

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 37-2557R
Date Received: 8/22/2002
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

MICHELE SWIFT DION Phone: (714)768-3058
PO BOX 4324
MISSION VIEJO CA 92690

RUSSELL DION Phone: (714)768-3058
PO BOX 4324
MISSION VIEJO CA 92690

2. Date of Priority: 09/25/1954

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot			County	Type
01N	19E	7	SW	SW	4	BLAINE	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/15	10/15	0.08	14

7. Total Quantity Appropriated is:
0.08 C.F.S. and/or 14 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
01N	19E	7	SW SW	4	IRRIGATION	4
Section Acres						4
Total Acres						4

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:

8/22/02 tf; claim split from 37-2557N per approved transfer 4927.

Place of use is located within Lot 6, Block 4, Bellevue Farms Subdivision.

Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right and shall only divert groundwater under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.

This right shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use.

This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

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.

15. Basis of Claim: License

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

RETURN SERVICE REQUESTED

RECEIVED

OCT 25 2004

Department of Water Resources
Southern Region

714-768-3058

Southern
37-2557R

Amk

SWIFT-DION
PO BOX 4324
MISSION VIEJO CA 92690



NOT
AT THIS
ADDRESS

RETURNED FOR
CARRIER ENDORSEMENT

RETURN
TO SENDER
ATTEMPTED
NOT KNOWN

RETURN
ER
ED
WN

Judication Bureau
P. O. Box 83720
se, ID 83720-0098

ADDRESS SERVICE
REQUESTED

FIRST CLASS



02 1A
0004389393 NOV 24 2006
MAILED FROM ZIP CODE 83720
\$ 00.87



RECEIVED
JAN 23 2007
DEPARTMENT OF
WATER RESOURCES

37-25572

☐ Undeliverable as Addressed
☐ Moved, Left No Address
☐ Unclaimed
☐ Refused
☒ Attempted, Not Known
☐ No Such Street
☐ No Such Number
☐ No Receptacle
☐ Deceased
☐ Vacant

Russell Dion
MICHELE SWIFT-DION
PO BOX 4324
MISSION VIEJO CA 92690

☐ Undeliverable as Addressed
☐ Moved, Left No Address
☐ Unclaimed
☐ Refused
☒ Attempted, Not Known
☐ No Such Street
☐ No Such Number
☐ No Receptacle
☐ Deceased
☐ Vacant

12/01/2006

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

RIGHT NUMBER: 37-2557R

NAME AND ADDRESS: MICHELE DION
PO BOX 1029
BELLEVUE ID 83313

RUSSELL DION
PO BOX 1029
BELLEVUE ID 83313

SOURCE: GROUND WATER

TRIBUTARY:

The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right and shall only divert groundwater under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.

QUANTITY: 0.080 CFS
14.000 AFY

This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

PRIORITY DATE: 09/25/1954

POINT OF DIVERSION:

T01N R19E S7 SWSW Lot 4 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	0.080 CFS 14.00 AFY

PLACE OF USE: IRRIGATION in BLAINE County

T01N R19E S07 Lot 4 SWSW 4.00

4 ACRES TOTAL

Place of use is located within Lot 6, Block 4, Bellevue Farms Subdivision.

Right Nos. 37-2557R, 37-21858, 37-21875, 37-21892, 37-21909 and 37-21926 are limited to the irrigation of a combined total of 5 acres in a single irrigation season.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

This right shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use.

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

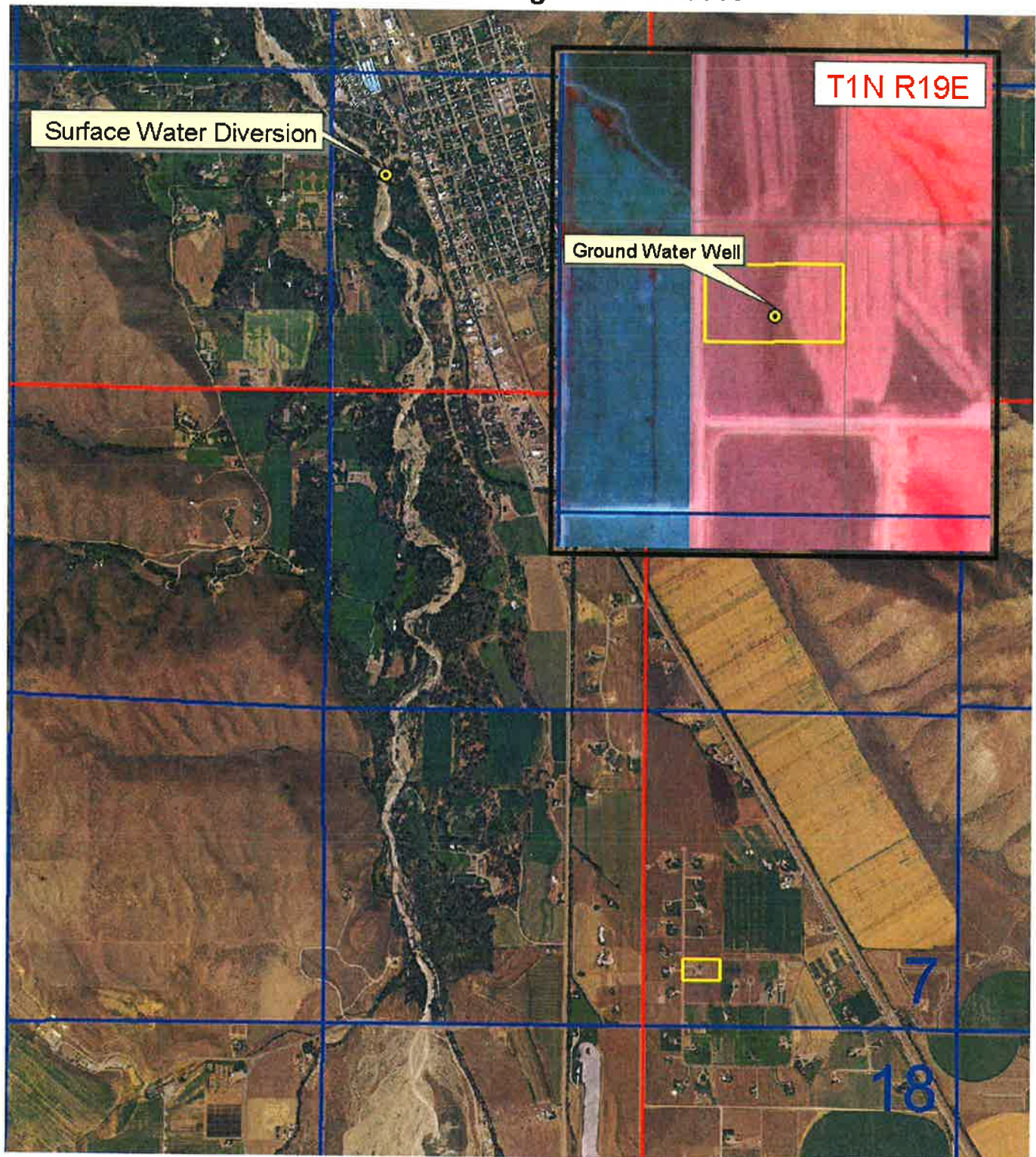
The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

IDAHO DEPARTMENT OF WATER RESOURCES

Surface Water Rights: 37-21858, 37-21875, 37-21892,
37-21909, 37-21926

Ground Water Right: 37-2557R



- Section Lines
- Quarter/Quarter Lines
- Place of Use
- Point(s) of Diversion

1320 0 1320 Feet



GIS PLACE OF USE PRESENTATION
PHOTOGRAPHY: 1987 NAPP
DATA ENTRY: 11/28/2008
TARA D BAKER

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 4927
WATER RIGHT NO. 37-02557R

MAY 22 1998

This is to certify that: **RUSSELL DION**
MICHELE SWIFT DION
PO BOX 4324
MISSION VIEJO CA 92690

Department of Water Resources
Northern Region

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	0.08 CFS	14.0 AF

SOURCE

GROUNDWATER

Priority: 09/25/1954

LOCATION OF POINT(S) OF DIVERSION: Lot 4(SWSW), Sec. 7, Township 01N, Range 19E
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>
01N	19E	7	Lot 4(SWSW)	4		4
Total number of acres irrigated:						4

CONDITIONS OF APPROVAL AND REMARKS

1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
3. The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right and shall only divert groundwater under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.

37-02557R, T# 4927

TRANSFER NO. 4927
WATER RIGHT NO. 37-02557R

CONDITIONS OF APPROVAL AND REMARKS

4. This right shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use.
5. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. 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.
8. Place of use is located within Lot 6, Block 4, Bellevue Farms Subdivision.

Dated this 18 th day of

may, 1998

J. Glen Saylor
Chief, Water Allocation Bureau

MAR 05 1997

FROM: Allen Merritt *AM*

DATE: March 4, 1997

TO: Transfer Files Nos: 4918
4927
4996Name: Sutton
Dion
Luff

***** Bellevue Farms Subdivision Area *****

SUBJECT: Review and Recommendation

All three of these transfers deal with splitting up of portions of right 37-02557 (priority 9/25/1954) which historically provided water for irrigation from a well. All three of these transfers should be reviewed together although they represent separate systems. In 1980 the land was platted for subdivision. The 1987 NAPP shows roads developed with part of the place of use being irrigated. Since 1994 six transfers have been processed on this right. (Nos: 4035, 4537, 4540, 4545, 4557, 4666) These transfers involved drilling new wells for use of the associated share of the right on various lots in the subdivision. A few of these transfers involved moving of irrigated acres from a portion of the subdivision covered by the license to lots in the subdivision not covered by the original license.

Staff review for the six processed transfers hinted around about forfeiture being an issue, particularly for the lots on the west side of the subdivision but nothing was determined to be clear and convincing. This same concern was again looked at when processing these three subject transfers. The more recent work has found more evidence to support a determination that a portion of the right has not been used in excess of five years and that a portion of the right has been forfeited.

LEGAL CONCERN & PRELIMINARY RECOMMENDATION

Review of the evidence that Jim has developed (See transposition of irrigated acres for years 92, 93, 95 & 96 taken from slides and copied onto copies of a base aerial photo dated (1987?) and letter to Askew dated 1/10/97) supports the position that the land on the west side of the subdivision has not been irrigated for some time. *Note that there is a gap in photos and nothing was found 1994; the years prior to 1992 were not looked at.

My concern is that some of the other transfers and particularly transfer 4537 quite possibly should have not been allowed based on partial forfeiture. I do not know if we could now go back on approval of transfer 4537 since in 1996 it is obvious from the photos that the use has been re-established. The other transferred uses do not appear to have been re-established yet. I have questions over whether or not our allowing these other transfers and particularly transfer 4537 has set a precedence in review of these three subject transfers.

37-02557 R, T # 4927

Based on the evidence we now have I recommend that these three transfers be reviewed by legal staff to see if the evidence we now have is convincing enough to support forfeiture. I additionally recommend these three transfers be held until the outcome of SRBA basin wide issue #10. It appears to me that these three transfers should be disallowed or denied since the portion of the right for their subject land have not been irrigated for more than five years and to allow re-establishment would injure junior rights. Maybe to remove injury we could change priority to date of approval if that is the tact taken.

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

LEGEND

- Found 5/8" Bar
- Set 1/2" Bar with cap No. 3621
- Set 5/8" Bar with cap No. 3621
- Found Brass Cap
- Public Utility Easement (width as shown)
- Irrigation Easement.

NOTES

1. West Equus Drive shall be secondary access.
2. A one foot wide access-control strip at the North end of Quarter Horse Drive is reserved to be released by the Blaine County Board of Commissioners when the Northernly unplatted land is subdivided and the road is extended. It is understood the property owners to the north have access to Quarterhorse drive.

PLAT SHOWING BELLEVUE FARMS SUBDIVISION

LOCATED WITHIN SECTIONS 7 AND 18
T1N. R16E. 6E
BLAINE COUNTY, IDAHO
JULY, 1980

This sketch is made solely
for the purpose of assisting
in locating the premises.

The company assumes no
liability for alleged loss or
damage which may result
from reliance on this map.

SCALE IN FEET
0 200 400 600

Curve	B	A	T	CA	Ch. Bearing
C-1	90.00	90.00	90.00	141.77	127.28 S 45° 20' 00" E
C-2	120.00	90.00	90.00	188.50	165.71 S 45° 20' 00" E
C-3	150.00	45° 00' 00"	45.13	117.86	114.85 S 28° 50' 00" E
C-4	90.00	90° 00' 00"	90.00	141.77	127.28 S 45° 20' 00" E
C-5	90.00	90° 00' 00"	90.00	141.77	127.28 S 45° 20' 00" E
C-6	180.00	90° 00' 00"	90.00	188.50	165.71 S 45° 20' 00" E
C-7	150.00	45° 00' 00"	45.13	117.86	114.85 S 28° 50' 00" E
C-8	180.00	44° 02' 53"	60.68	115.32	112.50 S 21° 21' 21" E
C-9	90.00	90° 00' 00"	90.00	141.37	127.28 S 45° 20' 00" E
C-10	120.00	90.00	90.00	188.50	165.71 S 45° 20' 00" E
C-11	150.00	30° 33' 28"	40.98	90.00	78.06 S 73° 07' 16" E
C-12	150.00	59° 26' 32"	85.63	154.62	148.73 S 39° 03' 16" E
C-13	420.00	30° 30' 00"	16.82	226.02	223.30 N 74° 15' 00" E
C-14	450.00	90.00	90.00	242.16	239.25 S 45° 20' 00" E
C-15	480.00	90.00	90.00	32.36	29.31 S 55° 20' 00" E

