

05/08/2006

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

RIGHT NUMBER: 67-14586

NAME AND ADDRESS: BRETT NEWBOLD
3488 WARD RD
CAMBRIDGE ID 83610

SOURCE: RUSH CREEK

TRIBUTARY: WEISER RIVER

QUANTITY: 0.250 CFS
49.200 AFY

This right when combined with other rights from the same point(s) of diversion is limited to a total combined diversion rate of 3.57 cfs.

PRIORITY DATE: 05/01/1922

POINT OF DIVERSION:

T15N R03W S3 SWNE Within WASHINGTON County

T15N R03W S10 NWSE Injection Within WASHINGTON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 10/31	0.250 CFS

PLACE OF USE: IRRIGATION Within WASHINGTON County

T15N R03W S03	NWSE	40.00	T15N R03W S03	SWSE	40.00
T15N R03W S03	SESE	40.00	T15N R03W S10	SESE	40.00

160 ACRES TOTAL

This right is limited to the irrigation of 12.3 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 160 acres in a single irrigation season. Combined Right Nos.: 67-14586, 67-14588, and 67-14592.

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 -

The Director maintains jurisdiction of this transfer up to five (5) years for the purpose of determining potential injury to existing rights, both junior and senior, in the vicinity of the transferred point of diversion.

Approval of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval. Approval date 6-21-1994.



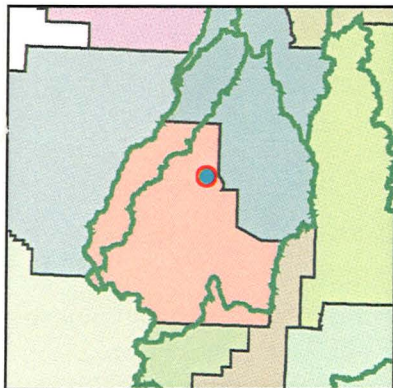
Idaho Department of Water Resources

SRBA Recommendation:

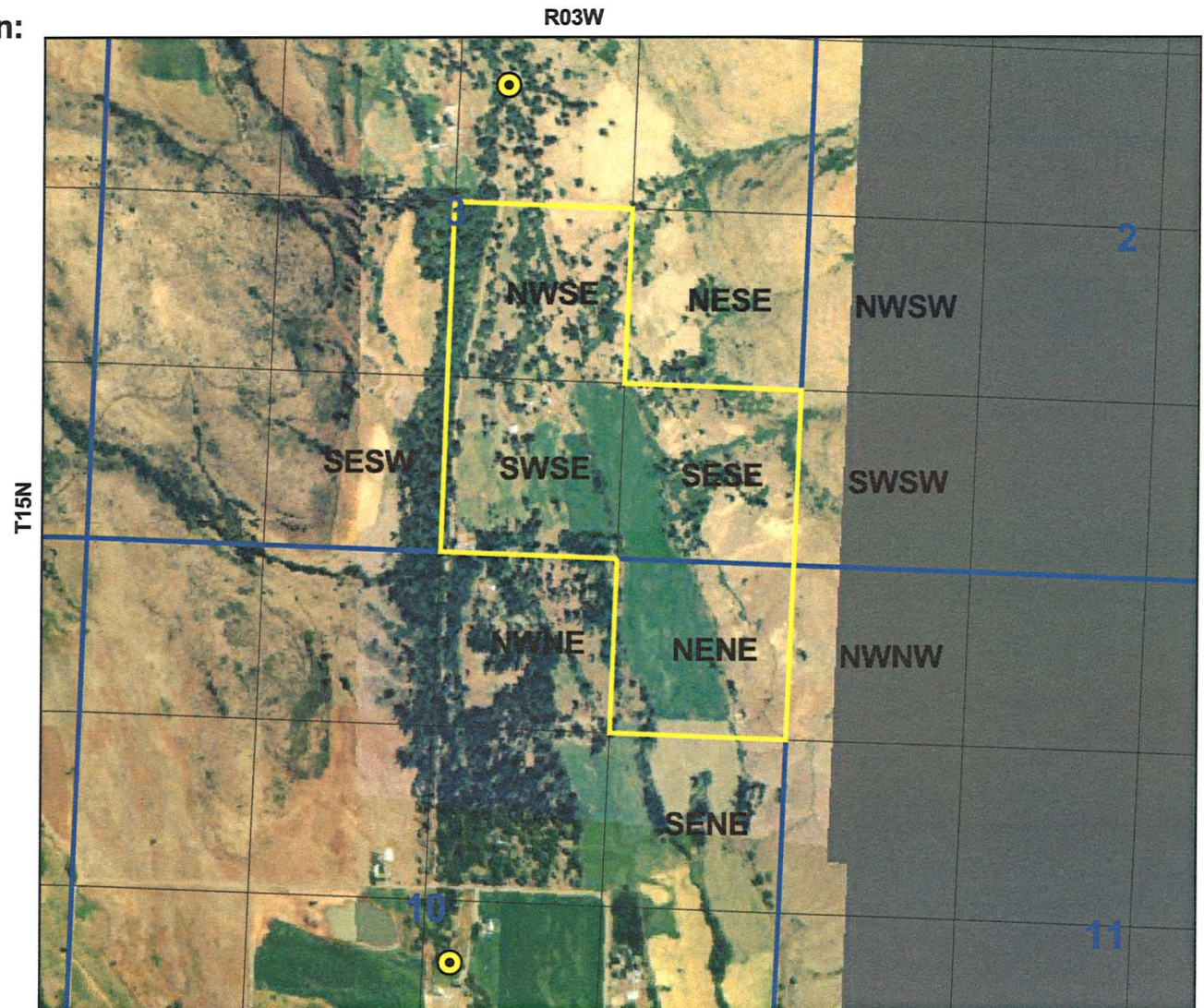
67-14586

Legend

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



Washington County
IDWR Basin 67



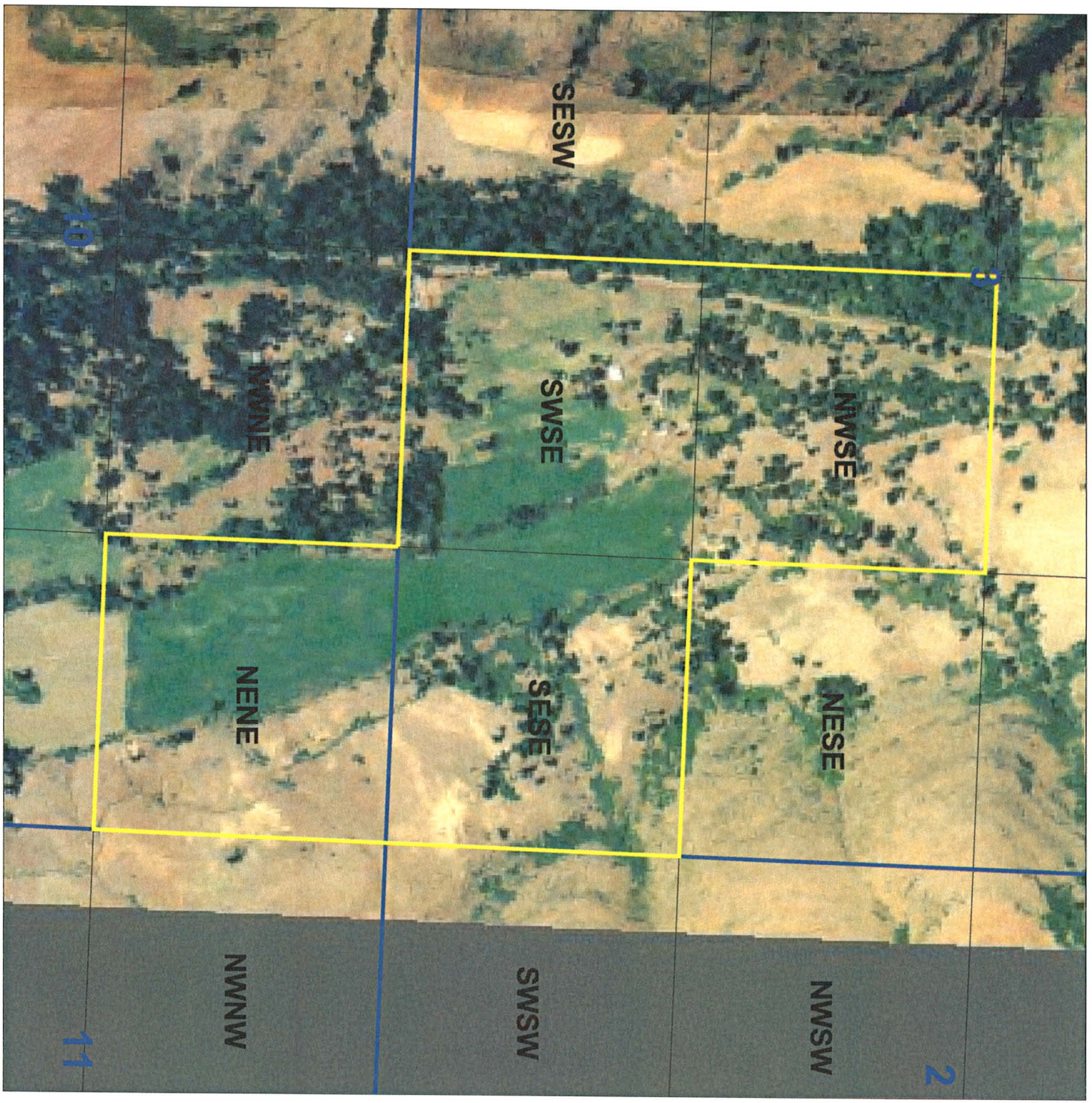
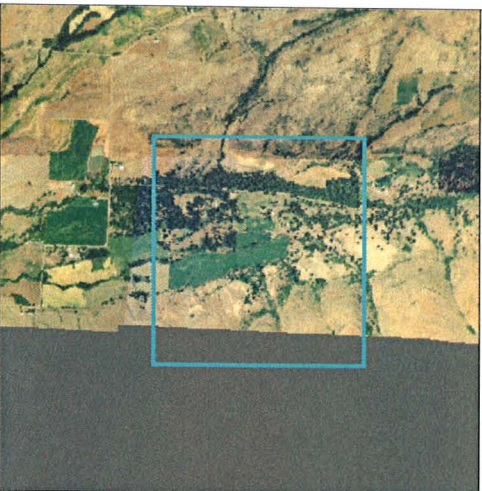
0

0.6

1.2 Miles

Prepared by C. Saxton
On Monday, May 8, 2006
1987/88 Aerial Photography

67-14586



Adjudication Recommendation Report 67-14586 V1

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	DALE RIPPEN RT 1 BOX 206 CAMBRIDGE, ID 83610
Original Owner	JOANA R WIGGINS PO BOX 86 CAMBRIDGE, ID 83610-0086 (208)257-3428
Current Owner	BRETT NEWBOLD 3488 WARD RD CAMBRIDGE, ID 83610 (208)257-3866
Original Owner	ARNOLD RIPPEN CAMBRIDGE, ID 83610
Original Owner	JACK RIPPEN RT 1 BOX 206 CAMBRIDGE, ID 83610 (208)257-3731
Original Owner	KERMIT L WIGGINS PO BOX 86 CAMBRIDGE, ID 83610-0086 (208)257-3428

Status: Active

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 10/31	0.250 CFS	
	<u>Total Diversion:</u>	0.250 CFS	49.20 AF

RUSH CREEK	SW1/4NE1/4	Sec. 3,	Twp 15N,	Rge 03W, B.M.
WASHINGTON County				
RUSH CREEK	NW1/4SE1/4	Sec. 10,	Twp 15N,	Rge 03W, B.M.
WASHINGTON County	(Injection)			

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	

IDAHO DEPARTMENT OF WATER RESOURCES

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15N 03W 3					40.0	40.0	40.0		120.0
15N 03W 10							40.0		40.0
Total Acres: 160									

Conditions of Approval:

1. K06 This right is limited to the irrigation of 12.3 acres within the place of use described above in a single irrigation season.
2. T02 The Director maintains jurisdiction of this transfer up to five (5) years for the purpose of determining potential injury to existing rights, both junior and senior, in the vicinity of the transferred point of diversion.
3. T04 Approval of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.
4. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval. Approval date 6-21-1994.
6. E56 The rights listed below are limited to the irrigation of a combined total of 160 acres in a single irrigation season. Combined Right Nos.: 67-14586, 67-14588, and 67-14592.
7. 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.
8. 178 This right when combined with other rights from the same point(s) of diversion is limited to a total combined diversion rate of 3.57 cfs.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

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Comments:

1. csaxton 5/8/2006 Priority

Comment: Evidence of priority for this right is in the form of an affidavit for water right on an adjacent parcel (67-4542). Evidence for 67-4542 is a valid posted notice dating back to 1869. The affidavit states that the property claimed under 67-4542 is irrigated from the same ditch systems and from the same point of diversion as 67-4542. The claimant states that it was all irrigated at the same time. The priority date claimed is 1922 which is after the Muir v. Allison decree so they are basically claiming flood water. Recommend the 1922 priority date.

2. csaxton 5/8/2006 POU & TR 4148

Comment: My guidance is to recommend the acres as defined on TR 4148. However, not all the acres recommended under the transfer are actually irrigated.

3. csaxton 5/8/2006 POD

Comment: Both PODs shown on TR 4148 recommended as this is a PPU and both the point of diversion and point of exchange is applicable to this right.

4. csaxton 5/8/2006 Diversion Rate and Vol

Comment: The diversion rate and volume is proportioned out based on the percentage of the original acreage described in TR 4148 owned by the claimant. Wiggins has 38.5 % of the original POU and Newbold has 61.5 % of the original POU.

5. csaxton 5/8/2006 Copied From Claim (1)

Comment: This right is a split from former right 67-4514.

6. csaxton 5/8/2006 Copied From Claim (2)

Comment: WELL IS FOR DOMESTIC AND STOCKWATER USES.
CHANGE OF OWNERSHIP COMPLETED BY L.R.W. ON 10/1/93.
CLAIM AMENDED PER TRANSFER NO 4148 APPROVED 6/21/94.
SEE ALSO ADDITIONAL CONDITIONS OF APPROVAL AS LISTED ON THE COPY OF APPROVED TRANSFER 4148 IN FILE.

THIS RIGHT WHEN COMBINED WITH ALL OTHER NATURAL FLOW RIGHTS SHALL PROVIDE NO MORE THAN 0.02 CFS PER ACRE NOR MORE THAN 4.0 AFA PER ACRE FOR THE LANDS ABOVE.

APPROVAL OF TRANSFER 4148 IN NO WAY CONFIRMS THE CLAIM TO RIGHT NO 67-04514. THE VALIDITY OF THE CLAIM WILL BE ASCERTAINED IN THE SNAKE RIVER BASIN ADJUDICATION.

ALL WATER RIGHTS IDENTIFIED IN THIS TRANSFER WILL BE REGULATED BY THE WATERMASTER, OR DEPUTY OF THE WATERMASTER OF STATE WATER DISTRICT 67, WEISER RIVER AND TRIBUTARIES.

THE HOLDER OF THE WATER RIGHTS IDENTIFIED IN THIS TRANSFER SHALL PROVIDE LOCKABLE CONTROLLING WORKS AND A TOTALIZING MEASURING DEVICE AT THE POINT OF DIVERSION FROM RUSH CREEK AND AT THE POINT OF EXCHANGE FROM THE RESERVOIRS. THESE MEASURING DEVICES SHALL BE OF SUCH A SIZE AND DESIGN TO ACCURATELY MEASURE FLOWS THROUGH THE SYSTEM. IN ADDITION, THE HOLDER OF THE WATER RIGHTS SHALL INSTALL A LOCKABLE VALVE BY WHICH THE WATERMASTER OR HIS DEPUTY CAN PRE-VENT DIVERSION TO STORAGE UNDER RIGHT NOS 67-07704 AND 67-07723 DURING PERIODS OF FLOW CONTROL.

THE HOLDER OF THE WATER RIGHTS IDENTIFIED IN THIS TRANSFER SHALL PROVIDE A STAFF GAGE IN BOTH RESERVOIRS THAT SHALL BE MARKED IN FEET AND TENTHS OF FEET AND SHALL BE LOCATED WITHIN EACH RESERVOIR SO AS TO ACCURATELY SHOW THE LEVEL OF THE WATER AT ALL DEPTHS OF DRAWDOWN. THE WATERMASTER OR HIS DEPUTY SHALL READ THE TWO TOTALIZING MEASURING DEVICES AND THE RESERVOIR STAFF GAGES AT THE BEGINNING AND END OF THE PERIODS OF FLOW CONTROL AND NOT LESS THAN EVERY TWO WEEKS DURING THE PERIODS OF FLOW CONTROL. A RECORD OF THESE READINGS SHALL BE KEPT BY THE WATERMASTER OR HIS DEPUTY AND AT THE END OF EACH WATER YEAR SHALL BE SENT TO THE DEPARTMENT OF WATER RESOURCES FOR PERMANENT KEEPING.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 20 ACRES IN THE PLACE OF USE ABOVE IN A SINGLE IRRIGATION SEASON.

THE POINT OF EXCHANGE IDENTIFIED IS THE LOCATION WHERE STORAGE WATER IS RELEASED FROM THE RESERVOIRS BACK INTO RUSH CREEK IN THE NWSE, SEC 10, 15N, 03W.

7. csaxton 5/8/2006 POD

Comment: Rights 67-285, 67-286, 67-287, 67-4490, 67-4542, 67-14585, 67-14586, 67-14587, 67-14588, 67-14591, and 67-14592 are all diverted from the same POD. POD has the max capacity to divert 3.57 cfs per licensing FE for 67-7704 (67-14587, 67-14588) and 67-7723 (67-14591, 67-14592). Analysis by Steve Lester in 1991 confirmed that the above rights are diverted through the same POD. Add condition 178 limiting all rights in combination to divert a maximum of 3.57 cfs.

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Dates and Other Information:

Decreed Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Defendant:
 Plaintiff:
 Civil Case Number:
 Judicial District:
 Notice of Error Flag:
 State or Federal: S
 Owner Name Connector:
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Priority Date	5/8/2006 9:38:07 AM	csaxton			Active
Contacts	5/8/2006 9:38:20 AM	csaxton			Active
POD	5/8/2006 9:40:05 AM	csaxton			Active
Source	5/8/2006 9:42:21 AM	csaxton			Active
POU	5/8/2006 9:42:45 AM	csaxton			Active
Use	5/8/2006 9:46:34 AM	csaxton			Active
Season	5/8/2006 9:47:25 AM	csaxton			Active
Quantity	5/8/2006 9:48:55 AM	csaxton			Active
Summary			05/08/2006	csaxton	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
POD	5/8/2006 9:40:58 AM	csaxton	Updated shape
POD	5/8/2006 9:41:10 AM	csaxton	Updated PLS
POD	5/8/2006 9:41:30 AM	csaxton	Updated shape
POD	5/8/2006 9:41:40 AM	csaxton	Updated PLS
POU	5/8/2006 9:45:36 AM	csaxton	Updated shape for Active POU

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Summary	5/8/2006 9:56:02 AM	csaxton	(Yes) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture? (Yes) 5. Does this right have any combined use limits with other rights? (Yes) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (Yes) 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?
Use	5/8/2006 9:46:24 AM	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 - TR 4148
Season	5/8/2006 9:47:15 AM	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?

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General	5/8/2006 9:37:59 AM	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 - : Evidence of priority for this right is in the form if an affidavit for water right on an adjacent parcel (67-4542). Evidence for 67-4542 is a valid posted notice dating back to 1869. The affidavit states that the property claimed und 67-4542 is irrigated from the same ditch systems and from the same point of diversion as 67-4542. The claimant states that it was all irrigated at the same time. The priority date claimed is 1922 which is after the Muir v. Allison decree so they are basically claiming flood water. Recommend the 1922 priority date.
Contacts	5/8/2006 9:38:11 AM	csaxton	(No) 1. Do you want to schedule an appointment? Comment for 1: Desktop Review
POD	5/8/2006 9:39:56 AM	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?
Source	5/8/2006 9:42:12 AM	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 - TR 4148

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POU	5/8/2006 9:42:36 AM	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 - TR 4148
Quantity	5/8/2006 9:48:45 AM	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? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (No) 12. Is a Quantity remark or condition required? Description for Question 7 - Defined by TR 4148.

Water Supply Bank:

Walker Law Office

Attorneys at Law

232 E. Main St.
P.O. Box 828
Weiser, ID 83672

Lary C. Walker
Delton L. Walker

RECEIVED
APR 19 2006
DEPARTMENT OF
WATER RESOURCES
Telephone (208) 414-0390
Facsimile (208) 414-0404

April 17, 2006

CRAIG L SAXTON
DEPARTMENT OF WATER RESOURCES
PO BOX 83720
BOISE ID 83720-0098

RE: Snake River Basin Adjudication (SRBA) claim 67-4542

Dear Mr. Saxton

Enclosed please find Mr. Wiggins Affidavit.

Please call if you need more information or have questions.

Thank you.

Sincerely,

WALKER LAW OFFICE

April C. Rupe

April C. Rupe
Legal Assistant to Lary C. Walker

LCW/acr

SCANNED

APR 20 2006

AFFIDAVIT OF KERMIT WIGGINS

I, Kermit L. Wiggins, being first duly sworn on oath, deposes and says:

1. My wife Joana Wiggins and I purchased a 40 acre tract of land from Wilbert Maddox and Mae Marie Maddox the 28th of August, 1970, a copy of that deed is attached as exhibit A and incorporated herein.

2. On May 1st, 1992, my wife and I purchased a second tract of land which joined the above tract from Jack and Della Rippen consisting of a little in excess of 40 acres as described in exhibit B attached. 67-4514

3. These two parcels of land join each other and were irrigated out of the same diversion, ditches and irrigation system. Water was diverted out of Rush Creek approximately a quarter of a mile above the northern boundary of my property, was transported to what appeared to be old existing ditches and conveyed the water to my property which was a little above the river.

4. The ditches also extended through my property to the Rippen 40 acres supplying water from the same diversion point to the Rippen 40 acres.

5. When I purchased the property from Mr. Maddox, I received an abstract of title showing the chain of title to these two 40 acre tracts of land, beginning with John Cuddy, the first owner down through Mr. and Mrs. Maddox.

6. The first entry in the abstract of title was a land patent deed to John Cuddy dated and filed December 31, 1873. A copy of this abstract is attached as exhibit C.

7. When I purchased the property, Mr. Maddox was very old and his neighbor Glenn Farrens had operated the property for a period of years and was very familiar with the irrigation system. Mr. Farrens walked around the property and showed me how the irrigation diversion works, ditches and property which was irrigated.

8. Mr. Farrens was familiar with the property and had lived in the area all his life. I believe Mr. Farrens was proximally 65 years old at the time he showed me the irrigation system.

9. The above referenced abstract of title shows that Mr. Cuddy applied for and posted notice of a claim of water rights dated September 21, 1869, when he was in possession of the 80 acre tract of land, which I now own, because the federal law required the homesteader be on the tract of land for five years prior to the homestead deed.

10. The notice of filing was registered in book 1 page 1 and was therefore the earliest water rights on Rush Creek. Sometime after I purchased the property I checked these records and personally observed and copied these documents, consisting of a copy

of the recording book page and the notice of water rights attached as exhibits D & E contained in the Washington County records.

11. These two documents are identical to those attached to your letter of February 24, 2006. Further, I researched the Muir vs. Allison records along with my attorney Lary C. Walker of Weiser, Idaho and found that the party, who owned the property during the entire Muir vs. Allison proceedings was Charles Wallace and his wife Esther.

12. Mr. Wallace paid irrigation taxes to Cambridge Irrigation District as is referenced in that abstract of title and used the water during that time. Mr. Wallace then sold the property to Mr. Maddox from whom I bought the property.

13. This affidavit is prepared as supplemental support to the water rights claim number 67-4542.

14. When I change the point of diversion from the location approximate one-quarter mile above my property further up Rush Creek, as evidenced in the files of the Department of Water Resources, I made formal application for those changes as would be evidenced by your records.

15. At the same time that I changed the diversion, I also made application to store water in a pond so that I could divert water out of Rush Creek during the early run off-season while there was adequate water to fill my pond without taking from other water rights.

16. When the water of Rush Creek got too low to satisfy my water rights, I then emptied water out of my pond back into the creek in amount equal to what I diverted out of my upper diversion. That is if I took out 200 inches from my upper diversion of Rush Creek I returned 200 inches out of my pond into Rush Creek based on the exchange of use application which I filed with the department which was approved.

17. I am in the process of preparing an application for transfer of water rights when I sold some property to Brett Newbold. Subsequent to the purchase of the above 80 acres, I purchased 160 acres from Mr. Farrens, the son of Glenn Farrens above referenced.

18. That property had separate water rights associated with it. At the time of the sale of the property Mr. Newbold and I agreed that I would install a separate diversion system parallel to the earlier diversion system established and divert water to my ponds and 80 acres based on the water rights that remained with that property. Mr. Newbold retained the first diversion with the original water rights appurtenant to the Farrens' property.

19. Approximately 1 year after the sale to Mr. Newbold, I established that new diversion pipeline which carries the above cuddy water from the same diversion point to

my ponds and my 80 acres. In addition, I irrigated additional 40 acres which is associated with lesser water rights, which should not be confused with the original cuddy water rights on my 80 acres.

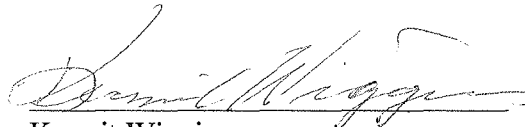
20. The water rights associated with the Farrens 160 acres remained with that property and is irrigated through the original diversion pipeline which has no connection with either my ponds or my 80 acre water right since I installed a separate pipeline in 2001.

21. Because there was not adequate water to benefit both my home place and the newly purchased Farrens' property which was subsequently sold to Mr. Newbold, it was my intention and understanding that the original water rights remained associated with my home place which I transferred as 4184 which was finalized in 1994.

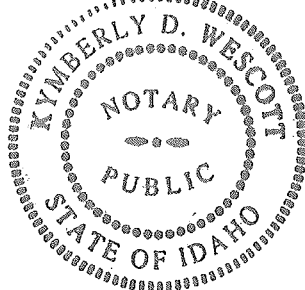
22. This supplement affidavit and my application to transfer water right is for the purpose of keeping the original water rights associated with 67-4514 with my homestead and 80 acres, and all water rights associated with the original Farrens tract of land should be transferred to Brett Newbold.

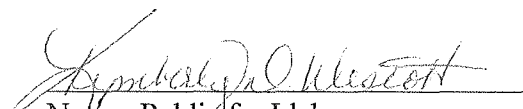
23. I submit this affidavit in support of both the original cuddy and pond storage water rights with the intent of having each tract of land preserved the water rights originally associated with each track. The supporting documentation is documents which are recorded in Washington County and are therefore authenticated as public records documents.

DATED this the 12th day of April 2006


Kermit Wiggins

SUBSCRIBED AND SWORN to before me this 12th day of April 2006




Notary Public for Idaho
Residing at: Weiser
My Commission Expires: 05/17/2010

2-29-06: Mr. Brett Newbold called Monday + Tuesday
regarding 2-17-06 letter I sent regarding EOP.
For 67-4514 < 67-14585
67-14586

He also needs EOP for 67-4490 which belongs to Melvin ^{New} _{Bold}

I left a message to have him call me back

His phone (208) 257-3866



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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 26, 2006

KERMIT L WIGGINS
JOANA R WIGGINS
PO BOX 86
CAMBRIDGE ID 83610-0086

BRENT NEWBOLD
3488 WARD RD
CAMBRIDGE ID 83610

RE: Evidence of Priority for Snake River Basin Adjudication (SRBA) claims 67-14585 and 67-14586.

Dear Claimants,

The Idaho Department of Water Resource is currently in the process of reviewing SRBA claims in your area. I have been reviewing the water right involved in Transfer 4184 that was finalized in 1994.

Transfer 4184 was originally filed by Kermit Wiggins to utilize storage water on newly purchased ground and to establish a common point of diversion for the following water rights: 67-4514, 67-7704, and 67-7723.

Water rights 67-4514, 67-7704, and 67-7723 were split through change of ownership when Brent Newbold purchased a portion of the property that these rights were applicable to.

67-4514 is a statutory claim that was involved in the transfer and was split into **67-14585** and **67-14586**. A statutory claim is a claim to a water right where the elements of the water right have not been verified. Despite that 67-4514 (67-14585 and 67-14586) was included in Transfer 4184, some of the elements of this claim were not verified when the transfer was being reviewed. **One of those elements is the priority date.**

When application for Transfer 4184 was submitted, it was originally protested. One of the protests was regarding 67-4514 (67-14585 and 67-14586) and read, ***"We question the validity of and claimed right under water right number 67-4514."*** The protests to TR 4184 were withdrawn with the addition of several conditions on the approved transfer. The conditions on the transfer that are applicable to 67-4514 (67-14585 and 67-14586) are:

- **Approval of Transfer No. 4148 in no way confirms the claim to a water right, Right No. 67-4514 (67-14585 and 67-14586). Validity of the claim will be ascertained in the Snake River Basin Adjudication.**
- **Approval of this transfer does not preclude the opportunity for review of the validity of the water right (s) in the ongoing Snake River Basin Adjudication.**

Since 67-4514 has been split into 67-14585 and 67-14586, I am contacting Mr. and Ms. Wiggins as well as Mr. Newbold with a request for evidence of priority. Response from either party will suffice for both claims 67-14585 and 67-14586. It is not necessary for both parties to provide separated evidence.

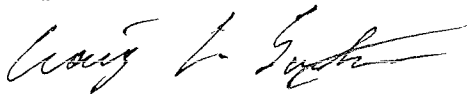
67-14585 and 67-14586 claim a priority date of 5-1-1922. IDWR needs evidence supporting that the water originally claimed under 67-4514 was put to beneficial use to the extent claimed on or as close to that date that can be supported.

Examples of evidence of priority are commonly affidavits from someone with first hand knowledge that can speak to the date of first use, the extent of use, and how they know that information. Other examples could be old aerial photography, old tax documentation that shows the property as irrigated ground, or even historical posted notices recorded in the assessors office. For your convenience I am enclosing an "Evidence of Priority" pamphlet.

Please submit the requested evidence of Priority by **February 24, 2006**. Without evidence of priority, I cannot make a favorable recommendation on this water right to the SRBA court.

Please feel free to contact me with any questions.

Respectfully submitted,



Craig L. Saxton
Sr. Water Resource Agent
Adjudication Bureau

Enclosure(s)

Split history for Decreed Right 67-04514

WR History

67-04514 Dale/Rippen
0.4 cfs
20 ac
af

67-07704 Wiggins
1.4 cfs
60 ac
60 af

67-07723 Wiggins
1 cfs
60 ac
20.1 af

Claim History

67-04514 Wiggins
0.4
260 Limit 20 ac
80

67-07704 Wiggins
1.4
260
60

67-07723 Wiggins
1
260
20.1

67-14585 Wiggins
0.15
100
30.8

67-14586 Newbold
0.25
160
49.2

67-14587 Wiggins
0.54
100
23.1

67-14588 Newbold
0.86
160
36.9

67-14591 Wiggins
0.38
100
7.7

67-14592 Newbold
0.62
160
12.4

CFS =	2.8
Acre =	140

Total CFS =	2.8
Total Ac =	260
Total AFA =	160.1

Sum CFS =	2.8
Sum Acre =	260
Sum AF =	160.1

Un-accounted CFS =	0
Un-accounted Acre =	0
Un-accounted AFA =	0

***Last updated 6-30-05 (csaxton)**

For digital copy of Excel spreadsheet file: See Craig L. Saxton

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 4148
WATER RIGHT NO(8). 67-04514/67-07704/67-07723

This is to certify that: KERMIT L WIGGINS
PO BOX 86
CAMBRIDGE ID 83610

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Right No. 67-04514 :			
IRRIGATION	04/01 to 10/31	0.40 CFS	80.0 AF
Priority: 05/01/1922			
Right No. 67-07704 :			
IRRIGATION STORAGE	01/01 to 12/31		60.0 AF
IRRIGATION FROM ST	04/01 to 10/31		60.0 AF
DIVERSION TO STORA	01/01 to 12/31	1.40 CFS	
Priority: 05/28/1986			
Right No. 67-07723 :			
IRRIGATION STORAGE	01/01 to 12/31		20.1 AF
IRRIGATION FROM ST	04/01 to 10/31		20.1 AF
DIVERSION TO STORA	01/01 to 12/31	1.00 CFS	
Priority: 10/01/1987			
TOTAL:		2.80 CFS	160.1 AF

SOURCE

RUSH CREEK

TRIBUTARY OF

WEISER RIVER

LOCATION OF POINT(S) OF DIVERSION:

SWNE , Sec. 3, Township 15N, Range 03W

LOCATION OF POINT(S) OF EXCHANGE :

NWSE , Sec. 10, Township 15N, Range 03W
WASHINGTON County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
15N	03W	3	NWSE 40	SWSE 40	SESE 40	120
		10	NENE 40	NESW 28	NWSE 32	
			SWSE 40			140
			20			260

Total number of acres irrigated: 260

RECEIVED

JUL 27 1994

TRANSFER NO. 4148
WATER RIGHT NO(S). 67-04514/67-07704/67-07723

CONDITIONS/REMARKS:

1. Approval of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.
2. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
3. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.
4. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
5. The storage of water under Right Nos. 67-07704 & 67-07723 is contingent upon continued certification by the Department of Water Resources under the dam safety provisions of the Idaho Code authorizing storage.
6. Right No. 67-04514 when combined with all other natural flow rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre for the lands above.
7. Approval of Transfer No. 4148 in no way confirms the claim to a water right, Right No. 67-04514. Validity of the claim will be ascertained in the Snake River Basin Adjudication.
8. All water rights identified in this transfer will be regulated by the Watermaster, or deputy of the watermaster, of State Water District 67, Weiser River and tributaries.
9. The holder of the water rights identified in this transfer shall provide lockable controlling works and a totalizing measuring devices at the point of diversion from Rush Creek and at the point of exchange from the reservoirs. These measuring devices shall be of such a size and design to accurately measure flows through the system. In addition, the holder of the water rights shall install a lockable valve by which the Watermaster or his deputy can prevent diversion to storage under Right Nos. 67-07704 and 67-07723 during periods of flow control.
10. The holder of the water rights identified in this transfer shall provide a staff gage in both reservoirs that shall be marked in feet and tenths of feet and shall be located within each reservoir so as to accurately show the level of the water at all depths of drawdown.
11. The Watermaster or his deputy shall read the two totalizing measuring devices and the reservoir staff gages at the beginning and end of the periods of flow control and not less than every two weeks during the periods of flow control. A record of these readings shall be kept by the Watermaster or his deputy and at the end of each water year shall be sent to the Department of Water Resources for permanent keeping.

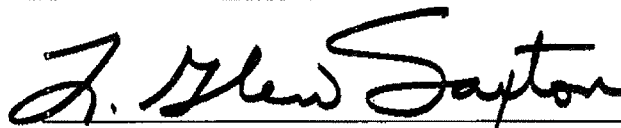
JUL 27 1994

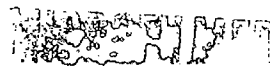
TRANSFER NO. 4148
WATER RIGHT NO(S). 67-04514/67-07704/67-07723

CONDITIONS/REMARKS:

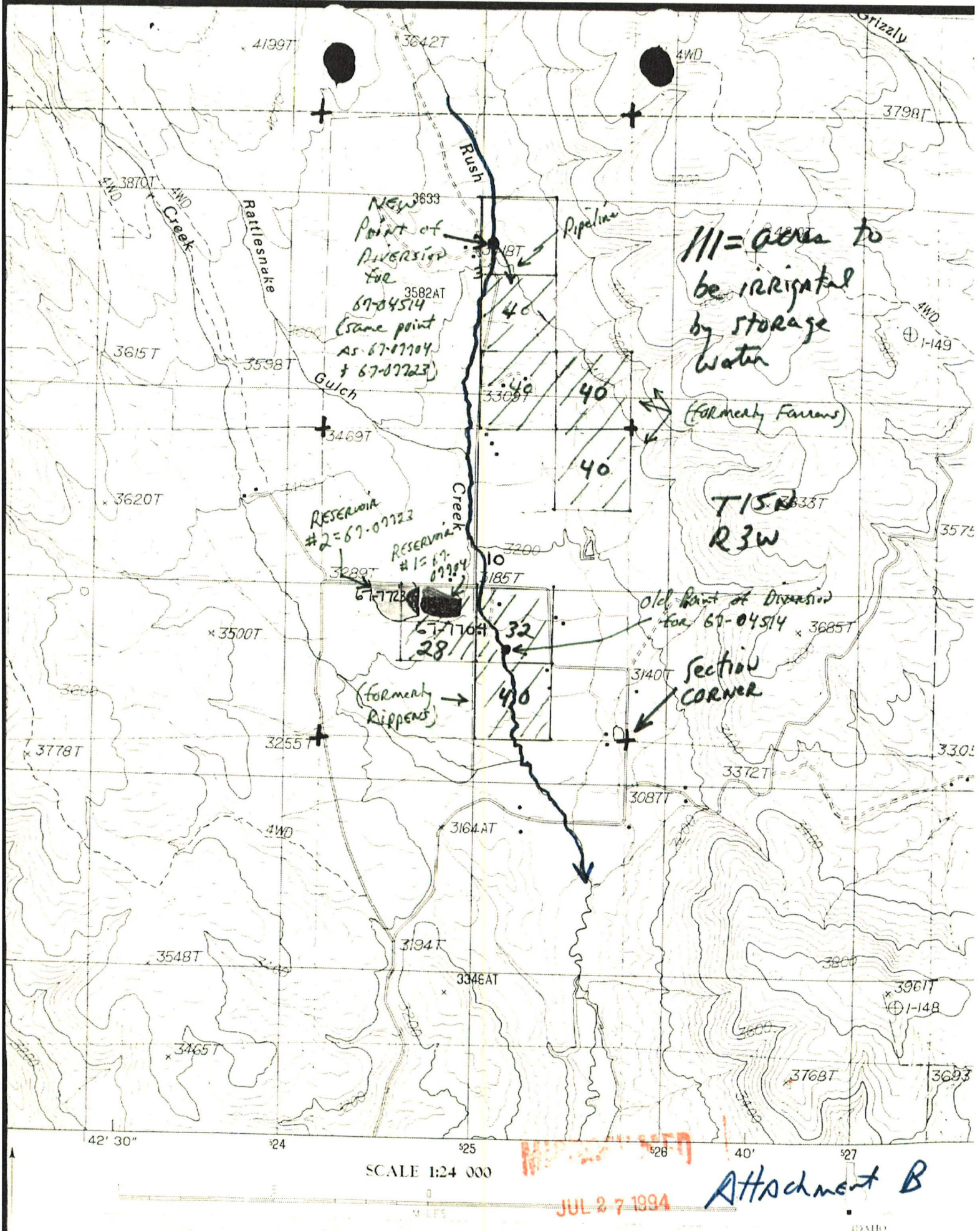
12. The Director maintains jurisdiction of this transfer for up to five (5) years for the purpose of determining potential injury to existing rights, both junior and senior, in the vicinity of the transferred point of diversion.
13. Right No. 67-04514 is limited to the irrigation of 20 acres in the place of use described above in a single irrigation season.
14. The point of exchange identified is the location where storage water is released from the reservoirs back into Rush Creek.

Dated this 21st day of June, 1994.


Chief, Water Alloc. Bureau



JUL 27 1994



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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 67-14586
Date Received: 6/21/2005
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

BRENT NEWBOLD Phone: (208)257-3866

3488 WARD RD
CAMBRIDGE ID USA 83610

2. Date of Priority: 05/01/1922

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

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
15N	03W	3	SW NE	WASHINGTON	

5. Description of diverting works:

HEADGATE AND DITCH FOR GRAVITY IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	10/31	0.25	

7. Total Quantity Appropriated is:
0.25 C.F.S. and/or 49.2 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
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15N	03W	3	NW	SE	IRRIGATION	40
			SW	SE	IRRIGATION	40
			SE	SE	IRRIGATION	40
					Section Acres	120
15N	03W	10	SE	SE	IRRIGATION	40
					Section Acres	40
					Total Acres	160

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:

Approval of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

The Director maintains jurisdiction of this transfer up to five (5) years for the purpose of determining potential injury to existing rights, both junior and senior, in the vicinity of the transferred point of diversion.

The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.

WELL IS FOR DOMESTIC AND STOCKWATER USES.

CHANGE OF OWNERSHIP COMPLETED BY L.R.W. ON 10/1/93.

CLAIM AMENDED PER TRANSFER NO 4148 APPROVED 6/21/94.

SEE ALSO ADDITIONAL CONDITIONS OF APPROVAL AS LISTED ON THE COPY OF APPROVED TRANSFER 4148 IN FILE.

THIS RIGHT WHEN COMBINED WITH ALL OTHER NATURAL FLOW RIGHTS SHALL PROVIDE NO MORE THAN 0.02 CFS PER ACRE NOR MORE THAN 4.0 AFA PER ACRE FOR THE LANDS ABOVE.

APPROVAL OF TRANSFER 4148 IN NO WAY CONFIRMS THE CLAIM TO RIGHT NO 67-04514. THE VALIDITY OF THE CLAIM WILL BE ASCERTAINED IN THE SNAKE RIVER BASIN ADJUDICATION.

ALL WATER RIGHTS IDENTIFIED IN THIS TRANSFER WILL BE REGULATED BY THE WATEMASTER, OR DEPUTY OF THE WATEMASTER OF STATE WATER DISTRICT 67, WEISER RIVER AND TRIBUTARIES.

THE HOLDER OF THE WATER RIGHTS IDENTIFIED IN THIS TRANSFER SHALL PROVIDE LOCKABLE CONTROLLING WORKS AND A TOTALIZING MEASURING DEVICE AT THE POINT OF DIVERSION FROM RUSH CREEK AND AT THE POINT OF EXCHANGE FROM THE RESERVOIRS. THESE MEASURING DEVICES SHALL BE OF SUCH A SIZE AND DESIGN TO ACCURATELY MEASURE FLOWS THROUGH THE SYSTEM. IN ADDITION, THE HOLDER OF THE WATER RIGHTS SHALL INSTALL A LOCKABLE VALVE BY WHICH THE

WATERMASTER OR HIS DEPUTY CAN PRE- VENT DIVERSION TO STORAGE UNDER RIGHT NOS 67-07704 AND 67-07723 DURING PERIODS OF FLOW CONTROL.

THE HOLDER OF THE WATER RIGHTS IDENTIFIED IN THIS TRANSFER SHALL PROVIDE A STAFF GAGE IN BOTH RESERVOIRS THAT SHALL BE MARKED IN FEET AND TENTHS OF FEET AND SHALL BE LOCATED WITHIN EACH RESERVOIR SO AS TO ACCURATELY SHOW THE LEVEL OF THE WATER AT ALL DEPTHS OF DRAWDOWN.

THE WATERMASTER OR HIS DEPUTY SHALL READ THE TWO TOTALIZING MEASURING DEVICES AND THE RESERVOIR STAFF GAGES AT THE BEGINNING AND END OF THE PERIODS OF FLOW CONTROL AND NOT LESS THAN EVERY TWO WEEKS DURING THE PERIODS OF FLOW CONTROL. A RECORD OF THESE READINGS SHALL BE KEPT BY THE WATERMASTER OR HIS DEPUTY AND AT THE END OF EACH WATER YEAR SHALL BE SENT TO THE DEPARTMENT OF WATER RESOURCES FOR PERMANENT KEEPING.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 20 ACRES IN THE PLACE OF USE ABOVE IN A SINGLE IRRIGATION SEASON.

THE POINT OF EXCHANGE IDENTIFIED IS THE LOCATION WHERE STORAGE WATER IS RELEASED FROM THE RESERVOIRS BACK INTO RUSH CREEK IN THE NWSE, SEC 10, 15N, 03W.

This right is a split from former right 67-4514 .

This right is limited to the irrigation of 12.3 acres within the place of use described above in a single irrigation season.

15. Basis of Claim: Statutory Claim