

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: A37-01151B
Date Received: 9/14/1988
Receipt No: S002179
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MARGUERITE E. TEWS 208-886-2822
Address: P.O. BOX 161
SHOSHONE, ID 83352
OR
Name: LAWRENCE Z. TEWS 208-886-7585
Address: 680 N. 350 W.
SHOSHONE, ID 83352
OR
Name: WILLIAM G. TEWS 208-324-2805
Address: 513 GOLF COURSE RD.
JEROME, ID 83338

2. Date of Priority: JUN 13, 1899

3. Source: ROCK CREEK Trib. to: BIG WOOD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
01N	17E	35	SE	SE	NW		BLAINE
			SE	NE	SW		BLAINE

5. Description of diverting works:
DAMS, CHECKS, AND DITCHES.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	35.000		

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

8. Total consumptive use is 117.0 Acre Feet Per Annum.

9. Non-irrigation uses:

A37-01151B

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Date: 09/14/88

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FEB 23 1993

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
01N	17E	35	NE		SW		IRR	20.0
			SE		SW		IRR	10.0
			SW		SE		IRR	10.0
							Section Acres	40.0
01S	17E	2	SE		NE	1	IRR	5.0
			NE		SE		IRR	3.0
							Section Acres	8.0
							Total Acres	48.0

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:
A37-01212

14. Remarks:
RT. FOR 1/3 OF FLOW FROM 7 AM FRI. TO NOON SUNDAY OF EACH WEEK.
35 CFS IS THE MAXIMUM FLOW MEASURED ON THE STREAM

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

BROWN ET. AL.

Decree Plaintiff

vs

REARDON & CHAPMAN

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: 5

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): William D Zeno Date: Sept 14 1988
Laurens Zeno Date: Sept 14 1988

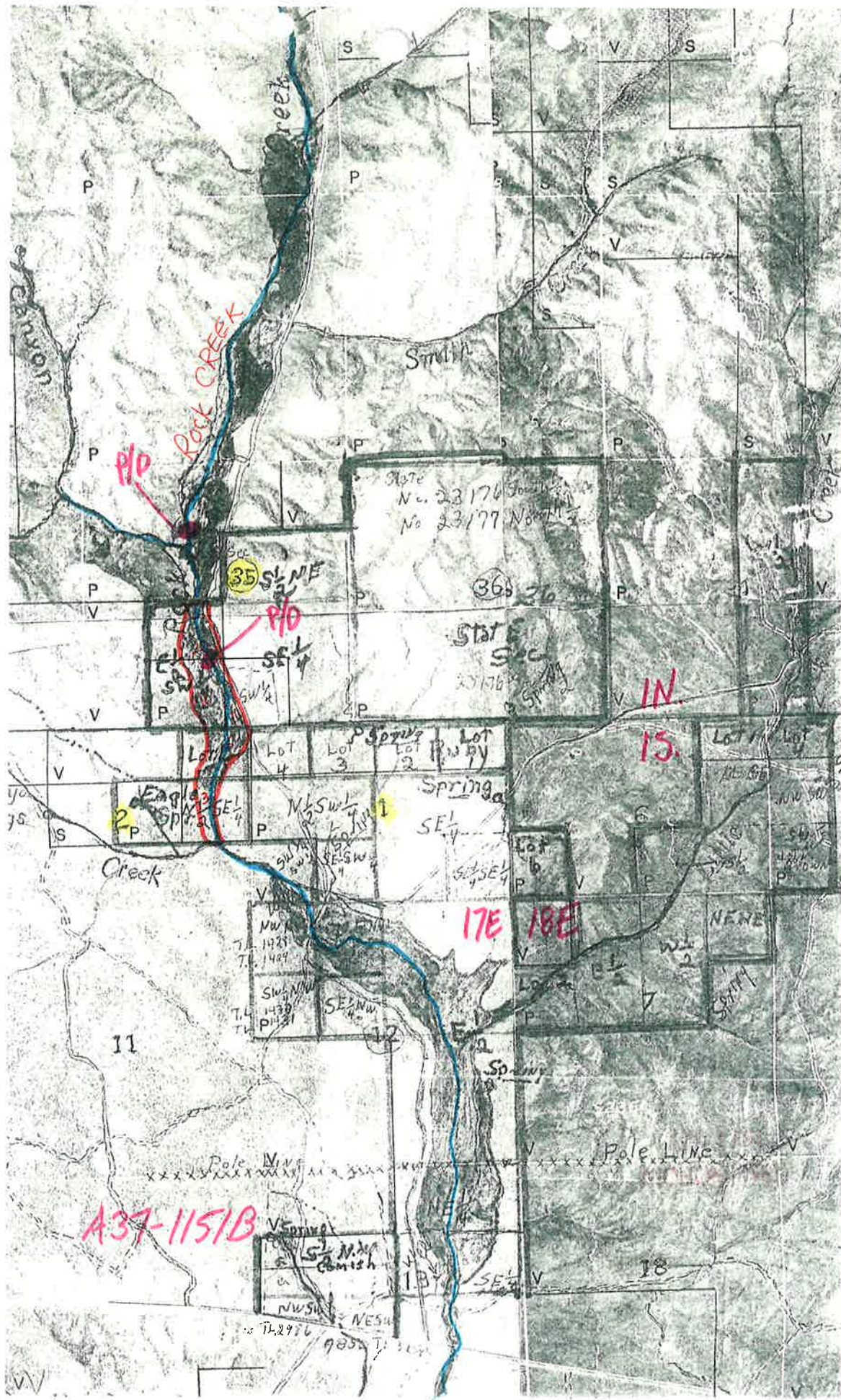
State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 14th day
of September 19 88

Roxanne Storey
Notary Public

Seal

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



The SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 1, the NE $\frac{1}{4}$ and the SE $\frac{1}{4}$ of Section 12, and the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 13, in Township 1 South, of Range 17 E., B. M.

2. That said respective parties, and their predecessors in interest have, since about June 13, 1899, been in the quiet, peaceable, continuous, open, exclusive and actual possession, as among themselves of all of the waters of Rock Creek, a dry stream in Blaine County, Idaho, and have, among themselves, during all of said time, rotated and used all of said waters of Rock Creek for useful and beneficial purposes in irrigation and domestic use upon their respective lands above described.

3. That in accordance with said stipulated rights of the respective parties, filed herein as aforesaid, it is hereby ORDERED, ADJUDGED, AND DECREED:

I.

That the entire flow of the waters of said Rock Creek shall be rotated between the respective parties as follows:

37 1150 The defendant Daniel Reardon shall have the exclusive right to the use of all the waters of Rock Creek aforesaid, for use on his lands hereinabove described, for irrigation and domestic use, from the hour of seven o'clock P. M. on Tuesday of each week until seven o'clock A. M. of Friday of each week.

37 1151 The plaintiffs, Elmer Brown, Rodney R. Brown, and Andrew McMenigle, shall have the exclusive right to the use of all of the waters of said Rock Creek for use on their respective lands hereinabove described, for irrigation and domestic use thereon, an undivided one-third thereof to each, from the hour of seven o'clock A. M. on Friday of each week until twelve o'clock noon of Sunday of each week, and that in addition thereto plaintiff, Rodney R. Brown shall at all times have the exclusive right to the use of all of the waters of Guy Creek, a small tributary to said Rock Creek.

37-1212

37 1152 The plaintiffs Christina Eastwood and W. W. Wallace shall have the exclusive right to the use of all of the waters of said Rock Creek for use on their respective lands hereinabove described, for irrigation and domestic use thereon, an undivided one-half thereof to each, from the hour of twelve o'clock noon on Sunday of each week until seven o'clock P. M. of Tuesday of each week.

II.

That each of the plaintiffs herein shall, prior to May 1st, 1925, properly construct and install a concrete headgate and measuring device at the points where they divert the waters of said stream from the

A37-1151B

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FEB 23 1993

UNITED STATES DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY (WATER RESOURCES DIVISION)Sta. No. 13141100Table No. 01

Begin

YR. MO. D. HR.

Rating table for ROCK CREEK NEAR BELLVUE IDAHO

from _____ to _____, from _____ to _____, from _____ to _____

Gage height	Discharge	Difference	Gage height	Discharge	Difference	Gage height	Discharge	Difference	Gage height	Discharge	Difference	Gage height	Discharge	Difference	Gage height	Discharge	Difference	Gage height	Discharge	Difference
Feet	Cfs	Cfs	Feet	Cfs	Cfs	Feet	Cfs	Cfs	Feet	Cfs	Cfs	Feet	Cfs	Cfs	Feet	Cfs	Cfs	Feet	Cfs	Cfs
.00			1.00	25.3	4.7	.00			.00			.00			.00			.00		
.10			.10	30.0	5.2	.10			.10			.10			.10			.10		
.20			.20	35.2	5.7	.20			.20			.20			.20			.20		
.30			.30	40.9	6.2	.30			.30			.30			.30			.30		
.40			.40	47.1	6.7	.40			.40			.40			.40			.40		
.50			.50	53.8		.50			.50			.50			.50			.50		
.60			.60			.60			.60			.60			.60			.60		
.70			.70			.70			.70			.70			.70			.70		
.80			.80			.80			.80			.80			.80			.80		
.90			.90			.90			.90			.90			.90			.90		
0.00			2.00			.00			.00			.00			.00			.00		
.10			.10			.10			.10			.10			.10			.10		
.20	2.00	1.38	.20			.20			.20			.20			.20			.20		
.30	3.38	1.82	.30			.30			.30			.30			.30			.30		
.40	5.20	2.25	.40			.40			.40			.40			.40			.40		
.50	7.45	2.70	.50			.50			.50			.50			.50			.50		
.60	10.15	3.15	.60			.60			.60			.60			.60			.60		
.70	13.3	3.6	.70			.70			.70			.70			.70			.70		
.80	16.9	4.0	.80			.80			.80			.80			.80			.80		
.90	20.9	4.4	.90			.90			.90			.90			.90			.90		

This table is applicable for open-channel conditions. It is based on 7 discharge measurements made during 1974 & 75
and is fairly well defined between 2 cfs and 35 cfs.

Comp. by ELV date 3-21-75

Ckd. by _____ date _____

A37-1151B

FEB 23 1993

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11/05/2010

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

RIGHT NUMBER: 37-1151B

NAME AND ADDRESS: HARRY S & DIANE J RINKER REVOCABLE TRUST
PO BOX 7250
NEWPORT BEACH CA 92658

SOURCE: ROCK CREEK

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.200 ~~0.860~~ CFS

~~The rights listed below are limited to a total combined diversion rate of 0.86 cfs. Combined right Nos.: 37-1151B and 37-1212.~~

PRIORITY DATE: 06/13/1899

POINT OF
DIVERSION:

T01N R17E S35 N85ENW Within BLAINE County
~~T01N R17E S35 SENESE Within BLAINE County~~

KKC

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	<u>0.200</u> ~~0.860~~ CFS

PLACE OF USE: IRRIGATION in BLAINE County

T01N R17E S35	NESW	~~14.00~~ <u>5.70</u>	T01N R17E S35	SESW	~~14.00~~ <u>0.90</u>
T01N R17E S35	SWSE	~~5.00~~ <u>4.20</u>	T01S R17E S02 Lot 1	~~SENE~~ <u>NENE</u>	~~8.00~~ <u>3.20</u>
~~T01S R17E S02 Lot 2~~ <u>NESE</u> ~~2.00~~					

~~43~~ 15 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of ~~43~~ 15 acres in a single irrigation season. Combined Right Nos.: 37-1151B and ~~37-1212~~ 37-22501.

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.

This water right shall be administered as being from a separate source pursuant to Basin 37 Part 2 General Provision No. 1A. If the holder of this right seeks to change the right pursuant to Idaho Code Sec. 42-222 or successor statute, nothing in this General Provision shall preclude any other person or entity from demonstrating that such a change in use would cause injury to its water right or from receiving relief provided by law in the event of injury.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

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

11/05/2010

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

SF-5

RIGHT NUMBER: 37-1151B

NAME AND ADDRESS: HARRY S & DIANE J RINKER REVOCABLE TRUST
PO BOX 7250
NEWPORT BEACH CA 92658

VERIFIED BY KKC
11-5-2010

SOURCE: ROCK CREEK

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.200 CFS

PRIORITY DATE: 06/13/1899

POINT OF
DIVERSION:

T01N R17E S35 SENW 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	0.200 CFS

PLACE OF USE: IRRIGATION in BLAINE County

SESW

S35 SWSE ~~5.00~~

S02 Lot 1 NENE

S02 NESE 2.00

T01N R17E S35	NESW	~~14.00~~ 6.70	T01N R17E S35	SESW	~~14.00~~ 0.90
T01N R17E S35	SWSE	~~5.00~~ 4.20	T01S R17E S02 Lot 1 NENE		~~8.00~~ 3.20
T01S R17E S02 Lot 2 NESE		2.00			
43 15 ACRES TOTAL					

The rights listed below are limited to the irrigation of a combined total of 43 15 acres in a single irrigation season. Combined Right Nos.: 37-1151B and ~~37-1212~~ 37-22501.

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.

This water right shall be administered as being from a separate source pursuant to Basin 37 Part 2 General Provision No. 1A. If the holder of this right seeks to change the right pursuant to Idaho Code Sec. 42-222 or successor statute, nothing in this General Provision shall preclude any other person or entity from demonstrating that such a change in use would cause injury to its water right or from receiving relief provided by law in the event of injury.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

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

04/05/2010

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

RIGHT NUMBER: 37-1151B

NAME AND ADDRESS: HARRY S & DIANE J RINKER REVOCABLE TRUST
PO BOX 7250
NEWPORT BEACH CA 92658

SOURCE: ROCK CREEK

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.200 CFS

PRIORITY DATE: 06/13/1899

VERIFIED BY

KKC
4-5-10

POINT OF DIVERSION:

T01N R17E S35 SENW 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	0.200 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T01N R17E S35	NESW	6.70	T01N R17E S35	SESW	0.90
T01N R17E S35	SWSE	4.20	T01S R17E S02 Lot 1 NENE		3.20

15 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 15 acres in a single irrigation season. Combined Right Nos.: 37-1151B and 37-22501.

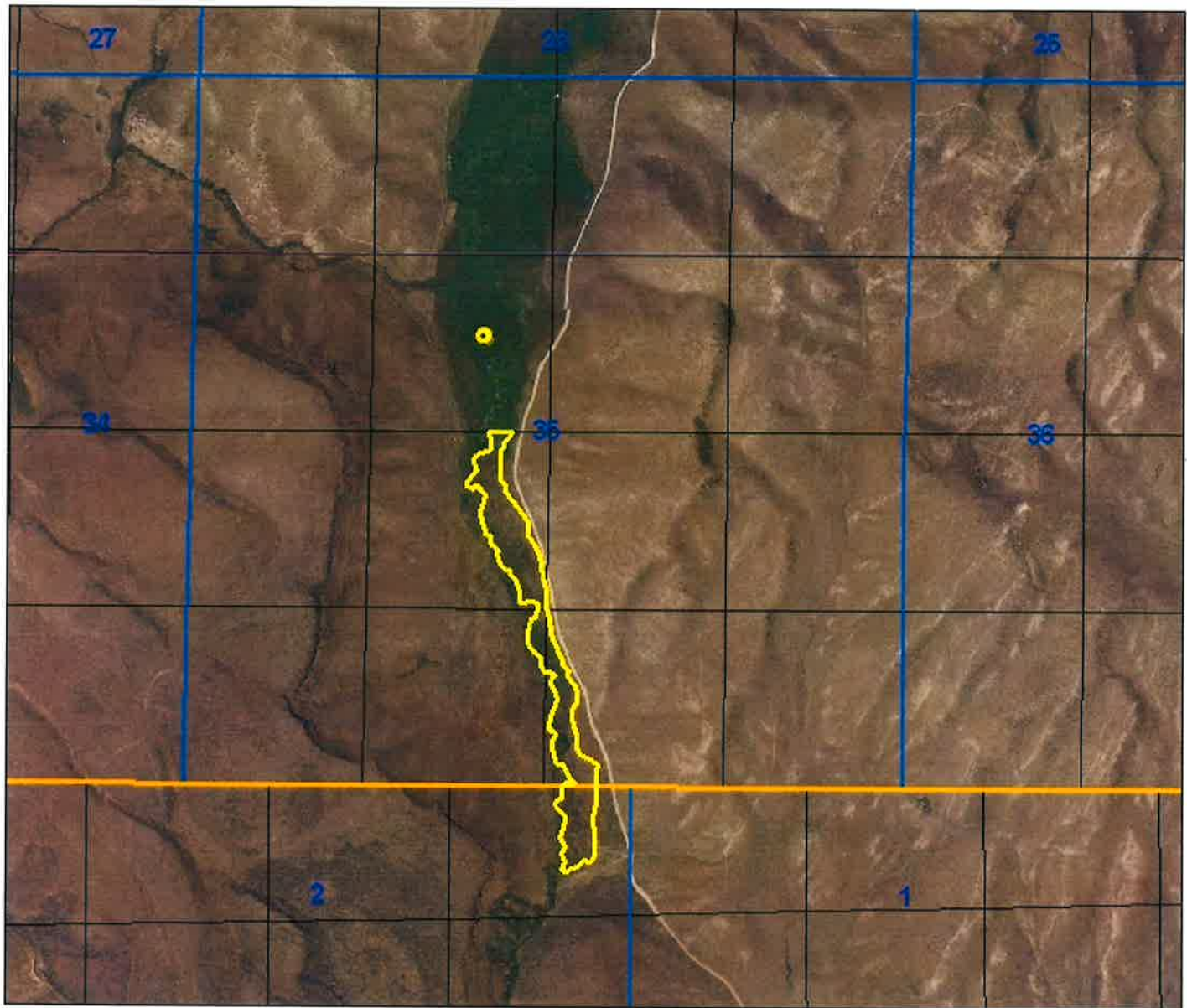
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.

This water right shall be administered as being from a separate source pursuant to Basin 37 Part 2 General Provision No. 1A. If the holder of this right seeks to change the right pursuant to Idaho Code Sec. 42-222 or successor statute, nothing in this General Provision shall preclude any other person or entity from demonstrating that such a change in use would cause injury to its water right or from receiving relief provided by law in the event of injury.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

RECOMMENDED PLACE OF USE FOR 37-1151B



PLACE OF USE
TWP 01N, RNG 17E, SEC 35
TWP 01S, RNG 17E, SEC 2
Data Entry on October 1, 2008

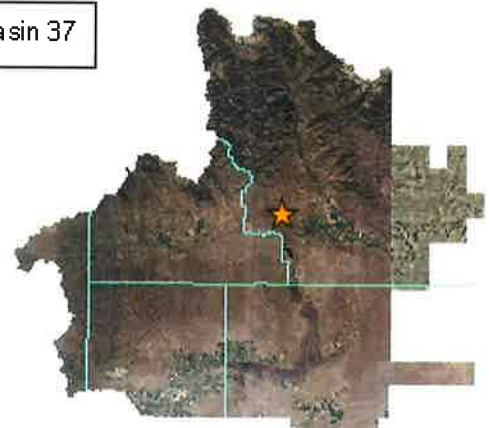
★ LOCATION IN BASIN

- Recommended point of diversion
- Recommended place of use
- Township lines
- Section lines
- Quarter/quarter lines

GIS PLACE OF USE PRESENTATION
2004 AERIAL PHOTOGRAPHY
BY KELLY K CHRISTENSEN



Basin 37



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 37-1151B
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Harry S. Rinker

Address: P.O. Box 7250

Newport Beach, CA 92658

Daytime Phone: (714) 979-8300

Name & Address of Attorney, if any:

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

Name: Harry S. Rinker

Address: P.O. Box 7250

Newport Beach, CA 92658

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

1. ☒ **Name and Address**
Should be: Harry S. Rinker at address above
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity**
Should be: As decreed (combined rights - entire flow of stream)
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point of Diversion**
Should be: _____
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: 48 acres
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):** Please see attached narrative.

F. VERIFICATION (must be completed)

State of California)
)ss.
County of Orange)

Harry S. Rinker, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

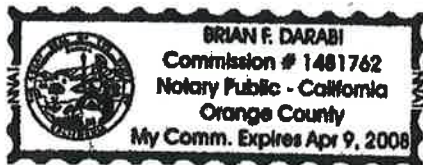
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

[Signature]
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

May 21, 2007



[Signature]
Notary Public for California
Residing at: Orange County
My Commission Expires: April 9, 2008

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 May 21, 20 07, 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: Harry S. Rinker

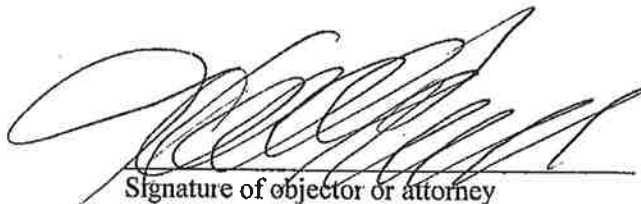
Address: P.O. Box 7250
Newport Beach, CA 92658

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

RECEIVED

MAY 24 2007

DEPARTMENT OF
WATER RESOURCES

**NARRATIVE IN SUPPORT OF SF-1 OBJECTION
SNAKE RIVER BASIN ADJUDICATION**

Subcases: 37-627, 37-1150, 37-1151B, 37-1151D, 37-1152, 37-1212, 37-4192

Claimant: Harry S. Rinker

Prepared by Brockway Engineering, PLLC

Right No. 37-627

This right was originally decreed in Frost (1909), but recommended for disallowal by IDWR on the assumption that it was superseded by 37-1152 as decreed in Brown vs Reardon (1925). Brown re-decreed all rights on Rock Creek and Guy Creek, but omitted any reference to 37-627 which was originally decreed from Smith Creek (aka Smidt Creek).

First, mere lack of mention of a water right in a particular decree does not automatically imply that the right was intended to be superseded.

Second, 37-1152 was not decreed to the identical place of use as 37-627, as indicated by IDWR staff in making the recommendation. Brown established 37-1152 from Rock Creek on two parcels of land, one owned by Christina Eastwood and one owned by W. W. Wallace, with an undivided one-half interest to each party. However, the Smith Creek right was originally decreed in Frost only to the land owned by Eastwood. In other words, Brown did not decree 37-1152 to the same place of use as 37-627.

Third, Smith Creek is a separate source from Rock Creek which could only have been utilized on the Eastwood property (the Wallace property is to the north and Smith Creek cannot reach it by gravity). A small impoundment just west of the road is still apparent. Smith Creek flows very sporadically, but lack of physical water supply is not a grounds for forfeiture and the current land owner should be allowed to continue to utilize Smith Creek water, when available, as it has been used historically.

For these reasons, it appears likely that 37-627 was established in Frost and it is incorrect to assume that it was superseded by Brown. It appears more likely that the omission of reference to Smith Creek in Brown has the effect of leaving the Smith Creek right unchanged. That is apparently how IDWR interpreted Brown prior to the SRBA, as 37-627 has been carried on the IDWR database to this day, while Rock Creek rights that were obviously superseded by Brown were not carried on the database.

Right No. 37-1150

IDWR limited the acreage under this right to 200 acres, on the belief that the decree lists the place of use as five (5) quarter-quarters and therefore the recommendation must be limited to 200 acres. This right was decreed in Brown vs. Reardon to land owned by Daniel Reardon. On page 2 of the decree, the land to which it is decreed is listed as

SE1/4 SE1/4 Section 1, N1/2 and the SE1/4 of Section 12, and the N1/2 of the NE1/4 of Section 13, all in T. 1 S., R. 17 E.

First, the decreed place of use covers 15 quarter-quarters, not 5. Second, a GIS analysis of the 1987 aerial photo by Brockway Engineering indicates that within the above place of use there are 240.4 acres irrigated, tabulated by 40-acre tract as follows:

Section	Qtr-Qtr	Acres
12	NENE	1.3
12	NWNE	10.8
12	SWNE	35.5
12	SENE	19.5
12	NENW	33.2
12	NWNW	15.5
12	SENW	12.5
12	NESE	10.6
12	NWSE	18.4
12	SWSE	20.4
12	SESE	16.5
13	NENE	19.2
13	NWNE	27.0
Total		240.4

Therefore, right 37-1150 should be recommended for 240.4 acres. The ArcView shape file corresponding to the above acreage can be supplied by Brockway Engineering if needed.

Right No. 37-1151D

IDWR limited this right to irrigation of 350 acres, based on a GIS calculation of the acreage from the 1987 aerial photo. Brockway Engineering's independent evaluation of the acreage indicated 361.2 acres, tabulated by 40-acre tract as follows:

Section	Qtr-Qtr	Acres
14	NWNE	9.1
14	SWNE	2.0
14	NENW	10.9
14	SENW	18.9
14	NESW	15.4
14	SESW	2.6
14	NWSE	2.3
14	SWSE	22.4
23	NENE	15.0
23	NWNE	11.0
23	SENE	17.6

23	NESE	26.1
23	NWSE	0.4
23	SWSE	7.4
23	SESE	25.7
26	NENE	18.8
26	NWNE	6.0
26	SWNE	14.6
26	SENE	11.6
26	NESW	0.5
26	SESW	13.3
26	NESE	0.2
26	NWSE	34.5
26	SWSE	21.4
35	NWNE	6.6
35	SWNE	0.6
35	NENW	23.0
35	SENE	23.3
Total		361.2

Therefore, this right should be recommended for 361.2 acres. Brockway Engineering can provide the ArcView shape file corresponding to the above acreage if needed.

Right No. 37-4192

This claim was based on a statutory claim filed in 1981 by Marguerite E. Tews, the owner of the Rock Creek property at that time. In the remarks section of the statutory claim, Tews indicates that the filing was necessary to codify irrigation usage just below (south) of the southernmost area decreed in Brown vs. Reardon. That decree established water right 37-1150 on Reardon's land which extended south to the N1/2 of the NE1/4 Section 13. Tews asserts in 37-4192 prior to her acquisition of the land in 1943, irrigation water had continued southward using the same ditch system, and irrigated land within the S1/2 of the NE1/4 Section 13. Analysis by Brockway Engineering of the 1987 aerial photo indicates 32.2 acres irrigated within the S1/2 of the NE1/3 Section 13.

Because IDWR staff had no evidence of priority, the right was recommended for disallowal. Water has been used on the S1/2 of the NE1/4 Section 13 prior to 1971, and therefore a surface water right has been established by beneficial use. To disallow the entire claim for lack of priority evidence is unwarranted. The claimant is willing to attempt to justify pre-1971 usage via aerial photos and/or affidavits from prior owners if possible.

General objection pertaining to all water rights

The rights were decreed in Brown vs. Reardon for the entire flow of Rock Creek. Currently and historically, the water has been distributed via earthen ditches and the land

has been irrigated by gravity methods. Based on the NRCS soil survey, the predominant soil is loam or silt loam with moderate available water holding capacity, and the potential for gravel or sand layers at depth. Historic cropping has been pasture and alfalfa. The duty of water is undoubtedly greater than 0.02 cfs per acre; however, IDWR did not perform an analysis to determine the historic duty of water, even though the claimant is entitled to the maximum diversion rate that has historically been put to beneficial use. Instead, perhaps as a matter of expediency, IDWR assumed 0.02 cfs/acre for every portion of the property. This is contrary to IDWR's practice for rights in the Big Wood River and other streams in Basin 37-Part 3, for which the flow rate listed in the Watermaster's decree book was used for the recommendations.

The ramifications of the 0.02 cfs/acre assumption are as follows:

- 1) 37-1151D was incorrectly limited to 7.0 cfs (0.02 cfs/acre on 350 acres)
- 2) 37-1152 was incorrectly disallowed because it covers the same POU as 37-1151D and would therefore result in greater than 0.02 cfs/acre on the land.
- 3) 37-1150 was incorrectly limited to 4.0 cfs (0.02 cfs/acre on 200 acres; acreage problem discussed above).
- 4) 37-1151B and 37-1212 combined were incorrectly limited to 0.86 cfs (0.02 cfs/acre on 43 acres)



Idaho Department of Water Resources

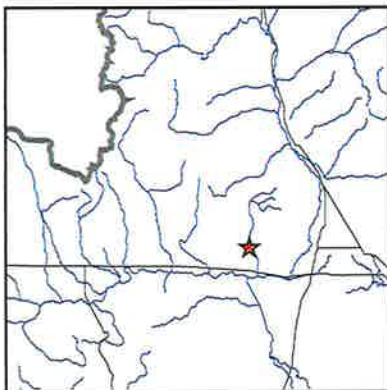
SRBA Recommendation:

37-1151B

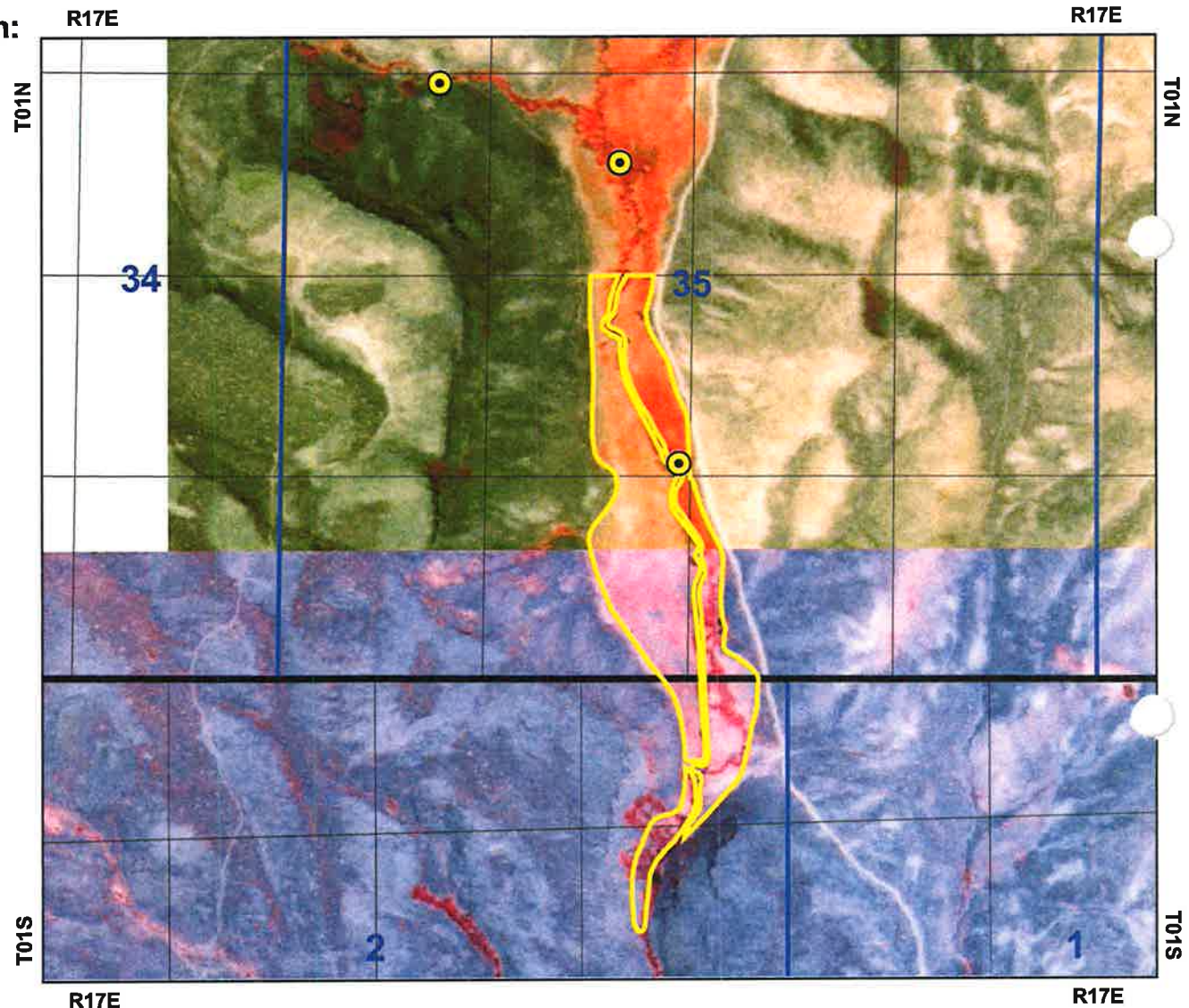
37-1212

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 Friday, October 6, 2006
1987/88 Aerial Photography

10/06/2006

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

RIGHT NUMBER: 37-1151B

NAME AND ADDRESS: LAWRENCE Z TEWS
680 N 350 W
SHOSHONE ID 83352

WILLIAM G TEWS
513 GOLF COURSE RD
JEROME ID 83338

MARGUERITE E TEWS
PO BOX 161
SHOSHONE ID 83352

SOURCE: ROCK CREEK

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.860 CFS

The rights listed below are limited to a total combined diversion rate of 0.86 cfs. Combined Right Nos.: 37-1151B and 37-1212.

PRIORITY DATE: 06/13/1899

POINT OF DIVERSION:

T01N R17E S35 NESENW Within BLAINE County
T01N R17E S35 SENESW 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	0.860 CFS

PLACE OF USE: IRRIGATION Within BLAINE County

T01N R17E S35	NESW	14.00	T01N R17E S35	SESW	14.00
T01N R17E S35	SWSE	5.00	T01S R17E S02 Lot 1	NENE	8.00
T01S R17E S02	NESE	2.00			

43 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 43 acres in a single irrigation season. Combined Right Nos.: 37-1151B and 37-1212.

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): 37-1151B, 37-1212

Background Data

37-1151B

- Source is Rock Creek tributary to Big Wood River
- 37-1151 decreed for all of Rock Creek Friday-Sunday on 23 QQ
- SRBA claims
 - 37-1151B claimed 35.0 cfs for Irrigation of 48 acres
 - 37-1151D claimed 8.49 cfs for Irrigation of 413 acres and 0.23 cfs for Domestic

37-1212

- Source is Rock Creek tributary to Big Wood River
- Decreed for all of Guy Creek on 8 QQ
- Claimed 10.0 cfs for Irrigation of 48 acres

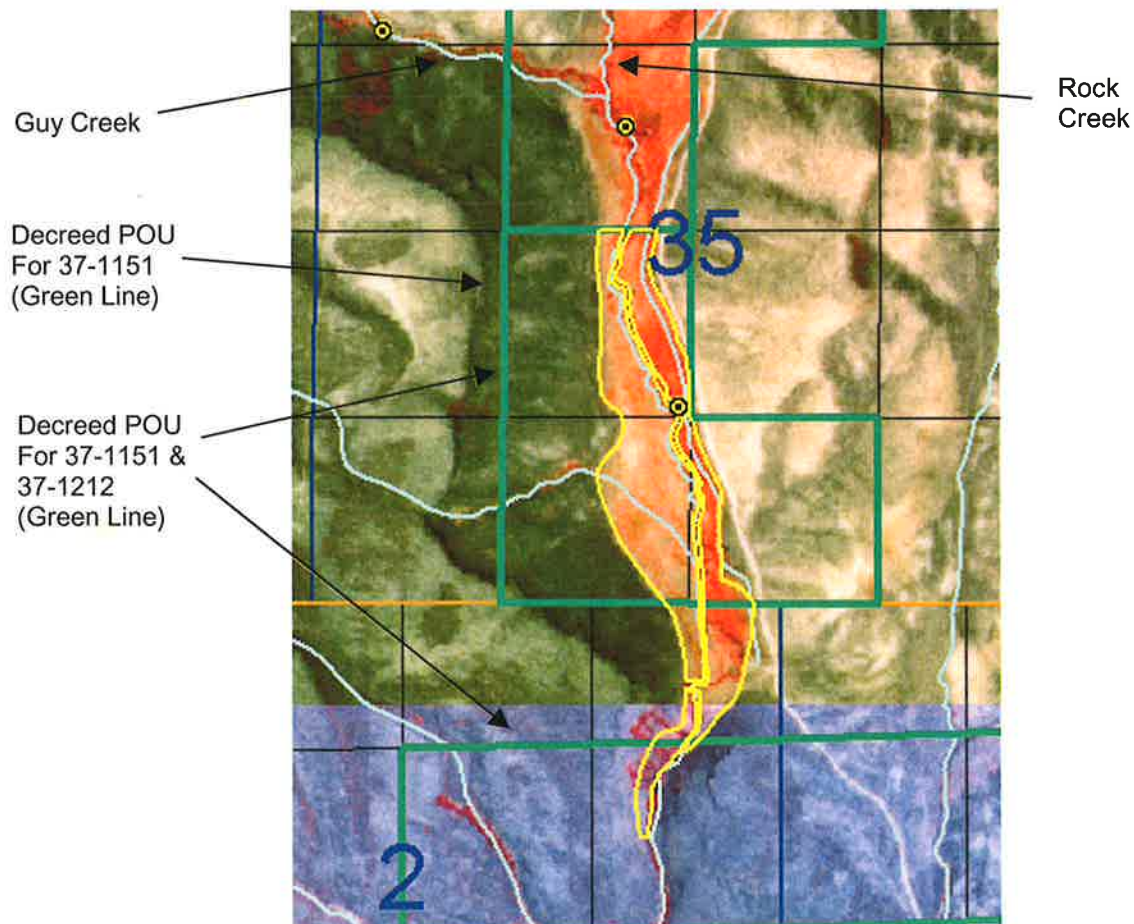
Place Of Use Data

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



Notes

T1S R17E Sections 12 & 13

➤ Water allocation:

- Rock Creek assumed to carry up to 35 cfs based on USGS rating curve
- 37-1150
 - all Rock Creek
 - Rotation
 - 7 PM Tuesday – 7 AM Friday
 - 60 hours of 168 hours/week = 35.7 %
 - 12.5 cfs daily
- 37-1151
 - all Rock Creek
 - Rotation
 - 7 AM Friday – 12 noon Sunday
 - 3 parties, 1/3 each
 - 53 hours of 168 hours/week = 31.5 %
 - 11.1 cfs daily
- 37-1152
 - all Rock Creek
 - Rotation
 - 12 noon Sunday – 7 PM Tuesday
 - 2 parties, 1/2 each
 - 55 hours of 168 hours/week = 32.7 %
 - 11.4 cfs daily
- The standard at this time was 0.02 cfs/acre. Since these rights were not decreed with a diversion rate, they are being recommended at 0.02 cfs/acre.

➤ Recommendation:

- 37-1151B: 0.86 cfs from Rock Creek for Irrigation of 43 acres
- 37-1212: 0.86 cfs from Guy Creek for Irrigation of 46 acres
- When combined 37-1151B and 37-1212 are limited to 0.86 cfs
- When combined 37-1151B and 37-1212 are limited to Irrigation of 43 acres

○ Rock Creek Summary:

- 37-627 – claim disallowed (right superceded)
- 37-1150 – 4.0 cfs for Irrigation of 200 acres
- 37-1151
 - 37-1151B – 0.86 cfs for Irrigation of 43 acres
 - 37-1151D – 7.0fs for Irrigation of 350 acres
- 37-1152 – claim disallowed (exceeds 0.02 cfs/acre)
- 37-1212 – 0.86 cfs for Irrigation of 43 acres
- 37-4192 – claim disallowed (no evidence of priority)

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

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 37-1151A

WATER RIGHT NUMBER: 37-1151A

Owner Type Name and Address

Current Owner ELMER BROWN

, ZZ

Priority Date: 06/13/1899

Basis: Decreed

Status: Active

Source

ROCK CREEK

Tributary

BIG WOOD RIVER

Beneficial Use

IRRIGATION

DOMESTIC

From To

/ to /

/ to /

Diversion RateAnnual VolumeTotal Diversion:Location of Point(s) of Diversion

ROCK 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	
01N	17E	26					X			X	X			X					
01N	17E	35		X			X		X										

DOMESTIC same as IRRIGATIONConditions of Approval:

1. RT. FOR 1/3 OF FLOW FROM 7 AM FRI. TO NOON SUNDAY OF EACH WEEK.

Remarks:Comments:

you claimed
under 37-151B
by Texas

Comments:

"Exhibit A"

AGREEMENT FOR THE USE OF WATER OF ROCK CREEK.

This agreement made and entered into this 13th day of June A. D. 1899, by and between T. S. Eastwood, A. D. Davis, William P. Eastwood, John Schmidt, Elmer Brown, Daniel Reardon and Elmer Brown, Lessee and Rodney R. Brown, witnesseth:

That for and in consideration of the sum of One Dollar, lawful money of the United States of America, in hand paid by each of the parties hereto, one to the other, and other good and valuable considerations, the receipt whereof is hereby confessed and acknowledged; it is mutually agreed by and between all of the parties hereto, all of said parties being the owners of ranches on Rock Creek, in the County of Blaine and State of Idaho, that the following division of the waters of said Rock Creek shall be made and be binding on all of said parties their heirs, executors, administrators and assigns to wit:

The said Daniel Reardon and Elmer Brown, lessee of the Kelleher Ranch, which said ranches are situated the furthestest down said Rock Creek, of any of the parties ranches to this agreement, shall be entitled to and shall have the use of all of the waters of said Creek for two full consecutive days each week beginning Wednesday, June 14th, at 7 o'clock A. M. and continuing until Friday in each week at 7 o'clock A. M. The said T. S. Eastwood, Elmer Brown (who also owns a ranch near the upper end of said Rock Creek) and Rodney R. Brown, shall be entitled to all of the waters of said creek from Friday of each week at 7 o'clock A. M. until Sunday of each week at 7 o'clock P. M. and the said William P. Eastwood and John Schmidt, shall be entitled to all of the waters of said Creek from Sunday of each week at 7 o'clock P. M. until Wednesday of each week at 7 o'clock A. M.

It is further agreed by and between all of the parties hereto that the said Rodney R. Brown shall be entitled to all of the waters of the tributary of Rock Creek known as Guy Hollow.

It is further agreed by and between all of the parties to this agreement that they will keep all of their lateral ditches in good order and repair so as to guard against the waste or loss of water, and that each of them will use the utmost care and diligence in shutting off the water at the times hereinbefore specified so as not to deprive one another of their full time for which they are entitled to the use of said water.

And it is further agreed by and between all of the parties hereto that this agreement shall be submitted by the attorneys of each of the parties hereto, to the District Court of the Fourth Judicial District, in and for the County of Blaine, State of Idaho, and a Decree asked for in accordance with the terms of this agreement and that the ranches herein named shall be described by subdivisions in said Decree, if granted.

In Witness Whereof, the said parties hereto have hereunto set their hands and seals the day and year in this agreement first above written.

Signed, sealed and delivered
in presence of
W. H. Watt.

Witness as to Kelleher
Geo. A. McLeod.

T. S. Eastwood	(Seal)
A. D. Davis	(Seal)
William P. Eastwood	(Seal)
John Schmidt	(Seal)
Elmer Brown	(Seal)
Daniel Reardon	(Seal)
Rodney R. Brown	(Seal)
Cornelius Kelleher	(Seal)

A37-1151B

STATE OF IDAHO, }
County of Blaine, } ss.

On this 13th day of June, 1899, before me. W. H. Watt, a Notary Public in and for the County of Blaine, State of Idaho, personally appeared T. S. Eastwood, A. D. Davis, William P. Eastwood, John Schmidt, Elmer Brown, Daniel Beardon and Rodney R. Brown, personally known to me to be the persons who are described in and who executed the within instrument and they duly acknowledged to me that they executed the same.

In Witness Whereof, I have hereunto set my hand and Notarial Seal the day and year in this certificate last above written.

(Seal)

W. H. Watt, Notary Public.

STATE OF IDAHO. }
County of Blaine, } ss.

On this 20th day of June in the year 1899, before me, W. E. Heard, Clerk Dist. Court, in and for said County, personally appeared Cornelius Kelleher, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

In Testimony Whereof, I have hereunto set my hand and official seal on the day and year in this certificate above written.

W. E. Heard, Clerk of Dist. Court.

(Seal)

By Geo. A. McLeod, Deputy.

Recorded at request of Daniel Beardon, June 5, 1900, at 1:30 P.M.

W. E. Heard, Co. Recorder.

By Geo. A. McLeod, Deputy.