

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

1

Shaff, Don

From: Casey_O'Brien@blm.gov
Sent: Thursday, February 24, 2005 12:59 PM
To: Shaff, Don
Cc: Fred_Price@blm.gov
Subject: Re: 34-13678



34-13678Comp
Map.jpg



34-13678GPS
Map.jpg



34-13678pictures.j
pg

Don,

I hope this email and the attached maps and pictures clear up the confusion.

Fred and I have revisited the claim file for 34-13678. Fred used BLM's original claim map to determine that there was in fact three separate springs in the same 10 acre tract (SWSWSW) of section 29. The BLM withdrew spring claim 34-12872 (Spring #5 on Comp. Map) and 34-12873 (Spring #7 on Comp. Map). Water right 34-13678 is a good spring claim that has been verified by GPS (see attached GPS Map and Pictures).

Claim number 34-13678 is associated with claim number 34-02519 as stated in the original Notice of Claim. Alan Bittner's field verification of 34-13678 with GPS discovered an error in the location of 34-02519. The PODs and POU's described in 34-13678 are correct and are not associated with any other claim other than 34-02519. Alan Bittner will need to file a transfer to amend 34-02519 at a later time. The location error contained in 34-02519 does not affect the validity of 34-13678. The location of 34-02519 was determined with U.S.G.S. topographic maps during the licensing process, which is not as accurate as GPS. Perhaps 34-02519 is a candidate for a GPS Assisted License Amendment?

(See attached file: 34-13678Comp Map.jpg) (See attached file: 34-13678GPS Map.jpg) (See attached file: 34-13678pictures.jpg)

Thanks,
Casey

"Shaff, Don"
<Don.Shaff@idwr.
idaho.gov>

02/23/2005 11:23
AM

"Casey O'Brien (E-mail)"
<Casey_O'Brien@blm.gov>, "Fred Price
(E-mail)" <fred_price@blm.gov>

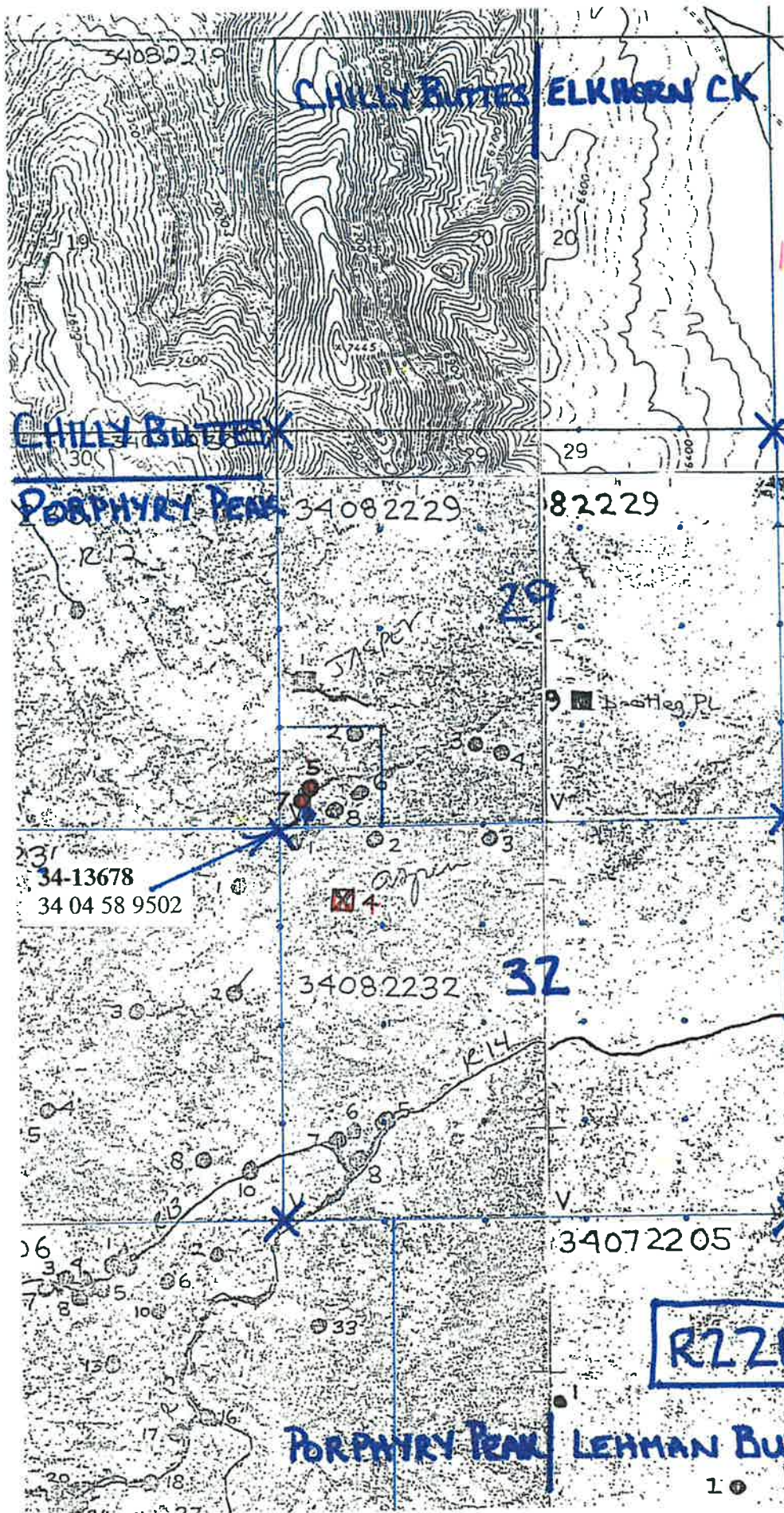
To

cc

Subject

34-13678

Good day gentlemen,
You can probably help resolve my confusion with Claim 34-13678
(3404589502).
Decreed right 34-2519 to which the claim in claim is presumably associated
has a POD and POU in the next QQ south of this claim. Additionally,
earlier
claims in the same QQQ under 34-12872 (State law), 34-12872A (PWR107),
34-12873 (State law), and 34-12873A (PWR107) were all withdrawn by BLM and
decreed disallowed. Explain to me how 34-12678 is something different.
Thanks,
Don Shaff
don.shaff@idwr.idaho.gov
208-287-4921



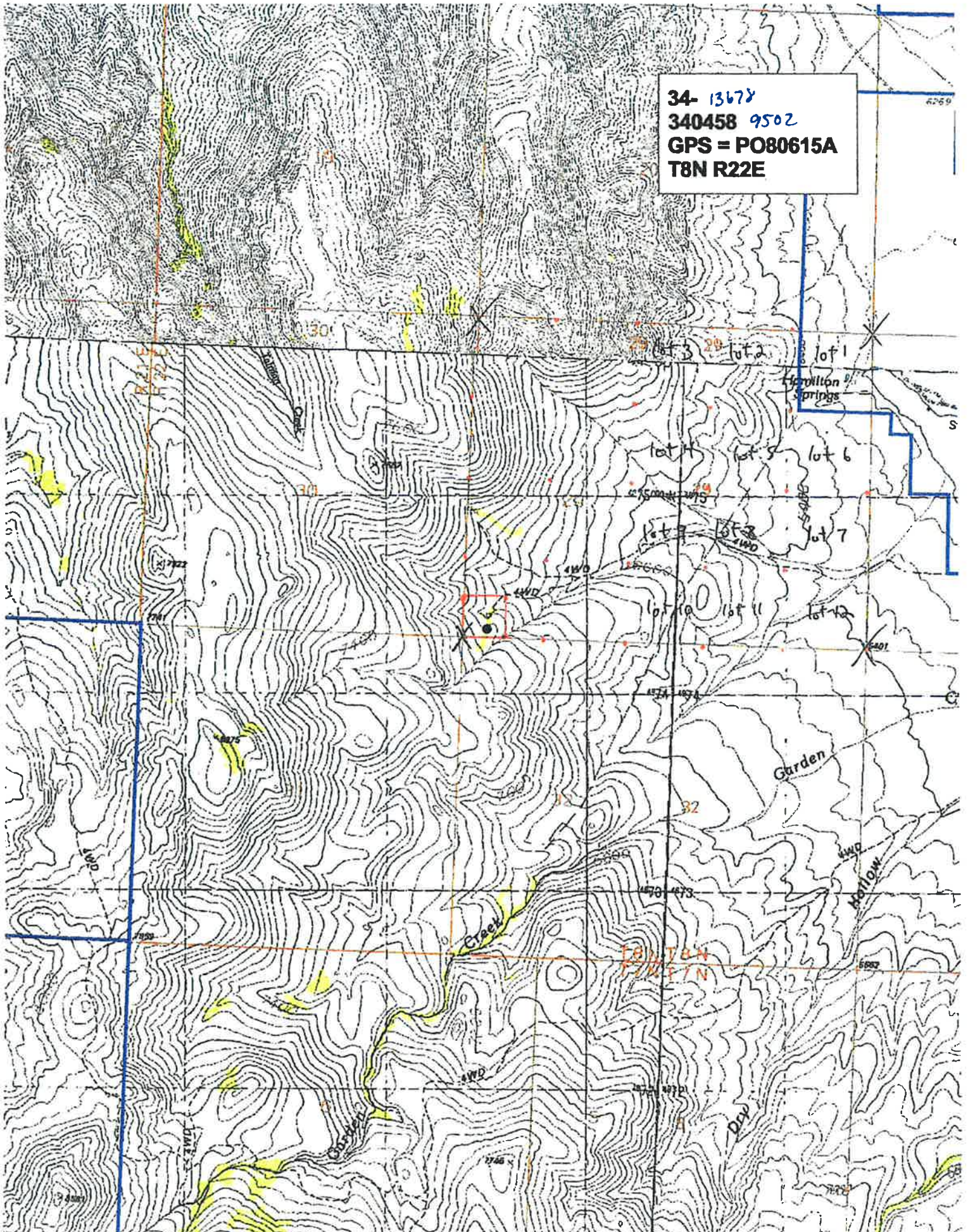
T08N R22E S29:

1	34 04 58 3237	34-12840
	34 04 58 8086	34-02600
2	34 04 58 3238	34-12841
3	34 04 58 3242	34-12845
4	34 04 58 3241	34-12844
5	34 04 58 3269	34-12872
6	34 04 58 3239	34-12842
7	34 04 58 3270	34-12873
8	34 04 58 3240	34-12843
9	34 04 58 8083	34-02597

T08N R22E S32:

1	34 04 58 3244	34-12847
2	34 04 58 3236	34-12839
3	34 04 58 3243	34-12846
4	34 04 58 8005	34-02519
5	34 04 58 3245	34-12848
6	34 04 58 3246	34-12849
7	34 04 58 3247	34-12850
8	34 04 58 3248	34-12851
R1	34 04 58 3774	34-13376
R13	34 04 58 3772	34-13374
R14	34 04 58 3773	34-13375

34-13678
340458 9502
GPS = PO80615A
T8N R22E





34-13678



☒ ☐ ☐ IN THE DISTRICT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN
AND FOR THE COUNTY OF TWIN FALLS
In Re SRBA PPD?: PD?: Adm?: Prob?: ☐
Case No. 39576

LC

AMENDED NOTICE of CLAIM for
Water Right number:

3413678 (IDWR number)

NAME and
ADDRESS

United States of America acting through
Bureau of Land Management
Idaho State Office
1387 South Vinnell Way
Boise, ID 83709 - 1657

BLMIDENT: Stg: StFed:

3404589502 J X

WATER FEDERALLY
RESERVED, SEE
REMARKS

Other Right and date:

SOURCE:

Source	Tributary
SPRING	SINKS

QUANTITY:

0.02 CFS or VOLUME: Acre Feet

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

PRIORITY DATE:

06/28/1934 Diversion Means: UNDEVELOPED SPRING

REMARKS:

Also reserved pursuant to Federal law
PURSUANT TO EXECUTIVE ORDER DATED 04/17/1926 AND KNOWN AS PWR 107. LOCALLY
KNOWN AS ASPEN SPRING. ASSOCIATED WITH 34-02519

POINT of
DIVERSION:

Twntship	Range	Section	T1	T2	T3	LOT	B/E	within the	County of
08N	22E	29	SW	SW	SW			37	CUSTER

PURPOSE
and
PERIOD
OF USE:

Purpose of Use	Period of Use (from - to):	Rate in CFS	or	Volume in AcFt
00	0101	1231	0.02	

CONSUMPTIVE
USE:

de minimis stockwater

DATE: 02-Jan-02

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

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

PLACE
of USE:

Water Use	Twtn	Rge	Sec	T1	T2	LOT	within the	County of
04	08N	22E	29	SW	SW		37	CUSTER

RECEIVED

DEC 03 2002

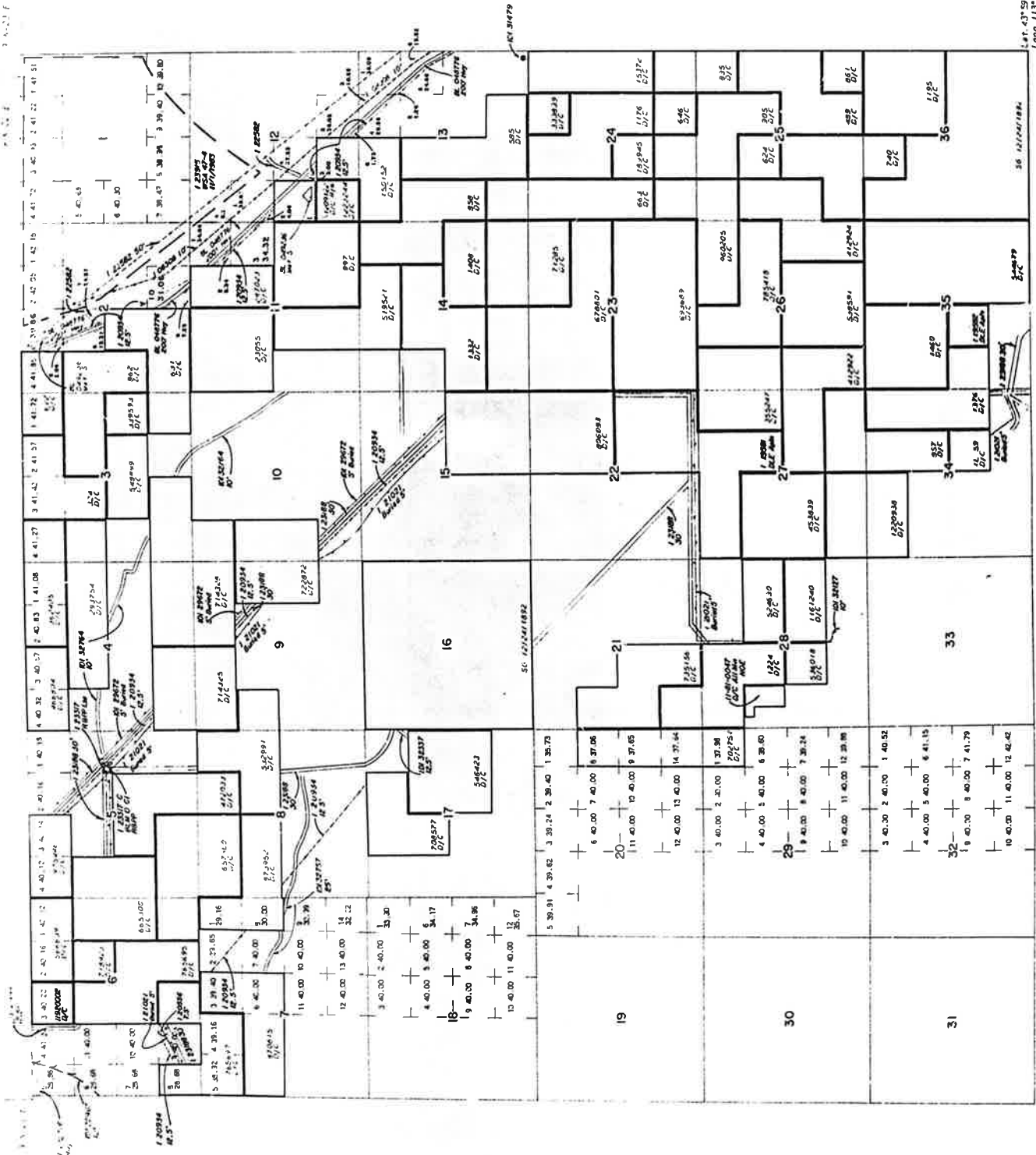
STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES

CUSTER	COUNTY	037
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2015-11-11 14:51:17 407075

MT PLAT

INDEX TO SEGREGATED TRACTS				
IN SURVEY		ORIGINAL SURVEY		
TRACT NO	T	R	SEC	SUBDIVISION

**WARRIOR STATEMENT**

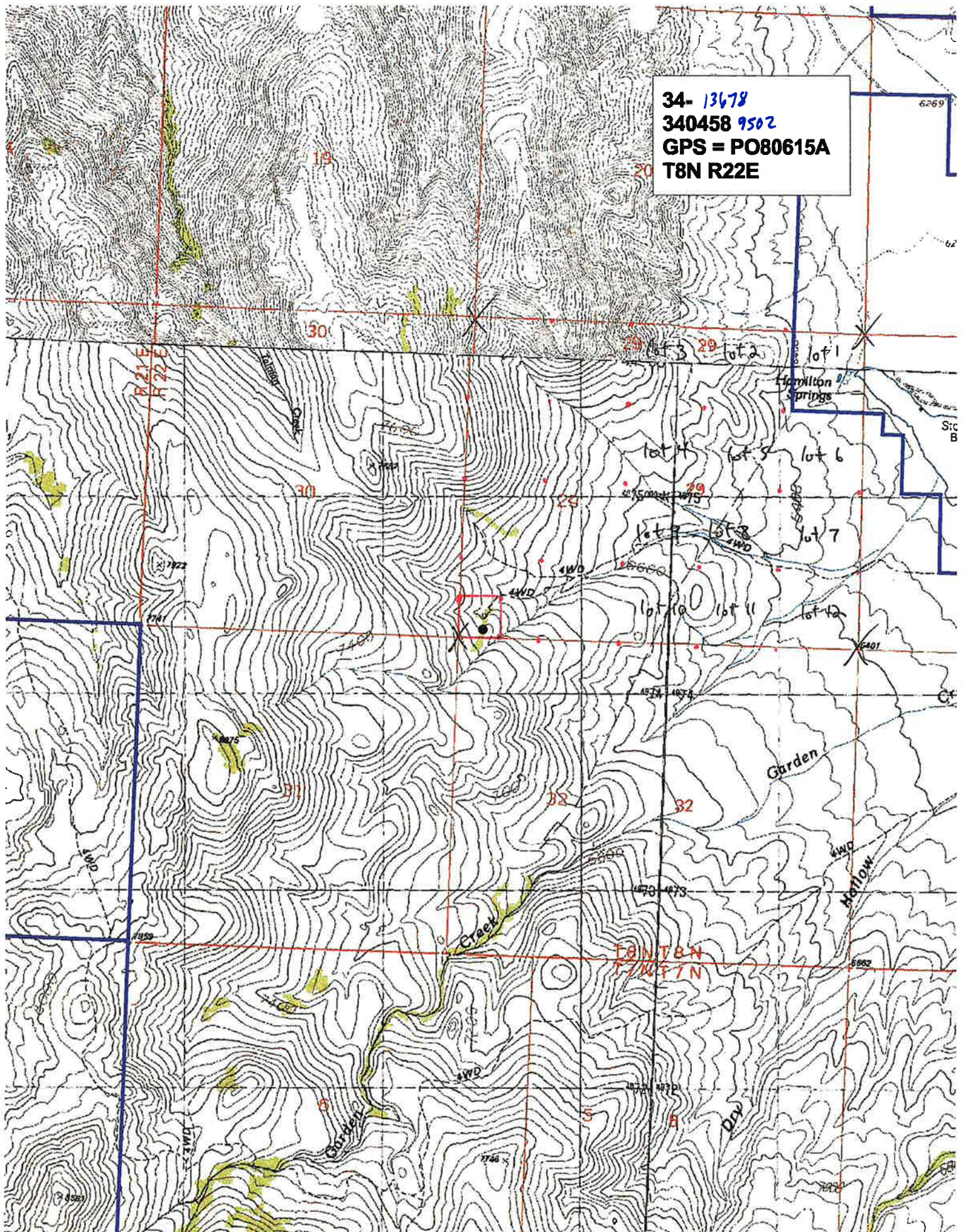
THE NOTATION SHOWN ON WITHDRAWALS REPRESENT THE LAST ACTION TAKEN BUT MAY NOT BE THE EFFECTIVE DATE. SEE THE HISTORICAL INDEX FOR THE DATE OF THE ORIGINAL WITHDRAWAL ORDER

Source	df	SS
T	1	1.00
R	2	1.00

SCALE IN CHAINS

10 20 30

34- 13678
340458 9502
GPS = PO80615A
T8N R22E



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

In Re SRBA

)

SUBCASE NO: 34-13678

)

(Insert Water Right Number)

)

Case No. 39576

)

STANDARD FORM 4

)

)

MOTION TO FILE:

)

☒ **LATE NOTICE OF CLAIM**

)

☐ **AMENDED NOTICE OF CLAIM**

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a separate form for each late or amended Notice of Claim.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

☒ I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is: United States of America, acting through the
Department of Interior,
Bureau of Land Management,
Idaho State Office

My address is: 1387 South Vinnell Way
Boise, Idaho 83709-1657

My phone number is: Work: (208) 373-4000 Home: same

I am an attorney representing:
United States of America, acting through the
Department of Interior,
Bureau of Land Management,
Idaho State Office

My name is: Larry A. Brown

My address is: U.S., Department of Justice
Environment and Natural Resources Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724

My phone number is: (202) 305-0435
(202) 305-0274 Fax

MOTION TO FILE A LATE NOTICE OF CLAIM

- ☒ I did not file a Notice of Claim to the use of water in the SRBA because:
Recent field investigations and/or review of BLM documentation revealed a need
to make this additional claim.
- ☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or
stock watering use. I desire to reinstate my Notice of Claim for domestic or
stockwatering use.
- ☒ I am providing legal and factual documentation for my claimed use of water. You must
describe these documents and attach a readable copy. (You do not need to fill this out if
you are reinstating a Notice of Claim for domestic or stock watering use, but you **must**
attach a copy of your Notice of Claim.)
See attached notice of claim and supporting self-explanatory documentation.

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$_____.
n/a
- ☐ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a Notice of Claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources (IDWR) in the amount of \$_____.
n/a

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on May 21, 2002, 1:30 pm.
(Insert Date and Time)

at the SRBA Courthouse, 253 Third Avenue North, Twin Falls, Idaho.

VERIFICATION (Must be completed)

State of Idaho

County of Ada

Gary A. Madenford, Water Rights Team Leader, being first duly sworn, upon
(Insert name of person filing form)
oath, deposes and says:

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Larry A. Wardenford
Signature of person filing motion

Larry G. Brown
Attorney signing in representative capacity

STATE OF IDAHO)
) ss:
COUNTY OF ADA)

Subscribed and sworn to before me on this 31st day of January 2002



Seal

Dorinda C Buck
Notary Public in and for the State of : Idaho

Date: January 31, 2002

Residing at: Mountain Home, Idaho

My Commission Expires: December 21, 2005

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on Feb. 8, 2002 I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

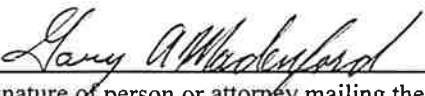
2. Copies to:

IDWR Document Depository
P. O. Box 83720
Boise, Idaho 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

United States, Department of Justice
Environment and Natural Resources Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or Special Master, you must serve a copy on all parties to that subcase.


Signature of person or attorney mailing the form

Water Right Number 34-13678

Signature:

(a.) By signing below, I acknowledge that I have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I do ___ do not **X** wish to receive and pay a small annual fee for monthly copies of the docket sheet.

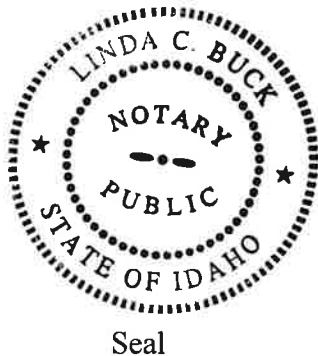
Number of attachments 3

I do solemnly swear or affirm that I am the Water Rights Team Leader
Title
of the United States of America, acting through U.S.D.I., BLM, that I have signed the foregoing
documents in the space below as Water Rights Team Leader of the United States of
Title
America, acting through U.S.D.I., BLM, and that the statements contained in the foregoing
documents are true and correct.

Signature of Authorized Agent Gary A. Madenford
for the United States of America, acting through U.S.D.I., BLM January 31, 2002
Date

STATE OF IDAHO)
) ss:
COUNTY OF ADA)

Subscribed and sworn to before me on this 31st day of January 2002




Notary Public in and for the State of : Idaho

Date: January 31, 2002

Residing at: Mountain Home, Idaho

My Commission Expires: December 21, 2005

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

In Re SRBA

PPD?: ☒ PD?: ☐ Adm?: ☐ Prob?: ☐

Case No. 39576

LC

Fwp

AMENDED NOTICE of CLAIM for
Water Right number:

3413678 (IDWR number)

NAME and
ADDRESS

United States of America acting through
Bureau of Land Management
Idaho State Office
1387 South Vinnell Way
Boise, ID 83709 - 1657

CS

BLMIDENT:

Stg: StFed:

3404589502

J

X

WATER FEDERALLY
RESERVED, SEE
REMARKS

Other Right and date:

SOURCE:

Source Tributary

SPRING

SINKS

QUANTITY:

0.02

CFS

or VOLUME:

Acre Feet

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

PRIORITY DATE:

06/28/1934

Diversion Means: UNDEVELOPED SPRING

REMARKS:

Also reserved pursuant to Federal law

PURSUANT TO EXECUTIVE ORDER DATED 04/17/1926 AND KNOWN AS PWR 107. LOCALLY
KNOWN AS ASPEN SPRING. ASSOCIATED WITH 34-02519

POINT of
DIVERSION:

Twndship Range Section T1 T2 T3 LOT B/E within the County of

08N 22E 29 SW SW SW 37 CUSTER

PURPOSE
and
PERIOD
OF USE:

Purpose of Use Period of Use (from - to): Rate in CFS or Volume in AcFt

00 0101 1231 0.02

CONSUMPTIVE
USE:

de minimis stockwater

DATE: 02-Jan-02

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

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

PLACE
of USE:

Water Use Twnd Rge Sec T1 T2 LOT within the County of

04 08N 22E 29 SW SW 37 CUSTER

TOWNSHIP 8 NORTH RANGE 22 EAST OF THE BOISE MERIDIAN, IDAHO

CUSTER COUNTY 037

STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES

MT PLAT

INDEX TO SEGREGATED TRACTS
TRACT NO. ORIGINAL SURVEY
SUBDIVISION

35

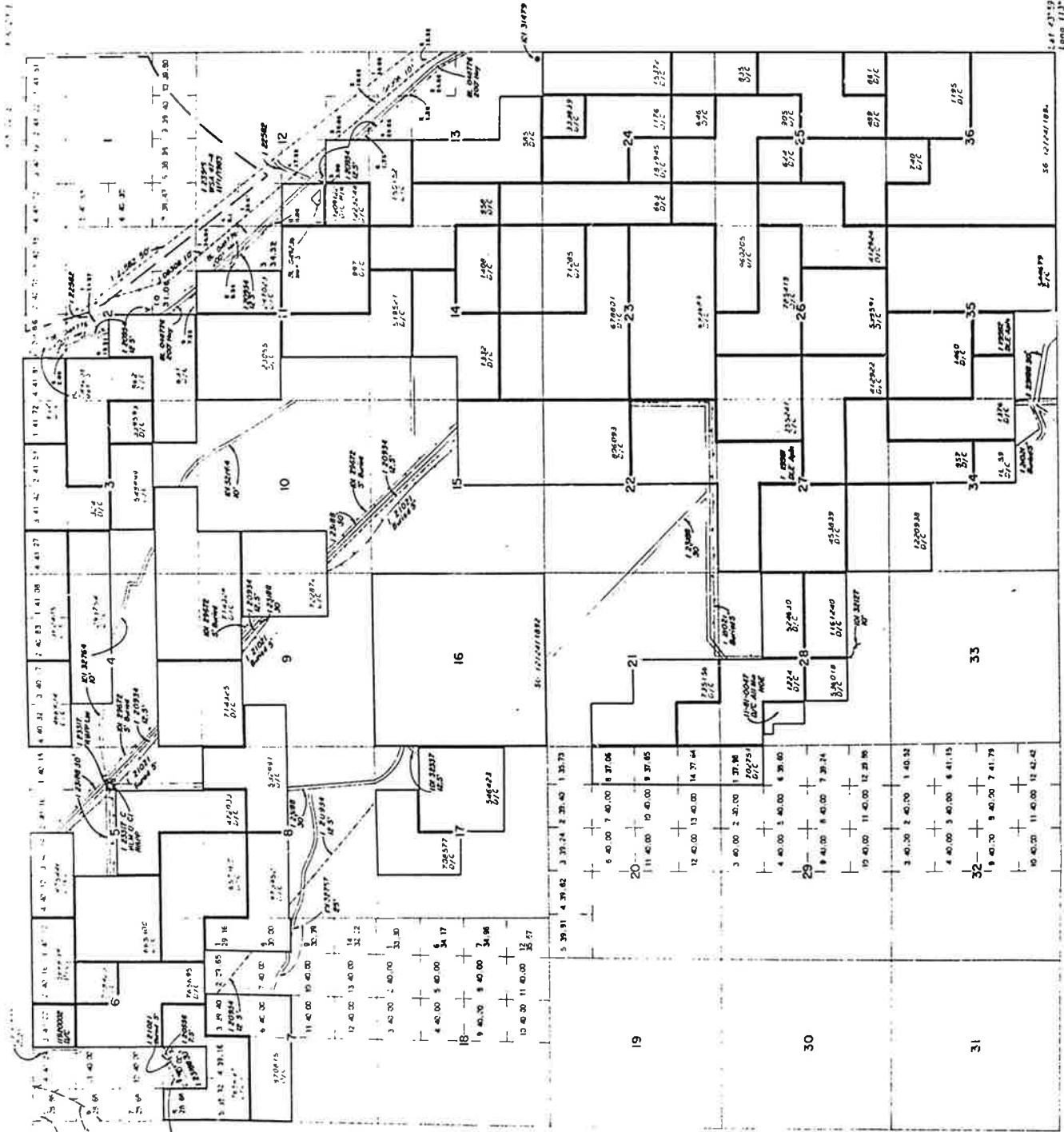
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THE NOTATION SHOWN ON WITHDRAWALS REPRESENTS THE LAST
ACTION TAKEN BUT MAY NOT BE THE EFFECTIVE DATE. SEE
THE HISTORICAL INDEX FOR THE DATE OF THE ORIGINAL WITH-
DRAWAL ORDER

SCALE IN FEET
0 50 100 200

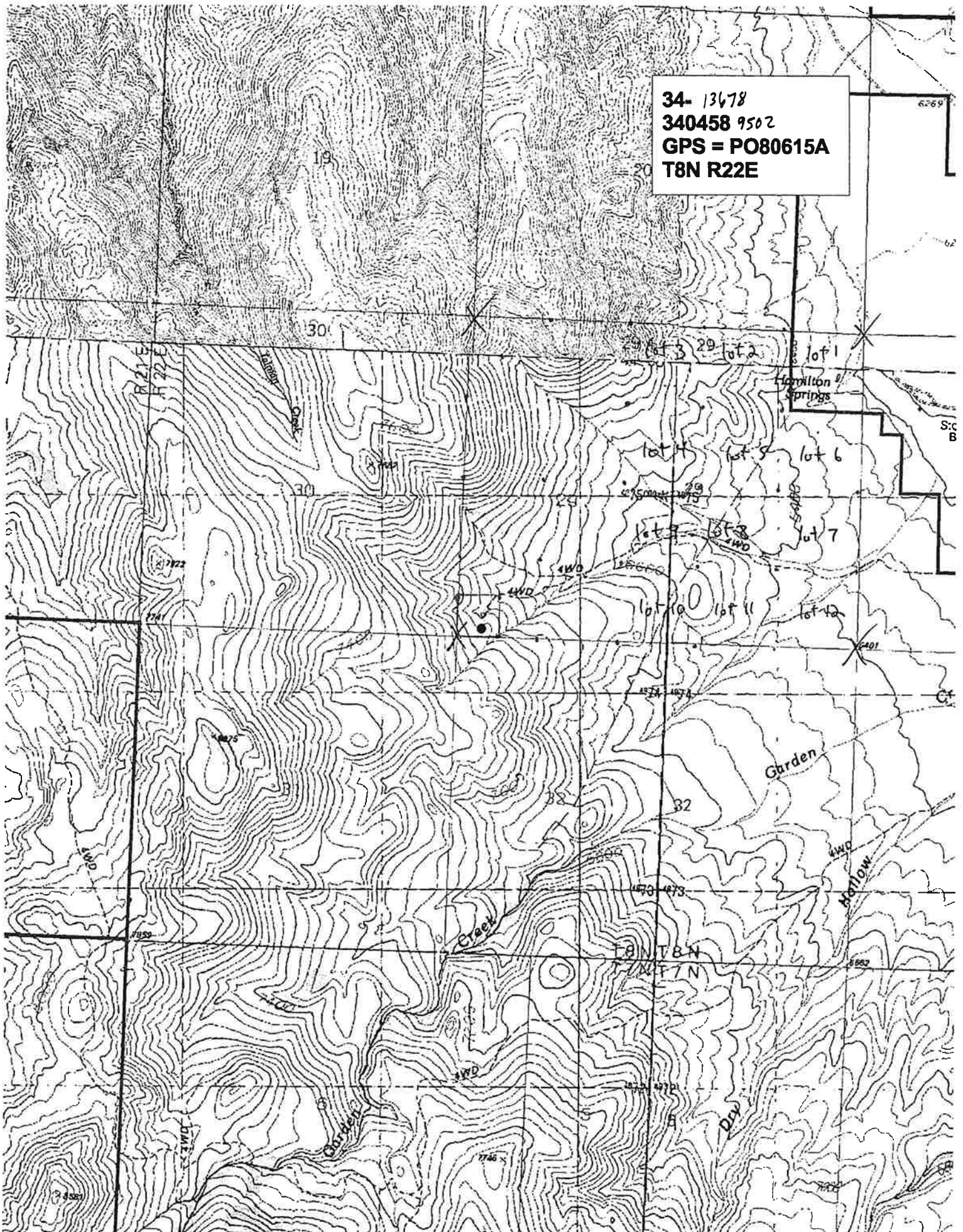
FOR ORDERS EFFECTING DISPOSAL OR USE OF
UNIDENTIFIED LANDS REFER TO INDEX OF
MISCELLANEOUS DOCUMENTS

CURRENT TO
FEB - 7 2000

USE PLATS

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34- 13678
340458 9502
GPS = PO80615A
T8N R22E



RECEIVED

JUL 16 2002

Department of Water Resources

2002 JUL 12 PM 3:46

DISTRICT COURT-SREA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA

Case No. 39576

) Subcase Numbers: See Attached Exhibit A
)
) **ORDER DENYING STATE OF**
) **IDAHO'S MOTION FOR AN ORDER**
) **DENYING LEAVE TO FILE LATE**
) **NOTICES OF CLAIM IN BASIN 34**
)
) **AND GRANTING UNITED STATES'**
) **MOTIONS TO FILE LATE NOTICE OF**
) **CLAIM**

The United States filed Motions to File Late Notice of Claim in each of the above-referenced subcases. The State of Idaho filed a Motion for an Order Denying Leave to File Late Notice of Claim in Basin 34 and Requiring a Status Report and a Brief in Support of Motion Re Stock Watering Claims in the above-captioned subcases. The United States filed a Memorandum in Opposition to the State of Idaho's Motion. Oral argument was heard by the Court on June 18, 2002. Having reviewed the record herein and hearing the argument of counsel, and the Court being fully informed, it is hereby

ORDERED that the State of Idaho's Motion for an Order Denying Leave to File Late Notice of Claim is **DENIED**.

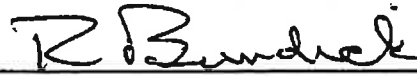
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//

PAGE 1 - **ORDER DENYING STATE OF IDAHO'S MOTION FOR AN ORDER DENYING LEAVE TO FILE LATE NOTICES OF CLAIM IN BASIN 34 AND REQUIRING A STATUS REPORT AND GRANTING UNITED STATES' MOTIONS TO FILE LATE NOTICE OF CLAIM**

IT IS FURTHER ORDERED that the United States' Motions to File Late Notice of Claim
are GRANTED.

DATED this 12th day of July, 2002.



Roger S. Burdick
Presiding Judge
Snake River Basin Adjudication

Submitted by:



Larry A. Brown
Of Attorneys for the United States

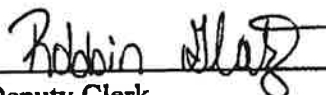
CERTIFICATE OF SERVICE

I certify that on July 12, 2002, I served a true and correct copy of the foregoing **ORDER DENYING STATE OF IDAHO'S MOTION FOR AN ORDER DENYING LEAVE TO FILE LATE NOTICES OF CLAIM IN BASIN 34 AND REQUIRING A STATUS REPORT AND GRANTING UNITED STATES' MOTION TO FILE LATE NOTICES OF CLAIM** by placing the documents in the United States Mail in Twin Falls, Idaho, postage paid, and addressed as follows:

U.S. Department of Justice
General Litigation Section
Environment and Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

Mr. David J. Barber
Deputy Attorney General
Office of the Attorney General
Natural Resources Division
State of Idaho
P.O. Box 44449
Boise, ID 83720-0098

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098



Deputy Clerk

EXHIBIT A

Subcase Numbers:

34-13676
34-13677
34-13678
34-13679
34-13681
34-13682
34-13683
34-13684
34-13685
34-13686
34-13687
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34-13690
34-13691
34-13692
34-13693
34-13694
34-13695
34-13696
34-13697
34-13698
34-13699
34-13700
34-13701
34-13702
34-13703
34-13704
34-13705
34-13706

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

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 34-02519

1998 JAN 15 PM 1:32

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME & ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709

SOURCE: ASPEN SPRING NO. ONE TRIBUTARY: GARDEN CREEK

QUANTITY: 0.01 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 01/24/1942

POINT OF DIVERSION: T08N R22E S32 NWNW Within CUSTER County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	STOCKWATER	01-01 12-31	0.01 CFS

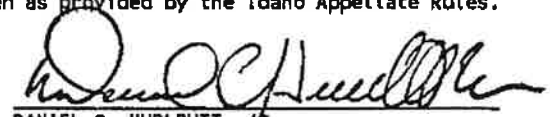
PLACE OF USE: STOCKWATER Within CUSTER County
T08N R22E S32 NWNW

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication