

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 37-1120
Date Received: 10/7/1988
Receipt No: M001543
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

TERRY L CLARK Phone: (208) 788-4280
PO BOX 308
CAREY ID USA 83320

ANITA K CLARK Phone: (208) 788-4280
PO BOX 308
CAREY ID USA 83320

Amended

2. Date of Priority: 01/22/1913

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
03N	21E	35	SW NW	BLAINE	R
03N	22E	7	NE NE	BLAINE	I
02N	21E	3	NE NE 1	BLAINE	R
02N	21E	3	NW SE	BLAINE	R
03N	22E	7	NW NE	BLAINE	

5. Description of diverting works:

DITCHES.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/31	1.1	

7. Total Quantity Appropriated is:

1.1 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	2	NW	NW	4	IRRIGATION 4
					Section Acres	4
02N	21E	3	NE	NE	1	IRRIGATION 39
			NW	NE	2	IRRIGATION 11
			SW	NE		IRRIGATION 20
			SE	NE		IRRIGATION 27
			NE	SE		IRRIGATION 11
			NW	SE		IRRIGATION 22
			SW	SE		IRRIGATION 30
					Section Acres	160
					Total Acres	164

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:

RT. DECREES LIC. 37-2258. DATA FROM LIC. FILE.

RT. IS INJECTED INTO MULDOON CR. IN S. 8 & RE-DIV. IN S. 35.

Amended claim received by court on May 12, 2009; now data entered.

15. Basis of Claim: Decreed

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAY 12 2009

By _____

Deputy Clerk

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

In Re SRBA

Subcase 37-01120

(Insert water right number)

Case 39576

STANDARD FORM 4

MOTION TO FILE:

☐ LATE NOTICE OF CLAIM

☒ **AMENDED NOTICE OF CLAIM**

INSTRUCTIONS

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

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

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

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

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

My name is _____

My address is _____

My phone number is: Work _____ Home _____

I am an attorney representing Claimants Terry L. and Anita K. Clark

My name is Andrew J. Waldera

My address is Moffatt Thomas Barrett Rock & Fields, Chtd.
P.O. Box 829, Boise, Idaho 83701-0829

My phone number is 208-345-2000

MOTION TO FILE A LATE NOTICE OF CLAIM

A Motion to File a Late Notice of Claim will require a hearing before the Presiding Judge.

☐ I did not file a Notice of claim to the use of water in the SRBA because:

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☐ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

I have attached:

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

Follow these instructions regarding the hearing on this motion.

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

This motion will be heard on _____
(Insert Date and Time)

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

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File an Amended Notice of Claim may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

☒ I must amend my Notice of Claim to the use of water in the SRBA because:

IDWR's Director's Report discrepancies need to be resolved per the agreement of the
Claimants and IDWR.

SOURCE: The source of this right is developed ground water known as Logan Tunnel.

POINT OF DIVERSION: Logan Tunnel is located in:

T03N, R22E, S7, NENE within Blaine County; water from Logan Tunnel is injected into Muldoon Creek in T03N, R22E, S7, NWNE within Blaine County; Logan Tunnel water is rediverted from Muldoon Creek in T03N, R21E, S35, SWNW within Blaine County, T02N, R21E, S3, NENE Lot 1 within Blaine County, and T02N, R21E, S3, NWSE within Blaine County.

- ☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

I have attached:

- ☒ An amended Notice of Claim (available from IDWR).

- ☐ Payment of the following additional fees required by IDWR:

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEMDISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAY 12 2009

By _____

Deputy Clerk

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

CIVIL CASE NUMBER: 39576

Ident. Number

37-01120

Date Received

Receipt Number

Attorney: Andrew J. Waldera
Moffatt, Thomas, Barrett,
Rock & Fields, Chartered
P. O. Box 829
Boise, Idaho 83701-0829
(208) 345-2000

Please type or print clearly

1. Name of Claimant (s) Terry L. and Anita K. Clark Phone (208) 788-4280Mailing Address P.O. Box 308, Carey, Idaho Zip 833202. Date of Priority (Only one (1) per claim) 01/22/19133. Source of water supply (a) ground water
which is tributary to (b) _____4. a. Location of existing point of diversion is: Township 03N Range 22E Section 7,
_____ 1/4 of NE 1/4 of NE 1/4, Govt. Lot, _____ B.M., County of BlaineAdditional points of diversion if any: Injection: T03N, R22E, S07, NWNE, Blaine County; Rediversion: T03N, R21E, S35, SWNW, Blaine County, T02N, R21E, S03, NENE (Lot 1) and NWSE, Blaine County

b. If instream flow, beginning point of claimed instream flow is: _____

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.Developed water is diverted from former mine portal known as Logan Tunnel. Water is injected into Muldoon
Creek and later rediverted by headgates and a diversion dam on Muldoon Creek. Water is conveyed through
open ditches to place of use.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For irrigation purposes from 04/15 to 10/31 amount 1.100 or _____
 For _____ purposes from _____ to _____ amount _____ or _____
 For _____ purposes from _____ to _____ amount _____ or _____
 For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1.100 cfs (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
02N	21E	02						4.0											4.0
02N	21E	03	39.0	11.0	20.0	27.0									11.0	22.0	30.0		160.0

my shape is pencil

Total number of acres irrigated 164.0

11. In which county (ies) are lands listed above as place of use located? Blaine

12. Do you own the property listed above as place of use? Yes X No _____
 If your answer is No, describe in Remarks below the authority you have to claim this water right.

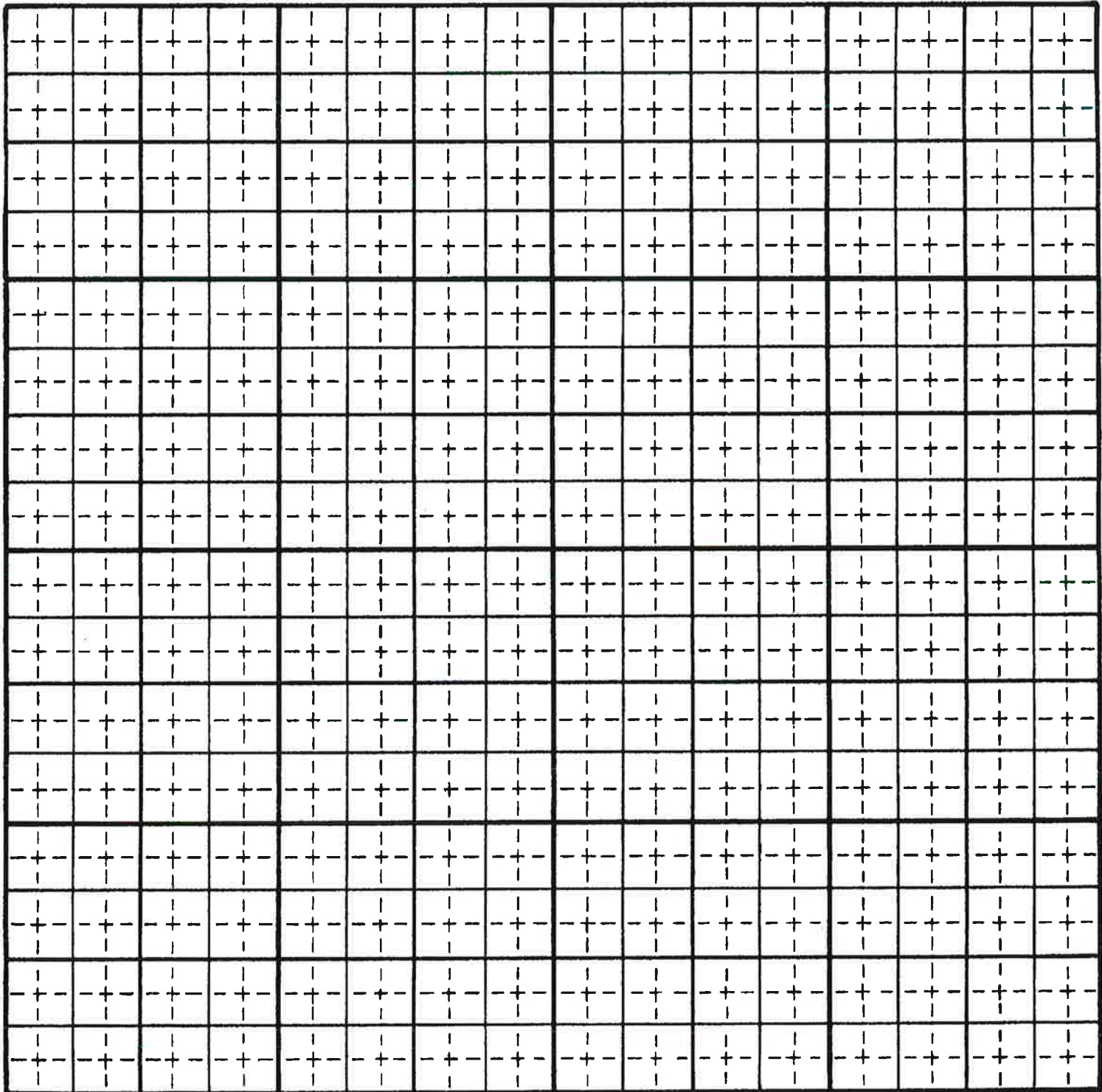
13. Describe any other water rights used at the same place and for the same purposes as described above.
37-01120, 37-01140, 37-21383, and 37-21746 or None ()

14. Remarks:

Last Name Clark Ident No. 37-01120

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



Last Name Clark Ident No. 37-01120

Client:1207142.1

15 Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree X
If applicable provide IDWR Water Right Number 37-01120
Court Blaine County Case Number _____ Decree Date 01/22/1926
Plaintiff vs Defendant Baptie v. Lewis

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

Signature of Claimant (s) [Signature]

Date 05-05-2009

Date 05-05-2009

For Organizations: I do solemnly swear or affirm that I am _____

of _____ that I have signed the foregoing
Organization

document in the space below as _____ of _____
Title Organization

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

Signature of Authorized Agent _____

Title and Organization _____

Date _____

State of Idaho/or _____)
County of Blaine) SS.

Subscribed and sworn (or affirmed) before me this 5 day of May



Notary Public Charlotte Westendorf

Residing at US Bank

My Commission Expires October 19, 2012

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, Andrew J. Walders will be acting as attorney at law on behalf
of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above
should be mailed to me at the address listed below.

Signature [Signature]

Address Moffatt Thomas, P.O. Box 829, Boise, ID 83701-0829

Date May 11, 2009

Last Name Clark Ident. Number 37-01120

RECEIVED
NOV 14 2007
DEPARTMENT OF
WATER RESOURCES

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

In Re SRBA)
Case No. 39576)
A. Subcase 37-01120
(Insert water right number)
**STANDARD FORM 1
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Terry and Anita Clark
Address: P.O. Box 308
Carey, ID 83320
Daytime Phone: (208) 788-4280

Name & Address of Attorney, if any:
Scott L. Campbell & Andrew J. Waldera
Moffatt, Thomas, Barrett, Rock & Fields
P.O. Box 829, Boise, ID 83701-0829

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Terry and Anita Clark
Address: P.O. Box 308
Carey, ID 83320

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: Logan Tunnel tributary to Muldoon Creek
3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☒ **Point of Diversion**
Should be: See Attachment 1 hereto
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: See Attachment 2 hereto
10. ☐ **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 OBJECTIONS(S):** See Attachment 3 hereto.

F.

VERIFICATION (must be completed)

State of Idaho)
)ss.
County of Ada)

Scott L. Campbell, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

Scott L. Campbell
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: November 12, 2007



Tiffiny Hudak
Notary Public for Idaho
Residing at: Boise
My Commission Expires: 9/16/09

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on November 12, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

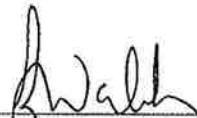
Name: Terry and Anita Clark
Address: P.O. Box 308
Carey, ID 83320

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of Attorney General
PO Box 44449
Boise, ID 83711-4449



Signature of objector or attorney
mailing on Objector's behalf

ATTACHMENT 1
STANDARD FORM 1 – OBJECTION
SUBCASE 37-01120

Terry and Anita Clark object to the incorrect identification of the Points of Diversion:

T03N R21E S35 SESWNW Rediversion Within BLAINE County

T03N R22E S8 SWSWSE Within BLAINE County

matches GIS P/D location
SWSWSE
actual location of digitized
part of div.

The correct descriptions should read:

T03N R21E S35 NWSW Within Blaine County

T03N R22E S8 SWSW Within Blaine County

Sec 35 SESWNW
Rec Rights 37-1120
1140
21383
21745
21746

ATTACHMENT 2
STANDARD FORM 1 – OBJECTION
SUBCASE 37-01120

The Director's Report incorrectly identifies the Place of Use for irrigation of lands under this water right. The correct, historic place of use is as follows:

TWP	RNG	SEC	1/4	1/4	Lot	Acres
2N	21E	3	NE	NE	1	25
			SE	NE		30
					Total	55

Terry and Anita Clark also object to the inclusion of three limiting remarks set forth under Place of Use element, as reflected in the Director's Report:

The rights listed below are limited to the irrigation of a combined total of 164 acres in a single irrigation season. Combined Right Nos.: 37-1120, 37-1140, 37-21383, 37-21745, and 37-21746.

The rights listed below are limited to the irrigation of a combined total of 170 acres in a single irrigation season. Combined Right Nos.: 37-1120, 37-1140, 37-21383, 37-21745, 37-21746, and 37-21963.

This right is limited to the irrigation of 55 acres within the place of use described above in a single irrigation season.

ATTACHMENT 3
STANDARD FORM 1 – OBJECTION
SUBCASE 37-01120

Reasons Supporting Objection(s):

Source:

The correct source is Logan Tunnel tributary to Muldoon Creek, based upon the historic diversion of water under this right.

Point of Diversion:

The points of diversion as recommended are incorrect based upon the historic diversion of water under this right.

Place of Use:

The place of use described in the Director's Report does not accurately describe the lands historically irrigated under this water right. Additionally, there is no legal basis for inclusion of the acreage restriction remarks, as they were not contained in the decree.

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: A37-01120
Date Received: 10/07/1988
Receipt No: M001543
Received By: RW

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: TERRY L.. CLARK
Address: BOX 229
BELLEVUE, ID 83313

OR

Name: ANITA K. CLARK
Address: BOX 229
BELLEVUE, ID 83313

2. Date of Priority: JAN 22, 1913

3. Source: UNNAMED STREAM (LOGAN TUNNE Trib. to: MULDOON CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
03N	21E	35	NW	SW		R	BLAINE
	22E	8	SW	SW			BLAINE

5. Description of diverting works:
DITCHES.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION			1.100		
DOMESTIC					

7. Total Quantity Appropriated is:
1.100 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	Lot	Use	Acres
02N	21E	3	NE	NE	1	IRR	25.0
			SE	NE		IRR	30.0
						Section Acres	55.0
						Total Acres	55.0

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:

14. Remarks:

RT. DECREES LIC. 37-2258. DATA FROM LIC. FILE.

RT. IS INJECTED INTO MULDOON CR. IN S. 8 & RE-DIV. IN S. 35.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

BAPTIE

Decree Plaintiff

vs

LEWIS AND SWENDSEN

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: _____

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): Rory L. Plack Date: 10-7-88

Date: _____

State of Idaho)
County of Blaine) SS.

Subscribed and sworn (or affirmed) before me this _____ day

of Oct 19 88

John Dal Corke
Notary Public

Seal

Residing at Boise ID

My Commission Expires 6/2/94

**SNAKE RIVER BASIN ADJUDICATION
CHANGE IN ADDRESS OF NOTICE OF CLAIM**

Water Right Number(s): _____

Previous Mailing Address: P.O. Box 229

Bellevue, Idaho 83313

4219 E Lamont Rd
Meridian, Id.
83642

New Mailing Address: P.O. Box 308

Carey, Idaho 83320

Telephone Number: (208) 788-4280

Signature of all Claimant(s): Anita K. Clark *Anita K. Clark*

Please print your name below your signature.

Terry L. Clark

Anita K. Clark

Please mail or FAX this completed form to the office nearest you:

Adjudication Bureau
Idaho Dept. of Water Resources
1910 Northwest Blvd., Ste. 210
Coeur d'Alene, ID 83814-2615
Ph. 208/769-1450 or
FAX 208/769-1454

Adjudication Bureau
Idaho Dept. of Water Resources
2735 Airport Way
Boise, ID 83705-5082
Ph. 208/334-2190 or
FAX 208/334-2348

Adjudication Bureau
Idaho Dept. of Water Resources
1341 Fillmore St., Ste. 200
Twin Falls, ID 83301-3380
Ph. 208/525-7161 or
FAX 208/736-3037

Adjudication Bureau
Idaho Dept. of Water Resources
900 N. Skyline, Ste. A
Idaho Falls, ID 83402-3653
Ph. 208/736-3033 or
FAX 208/525-7177

Adjudication Bureau
Idaho Dept. Of Water Resources
322 E. Front St.
P.O. Box 83720
Boise, Id 83720-0098
Ph 208/287-4800
FAX 208/287-6701

COPY

08/11/2009

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

RIGHT NUMBER: 37-1120

NAME AND ADDRESS: ANITA K CLARK
TERRY L CLARK
PO BOX 308
CAREY ID 83320

VERIFIED BY KKC
9-10-09

SOURCE: ~~UNNAMED STREAM~~ GROUND WATER TRIBUTARY: ARGOSY CREEK

QUANTITY: 1.100 CFS

PRIORITY DATE: 01/22/1913

POINT OF
DIVERSION:

Ad submitted
8-27-09

T02N R21E S3 NENE Lot 1 Rediversion Within BLAINE County
T02N R21E S3 NWSE Rediversion Within BLAINE County
T03N R21E S35 SESWNW Rediversion Within BLAINE County
T03N R22E S7 NWNE Within BLAINE County
T03N R22E S7 NENW Injection Within BLAINE County
T03N R22E S8 SWSSEW 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	1.100 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T02N R21E S02 Lot 4 NWNW	4.00	T02N R21E S03 Lot 1 NENE	39.00
T02N R21E S03 Lot 2 NWNE	11.00	T02N R21E S03 SWNE	20.00
T02N R21E S03 SENE	27.00	T02N R21E S03 NESE	11.00
T02N R21E S03 NWSE	22.00	T02N R21E S03 SWSE	30.00

164 ACRES TOTAL

This right is limited to the irrigation of 55 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 164 acres in a single irrigation season. Combined Right Nos.: 37-1120, 37-1140, 37-21383, ~~37-21745~~, and 37-21746.

The rights listed below are limited to the irrigation of a combined total of 170 acres in a single irrigation season. Combined Right Nos.: 37-1120, 37-1140, 37-21383, 37-21746, ~~37-21745~~, and 37-21963.

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.

In accordance with Baptie v. Lewis (Blaine County, January 22, 1926), the water diverted from the Logan Tunnel is developed water and not tributary to Muldoon Creek or Little Wood River. Water diverted from Logan Tunnel shall be administered separately from those sources.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

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

Christensen, Kelly

From: Andy Waldera [AJW@moffatt.com]
Sent: Friday, March 06, 2009 12:47 PM
To: Bromley, Chris
Cc: Kelly, Vicki; Christensen, Kelly
Subject: Clark Water Rights Matters (37-1120, 1140, 21383, 21745, and 21746)
Attachments: Clark Priority Date for Beneficial Use Rights; 37-1120, Logan Tunnel Remark; Rates of Diversion/Duty for 37-1140, -21383, -21745, -21746

Chris,

I am writing you in response to your e-mails to me dated February 13, 2009 (copies attached).

With respect to the priority date issue on water right no. 37-21746 (claimed 1907), in conjunction with the January 22, 1926 Baptie Decree, the Clarks have agreed to your proposal to set the priority date as January 23, 1926...for now. Though the Clarks have yet to locate another piece of evidence supporting a 1907 priority date for right no. 21446 (other than the 1967 court filing previously submitted), they are still digging. Consequently, I do not want to preclude the opportunity to revisit the issue should they find a suitable piece of evidence in the near future.

As for the Logan Tunnel issue (right no. 1120), the Clarks agree with your groundwater/source proposal provided that your proposed explanatory remark is included. I have no suggested revisions for your proposed explanatory remark...I think it hits the nail on the head. If I recall correctly, Kelly will need to re-recommend the point of diversion given the actual location of the tunnel, call out a point of injection into Muldoon Creek, and then identify each of the Clark's upper, middle, and lower points of diversion (located in Section 3 (x2) and Section 35 (x1)) as viable points of rediversion from Muldoon Creek. On a somewhat related note, and in follow-up to a point we discussed at the initial hearing/conference, the Clarks would like each of their 3 Muldoon Creek points of diversion/rediversion to be described at the more generic double quarter section level, as opposed to the more specific triple quarter section descriptions currently recommended. Again, Muldoon Creek is a relatively dynamic braided stream, subject to occasionally severe runoff events capable of altering its configuration. A double quarter section description will provide the Clarks more flexibility in re-locating points of diversion/rediversion if and when the need arises. My recollection of our discussion is that this idea/request was acceptable to you and Kelly. This double quarter description idea would apply equally to each of the Clark's water rights regardless of source (except, perhaps, right no. 21963 which is fed by springs).

Regarding the rates of diversion/duty of water matter, the Clarks agree with each of the proposals outlined in your e-mail subject to the following additional thoughts/comments:

37-1140 would remain as recommended (with the exception of the triple quarter POD description);

37-21383 would be re-recommended with a diversion rate of 2.52 cfs, as opposed to the current 1.44 cfs recommendation. However, based upon the current recommendation, the right should cover 72 acres within the 164 acre bottom lands PPU rather than 63 acres as stated in your e-mail...unless I am missing something. It is my understanding that the only change to be made to the existing recommendation per the Department's proposal would simply be the boost in diversion rate from 1.44 cfs up to 2.52 cfs. If I am in error, please let me know. Again, the triple quarter POD description should also be scaled back to a double quarter description.

37-21746 would require an amended claim stating a diversion rate of 3.84 cfs. However, all other aspects of the present recommendation (with the exceptions of the priority date and the triple quarter POD description) would remain the same. I will submit such an amended claim shortly. The amended claim will seek the 3.84 cfs noted in your e-mail, will cite a January 23, 1926 priority date as stated in your e-mail, and will describe the PODs to the double quarter level as we have discussed. The Clarks agree with the subsequent recommendation of the amended claim combining 1140 together with 21746 for a 101 acre POU within the larger 164 acre bottom lands PPU.

8/11/2009

37-21745 would be disallowed assuming that the other proposed adjustments to right nos. 1140, 21383, and 21746 are finalized, and given the overlapping POUs that already cover the ground claimed in 21745.

One last note...regarding right no. 21963, I have in my notes that the Department was willing to boost the recommended diversion rate of .26 cfs up to the claimed .28 cfs based upon the addition of the .02 cfs stockwater component into the overall diversion rate. Just following up on that point.

Thank you and Kelly again for your prompt response before. Thank you also for submitting what I and the Clarks view as workable proposals. I trust that you will find the Clark's various "agreements in principle" as outlined above acceptable in that they track neatly with your proposals. Though the Clarks are still digging for something to help out on the claimed 1907 priority for right no. 21746, we acknowledge and understand the Department's position. I just did not want that continued record review to bog down addressing/resolving the remaining issues presented within our respective e-mails.

If you have any questions or comments, let me know.

Regards,

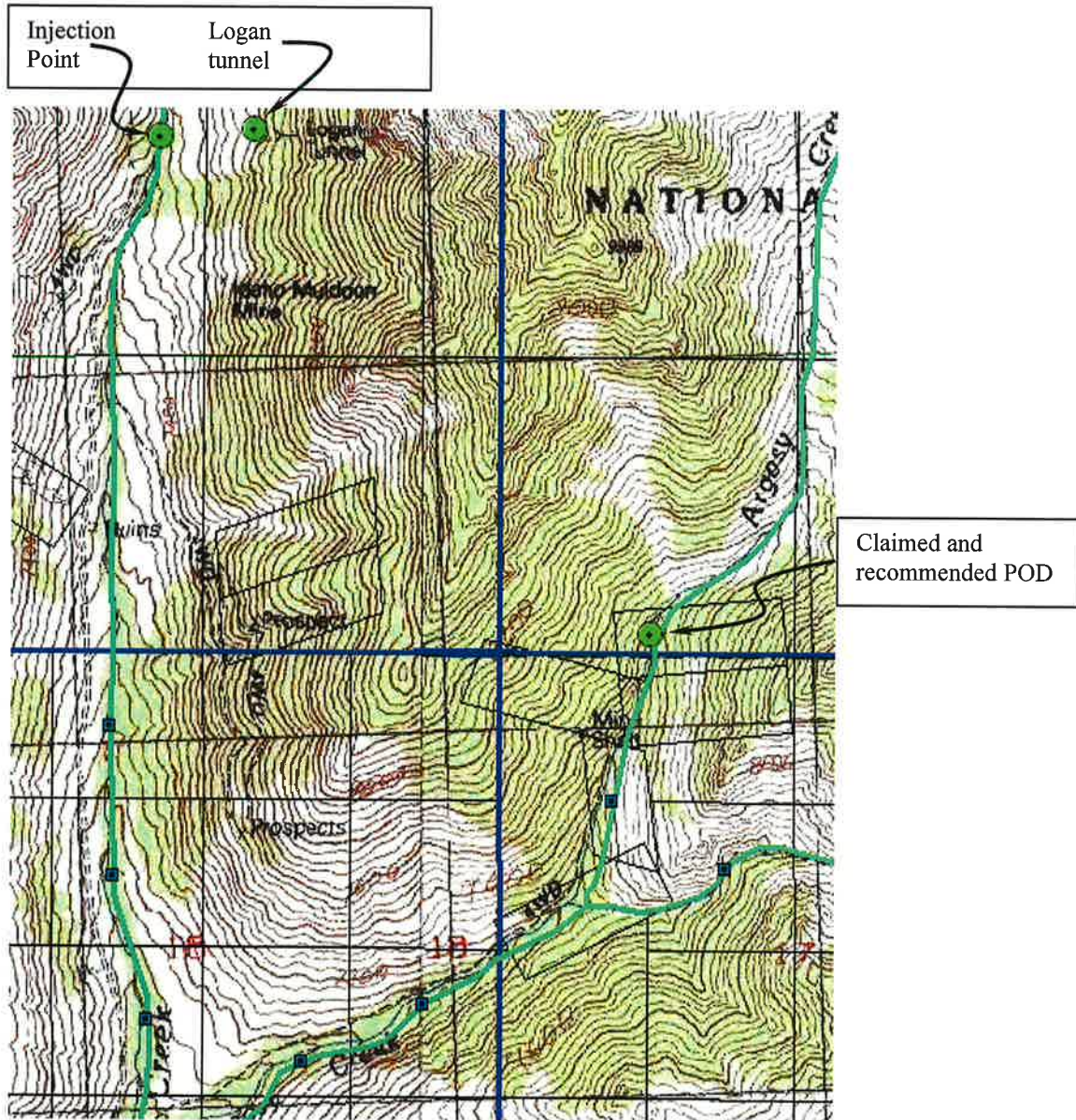
Andy

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8/11/2009

This is the basis for my recommendation. It is possible that the USGS identified a wrong location for Logan Tunnel. If there is better information, then I am certainly willing to change the location. Doing it now would be the best and easiest method of having the mine location correctly identified.



IN BOOK NO. _____ AT PAGE NO. _____ FILE NO. _____

AT PAGE NO. _____ FILE NO. _____

First, third and fourth rights above show conflict in land description
First and third rights are probably duplicates and only one right is valid

* Submitted by Arlen Crouch of ABC Agra + Muldoon Ranch

Set
(Stat conf July 22 ^{11:00 AM} 2-11-09)

37- 1120 Clark

State of fice meeting

Clark GPS $43^{\circ}36'30''N$ $43^{\circ}52'46''W$

o →

Use RMR Logan Tunnel lib to Muldoon
GW source. (No Vol)

add Point of injection

Keep @ 55ac limit w/in 164ac PPU.

Set P/D's to 40ac tract only.

37- 1140

Set P/D to 40ac tract only. Rec on 15ac

37- 21383

want 2:00 ch. & need eff flow.

P/D GO with Q.Q.

37- 21745

look at other B/U rights in area
regarding Priority date.

37- 21746

Need to determine who were bound in
Baptist decree.

37- 21963

do addition stock & ir rates

Adjudication Claim Notes

*Matt Anders
Corey Skinner
notes from
field exam*

Claim(s): 37-1120, 37-1140, 37-21383, 37-21745, 37-21746, 37-21963

Background Data

37-1120

- Source is unnamed stream tributary to Muldoon Creek
- Decreed/licensed for 1.1 cfs on 55 acres. This water right decreed license 37-2258 (Baptie vs. Lewis, 1926) *locked by decree ac limit 55ac 1.10cfs*
- Claimed 1.1 cfs for irrigation of 55 acres
- Claimed ?? cfs for Domestic

37-1140 *muld*

- Source is Muldoon Creek
- Decreed/licensed 0.2 cfs on 15 acres. This water right decreed license 37-2226 (Baptie vs. Lewis, 1926) *locked by decree ac limit 15ac .20cfs*
- Claimed 0.2 cfs for Irrigation of 270 acres
- Claimed 0.02 cfs for Domestic

37-21383 *muld*

- Beneficial Use claim
- Source is Muldoon Creek
- Claimed 8.0 cfs for Irrigation of 270 acres *ac limit 70ac 1.44cfs (Flood right)*

37-21745 *muld*

- Beneficial Use claim
- Source is Muldoon Creek
- Claimed 2.0 cfs for Irrigation of 270 acres *ac limit 22ac .44cfs*

37-21746 *muld*

- Beneficial Use claim for Flood Water
- Source is Muldoon Creek
- Claimed 2.0 cfs for Irrigation of 270 acres *ac limit 100ac 2.00cfs (Flood W. right)*

37-21963 *partial overlap on west side of PPU.*

- Beneficial Use claim
 - Source is Springs tributary to Muldoon Creek
 - Claimed 0.26 cfs for Irrigation of 26 acres and 0.02 for Stockwater *ac limit 13ac .26cfs*
- partial ah. with
163.6 ac PPU*

*Combined
ac limit
264 ac*

Place Of Use Data

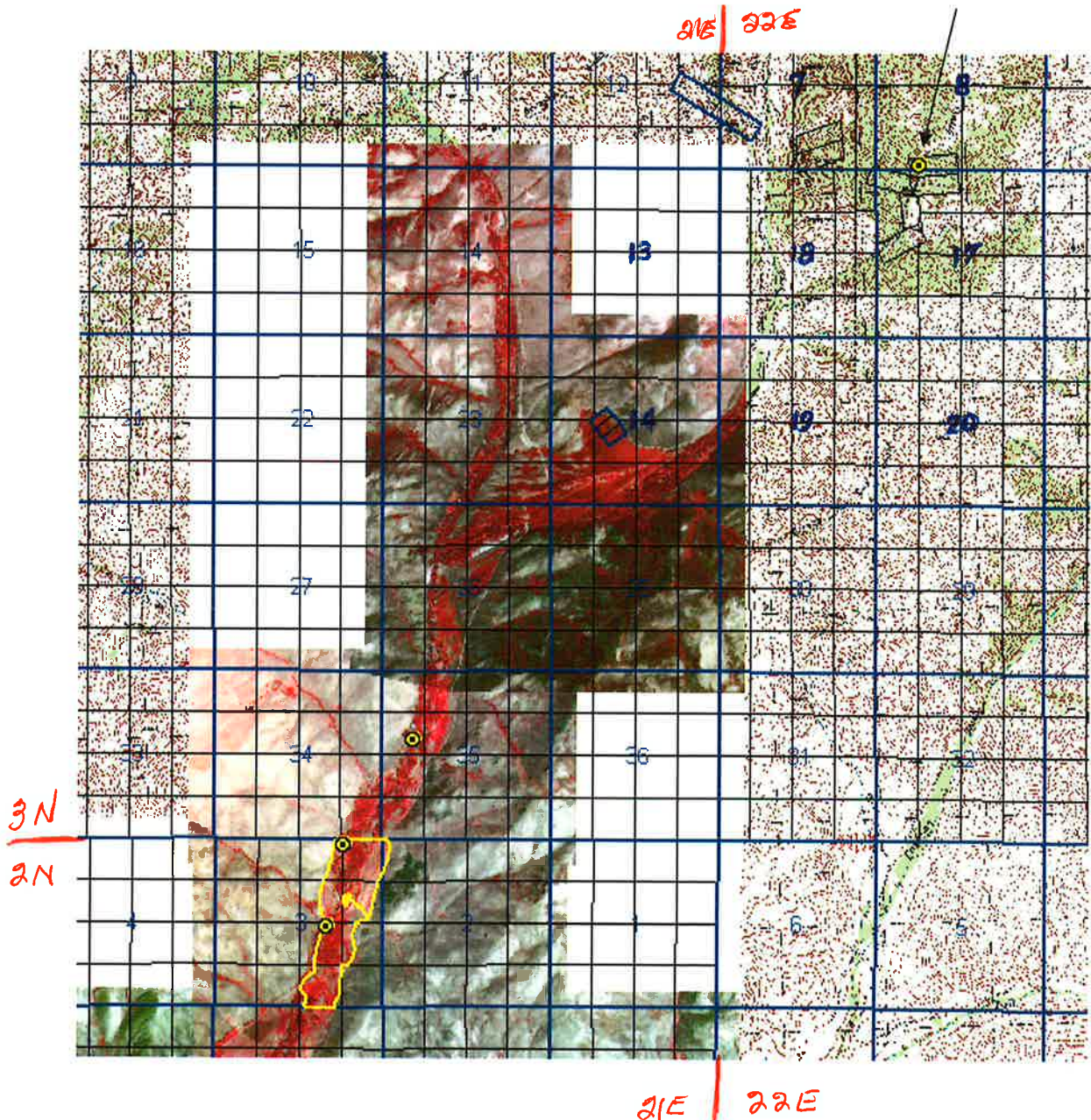
Yellow line is the draft Place of Use created by IDWR based on historical data and records.

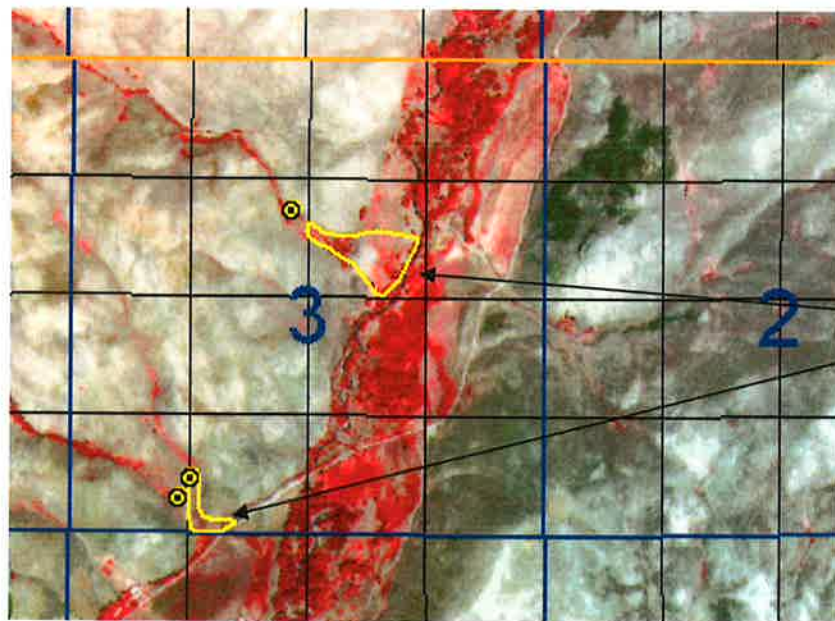
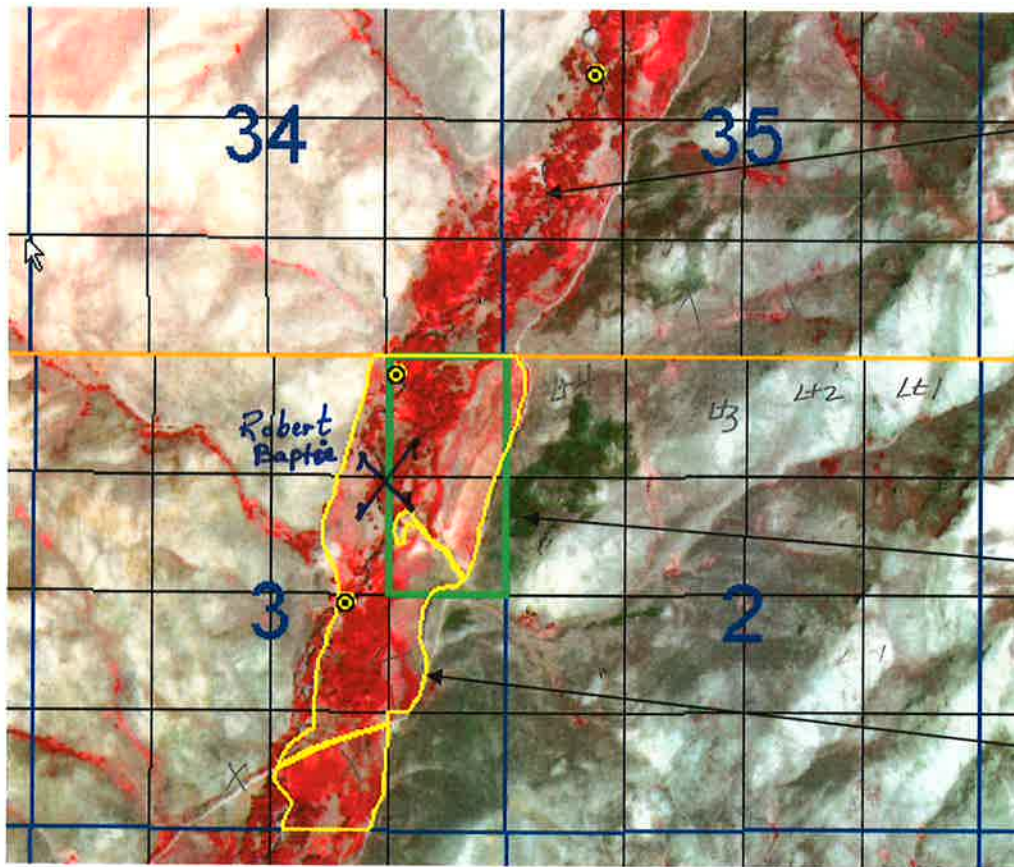
Yellow dot is draft Point of Diversion created by IDWR based on historical data and records.

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

1987 Aerial Photo

POD at Logan
Tunnel for 37-1120





Clark Upper Diversion



ABOVE: View looking down Muldoon Creek showing the diversion works for the Upper Clark Diversion.

LEFT: View of the measuring device (2.5 ft Parshall flume) on the Clark Upper Diversion Ditch.

GPS coordinate location for point of diversion: 2505831, 1372174 (IDTM coordinates NAD83 projection) Legal Description SWNW Section 35 (T03N, R21E). Site Tag #A0011846.

Diversion works consist of metal slide gate structure, but gate was not on the structure. Measuring device consists of a 2.5 foot Parshall flume. Converging section of the flume was not level. Flow through measuring device was measured at 0.81cfs. Device appears large for small flows later in summer. It may be possible to install a weir just downstream of the diversion to measure smaller flows.

Concerns: Lack of gate on diversion works. Accuracy of the device? Flume may be too large for measurements at lower flows (< 0.20 ft of head). Clark's SRBA filings, 37-1120 and 37-1140, for 7.3 total cfs?, identifies point of diversion in NWSW Section 35 (T03N, R21E).

Clark Middle Diversion



View looking down Muldoon Creek at the head of the Clark middle diversion ditch. Note lack of control works. In addition, no measuring device was present on this particular ditch.

GPS coordinate location for point of diversion: 2505159, 1371158 (IDTM coordinates NAD83 projection) Legal Description NWNENE (Govt. Lot #1) Section 3 (T02N, R21E). No Site Tag # assigned.

Concerns: No control works or measuring device present. Clark's SRBA filings, 37-1120 and 37-1140, for 7.3 total cfs?, identifies point of diversion in NWSW Section 35 (T03N, R21E).

Clark Lower Diversion



ABOVE: View looking down Muldoon Creek with Clark Lower Diversion Ditch shown. Note lack of control works and irrigation ditch, off of the main diversion ditch, located upstream of the flume.

LEFT: View of Parshall flume on the Clark Lower Diversion Ditch. Note flow around the flume and overall condition, and installation of the flume. The survey revealed that the converging section slopes up, as you move downstream, and the left side is actually lower than the downstream end of the flume.

GPS coordinate location for point of diversion: 2504994, 1370387 (IDTM coordinates NAD83 projection) Legal Description NWSE Section 3 (T02N, R21E). No Site Tag # assigned.

No diversion control works are present. Measuring device consists of a 2.5 foot Parshall flume. A level survey of the flume reveals that part of the converging (upstream) section is actually lower than the downstream end of the flume. In addition, the converging section was 0.16 feet lower on the right side than the left side. Quite a bit of water was flowing around the flume. An irrigation ditch, off of the main diversion ditch, was also located upstream of the flume. The gage on the flume measured 0.23 feet of head, but the problems with the device did not provide an accurate measurement of flow through the ditch.

Concerns: Lack of diversion control works. Accuracy of the device? Flume may be too large for measurements at lower flows (< 0.20 ft of head). Water in ditch upstream of device will not be measured with current flume location. Clark's SRBA filings, 37-1120 and 37-1140, for 7.3 total cfs?, identifies point of diversion in NWSW Section 35 (T03N, R21E).

NOTES

T2N R21E Section 2 & 3

- 10/17/05 talked with Terry Clark. Mr. Clark co-mingles water and he would like to create a PPU. I explained a PPU and the limitations associated with it. To establish a priority date for 37-21383, Mr. Clark has a court document he will provide to us and he plans to get statements from this mother-in-law and sister-in-law. As his mother-in-law lives in Oregon, he will probably have the information prepared and submitted to IDWR in December 2005.
- 4/19/06 – Met with Anita and Terry Clark at my office:
 - They submitted evidence of priority that consisted of testimony from a court case that was never resolved/decreed for Muldoon Creek water:
 - 100 inches with a priority date of 4/1/1912
 - 100 inches with a priority date of 4/1/1930
 - 100 inches of Flood Water with a priority date of 4/1/1907
 - They filed SRBA claim 37-21745 for 100 inches with a priority date of 4/1/1930
 - They filed SRBA claim 37-21746 for 100 inches of Flood Water with a priority date of 4/1/1907.
 - They would like to modify the draft PPU to include ~5 acres in SESW and ~5 acres in NESE Section 3. Mr. Clark plans to submit an affidavit explaining the history his water use in these two locations.
 - They plan to submit additional claims for irrigation and stockwater from springs on their land.
- History of the Clark ranch:
 - originally two ranches
 - one owned by John & Enid Baptie (N1/2SE, SWSE, SESW Section; Lots 2 & 3 Section 2; SWSE and SESW Section 35)
 - the other by Thomas & Cora Baptie (Lots 1 & 2 and S1/2NE Section 3).
John and Thomas were brothers.
 - Thomas & Cora were decreed water rights 37-1119 37-1120, and 37-1140 in 1926.
 - Thomas & Cora sold their ranch with water rights to Robert Baptie (John Baptie's son).
 - Terry & Anita Clark buy both ranches in early 1970s.
 - Neither John & Enid, nor their land, were involved in a decree (the 1967 court case was dropped).
- 11/06 unable to conduct field exams for 37-21383, 37-21745, 37-21746, and 21963 to measure diversion rate because of too much snow. Based on 1987 aerial photo that indicates irrigation of claimed POU, evidence of priority submitted, a distribution system observed during 2005 field exam, I decided to recommend diversion rate of 0.02 cfs/acre.
- Since 37-1120, 37-1140, 37-21383, 37-21745, and 37-21746 are all from the same source, Muldoon Creek, the beneficial use claims are limited so the combined diversion rate does not exceed 0.02 cfs/acre for the PPU.

➤ Recommendations:

- 164-acre PPU for Muldoon Creek water. 37-21963 is a different source and POU and is not part of PPU.
- Combined use limit of 170 acres for 37-1120, 37-1140, 37-21383, 37-21745, 37-21746, and 37-21963.
- Combined use limit of 164 acres for 37-1120, 37-1140, 37-21383, 37-21745, and 37-21746.
- 37-1120
 - 1.1 cfs for Irrigation of 55 acres within PPU
 - Domestic use not recommend because diversion rate not included on claim.
 - 37-1120 and 37-1140 are decreed to the same two QQ. There is roughly 70 acres of irrigable landing those QQ, so the rights probably did not overlap. No combined use limit for 37-1120 and 37-1140.
- 37-1140
 - 0.20 cfs for Irrigation of 15 acres within PPU
 - 0.02 cfs for Domestic
 - 37-1120 and 37-1140 are decreed to the same two QQ. There is roughly 70 acres of irrigable landing those QQ, so the rights probably did not overlap. No combined use limit for 37-1120 and 37-1140.
- 37-21383
 - 1.44 cfs for Irrigation of 72 acres within PPU
 - Priority date 4/1/1912
 - Evidence of priority is court testimony by John & Enid Baptie and Robert Baptie. Decided testimony supported claimed priority because it is essentially a notarized affidavit.
 - POU described in court testimony is for irrigable portions of 4 QQ, which is roughly 72 acres.
 - Neither John & Enid Baptie, nor their land, were involved in a decree.
- 37-21745
 - 0.44 cfs for Irrigation of 22 acres within PPU
 - this is the amount of water needed to bring the combined total for the PPU to 0.019 cfs/acre
 - Priority date 4/1/1930
 - Evidence of priority:
 - The court testimony by John & Enid Baptie and Robert Baptie is essentially a notarized affidavit. It described the water with a 1930 priority date with a POU consisting of the irrigable portions of 4 QQ. However, the described POU is in the hills. It would have been extremely hard to irrigate with a gravity system and that land is not irrigated now. Was the POU listed in the evidence of priority (court case) an error in the location? We cannot assume that the POU was the John & Enid Baptie's land in the valley bottom because that land was covered by the water in the same testimony

(claimed as 37-21383). So it is unclear where the 1930 water in the testimony was located.

- Accepted the affidavit by Evelyn Smith as support for this water use, even though it does not discuss diversion rates. She was born in 1917.
- Priority date is after the 1926 decree (37-1120 & 37-1140) which involved Thomas & Cora Baptie.

○ 37-21746

- 2.0 cfs for Irrigation of 100 acres within PPU
- This is a Flood Water right
- Priority date: 4/15/1968
 - Flood Water right so priority date is after the latest decreed and licensed right on Muldoon Creek.
 - Evidence of priority is court testimony by John & Enid Baptie and Robert Baptie. Decided testimony supported claimed priority because it is essentially a notarized affidavit.
 - POU described in court testimony is for irrigable portions of 4 QQ, which is roughly 100 acres.
 - Priority date is after the 1926 decree (37-1120 & 37-1140) which involved Thomas & Cora Baptie.

○ 37-21963

- 0.26 cfs for Irrigation of 13 acres and 0.02 cfs for Stockwater
 - not part of larger PPU on ranch
- 0.02 cfs for Stockwater
- Priority date: 4/15/1962
 - Evidence of priority submitted by claimants. Would have preferred someone without a vested interest in the property.

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

Christensen, Kelly

From: Andy Waldera [AJW@moffatt.com]
Sent: Thursday, September 10, 2009 12:15 PM
To: Christensen, Kelly
Cc: Bromley, Chris
Subject: RE: Clark Proposed SF5s

V2 for 1120 OK 9-10-09

Chris and Kelly,

At Chris' reminder, I took a spin through the proposed SF5's he e-mailed to me on 8/24.

Unfortunately, I found some other discrepancies as between the drafts that Kelly previously provided (on or about 3/9/09) and the Clarks agreed with versus what Chris provided on the 24th. Those discrepancies are as follows:

21963: none...good to go;

21746: none...other than 1926 priority date, but Clarks are out of evidence other than the Moran Patent...thus, good to go;

1120: Point of diversion...Kelly's prior draft SF5s listed the Section 7 QQs as NENE (location of Logan Tunnel) and NWNE (as Muldoon Creek injection point). I will review Kelly's e-mail dated today with the Clarks. Also, Kelly's prior draft contained the following remark which is absent from the ADR: "The ground water source is also known as developed water emitting from the Logan Tunnel." I would like the remark reinserted as it further clarifies the Baptie Decree explanatory remark...at least in my mind;

part of V2 already

1140: Point of diversion...Chris' version omits the other two Clark PODs found in Kelly's version (Sec. 3 NENE Lot 1 and Sec. 3 NWSE), PODs found on all other Clark rights other than 21963 (the spring-based right). The Clarks like the flexibility afforded by listing all three Clarks PODs;

add 2 PODs

21383: Priority Date...has always been recommended as 4/1/1912...and Kelly's version also reflects this. Chris' version states 1/23/1926. Not sure why change was made, but needs to be changed back to original date recommended and also contained within Kelly's version. The 1926 date applies to 21746, but was never discussed in relation to 21383.

gradual & go with 1912

21745: none...can be disallowed provided that ADRs on 1120 and 21746 hold up.

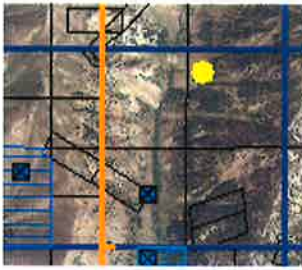
Thanks,

Andy

From: Christensen, Kelly [mailto:Kelly.Christensen@idwr.idaho.gov]
Sent: Thursday, September 10, 2009 10:09 AM
To: Bromley, Chris; Kelly, Vicki; Andy Waldera
Subject: RE: Clark Proposed SF5s

Strictly addressing the POD for 37-1120. The POD is actually in the NWNE of sec 7. Part of the problem is that this is an unsurveyed area and the GCDB supplied by the BLM for Sec 7 only shows the 4 160-acre quarters rather than the 40-acre quarter/quarters. Habit will lend toward an error of looking at the quarter lines and seeing the POD in the northeastern most area thus suggesting the NENE quarter. The yellow dot is the recommended POD (Note the quarter/quarter lines in Sec 12 west of Sec 7.)

9/10/2009



From: Bromley, Chris
Sent: Thursday, September 10, 2009 9:35 AM
To: Christensen, Kelly; Kelly, Vicki
Subject: FW: Clark Proposed SF5s

Kelly and Vicki,

I talked with Andy yesterday about these. He's in agreement with what we've proposed here. We'll need to circulate SF5s in 37-1140, -21383, -21745, and 21963. The ADR in 37-21746 is good and won't be objected to. The objection deadline runs at the end of this month. Given that the objection deadline doesn't run until the end of September, we probably ought to hold off on circulating SF5s until we know that no objections from potential third parties have been filed.

One problem Andy did catch was the S.7 POD description in 37-1120. He thinks there's a possible clerical error in the ADR. The claim called out the location of Logan Tunnel in the NENE. The original recommendation had the location as the NENWNE. We'd previously agreed to only describe the POD as the QQ, not the QQQ. The ADR then listed the POD as NWNE. Andy thinks that the first NE in the QQQ description was accidentally deleted and it moved forward as NWNE. I thought that sounded reasonable. He'll file an objection to the ADR and we can resolve with an SF5. He said if the location is really the NWNE, he'd have no problem with it being described that way. We both agreed that since there could be a problem with the ADR, that he ought to object and we can resolve it one way or the other with an SF5.

Chris

From: Bromley, Chris
Sent: Monday, August 24, 2009 3:00 PM
To: Andy Waldera
Cc: Christensen, Kelly; Kelly, Vicki
Subject: Clark Proposed SF5s

Andy,

Attached are Kelly's proposed SF5s for these. Let me know what you think.

Chris

<< File: 37-21963 CLARK v2 sf-5.doc >> << File: 37-21745 CLARK SF-5 disallowed .doc >>
>> << File: 37-21746 CLARK v2 sf-5.doc >> << File: 37-21383 CLARK V2-SF-5.doc >> <<
File: 37-1140 CLARK V2-SF-5.doc >> << File: 37-1120 CLARK v2 sf-5.doc >>

08/11/2009

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

RIGHT NUMBER: 37-1120

NAME AND ADDRESS: ANITA K CLARK
TERRY L CLARK
PO BOX 308
CAREY ID 83320

SOURCE: ~~UNNAMED STREAM~~ GROUND WATER TRIBUTARY: ARGOSY CREEK

QUANTITY: 1.100 CFS

PRIORITY DATE: 01/22/1913

POINT OF
DIVERSION:

T02N R21E S3 NENE Lot 1 Rediversion Within BLAINE County
T02N R21E S3 NWSE Rediversion Within BLAINE County
T03N R21E S35 SESWNW Rediversion Within BLAINE County
T03N R22E S7 NWNE Within BLAINE County
T03N R22E S7 NENW Injection Within BLAINE County
~~T03N R22E S8 SWSESW 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	1.100 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T02N R21E S02 Lot 4 NWNW	4.00	T02N R21E S03 Lot 1 NENE	39.00
T02N R21E S03 Lot 2 NWNE	11.00	T02N R21E S03 SWNE	20.00
T02N R21E S03 SENE	27.00	T02N R21E S03 NESE	11.00
T02N R21E S03 NWSE	22.00	T02N R21E S03 SWSE	30.00

164 ACRES TOTAL

This right is limited to the irrigation of 55 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 164 acres in a single irrigation season. Combined Right Nos.: 37-1120, 37-1140, 37-21383, ~~37-21745~~, and 37-21746.

The rights listed below are limited to the irrigation of a combined total of 170 acres in a single irrigation season. Combined Right Nos.: 37-1120, 37-1140, 37-21383, 37-21746, ~~37-21745~~, and 37-21963.

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.

In accordance with Baptie v. Lewis (Blaine County, January 22, 1926), the water diverted from the Logan Tunnel is developed water and not tributary to Muldoon Creek or Little Wood River. Water diverted from Logan Tunnel shall be administered separately from those sources.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

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



Idaho Department of Water Resources

SRBA Recommendation:

37-1120

37-1140

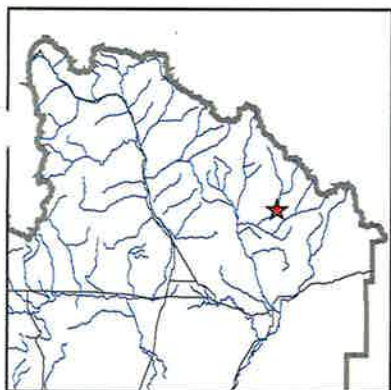
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37-21745

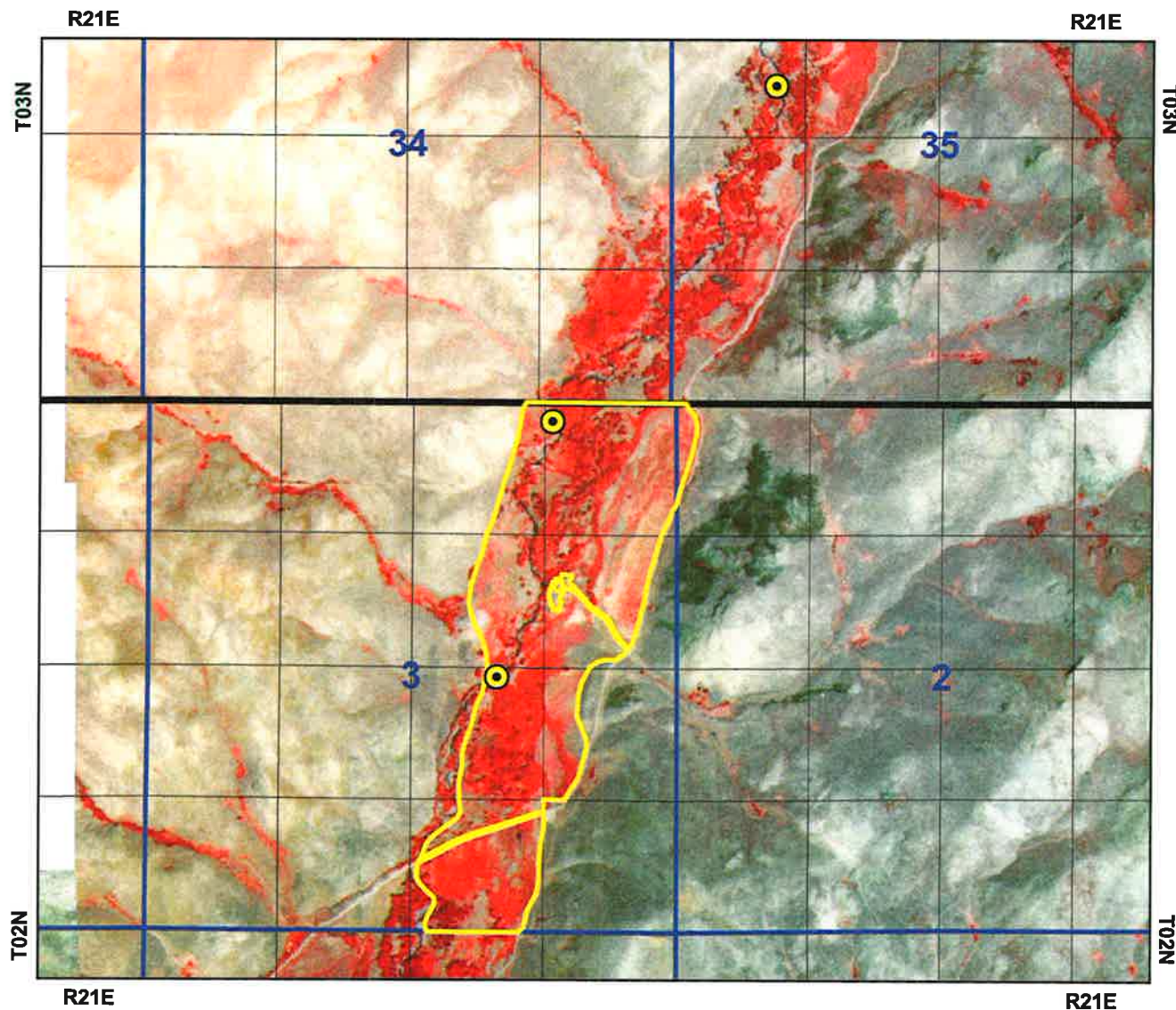
37-21746

Legend

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



Blaine County
IDWR Basin 37



Prepared by M. Anders
On Sunday, December 10, 2006
1987/88 Aerial Photography



Idaho Department of Water Resources

SRBA Recommendation:

37-1120

37-1140

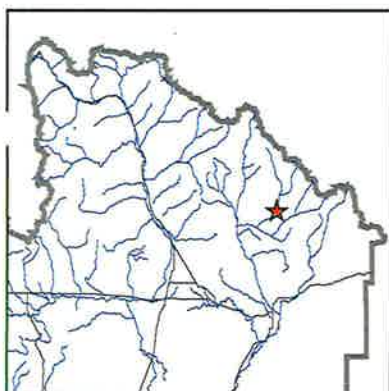
37-21383

37-21745

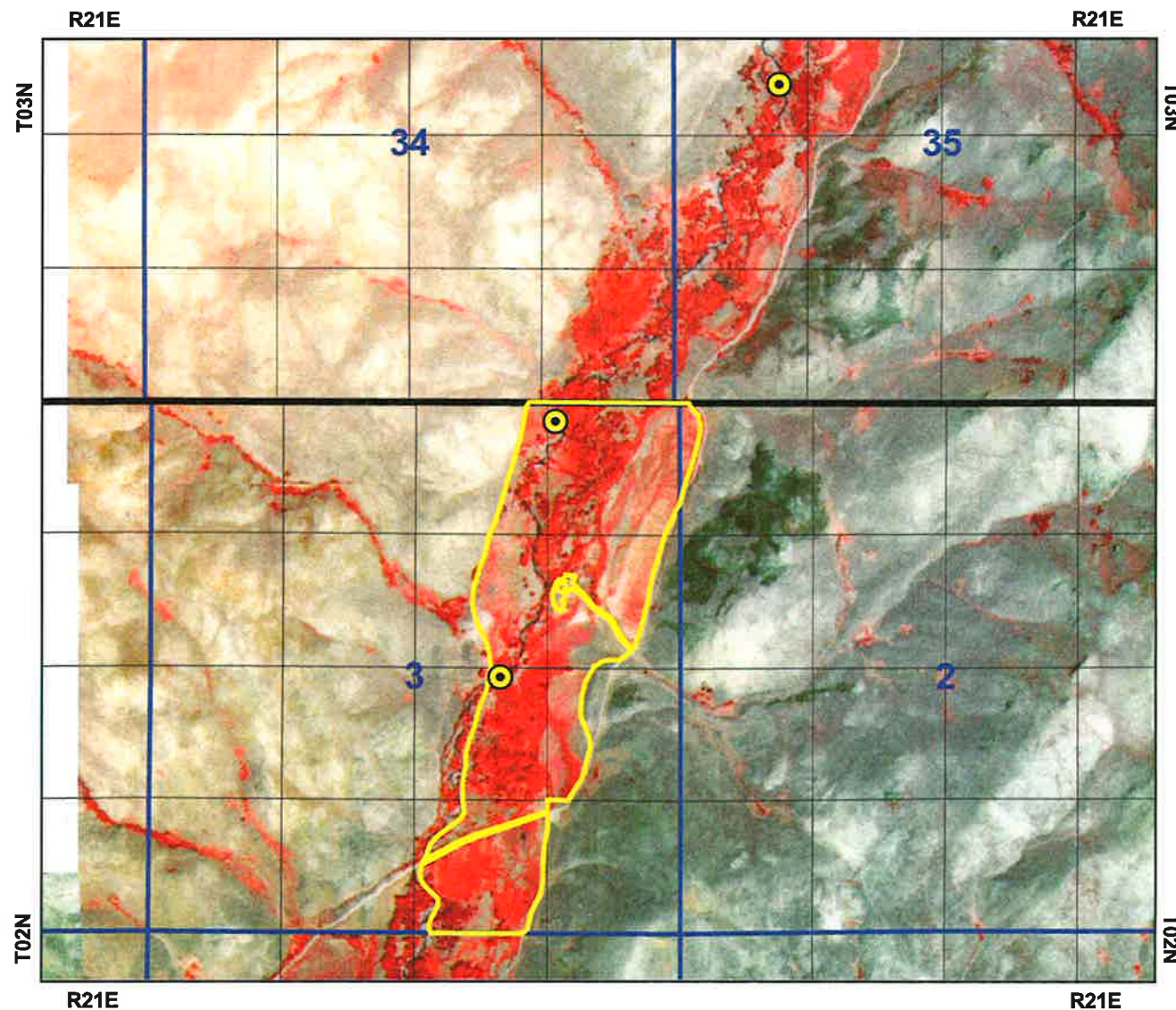
37-21746

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 Sunday, December 10, 2006
1987/88 Aerial Photography

12/10/2006

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

RIGHT NUMBER: 37-1120
NAME AND ADDRESS: ANITA K CLARK
PO BOX 308
CAREY ID 83320

TERRY L CLARK
PO BOX 308
CAREY ID 83320

SOURCE: UNNAMED STREAM TRIBUTARY: ARGOSY CREEK
QUANTITY: 1.100 CFS
PRIORITY DATE: 01/22/1913
POINT OF DIVERSION:

T03N R21E S35 SESWNW Rediversion Within BLAINE County
T03N R22E S8 SWSSEW 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	1.100 CFS

PLACE OF USE:

IRRIGATION in BLAINE County

T02N R21E S02 Lot 4 NWNW	4.00	T02N R21E S03 Lot 1 NENE	39.00
T02N R21E S03 Lot 2 NWNE	11.00	T02N R21E S03 SWNE	20.00
T02N R21E S03 SENE	27.00	T02N R21E S03 NESE	11.00
T02N R21E S03 NWSE	22.00	T02N R21E S03 SWSE	30.00

164 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 164 acres in a single irrigation season. Combined Right Nos.: 37-1120, 37-1140, 37-21383, 37-21745, and 37-21746.

The rights listed below are limited to the irrigation of a combined total of 170 acres in a single irrigation season. Combined Right Nos.: 37-1120, 37-1140, 37-21383, 37-21745, 37-21746, and 37-21963.

This right is limited to the irrigation of 55 acres within the place of use described above 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

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

Adjudication Claim Notes

Claim(s): 37-1120, 37-1140, 37-21383, 37-21745, 37-21746, 37-21963

Background Data

37-1120

- Source is unnamed stream tributary to Muldoon Creek
- Decreed/licensed for 1.1 cfs on 55 acres. This water right decreed license 37-2258 (Baptie vs. Lewis, 1926)
- Claimed 1.1 cfs for irrigation of 55 acres
- Claimed ?? cfs for Domestic

37-1140

- Source is Muldoon Creek
- Decreed/licensed 0.2 cfs on 15 acres. This water right decreed license 37-2226 (Baptie vs. Lewis, 1926)
- Claimed 0.2 cfs for Irrigation of 270 acres
- Claimed 0.02 cfs for Domestic

37-21383

- Beneficial Use claim
- Source is Muldoon Creek
- Claimed 8.0 cfs for Irrigation of 270 acres

37-21745

- Beneficial Use claim
- Source is Muldoon Creek
- Claimed 2.0 cfs for Irrigation of 270 acres

37-21746

- Beneficial Use claim for Flood Water
- Source is Muldoon Creek
- Claimed 2.0 cfs for Irrigation of 270 acres

37-21963

- Beneficial Use claim
- Source is Springs tributary to Muldoon Creek
- Claimed 0.26 cfs for Irrigation of 26 acres and 0.02 for Stockwater

Place Of Use Data

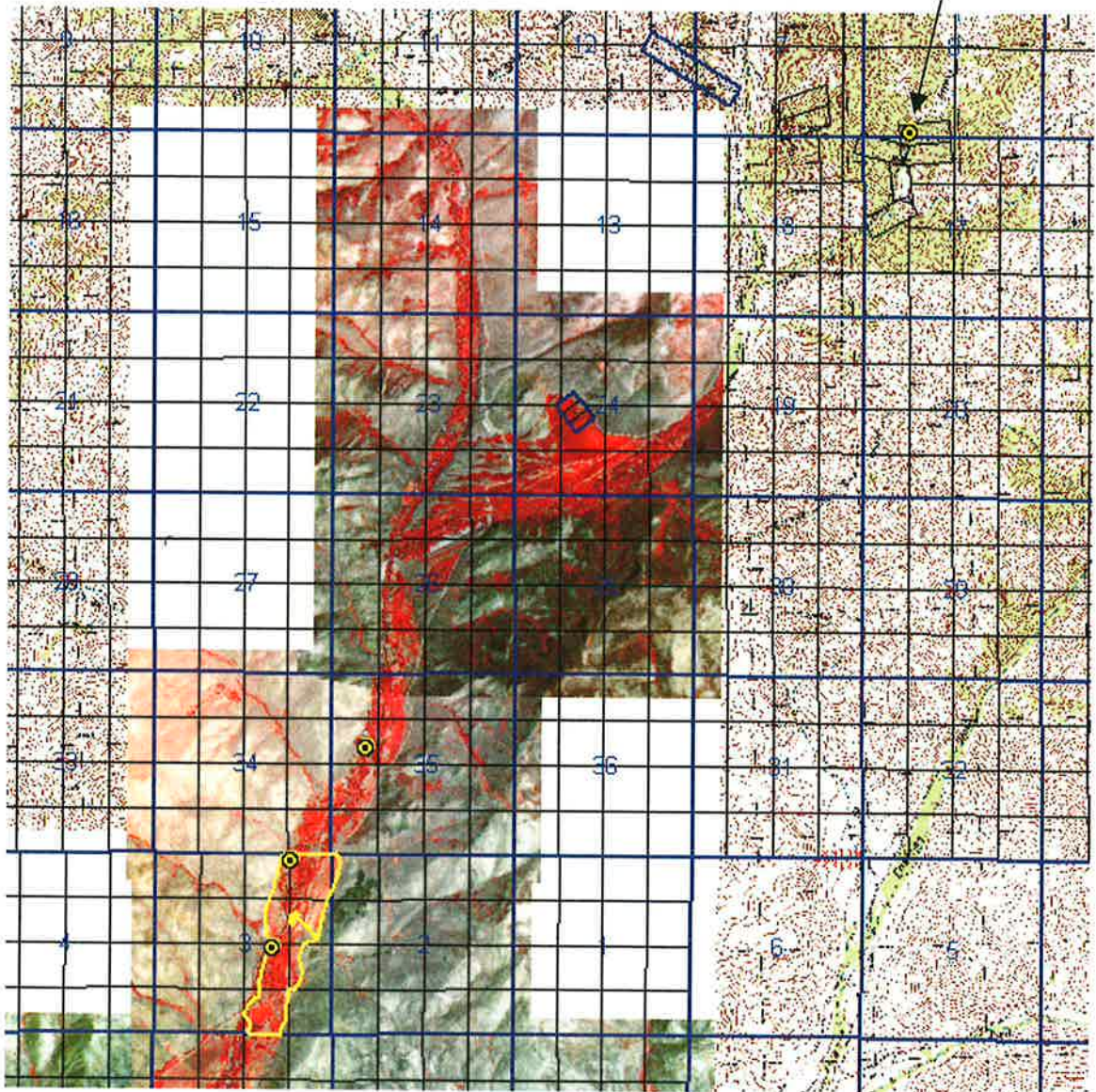
Yellow line is the draft Place of Use created by IDWR based on historical data and records.

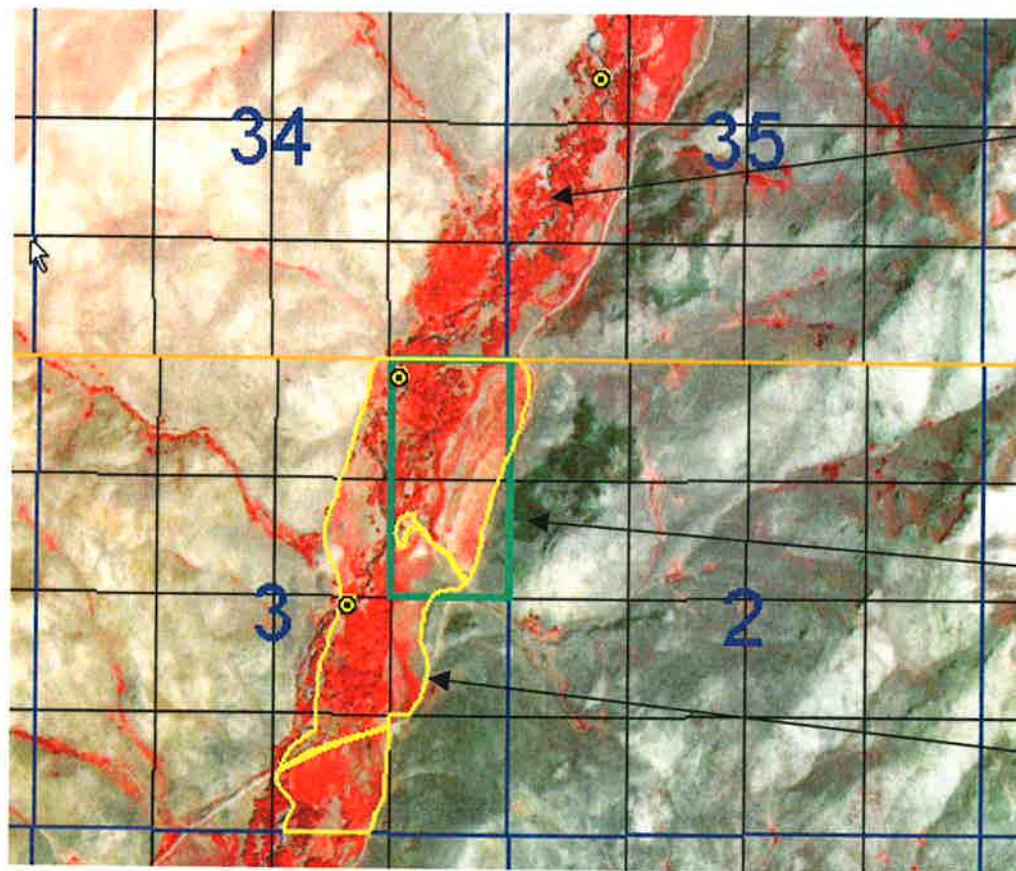
Yellow dot is draft Point of Diversion created by IDWR based on historical data and records.

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

1987 Aerial Photo

POD at Logan
Tunnel for 37-1120

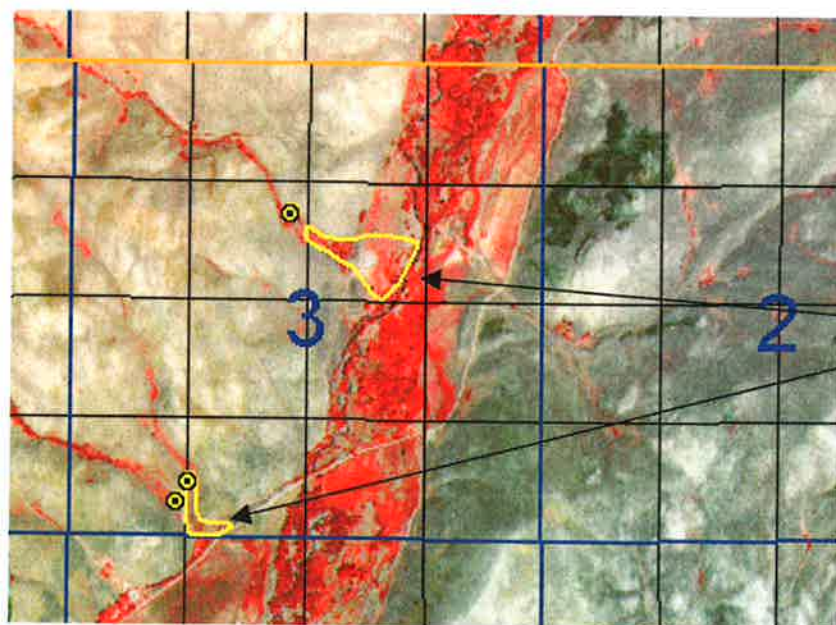




Fish Creek

Decreed POU
for 37-1120 &
37-1140
(Green Line)

PPU for 37-1120,
37-1140, 37-
21383, 37-21745,
& 37-21746



POU for 37-21963

Clark Upper Diversion



ABOVE: View looking down Muldoon Creek showing the diversion works for the Upper Clark Diversion.

LEFT: View of the measuring device (2.5 ft Parshall flume) on the Clark Upper Diversion Ditch.

GPS coordinate location for point of diversion: 2505831, 1372174 (IDTM coordinates NAD83 projection) Legal Description SWNW Section 35 (T03N, R21E). Site Tag #A0011846.

Diversion works consist of metal slide gate structure, but gate was not on the structure. Measuring device consists of a 2.5 foot Parshall flume. Converging section of the flume was not level. Flow through measuring device was measured at 0.81cfs. Device appears large for small flows later in summer. It may be possible to install a weir just downstream of the diversion to measure smaller flows.

Concerns: Lack of gate on diversion works. Accuracy of the device? Flume may be too large for measurements at lower flows (< 0.20 ft of head). Clark's SRBA filings, 37-1120 and 37-1140, for 7.3 total cfs?, identifies point of diversion in NWSW Section 35 (T03N, R21E).

Clark Middle Diversion



View looking down Muldoon Creek at the head of the Clark middle diversion ditch. Note lack of control works. In addition, no measuring device was present on this particular ditch.

GPS coordinate location for point of diversion: 2505159, 1371158 (IDTM coordinates NAD83 projection) Legal Description NWNENE (Govt. Lot #1) Section 3 (T02N, R21E). No Site Tag # assigned.

Concerns: No control works or measuring device present. Clark's SRBA filings, 37-1120 and 37-1140, for 7.3 total cfs?, identifies point of diversion in NWSW Section 35 (T03N, R21E).

Clark Lower Diversion



ABOVE: View looking down Muldoon Creek with Clark Lower Diversion Ditch shown. Note lack of control works and irrigation ditch, off of the main diversion ditch, located upstream of the flume.

LEFT: View of Parshall flume on the Clark Lower Diversion Ditch. Note flow around the flume and overall condition, and installation of the flume. The survey revealed that the converging section slopes up, as you move downstream, and the left side is actually lower than the downstream end of the flume.

GPS coordinate location for point of diversion: 2504994, 1370387 (IDTM coordinates NAD83 projection) Legal Description NWSE Section 3 (T02N, R21E). No Site Tag # assigned.

No diversion control works are present. Measuring device consists of a 2.5 foot Parshall flume. A level survey of the flume reveals that part of the converging (upstream) section is actually lower than the downstream end of the flume. In addition, the converging section was 0.16 feet lower on the right side than the left side. Quite a bit of water was flowing around the flume. An irrigation ditch, off of the main diversion ditch, was also located upstream of the flume. The gage on the flume measured 0.23 feet of head, but the problems with the device did not provide an accurate measurement of flow through the ditch.

Concerns: Lack of diversion control works. Accuracy of the device? Flume may be too large for measurements at lower flows (< 0.20 ft of head). Water in ditch upstream of device will not be measured with current flume location. Clark's SRBA filings, 37-1120 and 37-1140, for 7.3 total cfs?, identifies point of diversion in NWSW Section 35 (T03N, R21E).

NOTES

T2N R21E Section 2 & 3

- 10/17/05 talked with Terry Clark. Mr. Clark co-mingles water and he would like to create a PPU. I explained a PPU and the limitations associated with it. To establish a priority date for 37-21383, Mr. Clark has a court document he will provide to us and he plans to get statements from this mother-in-law and sister-in-law. As his mother-in-law lives in Oregon, he will probably have the information prepared and submitted to IDWR in December 2005.
- 4/19/06 – Met with Anita and Terry Clark at my office:
 - They submitted evidence of priority that consisted of testimony from a court case that was never resolved/decreed for Muldoon Creek water:
 - 100 inches with a priority date of 4/1/1912
 - 100 inches with a priority date of 4/1/1930
 - 100 inches of Flood Water with a priority date of 4/1/1907
 - They filed SRBA claim 37-21745 for 100 inches with a priority date of 4/1/1930
 - They filed SRBA claim 37-21746 for 100 inches of Flood Water with a priority date of 4/1/1907.
 - They would like to modify the draft PPU to include ~5 acres in SESW and ~5 acres in NESE Section 3. Mr. Clark plans to submit an affidavit explaining the history his water use in these two locations.
 - They plan to submit additional claims for irrigation and stockwater from springs on their land.
- History of the Clark ranch:
 - originally two ranches
 - one owned by John & Enid Baptie (N1/2SE, SWSE, SESW Section; Lots 2 & 3 Section 2; SWSE and SESW Section 35)
 - the other by Thomas & Cora Baptie (Lots 1 & 2 and S1/2NE Section 3).
John and Thomas were brothers.
 - Thomas & Cora were decreed water rights 37-1119 37-1120, and 37-1140 in 1926.
 - Thomas & Cora sold their ranch with water rights to Robert Baptie (John Baptie's son).
 - Terry & Anita Clark buy both ranches in early 1970s.
 - Neither John & Enid, nor their land, were involved in a decree (the 1967 court case was dropped).
- 11/06 unable to conduct field exams for 37-21383, 37-21745, 37-21746, and 21963 to measure diversion rate because of too much snow. Based on 1987 aerial photo that indicates irrigation of claimed POU, evidence of priority submitted, a distribution system observed during 2005 field exam, I decided to recommend diversion rate of 0.02 cfs/acre.
- Since 37-1120, 37-1140, 37-21383, 37-21745, and 37-21746 are all from the same source, Muldoon Creek, the beneficial use claims are limited so the combined diversion rate does not exceed 0.02 cfs/acre for the PPU.

➤ Recommendations:

- 164-acre PPU for Muldoon Creek water. 37-21963 is a different source and POU and is not part of PPU.
- Combined use limit of 170 acres for 37-1120, 37-1140, 37-21383, 37-21745, 37-21746, and 37-21963.
- Combined use limit of 164 acres for 37-1120, 37-1140, 37-21383, 37-21745, and 37-21746.
- 37-1120
 - 1.1 cfs for Irrigation of 55 acres within PPU
 - Domestic use not recommend because diversion rate not included on claim.
 - 37-1120 and 37-1140 are decreed to the same two QQ. There is roughly 70 acres of irrigable landing those QQ, so the rights probably did not overlap. No combined use limit for 37-1120 and 37-1140.
- 37-1140
 - 0.20 cfs for Irrigation of 15 acres within PPU
 - 0.02 cfs for Domestic
 - 37-1120 and 37-1140 are decreed to the same two QQ. There is roughly 70 acres of irrigable landing those QQ, so the rights probably did not overlap. No combined use limit for 37-1120 and 37-1140.
- 37-21383
 - 1.44 cfs for Irrigation of 72 acres within PPU
 - Priority date 4/1/1912
 - Evidence of priority is court testimony by John & Enid Baptie and Robert Baptie. Decided testimony supported claimed priority because it is essentially a notarized affidavit.
 - POU described in court testimony is for irrigable portions of 4 QQ, which is roughly 72 acres.
 - Neither John & Enid Baptie, nor their land, were involved in a decree.
- 37-21745
 - 0.44 cfs for Irrigation of 22 acres within PPU
 - this is the amount of water needed to bring the combined total for the PPU to 0.019 cfs/acre
 - Priority date 4/1/1930
 - Evidence of priority:
 - The court testimony by John & Enid Baptie and Robert Baptie is essentially a notarized affidavit. It described the water with a 1930 priority date with a POU consisting of the irrigable portions of 4 QQ. However, the described POU is in the hills. It would have been extremely hard to irrigate with a gravity system and that land is not irrigated now. Was the POU listed in the evidence of priority (court case) an error in the location? We cannot assume that the POU was the John & Enid Baptie's land in the valley bottom because that land was covered by the water in the same testimony

(claimed as 37-21383). So it is unclear where the 1930 water in the testimony was located.

- Accepted the affidavit by Evelyn Smith as support for this water use, even though it does not discuss diversion rates. She was born in 1917.
- Priority date is after the 1926 decree (37-1120 & 37-1140) which involved Thomas & Cora Baptie.

○ 37-21746

- 2.0 cfs for Irrigation of 100 acres within PPU
- This is a Flood Water right
- Priority date: 4/15/1968
 - Flood Water right so priority date is after the latest decreed and licensed right on Muldoon Creek.
 - Evidence of priority is court testimony by John & Enid Baptie and Robert Baptie. Decided testimony supported claimed priority because it is essentially a notarized affidavit.
 - POU described in court testimony is for irrigable portions of 4 QQ, which is roughly 100 acres.
 - Priority date is after the 1926 decree (37-1120 & 37-1140) which involved Thomas & Cora Baptie.

○ 37-21963

- 0.26 cfs for Irrigation of 13 acres and 0.02 cfs for Stockwater
 - not part of larger PPU on ranch
- 0.02 cfs for Stockwater
- Priority date: 4/15/1962
 - Evidence of priority submitted by claimants. Would have preferred someone without a vested interest in the property.

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

Muldoon Creek Ranch

Terry & Anita Clark
P. O. Box 308
Carey, ID 83320
Phone/Fax (208) 788-4280
E-Mail anitaclark@toast.net

Please see attached document pertaining to the irrigation water diverted from Muldoon Creek and used on Section 3, Township 2 North Range 21 East of the Boise Meridian. This document was prepared in 1967 by my Grandfather John Baptie, Grandmother Enid Baptie and Uncle Robert (Bob) Baptie. Individuals know as Baptie Ranch Partnership. This document shows the amount and use of water as early as 1907 with continued use until present day. Anita Clark (Granddaughter of Enid & John Baptie) and Terry Clark (husband) purchased the ranch in the early 1970's and have used the water for beneficial use on the land described until present day 2006. The ranch has not left family ownership for over 100 years. We have always used the water diverted from Muldoon Creek to water pastures & hay fields as indicated.

Please see the following list we have prepared for quick reference of decreed water and the amounts used on the ranch over the years. The amounts and dates of water shown in this document are essential for our livelihood and the continued operation of this 100 year old family owned ranch. Much of this land is pores soil and requires more than the standard 1 inch per/acre of irrigation water. The head gate of a major diversion point from Muldoon Creek is located one mile north of the ranch and there is a great loss of water before reaching the source of irrigation.

Decreed Water & Number:

10 Miners inches: #37-1140
05 Miners inches: #37-1119
55 Miners inches: #37-1120

Water as described in document attached beneficial & historic use:

37-21383 April, 1912 – used the waters of Muldoon Creek in the amount of 100 miner's inches
37-21745 April, 1930 – used the waters of Muldoon Creek in the amount of 100 miner's inches
37-21746 April, 1907 – used the waters of Muldoon Creek in the amount of 100 miner's inches

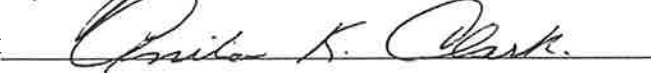
} see a Hacked map for locations

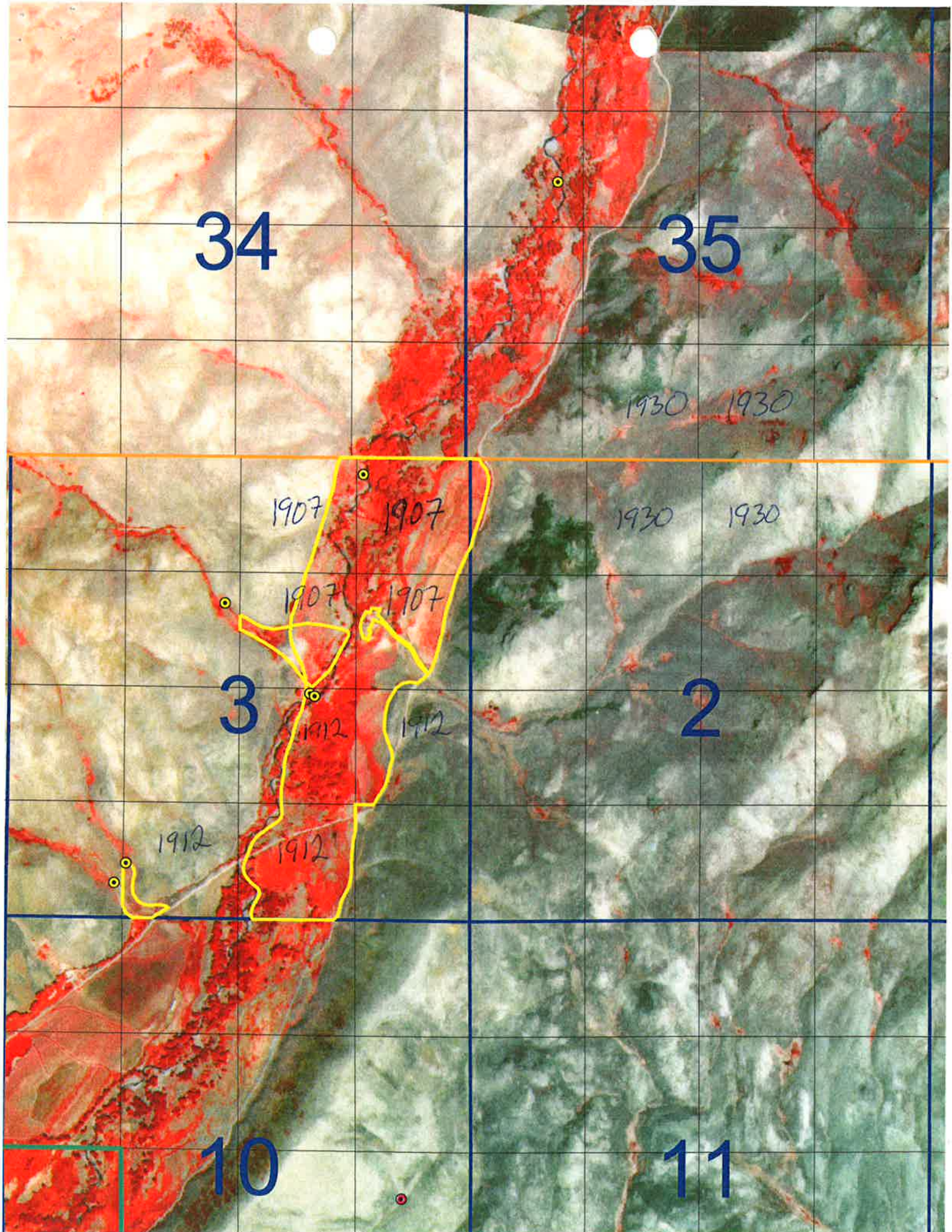
Terry L. and Anita K. Clark

Terry L. Clark



Anita K. Clark





File No.

37-1140-1120- 21383

Anita & Terry Clark
P.O. Box 229
Bellevue,

9/29/05

I called Terry yesterday and made an appointment with him and Anita to go over their water files, and while visiting with them Terry said that the waters from all three sources are co-mingled from Muldoon creek . Terry said that the water from # 4 POD is from an old mine shaft located upon the side of the real high mountain where the side hill has slid down the mountain , you cannot get there on horse or by 4x4 . A person can get part way then you have to climb up a sheer cliff side to the old mine, so We did not go to GPS # 4 he also said it would take a full day to get to the mine due to the present conditions of the mountain side , the water from the mine runs down the hill into Muldoon creek down to their property. Terry and Anita both said the total irrigated lands is approx. 270 acre and the designated 15 acres is the bottom part of the yellow area on East side of the road. All of their property is flood irrigated from the creek and springs which flow into their property especially during spring and early summer run off time. The ditches are approx where shown on photo's . Terry and Anita informed me that they would call Mat for an appt. and go to Boise to discuss rights on other springs on their property. And whatever else is required.

Description	GPS Name & No.	Position No.	USR No.	Plate No.	Photo No.	
Muldoon diversions	Terry	1	2505826	1372174	0013560	1070734
"	"	2	2505151	1371155	None	735
"	"	3	2504989	1370379	561	736
Mine shaft	"	4	was unable to GPS			

Lee R. Peterson

Field Exam Data Form

Claim(s): 37-21383

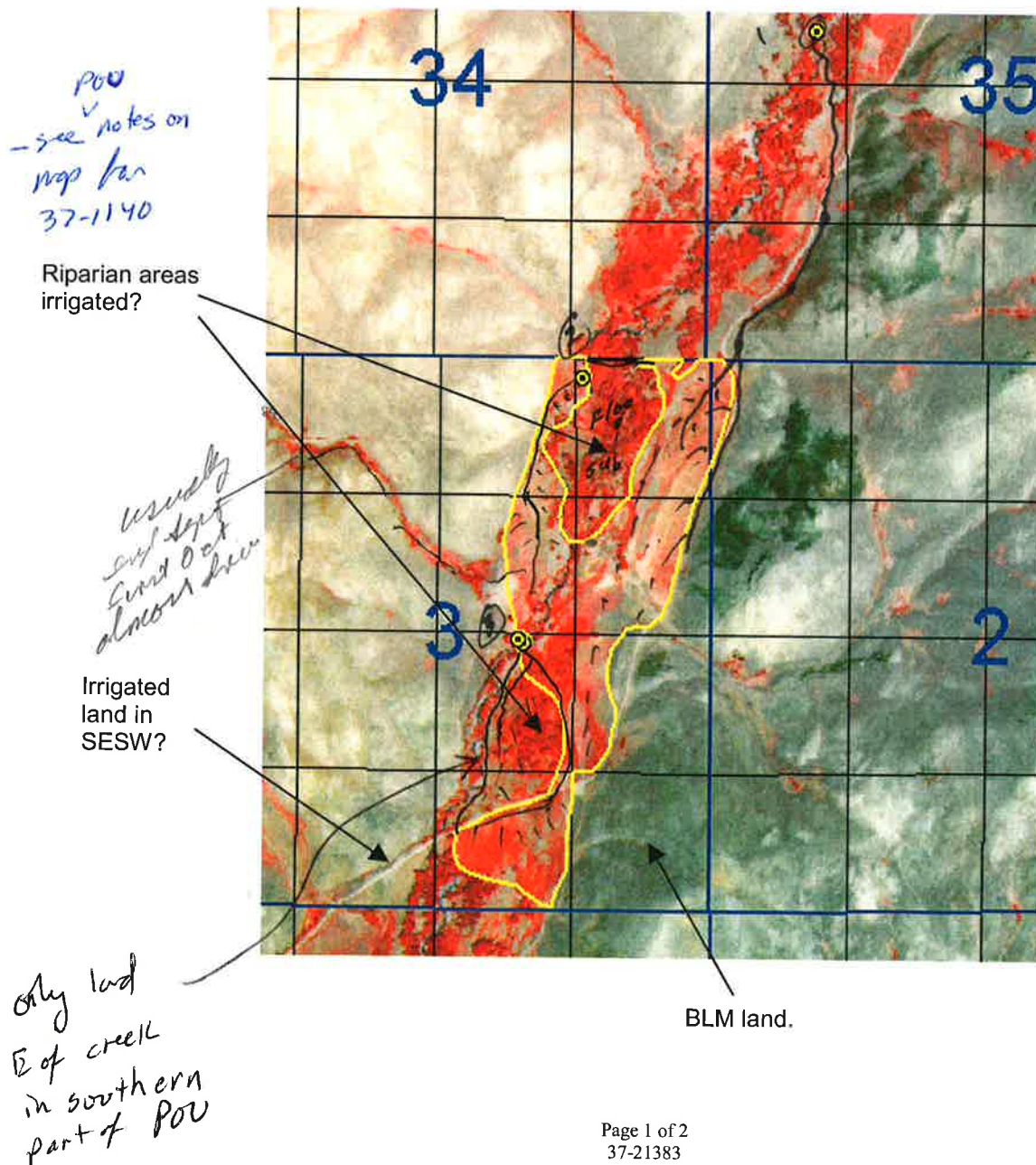
Background Data

- Beneficial Use claim
- Source is Muldoon Creek
- Claimed 8.0 cfs on 270 acres

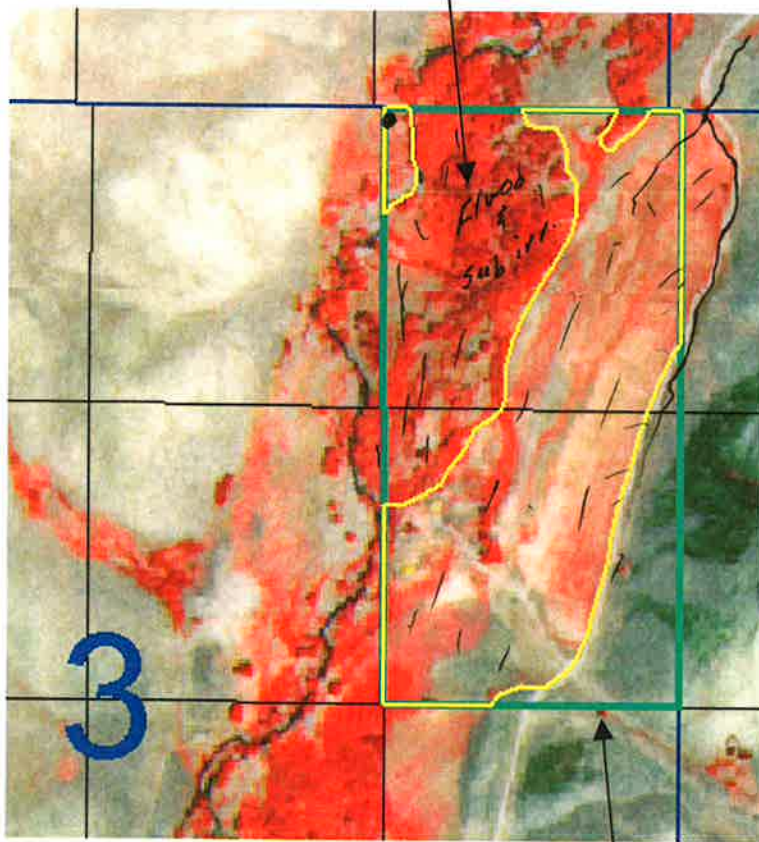
Place Of Use Data

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)

1987 Aerial Photo



Riparian areas
irrigated?



Decreed POU
(Green Line)

*when is left
how get water*

Field Exam Data Form

Claim(s): 37-1140

Background Data

- Source is Muldoon Creek
- Decreed/licensed 0.2 cfs on 15 acres ***
- Claimed 0.2 cfs on 270 acres

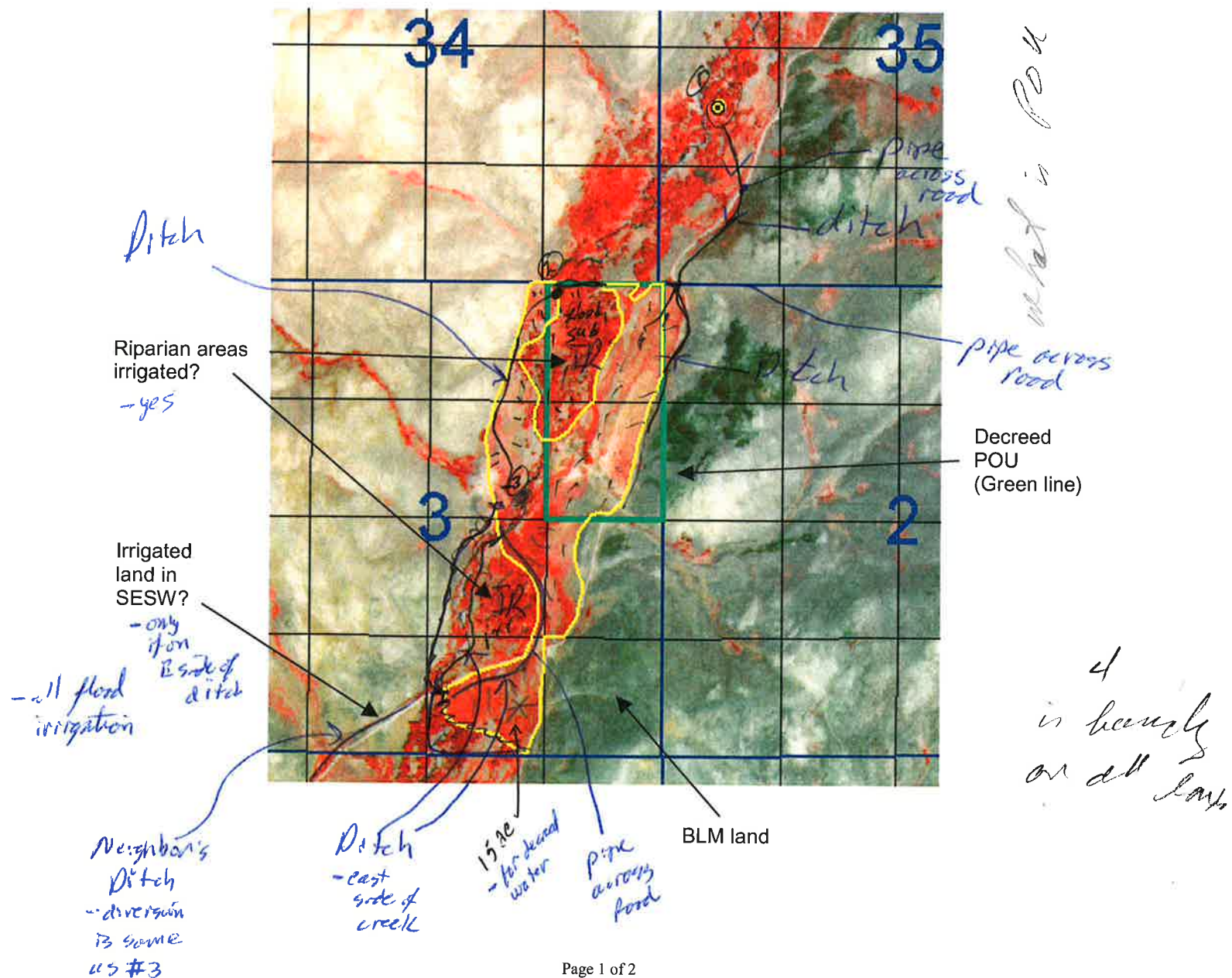
Place Of Use Data

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)

1987 Aerial Photo



WARRANTY DEED

For Value Received **ROBERT G. BAPTIE and VELMA L. BAPTIE, husband and wife,**
P.O. Box 27
Carey, Idaho 83320

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

TERRY L. CLARK and ANITA K. CLARK, husband and wife,
P.O. Box 21
Hanning, Oregon 97125

Hereinafter called the Grantee, the following described premises situated in Blaine

County, Idaho, to-wit:

**lots 1 and 2 and the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3,
Township 2 North, Range 21 E.S.M.**

**Together with all appurtenant water rights
consisting of domestic and irrigation water
rights, including 50 inches of decreed water
Logan Tunnel and 10 inches of decreed water
spring.**

**EXCEPTING and reserving unto the Grantors, and
the survivor thereof, a LIFE ESTATE in the
above described property.**

**N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ SW $\frac{1}{4}$, all in Section 3,
Township 2 North, Range 21 E.S.M.**

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 Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all incumbrances except as above described and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: this 19th day of February, 1982.

Robert G. Baptie
Velma L. Baptie

STATE OF IDAHO, COUNTY OF

On this 19th day of February 1982
I, the undersigned, a duly qualified and sworn public notary, do hereby certify that the within instrument, executed by **ROBERT G. BAPTIE and VELMA L. BAPTIE, husband and wife,** is the true and correct copy of the original instrument, and that the same was duly recorded in my office on this day of March, 1982, in my office, and duly recorded in Book of Deeds of page

STATE OF IDAHO, COUNTY OF Blaine

I hereby certify that this instrument was filed for record at the request of James Hobbins on this 10th day of March, 1982, in my office, and duly recorded in Book of Deeds of page

MARIE IVIE

Public Notary

By James Hobbins Deputy
Page 8 of 8
Mail to James Hobbins
Mail to James Hobbins

No. 16378.

4-1003.

HAILEY 02737.

THE UNITED STATES OF AMERICA,

To all to whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Register of the Land Office at Hailey, Idaho, has been deposited in the General Land Office, whereby it appears that, pursuant to the Act of Congress of May 20, 1892, "To Secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of JOE MORAN has been established and duly consummated, in conformity to law, for the SOUTH HALF OF THE NORTHEAST QUARTER AND THE LOTS ONE AND TWO OF SECTION THREE IN TOWNSHIP TWO NORTH OF RANGE TWENTY-ONE EAST OF THE MOINE MERIDIAN, IDAHO, CONTAINING ONE HUNDRED SIXTY AND FORTY-FOUR ACRES, according to the Official Plat of the Survey of the said land, returned to the General Land Office, by the Surveyor-General;

NOW KNOW YE, That there is, therefore, granted by the UNITED STATES unto the said claimant the tract of Land above described;

TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, WILLIAM H. TAFT, President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the Seventeenth day of April in the year of our Lord one thousand nine hundred and eleven and of the Independence of the United States the one hundred and thirty-fifth.

By the President: Wm. H. Taft.

(S R A L)

By H. F. LeRoy, Secretary.

John O'Connell,

Acting Recorder of the General Land Office.

RECORDED: Patent Number 190344.

Recorded at the request of Joe Moran at 11:25 A.M., April 29, 1911.

W. F. Horne,

County Recorder.

SCANNED
OCT 17 2005

*2/11/01
Decreed Right*

Water Right Report



10/18/2001

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report

WATER RIGHT NO. 37-1119

Owner Type	Name and Address
Current Owner	ANITA K CLARK
Current Owner	TERRY L CLARK
	BOX 229
	BELLEVUE, ID 83313

Priority Date: 12/02/1911

Basis: Decreed

Status: Active

Source	Tributary
SPRING	MULDOON CREEK

Beneficial Use	From	To	Diversion Rate	Volume
STOCKWATER	1/01	12/31	0.06 CFS	
DOMESTIC	1/01	12/31	0.04 CFS	
Total Diversion			0.1 CFS	

Location of Point(s) of Diversion:

SPRING	NWSW	Sec. 02	Township 02N	Range 21E	BLAINE County
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Place(s) of use:

Place of Use Legal Description: STOCKWATER BLAINE County

SCANNED

OCT 17 2005

Water Right Report

Page 2 of 2

Place(s) of use:

Place of Use Legal Description: IRRIGATION BLAINE County

Place of Use Legal Description: DOMESTIC same as IRRIGATION

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
02N	21E	3	1	NENE	25		SENE	30						

Total Acres: 55

Remarks:

1.	General	RT. DECREES LIC. 37-2258. DATA FROM LIC. FILE. RT. IS INJECTED INTO MULDOON CR. IN S. 8 & RE-DIV. IN S. 35.
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Dates:

Licensed Date:

Claim Received Date:

Decreed Date: 01/22/1926

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal: S

Owner Name Connector: OR

Water District Number: 370

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



SCANNED

OCT 17 2005

Place of Use Legal Description: IRRIGATION BLAINE County

Place of Use Legal Description: DOMESTIC same as IRRIGATION

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
02N	21E	3	1	NENE	40		NWNE	35		SWNE	35		SENE	35
				SESW	20									
				NESE	25		NWSE	40		SWSE	40			

Total Acres: 270

Remarks:

1.	General	RT. DECREES LIC. 37-2226, AC. IRRIGATED TAKEN FROM LICENSE. ADDITIONAL 300 INCHES ADDED TO CLAIM WASTE WATER FROM MULDOON CR. WITH SAME PRIORITY DATE. APPLICANT HAS OFFICIAL COURT DOC. THAT SHOWS RT. TO THIS WATER. 270 ACRES OF IRR. REQUIRES MORE THAN 1 INCH TO THE AC. DUE TO VERY SANDY SOIL.
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Dates:

Licensed Date:

Claim Received Date:

Decreed Date: 01/22/1926

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal: S

Owner Name Connector: OR

Water District Number: 370

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

SCANNED

OCT 17 2005

Water Right Report

Page 1 of 3

Water Right Report

10/18/2001

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report

WATER RIGHT NO. 37-1140

Owner Type	Name and Address
Current Owner	ANITA K CLARK
Current Owner	TERRY L CLARK
	BOX 229
	BELLEVUE, ID 83313

Priority Date: 12/02/1911

Basis: Decreed

Status: Active

Source	Tributary
MULDOON CREEK	LITTLE WOOD RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/01	11/30	6.2 CFS	
DOMESTIC	4/01	11/30	0.02 CFS	
Total Diversion			6.2 CFS	

Location of Point(s) of Diversion:

MULDOON CREEK	NWSW	Sec. 35	Township 03N	Range 21E	BLAINE County
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IRRIGATION Use:

Acre Limit: 270

SCANNED

OCT 17 2005

Place(s) of use:

<http://www.idwr.state.id.us/ExtSearch/RightReport.asp?BasinNumber=37&SequenceNumbe...> 10/18/01

Place of Use Legal Description: DOMESTIC BLAINE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
02N	21E	3		SENE										
Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
02N	21E	3	1	SENE										

Remarks:

1. General RT. DECREES LIC. 37-2226; AC. IRRIG. TAKEN FROM LIC. FILE.

Dates:

Licensed Date:

Claim Received Date:

Decreed Date: 01/22/1926

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal: S

Owner Name Connector: OR

Water District Number: 370

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



SCANNED

OCT 17 2005

water right report

Page 1 of 2

Water Right Report

10/18/2001

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report

WATER RIGHT NO. 37-1120

Owner Type	Name and Address
Current Owner	ANITA K CLARK
Current Owner	TERRY L CLARK
	BOX 229
	BELLEVUE, ID 83313

Priority Date: 01/22/1913

Basis: Decreed

Status: Active

Source	Tributary
UNNAMED STREAM	MULDOON CREEK

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	/	/	1.1 CFS	
DOMESTIC	/	/		
Total Diversion			1.1 CFS	

Location of Point(s) of Diversion:

UNNAMED STREAM Rediversion	NWSW	Sec. 35	Township 03N	Range 21E	BLAINE County
UNNAMED STREAM	SWSW	Sec. 08	Township 03N	Range 22E	BLAINE County

IRRIGATION Use:

Acre Limit: 55

SCANNED

OCT 17 2005

January 19, 1962

Mr. Terry Clark
P. O. Box 21
Manning, OR 97125

Dear Mr. Clark:

Pursuant to our telephone conversation, I have researched our records for water rights appurtenant to the following lands:

T. 2 N., R. 21 E.

Sec. 3: NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Government Lots 1, 2

In the case of Thomas Baptie, et al. vs. George Lewis, et al., dated January 22, 1926, water rights were decreed appurtenant to a portion of the lands identified above for domestic use and irrigation purposes.

T. 2 N., R. 21 E.

Sec. 3: Lot 1 (SE $\frac{1}{4}$ NE $\frac{1}{4}$), SE $\frac{1}{4}$ SE $\frac{1}{4}$

The decree of 1926 superseded licensed right 37-2226 with a priority date of December 2, 1911, for 0.2 cfs of the waters of Muldoon Creek and 0.1 cfs of the waters of a spring. The water rights are identified in the decree as decreed right numbers 37-1140 and 37-1119 respectively. It also superseded licensed right 37-2258 with a priority date of January 22, 1913, identified as decreed right 37-1120 for 1.1 cfs of the waters of Logan Tunnel.

The decree did not list the amount of acres irrigated as shown on the licensed rights. Enclosed are copies of the decree and the superseded licensed rights.

on Salt Lake Road Utah.

Provided, however, that as to the use of two-hundred of the second lot of the waters of Johnson Creek, with reference to

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2-68

Blaine County.
Malden Creek
2/10th second-foot
Spring
1/10th second foot
Irrigation
Priority 12/2/11.

STATE OF IDAHO.

Water License No. 8007.

WHEREAS, On the 2nd day of December, A. D. 1911, JOE MORAN, of Hailey, County of Blaine, State of Idaho, duly made application (No. 11718) to me for a permit to use two (2) cubic feet per second of the waters of Malden Creek and one (1) cubic foot per second of the waters of a Spring, County of Blaine, State of Idaho, for irrigation and domestic purposes, and,

WHEREAS, On the 3rd day of February, A. D. 1912, Permit No. 8007, 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 3rd day of February, A. D. 1913, and for the application to beneficial use of said water on or before the 3rd day of February, A. D. 1914, and,

WHEREAS, On the 28th day of August, A. D. 1912, JOE MORAN, the holder of said permit, duly made proof of the completion of adequate works for the diversion of three (3) cubic feet per second of said waters, as evidenced by my Certificate No. 8007, dated August 30, 1912, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use three (3) cubic feet per second of water, with date of priority of December 2, 1911, and,

WHEREAS, On the 28th day of August, A. D. 1912, JOE MORAN, the holder of said permit, duly made proof of the application to beneficial use of 2/10ths of 1 cubic foot 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 JOE MORAN, of Hailey, County of Blaine, State of Idaho, the holder and owner of said Permit No. 8007, a perpetual right, dating from December 2, 1911, to the use of two-tenths (2/10ths) of one cubic foot per second of the waters of Malden Creek and one-tenth (1/10th) of one cubic foot per second of the waters of a Spring, 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 from Malden Creek at a point in the NE4 of SE4 of Sec. 15, Tp. 3 N., R. 21 E., and from Spring at a point in NE4 of SE4 of Sec. 2, Tp. 3 N., R. 21 E., and extended to and upon 15 acres -- divided as follows: (10 acres in Lot 1, and 5 acres in the NE4 of SE4, Section 2, Township 3 North, Range 21 East of Boise Meridian, 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 of 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 30th day of August, A. D. nineteen hundred and twelve.

(SEAL)

A. E. Robinson,

State Engineer. 37-1140

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 37-1120

WATER RIGHT NUMBER: 37-1120

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CORA A BAPTIE
	, ZZ
Current Owner	THOMAS A BAPTIE
	, ZZ

Priority Date: 01/22/1913

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
UNNAMED STREAM	MULDOON CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	/ to /	1.100 CFS	
DOMESTIC	/ to /		
<u>Total Diversion:</u>		1.100 CFS	

Location of Point(s) of Diversion

UNNAMED STREAM	SW1/4SW1/4	Sec. 8, Twp 03N, Rge 22E, B.M.
BLAINE County		
UNNAMED STREAM	NW1/4SW1/4	Sec. 35, Twp 03N, Rge 21E, B.M.
BLAINE County	(Rediversion)	

Place of Use

IRRIGATION

Twp	Rge	Sec	NE	NW	SW	SE	Totals
02N	21E	3	25.0			30.0	55.0
			L 1				

Total Acres: 55

DOMESTIC same as IRRIGATIONConditions of Approval:Remarks:

- General RT. DECREES LIC. 37-2258. DATA FROM LIC. FILE.
RT. IS INJECTED INTO MULDOON CR. IN S. 8 & RE-DIV. IN S. 35.