

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 37-22258
Date Received: 1/30/2008
Receipt No: C087432
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

DANIEL T HENRY Phone: (208)721-1655
308 N 2ND AVE
HAILEY ID USA 83333

2. Date of Priority: 06/01/1880

3. Source: NARROW GAUGE GULCH Trib. to: DEER CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
02N	17E	9	NE SE SW	BLAINE	Beginning Point
02N	17E	9	NW NW SE	BLAINE	Ending Point

5. Description of diverting works:

IN-STREAM STOCKWATER USE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
STOCKWATER	01/01	12/31	0.02	

7. Total Quantity Appropriated is:

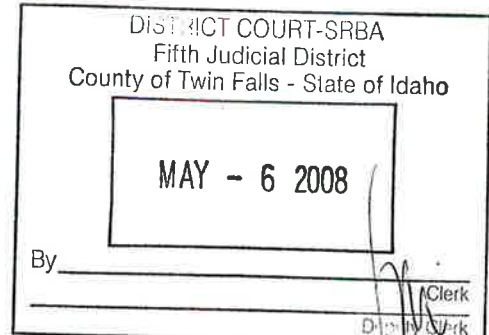
0.02 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
02N	17E	9	NE SW	STOCKWATER	
			SE SW	STOCKWATER	
			NW SE	STOCKWATER	



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:

In-stream stockwater use

15. Basis of Claim:

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication."

(b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

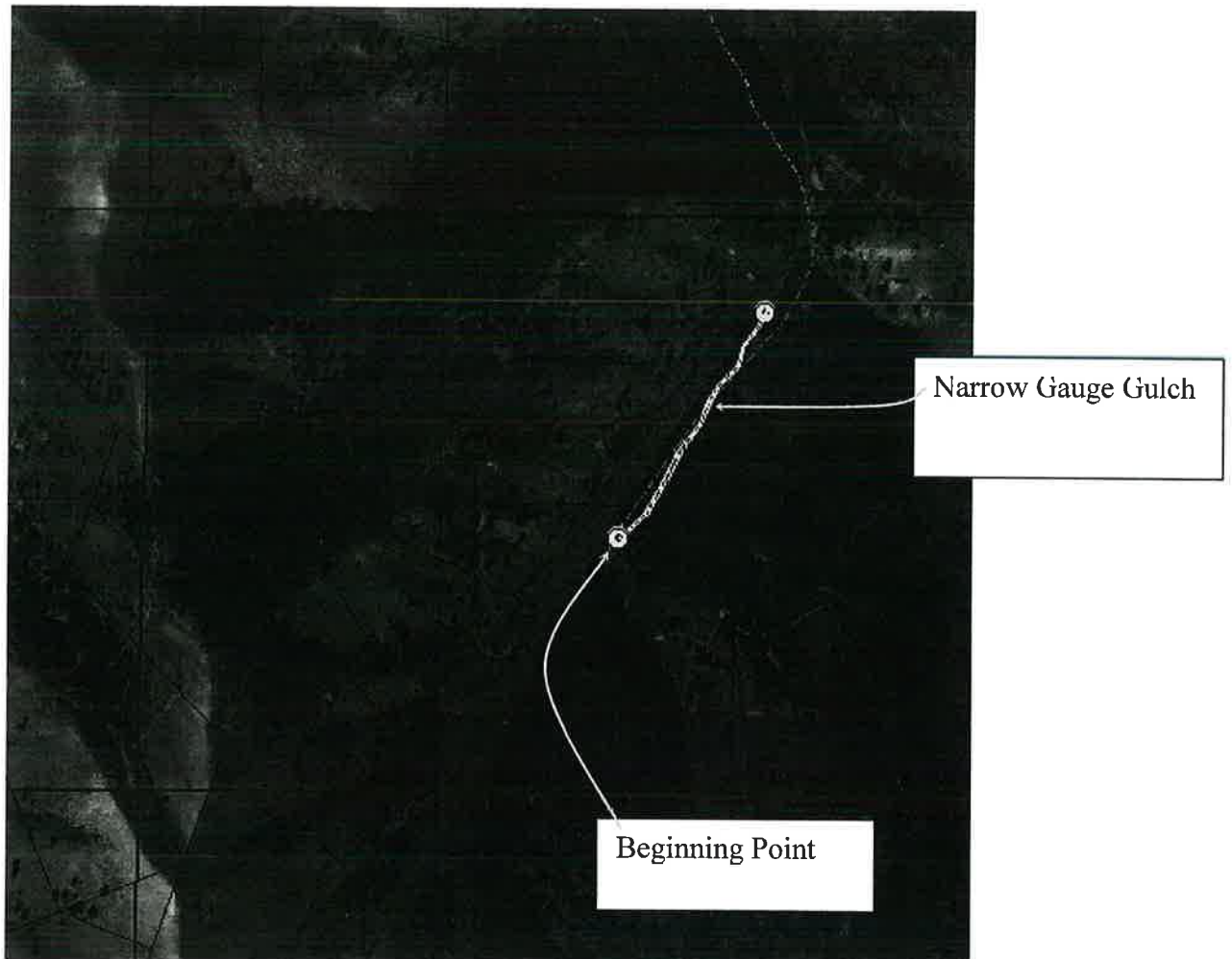
Number of attachments: _____

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

IDAHO DEPARTMENT OF WATER RESOURCES
PLACE OF USE FOR 37-22258



2004 aerial photography

SCANNED

AUG 21 2008

RECEIVED
AUG 20 2008
DEPARTMENT OF
WATER RESOURCES

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

AUG 19 2008

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

In Re SRBA

Subcases: 37-22257 & 37-22258

Case No. 39576

ORDER GRANTING MOTIONS TO FILE
LATE NOTICES OF CLAIM

On May 6, 2008, Daniel T. Henry filed a *Motion to File Late Notice of Claim* for each of the above-captioned water rights. Hearing was held on the *Motions* on August 19, 2008. These *Motions* complied with all procedural requirements under **SRBA Administrative Order 1**, and no objections were made to these late Notices of Claim.

THEREFORE, IT IS ORDERED, that the *Motions to File a Late Notice of Claim* for each of the above-captioned water rights are **granted**.

The original Notices of Claim, as well as any attached filing fees, and a copy of this **Order** will be forwarded to the Idaho Department of Water Resources for further action. Following investigation by the Idaho Department of Water Resources, recommendation for the claims will be reported in the next *Late Claims Director's Report* which is issued on an annual basis. This modifies the provisions of **SRBA Administrative Order 1** 4d(2)(h).

IT IS SO ORDERED.

Dated August 19, 2008.


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING
MOTIONS TO FILE LATE NOTICES OF CLAIM was mailed on August 19,
2008, with sufficient first-class postage to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

DANIEL T HENRY
308 N 2ND AVE
HAILEY, ID 83333
Phone: 020-872-1655

ORDER

Page 1 8/19/08

FILE COPY FOR 01727

Deputy Clerk

Julia Murphy

AUG 21 2008

RECEIVED

MAY 14 2008

DEPARTMENT OF
WATER RESOURCES

Hearing: 8-19-08

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 *Filing Fee should*)
Be \$ 25.00)
Potential \$ 75.00)
Case 39576 *Refund.*)
C. Saxton)
5-16-08)
Claim Complete = Yes)

Subcase

37-22258 ✓
37-22257

(Insert water right number)

STANDARD FORM 4

MOTION TO FILE:

☒ LATE NOTICE OF CLAIM

☐ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

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

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

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

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

SCANNED

MAY 14 2008

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

My name is DANIEL T. HENRY

My address is 308 W 2ND Ave
Hailey, ID 83333

My phone number is: Work 721-1655 Home SAME

I am an attorney representing _____

My name is _____

My address is _____

My phone number is _____

MOTION TO FILE A LATE NOTICE OF CLAIM

A *Motion to File a Late Notice of Claim* will require a hearing before the Presiding Judge.

☒ I did not file a Notice of claim to the use of water in the SRBA because:

The property in question had
been in escrow for 2 years or more
and it just transferred and was
recorded in Blaine County

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☐ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

I have attached:

☒ A fully completed Notice of Claim (available from IDWR).

☒ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ 200.

*fee correct. B.U.
8/16/claim no. \$25.00
C. Saxton
5-16-08*

☐ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on _____

19 Aug 2008
(Insert Date and Time)

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

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

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

- ☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

I have attached:

- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION (Must be completed)

State of Idaho
County of Blaine

Daniel T. Henry, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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

[Signature]
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on _____
(Insert Date)

Notary Public for _____
Residing at: _____
My Commission expires: _____

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on 9 May 2008, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

2. Copies to:

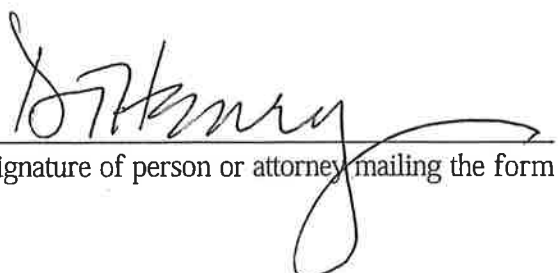
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

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

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

(Insert Names/address of parties)


Signature of person or attorney mailing the form

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 37-22258
Date Received: 1/30/2008
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

DANIEL T HENRY Phone: (208)721-1655
308 N 2ND AVE
HAILEY ID USA 83333

2. Date of Priority: 06/01/1880

3. Source: NARROW GAUGE GULCH Trib. to: DEER CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot			County	Type
02N	17E	9	NE	SE	SW	BLAINE	Beginning Point
02N	17E	9	NW	NW	SE	BLAINE	Ending Point

5. Description of diverting works:

IN-STREAM STOCKWATER USE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
STOCKWATER	01/01	12/31	0.02	

7. Total Quantity Appropriated is:
0.02 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
02N	17E	9	NE	SW	STOCKWATER	
			SE	SW	STOCKWATER	
			NW	SE	STOCKWATER	

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:

In-stream stockwater use

15. Basis of Claim:

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication."

(b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

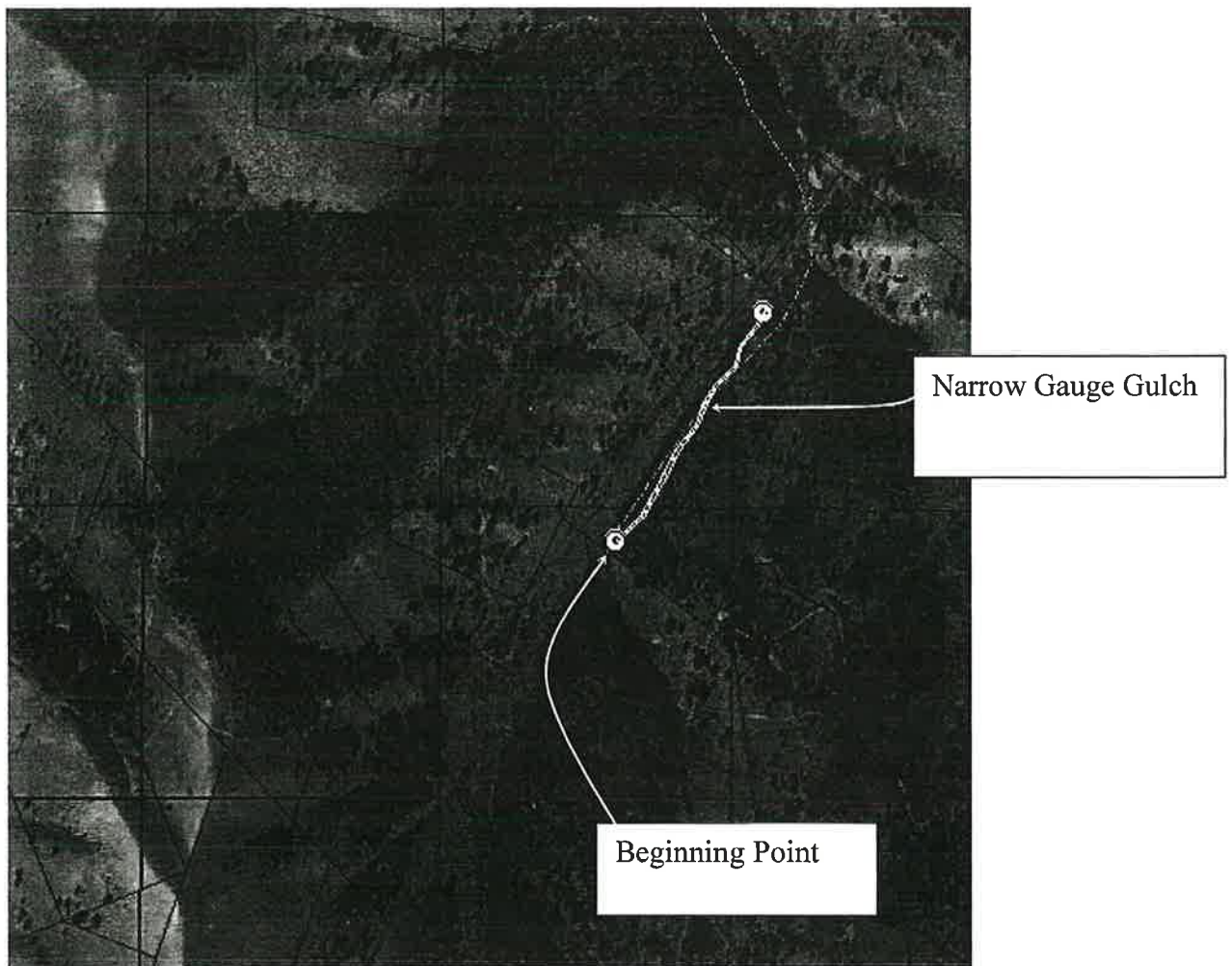
Number of attachments: _____

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

IDAHO DEPARTMENT OF WATER RESOURCES
PLACE OF USE FOR 37-22258



2004 aerial photography

SCANNED
MAY 14 2009

Christensen, Kelly

From: Christensen, Kelly
Sent: Wednesday, May 20, 2009 3:27 PM
To: Kelly, Vicki
Subject: 37-22258 (Daniel T Henry, US DoJ) - Initial Hearing - Bromley/Spencer/Kelly

Attachments: 37-22258 DANIEL T HENRY settlement recom.doc

Attached is the recommendation generated to settle this objection in underline format.

This one should be ready for a SF-5 mailing.



37-22258 DANIEL T
HENRY settle...

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

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

RIGHT NUMBER: 37-22258

NAME AND ADDRESS: DANIEL T HENRY
308 N 2ND AVE
HAILEY ID 83333

SOURCE: NARROW GAUGE GULCH

TRIBUTARY: DEER CREEK

QUANTITY: 0.020 CFS

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 06/01/1880

POINT OF
DIVERSION:

T02N R17E S9 NESESW Begin of Stream Flow Within BLAINE County
T02N R17E S9 NWNWSE End of Stream Flow Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: STOCKWATER in BLAINE County

T02N R17E S09	NESW	T02N R17E S09	SESW
T02N R17E S09	NWSE		

Place of use does not include federal public lands.

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

The quantity of water decreed for this water right is not a determination of historical beneficial use.

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.

Property is also known as Lot No 49A within Mineral Survey 819A.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

**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.: 37-22258**
)
)
) **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:

Daniel T. Henry

OBJECTOR:

United States on behalf of the
USDA Forest Service

Daniel T. Henry

Date

David L. Negri

Date

Attorney for USFS

IDWR CONCURRENCE:

Kelly K. Christensen 6-16-09

Kelly K. Christensen
Sr. Water Resource Agent

Date

IDWR CONCURRENCE:

Christopher M. Bromley
Deputy Attorney General
Attorney for IDWR

Date

CERTIFICATE OF SERVICE

I certify that on _____, 2009, 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

Daniel T. Henry
308 N. 2nd Ave.
Hailey, ID 83333

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

U.S. Department of Justice
Environment & Nat'l Resources Div.
550 W. Fort St., MSC 033
Boise, ID 83724

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

Signature of person or attorney mailing the form

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

RIGHT NUMBER: 37-22258

NAME AND ADDRESS: DANIEL T HENRY
308 N 2ND AVE
HAILEY ID 83333

SOURCE: NARROW GAUGE GULCH

TRIBUTARY: DEER CREEK

QUANTITY: 0.020 CFS

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 06/01/1880

POINT OF
DIVERSION:

T02N R17E S9 NESESW Begin of Stream Flow Within BLAINE County
T02N R17E S9 NWNWSE End of Stream Flow Within BLAINE County

PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	STOCKWATER	01/01 12/31	0.020 CFS
PLACE OF USE:	<u>STOCKWATER in BLAINE County</u>		
	T02N R17E S09 NESW	T02N R17E S09	SESW
	T02N R17E S09 NWSE		

Place of use does not include federal public lands.

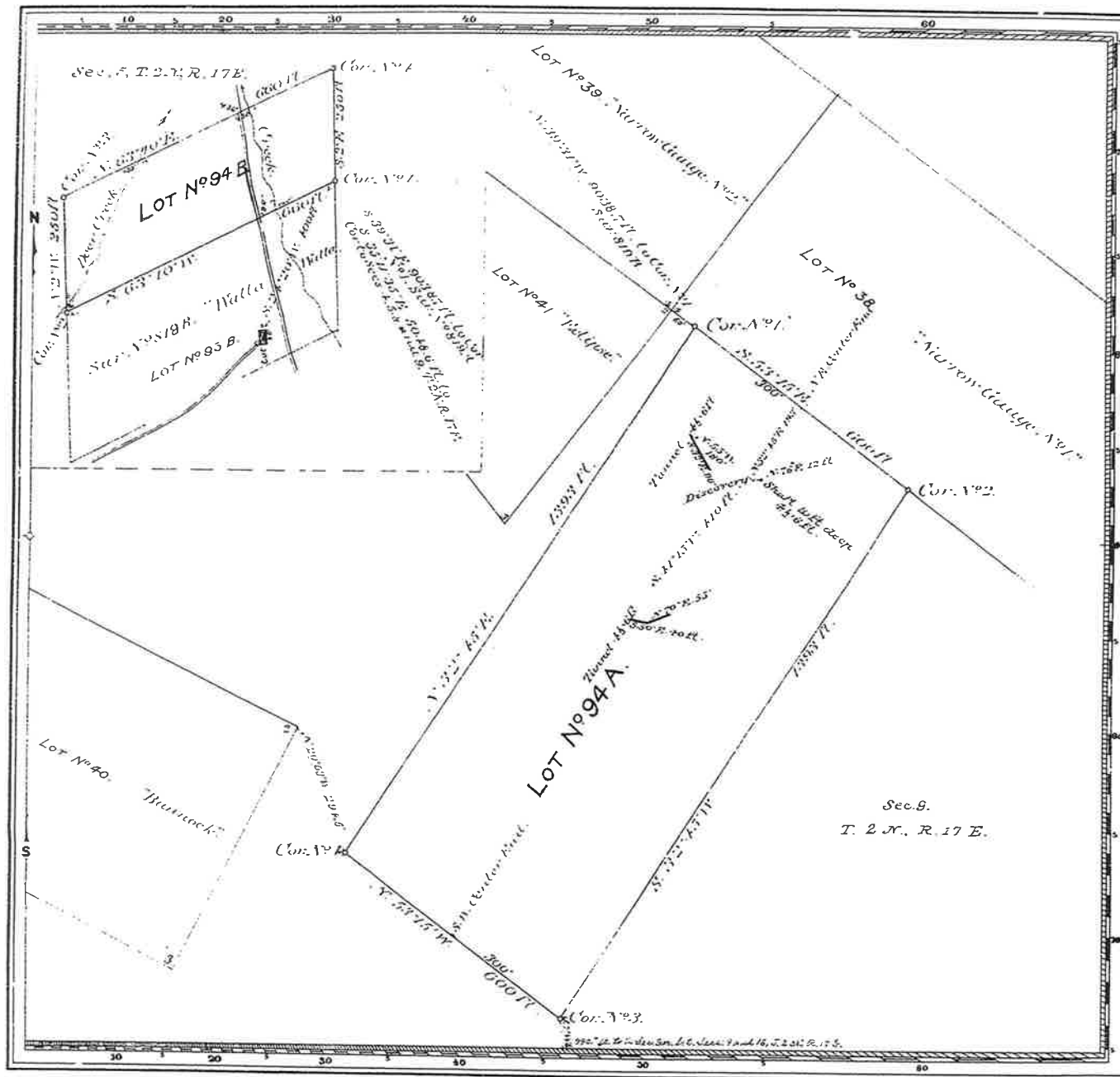
Property is also known as Lot No 49A and/or Mineral Survey 819A.

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

The quantity of water decreed for this water right is not a determination of historical beneficial use.

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



691

Claim Located [Lot] January 19, 1892.
[Wells] April 25, 1892.

Mineral Survey N° 819 A and B.

Lot N° 94 A & B.

Hayley Land District.

PLAT
OF THE CLAIM OF
The Mancunion Gold and Silver
Mining Company,
KNOWN AS THE
MANCHESTER LODGE and-
MILLSITE,

IN THE MINERAL HILL MINING DISTRICT,
ALTURAS COUNTY, IDAHO.

Containing an Area of [1.25] Acres.
Scale of: 200 Feet to the inch.
Variation 18° 30' E.

ATTEST Dec 6th 1894 and June 15th 1890, BY
Frank C. McDowell;
U.S. Deputy Mineral Surveyor,

The Original Field Notes of the Survey of the Mining Claim of
The Mancunion Gold & Silver Mining Company,
Known as the
MANCHESTER LODGE AND MILLSITE,

from which this plat has been made under my direction, have been examined and approved, and are on file in this Office; and I hereby certify that they furnish such an accurate description of said Mining Claim as will, if incorporated into a patent, serve fully to identify the premises, and that such reference is made herein to natural objects or permanent monuments as will perpetuate and fix the locus thereof.

I further certify that Five Hundred Dollars worth of labor has been expended or improvements made upon said Mining Claim by claimant or its grantors, and that said improvements consist of a tunnel 14' 6 ft. 96 ft long; a tunnel 14' 6 ft. 95 ft long, and a shaft 14' 6 ft. 10 ft deep as appears by the report of the deputy surveyor and the testimony of two disinterested witnesses that the location of said improvements is correctly shown upon this plat, and that no portion of said labor or improvements has been included in the estimate of expenditures upon any other claim.

And I further certify that this is a correct plat of said Mining Claim made in conformity with said original field notes of the survey thereof, and the same is hereby approved.

U.S. Survey General's Office. Joseph C. Straughan
District U.S. Engineer. U.S. Survey General for Idaho.

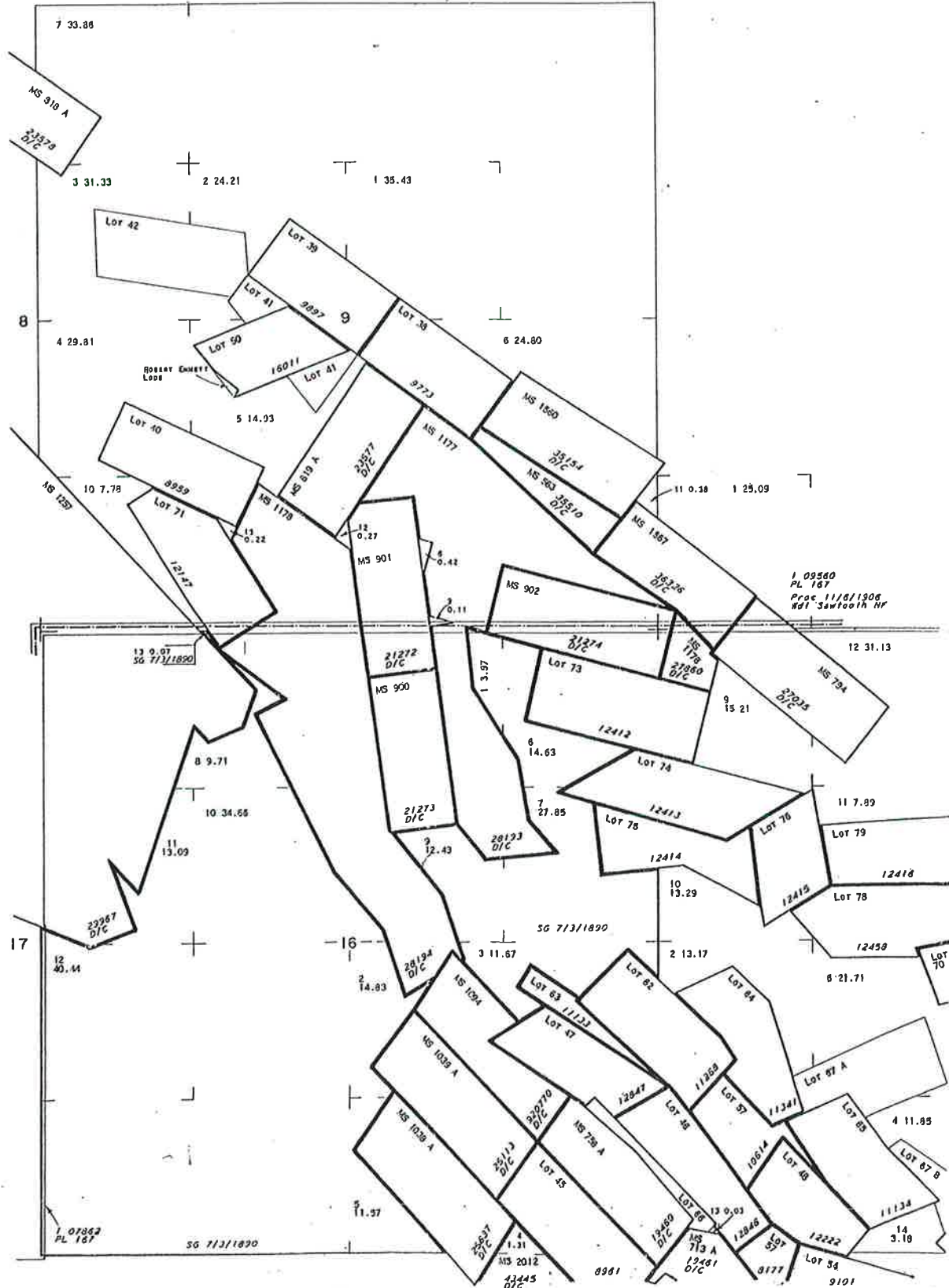
11 (431, 1890.)

TOWNSHIP 2 NORTH RANGE 17 EAST OF THE

BLAINE COUNTY 013

SHOSHONE DISTRICT SEC 3

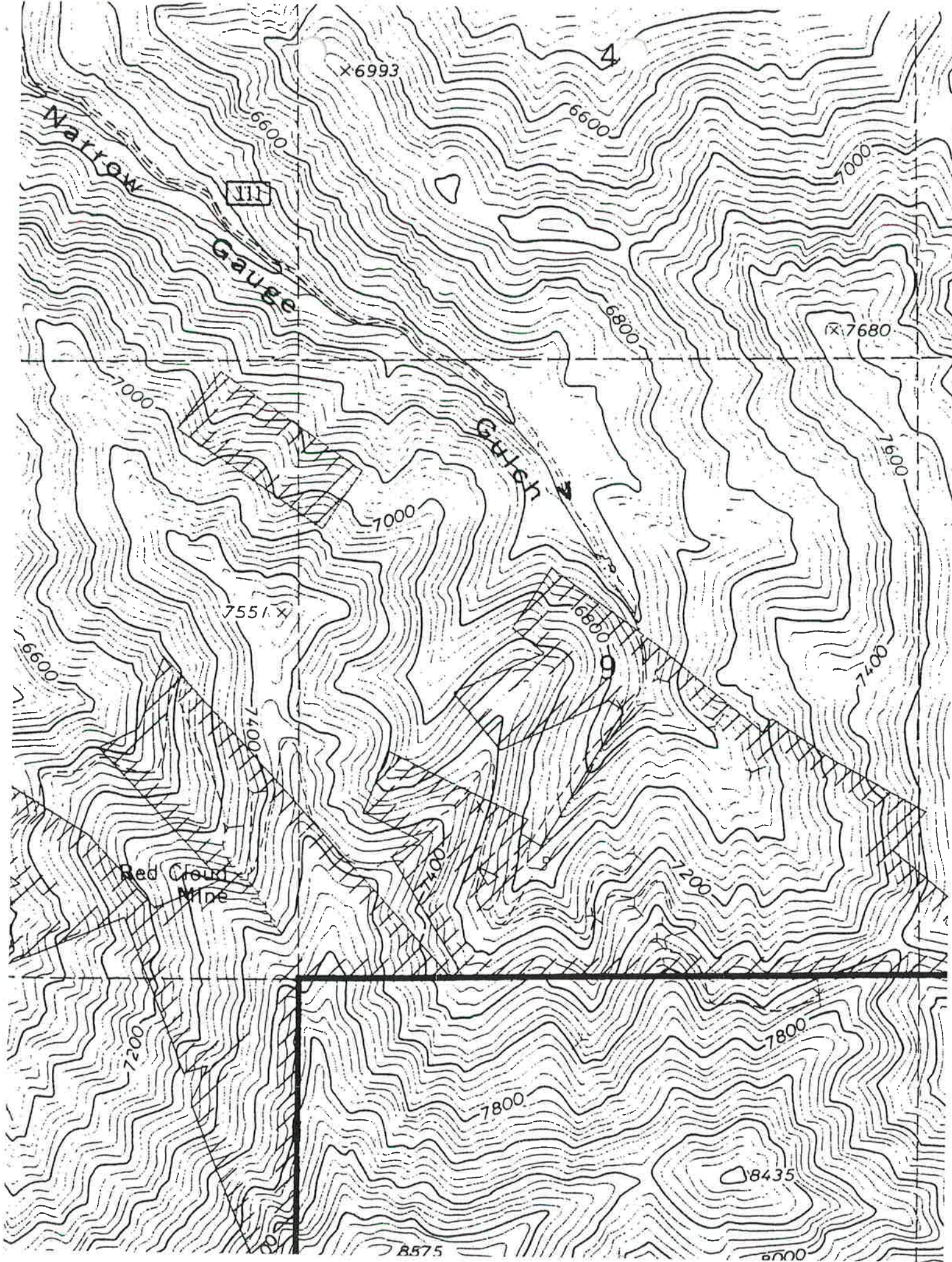
4

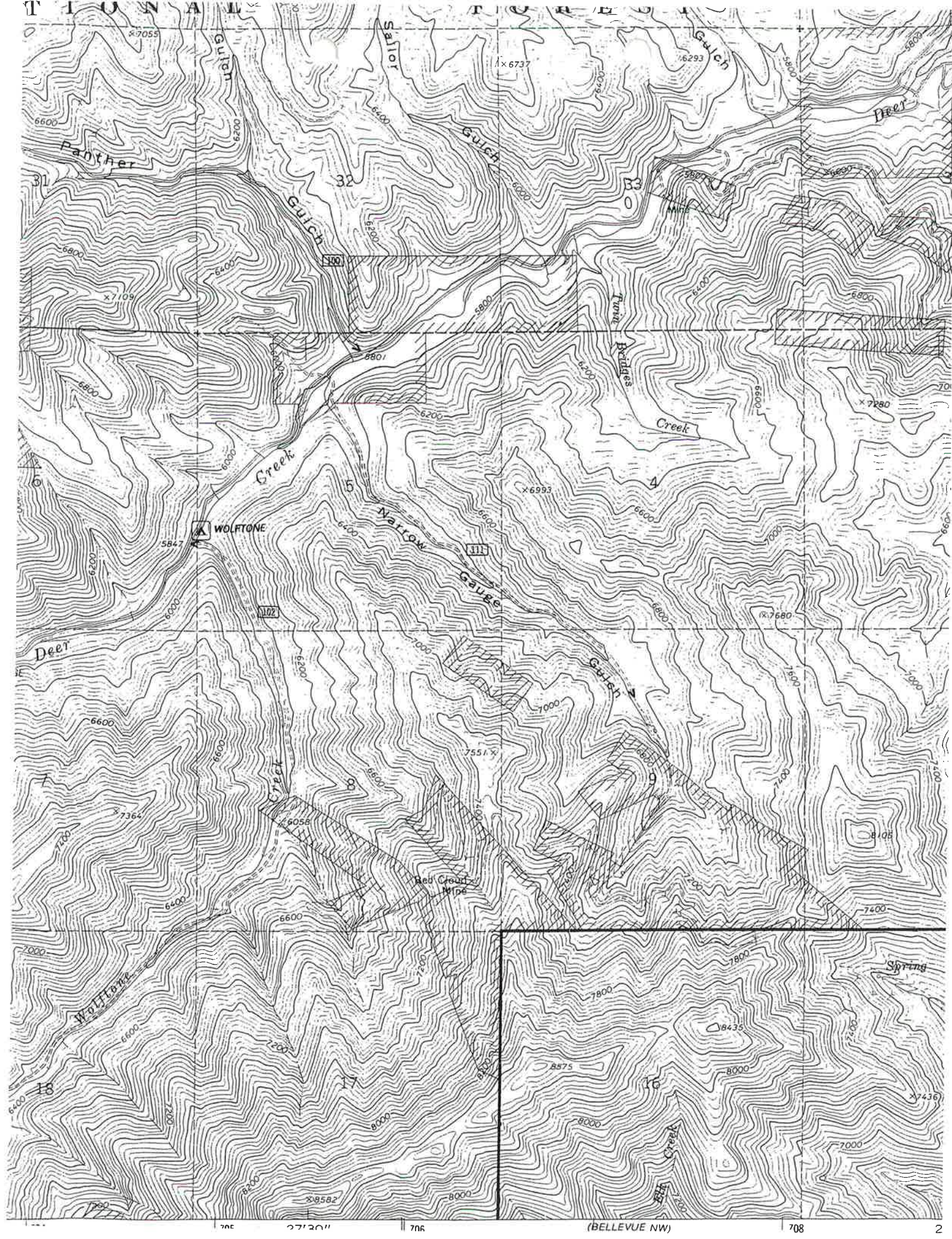


21

SCALE in Chains
0 5 10 15 20

This plat is the
only as a graph
ords hereon do
effect by later
Refer to the ca





IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-22258 V1

WATER RIGHT NUMBER: 37-22258 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DANIEL T HENRY 308 N 2ND AVE HAILEY, ID 83333 (208)721-1655

VERIFIED BY KXC
5-20-09

Priority Date: 06/01/1880
Basis: Beneficial Use
Status: Active

<u>Source</u>	<u>Tributary</u>
NARROW GAUGE GULCH	DEER CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	01/01 to 12/31	0.020 CFS	
	<u>Total Diversion:</u>	0.020 CFS	

Location of Point(s) of Diversion

NARROW GAUGE GULCH	NE1/4SE1/4SW1/4	Sec. 9, Twp 02N, Rge 17E, B.M.
BLAINE County	(Beginning of Reach)	
NARROW GAUGE GULCH	NW1/4NW1/4SE1/4	Sec. 9, Twp 02N, Rge 17E, B.M.
BLAINE County	(Ending of Reach)	

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	17E	9									X				X				X

Conditions of Approval:

1. N11 The quantity of water decreed for this water right is not a determination of historical beneficial use.
2. 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.
3. N13 The quantity of water under this right shall not exceed 13,000 gallons per day.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 37-22258 V1

Comments:

1. shemenway 9/11/2008 CFS

Comment: BASIN WIDE ISSUE #12, MAXIMUM DIVERSION RATE ALLOWED IS 002 CFS.

2. shemenway 9/11/2008 USE

Comment: 9/11/08 DANIEL HENRY STATED IN A PHONE CONVERSATION THAT THERE ARE 3,000 SHEEP, GOATS, AND BURROW THAT MOVE THROUGH AND GRAZE ON THE PROPERTY. THIS IS A PROJECT IN COORDINATION WITH THE FOREST SERVICE FOR WEED CONTROL.

3. shemenway 9/11/2008 POU

Comment: GOVT LOT MAPS SHOWS ALL THE QUARTER-QUARTERS CLAIMED, IN ADDITION TO THE SWSE QQ AS BEING OWNED BY THE CLAIMANT. RECOMMENDED ONLY THE QQs LISTED ON THE CLAIM.

SubCase:

SubCase Number: 37-22258

Class: 1

SF5 Filed Date:

Special Master Recom Signed Date:

Attorney Assigned:

Adjudication Agent: Sandy Hemenway

Basis of Claim: Beneficial Use

Date Filed: 1/20/2009 Objection Status: Active

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-22258

WATER RIGHT NUMBER: 37-22258

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DANIEL T HENRY 308 N 2ND AVE HAILEY, ID 83333 (208)721-1655

Priority Date: 06/01/1880

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
NARROW GAUGE GULCH	DEER CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	01/01 to 12/31	0.020 CFS	
	<u>Total Diversion:</u>	0.020 CFS	

Location of Point(s) of Diversion

NARROW GAUGE GULCH	NE1/4SE1/4SW1/4	Sec. 9, Twp 02N, Rge 17E, B.M.
BLAINE County	(Beginning of Reach)	
NARROW GAUGE GULCH	NW1/4NW1/4SE1/4	Sec. 9, Twp 02N, Rge 17E, B.M.
BLAINE County	(Ending of Reach)	

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	17E	9									X				X				

Conditions of Approval:

1. Claim set to temporary pending acceptance by the SRBA court KKC 1-30-2008
2. In-stream stockwater use

Remarks:

RECEIVED

JAN 21 2009

DEPARTMENT OF
WATER RESOURCES

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

A. Subcase: 37-22258

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America, Acting through the USDA Forest Service

Address: 550 West Fort Street MSC 033
Boise, Idaho 83724

Daytime Phone: (208) 365-7055

Name & Address of Attorney, if any:

David L. Negri

550 West Fort Street MSC 033
Boise, Idaho 83724

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

Name: Daniel T Henry

Address: 308 N 2nd Ave
Hailey, ID 83333

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:

5. ☐ **Point of Diversion**
Should be:

6. ☒ **Instream Flow Beginning and Ending Point**
Should be: The instream flow beginning point in the NESESW is split ownership and includes private land as well as National Forest System land. The Legal Description needs to include that it is on Mineral Survey 819A, also known as Lot No. 49A and that it is not on federal land. See E below.

7. ☐ **Purpose(s) of Use**
Should be:

8. ☐ **Period of Year**
Should be:

9. ☒ **Place of Use**
Should be: The places of use in the NESW and SESW are split ownership and include private land as well as National Forest System land. The Legal Description needs to include that it is on Mineral Survey 819A, also known as Lot No. 49A and that it is not on federal land. See E below.

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 OBJECTIONS(S):

The instream flow beginning point in the NESESW and the places of use in the NESW and SESW are split ownership and include private land as well as National Forest System (NFS) land. The claimant is not authorized to occupy and use NFS land for this purpose. The Legal Description needs to include that it is on Mineral Survey 819A, also known as Lot No. 49A and that it is not on federal land.

F.

VERIFICATION (must be completed)

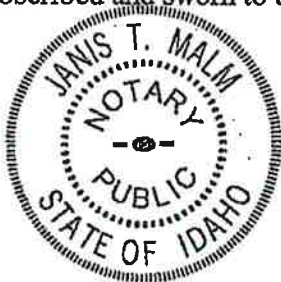
State of Idaho)
)ss.
County of Ada)

Steven M. Spencer, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Steven M. Spencer
(Signature of person filing objection)
David M. [illegible]
(Attorney signing in representative capacity)

Subscribed and sworn to before me on:



Janis T. Malm
Notary Public for: Idaho
Residing at: Boise, Idaho
My Commission Expires: 9/9/2014

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on January 20, 2009, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

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

2. One copy to the claimants of the water right at the following address:

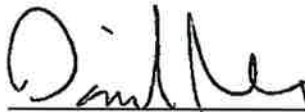
Daniel T Henry
308 N 2nd Ave
Hailey, ID 83333

3. Copies to:

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

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

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



Signature of objector or attorney
mailing on Objector's behalf

Saxton, Craig

From: Steven M Spencer [sspencer@fs.fed.us]
Sent: Monday, January 05, 2009 1:46 PM
To: Saxton, Craig
Subject: 37-22257 & 37-22258
Attachments: 37-22257 & 37-22258 USGS Map.pdf

Craig, the messages are coming through loud and clear on-at-a-time. Here is a copy of the USGS Map for this area showing the federal and private lands that you may want to include in the Departments files if you don't already have it.

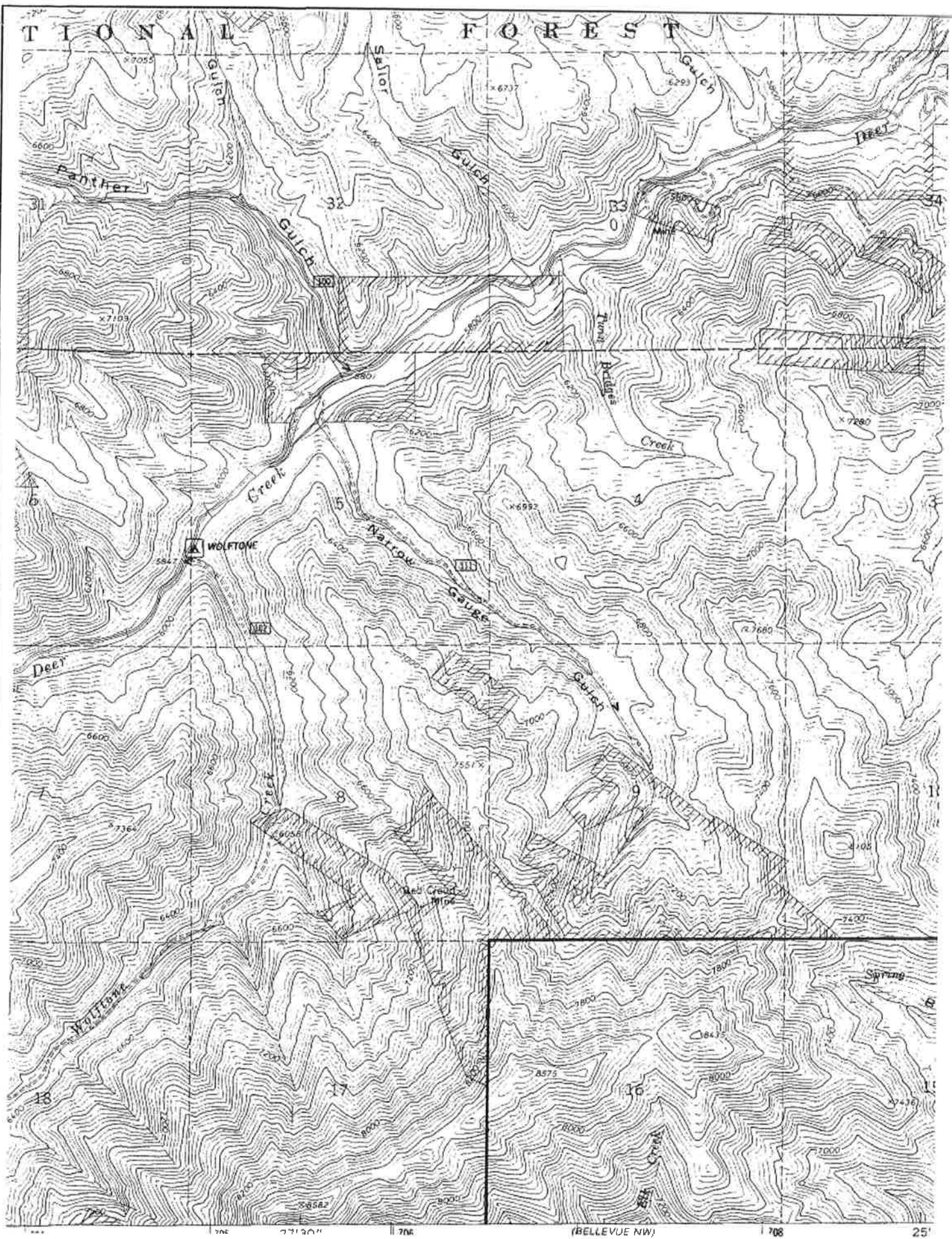
The shape you have for 37-22257 in Section 5 appears to match a couple of mineral surveys that are at angles to the regular quarter-quarter homestead patents. I have a very poor copy of the BLM MTP for this, but it is so poor I will not attempt to send it.

The shape for 37-22258 in Section 9 also appears to be in the menagerie of private mineral surveys in that section. I'm going to have to look at the mineral survey map because I can't tell exactly where the creek and the MS line are.

Thanks very much for your help on these.

Steve Spencer
Water Use Specialist (208) 365-7055
USDA Forest Service (208) 365-7037 FAX
1805 Highway 16, Room 5 e-mail: sspencer@fs.fed.us
Emmett, ID 83617

TIONAL FOREST



(BELLEVUE NW)

708

25'

Claim No(s). 37-22258

Claim No(s). 37-22258

[illegible]

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-22258 V1

WATER RIGHT NUMBER: 37-22258 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DANIEL T HENRY 308 N 2ND AVE HAILEY, ID 83333 (208)721-1655

Priority Date: 06/01/1880
Basis: Beneficial Use
Status: Active

<u>Source</u>	<u>Tributary</u>
NARROW GAUGE GULCH	DEER CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	01/01 to 12/31	0.020 CFS	
	<u>Total Diversion:</u>	0.020 CFS	

Location of Point(s) of Diversion

NARROW GAUGE GULCH	NE1/4SE1/4SW1/4	Sec. 9, Twp 02N, Rge 17E, B.M.
BLAINE County	(Beginning of Reach)	
NARROW GAUGE GULCH	NW1/4NW1/4SE1/4	Sec. 9, Twp 02N, Rge 17E, B.M.
BLAINE County	(Ending of Reach)	

Place of Use
STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
02N	17E	9									X				X			X	

Conditions of Approval:

1. N11 The quantity of water decreed for this water right is not a determination of historical beneficial use.
2. 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.
3. N13 The quantity of water under this right shall not exceed 13,000 gallons per day.
4. MEASUREMENT BASED ON BASIN WIDE ISSUE #12, MAXIMUM DIVERSION RATE FOR IN-STREAM STOCKWATER IS 0.02 CFS.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 37-22258 V1

Comments:

1. shemenway 9/11/2008 CFS

Comment: BASIN WIDE ISSUE #12, MAXIMUM DIVERSION RATE ALLOWED IS 002 CFS.

2. shemenway 9/11/2008 USE

Comment: 9/11/08 DANIEL HENRY STATED IN A PHONE CONVERSATION THAT THERE ARE 3,000 SHEEP, GOATS, AND BURROW THAT MOVE THROUGH AND GRAZE ON THE PROPERTY. THIS IS A PROJECT IN COORDINATION WITH THE FOREST SERVICE FOR WEED CONTROL.

3. shemenway 9/11/2008 POU

Comment: GOVT LOT MAPS SHOWS ALL THE QUARTER-QUARTERS CLAIMED, IN ADDITION TO THE SWSE QQ AS BEING OWNED BY THE CLAIMANT. RECOMMENDED ONLY THE QQs LISTED ON THE CLAIM.

Water Supply Bank:

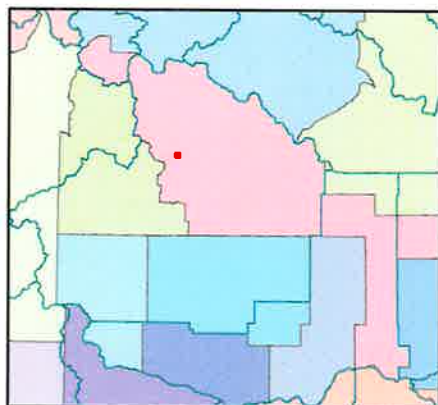


SRBA Recommendation
37-22258
(STOCKWATER)

Idaho Department of Water Resources

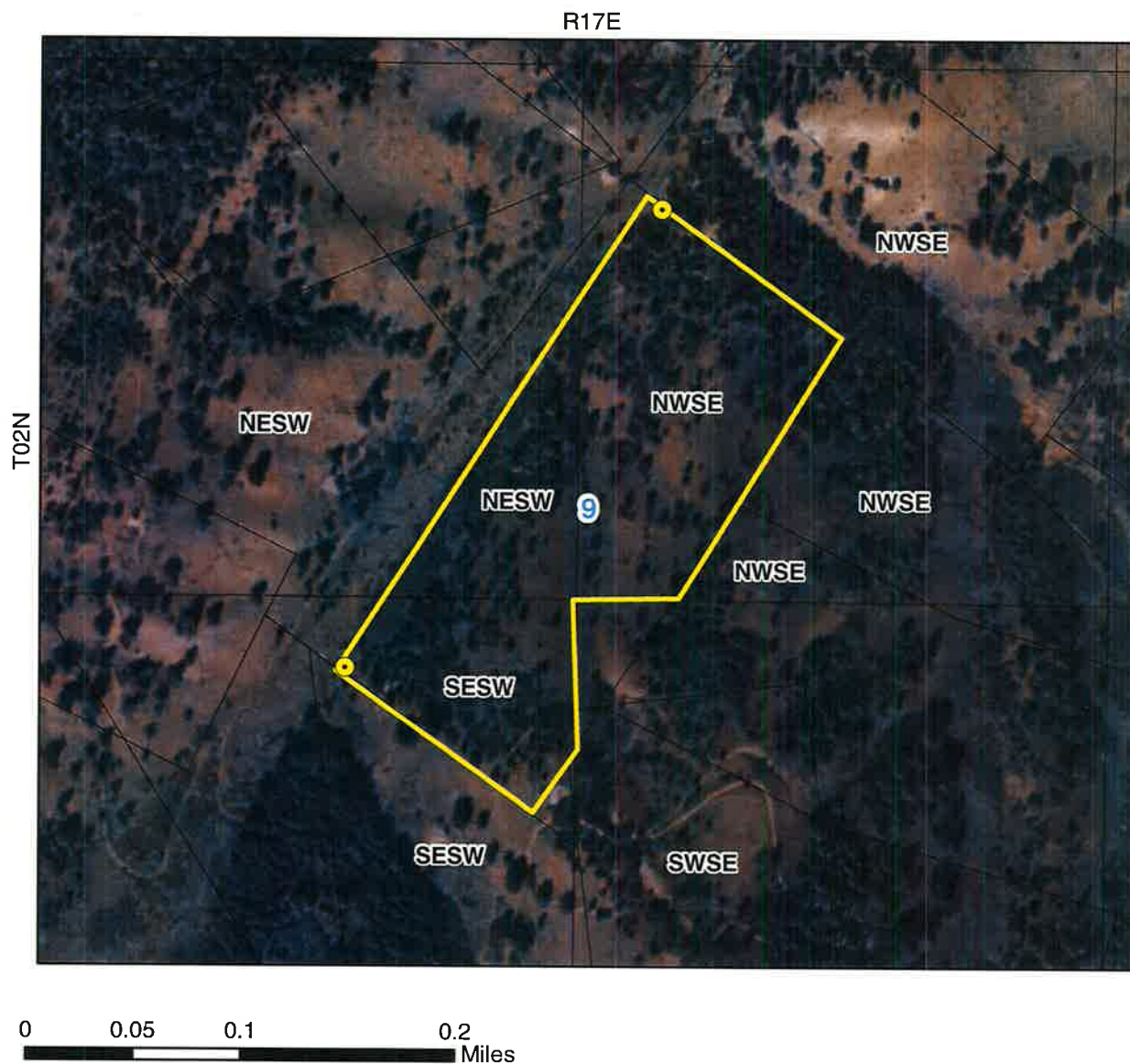
Legend

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



Blaine County
IDWR Basin 37

Prepared by Sandy Hemenway
On September 11, 2008
2004 Aerial Photography



RECOMMENDATION REVIEW:

Date: 9/11/2008
Agent: S. Hemenway
Claimant: Daniel T. Henry
WR# 37-22258
Mailing Address: 308 N. 2nd Ave., Hailey, ID 83333
Phone #: (208) 721-1655
Location of POD: Found same as on claim
System Description: In-Stream Stockwater
Field Exam: N/A; Basin Wide Issue #12, max. diversion rate is 0.02 cfs for in-stream stockwater
Nonirrigation Uses: Stockwater (sheep, goats, burrow) 3,000 head, in coordination with the Forest Service (weed control)
Other Uses: NONE
Other WRs Used: NONE
Supplemental Water: NONE
Basis of Claim: Beneficial Use
Priority Date: 6/1/1880
Evidence of Priority: N/A, since exempt from requiring a water right permit 42-113, therefore evidence of priority is not required.

NOTES:

Stock drink water directly from the natural stream, without use of any constructed diversion works.
Per IDWR Director Dave Tuthill, no physical measurement required on claims <0.20 cfs.
Basin Wide Issue #12, Max. diversion rate is 0.02 cfs for in-stream stockwater.
Exempt from requiring a water right permit. 42-113

Recommendation:

C18, N13, N11
Measurement based on Basin Wide Issue #12, Maximum Diversion Rate is 0.02 cfs for in-stream stockwater.

9/11/08 No Overlaps were found. SH



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098
Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

August 27, 2008

DANIEL T HENRY
308 N 2ND AVE
HAILEY ID 83333

RE: Snake River Basin Adjudication (SRBA)
Late Notices of Claim to a Water Right #37-22257 and 37-22258

Dear Mr. Henry:

The Notices of Claim to a Water Right referenced above were received from the SRBA Court recently. I have enclosed your receipt #C087432 for the fees you paid. Please retain the receipt for your records.

These Notices of Claim will be investigated and reported to the Court in a future supplemental Director's Report. Please contact me at 208/287-4916 if you have any questions.

Sincerely,

Craig L. Saxton
Water Rights Supervisor
Adjudication Bureau

CLS:ss:state

Enclosure:

Receipt Referenced Above

SCANNED

AUG 28 2008