

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: A37-04070

Date Received: 10/23/1989

Receipt No:

Received By: M004881

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: PHIL E. BALLARD
Address: RT. 1 208-764-2556
BOX 1330
FAIRFIELD, ID 83327

OR

Name: WINNIE BALLARD
Address: RT. 1 208-764-2556
BOX 1330
FAIRFIELD, ID 83327

2. Date of Priority: JUN 01, 1951

3. Source: SPRING
WASTE WATER

Trib. to: SOLDIER CREEK
SOLDIER CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
01N	14E	33	NW SW SE		CAMAS

5. Description of diverting works:
SPRINGS AND WASTE WATER FLOOD IRR.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	05/01	11/01	0.400		

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

A.F.A.

8. Total consumptive use is 45.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NA

A37-04070

Page 1

Date: 10/23/89

MICROFILMED
FEB 23 1993

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
01N	14E	33	SW SE		IRR	17.0
Section Acres						17.0
Total Acres						17.0

11. Place of use in counties: CAMAS

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

13. Other Water Rights Used:
A37-13187

14. Remarks:
AC. IRR.=16.8.
SOURCES ARE SPRING & WASTE WATER, TRIB. SOLDIER CK.

15. Basis of Claim: STATUTORY CLAIM

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): Phil C. Ballard Date: Oct. 23, 1989

Date: _____

State of Idaho)
County of Camas) SS.

Subscribed and sworn (or affirmed) before me this 23 day
of Oct 19 89

Bruce A. Schuld
Notary Public

Seal

Residing at BRUCE A. SCHULD, NOTARY PUBLIC
RESIDING AT POISE, IDAHO
My Commission Expires COMMISSION EXPIRES APRIL 11, 1993

10/10/2006

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

RIGHT NUMBER: 37-4070
NAME AND ADDRESS: PHILIP E BALLARD
RT 1 BOX 1330
FAIRFIELD ID 83327

WINNIE A BALLARD
RT 1 BOX 1330
FAIRFIELD ID 83327

SOURCE: SPRING WASTE WATER
TRIBUTARY: SOLDIER CREEK
TRIBUTARY: SOLDIER CREEK
QUANTITY: 0.340 CFS
PRIORITY DATE: 12/31/1967
POINT OF DIVERSION:

T01N R14E S33 NWSWSE Within CAMAS County
T01N R14E S33 NWSWSE Within CAMAS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 10/31	0.340 CFS

PLACE OF USE: IRRIGATION Within CAMAS County
T01N R14E S33 SWSE 17.00

17 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 17 acres in a single irrigation season. Combined Right Nos.: 37-4070 and 37-13187.

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 - Beneficial Use



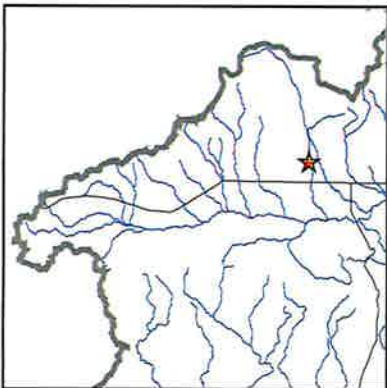
Idaho Department of Water Resources

SRBA Recommendation:

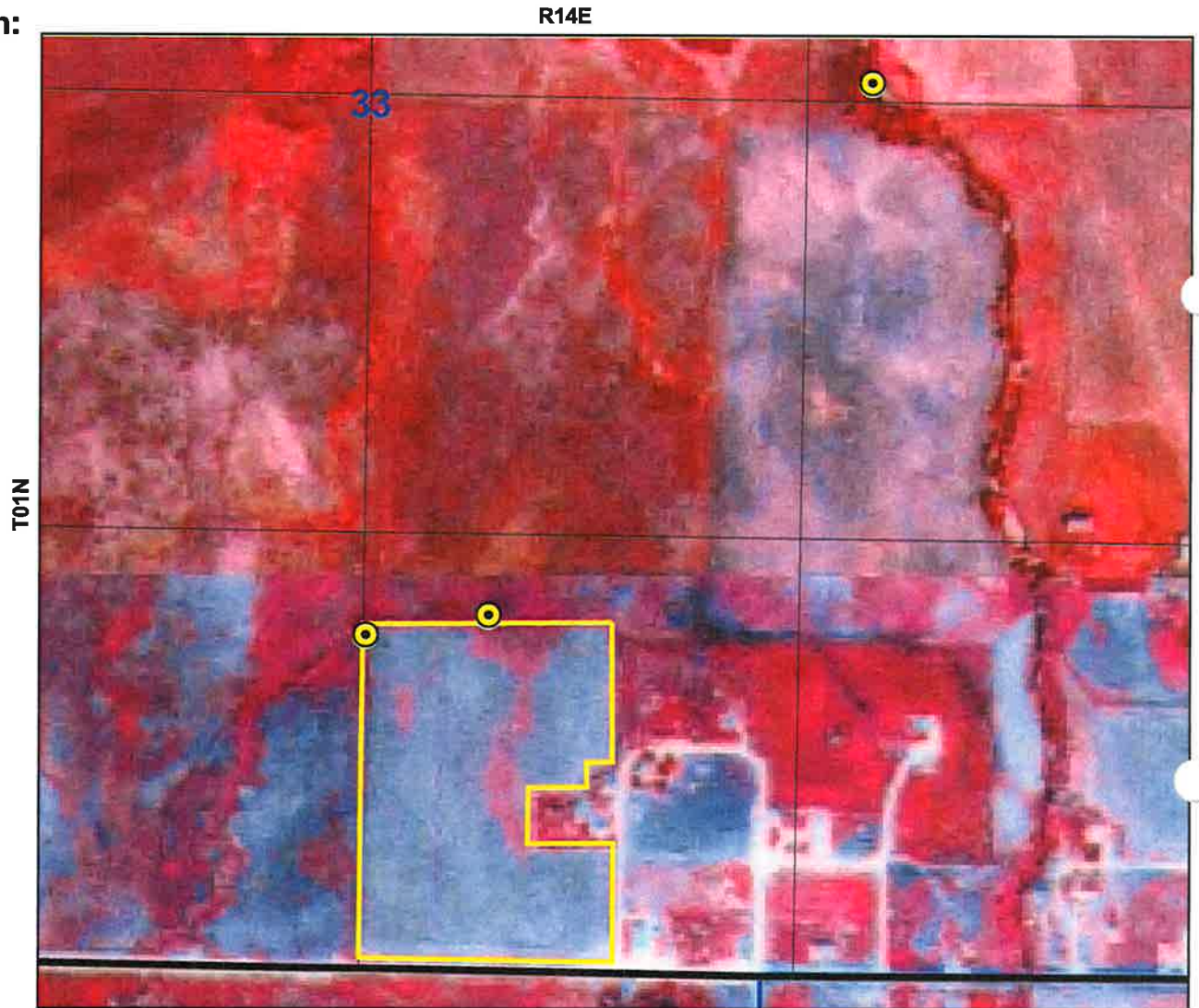
37-4070
37-13187

Legend

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



Camas County
IDWR Basin 37



0 0.25 0.5 Miles



Prepared by M. Anders
On Tuesday, October 10, 2006
1987/88 Aerial Photography

Adjudication Claim Notes

Claim(s): 37-4070, 37-13187

Background Data

37-4070

- Beneficial Use Claim
- Source is a Spring and Waste Water tributary to Soldier Creek
- Claimed for 0.4 cfs for Irrigation of 17 acres

37-13187

- Source is Soldier Creek tributary to Camas Creek
- Priority date search indicates:
 - 37-50A decreed for 0.72 cfs on 5 QQ
 - 37-50B decreed for 2.0 cfs on 5 QQ
 - 37-222B decreed for 0.8 cfs on 12 QQ
 - SRBA claims
 - 37-50A
 - 37-50C claimed 0.05 cfs from 37-50A for Irrigation of 15 acres
 - 37-50D claimed 0.03 cfs from 37-50A for Irrigation of 29.6 acres
 - 37-13187 claimed 0.06 cfs from 37-50A for Irrigation of 17 acres
 - 37-50E claimed 0.2 cfs from 37-50A & 37-50B for Irrigation of 10 acres
 - 37-13195 claimed 1.0 cfs from 37-50A & 37-50B for Irrigation of 513 acres
 - 37-13198 claimed 0.12 cfs from 37-50A, 37-50B, and 37-222B for Irrigation of 9 acres
 - 37-21796 claimed 0.2 cfs from 37-50A & 37-50B for Irrigation of 10 acres
 - 37-21801 claimed 0.17 cfs from 37-50A & 37-50B for Irrigation of 5.7 acres
 - 37-50B
 - 37-50C claimed 0.15 cfs from 37-50B for Irrigation of 15 acres
 - 37-50D claimed 0.25 cfs from 37-50B for Irrigation of 29.6 acres
 - 37-13187 claimed 0.18 cfs from 37-50B for Irrigation of 17 acres
 - 37-21298 claimed 0.2 cfs from 37-50B for Irrigation of 10 acres
 - 37-50E claimed 0.2 cfs from 37-50A & 37-50B for Irrigation of 10 acres
 - 37-13195 claimed 1.0 cfs from 37-50A & 37-50B for Irrigation of 513 acres
 - 37-13198 claimed 0.12 cfs from 37-50A, 37-50B, and 37-222B for Irrigation of 9 acres
 - 37-21796 claimed 0.2 cfs from 37-50A & 37-50B for Irrigation of 10 acres
 - 37-21801 claimed 0.17 cfs from 37-50A & 37-50B for Irrigation of 5.7 acres
 - 37-222B
 - 37-13187 claimed 0.03 cfs from 37-222B for Irrigation of 17 acres
 - 37-13195 claimed 1.58 cfs from 37-222A & 37-222B for Irrigation of 513 acres
 - 37-13198 claimed 0.12 cfs from 37-50A, 37-50B, and 37-222B for Irrigation of 9 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)

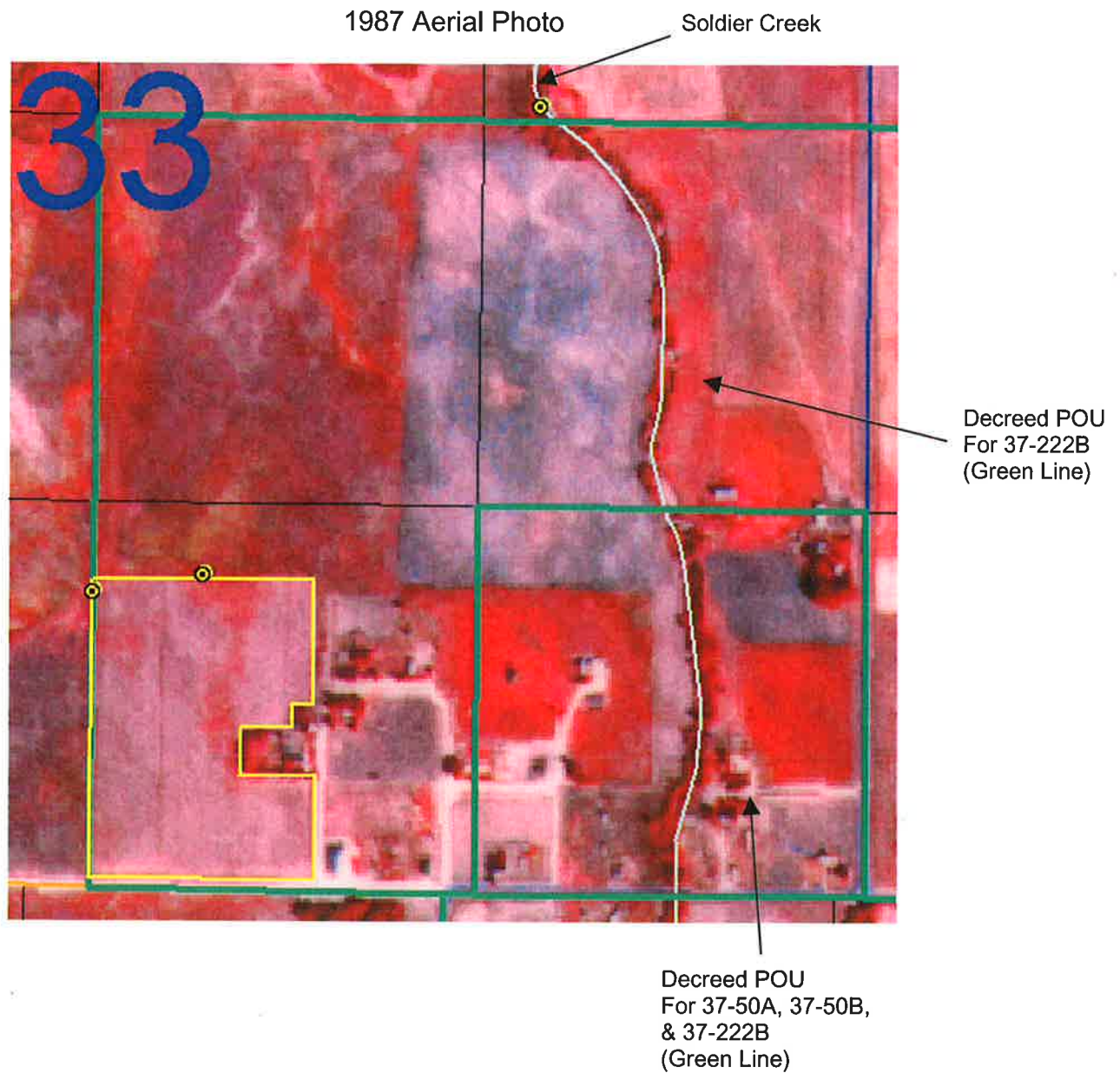




Photo of spring-wastewater POD taken during field exam.



Photo of ~~spring~~ wastewater POD taken during field exam.

Notes

T1N R14E Section 33

- Found 17 acres
- Claim 37-13187 combines water from 3 different water rights. There is no combined use limit on this right for the acreage for each of the rights because: a) the allocated irrigated acres from the different rights equal/exceed the irrigated acreage, b) it would have required to put multiple limits on different portions of the diversion rate on a one right (ex: 0.04 cfs of this right are limited to 130 acres, 0.26 cfs of this right are limited to 400 acres, etc.), which is uncommon, c) the water was moved and applied before 1987 and there are no known disputes/injuries, and d) as right are currently claimed, there is no expansion of the water right, if additional water is claimed any expansion of the water right would be minimal.
- Water right 37-50A has a remark that it was not reaffirmed in *Hallowell vs. Baker* (1959) and my therefore not be valid. The focus of the *Hallowell vs. Baker* was a transfer by Clifford Hallowell. The other rights listed are also delivered from the Abbot Branch of Soldier Creek and appear to have been listed because the decree is documenting there right to use and maintain the Abbot Branch as their delivery system. They other rights were not reviewed and therefore they were probably not reaffirmed by the decree. Also, 37-50A is delivered directly from Solder Creek, the Abbott Brach is not used, so 37-50A would not have been listed in the *Hallowell vs. Baker* decree. Summary: 37-50A is a valid water right.
- 37-4070: Spring was dry and no wastewater was available at the time of the field exam, so the diversion rate could not be measured. A small ditch delivery system was observed during field exam and the POU appears irrigated in 1987. The evidence suggests that they water is being used. Since the source is different from 37-13187, claimant is entitled to 0.02 cfs/acre (0.34 cfs) from spring and wastewater.
- Recommendations:
 - 37-4070
 - 0.34 cfs for Irrigation of 17 acres
 - Priority date: 12/31/1967
 - If claimant clarifies his personal first-hand knowledge of the water use, he may be entitled to an earlier priority date.
 - 37-13187 – 0.27 cfs for Irrigation of 17 acres
 - assuming accomplished transfer for POU
 - 37-50A
 - 37-50C – 0.05 cfs for Irrigation of 13 acres
 - 37-50D – 0.03 cfs for Irrigation of 25 acres
 - 37-50E – 0.05 cfs for Irrigation of 9 acres
 - **37-13187 – 0.06 cfs for Irrigation of 17 acres**
 - 37-13195 – 0.26 cfs for Irrigation of 513 acres
 - 37-13198 – 0.02 cfs for Irrigation of 9 acres
 - 37-21796 – 0.04 cfs for Irrigation of 4.5 acres
 - 37-21801 – No apparent irrigation. Claim disallowed.
 - Unclaimed – 0.21 cfs for Irrigation of 58 acres
 - 37-50B
 - 37-50C – 0.15 cfs for Irrigation of 13 acres
 - 37-50D – 0.25 cfs for Irrigation of 25 acres

- 37-50E – 0.13 cfs for Irrigation of 9 acres
 - **37-13187 – 0.18 cfs for Irrigation of 17 acres**
 - 37-13195 – 0.74 cfs for Irrigation of 513 acres
 - 37-13198 – 0.04 cfs for Irrigation of 9 acres
 - 37-21796 – 0.10 cfs for Irrigation of 4.5 acres
 - 37-21801 – No apparent irrigation. Claim disallowed.
 - 37-21298 – 0.18 cfs for Irrigation of 9 acres
 - Unclaimed – 0.23 cfs for Irrigation of 23 acres
- 37-222B
 - **37-13187 – 0.03 cfs for Irrigation of 17 acres**
 - 37-13195 – 0.46 cfs for Irrigation of 513 acres
 - 37-13198 – 0.06 cfs for Irrigation of 9 acres
 - Unclaimed – 0.25 cfs for Irrigation of 148 acres
- Data used for review: 1987, 1992, & 2004 aerial photos, Camas Co Tax Records, Idaho Ownership (idown.shp), & USGS 1:24,000 Topo

37-50A decreed POU = 5 QQ			(0.72 cfs)	(26% of 37-50) duty = 0.0036 cfs/acre			
Basin	Sequence	Suffix	Claimed cfs		Irrigated Acres	Recom. Acres	Recom. cfs
37	50	C	0.05		13.0	13.0	0.05
37	50	D	0.03		25.0	13.0	0.03
37	50	E	0.20	50A, 50B	9.0	9.0	0.05
37	13187		0.06		17.0	17.0	0.06
37	13195		1.00	50A, 50B	513.0	76.5	0.26
37	13198		0.12	50A, 50B, 222B	9.0	9.0	0.02
37	21796		0.20	50A, 50B	4.5	4.5	0.04
37	21801		---	---	---		---
Unclaimed						58.0	0.21
Total						200.0	0.72

37-50B decreed POU = 5 QQ			(2.0 cfs)	(74% of 37-50)			
			duty = 0.01 cfs/acre				
Basin	Sequence	Suffix	Claimed cfs		Irrigated Acres	Recom. Acres	Rec. cfs
	37	50 C	0.15		13.0	13.0	0.15
	37	50 D	0.25		25.0	25.0	0.25
	37	50 E	0.20	50A, 50B	9.0	9.0	0.13
	37	13187	0.18		17.0	17.0	0.18
continued	37	13195	1.00	50A, 50B	513.0	90.5	0.74
	37	13198	0.12	50A, 50B, 222B	9.0	9.0	0.04
	37	21796	0.20	50A, 50B	4.5	4.5	0.10
	37	21801	---	---	---		---
	37	21298	0.20		9.0	9.0	0.18
Unclaimed						23.0	0.23
Total						200.0	2.00

37-222A decreed POU = 8 QQ			(2.8 cfs)	(29% of 37-222) duty = 0.0088 cfs/acre			
Basin	Sequence	Suffix	Claimed cfs		Irrigated Acres	Recom. Acres	Rec. cfs
	37	13195	1.58	222A, 222B	513.0	129.0	1.12
		Unclaimed				191.0	1.68
Total						320.0	2.80

37-222B decreed POU = 12 QQ			(0.8 cfs)	(71% of 37-222)			
			duty = 0.0017 cfs/acre				
Basin	Sequence	Suffix	Claimed cfs		Irrigated Acres	Recom. Acres	Rec. cfs
37	13187		0.03		17.0	17.0	0.03
37	13195		1.58	222A, 222B	513.0	306.0	0.46
37	13198		0.12	50A, 50B, 222B	9.0	9.0	0.06
Unclaimed						148.0	0.25
Total						480.0	0.80

File No.

37-04070

Phil E. Ballard
Rt. 1
Box 1330
Fairfield, Id

9/6/06

This morning I went up to see Mr. Ballard about his file for spring and waste water we first looked over the photo of his property and he drew the ditches for the spring which begins north of the POD at his property point # 1 , he also advised me that this ditch is spring and waste both when there is water to irrigate with which at this date there is none , he also drew his ditch where he gets Soldier Cr. Water down to this parcel and this source is also dry. He informed me that there is not enough water is Soldier cr. to get any water out to his diversion so his neighbors land and his is dry of spring water , waste water, and soldier Cr. Water and has been since about 60 days. POD # 2 is usually where he gets his neighbors waste water. He told me that the water situation is totally different than it was this spring when Steve and Matt was here. Phil said that the area in yellow is a good example of his property where this water used and that all of this land is sub irrigated [flood] by my observation- My photo # 1030311 is where he gets his spring and some waste I was looking NW toward the ditch which delivers this water. Photo # 1030312 is looking North across his neighbors field where he gets just waste water when water is available.

Description	GPS Name & No.	Position No.	USR No.	Plate No.	Photo No.
Spring -Waste	Phil 1	2435464	1352715	A0015571	1030311 NW
Waste water	" 2	2435578	1352733	none	312 N

Lee R. Peterson

Adjudication Claim Notes

Claim(s): 37-4070

Background Data

- Beneficial Use Claim
- Source is a Spring and Waste Water tributary to Soldier Creek
- Claimed for 0.4 cfs for Irrigation of 17 acres

Both POD's 3/28

dry & as per phis

They have been dry

for approval 60 days

Place Of Use Data

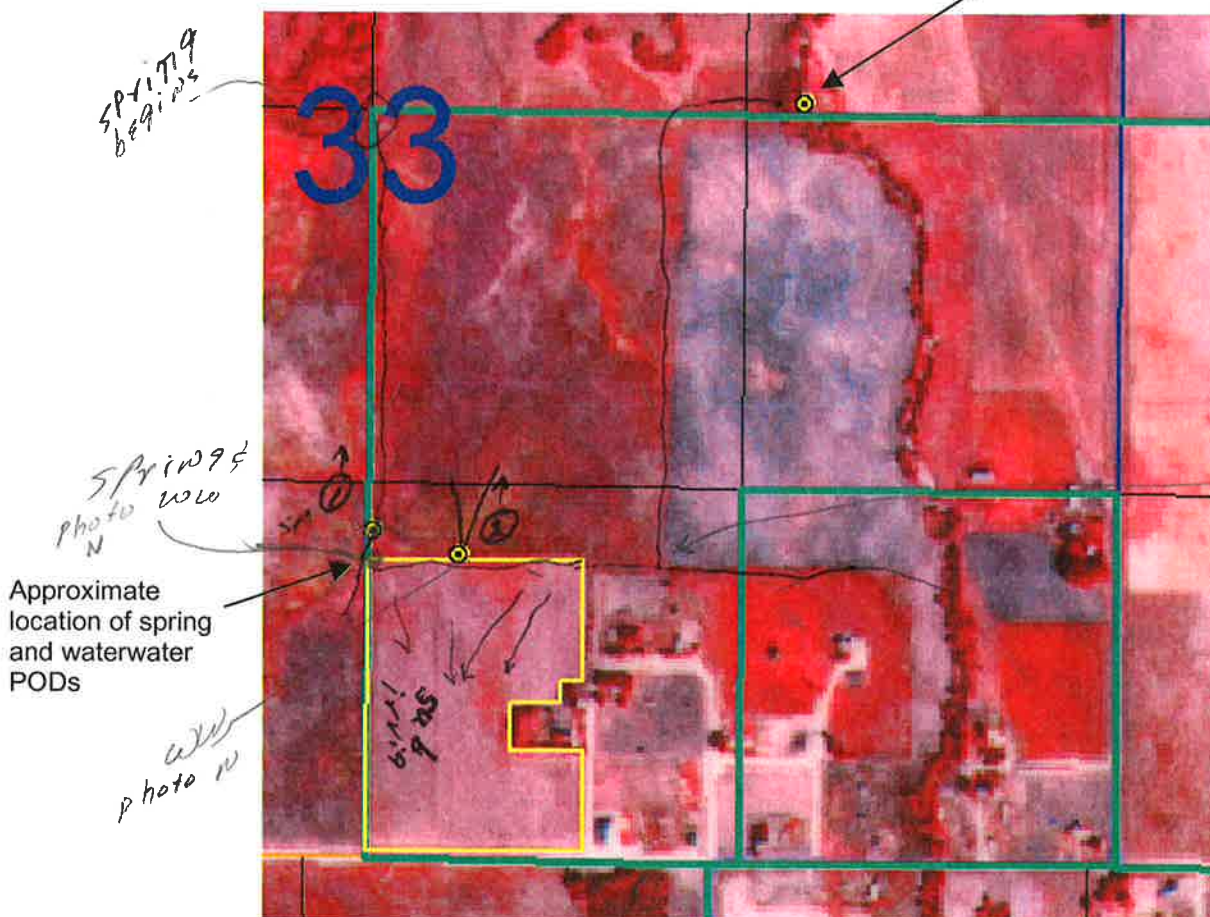
Yellow line is the draft Place of Use created by IDWR based on historical data and records.

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)



Soldier Creek



Ph: 1 525

yellow disc
nots approx.
3000

water from
soldier cv

To do for field exam:

- 1) GPS spring and wastewater PODs
- 2) Measure diversion rate from spring and wastewater

which is spring - which was

219164 5/22/95 North

5700 ft. 2 miles
30 ft. of cement fill
... ..
... ..

RECEIVED

APR 26 2005

Department of Water Resources
Southern Region

Phil C. Ballard
Rt. #1 Box 1330
Fairfield, Idaho 83327

In reference to 37-4070 Don P. Young deceased used the water in 1940. Don put the water on his land every summer to the year 1950. My dad Cecil C. Ballard bought the same ground in October the 10th 1950. My Dad Cecil C. Ballard used the water from that diversion to the time he passed away in 1967.

My mom Winnie A. Ballard and myself Phil C. Ballard has used the water from 1967 to the present time 2005. I have used the water with no difficulties. I would like to continue using the water to help make a little money from the hay.

Thank you

Phil C. Ballard

Barbara Prock reference

SCANNED

APR 27 2005

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-4070

WATER RIGHT NUMBER: 37-4070Owner Type

Current Owner

Name and AddressPHILIP E BALLARD
RT 1 BOX 1330
FAIRFIELD, ID 83327

Current Owner

WINNIE A BALLARD
RT 1 BOX 1330
FAIRFIELD, ID 83327
(208)764-2556

RECEIVED

APR 26 2005

Department of Water Resources
Southern Region

Priority Date: 06/01/1951

Basis: Statutory Claim

Status: Active

SourceSPRING
WASTE WATERTributarySOLDIER CREEK
SOLDIER CREEKBeneficial Use

IRRIGATION

From To

5/01 to 11/01

Diversion Rate

0.400 CFS

Annual VolumeTotal Diversion: 0.400 CFSLocation of Point(s) of Diversion

SPRING

CAMAS County

NW1/4SW1/4SE1/4

Sec. 33, Twp 01N, Rge 14E, B.M.

WASTE WATER

CAMAS County

NW1/4SW1/4SE1/4

Sec. 33, Twp 01N, Rge 14E, B.M.

Place of UseIRRIGATION Within CAMAS County

T01N R14E S33 SWSE 17.0

Total Acres: 17

Conditions of Approval:Remarks:

1. General AC. IRR.=16.8.
SOURCES ARE SPRING & WASTE WATER, TRIB. SOLDIER CK.

Comments:SCANNED
APR 27 2005



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 15, 2005

X
X
X
X

RESPONSE DEADLINE
JUNE 17, 2005

Re: Evidence of Priority

Dear Claimant:

The Notice of Claim identified with the number shown above your name on the mailing label has been filed in the Snake River Basin Adjudication (SRBA). The Notice indicates your water usage is based on "Beneficial Use" or a "Statutory Claim." Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed. The date of first use, known as the priority date, has not been confirmed by a License, Decree or Permit. The Department will, in the coming year, conduct reviews and/or field exams for the claims in your area. Since the priority date of a beneficial use water right cannot be confirmed by field examination, **proof must be provided by the claimant** supporting the priority date claimed.

If you no longer own the property to which the claim is appurtenant please forward this correspondence to the present owner, or return it to the Department. If you have received this correspondence from the previous owner of the property it is required that you file a Change of Ownership form with the Department in order to receive future mailings and to continue to be a party in the adjudication.

Enclosed you will find a computer printout of your Notice of Claim and the pamphlet entitled "Evidence of Priority." The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement.

PLEASE NOTE: The Department will not recommend the court decree the notice **as claimed** if no evidence of a priority date is submitted – it may be disallowed. It will be to your advantage to provide clear and convincing evidence. If you choose to submit statements from individuals as evidence, the statement does **not** need to be in the form of a notarized affidavit as described in the brochure, but must relate first hand knowledge of the water right in question and include dates, quantities of water and extent of water use.

Submit the required evidence supporting the priority date by the date shown above, referencing all documents with the corresponding Notice of Claim number (i.e. 37-____). If you have questions not covered by this letter or the enclosed pamphlet, please contact this office.

Sincerely,

Douglas Jones, P.E.
Water Rights Supervisor

Enclosures