



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 23, 2013

MARSHA WHITTON
MC QUEEN SCHOOL
KIVALINA AK 99750

RE: License No. 86-7322

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

The license is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-287-4916.

Sincerely,

Craig L. Saxton

Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on September 24, 2013, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved License) to the person(s) listed below:

RE: WATER RIGHT NO.

86-7322

**MARSHA WHITTON
MC QUEEN SCHOOL
KIVALINA AK 99750**



**Darla Block
Technical Records Specialist**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 86-07322

Priority: May 27, 1993

Maximum Diversion Rate: 0.04 CFS
Maximum Diversion Volume: 8.4 AF

It is hereby certified that MARSHA WHITTON
MC QUEEN SCHOOL
KIVALINA AK 99750 has complied with the terms and conditions of the
permit, issued pursuant to Application for Permit dated April 16, 1993; and has submitted Proof of
Beneficial Use on July 12, 1994. An examination confirms water is diverted from:

SOURCE

GROUND WATER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
IRRIGATION	03/15 to 11/15	0.04 CFS	1.8 AF
DOMESTIC	01/01 to 12/31	0.04 CFS	6.6 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE1/4NE1/4 Sec. 19, Twp 39N, Rge 04W, B.M. LATAH County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
39N	04W	19				.6													.6

Total Acres: 0.6

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
39N	04W	19				X													

CONDITIONS OF APPROVAL

1. Point of diversion is located within Lot 12, Mickey's Elk Horn Trailer Court.
2. Place of use is located within Mickey's Elk Horn Trailer Court
3. Domestic use is for 9 trailer homes and 2 cottages.
4. This right does not grant any right-of-way or easement across the land of another.

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 86-07322

5. Right 86-4029 is also diverted through the point(s) of diversion described above.
6. Rights 86-4029 and 86-7322 when combined shall not exceed a total diversion rate of 0.04 cfs.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 23rd day of September, 2013.


Craig L. Spackman
for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources
Attachment To Water Right License
86-7322

This map depicts the DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.

04W



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

0 0.01 0.02 0.04 Miles



State of Idaho
Department of Water Resources
Attachment To Water Right License
86-7322

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.

04W



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

0 0.01 0.02 0.04 Miles



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
IN-HOUSE BENEFICIAL USE REPORT

A. GENERAL INFORMATION

Permit No: 86-7322

Exam Date: 9/3/2013

1. Current Owner: MARSHA WHITTON
MC QUEEN SCHOOL
KIVALINA AK 99750
(907)645-2125
2. Accompanied by: None – In-house exam
Phone No: NA
Address: NA
Relationship to Permit Holder: NA

3. SOURCETRIBUTARY

GROUND WATER

B. OVERLAP REVIEW

1. Other water rights with the same place of use: None
2. Other water rights with the same point of diversion: 86-4029

C. DIVERSION AND DELIVERY SYSTEM1. LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE1/4NE1/4 Sec. 19, Twp 39N, Rge 04W, B.M.

LATAH County

Method of Determination: Aerial photographs and water right documentation

2.

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
39N	04W	19	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	.6

Total Acres: 0.6

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
39N	04W	19	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	X

Method of Determination:

3. ☐ Delivery System Diagram Attached (required). Indicate all major components and distances between components. Indicate weir size/pipe as applicable.
- ☒ Map Attached Showing Location(s) of point(s) of diversion and place(s) of use (required). Scale must be 1:24,000 or greater.
- ☒ Aerial Photo Attached (required for irrigation of 10+ acres).
- ☐ Photo of Diversion and System Attached

4.

Well or Diversion

<u>ID No.*</u>	<u>Motor Make</u>	<u>Hp</u>	<u>Motor Serial No.</u>	<u>Pump Make</u>	<u>Pump Serial No. or Discharge Size</u>
Well	UNK	UNK	UNK	UNK	UNK

D. FLOW MEASUREMENTS

1.

Measurement

<u>Equipment</u>	<u>Type</u>	<u>Make</u>	<u>Model No.</u>	<u>Serial No.</u>	<u>Size</u>	<u>Calib. Date</u>
-----Not applicable, in-house exam-----						

2. Measurements:

None taken, in-house exam.

E. FLOW CALCULATIONS☐ Additional Computation Sheets Attached

Measured Method:

Domestic flow rate: 11 homes X 0.04 cfs/home = 0.44 cfs.

Irrigation flow rate: 0.6 acres X 0.03 cfs/acre = 0.018 cfs.

Documentation included in water right application 86-4029 indicates the well for this permit can pump 17 gpm (0.04 cfs). Therefore, the combined flow rate for the domestic and irrigation components is limited to 0.04 cfs.

F. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 0.6 \times 3 \text{ AFA} = 1.8 \text{ AFA}$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation season}) \times 1.9835 = 0.018 \text{ cfs} \times 255 = 4.59 \text{ AFA}$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = 1.8 \text{ AFA}$$

2. Volume Calculations for Other Uses:

Domestic volumes: 11 homes $\times$ 0.6 AF/home = 6.6 AFA

Irrigation volume: 0.6 acres $\times$ 3 AFA = 1.8 AFA

Totals (domestic + irrigation) = 6.6 AFA + 1.8 AFA = 8.4 AFA

G. NARRATIVE/REMARKS/COMMENTS

Narrative for In-house field exam 86-7322

Permit 86-7322 authorized the use of 0.18 cfs of ground water for domestic and irrigation purposes. The proof of beneficial use form indicates the system provides water to 12 homes (trailer park) and the irrigation of 2 acres. The source of the water is a single ground water well.

Proof of beneficial use was filed on 6/6/1994. The permit holder indicated on the proof of beneficial use form that this water right should have been included with water right 86-4029.

I believe that the current place of use for water right 86-4029 is incorrectly located. The reasons for this are as follows:

- Based on a review of the aerial photographs, it is apparent that there is a single domestic residence on the same taxlot as a small mobile home park. The application for 86-4029 indicated that the water was to be used for "supplying water for trailer court and home resident".
- In the water right file, the best found description of the place of use matches the air photos.
- In the water right file, the description of the location of the well matches the air photos.
- The correct location of the POD and the POU of interest are on the north side of the highway. The current location in our water right files shows both on the south side of the highway.

Water right 86-4029 was approved for 0.04 cfs as a single domestic use. The POU and POD should be moved to the correct location. The map attached provides further explanation. **THE POU AND POD FOR 86-4029 WERE UPDATED ON 8/29/13.**

For the field exam for water right permit 86-7322, the file was reviewed as well as aerial photographs. I attempted to contact the owners, but no one could be reached at the numbers provided. The taxlot information indicates that the ownership of the property has also changed. I could not contact the current owner indicated on the taxlot information.

Information regarding the well is also lacking. The depth, driller, and size of the pump in the well are all unknown. The proof of beneficial use form indicates that the well was drilled in 1963. No driller's reports could be found with a similar date in the general area of the POU. The application for water right 86-4029 indicated that the well produced 17 gpm and it is assumed that this is the same well that provides water to the trailer park that is of interest to this permit. The well description in the adjudication file for water right 84-4029 is located in Lot 12, Mickey's Elk Horn Trailer Court, and sections 10 and 12 of the application for permit suggest that the well described in 86-4029 is the same well used in this permit.

Nearby water rights exist near the POU for this permit. Four water rights appear to have overlapping POUs based on the GIS shapefiles in the IDWR database. However, after further review of the nearby water rights, none of them appear to be having POUs that actually overlap the POU for this permit. Specifically, the following information regarding the nearby water rights was determined:

86-10521 – This right is for a single home and for a wood products business. This right appears to now be owned by a Kevin Hunt and is north and west of the trailer park.

86-10727 – This right is for a lot south of the highway and now owned by Penecostal Church.

86-10729 – This right is for a lot south of the highway and now owned by Roxanne Hodges.

86-10722 – This right is for a lot south of the highway and now owned by Shad Miller.

Based on the aerial photographs, the place of use can be determined. It appears that 9 mobile homes and 2 cottages comprise the trailer park, just as indicated on the water right application in May of 1993. Irrigated landscaping can be seen in majority of the lots, indicating the irrigation component of the permit has been put to beneficial use. The landscaped areas were selected as the POU for the irrigation component. The lots of the nine trailer houses and two cottages included in this permit comprise the POU for the domestic component of this permit.

Based on the in-house field exam for this permit, I recommend a diversion rate of 0.04 cfs and an annual diversion volume of 8.4 AF.

Have conditions of permit approval been met? ☒ Yes ☐ No

H. RECOMMENDATIONS

1. Recommended Amounts

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	03/15 to 11/15	0.040 CFS	1.80 AF
DOMESTIC	01/01 to 12/31	0.040 CFS	6.60 AF
	<u>Totals:</u>	0.040 CFS	8.40 AF

2. Recommended Amendments

☐ Change P.D. as reflected above ☐ Add P.D. as reflected above ☒ None

☐ Change P.U. as reflected above ☐ Add P.U. as reflected above ☐ Other

I. AUTHENTICATION

Field Examiner's Name Dennis Owsley

Date 9/11/2013

Reviewer Daniel A. Nelson

Date 9-17-13

MEMORANDUM
(include this in water right file)

TO: Dennis Owsley – 86-7332

FROM: Daniel Nelson – Staff Hydrologist

DATE: August 9, 2013

SUBJECT: Licensing Review and Suggested Recommendations and Explanations

In review of this licensing recommendation, I discovered the following issues that need to be addressed:

- ✓ I reprinted the licensing maps, so that they showed the shape files for the place of use and point of diversion. The maps that were attached to the license didn't have the shape files and one was in black and white. They need to be in color.
- ✓ You need to add condition X36 that states that water right 86-4029 is diverted out of the same well.
- ✓ X 35 is needed to show the combined use from the well between water right 86-4029 and 86-7322. When water rights 86-4029 and 86-7322 are combined, they will be limited to 0.04 cfs and 9.6 af. (well capacity is 0.04 cfs – 8.4 af from 86-7322 + 1.2 af from 86-4029 = 9.6 af total use from the well --- $0.04 \times 1.9835 \times 365 = 28.9$ af capacity from the system, so 9.6 af is acceptable.)
- ✓ Condition #1 was not on the permit, so it is not needed on the license. This condition will need to be removed.
- ✓ The other conditions that were placed on the license are acceptable, and condition 004 is needed, since we are not positive of where the point of diversion is located. You do need to discuss in your narrative that well description is discussed in the adjudication file for water right 86-4029 as being in Lot 12, Mickey's Elk Horn Trailer Court, and that sections 10 and 12 in the application for permit suggests that the well described in 86-4029 is used for this permit.

✓ There is no discussion concerning the water rights overlapping the place of use listed on the field exam. Please see below for additional information.

- 86-10521 – This right is for a single home and for a wood products business. This right appears to now be owned by a Kevin Hunt and is north and west of the trailer park. **This should not be included on the Place of Use overlap on the field exam, but it needs to be discussed in the narrative.**
- 86-10727 – This right is for a lot south of the highway and now owned by Penecostal Church. This is not an overlap – **This should not be included on the Place of Use overlap on the field exam, but it needs to be discussed in the narrative.**
- 86-10729 – This right is for a lot south of the highway and now owned by Roxanne Hodges. This is not an overlap – **This should not be included on the Place of Use overlap on the field exam, but it needs to be discussed in the narrative.**
- 86-10722– This right is for a lot south of the highway and now owned by Shad Miller. This is not an overlap – **This should not be included on the Place of Use overlap on the field exam, but it needs to be discussed in the narrative.**

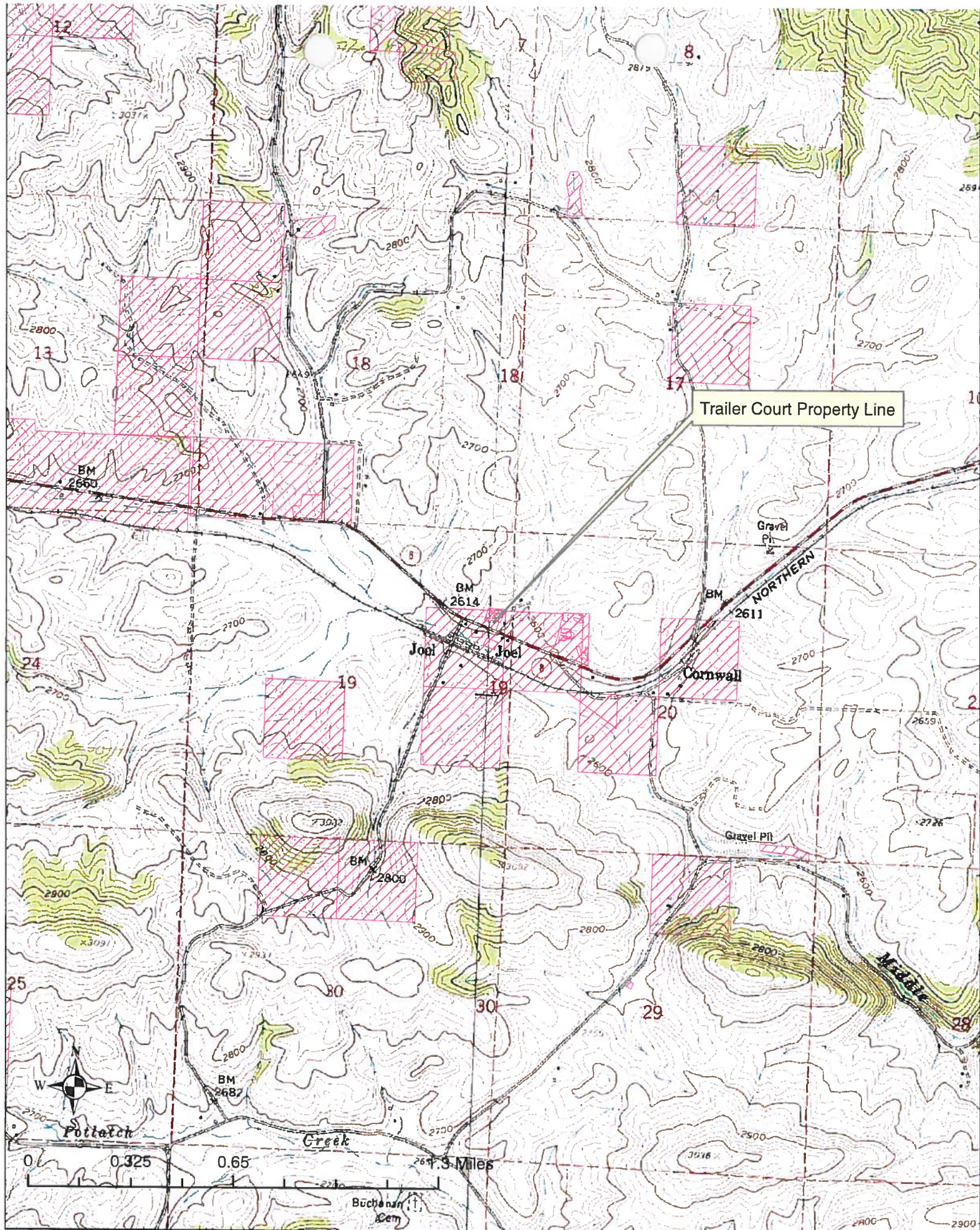
Trailer Court Property Line



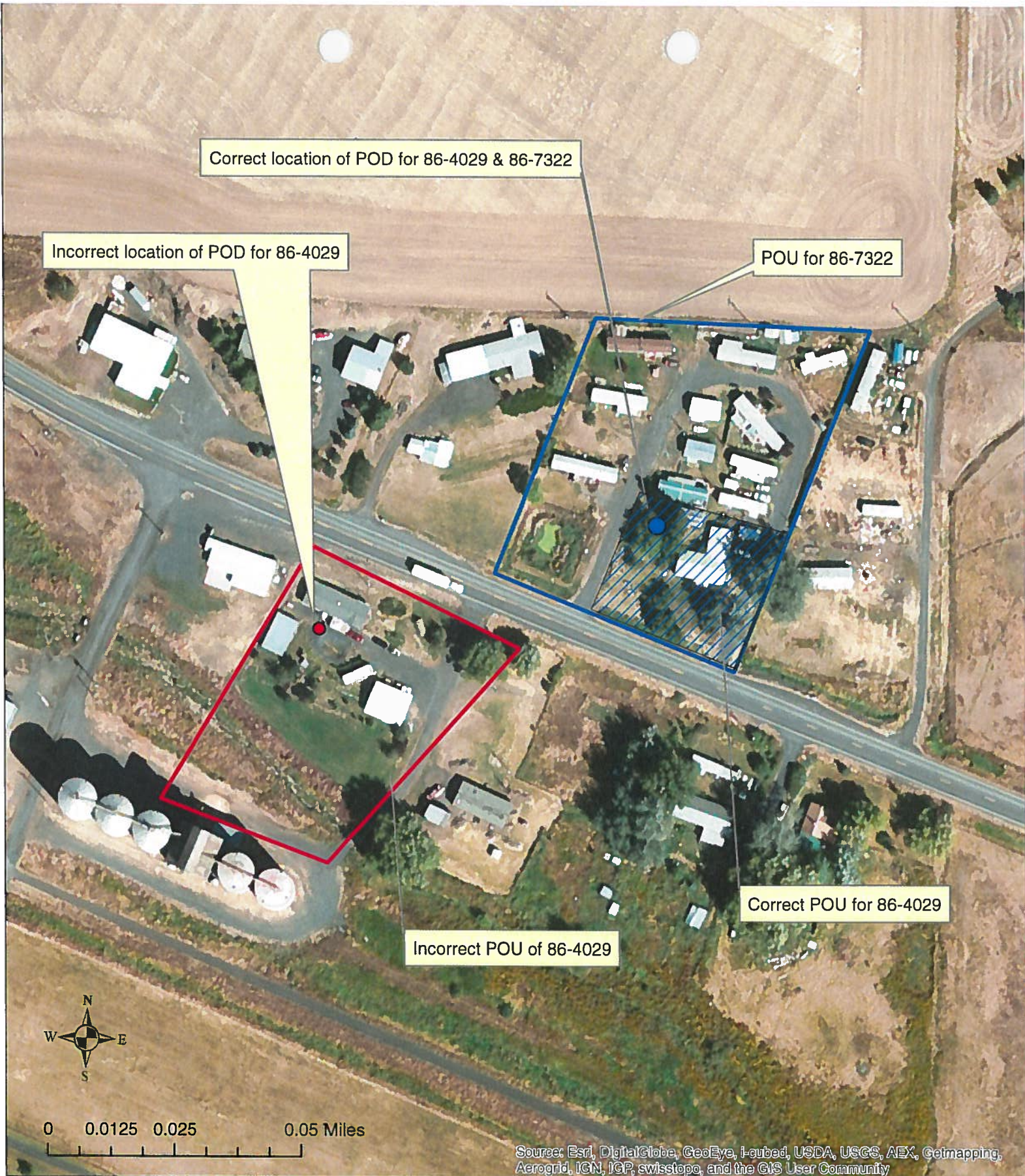
0 0.0075 0.015 0.0225 0.0300 Miles

Source: Esri, DigitalGlobe, GeoEye, Icarus, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

Map for in-house exam 86-7233. Map shows 9 trailer houses and 2 cottages plus the areas of irrigation.



Map for in-house exam 86-7233.



POD and POU locations for 86-4029 and 86-7322
86-4029 appears to be located in the wrong location.
The documentation in the water right backfile indicates that the place of use and POD are located on the north side of the highway. One house can be seen within the tax lot that contains the trailer park and is the residence that is covered under 86-4029. The trailers and cottages that make up the rest of the lot are the residents covered under permit 86-7322.
Note Red symbols indicate mis-located POD and POU.
The blue symbols represent the correct locations, as indicated on the map.

Legal Description of Property.
Where well is located,
Lawrence M. Hites
Joel, Idaho

W 65' of lots 1-8 incl

21-26 incl.

Lots 12-20 incl less hwy + vac Alley Adj

+ 30' Vac 3rd St Adj.

Well located 130 ft from Center Hwy North
in North East corner of lot 12

MICROFILMED

Dec 17-1974

Section 42-225a, Idaho Code

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. **The filing of this claim does not confirm the water right but will serve for information purposes only.** It may, however, become the basis for future adjudication of the water right by the Court.

Notice is hereby given that

Lawrence Mickey Hites & Irene L Hites
(name of claimant)

of Mickey's Eek Homestead Maroon Island, claims a right to the diversion and beneficial use of
(mailing address)

The extent and nature of said claim is as follows:

- (1) Describe source of water: (name of stream, lake, spring, etc., or ground water) Ground water
_____, tributary to _____

- (2) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Amount <u>17 gpm</u>	Use <u>Domestic</u>	Period of Use: From <u>June 1</u> To <u>Dec 31</u>
Amount _____	Use _____	Period of Use: From _____ To _____
Amount _____	Use _____	Period of Use: From _____ To _____
(cfs, gpm or a/h)	(dom., irri., stock, etc.)	(both dates inclusive)

- (3) Total quantity of water claimed: _____ cubic feet per second, or _____ acre feet per annum, and/or 17 gallons per minute.

- (4) Priority claimed: (the date water was first applied to beneficial use) August 1967
A claim is not acceptable on a ground-water source with a priority later than March 25, 1963 or on a surface-water source with a priority later than May 20, 1971. An exception to this rule is that a claim may be filed on domestic use from a ground-water source.

- (5) A) Point of diversion: (give location of point where water is diverted from its source)
SE ¼ NE ¼, Sec. 19 Twp. 39N Rge. 4W B. M. County of Latah
Additional points of diversion:

B) Describe means of diversion of water: (pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.) Give sizes and capacities; be as specific as possible. well pump and motor

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

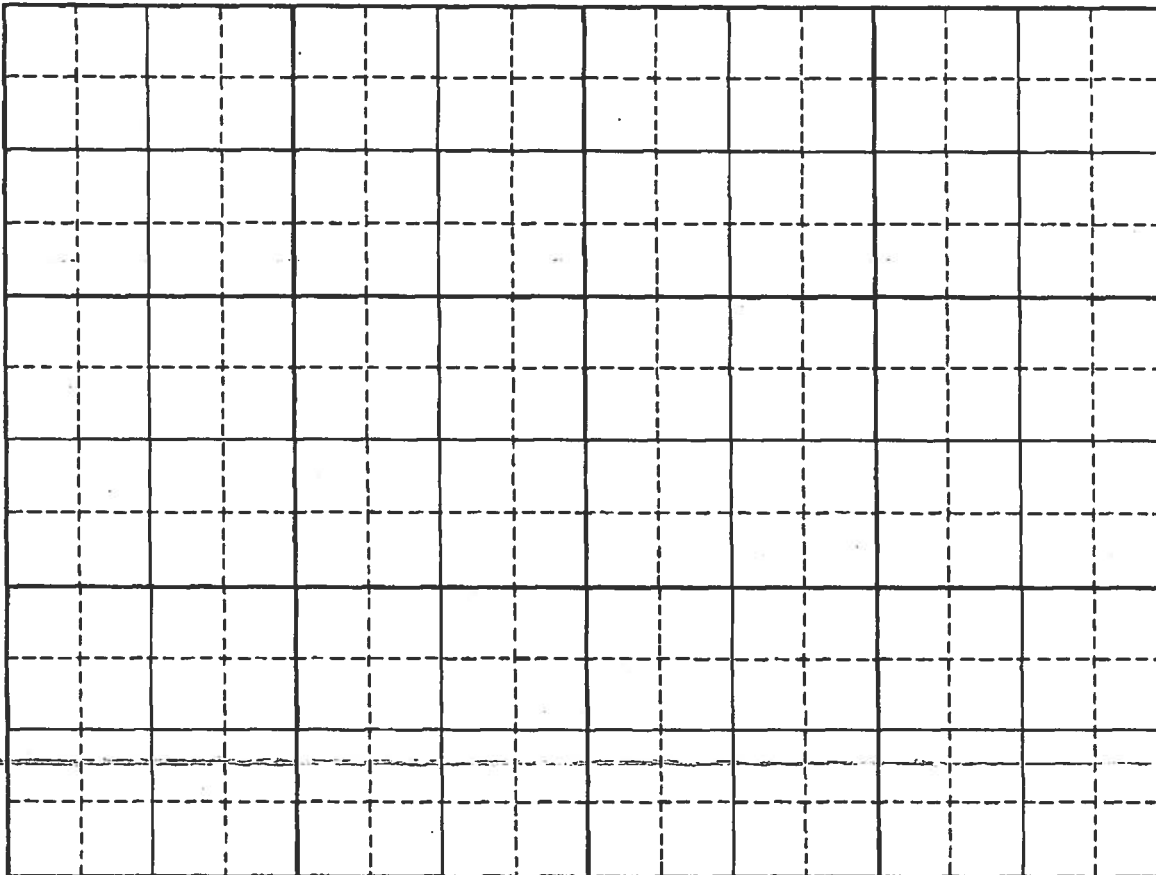
Total No. of acres

- B) If the water is used for other than irrigation, fully describe that use, being as specific as possible:**

Supplying water for trailer court and home residents

- (7) If you are claiming water as a member of an organization, list name of organization:

(8) 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 LATAH) 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 affiants knowledge.



Sworn to before me this 17th day of DECEMBER

Irene L. White
(Claimant)

Thomas L. R. [Signature]
Notary Public

Residing at MOSCOW

My commission expires 2-4-78

For Department Use Only

Received by <u>CP</u>	Date <u>1-8-75</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>RF</u>	Date <u>12/19/74</u>		claimant by:	
\$10.00 fee received by <u>RF</u>	Date <u>1/16-75</u>			
Approved for publication by <u>RF</u>	Date <u>1/16/75 & 1/17/75</u>			
Published in <u>Daily IDAHONIAN</u>				
Dates <u>1-23 & 1-30-75</u>				