



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

December 18, 2006

JAMES E. RISCH
Governor

KARL J. DREHER
Director

BRET ARMACOST
DORIS ARMACOST
PO BOX 87
COUNCIL ID 83612

RE: Notice Of Error (NOE) for Snake River Basin Adjudication (SRBA) claims 67-14602 and 67-14604

Dear Mr. and Ms Armacost,

Thank you for your patience. We have had numerous Notice of Error requests to respond to. I hope I can answer your questions regarding how the water rights 67-385B and 67-386 were split and why your pieces of those original water rights were recommended the way they were.

In 1985 Clinton Yates Jr. filed Transfer 3234, which was approved in 1986. When this transfer was filed, it was not only the points of diversion (POD) that were altered, but the place of use (POU) was also re-defined by the transfer. You are correct that a water right is applicable to the ground. However, the POU can be changed by filing a transfer to change the POU or to better define the POU if it was not clearly described. A transfer can be filed to change almost any element of a water right; the POU, POD, Season of use, source...etc.

So what I did was take the POU defined by the transfer and duplicated it the best I could on the computer using ArcView. Then I split that Place of Use up based on the parcel date or the property boundaries. Per your NOE for 67-14602, I agree that the acreage distribution per 40 acre tract is recommended differently than defined by TR 3234, but the total is the same and the acreage is the same so it should not affect your proportionate share of the water right.

I am attaching some documents that might help explain the proportioning of the water rights. I hope this will help answer your questions.

If you still disagree with the analysis, you will have a chance to file an objection and be heard by the SRBA court.

Respectfully submitted,

Craig L. Saxton
Sr. Water Resource Agent
Adjudication Bureau

Enclosures;

Attachments:

Exhibit A: Transfer 3234

Figure 1: Digital interpretation of POU described in TR 3234

Figure 2: Place of Use for parent rights (Note that TR 3234 did not combine the water rights to one common place of use. It kept them separate)

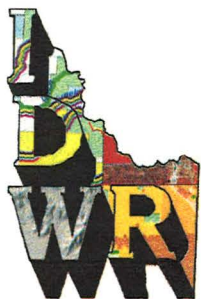
Exhibit B: Split Tree for parent rights 67-385 and 67-386

Exhibit C: Acreage distribution: Comparison to what was found vs what was defined in TR 3234

Attachment 1: Copies of submitted NOE with reviewers notes

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed



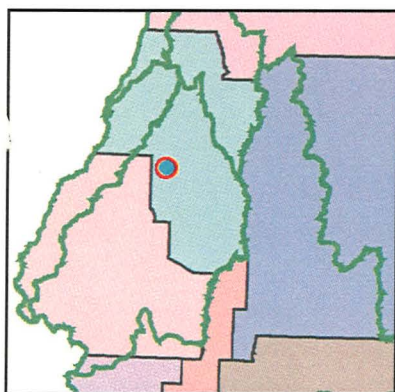
Idaho Department of Water Resources

Adjudication Claim:

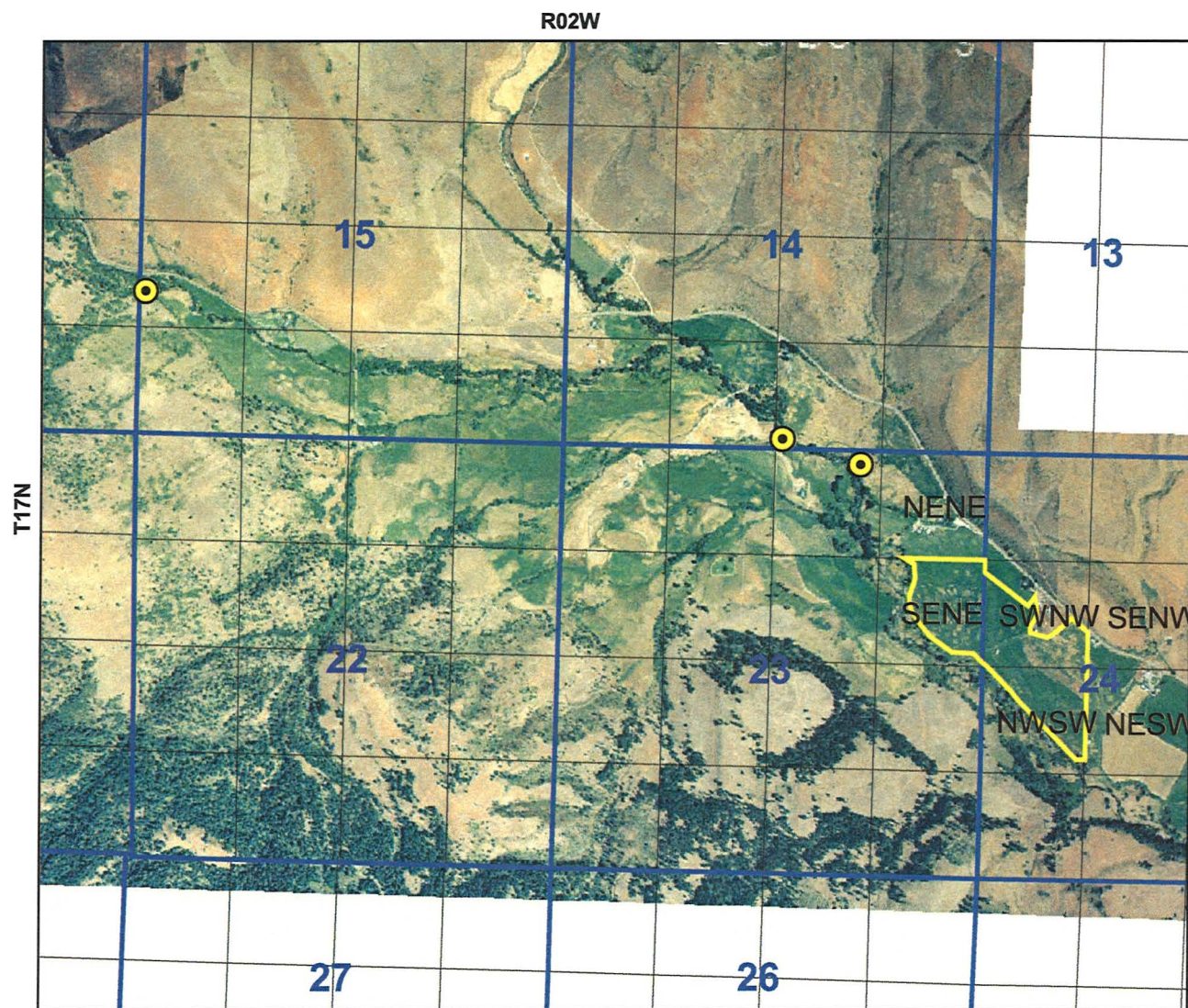
67-14604

Legend

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



Adams County
IDWR Basin 67



0 0.9 1.8 Miles



Prepared by C. Saxton
On Friday, March 31, 2006
1987/88 Aerial Photography



IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-14604 V1

WATER RIGHT NUMBER: 67-14604 V1

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	ELLIS HARTLEY
	, ID
Original Owner	MARK C YATES 2502 CEMETERY LN COUNCIL, ID 83612 (208) 253-6915
Original Owner	DIANE J YATES 4200 HELLS CANYON DAM RD OXBOW, OR 97840
Current Owner	DORIS ARMACOST PO BOX 87 COUNCIL, ID 83612
Original Owner	CLINTON T YATES JR 2502 CEMETERY LN COUNCIL, ID 83612-5036 (208)253-6840
Original Owner	PHYLLIS R YATES 2502 CEMETERY LN COUNCIL, ID 83612-5241 (208) 253-6915
Current Owner	BRET ARMACOST PO BOX 87 COUNCIL, ID 83612 (208)253-4360

Priority Date: 12/31/1899

Basis: Decreed

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	0.190 CFS	
	<u>Total Diversion:</u>	0.190 CFS	

Location of Point(s) of Diversion

HORNET CREEK	SW1/4SE1/4	Sec. 14, Twp 17N, Rge 02W, B.M.
ADAMS County		
HORNET CREEK	NW1/4NE1/4	Sec. 23, Twp 17N, Rge 02W, B.M.
ADAMS County		
HORNET CREEK	NW1/4SW1/4	Sec. 15, Twp 17N, Rge 02W, B.M.
ADAMS County		

Place of Use

IRRIGATION

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-14604 V1

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	02W	23				21.0													21.0
17N	02W	24						21.0				18.0							39.0

Total Acres: 60

Conditions of Approval:

1. E55 Right Nos. 67-14602 and 67-14604 are limited to the irrigation of a combined total of 60.0 acres in a single irrigation season.
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.
3. K06 This right is limited to the irrigation of 15.2 acres within the place of use described above in a single irrigation season.

Remarks:Comments:

1. csaxton 10/26/2005 POU and POD
Comment: POU and POD shapes updated.

2. csaxton 3/31/2006 TR 3234
Comment: Recommend per TR 3234.

3. csaxton 3/31/2006 Copied From Claim (1)
Comment: This right is a split from former right 67-386.

4. csaxton 3/31/2006 Copied From Claim (2)
Comment: In August change of ownership on 67-385B and 67-386. I split the water rights based on deed information and the lay of the land. What I did not take into account was TR 3234.

When I originally split the above water rights, I did not think that any irrigated ground under these claims was applicable to lands on the SW side of Hornet Creek located in the SENE of Section 23. However, TR 3234 clearly defines irrigated ground on the SW side of Hornet Creek. Therefore, 5 acres in the SENE of section 23 should have remained in the name of Yates. I have corrected the claims. See file for an update split tree and reference map (csaxton 10-26-05).

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-14604 V1

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: AND
 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>
		60
Combined Water Rights: 67-14604 , 67-14602		

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	3/31/2006 1:50:52 PM	csaxton			Active
Priority Date	3/31/2006 1:51:15 PM	csaxton			Active
POD	3/31/2006 1:51:25 PM	csaxton			Active
Source	3/31/2006 1:51:51 PM	csaxton			Active
POU	3/31/2006 1:52:03 PM	csaxton			Active
Use	3/31/2006 1:52:38 PM	csaxton			Active
Season	3/31/2006 1:53:06 PM	csaxton			Active
Quantity	3/31/2006 1:54:11 PM	csaxton			Active
Summary			03/31/2006	csaxton	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
Contacts	3/31/2006 1:51:05 PM	csaxton	(No) 1. Do you want to schedule an appointment?
			Comment for 1: Recommend per TR 3234.
POD	3/31/2006 1:51:38 PM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a POD? (Yes) 5. Can the claimed POD be verified using the water right file? (No) 10. Is a POD remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-14604 V1

Source	3/31/2006 1:52:05 PM	csaxton	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a source? (Yes) 5. Can the claimed source be verified using the water right file? (No) 11. Is a Source remark and/or condition required?
General	3/31/2006 1:51:28 PM	csaxton	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (Yes) 4. Is the basis of claim decree or license? (Yes) 5. Does the decree or license have a Priority Date? (Yes) 6. Did the Claimant claim the decreed or licensed Priority Date ? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required?
POU	3/31/2006 1:52:17 PM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 2a. Is the POU required? (Yes) 5. Does the Decree or License have a POU? (Yes) 6. Can the claimed POU be verified using the water right file? (Yes) 14. Is a POU remark and/or condition required?
Use	3/31/2006 1:52:52 PM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a Purpose of Use? (Yes) 5. Can the claimed Purpose of Use be verified using the water right file? (No) 13. Is a Purpose of Use remark and/or condition required?
Season	3/31/2006 1:53:19 PM	csaxton	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a Period of Use? (Yes) 5. Can the claimed Period of Use be verified using the water right file? (Yes) 14. Is irrigation claimed as a Purpose of Use? (No) 16. Is the Period of Use on the decree, license or transfer shorter on either the start date or end date than allowable under current IDWR standards? (No) 18. Is a Period of Use remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-14604 V1

Quantity	3/31/2006 1:54:24 PM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a diversion rate and/or volume? (Yes) 5. Can the claimed diversion rate and/or volume be verified using the water right file? (No) 8. Does the parent right have an annual diversion volume limit? (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?
Summary	3/31/2006 1:59:44 PM	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?
POD	10/26/2005 11:01:21 AM	csaxton	Updated shape
POD	10/26/2005 11:00:33 AM	csaxton	Updated shape
POU	10/26/2005 11:02:07 AM	csaxton	Updated PLS for Active POU
POU	10/26/2005 11:01:55 AM	csaxton	Updated shape for Active POU
POD	10/26/2005 11:00:59 AM	csaxton	Updated shape

Water Supply Bank:

MEMORANDUM

Date: October 26, 2005

To: File

From: Craig L. Saxton

Re: Research for TR 3234

TR 3234 added a POD following rights and re-defined the acres.

67-385B

67-386

67-404

67-405

67-4244

The important thing with this transfer is that it did not make a permissible place of use out of all of the rights. 67-385B and 67-386 are treated as a PPU. 67-404 and 67-405 are treated as a PPU. But Statutory claim 67-4244 remains separate and does not overlap any of the ground covered by the decreed rights. What this means is that claim 67-4244 stands alone despite being included in TR 3234, and therefore requires evidence of priority for the entire POU claimed under TR 3234.

As of this date, sufficient EOP has not been provided. EOP provided supports only decreed water rights. Further research can be done regarding ditches mentioned in the backfile for 67-4244, however, if no further information is found, then claimant will have to provide additional evidence.

Another possibility of EOP could be in the establishment of Hornet Creek Water Users Association.

Split history for Decreed Right 67-385 & 386

WR History

67-385		Hartley	TR 3234	67-385A	Hartley
0.94	cfs				0.2
75.2	ac				11
0	af				
				67-385B	Yates
					0.74
					79
<i>Acreage calc at 5/8 " per acre</i>					
				Total AC=	90
				" per acre=	0.009

Acreage calc at 5/8 " per acre

Claim History

67-385A	Lake	67-385A	Lake
	0.2		0.2
	12		12
		67-14601	Yates
			0.23
			19
67-385B	Yates	67-14602	Armacost
	0.94		0.71
	79		60

Recommended

67-385A	Lake
	0.2
	11
67-14601	Yates
	0.18
	19
67-14602	Armacost
	0.56
	60

Sum CFS =	1.14
Sum Acre=	91
Sum AF =	n/a

Extra CFS =	-0.2
Extra Acre =	-15.8
Extra AFA =	n/a

Sum CFS =	0.94
Sum Acre=	90
Sum AF =	n/a

Extra CFS =	0.00
Extra Acre =	0
Extra AFA =	n/a

*Last updated 10-26-05 (csaxton)

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

WR History

67-386	Hartley		TR 3234	67-386	Yates
	0.25	cfs			0.25
	20	ac			79
	0	af			

Acreage calc at 5/8 " per acre

Claim History

		67-14603	Yates
			0.06
			19
67-386	Yates	67-14604	Armacost
	0.25		0.19
	79		60

Recommended

67-14603	Yates
	0.06
	19
67-14604	Armacost
	0.19
	60

Sum CFS =	0.25
Sum Acre=	79
Sum AF =	n/a

Extra CFS =	0
Extra Acre =	0
Extra AFA =	n/a

Sum CFS =	0.25
Sum Acre=	79
Sum AF =	n/a

Extra CFS =	0.00
Extra Acre =	0
Extra AFA =	n/a

*Last updated 10-26-05 (csaxton)

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

TRANSFER NO.	NAME	AMOUNT C.F.S.	BALANCE C.F.S.	RIGHT NO.
	Hartley, Ellis, et al	0.94		67-0385
3234	Yates, Jr., Clinton J.	0.74		67-0385B
	Hartley, Ellis, et al	0.20		67-0385A

T
R
A
N
S
F
E

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Transfer No. 3234
 67-0385, 67-0386,
 Water Right No. 67-0404 67-0405, &
 67-4244

 STATE OF IDAHO
 DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

To Change the Point of Diversion and/or the Place of Use

APPROVED

 Name of applicant Clinton T. Yates, Jr. Phone 253-6053
 Post Office address HC67, Box 2335, Council, ID 83612

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. 67-0385, 67-0386
67-0404 & Decreed to Ellis Hartley & Otto Brauer & Lydie Brauer & Dorothy Lake
 (Name)
 in case of _____ vs _____
 dated in 6-21-1921 in Seventh Judicial county of Adams
 (Name of court)
- b. License No. _____ issued by the Idaho Department of Water Resources
- c. Claim No. 67-4244 on file with the Idaho Department of Water Resources

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant. If the applicant is not the original holder of the water right, explain how it was acquired Purchase - See attached Tax Notices.

3. Source of water Hornet Creek tributary to Weiser River
67-0385 - 5/30/1883, 67-0386 - 12/31/1899,
4. Date of priority 67-0404 & 67-0405 - 12/31/1899, & 67-4244 - 5/3/1883

5. Water is used for the following purposes:
- | | | | | | | | | |
|---------|--------|-----------------|-----|-------------------|---------------|-------------|----|--------------|
| 67-0385 | amount | <u>.94 cfs</u> | for | <u>irrigation</u> | purposes from | <u>3/15</u> | to | <u>11/15</u> |
| 67-0386 | amount | <u>.25 cfs</u> | for | <u>irrigation</u> | purposes from | <u>3/15</u> | to | <u>11/15</u> |
| 67-0404 | amount | <u>.56 cfs</u> | for | <u>irrigation</u> | purposes from | <u>3/15</u> | to | <u>11/15</u> |
| 67-0405 | amount | <u>.19 cfs</u> | for | <u>irrigation</u> | purposes from | <u>3/15</u> | to | <u>11/15</u> |
| 67-4244 | amount | <u>2.40 cfs</u> | for | <u>irrigation</u> | purposes from | <u>5/15</u> | to | <u>10/31</u> |
- (month/day — both dates inclusive)

6. Total amount of water under right: a. 4.34 cubic feet per second
 &/or
 b. _____ acre feet per annum
7. Location of original point of diversion is NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 15
 Township 17N Range 2W, B.M., in Adams County
 Additional points of diversion, if any NW $\frac{1}{4}$, Sec. 23, Twp. 17N, Rge. 2W.

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
67-0385 & 67-0386	17N	2W	21			✓ 26													47
		24							✓ 30			13							43
67-0404 & 67-0405	17N	2W	14													19	6		25
		23		✓ 27	✓ 8														35
67-4244	17N	2W	13		✓ 25	✓ 19			10						✓ 11	✓ 6			84
		24							20							16			36
Total number of acres to be irrigated																			275

9. Describe any other water rights used for the same purpose as described above 67-4280 - See part c, item no. 4. MICROFILMED
10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? No If yes, describe in item D, REMARKS.

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B. DESCRIPTION OF PORTION OF RIGHT OWNED BY APPLICANT (If the entire right is owned by the applicant, omit part B).

- 67-0385 - .74 + 67-0386 - .25 = .99 cfs (based on 79 acres actually irrigated at 5/8ths inch/acre)
67-0404 - .56 cfs, 67-0405 - .19 cfs = .75 cfs (based on 60 acres actually irrigated at 5/8ths "/ac)
1. Amount of water: a. ~~67-4244 - 1.72 cubic feet per second~~ (1"/ac for 86 acres) &/or
b. acre feet per annum

2. Point of diversion NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 15 Township 17N
Range 2W, B.M., Adams County
Additional points NWNE, Sec. 23, Twp. 17N, Rge. 2W.

3. Place of use: -

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
67-0385 & 17N	2W	67-0386 23	10			26													36
		24							30			13							43
67-0404 & 17N	2W	67-0405 14														19	6		25
		23			27	8													35
67-4244 17N	2W	23	10		20	19									11	6			.66
		24							20										20

Total number of acres to be irrigated 225

C. DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. General Information
67-0385 - .74 cfs, 67-0386 - .25 cfs
67-0404 - .56 cfs, 67-0405 - .19 cfs
a. Amount of water to be diverted 67-4244 - .64 cfs. &/or acre feet
b. Description of diverting works Headgates, ditches, flood irrigation.
c. Describe the reasons for the proposed changes Applicant is developing a new ditch at a new point of diversion for lands in Sec. 23. The lands in Sec. 24 will be using the point of diversion in Sec. 23 as they always have. Also to correctly show lands irrigated and the correct number of acres in each quarter-quarter.

2. Change in point of diversion

Point of diversion SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 14 Township 17N
Range 2W, B.M., Adams County
Additional points NWNE $\frac{1}{4}$, Sec. 23, Twp. 17N, Rge. 2W, NWSW, S. 15, T. 17N, R. 2W.

3. Change in place of use

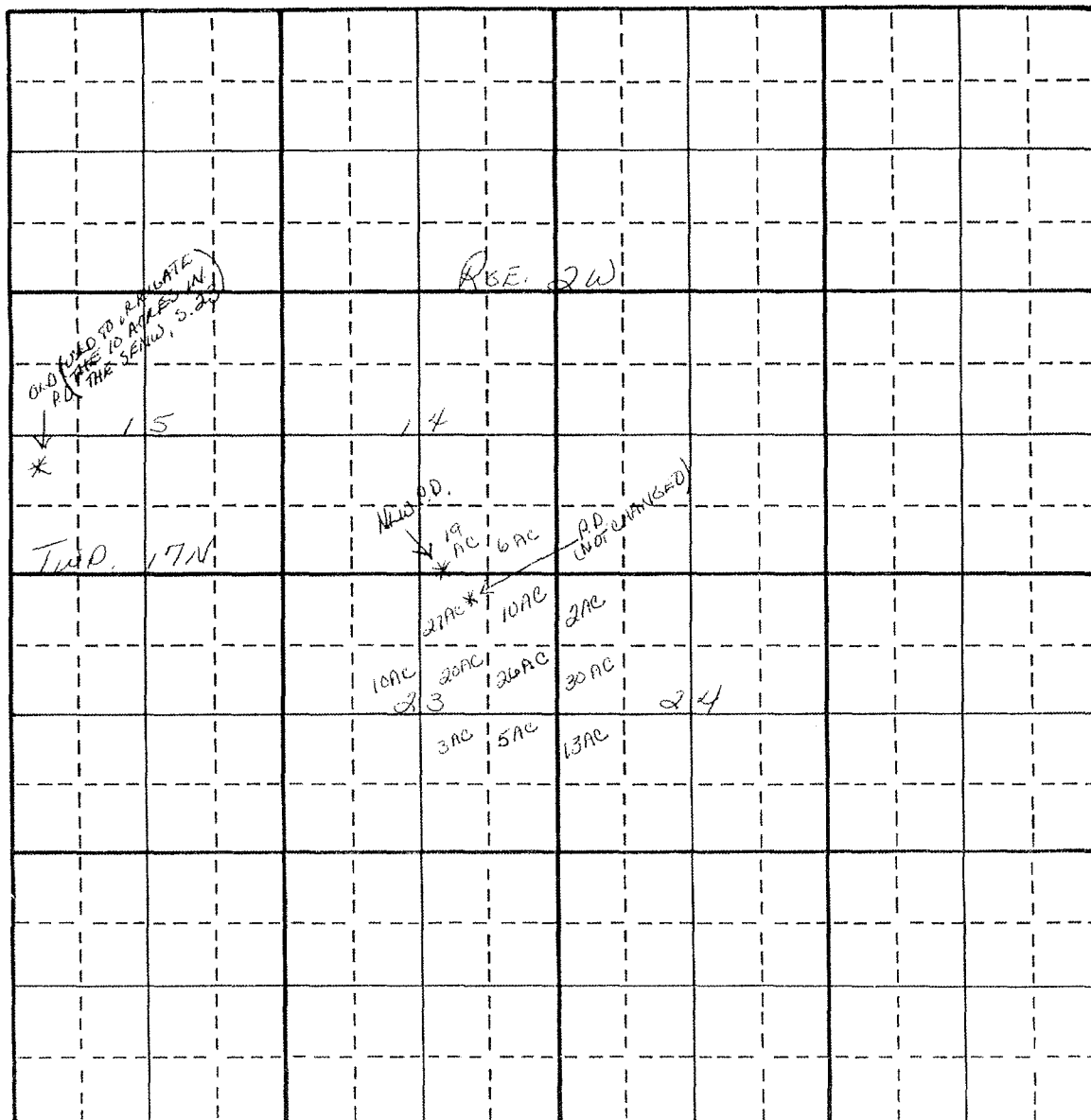
- a. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? Yes X No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed change.
b. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer The 2 acres in the NW $\frac{1}{4}$, Sec. 24 and the 10 acres in the SE $\frac{1}{4}$, Sec. 23, are the only changes in the place of use. The total no. of acres are not being increased. This transfer is showing the correct acres that have been irrigated for years and actually shows less acres than originally decreed & claimed.

c. Describe the lands & place of use to which the right will be transferred.

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
67-0385 & 17N	2W	23	10			26													36
		24						30			13								43
67-0404 & 17N	2W	14													19	6			25
		23		27	8														35
67-4244 & 17N	2W	23			12				10					5	3				30
		24					2												2

Total number of acres to be irrigated 171

- Describe any other water rights used for the same purpose as described above. 67-4280 is for lands in Sec. 24 - not more than 1"/acre. Diversion pt. - nwne, Sec. 23.
- Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink

NOT TO SCALE

J-17a

US

NEW
P.D.

19AC

6AC

14 13
23 X 24

132
AC

3AC

P.D.

(NOT OWNED BY APPLICANT)

10

104
AC

OUT

2.0

NOT OWNED BY APPLICANT

2 AC

B-29
O LAKE

B-29

9AC

13AC

10AC

20AC

C

9.8 AC

7AC

B-29
O LAKE

3AC

5AC

2 AC

25 AC

7.0

8AC

2 AC

2 AC

2 AC

1 AC

OUT

NOT OWNED
BY APPLICANT

E 7.1

23 24
26 X 25

MICROFILM

← OLD P.D. IN SEC. 15 - NOT SHOWN ON THIS MAP

MICROFILMED

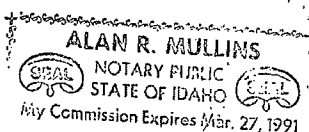
D. REMARKS

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willfull misrepresentations made in this application may result in voiding its approval.

Clinton T. Ytter
(Signature of Applicant)

Subscribed and sworn to before me this 23rd day of October, 19 85.



[Signature]
(Notary Public)

My commission expires 27 Mar, 1991

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

67-0385B/0386/
0404/0405/4244

This is to certify that I have examined Application for Transfer of Water Rights No. _____ and said application is hereby APPROVED, subject to the following limitations and conditions:

1. Approval of this transfer does not confirm the right claimed under 67-4244

nor shall the watermaster deliver water under the claim. 2. A measuring device and lockable controlling works of a type acceptable to the Department shall be

permanently installed and maintained as part of the diverting works. 3. Use of water under these rights is subject to control by the watermaster of State Water District No. 67, Weiser River.

Witness my hand this 11th day of March, 19 86

A. Glen Saylor
Chief, Operations Bureau

FOR DEPARTMENT USE ONLY

Received by [Signature] Date 10/11/85 Protest filed by _____

Prelim. check by LLS Fee \$50.00

Received by [Signature] Date 10/11/85 #36167

Published in Adams County Leader Copies of protest forwarded by _____

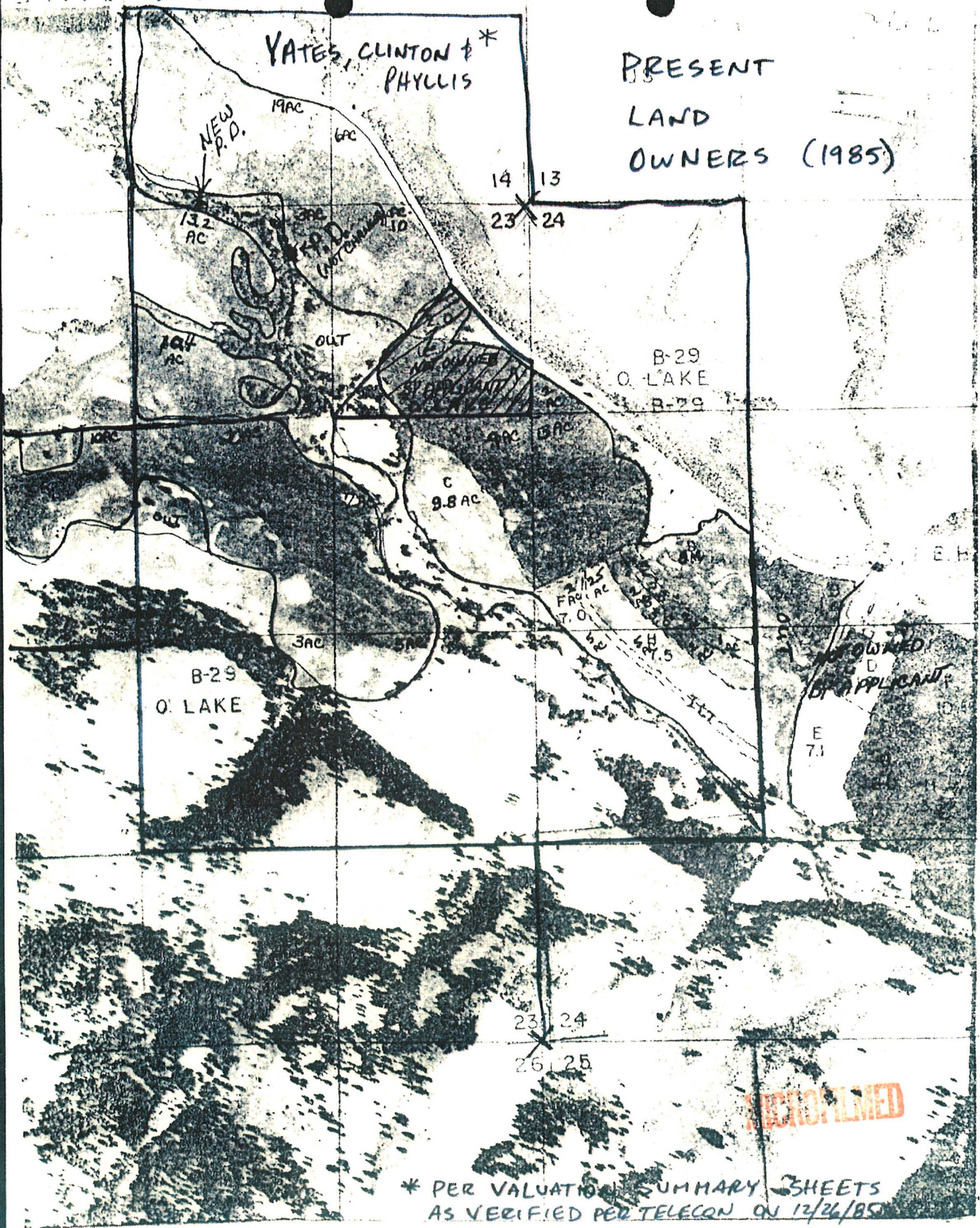
Pub. dates 11/20 & 12/3/85 Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for approval denial

_____ rec'd. by Jim

YATES, CLINTON & *
PHYLLIS

PRESENT
LAND
OWNERS (1985)



* PER VALUATION SUMMARY SHEETS
AS VERIFIED PER TELECON ON 12/26/85

* @ 5/8" / acre on original decree

ORIGINALLY
IS
DECREEED
LANDOWNERS

67-0404 (0.56 cfs) 45 ac

67-0405 (0.19 cfs) 15 ac

0.75 cfs

NEW
P.D.
LYDIE BRAVER, OTTO BRAVER &
DOROTHY LAKEY

19 AC

6 AC

14 13

23 24

67-0385 (0.94 cfs)

67-0386 (0.25 cfs)

* 75 acres originally irr
20 acres "
95 "

B-29
O. LAKE

B-29

9.8 AC

B-29
O. LAKE

NOT OWNED
BY APPLICANT

E
7.1

23 24

26 25

MICROFILMED

TO: DAVE

FROM: Jim

RE: TRANSFER REVIEW

Rt. 67-4244 appears to be listed wrong in
ERROR NE 1/4 section 23. under item B.3. i.e. why
CORRECTED is 15 acres shown in WNE? Shouldn't
19 acres be shown in SENE?

MR. YATES IN looking at the aerial photo it does
WILL BE not appear that the P/D's shown are located
USING A → so that lands on the South west side of
SPRINKLER Hornet Creek would be served. I find that
SYSTEM Claim 67-4244 describes an additional point of
OLD P.D. diversion and ditch in remarks. The location of
WILL ~~BE~~ the P/D is NW SW Sec 15. Maybe it should be
BE USED. added to the transfer. ✓ SEE PERMIT #67-770E
FOR FLOOD IRR. FOR 10 AC IN THE SENE, S. 23

(ADDED
UNDER C(2)) } As we discussed the treatment for allocation
of wtr rts. 67-0385 and 67-0386 between the two
SEE LAST ownerships in the NENE S. 23 is unique. To avoid
SENTENCE confusion I would suggest you prepare a memo
IN MEMO which outlines the procedure and logic used for
FROM not following the standard of pro rating of both rights
JAN. S. appurtenant to the land in NENE S. 23.
TO DAVE T.

MICROFILMED
RECEIVED
FEB 4 1986

Department of Water Resources
Western Regional Office

MEMO

TO: Dave Tuthill *DT*

FROM: Jan Shurte *JS*

SUBJECT: The Transfer of Water Rights No.'s 67-4244, 67-0385, 67-0386, 67-0404 and 67-0405, along with App. for Permit No. 67-7703

Here is a summary of the hows and whys of the completion of the above referenced transfer and permit applications.

On Part A, Item No. 8 for Water Right No.'s 67-0385 and 67-0386 the decree shows a total of 1.19 cfs which at 5/8ths inche per acre would be enough for 95 acres of irrigation. However, as shown on the aerial photo only 90 acres has ever been irrigated. Rather than showing 95 acres, and arbitrarily listing 5 acres in a quarter-quarter, I only showed 90 acres under these rights. All other rights are listed as the decree and claim show them.

Then on Part B under Water Right No.'s 67-0385 and 67-0386 there are 11 acres in the NENE, Sec. 23 which were withheld in the sale along with the water rights by the previous owner. Therefore, I showed the 79 acres and a total of .99 cfs. The claim overlaps portions of the decrees, so in Part C there are less acres shown because the lands in the decrees were included first due to their priorities and the remaining acres needed were picked up off the claim. The final outcome in Part C shows the acreages that have been historically irrigated over the years.

Then Mr. Yates wanted to make sure he was covered for 1" per acre on that portion of his ranch which he uses flood waters on. These acreages are shown on the new application. In my calculations, I did miss the 7 acres in the SENE, Sec. 23, which are covered for 5/8ths" per acre. If you minus the .38 cfs on the application that leaves .30 cfs to be filed on, to bring all the acres shown on the application to 1" per acre. Listed below are the calculations showing how .30 cfs was arrived at.

67-0385 and 67-0386 - The 7 acres in the SENE are covered at 5/8ths" per acre under this right, for a total of 0.08 cfs.

67-0404 and 67-0405 - The 24 acres in the NWNE and 8 acres in the SWNE are covered also at 5/8ths" per acre under this right, for a total of .40 cfs.

* 67-4244 - The 12 acres in the NWNE, 10 acres in the SENW, and 8 acres in the N~~1~~SE~~4~~ are covered at 1" per acre under this right, for a total of .60 cfs.

This brings the total already allotted to the same acres on the new application as 1.08. At 1" per acre for 69 acres, they are allowed 1.38 cfs. This leaves .30 cfs to be applied for, to bring to 1" per acre.

MICROFILMED

* THESE ACRES WERE EXCLUDED FROM THE APPLICATION BECAUSE THEY ARE COVERED NOW FOR 1" PER ACRE. HOWEVER, THEY & THE OTHER 39 ACRES ARE THE ONLY HANDS RECEIVING * TO RECEIVE FLOOD WATER FROM HORNET CREEK. *JS*

Water Right No.'s 67-2033 and 67-2035 are for storage rights in Hornet Creek Reservoir, even though a live flow amount is shown. Therefore, since they are for storage, these rights should not be counted in the above calculations.

After all of this is said and done, I feel Mr. Yates was only trying to be legal and show his new point of diversion along with the old and the acres where the water has been historically used and will continue to be used on.

The .14 cfs for the 11 acres in the NENE, S. 23, was withheld from 67-0385 and not pro-rated between 67-0385 and 67-0386 because the 11 acres is the site of the original homestead and should have the earlier priority date.

MICROFILMED

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 67-14604
Date Received: 8/1/2005
Receipt No:
Received By:

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

1. Name of Claimant(s)

DORIS ARMACOST Phone: (208)253-4360

PO BOX 87
COUNCIL ID USA 83612

BRET ARMACOST Phone: (208)253-4360

PO BOX 87
COUNCIL ID USA 83612

2. Date of Priority: 12/31/1899

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	02W	14	SW SE	ADAMS	
17N	02W	23	NW NE	ADAMS	
17N	02W	15	NW SW	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	0.19	

7. Total Quantity Appropriated is:
0.19 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	02W	23	SE	NE	IRRIGATION	21
					Section Acres	21
17N	02W	24	NW	SW	IRRIGATION	13
			SW	NW	IRRIGATION	26
					Section Acres	39
					Total Acres	60

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:

TRANS. 3234.

This right is a split from former right 67-386 .

In August change of ownership on 67-385B and 67-386. I split the water rights based on deed information and the lay of the land. What I didn't take into account was TR 3234.

When I originally split the above water rights, I did not think that any irrigated ground under these claims was applicable to lands on the SW side of Hornet Creek located in the SENE of Section 23. However, TR 3234 clearly defines irrigated ground on the SW side of Hornet Creek. Therefore, 5 acres in the SENE of section 23 should have remained in the name of Yates. In addition, diversion rate distribution for both 67-385B and 67-386 has been corrected. I have corrected the claims. See file for an update split tree and reference map (csaxton 10-26-05).

15. Basis of Claim: Decreed

16. Signature(s)

MEMORANDUM

Date: October 26, 2005

To: File

From: Craig L. Saxton

Re: Change of Ownership for 67-385B and 67-386

In August change of ownership on 67-385B and 67-386. I split the water rights based on deed information and the lay of the land. What I didn't take into account was TR 3234.

When I originally split the above water rights, I did not think that any irrigated ground under these claims was applicable to lands on the SW side of Hornet Creek located in the SENE of Section 23. However, TR 3234 clearly defines irrigated ground on the SW side of Hornet Creek. Therefore, 5 acres in the SENE of section 23 should have remained in the name of Yates.

In addition, diversion rate distribution for both 67-385B and 67-386 has been corrected.

I have corrected the claims. See file for an update split tree and reference map.

Split/Overlap Analysis

Water Right Number: 67-386

Diversion Rate: 0.25 CFS

[illegible]

67-386 (79.0 ac & 0.25 cfs)	67-14603 (19.0 ac & 0.06 cfs)
	67-14604 (60.0 ac & 0.19 cfs)

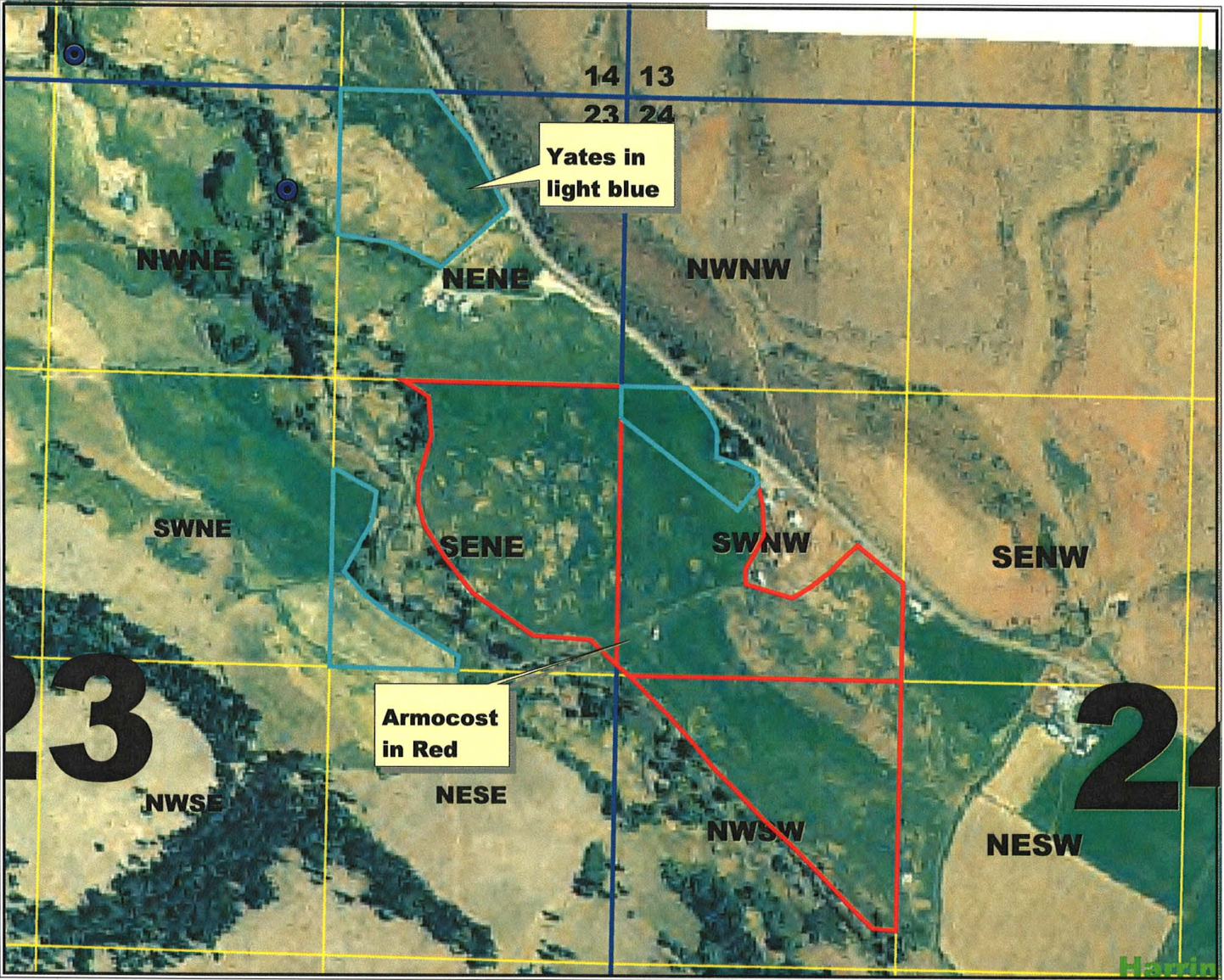
***The original split was done incorrectly. Based on TR 3234 this is how the claim should be split (csaxton 10-26-05)**

Right No:	Rate of Diversion	Irrigated Acres	CFS / Acre
67-386	0.25	79	0.003
67-14603	0.06	19	0.003
67-14604	0.19	60	0.003



State of Idaho

C/O Reference Map
Claim #(s): 67-385B & 386



1320 0 1320 Feet

Claimed Irrigated Acres: N/A
Initial Acres Found: N/A

- Point of Diversion
- Claimed Place of Use
- Tax Lot Property Bndy
- Quarter Quarter Lines
- Section Lines



Prepared By: Craig L. Saxton
Date: October 2005

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 67-14604
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Receipt No:
Received By:

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ACQUIRED UNDER STATE LAW

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COUNCIL ID USA 83612

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COUNCIL ID USA 83612

2. Date of Priority: 12/31/1899

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
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17N	02W	23	NW NE	ADAMS	
17N	02W	15	NW SW	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	0.6	

7. Total Quantity Appropriated is:
0.6 C.F.S.



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

August 1, 2005

BRET AND DORIS ARMACOST
PO BOX 87
COUNCIL ID 83612

RE: Snake River Basin Adjudication (SRBA)
**Notices of Claim to a Water Right #67-14597, 67-14600, 67-14602 and
67-14604**

Dear Claimants:

As a result of buying a portion of the property and water rights from Dean and Everett Harrington and the Yates family, the identification numbers to your water rights have been changed as follows:

<u>From</u>	<u>To</u>
67-4280	67-14597
67-382	67-14600
67-385B	67-14602
67-386	67-14604

Please use the new numbers in future inquiries or correspondence you may have with our Department.

Enclosed are copies of your water right claims. Please retain these copies for your file.

If your mail delivery address changes in any form, please contact us in writing so we can update our records to assure you receive important notices concerning your claims.

Thank you for your patience and cooperation. We have had several water right changes to process. Please call me at 1/800-451-4129 if you have any questions or concerns.

Sincerely,

Sally Sherman
Technical Records Specialist
Adjudication Bureau

SS:region

Enclosures:

Copies of Notices of Claim Referenced Above

SCANNED

AUG - 1 2005