

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
FEB 16 2017
Department of Water Resources
Eastern Region

AMENDED CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, *Idaho Code*, any person claiming a water right established by diversion and application of water to beneficial use must file a claim with the Department of Water Resources. The filing of this claim does not confirm the water right claimed. Water rights represented by a valid permit, license, decree, or previous claim are exempt from this requirement, as are uses of water for domestic purposes as defined in Section 42-111, *Idaho Code*. A filing fee must be submitted with this claim. See the instruction sheet to determine the appropriate fee.

Notice is hereby given that Boyd O. Campbell and Beverly C. Campbell

(Name of Claimant)

Mailing Address: 1241 South Hidden View Dr., Providence, Utah 84332

Telephone No: 435-881-0172

Email: _____

claims a right to the diversion and beneficial use of surface or ground water. The extent and nature of said claim is as follows:

1. Date of Priority: (When the water was first applied to beneficial use) 4/1/1880

A claim is not acceptable for the use of surface water with a priority later than May 20, 1971. A claim is not acceptable for the use of ground water with a priority date later than March 25, 1963, unless the water is used for domestic purposes as defined in Section 42-111, Idaho Code.

2. Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

Black Canyon Creek tributary to Weston Creek

3. Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs or af)	(Irrigation, Domestic, Stock, Etc.)	(Both dates inclusive) (MM/DD) (MM/DD)
Quantity <u>1.97 cfs</u>	Use <u>Irrigation</u>	Period of Use From <u>04/01</u> to <u>10/31</u>
Quantity _____	Use _____	Period of Use From _____ to _____
Quantity _____	Use _____	Period of Use From _____ to _____
Quantity _____	Use _____	Period of Use From _____ to _____

4. 1.97 cfs TOTAL QUANTITY USED.
(cfs or af)

5. A) Location of point of diversion is SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of _____ $\frac{1}{4}$, Govt. Lot _____
Sec. 16 Township 16S Range 38E B.M., Franklin County; additional points
of diversion, if any: SWSW and SWNW Sec 16 T16S R38E and SWSW Sec 15 T16S R38E

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch etc.). Give sizes and capacities. Be specific. Describe any changes in the system and give the date of the change.
Four diversion structures consists of a 10" culvert, two earthen dams, and one concrete diversion box

AMENDED

6. A) Describe the place of use within each 40-acre tract in the appropriate box using the symbols listed below. If the use is for irrigation, describe the location by listing the number of irrigated acres within each 40-acre tract.
D - domestic, S - stockwater, M - municipal, C - Commercial, I - Industrial, X - other

Twp	Rge	Sec	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16S	38E	16															40	30.3	70.3
16S	38E	15											28						28

TOTAL ACRES 98.3

- B) If water is used for purposes other than irrigation, fully describe the use. Be specific.

NOTE: Include here the type and number of stock watered: _____

7. Remarks: Reservation of water rights that were improperly removed by 2016 amendment to WR#13-4284 by Jay Norman Fannesbeck. And recognized pursuant to Warranty Deed 232285, recorded December 19, 2005.

8. Map -- Attach an 8½"x11" map clearly identifying the point of diversion and the place of use by 40-acre subdivisions, section, township and range of the public land survey system. (A photocopy of a USGS 7½ minute topographic quadrangle map is preferred.) Attach an aerial photograph of the place of use if available.

State of Utah)
) ss.
County of Cache)

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the forgoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

[Signature]
Claimant's Signature (and title if claim is for an organization)

Sworn to before me this 16th day of February, 2017.



[Signature]
Notary Public
Residing at: 4 1/2 Raymond Ct., Logan UT 84321
My commission expires 08/29/2017

FOR DEPARTMENT USE ONLY

Received by _____ Date _____
Prelim. check by _____ Date _____
Fee _____ Receipt # _____
Receipt prepared by _____ Date _____

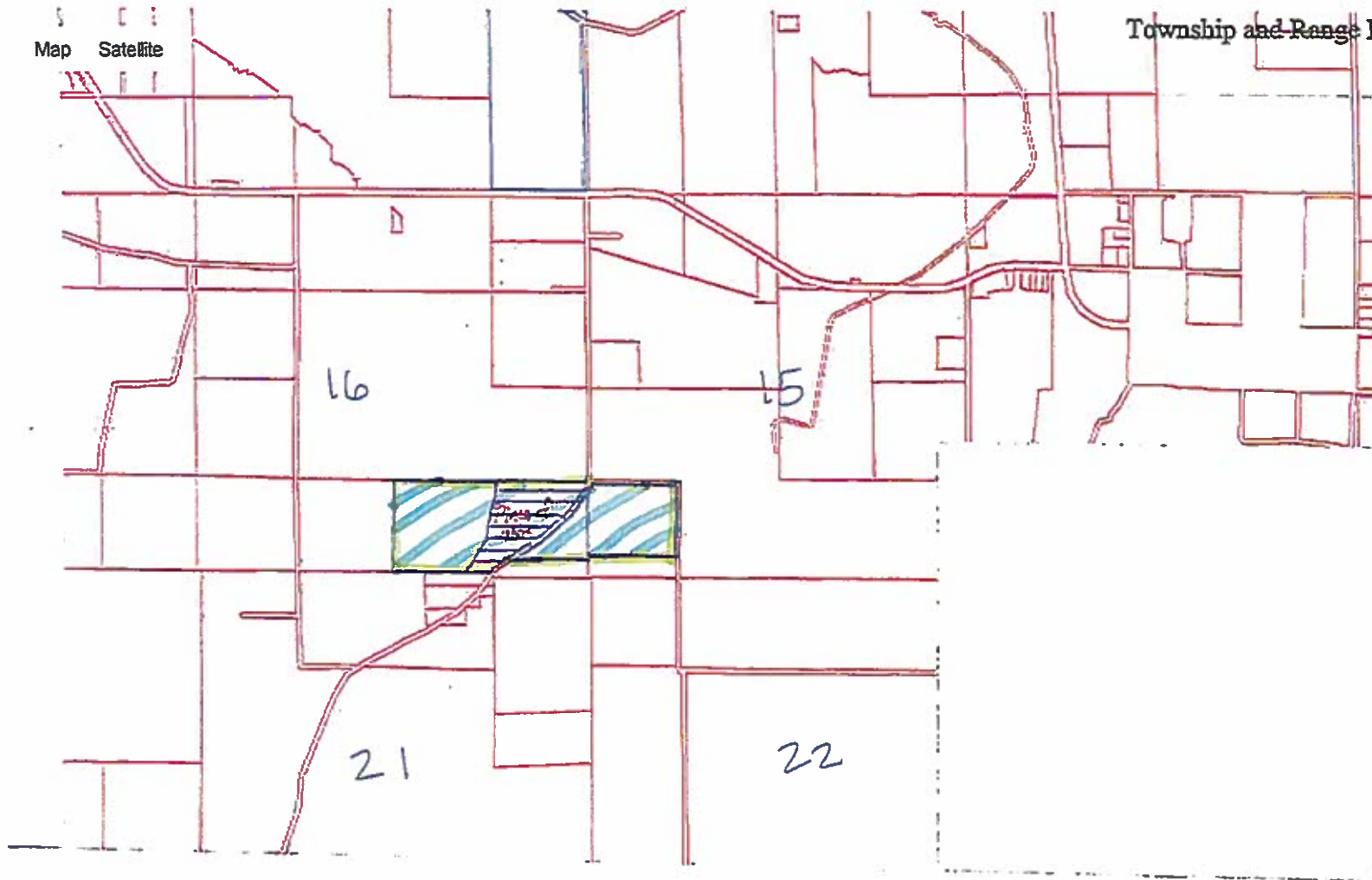
Published in _____
Publication dates _____
Publication checked by _____ Date _____
Exceptions filed by _____

AMENDED

12/29/2015

Map Satellite

Township and Range Labels



T16S R38E

Campbell Parcel & Place of Use

AMENDED

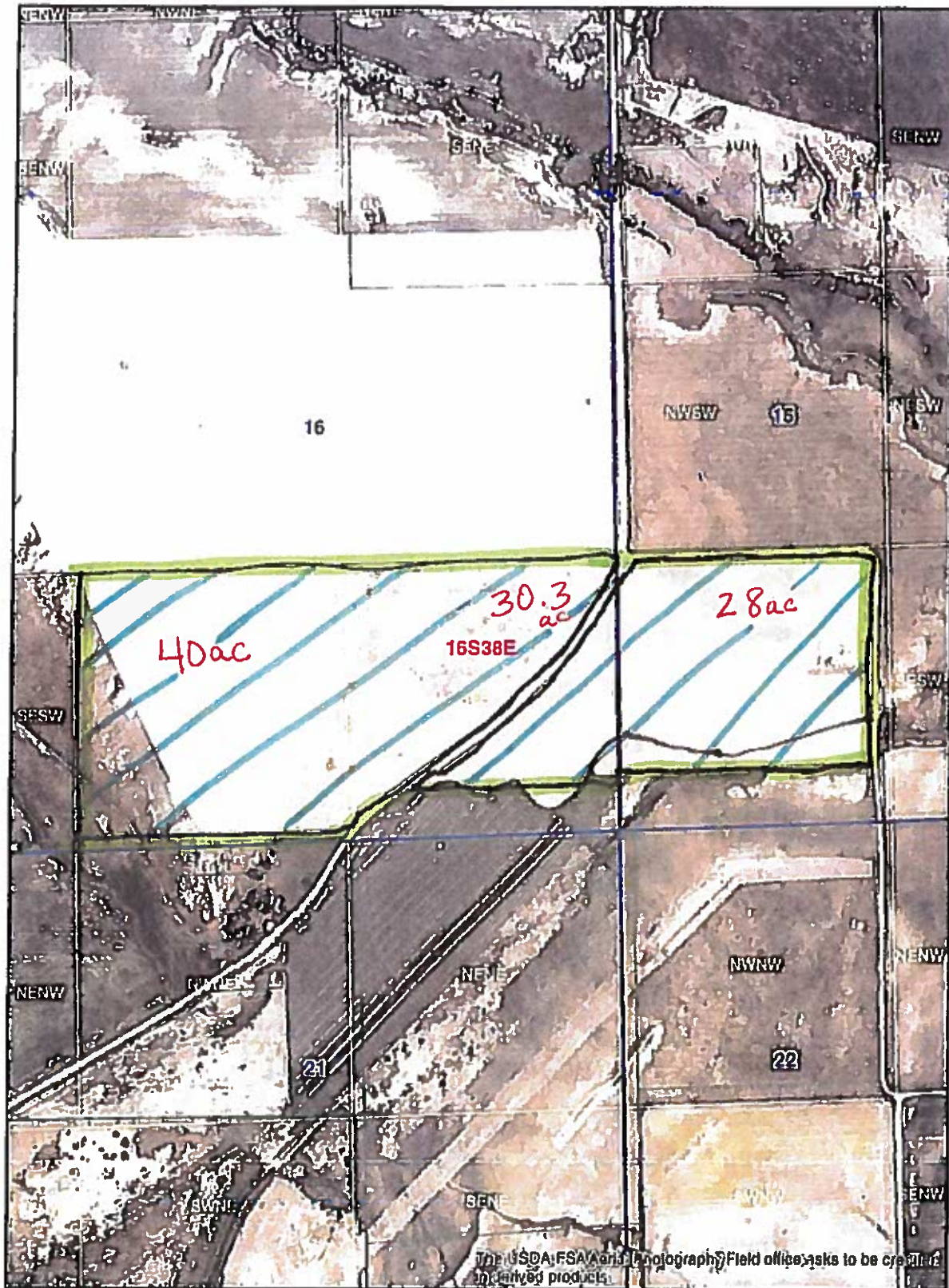


Google

Map data ©2015 Google

13-7987

Campbell Place of Use



AMENDED

Parcel 104.5 ac
Pou 98.3 ac

13-7987

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
JAN 26 2017
Department of Water Resources
Eastern Region

CLAIM TO A WATER RIGHT

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Telephone No: 435-881-0172 Email: _____

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2. Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Black Canyon Creek tributary to Weston Creek

3. Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs or af)	(Irrigation, Domestic, Stock, Etc.)	(Both dates inclusive) (MM/DD)	(MM/DD)
Quantity <u>5.92 cfs</u>	Use <u>Irrigation</u>	Period of Use From <u>04/01</u>	to <u>10/31</u>
Quantity _____	Use _____	Period of Use From _____	to _____
Quantity _____	Use _____	Period of Use From _____	to _____
Quantity _____	Use _____	Period of Use From _____	to _____

4. 5.92 cfs TOTAL QUANTITY USED.
(cfs or af)

5. A) Location of point of diversion is SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of _____ $\frac{1}{4}$, Govt. Lot _____
Sec. 16 Township 16S Range 38E B.M., Oneida County; additional points of diversion, if any: SWSW and SWNW Sec 16 T16S R38E and SWSW Sec 15 T16S R38E

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch etc.). Give sizes and capacities. Be specific. Describe any changes in the system and give the date of the change.
Four diversion structures consists of a 10" culvert, two earthen dams, and one concrete diversion box

6. A) Describe the place of use within each 40-acre tract in the appropriate box using the symbols listed below. If the use is for irrigation, describe the location by listing the number of irrigated acres within each 40-acre tract.
D - domestic, S - stockwater, M - municipal, C - Commercial, I - Industrial, X - other

Twp	Rge	Sec	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16S	38E	16																22	22

TOTAL ACRES 22

- B) If water is used for purposes other than irrigation, fully describe the use. Be specific.

NOTE: Include here the type and number of stock watered: _____

7. Remarks: Reservation of water rights that were improperly removed by 2016 amendment to WR#13-4284 by Jay Norman Fannesbeck
8. Map -- Attach an 8½"x11" map clearly identifying the point of diversion and the place of use by 40-acre subdivisions, section, township and range of the public land survey system. (A photocopy of a USGS 7½ minute topographic quadrangle map is preferred.) Attach an aerial photograph of the place of use if available.

State of Utah)
) ss.
County of Cache)

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the forgoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Jay Norman Fannesbeck
Claimant's Signature (and title if claim is for an organization)

Sworn to before me this 19th day of January, 2017.



Nikki Brickler
Notary Public
Residing at: Smithfield, Utah
My commission expires: 01/09/2020

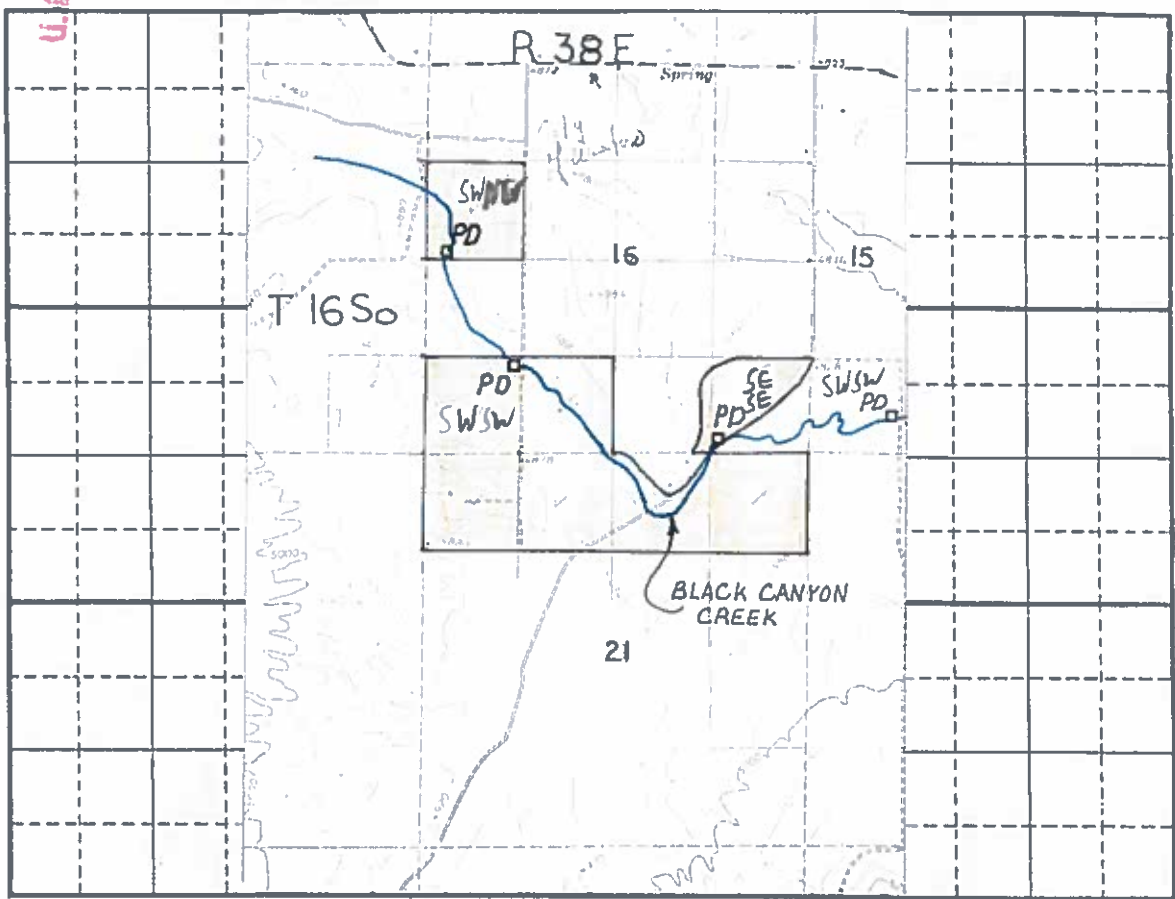
FOR DEPARTMENT USE ONLY			
Received by <u>SC</u>	Date <u>1/26/17</u>	Published in _____	
Prelim. check by _____	Date <u>1/26/17</u>	Publication dates _____	
Fee <u>1000-</u>	Receipt # <u>E042713</u>	Publication checked by _____	Date _____
Receipt prepared by <u>SC</u>	Date <u>1/26/17</u>	Exceptions filed by _____	

SUPERCEDED

13-7987

U.S. DEPARTMENT OF THE INTERIOR

Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Bonneville) ss.

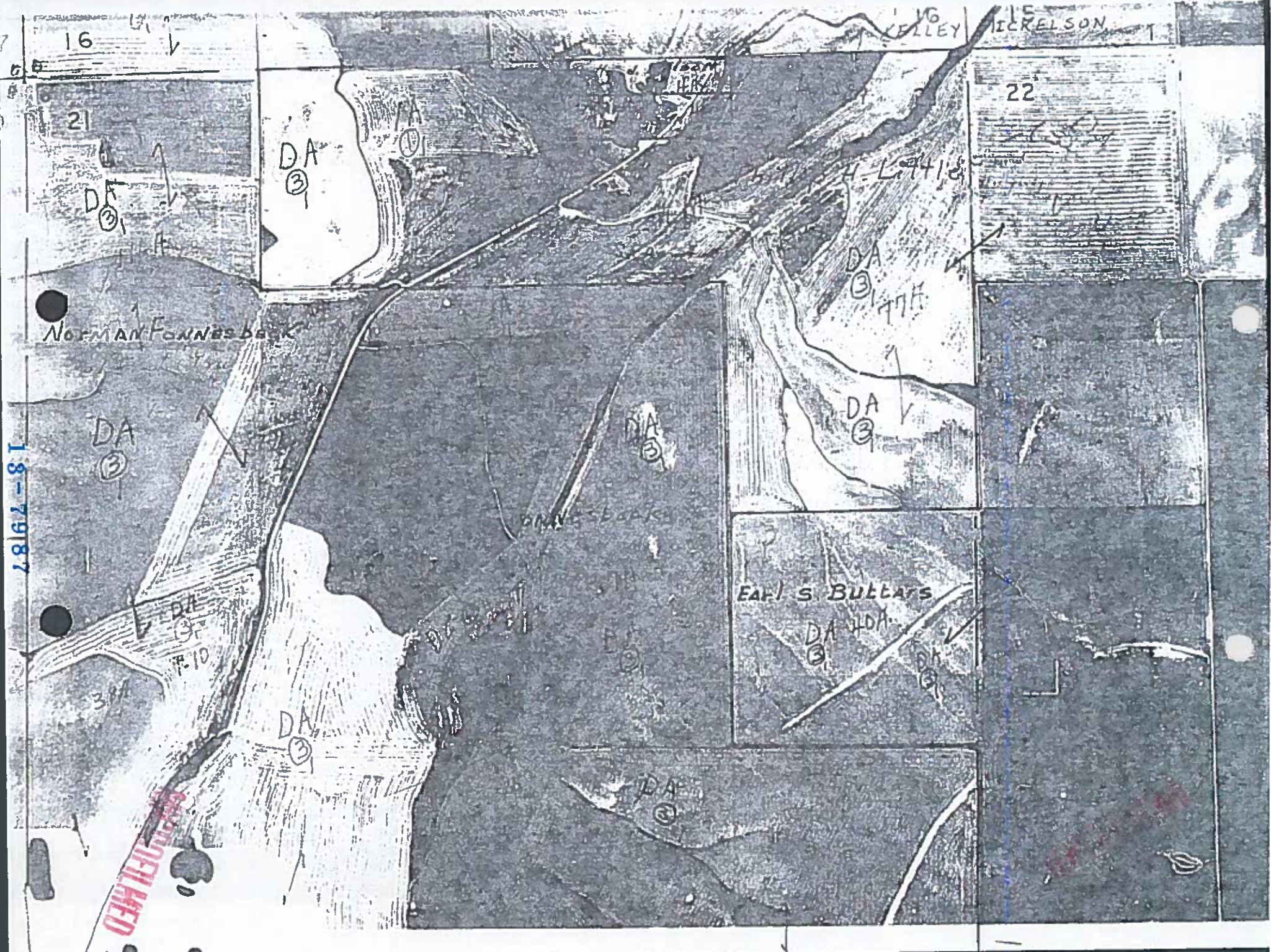
Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 29th day of June, 1984.
Norman Linnestock (Claimant)
Cherred Gray
Notary Public
Residing at Idaho Falls

My commission expires 6-15-85

FOR DEPARTMENT USE ONLY
Received by EMC Date 6/29/84 Exception filed by: _____ Date _____
Prelim. check by EMC Date 7/2/84
\$5000 fee received by EMC Date 6/29/84 # 24220
Published in Provo Citizen
Dates 7/12 & 19/84

13-7987



18-79187

16

21

22

NORMAN FONNESBERG

KELLEY

ICKELSON

DA ③

DA ③

DA ③

DA ③

DA ③

DA ③

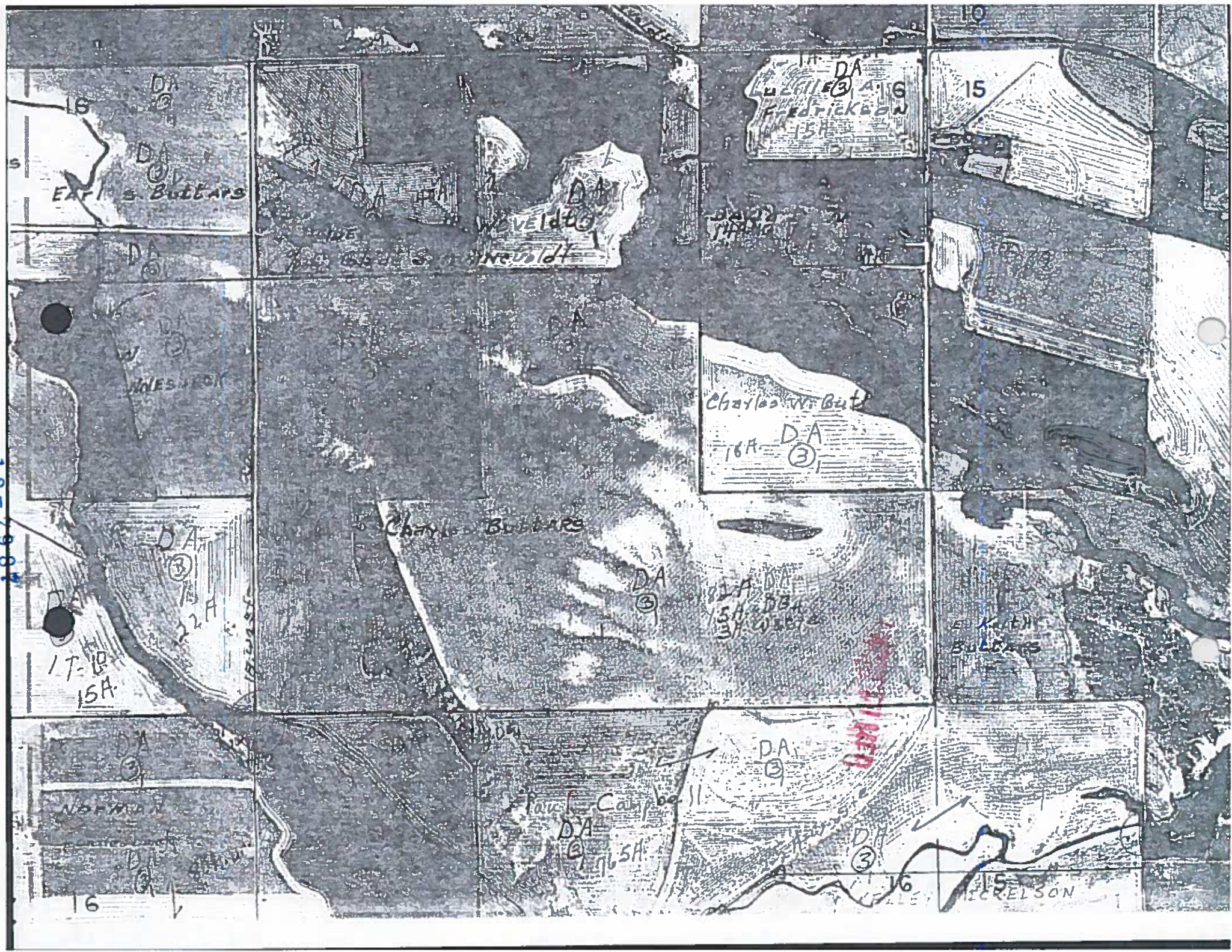
EARL S. BUTTARS

DA ③

DA ③

DA ③

RECEIVED



Earl S. Bullard

DA 3
15A
Fredrickson

15

DA 3
Wevelde

Charles W. But

DA 3
16A

Charles Bullard

DA 3

DA 3
15A
17-18
15A

E. Keith Bullard

17-18
15A

DA 3
16

Paul Campbell

DA 3
15A

DA 3

DA 3

15
E. Nelson

Public Notice

Notice is hereby given that we the undersigned Jense Mickelson and Peter Mickelson do hereby appropriate and claim all of the water running in that certain Creek or stream called and known as Black Canyon Creek, or Slough in the County of Oneida and Territory of Idaho, together with all the springs, Creeks and Rivulets, running into the same or so much thereof as will flow through the hereinafter described ditch. That the water hereby appropriated, is to be used for Agricultural and Domestic Purposes, upon the following described land, to wit: NE $\frac{1}{4}$ and W $\frac{1}{2}$ of SW $\frac{1}{4}$; NE of SW, SW $\frac{1}{4}$ of Section 21 in Township No. 16 South of Range 38 East, Boise Meridian. That the subscribers hereto intend to direct the said stream by means of a ditch $\frac{1}{2}$ mile long 6 feet wide at top 5 feet wide on bottom and 2 $\frac{1}{2}$ feet deep, with a fall of 2 inches to the rod.

Jense Mickelson

Peter Mickelson

Part of Water has been transferred

Territory of Idaho

County of Oneida. ss.

I, Jenson Mickleson do hereby certify that I did on the 16th day of April, A.D. 1880, post a notice of which the within is a true and literal copy at the point where the within described ditch taps the stream known as the Black Canyon Creek or Slough in the Territory of Idaho and County of Oneida. Said point being more particularly described, as follows: being on or near the South West $\frac{1}{4}$ of Sect. 16 Township 16 South of Range 38 E. Boise Meridian, in the Territory and County Aforesaid.

Jense Mickleson

Recorded at the request of Jense Mickleson this 19th day of May A.D. 1880

Wm. B. Thews Recorder Oneida County

Reference: Book "A" page 118 of Misc. Original Oneida County Records.

CERTIFICATE

STATE OF IDAHO,
County of Franklin--ss.

I, C. L. Swenson; Ex-Officio Recorder for Franklin County, State of Idaho, hereby certify that the within and foregoing is a full, true and correct copy of a Public Notice of Jense Mickelson and Peter Mickelson, as the same now appears of record in Book 1 of Water Locations, Page 4, in my office in Preston, Idaho.

Witness my hand and seal of said County this 17th day of July, 1951.

C. L. Swenson; Ex-Officio Recorder

By Edwin L. Anderson Deputy

Dept. of Water Administration
150 Shoup
Idaho Falls, Idaho

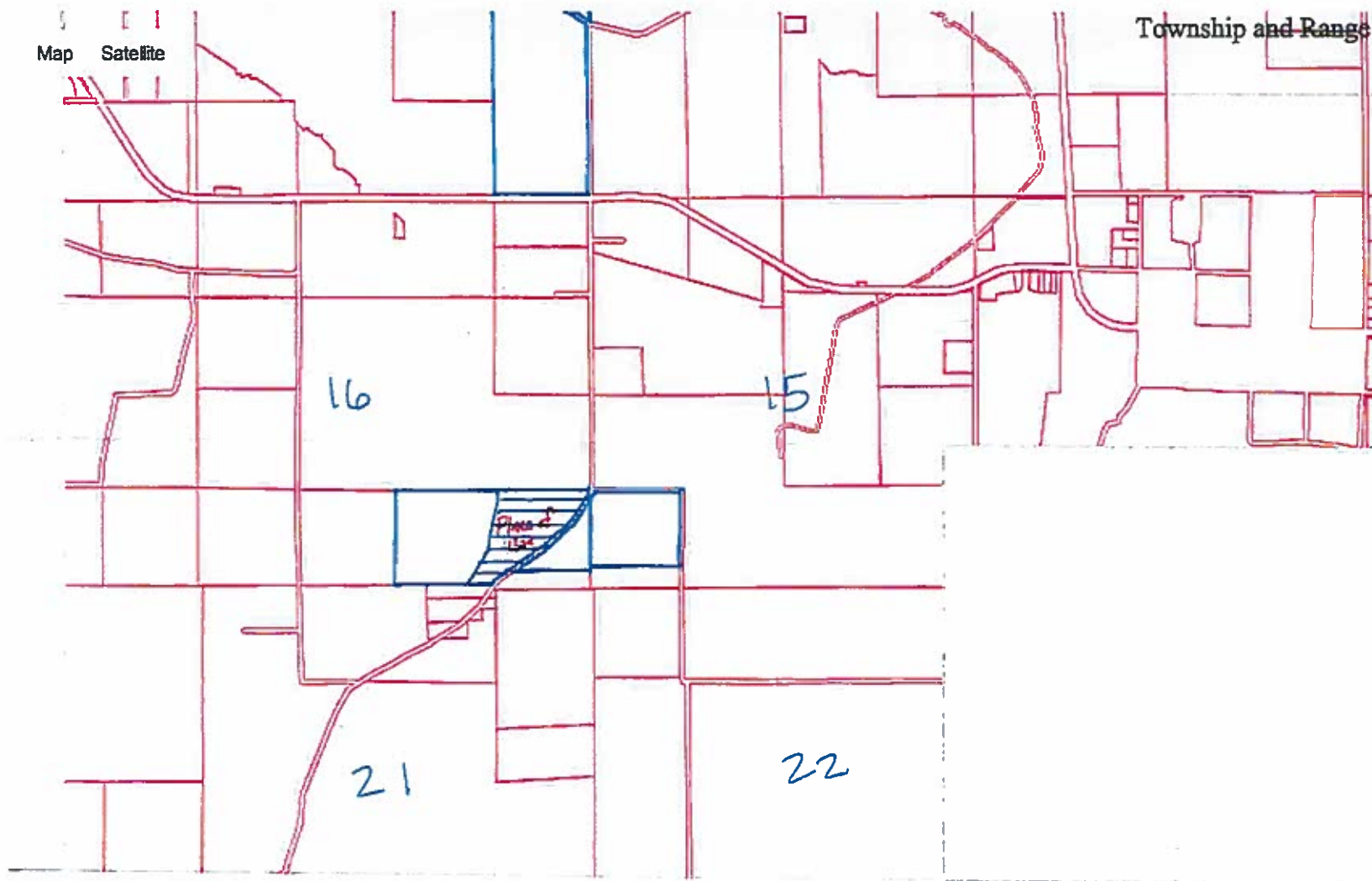
83461

Telephone 1-525-7161

12/29/2015

Map Satellite

Township and Range Labels



T16S R38E

13-7987

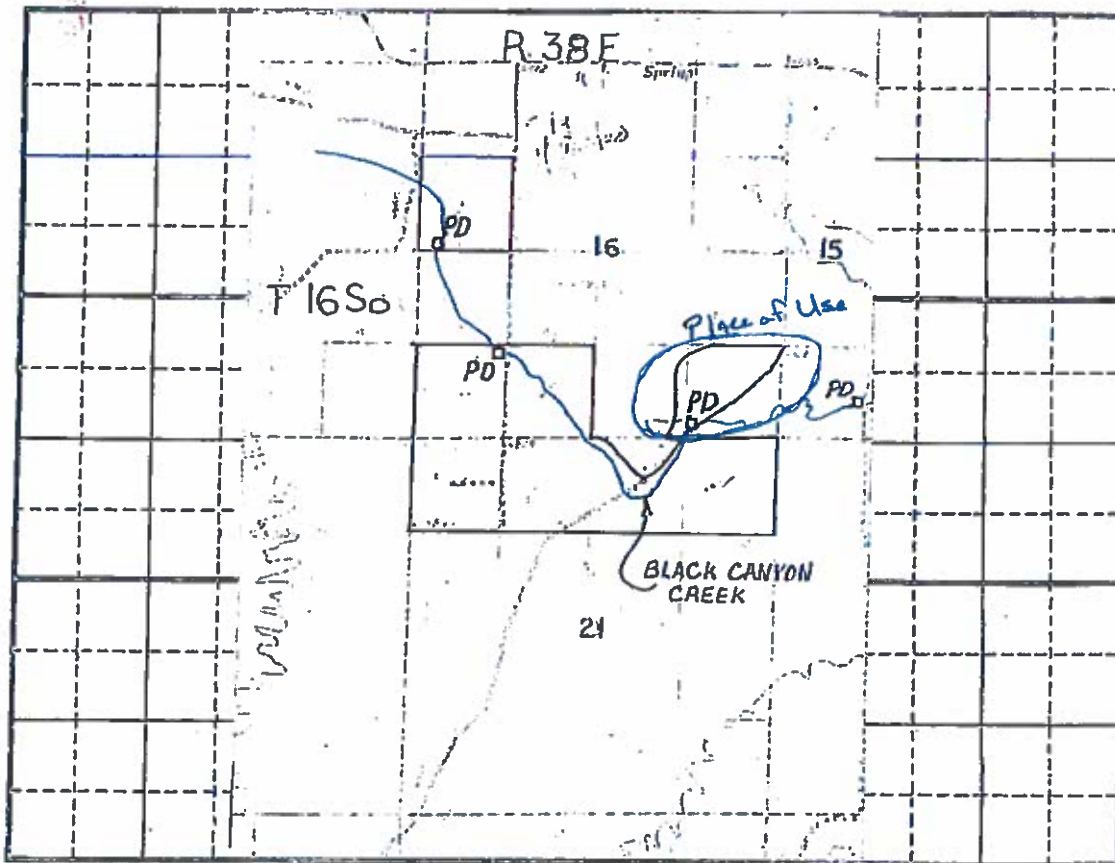


Google

Map data ©2015 Google



(B) Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho _____
County of Bannock _____

Be it known that the undersigned, being duly sworn, depose and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 29th day of June, 1984.

J. Norman Linnestock
(Claimant)

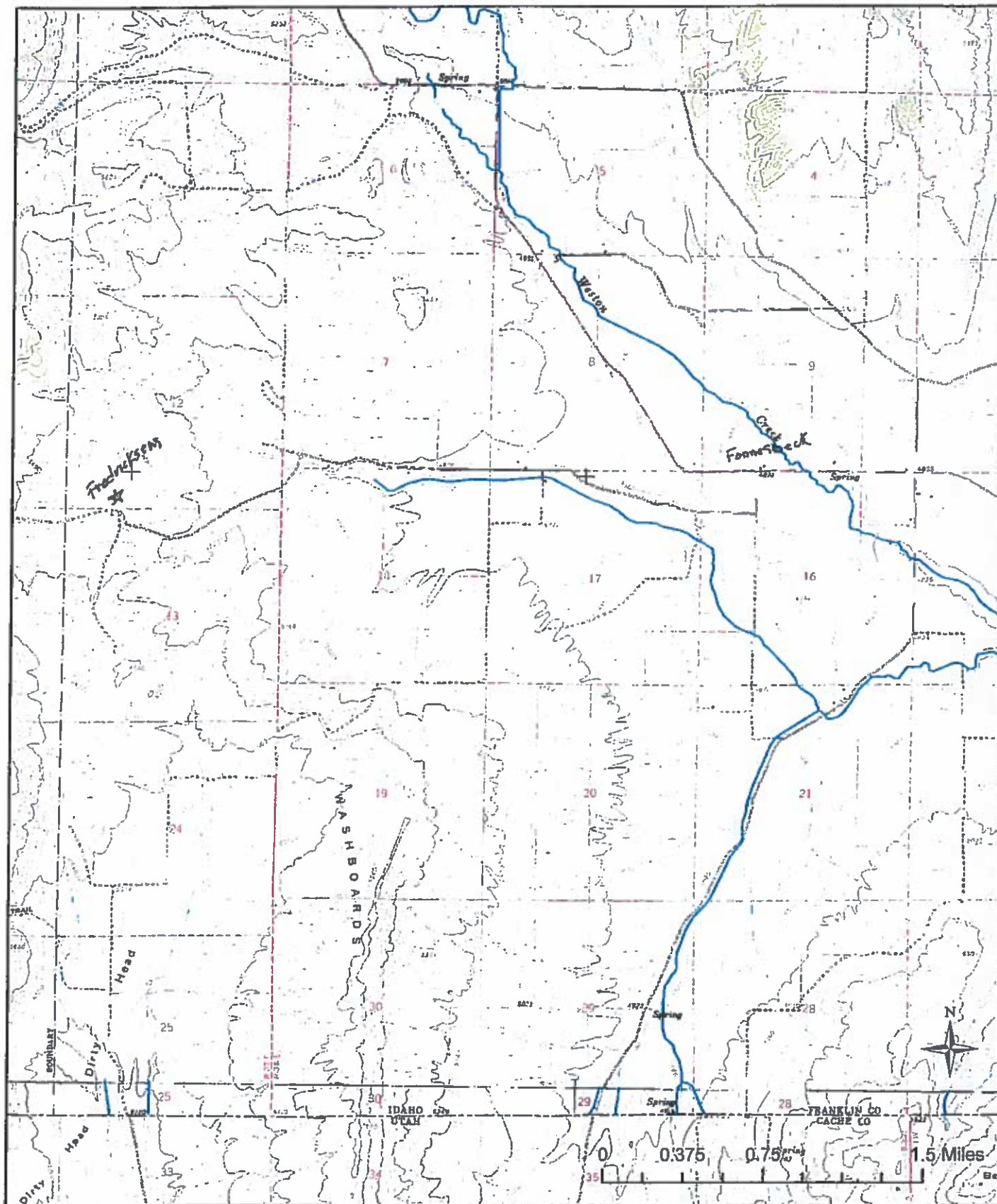
Charles A. Gray
Notary Public
Residing at Idaho Falls

My commission expires 6-15-85

FOR DEPARTMENT USE ONLY

Received by <u>EMC</u>	Date <u>6/29/84</u>	Exception filed by:	Forwarded to
Fee check by <u>EMC</u>	Date <u>7/2/84</u>		claimant by:
Fee received by <u>EMC</u>	Date <u>6/29/84</u>	<u>#34220</u>	
Published in <u>Register</u>			
Dates <u>7/12 & 13/84</u>			

13-7987



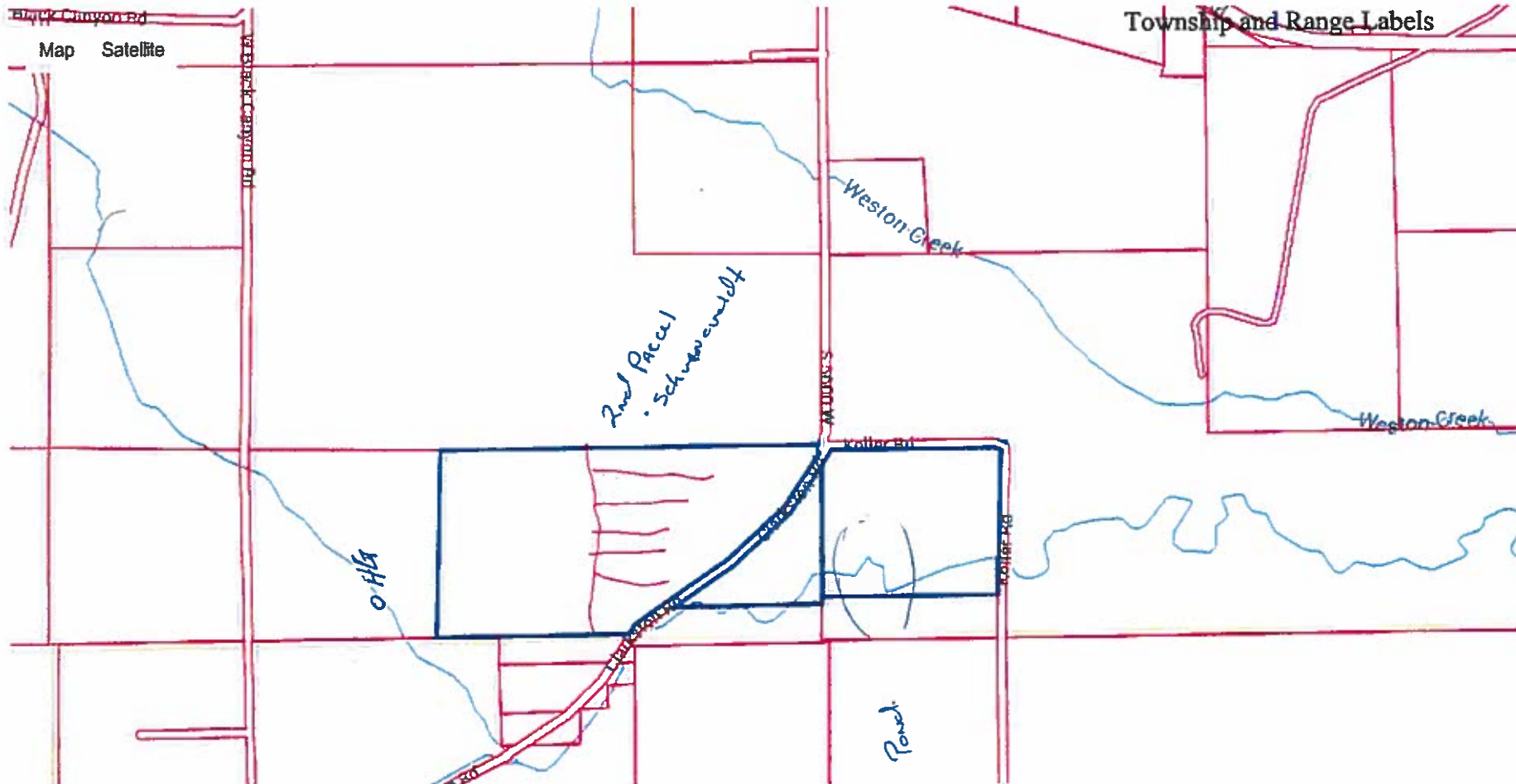
13-7987



BLUE = STREAMS

13-7987

13-7987



Township and Range Labels

Map Satellite

Weston Creek

Weston Creek

2nd Parcel - Schupewend

Hill

Pond

Moose

Highway

Hwy 20

Google

Map data ©2015 Google

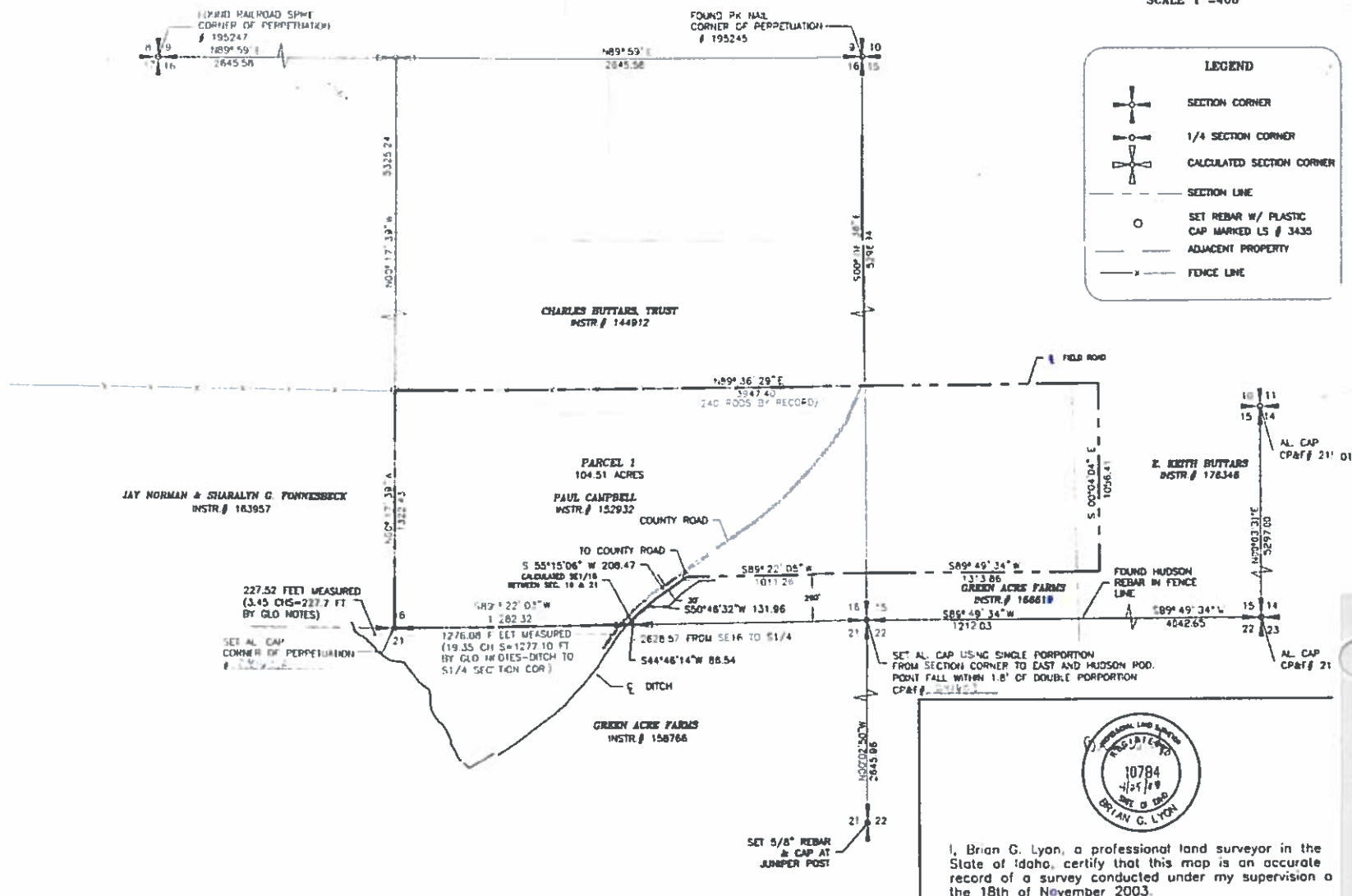


13-7987

RECORD OF SURVEY
FOR
BOYD CAMPBELL
PART OF SECTION 15 & 16, TOWNSHIP 16 SOUTH, RANGE 38 EAST
VESTON, IDAHO

NORTH

SCALE 1"=400'



ALLIANCE CONSULTING ENGINEERS, INC.

760 WEST 200 NORTH SUITE 6
LOGAN, UT 84321
(435) 755 5121

PROJECT

SURVEY FOR

BOYD CAMPBELL

PART OF SECTIONS 15 & 16, T16S, R38E, BM

SCALE

1" = 400'

DATE

FEBRUARY 14, 2004

JOB NO.

L080 02

DRAWING

CAMPBELL RECOFSURVEY.DWG

SHEET

1

RECORDER'S CERTIFICATE

INSTRUMENT # 2-1636

DATE 21 Nov 2006 TIME 12:51 PM

RECORD OF SURVEY #

REQUESTED BY Alan Lyon

RECORDED BY Steades

152932

WARRANTY DEED

For Value Received

MARLYN L. MICKELSEN and DONNA MICKELSEN,
HUSBAND and WIFE

the grantor , do hereby grant, bargain, sell and convey unto

PAUL F. CAMPBELL and SHELLY P. CAMPBELL,
Husband and wife,

whose current address is

Weston, Idaho 83286

the grantee , the following described premises, in Franklin County Idaho, to wit.

Township 16 South, Range 38 East of the Boise Meridian
Section 16: Beginning at the Southwest corner of the
SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 16; and running thence
West 80 rods; thence North 80 rods; thence
East 240 rods; thence South to a point
260 feet North of the Southeast corner of
the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 15, same township and
range; thence West 2379 feet, more or less
to the County Road; thence Southwesterly
along the County Road to the point of beginning.

Together with 1/3 of decreed water rights.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee ,
heirs and assigns forever. And the said Grantor do hereby covenant to and
with the said Grantee , that he the owner in fee simple of said premises; that they are free
from all incumbrances

and that he will warrant and defend the same from all lawful claims whatsoever.

Dated: April 8, 1980

Marlyn L. Mickelsen

Donna Mickelsen

STATE OF IDAHO, COUNTY OF Franklin
On this 8th day of April, 1980,
before me, a notary public in and for said State, personally
appeared

MARLYN L. MICKELSEN and
DONNA MICKELSEN, Husband and Wife.

Known to me to be the persons whose names
are subscribed to the within instrument, and acknowledged to
me that they executed the same.

Notary Public
Residing at: Preston, Idaho
Comm. Expires: Lifetime

Recorded at the request of
William E. Christensen

MAY 7 1980

MICHAEL D. KUNZ, RECORDER
By Lucas
FRANKLIN COUNTY, IDAHO

13-7987

232285

WARRANTY DEED

PAUL F. CAMPBELL and SHELLY P. CAMPBELL, husband and wife

grantors of Weston County of Franklin
State of Idaho, hereby CONVEY and WARRANT to

BOYD O. CAMPBELL and BEVERLY C. CAMPBELL, husband and wife
as joint tenants and not as tenants in common, with full rights of survivorship

grantees of
for the sum of TEN DOLLARS and other good and valuable consideration
the following described tract of land in Franklin County, State of Idaho.

Township 16 South, Range 38 East of the Boise Meridian
Section 16: Beginning at the Southwest corner of the Southeast Quarter of the Southeast Quarter of
Section 16; and running thence West 80 rods; thence North 80 rods; thence East 240 rods; thence South
to a point 260 feet North of the Southeast corner of the Southwest Quarter of the Southwest Quarter of
Section 15, same township and range; thence West 2379 feet, more or less to the County Road; thence
Southwesterly along the County Road to the point of beginning.

Together with 1/3 of decreed water rights.

This document has been prepared as an accommodation by HICKMAN LAND TITLE COMPANY
without the benefit of a title search and its accuracy is not guaranteed.

WITNESS, the hand of said grantor(s), this
Signed in the presence of

day of November A.D. 2005.

Recorded at the request of

Boyd Campbell

Paul F. Campbell
PAUL F. CAMPBELL

a.m. DEC 19 2005 p.m. 2:25

Shelly P. Campbell
SHELLY P. CAMPBELL

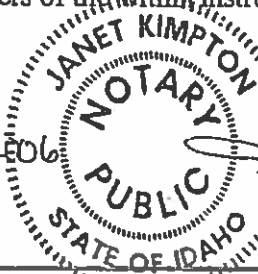
V. ELLIOTT LARSEN, RECORDER

By Ruth K. Rawlings Deputy
FRANKLIN COUNTY, IDAHO

STATE OF)
SS
County of Franklin)

On the 30th day of November A.D. 2005 personally appeared before me PAUL F. CAMPBELL and
SHELLY P. CAMPBELL the signers of the within instrument, who duly acknowledged to me that they
executed the same.

Commission expires: 3-30-2006
Residing in: Preston



Janet Kimpton
Notary Public



HICKMAN LAND TITLE COMPANY

TN

13-7987

The Marlyn Mickelson farm is in
Paul Campbell's name. When it is no longer
tied to F.H.A., it will return to Boyd
Campbell.

Shelley Campbell
~~Paul Campbell~~

Notarized 3-21-88

Sent to Ward

Residing Smithfield UT.

Exp. 2-16-91

Mar- 6- 2013.

To whom it may concern:

I was asked to write down, to the best of my memory the way we divided the water from Black-Canyon on the Mickelson Farm. when my dad & then I rented these Farms. I think we rented the Isabell Mickelson Farm from 1964 — 1980. Charles Butters Rented The Marilyn Mickelson Farm at the same time. I never saw any deeds or Water Right documents but we were Told That the water was to be shared $\frac{1}{3}$ To Isabells Farm. $\frac{1}{3}$ To Marilyn Mickelson's Farm & $\frac{1}{3}$ To Fonnesbecks Farms.

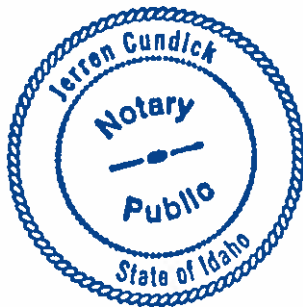
That is the way I recall ~~divided~~ dividing the water.

Where we grew Hay & had some Pasture and Charles Butters Just grew grain

we probably used the water for
longer period of time later in
summer. But when every one needed
the water it was shared $\frac{1}{3}$
to each of the farms.

dated March 6 - 2013

D. Michale Schranerlett



NOTARY PUBLIC

Jeron Gundick

RESIDING
PRESTON, IDAHO 83363

EXPIRES 3/12/2019

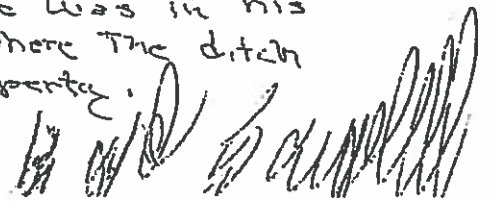
10.10.15

To whom it may Concern

The year of 1984 we Traded a house that we had built (Doug & Paul Campbell) in Weston, Idaho for about 100 acs to Marlin Mickelson and his wife, and the ground was Put in Paul Campbell's name, he, Paul Campbell was in the process of building a dairy and borrowed money from F.H.A. This ground was Tied up in that loan, I 2006 it was decided back to Doug and Beverly Campbell.

In 2011 it came out of the Soil Bank "C.R.P." and Glade Schranerdt started to farm it for us and, in 2012 a crop of wheat was harvested and Glade cleaned the ditch and irrigated some wheat. It was summer fall in 2013 and, no water was used that year and 2014 we used no water on the wheat crop, 2015 wheat was planted in the fall we planned on irrigating and the ditch had been plowed in by Jay Fomesheck by then Glade decided not to farm the ground he was farming for us. Randy Arkinson started to farm the ground. Middle of the summer 2015, Randy and I decided to reopen the ditch Nov. 6th, 2015, He brought his ditcher & tractor from Clarkston, Jay seen him and realized what he was going to do and came over and pulled his pick-up across the ditch so it could not be plowed out, Then I arrived and he (Jay) and I got into a argument, and he called me everything but a white man, and threatened me to kick the crap out of me and we could make a ditch but he would plow it in just as quick as we made it. He said that I had been SNEAKING around and working on the head of the ditch with my back hoe. This was not true because I had driven the back hoe past his house and he was in his yard. The road is a dead end where the ditch goes across the road on his property.

13-7987



OLSON & HOGGAN, P.C.

ATTORNEYS AT LAW

L. BRENT HOGGAN
MILES F. JENSEN
BRUCE L. JORGENSEN
JAMES C. JENKINS
ROBERT B. FUNK*
KEVIN J. FIFE*
JEFFERY B. ADAIR**
KELLY J. SMITH
JEREMY S. RAYMOND
TESS A. DAVIS
SETH J. TAIT
—
CHARLES P. OLSON (1916-1975)

*also licensed in Idaho
**also licensed in Nevada

January 5, 2016

130 SOUTH MAIN, SUITE 200
P.O. BOX 525
LOGAN, UTAH 84323-0525
TELEPHONE (435) 752-1551
TOLL FREE (866) 752-1551
TELEFAX (435) 752-2295

TREMONTON OFFICE:
123 EAST MAIN
P.O. BOX 115
TREMONTON, UTAH 84337-0115
TELEPHONE (435) 257-3885
TELEFAX (435) 257-0365

E-MAIL oh@oh-pc.com
www.oh-pc.com

State of Idaho Division of Water Resources
Eastern Region
Attn: Cooper Fritz
900 North Skyline Drive, Ste. A
Idaho Falls, ID 83402-1718

Re: Water Right No. 13-4284, Statutory Claim
Our Client: Boyd Campbell
Our File No. N-31.39

Dear Mr. Fritz:

Pursuant to your conversation with my paralegal, Michelle Welch, on December 31, 2015, we are submitting the enclosed Notice of Change in Water Right Ownership, the appropriate maps, deeds, and fee to split Water Right number 13-4284, along with an explanation of the issues concerning this split in ownership.

As Ms. Welch explained, J. Norman Foncesbeck originally filed a claim for this water right in June of 1984 and showed in his claim part of the water was irrigating land located in Section 16, Township 16 South, Range 38 East in the Southeast Quarter, namely four (4) acres of water in the southwest quarter of the southeast quarter (SW1/4 SE1/4) and twenty-two (22) acres in the southeast quarter of the southeast quarter (SE1/4 SE1/4). The land described herein is currently owned by Boyd and Beverly Campbell.

Enclosed are the following deeds for your review:

Warranty Deed #232285, 12/19/2005 from Paul and Shelly Campbell to Boyd and Beverly Campbell, which included 1/3 of decreed water rights

Warranty Deed #152932, 5/7/1980 from Marlyn and Donna Mickelsen to Paul and Shelly Campbell, which included 1/3 of decreed water rights

As Ms. Welch explained, the Mickelson deed from 1980 is prior to Mr. Foncesbeck's statutory claim filed in 1984 and therefore the property was not owned by Mr. Foncesbeck at the time of his claim, nor has he owned this property identified herein since. Therefore, 1/3 of this claim or at a minimum 26 acres of irrigation in this claim should be transferred to Boyd and Beverly Campbell accordingly by deed and at a minimum by appurtenancy. We have researched

State of Idaho Division of Water Resources
Eastern Region
Attn: Cooper Fritz
January 5, 2016

this parcel and have tried to determine if there are any deeds from Fannesbeck concerning this parcel and have not been able to determine that is the case. We have contacted the Franklin County Clerk and First American Title for their assistance and they have not found any deeds from Fannesbeck for this parcel as well. To do a more formal and extensive search would require several man hours of research at the Franklin County Courthouse or through a title company and would be cost prohibitive. Therefore, it is our understanding that the information provided herein would be sufficient enough to make the appropriate change.

Thank you for your assistance in this matter. If you have any questions or require anything further, please feel free to contact me or my paralegal, Michelle Welch.

Very truly yours,

OLSON & HOGGAN, P.C.

A handwritten signature in black ink, appearing to read "Jacob A. Waterson", with a long horizontal flourish extending to the right.

Jacob A. Waterson

JAW/mmw
Enclosures
cc: Client
J:\JAW\Water\Campbell, Boyd\Ltr Div Water Rights 13-4284.doc

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Notice of Change in Water Right Ownership

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "Yes" in the "Split?" column. If the water right is leased to the Water Supply Bank, check "Yes". If you are not sure if the water right is leased to the Water Supply Bank, see #6 of the instructions.

Water Right/Claim No.	Split?	Leased to Water Supply Bank?	Water Right/Claim No.	Split?	Leased to Water Supply Bank?
13-4284	Yes ☒	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐

2. Previous Owner's Name: Jay N. Fannesbeck
Name of current water right holder/claimant
3. New Owner(s)/Claimant(s): Boyd O. Campbell and Beverly C. Campbell
New owner(s) as listed on the conveyance document Name connector ☒ and ☐ or ☐ and/or
- 1241 South Hidden View Drive Providence UT 84332
Mailing address City State ZIP
- (435) 881-0172
Telephone Email
4. If the water rights and/or adjudication claims were split, how did the division occur?
☒ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.
5. Date you acquired the water rights and/or claims listed above: December 19, 2005
6. If the water right is leased to the Water Supply Bank changing ownership of a water right will reassign to the new owner any Water Supply Bank leases associated with the water right. Payment of revenue generated from any rental of a leased water right requires a completed IRS Form W-9 for payment to be issued to an owner. A new owner for a water right under lease shall supply a W-9. Water rights with multiple owners must specify a designated lessor, using a completed Lessor Designation form. Beginning in the calendar year following an acknowledged change in water right ownership, compensation for any rental will go to the new owner(s).
7. This form must be signed and submitted with the following **REQUIRED** items:
☒ A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
☒ Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
☒ Filing fee (see instructions for further explanation):
 o \$25 per *undivided* water right.
 o \$100 per *split* water right.
 o No fee is required for pending adjudication claims.
☐ If water right(s) are leased to the Water Supply Bank AND there are multiple owners, a Lessor Designation form is required.
☐ If water right(s) are leased to the Water Supply Bank, the individual owner or designated lessor must complete, sign and submit an IRS Form W-9.
8. Signature: [Signature] Title, if applicable: _____ Date: 12/19/05
Signature of new owner/claimant
- Signature: _____ Title, if applicable: _____ Date: _____
Signature of new owner/claimant

For IDWR Office Use Only:

Received by: _____ Date: _____ Receipt No. _____ Receipt Amt. _____

Active in the Water Supply Bank? Yes ☐ No ☐ If yes, forward to the State Office for processing W-9 received? Yes ☐ No ☐

Name on W-9: _____ Approved by: _____ Processed by: _____ Date: _____

13-7987

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
**INSTRUCTIONS FOR FILING A
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP**

This form has been prepared to assist all claimants and owners of water rights to comply with the requirements of Sections 42-248 and 42-1409(6), Idaho Code. All persons owning or claiming ownership of a water right or claim are required to provide notice to the Department of Water Resources (IDWR) of any change in ownership of any part of the water right or claim or of any change in the owner's mailing address within 120 days of the change. Forms to report ownership changes and/or to update an address are available on IDWR's website at www.idwr.idaho.gov. In addition, all new owners of water rights within a pending general adjudication area must inquire whether a notice of claim has been filed and, if not, shall file a notice of claim if necessary.

A notice is required for changes in ownership from one individual to another, from an individual to a business entity (even if the business is owned by the individual), or from one business entity to another (even if both businesses are owned by the same individual). Adding or removing a name is considered an ownership change which requires the submission of evidence to support the change and the filing fee.

Separate brochures describing the adjudication of water rights and the ownership change notice requirement are available from IDWR. Please contact your nearest IDWR office if you would like more information or need help completing this form. A list of IDWR offices is on page 2 of these instructions, or you can call 1-800-451-4129. Water right information can be found on the department's website using the Water Right and Adjudication Search link at www.idwr.idaho.gov.

Please note:

- Unlike licensed or decreed water rights, which are real property, water right permits, applications for new water rights, and applications to transfer existing water rights are considered the personal property of the permit holders/applicants. Permit holders and applicants must assign their interest in a permit and/or application to the new owner. Assignment forms are available on the department's website at www.idwr.idaho.gov, or from any IDWR office. The fee for an assignment of permit is \$25. There is no charge for an assignment of application for permit or application for transfer.
- If you want to change or add a point of diversion, place of use, season of use, or purpose of use of a water right, you must file an Application for Transfer. The ownership of a water right can also be updated through the transfer process.
- The combined portions of a divided ("split") water right cannot exceed the total flow rate, volume, or period of use of the original right.
- IDWR has no jurisdiction concerning easements, rights-of-way, and zoning matters. The buyer and seller must make these provisions where necessary.

LINE INSTRUCTIONS:

1. If there are water rights associated with the property, the seller should be able to provide you with the water right or adjudication claim number(s). You may have purchased only a portion of the water right(s) held by the seller. If so, the water right(s) held by the seller may need to be divided ("split") to provide you your share of each right. Mark the box "Yes" if a division of the water right is required.

If you receive water from a municipal provider, an irrigation district or other water delivery organization, and the water rights are held by the organization, please do not use this form to record a change. Please contact the water delivery organization to determine if any action is necessary.

If you or the seller believes there are water rights for the property but you do not know the numbers, you may contact IDWR for assistance in identifying the water rights for the property in question. If adjudication claims for the rights are required and have not been filed, IDWR will so advise you.

2. Fill in the name of the current water right holder/claimant.
3. Fill in each name as listed on the conveyance document and complete the current contact information. For water rights, IDWR will update the ownership to the individual(s)/entities listed on the conveyance document. For active adjudication claims, IDWR will update the claimant information to match the conveyance document unless the new claimant provides good cause for the variance.
4. You may have acquired only a portion of the water right(s) held by the seller. If you did not acquire the entire water right/property, please check the appropriate box. Water rights are often conveyed as an appurtenance to the land where they are used, and the conveyance document for the land often does not have specific language regarding the water right. Please read your deed or other conveyance document carefully to be sure. When the conveyance document does not specifically address water rights, it will be assumed that the water rights are to be split proportionate to the amount of land acquired.

5. Indicate the date the water rights and/or adjudication claims were conveyed to you. This may be the date of closing in the case of a real estate transaction, the date a contract was signed, or the date of a court order.
6. If you are unsure about the status of your water right in the Water Supply Bank, go to:
www.idwr.idaho.gov/apps/ExtSearch/WSBSearch/WSBSearch.aspx, input your water right number and click "Search." If you find your water right is in the Water Supply Bank and you want to release it so you can use it, you can download the Request to Release form from the forms portion of our website: www.idwr.idaho.gov. Your water right may not be available for immediate release if rented by another water user.

7. **ATTACHMENTS:**

IDWR cannot process this change without documentation of ownership. The documentation may be in the form of a deed, court decree or other conveyance document. If you are submitting a quitclaim deed and the grantor's name does not match the water right holder of record, you will need to provide a chain of title that goes back to the water right holder/claimant of record. You may obtain this information from the assessor's office in the county where the property is located. Items that are not conveyance documents are deeds of trust, mortgages, purchase and sales agreements, and property tax notices.

Submit a plat map, survey map, or aerial photograph of the place of use for each water right or claim listed in item #1 (if necessary to clarify division of water rights or complex property descriptions). If your right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency or equivalent aerial photograph with the irrigated acres outlined and point(s) of diversion clearly marked. You also have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov. It is not necessary to obtain a new survey for purposes of this form before contacting IDWR.

The Idaho Legislature has waived the fee to file a Notice of Change in Water Right Ownership for any water right pending in a general water right adjudication such as the Snake River Basin Adjudication or the Northern Idaho Adjudication. This waiver ends when a partial decree is issued for the water right that has been claimed. For water rights not pending in a general adjudication, the filing fee is \$25 per water right, except for those water rights that will be divided as a result of the change in ownership. The filing fee for division of a water right is \$100 per water right.

If the water right is leased to the Water Supply Bank and there is more than one owner, a Lessor Designation form must be completed to specify who the designated lessor will be. Each of the owners must sign the Lessor Designation form.

An IRS Form W-9 is required for all ownership changes pertaining to water rights leased to the Water Supply Bank. Refer to instructions in section 6 above to determine if the water right undergoing an ownership change is leased to the Water Supply Bank. An IRS W9 form can be downloaded from the Department's website: www.idwr.idaho.gov.

8. One of the new owner(s) must sign the form in the space(s) provided. If someone other than the owner signs the notice, evidence of authority to sign for the owner must be attached. If the new owner is a corporation or other organization, the person signing the notice must be an officer of the corporation or otherwise have authority to sign for the organization and must include their title with the signature.

When you have completed the Notice of Change in Water Right Ownership, retain a copy and file the original form, necessary attachments, and filing fee with the IDWR office nearest you. Ownership changes for water rights leased to the Water Supply Bank should be sent to the State Office.

IDWR Northern Region
7600 N Mineral Dr, Ste 100
Coeur d'Alene, ID 83815-7763
(208) 762-2800

IDWR Eastern Region
900 N Skyline Dr, Ste A
Idaho Falls, ID 83402-1718
(208) 525-7161

IDWR Western Region
2735 Airport Way
Boise, ID 83705-5082
(208) 334-2190

IDWR Southern Region
650 Addison Ave W, Ste 500
Twin Falls, ID 83301-5858
(208) 736-3033

~ OR ~

IDWR State Office
322 East Front St, 6th Floor
P.O. Box 83720
Boise, ID 83720-0098
(208) 287-4800

1 3 - 7 9 8 7

232285

WARRANTY DEED

PAUL F. CAMPBELL and SHELLY P. CAMPBELL, husband and wife

grantors of Weston County of Franklin
State of Idaho, hereby CONVEY and WARRANT to

BOYD O. CAMPBELL and BEVERLY C. CAMPBELL, husband and wife
as joint tenants and not as tenants in common, with full rights of survivorship

grantees of
for the sum of TEN DOLLARS and other good and valuable consideration
the following described tract of land in Franklin County, State of Idaho.

Township 16 South, Range 38 East of the Boise Meridian
Section 16: Beginning at the Southwest corner of the Southeast Quarter of the Southeast Quarter of
Section 16; and running thence West 80 rods; thence North 80 rods; thence East 240 rods; thence South
to a point 260 feet North of the Southeast corner of the Southwest Quarter of the Southwest Quarter of
Section 15, same township and range; thence West 2379 feet, more or less to the County Road; thence
Southwesterly along the County Road to the point of beginning.

Together with 1/3 of decreed water rights.

This document has been prepared as an accommodation by HICKMAN LAND TITLE COMPANY
without the benefit of a title search and its accuracy is not guaranteed.

WITNESS, the hand of said grantor(s), this
Signed in the presence of

day of November A.D. 2005.

Recorded at the request of

Boyd Campbell

Paul F. Campbell
PAUL F. CAMPBELL

a.m. DEC 19 2005 p.m. 2:25

Shelly P. Campbell
SHELLY P. CAMPBELL

V. ELLIOTT LARSEN, RECORDER

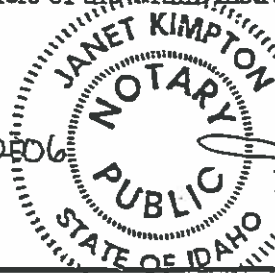
By Ruth K. Rawlings Deputy
FRANKLIN COUNTY, IDAHO

STATE OF)
SS

County of Franklin

On the 30th day of November A.D. 2005 personally appeared before me PAUL F. CAMPBELL and
SHELLY P. CAMPBELL the signers of the within instrument, who duly acknowledged to me that they
executed the same.

Commission expires: 3-30-2006
Residing in: Preston



Janet Kimpton
Notary Public

13-7987



HICKMAN LAND TITLE COMPANY

152932

WARRANTY DEED

For Value Received

MARLYN L. MICKELSEN and DORNA MICKELSEN,
HUSBAND and WIFE

the grantor do hereby grant, bargain, sell and convey unto

PAUL F. CAMPBELL and SHELLY P. CAMPBELL,
Husband and wife,

whose current address is

Weston, Idaho 83286

the grantee, the following described premises, in Franklin County Idaho, to wit.

Township 16 South, Range 38 East of the Boise Meridian
Section 16: Beginning at the Southwest corner of the
SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 15; and running thence
West 80 rods; thence North 80 rods; thence
East 240 rods; thence South to a point
260 feet North of the Southeast corner of
the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 15, same township and
range; thence West 2379 feet, more or less
to the County Road; thence Southwesterly
along the County Road to the point of beginning.

Together with 1/3 of decreed water rights.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee,
heirs and assigns forever. And the said Grantor do hereby covenant to and
with the said Grantee, that he the owner in fee simple of said premises; that they are free
from all incumbrances

and that he will warrant and defend the same from all lawful claims whatsoever.

Dated: April 8, 1980

Marlyn L. Mickelsen

Dorna Mickelsen

STATE OF IDAHO, COUNTY OF Franklin
On this 8th day of April, 1980
before me, a notary public in and for said State, personally
appeared

MARLYN L. MICKELSEN and
DORNA MICKELSEN, Husband and Wife.

known to me to be the persons whose name is
subscribed to the foregoing instrument, and acknowledged to
me that they executed the same.

Notary Public
Preston
Lifetime

Witnessed at the request of
William E. Harrison

MAY 7 1980

MICHAEL R. KING, RECORDER
By *John A. Harrison*
FRANKLIN COUNTY, IDAHO

13-7987

Map Satellite

Township and Range Labels

13-7987

16

15

Place of
Lake

21

22

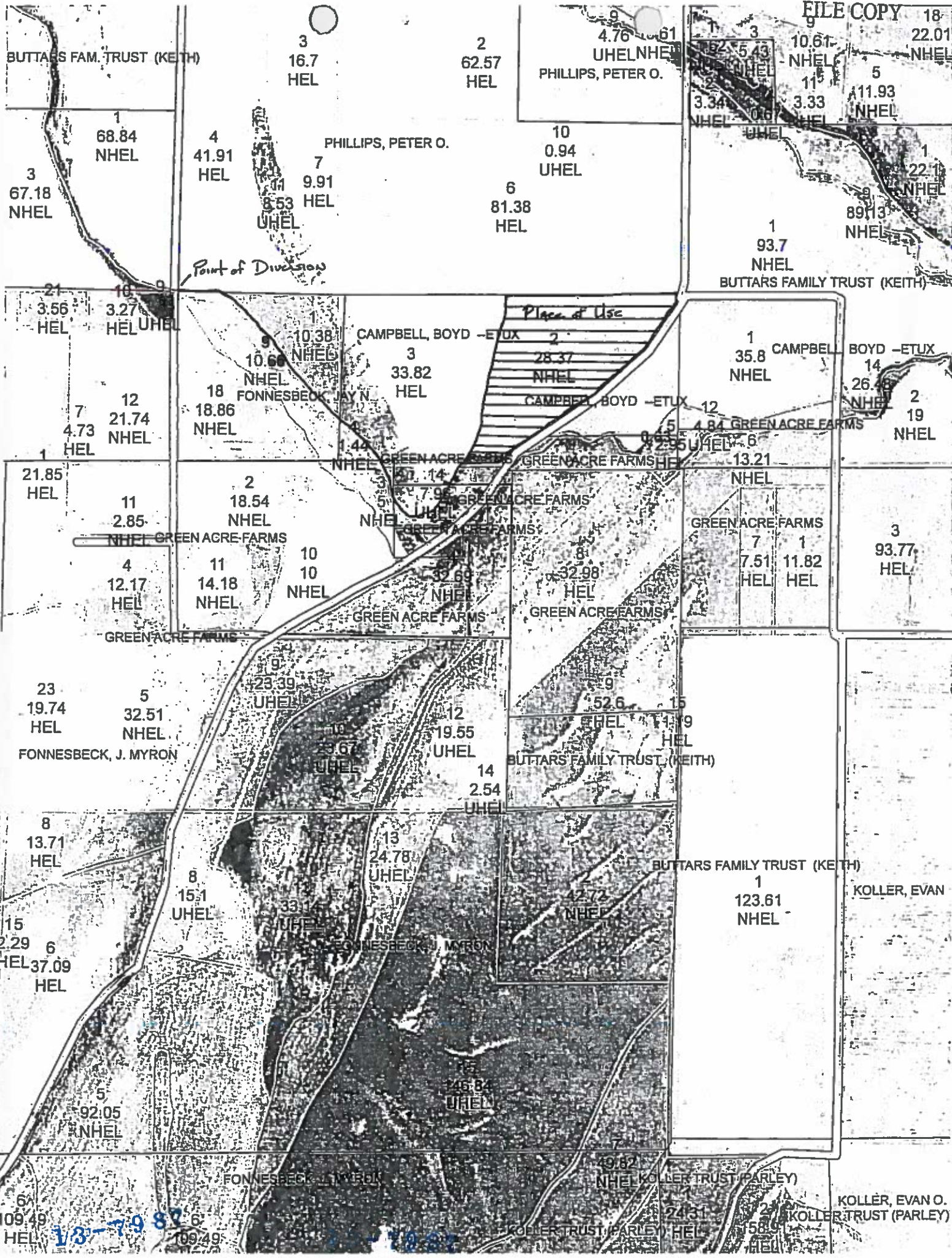
T16S R38E

Google



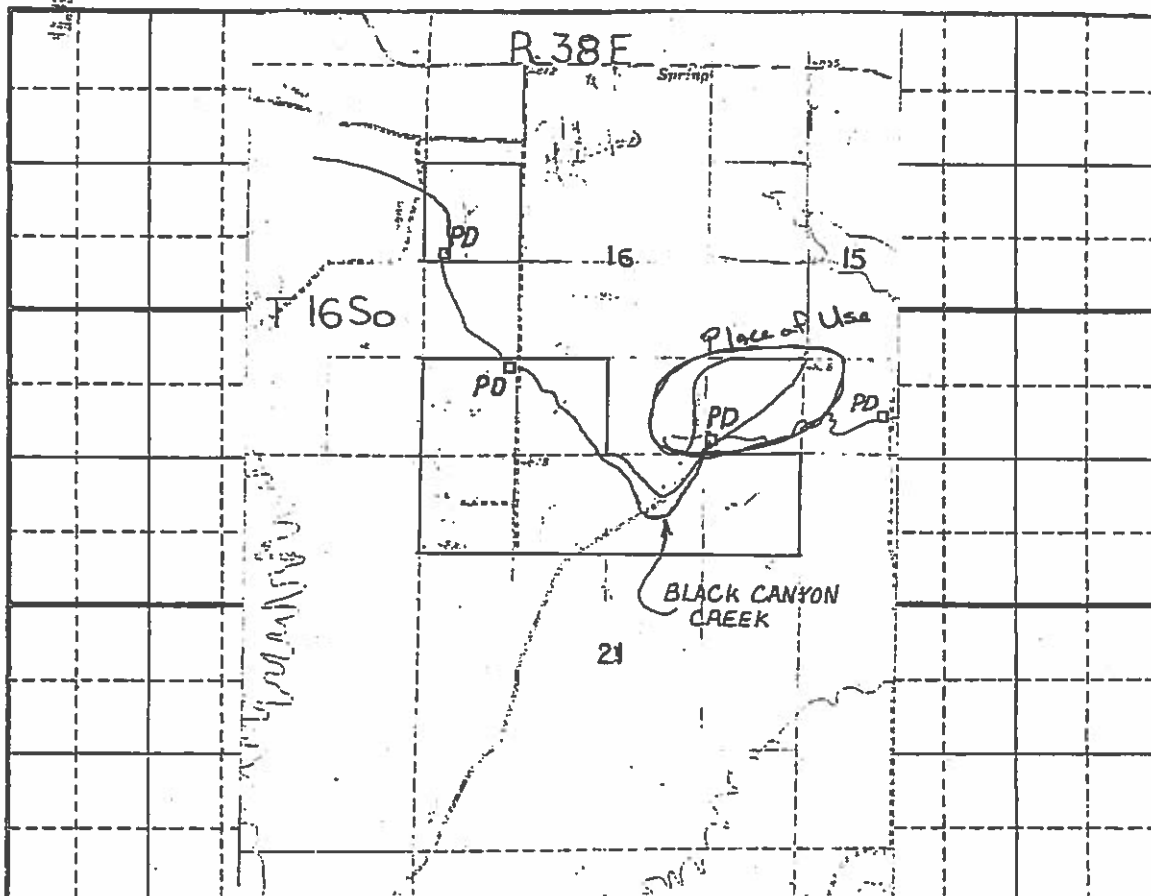
Map data ©2015 Google





44-2311-10-00000000

Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Bonneville) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 29th day of June, 1984.

Norman L. Lonsdale
(Claimant)
Carlson Gray
Notary Public
Residing at Idaho Falls

My commission expires 6-15-85

FOR DEPARTMENT USE ONLY

Received by EMC Date 6/29/84 Exception filed by: _____ Date _____
Filed check by EMC Date 7/2/84 Forwarded to claimant by: _____
Fee received by EMC Date 6/29/84 # 24220
Published in Mountain States
Dates 7/12 & 19/84

OLSON & HOGGAN, P.C.

ATTORNEYS AT LAW

130 SOUTH MAIN, SUITE 200 / P.O. BOX 525

LOGAN, UT 84321-0525

(435) 752-1551

WELLS FARGO BANK, N.A.

LOGAN OFFICE

LOGAN, UTAH 84321

31-297/1240

52019

1/5/2016

PAY TO THE ORDER OF: State of Idaho Dept. of Water Resources

**100.00

\$

One Hundred and 00/100*****

DOLLARS

State of Idaho Dept. of Water Resources

MEMO

LBH N-31.39 Boyd Campbell


AUTHORIZED SIGNATURE

OLSON & HOGGAN, P.C.

State of Idaho Dept. of Water Resources

Application fee

1/5/2016

52019

100.00

Wells Fargo Checking LBH N-31.39 Boyd Campbell

100.00

OLSON & HOGGAN, P.C.

State of Idaho Dept. of Water Resources

Application fee

1/5/2016

52019

100.00

Wells Fargo Checking LBH N-31.39 Boyd Campbell

100.00

13-7987

FILE COPY

OLSON & HOGGAN, P.C.

ATTORNEYS AT LAW

October 19, 2016

L. BRENT HOGGAN
MILES P. JENSEN
BRUCE L. JORGENSEN
JAMES C. JENKINS
KEVIN J. FIFE*
JEFFERY B. ADAIR**
KELLY J. SMITH
JEREMY S. RAYMOND
SETH J. TAIT*
JACOB A. WATTERSON
—
CHARLES P. OLSON (1916-1975)

130 SOUTH MAIN, SUITE 200
P.O. BOX 525
LOGAN, UTAH 84323-0525
TELEPHONE (435) 752-1551
TOLL FREE (866) 752-1551
TELEFAX (435) 752-2295

TREMONTON OFFICE:
123 EAST MAIN
P.O. BOX 115
TREMONTON, UTAH 84337-0115
TELEPHONE (435) 257-3885
TELEFAX (435) 257-0365

E-MAIL oh@oh-pc.com
www.oh-pc.com

*also licensed in Idaho

**also licensed in Nevada

State of Idaho Division of Water Resources
Eastern Region
Attn: James Cefalo
900 North Skyline Drive, Ste. A
Idaho Falls, ID 83402-1718

Re: Water Right No. 13-4284, Statutory Claim
Our Client: Boyd Campbell
Our File No. N-31.39

Mr. Cefalo:

Pursuant to your request during our last conversation, I have attached the relevant deeds relating to my client's claims under Water Right No. 13-4284. As established by these deeds, my client holds a lawful and valid claim under this water right that must be recognized. The remainder of this correspondence is intended to clarify my client's position on this matter and how it relates to the statutory requirement identified in Title 42 of the Idaho State Code.

The facts of this case are straightforward, simple, and clearly established in the record. On April 1, 1985, Jay Norman Fannesbeck certified and filed a Claim to Water Right covering certain parcels and claiming a priority date of April 1, 1880. My client obtained title to a portion of the real property identified in this application in 2005. As established in the record, each relevant deed clearly conveys the appurtenant water rights to these same parcels.

At the time of my client's purchase, this property was subject to CRP agreement requiring the property to remain fallow. Upon the expiration of this agreement, my client began the process of preparing the land for irrigation. Mr. Fannesbeck objected to my client's attempts based on allegations of abandonment. My client refuted these allegations based on the CRP agreement, and again attempted to irrigate his property. Subsequently, Mr. Fannesbeck physically interfered with this right by plowing through the historic ditch and threatening physical violence if future attempts were made to restore the watercourse.

13-7987

State of Idaho Division of Water Resources
Eastern Region
Attn: James Cefalo
October 19, 2016

In an attempt to resolve this dispute civilly, my office contacted the Division on or about January 4, 2016 and spoke with Mr. Cooper Fritz to establish the proper application and procedure to accomplish a recorded change in ownership. Accordingly, this office filed a Notice of Change in Water Right Ownership along with the required maps, deeds, explanation, and filing fees on January 5, 2016.

Based on the lack of response on the application in spite of several requests, my office again contacted the Division on February 16, 2016 to inquire on the status of my client's application and the estimated time for its processing. Your office provided no explanation for the delay or an expected time for review, but simply stated that application was still pending review and that we would be notified of any progress.

Again, based on the lack of progress and failure to respond to inquiries, my office again contacted the Division on May 24, 2016. At this time my office was informed that my client's application had been reviewed, approved, and simply awaited entry and the assignment of an independent water right number. The division indicated a backlog of other entries, but assured my office it would confirm the entry and water right number once the entry was complete.

Later this same day, the Division again contacted my office and stated the approved application could not be processed due to an apparent discrepancy between the application and the Division's updated records. Specifically, the Division stated that the identified place of use from the approved Notice of Change did not comport with the Division's updated records. Based on the lack of notice to my client of a change application, my office requested that Mr. Fritz contact us to explain why the record had changed between the time the application was submitted, approved, and processed for entry. The Division never followed through with this commitment.

Ultimately, my office was forced to contact the Division on June 16, 2016 to discover the alleged discrepancy in the record. At this time, the Division explained that Jay Fannesbeck contacted the division on February 3, 2016 (one month after my client's approved filing) and submitted an application to alter the original Claim to Water Right. The sole purpose of this application was to remove the parcel now owned by my client from the established Claim. No notice was provided to my client of this application, and to this date, the Division has failed to identify the proper purpose alleged by Mr. Fannesbeck for the extinguishment of my client's claim. For some unexplained and improper reason, the Division made the conscious decision to ignore the alleged backlog of awaiting applications and the earlier approval of my client's application, and instead reviewed, processed, and recorded Mr. Fannesbeck's application to the prejudice of my client.

State of Idaho Division of Water Resources
Eastern Region
Attn: James Cefalo
October 19, 2016

The facts of this matter establish that the Division's action with regards to the apparent preferential treatment of Mr. Fonnesbeck's application violates a number of the express provisions of Title 42 of the Idaho State Code. First, the facts establish that my client qualifies as a valid claimant pursuant to Idaho Statute 42-1401A(1) based on the validly asserted water rights under Water Right No. 13-4284. The record establishes that my client's application satisfied the required provisions of Idaho Statute 42-248, and was accordingly entitled to the proper and timely review, approval, and entry of his application. The Division's unexplained conduct in reviewing, approving, and entering a competing application that was received one month after my client's application is an arbitrary and capricious act that violates the clear requirements of this statute.

Additionally, the facts establish that the Division's review, approval, and entry of Mr. Fonnesbeck's competing application violated the express terms of Idaho Statute 42-222. Pursuant to this statute, any change in point of diversion or place of use must first provide notice of changes to anyone claiming ownership to that water right. The facts of this matter establish that the Division failed to comply with this statutory requirement. Specifically, the facts establish that the Division failed to provide either my client or my office with notice of Mr. Fonnesbeck's competing application. Had the Division appropriately processed the parties' respective applications in the order in which they were received, my client would have received adequate notice of Mr. Fonnesbeck's application and subsequently been afforded the opportunity to object to this application and seek a review of any determination. The Division's failure to comply with these requirements has improperly prohibited my client's rights under this Claim, caused an undue hardship to his ability to exercise his rights, and constitutes a direct violation of my client's Due Process rights and have deprived him of his lawful claims under Water Right No. 13-4284.

Based on the foregoing, my client requests the Division comply with the above referenced statutory mandates. Specifically, my client demands that the Division reverse the approval of Mr. Fonnesbeck's untimely and unnoticed application, enter my client's timely and approved Notice of Change in Water Right Ownership and provide him the new Water Right No. required by statute, and, if necessary, follow the correct procedure as it relates to Mr. Fonnesbeck's application.

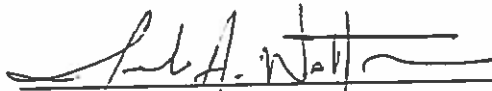
It is our expectation that the Division will work with the interested parties in resolving this matter without the need for litigation. My office requests that the Division contact my office within 14 days of the date of this letter to discuss the proper resolution of this matter. While my client does not wish to create an undue burden, costs, or embarrassment to the parties involved in this matter, he

State of Idaho Division of Water Resources
Eastern Region
Attn: James Cefalo
October 19, 2016

intends to fully assert his legal claims in this matter to ensure that all proper statutory requirements are followed.

Sincerely,

OLSON & HOGGAN, P. C.



Jacob A. Watterson
Attorney at Law

JAW/LBH
Enclosures

J:\JAW\Water\Campbell, Boyd\Ltr Div Water Rights 13-4284.02.doc

232285

WARRANTY DEED

PAUL F. CAMPBELL and SHELLY P. CAMPBELL, husband and wife

grantors of Weston County of Franklin
State of Idaho, hereby CONVEY and WARRANT to

BOYD O. CAMPBELL and BEVERLY C. CAMPBELL, husband and wife
as joint tenants and not as tenants in common, with full rights of survivorship

grantees of
for the sum of TEN DOLLARS and other good and valuable consideration
the following described tract of land in Franklin County, State of Idaho.

Township 16 South, Range 38 East of the Boise Meridian
Section 16: Beginning at the Southwest corner of the Southeast Quarter of the Southeast Quarter of
Section 16; and running thence West 80 rods; thence North 80 rods; thence East 240 rods; thence South
to a point 260 feet North of the Southeast corner of the Southwest Quarter of the Southwest Quarter of
Section 15, same township and range; thence West 2379 feet, more or less to the County Road; thence
Southwesterly along the County Road to the point of beginning.

Together with 1/3 of decreed water rights.

This document has been prepared as an accommodation by HICKMAN LAND TITLE COMPANY
without the benefit of a title search and its accuracy is not guaranteed.

WITNESS, the hand of said grantor(s), this
Signed in the presence of

day of November A.D. 2005.

Recorded at the request of

Boyd Campbell

PAUL F. CAMPBELL

a.m. DEC 19 2005 p.m. 2:25

SHELLY P. CAMPBELL

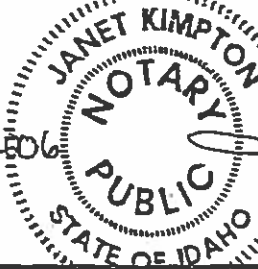
V. ELLIOTT LARSEN, RECORDER

By Ruth K. Rawlings Deputy
FRANKLIN COUNTY, IDAHO

STATE OF)
SS
County of Franklin

On the 30th day of November A.D. 2005 personally appeared before me PAUL F. CAMPBELL and
SHELLY P. CAMPBELL the signers of the within instrument, who duly acknowledged to me that they
executed the same.

Commission expires: 3-30-2006
Residing in: Preston



Janet Kimpton
Notary Public

13-7987



HICKMAN LAND TITLE COMPANY

152932

WARRANTY DEED

For Value Received

MARLYN L. MICKELSEN and DONNA MICKELSEN,
HUSBAND and WIFE

the grantor, do hereby grant, bargain, sell and convey unto

PAUL F. CAMPBELL and SHELLEY P. CAMPBELL,
Husband and wife,

whose current address is

Weston, Idaho 83286

the grantee, the following described premises, in Franklin County Idaho, to wit.

Township 16 South, Range 38 East of the Boise Meridian
Section 16: Beginning at the Southwest corner of the
SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 15; and running thence
West 80 rods; thence North 80 rods; thence
East 240 rods; thence South to a point
250 feet North of the Southeast corner of
the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 15, same township and
range; thence West 2379 feet, more or less
to the County Road; thence Southwesterly
along the County Road to the point of beginning.

Together with 1/3 of decreed water rights.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee,
heirs and assigns forever. And the said Grantor do hereby covenant to and
with the said Grantee, that he the owner, in fee simple of said premises; that they are free
from all incumbrances

and that he will warrant and defend the same from all lawful claims whatsoever.

Dated: April 8, 1980

Marlyn L. Mickelsen

Donna Mickelsen

STATE OF IDAHO, COUNTY OF Franklin
On this 8th day of April, 1980
before me, a notary public in and for said State, personally
appeared

MARLYN L. MICKELSEN and
DONNA MICKELSEN, Husband and Wife.

Known to me to be the persons whose names S
are subscribed to the foregoing instrument, and acknowledged to
me that they executed the same.

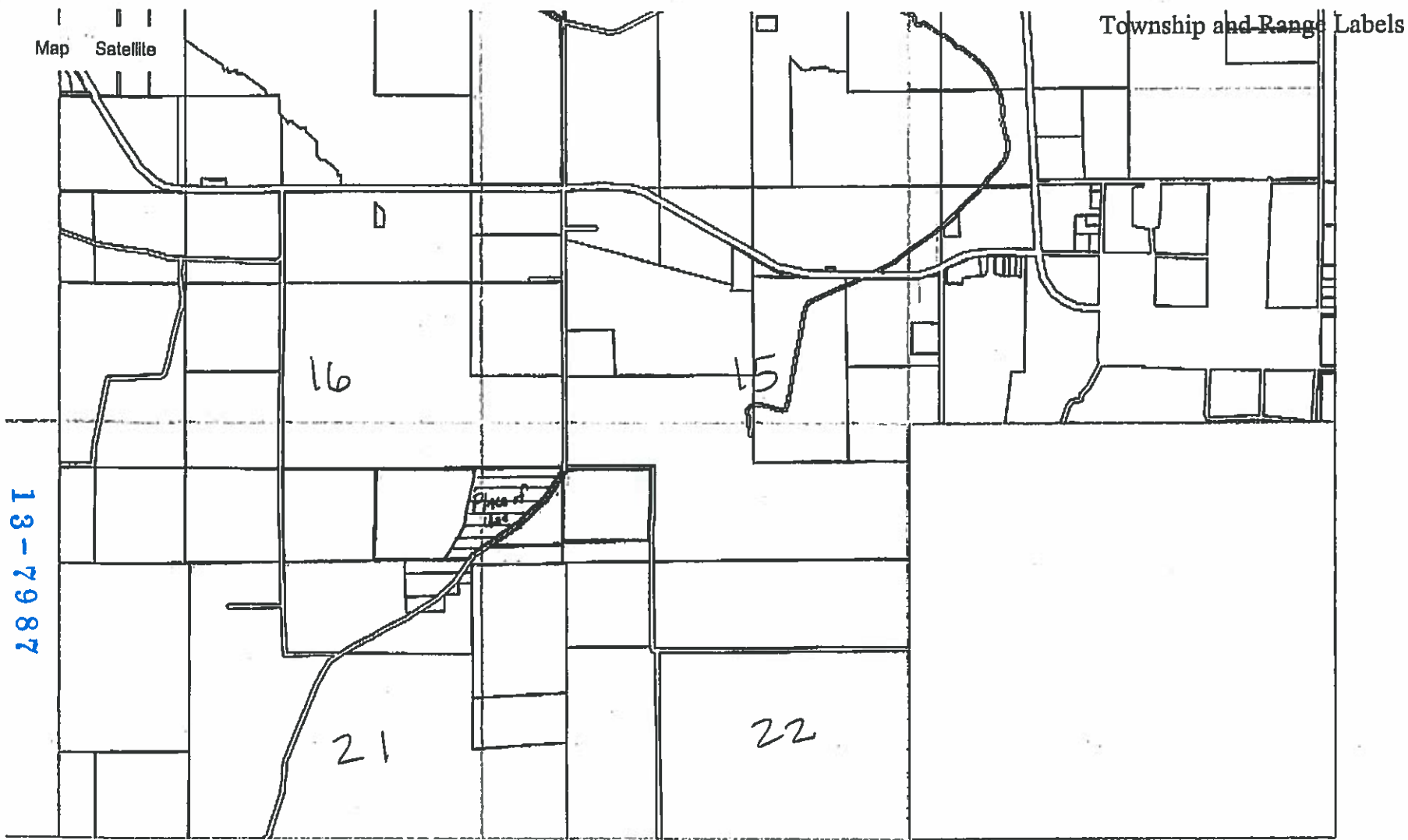
Notary Public
Residing at Preston, Idaho
Comm. Expires Lifetime

Recorded at the request of
William F. Preston

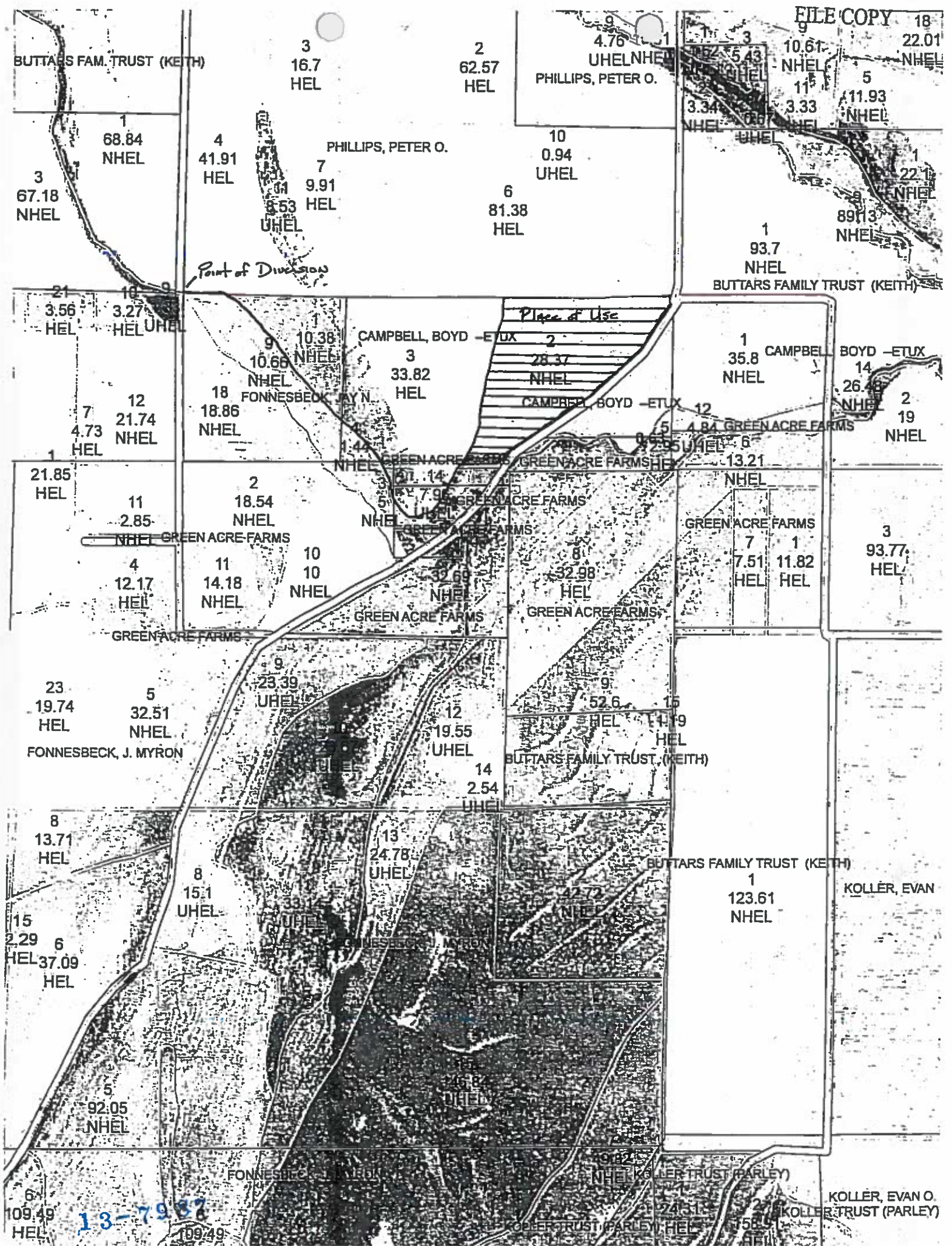
MAY 7 1980

WILLIAM F. PRESTON
By *William F. Preston*
NOTARY PUBLIC, IDAHO

18-7987

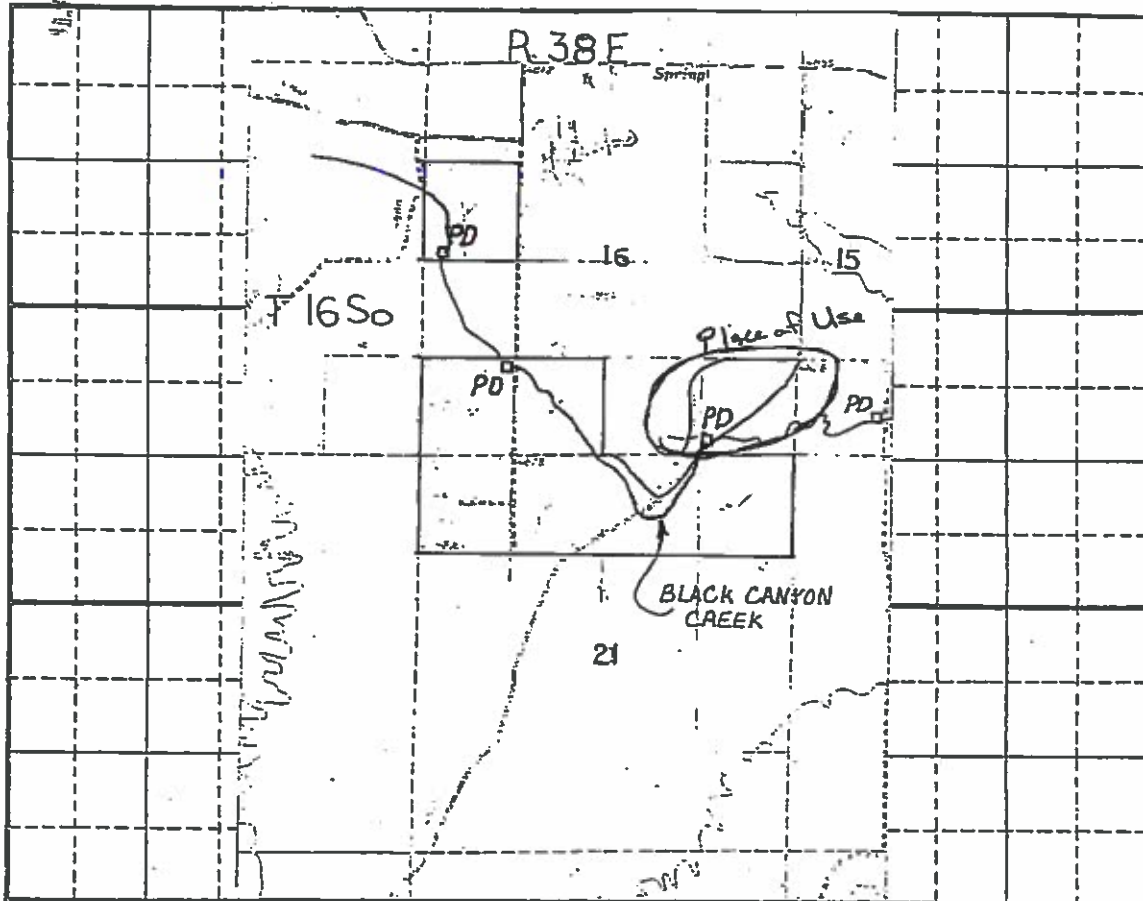


T16S R38E



42-3311 11/11/84

Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Benewah) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 27th day of June, 1984.
Norman Tomlinson
(Claimant)

Robert Gray
Notary Public
Residing at Idaho Falls

My commission expires 6-15-85

FOR DEPARTMENT USE ONLY

Received by EMC Date 6/29/84 Exception filed by: _____ Date _____
Prelim. check by EMC Date 7/2/84
Fee received by EMC Date 6/29/84 # 24220
Published in Benewah Advertiser
Dates 7/12 & 19/84



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 North Skyline Drive, Suite A Idaho Falls Idaho 83402-1718

Phone: (208) 525-7161 FAX: (208) 525-7177 www.idwr.idaho.gov

C.L. "BUTCH" OTTER - Governor
Gary Spackman - IDWR Director

October 24, 2016

Jacob A Watterson
Olson & Hoggan, P.C.
130 South Main, Suite 200
PO Box 525
Logan, UT 84323-0525

RE: Proposed Ownership Change for Water Right 13-4284

Dear Mr. Watterson:

Thank you for your letter regarding the Notice of Change in Water Right Ownership filed earlier this year on behalf of Boyd and Beverly Campbell. You have clearly spent a lot of time researching Idaho water law. This letter is intended to return the proposed ownership change and explain why the change cannot be completed at this time.

On June 29, 1984, Jay Norman Fennesbeck filed Claim No. 13-4284 with the Idaho Department of Water Resources ("department"). The claim described the diversion of 5.96 cfs from Black Canyon Creek for domestic and irrigation use.

The place of use described in the claim was 296 acres, generally located in Sections 16 and 21, T16S, R38E. Of particular importance for your clients, the claim described 26 irrigated acres in the SWSE and SESE of Section 16, T16S, R38E. The map filed with the claim also showed approximately 26 irrigated acres in the SWSE and SESE of Section 16. The 26 acres in question were located on property now owned by your clients, Boyd and Beverly Campbell.

On January 11, 2016 you filed a Notice of Change in Water Right Ownership for the Campbells, seeking to update the ownership for a 26-acre portion of water right (claim) 13-4284. The proposed ownership change included two deeds: (1) A 1980 warranty deed from Marlyn and Donna Mickelsen to Paul and Shelly Campbell, and (2) A 2005 warranty deed from Paul and Shelly Campbell to Boyd and Beverly Campbell. Both deeds describe a parcel of ground (hereinafter "Campbell property") which includes most of the SWSE and SESE of Section 16, T16S, R38E and encompasses the 26 acres of water right 13-4284 identified in the paragraph above.

It is important to note that both deeds include the following language: "Together with 1/3 of decreed water rights." The only decreed water rights associated with the Campbell property are water rights held by Weston Creek Irrigation Company ("WCIC"). The Campbell property is located within the authorized service area of WCIC. Of

course, that does not guarantee there are shares from the company associated with the property. The Campbells should contact WCIC to determine if there are any shares associated with their property. The department does not have record of any other decreed rights associated with the Campbell property.

The evidence provided with the proposed ownership change in January 2016 was not sufficient to complete the proposed change. In order to update the ownership of a portion of water right 13-4284, the Campbells must demonstrate a chain of legal ownership of the right tracing back to Jay Norman Fannesbeck, which may be impossible. It appears that in 1984, when Fannesbeck filed his claim, the Campbell property was not even owned by Fannesbeck. Fannesbeck should have limited his claim to his own property and allowed the owners of the Campbell property to file their own independent claim.

Department staff have conversed with you about the issues described above and have allowed you time to collect additional evidence. Your latest letter included a number of additional documents. However, none of the documents establish the required link of water right ownership between the Campbells and Fannesbeck.

On February 3, 2016, Jay Norman Fannesbeck filed a Corrected Claim to a Water Right pursuant to Idaho Code §§ 42-243 and 42-244. The corrected claim rearranged the irrigation place of use. Irrigated acres under water right 13-4284 were removed entirely from the Campbell property.

Idaho Code § 42-244 describes the process for correcting statutory claims. Section 42-244 states that statutory claims "may be corrected by the claimant only by filing of an amended claim in the same form as the original, which shall be recorded and numbered by the department the same as the original, and for which no additional filing fees shall be required."

The department has a very limited role in handling a corrected claim. The department is only authorized to record and number the claim. We are not authorized to conduct any review of the corrected claim. The department is not allowed to investigate ownership of the existing or corrected place of use or the legitimacy of the error to be corrected. In other words, the department is simply required to record and number corrected claims, regardless of their ultimate validity. In this case, the department followed the correct procedure outlined in Idaho Code § 42-244.

Idaho Code § 42-244 states that any person dissatisfied with a claim or wishing to contest the elements of a claim may file exceptions against the claim at any time. These exceptions are maintained in the water right file and become part of the record if the claim is ever pursued in an adjudication. The Campbells are free to file exceptions to any of the elements listed in Fannesbeck's claim, including the irrigation place of use.

To summarize, the department can only complete the proposed ownership change if the Campbells are able to establish a chain of ownership tracing back to the current water right owner, Jay Norman Fannesbeck. It does not appear that the Campbells can make this showing. At this time there is not sufficient evidence to

complete the proposed ownership change regardless of the Corrected Claim filed by Fannesbeck. Therefore, I am returning the proposed ownership change and refunding the filing fee. You are free to re-file the ownership change if additional evidence comes available in the future.

As a practical matter, please keep in mind that water right 13-4284 continues to be a merely statutory claim. It has never been examined or verified by the department or a district court. It may or may not be a valid water right. The fact that the corrected claim filed by Fannesbeck no longer includes the Campbell property, does not diminish the Campbell's rights in any way. If the Campbells believe there is an unrecorded beneficial water right associated with their property, they are free to file their own claim pursuant to Idaho Code § 42-243. The Campbells are also free to forgo filing a statutory claim and wait to pursue a claim in a general adjudication. Ultimately, if an adjudication commences in the Bear River basin, Fannesbeck and the Campbells will bear the burden of supporting their respective claims with evidence of priority and historical beneficial use.

I recognize that this outcome does not satisfy any of the demands made in your latest letter. I am confident, however, that the department has reached the correct outcome and has followed the relevant provisions of the Idaho Code. I am happy to discuss the matter in greater detail if you have any other questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'James Cefalo', written in a cursive style.

James Cefalo

Encl: Original Notice of Change in Water Right Ownership
Email requesting reimbursement

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

JAN 11 2015

Notice of Change in Water Right Ownership

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "Yes" in the "Split?" column. If the water right is leased to the Water Supply Bank, check "Yes". If you are not sure if the water right is leased to the Water Supply Bank, see #6 of the instructions.

Water Right/Claim No.	Split?	Leased to Water Supply Bank?	Water Right/Claim No.	Split?	Leased to Water Supply Bank?
13-4284	Yes ☒	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐

2. Previous Owner's Name: Jay N. Fannesbeck
Name of current water right holder/claimant
3. New Owner(s)/Claimant(s): Boyd O. Campbell and Beverly C. Campbell
New owner(s) as listed on the conveyance document Name connector ☒ and ☐ or ☐ and/or
- 1241 South Hidden View Drive Providence UT 84332
Mailing address City State ZIP
- (435) 881-0172 _____
Telephone Email
4. If the water rights and/or adjudication claims were split, how did the division occur?
☒ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.
5. Date you acquired the water rights and/or claims listed above: December 19, 2005
6. If the water right is leased to the Water Supply Bank changing ownership of a water right will reassign to the new owner any Water Supply Bank leases associated with the water right. Payment of revenue generated from any rental of a leased water right requires a completed IRS Form W-9 for payment to be issued to an owner. A new owner for a water right under lease shall supply a W-9. Water rights with multiple owners must specify a designated lessor, using a completed Lessor Designation form. Beginning in the calendar year following an acknowledged change in water right ownership, compensation for any rental will go to the new owner(s).
7. This form must be signed and submitted with the following **REQUIRED** items:
- ☒ A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
 - ☒ Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
 - ☒ Filing fee (see instructions for further explanation):
 - ☐ \$25 per undivided water right.
 - ☐ \$100 per split water right.
 - ☐ No fee is required for pending adjudication claims.
 - ☐ If water right(s) are leased to the Water Supply Bank AND there are multiple owners, a Lessor Designation form is required.
 - ☐ If water right(s) are leased to the Water Supply Bank, the individual owner or designated lessor must complete, sign and submit an IRS Form W-9.

8. Signature: [Signature] Title, if applicable: _____ Date: 1/11/2015
Signature of new owner/claimant

Signature: _____ Title, if applicable: _____ Date: _____
Signature of new owner/claimant

For IDWR Office Use Only:

Received by: JB Date: 1/11/2015 Receipt No. EC41740 Receipt Amt. \$100.-
Active in the Water Supply Bank? Yes ☐ No ☐ If yes, forward to the State Office for processing W-9 received? Yes ☐ No ☐

Name on W-9 _____ Approved by _____ Processed by _____ Date _____

Address on check: Olson & Hoggan P.C. 130 S. Main Ste 200 PO Box 525
Logan UT 84321 13-7987

Cox, Sharla

From: Cox, Sharla
Sent: Monday, October 24, 2016 9:22 AM
To: Carlos, Rhea
Subject: Refund Please

Please refund the following:

Receipt # E041740
Amount of Refund: \$100.00
Payable to: Olson & Hoggan PC
130 S Main Ste 200
PO Box 525
Logan UT 84321

Reason: Change of Ownership, lack of evidence, cannot process change of ownership.

Thank you,

Sharla

*Sharla Cox
Administrative Assistant
Idaho Dept of Water Resources
900 N Skyline Dr. Ste A.
Idaho Falls ID 83402
sharla.cox@idwr.idaho.gov
208-525-7161 phone
208-525-7177 fax*