

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 37-778
Date Received: 9/7/1988
Receipt No: S002092
Received By:

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

1. Name of Claimant(s)

JOHN K BARTON Phone: (208)853-1334
LETA BARTON
PO BOX 441
CAREY ID USA 83320

2. Date of Priority: 06/15/1907

3. Source: FISH CREEK Trib. to: LITTLE WOOD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
02N	22E	25	NW NE SW	BLAINE	
02N	22E	36	NE NW NW	BLAINE	

5. Description of diverting works:

CONCRETE CHECK AND HEADGATE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	11/01	2.2	
STOCKWATER	04/01	11/01	0.14	

7. Total Quantity Appropriated is:
2.2 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
02N	22E	25	SW SW	IRRIGATION	40
			SE SW	IRRIGATION	40
			SW SE	IRRIGATION	40
			SW SW	STOCKWATER	
			SE SW	STOCKWATER	
			SW SE	STOCKWATER	
Section Acres					120

02N

22E 26

SE SE
SE SE

STOCKWATER
IRRIGATION

40

Section Acres

40

Total Acres

160

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:

14. Remarks:

claim amended to add stockwater.

15. Basis of Claim: Decreed

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: _____

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): [Signature] Date: 4/16/05

Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 16th day of Nov 2005

[Signature]
Notary Public



Residing at _____ Twin Falls, ID

My commission Expires 4-2-2010

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: A37-00778
Date Received: 9/07/1988
Receipt No: 5002092
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JOHN K. BARTON 208-888-3646
Address: BOX 5432
BOISE, ID 83705

OR

Name: LETA BARTON 208-888-3646
Address: BOX 5432
BOISE, ID 83705

2. Date of Priority: JUN 15, 1907

3. Source: FISH CREEK Trib. to: LITTLE WOOD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
02N	22E	25	NW	NE	SW		BLAINE
		36	NE	NW	NW		BLAINE

5. Description of diverting works:
CONCRETE CHECK AND HEADGATE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	2.200		

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

8. Total consumptive use is 400.0 Acre Feet Per Annum.

9. Non-irrigation uses:

A37-00778

Page 1

Date: 09/07/88

MICROFILMED
FEB 23 1993

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
02N	22E	25	SW		SW		IRR	40.0
			SE		SW		IRR	40.0
			SW		SE		IRR	40.0
							Section Acres	120.0
		26	SE		SE		IRR	40.0
							Section Acres	40.0
							Total Acres	160.0

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:
A37-11269, A37-00777

14. Remarks:

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

POTTER, ET. AL.

Decree Plaintiff

vs

PATTERSON, 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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 2

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): Jim K. Eaton Date: Sept 7, 1988

Date: _____

State of Idaho)
County of Twin Falls) SS.

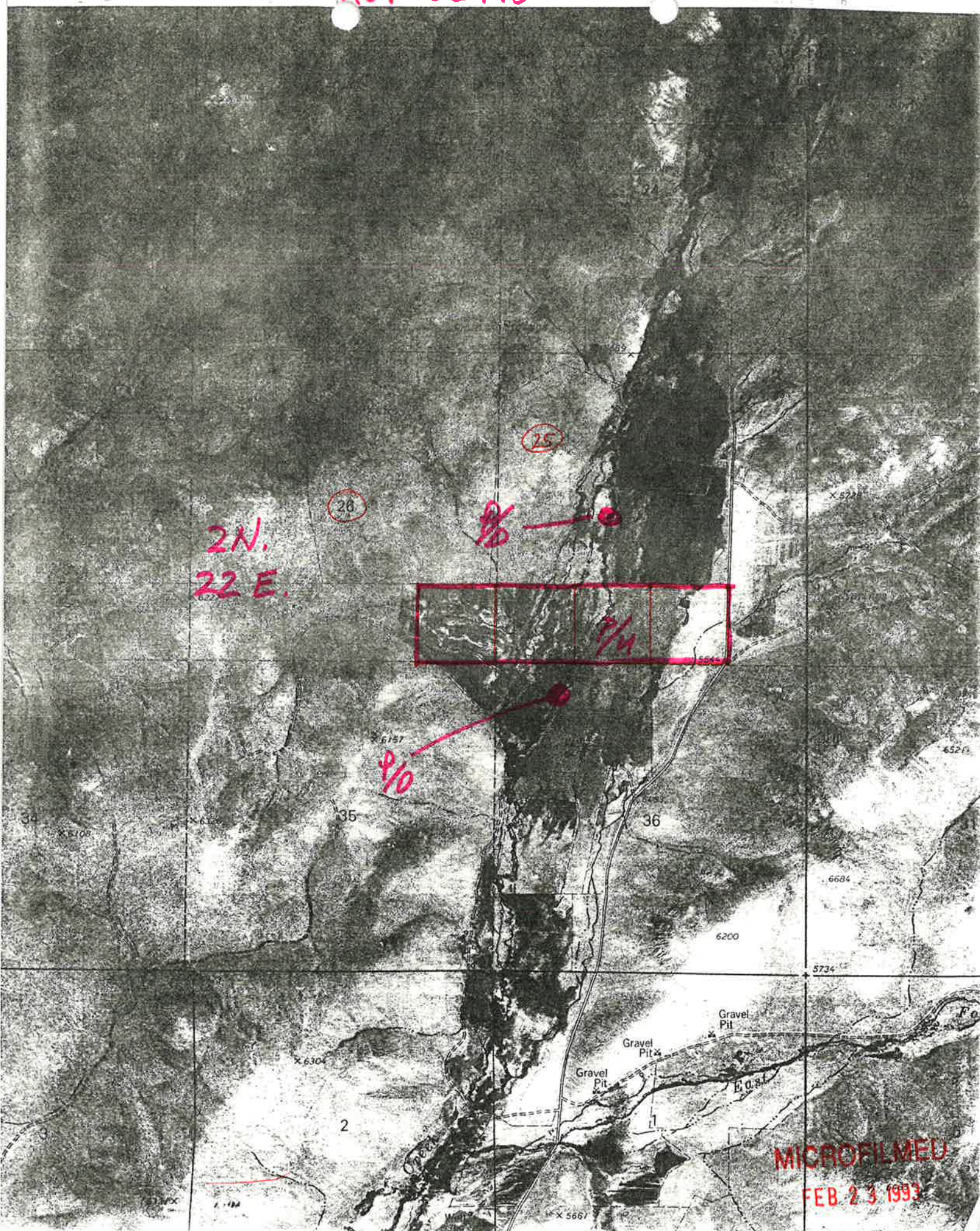
Subscribed and sworn (or affirmed) before me this 7th day
of September 19 88 Roxanne Storey
Notary Public

Seal

Residing at Buhl, Id
My Commission Expires 6-30-94

A37-00778

7.5 MINUTE SERIES



MICROFILMED
FEB 23 1993

0777 Sparks, Hyrum

155 inches from June 30, 1899 for the irrigation of $E\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{2}$ SW $\frac{1}{2}$, Sec. 36, T. 2 N., R. 22 E., containing 160 acres.

0778 Sparks, Hannah

110 inches from June 15, 1907 for the irrigation of SE $\frac{1}{2}$ SE $\frac{1}{2}$, Sec. 26, S $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 25, T. 2 N., R. 22 E., containing 160 acres.

A37-00778

0779 Stinson, Alice J.

53 inches from April 21, 1905 from West Fork for the irrigation of SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 3, SE $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 4, T. 1 N., R. 22 E., containing 160 acres.

0780 Wolpert, B.

120 inches from March 30, 1883 for the irrigation of SE $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 13, NE $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 24, T. 1 S., R. 21 E., Lot 4, Sec. 18, T. 1 S., R. 22 E., containing 120 acres.

0781 Welch, A. L.

Trans. 229

160 inches from March 30, 1883 for the irrigation of E $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 13, T. 1 S., R. 21 E., Lot 3, Sec. 18, T. 1 S., R. 22 E., containing 160 acres.

0782 Ward, John

60 inches from May 18, 1904, for the irrigation of Lot 1, Sec. 4, T. 1 N., R. 22 E., Lot 1, NE $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 33, T. 2 N., R. 22 E., containing 160 acres.

0783 Ward, John

80 inches from May 15th, 1905 for the irrigation of W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 27, SE $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 28, NE $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 33, T. 2 N., R. 22 E., containing 160 acres.

MICROFILMED

FEB 23 1993

12/11/2006

NOTICE OF ERROR
REPLY

RECEIVED

JAN 04 2007

DEPARTMENT OF

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: 01/05/2007

Water right number: 37-778

LETA BARTON
PO BOX 441
CAREY ID 83320
Telephone Number: (208)853-1334

JOHN K BARTON
PO BOX 441
CAREY ID 83320
Telephone Number: (208)853-1334

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):
2. Describe the changes you wish to make in the proposed recommendation:
3. Give a brief explanation as to why you disagree with these portions:

☒ I AGREE with this proposed recommendation: no changes need to be made.

DATE:

12/27/2006

SIGNATURE:

John K. Barton

Please print your name:

John K. Barton

IDWR Regional Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, 2082874800

SCANNED

JAN 04 2007

11/29/2006

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

RIGHT NUMBER: 37-778
NAME AND ADDRESS: LETA BARTON
PO BOX 441
CAREY ID 83320

JOHN K BARTON
PO BOX 441
CAREY ID 83320

SOURCE: FISH CREEK TRIBUTARY: LITTLE WOOD RIVER
QUANTITY: 2.200 CFS
The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
PRIORITY DATE: 06/15/1907
POINT OF DIVERSION:

T02N R22E S25 NWNESE Within BLAINE County
T02N R22E S36 NENWNW 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	2.200 CFS
STOCKWATER	04/15 10/31	0.140 CFS

PLACE OF USE:

IRRIGATION in BLAINE County

T02N R22E S25	SWSW	40.00	T02N R22E S25	SESW	40.00
T02N R22E S25	SWSE	39.00	T02N R22E S26	SESE	39.00
T02N R22E S36	NENW	40.00	T02N R22E S36	SWNW	29.00
T02N R22E S36	SENW	35.00	T02N R22E S36	NWSW	28.00

STOCKWATER in BLAINE County

T02N R22E S25	SWSW	T02N R22E S25	SESW
T02N R22E S25	SWSE	T02N R22E S26	SESE
T02N R22E S36	NENW	T02N R22E S36	SWNW
T02N R22E S36	SENW	T02N R22E S36	NWSW

290 ACRES TOTAL

This right is limited to the irrigation of 160 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 290 acres in a single irrigation season. Combined Right Nos.: 37-777, 37-778, and 37-11269.

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

11/29/2006

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

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.



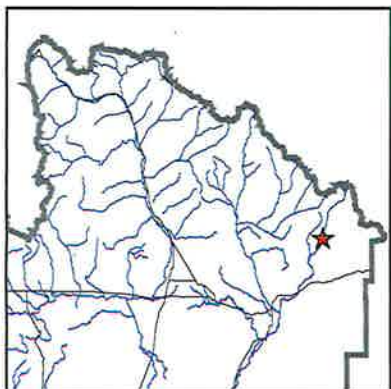
Idaho Department of Water Resources

SRBA Recommendation:

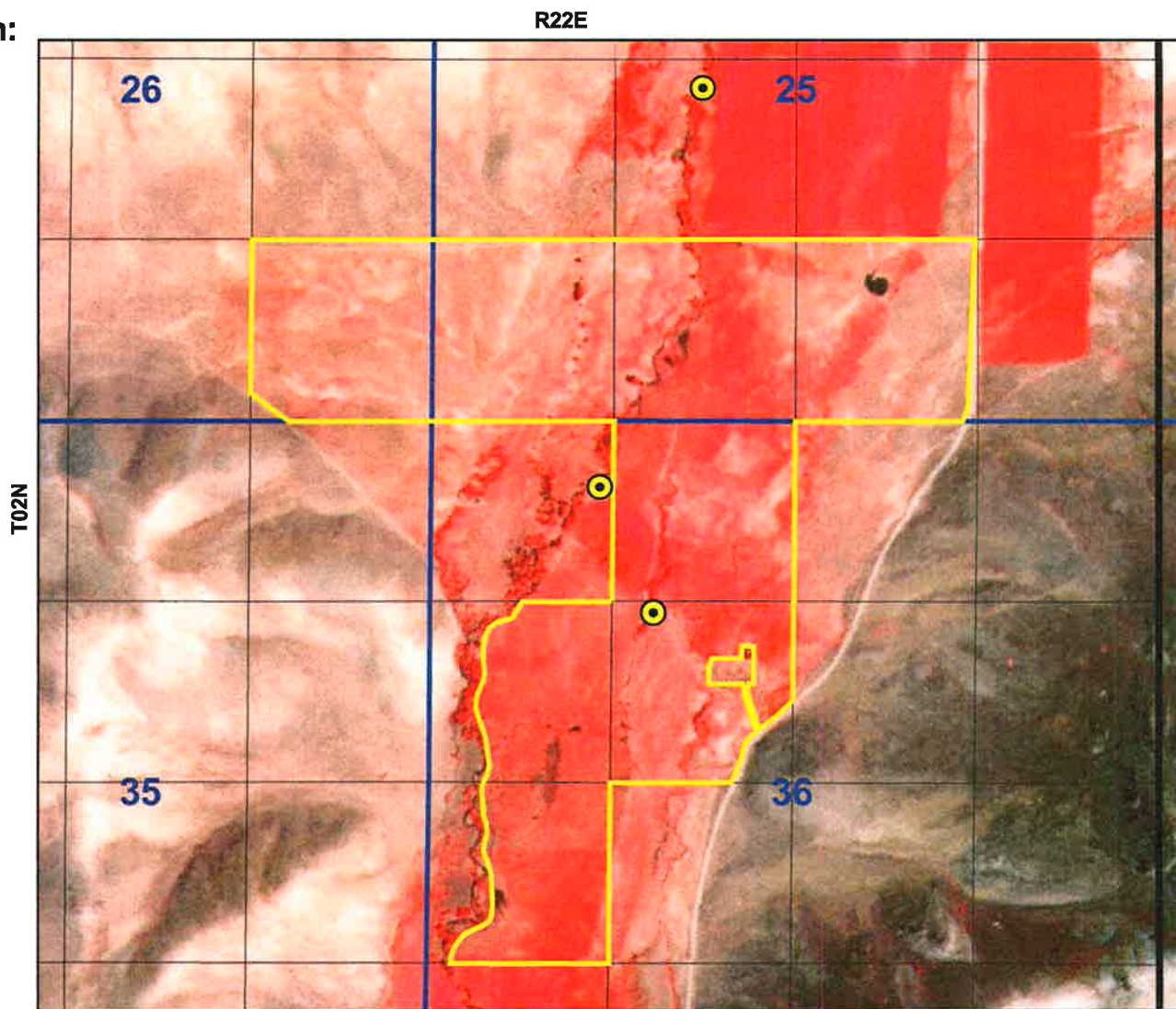
37-777
37-778
37-11269

Legend

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



Blaine County
IDWR Basin 37



0 0.25 0.5 Miles



Prepared by M. Anders
On Wednesday, November 29, 2006
1987/88 Aerial Photography

File No.
A37-00777=00778=11269

Owner
John & Leta Barton
Box 5432
Boise, Idaho

Date
7-7-05

I met Mr. & Mrs. Barton this afternoon at their ranch home above fish creek res. And reviewed these water rights with John. Two of the POD's are directly out of Fish creek and one is spring water. And all this water is commingled on their property, he said he would go down to Twin and see Jim Stanton about transferring his three water rights from individual areas, to cover his whole property. John said on his deed for this property it mentions water rights and springs.

W-right 37=777 John agreed this right is for the 160 acres, shown by the yellow area, the yellow POD's are all three incorrect as marked [see GPS] see red photo for comments about this file and questions regarding Ownership of land.

37-778= John said this 160 acres in yellow looks OK ^{but needs more} but the POD is in the wrong place [see GPS] and this water is from Fish creek. The green outline also looks good, ^{some} the land on the East and West of this designated area is pumped and irrigated some when water is available [see red photo for comments].

37-11269= Again John said the area in yellow looks approx. good but the marked POD is incorrect, and is Fish creek water, and the two unnamed streams are springs on his property, the land middle East of red photo is school property sub irrig. and natural irrig.

SEE Red lines

	Description	GPS Name & No.	Position No.	USR No.	Plate No.	Photo No.	
Fish	Photo look W	John	1	2517288	1363904	A0016258	1060642
Fish	" E	"	2	2517059	1363014	257	641
spring	" W	"	3	2517178	1362734	256	640-639

↓
at
the
pump

Lee R. Peterson

Background Data

- Source is Fish Creek
- Decreed for 2.2 cfs on 4 QQ
- Claimed 2.2 cfs on 160 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)

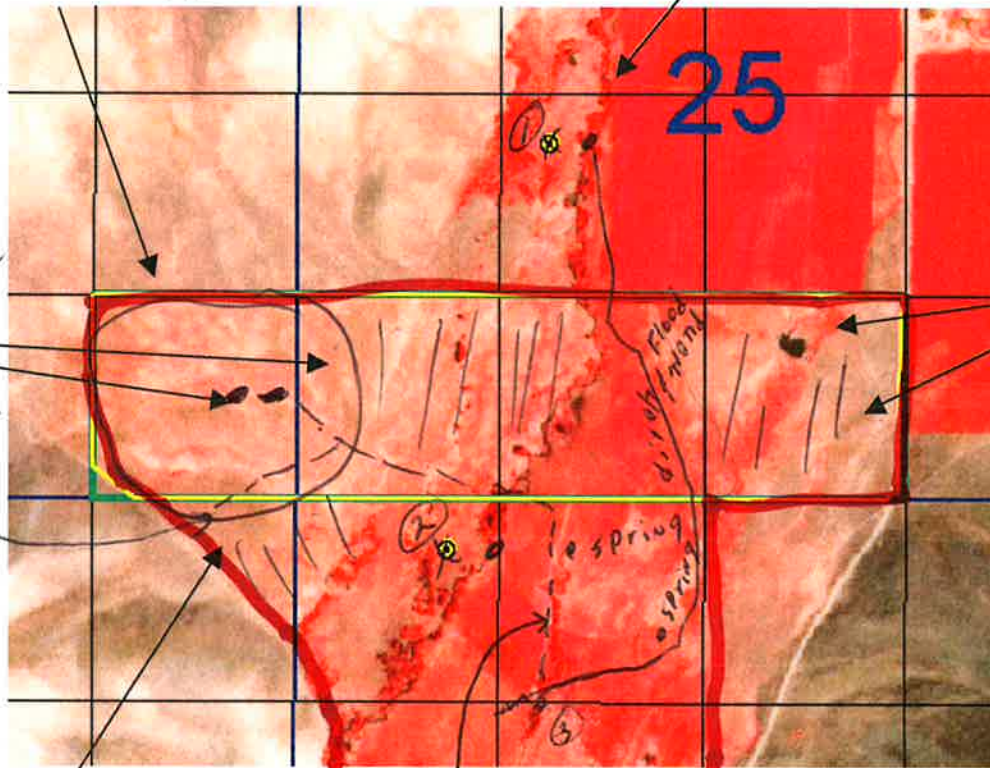
yes - approx. needs more
no
wrong

1987 Aerial Photo

Decreed POU
(Green line)

looks ok + some

Fish Creek yes

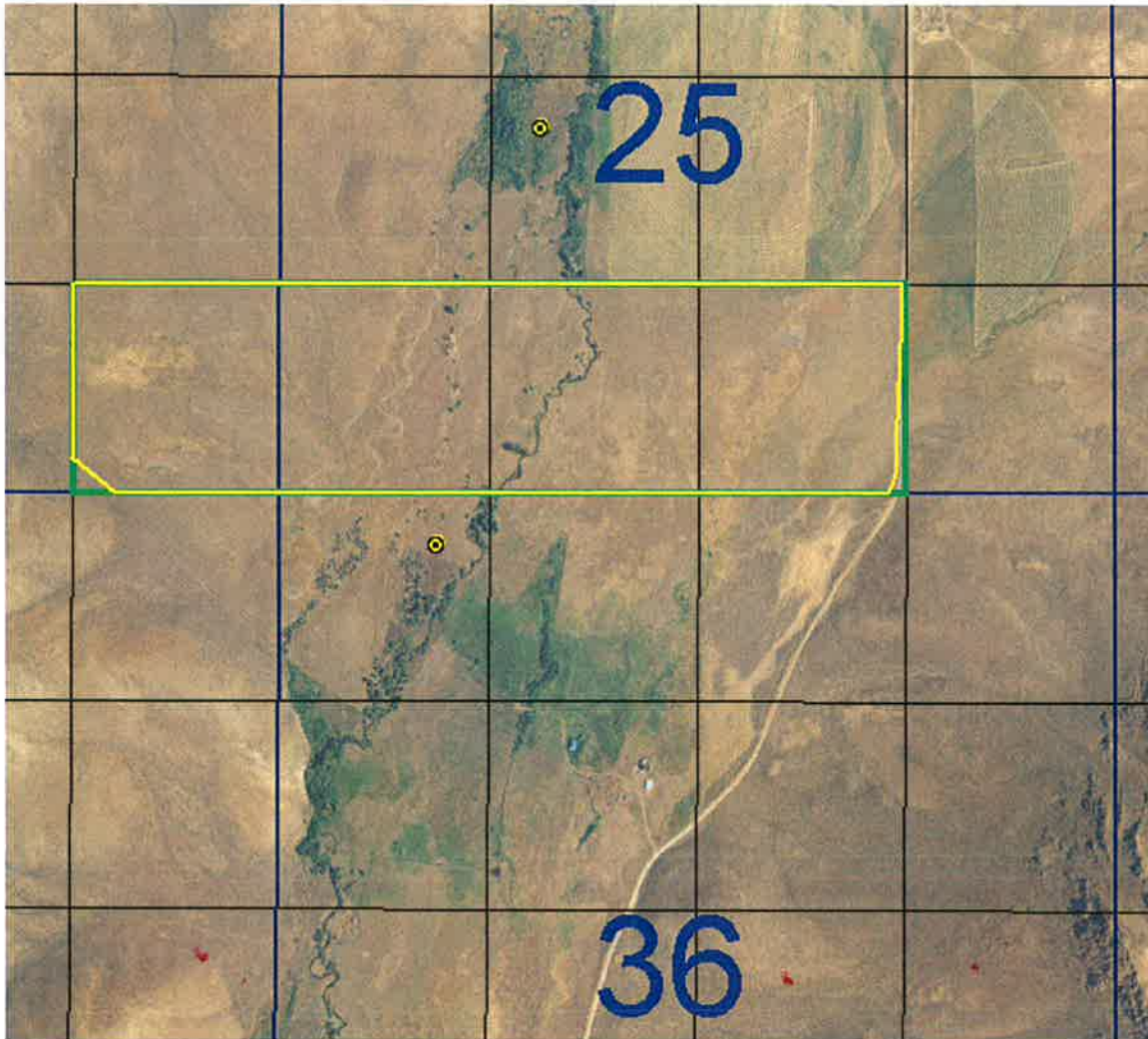


SPRINKLE some when water
unnamed streams from NW
can pump & sprinkle some

unnamed streams from NE
can pump & sprinkle some when water

Is this irrigated under this right?

2004 Aerial Photo



Notes

T2N R22E Sections 25 & 26

- Found 159 acres.
- This right lists the source as Fish Creek. However, if Fish Creek is the only source, how is water distributed to land in the east and west ends of claimed POU - these areas are across unnamed tributaries to Fish Creek and uphill from POD. Deeds submitted with the claim state that the source is several springs "on & near" property.
- The south POD is downstream of POU
- Is land south of SW corner being irrigated under this right? It is owned by Skelton?
- The relation between 37-777, 37-778, & 37-11269 is unclear. Portions of the POUs for 37-777 & 37-778 (both have Fish Creek as a source) appear to require a source other than just Fish Creek - the submitted deeds say springs "on and near" the property are also a source. If they already have a decreed right to these springs, why do they need a Statutory Claim - and vice versa - if they need a Statutory Claim on the springs, then do the POUs for 37-777 & 37-778 need to be reduced in size? There is no mention of springs anywhere in the decrees.

Comments:

Page 2

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 37-778

Water Supply Bank: