

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
37-20380					

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

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or SURVEY MAP clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the PLAT OF PROPERTY or SURVEY MAP.

3. Name and Address of Former Owner/Claimant(s)

CARL G. BONTRAGER

KATHLEEN K. LYNN

4. New Owner/Claimant(s)

LYNN-BONTRAGER, LLC

Name Connector (Check one): ☐ and, ☐ or, ☐ and/or

New Mailing Address

PO Box 2092

City, State and ZIP Code

KETCHUM ID 83340

New Telephone Number

208 788 3690

5. Date you acquired the property

N/A

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s) (include title if applicable)
- LYNN-BONTRAGER LLC DEC 5, 2006*
Allen K Lynn, member
Al Bynum, member

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by <u>CLARK 12/5/06</u>	Date _____	Fee _____
Received by _____	Date _____	Receipt No. _____
Processed by <u>CLARK 12/15/06</u>	Date _____	WR _____ Date _____



THIS INSTRUMENT WAS FILED FOR
RECORD BY BLAINE COUNTY
TITLE, AS AN ACCOMMODATION
ONLY, IT HAS NOT BEEN EXAMINED
AS TO ITS EXECUTION OR AS TO
ITS EFFECT UPON THE TITLE.

Order No. 40000
This form furnished by
Blaine County Title Associates

QUITCLAIM DEED

THIS INDENTURE, Made this 15th day of October

in the year of our Lord one thousand nine hundred and ninety-nine
CARL G. BONTRAGER and KATHLEEN K. LYNN, husband and wife

between

as Grantor and

LYNN-BONTRAGER, LLC, an Idaho Limited Liability Company

as Grantee

whose current address is P.O. BOX 2092, KETCHUM, ID 83340

WITNESSETH That said Grantor for and in consideration in lawful money of the United States of America, in hand paid by the Grantee, the receipt whereof is hereby acknowledged, does by these premises remise, release and forever QUITCLAIM, unto the said Grantee and to its heirs and assigns all that certain lot, piece or parcel of land, situate, lying and being in, County of Blaine, State of Idaho, bounded and particularly described as follows, to-wit:

Lot 21 of HYNDMAN VIEW PEAR SUBDIVISION, Blaine County, Idaho, according to the official plat thereof on file in the office of the County Recorder, recorded October 28, 1980, as Instrument No. 208275, records of Blaine County, Idaho.

432798
Blaine Co. REQUEST
BLAINE COUNTY TITLE
99 OCT 26 PM 1 48
HARRISON, J. H. CLERK
FEES \$30

TOGETHER With all and singular the tenements, hereditaments and appurtenances therunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, All and singular the said premises, together with the appurtenances, unto the Grantee and to its heirs and assigns forever.

IN WITNESS WHEREOF, The said Grantor has hereunto set its hand and seal the day and year first above written.

CARL G. BONTRAGER

KATHLEEN K. LYNN

State of IDAHO

ss.

County of BLAINE

On this 22 day of October, 1999, before me, the undersigned, a Notary Public, in and for said State, personally appeared CARL G. BONTRAGER and KATHLEEN K. LYNN

, known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that they executed the same.

WITNESS MY HAND AND OFFICIAL SEAL.

Notary Public

Residing at: KETCHUM, IDAHO

Commission Expires: September 24, 2002



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 37-20380
Date Received: 2/23/01
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

CARL BONTRAGER
PO BOX 2092
KETCHUM ID 83340

Phone: (208)788-3690

KATHLEEN LYNN
PO BOX 2092
KETCHUM ID 83340

Phone: (208)788-3690

2. Date of Priority: 06/03/1884

3. Source: WOOD RIVER EAST FORK Trib. to: BIG WOOD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
03N	18E	3	SW NE	BLAINE	

5. Description of diverting works:

headgate in creek, ditches and flood irrigation.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A.
IRRIGATION	04/15	10/15	0.07	7

7. Total Quantity Appropriated is:
0.07 C.F.S. and/or 7 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
03N	18E	3	NE	SW	IRRIGATION	2
					Section Acres	2
					Total Acres	2

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:

2/26/01 tf; claim split from 37-00539B pursuant to approved transfer 5318.

15. Basis of Claim: Decreed

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

RECEIVED

SEP 23 1999

Department of Water Resources
Snake River Center

Please print or type. Attach pages with additional information. Instructions are on the back of this page
Incomplete forms will be returned.

1. Water Right Number(s) _____
Adjudication Claim Number(s) A37-00539B
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 Services Agency (formerly ASCS) AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.
3. Name and Address of Former Rupert House
Owner/Claimants 308 East Ford Road, Hailey, ID 83333
4. New Owner/Claimant(s) Carl Bontrager and Kathleen Lynn
Name connector (check one): [] AND, [] OR, [X] AND/OR
New Mailing Address PO Box 2092
City, State and ZIP Code Ketchum, ID 83340
New Telephone Number (208) 788-3690
5. Date you acquired the property 5-16-98
6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water rights(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 2 Number and type of stock _____
Diversion rate in CFS 0.07 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.
7. Signature of New Kathleen Lynn Date SEPT 22, 1999
Owner/Claimant(s) Kathleen Lynn

(Corporations or other organizations must submit a 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.

D.E. 5/22/00 CF

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

**James P. Speck, Esq.
SPECK & AANESTAD
A Professional Corporation
P. O. Box 987
Ketchum, Idaho 83340**

(space above line for Recorder's use)

QUITCLAIM DEED

FOR VALUE RECEIVED, RUPERT HOUSE and BONNIE HOUSE, TRUSTEES OF THE RUPERT AND BONNIE HOUSE FAMILY TRUST, dated September 24, 1993, whose address is 308 East Fork Road, Hailey, Idaho 83333 (hereinafter collectively referred to as the "Grantor"), does hereby convey, release, remise and forever quitclaim unto CARL BONTRAGER and KATHLEEN LYNN, husband and wife, whose address is P. O. Box 2092, Ketchum, ID 83340 (hereinafter referred to as the "Grantee"), any and all interest Grantor may have in the following described water right, appurtenant to premises situated in Blaine County, Idaho, to wit:

0.07 cfs of the East Fork of the Big Wood River with a June 3, 1884 priority date pursuant to Idaho Water Right No. 37-00539B and Claim No. A37-00539B in In Re the General Adjudication of Rights to the Use of Water From the Snake River Basin Water System, Twin Falls District Court Case No. 39576, used for the irrigation of two (2) acres within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$, S.3, T.3N., R.18E., B.M., Blaine County, Idaho.

TOGETHER WITH all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anyway appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular the said premises, together with the appurtenances, unto the Grantee, and to Grantee's heirs and assigns forever. The Grantor does hereby covenant to and with the said Grantee, that the above-described water right is free from all liens and encumbrances.

IN WITNESS WHEREOF Grantor has executed this Quitclaim Deed on the date(s) set forth below.

DATE:

May 16, 1998

Rupert House
RUPERT HOUSE, TRUSTEE OF THE
RUPERT AND BONNIE HOUSE FAMILY
TRUST, dated September 24, 1993

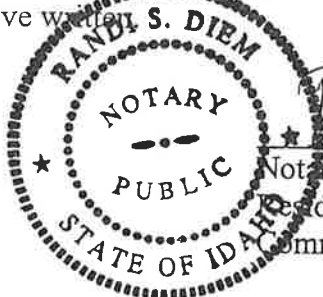
DATE: May 16, 1998

Bonnie House
BONNIE HOUSE, TRUSTEE OF THE
RUPERT AND BONNIE HOUSE FAMILY
TRUST, dated September 24, 1993

STATE OF IDAHO)
) ss.
County of Blaine)

On this 16th day of May, 1998, before me the undersigned notary public in and for said state, personally appeared RUPERT HOUSE, TRUSTEE OF THE RUPERT AND BONNIE HOUSE FAMILY TRUST, dated September 24, 1993 and the person who executed the foregoing instrument on behalf of said trust and acknowledged to me that said trust executed the same.

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

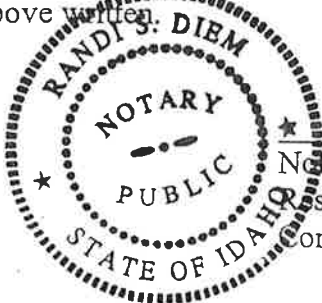


Randy S. Diem
Notary Public for Idaho
Residing at: Hailey, ID
Comm. Expires: 8-29-2003

STATE OF IDAHO)
) ss.
County of Blaine)

On this _____ day of May, 1998, before me the undersigned notary public in and for said state, personally appeared BONNIE HOUSE, TRUSTEE OF THE RUPERT AND BONNIE HOUSE FAMILY TRUST, dated September 24, 1993 and the person who executed the foregoing instrument on behalf of said trust and acknowledged to me that said trust executed the same.

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



Randy S. Diem
Notary Public for Idaho
Residing at: Hailey, ID
Comm. Expires: 8-29-2003

11/21/2006

**NOTICE OF ERROR
REPLY**

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: 12/13/2006

Water right number: 37-20380

CARL G BONTRAGER
PO BOX 2092
KETCHUM ID 83340
Telephone Number: (208)788-3690

KATHLEEN K LYNN
PO BOX 2092
KETCHUM ID 83340
Telephone Number: (208)726-4258

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

____ I AGREE with this proposed recommendation: no changes need to be made.

DATE: DEC 11, 2006

SIGNATURE:

Please print your name:

CARL G BONTRAGER

KATHLEEN K LYNN

IDWR Regional Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, 2082874800

SCANNED

DEC 15 2006

08/04/2005

**NOTICE OF ERROR
REPLY**

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS:

Water right number: 37-20380

CARL G BONTRAGER
PO BOX 2092
KETCHUM ID 83340
Telephone Number: (208)788-3690

KATHLEEN K LYNN
PO BOX 2092
KETCHUM ID 83340
Telephone Number: (208)726-4258

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

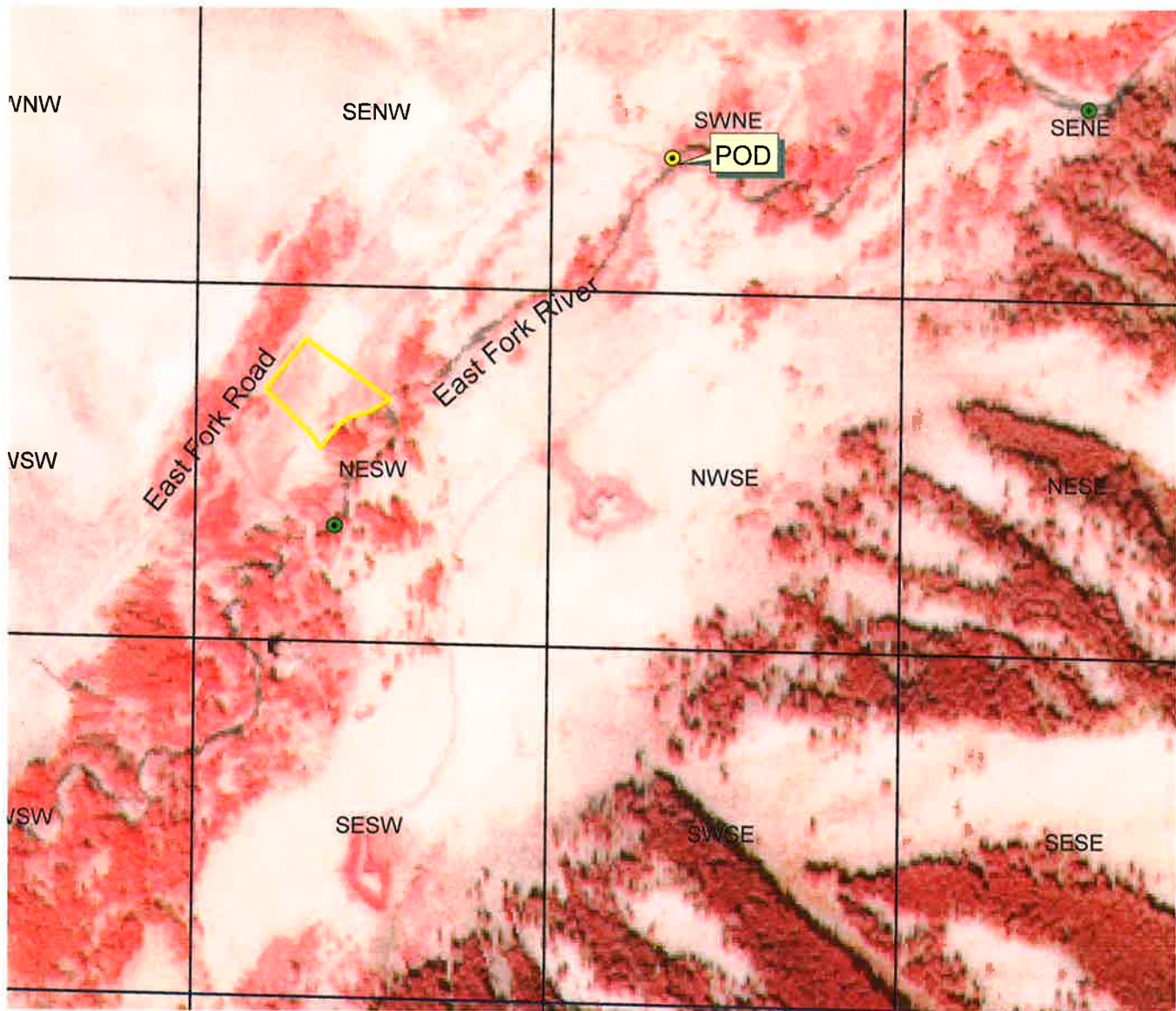
____ I AGREE with this proposed recommendation: no changes need to be made.

DATE: _____ SIGNATURE: _____

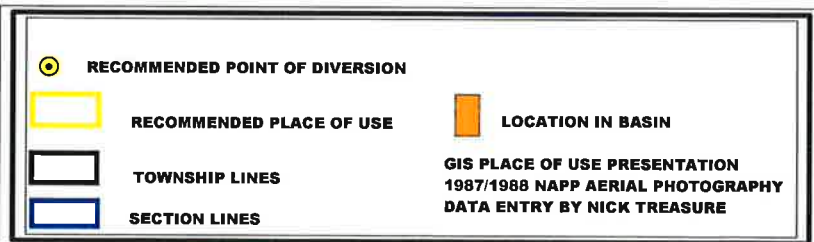
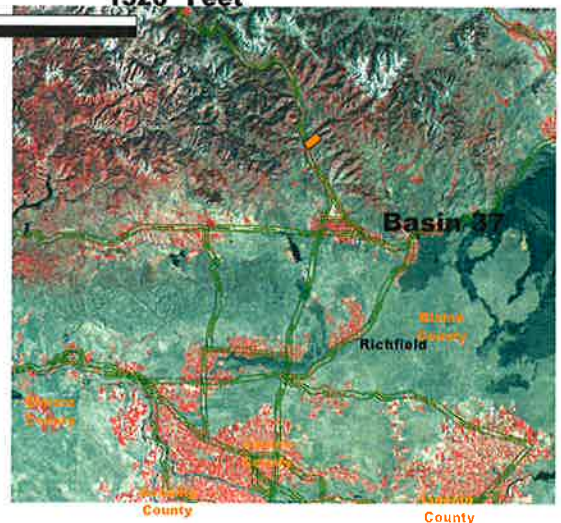
Please print your name: _____

IDWR Regional Office,

Idaho Department of Water Resources
RECOMMENDED PLACE OF USE FOR
37-20380



PLACE OF USE
TWP 03N, RNG 18E, SEC 03
Data entry on August 04, 2005



08/26/2005

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

RIGHT NUMBER: 37-20380

NAME AND ADDRESS: CARL G BONTRAGER
PO BOX 2092
KETCHUM ID 83340

KATHLEEN K LYNN
PO BOX 2092
KETCHUM ID 83340

SOURCE: EAST FORK WOOD RIVER

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.070 CFS

PRIORITY DATE: 06/03/1884

POINT OF DIVERSION:

T03N R18E S3 SWNE 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	0.070 CFS

PLACE OF USE: IRRIGATION Within BLAINE County

T03N R18E S03 NESW 2.0

2 ACRES TOTAL

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Place of use is located within Lot 21 of Hyndman Peak Subdivision.

This right is a split from former right 37-539B.

08/26/2005

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

RIGHT NUMBER: 37-20380

NAME AND ADDRESS: CARL G BONTRAGER
PO BOX 2092
KETCHUM ID 83340

KATHLEEN K LYNN
PO BOX 2092
KETCHUM ID 83340

SOURCE: EAST FORK WOOD RIVER

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.070 CFS

PRIORITY DATE: 06/03/1884

POINT OF DIVERSION:

T03N R18E S3 SWNE 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	0.070 CFS

PLACE OF USE: IRRIGATION Within BLAINE County

T03N R18E S03 NESW 2.0

2 ACRES TOTAL

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

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

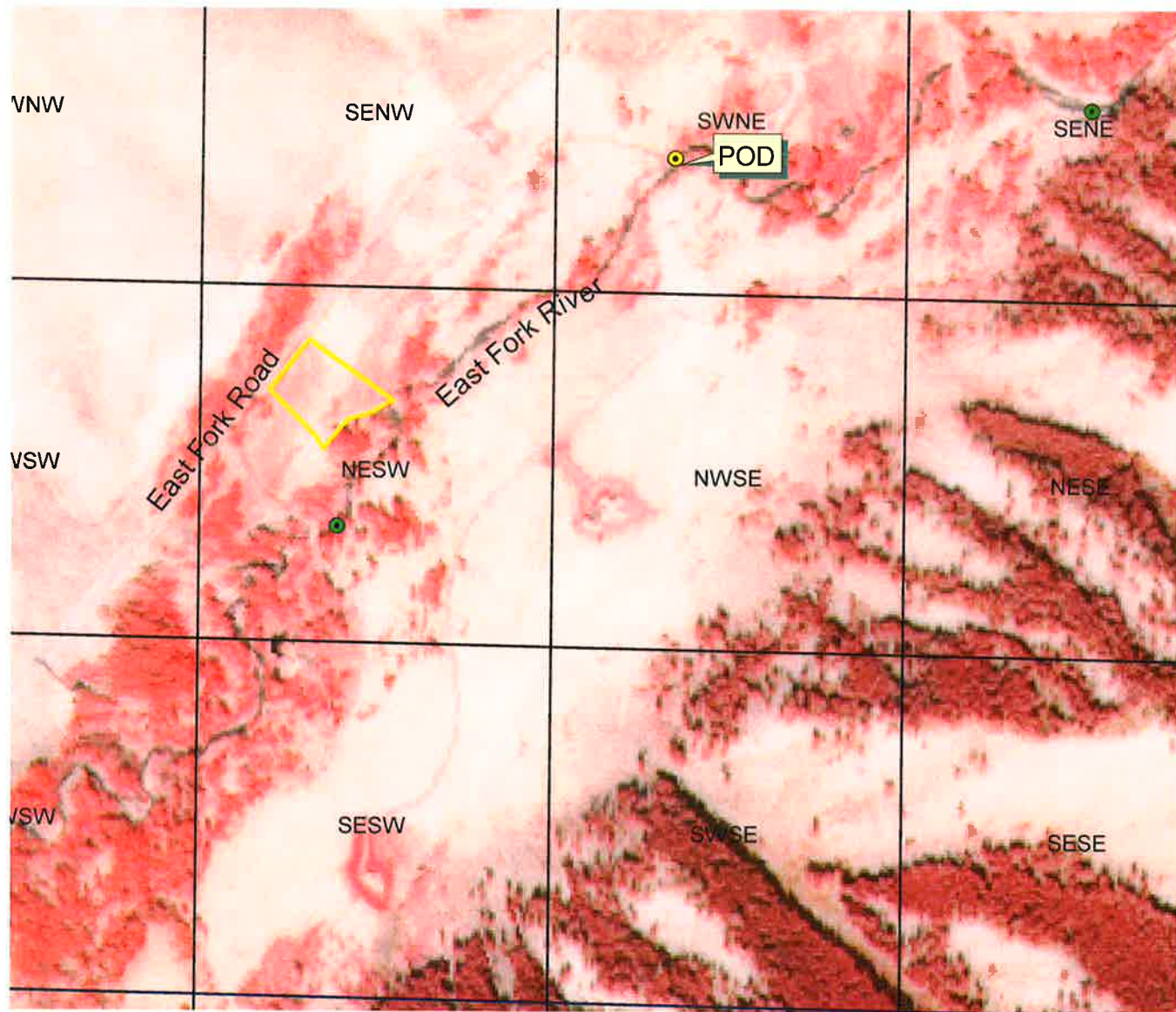
EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Place of use is located within Lot 21 of Hyndman Peak Subdivision.

This right is a split from former right 37-539B.

VERIFIED BY NT

Idaho Department of Water Resources
RECOMMENDED PLACE OF USE FOR
37-20380



1320

0

1320 Feet

PLACE OF USE
TWP 03N, RNG 18E, SEC 03
Data entry on August 04, 2005



● RECOMMENDED POINT OF DIVERSION



RECOMMENDED PLACE OF USE



LOCATION IN BASIN



TOWNSHIP LINES



SECTION LINES

GIS PLACE OF USE PRESENTATION
1987/1988 NAPP AERIAL PHOTOGRAPHY
DATA ENTRY BY NICK TREASURE

Memo

Nick Treasure

July 18, 2005

Subject: SRBA review and recommendation of Hyndman Peak Subdivision, Blaine County. Claims: 37-20379, 37-20380, 37-539D, 37-539F, 37-539J, 37-539L, 37-539H, 37-539I, 37-539K, 37-539G

A review of the history of Hyndman Peak Subdivision shows a series of approved transfers that have occurred from original water right 37-539. This is a 06/03/1884 decreed right for 3.0 cfs of the East Fork Wood River. Through a series of approved transfers and ownership changes, a consistent 0.06 cfs/acre has occurred in this area. The remaining portion of the parent water right 37-539 is water right 37-539G in which there are 4 claims filed against. (See attached split tree analysis-page 8).

The majority of this subdivision was developed during the 1980's. There are currently 40 lots in the subdivision as well as a 20-acre lot of original owner Rupert House. (See attached tax lot map-page 4). Many individual homeowners chose to quitclaim their water rights over to the Hyndman Peak Subdivision Homeowners Association (claim 37-539G). The remaining homeowners decided to individually claim against the 1884 decree (all remaining claims listed above).

A field examination occurred on July 6, 2005 by Water Resource Agent Nick Treasure and Basin 37 Water Master Kevin Lakey. The following was found during the course of this field visit through personal observance as well as conversations with various homeowners of the association.

- There are four Points of Diversions associated with this subdivision:
 1. The original POD to the parent right 37-539 is located in the SENE. This head gate is locally known as the peters #17 head gate. Claimants of this head gate are Robert Mitchell 37-539L and Hyndman Peak Homeowners Association 37-539G.
 2. Transfer 3291 created a POD in the SWSWNE of section 3. This particular POD has no lockable head gate. Claimants of this diversion are Rupert House 37-20379 and Carl Bontrager 37-20380.
 3. Transfer 3280 created a POD in the SWNESW of section 3. This head gate is claimed by Bruce McCaw 37-539F and Thomas Matson 37-539D.
 4. Transfer 3551 created a POD in the NENESW of section 3. The POD is a pump and sprinkler system from East Fork River. The claimant for this diversion is Craig Brandman 37-539J.

- The original Place of Use historically irrigated is depicted on the attached map-*page 5*. Also outlined on the attached map is the ditch system in which we examined and verified with original owner Rupert House before the subdivision existed. The POU outlined in green was irrigated by this irrigation system. Note that the northern areas of the subdivision as well as along the East Fork River are riparian areas and have not historically been irrigated by the 1884 decree.
- The attached map-*page 6* depicts claimants of the 1884 decree by individual owners in association with the historically irrigated ground. Notice the remaining portion of the historic irrigation depicted in green is what the homeowners association wishes to claim.
- There is currently a delivery system through ditches and laterals in which water can be delivered to the claimants listed on *page 6*. However there is no current means of deliverance for the remaining portion for individuals of the Hyndman Peak Homeowners Association though there may have been historically. It appears that a delivery system ended sometime in the late-1980's due to subdivision development.

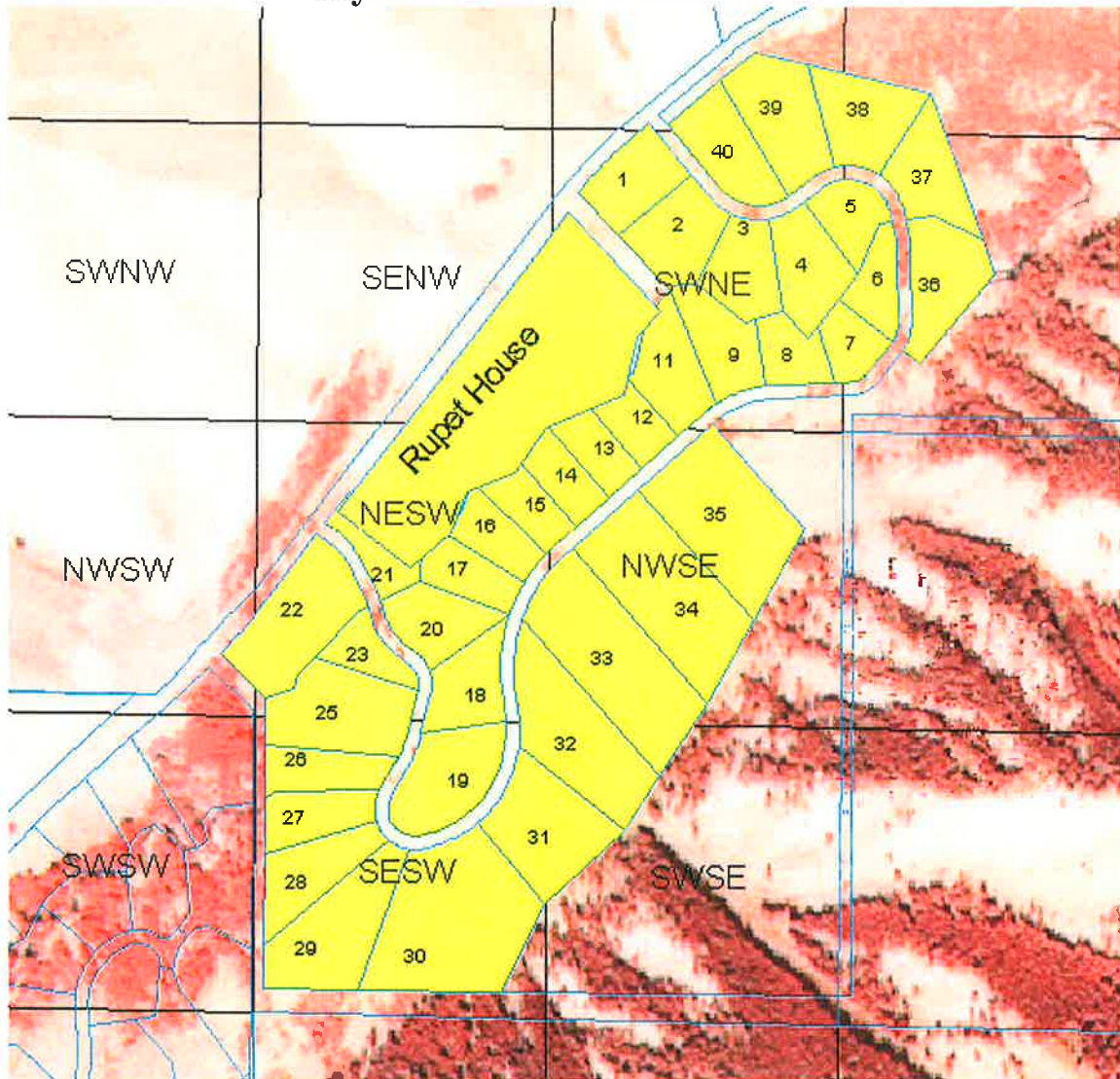
In addition to the above findings, we also found some issues listed below that need to be addressed by the IDWR. A series of transfers and other measures need to be taken in the following situations:

- Upon field examination there were found 2 large ponds on lot 34 of the Hyndman subdivision owned by Robert Mitchell. The 2 ponds together measure approximately 0.75 acres. The 2 ponds are situated directly behind the Mitchell residence. The source of water for these ponds is the East Fork River with the POD in the SENE of section 3. A third pond was also found in lot 33 for the same owner. The pond was being dug as we visited the location but did not yet contain water. This pond will receive water through a drain ditch originating from the first two ponds. It does not appear the ponds are being used in conjunction with irrigation. I met with Dr. Mitchell during our visit. He indicated that the first two ponds were built in the early 1990's. It is confirmed that the ponds did not exist in the 1987 Napp Aerial Photography. All three ponds have no transfers filed. (See photos in claim 37-539I)
- During the field visit, we noticed that a large percentage of the lots have sprinkler irrigation on more than the ½ acre allowed under their Domestic wells. Most individual owners are sprinkler irrigating 2-3 acres of pasture, yard and trees from domestic wells. Among the 40 lots in the Hyndman Peak Subdivision, there are two homeowners who have been licensed for groundwater with the purpose of irrigation. The water rights are 37-8567 for Craig Brandman and 37-8421 for Shawn Szombathy. These are the only two owners in the sub-division who are

authorized to irrigate more than a ½ acre in the subdivision. (See photos in 37-539G)

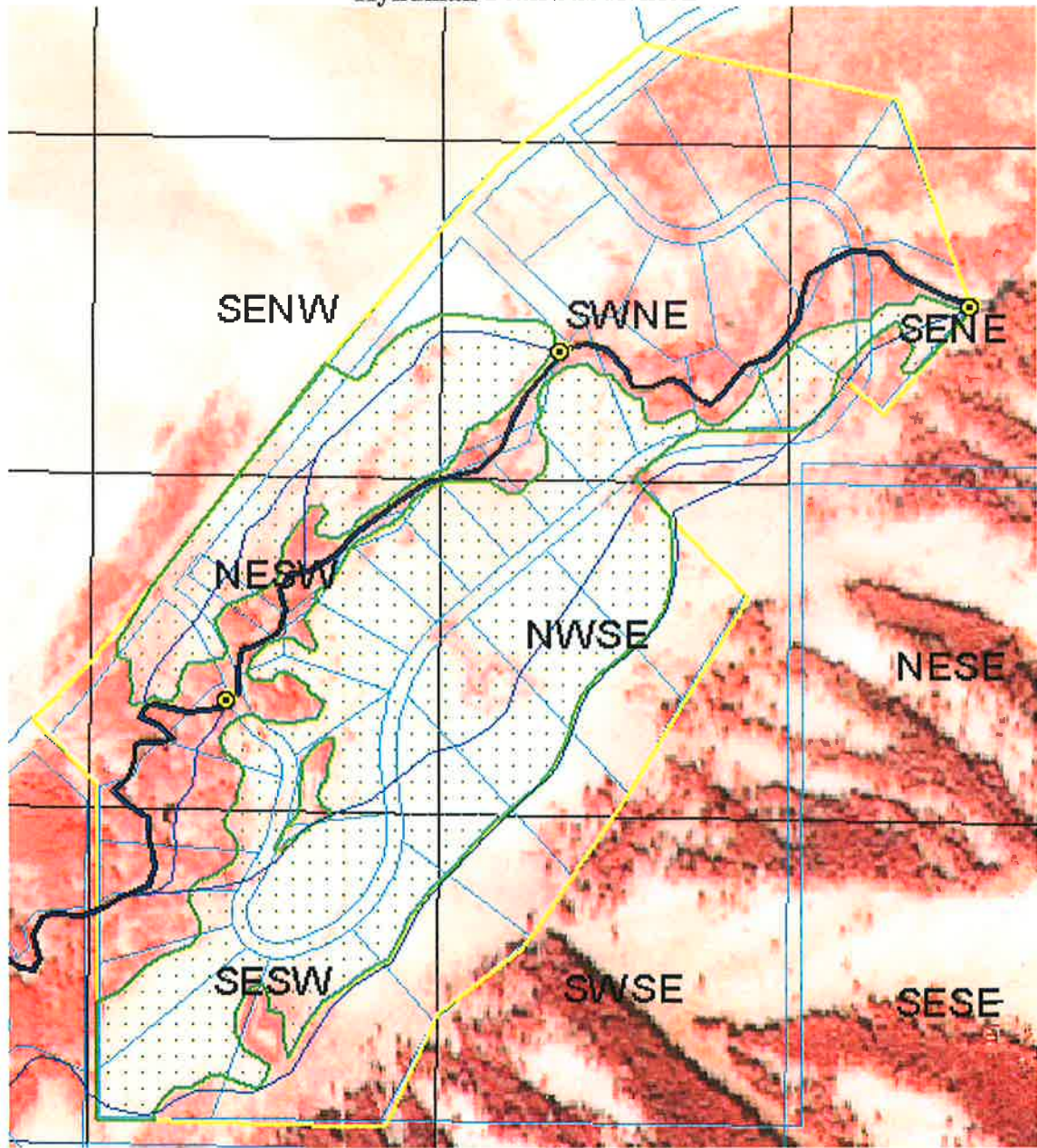
- The Hyndman Peak Homeowner's Association, claim 37-539G, currently has no means of delivery for its members from the claimed POD in the SENE of section 3. The members of the association are spread throughout the subdivision with no organized delivery system. Historically before the subdivision was built, it does appear these lots of the members of the association were irrigated. The subdivision was constructed in the late-1980's. During the construction of the Subdivision, many ditches and laterals were filled in making it impossible to currently irrigated from the claimed POD.

Hyndman Peak Subdivision



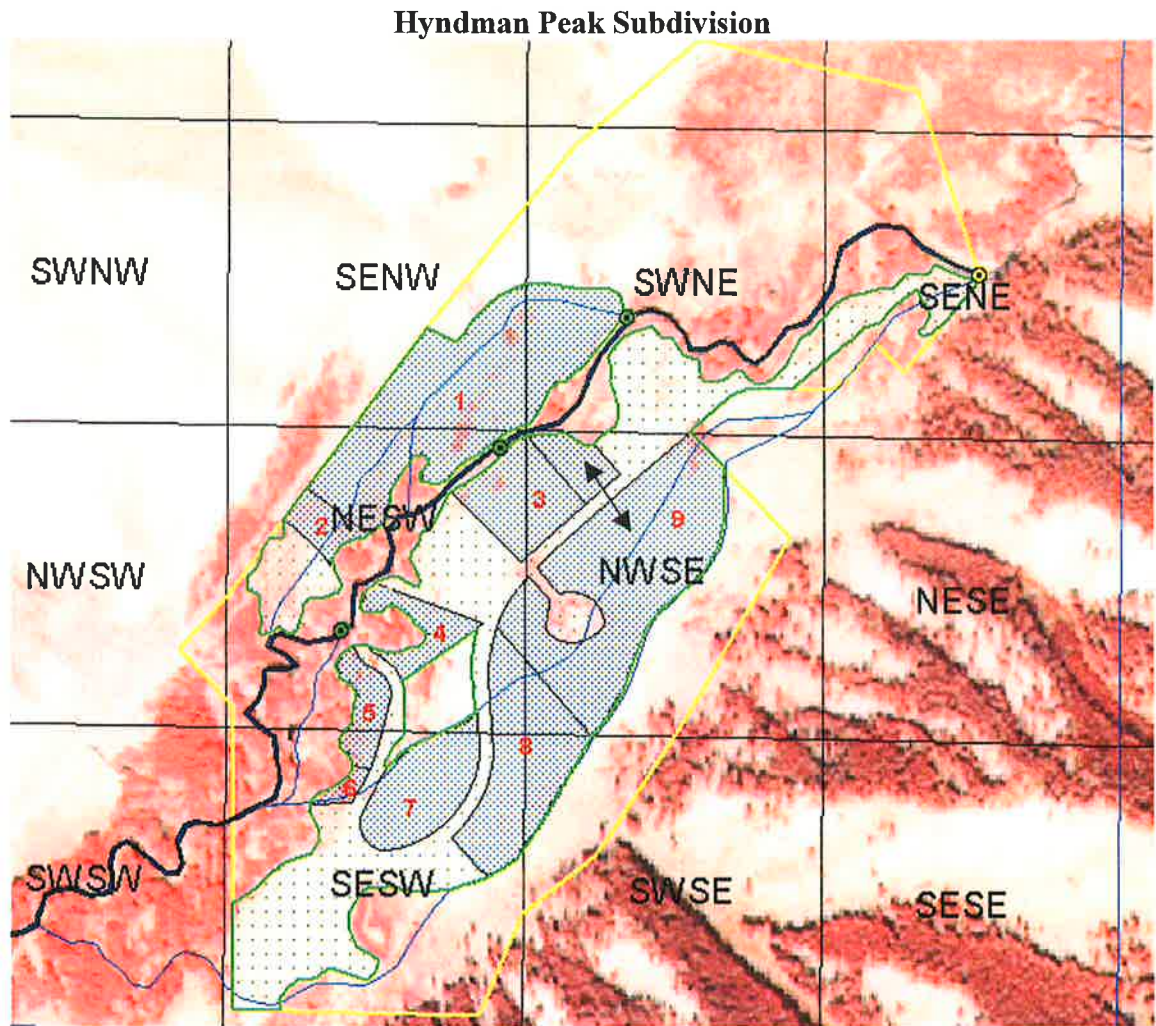
- | | | |
|-----------------|-------------------------|---------------|
| 1- Bennett | 15- Brandman | 29- Porter |
| 2- Berman | 16- Swigert | 30- Szombathy |
| 3- Danielson | 17- Swigert | 31- Mitchell |
| 4- Kosmos | 18- El Camino(Mitchell) | 32- Mitchell |
| 5- Papworth | 19- El Camin (Mitchell) | 33- Mitchell |
| 6- Hyndman Peak | 20- Exchange LLC | 34- Mitchell |
| 7- Flammer | 21- Bontrager, Lynn | 35- Mitchell |
| 8- Naeve | 22- Bontrager, Carl | 36- Boxall |
| 9- Devens | 23- Matson | 37- Latrobe |
| 11- Bass | 25- Matson | 38- Latrobe |
| 12- Bass | 26- McCaw | 39- Chivvis |
| 13- Mitchell | 27- Porter | 40- Chivvis |
| 14- Brandman | 28- Porter | House, Rupert |

Hyndman Peak Subdivision

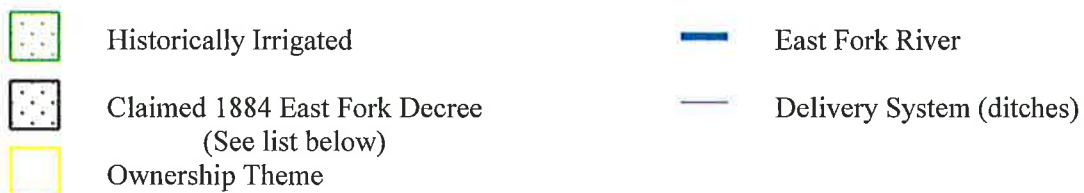


1987 Napp Aerial Photography

- | | | | |
|---|--------------------------|---|---------------------------|
|  | Historically Irrigated |  | East Fork River |
|  | Hyndman Peak Subdivision |  | Delivery System (ditches) |
|  | Blaine County Tax lots | | |



1987 Napp Arial Photography



Claimants on June 03, 1884 East River Decree

- | | |
|------------------|-------------------|
| 1 Rupert House | 6 Bruce McCaw |
| 2 Carl Bontrager | 7 Robert Mitchell |
| 3 Craig Brandman | 8 Robert Mitchell |
| 4 Paul Carson | 9 Robert Mitchell |
| 5 Thomas Matson | |

Note: Hyndman Peak Homeowners Association claims the remaining *historically irrigated* land that is not claimed by the claimants above in the NESW, NWSE, SESW

Hyndman Peak Subdivision



2004 Aerial Photography



Subdivision Boundary



Blaine County Taxlots

Split Tree
37-539
3.0 cfs

Prepared by:
Nick Treasure
August 2005

T3291

37-539A
2.6 cfs 42ac

T3280

37-539D
0.41 cfs 6.65 ac

AJ 37-539D
0.41 cfs

Matson

0.26 cfs
4.3 ac.

37-539E
2.04 cfs 33 ac

T3551

37-539G
1.89 cfs 30.5ac

T4671
Recommended for
Disallow

Water Right

37-539C
2.19 cfs 35.35ac

T3332

37-539F
0.15 cfs 2.36 ac

AJ 37-539F
0.15 cfs

McCaw

0.08 cfs
1.3 ac

37-539H
0.16 cfs 2.5 ac

AJ 37-539J
0.16 cfs

Brandman

0.15 cfs
2.5 ac

Adjudication
claim

Recomm-
endation

37-539B
0.4 cfs 12 ac

T5318

37-539J
0.33 cfs 10ac

AJ 37-20379
0.33 cfs

House

0.33 cfs
10.0 ac.

37-539K
0.07 cfs 2ac

AJ 37-20380
0.07 cfs

Bontrager

0.07 cfs
2.0 ac.

37-539L
0.29 cfs 4.2ac

Mitchell

0.30 cfs
8.0 ac.

37-539H
0.88 cfs 12.3ac

Mitchell

0.53 cfs
14.1 ac.

37-539I
0.27 cfs 4.4ac

Mitchell

0.15 cfs
4.0 ac.

37-539k
0.06 cfs 1ac

Carson

0.06 cfs
1.0 ac.

37-539G
0.71 cfs 11.6 ac

Hvndamn Peak Sub.

0.85 cfs
22.4 cfs

Notes

07/06/05

Field Exam

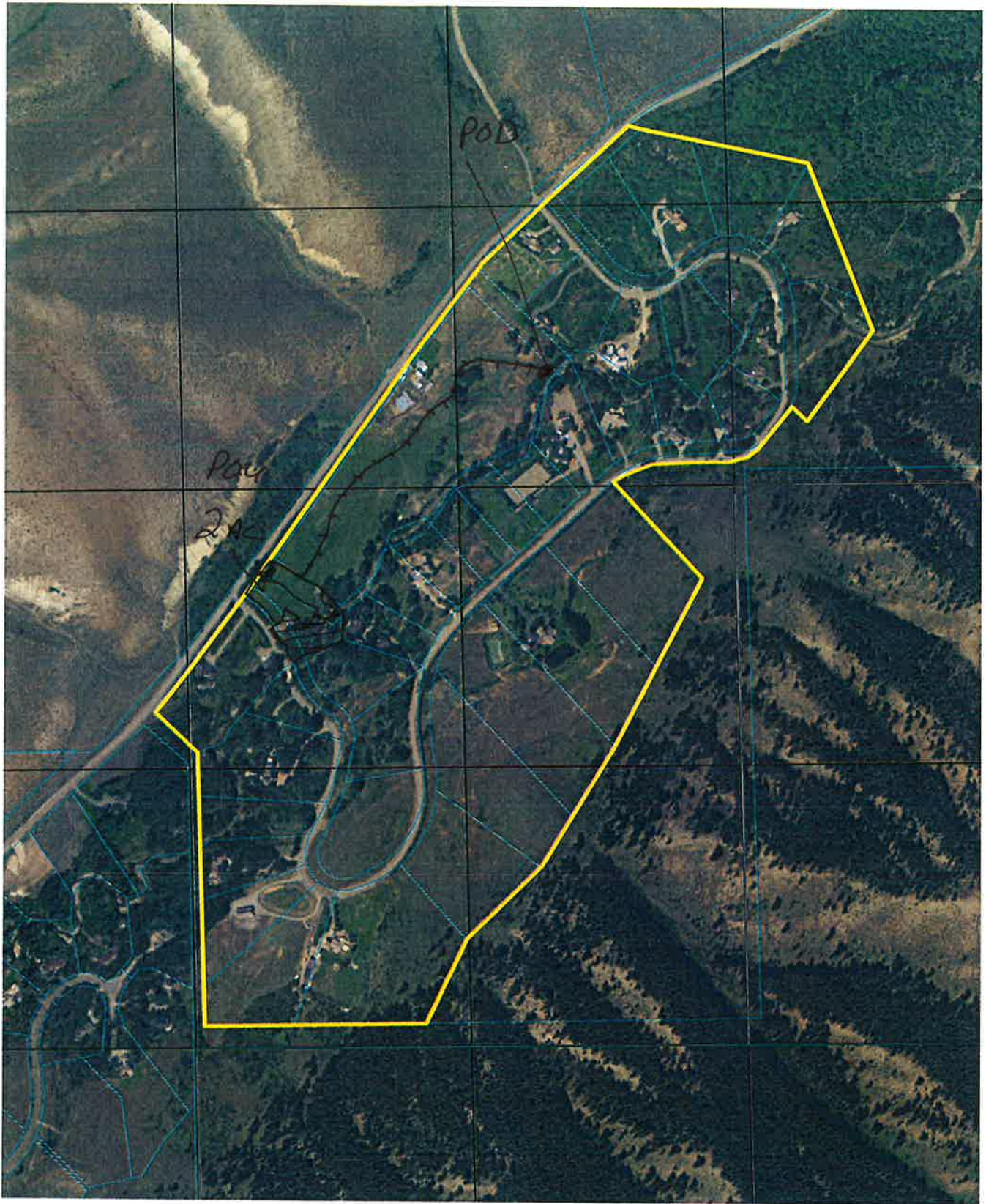
Nick Treasure

Carl Bontrager is the current owner of lots 21 and 22 of Hyndman. This claim is in reference to lot 21. Bontrager shares the same POD and ditch system with Rupert House, north of lot 21. POB is 2 Acres as claimed. POD is in SWNE as claimed.

(See Attached Map)

No. lockable device on POD headgate which is in SWNE and runs through a ditch on Rupert House's property on to Lot 21.

Hyndman Peak Subdivision



500 0 500 1000 1500 2000 2500 Feet

Twp 03N Rng 18E Secs 3



(118)

Carl Bontroger

SAWTOOTH TITLE CO., INC.
Note that this is a photographic reproduction of the
recorded plat, the Company assumes no liability
for variations, if any, with a re-survey.

HYNDMAN PEAK SUBDIVISION

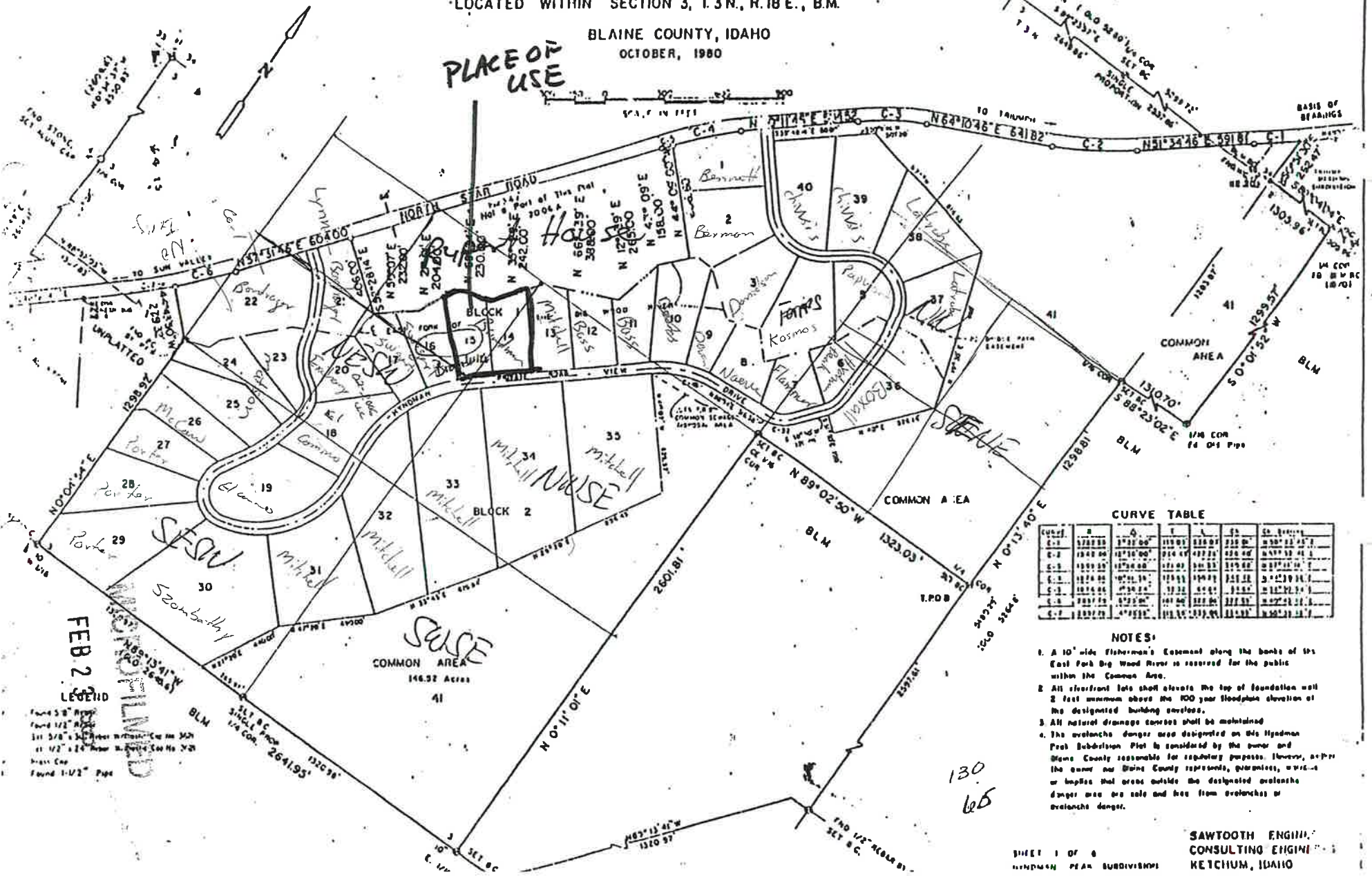
LOCATED WITHIN SECTION 3, T.3N, R.18E., B.M.

BLAINE COUNTY, IDAHO

OCTOBER, 1980

Richard D. Fisher
10-10-80

PLACE OF
USE



CURVE TABLE									
CHORD	ARC	ANGLE	AREA	PERIMETER	CHORD	ARC	ANGLE	AREA	PERIMETER
1.00	1.00	57.29	0.00	1.00	1.00	1.00	57.29	0.00	1.00
1.25	1.25	71.61	0.00	1.25	1.25	1.25	71.61	0.00	1.25
1.50	1.50	86.41	0.00	1.50	1.50	1.50	86.41	0.00	1.50
1.75	1.75	101.68	0.00	1.75	1.75	1.75	101.68	0.00	1.75
2.00	2.00	117.45	0.00	2.00	2.00	2.00	117.45	0.00	2.00
2.25	2.25	133.62	0.00	2.25	2.25	2.25	133.62	0.00	2.25
2.50	2.50	150.19	0.00	2.50	2.50	2.50	150.19	0.00	2.50
2.75	2.75	167.16	0.00	2.75	2.75	2.75	167.16	0.00	2.75
3.00	3.00	184.53	0.00	3.00	3.00	3.00	184.53	0.00	3.00
3.25	3.25	202.30	0.00	3.25	3.25	3.25	202.30	0.00	3.25
3.50	3.50	220.47	0.00	3.50	3.50	3.50	220.47	0.00	3.50
3.75	3.75	239.04	0.00	3.75	3.75	3.75	239.04	0.00	3.75
4.00	4.00	258.01	0.00	4.00	4.00	4.00	258.01	0.00	4.00
4.25	4.25	277.38	0.00	4.25	4.25	4.25	277.38	0.00	4.25
4.50	4.50	297.15	0.00	4.50	4.50	4.50	297.15	0.00	4.50
4.75	4.75	317.32	0.00	4.75	4.75	4.75	317.32	0.00	4.75
5.00	5.00	337.89	0.00	5.00	5.00	5.00	337.89	0.00	5.00

- NOTES:
1. A 10' wide Fisherman's Easement along the banks of the East Fork Big Wood River is reserved for the public within the Common Area.
 2. All shorefront lots shall elevate the top of foundation wall 2 feet minimum above the 100 year floodplain elevation of the designated building envelope.
 3. All natural drainage courses shall be maintained.
 4. The avalanche danger area designated on the Hyndman Peak Subdivision Plat is considered by the owner and Blaine County responsible for regulatory purposes. However, neither the owner nor Blaine County represents, warrants, agrees or implies that areas outside the designated avalanche danger area are safe and free from avalanches or avalanche danger.



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

February 26, 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

ATTN RANDI
SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340

RE: Split of SRBA Claim A37-00539B

Dear Randi:

Pursuant to the approval of Transfer No. 5318, the above referenced Notice(s) of Claim in the Snake River Basin Adjudication have been split and amended to conform to the transfer. Enclosed you will find a printout of the way the claim records have been modified. Please note the new claim numbers and check these records over carefully to verify they correctly reflect the intended change. Should you have questions please feel free to contact this office. Thanks again, Randi, for notifying us the transfer/owner change had not been data entered correctly.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Trish'.

Trish Fawcett
Technical Records Specialist

Enc.

cc: Carl Bontrager and Kathleen Lynn
Rupert House

Southern

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5318
WATER RIGHT NO. 37-00539K

RECEIVED

AUG 31 1999

Department of Water Resources
Southern Region

This is to certify that: **CARL BONTRAGER**
KATHLEEN LYNN
C/O JAMES P SPECK
SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	0.07 CFS	7.0 AF

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
BIG WOOD RIVER, EAST FORK	BIG WOOD RIVER

Priority: 06/03/1884

LOCATION OF POINT(S) OF DIVERSION: SWNE , Sec. 3, Township 03N, Range 18E
BLAINE County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03N	18E	3	NESW	2		2
Total number of acres irrigated:						2

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
3. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

TRANSFER NO. 5318
WATER RIGHT NO. 37-00539K

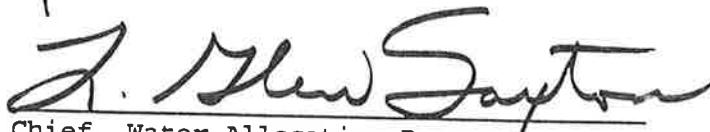
CONDITIONS OF APPROVAL AND REMARKS

4. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
6. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
7. Approval of Transfer 5318 does not grant any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.
8. Place of use is located within Lot 21, Block 1, Hyndman Peak Subdivision.

Dated this 26th day of

August

, 19 99.


Chief, Water Allocation Bureau

MEMORANDUM

TO: File 37-00539B

FROM: Pam Skaggs  State Office

SUBJECT: Transfer 5318

DATE: August 26, 1999

Transfer 5318 changes the place of use under a portion of Right 37-00539B, splitting the right into Parts J and K.

The applicants own Lot 21, Block 1, Hyndman Peak Subdivision and have purchased 0.07 cfs of this water right to irrigate 2.0 acres of their land. The transfer does not change the quarter-quarter legal description, rather identifies the specific change in place of use created by the change of ownership. The original owner has specifically identified 2.0 acres that will no longer be irrigated following the transfer approval.

The water will continue to be delivered through the same diversion system as approved under previous Transfer 3291. The conditions of this transfer required a measuring device and lockable controlling works to allow the watermaster control of the diversion. Field examination by region staff identified that no such system is in place and has recommended that the right holder remedy the oversight.

Season of use and diversion volume were adjusted to current standards. Recommended conditions under this transfer include watermaster control, measuring device & lockable controlling works, irrigation overlap, right-of-way and standard transfer conditions.

SPECK & AANESTAD

A PROFESSIONAL CORPORATION
ATTORNEYS

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

TELEPHONE
(208) 726-4421
FACSIMILE
(208) 726-0752

JAMES P. SPECK
DOUGLAS J. AANESTAD
BENJAMIN W. WORST

September 21, 1999

Mr. Allen Merritt
Idaho Department of Water Resources
1341 Fillmore, Suite 200
Twin Falls, ID 83301-3380

**Re: Portion of Water Right No. 37-00539B
Kathy Lynn and Carl Bontrager**

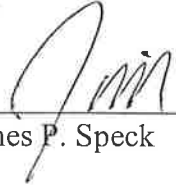
Dear Allen:

Enclosed you will find an Notice of Change of Water Right Ownership which I have prepared for Carl Bontrager and/or Kathleen Lynn, husband and wife, for a portion of the above-described water right. I have included copies of the Quitclaim Deed which will take the chain of title to the water right from Rupert and Bonnie House, to my clients together with a copy of Hyndman Peak Subdivision showing my clients' lot 21. I have also enclosed a copy of the Notice and ask that you have it receipt date stamped by the Department and return to me in the stamped and addressed envelope provided for that purpose. Please also send me a computer print out showing the change has been made in the Department records. Kindly call if there are any questions.

Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: 
James P. Speck

JPS:rsd
enclosures

INTEROFFICE MEMORANDUM

TO: TRANSFER FILE NO. 5318
FROM: KELLY K CHRISTENSEN
SUBJECT: ADJUDICATION REVIEW OF TRANSFER
DATE: 02/22/99

37-00539 is over-claimed through the adjudication process however based upon a memo dated October 20, 1995 in transfer file 4671 a significant portion of the base right appears to be forfeited based upon non use. The current allocation rights and related adjudication claims are;

37-00539B	0.40	cfs	A37-00539B	claimed in full
37-00539D	0.41	cfs	A37-00539D	claimed in full
37-00539F	0.155	cfs	A37-00539F	claimed in full
37-00539H	0.155	cfs	A37-00539J	claimed in full
37-00539G	<u>1.88</u>	<u>cfs</u>	A37-00539G	(.714 cfs claimed)
total	3.00	cfs	A37-00539H	(.880 cfs claimed)
			A37-00539I	(.274 cfs claimed)
			A37-00539K	(.062 cfs claimed)
			A37-00539L	<u>(.290 cfs claimed)</u>
			total	<u>3.335 cfs (claimed)</u>

Adj claim suffixes 'G', 'H', 'I', 'K', and 'L' are all apparently against the base right 37-00539G.

The place of use prior to transfer is for ground outside the Hyndman Peak Subdivision and two acres are being transferred onto lot 21 of that subdivision. Claim A37-00539G includes lot 21 as a portion of the place of use. Also attached to that claim is a quitclaim deed releasing water rights appurtenant to lot 21 to the Homeowner's association. That Deed was signed by Robert Brennan. As the applicant is asserting that lot 21 is currently dry, this gives weight to the memo indicating

that much of the original place of use is no longer irrigated.

The letter to the file from Water District NO 37 & 37M dated October 18, 1995 indicates that the ownership of the place of use covered by this transfer has been one of the few consistently delivered portions of the base right.

I, therefore, am accepting the analysis developed by Corey Skinner as being acceptable for adjudication purposes.

As this transfer will split A37-00539B, I recommend that the suffix assigned to the allocations records recognize the adjudication suffixes already assigned which would allow the adjudication claim split match the allocations assigned suffixes.

See attached split tree for 37-00539.(allocations rights)

February 22, 1999
Prepared by Kelly K
Christensen

**37-00539
SPLIT TREE
cfs**

T-3291

37-00539A
2.60 cfs

T-3280

37-00539C
2.19 cfs

T-3332

37-00539E
2.044 cfs

T-3551

37-00539G
1.885 for 30.5 acres
Lyman Peters

T-4671

Transfer 4671
Recommended for
disallowal

37-00539D
0.41 for 7 acres
Joseph Cirillo

AJ claim A37-00539D
.41 cfs for 7 acres

37-00539F
0.146 cfs for 2.36 acres
Joseph Cirillo

AJ claim A37-00539F
.15 cfs for 2 acres

37-00539H
0.155 cfs for 2.5 acres
Craig Brandman

AJ claim A37-00539J
.155 cfs for 2 acres

37-300539B

0.40 cfs for 12 ac
Rupert House

AJ claim A37-00539B
.40 cfs for 12 acres

T-5318

Transfer
Pending

37-00539()
0.33 cfs for 10 acres
Rupert House

37-00539()
0.07 cfs for 2 acres
Carl Bontrager

FROM: Allen Merritt *AM*

DATE: October 20, 1995

TO: Doug Jones for SRBA files, Transfer #4671 file

SUBJECT: Review and Recommendation of Transfer #4671 and other issues related to 37-00539.

Transfer #4671 is the fifth transfer relating to right 37-00539. The right was originally decreed for 3.0 cfs and made appurtenant to 4 tracts of land (SWNE, NWSE, NESW, SESW in Section 3, Twp.03N, Rge.18E, B.M.). The actual number of acres irrigated was not decreed.

In 9/4/1986 Rupert House filed the first transfer #3291 which split off 0.40 cfs for irrigation of 12 acres. This transfer was approved. In the process Jim Stanton conducted a field review and made a determination that the historical lands irrigated amounted to 57 acres. (See transfer for legal) House split of 15 acres for irrigation of 12 acres. On microfilm there is a aerial photo where Jim has drawn the A and B parts of the right. The photo shows 55.2 acres and a 11.2 acre parcels. The 11.2 acre tract appears to be Rupert House's part. Jim cuts off the southern portion of the 55.2 acre parcel resulting in 42 acres being left for this part. On the transfer in remarks there is a statement that the House portion has been used but the other portion has not been used since 1979. The remaining portion after House takes his was reported to have been sold to Brennan who developed the Hyndman Peak Subdivision.

On 9/22/1986 Joseph Cirillo filed the second transfer #3280 which split off 0.41 cfs to a pump for irrigation of 6.65 acres in Lots 23, 24 and 25 of Block 2 of the Hyndman Peak Subdivision. The transfer was approved. ***Note that lots 23, 24 & 25 are in both the NESW and SESW of Section 3. The transfer only lists NESW. During the review of this transfer a letter from Reid Newby, watermaster addresses delivery of the Brennan 130" and Spackman concludes there is no evidence of forfeiture for the period of 1980 through 1985.

On 5/19/1987 Joseph Cirillo filed the third transfer #3332 which split off 0.146 cfs to the same pump for transfer #3280 for irrigation of 2.36 acres in lot 26 of Block 2 of the Hyndman Peak Subdivision. The transfer was approved. ***Note that lot 26 is in the SESW but transfer list P/U in NESW. No possible forfeiture since 1985 at that time.

On 2/1/1989 Craig Brandman filed the fourth transfer #3551 which split off 0.155 cfs to a pump for irrigation of 2.5 acres in lots 14 and 15 of Block 1 of the Hyndman Peak Subdivision. The transfer was approved. No possible forfeiture since 1985 at that time.

On 3/9/92 Richard Porter sent an application for transfer through his attorney Kenneth Arment. Doug Jones returned the application on 8/14/95 to attorney Brian Ballard because the application did

not make sense with the record of water rights. On 9/2/1994 a replacement transfer application was filed for Richard Porter by a different attorney, Richard Burleigh. This application is numbered #4671 and subject of this memo. With the new application there were documents filed to attempt to show more acres were irrigated than the department has been tracking as based on Jim Stanton's original estimate.

On 10/17/95 I called the watermaster's office and talked with Norma Peterson. As a result of our conversation she went back into her records and prepared the attached letter describing the delivery of the right back to 1980. In reviewing this letter it appears clear and convincing to me that the portion of the right subject of Transfer #4671 has not been used for 10 years.

Based on this I recommend the transfer be **disallowed**.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES



LEE R. PETERSON
Watermaster

WATER DISTRICT NO. 37 & 37 M

P.O. Box T
Shoshone, Idaho 83352
(208) 886-2451

RECEIVED
OCT 18 1995
Department of Water Resources
Southern Region

Alan Merritt
State of Idaho
Department of Water Resources
222 Shoshone St. East
Twin Falls, Idaho 83301

October 18, 1995

Alan:

The following is a list of owners of water right 37-0539 of 150 inches and the use record for that right. By using the past Watermaster's work sheet I was able to go back as far as 1980.

Year	Owner	Inches Owned	Used
1980	Robert Brennan	130.00	no
	Rupert House	20.00	no
1981	Robert Brennan	130.00	yes
	Rupert House	20.00	yes
1982	Robert Brennan	130.00	no
	Rupert House	20.00	yes
1983	Robert Brennan	130.00	no
	Rupert House	20.00	yes
1984	Robert Brennan	130.00	yes
	Rupert House	20.00	yes
1985	Robert Brennan	130.00	yes
	Rupert House	20.00	yes
1986	Robert Brennan	130.00	no
	Rupert House	20.00	yes
1987	Robert Brennan	102.20	no
	Joseph Cirillo	27.80	yes
	Rupert House	20.00	yes
1988	Robert Brennan	102.20	no
	Joseph Cirillo	27.80	no
	Rupert House	20.00	yes

Years on non-use

1 1

2 2

3 3

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER DISTRICT NO. 37 & 37 M

P.O. Box T
Shoshone, Idaho 83352

(208) 886-2451



LEE R. PETERSON
Watermaster

Page 2

1989	Robert Brennan	94.45	no	4	
	Joeseeph Cirillo	27.80	yes		4
	Dr. Craig Brandman	7.75	no		
	Rupert House	20.00	yes		
1990	Robert Brennan	54.01	no	5	
	Bruce McCaw	27.80	yes		
	Dr Craig Brandman	7.75	no		5
	Robert Mitchell	40.44	no		
	Rupert House	20.00	yes		
1991	Robert Brennan	54.01	no	6	
	Bruce McCaw	28.50	yes		
	Dr Craig Brandman	7.75	no		6
	Robert Mitchell	40.44	yes		
	Rupert House	20.00	yes		
1992	Robert Brennan	54.01	no	7	
	Bruce Mc Caw	27.80	yes		
	Dr Craig Brandman	7.75	no		7
	Robert Mitchell	40.44	yes		
	Rupert House	20.00	yes		
1993	Robert Brennan	54.01	no	8	
	Bruce Mc Caw	27.80	yes		
	Dr Craig Brandman	7.75	no		8
	Robert Mitchell	40.44	yes		
	Rupert House	20.00	yes		
1994	Robert Baugh	10.85	no	9	
	Hyndman Homeowners	43.16	no		
	Bruce Mc Caw	27.80	yes		
	Dr Craig Brandman	7.75	no		9
	Robert Mitchell	40.44	yes		
	Rupert House	20.00	yes		
1995	Robert Baugh	10.85	no	10	
	Hyndman Homeowners	43.16	no		
	Bruce Mc Caw	27.80	yes		
	Dr Craig Brandman	7.75	no		10
	Robert Mitchell	40.44	yes		
	Rupert House	20.00	yes		

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER DISTRICT NO. 37 & 37 M

P.O. Box T
Shoshone, Idaho 83352
(208) 886-2451



LEE R. PETERSON
Watermaster

Page3

In way of explanation for non-use of some portions of this water right. Robert Brennan is a developer, his practice is to buy up land and water rights. As a rule he never uses the water. He then develops the land, sells off parcels and the water right may or may not be used by the new owner. Mr. Brennan has held more water rights in non use situations and has caused much controversy because of this practice.

I hope you find this information useful. If there is anything further we can do to be of help please let us know.

Sincerely,

A handwritten signature in cursive script that reads "Norma Peterson".

Norma Peterson
Secretary/Treasurer