

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: A37-00343A
Date Received: 11/29/1989
Receipt No: CQ13104
Received By: SS

RECEIVED

JUN 13 1990

Department of Water Resources
Southern Region Office

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: EMMA M. BENNETT 208-764-2398
Address: BOX 120
HILL CITY, ID 83337
OR
Name: PAT BENNETT 208-764-2398
Address: BOX 113
HILL CITY, ID 83337

2. Date of Priority: MAY 01, 1889

3. Source: DYER CREEK Trib. to: MALAD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
01S	11E	32			ELMORE

5. Description of diverting works:
DITCHES AND FLOOD IRR.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	1.600		

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

8. Total consumptive use is 200.0 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER INCIDENTAL TO IRRIGATION

MICROFILMED
FEB 22 1993

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
01S	11E	33	NW	SW		IRR	40.0
			SW	SW		IRR	40.0
Section Acres							80.0
Total Acres							80.0

11. Place of use in counties: ELMORE

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

13. Other Water Rights Used:
NONE

14. Remarks:
AC. IRRIG. NOT SPECIFIED. FARM = 240 AC.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

S. C. FROST, ET. AL.
Decree Plaintiff

vs

ALTURAS WATER COMPANY, ET. AL.
Decree Defendant

16. Signature(s)

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

Number of attachments: 1

For Individuals:

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

Signature of Claimant(s): Pat Bennett Date: 11-29-89
_____ Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 29th day
of Nov. 19 89 David E. Smith
Notary Public

Seal

Residing at Boise, ID
My Commission Expires 11/08/1994

Emma + Elmer Bennett

Strom Ranch
Sec.

29 22
32 33

Emma + Elmer Bennett

P.O.

X

IRR 40 Ac.

Strom Ranch, Inc.

P.O.

X

IRR 40 Ac.

32 33
5 4

Lot 4

41.26 A.

Lot 3

41.36 A.

Lot 2

41.46 A.

Lot 1

Emma + Elmer Bennett

Strom Ranch, Inc.

MICROFILMED
FEB 22 1993

MICROFILMED
FEB 22 1993

02/20/2009

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

ADR

RIGHT NUMBER: 37-343A

NAME AND ADDRESS: VICKIE BENNETT
BOX 113
HILL CITY ID 83337

PAT BENNETT
BOX 113
HILL CITY ID 83337

SOURCE: MALAD RIVER

TRIBUTARY: CAMAS CREEK

QUANTITY: 1.460 CFS

PRIORITY DATE: 05/01/1889

POINT OF DIVERSION:

T01S R11E S32 NENWSE Within ELMORE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

1.460 CFS

PLACE OF USE:

IRRIGATION in ELMORE County

T01S R11E S33

NWSW

37.50

T01S R11E S33

SWSW

35.50

73 ACRES TOTAL

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

37-343A

The figure is an aerial photograph of a study area, overlaid with a grid. The grid is labeled with coordinates: R11E, T01S, T02S, and R11E. The map shows a river network and a yellow outline defining a specific area. The area is divided into sections labeled SENE, SWNW, NESE, NWSW, NESW, SESE, SWSW, and SESW. A yellow dot is located in the SENE section. The numbers 32, 33, 5, and 4 are also present on the map.

0 0.05 0.1 0.2 Miles

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



AMENDED CLAIM

WATER RIGHT NO. 37-4359

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	PAT BENNETT
Current Owner	VICKIE BENNETT
	BOX 113
	HILL CITY, ID 83337
	(208) 539-9115
Original Owner	EMMA MALCOMSON BENNETT
	PO BOX 120
	HILL CITY, ID 83337-0120
	(208)764-2398

Priority Date: ~~07/01/1915~~ 10-9-1905

Basis: Statutory Claim

Status: Active

<u>Source</u>	<u>Tributary</u>
SPRING	MALAD RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	4/15	10/15	4.2 CFS	
Total Diversion			4.2 CFS	

Location of Point(s) of Diversion:

SPRING	SESW	Sec. 28	Township 01S	Range 11E	ELMORE County
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Place(s) of use:

Place of Use Legal Description: IRRIGATION ELMORE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
01S	11E	28		SWSW	10		SESW	40						
		33		NWNE	15		SWNE	20						
				NENW	40		NWNW	30		SWNW	15		SENE	40

Total Acres: 210

Dates:

Licensed Date:

Claim Received Date:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal: S

Owner Name Connector: AND/OR

Water District Number: 37

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

2/4/09 STATUS CONF. 2:30 pm
37-2144 part of Bennett's?

No Disputes

FROST
DECREE
12-13-1909

Amendment sent 2/2/09

ADR = 2/27/09

OBJ = 3/27/09

? File Late Claim?
37-2028

SF4 = may show wrong Owners
must have Amended

final
SF5 & ADR
sent to VK
2/20/09

fxh@haemlw.com phone: 578-0520

2/19/09: 1) Where are the Amended
Claims?

2) Priority Dates:
must be after Frost Decree
(12-13-1909)

05/31/2006

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

RIGHT NUMBER: 37-343A
NAME AND ADDRESS: PAT BENNETT
BOX 113
HILL CITY ID 83337
EMMA MALCOMSON BENNETT
PO BOX 120
HILL CITY ID 83337-0120

SOURCE: DYER CREEK *MALAD* ✓
QUANTITY: 0.440 CFS *> 1.46* ✓
PRIORITY DATE: 05/01/1889
POINT OF DIVERSION: T01S R11E S32 NENWE Within ELMORE County ✓ *GIS link*

TRIBUTARY: CAMAS CREEK

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
04/15 10/31

QUANTITY
0.440 CFS *> 1.46* ✓

PLACE OF USE: IRRIGATION Within ELMORE County

T01S R11E S33 NWSW 22.00

> 73.0 AC (new shp.) ✓

22 ACRES TOTAL

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Bennett 37-343A draft

1 1/4 / AC.

Clelland, Steve

From: Clelland, Steve
Sent: Thursday, January 29, 2009 1:49 PM
To: 'fxh@haemlaw.com'
Cc: Kelly, Vicki; Clelland, Steve
Subject: Pat Bennett claims SF5 drafts

Attachments: 37-4359_01.jpg; 37-343a_01.jpg; 37-2158_01.jpg; 37-4343_01.jpg; Bennett 37-4359 draft SF5.doc; Bennett 37-343A draft SF5.doc; Bennett 37-2158 draft SF5.doc; Bennett 37-4343 draft SF5.doc

Hi Fritz,

I went ahead and drafted the whole package for Pat Bennett's 4 claims.

I think we were in agreement on all the elements shown here. There is the need to Amend the Priority Date on claim 37-4359. It is entered in the data base as we agreed, 10-9-1905.

Let me know if you have changes to be made.

Steve



37-4359_01.jpg (2 MB)



37-343a_01.jpg (2 MB)



37-2158_01.jpg (2 MB)



37-4343_01.jpg (2 MB)



Bennett 37-4359 draft SF5.doc ...



Bennett 37-343A draft SF5.doc ...



Bennett 37-2158 draft SF5.doc ...



Bennett 37-4343 draft SF5.doc ...

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ Name and Address

Should be: _____

2. ☐ Source

Should be: 0.44 2.06 2.76 0.35

3. ☒ Quantity

Should be:

37-343A	37-4343	37-4359	37-2158
1.600 CFS	2.400 CFS	4.200 CFS	1.000 CF

4. ☒ Priority Date

Should be:

37-4343	37-4359
7-1-1903	7-1-1915

5. ☐ Point(s) of Diversion

Should be: 4-20-1928 4-20-1928

6. ☐ Instream Flow Description

Should be: Pat Bennett

7. ☐ Purpose(s) of Use

Should be: 8/15/08

8. ☐ Period of Year

Should be: 764-2216 (H)

9. ☐ Place of Use

Should be: 539-9115 (C)
764-2611 (W)

11. I object because:

☐ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S): This is the amount on the original water rights. I know as the summer goes on the amount of water available may go down on dry years. If the flow is up to the original water right I think we should be entitled to it.

EDITS
TO DO

274.3
PPH.

159.3
AC.

115 AC.

-4359

-4343

73 AC

-2158
69 AC

37-343A

~~Bennett~~
Bennett



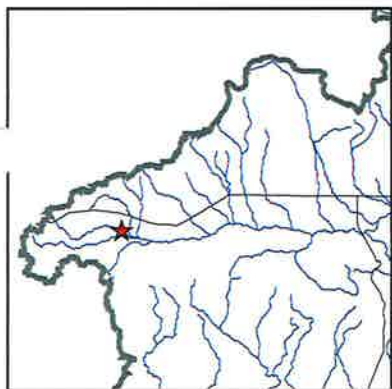
Idaho Department of Water Resources

SRBA Recommendation:

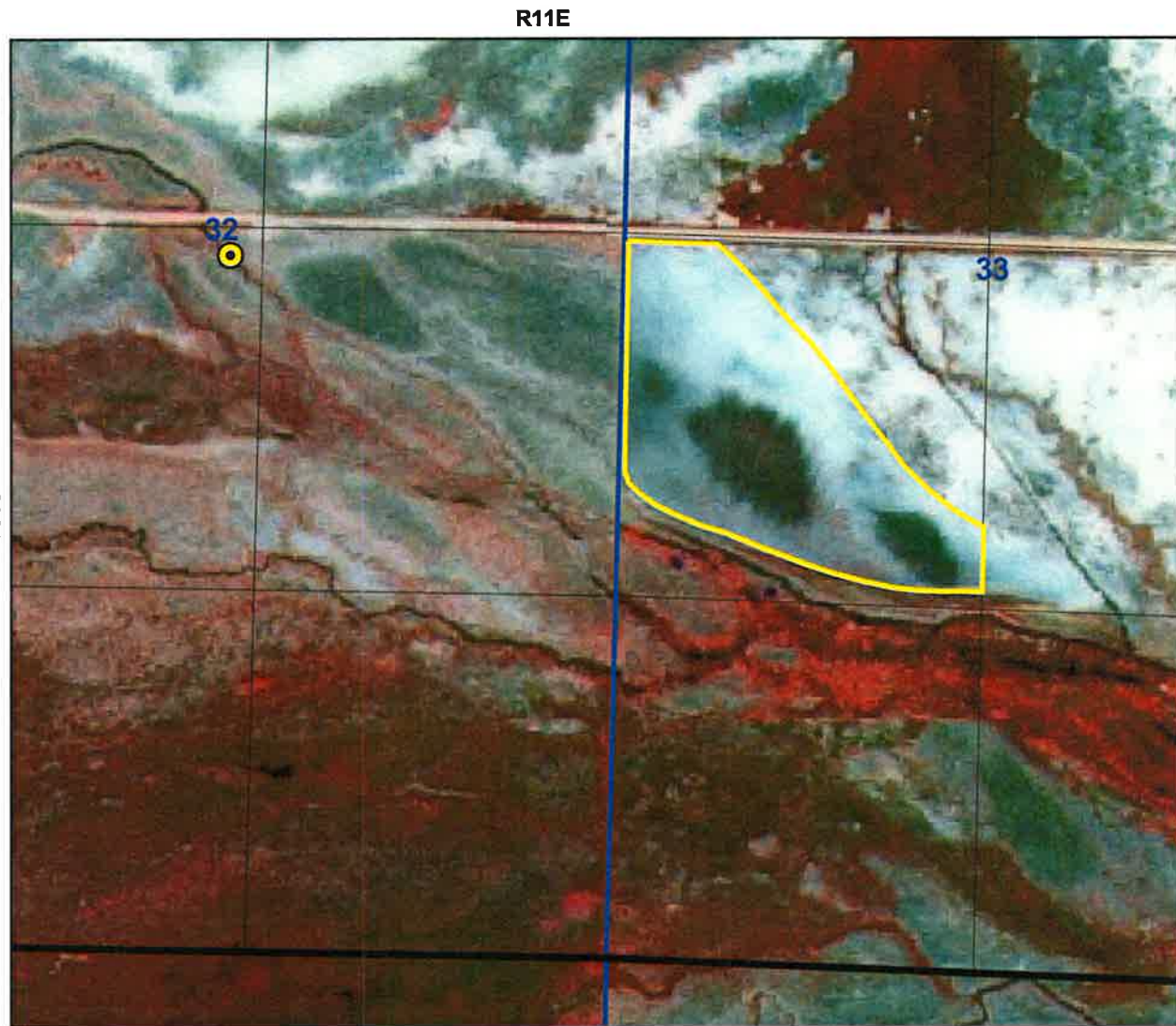
37-343A

Legend

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



Elmore County
IDWR Basin 37



0

0.25 Miles

Prepared by M. Anders
On Wednesday, May 31, 2006
1987/88 Aerial Photography

Adjudication Claim Notes

Claim(s): 37-343A

Background Data

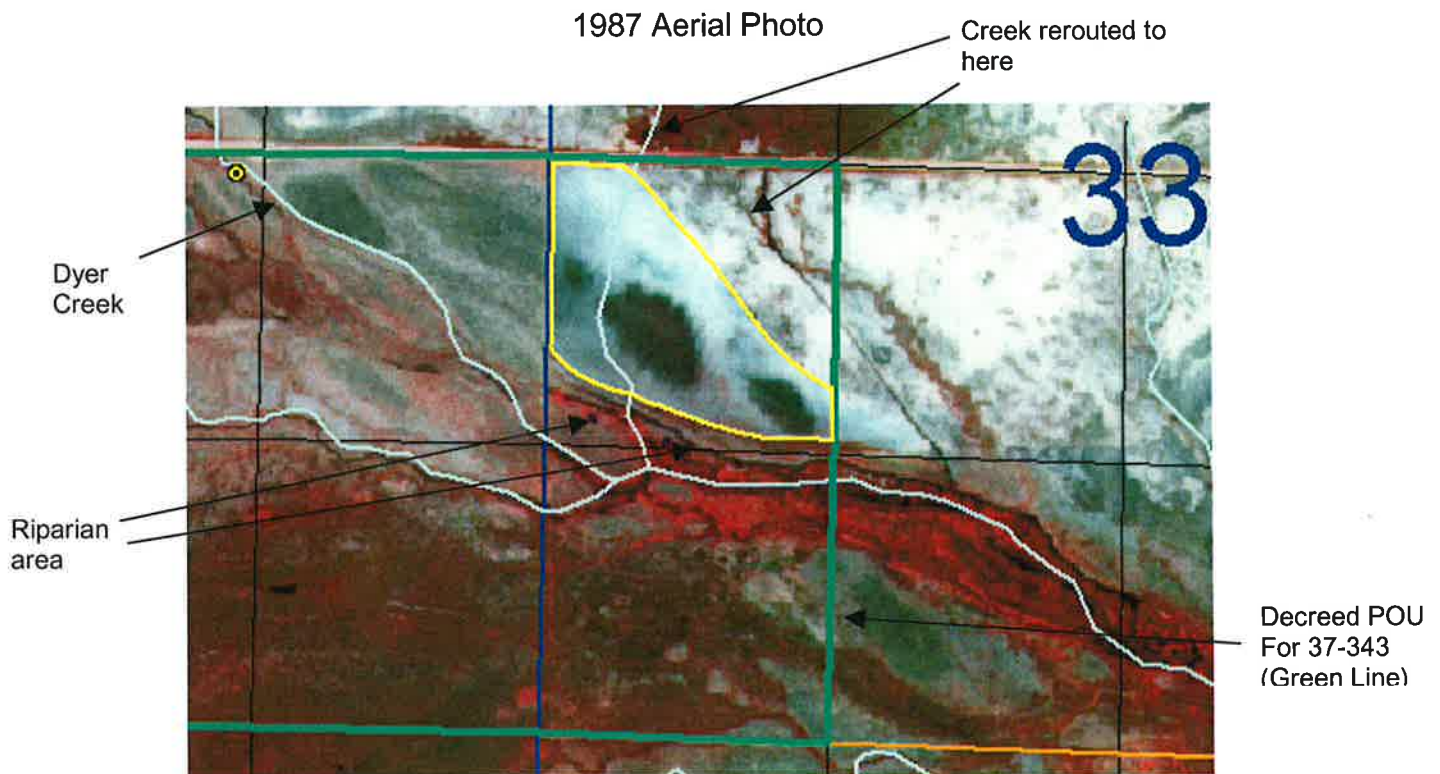
- Source is Dyer Creek tributary to Malad River *← Comas Creek*
- 37-343 originally decreed for 4.8 cfs on 6 QQ
- SRBA claims:
 - 37-343A claimed 1.6 cfs for Irrigation of 80 acres

Place Of Use Data

Yellow line is the draft Place of Use created by IDWR based on historical data and records.

Yellow dot is draft Point of Diversion created by IDWR based on historical data and records.

Green line is decreed/licensed POU (this may only represent the Quarter-Quarter sections of the decree/license)



Notes

T1S R11E Section 33

- Found 22 acres for Irrigation. Land between draft POU and Dyer Creek appears to be riparian and not irrigated. Most of SWSW Section 33 is south of Dyer Creek and apparently cannot be irrigated from claimed POD.
- Notes to file by Jim Stanton 8/12/1996: Owner for ranch upstream on Dyer Creek stated that 37-514 is taken out of Dyer Creek about 1 mile upstream and there is little no water left for 37-343.
- Water right 37-2028 overlaps the claimed POU, but there are no claims against it and the owner stated on the claim that there are no other water rights used.
- 37-343 originally decreed for 4.8 cfs on 6 QQ. Assuming 240, the decreed duty of water is 0.02 cfs per acre.
- Recommendation: 0.44 cfs for Irrigation of 22 acres
- Data used for review: 1987, 1992, & 2004 aerial photos, Elmore Co Tax Records, Idaho Ownership (idown.shp), & USGS 1:24,000 Topo

<u>Basin</u>	<u>Sequence</u>	<u>Suffix</u>	<u>Basis</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Source</u>	<u>Water Use(s)</u>	<u>Owner(s)</u>	<u>Source Table</u>
37	343	A	Decreed	1889-05-01	1.6	DYER CREEK	IRRIGATION	BENNETT, El	wrAdjudication(
37	514		Decreed	1889-05-01	3.2	DYER CREEK	IRRIGATION	BLISS POINT	wrAdjudication(
37	614		Decreed	1889-05-01	0.8	LITTLE WOOD	IRRIGATION	DINGES, RIC	wrAdjudication(
37	692	A	Decreed	1889-05-01	0.88	SILVER CREEK	IRRIGATION	J R SIMPLOT	wrAdjudication(
37	692	B	Decreed	1889-05-01	1.52	SILVER CREEK	IRRIGATION	J R SIMPLOT	wrAdjudication(
37	4324		Statutory Claim	1889-05-01	2	SPRING	STOCKWATER	ANDERSON,	wrAdjudication(
37	4403		Statutory Claim	1889-05-01	4	DYER CREEK ,	IRRIGATION	BLISS POINT	wrAdjudication(
37	10130		Beneficial Use	1889-05-01	1.2	SPRING	IRRIGATION	BLISS POINT	wrAdjudication(
37	343		Decreed	1889-05-01	4.8	DYER CREEK	IRRIGATION	JOHNSON, A	wrWaterRight
37	514		Decreed	1889-05-01	3.2	DYER CREEK	IRRIGATION	NELSON, CH	wrWaterRight
37	614		Decreed	1889-05-01	0.8	LITTLE WOOD	IRRIGATION	SHIRK, ELW	wrWaterRight
37	692	A	Decreed	1889-05-01	0.88	SILVER CREEK	IRRIGATION	J R SIMPLOT	wrWaterRight
37	692	B	Decreed	1889-05-01	1.52	SILVER CREEK	IRRIGATION	SIMPLOT INI	wrWaterRight
37	4324		Statutory Claim	1889-05-01	2	SPRING	STOCKWATER	MALCOMSOI	wrWaterRight
37	4403		Statutory Claim	1889-05-01	4	SPRINGS	IRRIGATION	QUARTER Cl	wrWaterRight

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 37-343

WATER RIGHT NUMBER: 37-343

Owner Type Name and Address
 Current Owner ANDREW JOHNSON
 , ZZ

Priority Date: 05/01/1889

Basis: Decreed

Status: Active

Source Tributary
 DYER CREEK MALAD RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	/ to /	4.800 CFS	
	<u>Total Diversion:</u>	4.800 CFS	

Location of Point(s) of Diversion
 DYER CREEK

Place of Use
 IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	11E	32													X	X	X	X	
01S	11E	33										X	X						

Conditions of Approval:

1. AC. IRRIG. NOT SPECIFIED. FARM = 240 AC.

Remarks:Comments:

COMMUNICATION DOCUMENTATION

A37-00514

A37-04403

Claim No. A37-10130

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

IDWR Employee/Agent Jeanie Robertson Date 10/27/94Contact Person(s) Mayvis ThompsonNature of Contact office visit

Substance of Communication Mrs. Thompson came in with a couple of affidavits of priority for claims A37-04403 and A37-10130. She also had an ownership change form for the claims which showed original owners Quarter Circle Lazy H had sold $\frac{1}{2}$ interest to Bliss Point Cattle. I made the changes and created "L" records.

She had questions on who else might have filed a claim on Dyer Creek in her legal description. I did some queries and came up with A37-00343A. I gave her a copy of the proof on that right. She said they'd had some trouble this past summer with someone taking out their dam and diverting their water...

MICROFILMED
NOV 22 1996

TO: File

DATE: August 12, 1996

FROM: Jim Stanton

SUBJECT: P/D, Claim A37-00343A, Pat Bennett

Today I spoke with the owner of the Quarter Circle Lazy H Ranch, the other decree holder on Dyer Creek. The claim of Mr. Bennett had no exact point of diversion, but apparently it is just below where the Malad River crosses the county road in Sec. 32 (NE/NW/SE). She also stated that there is never enough irrigation water in the Malad River for both parties, so the Ranch takes its full right in Sec. 31. The only thing that ever gets to the Bennett place is stockwater, and this occurs mainly after the irrigation season. The orthophotoquad does show the Ranch to be well irrigated, but not the Bennett property. I have personally visited either property.

MICROFILMED
NOV 22 1996