

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 37-1046A
Date Received: 10/25/1988
Receipt No: S003217
Received By:

RECEIVED

AUG 11 2005

DEPARTMENT OF
WATER RESOURCES

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

GEORGE T MERRILL & MARILYN K MERRILL FAMILY TRUST Phone: (208) 237-6033
735 VICTOR AVE
CHUBBUCK ID 83202

2. Date of Priority: 04/01/1885

3. Source: MULDOON 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	21E	10	NW NW NW	BLAINE	

5. Description of diverting works:

DITCH, 4HP PUMP, SPRINKLERS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	5/01	10/01	0.04	

7. Total Quantity Appropriated is:
0.04 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
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SCANNED

AUG 10 2005

02N

21E 10

NW NW

IRRIGATION 2

Section Acres 2

Total Acres 2

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:

PORTION OF 37-01046 DECREE

15. Basis of Claim: Decreed

SCANNED
AUG 11 2005

A 37-01046A

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

RECEIVED
 JUL 29 2005
 Department of Water Resources
 Southern Region

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided, if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s)	Adjudication Claim No(s)	Split	Water Right No(s)	Adjudication Claim No(s)	Split
A37-01046A					

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
 PLAT OF PROPERTY or SURVEY MAP clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) are for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the PLAT OF PROPERTY or SURVEY MAP.

3. Name and Address of Former Owner/Claimant(s) Panley James Mechem
Box 121 Carey, ID 83320
4. New Owner/Claimant(s) George T. and Marilyn K. Merrill Family Trust
 Name Connector (Check one): ☒ and, ☐ or, ☐ and/or
- New Mailing Address 735 Victor Ave.
- City, State and ZIP Code Chubbuck, ID 83202
- New Telephone Number (208) 237-6033
5. Date you acquired the property 10-17-94

SCANNED
 AUG 10 2005

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7.** If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s)
(include title if applicable)

George T. Merrill
Maileyn K. Merrill

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

SCANNED

AUG 10 2005

For Office Use Only

Received by _____	Date _____	Fee _____
Received by _____	Date _____	Receipt No. _____
Processed by _____ AJ	Date _____	WR _____ Date _____

WARRANTY DEED

For Value Received P.J. Mecham, also known as Parley James Mecham, a single man

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto
George T. Merrill and Marilyn K. Merrill Family Trust
whose address is: 735 Victor Ave., Chubbuck, ID 83202

Hereinafter called the Grantee, the following described premises situated in Blaine County, Idaho, to-wit:

A PARCEL OF LAND LOCATED IN THE NW1/4 NW1/4 SECTION 10, TOWNSHIP 2 NORTH,
RANGE 21 EAST, BOISE MERIDIAN, BLAINE COUNTY, IDAHO, MORE PARTICULARLY
DESCRIBED AS FOLLOWS:

COMMENCING at a brass cap marking the northwest corner of said Section 10,
which point is the REAL POINT OF BEGINNING; thence
S. 00° 43' 45" West, 186.39 feet along the West boundary of said Section 10
to the North corner of Tax Lot 6033; thence
South 38° 17' 30" East, 1,016.27 feet along the line common to Tax Lots
6033 and 6034; thence
North 52° 01' 48" East, 881.75 feet, more or less to the east boundary of
said NW1/4 NW1/4, Section 10; thence
North 00° 01' 23" West, 136.56 feet, more or less, along the East boundary
of said NW1/4 NW1/4, Section 10 to the Southeast boundary of Tax Lot 4455;
thence
South 40° 01' 08" West, 16.58 feet more or less, along the Southeast
boundary of Tax Lot 4455; thence
North 60° 20' 26" West, 68.07 feet, more or less, along the line common to
Tax Lots 4455 and 6034; thence
North 14° 17' 16" East, 281.94 feet, more or less, along said common line
to the northeast corner of said NW1/4 NW1/4, Section 10; thence
North 89° 32' 03" West, 1,322.25 feet, more or less, along the north
boundary of Section 10 to the POINT OF BEGINNING.

Subject to: 1/2 interest in a domestic water spring which is reserved to
the use of the grantor named herein and including a 1/2 interest in a 4-
horsepower sprinkler pump.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs
and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee
simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and
except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will
warrant and defend the same from all claims whatsoever.

Dated: October 14, 1994

P.J. Mecham
P.J. Mecham, also known as Parley James Mecham

State of Idaho

County of Blaine

On October 12, 1994 before me, the undersigned, a Notary Public in and for said State, personally appeared P.J.
Mecham, also known as Parley James Mecham personally known to me (or proved to me on the basis of satisfactory evidence) to
be the person(s) whose name(s) is subscribed to the within instrument and acknowledged to me that he executed the same.

WITNESS my hand and official seal.

Signature

Commission Expires: 7/12/2000



SCANNED
AUG 10 2005



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

August 10, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

GEORGE & MARILYN MERRILL FAMILY TRUST
735 VICTOR AVE
CHUBBUCK ID 83202

Re: SRBA Claim #37-1046A

Dear Claimant,

Pursuant to the change in ownership request that has been submitted to the Department, we have changed the record of current ownership to you. Please find the enclosed copy of the computer record of the claim noting the change in claimant. Review this record and if there is an error, or you have any questions, please contact this office.

Sincerely,

Carrie Hahn
Office Specialist

Enc.

SCANNED
AUG 14 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: A37-01046A
Date Received: 10/25/1988
Receipt No: S003217
Received By: lw

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ^{Sold} PARLEY JAMES MECHAM - *George & Marilyn Merrill* 208-788-⁴⁸¹⁰~~2530~~
Address: BOX 121
CAREY, ID 83320

2. Date of Priority: APR 01, 1885

3. Source: MULDOON 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	21E	10	NW	NW	NW		BLAINE

5. Description of diverting works:
DITCH, 4HP PUMP, SPRINKLERS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	05/01	10/01	0.040		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
02N	21E	10	NW	NW		IRR	2.0

Section Acres 2.0

Total Acres 2.0

A37-01046A

Page 1

Date: 10/25/88

MICROFILMED

FEB 23 1993

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:
NONE

14. Remarks:
PORTION OF 37-01046 DECREE

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

Decree Plaintiff

vs

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: _____

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): Farley James Mecham Date: 10/25/88

Date: _____

State of Idaho)
County of TF) SS.

Subscribed and sworn (or affirmed) before me this 25th day
of Oct 19 88 Lois White
Notary Public

Seal

Residing at TF
My Commission Expires 5/95

01/16/2007

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

RIGHT NUMBER: 37-1046A
NAME AND ADDRESS: GEORGE T MERRILL & MARILYN K MERRILL FAMILY TRUST
735 VICTOR AVE
CHUBBUCK ID 83202
SOURCE: MULDOON CREEK TRIBUTARY: LITTLE WOOD RIVER
QUANTITY: 0.030 CFS
PRIORITY DATE: 04/01/1885
POINT OF DIVERSION:
T02N R21E S3 NENWSE 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	0.030 CFS

PLACE OF USE: IRRIGATION in BLAINE County
T02N R21E S10 NWNW 1.60

1.6 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 1.6 acres in a single irrigation season. Combined Right Nos.: 37-1046A and 37-2243C.

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



Idaho Department of Water Resources

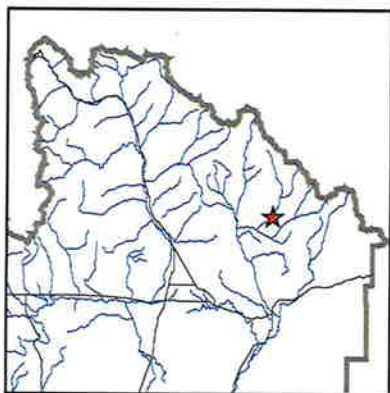
SRBA Recommendation:

37-1046A

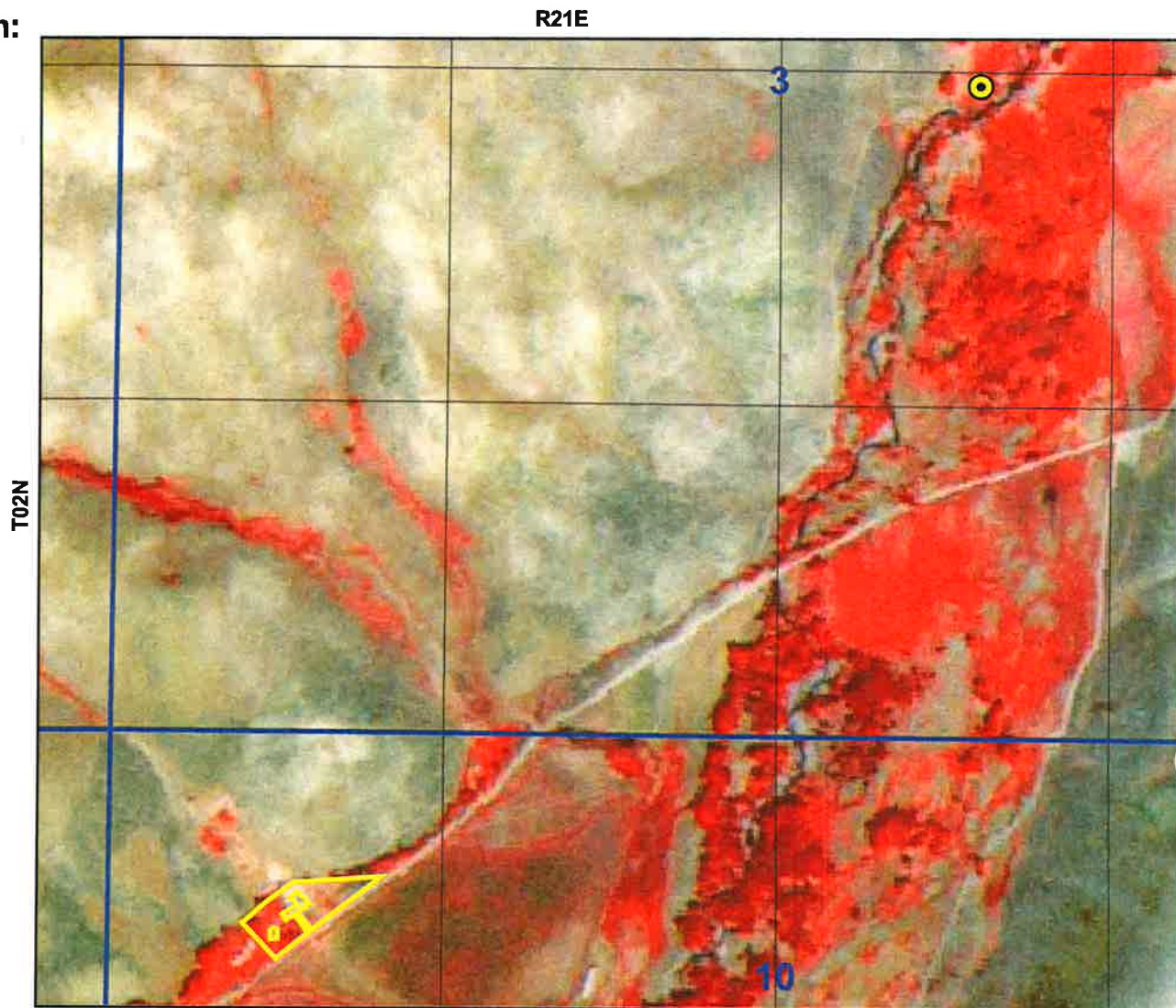
37-2243C

Legend

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



Blaine County
IDWR Basin 37



0 0.25 0.5 Miles

A scale bar showing distances in miles, with markings for 0, 0.25, and 0.5 miles.

Prepared by M. Anders
On Tuesday, January 16, 2007
1987/88 Aerial Photography

Adjudication Claim Notes

Claim(s): 37-1046A, 37-2243C

Background Data

37-1046A

- Source is Muldoon Creek
- 37-1046 originally decreed for 1.6 cfs on 5 QQ with priority date of April 1, 1885
- Priority Date: 4/1/1885
- A priority date search indicates:
 - 37-1046A is claiming 0.04 cfs for Irrigation of 2 acres
 - 37-1046B claiming 0.2 cfs for Irrigation of 10 acres
 - 37-1046C is claiming 1.6 cfs for Irrigation of 606 acres
 - Overclaimed

37-2243

- Source is waste water
- Priority Date: 8/8/1912
- A priority date search confirmed:
 - 37-2243 was originally licensed for 4.3 cfs on 215 acres
 - 37-2243A claimed 4.3 cfs for Irrigation of 606 acres
 - 37-2243B claimed 0.2 cfs for Irrigation of 10 acres
 - Overclaimed

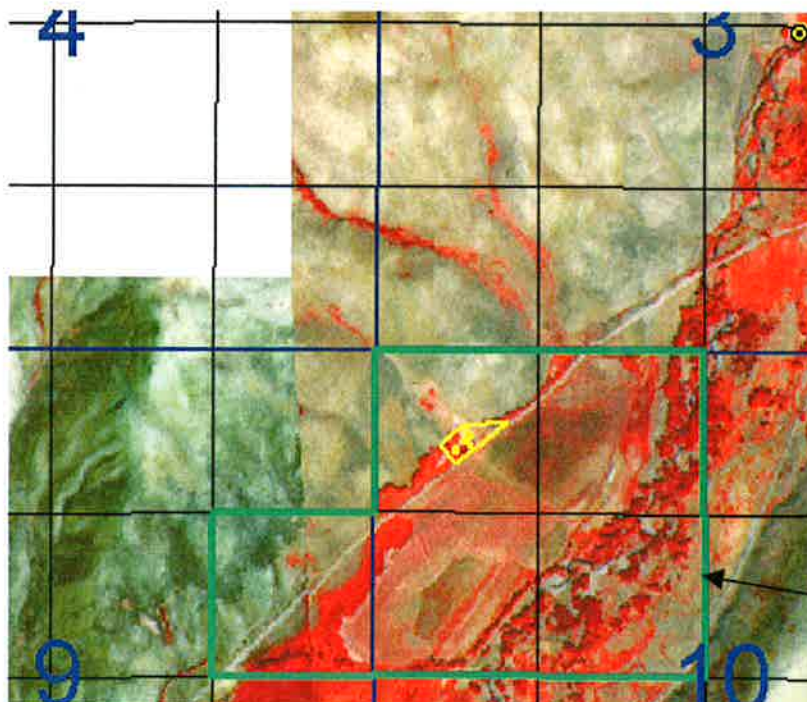
Place Of Use Data

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)

1987 Aerial Photo



Decreed POU for
37-1046

Muldoon Creek
September 23, 2004

ABC Agra Upper Diversion



ABOVE: View looking across Muldoon Creek towards the ABC Agra Upper Diversion(s). Note a head gate has been installed, but water from Muldoon Creek still enters the diversion ditch via an uncontrolled diversion just downstream of the recently installed head gate. The head of the Clark Lower Diversion Ditch is visible in the foreground of this view.



LEFT: View of the recently installed head gate for the ABC Agra Upper Diversion. This head gate is tied into a buried 30" diameter pipeline that discharges into the upper diversion ditch.

BELOW: View looking back up the ABC Agra Upper Diversion Ditch showing the location of the discharge from the pipeline from the head gate. Also note uncontrolled water from Muldoon Creek entering the ditch.



ABC Agra Upper Diversion



LEFT: View of measuring device, two 42" rectangular weirs, in ABC Agra Upper Diversion Ditch.

BELOW: Close up view of measuring device showing presence of only one staff gage, but weirs are not at the same elevation.



GPS coordinate location for point of diversion: 2504977, 1370397 (IDTM coordinates NAD83 projection) Legal Description NWSE Section 3 (T02N, R21E). Site Tag #A0011841.

Diversion works consist of metal screw gate structure. However, another uncontrolled diversion also enters the ditch. Measuring device consists of two 42-inch rectangular weirs placed in parallel. One staff gage was present for one of the weirs, but the two weirs were not at the same elevation. Flow through left (east) weir was measured at 3.52 cfs and flow through right (west) weir was measured at 3.88 cfs.

Concerns: Lack of control on all of the water entering the ditch. Measuring device needs a staff gage on both weirs. ABC Agra's SRBA filings identify point of diversion in SWNE Section 3 (T02N, R21E).

Notes

T2N R21E Section 10

- Found 1.6 acres
- The POD for this is not the field gate north of the property, it is the canal head gate GPS by Corey Skinner named "ABC Agra - Upper"
- This owner also has 37-12015, a decreed diminimus right for domestic. The source is the spring uphill north-northwest of property. Lee Peterson collected GPS data for the spring POD:
 - name = BRUCE2
 - Tag # - n/a
 - Photo number = 1060633
 - X = 2503823, Y = 1369712
- 12/4/05 – Met with Mr. & Mrs. Merrill at public meeting in Sun Valley
 - They requested a new claim to file against 37-2243.
 - 12/8/06 – I sent them a new claim 37-2243C
- 37-1046A Overclaim resolution:
 - 37-1046A (Merrill) claimed 0.04 cfs of the 1.6 cfs decreed
 - 37-1046B (Price) claimed 0.20 cfs of the 1.6 cfs decreed
 - Submitted 3 deeds:
 - 1986 & 1990 deeds only mention water from spring
 - 2001 deed mentions
 - 0.2 from 37-2243B
 - 0.2 from 37-1046B
 - 0.04 and 0.02 from 37-12020
 - 7 of the 10 acres being claimed in 37-1046B are above the ditch. The 7 acres above the ditch does not appear to be irrigated on the 1987, 1992, 2004, and 2005 aerial photos. Irrigation of this land was also not evident during a field exam in 2005.
 - 37-1046C (Muldoon Ranch) claimed the entire 1.6 cfs of the 1.6 cfs decreed
 - 37-1046 was originally decreed for 1.6 cfs for Irrigation of 5 (QQ)
 - Based on the 1987 aerial photo, the claimed POU for 37-1046C, and POD documentation for Muldoon Ranch by Corey Skinner in 2004 (indicates Muldoon Ranch is only diverting water to the west from Muldoon Creek, Clark is diverting to the east), all the irrigated land is west of Muldoon Creek and the total is 80 acres.
 - Decreed duty of water is 1.6 cfs / 80 acres = 0.02 cfs/acre
 - Irrigation totals:
 - 37-1046A (Merrill) – 1.6 acres
 - 37-1046B (Price) – 2.8 acres
 - 37-1046C (Muldoon Ranch) – 76 acres

- Decision:
 - Did a proportional split of the water based on the amount of irrigated acres owned by each claimant within decreed POU:
 - 37-1046A (Merrill) – 0.03 cfs for Irrigation of 1.6 acres
 - 37-1046B (Price) – 0.06 cfs for Irrigation of 2.8 acres
 - 37-1046C (Muldoon Ranch) – 1.51 cfs for Irrigation of 76 acres
- 37-2243C Overclaim resolution:
 - 37-2243A (Muldoon Ranch) claimed the entire 4.3 cfs of the 4.3 cfs decreed
 - 37-2243B (Price) claimed 0.20 cfs of the 4.3 cfs decreed
 - Submitted 3 deeds:
 - 1986 & 1990 deeds only mention water from spring
 - 2001 deed mentions
 - 0.2 from 37-2243B
 - 0.2 from 37-1046B
 - 0.04 and 0.02 from 37-12020
 - 7 of the 10 acres being claimed in 37-2243B are above the ditch. The 7 acres above the ditch does not appear to be irrigated on the 1987, 1992, 2004, and 2005 aerial photos. Irrigation of this land was also not evident during a field exam in 2005.
 - 37-2243C (Merrill) claimed 0.04 cfs for Irrigation of 2 acres
 - 37-2243 was originally decreed for 4.3 cfs for Irrigation of 215 cfs
 - Decreed duty of water is $4.3 \text{ cfs} / 215 \text{ acres} = 0.02 \text{ cfs/acre}$
 - Irrigation totals:
 - 37-2243A (Muldoon Ranch) – 212 acres
 - 37-2243B (Price) – 2.8 acres
 - 37-2243C (Merrill) – 1.6 acres
 - Decision:
 - Did a proportional split of the water based on the amount of irrigated acres owned by each claimant within decreed POU:
 - 37-2243A (Muldoon Ranch) – 4.21 cfs for Irrigation of 210.6 acres
 - 37-2243B (Price) – 0.06 cfs for Irrigation of 2.8 acres
 - 37-2243C (Merrill) – 0.03 cfs for Irrigation of 1.6 acres

➤ Recommendations:

○ 37-1046

- 37-1046A (Merrill) – 0.03 cfs for Irrigation of 1.6 acres
- 37-1046B (Price) – 0.06 cfs for Irrigation of 2.8 acres
- 37-1046C (Muldoon Ranch) – 1.51 cfs for Irrigation of 195 acres within PPU

- Based on the 1987 aerial photo, the claimed POU for 37-1046C, and POD documentation for Muldoon Ranch by Corey Skinner in 2004 (indicates Muldoon Ranch is only diverting water to the west from Muldoon Creek, Clark is diverting to the east), all the irrigated land is west of Muldoon Creek

- Inconsistency:

- Based the proportional split on the 80 irrigated acres within the decreed place of use, but allowed 37-1046C to irrigate up to 195 acres (right decreed on 5 QQ) within PPU.

○ 37-2243

- 37-2243A (Muldoon Ranch) – 4.21 cfs for Irrigation of 210.6 acres
- 37-2243B (Price) – 0.06 cfs for Irrigation of 2.8 acres
- 37-2243C (Merrill) – 0.03 cfs for Irrigation of 1.6 acres

➤ Data used for review: 1987, 1992, & 2004 aerial photos, Blaine Co Tax Records, Idaho Ownership (idown.shp), & USGS 1:24,000 Topo



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.

JAMES E. RISCH
Governor

KARL J. DREHER
Director

December 8, 2006

George T Merrill & Marilyn K Merrill Family Trust
735 Victor Ave
Chubbuck, ID 83202

RE: Snake River Basin Adjudication claim 37-2243C

Dear Mr. Merrill,

Attached is the new Snake River Basin Adjudication (SRBA) water right claim 37-2243C that you requested at our meeting this week in Sun Valley. I also included the original license for water right 37-2243. Please review the claim and if you feel it correctly represents your water use, please sign it, have it notarized, and return it to me with \$100 (filing fee for new claim, per acre fee waived). Please note that this claim is not valid until I receive it signed and notarized with the filing fee.

If you have questions, feel free to contact me at (208) 287-4937.

Sincerely,

Matt Anders
GIS Specialist – Snake River Basin Adjudication

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 37-2243C
Date Received: 12/8/2006
Receipt No:
Received By:

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

1. Name of Claimant(s)

GEORGE T MERRILL & MARILYN K MERRILL FAMILY TRUST Phone: (208)237-6033
735 VICTOR AVE
CHUBBUCK ID USA 83202

2. Date of Priority: 08/08/1912

3. Source: WASTE WATER , WASTE WATER , WASTE WATER Trib. to: MUTUAL GULCH CREEK ,
MUTUAL GULCH CREEK , MUTUAL GULCH CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot		County	Type
03N	21E	12	SW	SW	BLAINE	
03N	21E	3	NW	SE	BLAINE	
03N	21E	3	SW	NE	BLAINE	

5. Description of diverting works:

Ditch from Muldoon Creek, 4HP pump, sprinklers

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/31	0.04	

7. Total Quantity Appropriated is:
0.04 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	21E	10	NW	NW	IRRIGATION	2
					Section Acres	2
					Total Acres	2

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:

15. Basis of Claim: License

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 Organizations:

I do solemnly swear or affirm that I am _____ of
Title

_____, that I have signed the foregoing
Organization
document in the space below as _____ of
Title

_____, and that the statements contained in the
Organization
foregoing document are true and correct. _____

Signature of Authorized Agent

Title and Organization

Date

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this

of _____ 20__

Notary Public

Residing at _____

My commission Expires _____

County: Blaine
Stream: Mutual Tunnel
Amount: 4.3 sec. ft.
Use: Irrigation
Priority: 8-8-1918

STATE OF IDAHO

Water License No. 8596

WHEREAS, On the 8th day of August, A. D. 1912, James Laidlaw, of Bellevue, County of Blaine, State of Idaho, duly made application (No. 12932) to me for a permit to use, nine (9) cubic feet per second of the waters of Mutual Tunnel on Last Chance Mine, County of Blaine, State of Idaho, for irrigation and domestic purposes, and,

WHEREAS, On the 24th day of August, A. D. 1912, Permit No. 8596 was issued to said applicant for the diversion of said water and providing for the completion of the works of diversion therein described on or before the 24th day of August, A. D. 1913, and for the application to beneficial use of said water on or before the 24th day of August, A. D. 1914, and,

WHEREAS, On the 21st day of August, A. D. 1913, James Laidlaw,

the holder of said permit, duly made proof of the completion of adequate works for the diversion of nine (9) cubic feet per second of said waters, as evidenced by my Certificate No. 8596, dated December 6, 1913, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use nine (9) cubic feet per second of said water, with date of priority of August 8, 1912, and

WHEREAS, On the 18th day of June, A. D. 1914, James Laidlaw,

the holder of said permit, duly made proof of the application to beneficial use of 4.3 cubic feet per second of said water.

NOW, THEREFORE, By virtue of authority vested in me by the laws of the State of Idaho, I hereby grant and confirm to

James Laidlaw

of Bellevue, County of Blaine, State of Idaho, the holder and owner of said Permit No. 8596, a perpetual right, dating from August 8, 1912, to the use of 4.3 cubic feet per second of the waters of Mutual Tunnel on Last Chance Mine,

in the County of Blaine and State of Idaho, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted as follows: #1 in the NW $\frac{1}{4}$ of SE $\frac{1}{4}$, Sec. 3, and #2 in the SW $\frac{1}{4}$ of SE $\frac{1}{4}$, Sec. 9, both in T. 2 N., R. 21 E. B. M.,

and conducted to and upon 215 acres, divided as follows: 35 acres in NW $\frac{1}{4}$ of NW $\frac{1}{4}$, 40 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, 40 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ and 3 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, all in Sec. 10; 17 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 9; 5 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, 40 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, 20 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ & 15 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 17, all in T. 2 N., R. 21 E. B. M.

for the purpose of irrigation and domestic use, subject, however, to the laws of the State of Idaho, applicable to a license for the use of the waters of the State, and subject, also, to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source or supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS, My hand and the seal of my office at Boise, Idaho, this 5th day of January, A. D. nineteen hundred and fifteen.

Herbert Wing,

Acting State Engineer.

(Seal)

37-2243



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 31, 2005

ABC Agra, LLC
PO Box 378
Jerome, ID 83338

George T. & Marilyn K. Merrill Family Trust
735 Victor Ave
Chubbuck, ID 83202

Bruce & Sherry Price
PO Box 1022
Bellevue, ID 83313

RE: Snake River Basin Adjudication claims 37-1046, 37-1046A, & 37-1046B

Dear Claimants,

Water right 37-1046 was originally decreed for a diversion rate of 1.6 cfs for irrigation of an unspecified number of acres in 5 quarter-quarter sections (40 acres each). The following claims totaling 1.84 cfs have been filed against water right 37-1046 in the Snake River Basin Adjudication:

37-1046	ABC Agra, LLC	1.60 cfs
37-1046A	Merrill Family Trust	0.04 cfs
37-1046B	Bruce & Sherry Price	<u>0.20 cfs</u>
		1.84 cfs

However, state law mandates that I cannot recommend more than 1.6 cfs (the decreed diversion rate) for this right in the Snake River Basin Adjudication.

A possible resolution is to split the water right into three parts, with each claimant receiving a diversion rate based on the number of acres they are irrigating. Right 37-1046 was originally decreed at a rate of 0.02 cfs/acre. The number of acres being irrigated by each claimant was determined through a review of the historical aerial photos and a recent field examination. Applying the original decreed diversion rate of 0.02 cfs to the number of acres irrigated by each claimant would result in this water right being split as follows:

37-1046	ABC Agra, LLC	76 acres	1.51 cfs
37-1046A	Merrill Family Trust	1.6 acres	0.03 cfs
37-1046B	Bruce & Sherry Price	<u>2.8 acres</u>	<u>0.06 cfs</u>
		~80 acres	1.6 cfs

Please advise me on how to resolve this issue. If you have any questions or would like to discuss this, feel free to contact me at (208) 287-4937.

Sincerely,

Matt Anders
GIS Specialist – Snake River Basin Adjudication

File No.
A37-01046A

Owner
Parley James Mecham [SOLD]
George and Marilyn Merrill [NEW]
Carey

Date
6/30/05

I called and made an apt. to see Mr. & Mrs. Merrill today to review their water right and first I gave them a change of ownership form and suggested they take a copy of deed and go into IDWR see Kelly and get this file in their name. And while observing photo's, the area which this water right is apertanant to is the whole area yellow and closed area by pen 2 acres and the POD on green photo is the spring water for domestic and stock, the irrigation POD is marked on lateral from Muldoon Cr. , also the POD shown is incorrect the real POD is further up the hillside at the head of spring see GPS. These two POD's are shared with Bruce Price 2243B & 1046B.

Description	GPS Name & No.	Position No.	USR No.	Plate No.	Photo No.
Mecham-Merrill	Meril 1	2504109	1369387	A0016252	1060632
" "	Bruce 2	2503824	1369712	None	1060633

↓
This is
spring see
37-12015

↓
This is the field gate
just north of the property. The
canal head gate GPSed by
Correy Skinnars

Lee R. Peterson

Name = ABC Agra - Upper

X = 2504977

Y = 1370397

Tag = A0011841

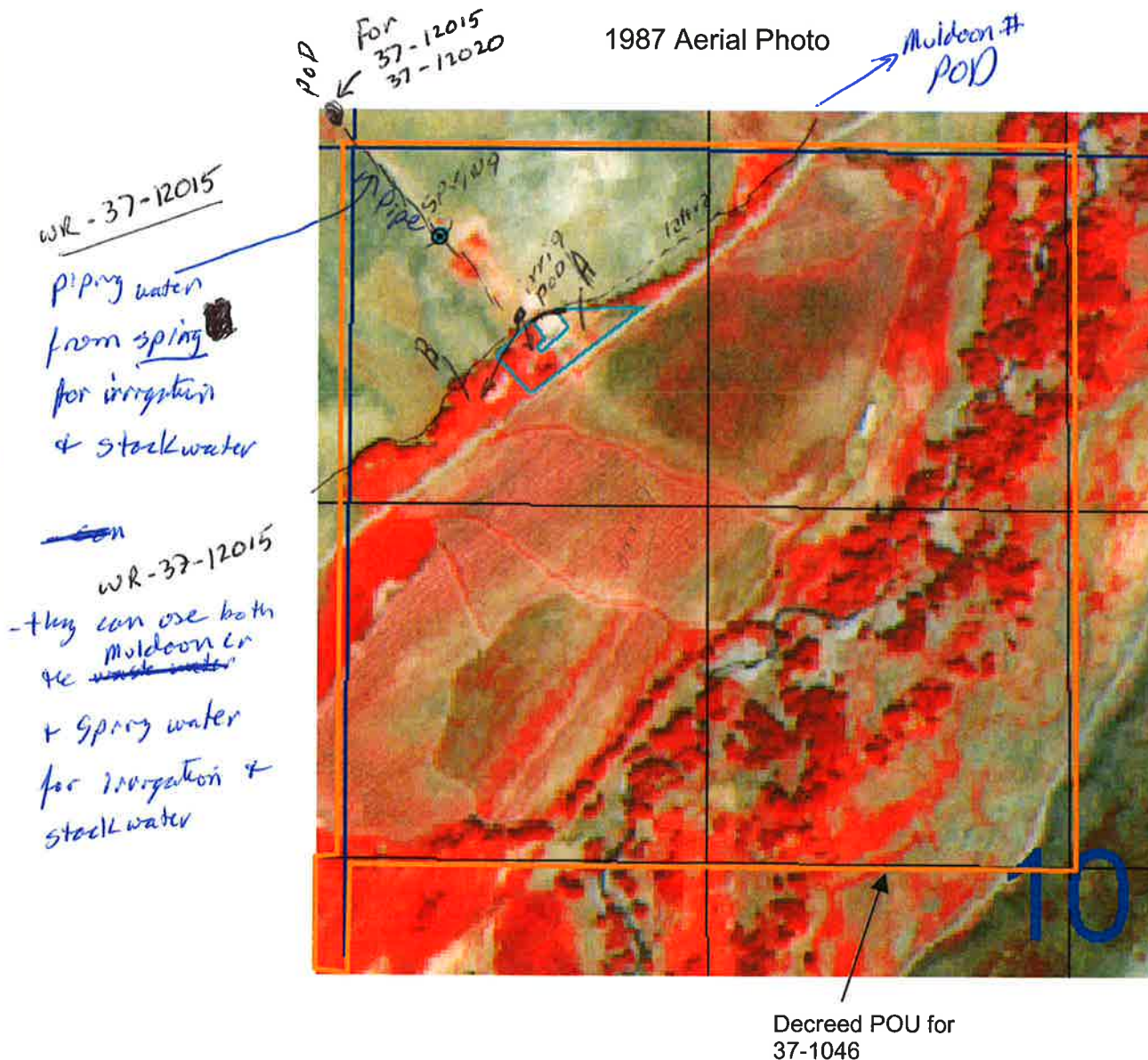
Legal = T2N, R21E, section 3, NWSE

Background Data

- Source is Muldoon Creek *for Irrig - yes Irrig Pod is on lateral*
- Did a preliminary search on the splits, but need to confirm with priority date search file.
 - 37-1046 originally decreed for 1.6 cfs on 5 QQ
 - 37-1046 claimed all 1.6 cfs on 140 acres
 - 37-1046A claimed 0.04 cfs and 2 acres
 - 37-1046B claimed 0.2 cfs and 10 acres
 - **Overclaimed**

Place Of Use Data

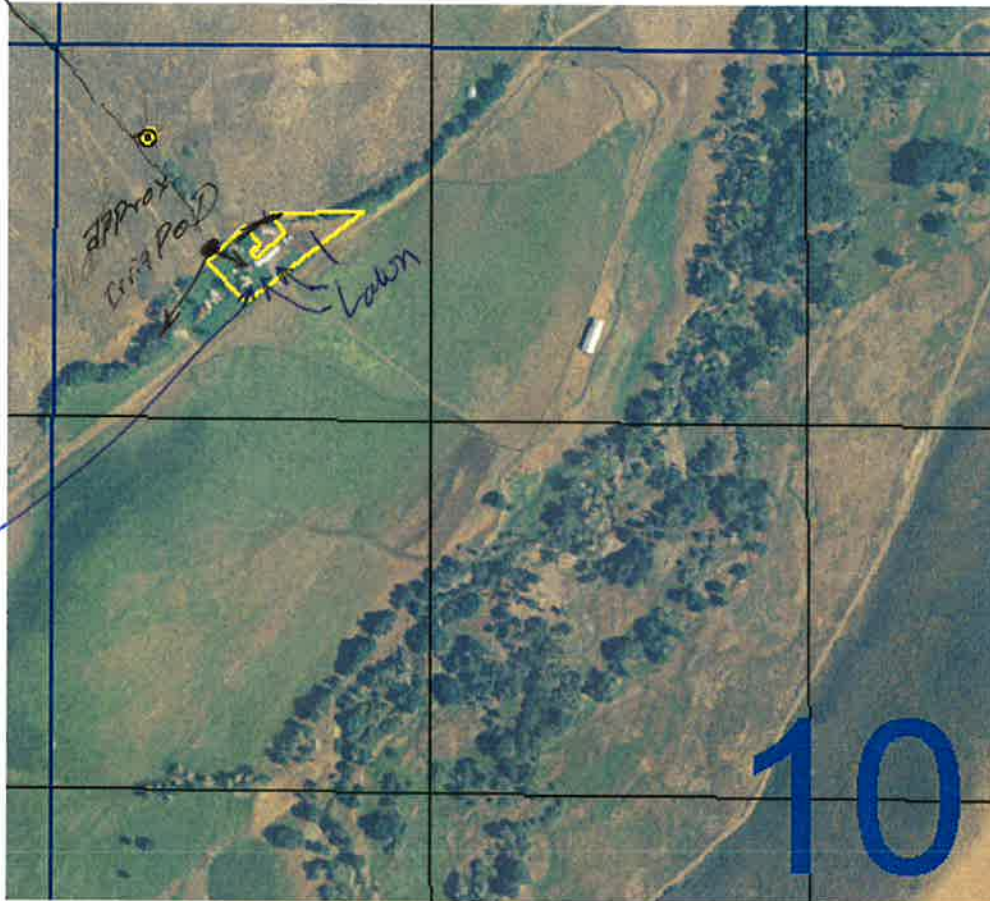
Blue line is the draft Place of Use created by IDWR based on historical data and records.
 Blue dot is draft Point of Diversion created by IDWR based on historical data and records.
 Orange line is decreed/licensed POU (this may only represent the Quarter-Quarter sections of the decree/license)



*Original Map
is orig POD
no*

*POD
further up
see GPS*

2004 Aerial Photo

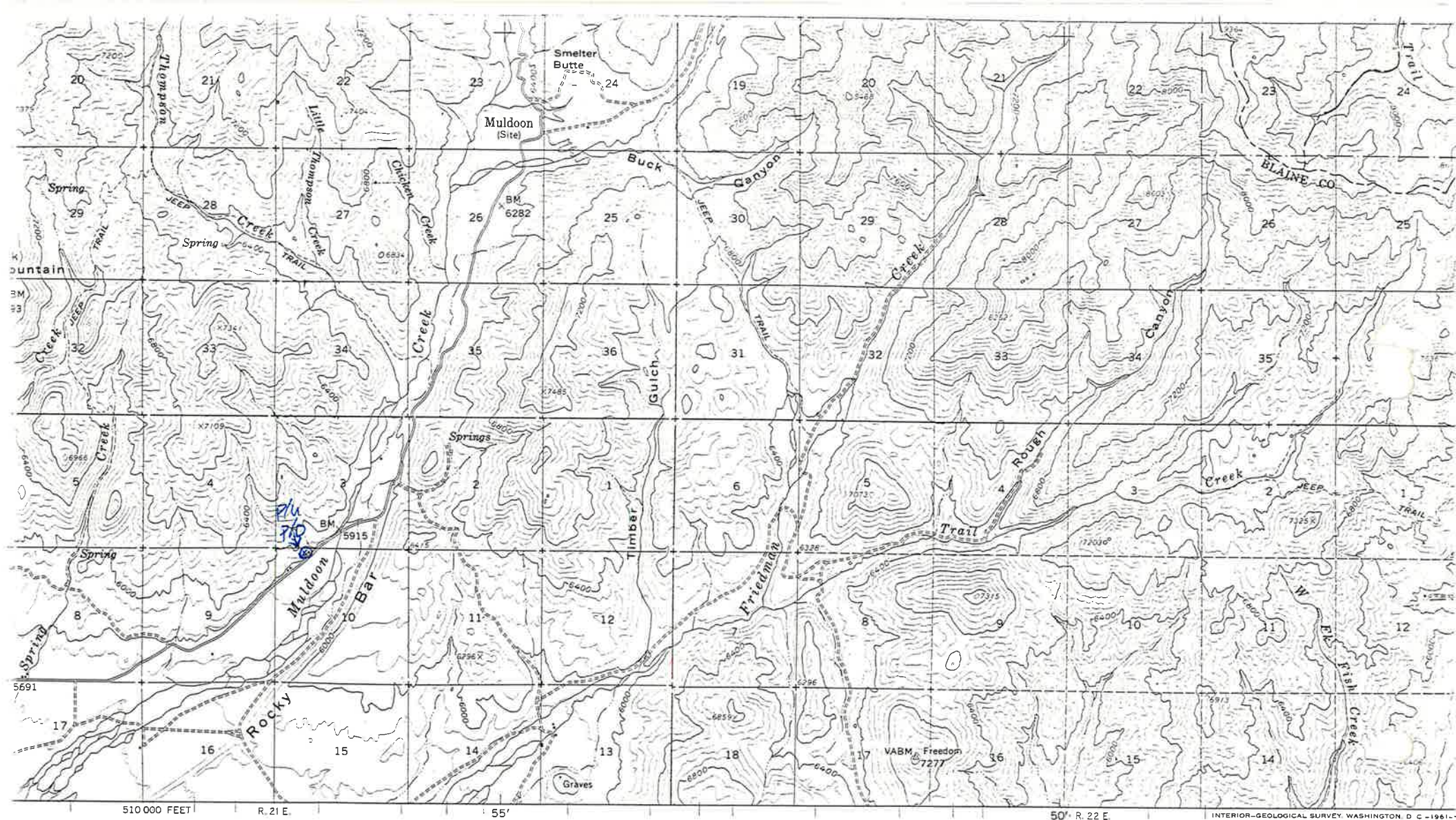


Notes

T2N R21E Section 10

- Claiming 2 acres in NWNW.
- NO ➤ Found 1.6 acres *SEE line @ top*
- Tax records show this parcel currently owned by George & Marilyn Merrill. Does Mechem own this land?

Corey
184 = 4810
correct owner



ted, and published by the Geological Survey
GS and USC&GS

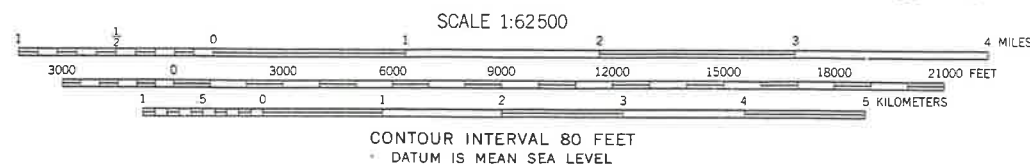
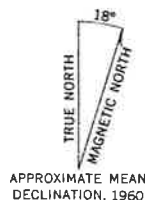
om aerial photographs by photogrammetric methods
raphs taken 1957. Field check 1960

action. 1927 North American datum
rid based on Idaho coordinate system, central zone
universal Transverse Mercator grid ticks,
m in blue

ines indicate approximate locations
urveyed in T. 5 N., R. 21 and 22 E.
3 N., R. 22 E.

MICROFILMED

FEB 23 1961



THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS
FOR SALE BY U.S. GEOLOGICAL SURVEY, DENVER 25, COLORADO OR WASHINGTON 25, D. C.
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST



MULDOON
NA

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 37-1046

WATER RIGHT NUMBER: 37-1046

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	JAMES R GILLESPIE 8717 VINCENT BOISE, ID 83709 (208)375-6229

Priority Date: 04/01/1885

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
MULDOON CREEK	LITTLE WOOD RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	/ to /	1.600 CFS	
	<u>Total Diversion:</u>	1.600 CFS	

Location of Point(s) of Diversion
MULDOON 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	
02N	21E	9				X													
02N	21E	10					X	X	X	X									

Conditions of Approval:Remarks:Comments:Dates and Other Information:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 37-1046

Licensed Date:

Decreed Date: 11/10/1903

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

State or Federal:

Owner Name Connector:

Water District Number: 370

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Decree Defendant: Frank Anthony, et al

Decree Plaintiff: N R Woodworth, et al (Amended)

Civil Case Number:

Judicial District: Fourth District

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits: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>
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Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
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Water Supply Bank: