

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 37-21967
Date Received: 11/17/2006
Receipt No: 5029049
Received By: C. SKINNER

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

1. Name of Claimant(s)

MICHAEL C ZENONIANI Phone: (208)788-2228
561 MOTHER LODGE LOOP
HAILEY ID USA 83333

WONDA TOOTHMAN Phone: (208)788-2228
561 MOTHER LODGE LOOP
HAILEY ID USA 83333

JIM TOOTHMAN Phone: (208)788-2228
561 MOTHER LODGE LOOP
HAILEY ID USA 83333

SUSAN ZENONIANI Phone: (208)788-2228
561 MOTHER LODGE LOOP
HAILEY ID USA 83333

CONNIE TOOTHMAN Phone: (208)788-2228
561 MOTHER LODGE LOOP
HAILEY ID USA 83333

JACK TOOTHMAN Phone: (208)788-2228
561 MOTHER LODGE LOOP
HAILEY ID USA 83333

2. Date of Priority: 06/10/1887

3. Source: BIG WOOD RIVER Trib. to: MALAD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
01N	18E	12	NW SE SW	BLAINE	

5. Description of diverting works: Glendale Canal

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/31	0.14	

7. Total Quantity Appropriated is:
0.14 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
01N	18E	23	NW	SW	IRRIGATION	0.2
			SE	SW	IRRIGATION	0.7
			SW	SW	IRRIGATION	19.1
					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: 37-21803

14. Remarks:

15. Basis of Claim: Decreed

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): *[Signature]* Date: 11-17-06
_____ Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 17th day
of November 2006 Kelly K. Christensen

Notary Public

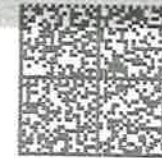
Residing at Twin Falls

My commission Expires 4-2-2010



nt. of Water Resources
Education Bureau
P.O. Box 83720
Boise, ID 83720-0098

FIRST CLASS



UNITED STATES POSTAL SERVICE
PITNEY BOWEN
02 1A \$ 00.
0004389393 MAR 08
MAILED FROM ZIP CODE 8

RECEIVED
MAR 13 2007
DEPARTMENT OF
WATER RESOURCES

37-21803
37-21967

JACK TOOTHMAN

CONNIE TOOTHMAN

WONDA TOOTHMAN

JIM TOOTHMAN
561 MOTHER LODE LOOP
HAILEY ID 83333



11/20/2006

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

RIGHT NUMBER: 37-21967
NAME AND ADDRESS: MICHAEL C ZENONIANI
561 MOTHER LODGE LOOP
HAILEY ID 83333

WONDA TOOTHMAN
561 MOTHER LODGE LOOP
HAILEY ID 83333

JIM TOOTHMAN
561 MOTHER LODGE LOOP
HAILEY ID 83333

SUSAN ZENONIANI
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CONNIE TOOTHMAN
561 MOTHER LODGE LOOP
HAILEY ID 83333

JACK TOOTHMAN
561 MOTHER LODGE LOOP
HAILEY ID 83333

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER
QUANTITY: 0.140 CFS
PRIORITY DATE: 06/10/1887
POINT OF DIVERSION:

T01N R18E S12 NWSESW 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	0.140 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T01N R18E S23	NWSW	0.20	T01N R18E S23	SWSW	19.10
T01N R18E S23	SESW	0.70			

20 ACRES TOTAL

This right is limited to the irrigation of 14 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 20.0 acres in a single irrigation season. Combined Right Nos.: 37-21803 and 37-21967.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

The place of use is located within Lot 4, Poverty Flat Subdivision.



Idaho Department of Water Resources

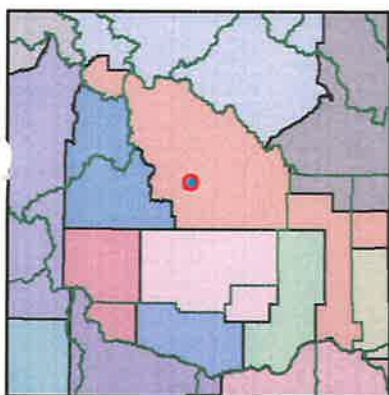
SRBA Recommendation:

37-21967

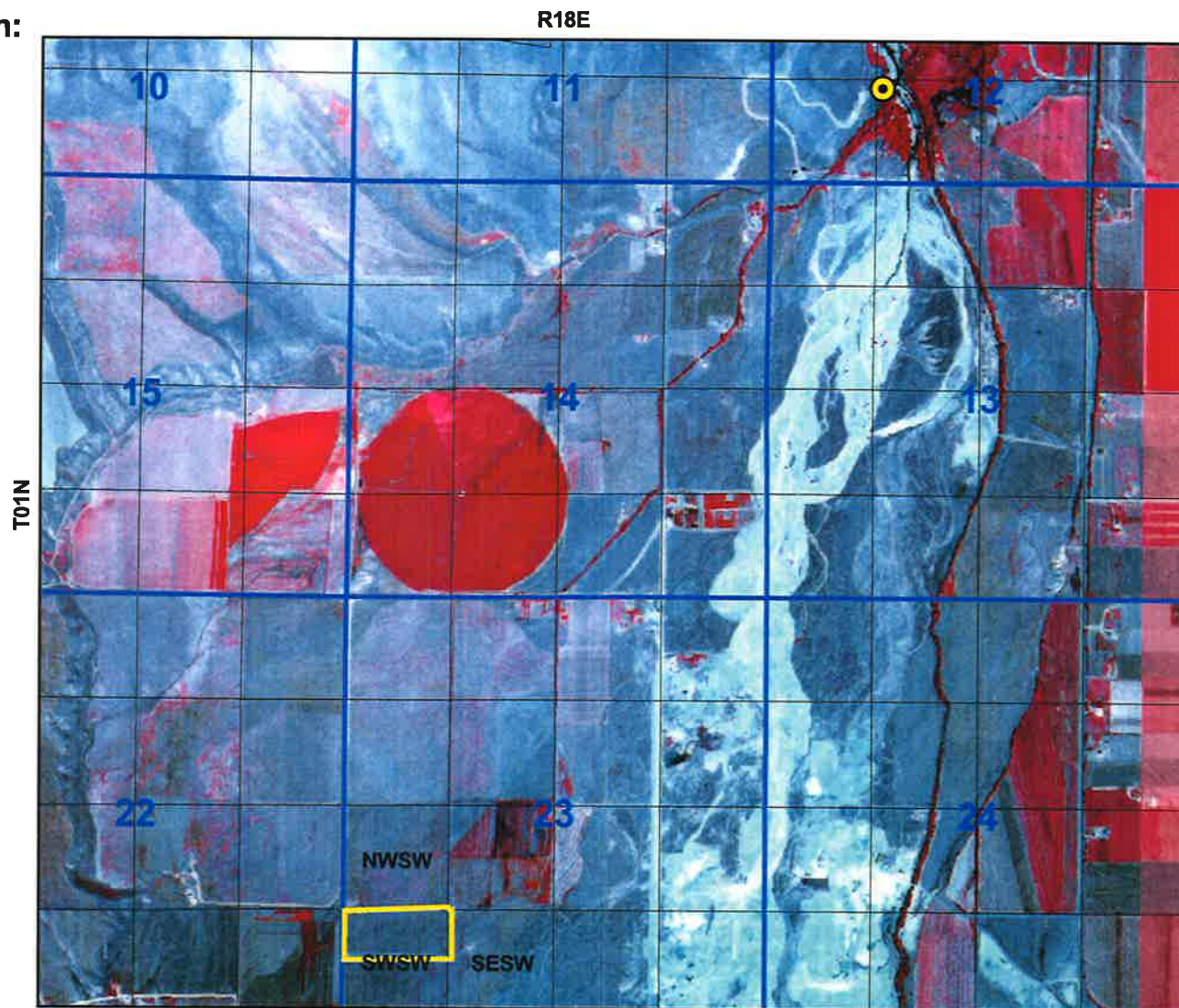
(Irrigation)

Legend

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



Blaine County
IDWR Basin 37

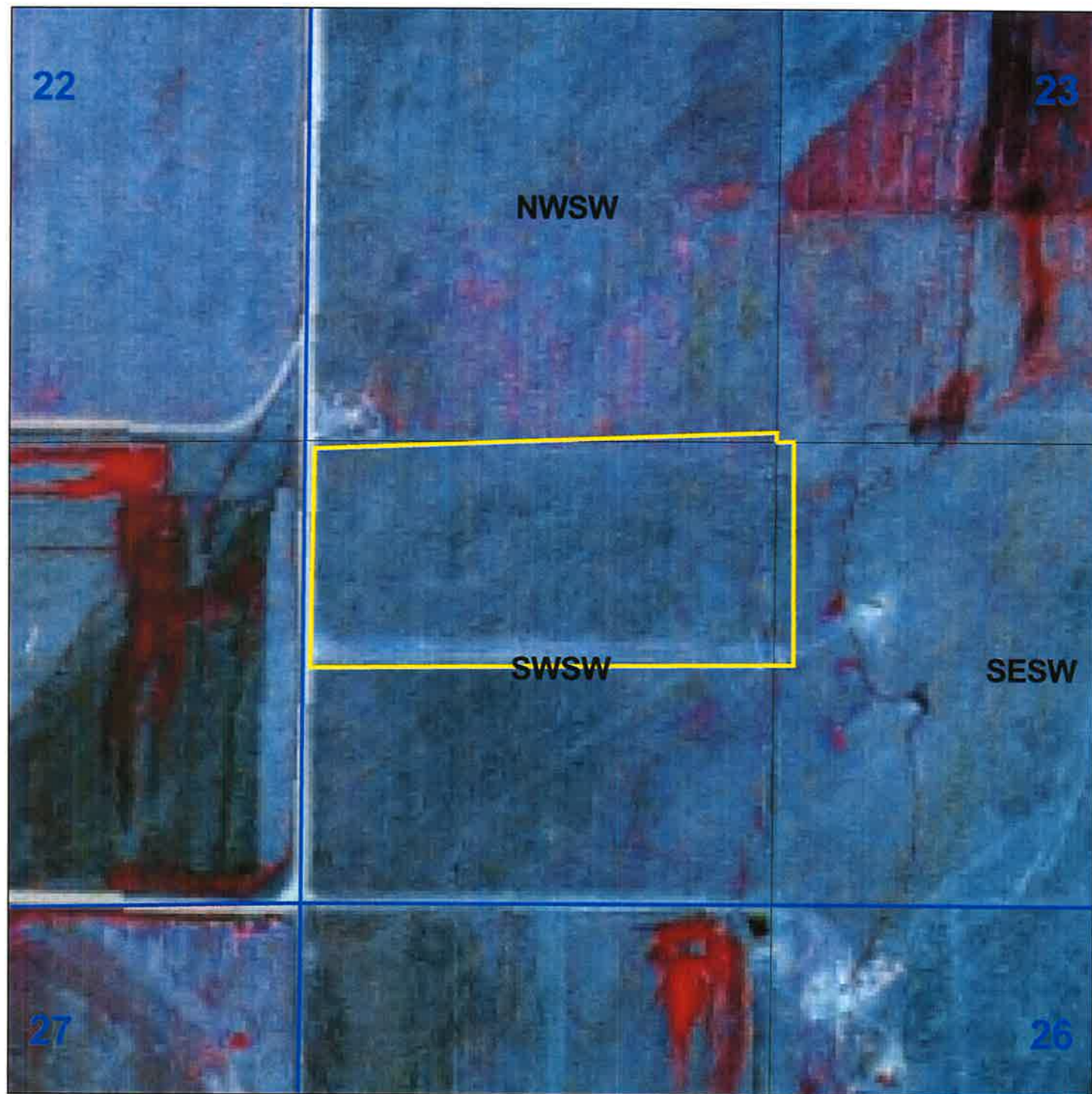


0 0.9 1.8 Miles



Prepared by C. Skinner
On Monday, November 20, 2006
1987/88 Aerial Photography

37-21967



MEMORANDUM

TO: SRBA Claim Files Based on Portions of Rights 37-0047 & 37-0307

FROM: Corey Skinner

DATE: November 14, 2006

SUBJECT: SRBA Review & Recommendation(s)

Numerous SRBA claims have been filed based on portions of rights 37-0047 and 37-0307. Review of records indicates that various lot owners within the Poverty Flats Subdivision have filed these claims. Review of IDWR water right records indicates that right 37-0047 was decreed for 6.0 cfs for the irrigation of five 40-acre tracts that are now portions of Poverty Flats Subdivision, in particular, the Southwest $\frac{1}{4}$ of Section 23 (T01N, R18E) and the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 26 (T01N, R18E). Review of IDWR water right records indicates that right 37-0307 was decreed for 1.6 cfs for the irrigation of four 40-acre tracts that are located to the west of Poverty Flats Subdivision, in particular, the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 22 (T01N, R18E), the East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ and the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 27 (T01N, R18E). Further review of IDWR records indicates that these two particular decreed rights did not historically overlap any other rights on their historical places of use. Therefore, there does not seem to be any problem with assuming that these rights were moved via unrecorded transfer(s) to the claimed place(s) of use now consisting of the Poverty Flats Subdivision.

The SRBA review consisted of determining the historically irrigated land on the property now consisting of the Poverty Flats Subdivision. Examination of various years of aerial photos helped to determine an approximate shape outlining the historically irrigated land. This shape (outlined in yellow) is shown on page 4 of this memo showing various years of aerial photos. The shape consists of approximately 199 acres of land. Note that the shape includes some land, in particular Lot 5 (owned by Ken Smith) and Lot 8C (owned by Fredrick Brown) that do not currently (as of this date) have SRBA claims filed by the property owners for their irrigation use. Water master records indicate that both of these properties &/or owners, Lot 5 (owned by Ken Smith) and Lot 8C (owned by Fredrick Brown), have been delivered water. The owners of these properties have been contacted in an effort to try and solicit SRBA claim filings for their water use.

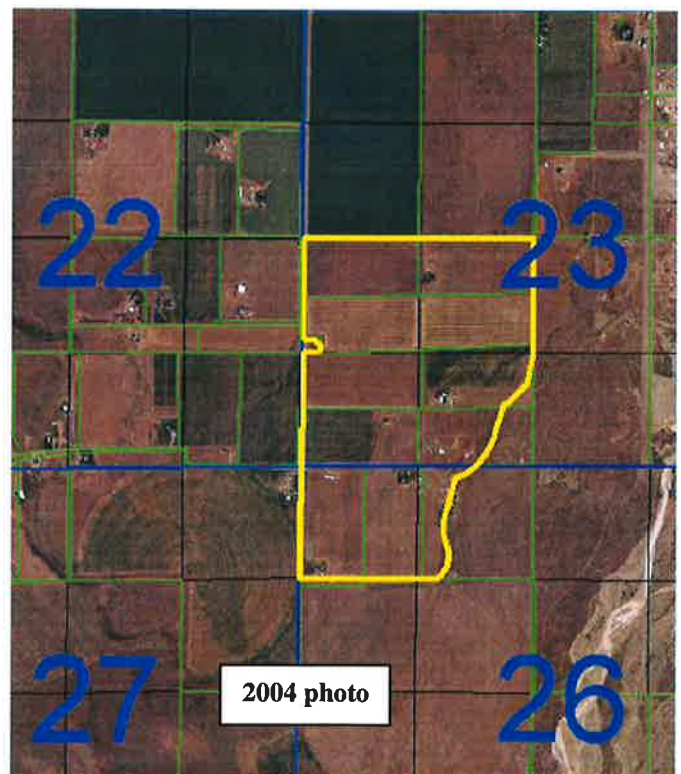
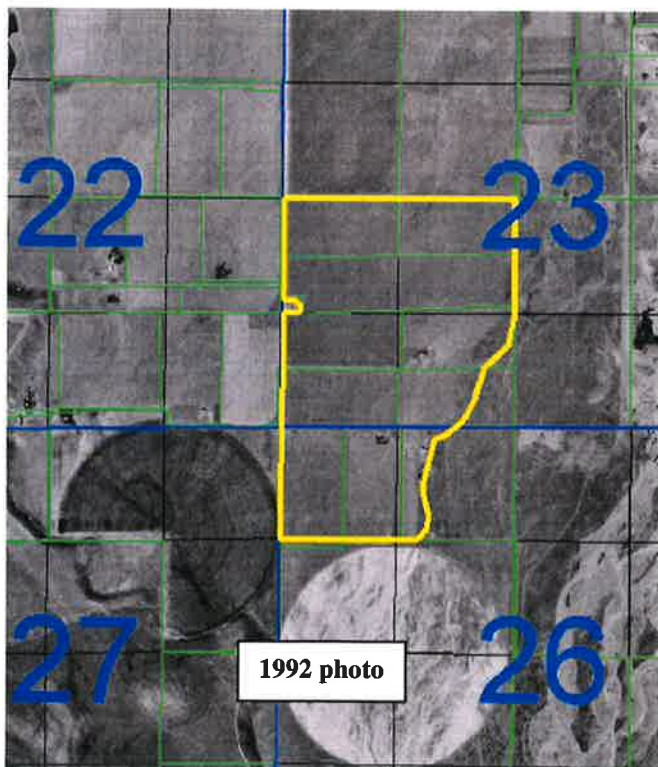
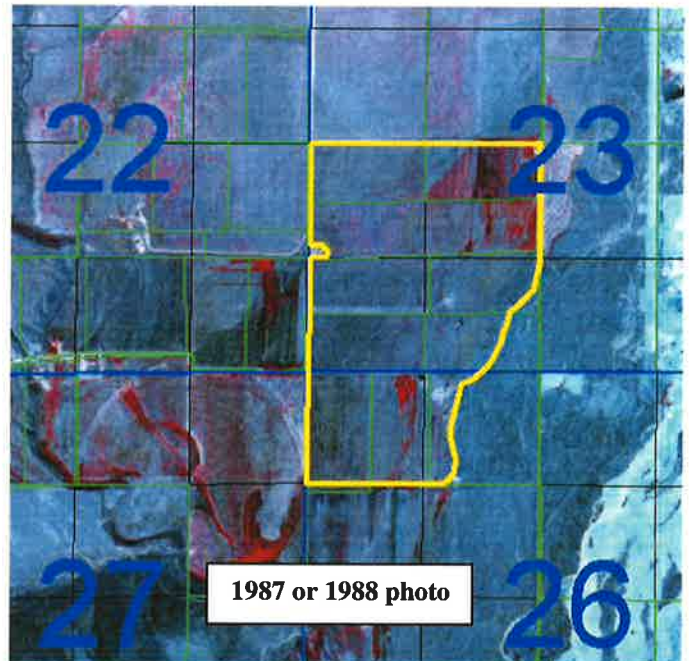
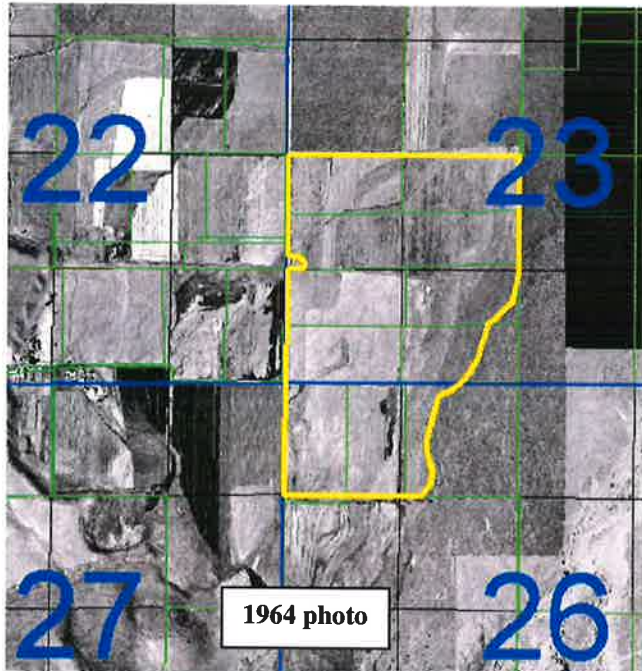
Because the historically irrigated ground consists of approximately 199 acres there is a slight problem because the originally decreed place of use for right 37-0307 only consisted of four 40-acre tracts, at most 160 acres. Note that the approximately 199 acres matches very closely with the originally decreed place of use for right 37-0047, five 40-acre tracts, or potentially 200 acres. For the claims based upon right 37-0307, a set of allowable irrigated acres per claim was established by proportionately distributing the at most 160 acres amongst the claims within the historically irrigated 199 acres based on the amounts of water for each individual claimant as recorded in water master records. For example, original decree was for 1.6 cfs for 160 acres or 0.01cfs/acre so if watermaster records show delivery of 0.14 cfs then a 14-acre limit is recommended. The following table summarizes the individual recommendations for the claims currently filed, and that need to be filed, based on rights 37-0047 and 37-0307....

Page 2
 37-47 & 37-307 SRBA Claim Review Memo
 November 14, 2006

Lot #	Claimant / Lot Owner	Claim #	Claimed Rate	Claimed POU	Water Master Rate	Rec. Rate	Rec. POU	Notes
1	Walbert	37-47E	0.50 cfs	20 acres	0.50 cfs	0.50 cfs	20 acres	Rec. as claimed
1	Walbert	37-307E	0.14 cfs	20 acres	0.14 cfs	0.14 cfs	14 acres within 20 acre PPU	Rec. as claimed except acre limit within PPU
2	Elisson	37-47A	0.50 cfs	20 acres	0.50 cfs	0.50 cfs	20 acres	Rec. as claimed
2	Elisson	37-307A	0.14 cfs	20 acres	0.14 cfs	0.14 cfs	14 acres within 20 acre PPU	Rec. as claimed except acre limit within PPU
3	South 36	37-11723	0.96 cfs	37.4 acres	0.96 cfs	0.96 cfs	36.4 acres	Claim based on 37-47. One acre home site (owned by Beck) not included in recommended POU
3	South 36	37-11721	0.24 cfs	37.4 acres	0.24 cfs	0.24 cfs	24 acres within 36.4 acre PPU	Claim based on 37-307. One acre home site (owned by Beck) not included in recommended POU
4	Toothman or Zenoniani	37-21803	0.50 cfs	20 acres	0.50 cfs	0.50 cfs	20 acres	Claim based on part of 37-47
4	Toothman or Zenoniani				0.14 cfs	0.14 cfs	14 acres within 20 acre PPU	No Claim Filed as of 11/14/06 on 37-307
5	Smith				0.50 cfs	0.50 cfs	19 acres	No Claim Filed as of 11/14/06 on 37-47
5	Smith				0.14 cfs	0.14 cfs	14 acres within 19 acre PPU	No Claim Filed as of 11/14/06 on 37-307
6	Guyre	37-47B	0.50 cfs	20 acres	0.50 cfs	0.50 cfs	20 acres	Rec. as claimed
6	Guyre	37-307B	0.14 cfs	20 acres	0.14 cfs	0.14 cfs	14 acres within 20 acre PPU	Rec. as claimed except acre limit within PPU
7	Murphy	37-47C	0.50 cfs	20 acres	0.50 cfs	0.50 cfs	14 acres	6.0 acres on east end of property not historically irrigated
7	Murphy	37-307C	0.14 cfs	20 acres	0.14 cfs	0.14 cfs	14 acres	6.0 acres on east end of property not historically irrigated
8A	Brunetto	37-47D	0.50 cfs	22 acres	0.50 cfs	0.50 cfs	21 acres	Plat shows lot at 21.37 acres
8A	Brunetto	37-307D	0.14 cfs	22 acres	0.14 cfs	0.14 cfs	14 acres within 21 acre PPU	Plat shows lot at 21.37 acres
8B	Wynn	37-47F	1.01 cfs	19 acres	0.50 cfs	0.50 cfs	19 acres	Recommended Rate Based on Water Master Records
8B	Wynn	37-307F	0.27 cfs	19 acres	0.14 cfs	0.14 cfs	14 acres within 19 acre PPPU	Recommended Rate Based on Water Master Records
8C	Brown				1.01 cfs	1.01 cfs	9 acres	No Claim Filed as of 11/14/06 on 37-47
8C	Brown				0.27 cfs	0.24 cfs	9 acres	No Claim Filed as of 11/14/06 on 37-307. Rate adjusted to match original decree total (1.6 cfs)

Note that the total recommended amounts for the claimed portions of right 37-47 total 5.97 cfs for the irrigation of 198.4 acres, compared to the original decreed amount of 6.0 cfs for the irrigation of five 40-acre tracts, and compared to the total water master record of 5.97 cfs. Also note that the total recommended amounts for the claimed portions of right 37-307 total 1.60 cfs for the irrigation of 145 acres, compared to the original decreed amount of 1.60 cfs for the irrigation of four 40-acre tracts, and compared to the total water master record of 1.63 cfs. *It should be noted that these totals include proposed recommendations for claims that have not yet been filed as of this date (Toothman or Zenoniani portion of 37-307 for Lot # 4, Smith portions of 37-47 and 37-307 for Lot #5, and Brown portions of 37-47 and 37-307 for Lot #8C.* Also in order to insure that no more than 1.6 cfs will be recommended for the portions of right 37-307, the proposed recommendation for the Brown portion of right 37-307 is 0.24 cfs (water master records show 0.27 cfs). This particular recommendation was selected to be reduced since it has the highest duty of water (rate per acre), when compared to the original decree, and other claimed portions based on the original decree.

**Various Years of Aerial Views of Historical Place of Use
(Approximately 199 acres Outlined in Yellow)**



ROAD

GLENDALE

300

304

1 2
3

316

4 5

324

328

332

336

POVERTY FLAT SUBDIVISIO

22 23
27 26

6 7

340

344

348

8A 8B

8C

SECS. 23 & 26,

FND 5/8" PIN JUL 1973

N 88°53'08"E

252.35'

22 23

1310.02'

1312.32'

30'

20 Acres

20 Acres

2 CARRERON

N 88°53'08"E

1314.12'

1312.32'

Acres

N 87°26'48"E

1160.07'

2430.39'

1270.32'

20 Acres

20 Acres

60' PRIVATE DRIVEWAY & UTILITY EASEMENT

1317.03'

S 89°30'53"W

1317.03'

20 Acres

20 Acres

Glendale Road
(Dedicated)

FND 5/8" PIN
JUL 1973

22 23

1319.07'

1319.07'

S 89°30'53"W

1264.30'

26 717.67'

686.17'

2668.14'

FND BC
KNOXCE
T.P.O.

30' ROADWAY & UTILITY EASEMENT

WYNN

8-A

8-B

8-C

21.37 Acres

20.47 Acres

37.99 Acres

N 0°00'00"E

S 89°44'44"W

2678.15'

UNPLATTED

S 89°58'28"W

2688.16'

(S 89°58'23"W

2688.00')

MICROFILMED
FEB 22 1993

FND 5/8" PIN
JUL 1973

27 26

90.88'

0°00'00"E 5181.76')

(1295.44')

1295.42'

1306.16'

(1306.10')

5224.21')

C1/4

(S 8

12.01'

0°26'11"W