

HYNDMAN PEAK SUBDIVISION WATER RIGHTS

SPLITS OF 37-539 3.0 cfs

Jim Speck's Spreadsheet

Transfer

AMOUNT (cfs)

IRRIGATED ACRES

DUTY OF WATER (cfs/A)

NUMBER	NAME	CLAIM	RECOMMEND	DIFFERENCE	CLAIM	RECOMMEND	DIFFERENCE	CLAIM	RECOMMEND	COMMENTS
yes 37-539D	Mattson <i>done</i>	0.410	0.260	0.150	7.0	4.3	2.7	0.059	0.060	SM Booth - Nov 9 status conf
yes 37-539F	Williams <i>done</i>	0.146	0.081	0.065	2.0	1.3	0.7	0.073	0.062	
37-539H	Mitchell	0.880	0.530	0.350	14.1	14.1	0.0	0.062	0.038	
37-539I	Mitchell	0.274	0.150	0.124	4.4	4.0	0.4	0.062	0.038	
37-539L	Mitchell	0.290	0.300	-0.010	8.0	8.0	0.0	0.036	0.038	
yes 37-539J	Brandman <i>done</i>	0.155	0.155	0.000	2.5	2.5	0.0	0.062	0.062	SF-5 2-8-11
37-539K	Samway <i>done</i>	0.062	0.062	0.000	1.0	1.0	0.0	0.062	0.062	
yes 37-20379	House <i>done</i>	0.330	0.330	0.000	10.0	10.0	0.0	0.033	0.033	decreed
yes 37-20380	L-B <i>done</i>	0.070	0.070	0.000	2.0	2.0	0.0	0.035	0.035	decreed
37-539G	HOA	0.850	0.850	0.000	22.4	22.4	0.0	0.038	0.038	
TOTALS	TOTALS	3.467	2.788	0.679	73.4	69.6	3.8	0.047	0.040	

P/O-1-31-11

Pg 20 my Plat map

Pg ~~44~~³² T-4671 Plat showing in P/A
Pg 49 Transfer history (IDWR)
Pg 50 T 5318 Bontrager to Lt 21 fm

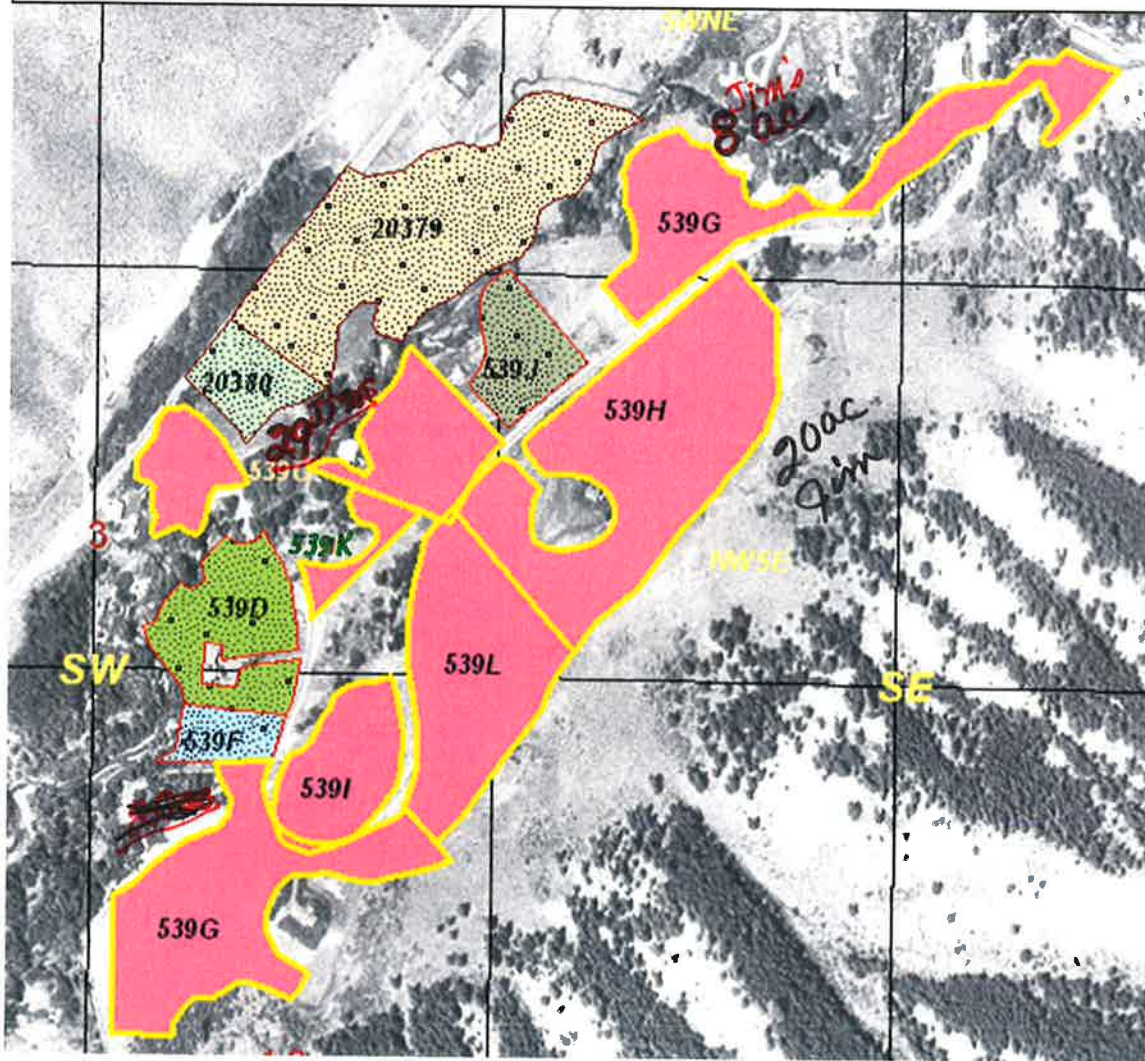
Pg 85 T-3332.

Lt	1	2.94	18	3.04	35	~~4.94~~	7.19?
	2	3.21	19	4.05	36	3.74	
	3	2.74	20	2.87	37	2.96	
	4	3.19	21	2.28	38	3.64	
	5	2.08	22	5.31	39	4.26	
	6	?	23	1.68		21.79	
	7	1.68	24	2.25			
	8	1.85	25	2.72			
	9	1.8?	26	2.36			
	10	2.19	27	2.47			
	11	1.71	28	3.17			
	12	1.91	29	5.21			
	13	2.04?	30	9.45			
	14	1.92	31	5.11			
	15	2.07	32	2.67			
	16	2.07	33	5.20			
	17	2.1	34	7.84			
		34.7		67.68			

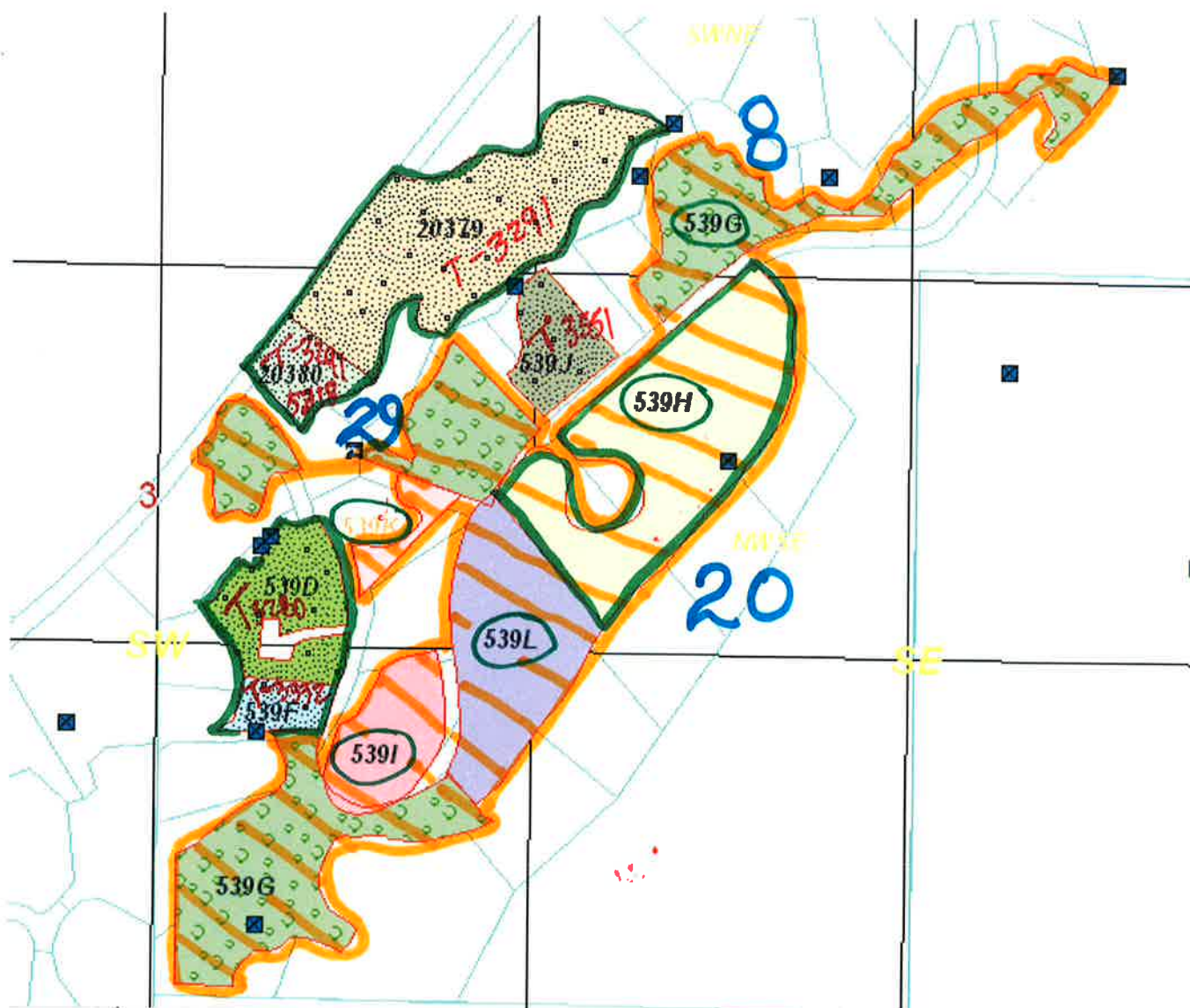
124.17 Lt 21

03N, 18E Sec 3

37-539 Hyndman Peak Subdivision
Recommendations not associated with a transfer shown in Pink



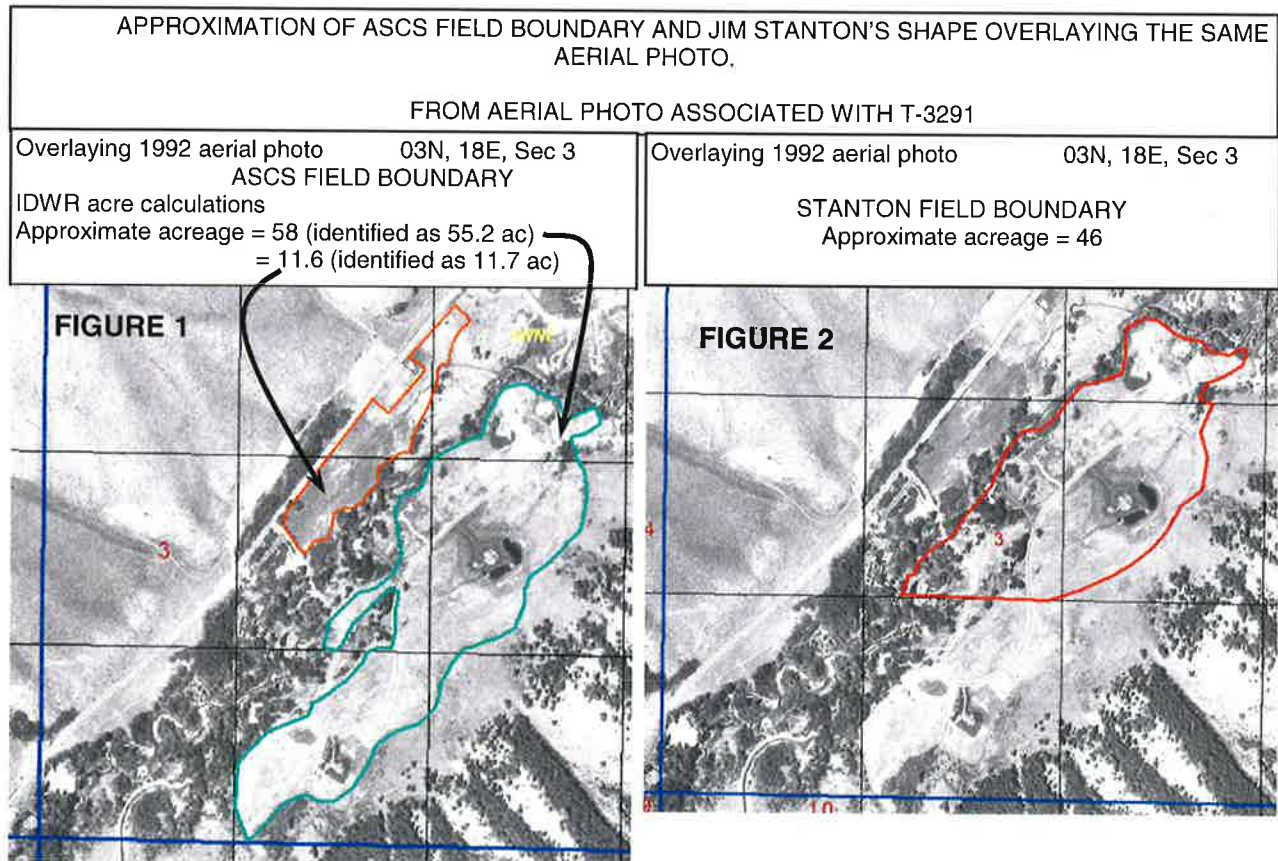
Jim total
57ac



37-539 INFORMATION ANALYSIS

In 1986 Rupert House filed T-3291 (approved Mar 16, 1987) to change the POD for a portion of the decreed right and to slightly modify a portion of the decreed POU. As a part of the transfer process Jim Stanton (IDWR agent) conducted a field examination to verify the parameters of the new POU and POD. He also identified the 'historic' irrigated POU as 57 ac.

The transfer identifies the House irrigated ground as historically 15 acres but ultimately reduced to 12 acres indicating that water was transferred off of 3 acres onto the



remaining 12 acres. No POU and associated water was considered forfeited at this point. A summary of the transfer activity is that 12 acres for House under 37-539B and the unrecorded 'historic' POU of 46 acres results in a total acreage of 57 acres (Jim's calculations). Jim's historic acre POU carried forward through the subsequent transfers filed in this subdivision.

The 55.2 acres and 11.7 acres identified on the ASCS map (figure 3) have nothing to do with Jim's calculations. It is the irrigated acreage as identified by the ASCS. As of the date of the aerial photo (date not known) the pasture acreage total was 55.2 ac + 11.7 ac for a total of 66.9 acres. In an attempt to duplicate the same 55.2 acre ASCS field boundary I generated a shape based upon the same map features and found approximately 58 acres. This shape does not address any ground outside the ASCS field boundary, as previously discussed. My shape for the 11.7 acre parcel was approximately 11.6 acres.

Under normal circumstances the ASCS acreage identifies crop/ pasture boundaries and does not include ground outside the field that may be irrigated with the tail water. This ground would normally be the area between the field boundary and the stream often containing brush and/or trees.

As the 1984 aerial photo shows the subdivision road and the ASCS photo doesn't, it suggests that the flight date was earlier than 1984. Jim conducted his field work in 1986 and standard IDWR practice would be to go to the ASCS to obtain a copy of the latest flight available. Historically the ASCS updated their aerial photos every 4 years but I do not recall which specific years were the scheduled updates. Assuming that Jim picked up the aerial photo in 1986 and it predates 1984 (as the subdivision road is not shown) that would place the photo within the 1982 to 1983 timeframe.

In 1994 T-4671 was filed for ground in Sec 3 SESW. The department requested additional information which was not received and ultimately disallowed the transfer in 1996. The application was returned to the applicant in 1999. The primary basis for the disallowal was an analysis by Allen Merritt (IDWR agent) with a focus on non-use based upon Basin 37 watermaster information. The district provided delivery records indicating delivery (at a minimum, a call for water) between the years 1980 and 1995 (backfile pgs 198 – 200). That information indicated that no water was delivered to Brennan (called for by Brennan) from 1986 through 1995 thus 10 years of non use. This decision was made prior to the SRBA court ruling that the SRBA process tolls forfeiture within five years of claims filing.

Five claims were filed against the untransferred portion of 37-539. All claims were initially filed within 5 years of the last use for Brennan as identified in the watermaster records therefore suggesting that forfeiture would not be an issue.

<u>Claim</u>	<u>filing date</u>	<u>amended date</u>
37-539G	10-20-88	21-6-06
37-539H	11-23-88	
37-539I	11-23-88	
37-539K	12-21-88	
37-539L	10-20-88	

Based upon current information, if submitted, T-4671 could possibly be approved in some manner.

Summary:

Based upon currently available information it is not clear that any portion of the historically irrigated POU has been forfeited. Also not clear is the total irrigated acreage within the historical POU. Based upon the ASCS photo (FIGURE 3) there were 66.9 acres of irrigated pasture. Irrigated ground in excess of the pasture is not clear but possibly 10 or more additional acres may have been irrigated. In an effort to duplicate the ASCS shapes I found the same area to be $\approx$ 69.6 acres.

This does not include any non pasture areas that may have received irrigation water. As an example, the area identified by Jim in the southwest part of his shape includes a tree and brush covered area not included in the ASCS shape covering approximately 9 acres (See figure 3).

Also likely would be the area northwest of the ASCS shape in section 3 SESW between the field boundary and the stream channel. Acres not calculated.

For acres being flood irrigated the department calculated an excess flow analysis for T-5318 and found that the duty of water to be 2.5 inches per acre. Although not calculated for each claim within the subdivision that rate appears to be reasonable for the other claims as the soil types are similar.

ASCS aerial photo used by Jim Stanton for the POU review in 1986 for T-3291

Approximate area recognized by Jim but not by the ASCS
FIGURE 3 Area $\approx$ 9 acres



*Qimis aerial
with Speck's notes*

33 34
4 3

A-24

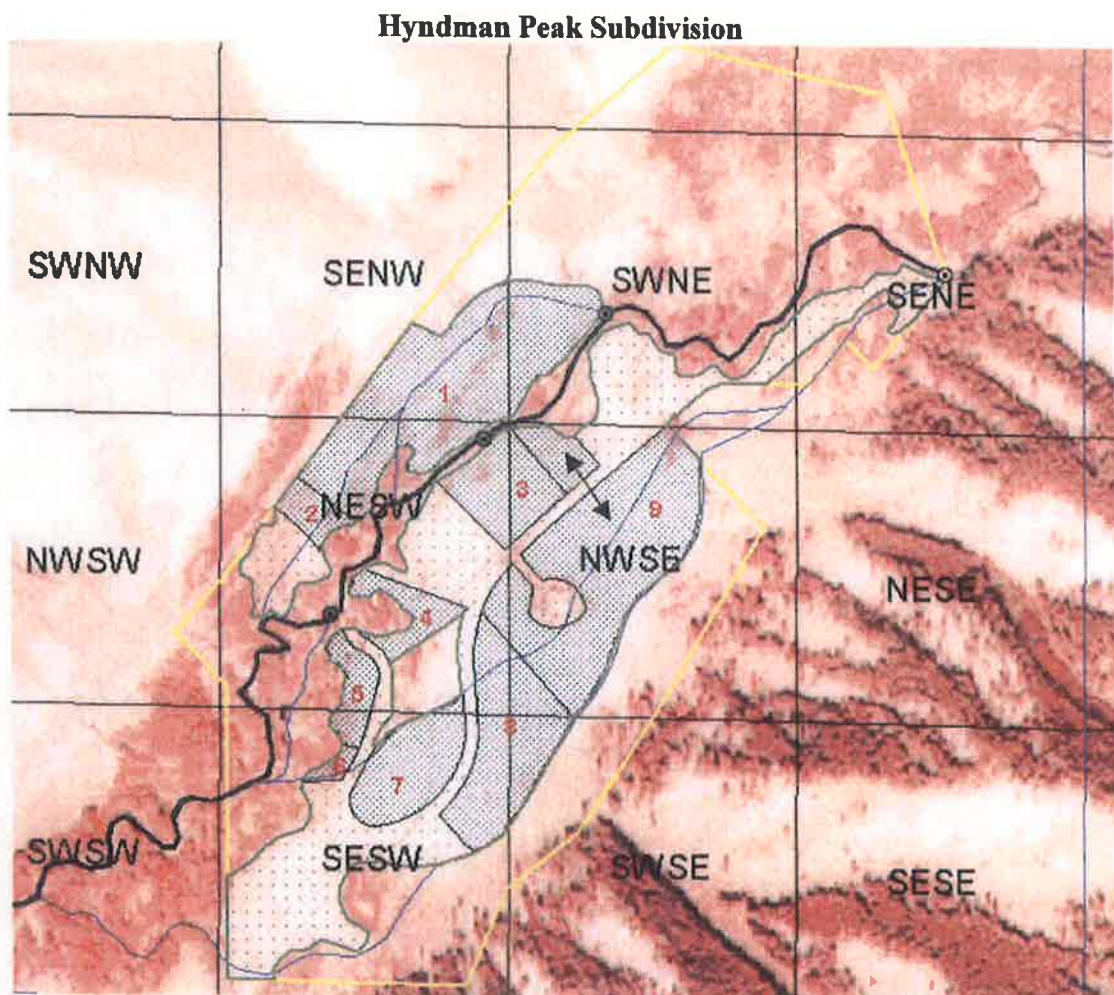
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A

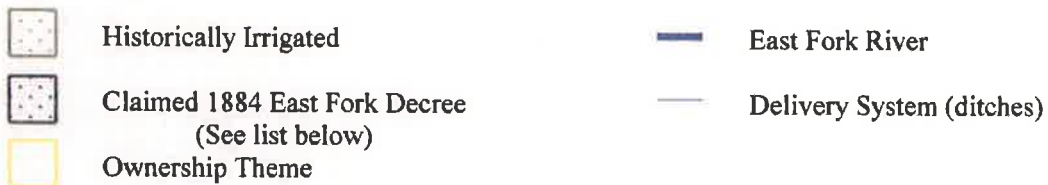
B

55.2

RECEIVED
MAY 12 1961



1987 Napp Aerial Photography



Claimants on June 03, 1884 East River Decree

- | | |
|------------------|-------------------|
| 1 Rupert House | 6 Bruce McCaw |
| 2 Carl Bontrager | 7 Robert Mitchell |
| 3 Craig Brandman | 8 Robert Mitchell |
| 4 Paul Carson | 9 Robert Mitchell |
| 5 Thomas Matson | |

Note: Hyndman Peak Homeowners Association claims the remaining *historically irrigated* land that is not claimed by the claimants above in the NESW, NWSE, SESW

55.2A

11.7A

66.9A

69.6A

66.9A

2.7A

SENW

A-24

(440)

SWNE

SENE

this area should
also be included -
~2.7A??

A
11.7

B
55.2

MICROFILMED

MAY 12 1977

NESW

NWSE

SESW

WSE

why isn't this
included?? does
the 55.2A include
this area?

old delivery ditch

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

RIGHT NUMBER: 37-539H
 NAME AND ADDRESS: ROBERT L MITCHELL
 10620 BERKSHIRE
 LOS ALTOS CA 94022

SOURCE: EAST FORK WOOD RIVER TRIBUTARY: BIG WOOD RIVER
 QUANTITY: 0.530 CFS
 PRIORITY DATE: 06/03/1884

POINT OF
 DIVERSION: T03N R18E S3 SENE Within BLAINE County

PURPOSE AND
 PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	0.530 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T03N R18E S03	NESW 1.30	T03N R18E S03	NWSE 12.80
14.1 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

Place of use is located within Lots 13, 33, 34 and 35 of Hyndman Peak Subdivision.

This right is a split from former right 37-539G.

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

RIGHT NUMBER: 37-539H
 NAME AND ADDRESS: ROBERT L MITCHELL
 10620 BERKSHIRE
 LOS ALTOS CA 94022
 SOURCE: EAST FORK WOOD RIVER TRIBUTARY: BIG WOOD RIVER
 QUANTITY: 0.530 CFS
 PRIORITY DATE: 06/03/1884
 POINT OF DIVERSION: T03N R18E S3 SENE Within BLAINE County
 PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.530 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T03N R18E S03	NESW 1.30	T03N R18E S03	NWSE 12.80
14.1 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

Place of use is located within Lots 13, 33, 34 and 35 of Hyndman Peak Subdivision.

This right is a split from former right 37-539G.

*Claim
NW SE
SW SE*

*The shape south east of
subdivision road is $\approx 13.2ac$
that area of 1.1
14.3 total
this would include
 $\approx 0.2ac$ in Sec 3 SW NE
Based upon 2009 flight.*

Christensen, Kelly

From: Christensen, Kelly
Sent: Wednesday, March 02, 2011 1:33 PM
To: 'Albert Barker'
Cc: Craig Hobdey; Courtney, Andrea; Jim Speck
Subject: RE: 37-539 splits
Attachments: img-302103055.pdf

Attached is a recommendation listing of rights associated with Sec 3.

Kkc

From: Albert Barker [<mailto:apb@idahowaters.com>]
Sent: Tuesday, March 01, 2011 4:59 PM
To: Christensen, Kelly
Cc: Craig Hobdey; Courtney, Andrea; Jim Speck
Subject: FW: 37-539 splits

Kelly-

Do you know if there are any other rights on these properties?

Albert P. Barker
Barker Rosholt & Simpson LLP
(208) 336-0700

CONFIDENTIALITY NOTICE: This e-mail and its attachments are confidential and may be privileged. If you believe this e-mail has been sent to you in error, please notify the sender immediately and delete this email. Do not deliver, distribute or copy this transmission.

From: Craig Hobdey [<mailto:hobdeycraig@hotmail.com>]
Sent: Wednesday, October 06, 2010 11:07 AM
To: Kelly Christensen
Cc: Chris Bromley; Jim Speck; Albert Barker
Subject: 37-539 splits

Kelly- Can you advise as to whether or not the lots involved in the 539 splits have other water appurtenant? If so would a combined use remark be advisable.

Craig Hobdey

Basi	Sequen	Sufl	Versi	Basis	Status	Priority	Date	Diversic	Source	List	Water Use	List	Current Owner
37	539	D	1	Decreed	Active	6/3/1884		0.26	EAST FORK WOOD RIVER	IRRIGATION			MATSON, SHANON H; MATSON, THOMAS L; SHANON H MATSON RESIDENCE TRUST NO 2; THOMAS L MATSON RESIDENCE TRUST NO 2
37	539	F	1	Decreed	Active	6/3/1884		0.08	EAST FORK WOOD RIVER	IRRIGATION			WILLIAMS, SAMUEL; WILLIAMS, SHELLEY THOMAS
37	539	G	1	Decreed	Active	6/3/1884		0.85	EAST FORK WOOD RIVER	IRRIGATION			HYNDMAN PEAK HOMEOWNERS ASSN
37	539	H	1	Decreed	Active	6/3/1884		0.53	EAST FORK WOOD RIVER	IRRIGATION			MITCHELL, ROBERT L
37	539	I	1	Decreed	Active	6/3/1884		0.15	EAST FORK WOOD RIVER	IRRIGATION			MITCHELL, ROBERT L
37	539	J	1	Decreed	Closed	6/3/1884		0.16	EAST FORK WOOD RIVER	IRRIGATION			BRANDMAN, CRAIG; BRANDMAN, DELEYS
37	539	J	2	Decreed	Active	6/3/1884		0.13	EAST FORK WOOD RIVER	IRRIGATION			BRANDMAN, CRAIG; BRANDMAN, DELEYS
37	539	K	1	Decreed	Active	6/3/1884		0.06	EAST FORK WOOD RIVER	IRRIGATION			CARSON, KATHRYN; CARSON, PAUL
37	539	L	1	Decreed	Active	6/3/1884		0.30	EAST FORK WOOD RIVER	IRRIGATION			MITCHELL, ROBERT L
37	10703		1	Beneficial Use	Closed	7/27/1972		0.04	GROUND WATER		Dom		CARMONA, RUTH
37	11578		1	Beneficial Use	Closed	8/1/1985		0.04	GROUND WATER		Dom		PORTER, CONSTANCE; PORTER, RICHARD
37	11847		1	Beneficial Use	Closed	9/15/1986		0.04	GROUND WATER		Dom		PEIZER, THOMAS B
37	11851		1	Beneficial Use	Closed	7/1/1984		0.04	GROUND WATER		Dom		WOLFE, CLIFFORD W
37	12110		1	Beneficial Use	Active	11/6/1985		0.04	GROUND WATER		Dom		MATSON, SHANON H; MATSON, THOMAS L; SHANON H MATSON RESIDENCE TRUST NO 2; THOMAS L MATSON RESIDENCE TRUST NO 2
37	12207		1	Beneficial Use	Closed	7/26/1985		0.04	GROUND WATER		Dom		MITCHELL, ROBERT L
37	12345		1	Beneficial Use	Closed	7/24/1987		0.04	GROUND WATER		Dom		LATROBE, JACK
37	12389		1	Beneficial Use	Closed	12/31/1984		0.04	GROUND WATER		Dom		FERRIES, CHARLES
37	12842		1	Beneficial Use	Closed	11/29/1987		0.06	GROUND WATER		Dom, Stock Wtr		SZOMBATHY, SANDOR; SZOMBATHY, TERI
37	14271		1	Beneficial Use	Closed	8/31/1981		0.06	GROUND WATER		Dom, Stock Wtr		BONTRAGER, CARL G; LYNN, KATHLEEN K
37	20379		1	Decreed	Active	6/3/1884		0.33	EAST FORK WOOD RIVER	IRRIGATION			HOUSE, RUPERT
37	20380		1	Decreed	Active	6/3/1884		0.07	EAST FORK WOOD RIVER	IRRIGATION			LYNN-BONTRAGER LLC

Attach mail to
 e-mail to #1
 Barker 3-2-11 @ 1:33

Memo

Nick Treasure

July 18, 2005

Subject: SRBA review and recommendation of Hyndman Peak Subdivision, Blaine County. Claims: 37-20379, 37-20380, 37-539D, 37-539F, 37-539J, 37-539L, 37-539H, 37-539I, 37-539K, 37-539G

A review of the history of Hyndman Peak Subdivision shows a series of approved transfers that have occurred from original water right 37-539. This is a 06/03/1884 decreed right for 3.0 cfs of the East Fork Wood River. Through a series of approved transfers and ownership changes, a consistent 0.06 cfs/acre has occurred in this area. The remaining portion of the parent water right 37-539 is water right 37-539G in which there are 4 claims filed against. (See attached split tree analysis-page 8).

The majority of this subdivision was developed during the 1980's. There are currently 40 lots in the subdivision as well as a 20-acre lot of original owner Rupert House. (See attached tax lot map-page 4). Many individual homeowners chose to quitclaim their water rights over to the Hyndman Peak Subdivision Homeowners Association (claim 37-539G). The remaining homeowners decided to individually claim against the 1884 decree (all remaining claims listed above).

A field examination occurred on July 6, 2005 by Water Resource Agent Nick Treasure and Basin 37 Water Master Kevin Lakey. The following was found during the course of this field visit through personal observance as well as conversations with various homeowners of the association.

- There are four Points of Diversions associated with this subdivision:
 1. The original POD to the parent right 37-539 is located in the SENE. This head gate is locally known as the peters #17 head gate. Claimants of this head gate are Robert Mitchell 37-539L and Hyndman Peak Homeowners Association 37-539G.
 2. Transfer 3291 created a POD in the SWSWNE of section 3. This particular POD has no lockable head gate. Claimants of this diversion are Rupert House 37-20379 and Carl Bontrager 37-20380.
 3. Transfer 3280 created a POD in the SWNESW of section 3. This head gate is claimed by Bruce McCaw 37-539F and Thomas Matson 37-539D.
 4. Transfer 3551 created a POD in the NENESW of section 3. The POD is a pump and sprinkler system from East Fork River. The claimant for this diversion is Craig Brandman 37-539J.

- The original Place of Use historically irrigated is depicted on the attached map-*page 5*. Also outlined on the attached map is the ditch system in which we examined and verified with original owner Rupert House before the subdivision existed. The POU outlined in green was irrigated by this irrigation system. Note that the northern areas of the subdivision as well as along the East Fork River are riparian areas and have not historically been irrigated by the 1884 decree.
- The attached map-*page 6* depicts claimants of the 1884 decree by individual owners in association with the historically irrigated ground. Notice the remaining portion of the historic irrigation depicted in green is what the homeowners association wishes to claim.
- There is currently a delivery system through ditches and laterals in which water can be delivered to the claimants listed on *page 6*. However there is no current means of deliverance for the remaining portion for individuals of the Hyndman Peak Homeowners Association though there may have been historically. It appears that a delivery system ended sometime in the late-1980's due to subdivision development.

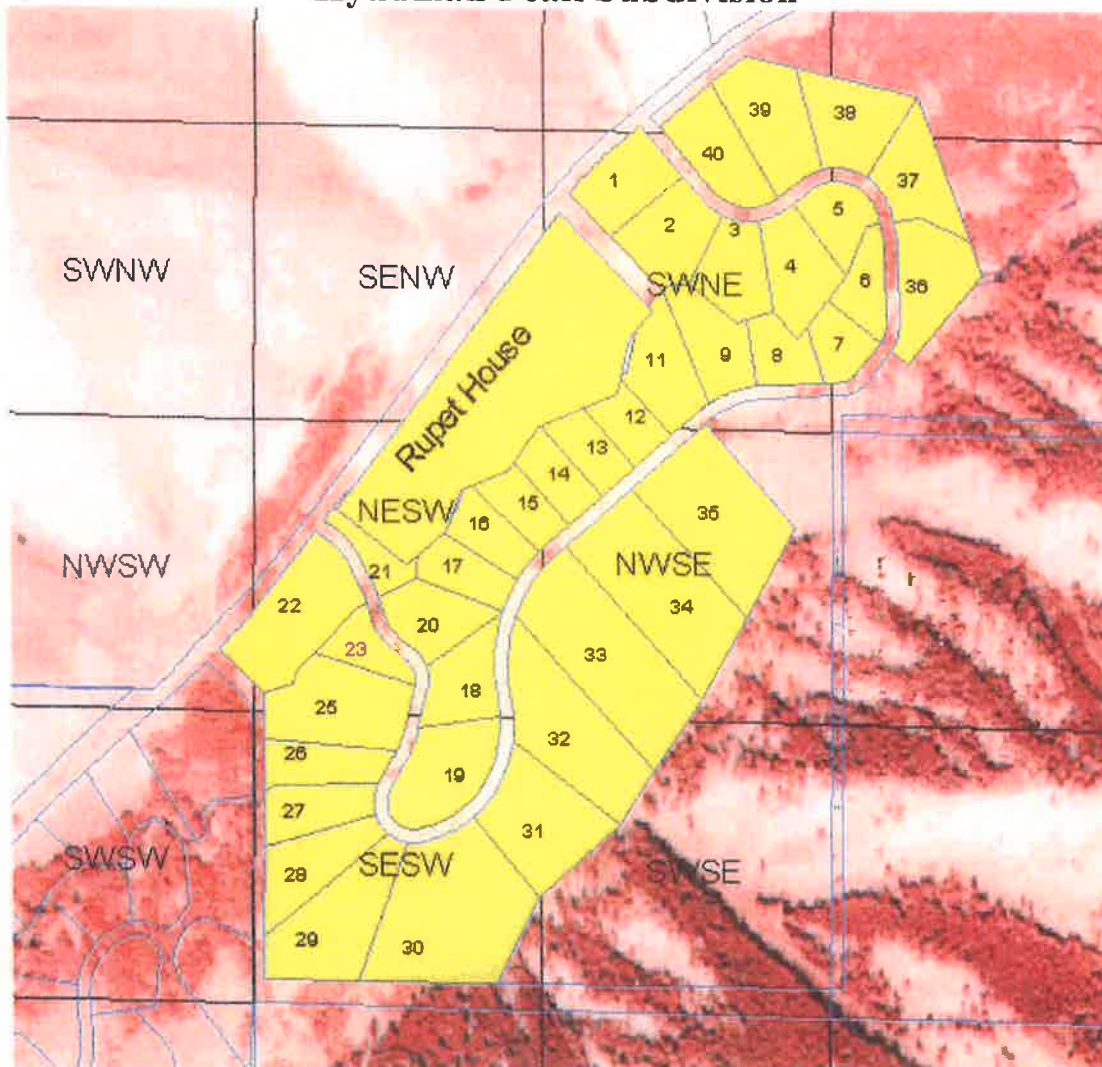
In addition to the above findings, we also found some issues listed below that need to be addressed by the IDWR. A series of transfers and other measures need to be taken in the following situations:

- Upon field examination there were found 2 large ponds on lot 34 of the Hyndman subdivision owned by Robert Mitchell. The 2 ponds together measure approximately 0.75 acres. The 2 ponds are situated directly behind the Mitchell residence. The source of water for these ponds is the East Fork River with the POD in the SENE of section 3. A third pond was also found in lot 33 for the same owner. The pond was being dug as we visited the location but did not yet contain water. This pond will receive water through a drain ditch originating from the first two ponds. It does not appear the ponds are being used in conjunction with irrigation. I met with Dr. Mitchell during our visit. He indicated that the first two ponds were built in the early 1990's. It is confirmed that the ponds did not exist in the 1987 Napp Aerial Photography. All three ponds have no transfers filed. (See photos in claim 37-539I)
- During the field visit, we noticed that a large percentage of the lots have sprinkler irrigation on more than the ½ acre allowed under their Domestic wells. Most individual owners are sprinkler irrigating 2-3 acres of pasture, yard and trees from domestic wells. Among the 40 lots in the Hyndman Peak Subdivision, there are two homeowners who have been licensed for groundwater with the purpose of irrigation. The water rights are 37-8567 for Craig Brandman and 37-8421 for Shawn Szombathy. These are the only two owners in the sub-division who are

authorized to irrigate more than a ½ acre in the subdivision. (See photos in 37-539G)

- The Hyndman Peak Homeowner's Association, claim 37-539G, currently has no means of delivery for its members from the claimed POD in the SENE of section 3. The members of the association are spread throughout the subdivision with no organized delivery system. Historically before the subdivision was built, it does appear these lots of the members of the association were irrigated. The subdivision was constructed in the late-1980's. During the construction of the Subdivision, many ditches and laterals were filled in making it impossible to currently irrigated from the claimed POD.

Hyndman Peak Subdivision

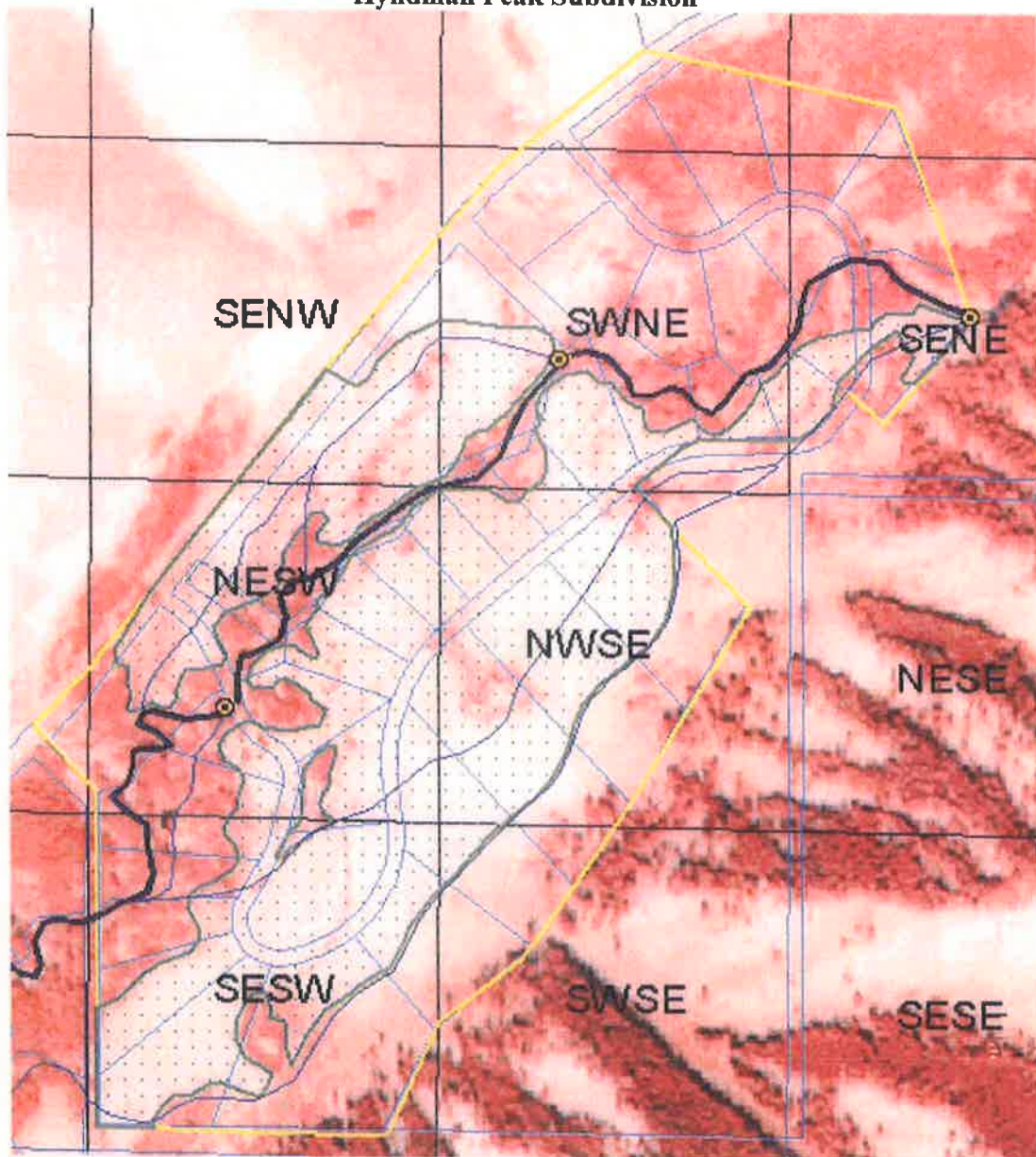


1- Bennett
 2- Berman
 3- Danielson
 4- Kosmos
 5- Papworth
 6- Hyndman Peak
 7- Flammer
 8- Naeve
 9- Devens
 11- Bass
 12- Bass
 13- Mitchell
 14- Brandman

15- Brandman
 16- Swigert
 17- Swigert
 18- El Camino(Mitchell)
 19- El Camin (Mitchell)
 20- Exchange LLC
 21- Bontrager, Lynn
 22- Bontrager, Carl
 23- Matson
 25- Matson
 26- McCaw
 27- Porter
 28- Porter

29- Porter
 30- Szombathy
 31- Mitchell
 32- Mitchell
 33- Mitchell
 34- Mitchell
 35- Mitchell
 36- Boxall
 37- Latrobe
 38- Latrobe
 39- Chivvis
 40- Chivvis
 House, Rupert

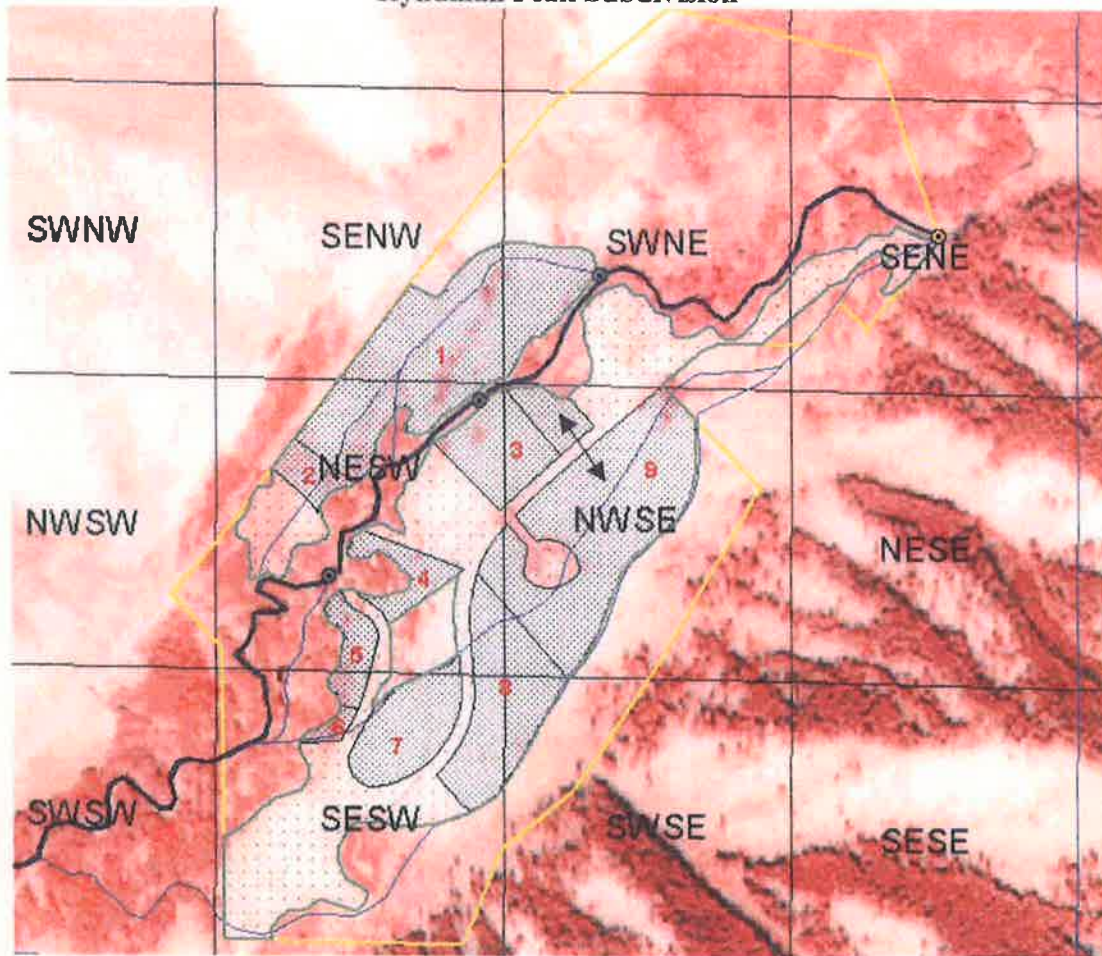
Hyndman Peak Subdivision



1987 Napp Aerial Photography

- | | | | |
|---|--------------------------|---|---------------------------|
|  | Historically Irrigated |  | East Fork River |
|  | Hyndman Peak Subdivision |  | Delivery System (ditches) |
|  | Blaine County Tax lots | | |

Hyndman Peak Subdivision



1987 Napp Arial Photography

- | | |
|---|---|
|  Historically Irrigated |  East Fork River |
|  Claimed 1884 East Fork Decree
(See list below) |  Delivery System (ditches) |
|  Ownership Theme | |

Claimants on June 03, 1884 East River Decree

- | | |
|------------------|-------------------|
| 1 Rupert House | 6 Bruce McCaw |
| 2 Carl Bontrager | 7 Robert Mitchell |
| 3 Craig Brandman | 8 Robert Mitchell |
| 4 Paul Carson | 9 Robert Mitchell |
| 5 Thomas Matson | |

Note: Hyndman Peak Homeowners Association claims the remaining *historically irrigated* land that is not claimed by the claimants above in the NESW, NWSE, SESW

Hyndman Peak Subdivision



2004 Aerial Photography



Subdivision Boundary



Blaine County Taxlots

0.18 cts
per line

1.89 cts

539 G - 22.44

0.85

Handwritten

539 L - 8.0

0.30

539 I 4.0

0.15

initial

539 H 14.1

0.53

539 K 1.0

0.06

Samway

1.89

Christensen, Kelly

From: Christensen, Kelly
Sent: Friday, February 11, 2011 8:44 AM
To: Spencer, Nick; Kelly, Vicki
Subject: 37-539 etal Hyndman Peak subdivision rights

There is plenty of room to make alternative recommendations on this group but I am reluctant to change much at this time. There have been field exams for the transfer process and I believe that Nick Treasure and possibly Allen walked through the property for the adjudication process.

As the subdivision was platted in 1979 and substantial irrigation ceased at that time there is a good likelihood that there could be forfeiture somewhere out there. But with all the field work that has been done since 1987 I am reluctant to make any changes without additional information. I did note the a portion of the southern end possibly could be disallowed though (see the attachment). Findings by different individuals (Stanton, Merritt, Treasure, transfer applicants) all to some extent contradict each other with no reasonable way to pick through them for the ultimate right answer.

Right now my position is that if Barker/Hobdey can provide more documentation than "I don't like the recommendations" then I would review that information and go from there.

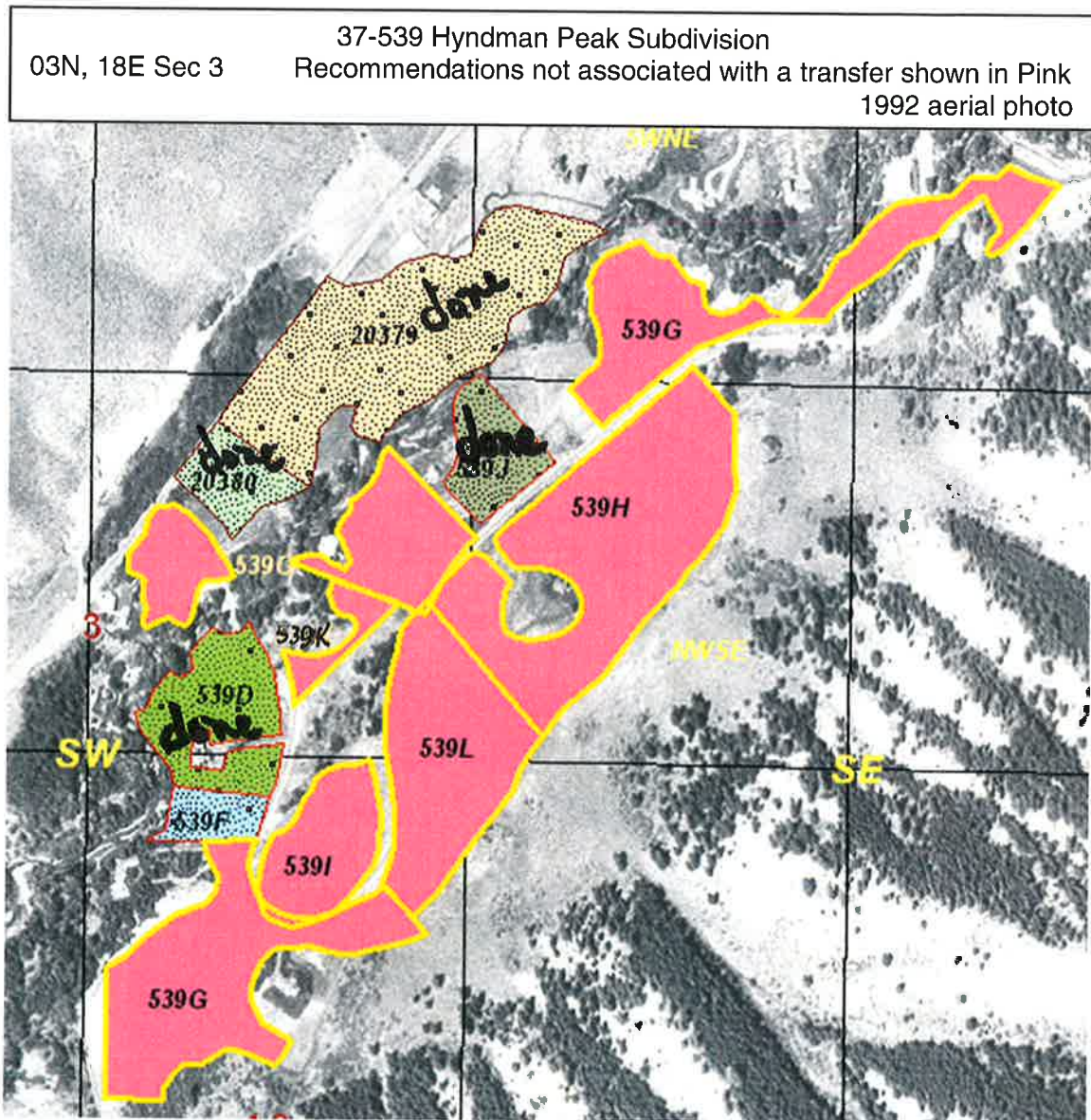


37-539
ORICALLY IRRIGATI

Kelly K Christensen
Sr Water Resource Agt
Boise, Western Region
(208)-334-2190

*In an attempt to duplicate
Jim's 1986 shape into Arc map
the shape that I created came out as
x 46ac rather than 55.2 that he calculated.*

37-539 HISTORICALLY IRRIGATED POU ANALYSIS

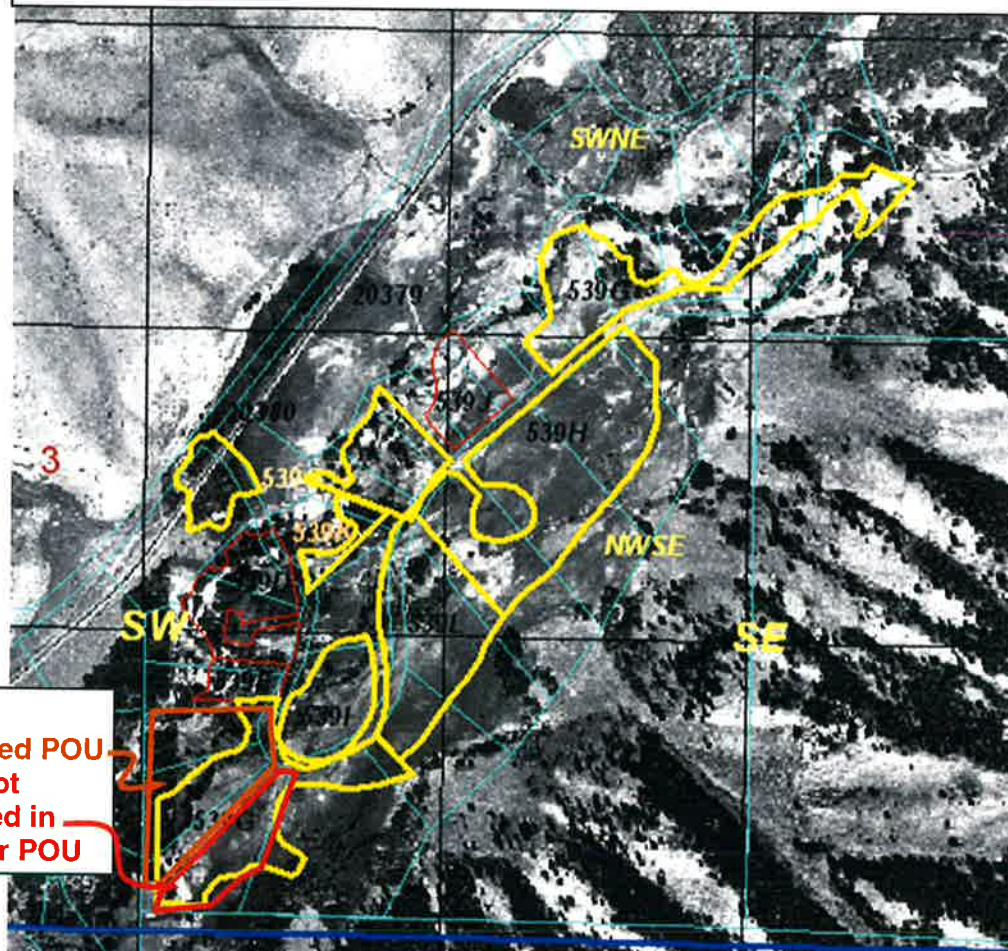


Place of use comparison for the recommended portions of 37-539 as they relate to the subdivision and to each other. Again, the pink areas represent the recommendations claimed against the historical decreed POU.

In reviewing the documentation relating to the 5 approved transfers and one disallowed transfer I find that there is conflicting information regarding the irrigation of various parts of the POU. Probably the most significant information regarding possible forfeiture of irrigated ground can be found in the documents for the disallowed transfer T-4671. That transfer was for portions of Lots 27, 28, and 29. (see 1969 photo below). The transfer was to change the POD to continue to irrigate the same POU. Allen Merritt in his 1995 memo found that there was at least 10 years of nonuse for this ground and therefore disallowed the transfer. The area south of this area (still in Lot 29) was not identified as irrigated and in fact excluded in a plat map showing the historically irrigated acreage. This document was apparently supplied by the claimant or his representative. (PC Doc backfile pg 32) This is followed by an enlargement of the same plat and shows what they determined was the historically irrigated acreage in general and actual

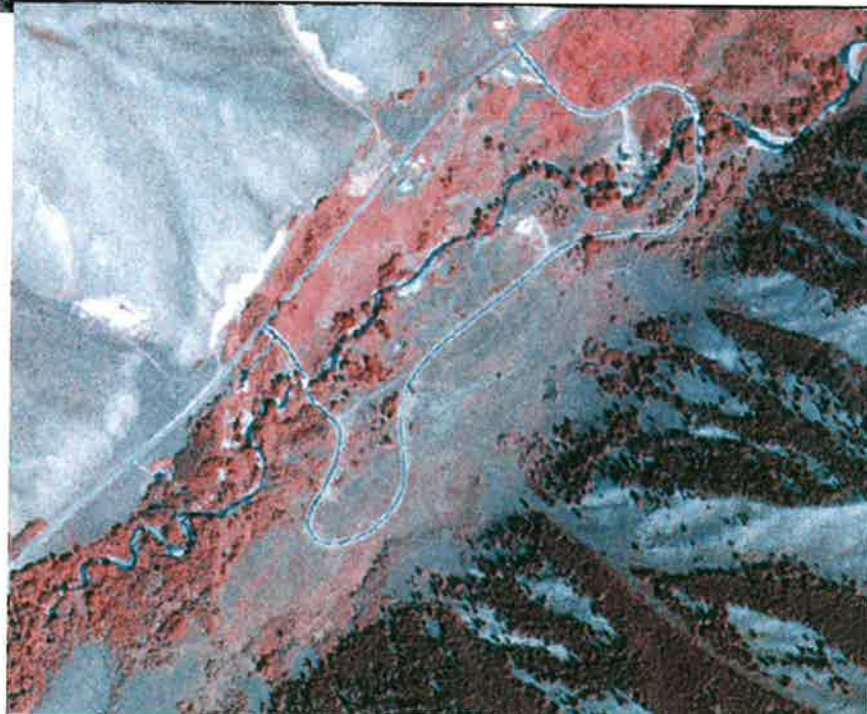
irrigated acreage
lot by lot (PC Doc
backfile pg 33).
This would
roughly translate
in the reduction of
approximately 7.6
acres to 37-359G.

37-539 Hyndman Peak Subdivision
03N, 18E Sec 3 1969 aerial photo



**T-4671
identified POU
Area not
included in
transfer POU**

1984 aerial photo (not rectified for this area)



INTER-DEPARTMENT MEMO — 1

DATE 8-29-86

FROM Jim Stanton

TO File

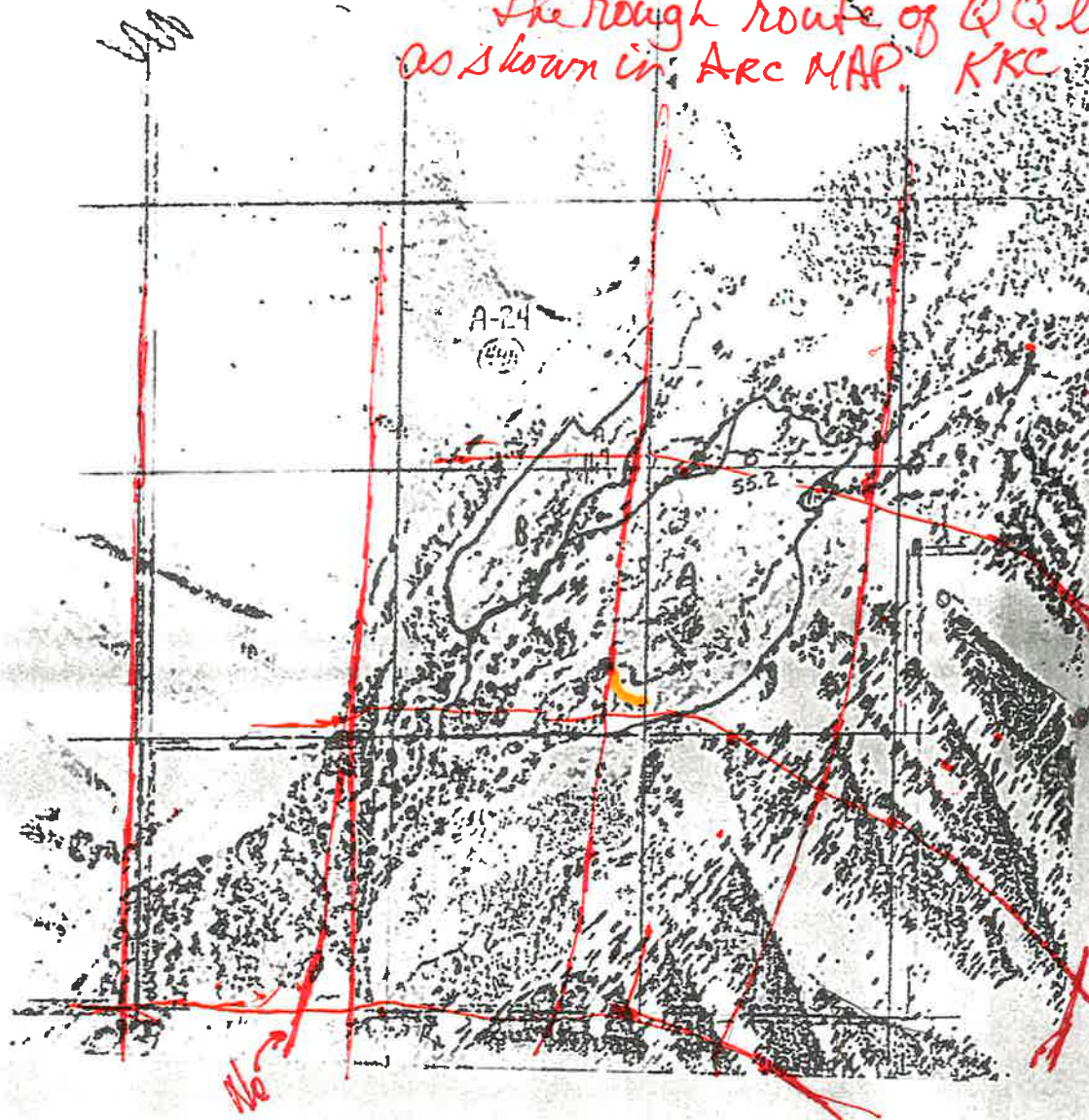
SUBJECT Application for Transfer of Rt. 37-0539, Joseph Cirillo

Yesterday I visited the site of this transfer, accompanied by the watermaster and ditch rider. The original points of diversion were in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 3; the two points were located a few feet apart just below where the stream bends away from the hillside. The upper ditch originally extended about to the south line of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 3, according to longtime property owner Rupert House. He extended this ditch a little at a time to the west line of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 3, finishing in about 1979. The lower ditch was flumed across the stream to cover a few acres on the west side of the stream. Mr. House stated that these ditches were last used in 1979 when the land (except for 20 acres retained by Mr. House) was sold to developer Robert Brannon. 130 inches of water were sold to Mr. Brannon. Mr. House's present headgate has been used for many years to water pasture on the north side of the stream (11 acres); his headgate is in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 3. There ~~is~~ are now two parts to 37-0539. Part A (by convention the larger part) is 130" owned by Robert Brannon, with P/D 2 points in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 3. Part B belongs to Mr. House, and is 20" with P/D in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 3. The Cirillo transfer is for a portion of 37-0539A.

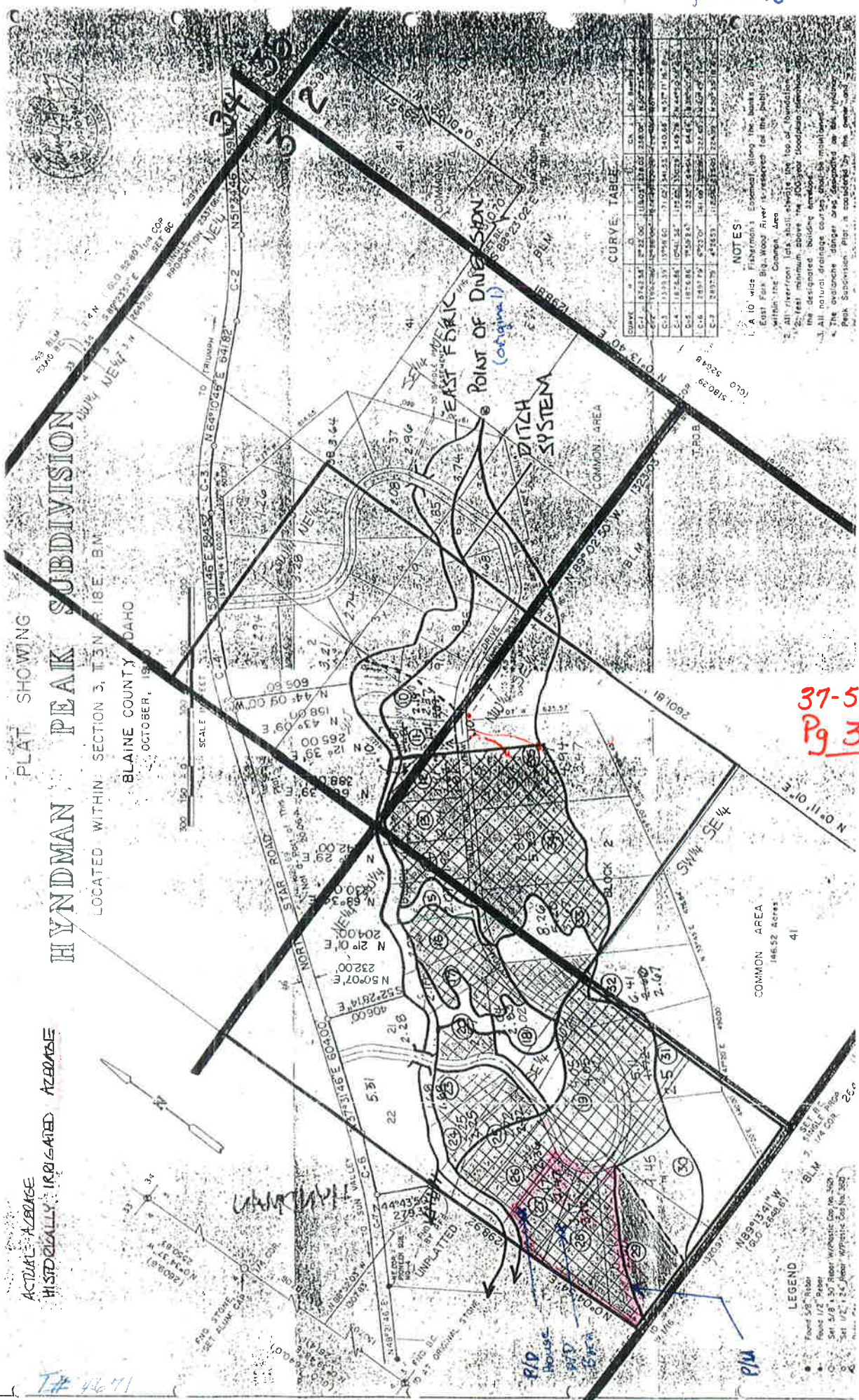

SIGNATURE

2-18-11

Red line represents
the rough route of Q Q lines
as shown in Arc MAP. KKC



T# 4671.



CURVE TABLE

CURVE	CH	CA	TA	CA	CA	CA	CA
C-1	1542.50	22.00	114.00	22.00	22.00	22.00	22.00
C-2	1762.50	22.00	114.00	22.00	22.00	22.00	22.00
C-3	1762.50	22.00	114.00	22.00	22.00	22.00	22.00
C-4	1762.50	22.00	114.00	22.00	22.00	22.00	22.00
C-5	1762.50	22.00	114.00	22.00	22.00	22.00	22.00
C-6	1762.50	22.00	114.00	22.00	22.00	22.00	22.00
C-7	1762.50	22.00	114.00	22.00	22.00	22.00	22.00

- NOTES
1. A 10' wide Fishermen's Easement, along the banks of the East Fork Big Wood River is reserved for the public within the Common Area.
 2. All riverfront lots shall divide the top of foundation and 2 feet minimum above the 500 year floodplain elevation the designated building envelope.
 3. All natural drainage courses shall be maintained.
 4. The avalanche danger area designated on the Hyndman Peak Subdivision Plat is considered by the owner.

37-539 Backfile
Pg 32

ACTUAL ALBERGE
HISTORICALLY IRRIGATED ALBERGE

PLAT SHOWING
HYNDMAN PEAK SUBDIVISION
LOCATED WITHIN SECTION 3, T3N, R18E, BM
BLAINE COUNTY, IDAHO
OCTOBER, 1980

17# 4671

IN
NH

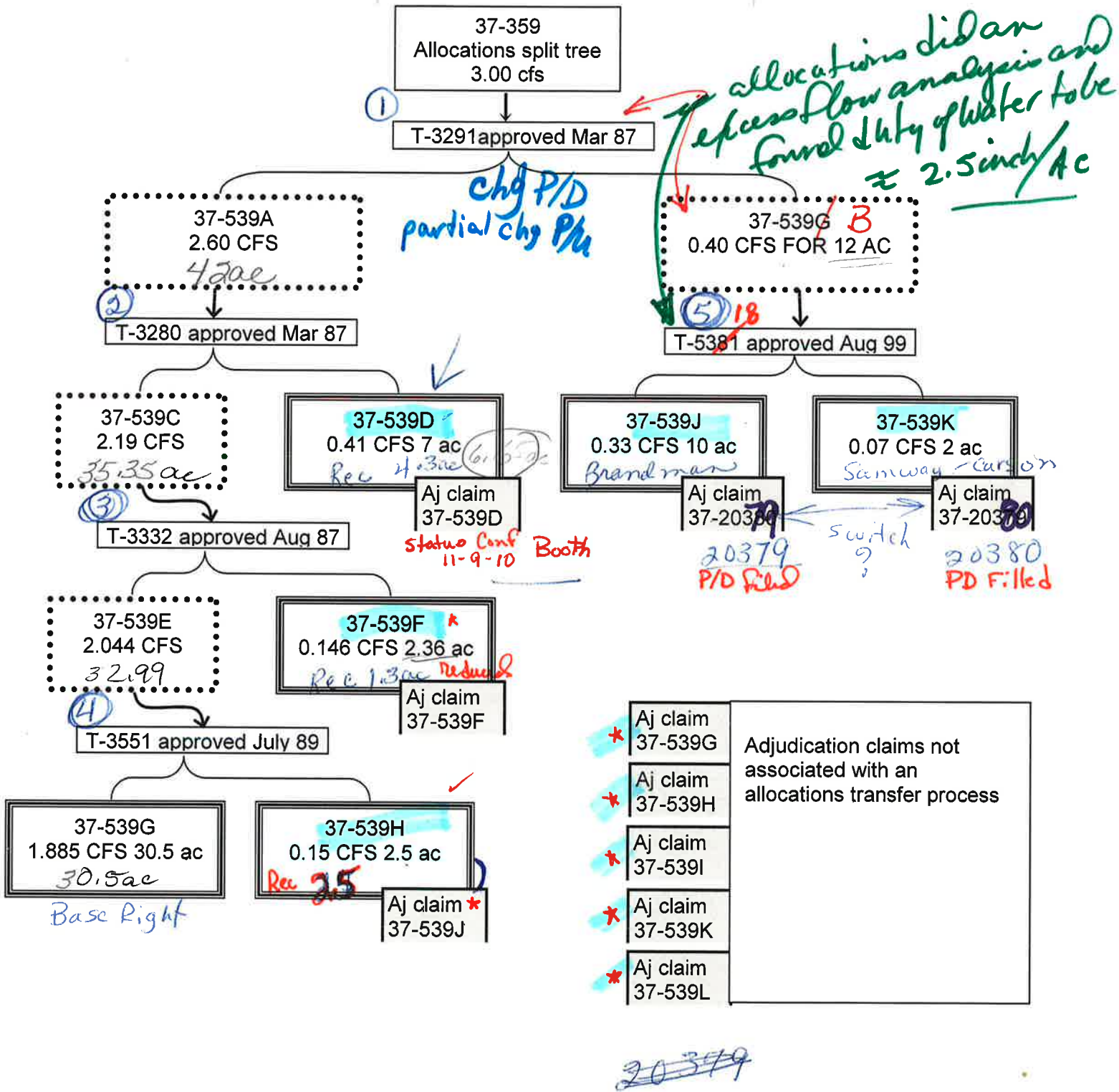
1

OCTOBER, 1950



T# 4671

Page 5 B
Page 102
Vol 528
102
Great Gap
Found 1 1/2" Pipe



TRANSFER

NUMBER

CLAIM NUMBERS Place of use comparison for claims DATE 11-17-2010 HOMESTEAD ENTRY NO. _____filed against 37-539 HYNDMAN SUBD AGENT KKC CLAIMED ACRE TOTAL

GEOGRAPHIC INFO ACRES

				NE				NW				SW				SE				
TNS	RNG	SEC		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
Recommended acreage																				
37-539D	03N	18E	3									3.2			1.1					4.3
37-539F			3												1.3					1.3
37-539G			3			4.5	2.2					5.8			9.2		.7			22.4
37-539H			3									1.3					12.8			14.1
37-539I			3												4					4.0
37-539J			3									1.0					1.5			2.5
37-539K			3									1.0								1.0
37-539L			3									3.1			3.1		1.1	.7		8.0
37-20379			3									3.7								10.0
37-20380			3									2								2.0
TOTALS						6.5	2.2				5	20.4			18.7		16.1	.7		69.6
Stanton ac	03N	18E	3			8						29			20					57.0
				difference																12.6

This is an overview of the recommended acreage by claims per 40-acre tracts followed with the acreage by 40-acre tract identified by Jim Stanton as the irrigated POU not subject to forfeiture. There was not a map listing the acreage considered by Jim in determining the 57 acres. There was a plat map showing irrigated ground prepared by the applicant for T-4671.

Total acreage

I doubt if I will be able to create any kind of transfer trail that will explain why the acreage recommended is 12.6 acres greater than the acreage identified by Jim other than to argue that Jim's analysis did not consider that the adjudication process stayed forfeiture determination for those claims that were valid as of the date of claims filing.

11/09/2010

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

SF-5

RIGHT NUMBER: 37-539D

NAME AND ADDRESS: THOMAS L MATSON
PO BOX E
AUBURN WA 98071

SHANON H MATSON
PO BOX E
AUBURN WA 98071

THOMAS L MATSON RESIDENCE TRUST NO 2
PO BOX E
AUBURN WA 98071

SHANON H MATSON RESIDENCE TRUST NO 2
PO BOX E
AUBURN WA 98071

VERIFIED BY

KKC
11-9-10

SOURCE: EAST FORK WOOD RIVER

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.260 CFS

The annual volume of water under this right shall not exceed 15.0 af/annum.

PRIORITY DATE: 06/03/1884

POINT OF
DIVERSION:

T03N R18E S3 NESW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

0.260 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T03N R18E S03

NESW

3.20

T03N R18E S03

SESW

1.10

4.3 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

Use of water under this water right will be regulated by the watermaster of State Water District No. 37 & DISTRICT.

A measuring device of a type approved by this Department shall be maintained as a part of the diverting works.

Place of use is located within Lots 23 and 25 of Hyndman Peak Subdivision.

This right is a split from former right 37-539C.

37-539D Matson

T-3280 approved March 16, 1987

For 0.41 cfs on 6.65 acres. ≈ 0.62 cfs/ac

Limited to 21 af for 6.65 ac ≈ 3.16 af/ac (volume remark not included in rec.)

Recommendation

For 0.26 cfs on 4.3 acres ≈ 0.06 cfs or 3 inches per acre

This transfer was being processed at the same time as T-3291 (approved on the same day). Excess flow analysis was calculated for that transfer and I assume that analysis was considered when approving this transfer. That analysis found the duty of water to be ≈ 0.05 cfs/ac or 2.5 inches per acre.

Volume calculations

4.3 ac @ 3.50 afa = 15.0 af

4.3 ac @ 3.16 afa ≈ 13.6 af

Cleanup issues;

1. Add the appropriate volume remark.
2. The remark identifying the water district did not include the district number. Add the number.

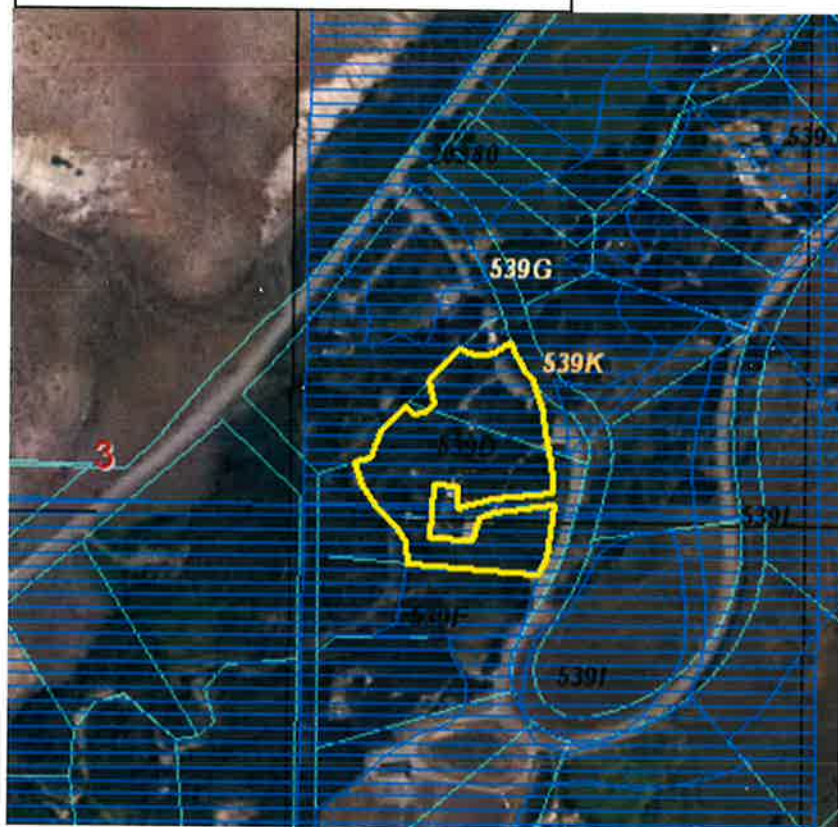
Summary:

The recommendation needs a volume remark added. To be consistent with the transfer probably should use 13.6 af.

The district number should be included within the existing remark.

The rate per acre is within reason and should not be changed or limited to an inch per acre at the headgate.

37-539D



IDWR CONCURRENCE:

Kelly K. Christensen 2-8-11

Kelly K. Christensen
Sr. Water Resource Agent

Date

IDWR CONCURRENCE:

Nicholas B. Spencer Date
Deputy Attorney General
Attorney for IDWR

01/28/2011

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

RIGHT NUMBER: 37-539J

NAME AND ADDRESS: CRAIG BRANDMAN
99 STONEGATE RD
PORTOLA VALLEY CA 94028

DELEYS BRANDMAN
99 STONEGATE RD
PORTOLA VALLEY CA 94028

SOURCE: EAST FORK WOOD RIVER

TRIBUTARY: BIG WOOD RIVER

QUANTITY: ~~0.155~~ 0.125 CFS

PRIORITY DATE: 06/03/1884

POINT OF
DIVERSION:

T03N R18E S3 NENESW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

~~0.155~~ 0.125 CFS

PLACE OF USE:

IRRIGATION in BLAINE County

T03N R18E S03

NESW 1.00

T03N R18E S03

NWSE 1.50

2.5 ACRES TOTAL

Right Nos. 37-539J and 37-8567 are limited to the irrigation of a combined total of 2.5 acres in a single irrigation season.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

This right is a split from former right 37-539E.

Place of use is located within Lots 14 and 15 of Hyndman Peak Subdivision.

01/28/2011

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

RIGHT NUMBER: 37-539J

NAME AND ADDRESS: CRAIG BRANDMAN
99 STONEGATE RD
PORTOLA VALLEY CA 94028

DELEYS BRANDMAN
99 STONEGATE RD
PORTOLA VALLEY CA 94028

VERIFIED BY RKC
1-28-11

SOURCE: EAST FORK WOOD RIVER

TRIBUTARY: BIG WOOD RIVER

QUANTITY: ~~0.155~~ 0.125 CFS

PRIORITY DATE: 06/03/1884

POINT OF
DIVERSION:

T03N R18E S3 NENESW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	~~0.155~~ 0.125 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T03N R18E S03	NESW	1.00	T03N R18E S03	NWSE	1.50
---------------	------	------	---------------	------	------

2.5 ACRES TOTAL

Right Nos. 37-539J and 37-8567 are limited to the irrigation of a combined total of 2.5 acres in a single irrigation season.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM -

This right is a split from former right 37-539E.

Place of use is located within Lots 14 and 15 of Hyndman Peak Subdivision.

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

RIGHT NUMBER: 37-539J
NAME AND ADDRESS: CRAIG BRANDMAN
38 WEST CLAY PARK
SAN FRANCISCO CA 94121
DELEYS BRANDMAN
38 WEST CLAY PARK
SAN FRANCISCO CA 94121

Director's
Report

SOURCE: EAST FORK WOOD RIVER TRIBUTARY: BIG WOOD RIVER
QUANTITY: 0.155 CFS
PRIORITY DATE: 06/03/1884
POINT OF
DIVERSION: T03N R18E S3 NENESW Within BLAINE County
PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	04/15 10/31	0.155 CFS
PLACE OF USE:	<u>IRRIGATION in BLAINE County</u>		
	T03N R18E S03 NESW 1.00	T03N R18E S03 NWSE	1.50
	2.5 ACRES TOTAL		

Right Nos. 37-539J and 37-8567 are limited to the irrigation of a combined total of 2.5 acres in a single irrigation season.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Place of use is located within Lots 14 and 15 of Hyndman Peak Subdivision.
This right is a split from former right 37-539E.