

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: A37-01227B  
Date Received: 8/16/1989  
Receipt No: X777777  
Received By: \_\_\_\_\_

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: LAWRENCE W WARNER 208-726-4421  
Address: C/O JAMES P SPECK ESQ  
PO BOX 987  
KETCHUM ID 83340

2. Date of Priority: JUN 1, 1883

3. Source: TOWNSEND GULCH Trib. to: BIG WOOD RIVER

4. Point of Diversion:

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 | Lot | County |
|----------|-------|---------|--------|--------|-----|-----|--------|
| 01N      | 18E   | 2       | NW     | SW     |     |     | BLAINE |

5. Description of diverting works:  
5 HP PUMP IN CREEK; FLOOD & SPRINKLER IRRIGATION

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S | (or) | A.F.A. |
|------------|-------|-------|-------|------|--------|
| IRRIGATION | 04/15 | 10/15 | 0.100 |      | 17.50  |

7. Total Quantity Appropriated is:  
0.100 C.F.S. (and/or) 17.50 A.F.A.

8. Total consumptive use is 12.5 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 | Lot | Use | Acres |
|----------|-------|---------|--------|-----|-----|-----|-------|
| 01N      | 18E   | 2       | NW     | SW  |     | IRR | 5.0   |

MICROFILMED

10. Place of Use: Continued

| Township | Range | Section | 1/4 of 1/4 | Lot | Use           | Acres |
|----------|-------|---------|------------|-----|---------------|-------|
|          |       |         |            |     | Section Acres | 5.0   |
|          |       |         |            |     | Total Acres   | 5.0   |

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:  
SEE REMARKS.

14. Remarks:

ORIGINALLY DECREED TO THOMAS WERRY IN WERRY v. NEWMAN & TEUSCHER, DATED 10-02-1924. USED IN COMBINATION WITH RIGHTS DESCRIBED IN PARAGRAPH 13, ABOVE, TO IRRIGATE THE SAME LANDS. THE PLACE OF USE IS CLAIMED PURSUANT TO IDAHO CODE 42-1416(1) TO THE EXTENT IT DIFFERS FROM THE DECREE.

\*\*\*\*\*  
PURSUANT TO APPROVED TRANSFER NO. 3802:

1. USE OF WATER UNDER THIS RIGHT WILL BE REGULATED BY THE WATERMASTER OF STATE WATER DISTRICT NO. 37.
  2. THIS RIGHT WHEN COMBINED WITH ALL OTHER RIGHTS SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE NOR MORE THAN 3.5 AFA PER ACRE FOR THE LANDS ABOVE.
  3. THE CHANGE AUTHORIZED BY THIS TRANSFER SHALL BE ACCOMPLISHED WITHIN ONE (1) YEAR OF THE DATE OF THIS APPROVAL.
  4. APPROVAL OF THIS TRANSFER DOES NOT PRECLUDE THE OPPORTUNITY FOR REVIEW OF THE VALIDITY OF THE WATER RIGHT(S) IN THE ONGOING SRBA.
  5. FAILURE TO COMPLY WITH THE CONDITIONS OF THIS TRANSFER IS CAUSE FOR THE DIRECTOR TO ISSUE AN ORDER TO SHOW CAUSE WHY THE APPROVAL OF THIS TRANSFER SHOULD NOT BE RESCINDED.
- \*\*\*P/U IS LOT 1, TOWNSEND GULCH SUBDIVISION\*\*\*

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 10/ 2/1942

WERRY

Decree Plaintiff

NEWMAN & TEUSCHER

vs

Decree Defendant

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do \_\_\_\_\_ do not \_\_\_\_\_ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: \_\_\_\_\_

**For Individuals:**

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

Signature of Claimant(s): \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_ Date: \_\_\_\_\_

State of Idaho )  
County of \_\_\_\_\_ ) SS.

Subscribed and sworn (or affirmed) before me this \_\_\_\_\_ day  
of \_\_\_\_\_ 19 \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Seal

Residing at \_\_\_\_\_

My Commission Expires \_\_\_\_\_

**MICROFILMED**

04/02/2009

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

RIGHT NUMBER: 37-1227B

NAME AND ADDRESS: LAWRENCE WARNER  
155 TOWNSEND GULCH RD  
BELLEVUE ID 83313

SOURCE: TOWNSEND GULCH

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.100 CFS  
17.500 AFY

This right when combined with all other rights shall provide no more than 0.03 cfs per acre and 3.5 afa per acre at the field headgate for irrigation of the lands above.

PRIORITY DATE: 06/01/1883

POINT OF DIVERSION:

T01N R18E S2 NENWSW Within BLAINE County

PURPOSE AND  
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/15

0.100 CFS  
17.50 AFY

15

The use of water for irrigation under this right may begin as early as April

and may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE:

IRRIGATION in BLAINE County

T01N R18E S02

NESW

1.30

T01N R18E S02

NWSW

3.40

4.7 ACRES TOTAL

Right Nos. 37-1227B and 37-1228A are limited to the irrigation of a combined total of 4.7 acres in a single irrigation season.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Property is also known as Lot 1A, Townsend Ranch Subdivision.

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



37-1228A & 37-1227B  
Proposed place of use

Larry Warner / Water Rights

5.3 ACRES

Untitled Placemark

L. WARNER

Google

**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:
3. ☒ **Quantity**  
Should be: the combined diversion rate for 37-1227B & 37-1228A should be deleted.
4. ☐ **Priority Date**  
Should be:
5. ☐ **Point(s) of Diversion**  
Should be:
6. ☐ **Instream Flow Description**  
Should be:
7. ☐ **Purpose(s) of Use**  
Should be:
8. ☐ **Period of Year**  
Should be:
9. ☒ **Place of Use**  
Should be: 4.5 acres total
10. **I object because:**
  - ☐ This water should not exist.
  - ☐ This water right was not recommended, but should be recommended with the elements described above.

**E. REASONS SUPPORTING OBJECTION(S):**

## IDAHO DEPARTMENT OF WATER RESOURCES

## Adjudication Recommendation Report 37-1227B V1

WATER RIGHT NUMBER: 37-1227B V1

| <u>Owner Type</u> | <u>Name and Address</u>                                                         |
|-------------------|---------------------------------------------------------------------------------|
| Current Owner     | LAWRENCE WARNER<br>155 TOWNSEND GULCH RD<br>BELLEVUE, ID 83313<br>(208)788-9753 |

Priority Date: 06/01/1883

Basis: Decreed

Status: Active

| <u>Source</u>  | <u>Tributary</u> |
|----------------|------------------|
| TOWNSEND GULCH | BIG WOOD RIVER   |

| <u>Beneficial Use</u> | <u>From</u> <u>To</u>   | <u>Diversion Rate</u> | <u>Annual Volume</u> |
|-----------------------|-------------------------|-----------------------|----------------------|
| IRRIGATION            | 04/15 to 10/31          | 0.100 CFS             | 17.50 AF             |
|                       | <u>Total Diversion:</u> | 0.100 CFS             | 17.50 AF             |

Location of Point(s) of Diversion

|                |                 |                                    |
|----------------|-----------------|------------------------------------|
| TOWNSEND GULCH | NE1/4NW1/4SW1/4 | Sec. 2,   Twp 01N,   Rge 18E, B.M. |
| BLAINE County  |                 |                                    |

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 | 18E | 2   |    |    |    |    |    |    |    |    | .9 | 1.8 |    |    |    |    |    |    | 2.7    |

Total Acres: 2.7

Conditions of Approval:

1. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
2. R30 This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
3. S37 The use of water for irrigation under this right may begin as early as April 15 and may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
4. R04 Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
5. C18 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.
6. E51 Right Nos. 37-1227B and 37-1228A are limited to a total combined diversion rate of 0.15 cfs.

IDAHO DEPARTMENT OF WATER RESOURCES  
Adjudication Recommendation Report 37-1227B V1

SubCase:

SubCase Number: 37-1227B

Class: 1

SF5 Filed Date:

Special Master Recom Signed Date:

Attorney Assigned:

Adjudication Agent: Jim Stanton

Basis of Claim: Decreed

Date Filed: 1/15/2008 Objection Status: Active

Date Filed: 1/15/2008 Objection Status: Active

Date Filed: 1/15/2008 Objection Status: Active

Date Filed: 1/15/2008 Objection Status: Active

Date Filed: 1/15/2008 Objection Status: Active

Date Filed: 1/15/2008 Objection Status: Active

Date Filed: 1/15/2008 Objection Status: Active

Date Filed: 1/15/2008 Objection Status: Active

Date Filed: 11/7/2007 Objection Status: Active

Water Supply Bank:

## IDAHO DEPARTMENT OF WATER RESOURCES

## Adjudication Recommendation Report 37-1227B V1

7. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. E55 Right Nos. 37-1227B and 37-1228A are limited to the irrigation of a combined total of 2.7 acres in a single irrigation season.
9. Property is also known as Lot 1A, Townsend Ranch Subdivision.

Remarks:Comments:

1. kwalker 1/16/2007 NOE

Comment: Received NOE in regard to location of point of diversion and place of use. Have updated pursuant to NOE.

2. jstanton 1/23/2007 Source

Comment: Source changed to Townsend Gulch to agree with USGS map.

3. jstanton 2/1/2007 Site Visit

Comment: Yesterday I visited this property. Mr. Warner showed the pod, and explained how the system works. The old wooden diversion structure was replaced by a concrete check dam, buried pipeline and ditch to a pond after the 1992 fire destroyed the original system. Water flows into a pond in the middle of the property, and then is pumped into sprinklers to water some pasture. Warner said that he did not get any water from about 1999 thru 2005, but was finally able to do some irrigating in 2006. This is the oldest right on what is generally a very poor water source. He removed all the sagebrush from his property after the 1992 fire as a hedge against future fires. I will upgrade the pod description to the qqq. I had prepared a new pou shape based on the 1987 photo, and Mr. Warner said this looked about right to him; the pou varies from nothing to a few acres based on the available water supply, so it is hard to say exactly what is based on a few photos. There is presumably some natural sub-surface moisture at times, so ground could look irrigated when it is not.

4. jstanton 2/2/2007 Revised POU

Comment: After much head scratching, I decided to use the 2006 ArcView photo as the basis for the recommended pou. 2006 was the best water year in a long time that we have data for, so this would appear to represent the maximum amount of land that could be practically irrigated on this property. There just is not that much flat land on his property.

Dates and Other Information:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Defendant:

Plaintiff:

Civil Case Number:

Judicial District:

Notice of Error Flag:

State or Federal: S

Owner Name Connector:

Water District Number: 37

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits:

| <u>Rate</u> | <u>Volume</u> | <u>Acres</u> |
|-------------|---------------|--------------|
| 0.15        |               | 2.7          |

Combined Water Rights: 37-1227B , 37-1228A

## Walker, Kay

---

**From:** Walker, Kay  
**Sent:** Tuesday, January 16, 2007 1:04 PM  
**To:** 'jim@speckandaanestad.com'  
**Cc:** Walker, Kay; Keen, Shelley  
**Subject:** Warner - Recommendations for 37-1227B and 37-1228A

Mr. Speck:

I am trying to assist Shelley in responding to Notices of Error he receives. I have updated the point of diversion location on each of the above recommendations and updated the place of use to that shown on preliminary recommendation of 37-1228A. I also added some combined use conditions to the recommendations after finding out that both of these rights are for the same 5 acre parcel. Please review revisions and let us know if the changes are acceptable.

Thank you.

Kay Walker  
Sr. Water Resource Agent  
(208) 287-4953



37-1227b and  
37-1228a.jpg



37-1228A.pdf



37-1227B.pdf



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

### SOUTHERN REGION

C. L. "BUTCH" OTTER  
Governor

DAVID R. TUTHILL, JR.  
Interim Director

February 2, 2007

Lawrence Warner  
155 Townsend Gulch Rd  
Bellevue, ID 83313

RE: SRBA Recommendations 37-1227B & 37-1228A

Dear Mr. Warner;

I have finished the revised recommendations as we discussed. The recommended place of use is what appeared to be irrigated last year, as this is the only known wet year that we have data for. The 2.7 acres being recommended appears to be about all the bottom land that you can practically irrigated; I do not believe that the 5 acres allowed by the 1993 transfer was ever fully developed. Although the place of use is being reduced, I have not changed the diversion rates from what was originally recommended.

I have done all that I can with these recommendations, as the Director's Report for your area will be filed with the SRBA Court next week. Once that happens, you will have to formally object to the Court if you disagree with my findings.

Regards,

James E. Stanton  
Sr. Water Resource Agent

02/02/2007

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

RIGHT NUMBER: 37-1227B

NAME AND ADDRESS: LAWRENCE WARNER  
155 TOWNSEND GULCH RD  
BELLEVUE ID 83313

**REVISED 2-2-2007**

SOURCE: TOWNSEND GULCH

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.100 CFS  
17.500 AFY

This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

Right Nos. 37-1227B and 37-1228A are limited to a total combined diversion rate of 0.15 cfs.

PRIORITY DATE: 06/01/1883

POINT OF DIVERSION:

T01N R18E S2 NENWSW 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          | 0.100 CFS<br>17.50 AFY |

The use of water for irrigation under this right may begin as early as April 15 and may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in BLAINE County

|                 |      |      |               |      |      |
|-----------------|------|------|---------------|------|------|
| T01N R18E S02   | NESW | 0.90 | T01N R18E S02 | NWSW | 1.80 |
| 2.7 ACRES TOTAL |      |      |               |      |      |

Right Nos. 37-1227B and 37-1228A are limited to the irrigation of a combined total of 2.7 acres in a single irrigation season.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

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

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Property is also known as Lot 1A, Townsend Ranch Subdivision.

02/02/2007

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

RIGHT NUMBER: 37-1228A

NAME AND ADDRESS: LAWRENCE WARNER  
155 TOWNSEND GULCH RD  
BELLEVUE ID 83313

**REVISED 2-2-2007**

SOURCE: TOWNSEND GULCH

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.100 CFS

This right when combined with all other rights shall provide no more than 3.5  
afa per acre at the field headgate for irrigation of the lands above.

Right Nos. 37-1227B and 37-1228A are limited to a total combined diversion  
rate of 0.15 cfs.

PRIORITY DATE: 05/01/1905

POINT OF DIVERSION:

T01N R18E S2 NENWSW 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          | 0.100 CFS       |

PLACE OF USE: IRRIGATION in BLAINE County

|               |      |      |               |      |      |
|---------------|------|------|---------------|------|------|
| T01N R18E S02 | NESW | 0.90 | T01N R18E S02 | NWSW | 1.80 |
|---------------|------|------|---------------|------|------|

2.7 ACRES TOTAL

Right Nos. 37-1227B and 37-1228A are limited to the irrigation of a combined  
total of 2.7 acres in a single irrigation season.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Property is also known as Lot 1A, Townsend Ranch Subdivision.



# Idaho Department of Water Resources

SRBA Recommendation:

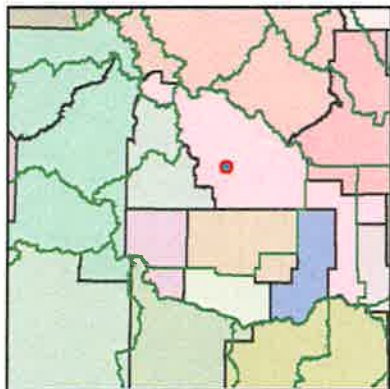
**37-1227B**

**37-1228A**

(Irrigation)

## Legend

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



Blaine County  
IDWR Basin 37



0 0.1 0.2 Miles



Prepared by J. Stanton  
On Friday, February 2, 2007  
2004 Aerial Photography

Owner: Lawrence Warner

NOTE: Only one owner is listed. There may or may not be more than this in the IDWR database.

01/16/2007

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

RIGHT NUMBER: 37-1227B

NAME AND ADDRESS: LAWRENCE WARNER  
155 TOWNSEND GULCH RD  
BELLEVUE ID 83313

SOURCE: TOWNSEND GULCH CREEK

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.100 CFS  
17.500 AFY

Right Nos. 37-1227B and 37-1228A are limited to a total combined diversion rate of 0.15 cfs.

PRIORITY DATE: 06/01/1883

POINT OF DIVERSION:

T01N R18E S2 NWSW 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          | 0.100 CFS<br>17.50 AFY |
| The use of water for irrigation under this right may begin as early as April 15 and may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right. |                      |                        |

PLACE OF USE: IRRIGATION in BLAINE County

|               |      |      |               |      |      |
|---------------|------|------|---------------|------|------|
| T01N R18E S02 | NESW | 1.00 | T01N R18E S02 | NWSW | 4.00 |
| 5 ACRES TOTAL |      |      |               |      |      |

Right Nos. 37-1227B and 37-1228A are limited to the irrigation of a combined total of 5 acres in a single irrigation season.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

This right when combined with all other rights shall provide no more than .03 cfs per acre nor more than 3.5 afa per acre for irrigation of the lands above.

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

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.



# Idaho Department of Water Resources

SRBA Recommendation:

**37-1227B**

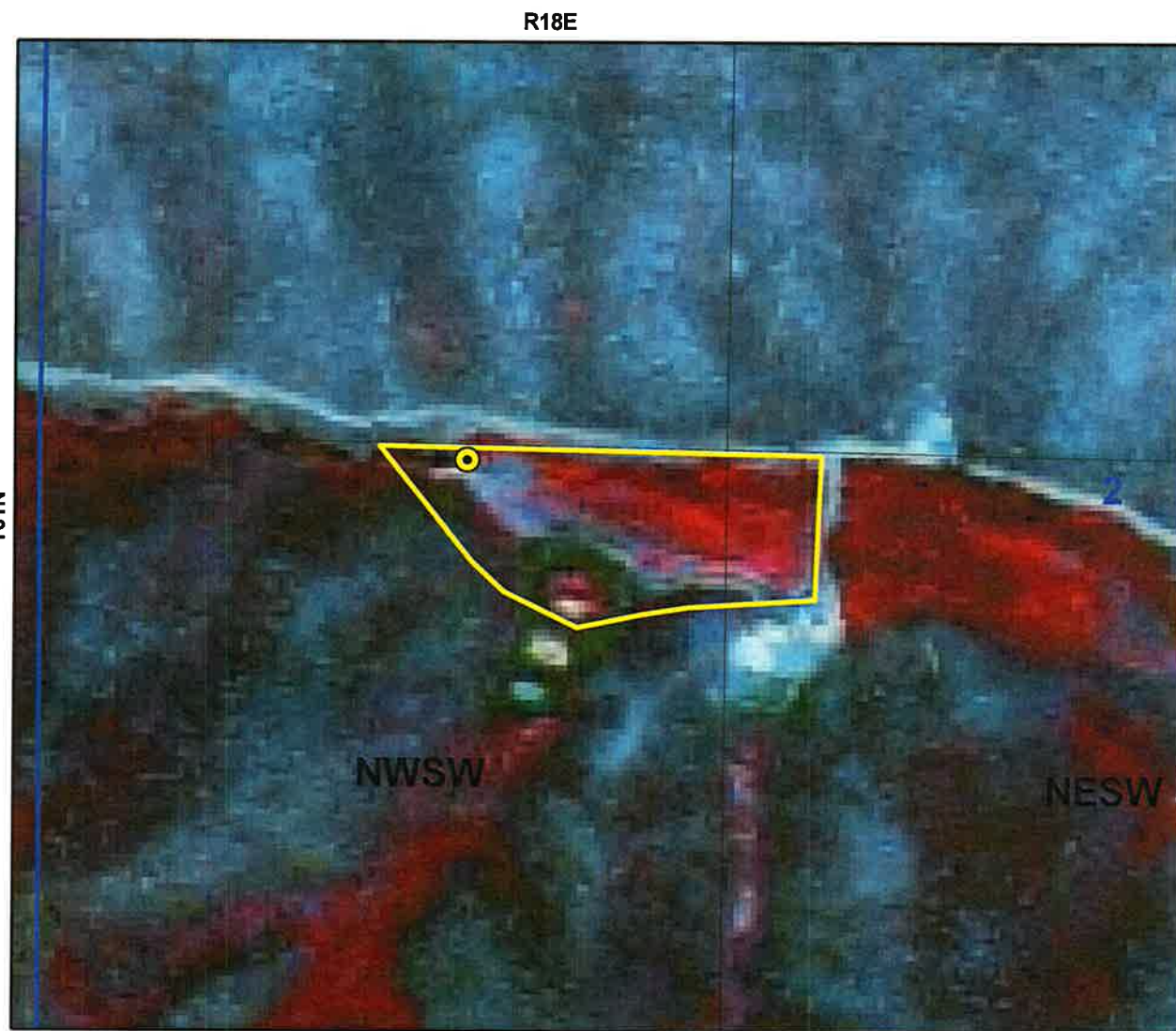
(Irrigation)

## Legend

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



Blaine County  
IDWR Basin 37



0 0.1 0.2 Miles

Prepared by K. Walker  
On Tuesday, January 16, 2007  
1987/88 Aerial Photography

## Walker, Kay

---

**From:** Keen, Shelley  
**Sent:** Tuesday, January 16, 2007 7:36 AM  
**To:** Walker, Kay  
**Subject:** FW: Warner/Water Rights - 37-1227B and 37-1228A

Kay,

Please look into this message and make changes if they're needed.

Thanks.

Shelley

-----Original Message-----

**From:** Jim Speck [mailto:jim@speckandaanestad.com]  
**Sent:** Monday, January 15, 2007 12:26 PM  
**To:** Keen, Shelley  
**Cc:** lwarner2@gmail.com  
**Subject:** Re: Warner/Water Rights - 37-1227B and 37-1228A

Shelley,

I think you did these preliminary recommendations. The point of diversion for both is depicted on the attached map. The place of use is the same for both and is correct on the recommendation and map for 37-1228A. Please make the corrections for the director's report. Call me if you have any questions. Thank you.

Jim

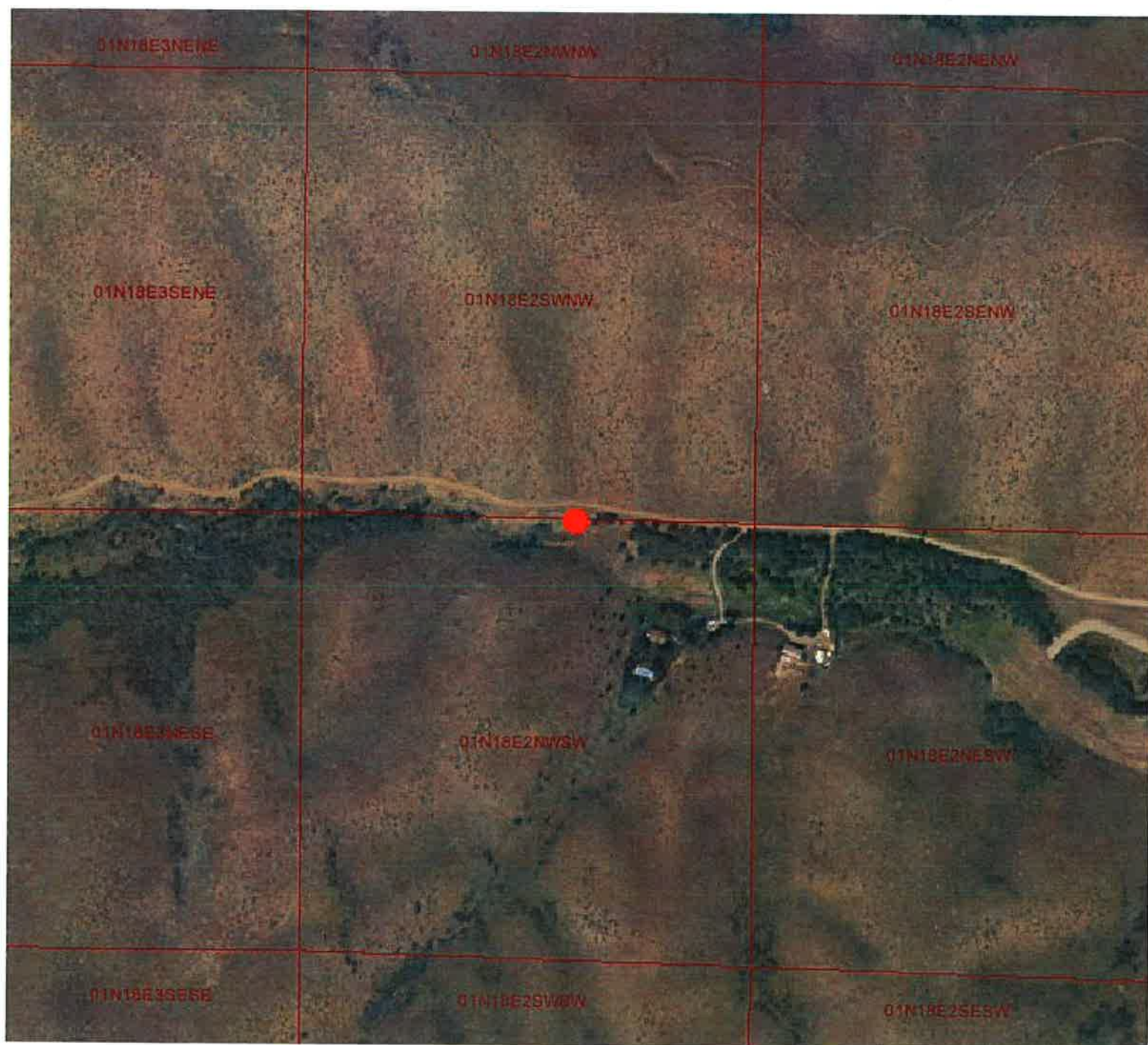
James P. Speck  
SPECK & AANESTAD  
A Professional Corporation  
120 East Avenue  
P.O. Box 987  
Ketchum, ID 83340  
208.726.4421  
208.726.0752 (fax)  
jim@speckandaanestad.com

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1/16/2007



10/04/2006

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

RIGHT NUMBER: 37-1227B

NAME AND ADDRESS: LAWRENCE WARNER  
155 TOWNSEND GULCH RD  
BELLEVUE ID 83313

SOURCE: TOWNSEND GULCH CREEK

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.100 CFS  
17.500 AFY

*EXP.* This right when combined with all other rights shall provide no more than <sup>0.03</sup> 0.02 cfs per acre nor more than 3.5 afa per acre for irrigation of the lands above.

PRIORITY DATE: 06/01/1883

POINT OF DIVERSION:

T01N R18E S2 NWSW Within BLAINE County

PURPOSE AND  
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

0.100 CFS  
17.50 AFY

The use of water for irrigation under this right may begin as early as April 15 and may continue to as late as October 31, ~~provided~~ other elements of the right are not exceeded. The use of water after 15 October 15 under this remark is subordinate to all water rights having ~~no~~ <sup>subordinated</sup> early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION Within BLAINE County

T01N R18E S02 NWSW 5.00

5 ACRES TOTAL

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

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

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Originally decreed to Thomas Werry in Werry v. Newman & Teuscher, dated 10-02-1924. Used in combination with rights described in paragraph 13, above, to irrigate the same lands. The place of use is claimed pursuant to Idaho Code 42-1416(1) to the extent it differs from the decree.

*claim  
remarks -  
moved to  
comments.  
1/16/07 kw*

*can have  
up to  
5  
acres  
or less.  
few*

*fixed 1/16/07  
kw*



# Idaho Department of Water Resources

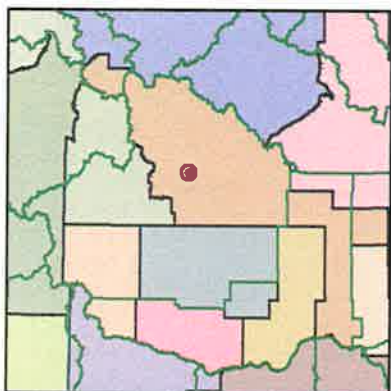
SRBA Recommendation:

**37-1227B**

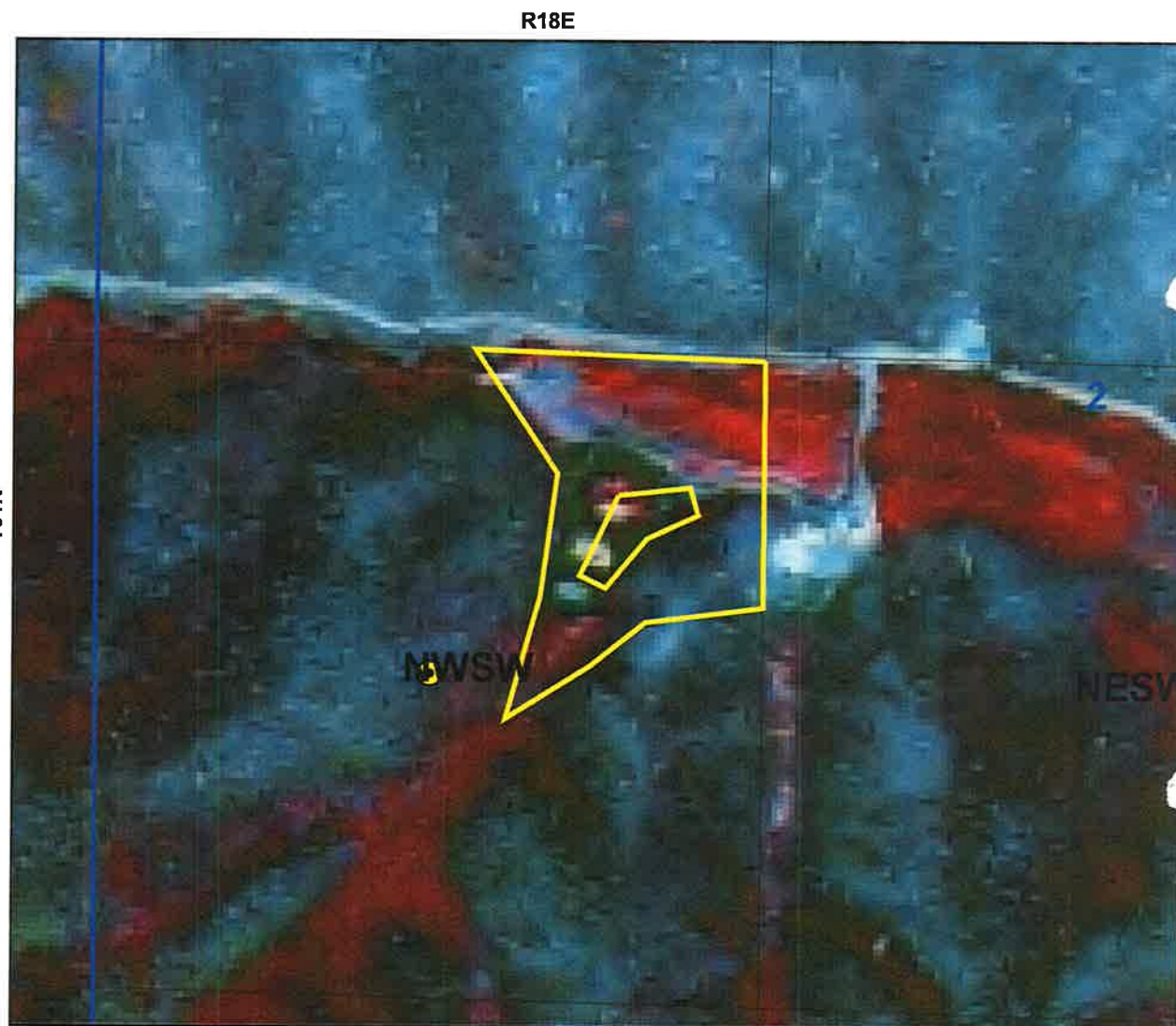
(Irrigation)

## Legend

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



Blaine County  
IDWR Basin 37



0 0.1 0.2 Miles



Prepared by E. NORQUES  
On Thursday, October 5, 2006  
1987/88 Aerial Photography

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**TRANSFER OF WATER RIGHT**

**TRANSFER NO. 3802**  
**WATER RIGHT NO. 37-01227B**

This is to certify that: **LAWRENCE W WARNER**  
**C/O JAMES P SPECK ESQ**  
**PO BOX 987**  
**KETCHUM ID 83340**

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>DIVERSION RATE</u> | <u>ANNUAL VOLUME</u> |
|-----------------------|----------------------|-----------------------|----------------------|
| IRRIGATION            | 04/15 to 10/15       | 0.10 CFS              | 17.5 AF              |

| <u>SOURCE</u>  | <u>TRIBUTARY OF</u> |
|----------------|---------------------|
| TOWNSEND GULCH | BIG WOOD RIVER      |

Priority: 06/01/1883

LOCATION OF POINT(S) OF DIVERSION: NWSW , Sec. 2, Township 01N, Range 18E  
BLAINE County

PLACE OF USE: IRRIGATION

| <u>TWN</u>                       | <u>RGE</u> | <u>SEC</u> | <u>ACRES</u> | <u>ACRES</u> | <u>ACRES</u> | <u>TOTAL</u> |
|----------------------------------|------------|------------|--------------|--------------|--------------|--------------|
| 01N                              | 18E        | 2          | NWSW         | 5            |              | 5            |
| Total number of acres irrigated: |            |            |              |              |              | 5            |

CONDITIONS/REMARKS:

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
2. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for the lands above.
3. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
4. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
5. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.

RECEIVED 11/2/93

NOV 2 1993

PAGE 2

TRANSFER NO. 3802  
WATER RIGHT NO. 37-01227B

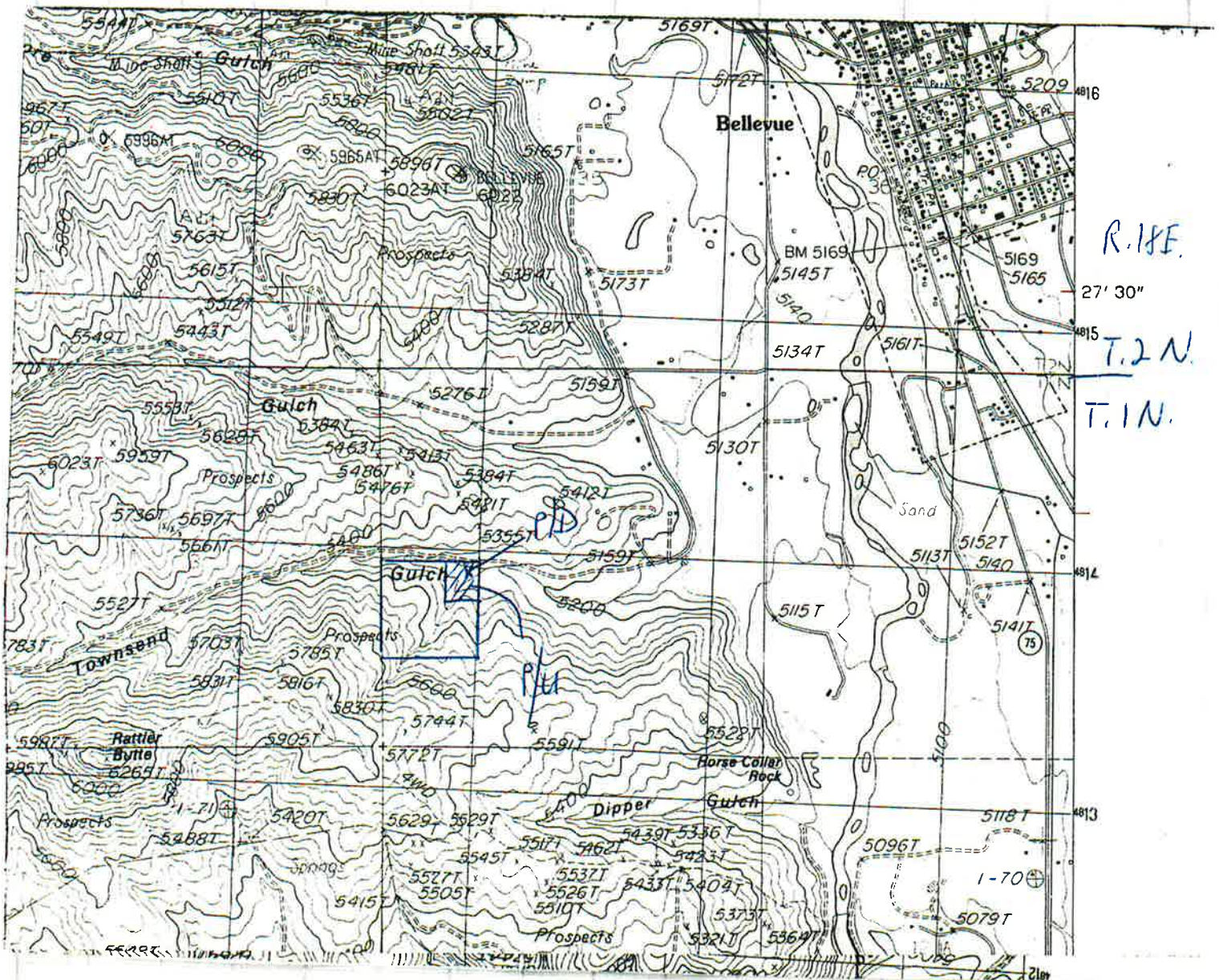
Dated this 26<sup>th</sup> day of October, 1993.

F. Glen Saxton  
Chief, Water Alloc. Bureau

NOV 22 1993

**STATE OF IDAHO**  
**DEPARTMENT OF WATER RESOURCES**  
**APPLICATION FOR TRANSFER OF WATER RIGHT**  
**PART 3**

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

PLAT SHOWING

TOWNSEND

RANCH

SUBDIVISION

Plotted in North 1/2, South 1/2, Section 2, T.1N, R.1E, B.M.  
Blaine County, Idaho  
November 1985



# NOTES

1. Building Restrictions: [illegible]
2. [illegible]
3. [illegible]
4. [illegible]
5. [illegible]
6. [illegible]
7. [illegible]
8. [illegible]
9. [illegible]
10. [illegible]
11. [illegible]
12. [illegible]

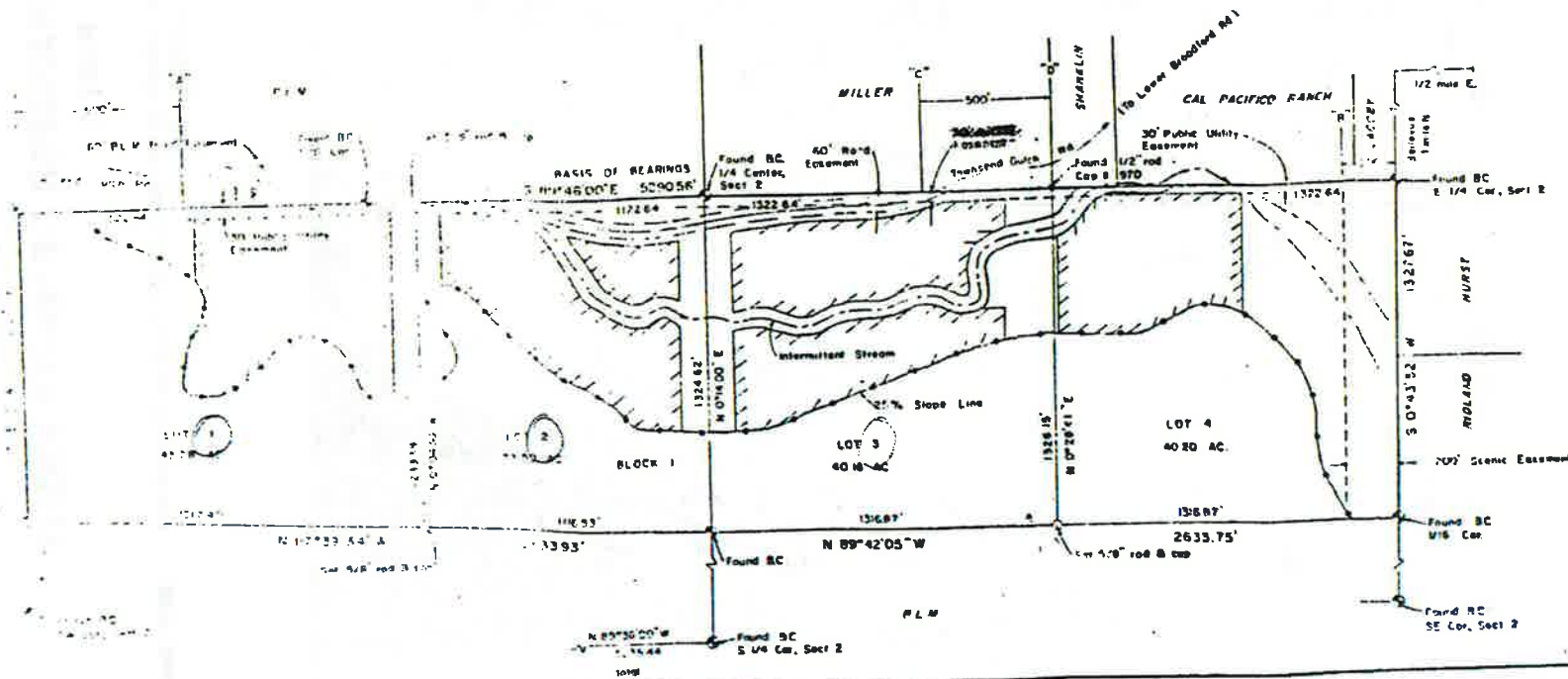
8. Due to the width and condition of Townsend Gulch Road, approval of this subdivision does not obligate the County to improve the road, nor to provide services beyond what is currently provided.
9. Roads within the subdivision shall be built to meet private road specifications, Section 9171 of the Blaine County Subdivision Ordinance 77-6. Each plat shall contain the following statement:  
"The purchaser and/or owner of this lot or parcel understands and agrees that private road construction and snow removal shall be the obligation of the owner, his successors in interest, or homeowners' association, and that Blaine County is in no way obligated to accept, maintain or improve these roads until the roads are brought up to County standards, dedicated and accepted by the County, and that each owner shall notify in writing any successor in interest of these facts."
10. The attached notes, restrictions, and conditions are recorded with the Blaine County Recorder's Office as Instrument Number 28153.
11. For "A", "B", "C" and "D", see Declaration (Easements).

This map is a photographic reproduction of that on file in the Recorder's Office. The company assumes no liability for variation, if any, with another or re-survey.  
Courtesy Of:

NOV 22 1985



Attachment 1



Townsend Ranch Subdivision  
Sheet 1 of 2

PLAT SHOWING

# TOWNSEND RANCH SUBDIVISION

Recorded in North 1/2, South 1/2, Section 2, T 1 N, R 1 E, B M  
Blaine County, Idaho  
November 1985

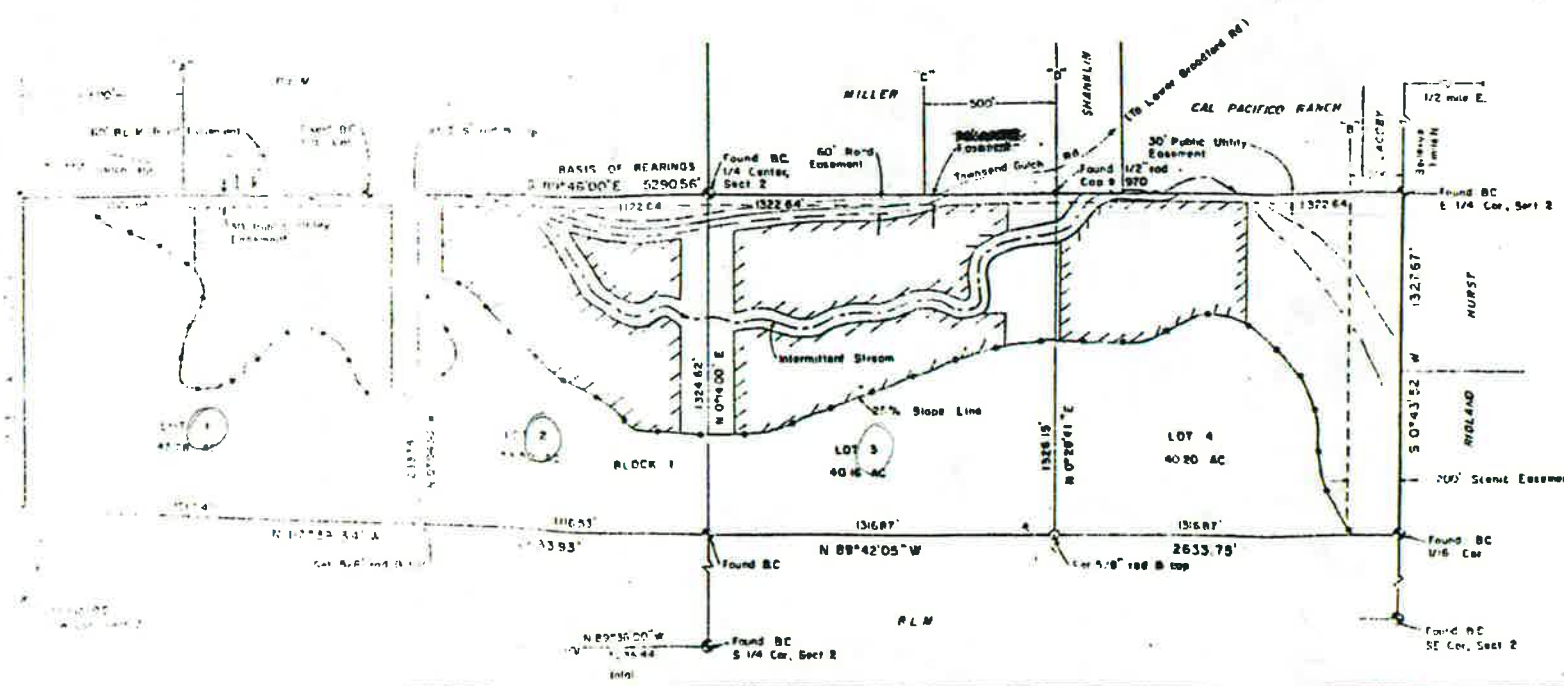
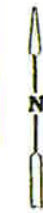


## NOTES

1. Building on the corner of the lot.
2. 1/2" wide road.
3. 1/2" wide road.
4. All lots are shown with the same boundary.
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8. Due to the width and condition of Townsend Guich Road, approval of this subdivision does not obligate the County to improve the road, nor to provide services beyond what is currently provided.
9. Roads within the subdivision shall be built to meet private road specifications, Section 9171 of the Blaine County Subdivision Ordinance 77-6. Each plot shall contain the following statement: "The purchaser and/or owner of this lot or parcel understands and agrees that private road construction and snow removal shall be the obligation of the owner, his successors in interest, or homeowners' association, and that Blaine County is in no way obligated to accept, maintain or improve these roads until the roads are brought up to County standards, dedicated and accepted by the County, and that each owner shall notify in writing any successor in interest of these facts."
10. The attached notes, restrictions, and conditions are recorded with the Blaine County Recorder's Office as Instrument Number 261172.
11. For "A", "B", "C" and "D", see Declaration (Easements).

This map is a photographic reproduction of that on file in either the Recorder's or the Surveyor's Office. The company assumes no liability for variation, if any, with another or re-survey. Courtesy Of:



Attachment 1

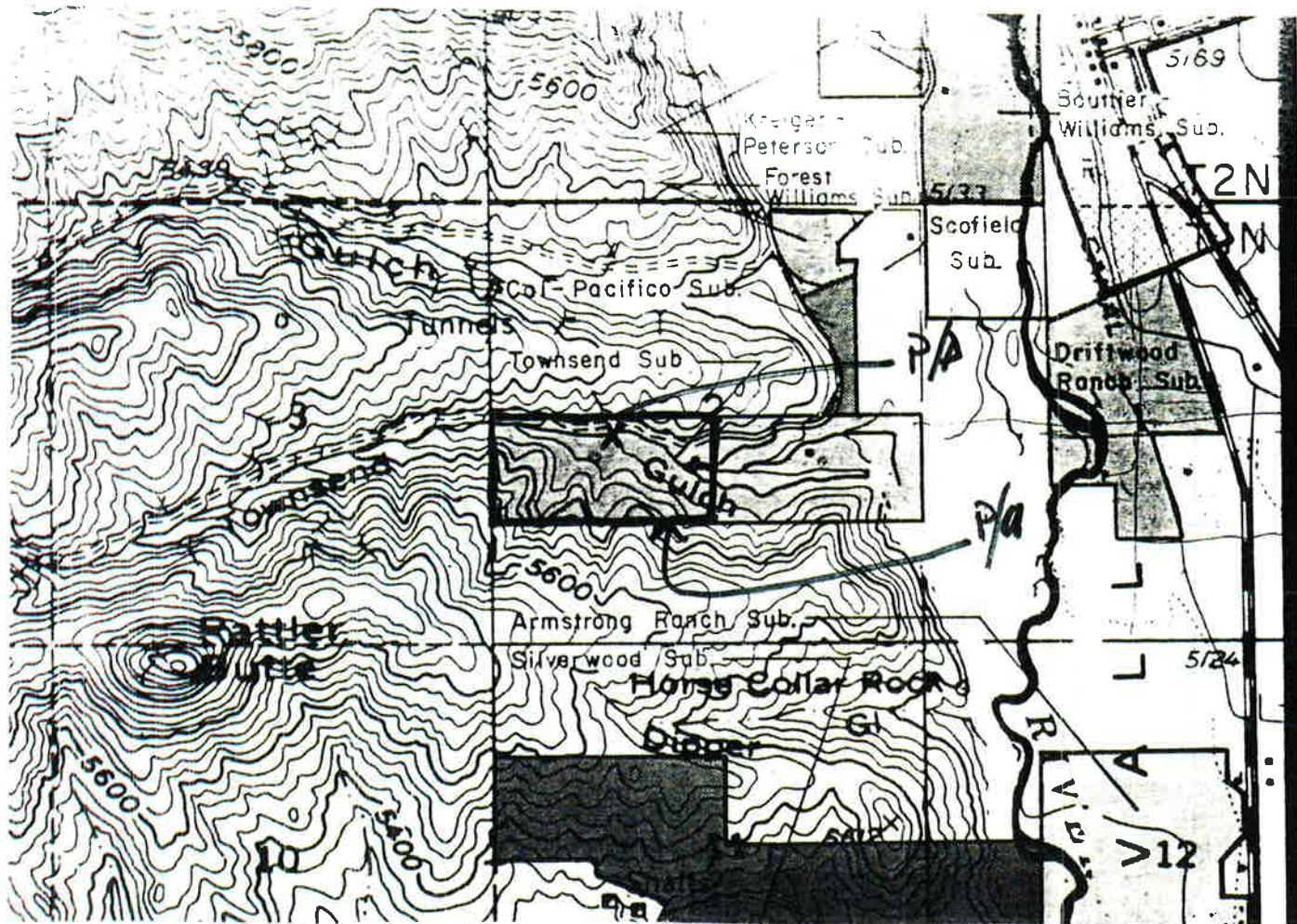
T# 3802

RECORDED  
NOV 22 1993

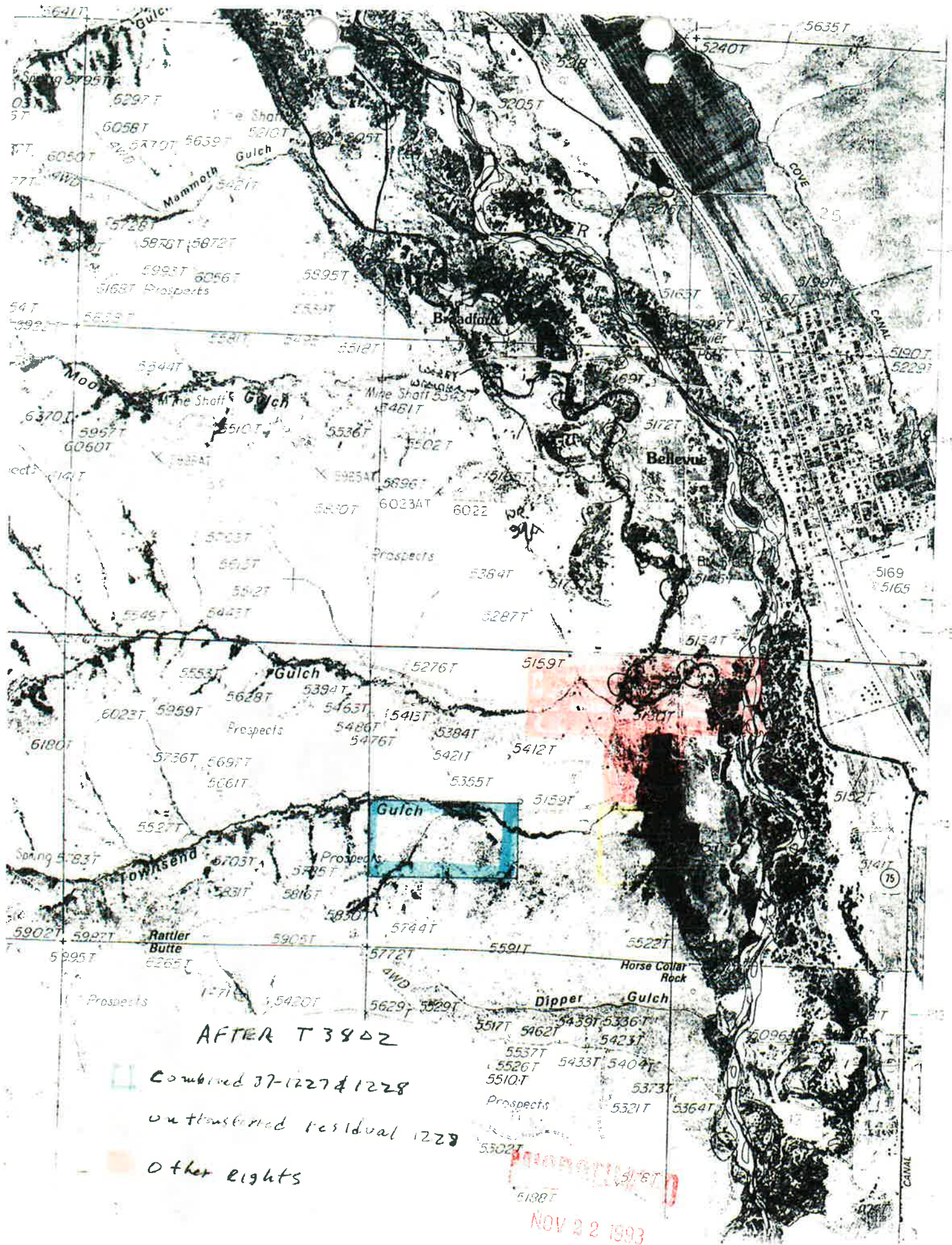
**STATE OF IDAHO**  
**DEPARTMENT OF WATER RESOURCES**  
**APPLICATION FOR TRANSFER OF WATER RIGHT**  
**PART 3**

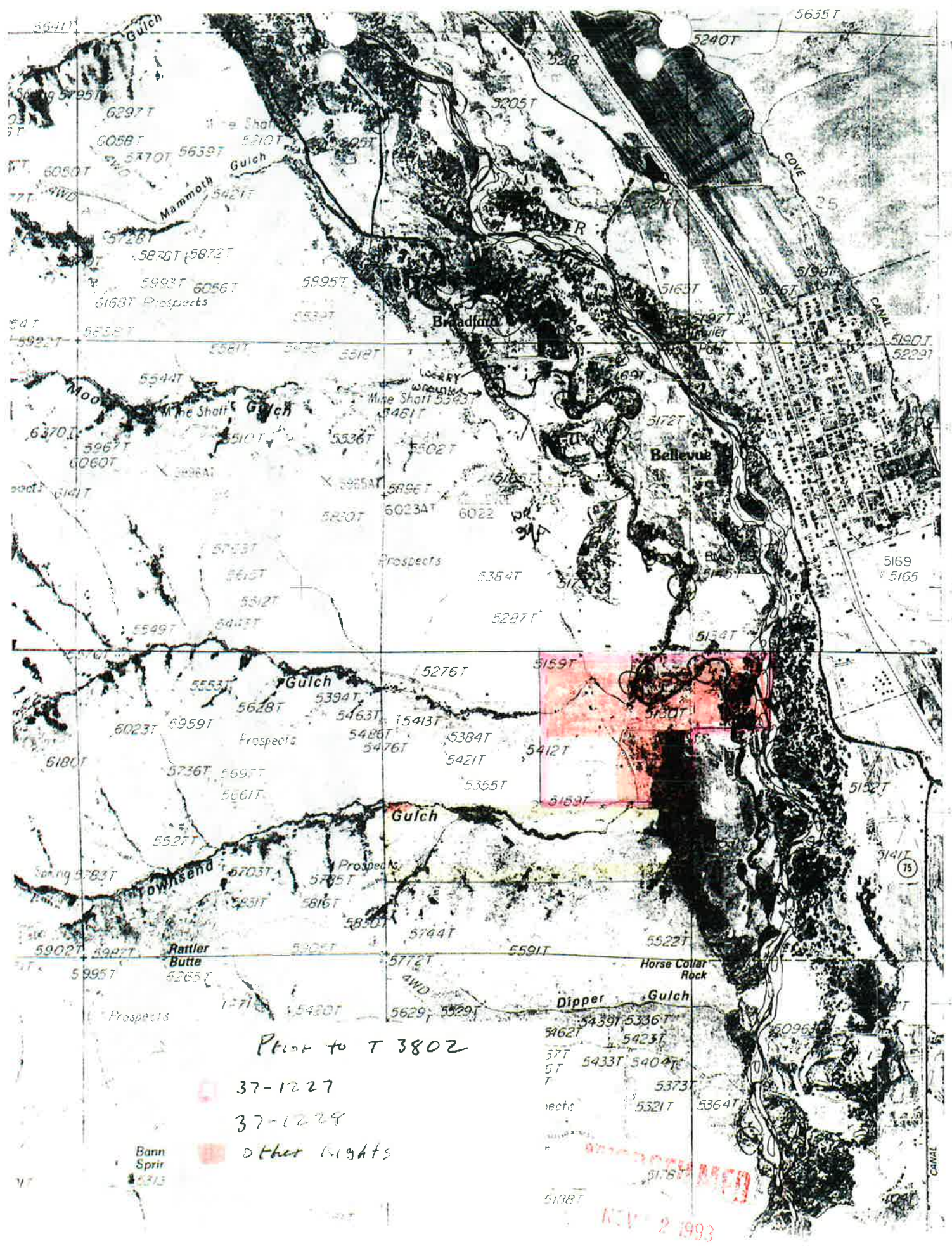
- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.

*R. 18 E., B. 11 N., BLAINE COUNTY*



NOV 22 1993





Plot to T 3802

37-1227

37-1228

Other Rights

Bann  
Sprir  
12313

RECORDED

NOV 2 1993

## WATER RIGHT SUMMARY

| ACTION                                   | RIGHT NO. | NAME                         | AMOUNT CFS |
|------------------------------------------|-----------|------------------------------|------------|
| Original Application                     | 37-01227  | Thomas Werry<br>Esther Werry | 0.90       |
| SPLIT INTO PARTS A & B BY TRANSFER #3802 |           |                              |            |
| Partial Assignment                       | 37-01227A | Thomas Werry<br>Esther Werry | 0.80       |
| Partial Assignment                       | 37-01227B | Lawrence Warner              | 0.10       |

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NOV 22 1993

## IDAHO DEPARTMENT OF WATER RESOURCES

## Water Right Report 37-1227B

WATER RIGHT NUMBER: 37-1227B

| <u>Owner Type</u> | <u>Name and Address</u>                                                                        |
|-------------------|------------------------------------------------------------------------------------------------|
| Original Owner    | ESTHER WERRY                                                                                   |
|                   | , ID                                                                                           |
| Original Owner    | THOMAS WERRY JR                                                                                |
|                   | , ID                                                                                           |
| Current Owner     | LAWRENCE W WARNER<br>C/O JAMES P SPECK ESQ<br>PO BOX 987<br>KETCHUM, ID 83340<br>(208)726-4421 |

Priority Date: 06/01/1883

Basis: Decreed

Status: Active

| <u>Source</u>        | <u>Tributary</u> |
|----------------------|------------------|
| TOWNSEND GULCH CREEK | BIG WOOD RIVER   |

| <u>Beneficial Use</u> | <u>From</u> <u>To</u>   | <u>Diversion Rate</u> | <u>Annual Volume</u> |
|-----------------------|-------------------------|-----------------------|----------------------|
| IRRIGATION            | 4/15 to 10/15           | 0.100 CFS             | 17.50 AF             |
|                       | <u>Total Diversion:</u> | 0.100 CFS             | 17.50 AF             |

Location of Point(s) of Diversion

|                      |            |                                    |
|----------------------|------------|------------------------------------|
| TOWNSEND GULCH CREEK | NW1/4SW1/4 | Sec. 2,   Twp 01N,   Rge 18E, B.M. |
| BLAINE County        |            |                                    |

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 | 18E | 2   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | 5.0    |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | 5.0    |

Total Acres: 5

Conditions of Approval:

1. R30 This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for irrigation of the lands above.
2. R04 Use of water under this water right will be regulated by the watermaster of State Water District No. &DISTRICT.
3. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 37-1227B

4. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. T09 Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.

Remarks:

Comments:

1. CURTIS 10/23/1992 Trans. #3802

Comment: Trans. #3802 was filed to change the point of diversion and place of use under this right and Right 37-01228.

2. SKAGGS 9/21/1993 TRANSFER NO. 3802

Comment: Transfer No. 3802 was Amended in the name of Lawrence W. Warner, reduced to 0.1 cfs and 5 acres of irrigation under Right No. 37-01227. Right No. 37-01228 was removed from the transfer.

Water Supply Bank:

## IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 37-1227A

WATER RIGHT NUMBER: 37-1227A

| <u>Owner Type</u> | <u>Name and Address</u> |
|-------------------|-------------------------|
| Current Owner     | THOMAS WERRY JR         |

Current Owner, ID ESTHER WERRY, ID

Priority Date: 06/01/1883

**Basis:** Decreed

Status: Active

Source

TOWNSEND GULCH CREEK

Tributary

## BIG WOOD RIVER

### Beneficial Use

From \_\_\_\_\_ To \_\_\_\_\_  
/ to /

Diversion Rate  
0.800 CFS

Annual Volume

Total Diversion: 0.800 CFS

Location of Point(s) of Diversion

TOWNSEND GULCH CREEK

BLAINE County

Sec. 2, Twp 01N, Rge 18E, B.M.

## TOWNSEND GULCH CREEK

BLAINE County

Sec. 1, Twp 01N, Rge 18E, B.M.

### Place of Use

## IRRIGATION

| Twp | Rge | Sec | <div style="text-align:center;">NE</div> |           |           |           | <div style="text-align:center;">NW</div> |           |           |           | <div style="text-align:center;">SW</div> |           |           |           | <div style="text-align:center;">SE</div> |           |           |           |               |  |  |
|-----|-----|-----|------------------------------------------|-----------|-----------|-----------|------------------------------------------|-----------|-----------|-----------|------------------------------------------|-----------|-----------|-----------|------------------------------------------|-----------|-----------|-----------|---------------|--|--|
|     |     |     | <u>NE</u>                                | <u>NW</u> | <u>SW</u> | <u>SE</u> | <u>NE</u>                                | <u>NW</u> | <u>SW</u> | <u>SE</u> | <u>NE</u>                                | <u>NW</u> | <u>SW</u> | <u>SE</u> | <u>NE</u>                                | <u>NW</u> | <u>SW</u> | <u>SE</u> | <u>Totals</u> |  |  |
| 01N | 18E | 1   |                                          |           |           |           |                                          |           | X<br>L 4  |           |                                          |           |           |           |                                          |           |           |           |               |  |  |
| 01N | 18E | 2   | X<br>L 1                                 | X<br>L 2  | X         | X         |                                          |           |           |           |                                          |           |           |           |                                          |           |           |           |               |  |  |

Conditions of Approval:

1. Point of diversion is not identified in decree. Legal descriptions entered for database purposes only and are same as the described place of use from the decree.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 37-1227A

Comments:

1. SKAGGS 10/7/1993 TRANSFER NO. 3802

Comment: Transfer No. 3802 was filed originally to change the point of diversion and place of use under Right Nos. 37-01227 and 37-01228. The transfer was amended to transfer a portion of this right, splitting the right into parts A and B.

Water Supply Bank:

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE.

RECEIVED

NOV 13 1980

Department of Water Resources  
Southern District Office

THOMAS VERRY and ESTHER VERRY,

Plaintiffs,

vs.

D E C R E E.

S. P. NEWMAN and JOSEPH TEUSCHER,

Defendants.

B-1  
File 37-A

This cause coming on regularly to be heard in open Court the 25th day of September, 1924, the said plaintiffs being represented by W. A. Brodhead, Esq., and the said defendants by J. G. Hedrick, Esq.; and after the introduction of certain testimony on the part of the plaintiffs in support of the complaint and testimony on the part of the defendants in support of the cross complaint of S. P. Newman, a stipulation was entered into between counsel for respective parties that judgment in said cause be entered as follows: And the Court being fully advised, and pursuant to said stipulation:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows, to-wit:

1. That the said plaintiffs are now, and they and their predecessors in interest have been since about the year 1883, the owners of and in possession of, and entitled to the possession of the following described land in Blaine County, State of Idaho, to-wit:

Lot 4, Sec. 1, Lots 1 and 2 and ~~S. 1~~NE<sup>1</sup>4, Sec. 2 in Tp. 1 N., R. 18 E.B.M.

NOV 22 1993

2. That said land is dry and arid in character and will not in its natural state produce profitable agricultural crops without the artificial application of water for irrigation.

37-1227 3. That the said plaintiffs are the owners of the right to the use of 45 miners inches, equivalent to 0.9 cubic feet per second of the waters of what is known as Townsend Gulch for the irrigation of the land hereinabove described, with date of priority, June 1, 1883.

37-1228 4. That the defendant S. P. Newman is now, and he and his predecessors in interest have been since the year 1905, the owners of the N $\frac{1}{2}$ SE $\frac{1}{4}$  and N $\frac{1}{2}$ SW $\frac{1}{4}$  of Sec. 2, Tp. 1 N., R. 18 E.B.M.

5. That said land is dry and arid in character and will not in its natural state produce profitable agricultural crops without the artificial application of water for irrigation.

6. That the said defendant S. P. Newman is the owner of the right to the use of 20 miners inches, equivalent to 0.4 cubic feet per second of the waters of what is known as Townsend Gulch for the irrigation of the land hereinabove described, with date of priority, May 1, 1905.

7. That each of the parties to this action be, and they and their successors agents, servants, and all persons acting by, through, or under them, or either of them be and they and each of them are hereby perpetually restrained and enjoined from in any manner interfering with the flow of the waters of Townsend Gulch, except as in this decree provided.

Done in open Court this 2nd day of October, 1914.

NOV 23 1914

miners inches, equivalent to 0.9 cubic feet per second of the waters of what is known as Townsend Gulch for the irrigation of the land hereinabove described, with date of priority, June 1, 1883.

4. That the defendant S. P. Newman is now, and he and his predecessors in interest have been since the year 1905, the owners of the N $\frac{1}{2}$ SE $\frac{1}{4}$  and N $\frac{1}{2}$ SW $\frac{1}{4}$  of Sec. 2, Tp. 1 N., R. 18 E.B.M.

5. That said land is dry and arid in character and will not in its natural state produce profitable agricultural crops without the artificial application of water for irrigation.

6. That the said defendant S. P. Newman is the owner of the right to the use of 20 miners inches, equivalent to 0.4 cubic feet per second of the waters of what is known as Townsend Gulch for the irrigation of the land hereinabove described, with date of priority, May 1, 1905.

7. That each of the parties to this action be, and they and their successors agents, servants, and all persons acting by, through, or under them, or either of them be and they and each of them are hereby perpetually restrained and enjoined from in any manner interfering with the flow of the waters of Townsend Gulch, except as in this decree provided.

Done in open Court this 2nd day of October, 1924.

H. F. Ensign

District Judge.

Filed and entered Oct. 2, 1924.  
Cassie M. Russell, Clerk District Court.  
Blaine County, Idaho.  
By Geo. A. Coleco, Deputy.

NOV 22 1923