence of when this water was first put to beneficial use. Please read the enclosed letter and pamphlet regarding how to provide evidence of priority and respond by June 6, 2005 so that we can process your claim in a timely manner. If you have any questions, feel free to contact our office at (208) 287-4907.

Sincerely,

Melanie Vining  
IDWR Contract Field Examiner  
Adjudication Bureau

Enclosures: Notice of Claim 67-4111 and 11281  
Brochure on "Evidence of Priority"  
Evidence of Priority letter

05/05/2005

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

RIGHT NUMBER: 67-11281  
NAME AND ADDRESS: JOHNNIE H HARRINGTON  
2230 OLD HORNET RD  
COUNCIL ID 83612  
  
JACK RUBELT  
2280 OLD HORNET RD  
COUNCIL ID 83612

Draft

SOURCE: HORNET CREEK TRIBUTARY: WEISER RIVER  
QUANTITY: 1.000 CFS  
PRIORITY DATE: 03/15/1900  
POINT OF DIVERSION:

T17N R01W S31 SESENW 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           | 1.000 CFS       |

PLACE OF USE: IRRIGATION Within ADAMS County

|               |      |      |               |      |      |
|---------------|------|------|---------------|------|------|
| T17N R01W S31 | NENE | 15.0 | T17N R01W S31 | NWNE | 20.0 |
| T17N R01W S31 | SWNE | 15.0 |               |      |      |

50 ACRES TOTAL

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

THIS WATER IS SUPPLEMENTAL FLOOD WATER TO DECREED RIGHT  
A67-00377A. FOR MAP OF IRRIGATED LAND, SEE CLAIM A67-00377A.

This partial decree is subject to such general provisions necessary for the  
definition of the rights or for the efficient administration of the water  
rights as  
may be ultimately determined by the Court at a point in time no later than the  
entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL:  
Water Right 67-11281 1

## IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-11281 V1

WATER RIGHT NUMBER: 67-11281 V1

|                   |                                                                                  |
|-------------------|----------------------------------------------------------------------------------|
| <u>Owner Type</u> | <u>Name and Address</u>                                                          |
| Current Owner     | JOHNNIE H HARRINGTON<br>2230 OLD HORNET RD<br>COUNCIL, ID 83612<br>(208)253-4876 |
| Current Owner     | JACK RUBELT<br>2280 OLD HORNET RD<br>COUNCIL, ID 83612<br>(208)253-6963          |

Draft

Priority Date: 03/15/1900

Basis:

Status: Active

|               |                  |
|---------------|------------------|
| <u>Source</u> | <u>Tributary</u> |
| HORNET 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           | 1.000 CFS             |                      |
|                       | <u>Total Diversion:</u> | 1.000 CFS             |                      |

Location of Point(s) of Diversion

|              |                 |                                 |
|--------------|-----------------|---------------------------------|
| HORNET CREEK | SE1/4SE1/4NW1/4 | Sec. 31, Twp 17N, Rge 01W, B.M. |
| ADAMS County |                 |                                 |

Place of Use

IRRIGATION

| Twp | Rge | Sec | NE   |      |      |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|------|------|------|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
| 17N | 01W | 31  | NE   | NW   | SW   | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
|     |     |     | 15.0 | 20.0 | 15.0 |    |    |    |    |    |    |    |    |    |    |    |    |    | 50.0   |

Total Acres: 50

Conditions of Approval:

1. THIS WATER IS SUPPLEMENTAL FLOOD WATER TO DECREED RIGHT A67-00377A. FOR MAP OF IRRIGATED LAND, SEE CLAIM A67-00377A.
2. 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 67-11281 V1

Comments:

1. mvining 5/5/2005 priority date

Comment: Priority date claimed dates into Muir vs. Allison decree. It is assumed that this right did not exist at the time of the decree or it would have been recognized. Evidence of priority needs to be submitted.

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: 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       | 5/5/2005 8:19:40 AM       | mvining         |                           |                 | Active        |
| POD            | 5/5/2005 8:33:52 AM       | mvining         |                           |                 | Active        |
| POU            | 5/5/2005 8:46:18 AM       | mvining         |                           |                 | Active        |
| POD            | 5/5/2005 8:49:01 AM       | mvining         |                           |                 | Active        |
| POD            | 5/5/2005 8:49:20 AM       | mvining         |                           |                 | Active        |
| Source         | 5/5/2005 8:49:46 AM       | mvining         |                           |                 | Active        |
| Use            | 5/5/2005 8:50:19 AM       | mvining         |                           |                 | Active        |
| Season         | 5/5/2005 8:51:04 AM       | mvining         |                           |                 | Active        |
| Quantity       | 5/5/2005 8:51:42 AM       | mvining         |                           |                 | Active        |
| Summary        |                           |                 | 05/05/2005                | mvining         | Active        |
| Priority Date  | 5/5/2005 9:17:45 AM       | mvining         |                           |                 | Active        |

Verification Log:

| <u>Element</u> | <u>Date Time Stamp</u> | <u>Reviewer</u> | <u>Log text</u> |
|----------------|------------------------|-----------------|-----------------|
|----------------|------------------------|-----------------|-----------------|

## IDAHO DEPARTMENT OF WATER RESOURCES

## Adjudication Recommendation Report 67-11281 V1

|          |                     |         |                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|----------|---------------------|---------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| POD      | 5/5/2005 8:33:53 AM | mvining | (No) 1. Is the basis of this claim a Decree or License?<br>(No) 2. Is the basis of this claim a Application or Permit?<br>(No) 6. Is there evidence that there has been a change in the POD?<br>(Yes) 9. Does the file contain all the necessary information to verify the POD?<br>(No) 10. Is a POD remark and/or condition required?                                                                                                       |
| Contacts | 5/5/2005 8:19:40 AM | mvining | (No) 1. Do you want to schedule an appointment?<br><br>Comment for 1: sufficient data in file                                                                                                                                                                                                                                                                                                                                                |
| POD      | 5/5/2005 8:49:01 AM | mvining | (No) 1. Is the basis of this claim a Decree or License?<br>(No) 2. Is the basis of this claim a Application or Permit?                                                                                                                                                                                                                                                                                                                       |
| POU      | 5/5/2005 8:46:07 AM | mvining | Edited shape boundary                                                                                                                                                                                                                                                                                                                                                                                                                        |
| POU      | 5/5/2005 8:46:18 AM | mvining | (No) 1. Is the basis of this claim a Decree or License?<br>(Yes) 2b. Is the POU required?<br>(No) 3. Is the basis of claim a Application or Permit?<br>(No) 7. Is there evidence that there has been a change in the POU?<br>(Yes) 13. Does the file contain all the necessary information to verify the POU?<br>(No) 14. Is a POU remark and/or condition required?<br>Description for Question 13 - field exam to be conducted summer 2005 |
| POD      | 5/5/2005 8:48:43 AM | mvining | Edited point location                                                                                                                                                                                                                                                                                                                                                                                                                        |
| POD      | 5/5/2005 8:49:21 AM | mvining | (No) 1. Is the basis of this claim a Decree or License?<br>(No) 2. Is the basis of this claim a Application or Permit?<br>(No) 6. Is there evidence that there has been a change in the POD?<br>(Yes) 9. Does the file contain all the necessary information to verify the POD?<br>(No) 10. Is a POD remark and/or condition required?                                                                                                       |

## IDAHO DEPARTMENT OF WATER RESOURCES

## Adjudication Recommendation Report 67-11281 V1

|         |                     |         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|---------|---------------------|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Summary | 5/5/2005 8:52:31 AM | mvining | <p>(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice?</p> <p>(Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed?</p> <p>(No) 5. Does this right have any combined use limits with other rights?</p> <p>(No) 6. Is an additional remark and/or condition required?</p> <p>(Yes) 7. Would you like to view the recommended right?</p> <p>(No) 8. Is this a split or combined right?</p> <p>(No) 9. Do you have documents you would like to attach or link to the file?</p> <p>(Yes) 10. Would you like to set the verification date?</p> |
| Source  | 5/5/2005 8:49:47 AM | mvining | <p>(No) 1. Is the basis of claim Decree or License?</p> <p>(No) 2. Is the basis of claim an Application or Permit?</p> <p>(No) 6. Is the basis of claim a Posted Notice?</p> <p>(No) 7. Is there evidence that there has been a change in the source?</p> <p>(Yes) 10. Does the file contain all the necessary information to verify the source?</p> <p>(No) 11. Is a Source remark and/or condition required?</p> <p>Description for Question 10 - field exam to be conducted summer 2005</p>                                                                                                                          |
| Use     | 5/5/2005 8:50:19 AM | mvining | <p>(No) 1. Is the basis of this claim a Decree or License?</p> <p>(No) 2. Is the basis of this claim a Application or Permit?</p> <p>(No) 6. Is there evidence that there has been a change in the Purpose of Use?</p> <p>(Yes) 11. Does the file contain all the necessary information to verify the Water Use?</p> <p>(No) 13. Is a Purpose of Use remark and/or condition required?</p> <p>Description for Question 10,11,12 - aerial photography verifies that area is irrigated</p>                                                                                                                                |
| Season  | 5/5/2005 8:51:05 AM | mvining | <p>(No) 1. Is the basis of claim Decree or License?</p> <p>(No) 2. Is the basis of claim a Application or Permit?</p> <p>(No) 6. Is there evidence that there has been a change in the Period of Use?</p> <p>(Yes) 12. Does the file contain all the necessary information to verify the Period of Use?</p> <p>(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?</p> <p>(Yes) 15. Is irrigation claimed as a Purpose of Use?</p> <p>(No) 18. Is a Period of Use remark and/or condition required?</p>                 |

## IDAHO DEPARTMENT OF WATER RESOURCES

## Adjudication Recommendation Report 67-11281 V1

|          |                     |         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|----------|---------------------|---------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Quantity | 5/5/2005 8:51:42 AM | mvining | (No) 1. Is the basis of this claim a Decree or License?<br>(No) 2. Is the basis of this claim a Application or Permit?<br>(No) 6. Is the basis of claim a posted notice?<br>(Yes) 7. Is a flow measurement required?<br>(No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit?<br>(No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use?<br>(No) 12. Is a Quantity remark or condition required?<br>Description for Question 7 - flow measurement to be taken via field exam summer 2005                                                                                                                                                                                                                                                       |
| General  | 5/5/2005 9:17:45 AM | mvining | (No) 1. Should this water use have been included in a later court decree of the water rights from this source?<br>(No) 4. Is the basis of claim decree or license?<br>(No) 7. Is the basis of claim a Application or Permit?<br>(No) 8. Is the basis of claim a posted notice?<br>(No) 9. Is the Priority Date claimed after the date a permit is required for the source and the water use?<br>(No) 12. Does the claim file contain sufficient evidence of Priority Date?<br>(No) 13. Has additional evidence of priority date been submitted?<br>(Yes) 14. Can any portion of the claim be recommended as a valid water right?<br>(Yes) 15. Is the basis of claim coded correctly?<br>(No) 16. Is a Priority Date remark and/or condition required?<br>Description for Question 12/13 - sent letter requesting evidence of priority 5-5-05 |

Water Supply Bank:

## IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 67-11281

WATER RIGHT NUMBER: 67-11281

| <u>Owner Type</u> | <u>Name and Address</u>                                                          |
|-------------------|----------------------------------------------------------------------------------|
| Current Owner     | JOHNNIE H HARRINGTON<br>2230 OLD HORNET RD<br>COUNCIL, ID 83612<br>(208)253-4876 |
| Current Owner     | JACK RUBELT<br>2280 OLD HORNET RD<br>COUNCIL, ID 83612<br>(208)253-6963          |

Priority Date: 03/15/1900

Basis: Beneficial Use

Status: Active

| <u>Source</u> | <u>Tributary</u> |
|---------------|------------------|
| HORNET 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           | 1.000 CFS             |                      |
|                       | <u>Total Diversion:</u> | 1.000 CFS             |                      |

Location of Point(s) of Diversion

|              |                 |                                 |
|--------------|-----------------|---------------------------------|
| HORNET CREEK | SE1/4SE1/4NW1/4 | Sec. 31, Twp 17N, Rge 01W, B.M. |
| ADAMS County |                 |                                 |

Place of Use

IRRIGATION

| Twp | Rge | Sec | NE   |      |      |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|------|------|------|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE   | NW   | SW   | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 17N | 01W | 31  | 15.0 | 20.0 | 15.0 |    |    |    |    |    |    |    |    |    |    |    |    |    | 50.0   |

Total Acres: 50

Conditions of Approval:

- THIS WATER IS SUPPLEMENTAL FLOOD WATER TO DECREED RIGHT A67-00377A. FOR MAP OF IRRIGATED LAND, SEE CLAIM A67-00377A.

Remarks:Comments:Dates and Other Information:

## IDAHO DEPARTMENT OF WATER RESOURCES

## Adjudication Claim Report 67-11281

Claim Received Date: 11/28/1989

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

State or Federal: S

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> |
|----------------|---------------------------|-----------------|---------------------------|-----------------|---------------|
|----------------|---------------------------|-----------------|---------------------------|-----------------|---------------|

Verification Log:

| <u>Element</u> | <u>Date Time Stamp</u> | <u>Reviewer</u> | <u>Log text</u> |
|----------------|------------------------|-----------------|-----------------|
|----------------|------------------------|-----------------|-----------------|

Water Supply Bank:

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 67-11281  
Date Received: 11/28/1989  
Receipt No: C013056  
Received By:

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

1. Name of Claimant(s)

JOHNNIE H HARRINGTON Phone: (208)253-4876

2230 OLD HORNET RD  
COUNCIL ID USA 83612

JACK RUBELT Phone: (208)253-6963

2280 OLD HORNET RD  
COUNCIL ID USA 83612

*NOTE: new address  
(5/05)*

2. Date of Priority: 03/15/1900

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

4. Point of Diversion:

| Township | Range | Section | 1/4 of 1/4 of 1/4 Lot | County | Type |
|----------|-------|---------|-----------------------|--------|------|
| 17N      | 01W   | 31      | SE SE NW              | ADAMS  |      |

5. Description of diverting works:

DITCH

6. Water is used for the following purposes:

| Purpose    | From | To    | C.F.S. | (or) A.F.A |
|------------|------|-------|--------|------------|
| IRRIGATION | 3/15 | 11/15 | 1      |            |

7. Total Quantity Appropriated is:  
1 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 |
|----------|-------|---------|------------|-----|---------------|-------|
| 17N      | 01W   | 31      | NE         | NE  | IRRIGATION    | 15    |
|          |       |         | NW         | NE  | IRRIGATION    | 20    |
|          |       |         | SW         | NE  | IRRIGATION    | 15    |
|          |       |         |            |     | Section Acres | 50    |
|          |       |         |            |     | Total Acres   | 50    |

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:

14. Remarks:

THIS WATER IS SUPPLEMENTAL FLOOD WATER TO DECREED RIGHT A67-00377A. FOR MAP OF IRRIGATED LAND, SEE CLAIM A67-00377A.

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): \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

State of Idaho )  
County of \_\_\_\_\_ ) SS.

Subscribed and sworn (or affirmed) before me this

of \_\_\_\_\_ 20\_\_\_\_

Notary Public

Residing at \_\_\_\_\_

My commission Expires \_\_\_\_\_

\$50

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: A67-11281  
Date Received: 11/28/1989  
Receipt No: 023050  
Received By: RAA

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name: JACK RUBELT 208-253-6963  
Address: HC 67, BOX 2300  
COUNCIL, ID 83612  
OR  
Name: JOHNNIE HARRINGTON 208-253-4876  
Address: HC 67, 2295  
COUNCIL, ID 83612

2. Date of Priority: MAR 15, 1900  
3. Source: HORNET CREEK Trib. to: WEISER RIVER

4. Point of Diversion:  
Township Range Section 1/4 of 1/4 of 1/4 Lot County  
17N 01W 31 SE SE NW ADAMS

5. Description of diverting works:  
DITCH

6. Water is used for the following purposes:  
Purpose From To C.F.S (or) A.F.A.  
IRRIGATION 03/15 11/15 1.000

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

8. Total consumptive use is 150.0 Acre Feet Per Annum.

9. Non-irrigation uses:

SCANNED  
APR 09 2004

MICROFILMED  
OCT 05 1992

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 | Lot | Use           | Acres |
|----------|-------|---------|--------|-----|-----|---------------|-------|
| 17N      | 01W   | 31      | NE     | NE  |     | IRR           | 15.0  |
|          |       |         | NW     | NE  |     | IRR           | 20.0  |
|          |       |         | SW     | NE  |     | IRR           | 15.0  |
|          |       |         |        |     |     | Section Acres | 50.0  |
|          |       |         |        |     |     | Total Acres   | 50.0  |

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:  
A67-00377A

14. Remarks:  
THIS WATER IS SUPPLEMENTAL FLOOD WATER TO DECREED RIGHT  
A67-00377A. FOR MAP OF IRRIGATED LAND, SEE CLAIM A67-00377A.

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

Number of attachments: 9

**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): X Johnnie Harrington Date: 11-28-89  
\_\_\_\_\_  
Date: \_\_\_\_\_

State of Idaho )  
County of Ada ) SS.

Subscribed and sworn (or affirmed) before me this 28<sup>th</sup> day  
of November 19 89  
Helen Harrington  
Notary Public

Seal

Residing at Helen Harrington, Notary Public  
Residing at Boise, Idaho  
My Commission Expires December 1, 1994