

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: A37-04359
Date Received: 11/29/1989
Receipt No: C013104
Received By: SS

RECEIVED
JUN 13 1990
Department of Water Resources
Southern Region Office

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: EMMA M. BENNETT 208-764-2398
Address: P. O. BOX 120
HILL CITY, ID 83337
OR
Name: PAT BENNETT 208-764-2398
Address: BOX 113
HILL CITY, ID 83337

2. Date of Priority: JUL 01, 1915

3. Source: SPRING Trib. to: MALAD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
01S	11E	28		SE	SW		ELMORE

5. Description of diverting works:
DITCHES WITH FLOOD IRR.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/15	10/15	4.200		

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

8. Total consumptive use is 525.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

A37-04359

Page 1

Date: 11/29/89

MICROFILMED
FEB 24 1993

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
01S	11E	28	SW		SW		IRR	10.0
			SE		SW		IRR	40.0
							Section Acres	50.0
		33	NW		NE		IRR	15.0
			SW		NE		IRR	20.0
			NE		NW		IRR	40.0
			NW		NW		IRR	30.0
			SW		NW		IRR	15.0
			SE		NW		IRR	40.0
							Section Acres	160.0
							Total Acres	210.0

11. Place of use in counties: ELMORE

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

13. Other Water Rights Used:
NONE

14. Remarks:

15. Basis of Claim: STATUTORY CLAIM

MICROFILMED
FEB 24 1993

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: 1

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): Pat Bennett Date: 11-29-89
Date:

State of Idaho)
County of ROA) SS.

Subscribed and sworn (or affirmed) before me this 29th day
of Nov. 19 89 Robert E. Smith
Notary Public

Seal

Residing at BOISE, ID
My Commission Expires 11/08/1994

Fred Malcomson

Emma + Elmer Bennett

P.O.

P.O.
IRR 40Ac

P.O. IRR
10 Ac.

P.O.
IRR 30Ac

P.O.
IRR 40Ac

P.O.
IRR 15Ac

P.O.
IRR 15Ac

P.O.
IRR 40Ac

P.O.
IRR 20Ac.

Emma + Elmer Bennett

Strom Ranches,
Inc.

Strom Ranches, Inc.

Lot 4

41.26A.

Lot 3

41.36A.

Lot 2

41.46A.

Lot 1

41.56A.

Lot 4

Emma + Elmer Bennett

Strom Ranches, Inc.

MICROFILMED
FEB 24 1993

02/20/2009

IDAHO DEPARTMENT OF WATER RESOURCES

~~PRELIMINARY~~ RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

ADR

RIGHT NUMBER: 37-4359

NAME AND ADDRESS: VICKIE BENNETT
BOX 113
HILL CITY ID 83337

PAT BENNETT
BOX 113
HILL CITY ID 83337

SOURCE: SPRING

TRIBUTARY: UNNAMED STREAM

QUANTITY: 3.190 CFS

PRIORITY DATE: 12/14/1909

POINT OF DIVERSION:

T01S R11E S28 NESWSW Within ELMORE County

T01S R11E S28 NESWSW Within ELMORE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	3.190 CFS

PLACE OF USE:

IRRIGATION in ELMORE County

T01S R11E S28	SWSW	4.30	T01S R11E S28	SESW	34.00
T01S R11E S28	SWSE	35.00	T01S R11E S33	NWNE	40.00
T01S R11E S33	SWNE	40.00	T01S R11E S33	NENW	40.00
T01S R11E S33	NWNW	23.00	T01S R11E S33	SWNW	18.00
T01S R11E S33	SENW	40.00			

274.3 ACRES TOTAL

Right Nos. 37-4343 & 37-4359 are limited to the irrigation of a combined total of 274.3 acres in a single irrigation season.

This right is limited to the irrigation of 159.3 acres within the place of use described above in a single irrigation season.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

37-4359

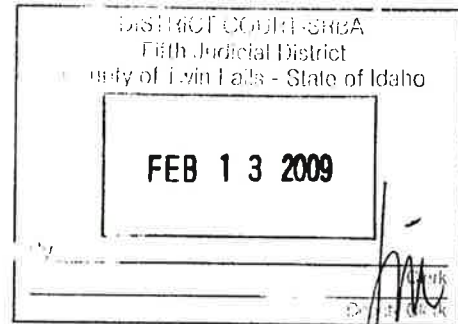
R11E



ORIGINAL

FRITZ X. HAEMMERLE
HAEMMERLE & HAEMMERLE, P.L.L.C.
400 South Main Street, Suite 102
P.O. Box 1800
Hailey, Idaho 83333
208/578-0520
Fax: 208-578-0564
E-mail: fxh@haemlaw.com
ISB #3862

Attorney for the Claimant



**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

) **Subcase No. 37-343A and 37-4359**
)
) **AMENDED STANDARD FORM 4**
)
) **MOTION TO FILE:**
)
) ☐ **LATE NOTICE OF CLAIM**
) ☒ **AMENDED NOTICE OF CLAIM**

INSTRUCTIONS

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

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

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

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

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

My name is:

My address is:

I am an attorney representing: Pat and Vickie Bennett

My name is: Fritz X. Haemmerle, Haemmerle & Haemmerle, P.L.L.C.

My address is: P.O. Box 1800, Hailey, ID 83333

My phone number is: (208) 578-0520

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

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

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

1. After meeting with Steve Clelland of IDWR, it was discovered that the appropriate point of diversion for water right 37-343A is the Malad River.
2. After meeting with Steve Clelland of IDWR and having reviewed the homestead documents and licensed rights to the claimants' predecessor in interest, it was discovered that the appropriate priority date for water right 37-4359 is October 9, 1905.

☐ I am providing legal and factual documentation to support my amended Notice of Claim.

You must describe these documents and attach a readable copy.

This Motion is supported by:

Amended Claims as well as in the *Affidavit of Fritz X. Haemmerle in Support of Motion to Set Aside Partial Decrees and To File Amended Claims*.

I have attached:

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

☐ Payment of the following additional fees required by IDWR:

VERIFICATION

State of Idaho)
) ss.
County of Blaine)

Fritz X. Haemmerle, being first duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on February 11, 2009

(Insert Date)

Laure Thompson

Notary Public for Idaho
Residing at: Antelope
My Commission expires: 12/31/2010



CERTIFICATE OF MAILING

I certify that on February 11, 2009, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

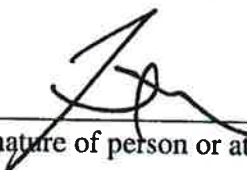
2. Copies to:

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

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

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase. (Insert Names/address of parties)



Signature of person or attorney mailing the form

AMENDED CLAIM

WATER RIGHT NO. 37-343A

Owner Type	Name and Address
Current Owner	PAT BENNETT
Current Owner	VICKIE BENNETT
	BOX 113
	HILL CITY, ID 83337
	(208) 539-9115
Original Owner	EMMA MALCOMSON BENNETT
	PO BOX 120
	HILL CITY, ID 83337-0120
	(208)764-2398

Priority Date: 05/01/1889

Basis: Decreed

Status: Active

Source	Tributary
~~DYER CREEK~~	MALAD RIVER

MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/01	11/01	1.6 CFS	
Total Diversion			1.6 CFS	

Location of Point(s) of Diversion:

DYER CREEK	Sec. 32	Township 01S	Range 11E	ELMORE County
------------	---------	--------------	-----------	---------------

Place(s) of use:

Place of Use Legal Description: IRRIGATION ELMORE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
01S	11E	33		NWSW	40		SWSW	40						

Total Acres: 80

Conditions of Approval:

1.	AC. IRRIG. NOT SPECIFIED. FARM = 240 AC.
----	--

Dates:

Licensed Date:

Claim Received Date:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal: S

Owner Name Connector: AND/OR

Water District Number: 37

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

1/29/09
Draft
Notes
ECL

10/12/2006

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

NEED to
AMEND
CLAIM

RIGHT NUMBER: 37-4359
NAME AND ADDRESS: EMMA MALCOMSON BENNETT
PO BOX 120
HILL CITY ID 83337-0120
PAT BENNETT
BOX 113
HILL CITY ID 83337

1915 Amend
Temp. Remark
AC

SOURCE: SPRING
QUANTITY: 2.760 CFS
PRIORITY DATE: 04/20/1928
POINT OF DIVERSION:
T01S R11E S28 NESWSW Within ELMORE County
T01S R11E S28 NESWSW Within ELMORE County

3.19
2.30
10-9-1905
(Based 37-2028)

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	2.760 CFS

PLACE OF USE:

IRRIGATION Within ELMORE County

T01S R11E S28	SWSW	5.00	T01S R11E S28	SESW	14.00
T01S R11E S33	NENW	40.00	T01S R11E S33	NWNW	23.00
T01S R11E S33	SWNW	17.00	T01S R11E S33	SENW	39.00

138 ACRES TOTAL

274.3 ac

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

159.3 ac
* 0.02 cfs
3.19 cfs
4359
4343

Combined
Acres
274.3

GIS

ESS:
K06 = 159.3 ac

PPU
w/ 4343

met w/ Fritz H.
& Pat Bennett

10 am -
1/23/09

270 ac = 274.3 ac.
159.3
2.3 cfs = 159.3 ac x 0.02 cfs/ac = 3.19 cfs



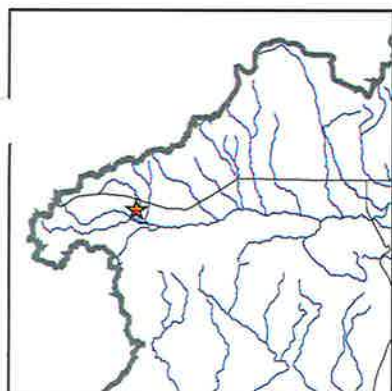
Idaho Department of Water Resources

SRBA Recommendation:

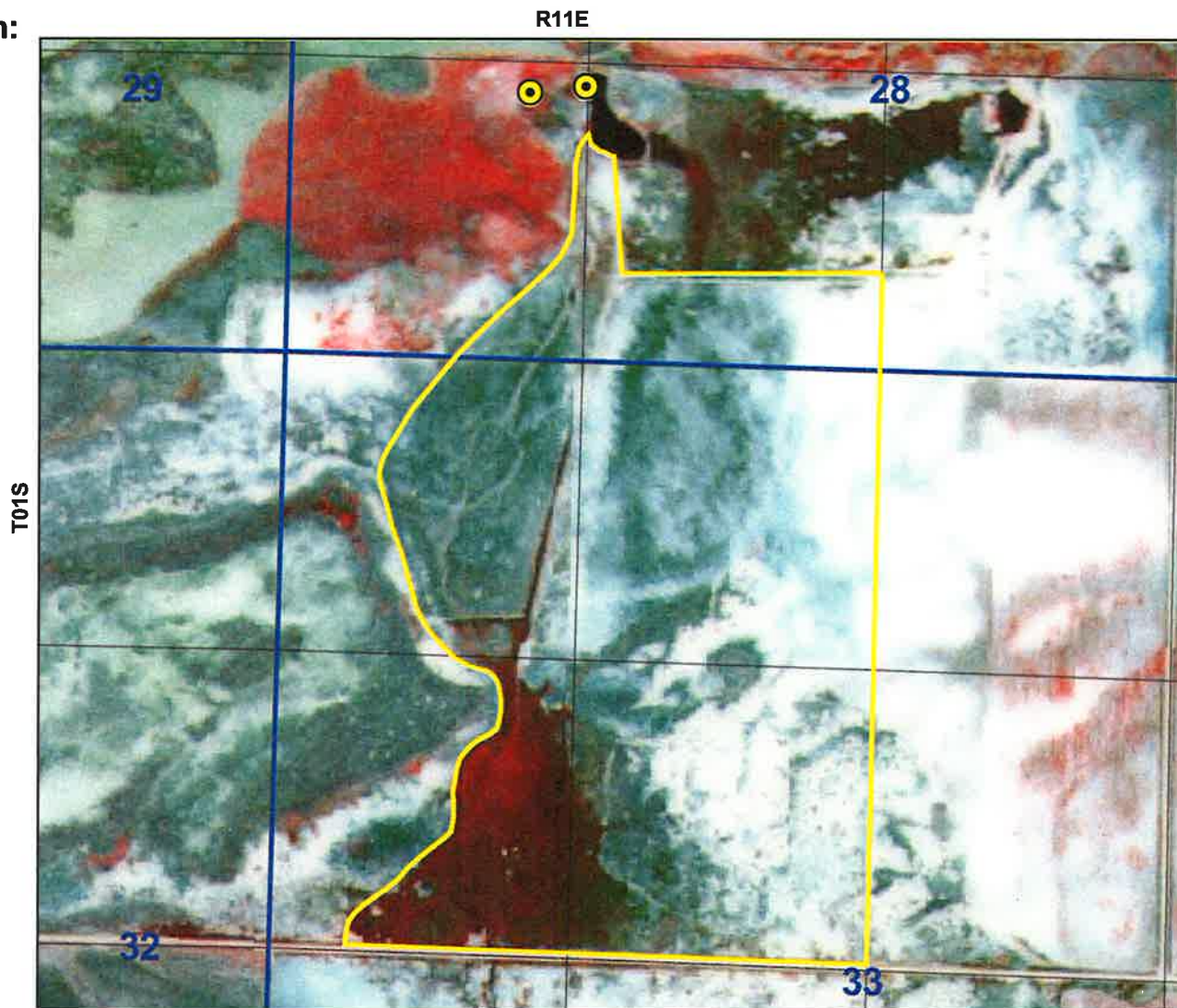
37-4359

Legend

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



Elmore County
IDWR Basin 37



0 0.25 0.5 Miles



Prepared by M. Anders
On Thursday, October 12, 2006
1987/88 Aerial Photography

Adjudication Claim Notes

Claim(s): 37-4359

Background Data

- Beneficial Use Claim
- Source is Spring tributary to Malad River
- Claimed 4.2 cfs for Irrigation of 210 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

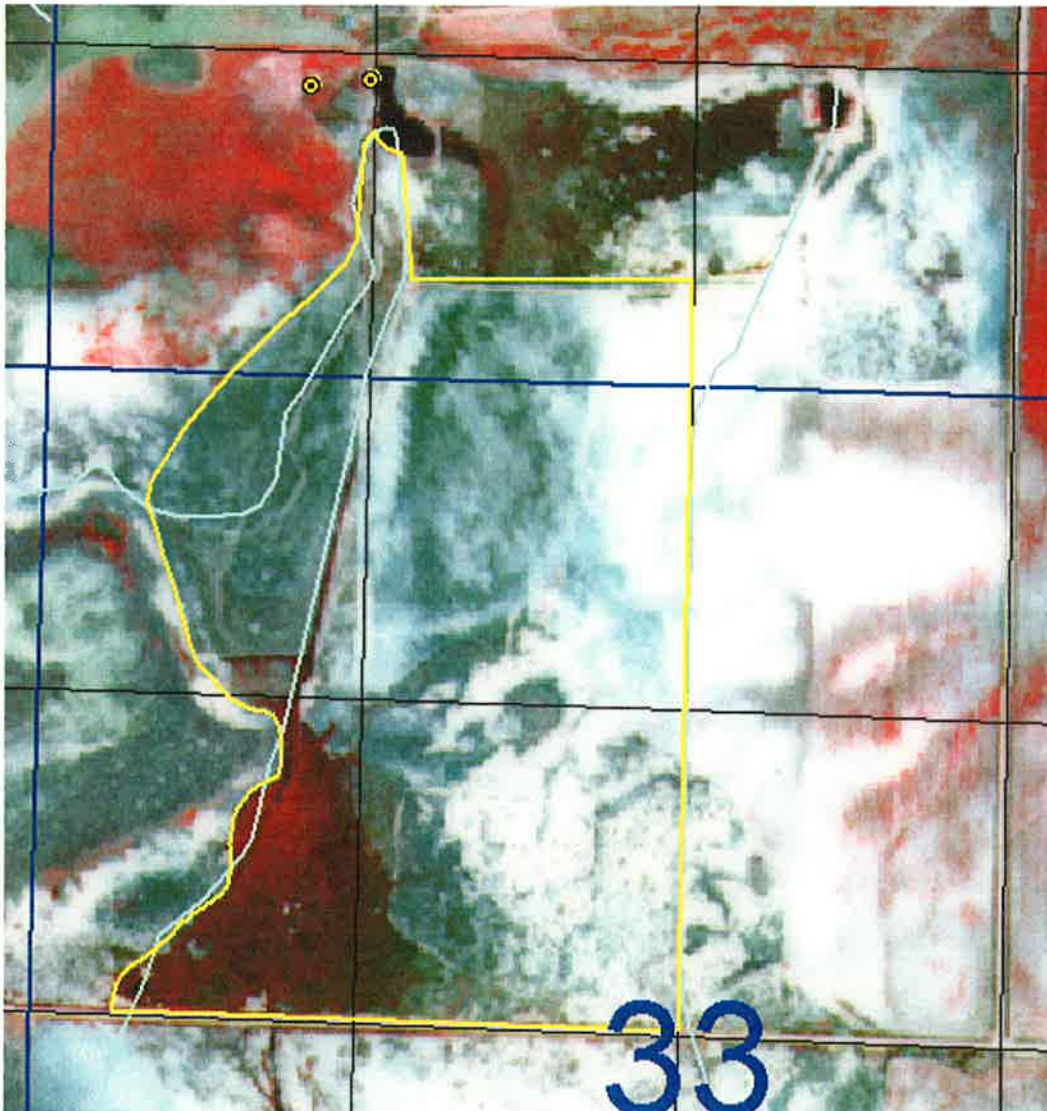




Photo near POD taken during field exam.



Photo near POD taken during field exam.



Photo near POD taken during field exam.

Notes

T1S R11E Sections 28 & 33

- Found 138 acres
- Diversion rate: 0.67 cfs was measured during the field exam. The exam was late in the year (9/12/06) so the measurement was probably represents the approximate minimum discharge in a good water year. The width and depth of the channel where the measurement was taken suggests that the delivery system could handle a discharge of 2.76 cfs. A velocity of 0.6 cfs at all the measurement points (almost three times the measured amount) would result in a discharge of 3.0 cfs. Since there is no evidence that 2.76 cfs cannot be achieved, decided to recommend 2.76 cfs (0.02 cfs/acre).
- Recommendation:
 - Source is Spring tributary to Unnamed Stream
 - Evidence of priority from Emma Bennett: 4/20/1928
 - 2.76 cfs for Irrigation of 138 acres.
- Data used for review: 1987, 1992, & 2004 aerial photos, Camas Co Tax Records, Idaho Ownership (idown.shp), & USGS 1:24,000 Topo

File No.

37- 04343 = 4359

Pat & Vickie Bennett
P> O. Box 120
Malcomson Rd.
Hill City, Id

9/12/06

I went up to see Pat this morning about these rights , we went into his house , we took the color photo and he marked upon this photo the area which each POD is applied and where each POD is located there are three springs providing this water # 1 is a separate spring and #2 & 3 are both just a few feet apart into the pond . I ask Pat how this water is used upon the area he marked and said it is all sub [flood-my opinion] irrigated from the ponds all across his property, I saw no irrigation ditches , and I ask Pat where are the ditches and he told me there is none the water just subs from the ponds across his land , and as I walked around his place it looks so flat in this valley I could see why it sub irrigates.

Pat told me that his Mother passed away just shortly and the property is his and his wife's Vickie so I gave him a Change of ownership form and told him to send it in to IDWR [Steve] . Pat told me that the lands I marked are under CRP and the other is sub irrigated pasture this time of the year all of the lands are dry due to the shortage of water. Pat went out with me to GPS the three locations then I went by myself out and tried to measure the three locations but I found that there is little water flowing from each spring at this time of year, Pat told me this spring all three springs were producing a good amount of water. NO. 2 & 3 springs are water from the same pond, no. 3 runs into the pond from 2 . And as I could see these springs are producing just enough water to keep the ponds full.

Description	GPS Name & No.	Position No.	USR No.	Plate No.	Photo No.
37-4343 spring	Pat 1	2406455	1345315	None	1030315W-316SW
4359 "	" 2	2405866	1345326	"	317S - 318E
" "	" 3	2405790	1345320	"	319S

Lee R. Peterson

Adjudication Claim Notes

Claim(s): 37-4343, 37-4359

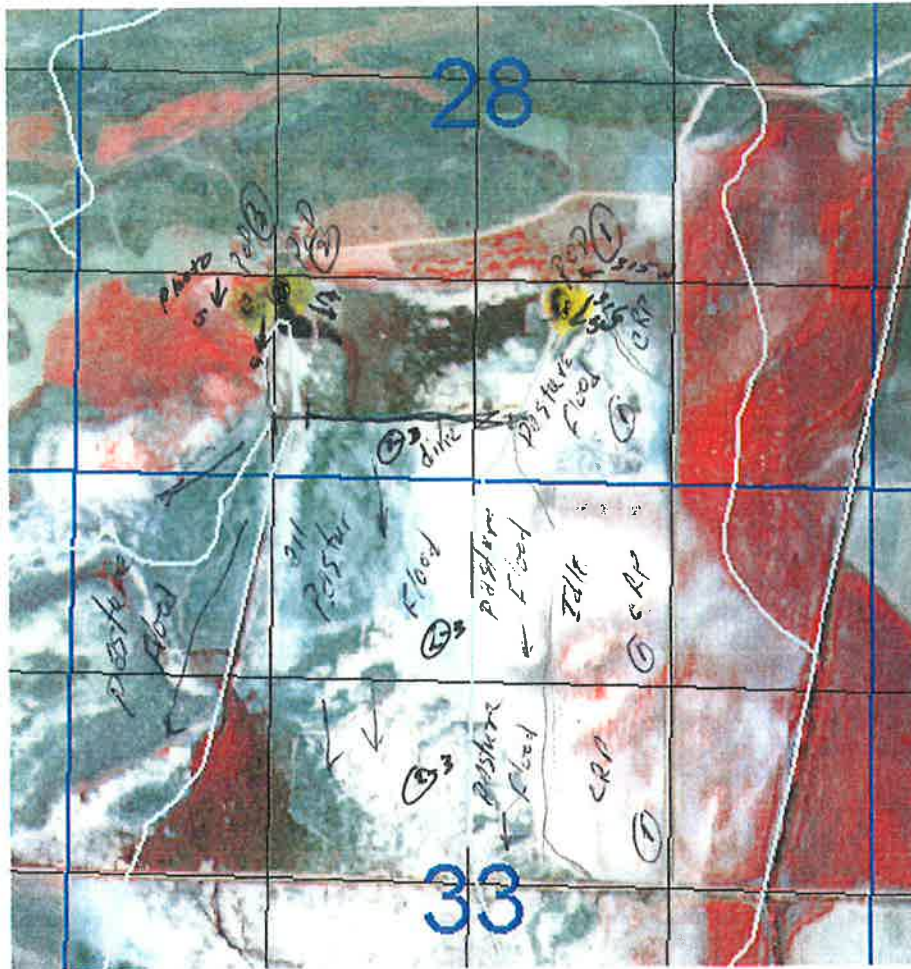
Place Of Use Data

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



Home
Highway 500 Rd
approx 7 mi west
of Hwy 214

To do for field exam:

- 1) Outline POU
- 2) GPS springs
- 3) Outline distribution system
- 4) Measure diversion rates from each spring

37-4343-4359
Water Right No.
(if applicable)

A. GENERAL INFORMATION

1. Name of stream or ditch: Spring Trib. Malad river .92
2. Location: Pod's #1-2-3 (see photo) .93
3. Person conducting measurement: LEE PETERSON .94
4. Date and time of measurement: 9/12/06 10:30A to 12:15P GPS + MED .95
5. Accompanied by: GPS - Pat Bennett MED - no one .96
6. Measuring device size and ID no. 622 Teledyne Gaylor .97
7. Spin test before measurement OK? yes after measurement OK? yes failed .98
8. Purpose of measurement: _____ .99

B. MEASUREMENT DATA

Angle co-efficient	Dist. from initial point	Width	Depth	Observation depth	Revolutions	Time in seconds	VELOCITY		Adjusted for hor. angle or	Area	Discharge
							At point	Mean in vertical			
1-	6"	1.85					.20				1.00
2-	6"	1.80					.20				
3-	6"	1.80					0				
4-	6"	1.80					.20				
5-	6"	1.80					.20				99
											98
1-	6"	2.10					.20				
2-	6"	2.10					0				
3-	6"	1.75					.20				
4-	6"	1.80					0				
											94
1-	6"	.25					0				
2-	6"	.30					.20				
3-	6"	.30					.50				
4	6"	.35					.20				
5	6"	.30					.10				
											92
											90
											85

There was very little water from ea Pod. Pot said @ this time each year water is low

Completed by
Matt Anders
10/12/06

Water Right No.
(if applicable)

Open Channel Discharge Measurement Notes

A. GENERAL INFORMATION

1. Name of stream or ditch: _____ .92
2. Location: _____
3. Person conducting measurement: _____ .94
4. Date and time of measurement: _____
5. Accompanied by: _____ .96
6. Measuring device size and ID no.' _____
7. Spin test before measurement OK? _____ after measurement OK? _____ .97
8. Purpose of measurement: _____ .98

POD 1 = 37-4343

POD 243 = 37-4359

3. MEASUREMENT DATA

→ Width measurements near bowl corrected to make measurement to center of the cell. .99

Angle co-efficient	Dist. from initial point	Width	Depth	Observation depth	Revolutions	Time In seconds	VELOCITY		Adjusted for hor. angle or _____	Area	Discharge
							At point	Mean in vertical			
1		0.75	1.85				0.20				0.28
2		0.5	1.80				0.20				0.18
3		0.5	1.80				φ				φ
4		0.5	1.80				0.20				0.18
5		0.75	1.80				0.20				0.27
									Total		0.91
1		0.75	2.10				0.20				0.32
2		0.5	2.10				φ				φ
3		0.5	1.75				0.20				0.18
4		0.75	1.80				φ				φ
									Total		0.5
1		0.75	0.25				φ				φ
2		0.5	0.30				0.20				0.03
3		0.5	0.30				0.50				0.08
4		0.5	0.35				0.20				0.04
5		0.75	0.30				0.10				0.02
									Total		0.17

State of Idaho
Department of Water Resources
1341 Fillmore St., Suite 200
Twin Falls, ID. 83301-3380

RECEIVED
MAY 20 2005
Department of Water Resources
Southern Region

RECEIVED
MAY 23 2005
DEPARTMENT OF
WATER RESOURCES

April 29, 2005

Water Right No. 37-4343
Water Right No. 37-4359

Attn: Douglas Jones, P.E.
Water Rights Supervisor

The springs were used to raise livestock and poultry, irrigate crops and for domestic consumption for as long as I can remember. They were being used for these purposes before I was born on April 20, 1918 on land, homesteaded of my father, Nels Malcomson, dated 1902, and his brother, Axel Malcomson, 1907, now owned and operated by my son, Pat Bennett and family.

Sincerely

Emma Malcomson Bennett

RECEIVED

FILE

RECEIVED

RECEIVED

FILE

RECEIVED

Homesteaded on Camas Prairie

Charles Nelson 1901

Nels Malcomson 1902

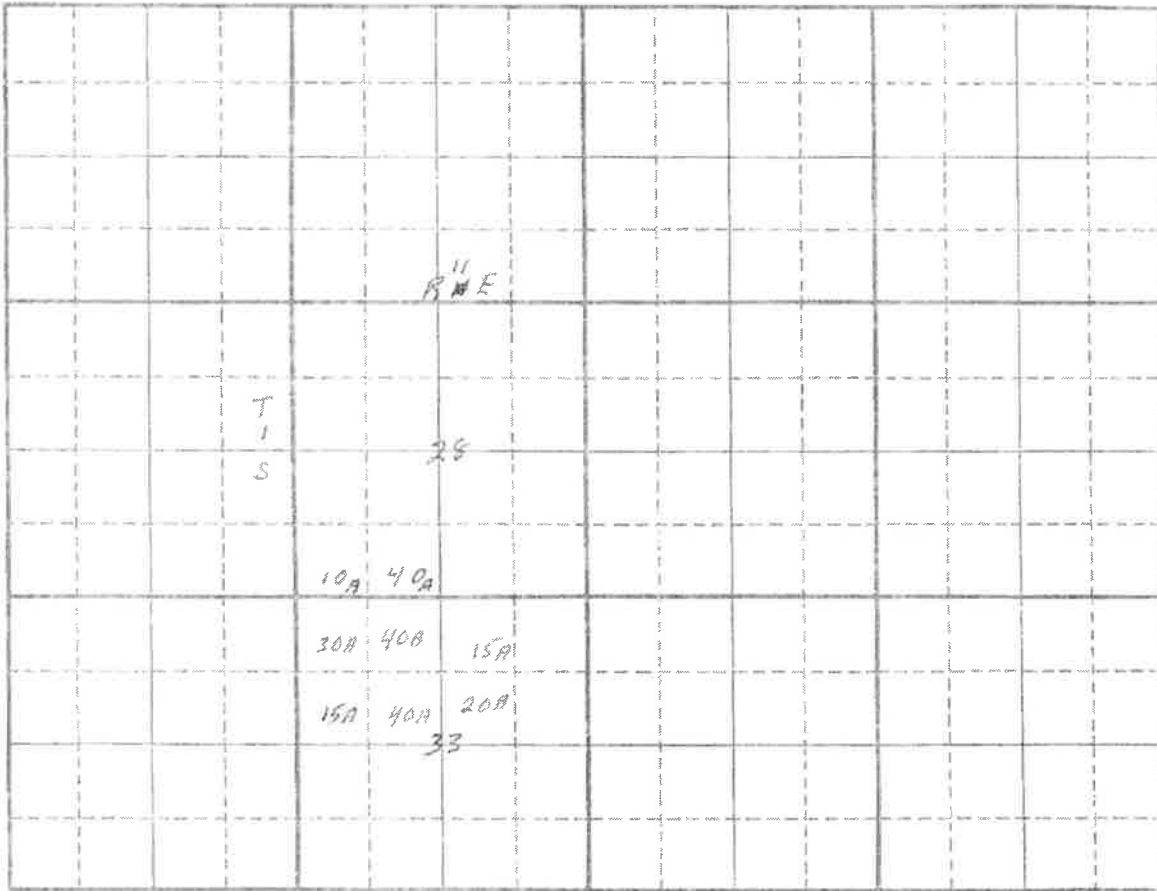
Apel Malcomson 1907

Andrew Malcomson 1908

Hanc Olson 1909

(7) If you are claiming water as a member of an organization, list name of organization: _____

28 Rem 674



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Ada) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 14 day of June, 1983.
Emma M. Bennett
(Claimant)

Nancy M. Northway
Notary Public
Residing at Boise

My Commission expires Life

FOR DEPARTMENT USE ONLY

Received by J.B.V. Date 6/14/83 Exception Filed by: _____ Date _____
Filing mark by J.B.V. Date 6/27/83
\$7000 fee received by J.B.V. Date 6/14/83 # 31008
Printed in Idaho Boise
Filed 6/14/83



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