

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 37-4394
Date Received: 12/2/88
Receipt No:
Received By:

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

1. Name of Claimant(s)

LAVA LAKE LAND & LIVESTOCK LLC
3527 WASHINGTON ST
SAN FRANCISCO CA 94118

Phone: (415) 922-5378

2. Date of Priority: 11/06/1913

3. Source: UNNAMED STREAM Trib. to: FISH CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County
03N	23E	32	NE NW SW	BLAINE

5. Description of diverting works:

GRAVITY SPRINKLERS, PIPELINE FROM STREAM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	5/01	10/15	0.4	

7. Total Quantity Appropriated is:
0.4 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
03N	23E	32	NW	SW	IRRIGATION	20
					Section Acres	20
					Total Acres	20

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:

14. Remarks:

12/19/00 tf; Ownership changed Biskay Land & Livestock to Lava Lake Land & Livestock per 1409(6) and warranty deed received 7/21/00.

15. Basis of Claim: Statutory Claim

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

RECEIVED
JUL 21 2000
Department of Water Resources
Southern Region

Please print or type. Attach pages with additional information. Instructions are on the back of this page.

Incomplete forms will be returned.

37-00745, 37-00746, 37-02123, 37-04392, 37-04393, 37-04394,
A37-00745, A37-00746, A37-02123, A37-04392, A37-04393,

1. Water Right Number(s) A37-04394, together with all rights appurtenant to lands
described on attached deed.

Adjudication Claim Number(s) _____

2. The following **REQUIRED** information must be submitted with this form.

A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE, or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.

AND

B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually on file with the county.)

OR

C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency (formerly ASCS) AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and Address of Former Owner/Claimant(s) Biskay Land & Livestock Co. Inc.

2400 Cherry Lane, Boise, ID 83705

4. New Owner/Claimant(s) Lava Lake Land & Livestock, L.L.C.

Name connector (Check one): ☐ AND, ☐ OR, ☐ AND/OR

New Mailing Address 3527 Washington Street

City, State and ZIP Code San Francisco, CA 94118

New Telephone Number (415) 922 - 5378

5. Date you acquired the property May 31, 2000

6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.

Number of acres actually irrigated _____ Number and type of stock _____

Diversion rate in CFS _____ Number of homes _____ Other uses _____
cubic feet per second

If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

Lava Lake Land & Livestock, L.L.C., by:

7. Signature of New Owner/Claimant(s) X/ Dennis Bean, Trustee Date 6-2-2000

X/ Kathleen Bean, Trustee Date 6-2-2000

Trustees of the Bean-Tedrow Family Trust U/D/T Dated March 15, 1996,
as Managers
(Corporations or other organizations must submit list of directors/officers demonstrating authority to sign form.)

8. For Snake River Basin Adjudication Claims: If you are represented by an attorney and you want IDWR to correspond directly with your attorney for all matters related to your claims, please attach a Notice of Appearance completed by your attorney.



ARTICLES OF ORGANIZATION LIMITED LIABILITY COMPANY

(Instructions on back of application)

FILED

99 JUN 10 AM 9:04

1. The name of the limited liability company is: LAVA LAKE LAND & LIVESTOCK, L.L.C.

STATE OF IDAHO

2. The address of the initial registered office is: 1231 Main Street
(not a PO Box)

Challis, Idaho 83226

and the name of the initial registered agent at that address is: James R. Bennetts

Signature of registered agent:

James R. Bennetts

3. Is management of the limited liability company vested in a manager or managers?

☒ Yes

☐ No

(check appropriate box)

4. If management is vested in one or more manager(s), list the name(s) and address(es) of at least one initial manager. If management is vested in the members, list the name(s) and address(es) of at least one initial member.

Name:

Address:

Brian S. Bean and Kathleen T.

3527 Washington Street

Bean, Trustees of the Bean-

San Francisco CA 94118

Tedrow Family Trust U/D/T

dated March 15, 1996

5. Signature of at least one person listed in #4 above:

Brian S. Bean
Kathleen T. Bean

IDAHO SECRETARY OF STATE
Secretary of State use only

06/10/1999 09:00
CR: 1949 CT: 116618 DR: 224375

1 @ 100.00 = 100.00 ORGAN LLC U 2

Stamp: ORGAN LLC U 2

W 8959

CORPORATE WARRANTY DEED

1. Conveyance of Real Property. For value received, **BISKAY LAND & LIVESTOCK CO.**, an Idaho corporation, by and through its President Pete T. Cenarrusa, with its principal office at 2400 Cherry Lane, Boise, Idaho ("Grantor") hereby **GRANTS, BARGAINS, SELLS, AND CONVEYS** to **LAVA LAKE LAND & LIVESTOCK, L.L.C.**, an Idaho limited liability company, with its principal office at 3527 Washington Street, San Francisco, California 94118 ("Grantee") the real property located in Blaine County, State of Idaho and further described on Exhibit A attached ("Real Property"), **TO HAVE AND TO HOLD** the Real Property and the appurtenances to the Real Property unto the Grantee and the Grantee's heirs and assigns forever.

2. Representations and Covenants of the Grantor. The Grantor represents to and covenants with the Grantee as follows:

- A. The Grantor is the owner in fee simple of the Real Property.
- B. The Real Property is free from all encumbrances, subject to and except for (i) the encumbrances described on Exhibit B attached, (ii) encumbrances made, suffered, or done by the Grantee, and (iii) general taxes and assessments (including irrigation and utility assessments, if any) for the current year which are not yet due and payable.
- C. The Grantor will warrant and defend the quiet enjoyment of the Real Property from all lawful claims, to the extent of the warranties contained in this Deed.
- D. The Grantor will give such assurances and perform such acts as may be necessary to perfect or confirm the title conveyed by this Deed.

3. Certification of Authorization. The officer who signs this Deed certifies that the Deed and the transfer represented by the Deed were duly authorized by the Board of Directors in accordance with the Bylaws and Articles of the Grantor and the laws applicable to the Grantor.

GRANTOR

Dated: May 31, 2000

BISKAY LAND & LIVESTOCK CO.

ATTEST:

Freda Cenarrusa
Freda Cenarrusa, Secretary

By: Pete T. Cenarrusa
Pete T. Cenarrusa, President

STATE OF IDAHO)

County of Adair) ss

On this 31st day of May, 2000, before me, a notary public in and for the State of Idaho, personally appeared Pete T. Cenarrusa and Freda Cenarrusa, known or identified to me to be the President and Secretary of Biskay Land & Livestock Co., the corporation that executed the instrument or the persons who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

Lee B. Dillon
NOTARY
Notary Public for Idaho
Residing at 2150 W. 12th St.
Commission Expires 12/05

CORPORATE WARRANTY DEED - 2

May 30, 2000

SCHEDULE A

Order Number: 00009476

LEGAL DESCRIPTION

TOWNSHIP 2 NORTH, RANGE 22 EAST, BOISE MERIDIAN, BLAINE COUNTY, IDAHO

SECTION 24: S1/2N1/2, N1/2S1/2, SW1/4SW1/4, SE1/4SE1/4

SECTION 25: NE1/4NE1/4

TOWNSHIP 2 NORTH, RANGE 23 EAST, BOISE MERIDIAN, BLAINE COUNTY, IDAHO

SECTION 3: SE1/4, SE1/4SW1/4

SECTION 4: NW1/4NW1/4, S1/2NW1/4, SW1/4, W1/2SE1/4

SECTION 5: NE1/4NE1/4, W1/2E1/2, E1/2W1/2, W1/2SW1/4, NW1/4NW1/4

SECTION 6: E1/2SE1/4, NW1/4NE1/4, E1/2NE1/4, SW1/4NE1/4

EXCEPTING THEREFROM THE FOLLOWING TWO PARCELS:

PARCEL I:

TOWNSHIP 2 NORTH, RANGE 23 EAST, BOISE MERIDIAN, BLAINE COUNTY, IDAHO

SECTIONS 5 & 6: A parcel of land lying within said sections, more particularly described as follows:

BEGINNING at the Northwest corner of said Section 5, thence S. 29°32'35" E., 739.27 feet to the REAL POINT OF BEGINNING, said point also lies S. 74°6'52" W., 2,363.72 feet from the North quarter corner of Section 5; thence S. 21°44'44" E., 595.45 feet; thence S. 81°51'10" W., 591.09 feet; thence S. 57°35'00" W., 322.18 feet; thence N. 3°42'29" W., 494.31 feet; thence N. 69°9'28" E., 156.51 feet; thence N. 58°46'7" E., 247.78 feet; thence N. 68°39'8" E., 264.18 feet; thence N. 60°46'38" E., 73.67 feet to the REAL POINT OF BEGINNING.

PARCEL II:

SECTION 6: A parcel of land lying within said section, more particularly described as follows:

BEGINNING at a point on the North and South centerline of Section 6, Township 2 North, Range 23 E.B.M., S. 0°05'W., 1996.6 feet from the North 1/4 Corner of said Section. Running thence N. 31°21' E., 379.9 feet; thence N. 70°40' E., 431.9 feet; thence N. 39°16' E., 248.3 feet; thence N. 32°46' E., 38.9 feet more or less to the intersection of the North line of the SE1/4NE1/4 of Section 6; thence S. 89°57' W., 791.9 feet along said line to the centerline of said Section; thence S. 0°05' W., 682.6 feet along said centerline to the POINT OF BEGINNING. (Shown as Tax Lot 1135 on the Blaine County Assessor's tax rolls.)

Continued on next page

EXHIBIT 'A'

(End of excepted property)

TOWNSHIP 2 NORTH RANGE 23 EAST, BOISE MERIDIAN, BLAINE COUNTY, IDAHO

SECTIONS 5 & 6: A parcel of land lying within said sections, more particularly described as follows:

BEGINNING at the Northwest corner of said Section 5, thence S. 29°32'35" E., 739.27 feet to the REAL POINT OF BEGINNING, said point also lies S. 74°6'52" W., 2,363.72 feet from the North quarter corner of Section 5; thence S. 21°44'44" E., 595.45 feet; thence S. 81°51'10" W., 591.09 feet; thence S. 57°35'00" W., 322.18 feet; thence N. 3°42'29" W., 494.31 feet; thence N. 69°9'28" E., 156.51 feet; thence N. 58°46'7" E., 247.78 feet; thence N. 68°39'8" E., 264.18 feet; thence N. 60°46'38" E., 73.67 feet to the REAL POINT OF BEGINNING.

SECTION 9: N1/2NW1/4, W1/2NE1/4, NE1/4SE1/4

SECTION 10: NW1/4NE1/4, N1/2NW1/4, SE1/4NW1/4, SW1/4

SECTION 15: N1/2NW1/4

SECTION 17: W1/2W1/2

SECTION 18: S1/2SE1/4

SECTION 19: E1/2, NE1/4NW1/4, E1/2SW1/4, Lot 3, Lot 4

SECTION 20: NW1/4NW1/4, SW1/4, W1/2SE1/4

SECTION 28: N1/2SW1/4, SE1/4SW1/4

SECTION 29: N1/2NW1/4

SECTION 30: N1/2NE1/4, NE1/4NW1/4, Lot 1

SECTION 33: NE1/4NW1/4

TOWNSHIP 3 NORTH, RANGE 23 EAST, BOISE MERIDIAN, BLAINE COUNTY, IDAHO

SECTION 27: SW1/4NW1/4, SW1/4

SECTION 28: S1/2N1/2, S1/2

SECTION 29: SW1/4, S1/2NW1/4, W1/2SE1/4, SW1/4NE1/4, SE1/4NE1/4, E1/2SE1/4

SECTION 30: SE1/4, SE1/4NE1/4

SECTION 31: ALL

Continued on next page

Continuation of Schedule A - Legal Description
Order Number: 00009476

SECTION 32: W1/2, W1/2SE1/4, NE1/4SE1/4, SE1/4NE1/4, NW1/4NE1/4, SE1/4SE1/4, NE1/4NE1/4

SECTION 33: SW1/4NW1/4, SW1/4SW1/4, NE1/4, E1/2NW1/4, NW1/4NW1/4

SECTION 34: NW1/4

TOWNSHIP 3 NORTH, RANGE 22 EAST, BOISE MERIDIAN, BUTTE COUNTY, IDAHO

SECTION 24: NW1/4SE1/4

TOWNSHIP 3 NORTH, RANGE 23 EAST, BOISE MERIDIAN, BUTTE COUNTY, IDAHO

SECTION 19: Lot 2, SE1/4NW1/4

TOWNSHIP 3 NORTH, RANGE 22 EAST, BOISE MERIDIAN, CUSTER COUNTY, IDAHO

SECTION 23: NW1/4SE1/4

13. Exceptions and reservations in that certain Patent Deed from the UNITED STATES to ROY EUGENE BRYAN, recorded April 20, 1922 as Instrument No. 50232 in Book 99 of Patents, page 423, records of Blaine County, Idaho which states: "Excepting and reserving, however, to the United States all the coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same pursuant to the provisions and limitations of the Act of December 29, 1916 (39 Stat., 862)."
14. Exceptions and reservations in that certain Patent Deed from the UNITED STATES to LEVAUR P. COATES, recorded December 20, 1983 as Instrument No. 78147 in Book 129 of Patents, page 395, records of Blaine County, Idaho which states: "Excepting and reserving, however, to the United States all the coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same pursuant to the provisions and limitations of the Act of December 29, 1916 (39 Stat., 862)."
15. Exceptions and reservations in that certain Patent Deed from the UNITED STATES to FRANK B. VENABLE, recorded November 17, 1949 as Instrument No. 96442 in Book 129 of Patents, page 605, records of Blaine County, Idaho which states: "Excepting and reserving, however, to the United States all the coal and other minerals in the lands so entered and patented, together with the right to centerline of power transmission lines in new subdivisions", recorded March 5, 1996, as Instrument No. 387653, records of Blaine County, Idaho.

035924

CORPORATE WARRANTY DEED

JUN 5 2000

12:00
BUTTE COUNTY RECORDER
Dayla Womack

1. Conveyance of Real Property. For value received, **BISKAY LAND & LIVESTOCK CO.**, an Idaho corporation, by and through its President Pete T. Cenarrusa, with its principal office at 2400 Cherry Lane, Boise, Idaho ("Grantor") hereby **GRANTS, BARGAINS, SELLS, AND CONVEYS** to **LAVA LAKE LAND & LIVESTOCK, L.L.C.**, an Idaho limited liability company, with its principal office at 3527 Washington Street, San Francisco, California 94118 ("Grantee") the real property located in Butte County, State of Idaho and further described on Exhibit A attached ("Real Property"), **TO HAVE AND TO HOLD** the Real Property and the appurtenances to the Real Property unto the Grantee and the Grantee's heirs and assigns forever.

2. Representations and Covenants of the Grantor. The Grantor represents to and covenants with the Grantee as follows:

- A. The Grantor is the owner in fee simple of the Real Property.
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- C. The Grantor will warrant and defend the quiet enjoyment of the Real Property from all lawful claims, to the extent of the warranties contained in this Deed.
- D. The Grantor will give such assurances and perform such acts as may be necessary to perfect or confirm the title conveyed by this Deed.

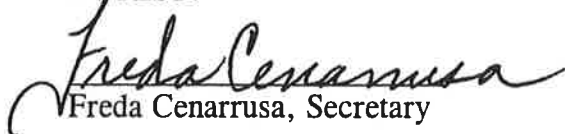
3. Certification of Authorization. The officer who signs this Deed certifies that the Deed and the transfer represented by the Deed were duly authorized by the Board of Directors in accordance with the Bylaws and Articles of the Grantor and the laws applicable to the Grantor.

GRANTOR

Dated: May 31, 2000

BISKAY LAND & LIVESTOCK CO.

ATTEST:

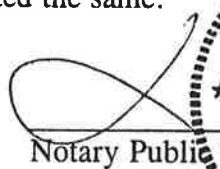

Freda Cenarrusa, Secretary

By: 
Pete T. Cenarrusa, President

STATE OF IDAHO)

County of Adair) ss

On this 31st day of May, 2000, before me, a notary public in and for the State of Idaho, personally appeared Pete T. Cenarrusa and Freda Cenarrusa, known or identified to me to be the President and Secretary of Biskay Land & Livestock Co., the corporation that executed the instrument or the persons who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.


Notary Public for Idaho
Residing at _____
Commission Expires 12/12/03

LEE B. DILLON
NOTARY
PUBLIC
STATE OF IDAHO

TOWNSHIP 3 NORTH, RANGE 22 EAST, BOISE MERIDIAN, BUTTE COUNTY, IDAHO

SECTION 24: NW1/4SE1/4

TOWNSHIP 3 NORTH, RANGE 23 EAST, BOISE MERIDIAN, BUTTE COUNTY, IDAHO

SECTION 19: Lot 2, SE1/4NW1/4

EXHIBIT A

CORPORATE WARRANTY DEED

1. Conveyance of Real Property. For value received, **BISKAY LAND & LIVESTOCK CO.**, an Idaho corporation, by and through its President Pete T. Cenarrusa, with its principal office at 2400 Cherry Lane, Boise, Idaho ("Grantor") hereby **GRANTS, BARGAINS, SELLS, AND CONVEYS** to **LAVA LAKE LAND & LIVESTOCK, L.L.C.**, an Idaho limited liability company, with its principal office at 3527 Washington Street, San Francisco, California 94118 ("Grantee") the real property located in Custer County, State of Idaho and further described on Exhibit A attached ("Real Property"), **TO HAVE AND TO HOLD** the Real Property and the appurtenances to the Real Property unto the Grantee and the Grantee's heirs and assigns forever.

2. Representations and Covenants of the Grantor. The Grantor represents to and covenants with the Grantee as follows:

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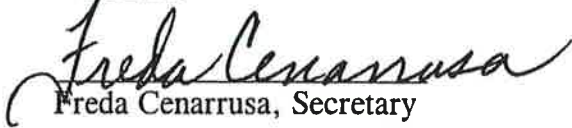
221094
Custer County Req. of Blaine County Title
Time 12:02 PM Date 6/5/00
Ethel M. Peck, Clerk Janet Langis 12:00
Deputy

GRANTOR

Dated: May 31, 2000

BISKAY LAND & LIVESTOCK CO.

ATTEST:

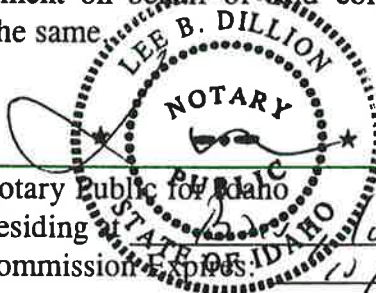

Freda Cenarrusa, Secretary

By: 
Pete T. Cenarrusa, President

STATE OF IDAHO)

County of Ad) ss

On this 31st day of May, 2000, before me, a notary public in and for the State of Idaho, personally appeared Pete T. Cenarrusa and Freda Cenarrusa, known or identified to me to be the President and Secretary of Biskay Land & Livestock Co., the corporation that executed the instrument or the persons who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.


Notary Public for Idaho
Residing in Idaho
Commission Expires 12/12/03

TOWNSHIP 3 NORTH, RANGE 22 EAST, BOISE MERIDIAN, CUSTER COUNTY, IDAHO

SECTION 23: NW1/4SE1/4

EXHIBIT A

EXHIBIT B
ENCUMBRANCES

None

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: A37-04394
Date Received: ~~10/06/1988~~ 12/2/88
Receipt No: COO 3731
Received By: 97

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: BISKAY LAND & LIVESTOCK CO., INC. 208-344-2443
Address: 2400 CHERRY LANE
BOISE, ID 83705

2. Date of Priority: NOV 06, 1913

3. Source: UNNAMED STREAM Trib. to: FISH CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
03N	23E	32	NE	NW	SW		BLAINE

5. Description of diverting works:
GRAVITY SPRINKLERS, PIPELINE FROM STREAM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	05/01	10/15	0.400		

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

8. Total consumptive use is 50.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
03N	23E	32	NW	SW		IRR	20.0
Section Acres							20.0

10. Place of Use: Continued

Total Acres 20.0

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:
NONE

14. Remarks:

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: 0

For Organizations:

I do solemnly swear or affirm that I am PRESIDENT of
Title

BISKAY LAND & LIVESTOCK CO., that I have signed the foregoing
Organization
document in the space below as PRESIDENT of
Title

BISKAY LAND & LIVESTOCK CO. and that the statements contained in the
Organization
foregoing document are true and correct.

[Signature]
Signature of Authorized Agent

President
Title and Organization

12-2-88
Date

COPY

MICROFILMED
FEB 24 1993

State of Idaho)
County of ADA) SS.

Subscribed and sworn (or affirmed) before me this 2ND day
of DECEMBER 19 88

Jeff Pappas
Notary Public

Seal

Residing at BOISE, IDAHO

My Commission Expires 11/8/1994

COPY

MICROFILMED
FEB 24 1993

Adjudication Claim Notes

Claim(s): 37-4394

Background Data

- Statutory Claim
- Source is Unnamed Stream tributary to Fish Creek
- Claimed for 0.4 cfs on 20 acres with priority date of 11/6/1913

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





Photograph of POD taken by Lee Peterson during field exam.

Location: 2520259 1371981

Plate: A0016275

Photo #: 1060666

Notes

T2N R23E Section 6; T3N R23E Section 32

- Found 20 acres
- The major decree on Fish Creek and its tributaries was Petterson vs. Potter Dec 16, 1916. The latest priority date in this decree is June 1, 1910. Lee Abbot, Charles Ralls, and McClure, owners mentioned in the evidence of priority affidavits are not included in this decree.
- Evidence of Priority: Pete Cenarussa submitted an affidavit stating he remembers as a young boy in the summer of 1926 that this land was irrigated when he visited the Charles Ralls homestead. Robert Coates submitted affidavit stating he was born in 1921 lived at his grandfather's homestead in the area until 1926. He remembers his father haying this ground for the owner Mr McClure. Recommend 12/31/1926.
- 11/06 unable to conduct field exam to measure diversion rate because of too much snow.
- 1987 aerial photo does not indicate irrigation of POU. Based on evidence of priority submitted and a ditch/pipe distribution system observed during 2005 field exam, I decided to recommend claim at 0.02 cfs/acre as claimed.
- Data used for review: 1987, 1992, & 2004 aerial photos, Blaine Co Tax Records, Idaho Ownership (idown.shp), & USGS 1:24,000 Topo

Lava Lake Land & Livestock, L.L.C.

P O Box 2249
Halev Idaho 83333
Te 208-786-1264
Fax 208-786-1264

Facsimile Transmission

To: <u>Matt Anders</u>	From: <u>Ching Bennett</u>
On: _____	Pages: <u>3</u> (including cover)
Fax: <u>287-6701</u>	Date: <u>12/5/05</u>
Rec: _____	CC: _____

I emailed you too

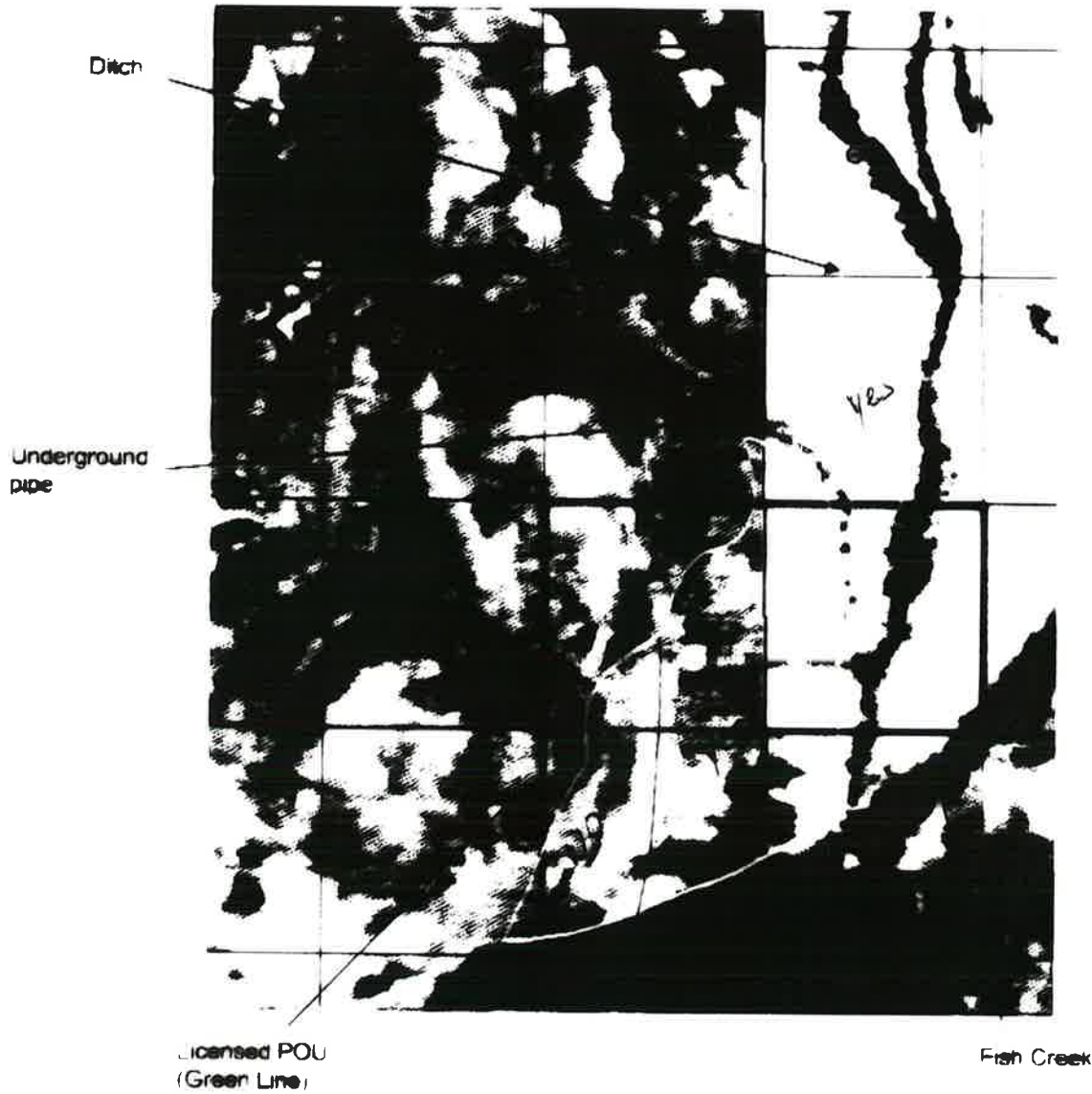
Call us any 7 comments

CB

Upper F.L.

T2N R23E Sections 5 & 6, T3N R23E Sections 31 & 32

1987 Aerial Photo



T2N R23E Section 6, T3N R23E Section 32

1987 Aerial Photo



Fish Creek

Lava Lake Land & Livestock, L.L.C.

P.O. Box 2249
Hailey, Idaho 83333
Tel : 208-788-1710
Fax : 208-788-1264

TO: Kelly Christensen DATE: July 15, 2005
FROM: Cheryl Bennett  RE: Priority Water Right
Dates

Please find enclosed affidavits from Mr. Nick Purdy, Mr. Pete Cenarrusa, Mr. Bob Coates, and Mr. Jim Peterson, Sr., regarding priority water right dates for water rights now listed for Lava Lake Land & Livestock, LLC and Muldoon Grazing Association. If you have any questions or comments, please call me at 208-788-1710. Thank you.

RECEIVED
JUL 19 2005
Department of Water Resources
Southern Region

SCANNED

SEP 13 2005

A circular postmark from Cherry Hill, New Jersey. The text "CHERRY HILL, N.J." is curved along the top inner edge, and "NOV 1964" is curved along the bottom inner edge. A small five-pointed star is located at the bottom center of the circle.

RECEIVED

JUL 19 2005

Department of Water Resources
Southern Region

First being sworn and deposed, the undersigned states as follows:

1. I am of the age of majority and I have sound recollection. Also, I can state that I have reviewed the above water claim or right as presently filed.
2. This particular water right is from the main Fish Creek North paralleling Walton Creek, North on Walton Canyon. The diversion is on Walton Creek and irrigated the bench.
3. I remember in 1926, as a young boy, that I visited Charles Ralls during the summer and that this water was already being used to irrigate hay and grazing forage. However, based on my knowledge of the area and conversations with others I believe the priority date claimed is accurate and annual use over my lifetime has been consistent. The property was owned at the time by Mr. McClure and there was an established crop of alfalfa which I know was stacked by Robert A. Coates. The area that was irrigated consisted of 20 acres which is parallel to Walton Creek and dirt road going up the area commonly known as Pine Campground.
4. I have attached a notice of claim to water rights from 1988 referencing the above water right.

Dated: 07-06-05

Pete Cenarrusa



SCANNED
SEP 13 2005

On this 6th day of July, 2005, before me, a Notary Public in and for said State, personally appeared PETE CENARRUSA, know to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.

Cheryl R Bennett
Notary Public

My Commission Expires on September 07, 2005

SCANNED

SEP 13 2005

JAMES R. BENNETTS
Attorney at Law
PO Box 36
Challis, Idaho 83226
Phone: 208-879-4488
Fax: 208-879-4248

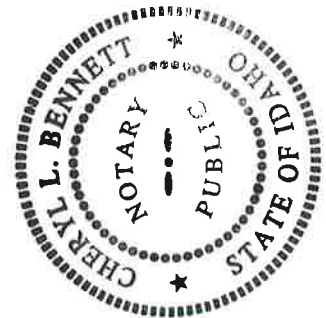
RECEIVED

JUL 19 2005

Department of Water Resources
Southern Region

AFFIDAVIT OF ROBERT ABBOTT COATES
Water Use
Water Right 37-4394

STATE OF IDAHO)
ss:
County of Blaine)



First being sworn and deposed, the undersigned states as follows:

1. I am of the age of majority and I have sound recollection. Also, I can state that I have reviewed the above water claim or right as presently filed.
2. The land this water right is located on was originally homesteaded by the McClure's. My grandfather, Mr. Lee Abbot homesteaded in the vicinity of this property in 1911. My father used to stack and load hay from Mr. McClure's property prior to my birth in 1921. I lived at our original homestead from about 1 month old until I was 5 years old and remember my father haying this ground for Mr. McClure and my father would haul the hay to the East for storage at what is now know as Old Pete's Corral.
3. I grew up with Mr. Pete Cenarrusa and I have read his affidavit regarding this water right and agree with his description of the water right and the dates associated with the filing. Mr. Cenarrusa and I both share the same recollection of the use of the water for irrigation and stock water use.

IN WITNESS WHEREOF, the party hereto has hereunto set his hand and seal the day and year first above written.

Dated: July 13, 2005

Robert Abbott Coates
Robert Abbott Coates

On this 13th day of July, 2005, before me, a Notary Public in and for said State, personally appeared ROBERT ABBOTT COATES, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.

Cheryl L. Bennett
Notary Public
My Commission Expires on Sept 07, 2005

SCANNED

SEP 13 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

Re: Evidence of Priority

RESPONSE DEADLINE
JUNE 17, 2005

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

File No.
A37-02045=4392=4393=4394=2123=745=746

Lava Lake Land & Livestock LLC
35 27 Washington St.

Branch office
Hailey Idaho

8/4/05

San Francisco, Ca

I met with Mike and Cheryl and briefly reviewed the files for Lava Lake and She approved meeting me this morning with their field foreman and ranch foreman to go out to the field to observe the field and POD's for each water right.

W.R.2045= this right was as I seen it could have been for a possible 80 acres give or take in the past , and as their foreman said their plans might be for more but unknown at this date but there is a lot of possible irrigated land here in this ranch if under sprinkler irrigation system. One POD is Cottonwood Cr the other is west of cottonwood , see photo

W.R.4392= the POD's are Fish cr. and Iron mine cr. The land close to # 1 diversion is planned for irrigation sprinkler with a portable pump of approximately 15 to 20 acres . The foreman said the area marked in yellow is a good estimate of their land now flood irrigated with POD 1 . See photo for # 2 which is flood irrigated but may be sprinkled later. This area is listed as 40 acres but is and will be more. Letter or priority will be coming.

W.R.4393= This POD is on Iron Mine Cr as per photo and as the foreman said this yellow area is approx. OK for the area of this right, but the POD is in the wrong place . The creeks marked Fish Cr. And Iron mine is OK , and the yellow area is flood irrigated, this area is probably about 33 acres.

W.R.4394= See photo red and brown # POD is flood irrigation but is planned for sprinkler , see ditch and proposed pipe. Looking at this land I would estimate it as more than 20 acres as soon as they get it under sprinkler.

W.R.2123= POD's 4-5 the yellow area is short , see photo of flood irrigation and proposed sprinkler irrigation. Area now is flood under # 5 and \$ is underground pipe for sprinkler, I believe this will be a lot more than 50 acres.

W.R. 745-746= All this land is proposed for sprinkler irrigation asap , it has in the past been flooded and what ever possible, this spring the old systems were washed out . I think there are many more than 44 acres as shown. There is new plans for POD'S to replace the ones washed out. There are many acres on west side planned for sprinkler irrigation.

See photo

Description	GPS Name & No.	Position No.	USR No.	Plate No.	Photo No.	
Lava Lake Land	Lava	1	2521679	1372152	A0016273	1060664
" " "	"	2	2521119	1371711	274	665
" " "	"	3	2520259	1371981	275	666
" " "	"	4	2519776	1371792	276	667
" " "	"	5	2520073	1372211	277	668
" " "	"	6	2517710	1365528	278	669
" " "	"	7	2529279	1363845	None	670
" " "	"	8	2529475	1363339	"	671

Lee R. Peterson

Background Data

- Statutory Claim
- Source is Unnamed Stream tributary to Fish Creek
- Claimed for 0.4 cfs on 20 acres

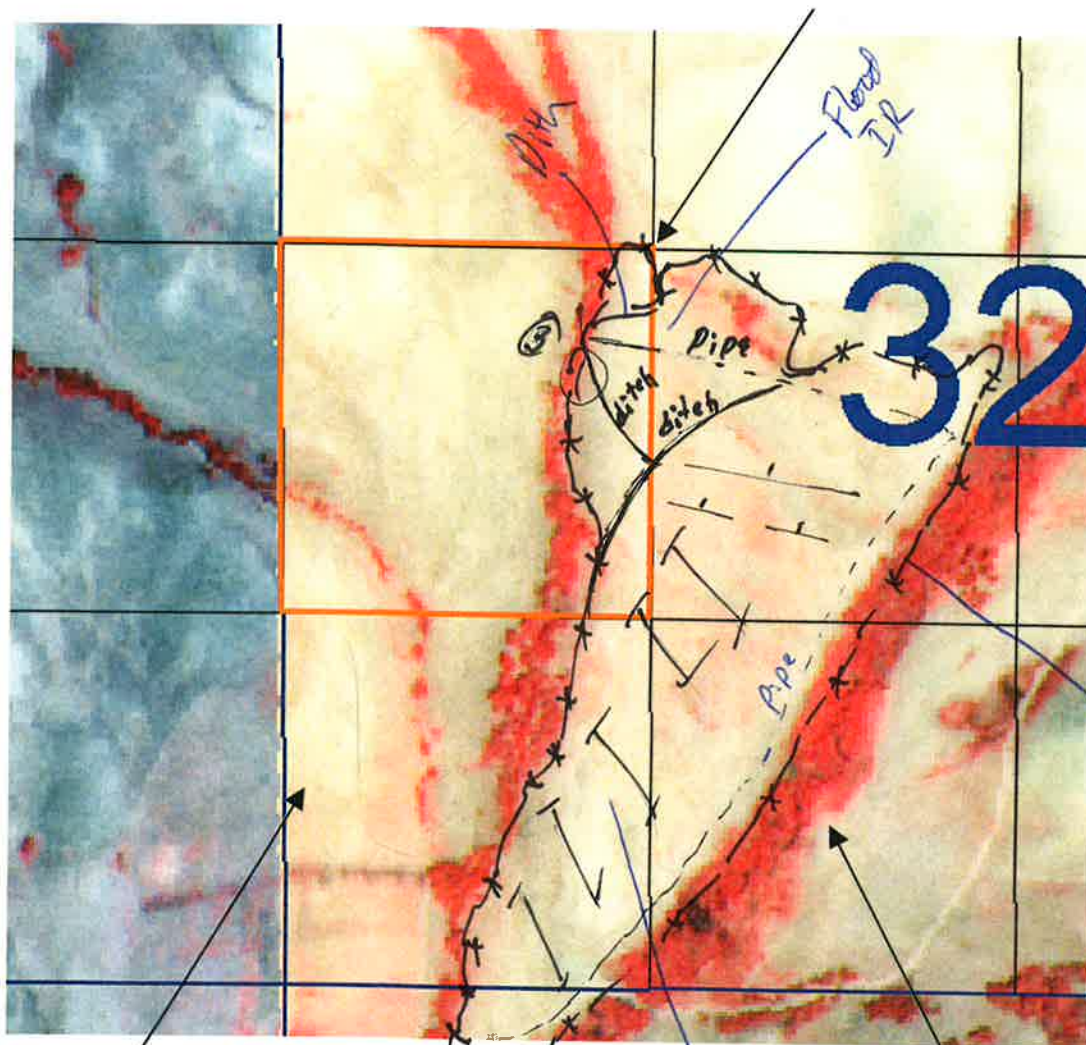
Place Of Use Data

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

20 acres claimed in
this QQ (orange line)

possibly
more



POU for
372113

Fish Creek

Hurd Line
sprinkler

Field Exam by
Lee Peterson

*Fish Creek
Priority Dates*

<u>Basin</u>	<u>Sequence</u>	<u>Suffix</u>	<u>Basis</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Volume(ac)</u>	<u>Source</u>
37	733		Decreed	1883-03-30	0.23		FISH CREEK
37	735		Decreed	1883-03-30	0.23		FISH CREEK
37	737 A		Decreed	1883-03-30	0.7		FISH CREEK
37	737 B		Decreed	1883-03-30	0.7		FISH CREEK
37	738		Decreed	1883-03-30	2		FISH CREEK
37	749 A		Decreed	1883-03-30	2.4		FISH CREEK
37	749 B		Decreed	1883-03-30	0.8		FISH CREEK
37	752		Decreed	1883-03-30	0.23		FISH CREEK
37	756		Decreed	1883-03-30	0.23		FISH CREEK
37	769		Decreed	1883-03-30	3.2		FISH CREEK
37	770 A		Decreed	1883-03-30	1.3		FISH CREEK
37	770 B		Decreed	1883-03-30	1.2		FISH CREEK
37	772		Decreed	1883-03-30	3.2		FISH CREEK
37	780 A		Decreed	1883-03-30	1.6		FISH CREEK
37	780 B		Decreed	1883-03-30	0.8		FISH CREEK
37	781		Decreed	1883-03-30	3.2		FISH CREEK
37	758		Decreed	1884-06-01	2		FISH CREEK EAST F
37	759		Decreed	1884-06-01	0.5		FISH CREEK EAST F
37	1214		Decreed	1884-06-01	0.5		FISH CREEK
37	12192		Decreed	1885-05-01	0.02		FISH CREEK SPRING
37	760		Decreed	1885-06-01	0.8		FISH CREEK
37	761		Decreed	1885-06-01	1		FISH CREEK EAST F
37	1215		Decreed	1885-06-01	1.6		FISH CREEK
37	763		Decreed	1887-06-01	0.8		FISH CREEK
37	764		Decreed	1890-06-01	0.6		FISH CREEK EAST F
37	771		Decreed	1898-06-01	0.1		FISH CREEK
37	777		Decreed	1899-06-30	3.1		FISH CREEK
37	1194		Decreed		15		FISH CREEK
37	1195		Decreed		2		FISH CREEK EAST F
37	1196		Decreed		3		FISH CREEK
37	762		Decreed	6/1/1902	0.4		FISH CREEK EAST F
37	768		Decreed	4/30/1903	2.6		FISH CREEK
37	742		Decreed	5/15/1903	1.6		FISH CREEK
37	767		Decreed	4/30/1904	1		FISH CREEK
37	755		Decreed	5/15/1904	0.4		FISH CREEK
37	782		Decreed	5/18/1904	1.2		FISH CREEK
37	786		Decreed	8/23/1904	1.4		FISH CREEK
37	2009		License	8/30/1904	2.2		FISH CREEK WEST F
37	766		Decreed	4/10/1905	0.8		FISH CREEK WEST F
37	779		Decreed	4/21/1905	1.06		FISH CREEK WEST F
37	783		Decreed	5/15/1905	1.6		FISH CREEK
37	739		Decreed	8/18/1905	2		FISH CREEK
37	740		Decreed	8/18/1905	2.4		FISH CREEK
37	748		Decreed	8/18/1905	1.6		FISH CREEK
37	753		Decreed	8/18/1905	1.8		FISH CREEK
37	773		Decreed	8/18/1905	3.2		FISH CREEK
37	774		Decreed	8/18/1905	2.6		FISH CREEK
37	775		Decreed	8/18/1905	5		FISH CREEK
37	776		Decreed	8/18/1905	5.8		FISH CREEK
37	744		Decreed	9/15/1905	2.6		FISH CREEK
37	741		Decreed	5/15/1906	2		FISH CREEK

37	750	Decreed	6/15/1906	0.8	FISH CREEK
37	751	Decreed	5/1/1907	0.5	FISH CREEK
37	778	Decreed	6/15/1907	2.2	FISH CREEK
37	1178	Decreed	7/25/1907	0.8	FISH CREEK
37	2113	License	5/8/1908	0.8	FISH CREEK
37	754	Decreed	5/15/1908	1	FISH CREEK
37	765	Decreed	5/15/1908	0.2	FISH CREEK
37	747	Decreed	6/1/1908	2.6	FISH CREEK
37	743	Decreed	1/16/1909	3.2	FISH CREEK
37	757	Decreed	1/16/1909	4	FISH CREEK
37	1179	Decreed	1/16/1909	4	FISH CREEK
37	745	Decreed	5/5/1909	0.4	FISH CREEK
37	734	Decreed	4/15/1910	1	FISH CREEK
37	736	Decreed	5/23/1910	2	FISH CREEK
37	1180	Decreed	5/23/1910	1	FISH CREEK
37	1181	Decreed	6/10/1910	1.1	FISH CREEK
37	2195	License	11/13/1910	1.7	FISH CREEK
37	746	Decreed	5/30/1911	0.5	FISH CREEK
37	4392	Statutory C	6/1/1913	0.8	FISH CREEK MIDDLE
37	2272	License	8/14/1913	1.2	FISH CREEK WEST F
37	2371	License	2/14/1918	0.1	FISH CREEK
37	1162	Decreed	11/2/1922		14411 FISH CREEK
37	2768	License	7/3/1924		450 LITTLE FISH CREEK
37	2421	License	7/5/1924	1	LITTLE FISH CREEK
37	2772	License	5/14/1930		400 LITTLE FISH CREEK
37	1163	Decreed	5/1/1933	1.56	FISH CREEK
37	15939	Decreed	6/28/1934	0.02	LITTLE FISH CREEK
37	15952	Decreed	6/28/1934	0.02	LITTLE FISH CREEK
37	15953	Decreed	6/28/1934	0.02	LITTLE FISH CREEK
37	15954	Decreed	6/28/1934	0.02	LITTLE FISH CREEK
37	15955	Decreed	6/28/1934	0.02	LITTLE FISH CREEK
37	15956	Decreed	6/28/1934	0.02	LITTLE FISH CREEK
37	16088	Decreed	6/28/1934	0.02	FISH CREEK WEST F
37	16091	Decreed	6/28/1934	0.02	FISH CREEK WEST F
37	16128	Decreed	6/28/1934	0.02	FISH CREEK WEST F
37	16240	Decreed	6/28/1934	0.02	FISH CREEK
37	16252	Decreed	6/28/1934	0.02	FISH CREEK
37	16914	Decreed	6/28/1934	0.02	FISH CREEK
37	16915	Decreed	6/28/1934	0.02	FISH CREEK
37	17173	Decreed	6/28/1934	0.02	FISH CREEK EAST F
37	17174	Decreed	6/28/1934	0.02	FISH CREEK
37	17179	Decreed	6/28/1934	0.02	FISH CREEK
37	17181	Decreed	6/28/1934	0.02	FISH CREEK
37	10810	Decreed	6/1/1948	0.03	FISH CREEK



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

January 10, 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

LAVA LAKE LAND & LIVESTOCK LLC
3527 WASHINGTON ST
SAN FRANCISCO CA 94118

RE: SRBA Claim(s) A37-00745, A37-00746, A37-02123,
 A37-04392, A37-04393, A37-04394

Dear Claimants:

Pursuant to the change in ownership request that has been submitted to the Department, we have changed the record of current ownership to you. Please find the enclosed copies of the computer record of the claim(s) noting the change in claimant. Review these records and if there is an error, or you have any questions, please contact this office.

Sincerely,

Trish Fawcett
Technical Records Specialist

enc.

BLAINE COUNTY TITLE

July 20, 2000

IDAHO DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301-3380

RECEIVED
JUL 21 2000
Department of Water Resources
Southern Region

Re: Order #00009476

Buyer: Lava Lake Land and Livestock
Seller: Biskay Land and Livestock

To Whom It May Concern:

Please find enclosed an ORIGINAL executed State of Idaho Department of Water Resources, Notice of Change of Water Right Ownership document.

You will also find attached a copy of the Articles of Organization for Lava Lake Land and Livestock as well as copies of all Warranty Deeds associated with the purchase and sale of this property. Three (3) deeds total were recorded in Custer, Butte and Blaine Counties.

An aerial photo will be provided under separate cover.

Should you have any questions or need assistance transferring these rights, please feel free to contact me.

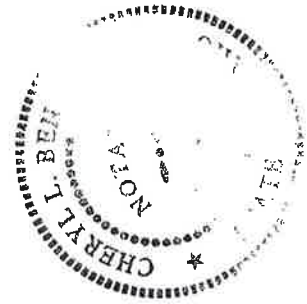
Sincerely,

BLAINE COUNTY TITLE ASSOCIATES



Kathy Seal
Escrow Officer

JAMES R. BENNETTS
Attorney at Law
PO Box 36
Challis, Idaho 83226
Phone: 208-879-4488
Fax: 208-879-4248



AFFIDAVIT OF PETE CENARRUSA
Water Use
Water Right 37-4394

STATE OF IDAHO)

ss:

County of Blaine)

RECEIVED
JUL 19 2005

Department of Water Resources
Southern Region

First being sworn and deposed, the undersigned states as follows:

1. I am of the age of majority and I have sound recollection. Also, I can state that I have reviewed the above water claim or right as presently filed.
2. This particular water right is from the main Fish Creek North paralleling Walton Creek, North on Walton Canyon. The diversion is on Walton Creek and irrigated the bench.
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4. I have attached a notice of claim to water rights from 1988 referencing the above water right.

IN WITNESS WHEREOF, the party hereto has hereunto set his hand and seal the day and year first above written.

Dated: 07-06-05


Pete Cenarrusa



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Cheryl R. Bennett

Notary Public

My Commission Expires on September 07, 2005

JAMES R. BENNETTS

Attorney at Law

PO Box 36

Challis, Idaho 83226

Phone: 208-879-4488

Fax: 208-879-4248

RECEIVED

JUL 19 2005

Department of Water Resources
Southern Region

AFFIDAVIT OF ROBERT ABBOTT COATES

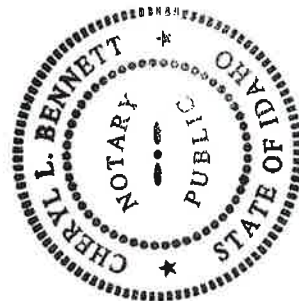
Water Use

Water Right 37-4394

STATE OF IDAHO)

ss:

County of Blaine)



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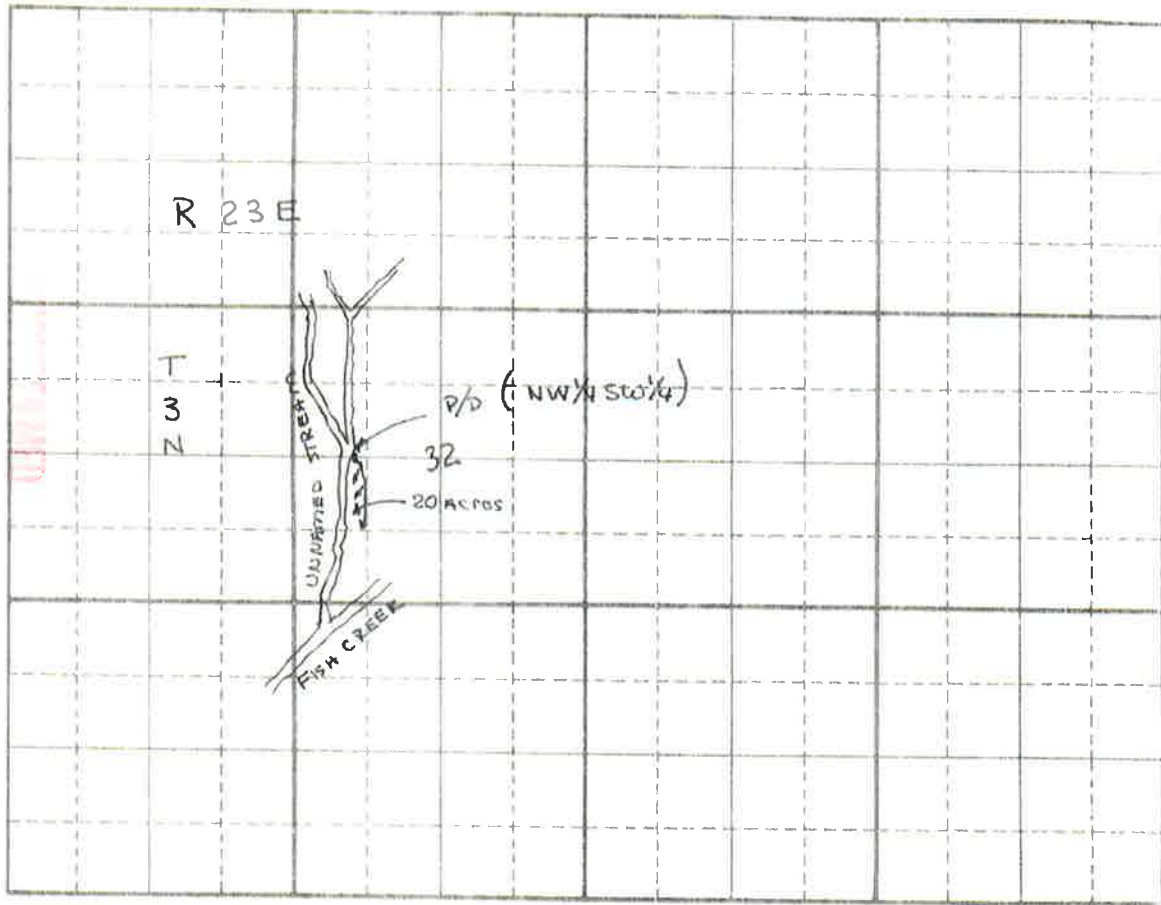
IN WITNESS WHEREOF, the party hereto has hereunto set his hand and seal the day and year first above written.

Dated: July 13, 2005
Robert Abbot CoatesOn this 13th day of July, 2005, before me, a Notary Public in and for said State, personally appeared ROBERT ABBOTT COATES, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.

Notary Public
My Commission Expires on Sept 07, 2005

(8) Remarks



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 Blaine

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 28TH day of JUNE

[Signature]
(Claimant) [Signature]
19 83

Notary Public
Residing at

[Signature]
Boise, IDAHO

My commission expires LIFE

Received by Jim Date 6-28-83
Prelim. check by Jim Date 6-28-83
\$30.00 fee received by Jim Date 6-28-83
Published in Wood River Journal
Dates 9/1 & 9/8/83

FOR DEPARTMENT USE ONLY

Exception filed by:

Forwarded to
claimant by

Date

**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	)	A.	Subcase <u>37-4394</u>
	)		(Insert water right no.)
Case No. 39576	)		
	)		
	)		
	)		
	)		

**STANDARD FORM 1
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Lava Lake Land & Livestock, LLC

Address: PO Box 2249
Hailey ID 83333

Daytime Phone: Attorney's Phone (208) 342-4591

Name & Address of Attorney, if any:
Charles L. Honsinger
Ringert Clark Chartered
P.O. Box 2773
Boise, ID 83701

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

Name: Lava Lake Land & Livestock, LLC

Address: PO Box 2249
Hailey ID 83333

COPY

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: _____
4. ☒ **Priority Date**
Should be: November 6, 1913
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: 4/1 through 11/1
9. ☒ **Place of Use**
Should be: 20 acres in T3N R23E S32 NWSW; 20 Acres total
10. ☐ **I object because:**
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION (S): This water right has been beneficially used as stated above.

**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.: 37-4394

STANDARD FORM 5

**STIPULATED ELEMENTS OF A
WATER RIGHT**

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT / OBJECTOR:

Charles L. Honsinger Date
Attorney for Lava Lake Land & Livestock

IDWR CONCURRENCE:

Kelly K. Christensen June 3, 2011

Kelly K. Christensen Date
Sr. Water Resource Agent

IDWR CONCURRENCE:

Nicholas B. Spencer Date
Deputy Attorney General
Attorney for IDWR

02/25/2011

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

RIGHT NUMBER: 37-4394

NAME AND ADDRESS: LAVA LAKE LAND & LIVESTOCK LLC
PO BOX 2249
HAILEY ID 83333

SOURCE: UNNAMED STREAM

TRIBUTARY: FISH CREEK

QUANTITY: 0.400 CFS

PRIORITY DATE: 12/31/1926

POINT OF
DIVERSION: T03N R23E S32 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	0.400 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T03N R23E S32	NESW	~~13.0~~ <u>15.00</u>	T03N R23E S32	NWSW	~~0.40~~ <u>0.50</u>
T03N R23E S32	SESW	~~6.60~~ <u>4.50</u>			

20 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 - Beneficial Use

CERTIFICATE OF SERVICE

I certify that on _____, 2011, I caused to be served true and correct copies of this Standard Form 5, to the following persons, in the manner indicated and addressed as follows:

1. Original to:

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

☐ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
☐ Facsimile

2. Copies to:

IDWR Document Repository
P.O. Box 83720
Boise, ID 83720-0098

☐ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Charles L. Honsinger
Ringert Law
P.O. Box 2773
Boise, ID 83701-2773

☐ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Signature of person or attorney mailing the form

02/25/2011

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

RIGHT NUMBER: 37-4394

NAME AND ADDRESS: LAVA LAKE LAND & LIVESTOCK LLC
PO BOX 2249
HAILEY ID 83333

VERIFIED BY KKC
2-25-11

SOURCE: UNNAMED STREAM

TRIBUTARY: FISH CREEK

QUANTITY: 0.400 CFS

PRIORITY DATE: 12/31/1926

POINT OF
DIVERSION:

T03N R23E S32 NENWSW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

0.400 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T03N R23E S32

NESW

~~13.0~~ 15.00

T03N R23E S32

NWSW

~~0.40~~ 0.50

T03N R23E S32

SESW

~~6.60~~ 4.50

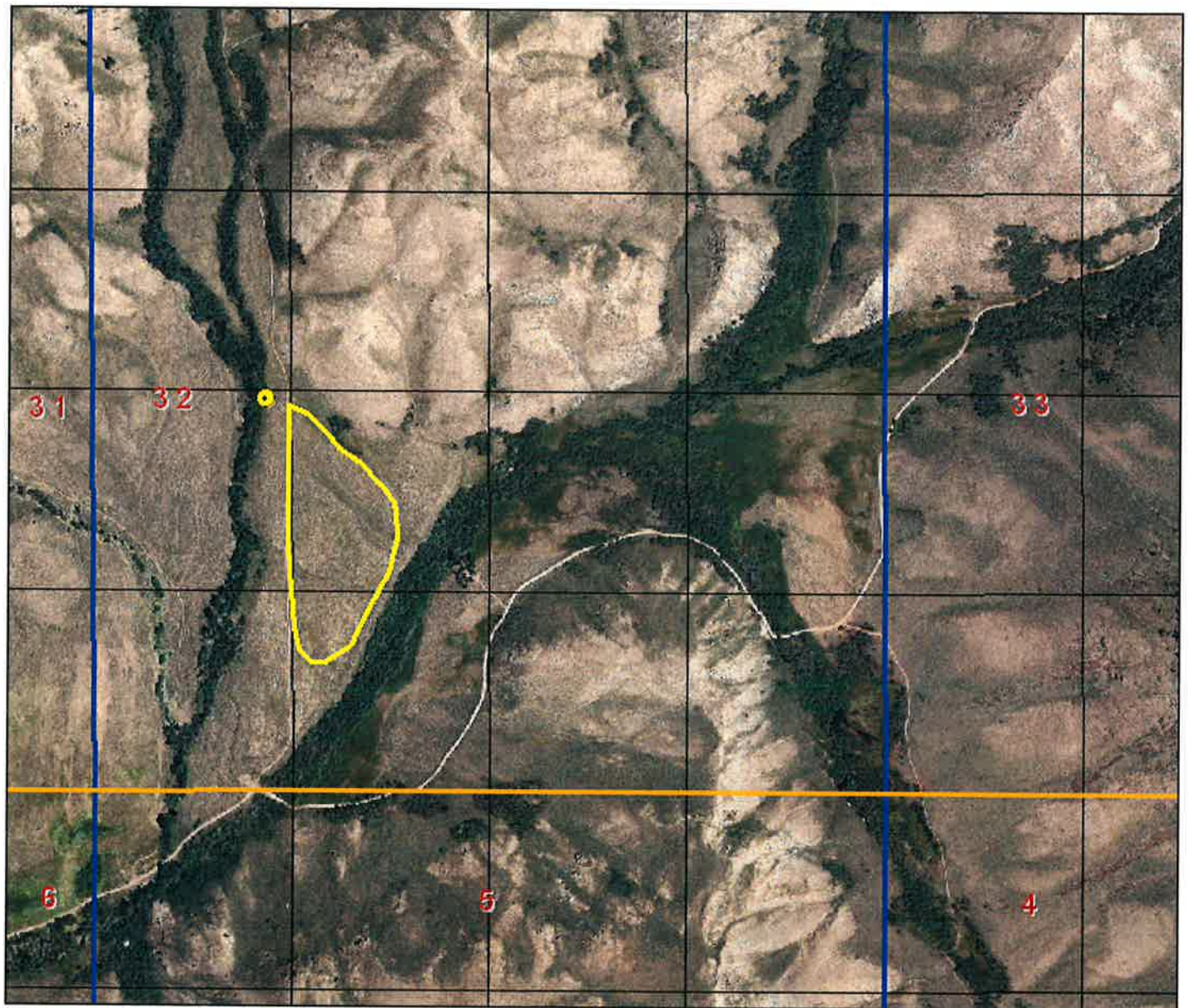
20 ACRES TOTAL

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 - Beneficial Use

RECOMMENDED PLACE OF USE FOR 37-4394



PLACE OF USE
TWP 03N, RNG 23E Sec 32
Data Entry on April 27, 2011

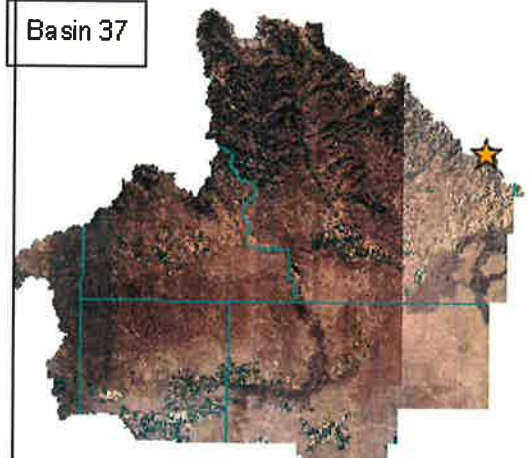
★ LOCATION IN BASIN

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

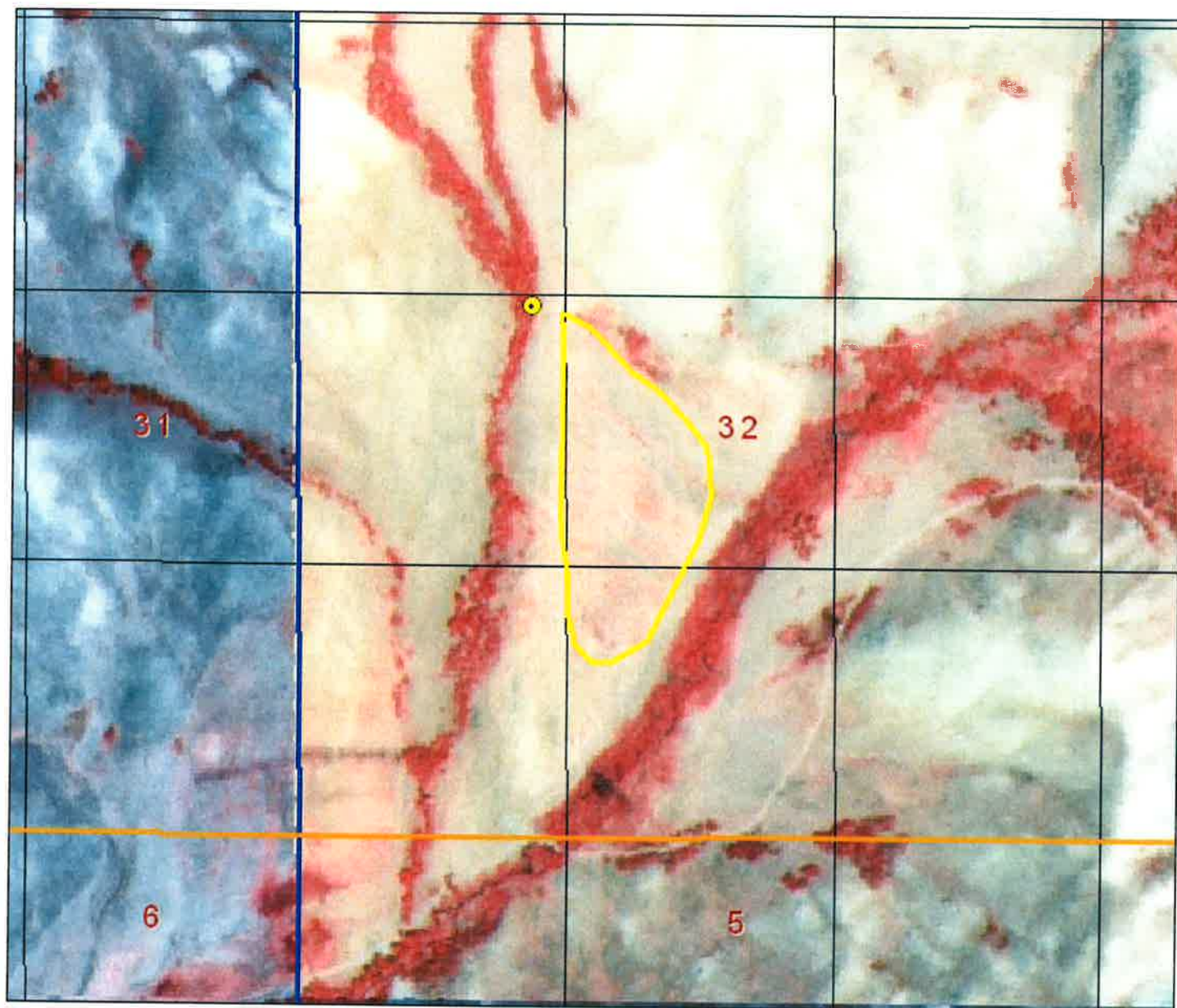
GIS PLACE OF USE PRESENTATION
2009 AERIAL PHOTOGRAPHY
BY KELLY K CHRISTENSEN



Basin 37



RECOMMENDED PLACE OF USE FOR 37-4394



PLACE OF USE
TWP 03N, RNG 23E Sec 32
Data Entry on February 25, 2011

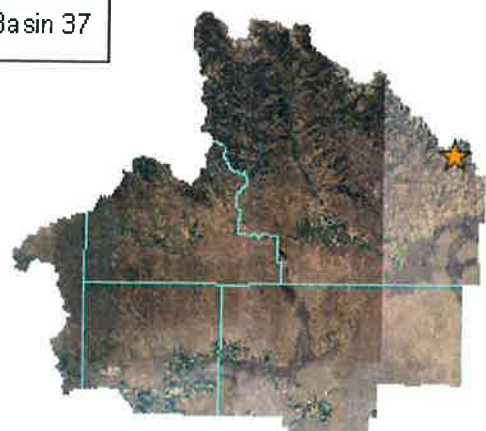
★ LOCATION IN BASIN

- Recommended point of diversion
- Yellow outline Recommended place of use
- Orange line Township lines
- Blue line Section lines
- Black line Quarter/quarter lines

GIS PLACE OF USE PRESENTATION
1987/1988 NAPP PHOTOGRAPHY
BY KELLY K CHRISTENSEN



Basin 37



02/20/2007

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

RIGHT NUMBER: 37-4394

NAME AND ADDRESS: LAVA LAKE LAND & LIVESTOCK LLC
PO BOX 2249
HAILEY ID 83333

Director's
Report.

SOURCE: UNNAMED STREAM

TRIBUTARY: FISH CREEK

QUANTITY: 0.400 CFS

PRIORITY DATE: 12/31/1926

POINT OF

DIVERSION: T03N R23E S32 NENWSW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

0.400 CFS

PLACE OF USE:

IRRIGATION in BLAINE County

T03N R23E S32

NESW

13.00

T03N R23E S32

NWSW

0.40

T03N R23E S32

SESW

6.60

20 ACRES TOTAL

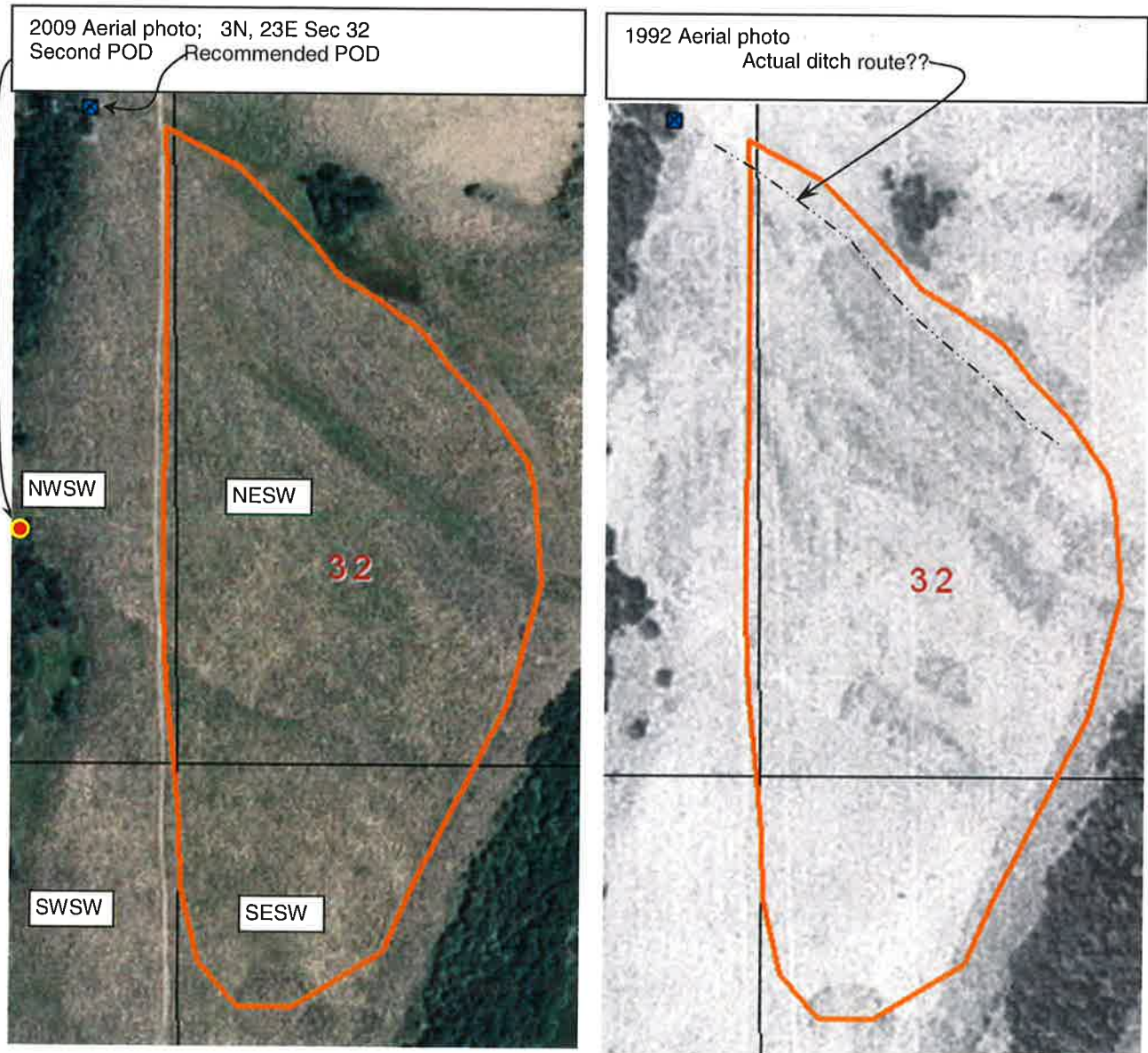
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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 - Beneficial Use

37-4394 Lava Lake

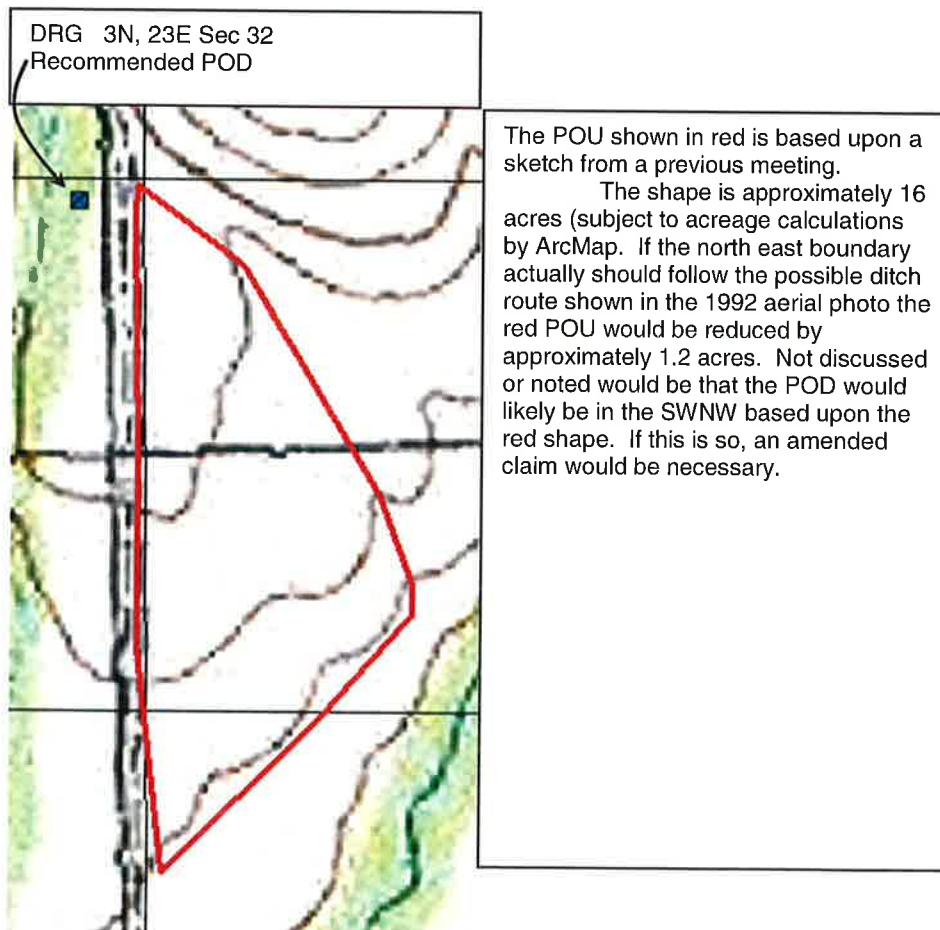
Shown POU = 20 acres. The original claim was filed for 20 acres in Sec32 NWSW. The recommendation included the following quarter/quarters NWSW, NESW, and SESW. The orange shape associated with the 2009 and 1992 aerial photos covers 20 acres. Some information exists that there are actually two PODs as shown in the 2009 aerial photo. It is possible that the north POD is actually in the SWNW.



The red shape overlaying the DRG(below) is approximately 16 acres and is roughly based upon a sketch made during an office visit by the claimant. If the north ditch route is actually south of the shown boundary (as digitized in the 1992 aerial photo) then the POU would be approximately 1.2 acres less.

The POD(s) were not identified on that sketch but if the red POU is accurate it is likely that the recommended POD location is wrong. Under a gravity system the POD would likely be in the SWNW. A lower ditch route as shown in the 1992 photo would recognize a POD as recommended. The second POD may require an amendment to be included in the ultimate resolution for this claim.

Notes indicate that the farm road is the westerly boundary for the irrigated POU. This shape and the shape shown above exclude the SWSW. There could be approximately 0.10 acre in that tract. This also would require an amendment to include that Quarter/quarter in the recommendation.



Christensen, Kelly

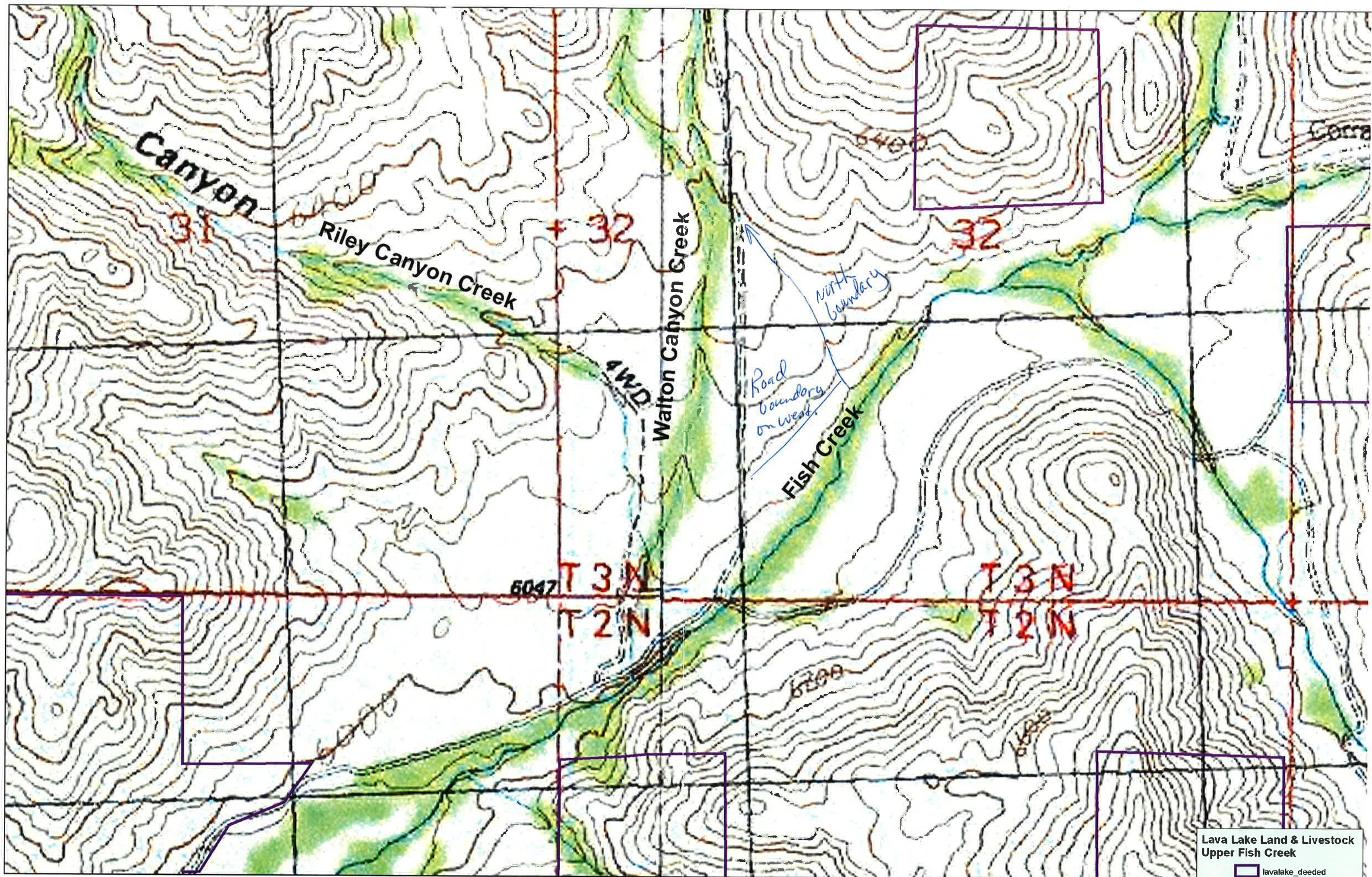
From: Christensen, Kelly
Sent: Tuesday, November 02, 2010 2:03 PM
To: 'Charlie Honsinger'; Kelly, Vicki
Subject: 37-4394 Lava Lake info

Attached is a 2 page document addressing some of the issues associated with this claim. There is a possibility that an amendment would be necessary. Also it appears that the POU is likely less than the currently recommended 20 acres. As my meeting notes are sketchy, if I have missed anything please let me know.



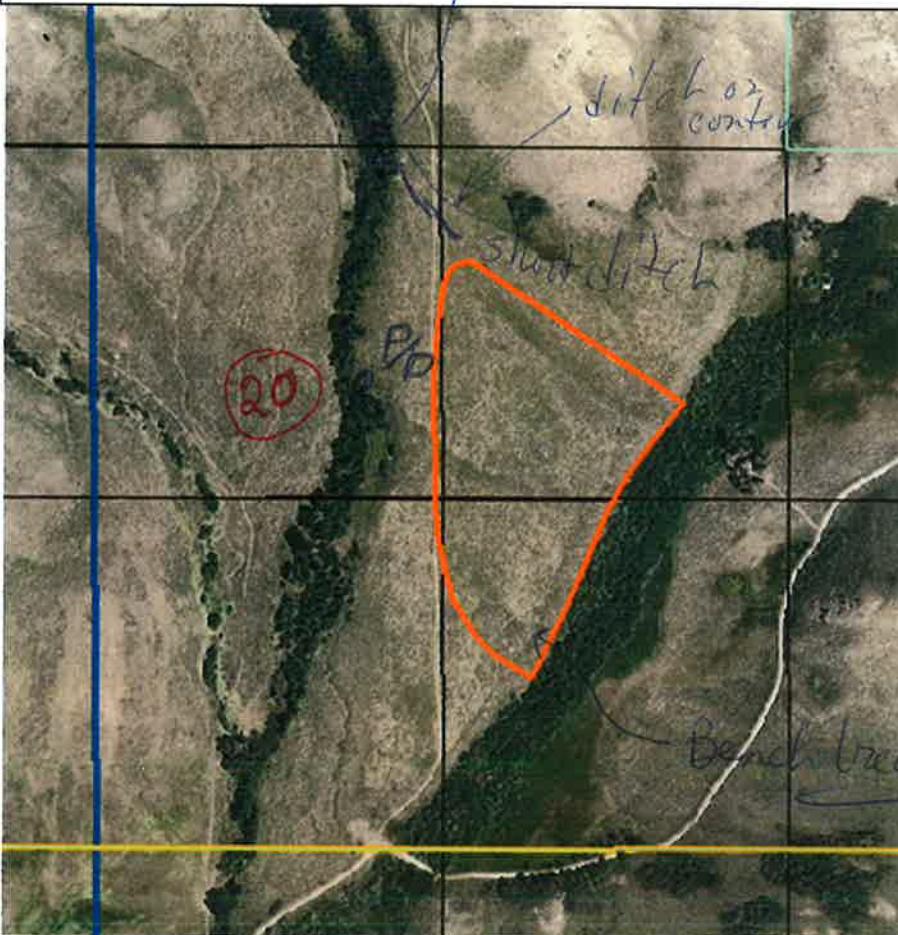
37-4394 Lava
Lake.docx

Kelly K Christensen
Sr Water Resource Agt
Boise, Western Region
(208)-334-2190



37-4394

3N, 23E, S-32 NWSW



@ = claimed P/U

**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)

A. Subcase 37-4394

(Insert water right no.)

Case No. 39576)

**STANDARD FORM 1
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Lava Lake Land & Livestock, LLC

Address: PO Box 2249
Hailey ID 83333

Daytime Phone: Attorney's Phone (208) 342-4591

Name & Address of Attorney, if any:

Charles L. Honsinger
Ringert Clark Chartered
P.O. Box 2773
Boise, ID 83701

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

Name: Lava Lake Land & Livestock, LLC

Address: PO Box 2249
Hailey ID 83333

COPY

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: _____
4. ☒ **Priority Date**
Should be: November 6, 1913
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: 4/1 through 11/1
9. ☒ **Place of Use**
Should be: 20 acres in T3N R23E S32 NWSW; 20 Acres total
10. ☐ **I object because:**
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION (S): This water right has been beneficially used as stated above.

DEPARTMENT OF
WATER RESOURCES

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

SEP 15 2009

By _____ Clerk
_____ Deputy Clerk

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

Case No. 39576

ORDER GRANTING MOTION TO FILE AMENDED CLAIM AND SETTING SUBCASE DEADLINES

**SUBCASE NOS.: 37-745, 37-746,
37-2045, 37-2123, 37-2525, 37-2715,
37-2799, 37-4394, 37-11936, 37-2545A,
37-2545B, 37-2688, 37-7072, 37-7600,
and 37-11950**

A Status Conference was held on August 26, 2009. At the hearing, Lava Lake Land & Livestock made an oral *Motion to Amend Claim* for 37-2545A, 37-7072, and 37-7600. There was no opposition to the *Motion*.

The SRBA Court administrative rules establish that motions to amend claims “shall be freely given when justice so requires.” *SRBA Administrative Order 1 (A01)* § 4d (2) (k)

The movants explained that during their investigation of these subcases, they determined that some of the claims needed to be amended to accurately describe the water rights. There was no opposition to the *Motion*. Therefore, the *Motion to File Amended Notice of Claim* is **granted** subject to a written amended claim being filed for 37-2545A, 37-7072, and 37-7600.

IT IS ORDERED that the following deadlines shall govern further proceedings for 37-2545A, 37-7072, and 37-7600:

April 30, 2010	5:00 pm	Deadline to file Amended Director's Report
May 14, 2010	5:00 pm	Deadline to file Objection
June 11, 2010	5:00 pm	Deadline to file Response

ORDER GRANTING MOTION TO FILE AMENDED CLAIM
AND SETTING SUBCASE DEADLINES
G:\basin folders\37ORDERS\2545A.etal.MOTNGRANT AMENDCLAIM.SETDLINES
9/11/09

IT IS FURTHER ORDERED that the following deadlines shall govern further proceedings for all the above listed subcases:

June 23, 2010

10:00 am

Status Conference

Location: Snake River Basin Adjudication
253 3rd Ave. North
Twin Falls, Idaho 83301

Parties may participate by telephone for the Status Conference by dialing 1-225-383-1099 and when prompted enter participant code 926509. Any questions regarding telephone participation, please contact the Clerk's office at (208)736-3011.

DATED: September 15, 2009.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-4394 V1

WATER RIGHT NUMBER: 37-4394 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	LAVA LAKE LAND & LIVESTOCK LLC PO BOX 2249 HAILEY, ID 83333 (208) 788-1710
Original Owner	BISKAY LAND & LIVESTOCK CO 2400 CHERRY LN BOISE, ID 83705 (208)344-2443

Priority Date: 12/31/1926

Basis: Beneficial Use

Status: Active

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

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/15 to 10/31	0.400 CFS	
	<u>Total Diversion:</u>	0.400 CFS	

Location of Point(s) of Diversion

UNNAMED STREAM	NE1/4NW1/4SW1/4	Sec. 32, Twp 03N, Rge 23E, 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	
03N	23E	32									13.0	.4		6.6					20.0

Total Acres: 20

Conditions of Approval:

1. 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.

Remarks:

Comments:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-4394

WATER RIGHT NUMBER: 37-4394

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	LAVA LAKE LAND & LIVESTOCK LLC PO BOX 2249 HAILEY, ID 83333 (208) 788-1710
Original Owner	BISKAY LAND & LIVESTOCK CO 2400 CHERRY LN BOISE, ID 83705 (208)344-2443

Priority Date: 11/06/1913

Basis: Statutory Claim

Status: Active

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

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	5/01 to 10/15	0.400 CFS	
	<u>Total Diversion:</u>	0.400 CFS	

Location of Point(s) of Diversion

UNNAMED STREAM	NE1/4NW1/4SW1/4	Sec. 32, Twp 03N, Rge 23E, 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	
03N	23E	32																	20.0
																			20.0

Total Acres: 20

Conditions of Approval:

- 12/19/00 to, Ownership changed Biskay Land & Livestock to Lava Lake Land & Livestock per 1409(6) and warranty deed received 7/21/00.

Remarks:Comments: