

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

SEP 20 2013

Department of Water Resources
Eastern Region

78862

WITHDRAWN

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1Name of Applicant(s) DONALD D. BROWN Phone (208) 232-8568Mailing address 4285 BANNOCK HWY, POCA TELLO ID 83204 Email BROWDONA@CABLEONE.NET

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No RepresentativeName of Representative BRAD CHRISTENSEN Phone (208) 234-7569Mailing address 4330 BANNOCK HWY, POCA TELLO ID 83204 Email MISTYSMASTERS@CABLEONET.NET

- ☐ Send all correspondence for this application to the representative and not to the applicant.
OR
- ☒ Send original correspondence to the applicant and copies to the representative.
- ☒ The representative may submit information for the applicant but is not authorized to sign for the applicant.
OR
- ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Donald D. Brown
Signature of Applicant or Authorized Representative

DONALD D. BROWN
Print Name and Title if applicable

9/13/2013
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☒ Add diversion point(s) ☐ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.2**.

I propose to divert surface water that has been the historic hydrology to the spring involved since pre-1939.

SCANNED
OCT 10 2013

78862

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
☒ ☐	29-4391	0.16 CFS	IRRIGATION	4/01 to 11/01	SPRING
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 0.16 CFS cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 0.16 cubic feet per second and/or _____ acre-feet per annum.

3. Point(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed - the following chart is therefore not completed. (Proceed to #4.)
- ☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it **Attachment #5**.

New ?	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Source	Local name or tag #
			SE	NE	12	07S	34E	BANNOCK	SPRING	
X			SE	NE	12	07S	34E	BANNOCK	SPRING	

4. Place of use: (If irrigation, identify with number of acres irrigated per 1/4 1/4 tract.)

- ☒ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	34E	12																	
Total Acres (for irrigation use)																			

APPLICATION FOR TRANSFER OF WATER RIGHT PART 2

DESCRIPTION OF RIGHT(S) AS RECORDED

For each water right listed in Part 1B.1 of the application, attach a **Part 2A** report obtained from any Department office or from the Department's website @ www.idwr.idaho.gov, Water Right Transfers, Step 1.
Insert Part 2A reports into the application following Part 1.

IF ONLY A PORTION OF THE RIGHT IS PROPOSED TO BE CHANGED, DESCRIBE THE PORTION BEING CHANGED AS IT APPEARS BEFORE THE REQUESTED CHANGES

- ☐ Complete and attach one copy of Part 2B for each right for which only a portion is proposed to be changed. If the entire right is proposed to be changed, Part 2B is not applicable. Additional copies of the **Part 2B** form can be obtained from any Department office or from the Department's website @ www.idwr.idaho.gov, Water Right Transfers, Step 3, or Water Right Forms, Changes in Use. Insert completed Part 2B forms into the application following Part 2A of the same water right.

Right Number: 29-4391

- [illegible]

2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

[illegible]**Total Acres (for irrigation use)**

4

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

4" PIPE, AND THE CURRENTLY USED COLLECTION BOX WOULD BE
SUITABLE FOR THE LOCKABLE CONTROLLING HARDWARE

- b. Who owns the property at the point(s) of diversion? CEPAR HILLS CONDOMINIUMS

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

INCLUDED IN THE ATTACHED DEED IS A 10' WIDE ACCESS TO
THE WATER SOURCE FOR MAINTENANCE OF THE SPRING.

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?

If yes, ☐ Attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: NONE

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

2.

- e. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:

NONE

- f. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently leased to the Water Supply Bank,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right, or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the rights?

If yes, describe:

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

PLAT MAP (See Part 3A of Instructions for application for transfer for complete requirements.)

- ☒ Attach a map of the diversion, measurement, control, and distribution system. Label it **Attachment #7a**.
If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. Label it **Attachment #7b**. If the place of use currently consists of a permissible place of use, then the attachment is not required if the application contains a clear statement that the boundaries for the place of use are not proposed to be changed by the transfer and the total number of irrigated acres within the place of use before and after the transfer is clearly stated.

CHANGES IN NATURE OF USE (Water Balance)

- ☐ If you propose to change the nature of use or period of use of all or part of the right(s) listed in this application, attach documentation describing the extent of historic beneficial use of the portion of the right(s) proposed to be changed. Also attach documentation showing that the portion of the right(s) to be changed will not be enlarged in rate, volume, or consumptive use through the proposed change. Label it **Attachment #8a**.

PLACE OF USE CHANGES TO SUPPLEMENTAL IRRIGATION RIGHTS

- ☐ If you propose to change the place of use of a supplemental irrigation right, answer below and attach supporting documentation. Label it **Attachment #8b**.

Describe how the supplemental water rights have been used historically in conjunction with other water rights at the existing place of use. Describe the time during the irrigation season that the supplemental rights have been used. Include information about the availability or reliability of the primary right(s) being supplemented, both before and after the change. If the applicant is proposing to change a supplemental irrigation right to a primary right, provide the information required on Part 3B above:

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

FOR DEPARTMENT USE ONLY

nsfer contains _____ pages and _____ attachments.

Received by SB Date 9/20 Preliminary check by SB Date 9/20

paid 200.00 Date 9/20 Received by SB Receipt # 8039129

11 fee paid _____ Date _____ Received by _____ Receipt # _____

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

10/7/2013

WATER RIGHT NO. 29-4391

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DONALD D BROWN
Current Owner	PHYLLIS J BROWN
	4285 BANNOCK HWY
	POCATELLO, ID 83204
	(208)232-8568

Priority Date: 04/01/1940

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
SPRING	SINKS

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	0.12 CFS	
Total Diversion			0.12 CFS	

Location of Point(s) of Diversion:

SPRING	SWSENE	Sec. 12	Township 07S	Range 34E	BANNOCK County
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IRRIGATION Use:

Acre Limit: 3.9

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Place(s) of use:

Place of Use Legal Description: IRRIGATION BANNOCK County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
07S	34E	12		SENE	3.2									
				NESE	0.7									

Total Acres: 3.9

Conditions of Approval:

1.	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.
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Dates:

Licensed Date:

Decreed Date: 03/22/2004

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 29D

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

78862

Mitigation Plan: False

Close

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Idaho Department of Water Resources

Water Right
Transfer
29-4391



- New POD
- Original POD
- POU
- Township/Range
- Sections
- QQ

0 0.025 0.05 0.1 Miles

Bannock County
IDWR Basin 29
Prepared by Scott Bergendorf
2010 Aerial Photography

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 78862

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at www.idwr.idaho.gov.

Name of Applicant(s) DONALD D. AND PHYLLIS J. BROWN

Check whether each item below is attached (Yes) or not applicable (N/A) for the proposed transfer.

Yes N/A * Means the item is always required and must be included with the application.

- ☒ * Completed Application for Transfer of Water Right form, Part 1.
- ☒ * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ * Application for Transfer Part 2A. Attach a [Part 2A](#) report describing each water right in the transfer as currently recorded.
- ☐ ☐ Complete and attach an Application for Transfer [Part 2B](#) for each water right for which only a portion is proposed to be changed through this transfer application.
- ☐ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☐ * Correct fee submitted with transfer application form. ([Fee schedule](#) is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-9.

- ☐ ☐ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☐ #2a Water Right ownership documentation if Dept. records do not show the applicant as the current water right owner. **
- ☐ ☐ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s).**
** Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☐ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☐ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☐ ☐ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm.
- ☐ ☐ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☐ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☐ ☐ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System ([GIS](#)) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use.
- ☐ ☐ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.) Additional fee required for proposed changes to nature of use; see [fee schedule](#).
- ☐ ☐ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☐ ☐ #9 Other. Please describe: _____

AFFIDAVIT

THIS INSTRUMENT HEREBY ACKNOWLEDGES that the undersigned, Wilhelm Johannes Christensen, ("affiant"), residing at 4044 Tech Farm Road, Pocatello, Idaho 83204, is of legal age, and does hereby swear and affirm that the following is true and accurate, to the best of his knowledge, under penalty of perjury:

"My family and I have lived at the above address since 1940. I verify that a spring on the property described below has been in continuous operation since before that time, captured and diverted via a concrete collection box and a four inch pipeline. The original property owners, Joseph and Nellie Wallace, used the spring water for domestic and irrigation purposes at their residence, now identified as 4285 Bannock Highway, Pocatello, which now belongs to Donald and Phyllis Brown. Sole ownership of the water rights and pipeline easement was transferred to the Browns and their heirs in 1966, and the water has been in continuous use by them since that time, and their predecessors before then. The legal description of the land on which the spring, collection box, and pipeline exist is as follows:

Township 07S, Range 34E, Section 12, SE 1/4 of NE 1/4, Bannock County, Idaho"

Signed to this 4th day of May, 2001.

Signature of Affiant

Wilhelm Johannes Christensen

Print Name of Affiant

4044 Tech Farm Road

Pocatello, Idaho 83204

Address

STATE OF Idaho_____

COUNTY OF Bannock_____

In Pocatello, on the 4th day of May, 2001, before me, a Notary Public in and for the above state and county, personally appeared Wilhelm Johannes Christensen, known to me or proved to be the person named in and who executed the foregoing instrument, and being first duly sworn, such person acknowledged that he or she executed said instrument for the purposes therein contained as his or her free and voluntary act and deed.

Type of ID Produced: Driver's license_____

Affiant is is not personally known to me

Becky Dellbridge

NOTARY PUBLIC

My Commission Expires: 1-15-2003

(SEAL)
Recorded May 4, 2001
201 08437
book 182

THIS INDENTURE, Made this - - - 31st - - - day of - - - May - - - -
in the year of our Lord One Thousand Nine Hundred and fifty eight . between
Joseph E. Wallace and Nellie Wallace, his wife, ...
of Pocatello , County of Bannock , State of Idaho, . . .
the parties of the first part, and
Charles H. Kegel and Carol D. Kegel, his wife, 4285 Bannock Highway . . .
of Pocatello , County of Bannock , State of Idaho, 8364 .
the parties of the second part:

WITNESSETH: That the said parties of the first part, for and in consideration of the sum of
- - - - - Ten. - - - - - DOLLARS,
lawful money of the United States of America, to them in hand paid by the said parties of the second part, the receipt
whereof is hereby acknowledged and other valuable consideration, receipt whereof is
acknowledged, . , do by these presents, Grant, Bargain, Sell and Convey and Confirm unto said parties
of the second part, and to their heirs and assigns forever: All those certain lots
piece s or parcel s of land situate, lying and being in the County of Bannock State of Idaho, bounded
and more particularly described as follows, to-wit:

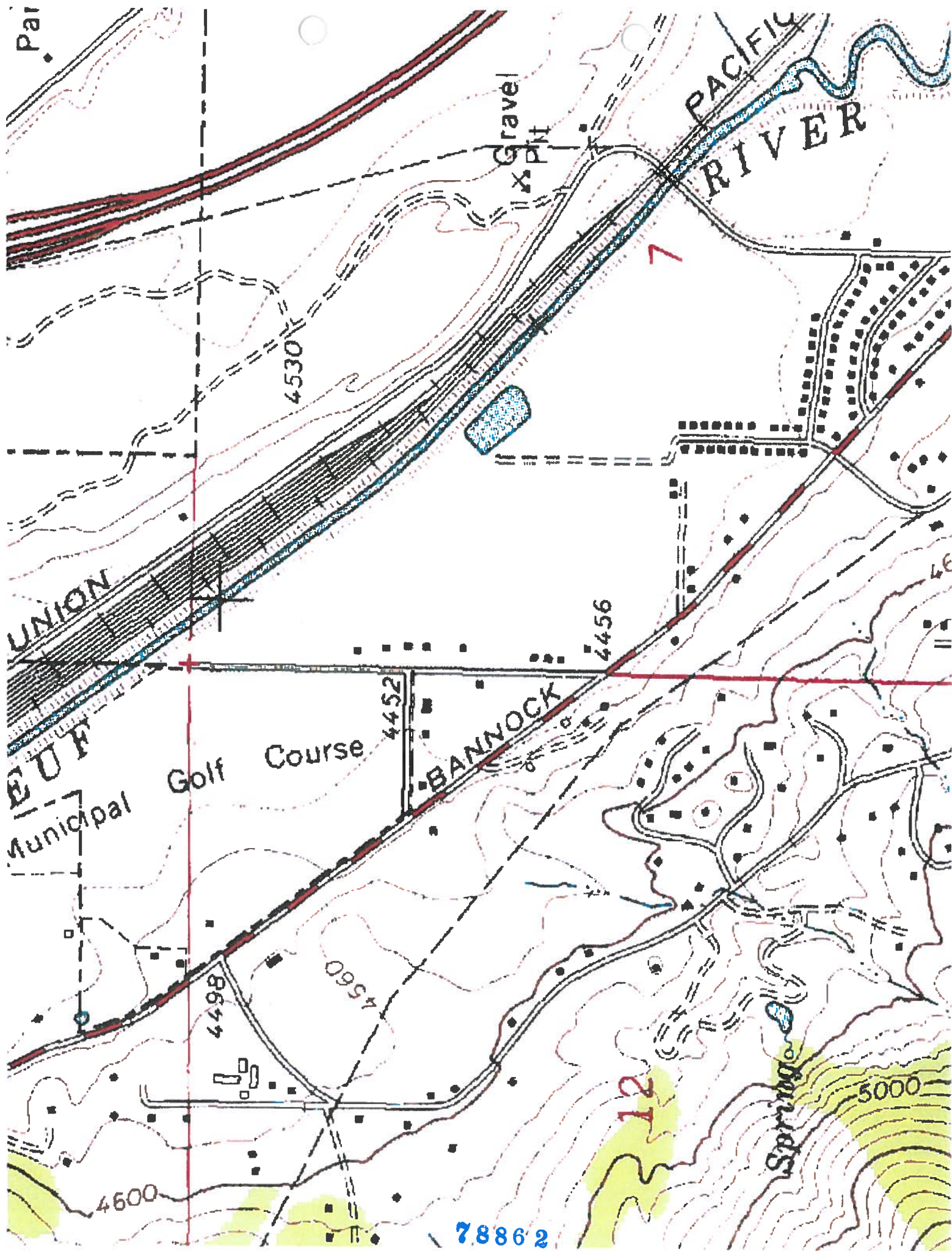
Beginning at the east 1/4 corner of Section 12, T. 7 S.,
R. 34 E.B.M. thence south along the east line of the said Sec-
tion 12, 400 feet; thence northwesterly 565.68 feet to an in-
tersection with the latitudinal center line of the said section
12, thence easterly 400 feet more or less to the point of begin-
ning; being a part of the NE 1/4 SE 1/4, section 12, T. 7 S., R. 34 E.B.M.
and containing 1.83 acres more or less.

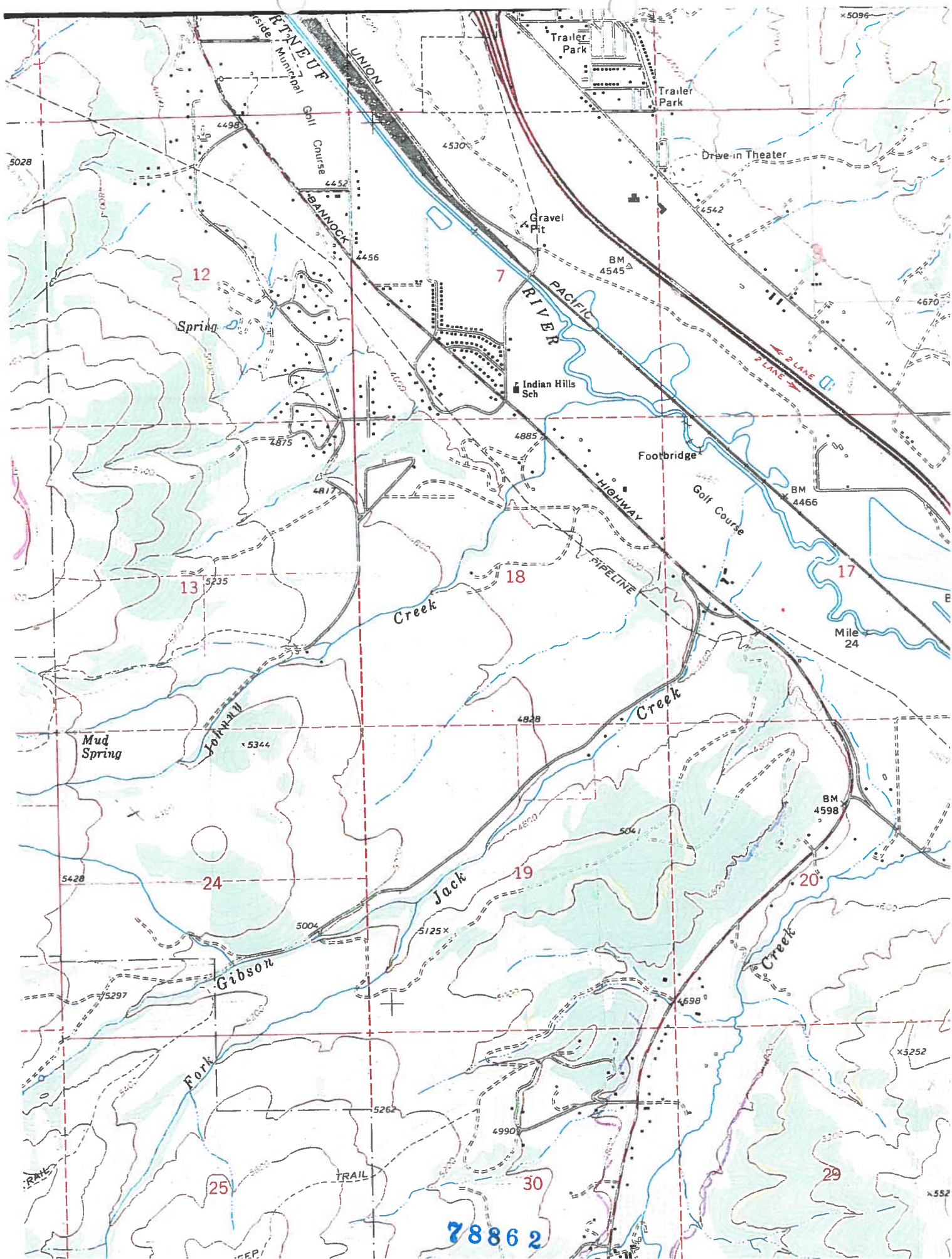
Also: Beginning at the east 1/4 corner of section 12, T. 7 S., R. 34
E.B.M. thence north along the east boundary of the said section 12,
89.38 feet to the southwesterly right of way line of the Bannock
Highway; thence N. 37° 31' W. along the said right-of-way line 598.5
feet; thence at right angles S. 52° 29' W. 241.2 feet; thence S. 20°
52' E. 450 feet more or less to an intersection with the latitudinal
center line of the said section 12; thence easterly 400 feet more or
less to the point of beginning, being a part of the SE 1/4 NE 1/4 of Sec-
tion 12, T. 7 S., R. 34 E., B.M. and containing 4.17 acres more
or less,

according to the government survey thereof, on which land is located the
residence of the vendors and all their sheds, barn, garage and other im-
provements, including fences, and orchard, and including all water rights
belonging to and used on said land, (and the right to the exclusive use of
all the water flowing from the spring, located on adjoining land, and now
used by the vendors for their domestic use, and also used for garden, trees,
shrubs, and orchard, together with a 10 foot wide easement right along the
present pipe line carrying the water from said spring, being 5 feet on
each side of said pipeline, in order to care for, repair and use said spring
and to maintain the same, together with all plumbing, heating and lighting
fixtures, screens, storm sash, shades, awnings, blinds, hoses, shrubbery,
and plants on said premises, subject to all zoning laws, all easements,
restrictive agreements,

TO HAVE AND TO HOLD, all and singular, the said premises, together with the appurtenances and privileges thereunto incident
unto the said parties of the second part, and to their heirs and assigns forever. And the said
parties of the first part, and their heirs the said premises in the quiet and peaceable possession
of the said parties of the second part their heirs and assigns against the said parties of the
first part, and their heirs and against all and every person or persons whomsoever, lawfully claiming
to claim the same, shall and will warrant and by these presents forever defend.







IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report

04/11/2001

WATER RIGHT NO. 29-4391

Owner Type
Current Owner
Current Owner
Name and Address
DONALD D BROWN
PHYLLIS J BROWN
4285 BANNOCK HWY
POCATELLO, ID 83204
(208)232-8568

Priority Date: 04/01/1930
Basis: Statutory Claim
Status: Active

Source	Tributary to				
SPRING	SINKS				
Beneficial Use	From	To	Diversion Rate	Volume	Subuse Code
IRRIGATION	4/01	11/01	0.12 CFS		
DOMESTIC	1/01	12/31	0.04 CFS		
Total Diversion	0.16 CFS				

Location of Point(s) of Diversion:

SPRING SENE Sec. 12 Township 07S Range 34E BANNOCK County

IRRIGATION Use:
Acre Limit: 6

Place(s) of use:

Place of Use Legal Description: IRRIGATION BANNOCK County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
07S	34E	12		SENE	4									
				NESE	2									

Place of Use Legal Description: DOMESTIC same as IRRIGATION

Total Acres: 6

Remarks:

1. General THIS WATER HAS BEEN CONTINUOUSLY SINCE 1930 OR BEFORE, BUT A PIPELINE WAS NOT
INSTALLED UNTIL OCTOBER 1939. DOMESTIC USE BEGAN IN 1939.

Dates:

Licensed Date:
Claim Received Date:
Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:

Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Other Information:

Receipt Number(s): E013223
State or Federal: S
Owner Name Connector: